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SENATE—*Sunday, December 18, 2005*

The Senate met at 6 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God who reigns forever, judging the nations with righteousness and the people with Your truth, let Your mercy rest upon the nations and Your compassion dwell among the people. Give us a peace in this season of good will that does not depend upon externals, as You empower us to trust You, even in the storms.

Bless America to promote justice and understanding within her boundaries and unto the ends of the Earth.

Strengthen the Members of this body for this evening's journey, deliver them from any shortsighted policy of selfishness, exploitation, or expediency. Give them the courage to live up to their lofty professions and grant that each of us may overcome fear, apathy, or arrogance that keep us from honoring You.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, we have returned this evening to session awaiting various conferences to finish their work and for House action on the remaining conference reports. We need to remain in session this evening in case those conference reports do become available. When we are certain one way or the other on the timing of the Defense conference reports, we will make a decision on the length of the session. Certainly if the conference report will not be available before midnight, then I do not anticipate a late evening. We should know something about that within the next couple of hours.

We cannot rule that in or out at this point. Therefore, we will monitor the timing closely and then make further announcements.

For tomorrow, we continue to try to set votes on seven district judges who are on the calendar. If we are not able to reach an agreement for that shortly—I hope we can set those votes for a time certain so we can alert Members. I will be discussing this shortly with the Democratic leader. Again, we will be doing our best to get word to the Senators shortly as to the schedule for this evening and tomorrow.

People have worked through last night and throughout today on these conference reports and there has been a lot of activity in the last hour or hour and a half. Shortly, I will come back to the floor with something more certain in terms of the schedule for later tonight as well as tomorrow.

RECOGNITION OF THE DEMOCRATIC LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

DEFENSE APPROPRIATIONS CONFERENCE REPORT

Mr. REID. Mr. President, I have said on previous occasions how much I care about this institution, but I have trouble expressing how disappointed I am as to what is going on. The arrogance of power of the Republicans in the House and the Senate is beyond my ability to comprehend. The Republican leadership now is attempting to impose the most cynical and I believe abusive practice in this pending conference report that, if successful, has the potential of changing the way this body operates forever. We will become another House of Representatives.

Any conference report can set the tone of debate, the hours of debate, the parameters of debate. If the Senate does that, it will no longer be the Senate that was led by some of the greats such as Mansfield and Dirksen. I say this respectfully. I do not know how anyone would allow this to happen, those who have the ability to do it. There have been issues I felt strongly about, but I always played within the rules. That is not what is happening here. The game is being changed, the rules of the game are being changed in the middle of the game.

In the Senate and the House, the rules are that the conferees are not allowed to include in the conference report any matter that was not submitted to the conference by either House. This avoids the possibility of conferees including legislation that would not pass either one House or the other on its own and forces the Congress to reach a consensus on controversial legislation. This process has served the Senate well for more than 200 years.

But the Republicans in Congress and the White House simply do not care about rules and they break them when it suits their interests. This conference report violates Senate rules on scope and is a cynical attempt to leverage support for funding our troops at war in order to include numerous extraneous items for special interests that could not pass the Senate on their own.

They have included—and we all know what this is about—the authority for

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

oil companies to drill in the Alaska Wildlife Refuge, I say to the American people, that this year are making $100 billion. But that is not enough. This abuse of power will have long-term ramifications in this body and is as bad or worse than anything ever attempted before, including the nuclear option. But in the future, if this goes forward, any matter, including nominations of a Secretary of State—you could limit debate for our giving consent on a Secretary of State to 20 minutes equally divided. All you have to do is stick it in a conference report.

There has never been an attempt in the Senate like this to similarly abuse our practices. When they have occurred, they have been ruled out of order or the leaders of the respective parties in this body have said you are going too far. The Senate has a series of precedents prohibiting bootstrapping a procedural fix in the same bill that violated the particular rule. Those precedents should be applied here to prevent this abuse of practice. If this practice is allowed to stand, then the Republican majority, or any majority, can change the rules in the Senate procedure prospectively in a conference committee without any say by the minority party by a simple majority vote on an unrelated conference report.

To show the cynicism of this whole charade, in the same conference report they reverse the rule. Now, try that one on. These rules mean nothing. It is like a game of Monopoly with grade school kids. But this is the Senate. It is not a Monopoly game.

This next few days is going to take longer than a Monopoly game, and some of those take a long time. If the rules are going to be played with—and they are being played with—then they are going to have to follow every rule. If you want a vote on a nomination, then invoke cloture on it.

This is a dark day in the history of the American constitutional form of government.

We become the House of Representatives. The Founding Fathers didn't want two House of Representatives. They wanted a bicameral legislature. But we become the House of Representatives, and the possibilities are endless in an institution that exists to forge a consensus and not act on the whims of whichever majority party is in control at the time. We become similar to the House of Commons. Whoever has the most votes wins. We haven't worked that way for 216 years.

This abusive practice will allow any majority to alter any rule at any time for the consideration of any measure to advance its short-term political interests and will change the very nature of the Senate.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURNS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

ORDERS FOR MONDAY, DECEMBER 19, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Monday, December 19. I further ask that following the prayer and pledge, the mourning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then proceed to a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER (Mr. ENSIGN). Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow we expect to have the remaining conference reports from the House of Representatives. Much of the activity tonight and all of the activity over the course of the day has been the generation of those conference reports. Since neither of those are going to be available to us this evening, there is no reason for us to remain in session. We will turn to one of those conference reports in the morning and hopefully get closer to finishing our work before Christmas.

MESSAGE FROM THE HOUSE DURING ADJOURNMENT

ENROLLED JOINT RESOLUTION SIGNED

Under authority of the order of the Senate of January 4, 2005, the Secretary of the Senate, on today, December 17, 2005, during the adjournment of the Senate, received a message from the House of Representatives, announcing that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 75. Joint resolution making further continuing appropriations for the fiscal year 2006, and for other purposes.

Under the authority of the order of January 4, 2005, the enrolled joint resolution was signed subsequently by the Majority Leader (Mr. FRIST) during the adjournment of the Senate, on December 17, 2005.

MESSAGES FROM THE HOUSE

At 6:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agree to the amendment of the Senate to the bill (H.R. 2520) to provide for the collection and maintenance of human cord blood stem cells for the treatment of patients and research, and to amend the Public Health Service Act to authorize the C.W. Bill Young Cell Transplantation Program.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 3963. An act to amend the Federal Water Pollution Control Act to extend the authorization of appropriations for Long Island Sound.

H.R. 4195. An act to authorize early repayment of obligations to the Bureau of Reclamation within Rogue River Valley Irrigation District or within Medford Irrigation District.

H.R. 4440. An act to amend the Internal Revenue Code of 1986 to provide tax benefits for the Gulf Opportunity Zone and certain areas affected by Hurricanes Rita and Wilma, and for other purposes.

H.R.4508. An act to commend the outstanding efforts in response to Hurricane Katrina by members and employees of the Coast Guard, to provide temporary relief to certain persons affected by such hurricane with respect to certain laws administered by the Coast Guard, and for other purposes.

H.J. Res. 38. Joint Resolution recognizing Commodore John Barry as the first flag officer of the United States Navy.

The enrolled bills and joint resolution were signed subsequently by the President pro tempore (Mr. STEVENS).

At 6:36 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2329. An act to permit eligibility in certain circumstances for an officer or employee of a foreign government to receive a reward under the Department of State Rewards Program.

H.R. 4501. An act to amend the Passport Act of June 4, 1920, to authorize the Secretary of State to establish and collect a surcharge to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004.

The message further announced that the House has passed the following bill, without amendment:

S. 1988. An act to authorize the transfer of items in the War Reserves Stockpile for Allies, Korea.

The message also announced that the House agree to the amendments of the Senate to the bill (H.R. 797) to amend the Native American Housing Assistance and Self-Determination Act of 1996 and other Acts to improve housing programs for Indians.

The message further announced that the House agree to the amendment of the Senate to the bill (H.R. 358) to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes.

The message also announced that pursuant to 10 U.S.C. 6968(a) and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the Board of Visitors to the United States Naval Academy: Mr. Hoyer of Maryland, and Mr. Cummings of Maryland.

The message further announced that pursuant to section 1909(b) of SAFETEA-LU (Public Law 109–59), the Minority Leader appoints to the National Surface Transportation Policy and Revenue Study Commission the following individuals: Mr. Frank J. Busalacchi (Secretary of the Wisconsin Department of Transportation) of Brookfield, Wisconsin, and Mr. Steve Heminger (Executive Director of the Metropolitan Transportation Commission) of San Francisco, California.

The message also announced that pursuant to section 1238(b)(3) of the Floyd D. Spence National Defense Authorization Act of Fiscal Year 2001 (Public Law 106–398), the Minority Leader reappoints Ms. Carolyn Bartholomew of the District of Columbia and Mr. George Becker of Pittsburgh, Pennsylvania, to the United States-China Economic and Security Review Commission for two-year terms expiring December 31, 2007. Their current terms expire December 31, 2005.

ADDITIONAL COSPONSORS

S. 2082

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of S. 2082, a bill to amend the USA PATRIOT ACT to extend the sunset of certain provisions of that Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention At of 2004 to March 31, 2006.

At the request of Mr. REID, the names of the Senator from West Virginia (Mr. BYRD), the Senator from Vermont (Mr. JEFFORDS) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 2082, supra.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:37 p.m. adjourned until Monday, December 19, 2005, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Sunday, December 18, 2005*

The House met at 1 p.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Eternal God, ever faithful and close to Your people, hear our prayer today.

No matter how strong or powerful or how meek and humble each of us may be, we all stand in need of Your wisdom to guide our judgments, and we rely on Your love to uphold all our relationships.

Bless the work of the people which is committed to the U.S. House of Representatives today, that this Nation may grow in righteousness and, as a democratic republic, be an example to other nations of the earth.

This we ask of You, now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. POE) come forward and lead the House in the Pledge of Allegiance.

Mr. POE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to 10 one-minutes on each side.

ECONOMY PROMOTES AMERICAN FAMILIES

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, while I would be happy to report all of the good news about today's economy, it would certainly take me more than 1 minute.

By decreasing taxes and eliminating unnecessary government regulations, President Bush and Republican leaders have created strong economic growth that has delivered a long list of benefits to the American families.

Four point five million new jobs have been created since May 2003. Home sales reached a record high in October with the highest percentage of American home ownership in history. Consumer prices decreased last month by 0.6 percent, the largest decrease since 1949. Energy prices recently dropped by 8 percent. The unemployment rate is lower than the average of the past 3 decades. The economy grew at 4.3 percent over the last 10 quarters. Productivity soared in the last quarter by 4.7 percent, reducing fears of inflation.

Although we are pleased about these excellent economic indicators, we are not satisfied. House Republicans will continue to promote policies that create jobs for all American families.

In conclusion, God bless our troops, and we will never forget September 11.

DRILLING IN THE ARCTIC

(Mr. KUCINICH asked and was given permission to address the House for 1 minute.)

Mr. KUCINICH. Mr. Speaker, the drilling for oil in the coastal plain of the Arctic Refuge, called by the Gwich'in Tribe "the Sacred Place Where All Life Begins" will disrupt caribou calving grounds, lead to the long-term decline not only of the herd, but of the Gwich'in Tribe which depends on the herd for survival.

Christian teaching tells us to do unto others as we would have them do unto ourselves. We learn from other spiritual insights that what we do unto others we actually do to ourselves. We cannot in the consciousness of true American spirit return to a history of exploitation of native tribes anymore than we could return to a history of slavery or a history where women had no rights.

We must make our stand now to change our path by changing who we are. When we perpetrate acts of violence onto others we are damaging ourselves as humans. We cannot do this to the Arctic Refuge because it will destroy the land, it will destroy the herd, it will destroy the tribe. Another part of the true America will die.

We must not only search for alternative energy. We must search for an alternative way to live. We must escape this cycle of destruction. We must reconcile with nature in this season of peace. We must find a new path to peace on Earth with our native brothers and sisters and within ourselves.

CHRISTMAS 1776

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, one week from today is Christmas, and on Christmas in 1776, Americans were at war for freedom. General Washington and his colonials crossed the Delaware River into New Jersey and defeated the British who were caught celebrating.

This Christmas Americans are at war for freedom in lands far, far away. They, like Washington's men, will not be home for Christmas.

The price of freedom is eternal vigilance, they say. The price is also counted in the cost of human sacrifice. Our troops in Iraq and Afghanistan that will never return for another Christmas gave their lives for the same ideas that Washington's men gave their lives for. We call it freedom. Mr. Speaker, you notice I say gave their lives, not lost their lives, because their lives were voluntarily sacrificed on the altar of liberty.

In the War of Independence, 4,600 Americans died, and in all wars for freedom, over 1.5 million Americans have died. They gave their youth for freedom's future. So, as the church bells ring this Sunday before Christmas, let us be reminded of the ring of the Liberty Bell that tolls the words: "Let freedom ring throughout the land."

That's just the way it is.

PROGRESS IN IRAQ

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, I rise today to honor the Iraqi people for their third successful democratic election, the United States Armed Services men and women, and the American people who support our military and their families.

Mr. Speaker, democracy dealt terrorism another major blow on Thursday with the successful free Iraqi election. This election was a crucial victory for Iraq's new democracy and a defeat for terrorists who seek to destroy that democracy. The Iraqi people have proven they long for freedom and continue to fight the terrorists who wish to take their freedom away, and with the continued help of American and coalition forces, Congress and the President, Iraq will soon be a prosperous and freedom-loving Nation.

Mr. Speaker, we all know the valiant heroics of our military and the sacrifices they have made to ensure our safety. They have fought bravely and served honorably. No one can ever dispute the character of our Armed Forces.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

I salute the Iraqis for taking the next step toward a free nation and our Armed Forces for helping them.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 631 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 631

Resolved, That it shall be in order at any time on the legislative day of Sunday, December 18, 2005, for the Speaker to entertain motions that the House suspend the rules relating to the following measures:

(1) The bill (H.R. 1185) to reform the Federal deposit insurance system, and for other purposes.

(2) A bill to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2006, and for other purposes.

(3) The resolution (H. Res. 545) expressing the sense of the House of Representatives on the arrest of Sanjar Umarov in Uzbekistan.

(4) The concurrent resolution (H. Con. Res. 284) expressing the sense of Congress with respect to the 2005 presidential and parliamentary elections in Egypt.

(5) The bill (H.R. 4501) to amend the Passport Act of June 4, 1920, to authorize the Secretary of State to establish and collect a surcharge to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004.

(6) The bill (S. 1988) to authorize the transfer of items in the War Reserves Stockpile for Allies, Korea.

(7) The bill (H.R. 2329) to permit eligibility in certain circumstances for an officer or employee of a foreign government to receive a reward under the Department of State Rewards Program.

(8) A resolution honoring Helen Sewell on the occasion of her retirement from the House of Representatives and expressing the gratitude of the House for her many years of service.

The SPEAKER pro tempore (Mr. LATHAM). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

This resolution provides that certain specified measures may be considered under suspension of the rules at any time on the legislative day of Sunday, December 18, 2005.

Mr. Speaker, we are gathered here on a beautiful Sunday afternoon in Washington, D.C., December 18, 2005. We have had our priest to open up this beautiful House today, asking that America and Americans understand our responsibilities. We are here today because we still have work yet to be done, but there are people that we need to give thanks to.

Mr. Speaker, our families expected us home weeks ago, but we are here because we have an obligation and a duty.

Mr. Speaker, we are here today under protection of members of the Capitol Hill Police Department, members of the United States military who protect our great country, our staffs, as well as the people who work for the United States House of Representatives who serve with honor and distinction. We deserve to give them thanks for all that they have done on what surely will be the last day of this first session of Congress. But there is still much work left to be done, and we recognize that we are here to do that.

The Republican leadership of this House has set forth yet again a positive legislative agenda for the remainder of this week and the balance of this first session of the 109th Congress. The goal of this plan is to address a number of outstanding issues that still remain on Congress' calendar before we adjourn, and we must utilize this schedule to make sure we maintain our commitment to improving America's economic and national security.

One of the things, Mr. Speaker, that sets America apart from other nations is that we do not expect others to do the work for us. We take part and get it done ourselves, and that is what this Congress is doing.

Over the past year, we have passed a number of important new education, health care, trade, tax and national security bills that will keep America safer and healthier, create new jobs and improve our economy. This rule will allow the House to consider a number of additional bills today under suspension of the rules that will ensure that Congress can complete more additional work necessary before we go home for the holidays.

This rule makes in order the consideration of eight bills under suspension of the rules. These bills will accomplish important domestic goals such as reforming the Federal deposit insurance system and reauthorizing the Temporary Assistance for Needy Families block grant program through March 31, 2006.

The suspension authority allows us to consider necessary and noncontroversial items such as H.R. 4501, which amends the Passport Act in order to comply with the Intelligence Reform and Terrorism Prevention Act of 2004; a bill to authorize the transfer of items in the War Reserves Stockpile; and H.R. 2329, to allow an officer of a foreign government to receive an award under the Department of State Rewards Program under certain circumstances.

This rule also recognizes the importance of democracy throughout the world. H. Con. Res. 284 expresses the sense of Congress with respect to the 2005 presidential and parliamentary elections in Egypt. Another resolution, H. Res. 545, expresses the sense of the House of Representatives on the arrest of Sanjar Umarov in Uzbekistan.

Finally, we have a great opportunity today to honor a very dear friend of mine and a friend of this House, Helen Sewell, as part of the suspension calendar today. This resolution honors Helen for her outstanding service to the United States House of Representatives throughout her work in the Republican cloakroom. During this time, Helen has not only touched the lives of countless Members who have served in this body but also counts President Ford, former President George Herbert Walker Bush and George W. Bush as good friends. It is an honor to stand here today and to join my colleagues in recognizing Helen Sewell for her over 70 years of service in the United States Congress.

All of these bills scheduled for consideration today by the House leadership are on behalf of the American public who enjoy broad support from both Members of the majority and the minority parties.

☐ 1315

This rule simply provides us with the tools needed to ensure that all of this important work is completed before we adjourn and leave Washington to join our families and our communities to celebrate the holidays. Mr. Speaker, I encourage my colleagues on both sides of the aisle to support this noncontroversial and balanced bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, I do not object to this rule that will allow for the consideration of a number of suspension bills, and I expect that these bills, all of them, will be approved if not unanimously certainly overwhelmingly by this House.

As we gather here today, the Sunday before Christmas and Chanukah, it is the process and the way the Republican leadership are running this House that I strongly object to. These last few days, in fact the entire year, I think is a great example of how not to run a government.

Sometime today we expect to consider and vote on the Defense appropriations bill. No one will have time to read and examine the final product. We will not know what last-minute goodies are tucked into the bill. Mr. Speaker, we read news reports that drilling in the Arctic will be in the bill, but we do not know if ANWR is included because we have not yet seen it. And what drilling in Alaska's wilderness has to do with the Pentagon is beyond my comprehension, but there are some in the Republican leadership who do not care about the regular process and want to tuck this in the Defense bill because they know it cannot be enacted on its own.

We also do not know exactly what else is attached to the Defense appropriations bill. Is there funding for Hurricanes Katrina, Rita, and Wilma? And if so, what are the details? Will there be funding for the prevention of a possible avian flu pandemic? Are there campaign finance reform provisions included in any of these bills? And if so, who approved them?

And then there is the Defense authorization bill, which has been held up for much time because the White House did not want language in it that banned torture. This is the United States of America, Mr. Speaker. If we stand for anything, it is out loud and foursquare for human rights. And torture is something that we, as a civilized society and as a decent people, should reject.

Now, the President, from news reports, has apparently now accepted the language by Senator McCAIN which would ban torture, which is a good thing. But some suspect that it is only because the Justice Department has assured him that he can get around the language banning torture, and that is a bad thing. But despite the apparent capitulation of the White House on the issue of torture, we still do not have a Defense authorization bill, and nobody can tell us why.

We are also told a budget reconciliation bill will come up today. Does anyone have a clue what will be in that bill? This is a bill that will impact all of our citizens and could potentially have an adverse impact on the most vulnerable of our citizens.

Mr. Speaker, whether you are a liberal, a conservative, or whether you want more government or less, I think most of us would agree that whatever government we have must be competent and responsive to the people. Now, the Republicans control all of government. They control the House of Representatives, they control the Senate, and they control the White House. It is clear that they are unable to be effective stewards of our government.

Now, putting aside the corruption scandals that hang like a dark cloud over the Congress and the White House, what we see is an inability to govern. When Hurricane Katrina hit the gulf coast, the Federal Government responded miserably. The President put a political appointee in charge of FEMA who was incompetent. The President took responsibility, but ultimately the incompetence and cronyism of his administration led to a disaster that included the loss of many lives.

On the war in Iraq: no weapons of mass destruction, no ties between the Iraqi government and al Qaeda, and no imminent threat to the security of the United States of America; yet we rushed into war. Whether the intelligence was manipulated or not, clearly this government did not do its job. It failed, and over 2,100 Americans are now dead.

But now we are in Iraq, Mr. Speaker. We were there with no post-invasion plan, we are there with no-bid contracts that have led to massive corruption and fraud, our soldiers lack the most basic protective equipment, and with a chain of command that resulted in grave abuses of human rights by some of our own uniformed men and women and some of our Iraqi allies. Ultimately, the President again took responsibility. But, Mr. Speaker, with all due respect, I am tired of the speeches. I, like so many others, want genuine reform and change. I want accountability.

This all brings me to this Congress. There is a reason why this Congress has only a 25 percent approval rating. It is because you are doing a lousy job. You are trashing the rules and regular order. The selling of legislation to the highest bidder, the hard-ball tactics against your own Members to win votes, your lack of oversight and demand for accountability from this administration, all that and more is catching up to you. People are watching. People do care. They believe that you cannot competently run this government, and they want the government back.

The mess that we have before us cannot be blamed on Democrats. After all, as I have said, Republicans control everything. You cannot blame this on Bill Clinton, even though some of you try, because he has been gone now for a full 5 years. This is your fault. The battles going on behind closed doors are between your right wing and your far right wing. For those of us in the minority, and many on your side who want good government, this is a frustrating period.

Mr. Speaker, nobody denies that leadership of Congress is a hard task, but either you live up to the responsibilities or you acknowledge it is time for a change. After this sorry year, it is time for a change.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I thank my colleague, the gentleman from Massachusetts, who has very well articulated some of the differences that exist in this body. Our ability to work through those differences is why we come to work.

We recognize and know that we began this year with a presentation of the State of the Union by the President of the United States who clearly outlined those things which would be important goals for the year, not only for Congress but for the American people and certainly those things that deal with the war in Iraq.

My party, the Republican Party, has been very conscientious about those things which we believe we told the American people that we would do last November. We reiterated we would not raise taxes, as the Democrat Party wanted to do. We indicated that we would not cut and run from the war, which is what many people in the Democrat Party want to do. We recognize that those things that are ahead of us are very difficult choices that have to be made.

We have concentrated our activities on an attempt to streamline the budget process and make ourselves available to working with government for more efficiency. We accomplished for the first time this year a chance for all of our appropriations bills to be done by the July 4 break. Given the world as it was, that was a great idea. But we then were struck with a number of the largest hurricanes that have ever hit the United States of America, the largest storms in the history of the world.

We have worked through adversity. It has not been easy. It has caused great consternation throughout the United States. But I am pleased to tell you that this Congress has still come to work, we have debated the ideas, and it is the Republican Party that has the responsibility as a result of our being the majority party to come up with a plan of how to lead.

We have attempted to work as much as possible with the President of the United States and with our colleagues on the other side of the Capitol in the United States Senate on those things that would empower America. One of those things which we think we have done a very good job on is to say that we disagree with the rhetoric that says we have to raise taxes; that we have to increase spending; that we have to have government to be the answer.

We still reject those ideas here on what we think will be the last day of the first session of the 109th Congress; I still reject that in the face of adversity from the Democrat Party and those elements today who bring their case forward. We respect those thoughts and ideas. I respect very much the disagreement that we have in the Rules Committee on a regular basis. The articulation not only by the gentleman from Massachusetts but by others is very measured and very well said. However, we simply disagree with that; and that is why we will proceed the way in which we do. I respect our colleagues who bring adversity and their thoughts to the floor, and we will continue to do that today.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, before I yield to the gentleman from Ohio (Mr. KUCINICH), I just want to say a couple of things.

First of all, we are here 3 weeks after the Republican majority said we were to adjourn, in part because they have not done a very good job of getting our business done.

Secondly, we can argue about priorities and we can argue about policies, and that is all fine and good; but one of the issues that I raised is the issue of competence. When we have disasters in this country, like Hurricane Katrina, the response of the Federal Government was miserable. It demonstrated a stunning incompetence that I am not sure has been fixed yet. People are still not getting response from the Federal Government in the Gulf States that they, quite frankly, deserve.

Thirdly, in terms of debate and how legislation is brought to the floor, I think that is another failure of this Congress. We do have debates in the Rules Committee, sometimes at weird hours, where not a lot of people get to hear them. But routinely, on major pieces of legislation, they are brought to the floor with very little advanced notice. Oftentimes, people do not have a chance to review what is in the legislation.

That is going to happen today with the Defense appropriations bill. No one will have an opportunity to review it. We will find out in a week or 2 weeks from now, because some Washington Post reporter or New York Times reporter or L.A. Times reporter will dig into it and find all these little goodies that none of us have a chance to know about in advance. That is not the way things should be done.

The Rules Committee, for example, routinely shuts us out of offering amendments to important pieces of legislation. We had a controversial resolution on Iraq that was on the floor the other day, and yet an alternative that was proposed by the ranking member of the International Relations Committee was deemed out of order. We had a pension reform bill that some of us had issues with, and we were denied a substitute.

On major bills that matter, we are shut out; and we are oftentimes not allowed the opportunity to try to get our points of view across on the House floor. And I would say that I think the American people are starting to catch on to that, and they do not like that form of government. This is supposed to be a deliberative body where important issues get debated.

Again, I have no problem with the suspensions that are being brought up here today. But in comparison to some of the issues that are facing this country, from poverty to the war in Iraq, to health insurance and the high price of gas, what we are talking about now is killing time with some relatively trivial matters. There are more important issues before us.

The deficit. You have accumulated the biggest deficit in the history of the United States of America as a result of your policies. That is not a success story, in my opinion. Again, we can differ on policies, but let us approach this legislation in a responsible way, and that means giving all sides, including people on your side, who have differences of opinion the opportunity to be able to debate these things fully on the House floor.

Mr. Speaker, I yield 6 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I thank my friend from Massachusetts for yielding me this time, and I continue invoking this question about rules and the climate that exists in this House where on one hand we feel we can come together on some things by unanimous consent and by facilitating the work of this House, and sometimes it is the right thing to do; and other times on rules we understand, and we are still waiting for a rule which would facilitate including the Arctic National Wildlife Refuge in a Defense appropriations bill, and that would be a distortion of the purpose of the rules of the House.

It leads to the greatest fears of the American people that they cannot get an up-or-down vote on something of a critical policy nature which relates to not only the past but the future of this country.

□ 1330

I want to say that as we stand here in this season of peace and goodwill towards all, we need to reflect on how rules create a climate that can either achieve peace or go in the opposite direction. I agree with my colleague from Massachusetts that war is an issue here.

Now, there are some who say we are not in Iraq for oil. I would take issue with that. The drilling for oil in the Arctic National Wildlife Refuge makes the connection between war and energy policies and exploitation. I would suggest we need to move to a new paradigm, where we can achieve peace through alternative energies through wind and solar and geothermal and biomass and green hydrogen, where we can achieve peace through conservation.

Yet today, through a change in the rules, we will see a bill brought before us that will enable drilling in the Arctic National Wildlife Refuge. It is not only not necessary that we do that, because we all understand that this is a nonrenewable source of energy, there is an endpoint, but we also need to understand there are moral implications. There is a moral dimension to the plan to drill in the Arctic National Wildlife Refuge. This plan will lead to the destruction of the humble, natural way of life, the religion, the culture and the health of the Gwich'in Tribe, which for more than 20,000 years has lived on their ancestral lands in harmony with the natural world.

Now, many of us observed our religious traditions today. Every day the Gwich'in observes their religious traditions in the Arctic in harmony with the natural world. The drilling for oil in the coastal plain of the Arctic Refuge called by Gwich'in the sacred place where all life begins will disrupt the caribou calving grounds, and it will lead to long-term decline not only of the herd but of the Gwich'in Tribe, which depends on that porcupine caribou for its survival.

We cannot minimize this. The Gwich'in have a basic human right to survive. We hold these truths to be self-evident that all men and women are created equal, endowed by our Creator with certain inalienable rights, the right to life, liberty and the pursuit of happiness.

Well, the bill to drill in the Arctic Refuge will deprive the Gwich'in of their right to life, liberty and the pursuit of happiness. Christian teaching tells us to do unto others as we would have them do unto ourselves. We learn from other spiritual insights that what we do unto others we actually do to ourselves.

We cannot in the consciousness of the true American spirit, of everything this country is said to stand for from its inception, return to a history of exploitation of native peoples any more than we could return to a history of slavery or a history of exploiting women where women had no rights.

We must take our stand now. Now we have to change the path we are on by changing who we are. When we perpetrate acts of violence unto others, we are damaging ourselves as humans. We cannot do this to the Gwich'in Tribe. We cannot do this to the Arctic Refuge because it will destroy the land, it will destroy their herd, it will destroy the Gwich'in Tribe, and another part of the true America will die.

Mr. Speaker, we must not only be in the search for alternative energy, we must begin a search for an alternative way to live. We have to escape this cycle of destruction. It is time for us to reconcile nature.

Here we are in a season of peace and goodwill towards all. We must begin today to find a new path to peace on Earth with our native brothers and sisters, with the Gwich'in and with ourselves.

Mr. SESSIONS. Mr. Speaker, we have had an opportunity again today to hear wonderful debate on the floor of the House of Representatives, the gentleman from Cleveland, speaking about some of those things which he deeply believes in. I also have a deep belief that we should be drilling in the Arctic National Wildlife Refuge.

The American way of life, our ability to have energy independence, the opportunity for us to be able to explore for and find energy will determine, in my opinion, the success or failure of the economy of the United States. I do understand that many people who talk about this new way of life simply want us to ride bicycles and to destroy our economy to where we are no better or no worse than a Third World nation.

America, I believe, has set itself on a course where we believe that there is no problem bigger than a solution, and that we will find those avenues through research and development that can lead us on. An example of this would be we have utilized technology in our past for some 25 years. We have used about 21 million barrels of oil a day. It has been about constant what our utilization has been in the United States, and yet we continue to grow our economy. We continue to utilize these things with an increased population through efficiency.

The gentleman from Ohio had a chance to vote for a comprehensive energy bill just this year, a comprehensive energy bill that would put the Federal Government at the apex, at the forefront of making sure that we would lead the way through the government of finding and utilizing new technologies. The government will create a critical mass as a result of the spending which we will do to change government buildings and the way we do business to the most efficient forms that are available to us now and to create the future.

But I would say that this body, Mr. Speaker, needs to be mindful of a future that we are not afraid of, that the past which some of our Members would want us to go to find this opportunity for a new world with tribes and with global people who have been incapable of solving their own problems and addressing change is not the direction we should go.

We need to support an economy. We need to move forward to make sure we are solving the world's problems Poverty and hunger are still problems in this world. We have opportunity today, as we handle bills, to solve some of the most basic problems through research and development, through medicine, and the opportunity for us to go to world leaders like Johns Hopkins University Medical Center, a leading edge in technologists and research and development people, people out at Stanford University Medical Center, like Dr. Bill Mobley, who are looking at genes and gene therapy and the opportunity through research and development to solve problems.

These problems, Mr. Speaker, are what America develops and spends their precious resources on to help the people of the world.

Yes, we know that there are people who want to go back and who want us to ride bicycles everywhere we go and to have an economy that is far different and do not do trade with the world, and isolate America, and cut and run from the war, and do not accept the responsibilities of the world leadership.

Mr. Speaker, I reject that thought process. I believe it will be done through the constant prodding and leadership of this House of Representatives, through our Speaker, DENNIS HASTERT, and through committee chairman like DAVID DREIER from the Rules Committee, who give of themselves some 27 years of service as Mr. DREIER has given. Yes, we will even talk about years of service for Helen Sewell, who for over 70 years came to work almost every day for the benefit of America's future.

This is simply an experiment that we are engaged in, Mr. Speaker. There is no blueprint. There is no direction to say how we will handle things in the future, for we know not, any of us, what lies ahead of us.

But I have the confidence that the Republican Party and the things which we have done and will do will lead this great Nation, and the people will understand a vision, and we shall not perish. In God we trust.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. I would respectfully suggest to my friend, this isn't about returning to just riding bicycles. This is about getting off a treadmill, a treadmill of dependence on oil, which leads us inevitably to war, which leads us to the destruction of the global climate, which leads us to separation from each other.

We are in a moment right now where we are going to determine the future of this country and we cannot maintain our economic power in the world if we continue to rely on oil, because it is a nonrenewable source of energy. That is why drilling in the Alaskan National Wildlife Refuge is a false solution, in addition to being a violation of the human rights of the Gwich'in. There is no need to distort what this debate is about.

You know, we are in Iraq because of oil. We are not signing the Kyoto Climate Change Treaty because of oil. We ought to realize this world is interconnected and interdependent, that we are one with the world. The sooner we understand that, the sooner we end this separation, which puts us in a position where we have our troops right now the Middle East at war. We need to change our direction.

Mr. McGOVERN. Mr. Speaker, let me end as I began here with a plea that we strive for a better process. This is not the way we should be running our government, bringing bills to the floor at the last minute without having given people the opportunity to read what is in them. We should have learned last year. When the Republican majority brought a bill to the floor, we had to meet again and fix it because someone snuck a provision in there that would allow certain Members of the Congress and their staffs to be able to review people's IRS records. We went back and quickly fixed that after it became public that it was in the bill.

We can do so much better than what we see going on right here at this present time. I think this more than anything else is one of the reasons why I think we need a change of leadership in the Congress. I think there needs to be checks and balances. There aren't checks and balances right now. There needs to be oversight, there needs to be accountability.

We need to do the people's business in a more deliberative way. We have to move away from this pattern of locking people out of opportunities to be able to participate in debates and offer their amendments.

Mr. Speaker, having said all of that, we have no objection to this rule that will allow for filler between now and the time that some of these important conference reports come to the floor.

I will close with this. I think every one of our colleagues needs to know that you are not going to know what is in any of these bills that are coming to the floor. You will find out in the newspapers. That is not the way this government should run.

Having said that, we have no problem with the rule.

Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I thank the gentleman from Massachusetts for the opportunity for us to be here today and his collegial support of this rule. The gentleman very clearly understands as a result of his career that he has spent not only serving as a member of professional staff but also as a Member of Congress that Congress does engage in a lot of issues and ideas.

I would submit to him two things: Number one, that the process that we are going through is not perfect. It has existed this way because we have chosen the form of government that we have whereby two bodies get together on pieces of legislation that are of importance. This is something that we have lived through for a long period of time.

I would say to the gentleman that I respect his disagreement about how we should do everything in the day, and in the light of day and hold everything for days and let everybody know. In fact, almost every single piece of any bill has been debated and voted on. There are positions that Senators and Members of this House have taken that I hope are included. I hope that even though they may not be something that was completely understood by one body or another, they were well thought through thoughts and ideas that would be contained.

I believe that the idea of the Arctic National Wildlife Refuge is one that has been debated in this country for over 10 or 12 years. It is time for resolution. For someone that does not understand that putting this on the DOD bill would be appropriate, I wonder who uses more energy than anyone, and it would probably be the Department of Defense. I think there is an intrinsic interest in us making sure that our own security of this country is participated in by and as a result of this being on the bill.

Mr. Speaker, lastly, I disagree with those who say that we need a change of leadership.

□ 1345

I do recognize that the other side, the Democrat Party, has different ideas about how to do things. But I am proud of my leadership, and I believe that the service of DENNIS HASTERT and those that are committee chairmen and those that are part of our leadership have stood the test of time to make sure that we are open and ready to do business, that we have the leading-edge thought process of this great Nation, that we are open to hearing from those who can help lead us to the greater pathways, and lastly, that we work with those constitutionally elected officials in a process to make sure that our Constitution is alive and well and a model to the world.

Mr. Speaker, I am proud of DENNIS HASTERT and his leadership of this House of Representatives and those Members, whether they be from Iowa, Texas, California or Massachusetts, who come to this great body for service to this great Nation. Once again, I am proud of that which we do.

AMENDMENT OFFERED BY MR. SESSIONS

Mr. SESSIONS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SESSIONS of Texas:

Add at the end the following:

(9) The bill (H.R. 797) to amend the Native American Housing Assistance and Self-Determination Act of 1996 and other Acts to improve housing programs for Indians.

(10) The bill (H.R. 358) to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes.

(11) The resolution (H. Res. 456) expressing support for the memorandum of understanding signed by the Government of the Republic of Indonesia and the Free Aceh Movement on August 15, 2005, to end the conflict in Aceh, a province in Sumatra, Indonesia.

(12) The concurrent resolution (H. Con. Res. 275) expressing the sense of Congress regarding the education curriculum in the Kingdom of Saudi Arabia.

Mr. SESSIONS. Mr. Speaker, again I urge my colleagues to join me in supporting this rule to provide that suspensions will be in order at any time on the legislative day of December 18, 2005.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the amendment and on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LATHAM). The question is on the amendment offered by the gentleman from Texas (Mr. SESSIONS).

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. PUTNAM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 632 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 632

Resolved, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of Sunday, December 18, 2005.

The SPEAKER pro tempore. The gentleman from Florida, (Mr. PUTNAM) is recognized for 1 hour.

Mr. PUTNAM. Mr. Speaker, for the purpose of debate only I yield the customary 30 minutes to the gentlewoman from California (Ms. MATSUI), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 632 is a same-day rule that waives clause 6(a) of rule XIII, which requires a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee against certain resolutions reported from the Rules Committee. It applies the waiver to any special rule reported on the legislative day of December 18, 2005.

H. Res. 632 allows the House to consider a rule and underlying legislation that may be reported today.

Mr. Speaker, it is imperative that we pass this same-day rule. This resolution will lay the foundation for the House to complete its business and send outstanding legislation to the Senate and eventually the President for his signature. We are working to move the process along towards adjournment of the first session of the 109th Congress.

Mr. Speaker, I urge my colleagues to support this same-day rule so we can move forward to serious consideration of the remaining legislation for which we are staying here and working through the weekend to complete.

With that, Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, today we consider H. Res. 632, a martial-law rule allowing the House to bring bills to the floor on the same day that the Rules Committee meets to report that bill.

But significantly, the martial-law rule does not specify which bills may be brought up. Instead, it is a blank check for the majority party to bring up virtually any bill in Congress up until the speaker gavels this legislative day to a close.

Mr. Speaker, this is a highly unusual procedure. I would like to take a moment to explain to the American people exactly how out of the ordinary it is.

This is the first time that a totally open-ended blanket martial-law rule has been brought to the House floor. Every other rare use of this procedure has specified at least a category of legislation. This rule is unprecedented for the power it grants the majority.

Mr. Speaker, some Members may argue that the blanket nature of this rule allows them to conduct business efficiently by allowing them to bring up the first thing that is ready to pass.

I, however, take a different view. This will tarnish the honor of this institution by restricting the democratic process. It will allow bills to come up with absolutely no prior notice to Members. Members may not have time to examine what is in the bill. They may not have even heard of the bill before.

There is a risk that last-minute language could be written incorrectly, or that it could have unintended consequences. There is the risk that controversial provisions could be inserted without proper review.

And by not giving Members this review time, we will be forced to simply hope that this did not occur. Mr. Speaker, I believe that Members need more of a guarantee than that before we cast our votes.

Mr. Speaker, such a harsh rule impedes the democratic process. It did not have to be that way. The House leadership chose not to conduct floor business on Friday of last week, or on Monday of this week. This type of schedule has been commonplace all year long.

So I must conclude that we are here not out of necessity, but because the Republican leadership is unable to govern. Once again, it seems as though the majority cannot be trusted with conducting the business of the American people in an open manner.

I urge my colleagues to reject this blanket martial-law rule. Members should have adequate time to review bills before they vote for them.

Mr. Speaker, I reserve the balance of my time.

Mr. PUTNAM. Mr. Speaker, the gentlewoman is correct when she characterizes this as an unusual time. It is almost 2 o'clock on a Sunday afternoon and the Congress is in session. These are very unusual times as we approach the end of this first session of the 109th Congress. I do not think anybody would dispute that. I certainly know that our wives and husbands and families who are scattered around the country manning Christmas parties and Christmas pageants as single parents while we are here doing the people's business over the weekend would agree that these are highly unusual times.

I would note that this same-day rule has passed the committee two times on a voice vote, and these concerns were not elevated to the point of even demanding a role call vote.

These are unusual times, I would certainly agree. And in order for us to bring this unusual session that has been marked by cataclysmic events throughout our country which were unforeseen, this unusual session that has seen an unusually productive legislative agenda pass both the House and the Senate and be signed into the law by the President, as we mark the end of this year and do everything we can to pass the legislation that will directly benefit our troops, both at home and abroad through the Department of Defense Appropriations Bill, as we do everything we can in an unusual way on a Sunday night and probably into the wee hours of Monday morning, to do everything we can to guarantee that our friends and neighbors on the gulf coast in Louisiana and Mississippi and Alabama and south Florida who were hit by Katrina and Rita and Wilma will have the relief that has been promised them and that is so important as so many of them struggle to bring their lives back together, yes, we will continue to operate in this unusual scenario on a Sunday afternoon and Sunday night to do our job, to finish the work that is on our plate.

The House has very successfully moved its appropriations legislation in a very timely manner. But, frankly, while we finished prior to the July 4 recess, Katrina hit during the August recess. Wilma and Rita hit after that. So while we were following the regular order that both sides of the aisle should be very proud of, both sides of the aisle should be very appreciative of our hardworking appropriators who made that happen, it all went out the window when you get hit by a category 5 and then another category 5 and then another category 4 while we were on August recess alone.

So certain unusual factors have impacted this unusual year, which lead us to the unusual situation of being here on a Sunday passing a same-day rule so that we can move forward on the important items that remain.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I think it is important for the American people to know that under martial law, anything can be brought up and put into any bill; and it will take weeks, months or longer before many people even understand what happened.

But I want to demonstrate a knowledge of one thing that every Member of Congress must be aware of, that the Defense appropriations bill has folded into it a provision which will permit drilling in the Arctic National Wildlife Refuge. Every Member of Congress must be aware of that. No one can say after it happens that they did not know. And according to all news reports up to this moment, it is the intention of the majority to put that provision into the Defense appropriations bill.

It is a very interesting admission. Drilling for oil is linked to our warfighting capabilities. If we do not drill for more oil in this refuge, perhaps we can, instead, explore our peacemaking capabilities. There is no question that our presence in Iraq was, in part, linked to a quest for domination of oil resources. I mean, let us be frank. The first objective, when our troops went in, they were told by their leaders in the administration to get control of the Iraqi oil ministry. Everyone remembers that. And Americans remember, too, the high oil prices that this country has suffered in the last year.

Now, let me ask each Member of Congress, is there any connection between high oil prices and the growing monopolies within the energy industry? The fewer oil companies we have it seems the prices keep going up and up.

Now, what are the oil companies afraid of? They are afraid of alternative energy. They are afraid of energy from the sun, from wind, geothermal, biomass, green hydrogen, because the oil companies know that it will cut into their profits. So, naturally, the oil companies want to keep on drilling. They so badly want to keep on drilling that they are going to drill in Alaska, or in the Arctic National Wildlife Refuge, if the Defense appropriations bill passes.

Every American should know that that is not going to mean lower oil prices; it is going to mean higher oil prices because it will once again show the domination of the oil companies on our political process.

We could talk about our economy, and we should. High oil prices are bad for our economy. Is that not a message that we should be going towards alternative energy? Reliance on nonrenewable resources inevitably will lead to war. Is that not an argument for renewable energy? Is that not an argument for breaking up the energy monopolies? Oil companies do not want alternative energy. They want us to keep on drilling. They want to grab access to oil whether it is in Iraq or ANWR or anywhere else.

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Wherever we are depending on more oil, they get more profits.

This is a time for us to take a direction towards conservation. In that way I consider myself a conservative. Waste not, want not. It is time for us to take a stand for protection of the environment. The administration has spurned any efforts to cause America to join with the world community in signing the Kyoto Climate Change Treaty, and at the same time we see billions of dollars wasted because of the tremendous suffering that has been caused in our gulf coast region, but I would say that we have wasted the gulf coast region because we did not have an alternative energy policy years ago. We act like there is no connection between climate change and our energy consumption patterns.

Wake up, America. Understand that all these things are interrelated, that we are interdependent and interconnected, that the choices we make today on our energy policy will echo through the years as to the direction the country will go in.

It is time for us to take a stand today for the protection of human rights. The Gwich'in Tribe is this humble tribe that depends on the porcupine caribou for its subsistence, and drilling in that Alaskan refuge is going to destroy the calving grounds of the porcupine caribou.

Mr. PUTNAM. Mr. Speaker, while I would love to engage the gentleman in his theory that big oil companies caused Hurricane Katrina on the rule about consideration of legislation on the same legislative day, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I would just like to say that I urge my colleagues to reject this blanket martial-law rule. Members should have adequate time to review the bills before they vote for them.

Mr. Speaker, I yield back the balance of my time.

Mr. PUTNAM. Mr. Speaker, these are unusual times as we struggle through the important deliberations of this Congress to make sure that our troops are cared for through the Department of Defense appropriations process and that our gulf coast friends and neighbors receive the assistance that they need and have been promised and are owed by their countrymen in the wake of the devastation wrought by these hurricanes.

This rule lays the foundation for us to move that important legislation in a timely way. And martial law around the world means troops on the streets, tanks on the streets, the military setting mandatory curfews where people cannot act in a free and virtuous way.

Only in America would the opportunity for 535 elected representatives to come from around the country to haggle and debate and fight and compromise over ways to help their fellow countrymen and move forward with an agenda for liberty and prosperity and security, only in America do we take for granted our liberties such that we would call such a process "martial law."

Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LATHAM). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. MATSUI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

EXPRESSING SENSE OF THE HOUSE ON ARREST OF SANJAR UMAROV

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 545) expressing the sense of the House of Representatives on the arrest of Sanjar Umarov in Uzbekistan.

The Clerk read as follows:

H. RES. 545

Whereas the United States supports the development of democracy, free markets, and civil society in Uzbekistan and in other states in Central Asia;

Whereas the rule of law, the impartial application of the law, and equal justice for all courts of law are pillars of all democratic societies;

Whereas Sanjar Umarov was reportedly arrested in Tashkent, Uzbekistan, on October 22, 2005;

Whereas Sanjar Umarov is a businessman and leader of the Uzbek opposition party, Sunshine Coalition;

Whereas Sanjar Umarov was reportedly taken into custody on October 22, 2005, during a crackdown on the Sunshine Coalition that included a raid of its offices and seizure of its records;

Whereas Sanjar Umarov was reportedly charged with grand larceny;

Whereas press accounts report that representatives of Sanjar Umarov claim that Mr. Umarov was drugged and abused while at his pretrial confinement center in Tashkent, Uzbekistan, but such accounts could not be immediately confirmed, and official information about the health, whereabouts, and treatment while in custody of Mr. Umarov has thus far been unavailable;

Whereas the United States has expressed its serious concern regarding the overall state of human rights in Uzbekistan and is seeking to clarify the facts of this case;

Whereas the European Union (EU) and the Organization for Security and Cooperation in Europe (OSCE) have expressed concern about the arrest and possible abuse of Sanjar Umarov; and

Whereas the Government of Uzbekistan is party to various treaty obligations, and in particular those under the International Covenant on Civil and Political Rights, which obligate governments to provide for due process in criminal cases: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the law enforcement and judicial authorities of Uzbekistan should ensure that Sanjar Umarov is accorded the full measure of his rights under the Uzbekistan Constitution to defend himself against any and all charges that may be brought against him, in a fair and transparent process, so that individual justice may be done;

(2) the Government of Uzbekistan should observe its various treaty obligations, especially those under the International Covenant on Civil and Political Rights, which obligate governments to provide for due process in criminal cases; and

(3) the Government of Uzbekistan should publicly clarify the charges against Sanjar Umarov, his current condition, and his whereabouts.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida.

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of House Resolution 545 regarding the arrest of Uzbek opposition leader Sanjar Umarov.

Mr. Umarov is a businessman and a leader of the Sunshine Coalition, an Uzbek opposition party that was formed in April in the wake of a popular uprising in neighboring Kyrgyzstan.

The group quickly gained recognition after its condemnation of the severe military crackdown on demonstrators in the eastern city of Andijon earlier this year.

On October 22, 2005, the Uzbek authorities launched a crackdown against the Sunshine Coalition that included a raid of its offices and a seizure of its records. Sanjar Umarov was then charged by the Uzbek regime. Press reports have alleged that Mr. Umarov was drugged and abused while at his pretrial confinement center.

The State Department has expressed its serious concern regarding this case, and last month the Senate passed a companion resolution regarding Mr. Umarov's case. The Congress remains deeply troubled about the overall state of human rights in Uzbekistan, as that regime has become one of the world's most repressive.

Freedom House and our own State Department rank Uzbekistan among some of the world's most notorious human rights violators. As an important first step toward addressing these underlying issues, this resolution calls on the Uzbek authorities to ensure that Mr. Umarov is accorded his full rights under Uzbek law and Uzbekistan's international obligations.

Mr. Speaker, I strongly urge my colleagues to support this important measure.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this resolution.

I first would like to commend my good friend and colleague ILEANA ROS-LEHTINEN for introducing this important measure relating to human rights in Uzbekistan.

Mr. Speaker, the dissolution of the Soviet Union marked an historic triumph for freedom, democracy, and openness throughout the former Soviet realm. Millions of oppressed citizens of the former Soviet Union, from the Baltics to Georgia and Armenia, finally won the right to choose their leaders freely and openly and to speak publicly their minds about the future of their nation. This historic movement towards freedom and democracy was not uniform, and pockets of despotic totalitarianism remain within the realm of the former Soviet Union. The Central Asian nation of Uzbekistan is one such authoritarian pocket.

Since Uzbekistan won its independence from the Soviet Union in 1991, it has been ruled with an iron fist by Islam Karimov. Karimov came to power in 1991 in elections that our State Department characterized as "neither free nor fair," and I fully agree. His term in office has been repeatedly extended through sham referenda and actions taken by his rubber stamp parliament.

During Karimov's brutal tenure, there has been absolutely no progress towards democratic reform. The government has severely limited freedom of speech and the press, and few reporters there write articles critical of the government for fear of being tossed in jail. Independent human rights organizations are denied registration by the government, and their activities are severely limited.

It is in this context that Sanjar Umarov, a successful business leader in Uzbekistan, decided to form an opposition movement. His Sunshine Coalition raised questions about the lack of true democracy and freedom in Uzbekistan and the Uzbek government's abysmal performance running the nation. Umarov's party offices were raided in October. He was charged with grand larceny, following the Russian example of concocting alleged business crimes to justify the imprisonment of key opposition leaders. There have been reports that Mr. Umarov has been tortured while in custody and that his lawyer found him naked in his cell, covering his face with his hands, rocking back and forth.

Mr. Speaker, the resolution before the House has a simple message: It urges the government of Uzbekistan to accord Mr. Sanjar Umarov the right to defend himself in court according to the rights provided to him by the constitution of Uzbekistan and that the charges against him be publicly clarified and his whereabouts announced.

Mr. Speaker, the government's continued imprisonment of Mr. Umarov is yet another black eye for Uzbekistan internationally. I strongly urge the Uzbek government to reconsider their unwise action and release Mr. Umarov from jail immediately.

I urge all of my colleagues to support this important resolution.

Mr. Speaker, I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, it is always a pleasure to work with my good friend from California, Mr. LANTOS.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree the resolution, H. Res. 545.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

EXPRESSING THE SENSE OF CONGRESS WITH RESPECT TO THE 2005 ELECTIONS IN EGYPT

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 284) expressing the sense of Congress with respect to the 2005 presidential and parliamentary elections in Egypt, as amended.

The Clerk read as follows:

H. CON. RES. 284

Whereas promoting freedom and democracy is a foreign policy and national security priority of the United States;

Whereas free, fair, and transparent elections constitute a foundation of any meaningful democracy;

Whereas Egypt is the largest Arab nation comprising over half the Arab world's population;

Whereas Congress has long supported Egypt as a partner for peace and stands ready to support Egypt's emergence as a democracy and free market economy;

Whereas a successful democracy in Egypt would definitely dispel the notion that democracy cannot succeed in the Arab Muslim world;

Whereas in his 2005 State of the Union Address, President George W. Bush stated that "the great and proud nation of Egypt, which showed the way toward peace in the Middle East, can now show the way toward democracy in the Middle East";

Whereas in her June 20, 2005, remarks at the American University in Cairo, Secretary of State Condoleezza Rice stated: "[T]he Egyptian Government must fulfill the promise it has made to its people—and to the entire world—by giving its citizens the freedom to choose. Egypt's elections, including the Parliamentary elections, must meet objective standards that define every free election.";

Whereas on February 26, 2005, Egyptian President Mubarak proposed to amend the Egyptian Constitution to allow for Egypt's first ever multi-candidate presidential election;

Whereas in May 2005, President Bush stated that Egypt's presidential election should proceed with international monitors and with rules that allow for a real campaign;

Whereas Egypt prohibited international monitoring in the presidential election, calling such action an infringement on its national sovereignty;

Whereas domestic monitoring of the election became a major point of contention between the government, the judiciary, and civil society organizations;

Whereas in May 2005, the Judges Club, an unofficial union for judges, took the provisional decision to boycott the election if their demand for a truly independent judiciary was not met;

Whereas the Judges Club initially insisted that the 9,000 to 10,000 judges were in no position to monitor the election if plans proceeded for polling at 54,000 stations on one day;

Whereas the government responded to their demands by grouping polling stations to decrease their number to about 10,000, more or less matching the number of available judges;

Whereas on September 2, 2005, a majority of the general assembly of the Judges Club decided that the judges would supervise the election and report any irregularities;

Whereas several coalitions of Egyptian civil society organizations demanded access to polling stations on election day and successfully secured court rulings granting them such access;

Whereas the Presidential Election Council, citing its constitutional authority to oversee the election process, reportedly ignored the court order for several days, before they granted some nongovernmental organizations access to polling stations a few hours before the polls opened;

Whereas the presidential campaign ran from August 17 to September 4, 2005;

Whereas the presidential election held on September 7, 2005, was largely peaceful, but reportedly marred by low turnout, general confusion over election procedures, alleged manipulation by government authorities, and other inconsistencies;

Whereas the presidential election was a potentially important step toward democratic reform in Egypt and a test of President Mubarak's pledge to open the country's authoritarian political system;

Whereas Mr. Mubarak promised to allow during the presidential campaign a free press and independent judiciary, lift emergency laws that stifle political activity, reduce presidential powers in favor of a more freely elected parliament, and allow a slow but steady transition to a liberal democracy;

Whereas parliamentary elections were held in Egypt in November and December 2005;

Whereas several local human rights and civil society organizations issued a joint statement declaring unease over the Egyptian Government's criticism of independent judges, stating that the government was trying to deprive the organizations of the right of free expression;

Whereas reports prepared by judges who monitored the parliamentary elections indicated that numerous violations occurred in the second and third rounds of voting, including the physical prevention of voters from casting their votes, the closure of roads and streets leading to polling stations, and assaults on several judges as they oversaw the elections and protested the security agencies measures to prevent voters from reaching polling stations;

Whereas other Egyptian nongovernmental election monitors also have complained that security forces blocked thousands of eligible voters from entering polling stations during the parliamentary elections;

Whereas poll monitors and human rights organizations reported that violence initiated by Egyptian security forces, coupled with wide-scale arrests, contributed to poor turnout across the country during the parliamentary elections;

Whereas violence during the parliamentary elections, including reports of excessive force by Egyptian security services, resulted in the deaths of several demonstrators and the wounding of dozens more;

Whereas Ayman Nour, Mr. Mubarak's only serious challenger in the presidential election, was declared in the parliamentary elections to have lost his seat—in a Cairo district that elected him twice before—to a former state security official with reported ties to President Mubarak;

Whereas it was reported that Mr. Nour, a secular liberal, was harassed repeatedly by Mr. Mubarak's proxies and slandered by the Egyptian media, and local election observers reported numerous irregularities in Mr. Nour's Cairo district;

Whereas the Egyptian Government's apparent manipulation of the electoral system resulted in a weakening of the secular opposition and a strengthening of the Islamist opposition in Egypt; and

Whereas it is in the national interests of the United States and Egypt that Egypt be governed by a truly representative, pluralist, and legitimate national parliament: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) recognizes the presidential election held on September 7, 2005, as a potential first step toward greater political reforms in Egypt;

(2) expresses grave concern over the widely reported irregularities during the Egyptian presidential election and parliamentary elections held in November and December 2005, including interference by Egyptian security forces, and the apparent failure of the Government of Egypt to ensure that the elections were free, fair, and transparent;

(3) calls on the Government of Egypt to take immediate steps to address these reported violations of the fundamental freedoms of the Egyptian people and hold those responsible for such violations accountable;

(4) recognizes that the development of a democratically-elected representative and empowered Egyptian national parliament is a fundamental reform needed to permit real progress toward the rule of law and democracy in Egypt;

(5) calls on the Government of Egypt to separate the apparatus of the National Democratic Party from the operations of government, to divest all government holdings in Egyptian media, and to end the government monopoly over printing and distribution of newspapers;

(6) calls on the Government of Egypt to repeal the 1977 emergency law which took effect in 1981, as promised by President Mubarak, and in the development of any future anti-terrorism legislation to allow peaceful, constitutional political activities, including public meetings and demonstrations, and to allow full parliamentary review of any such legislation;

(7) expresses disappointment over the failure of the Government of Egypt to ensure that the presidential election was free, fair, and transparent;

(8) calls on the Government of Egypt, in future elections, to—

(A) ensure supervision by the judiciary of the election process across the country and at all levels;

(B) ensure the presence of accredited representatives of all competing parties and independent candidates at polling stations and during the vote-counting; and

(C) allow local and international election monitors full access and accreditation;

(9) urges the President of the United States to take into account the progress achieved by the Government of Egypt in meeting the goals outlined in this resolution when determining—

(A) the type and nature of United States diplomatic engagement with the Government of Egypt; and

(B) the type and level of assistance to be requested for the Government of Egypt;

(10) given the responsibility of the Government of Egypt for the outcome of the 2005 presidential and parliamentary elections, calls on the Government of Egypt not to use the strength of the Islamist opposition in Egypt to justify the failure of the Egyptian Government to comply with its international human rights obligations or to undertake the reforms to which it has committed; and

(11) urges the President and other officers of the Government of the United States to speak with unmistakable clarity in expressing the disappointment of the people and Government of the United States with respect to the behavior of the Government of Egypt during the 2005 presidential and parliamentary elections.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida.

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of House Concurrent Resolution 284, as amended. Prior to this year's election in Egypt, that country's leader, Hosni Mubarak, promised to undertake a series of steps toward a slow but steady transition to a free and democratic society. However, in the wake of the parliamentary elections it is explicitly clear that those commitments remain unfulfilled.

This concurrent resolution, initially drafted amid an atmosphere of hope, had to be updated from the version passed by the House Committee on International Relations in order to reflect the grave developments that have taken place and to express congressional disappointment with the behavior of the Egyptian government and security forces during the parliamentary elections.

Election monitors complained that polling and counting stations were blocked and that wide-scale arrests were also used as a means of manipulating the electoral process. There were reports of excessive force by Egyptian security services resulting in the deaths of several demonstrators and the wounding of dozens more.

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We must send a clear message to the Egyptian leadership that such behavior is unacceptable and that the concerns contained within this resolution need to be addressed if our bilateral relations are not to suffer.

The resolution before us therefore calls on the government of Egypt to take immediate steps to address the reported violations of fundamental freedoms of the Egyptian people and to hold those accountable for those actions and it urges the President to take into account what, if any, progress has been achieved by the Government of Egypt in meeting the goals outlined in this resolution when determining diplomatic engagement with and the type of level of assistance to the Government of Egypt.

This resolution is also forward looking, calling on the Government of Egypt to take a series of confidence-building measures in future elections.

Mr. Speaker, it is in the U.S. national security interest and in the interest of the Egyptian people for Egypt to be governed by a representative freely elected and legitimate national government. I ask my colleagues to render their full support to this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H. Con. Res. 284 and commend my good friend, ILEANA ROS-LEHTINEN and my colleague Mr. ACKERMAN of New York, for sponsoring it.

Mr. Speaker, Egypt held a series of elections this year, both presidential and parliamentary. They were the most competitive elections Egypt has conducted in many decades; and, broadly speaking, I commend President Mubarak for that. But that judgment, of course, is rendered against the background of the decidedly noncompetitive and unfree elections that have previously marked the quarter century of the Mubarak era.

Accordingly, this resolution is absolutely on target in expressing the deep disappointment and grave concern of this body with the heavy-handed and often violent tactics that the Government of Egypt and its security forces continue to employ in order to ensure their unbroken dominance. This government-initiated violence apparently was intended to limit voting in certain antigovernment districts. It resulted in nearly a dozen deaths. In other cases, polling stations were simply shut down by the security forces or shadowy groups of nonuniformed thugs.

But many of the problems associated with these elections, arguably the most serious problems, had nothing to do with violence. These include the Egyptian Government's refusal to allow international election monitors and even domestic NGOs meaningful access to polling stations and its transparent and successful effort to eviscerate any meaningful secular opposition to the ruling party.

For example, in seeking to convince Egyptians and the world that the ruling National Democratic Party is the only bulwark against Islamic fundamentalism, the government trumped up legal charges against Mr. Ayman Nour, whose secular reformist agenda catapulted him to a second-place finish in the September presidential elections. This theater-of-the-absurd legal case crippled Nour's ability to conduct a parliamentary campaign, and he even lost his own parliamentary seat under highly questionable circumstances.

In light of all these problems, Mr. Speaker, it is hardly surprising that barely one-quarter of the Egyptian electorate even bothered to vote, a dismal participation rate which compares most unfavorably with the almost-70 percent of the electorate voting in Iraq.

Mr. Speaker, this body has every right and obligation to take a deep interest in the process of democratization and human rights reform in Egypt, the recipient yet again this year of some $2 billion of military and economic support from the pockets of American taxpayers. We have every right to expect that when Egypt pledges to hold free elections, these elections will be truly free.

As our Secretary of State, Dr. Condoleezza Rice, said at the American University in Cairo in June: "Egypt's elections must meet objective standards that define every free election." Unfortunately, the elections of 2005 fell far short of those standards.

Mr. Speaker, the administration is set to be seriously contemplating the opening of negotiations for a free trade agreement with Egypt next month. I think that would be a most regrettable step. It would be construed as a signal that the United States is satisfied with the State of Egypt's progress toward democratization; and as I am confident the vote on this resolution will show, this body decidedly is not satisfied at all.

Mr. Speaker, I do not want to minimize the problems Egypt faces in moving towards democracy in a society where income is extraordinarily low and the illiteracy rate is unbelievably high, nor should we be unconcerned that these elections have revealed that the Fundamentalist Brotherhood, which thrives with the impoverished and ill-educated, remains a powerful force in Egypt. But I remain convinced that true democratization, buttressed by free, fair, transparent and truly competitive elections, will allow for the emergence of a secular opposition. That is the right way to go about creating a prosperous and healthy Egypt.

So, Mr. Speaker, these elections may represent a step forward, but a much shorter and far clumsier step than this body, the American people and, most importantly, the Egyptian people have every right to expect. That is why I support this resolution and urge my colleagues to do so.

Mr. ISSA. Mr. Speaker, I rise today in support of H. Con. Res. 284, a resolution expressing the sense of Congress with respect to the 2005 presidential and parliamentary elections in Egypt.

I consider myself a friend of Egypt and while I believe Egypt deserves praise and recognition for the steps toward democracy it has made this year by moving to a direct vote on the election for the office of President and the reforms that followed I must also, as a friend, express some disappointment and concern about missed opportunities.

Specifically, I was disappointed to see that more was not done to ensure that domestic election monitoring officials would be granted full access to polling and counting stations. I have also been disappointed to learn about the continued severe limitations placed on respected international election observing organizations to gain accreditation and reasonable access to polling and counting sites. The International Republican Institute, which had a team of international election experts on the ground for the recent parliamentary elections reported, "The November 2005 parliamentary election process does not support the claim that Egypt is in a process of democratic transformation."

Mr. Speaker, this resolution rightfully focuses Congress's attention on a number of different aspects of the electoral process in Egypt. While there are many areas where improvement is needed in Egypt, I would like to give credit to Egypt where credit is due. The International Republican Institute made the following assessment in the conclusion section of its "2005 Parliamentary Election Assessment in Egypt" about positive developments in the most recent round of elections:

> Despite negative aspects of the 2005 Parliamentary elections, it is possible to highlight several notable achievements when compared with elections in the past. First, the role played by the domestic monitoring groups and the Judges' Club—as with the Presidential election—has been important, as elements of civil society begin to take a more active role in advocating for greater democratic freedom and pluralism.
>
> In addition, between monitoring groups and independent media, the government has permitted a new level of scrutiny from the domestic and international community.
>
> Several of IRI's delegates had spent time in Egypt in the late 1980's and early 1990's, and noted that the public debate about political reform and criticism of the ruling party and the government would have been unthinkable 10 or 15 years ago. The relative freedom with which state-run and independent press can debate these issues is an indicator of progress that should not go unmentioned.

In closing, I stand ready to support Egypt as it moves toward truly competitive democratic elections. This movement is rarely easy, and I will be among the first to recognize progress made by Egypt as it occurs

I would also note that despite all shortcomings in the recent elections, Egypt—despite the work that needs to be done—remains a leader in the Middle East when it comes to democracy, its relationship with the United States, and its positive relationship with Israel. I believe it is, in fact, Egypt's close relationship with the United States that gives this Congress the responsibility to ensure that this relationship enhances the security, prosperity, and the democratic freedoms of both peoples.

Mr. Speaker, I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LATHAM). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 284, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. ROS-LEHTINEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

PASSPORT SERVICES ENHANCEMENT ACT OF 2005

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4501) to amend the Passport Act of June 4, 1920, to authorize the Secretary of State to establish and collect a surcharge to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended.

The Clerk read as follows:

H.R. 4501

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Passport Services Enhancement Act of 2005".

SEC. 2. AUTHORITY OF SECRETARY OF STATE TO ESTABLISH AND COLLECT A SURCHARGE TO COVER THE COSTS OF MEETING THE INCREASED DEMAND FOR PASSPORTS.

Section 1 of the Passport Act of June 4, 1920 (22 U.S.C. 214) is amended—

(1) in the first sentence, by striking "There shall be collected and paid" and inserting "(a) There shall be collected and paid"; and

(2) by adding at the end the following new subsection:

"(b)(1) The Secretary of State may by regulation establish and collect a surcharge on applicable fees for the filing of each application for a passport in order to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note). Such surcharge shall be in addition to the fees provided for in subsection (a) and in addition to the surcharges or fees otherwise authorized by law and shall be deposited as an offsetting collection to the appropriate Department of State appropriation, to remain available until expended for the purposes of meeting such costs.

"(2) The authority to collect the surcharge provided under paragraph (1) may not be exercised after September 30, 2010.

"(3) The Secretary of State shall ensure that, to the extent practicable, the total cost of a passport application during fiscal years 2006 and 2007, including the surcharge authorized under paragraph (1), shall not exceed the cost of the passport application as of December 1, 2005.".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida.

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4501.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill represents a bipartisan and bicameral measure. We have worked with our colleagues on the Senate Foreign Relations Committee to draft a bill that will assist the State Department in meeting the ever-increasing demand for U.S. passports. The 9/11 bill required that Americans carry a passport when reentering the United States from travel to countries in the Western Hemisphere. This requirement is greatly increasing the demand for passport services.

This bill, which has been approved by OMB, will allow the State Department to collect and retain a surcharge of approximately $5 to $8 on each passport. Because the State Department expects there to be a decline in the actual cost of issuing each passport, there will not be an increase in the current price for issuing passports, which is now $97.

Presently, the U.S. Treasury receives the revenues from fees charged for the issuance of a passport. As a result of this legislation, the State Department will keep part of the passport fee. The bill narrowly defines the uses permitted of the proceeds from this surcharge. It is for the cost of additional personnel, mailing and similar operational costs that are necessary to keep up with the increased passport workload. The authority for the Department to collect this surcharge will expire in the year 2010. Congress will be able to assess whether this surcharge continues to be necessary.

This is an important measure that has been requested by the Secretary of State, and the text has been worked out between the majority and the minority of both the House International Relations Committee and the Senate Foreign Affairs Committee. I urge support for H.R. 4501, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this measure. The measure before us would amend the Passport Act of June 4, 1920, to authorize the Secretary of State to establish and collect a surcharge to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004.

Mr. Speaker, the Intelligence Reform and Terrorism Prevention Act requires U.S. citizens to obtain and utilize passports when reentering the United States from other foreign jurisdictions within the Western Hemisphere. The Department of State, therefore, is facing a massive increase in demand for passports in anticipation of this new security requirement. Our Secretary of State estimates that demand could grow from less than 9 million applicants in fiscal year 2004 to over 17 million a year by the end of fiscal year 2008.

Mr. Speaker, the Department of State desperately needs the resources to increase its passport adjudication and production capabilities to meet this demand. Our measure will enable the State Department to collect the new surcharge from passport fees and provides the Secretary with the authority to use the proceeds from this surcharge to pay for the staff, equipment, and facilities she will need to meet this critical national security mandate.

I urge all of my colleagues to support this critical piece of legislation.

Mr. Speaker, I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. Ros-Lehtinen) that the House suspend the rules and pass the bill, H.R. 4501, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING TRANSFER OF ITEMS IN WAR RESERVES STOCKPILE FOR ALLIES, KOREA

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1988) to authorize the transfer of items in the War Reserves Stockpile for Allies, Korea.

The Clerk read as follows:

S. 1988

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. WAR RESERVES STOCKPILE FOR ALLIES, KOREA.

(a) Authority To Transfer Items in Stockpile.—

(1) In general.—Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the President is authorized to transfer to the Republic of Korea, on such conditions as the President may determine, any or all of the items described in paragraph (2).

(2) Covered items.—The items referred to in paragraph (1) are munitions, equipment, and materiel such as tanks, trucks, artillery, mortars, general purpose bombs, repair parts, barrier material, and ancillary equipment if such items are—

(A) obsolete or surplus items;

(B) in the inventory of the Department of Defense;

(C) intended for use as reserve stocks for the Republic of Korea; and

(D) as of the date of the enactment of this Act, located in a stockpile in the Republic of Korea or Japan.

(3) Valuation of concessions.—The value of concessions negotiated pursuant to paragraph (1) shall be at least equal to the fair market value of the items transferred, less any savings (which may not exceed the fair market value of the items transferred) accruing to the Department of Defense from an avoidance of the cost of removal of such items from the Republic of Korea or of the disposal of such items. The concessions may include cash compensation, services, waiver of charges otherwise payable by the United States (such as charges for demolition of United States-owned or United States-intended munitions), and other items of value.

(4) Termination.—No transfer may be made under the authority of this subsection after the date that is three years after the date of the enactment of this Act.

(b) Certification Regarding Materiel in Stockpile.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall certify to the appropriate committees of Congress whether or not the ammunition, equipment, and materiel in the War Reserves Stockpile for Allies, Korea that are available for transfer to the Republic of Korea is of any utility to the United States for any of the following:

(1) Counterterrorism operations.

(2) Contingency operations.

(3) Training.

(4) Stockpile, pre-positioning, or war reserve requirements.

(c) Termination of Stockpile.—

(1) In general.—At the conclusion of the transfer to the Republic of Korea under subsection (a) of items in the War Reserves Stockpile for Allies, Korea pursuant to that subsection, the War Reserves Stockpile for Allies, Korea program shall be terminated.

(2) Disposition of remaining items.—Any items remaining in the War Reserves Stockpile for Allies, Korea as of the termination of the War Reserves Stockpile for Allies, Korea program under paragraph (1) shall be removed, disposed of, or both by the Department of Defense.

(d) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services, Appropriations, and Foreign Relations of the Senate; and

(2) the Committees on Armed Services, Appropriations, and International Relations of the House of Representatives.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. Ros-Lehtinen) and the gentleman from California (Mr. Lantos) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida.

□ 1430

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the Senate bill under consideration.

The SPEAKER pro tempore (Mr. Latham). Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of Senate bill 1988, a bill to authorize the transfer of items in the War Reserve Stockpile for Allies, Korea.

Section 514 of the Foreign Assistance Act of 1961 provides no U.S. Department of Defense articles which have been set aside for future use by any foreign country may be made available for that country's use, unless the transfer is authorized under that act, the Arms Control Export Act, or subsequent corresponding legislation. Consistent with that provision of law, Senate bill 1988 would authorize the President to transfer to the Republic of Korea certain obsolete or surplus U.S. Department of Defense munitions, equipment, and other materiel.

The prepositioned stocks established by the U.S. Department of Defense in Korea and Japan in 1973 in order to supplement Korea's military sustainment now constitutes an aging stockpile. Senate bill 1988 would permit the Department of Defense to seek concessions, such as fair market value, from the Republic of Korea in exchange for the transfer of these stocks to Korea's inventory. This approach would be consistent with the ongoing realignment of the United States Armed Forces in Korea and the objective of increased Korean self-sufficiency. It would also reduce the costs to the United States, otherwise necessitated by transporting this materiel back to the United States for disposal and demilitarization.

Senate bill 1988's provisions are nearly identical to those contained in section 752 of House Resolution 2601, the Foreign Relations Authorization Act for the Fiscal Years 2006 and 2007. H.R. 2601 passed the House on July 20 by a recorded vote of 351-78. The Senate has not yet completed floor consideration of a Foreign Relations Authorization Act. It passed a stand-alone bill, Senate bill 1988, on November 9, 2005, authorizing the transfer of these stocks to the Republic of Korea. Since timely action was necessary to assure the proper management and the disposition of reserved stocks located in that region, this limited purpose bill is before us today. I hope my colleagues will join me in supporting this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I rise in support of this measure, and I yield myself such time as I may consume.

Mr. Speaker, this bill will grant important authorities to the United States military related to stockpiles in South Korea. In particular, it will allow the United States to sell or transfer equipment to the South Korean military for use or disposal.

This will ensure that the United States is not forced to transport unnecessary or obsolete military equipment back to the continental United States at a considerable cost.

The authority contained in this legislation must be renewed from time to time, and that time has, once again, come. The authority remains an important tool in our defense strategy and should be renewed.

This legislation is a good government bill, Mr. Speaker, and I urge all of my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and pass the Senate bill, S. 1988.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

TERRORIST REWARDS ENHANCEMENT ACT

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2329) to permit eligibility in certain circumstances for an officer or employee of a foreign government to receive a reward under the Department of State Rewards Program.

The Clerk read as follows:

H.R. 2329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Terrorist Rewards Enhancement Act".

SEC. 2. ELIGIBILITY IN CERTAIN CIRCUMSTANCES FOR AN AGENCY OF A FOREIGN GOVERNMENT TO RECEIVE A REWARD UNDER THE DEPARTMENT OF STATE REWARDS PROGRAM.

(a) ELIGIBILITY.—Subsection (f) of section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(f)) is amended—

(1) by striking "(f) INELIGIBILITY.—An officer" and inserting the following:

"(f) INELIGIBILITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an officer"; and

(2) by adding at the end the following new paragraph:

"(2) EXCEPTION IN CERTAIN CIRCUMSTANCES.—The Secretary may pay a reward to an officer or employee of a foreign government (or any entity thereof) who, while in the performance of his or her official duties, furnishes information described in such subsection, if the Secretary determines that such payment satisfies the following conditions:

"(A) Such payment is appropriate in light of the exceptional or high-profile nature of the information furnished pursuant to such subsection.

"(B) Such payment may aid in furnishing further information described in such subsection.

"(C) Such payment is formally requested by such agency.".

(b) CONFORMING AMENDMENT.—Subsection (b) of such section (22 U.S.C. 2708(b)) is amended in the matter preceding paragraph (1) by inserting "or to an officer or employee of a foreign government in accordance with subsection (f)(2)" after "individual".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida.

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased to support the suspension of the rules to bring Representative KIRK's bill, the Terrorist Rewards Enhancement Act, House Resolution 2329, to the floor, and I strongly support its passage.

The bill has Chairman HYDE's full and vigorous support, and is much needed in the hunt for Osama bin Laden and other terrorists around the globe.

The International Relations Committee has long worked with Congressman KIRK, a member of the Foreign Operations Appropriations Subcommittee, in promoting needed reform and practical changes to the State Department's Justice Rewards program. This program has in the past helped to lead to the capture of key global terrorists like Ramzi Yousef and Amil Kanzi, the fugitive killer of the CIA's several employees, and others.

The latest reform is one that Representative KIRK and the International Relations Committee developed after a visit to a very remote part of Pakistan and the Afghan border earlier this year where bin Laden and other radical Islamic terrorists operate and hide.

This bill is very simple, Mr. Speaker. It provides authorization for the payment of terrorist rewards by the State Department to those entities of foreign governments who might assist us in finding these terrorists under extraordinary circumstances and when the payment of the reward may lead to the capture of other key terrorists as well. We need the help of agencies of government and foreign agencies around the globe to do this difficult job, especially considering the limits on our own human intelligence sources.

In addition, the reward payment must be requested formally in writing by foreign governments and the Secretary of State has complete discretion as to whether to grant it, and the decision is not subject to judicial challenge. It is meant for limited and rare circumstances.

Let us give our frontline U.S. agencies and law enforcement personnel around the globe yet one more tool needed to capture and to bring to justice these global terrorists who mean us evil and great harm. I ask for the adoption of the Terrorist Rewards Enhancement Act.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I rise in support of this measure, and I yield myself such time as I may consume.

Mr. Speaker, I want to commend my good friend from Florida (Ms. ROS-LEHTINEN) and my good friend from Illinois (Mr. KIRK) for introducing this legislation.

Mr. Speaker, the United States must do all that is legal and ethically appropriate to bring to justice terrorists who have committed heinous acts against the United States and our citizens. An important tool to achieve this objective is the Department of State's Rewards Program. By giving our Secretary of State the authority to offer a significant cash reward for information leading to the arrest and conviction of terrorists, we recruit additional agents in the fight against global terrorism, ordinary people who may obtain extraordinary information that would allow the United States or a foreign country to apprehend terrorists.

Mr. Speaker, over 4 years after 9/11, Osama bin Laden is still at large, and apparently no closer to being in our custody today than he was on September 12, 2001. The United States obviously must do more to bring this monstrous man to justice. Our bill would take another small, but potentially important step in that direction. It would allow our Secretary of State in extraordinary circumstances to authorize a cash reward to a foreign government official who may have provided critical information resulting in the arrest and conviction of such a terrorist. I stress to all of my colleagues that this authority is to be used only where the information is critical to the capture of a key terrorist figure at severe risk or of severe harm to the informant.

Will this authority provide additional incentive for a foreign government official to provide us with this information perhaps with regard to Osama bin Laden? We cannot know that today, Mr. Speaker; but if it might, then we must proceed to provide the Secretary of State with this new authority.

I urge support for this resolution.

Mr. Speaker, I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Illinois (Mr. KIRK), the original sponsor of the bill.

Mr. KIRK. Mr. Speaker, the State Department's Terrorist Rewards Program is one of the most successful and inexpensive programs against international terrorists.

As a staff member to Chairman Gilman, I drafted the enhancements to this program that made it a very successful program in the arrest of United Nations war criminals in Yugoslavia. Chairman HYDE, Chairwoman ROS-LEHTINEN, and Ranking Member LANTOS joined me several years ago in increasing this rewards program to a total offer of $50 million. We also enacted more important reforms that authorize brand new newspaper, radio, and TV ads to increase the impact of this program.

Mr. Amil Sanzi killed Americans outside CIA headquarters before fleeing to Pakistan. Matchbox covers with his face on them provided the impetus for the key tip that led to his arrest, conviction, and execution. Uday and Qusay Hussein, the murderous sons of Saddam Hussein, were found and cornered by a tip from this program. Today, we are hunting down Osama bin Laden, Ayman Zawahiri, and Mullah Omar, the leaders of al Qaeda and the Taliban dictatorship.

I have conducted two official missions to the Afghan-Pakistan border where conventional wisdom has located the probable sites of the al Qaeda core leadership. I assessed this rewards program and proposed improvements to change its effectiveness. We found that the radio, newspaper, and TV ads in Pakistan are working. Under Richard Griffin, the Assistant Secretary of State for Diplomatic Security; Ryan Crocker, our very able Ambassador to Pakistan; and David Noordelas, a very able diplomatic security professional, we executed a $200,000 TV and radio campaign that led to dozens of new tips against leaders of the al Qaeda core.

We are about to relaunch this program, and it will be even more successful.

But there is one problem. Many officials in this part of the world make only $200 or $300 a year. This bill gives the President and Secretary of State the flexibility to authorize rewards for the arrest of the top, key, high-value targets: bin Laden, Zawahiri, Zarqawi, people who lead al Qaeda and its war on Americans. We need this flexibility to grant such rewards.

The arrest of Osama bin Laden is a mission of near messianic importance to the American people, and we have a winner here in the rewards program. With the reforms the House passes today, we increase the odds that we will crush the al Qaeda core in some of the most remote parts of the Earth.

I want to thank Chairwoman ROS-LEHTINEN, Ranking Member LANTOS, and John Mackay of the International Relations staff for his particular help on this key issue that will add enhancements to one of the most successful anti-terror programs in the United States.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and pass the bill, H.R. 2329.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

☐ 1445

EXPRESSING SUPPORT FOR THE MEMORANDUM OF UNDERSTANDING SIGNED BY THE GOVERNMENT OF THE REPUBLIC OF INDONESIA AND THE FREE ACEH MOVEMENT

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 456) expressing support for the memorandum of understanding signed by the Government of the Republic of Indonesia and the Free Aceh Movement on August 15, 2005, to end the conflict in Aceh, a province in Sumatra, Indonesia.

The Clerk read as follows:

H. RES. 456

Whereas for three decades there has been a continuous armed conflict in Aceh, a province in Sumatra, Indonesia;

Whereas violence between the Indonesian military and the Free Aceh Movement has resulted in an estimated 15,000 deaths in the region;

Whereas the tsunami that occurred on December 26, 2004, killed at least 165,000 people in Aceh and devastated the landscape;

Whereas after the tsunami both the Government of Indonesia and the Free Aceh Movement recognized that a peaceful settlement of the conflict would have to be reached to enable the rebuilding of Aceh;

Whereas after months of negotiating through the Crisis Management Initiative chaired by former President Martti Ahtisaari of Finland, the parties agreed to a draft memorandum of understanding to end the conflict in July 2005;

Whereas Hamid Awaludin, Minister of Law and Human Rights of Indonesia, and Malik Mahmud, of the Free Aceh Movement, signed the final memorandum of understanding on August 15, 2005, in Helsinki;

Whereas the memorandum of understanding provides a timetable for disarmament of the Free Aceh Movement and troop withdrawals by the Indonesian military;

Whereas the memorandum of understanding provides the people of Aceh with new political powers and the right to retain 70 percent of the revenues from certain natural resource extractions from the province;

Whereas a Truth and Reconciliation Commission and a Human Rights Court will be established for Aceh;

Whereas the Free Aceh Movement has agreed to forego its demand for independence; and

Whereas Indonesian President Susilo Bambang Yudhoyono has provided amnesty and released hundreds of Free Aceh Movement members being held in prison since the signing of the peace agreement: Now, therefore, be it

Resolved, That the House of Representatives—

(1) expresses support for the memorandum of understanding signed by the Government of the Republic of Indonesia and the Free Aceh Movement on August 15, 2005, to end the conflict in Aceh, a province in Sumatra, Indonesia, and congratulates both parties for their willingness to compromise;

(2) expresses the hope that both parties live up to their commitments under the memorandum of understanding and that peace and security can finally be achieved in Aceh after three decades; and

(3) encourages the Secretary of State and the Administrator of the United States Agency for International Development to commit resources in guaranteeing the peace and building a strong civil society in Aceh.

The SPEAKER pro tempore (Mr. LATHAM). Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida.

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as may consume.

Mr. Speaker, I rise in strong support of House Resolution 456, which expresses our support for the memorandum of understanding signed by the government of the Republic of Indonesia and the Free Aceh Movement on August 15, 2005.

For three decades, the province of Aceh in southern Sumatra, Indonesia, was the site of armed conflict between the Indonesian military and the separatist Free Aceh Movement. That seemingly intractable conflict claimed approximately 15,000 lives, including those of many innocent civilians.

The dynamics there changed in an even more tragic way on December 26 of last year when a massive tsunami devastated the region, killing more than 160,000 people in Aceh alone. Overshadowed by the horror of that natural disaster, the parties recognized that reconstruction would require an end to the civil conflict. For months they worked toward the drafting of a memorandum of understanding to end this conflict which was completed and signed in late August after the leadership of the Free Aceh Movement relinquished their demands for independence.

The memorandum grants the people of Aceh long-awaited political powers and a greater share of the revenues generated by the natural resources in the province. It provides for the disarmament of the Free Aceh Movement and troop withdrawals by the Indonesian military. I commend the Indonesian President for the foresight and the initiative that he has shown in this instance, and I hope that it might serve as a template for resolving other long-standing conflicts in his great nation.

We share the hopes of the people of Aceh for peace, reconstruction and the development of a civil society in their province. This resolution is a timely show of our support for the peace process. The resolution deserves our unanimous support.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume, and I rise in strong support of this resolution.

I first would like to commend my distinguished colleague and good friend from New York (Mr. CROWLEY), a key member of the International Relations Committee, for introducing this important measure related to Indonesia.

Mr. Speaker, the Indonesian province of Aceh has known great sadness and tragedy for decades. A long-simmering civil war between the Free Aceh Movement and the Indonesian military took the lives of over 15,000 innocent civilians over the past 30 years.

Tragically, the December 2004 tsunami struck Aceh very hard. At least 165,000 men, women and children of this region of Sumatra were killed as a result of that horrendous natural disaster. The province was utterly devastated.

A year after the tsunami, Mr. Speaker, hundreds of thousands of Acehnese are still struggling to rebuild their lives and their homes, a process that will take many more years to complete and in thousands of instances will never be completed.

It is perhaps due to this great human devastation that the leaders of the Free Aceh Movement and the Indonesian government intensified their efforts to work out a solution to the civil war in that part of Sumatra. The devastation wrought by the tsunami allowed all parties to put their differences in perspective and to concentrate on negotiating a peace deal that was so desperately desired by most Acehnese.

If I might digress for a moment, long before I joined Congress I visited Sumatra, and I was impressed by the quality of the extraordinary people of this very important island. It has been a tragedy that the central government and the people of Aceh have not been able to agree until now on a satisfactory modus vivendi.

Now we have an agreement between the rebels and the government signed in August of this year, and this is a very positive development. It is also a testament to the staying power of the Finnish negotiators, led by our good friend, the former Finnish President Martti Ahtisaari, who brought the parties together.

I urge all of my colleagues to support this important resolution.

Mr. Speaker, I yield as much time as he might consume to the gentleman from New York (Mr. CROWLEY), the distinguished author of this legislation.

Mr. CROWLEY. Mr. Speaker, I thank my friend and colleague from California (Mr. LANTOS), the ranking member of our committee and the International Relations Committee, for yielding me this time.

I rise in strong support of House Resolution 456, which expresses support for the memorandum of understanding signed by the government of Indonesia and the Free Aceh Movement, a document that was signed on August 15 of this year that will end the conflict in Aceh, a province in Sumatra, Indonesia.

Before I discuss the merits of this resolution, I would like to thank my colleagues who have joined me in support of this resolution, in particular the gentleman from Washington (Mr. MCDERMOTT), the gentleman from Indiana (Mr. BURTON) and the gentleman from Florida (Mr. WEXLER).

Aceh was brought to my attention in the year 2000 by one of my constituents, Jafar Siddiq Hamzah, a human rights lawyer from Aceh. Mr. Jafar told me about the abysmal human rights record of the Indonesian military and others throughout the province of Aceh. Upon his return to Aceh in August of 2000, not long after we met, Mr. Jafar was abducted in Medan, tortured for several weeks, and found mutilated in a mass grave in the fall of 2000. Cases like Mr. Jafar's happened too often and motivated me to push for an end to his 3-decade-long conflict that he so much wanted to see ended, that took over 15,000 Aceh lives.

This resolution expresses support for the peace agreement signed on August 15 of this year by the Free Aceh Movement and the government of Indonesia. This agreement saw both sides making several concessions in order to broker this peace.

The Free Aceh Movement has abandoned its demands for independence and has agreed to disarm. On the other side, the government of Indonesia has granted amnesty for the Free Aceh prisoners and has agreed to a timeline of troop withdrawal.

The memorandum has also given the people of Aceh new political powers that will allow them to retain 70 percent of the revenue from the natural resources of their province.

A truth and reconciliation commission and a human rights court will also be established, giving the people the machinery for justice, as well as for peace.

The considerable compromises that both sides made in this memorandum of understanding shows their willingness to secure peace for the citizens of Indonesia and Aceh.

This resolution acknowledges and expresses support for the memorandum signed by the Indonesian government and the Free Aceh Movement. This resolution further expresses hope that both parties will fulfill their commitments so that peace will be instilled in the region.

Lastly, and perhaps most significantly, this resolution encourages the Secretary of State and the Administrator for the United States Agency for International Development to commit resources so that peace can be supported and so that peace will endure.

I support this resolution to show the people of Aceh and the government of Indonesia that the U.S. Congress supports this progress as well.

Lastly, as my good colleague from California mentioned, the devastation of the tsunami, the tsunami that took so many, many lives, perhaps that tsunami did take many lives and we know it did. This peace accord will ensure, if carried through, that many, many more people within Aceh will not lose their lives, and for that, Mr. Speaker, I ask all my colleagues to support this worthy resolution.

Mr. LANTOS. Mr. Speaker, we have no additional requests for time, and I yield back the balance of our time.

Ms. ROS-LEHTINEN. Mr. Speaker, I also have no further requests for time, and I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 456.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS REGARDING EDUCATION CURRICULUM IN SAUDI ARABIA

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 275) expressing the sense of Congress regarding the education curriculum in the Kingdom of Saudi Arabia.

The Clerk read as follows:

H. CON. RES. 275

Whereas the terrorist attacks on the United States on September 11, 2001, were carried out by 19 hijackers, including 15 Saudi Arabian nationals;

Whereas since September 11, 2001, multiple terrorist attacks have occurred inside the Kingdom of Saudi Arabia that were carried out by Saudi nationals;

Whereas Saudi nationals have joined the insurgency in Iraq, carrying out terrorist activities and providing financial support;

Whereas the Government of Saudi Arabia controls and regulates all forms of education in public and private schools at all levels;

Whereas Islamic religious education is compulsory in public and private schools at all levels in Saudi Arabia;

Whereas the religious curriculum is written, monitored, and taught by followers of the Wahhabi interpretation of Islam, the only religion the Government of Saudi Arabia allows to be taught;

Whereas rote memorization of religious texts continues to be a central feature of much of the educational system of Saudi Arabia, leaving thousands of students unprepared to function in the global economy of the 21st century;

Whereas the Government of Saudi Arabia has tolerated elements within its education system that promote and encourage extremism;

Whereas some textbooks in Saudi Arabian schools foster intolerance, ignorance, and anti-Semitic, anti-American, and anti-Western views;

Whereas these intolerant views instilled in students make them prime recruiting targets of terrorists and other extremist groups;

Whereas extremism endangers the stability of the Kingdom of Saudi Arabia and the Middle East region, and threatens global security;

Whereas the events of September 11, 2001, and the global rash of terrorist attacks since then, have created an urgent need to promote moderate voices in the Islamic world as an effective way to combat extremism and terrorism;

Whereas the report of the National Commission on Terrorist Attacks Upon the United States stated that "Education that teaches tolerance, the dignity and value of each individual, and respect for different beliefs is a key element in any global strategy to eliminate Islamist terrorism"; and

Whereas the ascension of King Abdullah to the throne in August 2005 presents a new opportunity for education reform in the Kingdom of Saudi Arabia: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) urges the Government of Saudi Arabia to reform its textbooks and education curriculum in a manner that promotes tolerance and peaceful coexistence with others, develops civil society, and encourages functionality in the global economy;

(2) urges the President to direct the Secretary of State to use existing public diplomacy channels, international visitor exchanges, professional development, and educational reform programs, including those under the Middle East Partnership Initiative and the Broader Middle East Initiative, to focus on the issue of educational reform in Saudi Arabia in accordance with the objectives enumerated in paragraph (1);

(3) expresses extreme disappointment with the slow pace of education reform in the Kingdom of Saudi Arabia;

(4) urges the President to take into account progress in meeting the goals outlined in paragraph (1) when determining the level and frequency of United States bilateral relations with the Government of Saudi Arabia; and

(5) requests that the Secretary of State examine the educational system in Saudi Arabia, monitor the progress of the efforts to reform the education curriculum, and report on such progress, in classified form if necessary, to the appropriate congressional committees.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida.

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 275, which expresses the sense of Congress regarding modifications in the education curriculum in the Kingdom of Saudi Arabia.

It is unfortunate that some of the textbooks which are used in Saudi Arabian schools foster intolerance, ignorance and anti-Semitic, anti-American and anti-Western views. Extremism in any form endangers the stability of the Middle East and undermines the efforts to create a conflict-free environment. There is an urgent need to promote moderate voices in the Islamic world as an effective way of fighting extremism.

Educational reform, with an emphasis on tolerance and respect for religious differences, can enhance the possibilities of harmony in this troubled region. Our children need to learn the concepts of peace and tolerance, not war and hatred.

The resolution recognizes the opportunity presented by the ascension of King Abdullah to the thrown in Saudi Arabia to call for education reform in his country.

It also establishes that progress on such reform is a priority for the United States and a factor to be considered when determining the level of our diplomatic engagements with the Kingdom of Saudi Arabia.

It also urges the President to direct the Secretary of State to use the means at her disposal to assist the Saudis in such education reform.

Mr. Speaker, I urge my colleagues to support this important resolution. I congratulate my colleague from Florida.

Mr. Speaker, I reserve the balance of our time.

☐ 1500

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume, and I rise in strong support of this resolution.

Mr. Speaker, first, I want to commend my good friend and distinguished colleague from Florida (Mr. DAVIS), a former member of the International Relations Committee, for introducing this most important measure relating to the curriculum in Saudi Arabia. We all appreciate his leadership on this important matter.

Mr. Speaker, as all of us as parents know, we have an enormous obligation not only to ensure that our children receive an education which will enable them to function in this century, but that their education include an important quotient of understanding other religions and other cultures, and an education that resists the temptation to demonize those that we do not understand.

Mr. Speaker, the Government of Saudi Arabia has singularly failed to accomplish this important task. The extremist Wahhabi religious education which is present in Saudi schools encourages and promotes extremism, viciously anti-American, anti-Western, and anti-Semitic attitudes. It fosters hatred and intolerance.

It is no surprise, Mr. Speaker, that 15 of the 19 hijackers on September 11 were Saudi nationals. The vile hatred filling the minds of so many young Saudis in schools makes them prime targets for terrorists and other extremist groups. I urge all my colleagues to support this important resolution.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Speaker, I want to thank the ranking member, Congressman LANTOS, for his support on this legislation that has been pending for about 3 years, and the chair of the committee, Congresswoman ILEANA ROS-LEHTINEN, my colleague from Florida, and also the cosponsor of this legislation, Mr. KING of New York, the chairman of the Homeland Security Committee.

As has been described, this resolution is actually very simple. It is constructive pressure on the Kingdom of Saudi Arabia to reform the content of their school system to rid that content of anti-Semitic, anti-Western extremist material that is forced upon the education curriculum in the Kingdom of Saudi Arabia by radical extremists in the Wahhabi sect in Saudi Arabia.

This legislation is the product of two trips I have taken to the Kingdom of Saudi Arabia. Like many Americans, like many Members of Congress, I searched for the answers after September 11 to make sure that what happened on that day would never happen again. My personal search, my search as a Member of Congress, took me to the Kingdom of Saudi Arabia just a few months after September 11.

I visited, as did other Members of Congress, with the Minister of Education of Saudi Arabia and with the Crown Prince of Saudi Arabia, now the King of Saudi Arabia. The King of Saudi Arabia understands this problem. For far too long, the Kingdom of Saudi Arabia has allowed radical elements within the country to control the school system. As was mentioned by Mr. LANTOS, it is not a coincidence that 15 of the 19 hijackers on September 11, 2001, came from the Kingdom of Saudi Arabia.

What this legislation specifically says is that the Congress is directing the President of the United States to provide a report to the Congress and to the American people as to the status of efforts by Saudi Arabia to reform their school system, and we are in fact pressuring and calling upon and encouraging the Kingdom of Saudi Arabia to do exactly that.

We need to have a relationship with this country that allows us to be open and honest in expressing our concerns. These are not just issues within the Kingdom of Saudi Arabia. These are not just threats of terrorism to the Kingdom of Saudi Arabia and the Middle East. These are, in fact, as we sadly know from our history, threats to the United States as well.

There has been a report card issued by the 9/11 Commission in the last few weeks about the efforts of this country to learn from September 11. I am sad to report that one of the areas that received a D was the failure of this Congress and this administration to openly discuss changes and to make changes in our policy towards the Kingdom of Saudi Arabia. It is my hope today that this resolution represents an overdue step in that direction as Democrats and Republicans coming together, I believe unanimously, to say to the administration that it is time to speak out on this issue and to do so constructively.

Mr. Speaker, on this Sunday in my hometown of Tampa, in my State, it is a game day for many communities. I believe what the United States Government needs in the war on terrorism is the same thing that the Tampa Bay Bucks need right now in my hometown, which is a strong defense and a smarter offense. A smarter offense is identifying the root causes of terrorism and aggressively addressing them.

This is, in fact, one of the root causes of terrorism. It is the creation of extremism and extremists in the schools of Saudi Arabia in the Kingdom of Saudi Arabia. And this bill represents an attempt to work with the Kingdom of Saudi Arabia to put an end to that root cause of terrorism as well as others.

I want to urge my colleagues to join Congressman PETER KING and me, Congressman LANTOS, and Congresswoman ROS-LEHTINEN in strongly and unanimously supporting this resolution.

Mr. LANTOS. Mr. Speaker, I want to commend my friend for his thoughtful and powerful statement.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILLMOR). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 275.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

NATIVE AMERICAN HOUSING ENHANCEMENT ACT OF 2005

Mr. RENZI. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 797) to amend the Native American Housing Assistance and Self-determination Act of 1996 and other Acts to improve housing programs for Indians.

The Clerk read as follows:

Senate amendments:

Page 3, line 14, strike out "and"

Page 3, strike out line 24 and all that follows through page 4, line 4 and insert the following: *of 1968 (42 U.S.C. 3601 et seq.); and*

(E) federally recognized Indian tribes exercising powers of self-government are governed by the Indian Civil Rights Act (25 U.S.C. 1301 et seq.); and

Page 4, strike out line 19 and all that follows through page 5, line 10 and insert the following:

"SEC. 544. INDIAN TRIBES.

"Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) shall not apply to actions by federally recognized Indian tribes (including instrumentalities of such Indian tribes) under this Act.".

Page 6, after line 2, insert:

SEC. 6. YOUTHBUILD ELIGIBILITY.

Section 460 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899h–1) is amended by striking "for fiscal year 1998 and fiscal years thereafter" and inserting "for fiscal years 1998 through 2005".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. RENZI) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona.

GENERAL LEAVE

Mr. RENZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RENZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to have the opportunity today to speak on a bill I introduced earlier this year and that passed the House in April, the Native American Housing Enhancement Act. Subsequent changes to this bill by the other body were merely stylistic in nature, and they do not change the substance of this important legislation.

While visiting with my Navajo and Apache constituents, I have learned that there is a need for a focus on long-term housing planning. This legislation will give tribes needed flexibility in spending grant money to enable vital housing projects to be completed more quickly. This bill makes three changes to help Native American communities in rural Arizona and across the Nation better address their housing needs.

The first section of this bill clarifies that tribes are allowed unrestricted access to new Native American housing funds from HUD even if tribes retain program income from previous years.

Currently, a tribe's grant money may be restricted if the tribe is receiving program income in excess of their operating costs. This clarification is critical to ensuring that we are not creating a disincentive for tribes to create income or plan for their future developments.

This bill also brings USDA housing programs into alignment with HUD programs in allowing for Indian preference, which allows tribes to abide by the Indian Civil Rights Act.

Currently, tribal governments may not exercise Indian preference for USDA programs because it would be considered a civil rights violation by giving preference based on racial designation. Indian preference is something tribal governments value greatly in addressing the needs of their citizens. This is not a race issue. Indian preference recognizes the political designations of tribes as sovereign entities that have entered into a government-to-government relationship with the United States. This legislation will help to ensure greater tribal use of USDA rural development grants and programs.

Additionally, because another program that tribes used for their youth programs existed when the Native American Housing Assistance Act was enacted, accessibility to Youth Build funds was taken away. The Youth Build program assists communities by building new housing for needy families.

Not only are tribes now prohibited from applying for Youth Build funds, but other organizations serving Native youth are prohibited as well; yet the statistics are overwhelming:

The suicide rate for Native youth is three times the national average. Alcohol-related deaths among Native American ages 15 to 24 are 17 times higher than the national average. Native youth ages 12 to 20 are 58 percent more likely to become crime victims than any other race in this category.

As of February, 2001, the latest statistics available, 74 percent of youth in custody in the Federal Bureau of Prisons systems were Native American youth, an increase of 50 percent since 1994.

Native American youth represent only 1 percent of the American population and yet constitute as much as 3 percent of the prison population.

These grim statistics speak to the importance of programs that teach life skills and give a sense of community to children in Indian Country. It is clear that these children should be able to participate in the Youth Build program that will help build better neighborhoods, more self-esteem, and make a difference for their future. The Native American Housing Enhancement Act will help Native Americans build strong homes, strong communities, and help many to achieve the American Dream of homeownership.

Mr. Speaker, I would like to thank our subcommittee chairman, Mr. NEY of Ohio, for helping me push this legislation through. Also, without the assistance and partnership of Mr. BARNEY FRANK of Massachusetts and Mr. DENNIS KUCINICH, we could not have gotten this pushed through. It has really been a bipartisan piece of legislation. I urge my colleagues to support this legislation, and I look forward to its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume, and I agree with what the gentleman from Arizona said. We have made a bipartisan effort on our committee, the Committee on Financial Services, to really address the problem of Indian housing, which has shamefully been, I think, ignored and given inadequate attention by both the executive and the legislative branch, and by both parties. There is more than enough blame to go around.

We also need to say, and I am myself a supporter of casino enterprises by Indians, but not every tribe has one. Not every tribe wants one. And we need to deal with the fact that while some people have this image of those tribes which have casinos doing very well, there continues to be some of the worst poverty in America on the reservations and among the tribes.

This legislation is very important. The gentleman from Arizona and I and others, also earlier this year, had a hearing in which I must say I was dissatisfied with the responses we got. There are questions when you do Indian housing that come out of the land title situation, because of the atypicality by American legal standards of Indian landholding; and we have not had at either the legislative or executive branch or on behalf of either party the attention that the people deserve to their housing needs.

This is a step. It is not the end. I am glad we are doing this. But I think I can serve notice, and I know the gentleman from Arizona agrees with me, that next year those people in the executive branch charged with this can be expected to be held to a much higher standard of performance than they have been held to before. We are determined to correct this situation.

Mr. Speaker, I reserve the balance of my time.

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Mr. RENZI. Mr. Speaker, I want to thank the gentleman from Massachusetts. I am grateful for the partnership. This problem is much, much bigger than party, and he has been a true friend and companion on this issue.

I also want to put the administration on notice that when it comes to this new piece of miracle software that is supposed to be able to fix this title search issue, we are going to follow up here in less than 6 months to find out the results of that implementation and the results of how many clear titles they have been able to procure and to process within a timely fashion.

Home ownership on the Native American reservations around this country is below 30 percent. It is the smallest amount of anywhere in the country of any minority group. Yet home ownership is the way to be able to break the cycle of poverty.

One of the best leaders that we have had, along with the gentleman from Massachusetts (Mr. FRANK), is the gentleman from Ohio (Mr. NEY), who helped, with Mr. FRANK, in the historic hearing that we had on the Navajo Nation, the first hearing since the 1800s where Indian housing has had a chance to even be heard of or had a field hearing.

I yield such time as he may consume to the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Speaker, I want to thank the gentleman from Arizona for yielding me the time and also my colleagues on both sides of the aisle for their hard work to bring this legislation to the floor. It is important, it is bipartisan. We had the hearing in which were present the gentleman from Arizona (Mr. RENZI), the gentlewoman from California (Ms. WATERS), the gentleman from Utah (Mr. MATHESON). It was the first hearing that we could find in the history of the House actually held on the tribal ground.

When we also looked in the subcommittee at the issues for people to be able to get a house, can you imagine if you had to wait 1 or 2 years to get your title? I think the interest rates had probably changed by that time.

I applaud the work that you have done, Congressman RENZI, on that issue. It is so important because of the conditions for native Americans in the housing, and, again, very proud of the work that you have done, Congressman RENZI, and the bipartisan effort by our colleagues on both sides of the aisle to help people who really need the assistance.

Mr. FRANK of Massachusetts. Mr. Speaker, first I would yield to the gentlewoman from New York (Mrs. MALONEY) for a unanimous consent request.

Mrs. MALONEY. Mr. Speaker, I rise in very, very strong support of this important legislation for the Indian American community.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I appreciate the gentleman mentioning our colleague from Utah (Mr. MATHESON), who has been very active in this, and also the staffs from our committee have worked very well together. I think it is the first time that such attention has been devoted at both the Member and staff level. I am very appreciative of our ability to do that together.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I thank the gentleman from Massachusetts, and I want to thank him for his advocacy for Native American housing. I rise in strong support of H.R. 797, the Native American Housing Enhancement Act of 2005, sponsored by the gentleman from Arizona (Mr. RENZI). I want to thank him for the quality of spirit which led him to propose this.

I would like to say that I have had the opportunity to visit with many tribal communities over the last few years. I understand the need for this legislation. I also want to thank the gentleman from Ohio (Mr. NEY) for his advocacy on this issue. He and I have worked together on this housing issue, and I am glad to be here with him.

This bill requires federally recognized, self-governing Indian tribes to comply with the Indian Civil Rights Act, title II of the Civil Rights Act of 1968, if they received financial assistance from the Agriculture Department for farm housing.

Under current law the Department can provide loans to farm owners to improve housing conditions for themselves or their workers. The Indian Civil Rights Act prohibits tribes from making laws that restrict freedom of religion, freedom of speech or freedom of the press. It also sets out the requirements pertaining to fair due process for people who are arrested.

The measure also exempts tribes currently in compliance with the Indian Civil Rights Act and tribes acting under other federally affordable housing programs in compliance with certain sections relating to fair housing and other civil rights laws which overlap with provisions in the Indian Civil Rights Act.

Finally, the bill provides consistency across tribal housing programs by treating tribes applying for housing programs within the USDA the same as tribes applying for housing programs within HUD. It allows tribes to comply with title II of the Indian Civil Rights Act of 1968 rather than title VI of the Civil Rights Act of 1964 when securing Federal funds for USDA housing programs.

This bill will encourage home ownership and enhance housing opportunities for Native Americans around the country. It gives tribes more flexibility when developing housing improvement projects. Native American housing needs considerable improvement. Approximately 90,000 Indian families are homeless or underhoused. Nearly 33 percent of Native American homes are overcrowded, while 33 percent lack adequate solid waste management systems, and 8 percent lack a safe indoor water supply. This is a good bill that will supply tangible benefits.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

Mr. RENZI. Mr. Speaker, the gentleman from Massachusetts mentioned the gentleman from Utah (Mr. MATHESON). Without the gentleman from Utah who actually attended the hearing, we could not have gotten this done.

The Navajo Reservation is 18 million acres, larger than the State of West Virginia. It spans the State of Arizona, Utah and New Mexico. I also want to thank the gentlewoman from New York (Mrs. MALONEY) and the gentleman from Ohio (Mr. NEY), everyone pulling together on this.

The new housing land map that just came out shows that that portion of America is the largest poverty-ridden land mass in the State. I know these gentlemen have a history, the gentleman from Ohio (Mr. NEY) and the gentleman from Massachusetts (Mr. FRANK), of working hard on poverty issues. I thank you so much for stepping up, particularly in this time, when finally it is becoming aware that the remaining poverty in this country, one of the largest land masses of poverty in the Nation, is up there in that Four Corners area.

Mrs. MALONEY. Mr. Speaker, this legislation improves the availability of Federal housing monies to Native Americans. It makes the requirements applicable to Indian tribes and their housing entities under the Housing Act of 1949 consistent with the Native American Housing Assistance and Self Determination Act; allows Indian tribes to have access to YouthBuild program grants; and makes technical corrections to NAHASDA to remove impediments to getting funds that serve no purpose.

There is no question that this bill, and any bill that improves Federal housing assistance to Native Americans, is sorely needed. Native Americans have an overall poverty rate twice that of the rest of the United States. In particular, they face a dramatic shortage of safe and adequate housing. Some 90,000 Native-American families are homeless or live in very poor conditions. Even among those who have housing, about a third of Native American homes lack adequate sewage systems, and 8 percent do not have safe drinking-water systems.

For that reason, this bill—introduced by Mr. RENZI and Mr. MATHESON—has received strong bipartisan support in both chambers of Congress. The House passed the bill by voice vote on April 6, and the Senate passed its version on November 8, also by voice vote. Our passage of the Senate version today sends this to the President's desk.

Essentially, this bill ensures that Indian tribes seeking housing assistance from the Federal Government are not caught between conflicting and preclusive requirements of different Federal agencies administering different Federal acts.

Also, the bill makes Indian tribes eligible for Youthbuild grants. These grants are part of a HUD program that provides job training and academic assistance to low-income young people. Again, this is sorely needed by Native American youth.

I urge my colleagues to support this bill.

Mr. RENZI. Mr. Speaker, I have no other speakers, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILLMOR). The question is on the motion offered by the gentleman from Arizona (Mr. RENZI) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 797.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

LITTLE ROCK CENTRAL HIGH SCHOOL DESEGREGATION 50TH ANNIVERSARY COMMEMORATIVE COIN ACT

Mr. RENZI. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 358) to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Little Rock Central High School Desegregation 50th Anniversary Commemorative Coin Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) September 2007, marks the 50th anniversary of the desegregation of Little Rock Central High School in Little Rock, Arkansas.

(2) In 1957, Little Rock Central High was the site of the first major national test for the implementation of the historic decision of the United

States Supreme Court in Brown, et al. v. Board of Education of Topeka, et al., 347 U.S. 483 (1954).

(3) The courage of the "Little Rock Nine" (Ernest Green, Elizabeth Eckford, Melba Pattillo, Jefferson Thomas, Carlotta Walls, Terrence Roberts, Gloria Ray, Thelma Mothershed, and Minnijean Brown) who stood in the face of violence, was influential to the Civil Rights movement and changed American history by providing an example on which to build greater equality.

(4) The desegregation of Little Rock Central High by the 9 African American students was recognized by Dr. Martin Luther King, Jr. as such a significant event in the struggle for civil rights that in May 1958, he attended the graduation of the first African American from Little Rock Central High School.

(5) A commemorative coin will bring national and international attention to the lasting legacy of this important event.

SEC. 3. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue not more than 500,000 $1 coins each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—The design of the coins minted under this Act shall be emblematic of the desegregation of the Little Rock Central High School and its contribution to civil rights in America.

(b) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(1) a designation of the value of the coin;

(2) an inscription of the year "2007"; and

(3) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Commission of Fine Arts; and

(2) reviewed by the Citizens Coinage Advisory Committee established under section 5135 of title 31, United States Code.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this Act beginning January 1, 2007, except that the Secretary may initiate sales of such coins, without issuance, before such date.

(c) TERMINATION OF MINTING AUTHORITY.—No coins shall be minted under this Act after December 31, 2007.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge required under section 7(a) for the coins, and the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, and marketing).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

SEC. 7. SURCHARGES.

(a) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, and subsection (d), all surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Secretary of the Interior for the protection, preservation, and interpretation of resources and stories associated with Little Rock Central High School National Historic Site, including the following:

(1) Site improvements at Little Rock Central High School National Historic Site.

(2) Development of interpretive and education programs and historic preservation projects.

(3) Establishment of cooperative agreements to preserve or restore the historic character of the Park Street and Daisy L. Gatson Bates Drive corridors adjacent to the site.

(c) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

(d) CREDITABLE FUNDS.—Notwithstanding any other provision of the law and recognizing the unique partnership nature of the Department of Interior and the Little Rock School District at the Little Rock Central High School National Historic Site and the significant contributions made by the Little Rock School District to preserve and maintain the historic character of the high school, any non-Federal funds expended by the school district (regardless of the source of the funds) for improvements at the Little Rock Central High School National Historic Site, to the extent such funds were used for the purposes described in paragraph (1), (2), or (3) of subsection (b), shall be deemed to meet the requirement of funds from private sources of section 5134(f)(1)(A)(ii) of title 31, United States Code, with respect to the Secretary of the Interior.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. RENZI) and the gentlewoman from New York (Mrs. MALONEY) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona.

GENERAL LEAVE

Mr. RENZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on this legislation and to include extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RENZI. Mr. Speaker, I yield myself such time as I may consume. I rise in support of H.R. 358, the Little Rock Central High School Desegregation 50th Anniversary Commemorative Coin Act, which was introduced by the gentleman from Arkansas (Mr. SNYDER). This legislation recognizes a uniquely important moment in the history of this Nation and the civil rights movement.

Passage of this legislation will allow the Secretary of the Treasury to issue coins commemorating the 50th anniversary of the desegregation of Little Rock Central High School in Little Rock, Arkansas. The legislation before the House is similar to the language passed by this Chamber in late June, with the important addition of language that slightly alters the mechanism for the distribution of surcharges that would be generated by the sale of these coins.

However, this bill preserves the important reforms made a decade ago in the Commemorative Coin Reform Act that specifies that non-Federal funds must be raised to match the surcharge money received. It further recognizes the unique partnership between the Department of Interior and the Little Rock School District at the Little Rock Central High School National Historic Site and the significant financial contributions made by the district to preserve and maintain the historic character of the high school.

Technical language was added by the Senate, with the full agreement of the chairman and ranking member of the House committee of jurisdiction and of the author of the reform language, and in no way either signifies a deviation from the intent or letter of the reform language or establishes a precedent or practice different than that laid forth in the reform language that organizations which are named recipients of the surcharges on the sale of commemorative coins must show the strength of their organization and the widespread public support of the honored organization or project by raising nongovernmental funds in an amount equal to or exceeding the surcharges received.

I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mrs. MALONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 358, the Little Rock Commemorative Coin Act, introduced by the gentleman from Arkansas (Mr. SNYDER). This bill authorizes the Treasury to mint a dollar coin during the year 2007 in honor of the 50th anniversary of the desegregation of the Little Rock Central High School in 1957.

Those events, which have gone down in history, were the first major tests of the Supreme Court's landmark 1954 decision in Brown v. Board of Education that segregation in schools was unconstitutional.

None of us who were alive in 1957 will ever forget seeing those nine African

American children walk bravely into Central High School surrounded by Federal troops and a raging mob. Their courage in the face of hatred and their resolute determination to overcome bigotry serves as a shining light to all of us. I don't believe any one of us are aware of what a historic event it was and what a history changing event it has become. Imagine the strength that it must have taken.

Only days before one of the students was almost lynched when she attempted to enter Central on the first day of school, and the Arkansas National Guard kept the other African American students out. The events of the next few days are the stuff of legends.

NAACP lawyer Thurgood Marshall and a future member of the Supreme Court obtained a Federal ruling preventing Governor Orval Faubus from using the National Guard to keep the nine children out of Central High. Although Faubus announced on TV that he would comply with the court order he added that the nine should stay away, and I quote from his own words, stay away for your own safety, end quote. Encouraged by his comments, a mob surrounded the school.

Finally, at the request of Congressman Brooks Hays and Mayor Woodrow Mann, President Eisenhower dispatched 1,000 troops of the 101st Airborne Division to Little Rock to protect the nine school children and federalized the Arkansas National Guard so that Faubus could not order them to intervene.

Incidentally, Brooks Hays lost his next election because of the strong feeling of the community. It was an act of bravery on his part.

On September 25, 1957, the Little Rock Nine, Ernest Green, Elizabeth Eckford, Melba Patillo, Jefferson Thomas, Carlotta Walls, Terrence Roberts, Gloria Ray, Thelma Mothershed and Minnijean Brown, entered Central High School and went to class.

A year later, in 1958, Dr. Martin Luther King, Jr., attended the graduation of Ernest Green, the first African American student ever to graduate from Central High. Mr. Green is now a partner in Lehman Brothers. In fact, all of the Little Rock Nine went on to professional achievements in and strong contributing lives to their communities.

This bill has over 300 bipartisan cosponsors and has been passed by the House by voice vote in June. We consider today the bill, as amended by the Senate, which contains a provision requested by the gentleman from Arkansas (Mr. SNYDER) to fix a problem that we learned of after House passage.

The amendment provides that the Little Rock School District can satisfy the statutory requirement of matching private funds through a local bond issue. In light of the unique circumstances of the Little Rock historical site, I would like to deeply thank the gentleman from Ohio (Mr. OXLEY) and the gentleman from Massachusetts (Mr. FRANK) for their help in solving this problem and moving this legislation forward.

On the 40th anniversary of the Little Rock Nine, President Clinton gave a Congressional Gold Medal. There was a celebration here in the Library of Congress, and in this Congress I had the opportunity of meeting many of them and congratulating them for their historic life-changing courage that helped so many others through their courage and acts.

□ 1530

I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RENZI. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentlewoman from New York (Mrs. MALONEY) and particularly want to thank the gentleman from Arkansas (Mr. SNYDER) for pulling together the support, the vast amount of support on a bipartisan basis to recognize the pain and suffering the Little Rock Nine have given to move this country forward.

Mr. Speaker, I have no additional speakers, and I reserve the balance of my time.

Mrs. MALONEY. Mr. Speaker, I yield as much time as he may consume to the gentleman from Arkansas (Mr. SNYDER), the author of this important resolution.

Mr. SNYDER. Mr. Speaker, I thank the gentlewoman from New York (Mrs. MALONEY) and the gentleman from Arizona (Mr. RENZI) for their support and work on this bill. I also want to thank Ranking Member FRANK and Chairman OXLEY, who were both personally involved in seeing this bill through from the beginning to the end.

I had occasion yesterday to call the Central High School National Historic site. The park headquarters is now in an old gas station that was there in 1957. It has been wonderfully restored. There is a new visitor center that is coming over the next couple of years that should be ready for the 50th anniversary also.

But the person that answered the phone, I heard this young woman's voice and I knew right away who it was. It was Spirit Trickey, who is a park ranger that works at the site. Her mother was Minnie Jean Brown Trickey, one of the Little Rock Nine. And you talk about having a sense of the change. I have heard Spirit talk before in a speech with tears in her eyes what it has meant for her and her generation, the sacrifices that her mother and the other members of the Little Rock Nine, what their sacrifices meant to her.

So we come here today with two purposes. One is to have these coins issued to remember and honor the Little Rock Nine and the sacrifices of them and their families, but also the very practical one, to help raise dollars to tell the story at the site.

And as Mr. RENZI pointed out, the Little Rock Central High School is a very fine functioning school district. It is not an abandoned historic site. It is run by the Little Rock School District. And so we had this practical problem that the gentleman iterated about how do you do this match when the dollars are raised through tax dollars.

And so I concur with the gentleman from Arizona (Mr. RENZI). The intent of this legislation is not to change the underlying law. It is to say because of the unique situation that this site can meet its match for this commemorative coin dollar by matching the dollars raised through local and State millage taxes, not Federal dollars, but through local millage elections, which they have done and will continue to do.

So I want to thank everyone that participated in this, and again thank Mr. RENZI and Mrs. MALONEY for the passage of this bill.

Mrs. MALONEY. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentlewoman from New York for yielding time. I also want to commend the gentleman from Arkansas (Mr. SNYDER) for introducing this legislation. I never miss an opportunity to comment on anything that was taking place in Arkansas at that time because at that time I was a young contemporary of the Little Rock Nine. As they went into high school, and some were seniors, I was a freshman in college a few miles away down at the University of Arkansas at Pine Bluff. Of course at that time it was Arkansas AM&N College. And I remember vividly Daisy Bates, the outstanding head of the NAACP, who actually grew up down in the little part of Arkansas, in rural Arkansas where I came from.

Wiley Branton was the outstanding attorney. They were our heroes. Of course, as the gentlewoman from New York has indicated, all of the Little Rock Nine have gone on to become outstanding citizens. I have had the good fortune to know some of them or members of their family. I did student teaching at the school where Mrs. Patillo taught, who was Melba Patillo's mother, and so I knew her at that time. Minnie Jean Brown and I spent a weekend together last year down at Southern Illinois University, where she was a speaker at the university where she graduated. And all of us have seen Ernie Green throughout the country, as he has become a distinguished civic and business leader. Of course Ernie was the Undersecretary of Labor during the Carter Administration.

So I simply come to urge support. Again, I commend Mr. SNYDER, an outstanding Representative who represents all of the people in that great city and in that great area. And I urge its passage.

Mrs. MALONEY. I yield 2½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), who incidentally, was born in New York State.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman from New York (Mrs. MALONEY), the esteemed and honorable and great leader, not only for her distinguished support of this legislation but for the work that we have been doing regarding Sojourner Truth. I thank the gentlewoman so very much for her leadership, along with a number of friends here on the floor. We are not debating that bill right now, but I do want to mention the wonderful members of the House Administration Committee, the gentleman from Ohio (Mr. NEY), and the gentlewoman from California (Ms. MILLENDER-MCDONALD).

But we are here to salute the legislation that has been offered by the gentleman from Arkansas (Mr. SNYDER), H.R. 358; and I thank the gentleman from Arizona (Mr. RENZI) for contributing to the leadership for this bill now coming to the floor of the House.

This is a story in history that so many of us grew up looking at and our lives and our future depended on. The outright leadership and heroism of the nine young people, all under the age of 21, who accepted the challenge of breaking the bars and the concrete ceiling of segregation in Little Rock, Arkansas, go a very long way to opening the doors of opportunity for those of us who followed. Though it was a secondary school and called upon the State of Arkansas to recognize the importance of educating all children, you can be assured it was a continuing journey. After the Brown v. Topeka Board of Education decision, this was just another milestone, if you will, to providing young people across America who were discriminated against for no other reason than for the color of their skin to have the doors of educational opportunity open to them.

The vision of Mr. SNYDER to put forward this coin in order to ensure that funding continues to protect this site goes a long way to allowing us to enjoy it and be, if you will, informed about it. Let me salute the Little Rock 9, as they are adults, and let me salute Mr. Ernie Green, who served in the United States Cabinet of President William Jefferson Clinton, for his ongoing civic leadership, along with his many, many other students who were part of the Little Rock 9.

If we are a people who fail to remember our history, Mr. Speaker, we are doomed to repeat the past. This is a forward-thinking legislative initiative. I salute Mr. SNYDER for his vision, and it is going to be exciting for the many school children around America to go and understand how tough it is to be able to fight against all odds, but how important it is to be able to accept the challenge and then win.

With that I ask my colleagues to join in the salute and support of this legislation.

Mr. Speaker, I rise in strong support of the proposed legislation, the "Little Rock Central High School Desegregation 50th Anniversary Commemorative Coin Act."

In September 1957, nearly half a century ago, nine African-American students entered Little Rock Central High School in Little Rock, Arkansas. The students were forced to enter the school under the protection of the National Guard, which had been "federalized" by President Dwight David Eisenhower. So contentious was the Brown v. Board of Education decision, which ruled that segregation in schools was unconstitutional, that Arkansas Governor Orval Faubus, had vowed to do everything in his power to prevent integration of Little Rock schools.

The nine students, now referred to as the "Little Rock Nine," were Ernest Green, Elizabeth Eckford, Melba Patillo, Jefferson Thomas, Carlotta Walls, Terrence Roberts, Gloria Ray, Themla Mothershed, and Minnijean Brown. The integration of these nine brave students, along with other heros of the time like Rosa Parks, paved the way for the civil rights movement of the 1950s and 1960s. The event was perceived to be so important in forwarding the movement that Dr. Martin Luther King, Jr., attended the graduation of the Little Rock Nine from Little Rock Central High School in 1958.

Part of the collected revenue of the sale of this coin—a $10 surcharge per coin—will be used for the protection and preservation of resources and stories associated with the Little Rock Central High School National Historic Site. I believe this effort is especially important. Segregation and discrimination was a dark period of our country's history, and we must retell the stories of our history so we may learn from the mistakes of our past.

Let us honor and celebrate this important historical event of half a century ago, but let us also remember there are still steps to be taken for racial equality. Let this coin remind us of the battles for freedom and equality of yesteryear, and the battles still being fought here and across the world today.

I urge my colleagues to vote in support of this resolution.

Mrs. MALONEY. Mr. Speaker, I do not have any further speakers. I congratulate Mr. SNYDER for his leadership on this legislation and Mr. RENZI, and their leadership on many other issues.

I yield back the balance of my time, and I urge the unanimous support of this important bill.

Mr. RENZI. Mr. Speaker, I yield myself such time as I may consume.

In summation, I do not deserve any credit for this. The credit really deserves to go to the gentleman from Arkansas (Mr. SNYDER), the gentlewoman from New York (Mrs. MALONEY), and the delegation from Arkansas who really pulled together the House in a bipartisan fashion. I want to thank the gentleman for pulling together a community, too, down in Arkansas and allowing them to rally around the unique history of their land.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILLMOR). The question is on the motion offered by the gentleman from Arizona (Mr. RENZI) that the House suspend the rules and concur in Senate amendment to the bill, H.R. 358.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

HONORING HELEN SEWELL ON THE OCCASION OF HER RETIREMENT FROM THE HOUSE OF REPRESENTATIVES

Mr. NEY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 633) honoring Helen Sewell on the occasion of her retirement from the House of Representatives and expressing the gratitude of the House for her many years of service.

The Clerk read as follows:

H. RES. 633

Whereas Helen Sewell, the proprietor of the concession stand in the Republican Cloak Room of the House of Representatives, through her long and devoted service to the House and its Members, has become a House institution in the minds and hearts of House Members;

Whereas Helen Sewell has worked at the counter in the Cloak Room since she was a teenager in the 1930's;

Whereas Helen Sewell's service to the House of Representatives is a continuation of a family tradition, as her father began working in the Cloak Room 87 years ago;

Whereas Helen Sewell, as a result of her almost seven decades of service, has been present for some of the defining events in the Nation's history and the House's history, including the attack by Puerto Rican nationalists on March 1, 1954;

Whereas Helen Sewell has established personal relationships with many of the 20th century's most important Americans, including Presidents Ford, Nixon, and George H.W. Bush;

Whereas Helen Sewell's dedication to her work, and her careful attention to Members of the House, has provided both nourishment and friendship to Members of the House since the days of the Great Depression;

Whereas Helen Sewell has demonstrated extraordinary strength and endurance by working long and difficult hours past her 80th year;

Whereas Helen Sewell received the 1983 John W. McCormick Award of Excellence for her service to the Congress;

Whereas all who have served as Members in the United States House of Representatives, and who have had occasion to meet Helen Sewell, believe that her service to the House is a matter of historical importance and should be commemorated; and

Whereas Helen Sewell will retire officially from the House of Representatives on December 31, 2005: Now, therefore, be it

Resolved, That the House of Representatives honors Helen Sewell on the occasion of her retirement and expresses its gratitude for her many years of service.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentlewoman from California (Ms. MILLENDER-MCDONALD) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio.

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

I am not going to be lengthy in my comments because I know our ranking member is going to say something, and then I am going to yield a lot of time to the gentleman from Pennsylvania (Mr. WELDON), who has asked for this resolution, and rightfully so to ask for it.

When I came to the House around 11 years ago, I guess, one of the first persons I ever met was Helen Sewell. And I soon found out she is probably one of the most important people, in fact, in the U.S. House of Representatives.

Mr. Speaker, a lot of the public would not be aware unless they had the chance to be here on the floor, but in back of the Chamber on one side is the Democrat Cloakroom and on the other side is the Republican Cloakroom. And of course I have been over in the Democrat Cloakroom. They have got good sandwiches over there, too, which you can buy. And in our Cloakroom on the Republican side, Helen runs a little counter and we call it Helen's Cafe. She makes sandwiches and of course the Members buy those sandwiches or soup, and she has been doing that for such a long time. She is just a fine woman who always has a pleasant smile, always has a good word constantly to say when she was here.

And as many people in the country know, if they watch C–SPAN of course, that we will be voting sometimes till 2 and 3, in fact probably this morning we will be voting until 4 a.m. And if in fact we are here voting at 4 a.m. and if Helen were here working, she would be back there still providing people, you know, with pop and water and sandwiches and different things, because you cannot get out of the building at that time to go find something to eat and you are sitting here long hours. So she did that. She provided that nutrition for everybody.

But, again, she always did it with such a pleasant smile. Helen is a lovely woman who really gave, frankly, great service to her country by doing what she did; and for that, Helen, on behalf of the House, we think the world of you. We wish you the best in your retirement. And we send all our love to Helen.

□ 1545

Mr. Speaker, I reserve the balance of my time.

Ms. MILLENDER-MCDONALD. Mr. Speaker, I yield myself such time as I may consume.

I thank my chairman for his words for this delightful woman who has served so admirably in this House.

I am very pleased to first acknowledge Congresswoman ELEANOR HOLMES NORTON, whom Ms. Sewell is her constituent, and she has sent a note to say that because of a scheduled event here in the District, she is trying to arrive here in time to offer remarks honoring Ms. Helen Sewell, a longtime Washington, D.C. resident.

Mr. Speaker, this long-serving and dedicated staff of the House deserves recognition of the Members of this House and the public alike.

I would like to express my appreciation to the gentleman from Pennsylvania, my dear friend Mr. CURT WELDON, for providing the opportunity today to praise Helen Sewell for her long, loyal, and dutiful service. She deserves being singled out for recognition, and the gentleman from Pennsylvania has captured that in this resolution, and I am sure his words will also be reflective in that as we speak of her service to the House, not only her but her father. So certainly she and her father were and are House institutions.

Having served since she was 15 years old, she has served admirably following those 87 years of her father. We look at the woman when she was young and is still young in spirit to see that she has served almost 7 decades, has been here, has been here as it was said by the reader, during the attack of Puerto Rican nationalists on March 1 of 1957 and has had personal relationships with many persons and including Presidents Ford, Nixon, and George H. Walker Bush. She has provided much friendship and nourishment to the Members of this House and has had an extraordinary endurance and strength in her long-working years. I would like to say that she deserves this recognition. It is a fitting tribute, and it speaks volumes of the type of institutional dedication that is all too hard to find in our world today.

However, she is a representative of others who labor in this House during the people's business by supporting us policymakers as we carry out our constitutional roles. So Ms. Sewell will be retiring on December 31 after many long-serving years. But there are other staffers who are retiring and who have served admirably as well. While we honor Ms. Sewell on the occasion of her retirement, let us also take this opportunity to thank and to honor the other House officers and staff who will follow her into retirement after serving this House for more than 30 years. Kudos to all of those great folks.

Mr. Speaker, all Members wish her good health and good fortune, and we want her to start a new chapter of her life.

Mr. Speaker, I reserve the balance of my time.

Mr. NEY. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Pennsylvania (Mr. WELDON), and I want to thank him for bringing this resolution to the floor. This was his idea on behalf of the House to do it, and we certainly appreciate it.

Mr. WELDON of Pennsylvania. Mr. Speaker, I, first of all, want to thank the distinguished chairman and the ranking member for their outstanding support of this legislation, and this legislation is extremely important because it sends a signal not just to our colleagues but to the country that this is an institution where we all work together in a very compatible way.

Oftentimes people who watch C–SPAN and people who read about the Congress think that we are filled with adversity, that we do not get along, and nothing could be further from the truth.

This is a great institution. I have had the pleasure of serving here now 19 years. I am in my tenth term, and I have met some wonderful people, people on both sides of the aisle, people who may disagree on the issues but are strong and close friends when we get together when we are not in session or when we have events that are important for this country.

But what makes this institution work are the staff, the people who work behind the scenes, the people who take down the minutes of what is said, the clerks, the people who record, the people who run the C–SPAN camera system, the people who run this institution of the building itself, the Architect of the Capitol and the employees. And while many members of the public do not get to see behind the scenes, there are in fact two Cloakrooms, one for each side of the aisle. Yet we are certainly welcome to go into either Cloakroom anytime. There is no prohibition, and I am sure Helen has served perhaps as many meals to Democrats as she has to Republicans.

And it is appropriate that we honor someone who has been with this institution for one-third of the history of this institution. Can we imagine that, Mr. Speaker? This woman served this country and this institution for a period of time that is equal to one-third of the history of this Nation and this institution. A woman who started following in her father's footsteps when she was a teenager, he would bring here down here to the Republican Cloakroom. Her father ran the Cloakroom where, during the hours that we were in session, Members can go back and take telephone calls. They can purchase a sandwich or a cup of soup. They can sit and chat. And Helen was always there for the past 71 years to provide an atmosphere of friendship, an atmosphere of positive reinforcement after Members of Congress from time to time would leave the well after having given lengthy speeches.

And she served during unbelievable times, starting with the Great Depression and serving in this institution when some of the great moments in our country's history were declared, when some of the greatest State of the Union speeches were made.

So she is a part and a legacy of what makes this institution great, and it is only appropriate that we honor her in this way because, in fact, Mr. Speaker, she served 71 years. There is no employee in the history of the Congress, including Members of the House or Senate, who has served more than Helen Sewell.

Helen could not be with us today, Mr. Speaker, but she is watching this proceeding from her bed at her retirement home. We have talked to Helen's family. We talked to her daughter, and they are watching with her.

And, Helen, we are not allowed to speak to you directly because that violates the rules of the House, but through the Speaker, I will say to you, Helen, that we wish you well. We are all thinking about you. Many of your friends are signing a card for you, and if you look behind me, these beautiful roses will be delivered to you later on today as a symbol of the love that all 1,500 Members of Congress that you have come in contact feel about your service.

Every Member of Congress has had a chance to interact with Helen Sewell. Think of that. Fifteen hundred Members of Congress that have come and gone over the past 71 years have interfaced with this lady.

In fact, Mr. Speaker, we keep these photographs in the back of the Cloakroom that I thought it might be appropriate to let our constituents see. Here is Helen Sewell, and it shows the love by Presidents of the United States who also served as former Members of Congress. We can see by the admiration that these Presidents have for Helen that they enjoyed her company, and we can see the high degree of respect that they would pay to her when they frequently visited the House Chambers.

Now, because she worked for us I do not have any photographs of Democrat Presidents, but I know President Clinton was just as fond of Helen Sewell as were Republican Presidents, but it is just that she worked for our side.

This is another photograph of Helen with one of our dear Presidents.

So, Mr. Speaker, this resolution is a celebration of this institution. It is a celebration 1 week before Christmas, where we in fact are wrapping up the business of the people. But we take the time to honor those people who allow this institution to work, the people whom you do not see, the people who do not make the speeches, the people who do not go out and get their pictures on national TV and in the media, but the people whom really we rely on to allow us to be successful.

Helen, we thank you for your great support and the commitment you have made to America in support of our Congress.

Helen has three children: Jameille Thomas, Anthony Sewell, and Ava Fuller.

Ava, thank you for talking to me today and telling me about your mother.

Helen's father brought her to this institution, and we want to also recognize Helen's father. And, boy, did he have an appropriate name: Benjamin Franklin Jones. It was Helen's father who brought her to this institution 71 years ago to allow her to begin to work and love this institution that was such a critical part of her life.

Helen was also involved with her church. She was active with the Petworth United Methodist Church here in D.C. She was a trustee. She was a church historian. She was an active member of the Northwest Civic Association. Helen has nine grandkids, and I have been told she has too many great grandkids to number, that it is probably in the dozens and dozens.

And we also, Helen, have to tell a few secrets about you, because as these Members of Congress would go into the back Cloakroom to get sandwiches we would sometimes have to get Helen's attention.

Helen had a small TV set, one of these small 10-inch TV sets. And Helen's favorite preoccupation, when she was not waiting on Members of Congress, was watching the soaps. Helen was a national expert and historian on the soap operas. She could tell us any day of the week who was dating whom and which person was, in fact, in trouble with which other person.

Helen, we will preserve those memories of your activities in the Cloakroom and the fact that your famous word of hollering to us "next" will be remembered by all the Members of Congress that miss you today. But when they enter the Cloakroom and see that sign above it that says "Chez Helen," the House of Helen, that was in fact provided by our former colleague Amo Houghton, we want you all to know, Helen, that we love you, that we miss you, that your retirement is a symbol of work that you have put forward and it is a symbol of how we in this institution have to from time to time stop and say "thank you," "thank you" to those people behind the scenes who make this Congress and this institution such an important part of America's history and legacy.

Ms. MILLENDER-McDONALD. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the Congresswoman very much for yielding me this time, and as usual we pay great respect and appreciation for her leadership on so many of these legislative initiatives that bring tribute and honor and respect to Americans throughout the Nation.

Let me thank the chairman of the House Administration Committee. We are always noting that this is a committee that serves the House, and we thank Mr. NEY for his able leadership on providing that outstanding service.

I thank Mr. WELDON for acknowledging that we may be out front but our existence is based upon the hardworking men and women that serve America by serving the United States Congress, both the House and the Senate.

And that is why I rise, because I had the pleasure in my tenure here to stick my head into the Republican Cloakroom. As my colleagues well know, Members meet and talk on many issues in our respective Cloakrooms, and we travel back and forth between the Cloakrooms. And I had the opportunity to meet Ms. Sewell and to watch her hold court, if you will, and preside.

We may be presiding here, Mr. Speaker. The Speaker may be in the Speaker's chair, but I can tell my colleagues, as I watched Helen Sewell work she was presiding. She knew all the Members. She knew what they liked and disliked. And I would say from her actions, she showed us that she truly loved and respected this institution.

Many of us are here because we love and respect the values of America and this institution. And Helen, through her family's legacy, Benjamin Franklin Jones, her father, showed that. Is it not amazing that this family has owned this institution, this business that has served in the Cloakroom on the Republican side, for 87 years and to note that she has been here during such challenging times as thousands of State of the Union addresses and, of course, the tragedy of the Puerto Rican nationalists attack on March 1, 1954. She is renown and known to Presidents Presidents Ford, Nixon, and certainly President George H. W. Bush.

□ 1600

Also, I would say that being such a young person and coming to this institution, she is knowledgeable about American history, certainly by listening to bits and pieces from Members. She has seen the war in World War II, the Vietnam War, certainly the Persian Gulf war, and certainly other incidences of history.

Helen Sewell received the 1983 John W. McCormick Award of Service for service to the Congress. As I indicated, this legislation indicates she will retire on December 31, 2005. So I think it is appropriate today that we stand here, among the other responsibilities we have, and be able to salute Helen Sewell on the occasion of her retirement and express our deepest gratitude.

It is important to thank those who serve this institution for their service and to also acknowledge that they love this institution. This resolution is an appropriate tribute to Helen Sewell and to her family, her grandchildren, and her children; and I thank you, Mr. WELDON and Mr. NEY and Ms. MILLENDER-MCDONALD for allowing the Members to come to the floor and pay their tributes. May God bless Helen Sewell, and God bless America.

Ms. MILLENDER-MCDONALD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me again thank Representative CURT WELDON for a great tribute to this outstanding woman. What a great Representative you are in bringing this to the floor today and to display all of the beautiful pictures that you have shown to us today in honor of this great lady.

Mr. Speaker, the House of Representatives honors Ms. Sewell on the occasion of her retirement and expresses its gratitude for her many years of service. We thank you, Ms. Sewell.

Mr. Speaker, I yield back the balance of my time.

Mr. NEY. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding me time, and I want to thank Mr. WELDON from Pennsylvania and all those who have come down here this afternoon to honor just a great lady, a wonderful person. For as long as this building stands, Helen's Cafe will be an intimate part of the U.S. Capitol.

Emerson said heroism is the quiet obedience to the secret impulse of character; and whenever we walked into Helen's Cafe, we had that sense. We could look at Helen and our stress would wash away with her smile, our anxiety about partisan politics or legislation or not getting something done would somehow become a little bit more eased.

Her remarks at the Members leaning up against that counter talking about this or talking about that would be, "Oh, Lord." I can still hear Helen saying "Oh, Lord." Or if you made a comment about her sandwiches were too expensive, of course they were always a fraction of the price of what they would be anywhere else, but if you said something like that, "Helen, this is a little pricey, I only got a sandwich and a glass of water," she said "Oh, Lord."

Her stories about her family and her father and the perspective has been given here this afternoon. But can you imagine someone coming here while President Roosevelt was the President, Richard Nixon and Jack Kennedy were Members of Congress, and, it has already been spoken, World War II, the Korean War, the Vietnam War, conflicts around the world with the Middle East, the Persian Gulf war, right on up to the present conflict in Iraq.

Her advice to us, and we took it, was, "You need your rest. Rest yourself." Can you hear Helen saying that? "Rest yourself." Or if you had a sandwich and you did not want anything to drink she would go around and get you a glass of water. "You have to wash that down with something. It is too dry. You need something to drink. You need your nourishment." How many times did we hear Helen say that? "You need your nourishment. You work too hard."

Mr. Speaker, we still talk about Helen in Helen's Cafe. And Miss Helen, Pat is doing a great job. She is following your suit. She is set in Helen's Cafe because of your gentle, serene example.

By the way, I have to say this through the Speaker, if you are heading across the Bay Bridge on that church bus and you are going to do what you like to do in Delaware, you have a standing invitation to stop at my house to play 500 rummy. Now, we might throw out a few pennies there, but there is a standing invitation from all of us.

Helen, we wish you Merry Christmas, the best of holidays, and your character, that secret impulse that you left us, will linger here for all time.

Thank you, Curt.

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am just going to conclude by thanking the Members for being here today, our ranking members. This could not have happened without Congresswoman JUANITA MILLENDER-MCDONALD being here and taking her time to give tribute, and, of course, the other Members, Congresswoman SHEILA JACKSON-LEE and Congressman GILCHREST. Especially, of course, I want to thank Congressman WELDON of Pennsylvania for doing this, for giving Helen the honor that she so deserves.

Obviously, from everything that we have heard today, I think the whole Nation can understand the feeling we have for Helen and how we miss her being here. Of course, when I conclude, I am going to ask for the RECORD to be kept open because Members are going to want to submit statements for the record to Helen to give her the honor she so deserves. So we wish Helen the best.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, I thank my very good friend, the chairman of the House Administration Committee, for yielding me time.

I was just crossing a television between football games, getting ready to watch the Redskins beat the Cowboys in just a few minutes, and I caught this flower arrangement here, and then started to see these photographs of Helen up, and I said, My gosh, what is going on down here? And it brought back incredible memories for me.

As I know my colleagues on this side of the aisle know, I do not know if my colleagues on the other side of the aisle know, this is my 25th year here. I have served exactly half the amount of time that the Dean of the House, John Dingell, has served. So I have to tell about my first term.

In my first term, Helen Sewell was in an incredible ceremony that then Speaker Tip O'Neill presided over. She was honored in the Sam Rayburn Room right over there, and she was named the Employee of the Year for the U.S. Capitol. I do not know if it has been stated, but on one of the plaques we have right here out in the hallway, and we do not do this terribly often, we have not done it on an annual basis, and, in fact, after Helen Sewell received that reward, I think we went for a long period of time without honoring another employee of the year.

But I listened attentively as my friend from Maryland was talking about Helen making sure that people had enough food and drink in them to be sustained through these long hours of work. I will tell you as I listened to that. I was thinking, a number of us have been working very long hours, and I will tell you I take my hat off especially to the staff, for there has been literally no sleep for a lot of the staff members who are trying to get this very important work that we are proceeding with completed. But Helen would be here ensuring that everyone was very, very healthy; and she was an inspiration to all of us. I heard the bit about the soap operas and all that she followed so attentively.

But I thank my colleagues for recognizing Helen, because she was one of the first people I met when I came here a quarter century ago, and she could not have been any nicer to me then, and our thoughts and prayers are with her.

I look forward to seeing her cross that Bay Bridge and going to play cards with WAYNE GILCHREST. I think that should be an interesting game when she stops by his house. But I thank my colleagues for recognizing Helen, who has been a great friend to so many of us.

Ms. NORTON. Mr. Speaker, I am particularly pleased to join my colleagues in honoring Helen Sewell as she retires from the House of Representatives. Helen Sewell has honored our city as a longtime resident and the House by devoting extraordinary service under the particularly difficult hours and circumstances of service in the cloak room. Ms. Sewell's devotion to the House, to the people of the United States, and to the District, whom we service, has been so great that she was still serving at 80 years old. Her loyalty to the House and its work has given vital support to Members of Congress and to the important business of the country.

As the House honors Ms. Sewell and wish her well, the residents of the District of Columbia join me in thanking Helen Sewell for dedicated service to the House of Representatives.

Mr. NEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILLMOR). The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and agree to the resolution, H. Res. 633.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. WELDON of Pennsylvania. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 633.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 10 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 2353

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BOOZMAN) at 11 o'clock and 53 minutes p.m.

CONFERENCE REPORT ON H.R. 2863, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

Mr. YOUNG of Florida submitted the following conference report and statement on the bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes:

CONFERENCE REPORT (H. REPT. 109-359)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2863) "making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

DIVISION A

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, for military functions administered by the Department of Defense and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

Military Personnel, Army

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty, (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $28,191,287,000.

Military Personnel, Navy

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $22,788,101,000.

Military Personnel, Marine Corps

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $8,968,884,000.

Military Personnel, Air Force

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $23,199,850,000.

Reserve Personnel, Army

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $3,172,669,000.

Reserve Personnel, Navy

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,686,099,000.

Reserve Personnel, Marine Corps

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $513,001,000.

Reserve Personnel, Air Force

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,296,646,000.

National Guard Personnel, Army

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $4,912,794,000.

National Guard Personnel, Air Force

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section

708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,267,732,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $11,478,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, $24,105,470,000: Provided, That of funds made available under this heading, $2,000,000 shall be available for Fort Baker, in accordance with the terms and conditions as provided under the heading "Operation and Maintenance, Army", in Public Law 107–117: Provided further, That notwithstanding any other provision of law, the Secretary of the Army may provide a grant of up to $10,000,000 from funds made available in this or any other Department of Defense Appropriations Act to the Army Distaff Foundation.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $6,003,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $29,995,383,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $3,695,256,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,699,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $30,313,136,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $18,500,716,000: Provided, That not more than $25,000,000 may be used for the Combatant Commander Initiative Fund authorized under section 166a of title 10, United States Code: Provided further, That not to exceed $36,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: Provided further, That notwithstanding any other provision of law, of the funds provided in this Act for Civil Military programs under this heading, $500,000 shall be available for a grant for Outdoor Odyssey, Roaring Run, Pennsylvania, to support the Youth Development and Leadership program and Department of Defense STARBASE program: Provided further, That of the funds made available under this heading, $4,250,000 is available for contractor support to coordinate a wind test demonstration project on an Air Force installation using wind turbines manufactured in the United States that are new to the United States market and to execute the renewable energy purchasing plan: Provided further, That of the funds provided under this heading, not less than $27,009,000 shall be made available for the Procurement Technical Assistance Cooperative Agreement Program, of which not less than $3,600,000 shall be available for centers defined in 10 U.S.C. 2411(1)(D): Provided further, That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: Provided further, That $4,000,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: Provided further, That any ceiling on the investment item unit cost of items that may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,973,382,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,244,795,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $202,734,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $2,499,286,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $4,491,109,000: Provided, That $8,500,000 shall be available for the operations and development of training and technology for the Joint Interagency Training Center-East and the affiliated Center for National Response at the Memorial Tunnel and for providing homeland defense/security and traditional warfighting training to the Department of Defense, other federal agency, and state and local first responder personnel at the Joint Interagency Training Center-East.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For expenses of training, organizing, and administering the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; transportation of things, hire of passenger motor vehicles; supplying and equipping the Air National Guard, as authorized by law; expenses for repair, modification, maintenance, and issue of supplies and equipment, including those furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $4,701,306,000.

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $11,236,000, of which not to exceed $5,000 may be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $407,865,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $305,275,000, to remain available until transferred: Provided, *That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.*

Environmental Restoration, Air Force

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $406,461,000, to remain available until transferred: Provided, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Defense-Wide

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $28,167,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Formerly Used Defense Sites

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $256,921,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Overseas Humanitarian, Disaster, and Civic Aid

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2557, and 2561 of title 10, United States Code), $61,546,000, to remain available until September 30, 2007.

Former Soviet Union Threat Reduction Account

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $415,549,000, to remain available until September 30, 2008: Provided, That of the amounts provided under this heading, $15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and security enhancements for transport and storage of nuclear warheads in the Russian Far East.

TITLE III

PROCUREMENT

Aircraft Procurement, Army

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,653,280,000, to remain available for obligation until September 30, 2008: Provided, That $75,000,000 of the funds provided in this paragraph are available only for the purpose of acquiring four (4) HH–60L medical evacuation variant Blackhawk helicopters for the Army Reserve: Provided further, That three (3) UH–60 Blackhawk helicopters in addition to those referred to in the preceding proviso shall be available only for the Army Reserve.

Missile Procurement, Army

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,208,919,000, to remain available for obligation until September 30, 2008.

Procurement of Weapons and Tracked Combat Vehicles, Army

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,391,615,000, to remain available for obligation until September 30, 2008.

Procurement of Ammunition, Army

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,733,020,000, to remain available for obligation until September 30, 2008.

Other Procurement, Army

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of passenger motor vehicles for replacement only; and the purchase of 14 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $4,594,031,000, to remain available for obligation until September 30, 2008.

Aircraft Procurement, Navy

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $9,774,749,000, to remain available for obligation until September 30, 2008.

Weapons Procurement, Navy

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $2,659,978,000, to remain available for obligation until September 30, 2008.

Procurement of Ammunition, Navy and Marine Corps

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $851,841,000, to remain available for obligation until September 30, 2008.

Shipbuilding and Conversion, Navy

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program (AP), $626,913,000;
NSSN, $1,637,698,000;
NSSN (AP), $763,786,000;
SSGN, $286,516,000;
CVN Refuelings, $1,318,563,000;
CVN Refuelings (AP), $20,000,000;
SSBN Submarine Refuelings, $230,193,000;
SSBN Submarine Refuelings (AP), $62,248,000;
DD(X) (AP), $715,992,000;
DDG–51 Destroyer, $150,000,000;
DDG–51 Destroyer Modernization, $50,000,000;
LCS, $440,000,000;
LHD–8, $197,769,000;
LPD–17, $1,344,741,000;
LHA–R, $150,447,000;
LCAC Landing Craft Air Cushion, $100,000,000;
Prior year shipbuilding costs, $517,523,000;
Service Craft, $45,455,000; and

For outfitting, post delivery, conversions, and first destination transportation, $369,387,000.

In all: $9,027,231,000, to remain available for obligation until September 30, 2010: Provided, That additional obligations may be incurred after September 30, 2010, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: Provided further, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: Provided further, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

Other Procurement, Navy

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of passenger motor vehicles for replacement only, and the purchase of 9 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $5,444,294,000, to remain available for obligation until September 30, 2008.

Procurement, Marine Corps

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $1,398,955,000, to remain available for obligation until September 30, 2008.

Aircraft Procurement, Air Force

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $12,737,215,000, to remain available for obligation until September 30, 2008.

Missile Procurement, Air Force

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $5,174,474,000, to remain available for obligation until September 30, 2008.

Procurement of Ammunition, Air Force

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,016,887,000, to remain available for obligation until September 30, 2008.

Other Procurement, Air Force

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of 2 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $14,060,714,000, to remain available for obligation until September 30, 2008.

Procurement, Defense-Wide

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of 5 vehicles required for physical security of personnel, notwithstanding prior limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $2,573,964,000, to remain available for obligation until September 30, 2008.

National Guard and Reserve Equipment

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, $180,000,000, to remain available for obligation until September 30, 2008: Provided, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

Defense Production Act Purchases

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), $58,248,000, to remain available until expended.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

Research, Development, Test and Evaluation, Army

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $11,172,397,000, to remain available for obligation until September 30, 2007.

Research, Development, Test and Evaluation, Navy

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment,

$18,993,135,000, to remain available for obligation until September 30, 2007: Provided, That funds appropriated in this paragraph which are available for the V–922 may be used to meet unique operational requirements of the Special Operations Forces: Provided further, That funds appropriated in this paragraph shall be available for the Cobra Judy program.

Research, Development, Test and Evaluation, Air Force

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $21,999,649,000, to remain available for obligation until September 30, 2007.

Research, Development, Test and Evaluation, Defense-Wide

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $19,798,599,000, to remain available for obligation until September 30, 2007.

Operational Test and Evaluation, Defense

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $168,458,000, to remain available for obligation until September 30, 2007.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

Defense Working Capital Funds

For the Defense Working Capital Funds, $1,154,940,000.

National Defense Sealift Fund

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $1,089,056,000, to remain available until expended: Provided, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: Provided further, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: Provided further, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

Defense Health Program

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, $20,221,212,000, of which $19,299,787,000 shall be for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2007, and of which up to $10,212,427,000 may be available for contracts entered into under the TRICARE program; of which $379,119,000, to remain available for obligation until September 30, 2008, shall be for Procurement; and of which $542,306,000, to remain available for obligation until September 30, 2007, shall be for Research, development, test and evaluation: Provided, That notwithstanding any other provision of law, of the amount made available under this heading for Research, development, test and evaluation, not less than $5,300,000 shall be available for HIV prevention educational activities undertaken in connection with U.S. military training, exercises, and humanitarian assistance activities conducted primarily in African nations.

Chemical Agents and Munitions Destruction, Army

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions, to include construction of facilities, in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,400,827,000, of which $1,216,514,000 shall be for Operation and maintenance; $116,527,000 shall be for Procurement to remain available until September 30, 2008; $67,786,000 shall be for Research, development, test and evaluation, of which $53,026,000 shall only be for the Assembled Chemical Weapons Alternatives (ACWA) program, to remain available until September 30, 2007; and no less than $119,300,000 may be for the Chemical Stockpile Emergency Preparedness Program, of which $36,800,000 shall be for activities on military installations and $82,500,000 shall be to assist State and local governments.

Drug Interdiction and Counter-Drug Activities, Defense

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $917,651,000: Provided, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

Office of the Inspector General

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $209,687,000, of which $208,687,000 shall be for Operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which $1,000,000, to remain available until September 30, 2008, shall be for Procurement.

TITLE VII

RELATED AGENCIES

Central Intelligence Agency Retirement and Disability System Fund

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $244,600,000.

Intelligence Community Management Account

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, $422,344,000, of which $27,454,000 for the Advanced Research and Development Committee shall remain available until September 30, 2007: Provided, That of the funds appropriated under this heading, $39,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, $1,500,000 for Procurement shall remain available until September 30, 2008 and $1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2007: Provided further, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities and the intelligence community by conducting document and computer exploitation of materials collected in Federal, State, and local law enforcement activity associated with counter-drug, counter-terrorism, and national security investigations and operations.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: Provided, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: Provided further, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: Provided further, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal *year: Provided, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.*

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $3,750,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: Provided further, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: Provided further, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to June 30, 2006: Provided further, That transfers among military personnel appropriations shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under this section.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds: Provided further, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: Provided further, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement: Provided further, That none of the funds provided in this Act may be used for a multiyear contract executed after the date of the enactment of this Act unless in the case of any such contract—

(1) the Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract;

(2) cancellation provisions in the contract do not include consideration of recurring manufacturing costs of the contractor associated with the production of unfunded units to be delivered under the contract;

(3) the contract provides that payments to the contractor under the contract shall not be made in advance of incurred costs on funded units; and

(4) the contract does not provide for a price adjustment based on a failure to award a follow-on contract.

Funds appropriated in title III of this Act may be used for a multiyear procurement contract as follows:

UH–60/MH–60 Helicopters;

C-17 Globemaster;

Apache Block II Conversion; and

Modernized Target Acquisition Designation Sight/Pilot Night Vision Sensor (MTADS/PNVS).

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: Provided further, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2006, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2007 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2007 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2007.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. None of the funds appropriated in this or any other Act may be used to initiate a new installation overseas without 30-day advance notification to the Committees on Appropriations.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: Provided, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: Provided further, That this subsection applies only to active components of the Army.

SEC. 8014. (a) LIMITATION ON CONVERSION TO CONTRACTOR PERFORMANCE.—None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees unless—

(1) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function;

(2) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of—

(A) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

(B) $10,000,000; and

(3) the contractor does not receive an advantage for a proposal that would reduce costs for the Department of Defense by—

(A) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract; or

(B) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5, United States Code.

(b) EXCEPTIONS.—

(1) The Department of Defense, without regard to subsection (a) of this section or subsections (a), (b), or (c) of section 2461 of title 10, United States Code, and notwithstanding any administrative regulation, requirement, or policy to the contrary shall have full authority to enter into a contract for the performance of any

commercial or industrial type function of the Department of Defense that—

(A) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47);

(B) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or

(C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or a Native Hawaiian Organization, as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).

(2) This section shall not apply to depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.

(c) TREATMENT OF CONVERSION.—The conversion of any activity or function of the Department of Defense under the authority provided by this section shall be credited toward any competitive or outsourcing goal, target, or measurement that may be established by statute, regulation, or policy and is deemed to be awarded under the authority of, and in compliance with, subsection (h) of section 2304 of title 10, United States Code, for the competition or outsourcing of commercial activities.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2302 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: Provided, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): Provided further, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: Provided further, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

SEC. 8018. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: Provided, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8019. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8020. In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): Provided, That a prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier as defined in section 1544 of title 25, United States Code or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) whenever the prime contract or subcontract amount is over $500,000 and involves the expenditure of funds appropriated by an Act making Appropriations for the Department of Defense with respect to any fiscal year: Provided further, That notwithstanding section 430 of title 41, United States Code, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part by any subcontractor or supplier defined in section 1544 of title 25, United States Code or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code: Provided further, That, during the current fiscal year and hereafter, businesses certified as 8(a) by the Small Business Administration pursuant to section 8(a)(15) of Public Law 85–536, as amended, shall have the same status as other program participants under section 602 of Public Law 100–656, 102 Stat. 3825 (Business Opportunity Development Reform Act of 1988) for purposes of contracting with agencies of the Department of Defense.

SEC. 8021. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–976 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 30 months after initiation of such study for a multi-function activity.

SEC. 8022. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8023. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8024. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: Provided, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8025. (a) Of the funds made available in this Act, not less than $31,109,000 shall be available for the Civil Air Patrol Corporation, of which—

(1) $24,288,000 shall be available from "Operation and Maintenance, Air Force" to support Civil Air Patrol Corporation operation and maintenance, readiness, counterdrug activities, and drug demand reduction activities involving youth programs;

(2) $6,000,000 shall be available from "Aircraft Procurement, Air Force"; and

(3) $821,000 shall be available from "Other Procurement, Air Force" for vehicle procurement.

(b) The Secretary of the Air Force should waive reimbursement for any funds used by the Civil Air Patrol for counter-drug activities in support of Federal, State, and local government agencies.

SEC. 8026. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: Provided, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2006 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2006, not more than 5,517 staff years of technical effort (staff years) may be funded for defense FFRDCs: Provided, That of the specific amount referred to previously in this subsection, not more than 1,050 staff years may be funded for the defense studies and analysis FFRDCs: Provided further, That this subsection shall not apply to staff years funded in the National Intelligence Program (NIP).

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2007 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $46,000,000.

SEC. 8027. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: Provided, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: Provided further, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8028. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives. In addition, for any matter pertaining to basic allowance for housing, facilities sustainment, restoration and modernization, environmental restoration and the Defense Health Program, "congressional defense committees" also means the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives.

SEC. 8029. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: Provided, That the Senior Acquisition Executive of the military department or Defense Agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: Provided further, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

SEC. 8030. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2006. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8031. Appropriations contained in this Act that remain available at the end of the current fiscal year, and at the end of each fiscal year hereafter, as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

SEC. 8032. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, and hereafter, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.

SEC. 8033. Notwithstanding any other provision of law, funds available during the current fiscal year and hereafter for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8034. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 10109510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8035. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield Program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term "Indian tribe" means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103 09454; 108 Stat. 4792; 25 U.S.C. 479a-1).

SEC. 8036. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $250,000.

SEC. 8037. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2007 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2007 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2007 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8038. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2007: Provided, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: Provided further, That any funds appropriated or transferred to the Central Intelligence Agency for advanced research and development acquisition, for agent operations, and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2007.

SEC. 8039. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8040. Of the funds appropriated to the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than $10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8041. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8042. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8043. (a) Except as provided in subsection (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to—

(1) field operating agencies funded within the National Intelligence Program; or

(2) an Army field operating agency established to eliminate, mitigate, or counter the effects of improvised explosive devices, and, as determined by the Secretary of the Army, other similar threats.

SEC. 8044. The Secretary of Defense, acting through the Office of Economic Adjustment of the Department of Defense, may use funds made available in this Act under the heading "Operation and Maintenance, Defense-Wide" to make grants and supplement other Federal funds in accordance with the guidance provided in the Joint Explanatory Statement of the Committee of Conference to accompany the conference report on the bill H.R. 2863, and the projects specified in such guidance shall be considered to be authorized by law.

(RESCISSIONS)

SEC. 8045. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

"Missile Procurement, Army, 2004/2006", $20,000,000;

"Missile Procurement, Army, 2005/2007", $14,931,000;

"Other Procurement, Army, 2005/2007", $68,637,000;

"Aircraft Procurement, Navy, 2005/2007", $16,800,000;

"Shipbuilding and Conversion, Navy, 2005/2009", $42,200,000;

"Other Procurement, Navy, 2005/2007", $43,000,000;

"Procurement, Marine Corps, 2005/2007", $4,300,000;

"Missile Procurement, Air Force, 2005/2007", $92,000,000;

"Other Procurement, Air Force, 2005/2007", $3,400,000;

"Research, Development, Test and Evaluation, Army, 2005/2006", $4,300,000;

"Research, Development, Test and Evaluation, Navy, 2005/2006", $32,755,000; and

"Research, Development, Test and Evaluation, Air Force, 2005/2006", $63,400,000.

SEC. 8046. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8047. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8048. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Intelligence Program, the Joint Military Intelligence Program, and the Tactical Intelligence and Related Activities aggregate: Provided, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8049. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 2003 level: Provided, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

SEC. 8050. Up to $2,000,000 of the funds appropriated under the heading, "Operation and Maintenance, Navy" may be made available to contract for the installation, repair, and maintenance of an on-base and adjacent off-base wastewater/treatment facility and infrastructure critical to base operations and the public health and safety of community residents in the vicinity of the NCTAMS.

SEC. 8051. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of $130,000,000 or higher.

SEC. 8052. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

SEC. 8053. Up to $3,000,000 of the funds appropriated in Title II of this Act under the heading, "Operation and Maintenance, Army", may be made available to contract with the Army Historical Foundation, a nonprofit organization, for services required to solicit non-Federal donations to support construction and operation of the National Museum of the United States Army at Fort Belvoir, Virginia: Provided, That notwithstanding any other provision of law, the Army is authorized to receive future payments in this or the subsequent fiscal year from any nonprofit organization chartered to support the National Museum of the United States Army to reimburse amounts expended by the Army pursuant to this section: Provided further, That any reimbursements received pursuant to this section shall be merged with "Operation and Maintenance, Army" and shall be made available for the same purposes and for the same time period as that appropriation account.

(TRANSFER OF FUNDS)

SEC. 8054. Appropriations available under the heading "Operation and Maintenance, Defense-Wide" for the current fiscal year and hereafter for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8055. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: Provided, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That this restriction shall not apply to the purchase of "commercial items", as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8056. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8057. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an *unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.*

Sec. 8058. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: Provided, That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

Sec. 8059. (a) Limitation on Transfer of Defense Articles and Services.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) Covered Activities.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) Required Notice.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

Sec. 8060. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

(INCLUDING TRANSFER OF FUNDS)

Sec. 8061. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

Sec. 8062. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, as amended (31 U.S.C. 1551 note): Provided, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: Provided further, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

Sec. 8063. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

Sec. 8064. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: Provided, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: Provided further, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

Sec. 8065. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: Provided, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: Provided further, That this restriction does not apply to programs funded within the National Intelligence Program: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

Sec. 8066. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

Sec. 8067. None of the funds made available in this Act may be used to approve or license the sale of the F/A-22 advanced tactical fighter to any foreign government.

Sec. 8068. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

Sec. 8069. (a) Prohibition.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) Monitoring.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) Waiver.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) Report.—Not more than 15 days after the exercise of any waiver under subsection (c), the

Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8070. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T–AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8071. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8072. Notwithstanding any other provision of law, funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide" for any new start advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project, the planned acquisition and transition strategy and its estimated annual and total cost, has been provided in writing to the congressional defense committees: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

SEC. 8073. The Secretary of Defense shall provide a classified quarterly report beginning 30 days after enactment of this Act, to the House and Senate Appropriations Committees, Subcommittees on Defense on certain matters as directed in the classified annex accompanying this Act.

SEC. 8074. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance, and research, development, test and evaluation accounts of the Department of Defense which are current when the refunds are received.

SEC. 8075. (a) REGISTERING FINANCIAL MANAGEMENT INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential financial management information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. A financial management information technology system shall be considered a mission critical or mission essential information technology system as defined by the Under Secretary of Defense (Comptroller).

(b) CERTIFICATIONS AS TO COMPLIANCE WITH FINANCIAL MANAGEMENT MODERNIZATION PLAN.—

(1) During the current fiscal year, a financial management automated information system, a mixed information system supporting financial and non-financial systems, or a system improvement of more than $1,000,000 may not receive Milestone A approval, Milestone B approval, or full rate production, or their equivalent, within the Department of Defense until the Under Secretary of Defense (Comptroller) certifies, with respect to that milestone, that the system is being developed and managed in accordance with the Department's Financial Management Modernization Plan. The Under Secretary of Defense (Comptroller) may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1).

(c) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—

(1) During the current fiscal year, a major automated information system may not receive Milestone A approval, Milestone B approval, or full rate production approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

(A) Business process reengineering.

(B) An analysis of alternatives.

(C) An economic analysis that includes a calculation of the return on investment.

(D) Performance measures.

(E) An information assurance strategy consistent with the Department's Global Information Grid.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "Chief Information Officer" means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term "information technology system" has the meaning given the term "information technology" in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

SEC. 8076. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: Provided, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8077. Notwithstanding section 12310(b) of title 10, United States Code, a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of Title 32 may perform duties in support of the ground-based elements of the National Ballistic Missile Defense System.

SEC. 8078. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of "armor penetrator", "armor piercing (AP)", "armor piercing incendiary (API)", or "armor-piercing incendiary-tracer (API–T)", except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8079. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under section 2667 of title 10, United States Code, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in section 508(d) of title 32, United States Code, or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8080. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8081. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8082. Of the amounts appropriated in this Act under the heading, "Operation and Maintenance, Army", $147,900,000 shall remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government: Provided further, That the Secretary of Defense is authorized to enter into and carry *out contracts for the acquisition of real property, construction, personal services, and operations related to projects described in further detail in the Classified Annex accompanying the Department of Defense Appropriations Act, 2006, consistent with the terms and conditions set forth therein: Provided further, That contracts entered into under the authority of this section may provide for such indemnification as the Secretary determines to be necessary: Provided further, That projects authorized by this section shall comply with applicable Federal, State, and local law to the maximum extent consistent with the national security, as determined by the Secretary of Defense.*

SEC. 8083. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2006.

SEC. 8084. In addition to amounts provided elsewhere in this Act, $2,200,000 is hereby appropriated to the Department of Defense, to remain available for obligation until expended: Provided, That notwithstanding any other provision of law, these funds shall be available only for a grant to the Fisher House Foundation, Inc., only for the construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary.

SEC. 8085. (a) The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental and medical equipment of the Department of Defense, at no cost to the Department of Defense, to Indian Health Service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

(b) In carrying out this provision, the Secretary of Defense shall give the Indian Health Service a property disposal priority equal to the priority given to the Department of Defense and its twelve special screening programs in distribution of surplus dental and medical supplies and equipment.

SEC. 8086. Amounts appropriated in title II of this Act are hereby reduced by $265,000,000 to reflect savings attributable to efficiencies and management improvements in the funding of miscellaneous or other contracts in the military departments, as follows:

(1) From "Operation and Maintenance, Army", $26,000,000.

(2) From "Operation and Maintenance, Navy", $85,000,000.

(3) From "Operation and Maintenance, Air Force", $154,000,000.

SEC. 8087. The total amount appropriated or otherwise made available in this Act is hereby reduced by $100,000,000 to limit excessive growth in the procurement of advisory and assistance services, to be distributed as follows:

"Operation and Maintenance, Army", $25,000,000.

"Operation and Maintenance, Navy", $10,000,000.

"Operation and Maintenance, Air Force", $30,000,000.

"Operation and Maintenance, Defense-Wide", $35,000,000.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8088. Of the amounts appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", $132,866,000 shall be made available for the Arrow missile defense program: Provided, That of this amount, $60,250,000 shall be available for the purpose of producing Arrow missile components in the United States and Arrow missile components and missiles in Israel to meet Israel's defense requirements, consistent with each nation's laws, regulations and procedures, and $10,000,000 shall be available for the purpose of the initiation of a joint feasibility study designated the Short Range Ballistic Missile Defense (SRBMD) initiative: Provided further, That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: Provided further, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8089. Of the amounts appropriated in this Act under the heading "Shipbuilding and Conversion, Navy", $517,523,000 shall be available until September 30, 2006, to fund prior year shipbuilding cost increases: Provided, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: Provided further, That the amounts transferred shall be merged with.and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2006":

New SSN, $28,000,000.

Under the heading, "Shipbuilding and Conversion, Navy, 1999/2006":

LPD–17 Amphibious Transport Dock Ship Program, $95,000,000;

New SSN, $72,000,000.

Under the heading, "Shipbuilding and Conversion, Navy, 2000/2006":

LPD-17 Amphibious Transport Dock Ship Program, $94,800,000.

Under the heading, "Shipbuilding and Conversion, Navy, 2001/2006":

Carrier Replacement Program, $145,023,000;

New SSN, $82,700,000.

SEC. 8090. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under section 7622 of title 10, United States Code arising out of the collision involving the U.S.S. GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: Provided, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

SEC. 8091. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of section 7403(g) of title 38, United States Code for occupations listed in section 7403(a)(2) of title 38, United States Code as well as the following:

Pharmacists, Audiologists, and Dental Hygienists.

(A) The requirements of section 7403(g)(1)(A) of title 38, United States Code shall apply.

(B) The limitations of section 7403(g)(1)(B) of title 38, United States Code shall not apply.

SEC. 8092. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of the Intelligence Authorization Act for fiscal year 2006.

SEC. 8093. None of the funds in this Act may be used to initiate a new start program without prior written notification to the Office of Secretary of Defense and the congressional defense committees.

SEC. 8094. The amounts appropriated in title II of this Act are hereby reduced by $250,000,000 to reflect cash balance and rate stabilization adjustments in Department of Defense Working Capital Funds, as follows:

(1) From "Operation and Maintenance, Army", $100,000,000.

(2) From "Operation and Maintenance, Navy", $50,000,000.

(3) From "Operation and Maintenance, Air Force", $100,000,000.

SEC. 8095. (a) In addition to the amounts provided elsewhere in this Act, the amount of $5.100,000 is hereby appropriated to the Department of Defense for "Operation and Maintenance, Army National Guard". Such amount shall be made available to the Secretary of the Army only to make a grant in the amount of $5.100,000 to the entity specified in subsection (b) to facilitate access by veterans to opportunities for skilled employment in the construction industry.

(b) The entity referred to in subsection (a) is the Center for Military Recruitment, Assessment and Veterans Employment, a nonprofit labor-management co-operation committee provided for by section 302(c)(9) of the Labor-Management Relations Act, 1947 (29 U.S.C. 186(c)(9)), for the purposes set forth in section 6(b) of the Labor Management Cooperation Act of 1978 (29 U.S.C. 175a note).

SEC. 8096. FINANCING AND FIELDING OF KEY ARMY CAPABILITIES.—The Department of Defense and the Department of the Army shall make future budgetary and programming plans to fully finance the Non-Line of Sight Future Force cannon and resupply vehicle program (NLOS–C) in order to field this system in fiscal year 2010, consistent with the broader plan to field the Future Combat System (FCS) in fiscal year 2010: Provided, That if the Army is precluded from fielding the FCS program by fiscal year 2010, then the Army shall develop the NLOS–C independent of the broader FCS development timeline to achieve fielding by fiscal year 2010. In addition the Army will deliver eight (8) combat operational pre-production NLOS–C systems by the end of calendar year 2008. These systems shall be in addition to those systems necessary for developmental and operational testing: Provided further, That the Army shall ensure that budgetary and programmatic plans will provide for no fewer than seven (7) Stryker Brigade Combat Teams.

SEC. 8097. Up to $2,125,000 of the funds appropriated under the heading "Operation and Maintenance, Navy" in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems, electrical upgrade to support additional missions critical to base operations, and support for a range footprint expansion to further guard against encroachment.

SEC. 8098. In addition to the amounts appropriated or otherwise made available elsewhere in this Act, $33,350,000 is hereby appropriated to the Department of Defense, to remain available until September 30, 2006: Provided, That the Secretary of Defense shall make grants in the amounts specified as follows: $3,850,000 to the Intrepid Sea-Air-Space Foundation; $1.000,000 to the Pentagon Memorial Fund, Inc.; $4.400.000 to the Center for Applied Science and Technologies at Jordan Valley Innovation Center; $1,000,000 to the Vietnam Veterans Memorial Fund for the Teach Vietnam initiative; $500,000 to the Westchester County World Trade Center Memorial; $1,000,000 to the Women in Military Service for America Memorial Foundation; $2,000,000 to The Presidio Trust; $500,000 to George Mason University for the Clinic for Legal Assistance to Servicemembers; $850,000 to the Fort Des Moines Memorial Park and Education Center; $1,000,000 to the American Civil

War Center at Historic Tredegar; $1,500,000 to the Museum of Flight, American Heroes Collection; $1,000,000 to the National Guard Youth Foundation; $2,550,000 to the United Services Organization; $1,700,000 to the Dwight D. Eisenhower Memorial Commission; $1,000,000 to the Iraq Cultural Heritage Assistance Project; $1,350,000 to the Pacific Aviation Museum-Pearl Harbor; $1,500,000 to the Red Cross Consolidated Blood Services Facility; $150,000 to the Telluride Adaptive Sports Program; $4,000,000 to T.H.A.N.K.S USA; $1,500,000 to the Battleship Texas Foundation to Restore and Preserve the Battleship Texas; and $1,000,000 to the Pennsylvania Veterans Museum Media Armory.

SEC. 8099. Notwithstanding section 2583(a) of title 10, United States Code, but subject to the limitations of section 2583(e) of title 10, United States Code, during the current fiscal year the Secretary of the military department concerned may make a military working dog available for adoption by its former handler.

SEC. 8100. The budget of the President for fiscal year 2007 submitted to the Congress pursuant to section 1105 of title 31, United States Code shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Operation and Maintenance accounts, and the Procurement accounts: Provided, That these documents shall include a description of the funding requested for each contingency operation, for each military service, to include all Active and Reserve components, and for each appropriations account: Provided further, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for each contingency operation, and programmatic data including, but not limited to, troop strength for each Active and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: Provided further, That these documents shall include budget exhibits OP–5 and OP–32 (as defined in the Department of Defense Financial Management Regulation) for all contingency operations for the budget year and the two preceding fiscal years.

SEC. 8101. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

SEC. 8102. Of the amounts provided in title II of this Act under the heading, "Operation and Maintenance, Defense-Wide", $20,000,000 is available for the Regional Defense Counter-terrorism Fellowship Program, to fund the education and training of foreign military officers, ministry of defense civilians, and other foreign security officials, to include United States military officers and civilian officials whose participation directly contributes to the education and training of these foreign students.

SEC. 8103. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act: Provided, That the Air Force shall allow the 53rd Weather Reconnaissance Squadron to perform other missions in support of national defense requirements during the non-hurricane season.

SEC. 8104. None of the funds provided in this Act shall be available for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities: Provided, That information pertaining to United States persons shall only be handled in accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order No. 12333.

SEC. 8105. (a) From within amounts made available in title II of this Act, under the heading "Operation and Maintenance, Army", and notwithstanding any other provision of law, up to $7,000,000 shall be available only for repairs and safety improvements to the segment of Fort Irwin Road which extends from Interstate 15 northeast toward the boundary of Fort Irwin, California and the originating intersection of Irwin Road: Provided, That these funds shall remain available until expended: Provided further, That the authorized scope of work includes, but is not limited to, environmental documentation and mitigation, engineering and design, improving safety, resurfacing, widening lanes, enhancing shoulders, and replacing signs and pavement markings: Provided further, That these funds may be used for advances to the Federal Highway Administration, Department of Transportation, for the authorized scope of work.

(b) From within amounts made available in title II of this Act under the heading "Operation and Maintenance, Marine Corps", the Secretary of the Navy shall make a grant in the amount of $4,800,000, notwithstanding any other provision of law, to the City of Twentynine Palms, California, for the widening of off-base Adobe Road, which is used by members of the Marine Corps stationed at the Marine Corps Air Ground Task Force Training Center, Twentynine Palms, California, and their dependents, and for construction of pedestrian and bike lanes for the road, to provide for the safety of the Marines stationed at the installation.

SEC. 8106. None of the funds available to the Department of Defense may be obligated to modify command and control relationships to give Fleet Forces Command administrative and operational control of U.S. Navy forces assigned to the Pacific fleet: Provided, That the command and control relationships which existed on October 1, 2004, shall remain in force unless changes are specifically authorized in a subsequent Act.

SEC. 8107. (a) At the time members of reserve components of the Armed Forces are called or ordered to active duty under section 12302(a) of title 10, United States Code, each member shall be notified in writing of the expected period during which the member will be mobilized.

(b) The Secretary of Defense may waive the requirements of subsection (a) in any case in which the Secretary determines that it is necessary to do so to respond to a national security emergency or to meet dire operational requirements of the Armed Forces.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8108. The Secretary of Defense may transfer funds from any available Department of the Navy appropriation to any available Navy ship construction appropriation for the purpose of liquidating necessary changes resulting from inflation, market fluctuations, or rate adjustments for any ship construction program appropriated in law: Provided, That the Secretary may transfer not to exceed $100,000,000 under the authority provided by this section: Provided further, That the funding transferred shall be available for the same time period as the appropriation to which transferred: Provided further, That the Secretary may not transfer any funds until 30 days after the proposed transfer has been reported to the Committees on Appropriations of the Senate and the House of Representatives, unless sooner notified by the Committees that there is no objection to the proposed transfer: Provided further, That the transfer authority provided by this section is in addition to any other transfer authority contained elsewhere in this Act.

SEC. 8109. (a) The total amount appropriated or otherwise made available in title II of this Act is hereby reduced by $92,000,000 to limit excessive growth in the travel and transportation of persons.

(b) The Secretary of Defense shall allocate this reduction proportionately to each budget activity, activity group, subactivity group, and each program, project, and activity within each applicable appropriation account.

SEC. 8110. In addition to funds made available elsewhere in this Act, $5,500,000 is hereby appropriated and shall remain available until expended to provide assistance, by grant or otherwise (such as, but not limited to, the provision of funds for repairs, maintenance, construction, and/or for the purchase of information technology, text books, teaching resources), to public schools that have unusually high concentrations of special needs military dependents enrolled: Provided, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments, and all schools within these school systems shall be eligible for assistance: Provided further, That up to 2 percent of the total appropriated funds under this section shall be available to support the administration and execution of the funds or program and/or events that promote the purpose of this appropriation (e.g. payment of travel and per diem of school teachers attending conferences or a meeting that promotes the purpose of this appropriation and/or consultant fees for on-site training of teachers, staff, or Joint Venture Education Forum (JVEF) Committee members): Provided further, That up to $2,000,000 shall be available for the Department of Defense to establish a non-profit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to non-profit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments: Provided further, That to the extent a Federal agency provides this assistance, by contract, grant, or otherwise, it may accept and expend non-Federal funds in combination with these Federal funds to provide assistance for the authorized purpose, if the non-Federal entity requests such assistance and the non-Federal funds are provided on a reimbursable basis.

SEC. 8111. Of the funds appropriated or otherwise made available in this Act, a reduction of $361,000,000 is hereby taken from Title III, Procurement, from the following accounts in the specified amounts:

"Missile Procurement, Army", $9,000,000;
"Other Procurement, Army", $297,000,000; and
"Procurement, Marine Corps", $55,000,000:

Provided, That within 30 days of enactment of this Act, the Secretary of the Army and the Secretary of the Navy shall provide a report to the House Committee on Appropriations and the Senate Committee on Appropriations which describes the application of these reductions to programs, projects or activities within these accounts.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8112. (a) THREE-YEAR EXTENSION.—During the current fiscal year and each of fiscal years 2007 and 2008, the Secretary of Defense may transfer not more than $20,000,000 of unobligated balances remaining in the expiring RDT&E, Army, appropriation account to a current Research, Development, Test and Evaluation, Army, appropriation account to be used only for the continuation of the Army Venture Capital Fund demonstration.

(b) EXPIRING RDT&E, ARMY, ACCOUNT.—For purposes of this section, for any fiscal year, the expiring RDT&E, Army, account is the Research, Development, Test and Evaluation,

Army, appropriation account that is then in its last fiscal year of availability for obligation before the account closes under section 1552 of title 31, United States Code.

(c) ARMY VENTURE CAPITAL FUND DEMONSTRATION.—For purposes of this section, the Army Venture Capital Fund demonstration is the program for which funds were initially provided in section 8150 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2281), as extended and revised in section 8105 of Department of Defense Appropriations Act, 2003 (Public Law 107–248; 116 Stat. 1562).

(d) ADMINISTRATIVE PROVISIONS.—The provisos in section 8105 of the Department of Defense Appropriations Act, 2003 (Public Law 107–248; 116 Stat. 1562), shall apply with respect to amounts transferred under this section in the same manner as to amounts transferred under that section.

SEC. 8113. Of the funds made available in this Act, not less than $76,100,000 shall be available to maintain an attrition reserve force of 18 B-52 aircraft, of which $3,900,000 shall be available from "Military Personnel, Air Force", $44,300,000 shall be available from "Operation and Maintenance, Air Force", and $27,900,000 shall be available from "Aircraft Procurement, Air Force": Provided, That the Secretary of the Air Force shall maintain a total force of 94 B–52 aircraft, including 18 attrition reserve aircraft, during fiscal year 2006: Provided further, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2007 amounts sufficient to maintain a B–52 force totaling 94 aircraft.

SEC. 8114. The Secretary of the Air Force is authorized, using funds available under the heading "Operation and Maintenance, Air Force", to complete a phased repair project, which repairs may include upgrades and additions, to the infrastructure of the operational ranges managed by the Air Force in Alaska: Provided, That the total cost of such phased projects shall not exceed $32,000,000.

SEC. 8115. For purposes of section 612 of title 41, United States Code, any subdivision of appropriations made under the heading "Shipbuilding and Conversion, Navy" that is not closed at the time reimbursement is made shall be available to reimburse the Judgment Fund and shall be considered for the same purposes as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in the current fiscal year or any prior fiscal year.

(TRANSFER OF FUNDS)

SEC. 8116. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: Provided, That funds so transferred shall be merged with and shall be available for the same purpose and for the same time period as the appropriation to which transferred: Provided further, That the amounts shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 2003/2007":

For outfitting, post delivery, conversions, and first destination transportation, $3,300,000;

Under the heading, "Shipbuilding and Conversion, Navy, 2004/2008":

For outfitting, post delivery, conversions, and first destination transportation, $6,100,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 2003/2007":

SSGN, $3,300,000;

Under the heading, "Shipbuilding and Conversion, Navy, 2004/2008":

SSGN, $6,100,000.

SEC. 8117. (a) FINDINGS.—The Senate makes the following findings:

(1) The Department of Defense Appropriations Act, 2004 (Public Law 108–87), the Department of Defense Appropriations Act, 2005 (Public Law 108–287), and the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13) each contain a sense of the Senate provision urging the President to provide in the annual budget requests of the President for a fiscal year under section 1105(a) of title 31, United States Code, an estimate of the cost of ongoing military operations in Iraq and Afghanistan in such fiscal year.

(2) The budget for fiscal year 2006 submitted to Congress by the President on February 7, 2005, requests no funds for fiscal year 2006 for ongoing military operations in Iraq or Afghanistan.

(3) According to the Congressional Research Service, there exists historical precedent for including the cost of ongoing military operations in the annual budget requests of the President following initial funding for such operations by emergency or supplemental appropriations Acts, including—

(A) funds for Operation Noble Eagle, beginning in the budget request of President George W. Bush for fiscal year 2005;

(B) funds for operations in Kosovo, beginning in the budget request of President George W. Bush for fiscal year 2001;

(C) funds for operations in Bosnia, beginning in the budget request of President Clinton for fiscal year 1997;

(D) funds for operations in Southwest Asia, beginning in the budget request of President Clinton for fiscal year 1997;

(E) funds for operations in Vietnam, beginning in the budget request of President Johnson for fiscal year 1966; and

(F) funds for World War II, beginning in the budget request of President Roosevelt for fiscal year 1943.

(4) In section 1024(b) of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (119 Stat. 252), the Senate requested that the President submit to Congress, not later than September 1, 2005, an amendment to the budget of the President for fiscal year 2006 setting forth detailed cost estimates for ongoing military operations overseas during such fiscal year.

(5) The President has yet to submit such an amendment.

(6) In February 2005, the Congressional Budget Office estimated that fiscal year 2006 cost of ongoing military operations in Iraq and Afghanistan could total $85,000,000,000.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) any request for funds for a fiscal year after fiscal year 2006 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, should be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code;

(2) the President should submit a budget request for fiscal year 2006 setting forth estimates for ongoing military operations overseas during such fiscal year; and

(3) any funds provided for a fiscal year for ongoing military operations overseas should be provided in appropriations Acts for such fiscal year through appropriations to specific accounts set forth in such appropriations Acts.

SEC. 8118. Section 351(a)(3) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1858) is amended by striking "July 31, 2004" and inserting "April 1, 2006".

SEC. 8119. (a) None of the funds appropriated by this Act may be used to transfer research and development, acquisition, or other program authority relating to current tactical unmanned aerial vehicles (TUAVs) from the Army.

(b) The Army shall retain responsibility for and operational control of the Extended Range Multi-Purpose (ERMP) Unmanned Aerial Vehicle (UAV) in order to support the Secretary of Defense in matters relating to the employment of unmanned aerial vehicles.

SEC. 8120. (a) REPORT.—Not later than February 15, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the status of the review of, and actions taken to implement, the recommendations of the Comptroller General of the United States in the report of the Comptroller General entitled "Military and Veterans Benefits: Enhanced Services Could Improve Transition Assistance for Reserves and National Guard" (GAO 05–544).

(b) PARTICULAR INFORMATION.—If the Secretary has determined in the course of the review described in subsection (a) not to implement any recommendation of the Comptroller General described in that subsection, the report under that subsection shall include a justification of such determination.

SEC. 8121. (a) The Secretary of the Navy may, subject to the terms and conditions of the Secretary, donate the World War II-era marine railway located at the United States Naval Academy, Annapolis, Maryland, to the Richardson Maritime Heritage Center, Cambridge, Maryland.

(b) The marine railway donated under subsection (a) may not be used for commercial purposes.

SEC. 8122. The Secretary of Defense may present promotional materials, including a United States flag, to any member of an Active or Reserve component under the Secretary's jurisdiction who, as determined by the Secretary, participates in Operation Enduring Freedom or Operation Iraqi Freedom, along with other recognition items in conjunction with any week-long national observation and day of national celebration, if established by Presidential proclamation, for any such members returning from such operations.

SEC. 8123. Section 8013 of the Department of Defense Appropriations Act, 1994 (Public Law 103–139; 107 Stat. 1440) is amended by striking "the report to the President from the Defense Base Closure and Realignment Commission, July 1991" and inserting "the reports to the President from the Defense Base Closure and Realignment Commission, July 1991 and July 1993".

SEC. 8124. (a) INCREASE IN RATE OF BASIC PAY.—

(1) INCREASE.—Footnote 2 to the table on Enlisted Members in section 601(b) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 37 U.S.C. 1009 note) is amended by striking "or Master Chief Petty Officer of the Coast Guard" and inserting "Master Chief Petty Officer of the Coast Guard, or Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on September 1, 2005, and shall apply with respect to months beginning on or after that date.

(b) PERSONAL MONEY ALLOWANCE.—Section 414(c) of title 37, United States Code, is amended by striking "or the Master Chief Petty Officer of the Coast Guard" and inserting "the Master Chief Petty Officer of the Coast Guard, or the Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff".

SEC. 8125. Notwithstanding any other provision of this Act, to reflect savings from revised economic assumptions the total amount appropriated in title II of this Act is hereby reduced by $195,260,000, the total amount appropriated *in title III of this Act is hereby reduced by $263,875,000, and the total amount appropriated in title IV of this Act is hereby reduced by $312,165,000: Provided, That the Secretary of Defense shall allocate this reduction proportionally to each budget activity, activity group, subactivity group, and each program, project, and activity, within each appropriation account.*

Sec. 8126. Support for Youth Organizations. (a) Short Title.—This Act may be cited as the "Support Our Scouts Act of 2005".

(b) Support for Youth Organizations.—

(1) Definitions.—In this subsection—

(A) the term "Federal agency" means each department, agency, instrumentality, or other entity of the United States Government; and

(B) the term "youth organization"—

(i) means any organization that is designated by the President as an organization that is primarily intended to—

(I) serve individuals under the age of 21 years;

(II) provide training in citizenship, leadership, physical fitness, service to community, and teamwork; and

(III) promote the development of character and ethical and moral values; and

(ii) shall include—

(I) the Boy Scouts of America;

(II) the Girl Scouts of the United States of America;

(III) the Boys Clubs of America;

(IV) the Girls Clubs of America;

(V) the Young Men's Christian Association; .

(VI) the Young Women's Christian Association;

(VII) the Civil Air Patrol;

(VIII) the United States Olympic Committee;

(IX) the Special Olympics;

(X) Campfire USA;

(XI) the Young Marines;

(XII) the Naval Sea Cadets Corps;

(XIII) 4–H Clubs;

(XIV) the Police Athletic League;

(XV) Big Brothers—Big Sisters of America; and

(XVI) National Guard Youth Challenge.

(2) In General.—

(A) Support for Youth Organizations.—

(i) Support.—No Federal law (including any rule, regulation, directive, instruction, or order) shall be construed to limit any Federal agency from providing any form of support for a youth organization (including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America) that would result in that Federal agency providing less support to that youth organization (or any similar organization chartered under the chapter of title 36, United States Code, relating to that youth organization) than was provided during the preceding fiscal year. This clause shall be subject to the availability of appropriations.

(ii) Youth Organizations That Cease to Exist.—Clause (i) shall not apply to any youth organization that ceases to exist.

(iii) Waivers.—The head of a Federal agency may waive the application of clause (i) to any youth organization with respect to each conviction or investigation described under subclause (I) or (II) for a period of not more than 2 fiscal years if—

(I) any senior officer (including any member of the board of directors) of the youth organization is convicted of a criminal offense relating to the official duties of that officer or the youth organization is convicted of a criminal offense; or

(II) the youth organization is the subject of a criminal investigation relating to fraudulent use or waste of Federal funds.

(B) Types of Support.—Support described under this paragraph shall include—

(i) holding meetings, camping events, or other activities on Federal property;

(ii) hosting any official event of such organization;

(iii) loaning equipment; and

(iv) providing personnel services and logistical support.

(c) Support for Scout Jamborees.—

(1) Findings.—Congress makes the following findings:

(A) Section 8 of article I of the Constitution of the United States commits exclusively to Congress the powers to raise and support armies, provide and maintain a Navy, and make rules for the government and regulation of the land and naval forces.

(B) Under those powers conferred by section 8 of article I of the Constitution of the United States to provide, support, and maintain the Armed Forces, it lies within the discretion of Congress to provide opportunities to train the Armed Forces.

(C) The primary purpose of the Armed Forces is to defend our national security and prepare for combat should the need arise.

(D) One of the most critical elements in defending the Nation and preparing for combat is training in conditions that simulate the preparation, logistics, and leadership required for defense and combat.

(E) Support for youth organization events simulates the preparation, logistics, and leadership required for defending our national security and preparing for combat.

(F) For example, Boy Scouts of America's National Scout Jamboree is a unique training event for the Armed Forces, as it requires the construction, maintenance, and disassembly of a "tent city" capable of supporting tens of thousands of people for a week or longer. Camporees at the United States Military Academy for Girl Scouts and Boy Scouts provide similar training opportunities on a smaller scale.

(2) Support.—Section 2554 of title 10, United States Code, is amended by adding at the end the following:

"(i)(1) The Secretary of Defense shall provide at least the same level of support under this section for a national or world Boy Scout Jamboree as was provided under this section for the preceding national or world Boy Scout Jamboree.

"(2) The Secretary of Defense may waive paragraph (1), if the Secretary—

"(A) determines that providing the support subject to paragraph (1) would be detrimental to the national security of the United States; and

"(B) reports such a determination to the Congress in a timely manner, and before such support is not provided.".

(d) Equal Access for Youth Organizations.—Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) is amended—

(1) in the first sentence of subsection (b) by inserting "or (e)" after "subsection (a)"; and

(2) by adding at the end the following:

"(e) Equal Access.—

"(1) Definition.—In this subsection, the term 'youth organization' means any organization described under part B of subtitle II of title 36, United States Code, that is intended to serve individuals under the age of 21 years.

"(2) In General.—No State or unit of general local government that has a designated open forum, limited public forum, or nonpublic forum and that is a recipient of assistance under this chapter shall deny equal access or a fair opportunity to meet to, or discriminate against, any youth organization, including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America, that wishes to conduct a meeting or otherwise participate in that designated open forum, limited public forum, or nonpublic forum.".

Sec. 8127. Regulations to Clarify Gift Acceptance Policy for Service Members and Their Families. (a) Regulations.—The Secretary of Defense shall prescribe regulations to provide that, subject to such limitations as may be specified in such regulations, members of the Armed Forces described in subsection (c), and the family members of such a member, may accept gifts from non-profit organizations, private parties, and other sources outside the Department of Defense, other than foreign governments and their agents. Such regulations shall apply uniformly to the Army, Navy, Air Force, and Marine Corps, and, to the maximum extent feasible, to the Coast Guard, and shall apply uniformly to the active and reserve components.

(b) Authority.—A member of the Armed Forces described in subsection (c) may accept gifts as provided in the regulations authorized in subsection (a), notwithstanding section 7353 or title 5, United States Code.

(c) Covered Members.—A member of the Armed Forces is described in this subsection in the case of a member who is on active duty and who on or after September 11, 2001, and while on active duty, incurred an injury or illness—

(1) as described in section 1413a(e)(2) of title 10, United States Code; or

(2) in an operation or area designated as a combat operation or a combat zone, respectively, by the Secretary of defense in accordance with the regulations prescribed under subsection (a).

(d) Deadline for Regulations.—Regulations under subsection (a) shall be prescribed not later than 90 days after the date of the enactment of this Act.

(e) Retroactive Applicability of Regulations.—Regulations under subsection (a) shall, to the extent provided in such regulations, also apply to the acceptance of gifts during the period beginning on September 11, 2001, and ending on the date on which such regulations go into effect.

Sec. 8128. Section 106(g) of the Alaska Natural Gas Pipeline Act (15 U.S.C. 720d) is amended by striking "later" and inserting "earlier".

Sec. 8129. The present incumbent Attending Physician at the U.S. Capitol shall be continued on active duty until ten years after the enactment of this Act.

TITLE IX

ADDITIONAL APPROPRIATIONS

MILITARY PERSONNEL

Military Personnel, Army

For an additional amount for "Military Personnel, Army", $4,713,245,000.

Military Personnel, Navy

For an additional amount for "Military Personnel, Navy", $144,000,000.

Military Personnel, Marine Corps

For an additional amount for "Military Personnel, Marine Corps", $455,000,000.

Military Personnel, Air Force

For an additional amount for "Military Personnel, Air Force", $508,000,000.

Reserve Personnel, Army

For an additional amount for "Reserve Personnel, Army", $138,755,000.

Reserve Personnel, Navy

For an additional amount for "Reserve Personnel, Navy", $10,000,000.

National Guard Personnel, Army

For an additional amount for "National Guard Personnel, Army", $234,400,000.

National Guard Personnel, Air Force

For an additional amount for "National Guard Personnel, Air Force", $3,200,000.

OPERATION AND MAINTENANCE

Operation and Maintenance, Army

For an additional amount for "Operation and Maintenance, Army", $21,348,886,000.

Operation and Maintenance, Navy

For an additional amount for "Operation and Maintenance, Navy", $1,810,500,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $1,833,126,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $2,483,900,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $805,000,000, of which up to $195,000,000, to remain available until expended, may be used for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical, military, and other support provided, or to be provided, to United States military operations, notwithstanding any other provision of law: Provided, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: Provided further, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and Maintenance, Army Reserve", $48,200,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and Maintenance, Navy Reserve", $6,400,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for "Operation and Maintenance, Marine Corps Reserve", $27,950,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and Maintenance, Air Force Reserve", $5,000,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Army National Guard", $183,000,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Air National Guard", $7,200,000.

IRAQ FREEDOM FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Iraq Freedom Fund", $4,658,686,000, to remain available for transfer until September 30, 2007, only to support operations in Iraq or Afghanistan and classified activities: Provided, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and working capital funds: Provided further, That of the amounts provided under this heading, $3,048,686,000 shall only be for classified programs, described in further detail in the classified annex accompanying this Act: Provided further, That up to $100,000,000 shall be available for the Department of Homeland Security, "United States Coast Guard, Operating Expenses": Provided further, That not less than $1,360,000,000 shall be available for the Joint IED Defeat Task Force: Provided further, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: Provided further, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft Procurement, Army", $232,100,000, to remain available until September 30, 2008.

MISSILE PROCUREMENT, ARMY

For an additional amount for "Missile Procurement, Army", $55,000,000, to remain available until September 30, 2008.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for "Procurement of Weapons and Tracked Combat Vehicles, Army", $860,190,000, to remain available until September 30, 2008.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for "Procurement of Ammunition, Army", $273,000,000, to remain available until September 30, 2008.

OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", $3,174,900,000, to remain available until September 30, 2008.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft Procurement, Navy", $138,837,000, to remain available until September 30, 2008.

WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons Procurement, Navy", $116,900,000, to remain available until September 30, 2008.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for "Procurement of Ammunition, Navy and Marine Corps", $38,885,000, to remain available until September 30, 2008.

OTHER PROCUREMENT, NAVY

For an additional amount for "Other Procurement, Navy", $49,100,000, to remain available until September 30, 2008.

PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", $1,710,145,000, to remain available until September 30, 2008.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft Procurement, Air Force", $115,300,000, to remain available until September 30, 2008.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for "Missile Procurement, Air Force", $17,000,000, to remain available until September 30, 2008.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", $17,500,000, to remain available until September 30, 2008.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for "Procurement, Defense-Wide", $182,075,000, to remain available until September 30, 2008.

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "National Guard and Reserve Equipment", $1,000,000,000, to remain available until September 30, 2008.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for "Research, Development, Test and Evaluation, Army", $13,100,000, to remain available until September 30, 2007.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $12,500,000, to remain available until September 30, 2007.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for "Research, Development, Test and Evaluation, Defense-Wide", $25,000,000, to remain available until September 30, 2007.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for "Defense Working Capital Funds", $2,516,400,000.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

For an additional amount for "Drug Interdiction and Counter-Drug Activities, Defense", $27,620,000.

GENERAL PROVISIONS

SEC. 9001. Appropriations provided in this title are available for obligation until September 30, 2006, unless otherwise so provided in this title.

SEC. 9002. Notwithstanding any other provision of law or of this Act, funds made available in this title are in addition to amounts provided elsewhere in this Act.

(TRANSFER OF FUNDS)

SEC. 9003. Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to $2,500,000,000 of the funds made available to the Department of Defense in this title: Provided, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: Provided further, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of this Act.

SEC. 9004. Funds appropriated in this title, or made available by the transfer of funds in or pursuant to this title, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 9005. None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal years 2005 or 2006 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

SEC. 9006. Notwithstanding any other provision of law, of the funds made available in this title to the Department of Defense for operation and maintenance, not to exceed $500,000,000 may *be used by the Secretary of Defense, with the concurrence of the Secretary of State, to train, equip and provide related assistance only to military or security forces of Iraq and Afghanistan to enhance their capability to combat terrorism and to support United States military operations in Iraq and Afghanistan: Provided, That such assistance may include the provision of equipment, supplies, services, training, and funding: Provided further, That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: Provided further, That the Secretary of Defense shall notify the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate not less than 15 days before providing assistance under the authority of this section.*

SEC. 9007. (a) From funds made available in this title to the Department of Defense, not to exceed $500,000,000 may be used, notwithstanding any other provision of law, to fund the Commander's Emergency Response Program, for the purpose of enabling military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people, and to fund a similar program to assist the people of Afghanistan.

(b) QUARTERLY REPORTS.—Not later than 15 days after the end of each fiscal year quarter (beginning with the first quarter of fiscal year 2006), the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes of the programs under subsection (a).

SEC. 9008. Amounts provided in this title for operations in Iraq and Afghanistan may be used by the Department of Defense for the purchase of up to 20 heavy and light armored vehicles for force protection purposes, notwithstanding price or other limitations specified elsewhere in this Act, or any other provision of law: Provided, That the Secretary of Defense shall submit a report in writing no later than 30 days after the end of each fiscal quarter notifying the congressional defense committees of any purchase described in this section, including the cost, purposes, and quantities of vehicles purchased.

SEC. 9009. During the current fiscal year, funds available to the Department of Defense for operation and maintenance may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq and Afghanistan: Provided, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

SEC. 9010. (a) Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter through the end of fiscal year 2006, the Secretary of Defense shall set forth in a report to Congress a comprehensive set of performance indicators and measures for progress toward military and political stability in Iraq.

(b) The report shall include performance standards and goals for security, economic, and security force training objectives in Iraq together with a notional timetable for achieving these goals.

(c) In specific, the report requires, at a minimum, the following:

(1) With respect to stability and security in Iraq, the following:

(A) Key measures of political stability, including the important political milestones that must be achieved over the next several years.

(B) The primary indicators of a stable security environment in Iraq, such as number of engagements per day, numbers of trained Iraqi forces, and trends relating to numbers and types of ethnic and religious-based hostile encounters.

(C) An assessment of the estimated strength of the insurgency in Iraq and the extent to which it is composed of non-Iraqi fighters.

(D) A description of all militias operating in Iraq, including the number, size, equipment strength, military effectiveness, sources of support, legal status, and efforts to disarm or reintegrate each militia.

(E) Key indicators of economic activity that should be considered the most important for determining the prospects of stability in Iraq, including—

(i) unemployment levels;

(ii) electricity, water, and oil production rates; and

(iii) hunger and poverty levels.

(F) The criteria the Administration will use to determine when it is safe to begin withdrawing United States forces from Iraq.

(2) With respect to the training and performance of security forces in Iraq, the following:

(A) The training provided Iraqi military and other Ministry of Defense forces and the equipment used by such forces.

(B) Key criteria for assessing the capabilities and readiness of the Iraqi military and other Ministry of Defense forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping these forces), and the milestones and notional timetable for achieving these goals.

(C) The operational readiness status of the Iraqi military forces, including the type, number, size, and organizational structure of Iraqi battalions that are—

(i) capable of conducting counterinsurgency operations independently;

(ii) capable of conducting counterinsurgency operations with the support of United States or coalition forces; or

(iii) not ready to conduct counterinsurgency operations.

(D) The rates of absenteeism in the Iraqi military forces and the extent to which insurgents have infiltrated such forces.

(E) The training provided Iraqi police and other Ministry of Interior forces and the equipment used by such forces.

(F) Key criteria for assessing the capabilities and readiness of the Iraqi police and other Ministry of Interior forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping), and the milestones and notional timetable for achieving these goals, including—

(i) the number of police recruits that have received classroom training and the duration of such instruction;

(ii) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(iii) the number of police candidates screened by the Iraqi Police Screening Service, the number of candidates derived from other entry procedures, and the success rates of those groups of candidates;

(iv) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction; and

(v) attrition rates and measures of absenteeism and infiltration by insurgents.

(G) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by coalition forces, including defending the borders of Iraq and providing adequate levels of law and order throughout Iraq.

(H) The effectiveness of the Iraqi military and police officer cadres and the chain of command.

(I) The number of United States and coalition advisors needed to support the Iraqi security forces and associated ministries.

(J) An assessment, in a classified annex if necessary, of United States military requirements, including planned force rotations, through the end of calendar year 2006.

SEC. 9011. Supervision and administration costs associated with a construction project funded with appropriations available for operation and maintenance, and executed in direct support of the Global War on Terrorism only in Iraq and Afghanistan, may be obligated at the time a construction contract is awarded: Provided, That for the purpose of this section, supervision and administration costs include all in-house Government costs.

SEC. 9012. Amounts appropriated or otherwise made available in this title are designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

TITLE X—MATTERS RELATING TO DETAINEES

SEC. 1001. SHORT TITLE.

This title may be cited as the "Detainee Treatment Act of 2005".

SEC. 1002. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(b) APPLICABILITY.—Subsection (a) shall not apply with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(c) CONSTRUCTION.—Nothing in this section shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

SEC. 1003. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) CONSTRUCTION.—Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) LIMITATION ON SUPERSEDURE.—The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this section, the term "cruel, inhuman, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the

United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

SEC. 1004. PROTECTION OF UNITED STATES GOVERNMENT PERSONNEL ENGAGED IN AUTHORIZED INTERROGATIONS.

(a) PROTECTION OF UNITED STATES GOVERNMENT PERSONNEL.—In any civil action or criminal prosecution against an officer, employee, member of the Armed Forces, or other agent of the United States Government who is a United States person, arising out of the officer, employee, member of the Armed Forces, or other agent's engaging in specific operational practices, that involve detention and interrogation of aliens who the President or his designees have determined are believed to be engaged in or associated with international terrorist activity that poses a serious, continuing threat to the United States, its interests, or its allies, and that were officially authorized and determined to be lawful at the time that they were conducted, it shall be a defense that such officer, employee, member of the Armed Forces, or other agent did not know that the practices were unlawful and a person of ordinary sense and understanding would not know the practices were unlawful. Good faith reliance on advice of counsel should be an important factor, among others, to consider in assessing whether a person of ordinary sense and understanding would have known the practices to be unlawful. Nothing in this section shall be construed to limit or extinguish any defense or protection otherwise available to any person or entity from suit, civil or criminal liability, or damages, or to provide immunity from prosecution for any criminal offense by the proper authorities.

(b) COUNSEL.—The United States Government may provide or employ counsel, and pay counsel fees, court costs, bail, and other expenses incident to the representation of an officer, employee, member of the Armed Forces, or other agent described in subsection (a), with respect to any civil action or criminal prosecution arising out of practices described in that subsection, under the same conditions, and to the same extent, to which such services and payments are authorized under section 1037 of title 10, United States Code.

SEC. 1005. PROCEDURES FOR STATUS REVIEW OF DETAINEES OUTSIDE THE UNITED STATES.

(a) SUBMITTAL OF PROCEDURES FOR STATUS REVIEW OF DETAINEES AT GUANTANAMO BAY, CUBA, AND IN AFGHANISTAN AND IRAQ.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on the Judiciary of the Senate and the Committee on Armed Services and the Committee on the Judiciary of the House of Representatives a report setting forth—

(A) the procedures of the Combatant Status Review Tribunals and the Administrative Review Boards established by direction of the Secretary of Defense that are in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay or to provide an annual review to determine the need to continue to detain an alien who is a detainee; and

(B) the procedures in operation in Afghanistan and Iraq for a determination of the status of aliens detained in the custody or under the physical control of the Department of Defense in those countries.

(2) DESIGNATED CIVILIAN OFFICIAL.—The procedures submitted to Congress pursuant to paragraph (1)(A) shall ensure that the official of the Department of Defense who is designated by the President or Secretary of Defense to be the final review authority within the Department of Defense with respect to decisions of any such tribunal or board (referred to as the "Designated Civilian Official") shall be a civilian officer of the Department of Defense holding an office to which appointments are required by law to be made by the President, by and with the advice and consent of the Senate.

(3) CONSIDERATION OF NEW EVIDENCE.—The procedures submitted under paragraph (1)(A) shall provide for periodic review of any new evidence that may become available relating to the enemy combatant status of a detainee.

(b) CONSIDERATION OF STATEMENTS DERIVED WITH COERCION.—

(1) ASSESSMENT.—The procedures submitted to Congress pursuant to subsection (a)(1)(A) shall ensure that a Combatant Status Review Tribunal or Administrative Review Board, or any similar or successor administrative tribunal or board, in making a determination of status or disposition of any detainee under such procedures, shall, to the extent practicable, assess—

(A) whether any statement derived from or relating to such detainee was obtained as a result of coercion; and

(B) the probative value (if any) of any such statement.

(2) APPLICABILITY.—Paragraph (1) applies with respect to any proceeding beginning on or after the date of the enactment of this Act.

(c) REPORT ON MODIFICATION OF PROCEDURES.—The Secretary of Defense shall submit to the committees specified in subsection (a)(1) a report on any modification of the procedures submitted under subsection (a). Any such report shall be submitted not later than 60 days before the date on which such modification goes into effect.

(d) ANNUAL REPORT.—

(1) REPORT REQUIRED.—The Secretary of Defense shall submit to Congress an annual report on the annual review process for aliens in the custody of the Department of Defense outside the United States. Each such report shall be submitted in unclassified form, with a classified annex, if necessary. The report shall be submitted not later than December 31 each year.

(2) ELEMENTS OF REPORT.—Each such report shall include the following with respect to the year covered by the report:

(A) The number of detainees whose status was reviewed.

(B) The procedures used at each location.

(e) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

(1) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

"(e) Except as provided in section 1005 of the Detainee Treatment Act of 2005, no court, justice, or judge shall have jurisdiction to hear or consider—

"(1) an application for a writ of habeas corpus filed by or on behalf of an alien detained by the Department of Defense at Guantanamo Bay, Cuba; or

"(2) any other action against the United States or its agents relating to any aspect of the detention by the Department of Defense of an alien at Guantanamo Bay, Cuba, who—

"(A) is currently in military custody; or

"(B) has been determined by the United States Court of Appeals for the District of Columbia Circuit in accordance with the procedures set forth in section 1005(e) of the Detainee Treatment Act of 2005 to have been properly detained as an enemy combatant.".

(2) REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision of a Combatant Status Review Tribunal that an alien is properly detained as an enemy combatant.

(B) LIMITATION ON CLAIMS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the standards and procedures specified by the Secretary of Defense for Combatant Status Review Tribunals (including the requirement that the conclusion of the Tribunal be supported by a preponderance of the evidence and allowing a rebuttable presumption in favor of the Government's evidence); and

(ii) to the extent the Constitution and laws of the United States are applicable, whether the use of such standards and procedures to make the determination is consistent with the Constitution and laws of the United States.

(D) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

(3) REVIEW OF FINAL DECISIONS OF MILITARY COMMISSIONS.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision rendered pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order).

(B) GRANT OF REVIEW.—Review under this paragraph—

(i) with respect to a capital case or a case in which the alien was sentenced to a term of imprisonment of 10 years or more, shall be as of right; or

(ii) with respect to any other case, shall be at the discretion of the United States Court of Appeals for the District of Columbia Circuit.

(C) LIMITATION ON APPEALS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to an appeal brought by or on behalf of an alien—

(i) who was, at the time of the proceedings pursuant to the military order referred to in subparagraph (A), detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a final decision has been rendered pursuant to such military order.

(D) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on an appeal of a final decision with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the final decision was consistent with the standards and procedures specified in the military order referred to in subparagraph (A); and

(ii) to the extent the Constitution and laws of the United States are applicable, whether the use of such standards and procedures to reach

the final decision is consistent with the Constitution and laws of the United States.

(4) RESPONDENT.—The Secretary of Defense shall be the named respondent in any appeal to the United States Court of Appeals for the District of Columbia Circuit under this subsection.

(f) CONSTRUCTION.—Nothing in this section shall be construed to confer any constitutional right on an alien detained as an enemy combatant outside the United States.

(g) UNITED STATES DEFINED.—For purposes of this section, the term "United States", when used in a geographic sense, is as defined in section 101(a)(38) of the Immigration and Nationality Act and, in particular, does not include the United States Naval Station, Guantanamo Bay, Cuba.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall take effect on the date of the enactment of this Act.

(2) REVIEW OF COMBATANT STATUS TRIBUNAL AND MILITARY COMMISSION DECISIONS.—Paragraphs (2) and (3) of subsection (e) shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act.

SEC. 1006. TRAINING OF IRAQI FORCES REGARDING TREATMENT OF DETAINEES.

(a) REQUIRED POLICIES.—

(1) IN GENERAL.—The Secretary of Defense shall ensure that policies are prescribed regarding procedures for military and civilian personnel of the Department of Defense and contractor personnel of the Department of Defense in Iraq that are intended to ensure that members of the Armed Forces, and all persons acting on behalf of the Armed Forces or within facilities of the Armed Forces, ensure that all personnel of Iraqi military forces who are trained by Department of Defense personnel and contractor personnel of the Department of Defense receive training regarding the international obligations and laws applicable to the humane detention of detainees, including protections afforded under the Geneva Conventions and the Convention Against Torture.

(2) ACKNOWLEDGMENT OF TRAINING.—The Secretary shall ensure that, for all personnel of the Iraqi Security Forces who are provided training referred to in paragraph (1), there is documented acknowledgment of such training having been provided.

(3) DEADLINE FOR POLICIES TO BE PRESCRIBED.—The policies required by paragraph (1) shall be prescribed not later than 180 days after the date of the enactment of this Act.

(b) ARMY FIELD MANUAL.—

(1) TRANSLATION.—The Secretary of Defense shall provide for the United States Army Field Manual on Intelligence Interrogation to be translated into arabic and any other language the Secretary determines appropriate for use by members of the Iraqi military forces.

(2) DISTRIBUTION.—The Secretary of Defense shall provide for such manual, as translated, to be provided to each unit of the Iraqi military forces trained by Department of Defense personnel or contractor personnel of the Department of Defense.

(c) TRANSMITTAL OF REGULATIONS.—Not less than 30 days after the date on which regulations, policies, and orders are first prescribed under subsection (a), the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives copies of such regulations, policies, or orders, together with a report on steps taken to the date of the report to implement this section.

(d) ANNUAL REPORT.—Not less than one year after the date of the enactment of this Act, and annually thereafter, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of this section.

This division may be cited as the "Department of Defense Appropriations Act, 2006".

DIVISION B

EMERGENCY SUPPLEMENTAL APPROPRIATIONS TO ADDRESS HURRICANES IN THE GULF OF MEXICO AND PANDEMIC INFLUENZA, 2006

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to address hurricanes in the Gulf of Mexico and pandemic influenza for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I

EMERGENCY SUPPLEMENTAL APPROPRIATIONS TO ADDRESS HURRICANES IN THE GULF OF MEXICO

CHAPTER 1

DEPARTMENT OF AGRICULTURE

EXECUTIVE OPERATIONS

WORKING CAPITAL FUND

For necessary expenses of "Working Capital Fund" related to the consequences of Hurricane Katrina, $35,000,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and Facilities", $9,200,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of Hurricane Katrina: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RURAL DEVELOPMENT PROGRAMS

RURAL COMMUNITY ADVANCEMENT PROGRAM

For the cost of grants for the water, waste disposal, and wastewater facilities programs authorized under section 306(a) and 306A of the Consolidated Farm and Rural Development Act, $45,000,000: Provided, That funds made available under this paragraph shall remain available until expended to respond to damage caused by hurricanes that occurred during the 2005 calendar year: Provided further, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949 to respond to damage caused by hurricanes that occurred during the 2005 calendar year to be available from the Rural Housing Insurance Fund, as follows: $1,468,696,000 for loans to section 502 borrowers, as determined by the Secretary, of which $175,593,000 shall be for direct loans and of which $1,293,103,000 shall be for unsubsidized guaranteed loans; and $34,188,000 for section 504 housing repair loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows, to remain available until expended: section 502 loans, $35,000,000, of which $20,000,000 shall be for direct loans, and of which $15,000,000 shall be for unsubsidized guaranteed loans; and section 504 housing repair loans, $10,000,000: Provided, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RURAL HOUSING ASSISTANCE GRANTS

For an additional amount for grants for very low-income housing repairs as authorized by 42 U.S.C. 1474 to respond to damage caused by hurricanes that occurred during the 2005 calendar year, $20,000,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006: Provided further, That these funds are not subject to any age limitation.

RURAL UTILITIES SERVICE

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM ACCOUNT

For gross obligations for the principal amount of direct rural telecommunication loans as authorized by section 306 of the Rural Electrification Act of 1936 to respond to damage caused by hurricanes that occurred during the 2005 calendar year, $50,000,000, as determined by the Secretary.

For the cost of loan modifications to rural electric loans made or guaranteed under the Rural Electrification Act of 1936 to respond to damage caused by hurricanes that occurred during the 2005 calendar year, $8,000,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006:

FOOD AND NUTRITION SERVICE COMMODITY ASSISTANCE PROGRAM

For an additional amount for "Commodity Assistance Program" for necessary expenses related to the consequences of Hurricane Katrina, $10,000,000, to remain available until expended, of which $6,000,000 shall be for The Emergency Food Assistance Program and $4,000,000 shall be for the Commodity Supplemental Food Program: Provided, That notwithstanding any other provisions of the Emergency Food Assistance Act of 1983 (the "Act"), the Secretary may allocate additional foods and funds for administrative expenses from resources specifically appropriated, transferred, or reprogrammed to restore to states resources used to assist families and individuals displaced by the hurricanes of calendar year 2005 among the states without regard to sections 204 and 214 of the Act: Provided further, That such programs may operate in any area where emergency feeding organizations develop a program to provide temporary emergency nonprofit food service to families and individuals displaced by the hurricanes of calendar year 2005: Provided further, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 101. EMERGENCY CONSERVATION PROGRAM. (a) IN GENERAL.—There is hereby appropriated $199,800,000, to remain available until expended, to provide assistance under the emergency conservation program established under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.) for expenses resulting from hurricanes that occurred during the 2005 calendar year.

(b) ASSISTANCE TO NURSERY, OYSTER, AND POULTRY PRODUCERS.—In carrying out this section, the Secretary shall make payments to nursery, oyster, and poultry producers to pay for up to 90 percent of the cost of emergency measures to rehabilitate public and private oyster reefs or farmland damaged by hurricanes that occurred during the 2005 calendar year, including the cost of—

(1) cleaning up structures, such as barns and poultry houses;

(2) providing water to livestock;

(3) in the case of nursery producers, removing debris, such as nursery structures, shadehouses, and above-ground irrigation facilities;

(4) in the case of oyster producers, refurbishing oyster beds; and

(5) in the case of poultry producers, removing poultry house debris, including carcasses.

(c) POULTRY RECOVERY ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall not use more than $20,000,000 of the funds made available under this section to provide assistance to poultry growers who suffered uninsured losses to poultry houses in counties affected by hurricanes that occurred during the 2005 calendar year.

(2) LIMITATIONS.—The amount of assistance provided to a poultry grower under this subsection may not exceed the lesser of—

(A) 50 percent of the total costs associated with the reconstruction or repair of a poultry house; or

(B) $50,000 for each poultry house.

(3) LIMIT ON AMOUNT OF ASSISTANCE.—The total amount of assistance provided under this subsection, and any indemnities for losses to a poultry house paid to a poultry grower, may not exceed 90 percent of the total costs associated with the reconstruction or repair of a poultry house.

(d) ASSISTANCE TO PRIVATE NONINDUSTRIAL FOREST LANDOWNERS.—

(1) ELIGIBILITY.—To be eligible to receive a payment under this section, a private nonindustrial forest landowner shall (as determined by the Secretary)—

(A) have suffered a loss of, or damage to, at least 35 percent of forest acres on commercial forest land of the forest landowner in a county affected by hurricanes that occurred during the 2005 calendar year, or a related condition; and

(B) during the 5-year period beginning on the date of the loss—

(i) reforest the lost forest acres, in accordance with a plan approved by the Secretary that is appropriate for the forest type;

(ii) use best management practices on the forest land of the landowner, in accordance with the best management practices of the Secretary for the applicable State; and

(iii) exercise good stewardship on the forest land of the landowner, while maintaining the land in a forested state.

(2) PROGRAM.—The Secretary shall make payments under this subsection to private nonindustrial forest landowners to pay for up to 75 percent of the cost of reforestation, rehabilitation, and related measures, except that the amount of assistance provided under this subsection shall not exceed $150 per acre.

(e) ELIGIBILITY.—Failure to comply with subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall not prevent an agricultural producer from receiving assistance under this section.

(f) EMERGENCY DESIGNATION.—The amount provided under this section is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 102. EMERGENCY WATERSHED PROTECTION PROGRAM. (a) IN GENERAL.—There is hereby appropriated $300,000,000, to remain available until expended, to provide assistance under the emergency watershed protection program established under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) to repair damages resulting from hurricanes that occurred during the 2005 calendar year.

(b) ASSISTANCE.—In carrying out this section, the Secretary shall make payments to landowners and land users to pay for up to 75 percent of the cost resulting from damage caused by hurricanes that occurred during the 2005 calendar year, or a related condition, including the cost of—

(1) cleaning up structures on private land; and

(2) reimbursing private nonindustrial forest landowners for costs associated with downed timber removal, except that the amount of assistance provided under this paragraph shall not exceed $150 per acre.

(c) Notwithstanding any other provision of law, the Secretary, acting through the Natural Resources Conservation Service, using funds made available under this section, may provide financial and technical assistance to remove and dispose of debris and animal carcasses that could adversely affect health and safety on non-Federal land in a hurricane-affected county.

(d) EMERGENCY DESIGNATION.—The amount provided under this section is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 103. Notwithstanding any other provision of law, funds appropriated under this Act to the Secretary of Agriculture may be used to reimburse accounts of the Secretary that have been used to pay costs incurred to respond to damage caused by hurricanes that occurred during the 2005 calendar year if those costs could have been paid with such appropriated funds if such costs had arisen after the date of enactment of this Act.

SEC. 104. Funds provided for hurricanes that occurred during the 2005 calendar year under the headings, "Rural Housing Insurance Fund" and "Rural Housing Assistance Grants", may be transferred between such accounts at the Secretary's discretion.

SEC. 105. (a) Notwithstanding any other provision of this title, with respect to the counties affected by hurricanes in the 2005 calendar year and for any individuals who resided in such counties at the time of the disaster the Secretary of Agriculture may, for a 6-month period that begins upon the date of the enactment of this Act—

(1) convert rental assistance under section 521 of the Housing Act of 1949 (42 U.S.C. 1490a) allocated for a property that is not decent, safe, and sanitary because of the disaster into rural housing vouchers authorized under title V of the Housing Act of 1949.

(2) guarantee loans under section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h)) to—

(A) repair and rehabilitate single-family residences; and

(B) refinance any loan made to a single-family resident used to acquire or construct the single-family residence if such residence meets the requirements of subparagraphs (A), (B), and (C) of section 502(h)(4) of the Housing Act of 1949 (42 U.S.C. 1472(h)(4));

(3) waive the application of the rural area or similar limitations under any program funded through an appropriations act and administered by the Rural Development Mission Area;

(4) issue housing vouchers under section 542 of the Housing Act of 1949 (42 U.S.C. 1490r), except that—

(A) notwithstanding the first sentence of subsection (a) of section 542 of such Act, the Secretary may assist low-income families and persons whose residence has become uninhabitable or inaccessible as a result of a 2005 hurricane; and

(B) subsection (b) of such section 542 of such Act shall not apply;

(5) provide loans, loan guarantees and grants from the Renewable Energy System and Energy Efficiency Improvements Program authorized in section 9006 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106) to any rural business—

(A) with a cost share requirement not to exceed 50 percent;

(B) without regard to any limitation of the grant amount; and

(C) which may include businesses processing unsegregated solid waste and paper, as determined by the Secretary;

(6) provide grants under the Value-added Agricultural Product Market Development Grant Program and Rural Cooperative Development Grant Program without regard to any grant amount limitations or matching requirements; and

(7) provide grants under the Community Facilities Grant Program without regard to any graduated funding requirements, grant amount limitations or matching requirements.

(b) The funds made available under this section are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 106. Section 759 of the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 2006 (Public Law 109-97) is amended to read as follows:

"SEC. 759. None of the funds appropriated or otherwise made available under this or any other Act shall be used to pay the salaries and expenses of personnel to expend more than $12,000,000 of the funds initially made available for fiscal year 2006 by section 310(a)(2) of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note).".

SEC. 107. EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.

(a) Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by adding at the end the following:

"(k) EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) MERCHANTABLE TIMBER.—The term 'merchantable timber' means timber on private nonindustrial forest land on which the average tree has a trunk diameter of at least 6 inches measured at a point no less than 4.5 feet above the ground.

"(B) PRIVATE NONINDUSTRIAL FOREST LAND.—The term 'private nonindustrial forest land' includes State school trust land.

"(2) PROGRAM.—During calendar year 2006, the Secretary shall carry out an emergency pilot program in States that the Secretary determines have suffered damage to merchantable timber in counties affected by hurricanes during the 2005 calendar year.

"(3) ELIGIBLE ACREAGE.—

"(A) IN GENERAL.—Subject to subparagraph (B) and the availability of funds under subparagraph (G), an owner or operator may enroll private nonindustrial forest land in the conservation reserve under this subsection.

"(B) DETERMINATION OF DAMAGES.—Eligibility for enrollment shall be limited to owners and operators of private nonindustrial forest land that have experienced a loss of 35 percent or more of merchantable timber in a county affected by hurricanes during the 2005 calendar year.

"(C) EXEMPTIONS.—Acreage enrolled in the conservation reserve under this subsection shall not count toward—

"(i) county acreage limitations described in section 1243(b); or

"(ii) the maximum enrollment described in subsection (d).

"(D) DUTIES OF OWNERS AND OPERATORS.—As a condition of entering into a contract under this subsection, during the term of the contract, the owner or operator of private nonindustrial forest land shall agree—

"(i) to restore the land, through site preparation and planting of similar species as existing prior to hurricane damages or to the maximum extent practicable with other native species, as determined by the Secretary; and

"(ii) to establish temporary vegetative cover the purpose of which is to prevent soil erosion on the eligible acreage, as determined by the Secretary.

"(E) DUTIES OF THE SECRETARY.—

"(i) IN GENERAL.—In return for a contract entered into by an owner or operator of private nonindustrial forest land under this subsection, the Secretary shall provide, at the option of the landowner—

"(I) notwithstanding the limitation in section 1234(f)(1), a lump sum payment; or

"(II) annual rental payments.

"(ii) CALCULATION OF LUMP SUM PAYMENT.—The lump sum payment described in clause (i)(I) shall be calculated using a net present value formula, as determined by the Secretary, based on the total amount a producer would receive over the duration of the contract.

"(iii) CALCULATION OF ANNUAL RENTAL PAYMENTS.—The annual rental payment described in clause (i)(II) shall be equal to the average rental rate for conservation reserve contracts in the county in which the land is located.

"(iv) ROLLING SIGNUP.—The Secretary shall offer a rolling signup for contracts under this subsection.

"(v) DURATION OF CONTRACTS.—A contract entered into under this subsection shall have a term of 10 years.

"(F) BALANCE OF NATURAL RESOURCES.—In determining the acceptability of contract offers under this subsection, the Secretary shall consider an equitable balance among the purposes of soil erosion prevention, water quality improvement, wildlife habitat restoration, and mitigation of economic loss.

"(G) FUNDING.—The Secretary shall use $404,100,000, to remain available until expended, of funds of the Commodity Credit Corporation to carry out this subsection.

"(H) DETERMINATIONS BY SECRETARY.—A determination made by the Secretary under this subsection shall be final and conclusive.

"(I) REGULATIONS.—

"(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall promulgate such regulations as are necessary to implement this subsection.

"(ii) PROCEDURE.—The promulgation of regulations and administration of this subsection shall be made without regard to—

"(I) the notice and comment provisions of section 553 of title 5, United States Code;

"(II) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

"(III) chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act').

"(iii) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this subsection, the Secretary shall use the authority provided under section 808 of title 5, United States Code.".

(b) EMERGENCY DESIGNATION.—The amount provided under this section is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 2

DEPARTMENT OF DEFENSE

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $29,830,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $57,691,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", $14,193,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $105,034,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, ARMY

For an additional amount for "Reserve Personnel, Army", $11,100,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, NAVY

For an additional amount for "Reserve Personnel, Navy", $33,015,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for "Reserve Personnel, Marine Corps", $3,028,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for "Reserve Personnel, Air Force", $2,370,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for "National Guard Personnel, Army", $220,556,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for "National Guard Personnel, Air Force", $77,718,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", $156,166,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", $544,690,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $7,343,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $554,252,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $29,027,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and Maintenance, Army Reserve", $16,118,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and Maintenance, Navy Reserve", $480,084,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for "Operation and Maintenance, Marine Corps Reserve", $16,331,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and Maintenance, Air Force Reserve", $2,366,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Army National Guard", $98,855,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Air National Guard", $48,086,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

PROCUREMENT

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for "Procurement of Weapons and Tracked Combat Vehicles, Army", $1,600,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for "Procurement of Ammunition, Army", $1,000,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", $43,390,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft Procurement, Navy", $3,856,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for "Procurement of Ammunition, Navy and Marine Corps", $2,600,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SHIPBUILDING AND CONVERSION, NAVY

For an additional amount for "Shipbuilding and Conversion, Navy", $1,937,000,000, to remain available until September 30, 2010, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005, which shall be available for transfer within this account to replace destroyed or damaged equipment, prepare and recover naval vessels under contract; and provide for cost adjustments for naval vessels for which funds have been previously appropriated: Provided, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: Provided further, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers within this appropriation, notify the congressional defense committees in writing of the details of any such transfer: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OTHER PROCUREMENT, NAVY

For an additional amount for "Other Procurement, Navy", $76,675,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", $162,315,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for "Procurement, Defense-Wide", $12,082,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "National Guard and Reserve Equipment", $19,260,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, Development, Test and Evaluation, Navy", $2,462,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $6,200,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for "Research, Development, Test and Evaluation, Defense-

Wide", $32,720,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

REVOLVING AND MANAGEMENT FUNDS

Defense Working Capital Funds

For an additional amount for "Defense Working Capital Funds", $7,224,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Trust Funds

SURCHARGE COLLECTIONS, SALES OF COMMISSARY STORES, DEFENSE

For an additional amount for "Surcharge Collections, Sales of Commissary Stores, Defense", $44,341,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

Defense Health Program

For an additional amount for "Defense Health Program", $201,550,000, of which $172,958,000 shall be for Operation and Maintenance, and of which $28,592,000 shall be for Procurement, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Office of the Inspector General

For an additional amount for "Office of the Inspector General", $310,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

GENERAL PROVISIONS—THIS CHAPTER

(TRANSFER OF FUNDS)

Sec. 201. Upon his determination that such action is necessary to ensure the appropriate allocation of funds provided in this chapter, the Secretary of Defense may transfer up to $500,000,000 of the funds made available to the Department of Defense in this chapter between such appropriations: Provided, That the Secretary shall notify the Congress promptly of each transfer made pursuant to this authority: Provided further, That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: Provided further, That the amount made available by the transfer of the funds in or pursuant to this section is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Sec. 202. Notwithstanding section 701(b) of title 10, United States Code, the Secretary of Defense may authorize a member of the Armed Forces on active duty who performed duties in support of disaster relief operations in connection with hurricanes in the Gulf of Mexico in calendar year 2005 and who, except for this section, would lose any accumulated leave in excess of 60 days at the end of fiscal year 2005 to retain an accumulated leave total not to exceed 120 days leave. Except as provided in section 701(f) of title 10, United States Code, leave in excess of 60 days accumulated under this section is lost unless used by the member before October 1, 2007.

Sec. 203. Notwithstanding 37 U.S.C. 403(b), the Secretary of Defense may prescribe a temporary adjustment in the geographic location rates of the basic allowance for housing in a military housing area located within an area declared a major disaster under the Robert T. Stafford Disaster Relief and Emergency Act (42 U.S.C. 5121 et seq.) resulting from hurricanes in the Gulf of Mexico in calendar year 2005.

(1) Such temporary adjustment shall be based upon the Secretary's redetermination of housing costs in an affected area and at a rate that shall not exceed 20 percent of the current rate for an affected area.

(2) Members in an affected military housing area must certify that an increased housing cost above the current rate for an affected area has been incurred in order to be eligible for the temporary rate adjustment.

(3) No temporary adjustment may be made after September 30, 2006. No assistance provided to individual households under this heading may extend beyond January 1, 2007. Further, the Secretary is authorized to reduce or eliminate any temporary adjustment granted under paragraph (1) prior to such date as appropriate.

Sec. 204. Funds appropriated by this chapter may be obligated and expended notwithstanding section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

Sec. 205. (a) The total amount appropriated or otherwise made available in this chapter is hereby reduced by $737,089,000.

(b) The Secretary of Defense shall allocate this reduction proportionately to each applicable appropriation account.

(c) The reduction in subsection (a) shall not apply to budget authority appropriated or otherwise made available to the Defense Health Program account.

CHAPTER 3

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

Corps of Engineers—Civil

INVESTIGATIONS

For an additional amount for "Investigations" to expedite studies of flood and storm damage reduction related to the consequences of hurricanes in the Gulf of Mexico and Atlantic Ocean in 2005, $37,300,000, to remain available until expended: Provided, That using $10,000,000 of the funds provided, the Secretary shall conduct an analysis and design for comprehensive improvements or modifications to existing improvements in the coastal area of Mississippi in the interest of hurricane and storm damage reduction, prevention of saltwater intrusion, preservation of fish and wildlife, prevention of erosion, and other related water resource purposes at full Federal expense: Provided further, That the Secretary shall recommend a cost-effective project, but shall not perform an incremental benefit-cost analysis to identify the recommended project, and shall not make project recommendations based upon maximizing net national economic development benefits: Provided further, That interim recommendations for near term improvements shall be provided within 6 months of enactment of this Act with final recommendations within 24 months of enactment: Provided further, That none of the $12,000,000 provided herein for the Louisiana Hurricane Protection Study shall be available for expenditure until the State of Louisiana establishes a single state or quasi-state entity to act as local sponsor for construction, operation and maintenance of all of the hurricane, storm damage reduction and flood control projects in the greater New Orleans and southeast Louisiana area: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CONSTRUCTION

For additional amounts for "Construction" to rehabilitate and repair Corps projects related to the consequences of hurricanes in the Gulf of Mexico and Atlantic Ocean in 2005, $101,417,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For an additional amount for "Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee" to cover the additional costs of mat laying and other repairs to the Mississippi River channel and associated levee repairs related to the consequences of hurricanes in the Gulf of Mexico in 2005, $153,750,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE

For an additional amount for "Operation and Maintenance" to dredge navigation channels and repair other Corps projects related to the consequences of hurricanes in the Gulf of Mexico and Atlantic Ocean in 2005, $327,517,000, to remain available until expended: Provided, That $75,000,000 of this amount shall be used for authorized operation and maintenance activities along the Mississippi River-Gulf Outlet channel: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", as authorized by section 5 of the Flood Control Act of August 18, 1941, as amended (33 U.S.C. 701n), for emergency response to and recovery from coastal storm damages and flooding related to the consequences of hurricanes in the Gulf of Mexico and Atlantic Ocean in 2005, $2,277,965,000, to remain available until expended: Provided, That in using the funds appropriated for construction related to Hurricane Katrina in the areas covered by the disaster declaration made by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93–288, 88 Stat. 143, as amended (42 U.S.C. 5121 et seq.), the Secretary of the Army, acting through the Chief of Engineers, is directed to restore the flood damage reduction and hurricane and storm damage reduction projects, and related works, to provide the level of protection *for which they were designed, at full Federal expense: Provided further, That $75,000,000 of this amount shall be used to accelerate completion of unconstructed portions of authorized projects in the State of Mississippi along the Mississippi Gulf Coast at full Federal expense: Provided further, That $544,460,000 of this amount shall be used to accelerate completion of unconstructed portions of authorized hurricane, storm damage reduction and flood control projects in the greater New Orleans and south Louisiana area at full Federal expense: Provided further, That $70,000,000 of this amount shall be available to prepare for flood, hurricane and other natural disasters and support emergency operations, repair and other activities in response to flood and hurricane emergencies as authorized by law: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.*

GENERAL EXPENSES

For an additional amount for "General Expenses" for increased efforts by the Mississippi Valley Division to oversee emergency response and recovery activities related to the consequences of hurricanes in the Gulf of Mexico in 2005, $1,600,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 4

DEPARTMENT OF HOMELAND SECURITY

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" to repair and replace critical equipment and property damaged by hurricanes and other natural disasters, $24,100,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CONSTRUCTION

For an additional amount for "Construction" to rebuild and repair structures damaged by hurricanes and other natural disasters, $10,400,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" to repair and replace critical equipment and property damaged by hurricanes and other natural disasters, $13,000,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating Expenses" for necessary expenses related to the consequences of hurricanes and other natural disasters, $132,000,000, to remain available until expended, of which up to $400,000 may be transferred to "Environmental Compliance and Restoration" to be used for environmental cleanup and restoration of Coast Guard facilities; and of which up to $525,000 may be transferred to "Research, Development, Test, and Evaluation" to be used for salvage and repair of research and development equipment and facilities: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for "Acquisition, Construction, and Improvements" for necessary expenses related to the consequences of hurricanes and other natural disasters, $74,500,000, to remain available until expended, for major repair and reconstruction projects and for vessels currently under construction: Provided, That such amounts shall also be available for expenses to replace destroyed or damaged equipment; prepare and recover United States Coast Guard vessels under contract; reimburse for delay, loss of efficiency and disruption, and other related costs; make equitable adjustments and provisional payments to contracts for Coast Guard vessels for which funds have been previously appropriated: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" for equipment, vehicle replacement, and personnel relocation due to the consequences of hurricanes and other natural disasters, $3,600,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OFFICE FOR DOMESTIC PREPAREDNESS

STATE AND LOCAL PROGRAMS

For an additional amount for "State and Local Programs" for equipment replacement related to hurricanes and other natural disasters, $10,300,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FEDERAL EMERGENCY MANAGEMENT AGENCY

ADMINISTRATIVE AND REGIONAL OPERATIONS

For an additional amount for "Administrative and Regional Operations" for necessary expenses related to hurricanes and other natural disasters, $17,200,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DISASTER RELIEF

(TRANSFER OF FUNDS)

In addition, of the amounts appropriated under this heading in Public Law 109–62, $1,500,000 shall be transferred to the "Disaster Assistance Direct Loan Program Account" for administrative expenses to carry out the direct loan program, as authorized by section 417 of the Stafford Act: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

GENERAL PROVISION—THIS CHAPTER

SEC. 401. Notwithstanding 10 U.S.C. 701(b), the Secretary of the Department of Homeland Security may authorize a member on active duty who performed duties in support of Hurricanes Katrina or Rita disaster relief operations and who, except for this section, would lose any accumulated leave in excess of 60 days at the end of fiscal year 2005, to retain an accumulated leave total not to exceed 120 days leave. Leave in excess of 60 days accumulated under this section is lost unless it is used by the member before October 1, 2007.

CHAPTER 5

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

CONSTRUCTION

For an additional amount for "Construction" for response, cleanup, recovery, repair and reconstruction expenses related to hurricanes in the Gulf of Mexico in calendar year 2005, $30,000,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL PARK SERVICE

CONSTRUCTION

For an additional amount for "Construction" for response, cleanup, recovery, repair and reconstruction expenses related to hurricanes in the Gulf of Mexico in calendar year 2005, $19,000,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, Investigations, and Research", for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005 and for repayment of advances to other appropriation accounts from which funds were transferred for such purposes, $5,300,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For an additional amount for "Royalty and Offshore Minerals Management", for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005 and for repayment of advances to other appropriation accounts from which funds were transferred for such purposes, $16,000,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

ENVIRONMENTAL PROTECTION AGENCY

LEAKING UNDERGROUND STORAGE TANK PROGRAM

For an additional amount for "Leaking Underground Storage Tank Program", not to exceed $85,000 per project, $8,000,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

STATE AND PRIVATE FORESTRY

For an additional amount for "State and Private Forestry", $30,000,000, to remain available *until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.*

NATIONAL FOREST SYSTEM

For an additional amount for "National Forest System", $20,000,000, to remain available until expended, for necessary expenses, including hazardous fuels reduction, related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CAPITAL IMPROVEMENT AND MAINTENANCE

For an additional amount for "Capital Improvement and Maintenance", $7,000,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 6

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for "Training and Employment Services" to award national emergency grants under section 173 of the Workforce Investment Act of 1998 related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005, $125,000,000, to remain available until June 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006: Provided further, That these sums may be used to replace grant funds previously obligated to the impacted areas.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

Funds provided under this heading in Public Law 108–447 which have been allocated to the States of Alabama, Louisiana, and Mississippi for activities authorized by title III of the Social Security Act, as amended, shall remain available for obligation by such States through September 30, 2006, except that funds used for automation by such States shall remain available through September 30, 2008.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

SOCIAL SERVICES BLOCK GRANT

For an additional amount for "Social Services Block Grant", $550,000,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005, notwithstanding section 2003 and paragraphs (1) and (4) of section 2005(a) of the Social Security Act (42 U.S.C. 1397b and 1397d(a)): Provided, That in addition to other uses permitted by title XX of the Social Security Act, funds appropriated under this heading may be used for health services (including mental health services) and for repair, renovation and construction of health facilities (including mental health facilities): Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For an additional amount for "Children and Families Services Programs", $90,000,000, for Head Start to serve children displaced by hurricanes in the Gulf of Mexico in calendar year 2005, notwithstanding sections 640(a)(1) and 640(g)(1) of the Head Start Act, and to cover the costs of renovating those Head Start facilities which were affected by these hurricanes, to the extent reimbursements from FEMA and insurance companies do not fully cover such costs: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DEPARTMENT OF EDUCATION

For assisting in meeting the educational needs of individuals affected by hurricanes in the Gulf of Mexico in calendar year 2005, $1,600,000,000, to remain available through September 30, 2006, of which $750,000,000 shall be available to State educational agencies until expended to carry out section 102 of title IV, division B of this Act, $5,000,000 shall be available to carry out section 106 of title IV, division B of this Act, $645,000,000 shall be available to carry out section 107 of title IV, division B of this Act, and $200,000,000 shall be available to provide assistance under the programs authorized by subparts 3 and 4 of part A, part C of title IV, and part B of title VII of the Higher Education Act of 1965, for students attending institutions of higher education (as defined in section 102 of that Act) that are located in an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act related to hurricanes in the Gulf of Mexico in calendar year 2005 and who qualify for assistance under subparts 3 and 4 of part A and part C of title IV of the Higher Education Act of 1965, to provide emergency assistance based on demonstrated need to institutions of higher education that are located in an area affected by hurricanes in the Gulf of Mexico in calendar year 2005 and were forced to close, relocate or significantly curtail their activities as a result of damage directly sustained by such hurricanes, and to provide payments to institutions of higher education to help defray the unexpected expenses associated with enrolling displaced students from institutions of higher education at which operations have been disrupted due to hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That of the $200,000,000 described in the preceding proviso, $95,000,000 shall be for the Mississippi Institutes of Higher Learning to provide assistance under such title IV programs, notwithstanding any requirements relating to matching, Federal share, reservation of funds, or maintenance of effort that would otherwise be applicable to that assistance; $95,000,000 shall be for the Louisiana Board of Regents to provide emergency assistance based on demonstrated need under part B of title VII of the Higher Education Act of 1965, which may be used for student financial assistance, faculty and staff salaries, equipment and instruments, or any purpose authorized under the Higher Education Act of 1965, to institutions of higher education that are located in an area affected by hurricanes in the Gulf of Mexico in calendar year 2005; and $10,000,000 shall be available to the Secretary of Education for such payments to institutions of higher education to help defray the unexpected expenses associated with enrolling displaced students from institutions of higher education directly affected by hurricanes in the Gulf of Mexico in calendar year 2005, in accordance with criteria as are established by the Secretary and made publicly available without regard to section 437 of the General Education Provisions Act or section 553 of title 5, United States Code: Provided further, That the amounts provided in this paragraph are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 7

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for "Military Construction, Navy and Marine Corps", $291,219,000, to remain available until September 30, 2010, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for "Military Construction, Air Force", $52,612,000, to remain available until September 30, 2010, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for "Military Construction, Defense-Wide", $45,000,000, to remain available until September 30, 2010, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For an additional amount for "Military Construction, Army National Guard", $374,300,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For an additional amount for "Military Construction, Air National Guard", $35,000,000, to remain available until September 30, 2010, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant *to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.*

MILITARY CONSTRUCTION, NAVAL RESERVE

For an additional amount for "Military Construction, Naval Reserve", $120,132,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FAMILY HOUSING

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for "Family Housing Construction, Navy and Marine Corps", $86,165,000, to remain available until September 30, 2010, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

For an additional amount for "Family Housing Operation and Maintenance, Navy and Marine Corps", $48,889,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FAMILY HOUSING CONSTRUCTION, AIR FORCE

For an additional amount for "Family Housing Construction, Air Force", $278,000,000, to remain available until September 30, 2010, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Family Housing Operation and Maintenance, Air Force", $47,019,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

For an additional amount for "Medical Services", $198,265,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for "General Operating Expenses", $24,871,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL CEMETERY ADMINISTRATION

For an additional amount for "National Cemetery Administration", $200,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CONSTRUCTION, MAJOR PROJECTS

For an additional amount for "Construction, Major Projects", $367,500,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CONSTRUCTION, MINOR PROJECTS

For an additional amount for "Construction, Minor Projects," $1,800,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RELATED AGENCY

ARMED FORCES RETIREMENT HOME

For payment to the "Armed Forces Retirement Home" for necessary expenses related to the consequences of Hurricane Katrina, $65,800,000, to remain available until expended: Provided, That of the amount provided, $45,000,000 shall be available for the Armed Forces Retirement Home, Gulfport, Mississippi: Provided further, That of the amount provided, $20,800,000 shall be available for the Armed Forces Retirement Home, Washington, DC: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 701. The limitation of Federal contribution established under section 18236(b) of title 10 is hereby waived for projects appropriated in this chapter.

SEC. 702. For any real property expressly granted to the United States since January 1, 1980 for use as or in connection with a Navy homeport subject to a reversionary interest retained by the grantor and serving as the site of or being used by a naval station subsequently closed or realigned pursuant to the Defense Base Closure and Realignment Act of 1990 as amended, the right of the United States to any consideration or repayment for the fair market value of the real property as improved shall be released, relinquished, waived, or otherwise permanently extinguished. The Secretary shall execute such written agreements as may be needed to facilitate the reversion and transfer all right, title, and interest of the United States in any real property described in this section, including the improvements thereon, for no consideration to the reversionary interest holder as soon as practicable after the naval station is closed or realigned. This agreement shall not require the reversionary interest holder to assume any environmental liabilities of the United States or relieve the United States from any responsibilities for environmental remediation that it may have incurred as a result of federal ownership or use of the real property.

SEC. 703. (a) Notwithstanding 38 U.S.C. 2102, the Secretary of Veterans Affairs may make a grant to a veteran whose home was previously adapted with the assistance of a grant under chapter 21 of title 38, United States Code, in the event the adapted home which was being used and occupied by the veteran was destroyed or substantially damaged in the declared disaster areas as a result of hurricanes in the Gulf of Mexico in calendar year 2005, as determined by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). The grant available to acquire a suitable housing unit with special fixtures or movable facilities made necessary by the veteran's disability, and necessary land therefor. This authority expires on September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

(b) The amount of the grant authorized by this subsection may not exceed the lesser of:

(1) the reasonable cost, as determined by the Secretary of Veterans Affairs, of repairing or replacing the adapted home in excess of the available insurance coverage on the damaged or destroyed home; or

(2) the maximum grant to which the veteran would have been entitled under 38 U.S.C. 2102 (a) or (b) had the veteran not obtained the prior grant.

SEC. 704. In any case where the Secretary of Veterans Affairs determines that a veteran described in 38 U.S.C. 3108(a)(2) has been displaced as the result of hurricanes in the Gulf of Mexico in calendar year 2005, from the disaster area, as determined by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Secretary may extend the payment of subsistence allowance authorized by such paragraph for up to an additional two months while the veteran is satisfactorily following such program of employment services. This authority expires on September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 705. The annual limitation contained in 38 U.S.C. 3120(e) shall not apply in any case where the Secretary of Veterans Affairs determines that a veteran described in 38 U.S.C. 3120(b) has been displayed as the result of, or has otherwise been adversely affected in the areas covered by hurricanes in the Gulf of Mexico in calendar year 2005, as determined by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). This authority expires on September 30, 2006: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 706. Notwithstanding 38 U.S.C. 3903(a), the Secretary of Veterans Affairs may provide or *assist in providing an eligible person with a second automobile or other conveyance under the provisions of chapter 39 of title 38 United States Code, if the Secretary receives satisfactory evidence that the automobile or other conveyance previously purchased with assistance under such chapter was destroyed as a result of hurricanes in the Gulf of Mexico in calendar year 2005, and through no fault of the eligible person: Provided, That that person does not otherwise receive from a property insurer compensation for the loss. This authority expires on September 30, 2006: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.*

CHAPTER 8

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for "Salaries and Expenses, United States Attorneys", $9,000,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $9,000,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $45,000,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $10,000,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $20,000,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and Facilities", $11,000,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for "State and Local Law Enforcement Assistance", $125,000,000, for necessary expenses related to the direct or indirect consequences of hurricanes in the Gulf of Mexico in calendar year 2005, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006: Provided further, That the Attorney General shall consult with the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives on the allocation of funds prior to expenditure.

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, Research, and Facilities", $17,200,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for "Procurement, Acquisition and Construction", $37,400,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

EXPLORATION CAPABILITIES

For an additional amount for "Exploration Capabilities", $349,800,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SMALL BUSINESS ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For an additional amount for the "Office of Inspector General" for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005, $5,000,000, to remain available until expended: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DISASTER LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the "Disaster Loans Program Account" authorized by section 7(b) of the Small Business Act, for necessary expenses related to hurricanes in the Gulf of Mexico in calendar year 2005 and other natural disasters, $264,500,000, to remain available until expended: Provided, That such costs, including the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct loan program authorized by section 7(b), $176,500,000, to remain available until expended, which may be transferred to and merged with "Salaries and Expenses": Provided, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006: Provided further, That no funds shall be transferred to the appropriation for "Salaries and Expenses" for indirect administrative expenses.

GENERAL PROVISIONS—THIS CHAPTER

(INCLUDING TRANSFER OF FUNDS)

SEC. 801. Of the unobligated balances available under "National Institute of Standards and Technology, Industrial Technology Services" for the Hollings Manufacturing Extension Partnership Program, $4,500,000 shall be used to assist manufacturers recovering from hurricanes in the Gulf of Mexico in calendar year 2005: Provided, That only Manufacturing Extension Centers in States affected by hurricanes in the Gulf of Mexico in calendar year 2005 shall be eligible for hurricane recovery assistance funds: Provided further, That these funds shall be allocated to the Manufacturing Extension Centers in these States based on an assessment of the needs of manufacturers in the counties declared a disaster by the Federal Emergency Management Agency: Provided further, That employment and productivity shall be among the metrics used in developing the needs assessment: Provided further, That the matching provisions of 15 U.S.C. 278(k) paragraph (c) shall not apply to amounts provided by this Act or by Public Law 109–108 to Manufacturing Extension Centers serving areas affected by hurricanes in the Gulf of Mexico in calendar year 2005.

SEC. 802. The Attorney General shall transfer to the "Narrowband Communications/Integrated Wireless Network" account all funds made available in this Act to the Department of Justice for the purchase of portable and mobile radios and related infrastructure. Any transfer made under this section shall be subject to section 605 of Public Law 109–108.

CHAPTER 9

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for "Facilities and equipment", $40,600,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico during calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FEDERAL HIGHWAY ADMINISTRATION

EMERGENCY RELIEF PROGRAM

For an additional amount for "Emergency relief program" as authorized under 23 U.S.C. 125, $2,750,000,000, to remain available until expended, for necessary expenses related to the consequences of Hurricanes Katrina, Rita, and Wilma: Provided, That of the funds provided herein, up to $629,000,000 shall be available to repair and reconstruct the I–10 bridge spanning

New Orleans and Slidell, Louisiana in accordance with current design standards as contained in 23 U.S.C. 125: Provided further, That notwithstanding 23 U.S.C. 120(e) and from funds provided herein, the Federal share for all projects for repairs or reconstruction of highways, roads, bridges, and trails to respond to damage caused by Hurricanes Katrina, Rita, and Wilma shall be 100 percent: Provided further, That notwithstanding 23 U.S.C. 125(d)(1), the Secretary of Transportation may obligate more than $100,000,000 for such projects in a State in a fiscal year, to respond to damage caused by Hurricanes Dennis, Katrina, Rita or Wilma and by the 2004–2005 winter storms in the State of California: Provided further, That any amounts in excess of those necessary for emergency expenses relating to the above hurricanes may be used for other projects authorized under 23 U.S.C. 125: Provided further, That such amounts as may be necessary but not to exceed $550,000,000 may be made available promptly from the funds provided herein to pay for other projects authorized under 23 U.S.C. 125 arising from natural disasters or catastrophic failures from external causes that occurred prior to Hurricane Wilma and that are ready to proceed to construction or are eligible for reimbursement: Provided further, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MARITIME ADMINISTRATION

OPERATIONS AND TRAINING

For an additional amount for "Operations and training", $7,500,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico during calendar year 2005: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

TENANT-BASED RENTAL ASSISTANCE

For an additional amount for housing vouchers for households within the area declared a major disaster under the Robert T. Stafford Disaster Relief and Emergency Act (42 U.S.C. 5121 et seq.) resulting from hurricanes in the Gulf of Mexico during calendar year 2005, $390,299,500, to remain available until September 30, 2007: Provided, That such households shall be limited to those which, prior to Hurricanes Katrina or Rita, received assistance under section 8 or 9 of the United States Housing Act of 1937 (Public Law 93–383), section 801 or 811 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), the AIDS Housing Opportunity Act (Public Law 101–625), or the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77); or those which were homeless or in emergency shelters in the declared disaster area prior to Hurricanes Katrina or Rita: Provided further, That these funds are available for assistance, under section 8(o) of the United States Housing Act of 1937: Provided further, That in administering assistance under this heading the Secretary of Housing and Urban Development may waive requirements for income eligibility and tenant contribution under section 8 of such Act for up to 18 months: Provided further, That all households receiving housing vouchers under this heading shall be eligible to reoccupy their previous assisted housing, if and when it becomes available: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For an additional amount for the "Community development fund", for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of hurricanes in the Gulf of Mexico in 2005 in States for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in conjunction with Hurricanes Katrina, Rita, or Wilma, $11,500,000,000, to remain available until expended, for activities authorized under title I of the Housing and Community Development Act of 1974 (Public Law 93–383): Provided, That, no State shall receive more than 54 percent of the amount provided under this heading, Provided further, That funds provided under this heading shall be administered through an entity or entities designated by the Governor of each State: Provided further, That such funds may not be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency or the Army Corps of Engineers: Provided further, That funds allocated under this heading shall not adversely affect the amount of any formula assistance received by a State under this heading: Provided further, That each State may use up to five percent of its allocation for administrative costs: Provided further, That Louisiana and Mississippi may each use up to $20,000,000 (with up to $400,000 each for technical assistance) from funds made available under this heading for LISC and the Enterprise Foundation for activities authorized by section 4 of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note), as in effect immediately before June 12, 1997, and for activities authorized under section 11 of the Housing Opportunity Program Extension Act of 1996, including demolition, site clearance and remediation, and program administration: Provided further, That in administering the funds under this heading, the Secretary of Housing and Urban Development shall waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by the State that such waiver is required to facilitate the use of such funds or guarantees, and a finding by the Secretary that such waiver would not be inconsistent with the overall purpose of the statute, as modified: Provided further, That the Secretary may waive the requirement that activities benefit persons of low and moderate income, except that at least 50 percent of the funds made available under this heading must benefit primarily persons of low and moderate income unless the Secretary otherwise makes a finding of compelling need: Provided further, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver: Provided further, That every waiver made by the Secretary must be reconsidered according to the three previous provisos on the two-year anniversary of the day the Secretary published the waiver in the Federal Register: Provided further, That prior to the obligation of funds each state shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure: Provided further, That each state will report quarterly to the Committees on Appropriations on all awards and uses of funds made available under this heading, including specifically identifying all awards of sole-source contracts and the rationale for making the award on a sole-source basis: Provided further, That the Secretary shall notify the Committees on Appropriations on any proposed allocation of any funds and any related waivers made pursuant to these provisions under this heading no later than 5 days before such waiver is made: Provided further, That the Secretary shall establish procedures to prevent recipients from receiving any duplication of benefits and report quarterly to the Committees on Appropriations with regard to all steps taken to prevent fraud and abuse of funds made available under this heading including duplication of benefits: Provided further, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

ADMINISTRATIVE PROVISIONS

SEC. 901. Notwithstanding provisions of the United States Housing Act of 1937 (Public Law 93–383), in order to assist public housing agencies located within the most heavily impacted areas of Louisiana and Mississippi that are subject to a declaration by the President of a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in connection with Hurricanes Katrina or Rita, the Secretary for calendar year 2006 may authorize a public housing agency to combine assistance provided under sections 9(d) and (e) of the United States Housing Act of 1937 and assistance provided under section 8(o) of such Act, for the purpose of facilitating the prompt, flexible and efficient use of funds provided under these sections of the Act to assist families who were receiving housing assistance under the Act immediately prior to Hurricanes Katrina or Rita and were displaced from their housing by the hurricanes.

SEC. 902. To the extent feasible the Secretary of Housing and Urban Development shall preserve all housing within the area declared a major disaster under the Robert T. Stafford Disaster Relief and Emergency Act (42 U.S.C. 5121 et seq.) resulting from Hurricanes Katrina or Rita that received project-based assistance under section 8 or 9 of the United States Housing Act of 1937, section 801 or 811 of the Cranston-Gonzalez National Affordable Housing Act, the AIDS Housing Opportunity Act, or the Stewart B. McKinney Homeless Assistance Act: Provided, That the Secretary shall report to the Committees on Appropriations on the status of all such housing, including costs associated with any repair or rehabilitation, within 120 days of enactment of this Act.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses, Courts of Appeals, District Courts, and Other Judicial Services", $18,000,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico during calendar year 2005: Provided, That notwithstanding any other provision of law such sums shall be available for transfer to accounts within the Judiciary subject to approval of the Judiciary operating plan: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

INDEPENDENT AGENCY

General Services Administration

FEDERAL BUILDINGS FUND

For an additional amount for "Federal buildings fund", $38,000,000, from the General Fund and to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico during calendar year 2005: Provided, That notwithstanding 40 U.S.C. 3307, the Administrator of General Services is authorized to proceed with repairs and alterations for those facilities: Provided further, That the the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

TITLE II

EMERGENCY SUPPLEMENTAL APPROPRIATIONS TO ADDRESS PANDEMIC INFLUENZA

CHAPTER 1

DEPARTMENT OF AGRICULTURE

Office of the Secretary

For an additional amount for the "Office of the Secretary", related to the detection of and response to highly pathogenic avian influenza, including research and development, $11,350,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Agricultural Research Service

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", related to the detection of and response to highly pathogenic avian influenza, including research and development, $7,000,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Cooperative State Research, Education, and Extension Service

RESEARCH AND EDUCATION ACTIVITIES

For an additional amount for "Research and Education Activities", related to the detection of and response to highly pathogenic avian influenza, $1,500,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Animal and Plant Health Inspection Service

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", related to the detection of and response to highly pathogenic avian influenza, $71,500,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

SALARIES AND EXPENSES

For an additional amount for "Food and Drug Administration, Salaries and Expenses", to prepare for and respond to an influenza pandemic, $20,000,000, to remain available until September 30, 2007: Provided, That of the total amount appropriated $18,000,000 shall be for the Center for Biologics Evaluation and Research and for related field activities in the Office of Regulatory Affairs, and $2,000,000 shall be for other activities including the Office of the Commissioner and the Office of Management: Provided further, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 2

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

Operation and Maintenance, Defense-Wide

For an additional amount for "Operation and Maintenance, Defense-Wide" for surveillance, communication equipment, and assistance to military partner nations in procuring protective equipment, $10,000,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

Defense Health Program

For an additional amount for "Defense Health Program" for necessary expenses related to vaccine purchases, storage, expanded avian influenza surveillance programs, equipment, essential information management systems, and laboratory diagnostic equipment, $120,000,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 3

BILATERAL ECONOMIC ASSISTANCE

Funds Appropriated to the President

United States Agency for International Development

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

For an additional amount for "Child Survival and Health Programs Fund" for activities related to surveillance, planning, preparedness, and response to the avian influenza virus, $75,200,000, to remain available until expended: Provided, That funds appropriated by this paragraph may be obligated and expended notwithstanding section 10 of Public Law 91-672: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For an additional amount for "International Disaster and Famine Assistance" for the pre-positioning and deployment of essential supplies and equipment for preparedness and response to the avian influenza virus, $56,330,000, to remain available until expended: Provided, That funds appropriated by this paragraph may be obligated and expended notwithstanding section 10 of Public Law 91-672: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

General Provision—This Chapter

Sec. 2301. Within 30 days from the date of enactment of this Act and every six months thereafter, the Administrator of the United States Agency for International Development shall submit to the Committees on Appropriations a report which identifies, for all projects funded from amounts appropriated by this Act that are administered by that agency, the following: the program objectives for each such project, the approximate timeline for achieving each of those objectives, the amounts obligated and expended for each project, and the current status of program performance with reference to identified program objectives and the timeline for achieving those objectives.

CHAPTER 4

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary and Executive Management

For an additional amount for "Office of the Secretary and Executive Management", $47,283,000, to remain available until expended, for necessary expenses to train, plan, and prepare for a potential outbreak of highly pathogenic influenza: Provided, That these funds may be transferred to other Department of Homeland Security appropriations accounts in accordance with section 503 of Public Law 109–90: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 5

DEPARTMENT OF THE INTERIOR

United States Fish and Wildlife Service

RESOURCE MANAGEMENT

For an additional amount for "Resource Management" for the detection of highly pathogenic avian influenza in wild birds, including the investigation of morbidity and mortality events, targeted surveillance in live wild birds, and targeted surveillance in hunter-taken birds, $7,398,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

National Park Service

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the National Park System" for the detection of highly pathogenic avian influenza in wild birds, including the investigation of morbidity and mortality events, $525,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

United States Geological Survey

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, Investigations, and Research" for the detection of highly pathogenic avian influenza in wild birds, including the investigation of morbidity and mortality events, targeted surveillance in live wild birds, and targeted surveillance in hunter-taken birds, $3,670,000, to remain available until September 30, 2007: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 6

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For an additional amount for "Public Health and Social Services Emergency Fund" to prepare for and respond to an influenza pandemic, including the development and purchase of vaccines, antivirals, and necessary medical supplies, and for planning activities, $3,054,000,000, to remain available until expended: Provided, That $350,000,000 shall be for Upgrading State and Local Capacity and $50,000,000 shall be for laboratory capacity and research at the Centers for Disease Control and Prevention: Provided further, That products purchased with these funds may, at the discretion of the Secretary, be deposited in the Strategic National Stockpile: Provided further, That notwithstanding section 496(b) of the Public Health Service Act, funds may be used for the construction or renovation of privately owned facilities for the production of pandemic influenza vaccines and other biologicals, where the Secretary finds such a contract necessary to secure sufficient supplies of such vaccines or biologicals: Provided further, That the Secretary may negotiate a contract with a vendor under which a State may place an order with the vendor for antivirals; may reimburse a State for a portion of the price paid by the State pursuant to such an order; and may use amounts made available herein for such reimbursement: Provided further, That funds appropriated herein and not specifically designated under this heading may be transferred to other appropriation accounts of the Department of Health and Human Services, as determined by the Secretary to be appropriate, to be used for the purposes specified in this sentence: Provided further, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

For an additional amount for "Public Health and Social Services Emergency Fund" for activities related to pandemic influenza, including international activities and activities in foreign countries, related to preparedness planning, enhancing the pandemic influenza regulatory science base, accelerating pandemic influenza disease surveillance, developing registries to monitor influenza vaccine distribution and use, and supporting pandemic influenza research, clinical trials and clinical trials infrastructure, $246,000,000, of which $150,000,000, to remain available until expended, shall be for the Centers for Disease Control and Prevention to carry out global and domestic disease surveillance, laboratory diagnostics, rapid response, and quarantine: Provided, That funds appropriated herein and not specifically designated under this heading may be transferred to other appropriation accounts of the Department of Health and Human Services, as determined by the Secretary to be appropriate, to be used for the purposes specified in this sentence: Provided further, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 7

DEPARTMENT OF VETERANS AFFAIRS

Veterans Health Administration

MEDICAL SERVICES

For an additional amount for "Medical Services" for enhanced avian influenza surveillance programs, planning functions and preparations for the pandemic and to establish real-time surveillance data exchange with the Centers for Disease Control and Prevention, $27,000,000: Provided, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 8

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

Administration of Foreign Affairs

DIPLOMATIC AND CONSULAR PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Diplomatic and Consular Programs" to support avian influenza country coordination, development of an avian influenza response plan, diplomatic outreach, and health support of United States Government employees, Peace Corps volunteers, and eligible family members stationed abroad, $16,000,000, to remain available until expended, of which $1,100,000 shall be transferred to and merged with appropriations for the Peace Corps: Provided, That funds appropriated by this paragraph may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956: Provided further, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For an additional amount for "Emergencies in the Diplomatic and Consular Service" for emergency evacuation support of United States Government personnel, Peace Corps volunteers, and dependents in regions affected by the avian influenza, $15,000,000, to remain available until expended: Provided, That funds appropriated by this paragraph may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956: Provided further, That notwithstanding section 402 of Public Law 109–108, upon a determination by the Secretary of State that circumstances related to the avian influenza require additional funding for activities under this heading, the Secretary of State may transfer such amounts to "Emergencies in the Diplomatic and Consular Service" from available appropriations for the current fiscal year for the Department of State as may be necessary to respond to such circumstances: Provided further, That any transfer pursuant to the previous proviso shall be treated as a reprogramming of funds under section 605 of Public Law 109–108 and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section, except that the Committees on Appropriations shall be notified not less than 5 days in advance of any such reprogramming: Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

TITLE III

RESCISSIONS AND OFFSETS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

CONSERVATION OPERATIONS

(RESCISSION)

Of the unobligated balances available under this heading, $10,000,000 are rescinded: Provided, That funds for projects or activities identified in the Statement of Managers that accompanies House Report 109–255, pages 84 through 87, shall not be reduced due to such rescission.

Rural Utilities Service

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

(RESCISSION)

Of the unobligated balances available under this heading, $9,900,000 are rescinded.

Food and Nutrition Service

FOOD STAMP PROGRAM

(RESCISSION)

Of unobligated balances available under this heading of funds provided pursuant to section 16(h)(1)(A) of the Food Stamp Act of 1977, $11,200,000 are rescinded.

Foreign Agricultural Service

PUBLIC LAW 480 TITLE I OCEAN FREIGHT DIFFERENTIAL GRANTS

(RESCISSION)

Of the unobligated balances available under this heading, $35,000,000 are rescinded.

CHAPTER 2

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

Disposal of Department of Defense Real Property

(RESCISSION)

Of the unobligated balances available under this heading, $45,000,000 are rescinded.

Lease of Department of Defense Real Property

(RESCISSION)

Of the unobligated balances available under this heading, $30,000,000 are rescinded.

Overseas Military Facility Investment Recovery

(RESCISSION)

Of the unobligated balances available under this heading, $5,000,000 are rescinded.

CHAPTER 3

EXPORT-IMPORT BANK OF THE UNITED STATES

Subsidy Appropriation

(RESCISSION)

Of the unobligated balances available under this heading in Public Law 109–102 and Public Law 108–447, $25,000,000 are rescinded.

CHAPTER 4

DEPARTMENT OF HOMELAND SECURITY

United States Coast Guard

OPERATING EXPENSES

(RESCISSION OF FUNDS)

Of the funds appropriated under this heading in Public Law 109–90, $260,533,000 are rescinded.

Federal Emergency Management Agency

DISASTER RELIEF

(RESCISSION OF FUNDS)

Of the funds appropriated under this heading in Public Law 109–62, $23,409,300,000 are rescinded.

CHAPTER 5

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MANAGEMENT OF LANDS AND RESOURCES

(RESCISSION)

Of the unobligated balances available under this heading, $500,000 are rescinded.

United States Fish and Wildlife Service

LANDOWNER INCENTIVE PROGRAM

(RESCISSION)

Of the unobligated balances available under this heading, $2,000,000 are rescinded.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

(RESCISSION)

Of the unobligated balances available under this heading, $1,000,000 are rescinded.

CHAPTER 6

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the unobligated balances available under this heading, $7,000,000 are rescinded.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(RESCISSION)

Of the unobligated balances available under this heading, $10,000,000 are rescinded.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

(RESCISSION)

Of the unobligated balances available under this heading, $20,000,000 are rescinded.

CHAPTER 7

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the unobligated balances of funds apportioned to each State under chapter 1 of title 23, United States Code, $1,143,000,000 are rescinded: Provided, That such rescission shall not apply to the funds distributed in accordance with 23 U.S.C. 130(f), 23 U.S.C. 133(d)(1) as in effect prior to the date of enactment of Public Law 109–59, the first sentence of 23 U.S.C. 133(d)(3)(A), 23 U.S.C. 104(b)(5), or 23 U.S.C. 163 as in effect prior to the enactment of Public Law 109–59.

FEDERAL RAILROAD ADMINISTRATION

EFFICIENCY INCENTIVE GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

(RESCISSION)

Of the unobligated balances of amounts made available under this heading in Public Law 109–115, $8,300,000 are rescinded: Provided, That section 135 of title I of division A of Public Law 109–115 is repealed.

CHAPTER 8

GOVERNMENT-WIDE RESCISSIONS

SEC. 3801. (a) ACROSS-THE-BOARD RESCISSIONS.—There is hereby rescinded an amount equal to 1 percent of—

(1) the budget authority provided (or obligation limit imposed) for fiscal year 2006 for any discretionary account of this Act and in any other fiscal year 2006 appropriation Act;

(2) the budget authority provided in any advance appropriation for fiscal year 2006 for any discretionary account in any prior fiscal year appropriation Act; and

(3) the contract authority provided in fiscal year 2006 for any program subject to limitation contained in any fiscal year 2006 appropriation Act.

(b) PROPORTIONATE APPLICATION.—Any rescission made by subsection (a) shall be applied proportionately—

(1) to each discretionary account and each item of budget authority described in such subsection; and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the relevant fiscal year covering such account or item, or for accounts and items not included in appropriation Acts, as delineated in the most recently submitted President's budget).

(c) EXCEPTIONS.—This section shall not apply—

(1) to discretionary budget authority that has been designated pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006; or

(2) to discretionary authority appropriated or otherwise made available to the Department of Veterans Affairs.

(d) OMB REPORT.—Within 30 days after the date of the enactment of this section the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report specifying the account and amount of each rescission made pursuant to this section.

TITLE IV.—HURRICANE EDUCATION RECOVERY ACT

Subtitle A—Elementary and Secondary Education Hurricane Relief

Sec. 101. FINDINGS; DEFINITIONS.

(a) FINDINGS.—Congress finds the following:

(1) Hurricane Katrina and Hurricane Rita have had a devastating and unprecedented impact on students who attended schools in the disaster areas.

(2) Due to the devastating effects of Hurricane Katrina and Hurricane Rita, a significant number of students have enrolled in schools outside of the area in which they resided, including a significant number of students who enrolled in non-public schools because their parents chose to enroll them in such schools.

(3) 372,000 students were displaced by Hurricane Katrina. Approximately 700 schools have been damaged or destroyed. Nine States each have more than 1,000 of such displaced students enrolled in their schools. In Texas alone, over 45,000 displaced students have enrolled in schools.

(4) In response to these extraordinary conditions, this subtitle creates a one-time only emergency grant for the 2005–2006 school year tailored to the needs and particular circumstances of students displaced by Hurricane Katrina and Hurricane Rita.

(5) The level and type of assistance provided under this subtitle, both for students attending public schools and students attending non-public schools, is made available solely because of the unprecedented nature of the crisis, the massive dislocation of students, and the short duration of the services or assistance.

(b) DEFINITIONS.—Unless otherwise specified in this subtitle, the terms used in this subtitle have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

SEC. 102. IMMEDIATE AID TO RESTART SCHOOL OPERATIONS.

(a) PURPOSE.—It is the purpose of this section—

(1) to provide immediate services or assistance to local educational agencies and non-public schools in Louisiana, Mississippi, Alabama, and Texas that serve an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina or Hurricane Rita; and

(2) to assist school administrators and personnel of such agencies or non-public schools with expenses related to the restart of operations in, the re-opening of, and the re-enrollment of students in, elementary schools and secondary schools in such areas.

(b) PAYMENTS AUTHORIZED.—From amounts appropriated to carry out this subtitle, the Secretary of Education is authorized to make payments, on such basis as the Secretary determines appropriate, taking into consideration the number of students who were enrolled, during the 2004–2005 school year, in elementary schools and secondary schools that were closed on September 12, 2005, as a result of Hurricane Katrina or on October 7, 2005, as a result of Hurricane Rita, to State educational agencies in Louisiana, Mississippi, Alabama, and Texas to enable such agencies to provide services or assistance to local educational agencies or non-public schools serving an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina or Hurricane Rita.

(c) ELIGIBILITY, CONSIDERATION, AND EQUITY—

ELIGIBILITY AND CONSIDERATION.—From the payment provided by the Secretary of Education under subsection (b), the State educational agency shall provide services and assistance to local educational agencies and non-public schools, consistent with the provisions of this section. In determining the amount to be provided for services or assistance under this section, the State educational agency shall consider the following:

(A) The number of school-aged children served by the local educational agency or non-public school in the academic year preceding the academic year for which the services or assistance are provided.

(B) The severity of the impact of Hurricane Katrina or Hurricane Rita on the local educational agency or non-public school and the extent of the needs of each local educational agency or non-public school in Louisiana, Mississippi, Alabama, and Texas that is in an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina or Hurricane Rita.

(2) EQUITY.—Educational services and assistance provided for eligible non-public school students under paragraph (1) shall be eligible in comparison to the educational services and other benefits provided for public school students under this secretary, and shall be provided in a timely manner.

(d) APPLICATIONS.—Each local educational agency or non-public school desiring services or assistance under this section shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require to ensure expedited and timely provision of services or assistance to the local educational agency or non-public school.

(e) USES OF FUNDS.—

(1) IN GENERAL.—A local educational agency or non-public school receiving services or assistance from the State educational agency under this section shall use such services or assistance for—

(A) recovery of student and personnel data, and other electronic information;

(B) replacement of school district information systems, including hardware and software;

(C) financial operations;

(D) reasonable transportation costs;

(E) rental of mobile educational units and leasing of neutral sites or spaces;

(F) initial replacement of instructional materials and equipment, including textbooks;

(G) redeveloping instructional plans, including curriculum development;

(H) initiating and maintaining education and support services; and

(I) such other activities related to the purpose of this section that are approved by the Secretary.

(2) USE WITH OTHER AVAILABLE FUNDS.—A local educational agency or non-public school receiving services or assistance under this section may use such services or assistance in coordination with other Federal, State, or local

funds available for the activities described in paragraph (1).

(3) SPECIAL RULES.—

(A) PROHIBITION.—Services or assistance provided under this section shall not be used for construction or major renovation of schools.

(B) SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR ASSISTANCE.—Services or assistance provided under this section, including equipment and materials, shall be secular, neutral, and nonideological.

(f) SUPPLEMENT NOT SUPPLANT.—

(1) IN GENERAL.—Except as provided in paragraph (2), services or assistance made available under this section shall be used to supplement, not supplant, any funds made available through the Federal Emergency Management Agency or through a State.

(2) EXCEPTION.—Paragraph (1) shall not prohibit the provision of Federal assistance under this section to an eligible State educational agency, local educational agency, or non-public school that is or may be entitled to receive, from another source, benefits for the same purposes as under this section if—

(A) such State educational agency, local educational agency, or school has not received such other benefits by the time of application for Federal assistance under this section; and

(B) such State educational agency, local educational agency, or school agrees to repay all duplicative Federal assistance received to carry out the purposes of this section.

(g) DEFINITION OF NON-PUBLIC SCHOOL.—The term "non-public school" means a non-public elementary school or secondary school that—

(1) is accredited or licensed or otherwise operates in accordance with State law; and

(2) was in existence prior to August 22, 2005.

(h) ASSISTANCE TO NON-PUBLIC SCHOOLS.—

(1) FUNDS AVAILABILITY.—From the payment provided by the Secretary of Education under subsection (b) to a State educational agency, the State educational agency shall reserve an amount of funds, to be made available to non-public schools in the State, that is not less than an amount that bears the same relation to the payment as the number of non-public elementary schools and secondary schools in the State bears to the total number of non-public and public elementary schools and secondary schools in the State. The number of such schools shall be determined by the National Center for Education Statistics Common Core of Data for the 2003–2004 school year. Such funds shall be used for the provision of services or assistance at non-public schools, except as provided in paragraph (2).

(2) SPECIAL RULE.—If funds made available under paragraph (1) remain unobligated 120 days after the date of enactment of this Act, such funds may be used to provide services or assistance under this section to local educational agencies or non-public schools.

(3) PUBLIC CONTROL OF FUNDS.—The control of funds for the services and assistance provided to a non-public school under paragraph (1), and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds, materials, equipment, and property and shall provide such services (or may contract for the provision of such services with a public or private entity).

SEC. 103 HOLD HARMLESS FOR LOCAL EDUCATIONAL AGENCIES SERVING MAJOR DISASTER AREAS.

In the case of a local educational agency that serves an area in which the President has declared that a major disaster exists in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina or Hurricane Rita, the amount made available for such local educational agency under each of sections 1124, 1124A, 1125, and 1125A of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333, 6334, 6335, and 6337) for fiscal year 2006 shall be not less than the amount made available for such local educational agency under each of such sections for fiscal year 2005.

SEC. 104. TEACHER AND PARAPROFESSIONAL RECIPROCITY; DELAY.

(a) TEACHER AND PARAPROFESSIONAL RECIPROCITY.—

(1) TEACHERS.—

(A) AFFECTED TEACHER.—In this subsection, the term "affected teacher" means a teacher who is displaced due to Hurricane Katrina or Hurricane Rita and relocates to a State that is different from the State in which such teacher resided on August 22, 2005.

(B) RECIPROCITY.—

(i) TEACHERS.—A local educational agency may consider an affected teacher hired by such agency who is not highly qualified in a core academic subject in the State in which such agency is located to be highly qualified in the same core academic subject or area, for purposes of section 1119 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319), for the 2005–2006 school year, if such teacher was highly qualified, consistent with section 9101(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(23)), on or before August 22, 2005, in the State in which such teacher resided on August 22, 2005.

(ii) SPECIAL EDUCATION TEACHERS.—A local educational agency may consider an affected special education teacher hired by such agency who is not highly qualified in the State in which such agency is located to be highly qualified, for purposes of section 612(a)(14) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(14)), for the 2005–2006 school year, if such teacher was highly qualified, consistent with section 602(10) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(10)), on or before August 22, 2005, in the State in which such teacher resided on August 22, 2005.

(2) PARAPROFESSIONAL.—

(A) AFFECTED PARAPROFESSIONAL.—In this subsection, the term "affected paraprofessional" means a paraprofessional who is displaced due to Hurricane Katrina or Hurricane Rita and relocates to a State that is different from the State in which such paraprofessional resided on August 22, 2005.

(B) RECIPROCITY.—A local educational agency may consider an affected paraprofessional hired by such agency who does not satisfy the requirements of section 1119(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319(c)) in the State in which such agency is located to satisfy such requirements, for purposes of such section, for the 2005-2006 school year, if such paraprofessional satisfied such requirements on or before August 22, 2005, in the State in which such paraprofessional resided on August 22, 2005.

(b) DELAY.—The Secretary of Education may delay, for a period not to exceed 1 year, applicability of the requirements of paragraphs (2) and (3) of section 1119(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319(a)(2) and (3)) and section 612(a)(14)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(14)(C)) with respect to the States of Alabama, Louisiana, Texas, and Mississippi (and local educational agencies within the jurisdiction of such States), if any such State or local educational agency demonstrates that a failure to comply with such requirements is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of local educational agencies within the State.

SEC. 105. REGULATORY AND FINANCIAL RELIEF.

(a) WAIVER AUTHORITY.—Subject to subsections (b) and (c), in providing any grant or other assistance, directly or indirectly, to an entity in an affected State in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina or Hurricane Rita, the Secretary of Education may, as applicable, waive or modify, in order to ease fiscal burdens, any requirement relating to the following:

(1) Maintenance of effort.

(2) The use of Federal funds to supplement, not supplant, non-Federal funds.

(3) Any non-Federal share or capital contribution required to match Federal funds provided under programs administered by the Secretary of Education.

(b) DURATION.—A waiver under this section shall be for the fiscal year 2006.

(c) LIMITATIONS.—

(1) RELATION TO IDEA.—Nothing in this section shall be construed to waive or modify any provision of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(2) MAINTENANCE OF EFFORT.—If the Secretary grants a waiver or modification under this section waiving or modifying a requirement relating to maintenance of effort for fiscal year 2006, the level of effort required for fiscal year 2007 shall not be reduced because of the waiver or modification.

SEC. 106. ASSISTANCE FOR HOMELESS YOUTH.

(a) IN GENERAL.—The Secretary of Education shall provide assistance to local educational agencies serving homeless children and youths displaced by Hurricane Katrina or Hurricane Rita, consistent with section 723 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11433), including identification, enrollment assistance, assessment and school placement assistance, transportation, coordination of school services, supplies, referrals for health, mental health, and other needs.

(b) EXCEPTION AND DISTRIBUTION OF FUNDS.—

(1) EXCEPTION.—For purposes of providing assistance under subsection (a), subsections (c) and (e)(1) of section 722 and subsections (b) and (c) of section 723 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(c) and (e)(1), 11433(b) and (c) shall not apply.

(2) DISBURSEMENT.—The Secretary of Education shall disburse funding provided under subsection (a) to State educational agencies based on demonstrated need, as determined by the Secretary, and such State educational agencies shall distribute funds, that are appropriated under section 109 and available to carry out this section, to local educational agencies based on demonstrated need, for the purposes of carrying out section 723 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11433).

SEC. 107. TEMPORARY EMERGENCY IMPACT AID FOR DISPLACED STUDENTS.

(a) TEMPORARY EMERGENCY IMPACT AID AUTHORIZED.—

(1) AID TO STATE EDUCATIONAL AGENCIES.—From amounts appropriated to carry out this subtitle, the Secretary of Education shall provide emergency impact aid to State educational agencies to enable the State educational agencies to make emergency impact aid payments to eligible local educational agencies and eligible BIA-funded schools to enable—

(A) such eligible local educational agencies and schools to provide for the instruction of students served by such agencies and schools; and

(B) such eligible local educational agencies to make immediate impact aid payments to accounts established on behalf of displaced students (referred to in this section as "accounts")

who are attending eligible non-public schools located in the areas served by the eligible local educational agencies.

(2) AID TO LOCAL EDUCATIONAL AGENCIES AND BIA-FUNDED SCHOOLS.—A State educational agency shall make emergency impact aid payments to eligible local educational agencies and eligible BIA-funded schools in accordance with subsection (d).

(3) STATE EDUCATIONAL AGENCIES IN CERTAIN STATES.—In the case of the States of Louisiana and Mississippi, the State educational agency shall carry out the activities of eligible local educational agencies that are unable to carry out this section, including eligible local educational agencies in such States for which the State exercises the authorities normally exercised by such local educational agencies.

(4) NOTICE OF FUNDS AVAILABILITY.—Not later than 14 calendar days after the date of enactment of this Act, the Secretary of Education shall publish in the Federal Register a notice of the availability of funds under this section.

(b) DEFINITIONS.—In this section:

(1) DISPLACED STUDENT.—The term "displaced student" means a student who enrolled in an elementary school or secondary school (other than the school that the student was enrolled in, or was eligible to be enrolled in, on August 22, 2005) because such student resides or resided on August 22, 2005, in an area for which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina or Hurricane Rita.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—The term "eligible local educational agency" means a local educational agency that serves—

(A) an elementary school or secondary school (including a charter school) in which there is enrolled a displaced student; or

(B) an area in which there is located an eligible non-public school.

(3) ELIGIBLE NON-PUBLIC SCHOOL.—The term "eligible non-public school" means a non-public elementary school or secondary school that—

(A) is accredited or licensed or otherwise operates in accordance with State law;

(B) was in existence on August 22, 2005; and

(C) serves a displaced student on behalf of whom an application for an account has been made pursuant to subsection (c)(2)(A)(ii).

(4) ELIGIBLE BIA-FUNDED SCHOOL.—In this section, the term "eligible BIA-funded school" means a school funded by the Bureau of Indian Affairs in which there is enrolled a displaced student.

(c) APPLICATION.—

(1) STATE EDUCATIONAL AGENCY.—A State educational agency that desires to receive emergency impact aid under this section shall submit an application to the Secretary of Education, not later than 7 calendar days after the date by which an application under paragraph (2) must be submitted, in such manner, and accompanied by such information as the Secretary of Education may reasonably require, including—

(A) information on the total displaced student child count of the State provided by eligible local educational agencies in the State and eligible BIA-funded schools in the State under paragraph (2);

(B) a description of the process for the parent or guardian of a displaced student enrolled in a non-public school to indicate to the eligible local educational agency serving the area in which such school is located that the student is enrolled in such school;

(C) a description of the procedure to be used by an eligible local educational agency in such State to provide payments to accounts;

(D) a description of the process to be used by an eligible local educational agency in such State to obtain—

(i) attestations of attendance of eligible displaced students from eligible non-public schools, in order for the local educational agency to provide payments to accounts on behalf of eligible displaced students; and

(ii) attestations from eligible non-public schools that accounts are used only for the purposes described in subsection (e)(1);

(E) the criteria, including family income, used to determine the eligibility for and the amount of assistance under this section provided on behalf of a displaced student attending an eligible non-public school; and

(F) the student count for displaced students attending eligible non-public schools.

(2) LOCAL EDUCATIONAL AGENCIES AND BIA-FUNDED SCHOOLS.—An eligible local educational agency or eligible BIA-funded school that desires an emergency impact aid payment under this section shall submit an application to the State educational agency, not later than 14 calendar days after the date of the publication of the notice described in subsection (a)(4), in such manner, and accompanied by such information as the State educational agency may reasonably require, including documentation submitted quarterly for the 2005–2006 school year that indicates the following:

(A) In the case of an eligible local educational agency—

(i) the number of displaced students enrolled in the elementary schools and secondary schools (including charter schools and including the number of displaced students who are children with disabilities) served by such agency for such quarter;

(ii) the number of displaced students for whom the eligible local educational agency expects to provide payments to accounts under subsection (d)(3) including the number of displaced students who are children with disabilities) for such quarter who meet the following criteria:

(I) the displaced student enrolled in an eligible non-public school prior to the date of enactment of this Act;

(II) the parent or guardian of the displaced student chose to enroll the student in the eligible non-public school in which the student is enrolled; and

(III) the parent or guardian of the displaced student submitted, in a timely manner that allows the local educational agency to meet the documentation requirements under this paragraph, an application requesting that the agency make a payment to an account on behalf of the student; and

(iii) an assurance that the local educational agency will make payments to accounts within 14 calendar days of receipt of funds provided under this section.

(B) In the case of an eligible BIA-funded school, the number of displaced students, including the number of displaced students who are children with disabilities, enrolled in such school for such quarter.

(3) DETERMINATION OF NUMBER OF DISPLACED STUDENTS.—In determining the number of displaced students for a quarter under paragraph (2), an eligible local educational agency or eligible BIA-funded school shall include the number of displaced students served—

(A) in the case of a determination for the first quarterly installment, during the quarter prior to the date of enactment of this Act; and

(B) in the case of a determination for each subsequent quarterly installment, during the quarter immediately preceding the quarter for which the installment is provided.

(d) AMOUNTS OF EMERGENCY IMPACT AID.—

(1) AID TO STATE EDUCATIONAL AGENCIES.—

(A) IN GENERAL.—The amount of emergency impact aid received by a State educational agency for the 2005–2006 school year shall equal the sum of—

(i) the product of the number of displaced students (who are not children with disabilities), as determined by the eligible local educational agencies and eligible BIA-funded schools in the State under subsection (c)(2), times $6,000; and

(ii) the product of the number of displaced students who are children with disabilities, as determined by the eligible local educational agencies and eligible BIA-funded schools in the State under subsection (c)(2), times $7,500.

(B) INSUFFICIENT FUNDS.—If the amount available under this section to provide emergency impact aid under this subsection is insufficient to pay the full amount that a State educational agency is eligible to receive under this section, the Secretary of Education shall ratably reduce the amount of such emergency impact aid.

(C) RETENTION OF STATE SHARE.—In the case of State educational agency that has made a payment prior to the date of enactment of this Act to a local educational agency for the purpose of covering additional costs incurred as a result of enrolling a displaced student in a school served by the local educational agency, the State educational agency may retain a portion of the payment described in paragraph (2)(A)(ii) that bears the same relation to the total amount of the payment under such paragraph as the sum of such prior payments bears to the total cost of attendance for all students in that local educational agency for whom the State educational agency made such prior payments, except that a local educational agency shall not adjust the level of funding provided to accounts under this section based on the State's retention of such amount.

(2) AID TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES AND ELIGIBLE BIA-FUNDED SCHOOLS.—

(A) QUARTERLY INSTALLMENTS.—

(i) In general.—A State educational agency shall provide emergency impact aid payments under this section on a quarterly basis for the 2005–2006 school year by such dates as determined by the Secretary of Education. Such quarterly installment payments shall be based on the number of displaced students reported under subsection (c)(2) and in the amount determined under clause (ii).

(ii) PAYMENT AMOUNT.—Each quarterly installment payment under clause (i) shall equal 25 percent of the sum of—

(I) the number of displaced students (who are not children with disabilities) reported by the eligible local educational agency or eligible BIA-funded school for such quarter (as determined under subsection (c)(2) times $6,000; and

(II) the number of displaced students who are children with disabilities reported by the eligible local educational agency or eligible BIA-funded school for such quarter (as determined under subsection (c)(2)) times $7,500.

(iii) TIMELINE.—The Secretary of Education shall establish a timeline for quarterly reporting on the number of displaced students in order to make the appropriate disbursements in a timely manner.

(iv) INSUFFICIENT FUNDS.—If, for any quarter, the amount available under this section to make payments under this subsection is insufficient to pay the full amount that an eligible local educational agency or eligible BIA-funded school is eligible to receive under this section, the State educational agency shall ratably reduce the amount of such payments.

(B) MAXIMUM PAYMENT TO ACCOUNT.—In providing quarterly payments to an account for the 2005–2006 school year on behalf of a displaced student for each quarter that such student is enrolled in a non-public school in the area served by the agency under paragraph (3), an eligible local educational agency may provide not more than 4 quarterly payments to such account (each of which shall be paid not later

than 14 calendar days after the date of receipt of each quarterly installment payment received under subparagraph (A)), and the aggregate amount of such payments shall not exceed the lesser of—

(i)(I) in the case of a displaced student who is not a child with a disability $6,000; or

(II) in the case of a displaced student who is a child with a disability, $7,500; or

(ii) the cost of tuition and fees (and transportation expenses, if any) at the non-public school for the 2005–2006 school year.

(C) LIMITATION.—A non-public school accessing funds on behalf of a displaced student under this section must waive tuition, or reimburse tuition paid, in an amount equal to the amount accessed.

(3) DISPLACED STUDENTS.—Subject to the succeeding sentence, an eligible local educational agency or eligible BIA-funded school receiving emergency impact aid payments under this section shall use the payment to provide services and assistance to elementary schools and secondary schools (including charter schools) served by such agency, or to such BIA-funded school, that enrolled a displaced student. An eligible local educational agency that receives emergency impact aid payments under this section and that serves an area in which there is located an eligible non-public school shall, at the request of the parent or guardian of a displaced student who meets the criteria described in subsection (c)(2)(A)(ii) and who enrolled in a non-public school in an area served by the agency, use such emergency impact aid payment to provide payment on a quarterly basis (but not to exceed the total amount specified in subsection (d)(2)(B) for the 2005–2006 school year) to an account on behalf of such displaced student.

(e) USE OF FUNDS.—

(1) AUTHORIZED USES.—The authorized uses of funds are the following:

(A) Paying the compensation of personnel, including teacher aides, in schools enrolling displaced students.

(B) Identifying and acquiring curricular material, including the costs of providing additional classroom supplies, and mobile educational units and leasing sites or spaces.

(C) Basic instructional services for such students, including tutoring, mentoring, or academic counseling.

(D) Reasonable transportation costs.

(E) Health and counseling services.

(F) Education and support services.

(2) VERIFICATION OF ENROLLMENT FOR NON-PUBLIC SCHOOLS.—Before providing a quarterly payment to an account, the eligible local educational agency shall verify with the parent or guardian of a displaced student that such displaced student is, or was, enrolled in the non-public school for such quarter.

(3) PROHIBITION.—Funds received under this section shall not be used for construction or major renovation of schools.

(4) PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES.—

(A) IN GENERAL.—In the case of displaced student who is a child with a disability, any payment made on behalf of such student to an eligible local educational agency or any payment available in an account for such student, shall be used to pay for special education and related services consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(B) SPECIAL RULE.—

(i) RETENTION.—Notwithstanding any other provision of this section, if an eligible local educational agency provides services to a displaced student attending an eligible non-public school under section 612(a)(10) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(10)), the eligible local educational agency may retain a portion of the assistance received under this section on behalf of such student to pay for such services.

(ii) DETERMINATION OF PORTION.—

(I) GUIDELINES.—Each State shall issue guidelines, not later than 14 calendar days after the date of the publication of the notice described in subsection (a)(4), that specify the portion of the assistance that an eligible local educational agency in the State may retain under this subparagraph. Each State shall apply such guidelines in a consistent manner throughout the State.

(II) DETERMINATION OF PORTION.—The portion specified in the guidelines shall be based on customary costs of providing services under such section 612(a)(10) for the local educational agency.

(C) DEFINITIONS.—In this paragraph:

(i) SPECIAL EDUCATION; RELATED SERVICES.—The terms "special education" and "related services" have the meaning given such terms in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

(ii) INDIVIDUALIZED EDUCATION PROGRAM.—The term "individualized education program" has the meaning given the term in section 614(d)(2) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(2)).

(f) RETURN OF AID.—

(1) ELIGIBLE LOCAL EDUCATIONAL AGENCY OR ELIGIBLE BIA-FUNDED SCHOOL.—An eligible local educational agency or eligible BIA-funded school that receives an emergency impact aid payment under this section shall return to the State educational agency any payment provided to the eligible local educational agency or school under this section that the eligible local educational agency or school has not obligated by the end of the 2005–2006 school year in accordance with this section.

(2) STATE EDUCATIONAL AGENCY.—A State educational agency that receives emergency impact aid under this section, shall return to the Secretary of Education—

(A) any aid provided to the agency under this section that the agency has not obligated by the end of the 2005–2006 school year in accordance with this section; and

(B) any payment funds returned to the State educational agency under paragraph (1).

(g) LIMITATION ON USE OF AID AND PAYMENTS.—Aid and payments provided under this section shall only be used for expenses incurred during the 2005–2006 school year.

(h) ADMINSTRATIVE EXPENSES.—A State educational agency that receives emergency impact aid under this section may use not more than 1 percent of such aid for administrative expenses. An eligible local educational agency or eligible BIA-funded school that receives emergency impact aid payments under this section may use not more than 2 percent of such payments for administrative expenses.

(i) SPECIAL FUNDING RULE.—In calculating funding under section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703) for an eligible local educational agency that receives an emergency impact aid payment under this section, the Secretary of Education shall not count displaced students served by such agency for whom an emergency impact aid payment is received under this section, nor shall such students be counted for the purpose of calculating the total number of children in average daily attendance at the schools served by such agency as provided in section 8003(b)(3)(B)(i) of such Act (20 U.S.C. 7703(b)(3)(B)(i)).

(j) NOTICE.—Each State receiving emergency impact aid under this section shall provide, to the parent or guardian of each displaced student for whom a payment is made under this section to an account who resides in such State, notification that—

(1) such parent or guardian has the option of enrolling such student in a public school or a non-public school; and

(2) the temporary emergency impact aid for displaced students provided under this section is temporary and is only available for the 2005–2006 school year

(k) BYPASS.—For a State in which State law prohibits the State from using Federal funds to directly provide services on behalf of students attending non-public schools and provides that another entity shall provide such services, the Secretary of Education shall make such arrangements with that entity.

(l) REDIRECTION OF FUNDS.—

(1) IN GENERAL.—If a State educational agency or eligible local educational agency is unable to carry out this section, the Secretary of Education shall make such arrangements with he State as the Secretary determines appropriate to carry out this section on behalf of displaced students attending an eligible non-public school in the area served by such agency.

(20 SPECIAL RULE.—If an eligible local educational agency does not make a payment to an account within 14 calendar days of receipt of funds provided under this section, then—

(A) the eligible local educational agency shall return the funds received that quarter for such account to the State educational agency; and

(B) the State educational agency shall ensure that the proper payment to such account for such quarter is made not late than 14 calendar days after the date of the receipt of funds under subparagraph (A), before any further funds for such account are distributed to the eligible local educational agency.

(m) NONDISCRIMINATION.—

(1) PROHIBITION.—

(A) IN GENERAL.—A school that enrolls a displaced student under this section shall not discriminate against students on the basis of race, color, national origin, religion, disability, or sex.

(B) APPLICABILITY.—The prohibition of religious discrimination in subparagraph (A) shall not apply with regard to enrollment for a non-public school that is controlled by a religious organization or organized and operated on the basis of religious tenets, except that the prohibition of religious discrimination shall apply with respect to the enrollment of displaced students assisted under this section.

(2) SINGLE SEX SCHOOLS, CLASSES, OR ACTIVITIES.—

(A) IN GENERAL.—To the extent consistent with title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the prohibition of sex discrimination in paragraph (1)(A) shall not apply to a non-public school that is controlled by a religious organization or organized and operated on the basis of religious tenets if the application of paragraph (1)(A) would not be consistent with the religious tenets of such organization.

(B) SINGLE SEX SCHOOLS, CLASSES, OR ACTIVITIES.—Notwithstanding paragraph (1)(A) and to the extent consistent with title IX of the Education Amendments of 1972, a parent or guardian may choose and a non-public school may offer a single sex school, class, or activity.

(3) GENERAL PROVISION.—Nothing in this subtitle may be construed to alter or modify the provisions of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(4) OPT-OUT.—A parent or guardian of a displaced student on behalf of whom a payment to an account is made under this section shall have the option to have such parent or guardian's displaced child opt out of religious worship or religious classes offered by the non-public

school in which such student is enrolled and on behalf of whom a payment to an account is made under this section.

(5) RULE OF CONSTRUCTION.—The amount of any payment (or other form of support provided on behalf of a displaced student) under this section shall not be treated as income of a parent or guardian of the student for purposes of Federal tax laws or for determining eligibility for any other Federal program.

(m) TREATMENT OF STATE AID.—A State shall not take into consideration emergency impact aid payments received under this section by a local educational agency in the State in determining the eligibility of such local educational agency for State aid, or the amount of State aid, with respect to free public education of children.

SEC. 108. SEVERABILITY.

If any provision of this subtitle, an amendment made by this subtitle, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this subtitle, the amendments made by this subtitle, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 109. AUTHORIZATION OF FUNDS.

There are authorized to be appropriated such sums as may be necessary to carry out sections 102, 106, and 107.

SEC. 110. SUNSET PROVISION.

Except as provided in section 105, the provisions of this subtitle shall be effective for the period beginning on the date of enactment of this Act and ending on August 1, 2006.

Subtitle B—Higher Education Hurricane Relief

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Higher Education Hurricane Relief Act of 2005".

SEC. 202. GENERAL WAIVERS AND MODIFICATIONS.

(a) AUTHORITY.—Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary is authorized to waive or modify any statutory or regulatory provision applicable to the student financial assistance programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), or any student or institutional eligibility provisions in the Higher Education Act of 1965, as the Secretary deems necessary in connection with a Gulf hurricane disaster to ensure that—

(1) administrative requirements placed on affected students, affected individuals, affected institutions, lenders, guaranty agencies, and grantees are minimized to the extent possible without impairing the integrity of the higher education programs under the Higher Education Act of 1965, to ease the burden on such participants; or

(2) institutions of higher education, lenders, guaranty agencies, and other entities participating in the student financial assistance programs under title IV of the Higher Education Act of 1965, that serve an area affected by a Gulf hurricane disaster, may be granted temporary relief from requirements that are rendered infeasible or unreasonable due to the effects of a Gulf hurricane disaster, including due diligence requirements and reporting deadlines.

(b) AUTHORITY TO EXTEND OR WAIVE REPORTING REQUIREMENTS UNDER SECTION 131(a).—The Secretary is authorized to extend reporting deadlines or waive reporting requirements under section 131(a) of the Higher Education Act of 1965 (20 U.S.C. 1015(a)) for an affected institution.

(c) CONSTRUCTION.—Nothing in this subtitle shall be construed—

(1) to allow the Secretary to waive or modify any applicable statutory or regulatory requirements prohibiting discrimination in a program or activity, or in employment or contracting, under existing law (in existence on the date of the Secretary's action); or

(2) to authorize any refunding of any repayment of a loan.

SEC. 203. MODIFICATION OF PART A OF TITLE II GRANTS AUTHORIZED.

The Secretary is authorized to approve modifications to the requirements for Teacher Quality Enhancement Grants for States and Partnerships under part A of title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.), at the request of the grantee—

(1) to assist States and local educational agencies to recruit and retain highly qualified teachers in a school district located in an area affected by a Gulf hurricane disaster; and

(2) to assist institutions of higher education, located in such area to recruit and retain faculty necessary to prepare teachers and provide professional development.

SEC. 204. AUTHORIZED USES OF TRIO, GEAR-UP, PART A OR B OF TITLE III, AND OTHER GRANTS.

The Secretary is authorized to modify the required and allowable uses of funds under chapters 1 and 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq., 1070a-21 et seq.), under part A or B of title III (20 U.S.C. 1057 et seq., 1060 et seq.), and under any other competitive grant program, at the request of an affected institution or other grantee, with respect to affected institutions and other grantees located in an area affected by a Gulf hurricane disaster. The Secretary may not, under the authority of this section, authorize any new construction, renovation, or improvement of classrooms, libraries, laboratories, or other instructional facilities that is not authorized under the institution's grant award, as in effect on the date of enactment of this Act, under part A or B of title III of such Act.

SEC. 205. PROFESSIONAL JUDGMENT.

A financial aid administrator shall be considered to be making an adjustment in accordance with section 479A(a) of the Higher Education Act of 1965 (20 U.S.C. 1087tt(a)) if the financial aid administrator makes the adjustment with respect to the calculation of the expected student or parent contribution (or both) for an affected student, or for a student or a parent who resides or resided on August 29, 2005, or was employed on August 29, 2005, in an area affected by a Gulf hurricane disaster. The financial aid administrator shall adequately document the need for the adjustment.

SEC. 206. EXPANDING INFORMATION DISSEMINATION REGARDING ELIGIBILITY FOR PELL GRANTS.

(a) IN GENERAL.—The Secretary shall make special efforts, in conjunction with State efforts, to notify affected students and if applicable, their parents, who qualify for means-tested Federal benefit programs, of their potential eligibility for a maximum Pell Grant, and shall disseminate such informational materials as the Secretary deems appropriate.

(b) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—For the purpose of this section, the term "means-tested Federal benefit program" means a mandatory spending program of the Federal Government, other than a program under the Higher Education Act of 1965, in which eligibility for the program's benefits, or the amount of such benefits, or both, are determined on the basis of income or resources of the individual or family seeking the benefit, and may include such programs as the supplemental security income program under title XVI of the Social Security Act, the food stamp program under the Food Stamp Act of 1977, the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act, the temporary assistance to needy families program established under part A of title IV of the Social Security Act, and the women, infants, and children program established under section 17 of the Child Nutrition Act of 1966, and other programs identified by the Secretary.

SEC. 207. PROCEDURES.

(a) REGULATORY REQUIREMENTS INAPPLICABLE.—Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098a), section 437 of the General Education Provisions Act (20 U.S.C. 1232), and section 553 of title 5, United States Code, shall not apply to this subtitle.

(b) NOTICE OF WAIVERS, MODIFICATIONS, OR EXTENSIONS.—Notwithstanding section 437 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall make publicly available the waivers, modifications, or extensions granted under this subtitle.

(c) CASE-BY-CASE BASIS.—The Secretary is not required to exercise any waiver or modification authority under this subtitle on a case-by-case basis.

SEC. 208. TERMINATION OF AUTHORITY.

The authority of the Secretary to issue waivers or modifications under this subtitle shall expire at the conclusion of the 2005–2006 academic year.

SEC. 209. DEFINITIONS.

For the purposes of this subtitle, the following terms have the following meanings:

(1) AFFECTED INDIVIDUAL.—The term "affected individual" means an individual who has applied for or received student financial assistance under title IV of the Higher Education Act of 1965, and—

(A) who is an affected student; or

(B) whose primary place of employment or residency was, as of August 29, 2005, in an area affected by a Gulf hurricane disaster.

(2) AFFECTED INSTITUTION.—

(A) IN GENERAL.—The term "affected institution" means an institution of higher education that—

(i) is located in an area affected by a Gulf hurricane disaster; and

(ii) has temporarily ceased operations as a consequence of a Gulf hurricane disaster, as determined by the Secretary.

(B) LENGTH OF TIME.—In determining eligibility for assistance under this subtitle, the Secretary, using consistent, objective criteria, shall determine the time period for which an institution of higher education is an affected institution.

(C) SPECIAL RULE.—An organizational unit of an affected institution that is not impacted by a Gulf hurricane disaster shall not be considered as part of such affected institution for purposes of receiving assistance under this subtitle.

(3) AFFECTED STATE.—The term "affected State" means the State of Alabama, Florida, Louisiana, Mississippi, or Texas

AFFECTED STUDENT.—The term "affected student" means an individual who was enrolled or accepted for enrollment on August 29, 2005, at an affected institution.

(5) AREA AFFECTED BY A GULF HURRICANE DISASTER.—The term "area affected by a Gulf hurricane disaster" means a county or parish, in an affected State, that has been designated by the Federal Emergency Management Agency for disaster assistance for individuals and households as a result of Hurricane Katrina or Hurricane Rita.

(6) CANCELLED ENROLLMENT PERIOD.—The term "cancelled enrollment period" means any period of enrollment at an affected institution during the academic year 2005–2006, during which students were unable to attend such institution.

(7) GULF HURRICANE DISASTER.—The term "Gulf hurricane disaster" means a major disaster that the President declared to exist, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and that was caused by Hurricane Katrina or Hurricane Rita.

(8) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" means—

(A) an institution covered by the definition of such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); and

(B) an institution described in subparagraph (A) or (B) of section 102(a)(1) of such Act (20 U.S.C. 1002(a)(1)(A), (B)).

(9) QUALIFIED STUDENT LOAN.—The term "qualified student loan" means any loan made, insured, or guaranteed under part B, D, or E of title IV of the Higher Education Act of 1965, other than a loan under section 428B of such title or a Federal Direct Plus loan.

(10) QUALIFIED PARENT LOAN.—The term "qualified parent loan" means a loan made under section 428B of title IV of the Higher Education Act of 1965 or a Federal Direct Plus loan.

(11) SECRETARY.—The term "Secretary" means the Secretary of Education.

Subtitle C—Education and Related Programs Hurricane Relief

SEC. 301. AGREEMENTS TO EXTEND CERTAIN DEADLINES OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT TO FACILITATE THE PROVISION OF EDUCATIONAL SERVICES TO CHILDREN WITH DISABILITIES.

(a) AUTHORITY.—The Secretary of Education may enter into an agreement described in subsection (b) with an eligible entity to extend certain deadlines under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) related to providing special education and related services, including early intervention services, to individuals adversely affected by a Gulf hurricane disaster.

(b) TERMS OF AGREEMENTS.—An agreement referred to in subsection (a) is an agreement with an eligible entity made in accordance with subsection (e) that may extend the applicable deadlines under one or more of the following sections:

(1) Section 611(e)(3)(C)(ii) of such Act, by extending up to an additional 60 days the 90 day deadline for developing a State plan for the high cost fund.

(2) Section 612(a)(15)(C) of such Act, by extending up to an additional 60 days the deadline for submission of the annual report to the Secretary of Education and the public regarding the progress of the State and of children with disabilities in the State.

(3) Section 612(a)(16)(D) of such Act, by extending up to an additional 60 days the deadline for making available reports regarding the participation in assessments and the performance on such assessments of children with disabilities.

(4) Section 614(a)(1)(C)(i)(I) of such Act, by extending up to an additional 30 days the 60 day deadline for the initial evaluation to determine whether a child is a child with a disability for purposes of the provision of special education and related services to such child.

(5) Section 616(b)(1)(A) of such Act, by extending up to an additional 60 days the deadline for finalization of the State performance plan.

(6) Section 641(e)(1)(D) of such Act, by extending up to an additional 60 days the deadline for submission to the Governor of a State and the Secretary of Education of the report on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) as permitting the waiver of—

(A) any applicable Federal civil rights law;

(B) any student or family privacy protections, including provisions requiring parent consent for evaluations and services;

(C) any procedural safeguards required under section 615 or section 639 of the Individuals with Disabilities Education Act; or

(D) any requirements not specified in subsection (b) of this section; or

(2) as removing the obligation of the eligible entity to provide a child with a disability or an infant or toddler with a disability and their families—

(A) a free appropriate public education under part B of the Individuals with Disabilities Education Act; or

(B) early intervention services under part C of such Act.

(d) DURATION OF AGREEMENT.—An agreement under this section shall terminate at the conclusion of the 2005–2006 academic year.

(e) REQUEST TO ENTER INTO AGREEMENT.—To enter into an agreement under this section, an eligible entity shall submit a request to the Secretary of Education at such time, in such manner, and containing such information as the Secretary may require.

SEC. 302. HEAD START AND CHILD CARE AND BLOCK GRANT/DEVELOPMENT

(a) HEAD.START.—

(1) TECHNICAL ASSISTANCE, GUIDANCE, AND RESOURCES.—From the amount made available for Head Start in this Act, the Secretary of Health and Human Services shall provide training and technical assistance, guidance, and resources through the Region 4 and Region 6 offices of the Administration for Children and Families (and may provide training and technical assistance, guidance, and resources through other regional offices of the Administration, at the request of such offices that administer affected Head Start agencies and Early Head Start entities) to Head Start agencies and Early Head Start entities in areas affected by a Gulf hurricane disaster, and to affected Head Start agencies and Early Head Start entities, to assist the agencies and entities involved to address the health and counseling needs of infants, toddlers, and young children affected by a Gulf hurricane disaster. Such training and technical assistance may be provided by contract or cooperative agreement with qualified national, regional, or local providers.

(2) WAIVER.—For such period up to September 30, 2006, and to such extent as the Secretary considers appropriate, the Secretary of Health and Human Services—

(A) may waive section 640(b) of the Head Start Act for Head Start agencies located in an area affected by a Gulf hurricane disaster, and other affected Head Start agencies and Early Head Start agencies; and

(B) shall waive requirements of documentation for individuals adversely affected by a Gulf hurricane disaster who participate in a Head Start program on an Early Head Start program funded under the Head Start Act.

(b) CHILD CARE AND DEVELOPMENT BLOCK GRANT.—

(1) CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.—For such period up to September 30, 2006, and to such extent as the Secretary considers to be appropriate, the Secretary of Health and Human Services may waive, for any affected State, and any State serving significant numbers of individuals adversely affected by a Gulf hurricane disaster, provisions of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.)—

(A) relating to Federal income limitations on eligibility to receive child care services for which assistance is provided under such Act;

(B) relating to work requirements applicable to eligibility to receive child care services for which assistance is provided under such Act;

(C) relating to limitations on the use of funds under section 658G of the Child Care and Development Block Grant Act of 1990;

(D) preventing children designated as evacuees for receiving priority for child care services provided under such Act, except that children residing in a State and currently receiving services should not lose such services to accommodate evacuee children; and

(E) relating to any non-Federal or capital contribution required (including copayment or other cost sharing by parents receiving child care assistance) to match Federal funds provided under programs administered by the Secretary of Health and Human Services;

(2) TECHNICAL ASSISTANCE AND GUIDANCE.—The Secretary may provide assistance to States for the purpose of providing training, technical assistance, and guidance to eligible child care providers (as defined in section 658P of the Child Care and Development Block Grant Act of 1990) who are licensed and regulated, as applicable, by the States, to enable such provides to provide child care services for children and families described in paragraph (1). Such training and technical assistance may be provided through intermediary organizations, including those with demonstrated experience in providing training and technical assistance to programs serving school-age children up to age 13, involved in restituting child care services on a broad scale in areas affected by a Gulf hurricane disaster.

SEC. 303. DEFINITIONS.

(a) IN GENERAL.—Unless otherwise specified in this subtitle, the terms used in this subtitle have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965.

(b) ADDITIONAL DEFINITIONS.—For the purposes of this subtitle.

(1) AFFECTED HEAD START AGENCIES AND EARLY HEAD START AGENCIES.—The term "affected Head Start Agencies and Early Head Start Agencies" means a Head Start agency receiving a significant number of children from an area win which a Gulf hurricane disaster has been declared.

(2) AFFECTED STATE.—The term "affected State" means the State of Alabama, Florida, Louisiana, Mississippi, or Texas.

(3) AREA AFFECTED BY A GULF HURRICANE DISASTER.—The term "area affected by a Gulf hurricane disaster" means a county or parish, in an affected State, that has been designated by the Federal Energy Management Agency for disaster assistance for individuals and households as a result of Hurricane Katrina or Hurricane Rita.

(4) CHILD WITH A DISABILITY.—The term "child with a disability" has the meaning given such term in section 602(30 of the Individuals with Disabilities Education Act.

(5) ELIGIBILE ENTITY.—The term "eligible entity" means—

(A) a local educational agency (as defined in section 602(19) of the Individuals with Disabilities Education Act) if such agency is located in a State or in an area of a State with respect to which the President has declared that a Gulf hurricane disaster exists;

(B) a State educational agency (as defined in section 602(32) of such Act) if such agency is located in a State with respect to which the President has declared that a Gulf hurricane disaster exists; or

(C) a State interagency coordinating council established under section 641 of such Act if such council is located in a State with respect to which the President has declared that a Gulf hurricane disaster exists.

(6) GULF HURRICANE DISASTER.—The term "Gulf hurricane disaster" means a major disaster that the President declared to exist, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance

Act, and that was caused by Hurricane Katrina or Hurricane Rita.

(7) HIGHLY QUALIFIED.—The term "highly qualified"—

(A) in the case of a special education teacher, has the meaning given such term in section 602 of the Individuals with Disabilities Education Act; and

(B) in the case of any other elementary, middle, or secondary school teacher, has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

(8) INDIVIDUAL ADVERSELY AFFECTED BY A GULF HURRICANE DISASTER.—The term "individual adversely affected by a Gulf hurricane disaster" means an individual who, on August 29, 2005, was living, working, or attending school in an area in which the President has declared to exist a Gulf hurricane disaster.

(9) INFANT OR TODDLER WITH A DISABILITY.—The term "infant or toddler with a disability" has the meaning given such term in section 632(5) of the Individuals with Disabilities Education Act.

TITLE V

GENERAL PROVISIONS AND TECHNICAL CORRECTIONS

SEC. 5001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 5002. Except as expressly provided otherwise, any reference to "this Act" contained in either division A or division B shall be treated as referring only to the provisions of that division.

SEC. 5003. Effective upon the enactment of this Act, none of the funds appropriated or otherwise made available by the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38) shall be transferred to or from the Emergency Response Fund.

SEC. 5004. Title I of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 (Public Law 109–97) is amended in the paragraph under the heading "Cooperative State Research, Education, and Extension Service, Research and Education Activities" (109 Stat. 2126) by inserting ", to remain available until expended" after "for a veterinary medicine loan repayment program pursuant to section 1415A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.), $500,000".

SEC. 5005. Section 207 of division C of Public Law 108–447 is amended by inserting ", and any effects of inflation thereon," after the word "increase".

SEC. 5006. The matter under the heading "Water and Related Resources" in Public Law 109–103 is amended by inserting before the period at the end the following: ": Provided further, That $10,000,000 of the funds appropriated under this heading shall be deposited in the San Gabriel Basin Restoration Fund established by section 110 of title I of appendix D of Public Law 106–554".

SEC. 5007. The funds appropriated in Public Law 109–103 under the heading "Bureau of Reclamation, Water and Related Resources" for the Placer County, California Sub-Regional Wastewater Treatment Project are hereby transferred to and merged with the amount appropriated in such public law under the heading "Corps of Engineers—Civil, Construction", and shall be used for the construction of such project under the same terms and conditions that would have been applicable if such funds had originally been appropriated to the Corps of Engineers.

SEC. 5008. Section 118 of Public Law 109–103 is amended by striking "106–541" and inserting "106–53" in lieu thereof.

SEC. 5009. Public Law 109–103 is amended under the heading "Corps of Engineers—Civil, Investigations", by striking "Provided further, That using $8,000,000" and all that follows to the end of the paragraph, and inserting in lieu thereof, "Provided further, That using $8,000,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a comprehensive hurricane protection analysis and design at full federal expense to develop and present a full range of flood control, coastal restoration, and hurricane protection measures exclusive of normal policy considerations for South Louisiana and the Secretary shall submit a preliminary technical report for comprehensive Category 5 protection within 6 months of enactment of this Act and a final technical report for Category 5 protection within 24 months of enactment of this Act: Provided further, That the Secretary shall consider providing protection for a storm surge equivalent to a Category 5 hurricane within the project area and may submit reports on component areas of the larger protection program for authorization as soon as practicable: Provided further, That the analysis shall be conducted in close coordination with the State of Louisiana and its appropriate agencies.".

SEC. 5010. Funds made available under the heading "Construction, Rehabilitation, Operation and Maintenance, Western Area Power Administration" in Public Law 109–103 shall be available for the operation, maintenance, and purchase, through transfer, exchange, or sale, of one helicopter for replacement only.

SEC. 5011. (a) In addition to the amounts provided elsewhere in this Act, $50,000,000 is hereby appropriated to the Department of Labor, to remain available until expended, for payment to the New York State Uninsured Employers Fund for reimbursement of claims related to the September 11, 2001, terrorist attacks on the United States and for reimbursement of claims related to the first response emergency services personnel who were injured, were disabled, or died due to such terrorist attacks.

(b) In addition to the amounts provided elsewhere in this Act, $75,000,000 is hereby appropriated to the Centers for Disease Control and Prevention, to remain available until expended, for purposes related to the September 11, 2001, terrorist attacks on the United States. In expending such funds, the Director of the Centers for Disease Control and Prevention shall (1) give first priority to existing programs that administer baseline and follow-up screening, clinical examinations, or long-term medical health monitoring, analysis, or treatment for emergency services personnel or rescue and recovery personnel, as coordinated by the Mount Sinai Center for Occupational and Environmental Medicine of New York City, the New York City Fire Department's Bureau of Health Services and Counseling Services Unit, the New York City Police Foundation's Project COPE, the Police Organization Providing Peer Assistance of New York City, and the New York City Department of Health and Mental Hygiene's World Trade Center Health Registry; and (2) give secondary priority to similar programs coordinated by other entities working with the State of New York and New York City.

(c) Each amount appropriated in this section is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 5012. The Flexibility for Displaced Workers Act (Public Law 109–72) is amended by striking "Hurricane Katrina" each place it appears and inserting "hurricanes in the Gulf of Mexico in calendar year 2005".

SEC. 5013. Section 124 of Public Law 109–114 is amended by inserting before the period at the end the following: ": Provided further, That nothing in this section precludes the Secretary of a military department, after notifying the congressional defense committees and waiting 21 days, from using funds derived under section 2601, chapter 403, chapter 603, or chapter 903 of title 10, United States Code, for the maintenance or repair of General and Flag Officer Quarters at the military service academy under the jurisdiction of that Secretary: Provided further, That each Secretary of a military department shall provide an annual report by February 15 to the congressional defense committees on the amount of funds that were derived under section 2601, chapter 403, chapter 603, or chapter 903 of title 10, United States Code in the previous year and were obligated for the construction, improvement, repair, or maintenance of any military facility or infrastructure".

SEC. 5014. Section 128 of Public Law 109–114 is amended as follows—

(1) by inserting after "support" the following: "a continuing mission or function at that installation or"; and

(2) by inserting after the last period the following: "This section shall not apply to military construction projects, land acquisition, or family housing projects for which the project is vital to the national security or the protection of health, safety, or environmental quality: Provided, That the Secretary of Defense shall notify the congressional defense committees within seven days of a decision to carry out such a military construction project.".

SEC. 5015. The amount provided for "Military Construction, Army" in Public Law 109–114 is hereby reduced by $8,100,000 for the Special Operations Free Fall Simulator at Yuma Proving Ground, Arizona.

The amount provided for "Military Construction, Army" in Public Law 109–114 is hereby increased by $8,100,000 for the Upgrade Wastewater Treatment Plant at Yuma Proving Ground, Arizona.

SEC. 5016. The last paragraph of Public Law 109–114 is amended by inserting "Military Construction," before "Military Quality".

SEC. 5017. (a) Section 613 of Public Law 109–108 is amended by striking "$500,000 shall be for a grant to Warren County, Virginia, for a community enhancement project;" and inserting "$250,000 shall be for a grant to Warren County, Virginia, for a community enhancement project; $250,000 shall be for a grant to The ARC of Loudoun County for land acquisition and construction;";

(b) Section 619(a) of division B in Public Law 108–447 is amended by striking "$50,000 shall be available for a grant for the Promesa Foundation in the Bronx, New York, to provide community growth funding;" and inserting "$50,000 shall be available for a grant to the Promesa Foundation to provide financial assistance to New York area families and organizations under a youth sports and recreational initiative;";

(c) Section 621 of division B in Public Law 108–199 is amended by striking "$200,000 shall be available for a grant for the Promesa Foundation in South Bronx, New York, to provide community growth funding;" and inserting "$200,000 shall be available for a grant to the Promesa Foundation to provide financial assistance to New York area families and organizations under a youth sports and recreational initiative;";

(d) Section 625 of division B in Public Law 108–7 is amended by striking "$200,000 shall be available for a grant for the Promesa Foundation in South Bronx, New York to provide community growth funding;" and inserting "$200,000 shall be available for a grant to the Promesa Foundation to provide financial assistance to New York area families and organizations under a youth sports and recreational initiative;".

SEC. 5018. Public Law 109-108 is amended under the heading "State and Local Law Enforcement Assistance" in subparagraph 4 by striking "authorized by subpart 2 of part E, of title I of the 1968 Act, notwithstanding the provisions of section 511 of said Act".

(TRANSFER OF FUNDS)

SEC. 5019. The unobligated and unexpended balances of the amount appropriated under the heading "United States-Canada Railroad Commission" by chapter 9 of title II of Public Law 107–20 shall be transferred as a direct lump-sum payment to the University of Alaska.

SEC. 5020. The matter under the heading "Federal Transit Administration, capital investment grants" in title I of division A of Public Law 109–115 is amended by striking "Virginia, $26,000,000" and inserting "Virginia, $30,000,000"; by striking "Ohio, $24,770,000" and inserting "Ohio, $24,774,513"; and by striking "Metro, Pennsylvania, $2,000,000" and inserting "Metro, Pennsylvania, $4,000,000".

SEC. 5021. For purposes of compliance with section 205 of Public Law 109-115, a reduction in taxpayer service shall include, but not be limited to, any reduction in available hours of telephone taxpayer assistance on a daily, weekly and monthly basis below the levels in existence during the month of October 2005.

SEC. 5022. The referenced statement of the managers under the heading "Community development fund" in Public Law 108-447 is amended with respect to item number 145 by striking "Putnam County, Missouri" and inserting "Sullivan County, Missouri".

SEC. 5023. The statement of the managers correction referenced under the second paragraph of the heading "Community development fund" in title III of Public Law 109–115 (as in effect pursuant to H. Con. Res. 308, 109th Congress) is deemed to be amended—

(1) with respect to item number 65 by striking "$125,000 to Esperanza Mercado Project, California for the Esperanza Community Maple-Mae Project;" and inserting "$125,000 to the Esperanza Community Housing Corporation, Los Angeles, California for the Mercado La Paloma project;";

(2) with respect to item number 840 by striking "$100,000 to Gwen's Girls, Inc. in Pittsburgh, Pennsylvania for construction of a residential facility;" and inserting "$100,000 to the Bloomfield-Garfield Association in Pittsburgh, Pennsylvania for acquisition and demolition;";

(3) with respect to item number 411 by striking "$200,000 to the City of Holyoke, Massachusetts for renovations of facility for Solutions Development Corporation;" and inserting "$200,000 to Solutions Development Inc. of Holyoke, Massachusetts for facility renovations;";

(4) with respect to item number 314 by striking "$225,000 to the City of Harvey, Illinois for demolition and redevelopment of property to aid the community;" and inserting "$225,000 to the Village of Riverdale, Illinois for planning, design, acquisition, and demolition;";

(5) with respect to item number 715 by striking "39th" and inserting "59th";

(6) with respect to item number 26 by striking "Center" and inserting "College";

(7) with respect to item number 372 by striking "Fairview, Kansas" and inserting "Fairway, Kansas";

(8) with respect to item number 584 by striking "City of Asheville, North Carolina for the renovation of the Asheville Veterans Memorial Stadium" and inserting "UNC Asheville Science and Multimedia Center, City of Asheville, North Carolina for the construction of a new science and multi-media building"; and

(9) with respect to item number 341 by striking "Village of Northfield, IL" and inserting "Northfield Park District of Illinois".

SEC. 5024. The referenced statement of the managers under the heading "Community development fund" in title II of division I of Public Law 108–447 is deemed to be amended with respect to item 571 by striking "$575,000 to the Metropolitan Development Association in Syracuse, New York for the Essential New York Initiative" and inserting "$200,000 to the Monroe County Industrial Development Agency for streetscape and infrastructure improvements to the Medley Center in the Town of Irondequoit, New York; $90,000 to the City of Syracuse, New York for facilities and equipment improvements for the Syracuse Food Bank; $200,000 to the City of Syracuse, New York for renovations and infrastructure improvements to the Lofts on Willow Urban Village project; and, $85,000 to Cayuga County, New York for the CIVIC Heritage Historical Society for the construction of a history center;".

SEC. 5025. Effective upon the enactment of this Act, none of the funds appropriated or otherwise made available by the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38) shall be transferred to or from the Emergency Response Fund.

This division may be cited as the "Emergency Supplemental Appropriations Act to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza, 2006".

DIVISION C—AMERICAN ENERGY INDEPENDENCE AND SECURITY ACT OF 2005

SEC. 1. SHORT TITLE.

This division may be cited as the "American Energy Independence and Security Act of 2005".

SEC. 2. DEFINITIONS.

In this division:

(1) COASTAL PLAIN.—The term "Coastal Plain" means that area identified as the "1002 Coastal Plain Area" on the map.

(2) FEDERAL AGREEMENT.—The term "Federal Agreement" means the Federal Agreement and Grant Right-of-Way for the Trans-Alaska Pipeline issued on January 23, 1974, in accordance with section 28 of the Mineral Leasing Act (30 U.S.C. 185) and the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(3) FINAL STATEMENT.—The term "Final Statement" means the final legislative environmental impact statement on the Coastal Plain, dated April 1987, and prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(4) MAP.—The term "map" means the map entitled "Arctic National Wildlife Refuge", dated September 2005, and prepared by the United States Geological Survey.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior (or the designee of the Secretary), acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service and in coordination with a State coordinator appointed by the Governor of the State of Alaska.

SEC. 3. LEASING PROGRAM FOR LAND WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—

(1) AUTHORIZATION.—Congress authorizes the exploration, leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain.

(2) ACTIONS.—The Secretary shall take such actions as are necessary—

(A) to establish and implement, in accordance with this division, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain while taking into consideration the interests and concerns of residents of the Coastal Plain, which is the homeland of the Kaktovikmiut Inupiat; and

(B) to administer this division through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(i) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment; and

(ii) require the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this division in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents contained in section 1 of that Act (16 U.S.C. 3101 note) is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.)—

(A) the oil and gas pre-leasing and leasing program, and activities authorized by this section in the Coastal Plain, shall be considered to be compatible with the purposes for which the Arctic National Wildlife Refuge was established; and

(B) no further findings or decisions shall be required to implement that program and those activities.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The Final Statement shall be considered to satisfy the requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that apply with respect to pre-leasing activities, including exploration programs and actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this division before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—

(A) IN GENERAL.—Before conducting the first lease sale under this division, the Secretary shall prepare an environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the actions authorized by this division that are not referred to in paragraph (2).

(B) IDENTIFICATION AND ANALYSIS.—Notwithstanding any other provision of law, in carrying out this paragraph, the Secretary shall not be required—

(i) to identify nonleasing alternative courses of action; or

(ii) to analyze the environmental effects of those courses of action.

(C) IDENTIFICATION OF PREFERRED ACTION.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(i) identify only a preferred action and a single leasing alternative for the first lease sale authorized under this division; and

(ii) analyze the environmental effects and potential mitigation measures for those 2 alternatives.

(D) PUBLIC COMMENTS.—In carrying out this paragraph, the Secretary shall consider only public comments that are filed not later than 20 days after the date of publication of a draft environmental impact statement.

(E) EFFECT OF COMPLIANCE.—Notwithstanding any other provision of law, compliance with this *paragraph shall be considered to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this division.*

(d) Relationship to State and Local Authority.—Nothing in this division expands or limits any State or local regulatory authority.

(e) Special Areas.—

(1) Designation.—

(A) In general.—The Secretary, after consultation with the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, may designate not more than 45,000 acres of the Coastal Plain as a special area if the Secretary determines that the special area would be of such unique character and interest as to require special management and regulatory protection.

(B) Sadlerochit spring area.—The Secretary shall designate as a special area in accordance with subparagraph (A) the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map.

(2) Management.—The Secretary shall manage each special area designated under this subsection in a manner that—

(A) respects and protects the Native people of the area; and

(B) preserves the unique and diverse character of the area, including fish, wildlife, subsistence resources, and cultural values of the area.

(3) Exclusion from leasing or surface occupancy.—

(A) In general.—The Secretary may exclude any special area designated under this subsection from leasing.

(B) No surface occupancy.—If the Secretary leases all or a portion of a special area for the purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the land comprising the special area.

(4) Directional drilling.—Notwithstanding any other provision of this subsection, the Secretary may lease all or a portion of a special area under terms that permit the use of horizontal drilling technology from sites on leases located outside the special area.

(f) Limitation on Closed Areas.—The Secretary may not close land within the Coastal Plain to oil and gas leasing or to exploration, development, or production except in accordance with this division.

(g) Regulations.—

(1) In general.—Not later than 15 months after the date of enactment of this Act, in consultation with appropriate agencies of the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, the Secretary shall issue such regulations as are necessary to carry out this division, including rules and regulations relating to protection of the fish and wildlife, fish and wildlife habitat, and subsistence resources of the Coastal Plain.

(2) Revision of regulations.—The Secretary may periodically review and, as appropriate, revise the rules and regulations issued under paragraph (1) to reflect any significant scientific or engineering data that come to the attention of the Secretary.

SEC. 4. LEASE SALES.

(a) In General.—Land may be leased pursuant to this division to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) Procedures.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after that nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) Lease Sale Bids.—Bidding for leases under this division shall be by sealed competitive cash bonus bids.

(d) Acreage Minimum in First Sale.—For the first lease sale under this division, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) Timing of Lease Sales.—The Secretary shall—

(1) not later than 22 months after the date of enactment of this Act, conduct the first lease sale under this division;

(2) not later than September 30, 2010, conduct a second lease sale under this division; and

(3) conduct additional sales at appropriate intervals if sufficient interest in exploration or development exists to warrant the conduct of the additional sales.

SEC. 5. GRANT OF LEASES BY THE SECRETARY.

(a) In General.—Upon payment by a lessee of such bonus as may be accepted by the Secretary, the Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 4 a lease for any land on the Coastal Plain.

(b) Subsequent Transfers.—

(1) In general.—No lease issued under this division may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary.

(2) Condition for approval.—Before granting any approval described in paragraph (1), the Secretary shall consult with and give due consideration to the opinion of the Attorney General.

SEC. 6. LEASE TERMS AND CONDITIONS.

(a) In General.—An oil or gas lease issued pursuant to this division shall—

(1) provide for the payment of a royalty of not less than 12½ percent of the amount or value of the production removed or sold from the lease, as determined by the Secretary in accordance with regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, such portions of the Coastal Plain to exploratory drilling activities as are necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that each lessee of land within the Coastal Plain shall be fully responsible and liable for the reclamation of land within the Coastal Plain and any other Federal land that is adversely affected in connection with exploration, development, production, or transportation activities within the Coastal Plain conducted by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, that reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for land required to be reclaimed under this division shall be, to the maximum extent practicable—

(A) a condition capable of supporting the uses that the land was capable of supporting prior to any exploration, development, or production activities; or

(B) upon application by the lessee, to a higher or better standard, as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment as required under section 3(a)(2);

(7) provide that each lessee, and each agent and contractor of a lessee, use their best efforts to provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State of Alaska, as determined by the level of obligation previously agreed to in the Federal Agreement; and

(8) contain such other provisions as the Secretary determines to be necessary to ensure compliance with this division and regulations issued under this division.

(b) Project Labor Agreements.—The Secretary, as a term and condition of each lease under this division, and in recognizing the proprietary interest of the Federal Government in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this division (including the special concerns of the parties to those leases), shall require that each lessee, and each agent and contractor of a lessee, under this division negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 7. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) No Significant Adverse Effect Standard To Govern Authorized Coastal Plain Activities.—In accordance with section 3, the Secretary shall administer this division through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other provisions that—

(1) ensure, to the maximum extent practicable, that oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum surface acreage covered in connection with the leasing program by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) Site-Specific Assessment and Mitigation.—The Secretary shall require, with respect to any proposed drilling and related activities on the Coastal Plain, that—

(1) a site-specific environmental analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, fish and wildlife habitat, subsistence resources, subsistence uses, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the maximum extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan occur after consultation with—

(A) each agency having jurisdiction over matters mitigated by the plan;

(B) the State of Alaska;

(C) North Slope Borough, Alaska; and

(D) the City of Kaktovik, Alaska.

(c) Regulations To Protect Coastal Plain Fish and Wildlife Resources, Subsistence Users, and the Environment.—Before implementing the leasing program authorized by this division, the Secretary shall prepare and issue regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other measures designed to ensure, to the maximum extent practicable, that the activities carried out on the Coastal Plain under this division are conducted in a manner consistent with the purposes and environmental requirements of this division.

(d) Compliance With Federal and State Environmental Laws and Other Requirements.—The proposed regulations, lease terms,

conditions, restrictions, prohibitions, and stipulations for the leasing program under this division shall require—

(1) compliance with all applicable provisions of Federal and State environmental law (including regulations);

(2) implementation of and compliance with—

(A) standards that are at least as effective as the safety and environmental mitigation measures, as described in items 1 through 29 on pages 167 through 169 of the Final Statement, on the Coastal Plain;

(B) seasonal limitations on exploration, development, and related activities, as necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration;

(C) design safety and construction standards for all pipelines and any access and service roads that minimize, to the maximum extent practicable, adverse effects on—

(i) the passage of migratory species (such as caribou); and

(ii) the flow of surface water by requiring the use of culverts, bridges, or other structural devices;

(D) prohibitions on general public access to, and use of, all pipeline access and service roads;

(E) stringent reclamation and rehabilitation requirements in accordance with this division for the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment on completion of oil and gas production operations, except in a case in which the Secretary determines that those facilities, structures, or equipment—

(i) would assist in the management of the Arctic National Wildlife Refuge; and

(ii) are donated to the United States for that purpose;

(F) appropriate prohibitions or restrictions on—

(i) access by all modes of transportation;

(ii) sand and gravel extraction; and

(iii) use of explosives;

(G) reasonable stipulations for protection of cultural and archaeological resources;

(H) measures to protect groundwater and surface water, including—

(i) avoidance, to the maximum extent practicable, of springs, streams, and river systems;

(ii) the protection of natural surface drainage patterns and wetland and riparian habitats; and

(iii) the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling; and

(I) research, monitoring, and reporting requirements;

(3) that exploration activities (except surface geological studies) be limited to the period between approximately November 1 and May 1 of each year and be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods (except that those exploration activities may be permitted at other times if the Secretary determines that the exploration will have no significant adverse effect on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment of the Coastal Plain);

(4) consolidation of facility siting;

(5) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(6) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including, in accordance with applicable Federal and State environmental laws (including regulations)—

(A) preparation of an annual waste management report;

(B) development and implementation of a hazardous materials tracking system; and

(C) prohibition on the use of chlorinated solvents;

(7) fuel storage and oil spill contingency planning;

(8) conduct of periodic field crew environmental briefings;

(9) avoidance of significant adverse effects on subsistence hunting, fishing, and trapping;

(10) compliance with applicable air and water quality standards;

(11) appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited; and

(12) development and implementation of such other protective environmental requirements, restrictions, terms, or conditions as the Secretary, after consultation with the State of Alaska, North Slope Borough, Alaska, and the City of Kaktovik, Alaska, determines to be necessary.

(e) CONSIDERATIONS.—In preparing and issuing regulations, lease terms, conditions, restrictions, prohibitions, or stipulations under this section, the Secretary shall take into consideration—

(1) the stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement;

(2) the environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 through 37.33 of title 50, Code of Federal Regulations (or successor regulations); and

(3) the land use stipulations for exploratory drilling on the KIC–ASRC private land described in Appendix 2 of the agreement between Arctic Slope Regional Corporation and the United States dated August 9, 1983.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—After providing for public notice and comment, the Secretary shall prepare and periodically update a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of oil and gas resources from the Coastal Plain.

(2) OBJECTIVES.—The objectives of the plan shall be—

(A) the avoidance of unnecessary duplication of facilities and activities;

(B) the encouragement of consolidation of common facilities and activities;

(C) the location or confinement of facilities and activities to areas that will minimize impact on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment;

(D) the use of existing facilities, to the maximum extent practicable; and

(E) the enhancement of compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LAND.—The Secretary shall—

(1) manage public land in the Coastal Plain in accordance with subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public land in the Coastal Plain for traditional uses.

SEC. 8. EXPEDITED JUDICIAL REVIEW.

(a) FILING OF COMPLAINTS.—

(1) DEADLINE.—A complaint seeking judicial review of a provision of this division or an action of the Secretary under this division shall be filed—

(A) except as provided in subparagraph (B), during the 90-day period beginning on the date on which the action being challenged was carried out; or

(B) in the case of a complaint based solely on grounds arising after the 90-day period described in subparagraph (A), by not later than 90 days after the date on which the complainant knew or reasonably should have known about the grounds for the complaint.

(2) VENUE.—A complaint seeking judicial review of a provision of this division or an action of the Secretary under this division shall be filed in the United States Court of Appeals for the District of Columbia.

(3) SCOPE.—

(A) IN GENERAL.—Judicial review of a decision of the Secretary under this division (including an environmental analysis of such a lease sale) shall be—

(i) limited to a review of whether the decision is in accordance with this division; and

(ii) based on the administrative record of the decision.

(B) PRESUMPTIONS.—Any identification by the Secretary of a preferred course of action relating to a lease sale, and any analysis by the Secretary of environmental effects, under this division shall be presumed to be correct unless proven otherwise by clear and convincing evidence.

(b) LIMITATION ON OTHER REVIEW.—Any action of the Secretary that is subject to judicial review under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 9. RIGHTS-OF-WAY AND EASEMENTS ACROSS COASTAL PLAIN.

For purposes of section 1102(4)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3162(4)(A)), any rights-of-way or easements across the Coastal Plain for the exploration, development, production, or transportation of oil and gas shall be considered to be established incident to the management of the Coastal Plain under this section.

SEC. 10. CONVEYANCE.

Notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), to remove any cloud on title to land, and to clarify land ownership patterns in the Coastal Plain, the Secretary shall—

(1) to the extent necessary to fulfill the entitlement of the Kaktovik Inupiat Corporation under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1613), as determined by the Secretary, convey to that Corporation the surface estate of the land described in paragraph (1) of Public Land Order 6959, in accordance with the terms and conditions of the agreement between the Secretary, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation, dated January 22, 1993; and

(2) convey to the Arctic Slope Regional Corporation the remaining subsurface estate to which that Corporation is entitled under the agreement between that corporation and the United States, dated August 9, 1983.

SEC. 11. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—As a condition on the receipt of funds under section 1(a) of division D, the State of Alaska shall establish in the treasury of the State, and administer in accordance with this section, a fund to be known as the "Coastal Plain Local Government Impact Aid Assistance Fund" (referred to in this section as the "Fund").

(2) DEPOSITS.—Subject to paragraph (1), the Secretary of the Treasury shall deposit into the Fund, in accordance with section 1(a)(2) of division D, $35,000,000 each year from adjusted bonus, rental, and royalty revenues from oil and gas leasing and operations under this division.

(3) INVESTMENT.—The Governor of the State of Alaska (referred to in this section as the "Governor") shall invest amounts in the Fund in interest-bearing securities of the United States or the State of Alaska.

(b) ASSISTANCE.—The Governor, in cooperation with the Mayor of the North Slope Borough, shall use amounts in the Fund to provide assistance to North Slope Borough, Alaska, the City of Kaktovik, Alaska, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this division, or any Alaska Native Regional Corporation acting on behalf of the villages and communities within its region whose lands lie along the right of way of the Trans Alaska Pipeline System, as determined by the Governor.

(c) APPLICATION.—

(1) IN GENERAL.—To receive assistance under subsection (b), a community or Regional Corporation described in that subsection shall submit to the Governor, or to the Mayor of the North Slope Borough, an application in such time, in such manner, and containing such information as the Governor may require.

(2) ACTION BY NORTH SLOPE BOROUGH.—The Mayor of the North Slope Borough shall submit to the Governor each application received under paragraph (1) as soon as practicable after the date on which the application is received.

(3) ASSISTANCE OF GOVERNOR.—The Governor shall assist communities in submitting applications under this subsection, to the maximum extent practicable.

(d) USE OF FUNDS.—A community or Regional Corporation that receives funds under subsection (b) may use the funds—

(1) to plan for mitigation, implement a mitigation plan, or maintain a mitigation project to address the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence resources of the community;

(2) to develop, carry out, and maintain—

(A) a project to provide new or expanded public facilities; or

(B) services to address the needs and problems associated with the effects described in paragraph (1), including firefighting, police, water and waste treatment, first responder, and other medical services;

(3) to compensate residents of the Coastal Plain for significant damage to environmental, social, cultural, recreational, or subsistence resources; and

(4) in the City of Kaktovik, Alaska—

(A) to develop a mechanism for providing members of the Kaktovikmiut Inupiat community an opportunity to—

(i) monitor development on the Coastal Plain; and

(ii) provide information and recommendations to the Governor based on traditional aboriginal knowledge of the natural resources, flora, fauna, and ecological processes of the Coastal Plain; and

(B) to establish a local coordination office, to be managed by the Mayor of the North Slope Borough, in coordination with the City of Kaktovik, Alaska—

(i) to coordinate with and advise developers on local conditions and the history of areas affected by development;

(ii) to provide to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annual reports on the status of the coordination between developers and communities affected by development;

(iii) to collect from residents of the Coastal Plain information regarding the impacts of development on fish, wildlife, habitats, subsistence resources, and the environment of the Coastal Plain; and

(iv) to ensure that the information collected under clause (iii) is submitted to—

(I) developers; and

(II) any appropriate Federal agency.

SEC. 12. PROHIBITION ON EXPORTS.

An oil or gas lease issued under this division shall prohibit the exportation of oil or gas produced under the lease.

SEC. 13. LEGISLATIVE PROCEDURE.

Effective immediately, the Presiding Officer shall apply all of the precedents of the Senate under Rule XXVIII in effect at the beginning of the 109th Congress.

SEC. 14. SEVERABILITY.

If any provision of this division or division D, or the application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this division and division D and the application of such provisions to any person or circumstance shall not be affected thereby.

DIVISION D—DISTRIBUTION OF REVENUES AND DISASTER ASSISTANCE

SEC. 1. FEDERAL AND STATE DISTRIBUTION OF REVENUES.

(a) RECEIPTS.—Subject to section 11(a)(1) of division C and notwithstanding any other provision of law—

(1) 50 percent of the amount of adjusted bonus, rental, and royalty receipts from Federal oil and gas leasing and operations authorized under division C shall be deposited in the Treasury as miscellaneous receipts, in accordance with subsection (b), of which 5 percent shall be appropriated to the Department of Health and Human Services to make payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621); and

(2) 50 percent of the amount of adjusted bonus, rental, and royalty receipts derived from Federal oil and gas leasing and operations authorized under division C shall be paid to the State of Alaska, of which $35,000,000 per year shall be deposited by the Secretary of the Treasury into the fund created under section 11(a)(1) of division C.

(b) GULF COAST RECOVERY AND DISASTER PREVENTION AND ASSISTANCE FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a revolving fund, to be known as the "Gulf Coast Recovery and Disaster Prevention and Assistance Fund" (referred to in this section as the "Gulf Fund"), consisting of—

(A) such amounts as are appropriated to the Gulf Fund under paragraph (2); and

(B) any interest earned on investment of amounts in the Gulf Fund under paragraph (5).

(2) TRANSFERS TO GULF FUND.—

(A) BONUS BIDS, RENTALS, AND ROYALTY REVENUES.—From amounts collected from oil and gas leasing and operations under this section and received in the Treasury, there are appropriated to the Gulf Fund an amount equal to the sum of—

(i) 80 percent of the amount of adjusted bonus bids and rentals described in subsection (a)(1); and

(ii) 20 percent of royalty revenues described in subsection (a)(1).

(B) DIGITAL TRANSITION AND PUBLIC SAFETY FUND.—Amounts deposited in the Digital Transition and Public Safety Fund that exceed $10,000,000,000, up to a total of $2,000,000,000, are appropriated to the Gulf Fund to be made available, without further appropriation, as provided in this section.

(3) EXPENDITURES FROM GULF FUND.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Treasury shall transfer from the Gulf Fund direct lump sum payments to State and local governments that were directly affected by Hurricane Katrina, Rita, or Wilma.

(B) ALLOCATION OF PAYMENTS.—Payments described in subparagraph (A) shall be allocated—

(i) 50 percent to the State of Louisiana for hurricane and flood protection and control, coastal restoration projects, levies, and the construction and improvement of emergency evacuation routes in south Louisiana;

(ii) 25 percent to the State of Mississippi, of which 10 percent shall be provided to Hancock County, 10 percent shall be provided to Harrison County, 10 percent shall be provided to Jackson County, and 30 percent shall be allocated to municipalities within those counties based on the proportion of the population of each municipality to the total population of all such municipalities, to—

(I) restore coastal estuaries and fisheries habitats;

(II) restore or expand barrier islands to provide coastal hurricane protection;

(III) restore or construct coastal shoreline and flood protection structures;

(IV) repair and upgrade water and wastewater systems;

(V) restore and expand hurricane evacuation transportation routes and services;

(VI) restore storm-damaged public buildings and facilities, including waterfront facilities, not otherwise paid for by the Federal Government; and

(VII) pay or reimburse the costs of storm debris removal not otherwise paid by the Federal Government.

(iii) 10 percent to the State of Texas for hurricane relief and recovery efforts, including—

(I) storm debris removal costs not otherwise paid by the Federal Government;

(II) low-income housing needs;

(III) the cost of providing uncompensated medical care to hurricane victims; and

(IV) education-related expenses, including expenses for K–12 and higher education;

(iv) 10 percent to the State of Alabama for recovery and restoration activities; and

(v) 5 percent to the State of Florida for restoration and recovery activities.

(4) LOAN AUTHORITY.—The Secretary of the Treasury may borrow from the Treasury such sums as may be necessary to carry out this subsection, but shall reimburse the Treasury immediately when funds are deposited into the Gulf Fund.

(5) INVESTMENT OF AMOUNTS.—

(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Gulf Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

(B) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States.

(C) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under clause (i), obligations may be acquired—

(i) on original issue at the issue price; or

(ii) by purchase of outstanding obligations at the market price.

(D) SALE OF OBLIGATIONS.—Any obligation acquired by the Gulf Fund may be sold by the Secretary of the Treasury at the market price.

(E) CREDITS TO GULF FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Gulf Fund shall be credited to and form a part of the Gulf Fund.

SEC. 2. LOW-INCOME HOME ENERGY ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b), there is appropriated, out of any funds in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, an additional $2,000,000,000 to the Administration for Children and Families, to remain available until expended, for making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621 et seq.).

(b) REQUIREMENT.—Notwithstanding section 2602(e) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621(e)), of funds appropriated under subsection (a), $1,500,000,000 shall

be used for the unanticipated home energy assistance needs of 1 or more States, as authorized by section 2604(e) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8623(e)).

(c) EMERGENCY DESIGNATION.—The amounts made available by the transfer of funds in or pursuant to this section are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

SEC. 3. ASSISTANCE FROM DIGITAL TRANSITION AND PUBLIC SAFETY FUND.

(a) IN GENERAL.—Subject to subsection (f), in addition to any amounts otherwise provided in this or any other Act, amounts from the Digital Transition and Public Safety Fund in excess of $12,000,000,000 are appropriated, to remain available until expended, to be made available by the Secretary of the Treasury, without further appropriation, to carry out this section.

(b) AGRICULTURAL ASSISTANCE.—Notwithstanding any other provision of law, of the amount made available under subsection (a), $900,000,000 shall be made available to the Secretary of Agriculture to increase enrollment in conservation programs, including—

(1) the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);

(2) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of that Act (16 U.S.C. 3837 et seq.);

(3) the conservation security program established under subchapter A of chapter 2 of subtitle D of title XII of that Act (16 U.S.C. 3838 et seq.);

(4) the grassland reserve program established under subchapter C of chapter 2 of subtitle D of title XII of that Act (16 U.S.C. 3838n et seq.); and

(5) the environmental quality incentives program established under chapter 4 of subtitle D of title XII of that Act (16 U.S.C. 3839aa et seq.).

(c) OTHER CONSERVATION PROGRAMS.—Of the amounts made available under subsection (a), $100,000,000 shall be used to carry out other conservation programs, including—

(1) $50,000,000 shall be used for expenses necessary to carry out the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.); and

(2) $50,000,000 shall be provided to the National Fish and Wildlife Service to acquire permanent conservation easements from willing sellers for the National Wildlife Refuge System to protect critical grassland and wetland habitats.

(d) PREPARATION FOR A NATURAL DISASTER OR TERRORIST ATTACK.—

(1) IN GENERAL.—Of the amount made available under subsection (a), $2,000,000,000 shall be used for State and local government preparation for a natural disaster or terrorist attack, of which—

(A) $1,000,000,000 shall be used to carry out paragraph (2); and

(B) $1,000,000,000 shall be used to carry out paragraph (3).

(2) INTEROPERABLE COMMUNICATIONS EQUIPMENT.—

(A) IN GENERAL.—The amount made available under paragraph (1)(A) shall be provided to the Department of Homeland Security, Office for Domestic Preparedness, State and Local Programs, to make grants to State and local governments for interoperable communications equipment, of which—

(i) at least 75 percent shall be allocated based on risk and threat, as determined by the Secretary of Homeland Security; and

(ii) the remainder shall be allocated equally to all States for compatible emergency communications equipment (which may include equipment) with satellite capability operable in the event that towers, central offices, or other critical infrastructure such as power facilities are destroyed or disrupted.

(B) PLAN.—No funds may be obligated under this paragraph until the grantee has in place an interoperable communications implementation plan certified by the Department of Homeland Security.

(C) STANDARDS OR GUIDELINES.—Any communications equipment acquired under this paragraph shall meet standards or guidelines established by the Department of Homeland Security Office of Interoperable Communications.

(D) SALARIES AND EXPENSES.—Of the amount made available under this paragraph, not more than 3 percent may be used by the Secretary of Homeland Security for salaries and administrative expenses.

(3) PREPARATION FOR TERRORIST ATTACKS, PANDEMIC EVENTS, OR NATURAL DISASTERS.—

(A) IN GENERAL.—The amount made available under paragraph (1)(B) shall be provided to the Department of Homeland Security, Office for Domestic Preparedness, State and Local Programs, to make grants to prepare for a terrorist attack, pandemic event, or natural disaster, including—

(i) developing evacuation plans and plans to accept and provide for evacuees from other jurisdictions; .

(ii) providing training for the implementation of, and exercises under, those plans;

(iii) acquisition of equipment and medical supplies; and

(iv) related costs.

(B) ALLOCATION.—Funds provided under this paragraph shall be allocated based on risk and threat, as determined by the Secretary of Homeland Security, except that no State shall receive less than 0.55 percent and no territory shall receive no less than 0.15 of the total amount provided under this paragraph.

(C) AVAILABILITY OF APPLICATIONS.—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall make applications for grants under this paragraph available to States.

(D) SUBMISSION OF APPLICATIONS.—To be eligible for a grant under this paragraph, a State shall submit an application for the grant within 90 days after the announcement of grant availability.

(E) ACTION ON APPLICATIONS.—The Office for Domestic Preparedness shall act on an application within 90 days after receipt of the application.

(F) LOCAL GOVERNMENTS.—Not less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of funds.

(G) SALARIES AND EXPENSES.—Of the amount made available under this paragraph, not more than 3 percent may be used by the Secretary of Homeland Security for salaries and administrative expenses.

(e) BORDER SECURITY; DEPARTMENT OF HOMELAND SECURITY.—

(1) OFFICE OF THE CHIEF INFORMATION OFFICER.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, an additional $80,000,000 to the Department of Homeland Security, Office of the Chief Information Officer, to replace and upgrade law enforcement communications, $80,000,000, to remain available until expended.

(2) CUSTOMS AND BORDER PROTECTION.—

(A) SALARIES AND EXPENSES.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, an additional $30,000,000 for "Customs and Border Protection", "Salaries and Expenses", to replace border patrol vehicles.

(B) AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT.—

(i) IN GENERAL.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, an additional $862,000,000 for "Air and Marine Interdiction, Operations, Maintenance, and Procurement" to replace air assets facilities, to remain available until expended, of which—

(I) $490,000,000 shall be used to replace air assets, including $40,000,000 for helicopter replacement; and

(II) $372,000,000 shall be used to construct and renovate air facilities.

(ii) PLAN.—None of the funds made available under this subparagraph may be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve an expenditure plan for the funds and for the complete recapitalization of Customs and Border Protection air assets and facilities.

(C) CONSTRUCTION.—

(i) IN GENERAL.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, an additional $120,000,000 for "Construction", to remain available until expended, of which—

(I) $30,000,000 shall be used for Tucson, Arizona sector tactical infrastructure; and

(II) $20,000,000 shall be used for the San Diego, California sector fence.

(ii) PLAN.—None of the funds made available under this subparagraph may be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve an expenditure plan for the funds.

(3) IMMIGRATION AND CUSTOMS ENFORCEMENT.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, an additional $30,000,000 for "Salaries and Expenses" to replace detention and removal vehicles.

(4) FEDERAL LAW ENFORCEMENT TRAINING CENTER.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, an additional $17,900,000 for "Acquisition, Construction, Improvements, and Related Expenses" for construction of the language training facility referenced in the Master Plan and for information technology infrastructure improvements, to remain available until expended.

(5) EMERGENCY DESIGNATION.—The amounts provided under this subsection are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

(6) OFFSETTING RECEIPTS.—If any amount remains in the Digital Transition and Public Safety Fund after implementation of this section, $1,139,000,000 of the amount shall be deposited in the Treasury as offsetting receipts.

(f) INSUFFICIENT FUNDS.—If the amount of funds made available under subsection (a) is not sufficient to carry out subsections (b) through (d), each amount of funds otherwise made available under subsections (b) through (d) shall be reduced on a pro rata basis.

DIVISION E—PUBLIC READINESS AND EMERGENCY PREPAREDNESS ACT

SEC. 1. SHORT TITLE.

This division may be cited as the "Public Readiness and Emergency Preparedness Act".

SEC. 2. TARGETED LIABILITY PROTECTIONS FOR PANDEMIC AND EPIDEMIC PRODUCTS AND SECURITY COUNTERMEASURES.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 319F-2 the following section:

"SEC. 319F-3. TARGETED LIABILITY PROTECTIONS FOR PANDEMIC AND EPIDEMIC PRODUCTS AND SECURITY COUNTERMEASURES.

"(a) LIABILITY PROTECTIONS.—

“(1) IN GENERAL.—Subject to the other provisions of this section, a covered person shall be immune from suit and liability under Federal and State law with respect to all claims for loss caused by, arising out of, relating to, or resulting from the administration to or the use by an individual of a covered countermeasure if a declaration under subsection (b) has been issued with respect to such countermeasure.

“(2) SCOPE OF CLAIMS FOR LOSS.—

“(A) LOSS.—For purposes of this section, the term ‘loss’ means any type of loss, including—

“(i) death;

“(ii) physical, mental, or emotional injury, illness, disability, or condition;

“(iii) fear of physical, mental, or emotional injury, illness, disability, or condition, including any need for medical monitoring; and

“(iv) loss of or damage to property, including business interruption loss.

Each of clauses (i) through (iv) applies without regard to the date of the occurrence, presentation, or discovery of the loss described in the clause.

“(B) SCOPE.—The immunity under paragraph (1) applies to any claim for loss that has a causal relationship with the administration to or use by an individual of a covered countermeasure, including a causal relationship with the design, development, clinical testing or investigation, manufacture, labeling, distribution, formulation, packaging, marketing, promotion, sale, purchase, donation, dispensing, prescribing, administration, licensing, or use of such countermeasure.

“(3) CERTAIN CONDITIONS.—Subject to the other provisions of this section, immunity under paragraph (1) with respect to a covered countermeasure applies only if—

“(A) the countermeasure was administered or used during the effective period of the declaration that was issued under subsection (b) with respect to the countermeasure;

“(B) the countermeasure was administered or used for the category or categories of diseases, health conditions, or threats to health specified in the declaration; and

“(C) in addition, in the case of a covered person who is a program planner or qualified person with respect to the administration or use of the countermeasure, the countermeasure was administered to or used by an individual who—

“(i) was in a population specified by the declaration; and

“(ii) was at the time of administration physically present in a geographic area specified by the declaration or had a connection to such area specified in the declaration.

“(4) APPLICABILITY OF CERTAIN CONDITIONS.—With respect to immunity under paragraph (1) and subject to the other provisions of this section:

“(A) In the case of a covered person who is a manufacturer or distributor of the covered countermeasure involved, the immunity applies without regard to whether such countermeasure was administered to or used by an individual in accordance with the conditions described in paragraph (3)(C).

“(B) In the case of a covered person who is a program planner or qualified person with respect to the administration or use of the covered countermeasure, the scope of immunity includes circumstances in which the countermeasure was administered to or used by an individual in circumstances in which the covered person reasonably could have believed that the countermeasure was administered or used in accordance with the conditions described in paragraph (3)(C).

“(5) EFFECT OF DISTRIBUTION METHOD.—The provisions of this section apply to a covered countermeasure regardless of whether such countermeasure is obtained by donation, commercial sale, or any other means of distribution, except to the extent that, under paragraph (2)(E) of subsection (b), the declaration under such subsection provides that subsection (a) applies only to covered countermeasures obtained through a particular means of distribution.

“(6) REBUTTABLE PRESUMPTION.—For purposes of paragraph (1), there shall be a rebuttable presumption that any administration or use, during the effective period of the emergency declaration by the Secretary under subsection (b), of a covered countermeasure shall have been for the category or categories of diseases, health conditions, or threats to health with respect to which such declaration was issued.

“(b) DECLARATION BY SECRETARY.—

“(1) AUTHORITY TO ISSUE DECLARATION.—Subject to paragraph (2), if the Secretary makes a determination that a disease or other health condition or other threat to health constitutes a public health emergency, or that there is a credible risk that the disease, condition, or threat may in the future constitute such an emergency, the Secretary may make a declaration, through publication in the Federal Register, recommending, under conditions as the Secretary may specify, the manufacture, testing, development, distribution, administration, or use of one or more covered countermeasures, and stating that subsection (a) is in effect with respect to the activities so recommended.

“(2) CONTENTS.—In issuing a declaration under paragraph (1), the Secretary shall identify, for each covered countermeasure specified in the declaration—

“(A) the category or categories of diseases, health conditions, or threats to health for which the Secretary recommends the administration or use of the countermeasure;

“(B) the period or periods during which, including as modified by paragraph (3), subsection (a) is in effect, which period or periods may be designated by dates, or by milestones or other description of events, including factors specified in paragraph (6);

“(C) the population or populations of individuals for which subsection (a) is in effect with respect to the administration or use of the countermeasure (which may be a specification that such subsection applies without geographic limitation to all individuals);

“(D) the geographic area or areas for which subsection (a) is in effect with respect to the administration or use of the countermeasure (which may be a specification that such subsection applies without geographic limitation), including, with respect to individuals in the populations identified under subparagraph (C), a specification, as determined appropriate by the Secretary, of whether the declaration applies only to individuals physically present in such areas or whether in addition the declaration applies to individuals who have a connection to such areas, which connection is described in the declaration; and

“(E) whether subsection (a) is effective only to a particular means of distribution as provided in subsection (a)(5) for obtaining the countermeasure, and if so, the particular means to which such subsection is effective.

“(3) EFFECTIVE PERIOD OF DECLARATION.—

“(A) FLEXIBILITY OF PERIOD.—The Secretary may, in describing periods under paragraph (2)(B), have different periods for different covered persons to address different logistical, practical or other differences in responsibilities.

“(B) ADDITIONAL TIME TO BE SPECIFIED.—In each declaration under paragraph (1), the Secretary, after consulting, to the extent the Secretary deems appropriate, with the manufacturer of the covered countermeasure, shall also specify a date that is after the ending date specified under paragraph (2)(B) and that allows what the Secretary determines is—

“(i) a reasonable period for the manufacturer to arrange for disposition of the covered countermeasure, including the return of such product to the manufacturer; and

“(ii) a reasonable period for covered persons to take such other actions as may be appropriate to limit administration or use of the covered countermeasure.

“(C) ADDITIONAL PERIOD FOR CERTAIN STRATEGIC NATIONAL STOCKPILE COUNTERMEASURES.—With respect to a covered countermeasure that is in the stockpile under section 319F-2, if such countermeasure was the subject of a declaration under paragraph (1) at the time that it was obtained for the stockpile, the effective period of such declaration shall include a period when the countermeasure is administered or used pursuant to a distribution or release from the stockpile.

“(4) AMENDMENTS TO DECLARATION.—The Secretary may through publication in the Federal Register amend any portion of a declaration under paragraph (1). Such an amendment shall not retroactively limit the applicability of subsection (a) with respect to the administration or use of the covered countermeasure involved.

“(5) CERTAIN DISCLOSURES.—In publishing a declaration under paragraph (1) in the Federal Register, the Secretary is not required to disclose any matter described in section 552(b) of title 5, United States Code.

“(6) FACTORS TO BE CONSIDERED.—In deciding whether and under what circumstances or conditions to issue a declaration under paragraph (1) with respect to a covered countermeasure, the Secretary shall consider the desirability of encouraging the design, development, clinical testing or investigation, manufacture, labeling, distribution, formulation, packaging, marketing, promotion, sale, purchase, donation, dispensing, prescribing, administration, licensing, and use of such countermeasure.

“(7) JUDICIAL REVIEW.—No court of the United States, or of any State, shall have subject matter jurisdiction to review, whether by mandamus or otherwise, any action by the Secretary under this subsection.

“(8) PREEMPTION OF STATE LAW.—During the effective period of a declaration under subsection (b), or at any time with respect to conduct undertaken in accordance with such declaration, no State or political subdivision of a State may establish, enforce, or continue in effect with respect to a covered countermeasure any provision of law or legal requirement that—

“(A) is different from, or is in conflict with, any requirement applicable under this section; and

“(B) relates to the design, development, clinical testing or investigation, formulation, manufacture, distribution, sale, donation, purchase, marketing, promotion, packaging, labeling, licensing, use, any other aspect of safety or efficacy, or the prescribing, dispensing, or administration by qualified persons of the covered countermeasure, or to any matter included in a requirement applicable to the covered countermeasure under this section or any other provision of this Act, or under the Federal Food, Drug, and Cosmetic Act.

“(9) REPORT TO CONGRESS.—Within 30 days after making a declaration under paragraph (1), the Secretary shall submit to the appropriate committees of the Congress a report that provides an explanation of the reasons for issuing the declaration and the reasons underlying the determinations of the Secretary with respect to paragraph (2). Within 30 days after making an amendment under paragraph (4), the Secretary shall submit to such committees a report that provides the reasons underlying the determination of the Secretary to make the amendment.

“(c) DEFINITION OF WILLFUL MISCONDUCT.—

“(1) DEFINITION.—

"(A) IN GENERAL.—Except as the meaning of such term is further restricted pursuant to paragraph (2), the term 'willful misconduct' shall, for purposes of subsection (d), denote an act or omission that is taken—

"(i) intentionally to achieve a wrongful purpose;

"(ii) knowingly without legal or factual justification; and

"(iii) in disregard of a known or obvious risk that is so great as to make it highly probable that the harm will outweigh the benefit.

"(B) RULE OF CONSTRUCTION.—The criterion stated in subparagraph (A) shall be construed as establishing a standard for liability that is more stringent than a standard of negligence in any form or recklessness.

"(2) AUTHORITY TO PROMULGATE REGULATORY DEFINITION.—

"(A) IN GENERAL.—The Secretary, in consultation with the Attorney General, shall promulgate regulations, which may be promulgated through interim final rules, that further restrict the scope of actions or omissions by a covered person that may qualify as 'willful misconduct' for purposes of subsection (d).

"(B) FACTORS TO BE CONSIDERED.—In promulgating the regulations under this paragraph, the Secretary, in consultation with the Attorney General, shall consider the need to define the scope of permissible civil actions under subsection (d) in a way that will not adversely affect the public health.

"(C) TEMPORAL SCOPE OF REGULATIONS.—The regulations under this paragraph may specify the temporal effect that they shall be given for purposes of subsection (d).

"(D) INITIAL RULEMAKING.—Within 180 days after the enactment of the Public Readiness and Emergency Preparedness Act, the Secretary, in consultation with the Attorney General, shall commence and complete an initial rulemaking process under this paragraph.

"(3) PROOF OF WILLFUL MISCONDUCT.—In an action under subsection (d), the plaintiff shall have the burden of proving by clear and convincing evidence willful misconduct by each covered person sued and that such willful misconduct caused death or serious physical injury.

"(4) DEFENSE FOR ACTS OR OMISSIONS TAKEN PURSUANT TO SECRETARY'S DECLARATION.—Notwithstanding any other provision of law, a program planner or qualified person shall not have engaged in 'willful misconduct' as a matter of law where such program planner or qualified person acted consistent with applicable directions, guidelines, or recommendations by the Secretary regarding the administration or use of a covered countermeasure that is specified in the declaration under subsection (b), provided either the Secretary, or a State or local health authority, was provided with notice of information regarding serious physical injury or death from the administration or use of a covered countermeasure that is material to the plaintiff's alleged loss within 7 days of the actual discovery of such information by such program planner or qualified person.

"(5) EXCLUSION FOR REGULATED ACTIVITY OF MANUFACTURER OR DISTRIBUTOR.—

"(A) IN GENERAL.—If an act or omission by a manufacturer or distributor with respect to a covered countermeasure, which act or omission is alleged under subsection (e)(3)(A) to constitute willful misconduct, is subject to regulation by this Act or by the Federal Food, Drug, and Cosmetic Act, such act or omission shall not constitute 'willful misconduct' for purposes of subsection (d) if—

"(i) neither the Secretary nor the Attorney General has initiated an enforcement action with respect to such act or omission; or

"(ii) such an enforcement action has been initiated and the action has been terminated or finally resolved without a covered remedy. Any action or proceeding under subsection (d) shall be stayed during the pendency of such an enforcement action.

"(B) DEFINITIONS.—For purposes of this paragraph, the following terms have the following meanings:

"(i) ENFORCEMENT ACTION.—The term 'enforcement action' means a criminal prosecution, an action seeking an injunction, a seizure action, a civil monetary proceeding based on willful misconduct, a mandatory recall of a product because voluntary recall was refused, a proceeding to compel repair or replacement of a product, a termination of an exemption under section 505(i) or 520(g) of the Federal Food, Drug, and Cosmetic Act, a debarment proceeding, an investigator disqualification proceeding where an investigator is an employee or agent of the manufacturer, a revocation, based on willful misconduct, of an authorization under section 564 of such Act, or a suspension or withdrawal, based on willful misconduct, of an approval or clearance under chapter V of such Act or of a licensure under section 351 of this Act.

"(ii) COVERED REMEDY.—The term 'covered remedy' means an outcome—

"(I) that is a criminal conviction, an injunction, or a condemnation, a civil monetary payment, a product recall, a repair or replacement of a product, a termination of an exemption under section 505(i) or 520(g) of the Federal Food, Drug, and Cosmetic Act, a debarment, an investigator disqualification, a revocation of an authorization under section 564 of such Act, or a suspension or withdrawal of an approval or clearance under chapter 5 of such Act or of a licensure under section 351 of this Act; and

"(II) that results from a final determination by a court or from a final agency action.

"(iii) FINAL.—The terms 'final' and 'finally'—

"(I) with respect to a court determination, or to a final resolution of an enforcement action that is a court determination, mean a judgment from which an appeal of right cannot be taken or a voluntary or stipulated dismissal; and

"(II) with respect to an agency action, or to a final resolution of an enforcement action that is an agency action, mean an order that is not subject to further review within the agency and that has not been reversed, vacated, enjoined, or otherwise nullified by a final court determination or a voluntary or stipulated dismissal.

"(C) RULES OF CONSTRUCTION.—

"(i) IN GENERAL.—Nothing in this paragraph shall be construed—

"(I) to affect the interpretation of any provision of the Federal Food, Drug, and Cosmetic Act, of this Act, or of any other applicable statute or regulation; or

"(II) to impair, delay, alter, or affect the authority, including the enforcement discretion, of the United States, of the Secretary, of the Attorney General, or of any other official with respect to any administrative or court proceeding under this Act, under the Federal Food, Drug, and Cosmetic Act, under title 18 of the United States Code, or under any other applicable statute or regulation.

"(ii) MANDATORY RECALLS.—A mandatory recall called for in the declaration is not a Food and Drug Administration enforcement action.

"(d) EXCEPTION TO IMMUNITY OF COVERED PERSONS.—

"(1) IN GENERAL.—Subject to subsection (f), the sole exception to the immunity from suit and liability of covered persons set forth in subsection (a) shall be for an exclusive Federal cause of action against a covered person for death or serious physical injury proximately caused by willful misconduct, as defined pursuant to subsection (c), by such covered person. For purposes of section 2679(b)(2)(B) of title 28, United States Code, such a cause of action is not an action brought for violation of a statute of the United States under which an action against an individual is otherwise authorized.

"(2) PERSONS WHO CAN SUE.—An action under this subsection may be brought for wrongful death or serious physical injury by any person who suffers such injury or by any representative of such a person.

"(e) PROCEDURES FOR SUIT.—

"(1) EXCLUSIVE FEDERAL JURISDICTION.—Any action under subsection (d) shall be filed and maintained only in the United States District Court for the District of Columbia.

"(2) GOVERNING LAW.—The substantive law for decision in an action under subsection (d) shall be derived from the law, including choice of law principles, of the State in which the alleged willful misconduct occurred, unless such law is inconsistent with or preempted by Federal law, including provisions of this section.

"(3) PLEADING WITH PARTICULARITY.—In an action under subsection (d), the complaint shall plead with particularity each element of the plaintiff's claim, including—

"(A) each act or omission, by each covered person sued, that is alleged to constitute willful misconduct relating to the covered countermeasure administered to or used by the person on whose behalf the complaint was filed;

"(B) facts supporting the allegation that such alleged willful misconduct proximately caused the injury claimed; and

"(C) facts supporting the allegation that the person on whose behalf the complaint was filed suffered death or serious physical injury.

"(4) VERIFICATION, CERTIFICATION, AND MEDICAL RECORDS.—

"(A) IN GENERAL.—In an action under subsection (d), the plaintiff shall verify the complaint in the manner stated in subparagraph (B) and shall file with the complaint the materials described in subparagraph (C). A complaint that does not substantially comply with subparagraphs (B) and (C) shall not be accepted for filing and shall not stop the running of the statute of limitations.

"(B) VERIFICATION REQUIREMENT.—

"(i) IN GENERAL.—The complaint shall include a verification, made by affidavit of the plaintiff under oath, stating that the pleading is true to the knowledge of the deponent, except as to matters specifically identified as being alleged on information and belief, and that as to those matters the plaintiff believes it to be true.

"(ii) IDENTIFICATION OF MATTERS ALLEGED UPON INFORMATION AND BELIEF.—Any matter that is not specifically identified as being alleged upon the information and belief of the plaintiff, shall be regarded for all purposes, including a criminal prosecution, as having been made upon the knowledge of the plaintiff.

"(C) MATERIALS REQUIRED.—In an action under subsection (d), the plaintiff shall file with the complaint—

"(i) an affidavit, by a physician who did not treat the person on whose behalf the complaint was filed, certifying, and explaining the basis for such physician's belief, that such person suffered the serious physical injury or death alleged in the complaint and that such injury or death was proximately caused by the administration or use of a covered countermeasure; and

"(ii) certified medical records documenting such injury or death and such proximate causal connection.

"(5) THREE-JUDGE COURT.—Any action under subsection (d) shall be assigned initially to a panel of three judges. Such panel shall have jurisdiction over such action for purposes of considering motions to dismiss, motions for summary judgment, and matters related thereto. If such panel has denied such motions, or if the time for filing such motions has expired, such panel shall refer the action to the chief judge

for assignment for further proceedings, including any trial. Section 1253 of title 28, United States Code, and paragraph (3) of subsection (b) of section 2284 of title 28, United States Code, shall not apply to actions under subsection (d).

“(6) CIVIL DISCOVERY.—

“(A) TIMING.—In an action under subsection (d), no discovery shall be allowed—

“(i) before each covered person sued has had a reasonable opportunity to file a motion to dismiss;

“(ii) in the event such a motion is filed, before the court has ruled on such motion; and

“(iii) in the event a covered person files an interlocutory appeal from the denial of such a motion, before the court of appeals has ruled on such appeal.

“(B) STANDARD.—Notwithstanding any other provision of law, the court in an action under subsection (d) shall permit discovery only with respect to matters directly related to material issues contested in such action, and the court shall compel a response to a discovery request (including a request for admission, an interrogatory, a request for production of documents, or any other form of discovery request) under Rule 37, Federal Rules of Civil Procedure, only if the court finds that the requesting party needs the information sought to prove or defend as to a material issue contested in such action and that the likely benefits of a response to such request equal or exceed the burden or cost for the responding party of providing such response.

“(7) REDUCTION IN AWARD OF DAMAGES FOR COLLATERAL SOURCE BENEFITS.—

“(A) IN GENERAL.—In an action under subsection (d), the amount of an award of damages that would otherwise be made to a plaintiff shall be reduced by the amount of collateral source benefits to such plaintiff.

“(B) PROVIDER OF COLLATERAL SOURCE BENEFITS NOT TO HAVE LIEN OR SUBROGATION.—No provider of collateral source benefits shall recover any amount against the plaintiff or receive any lien or credit against the plaintiff's recovery or be equitably or legally subrogated to the right of the plaintiff in an action under subsection (d).

“(C) COLLATERAL SOURCE BENEFIT DEFINED.—For purposes of this paragraph, the term ‘collateral source benefit’ means any amount paid or to be paid in the future to or on behalf of the plaintiff, or any service, product, or other benefit provided or to be provided in the future to or on behalf of the plaintiff, as a result of the injury or wrongful death, pursuant to—

“(i) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

“(ii) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

“(iii) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; or

“(iv) any other publicly or privately funded program.

“(8) NONECONOMIC DAMAGES.—In an action under subsection (d), any noneconomic damages may be awarded only in an amount directly proportional to the percentage of responsibility of a defendant for the harm to the plaintiff. For purposes of this paragraph, the term ‘noneconomic damages’ means damages for losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, hedonic damages, injury to reputation, and any other nonpecuniary losses.

“(9) RULE 11 SANCTIONS.—Whenever a district court of the United States determines that there has been a violation of Rule 11 of the Federal Rules of Civil Procedure in an action under subsection (d), the court shall impose upon the attorney, law firm, or parties that have violated Rule 11 or are responsible for the violation, an appropriate sanction, which may include an order to pay the other party or parties for the reasonable expenses incurred as a direct result of the filing of the pleading, motion, or other paper that is the subject of the violation, including a reasonable attorney's fee. Such sanction shall be sufficient to deter repetition of such conduct or comparable conduct by others similarly situated, and to compensate the party or parties injured by such conduct.

“(10) INTERLOCUTORY APPEAL.—The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction of an interlocutory appeal by a covered person taken within 30 days of an order denying a motion to dismiss or a motion for summary judgment based on an assertion of the immunity from suit conferred by subsection (a) or based on an assertion of the exclusion under subsection (c)(5).

“(f) ACTIONS BY AND AGAINST THE UNITED STATES.—Nothing in this section shall be construed to abrogate or limit any right, remedy, or authority that the United States or any agency thereof may possess under any other provision of law or to waive sovereign immunity or to abrogate or limit any defense or protection available to the United States or its agencies, instrumentalities, officers, or employees under any other law, including any provision of chapter 171 of title 28, United States Code (relating to tort claims procedure).

“(g) SEVERABILITY.—If any provision of this section, or the application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this section and the application of such remainder to any person or circumstance shall not be affected thereby.

“(h) RULE OF CONSTRUCTION CONCERNING NATIONAL VACCINE INJURY COMPENSATION PROGRAM.—Nothing in this section, or any amendment made by the Public Readiness and Emergency Preparedness Act, shall be construed to affect the National Vaccine Injury Compensation Program under title XXI of this Act.

“(i) DEFINITIONS.—In this section:

“(1) COVERED COUNTERMEASURE.—The term ‘covered countermeasure’ means—

“(A) a qualified pandemic or epidemic product (as defined in paragraph (7));

“(B) a security countermeasure (as defined in section 319F-2(c)(1)(B)); or

“(C) a drug (as such term is defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)), biological product (as such term is defined by section 351(i) of this Act), or device (as such term is defined by section 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(h)) that is authorized for emergency use in accordance with section 564 of the Federal Food, Drug, and Cosmetic Act.

“(2) COVERED PERSON.—The term ‘covered person’, when used with respect to the administration or use of a covered countermeasure, means—

“(A) the United States; or

“(B) a person or entity that is—

“(i) a manufacturer of such countermeasure;

“(ii) a distributor of such countermeasure;

“(iii) a program planner of such countermeasure;

“(iv) a qualified person who prescribed, administered, or dispensed such countermeasure; or

“(v) an official, agent, or employee of a person or entity described in clause (i), (ii), (iii), or (iv).

“(3) DISTRIBUTOR.—The term ‘distributor’ means a person or entity engaged in the distribution of drugs, biologics, or devices, including but not limited to manufacturers; repackers; common carriers; contract carriers; air carriers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies.

“(4) MANUFACTURER.—The term ‘manufacturer’ includes—

“(A) a contractor or subcontractor of a manufacturer;

“(B) a supplier or licenser of any product, intellectual property, service, research tool, or component or other article used in the design, development, clinical testing, investigation, or manufacturing of a covered countermeasure; and

“(C) any or all of the parents, subsidiaries, affiliates, successors, and assigns of a manufacturer.

“(5) PERSON.—The term ‘person’ includes an individual, partnership, corporation, association, entity, or public or private corporation, including a Federal, State, or local government agency or department.

“(6) PROGRAM PLANNER.—The term ‘program planner’ means a State or local government, including an Indian tribe, a person employed by the State or local government, or other person who supervised or administered a program with respect to the administration, dispensing, distribution, provision, or use of a security countermeasure or a qualified pandemic or epidemic product, including a person who has established requirements, provided policy guidance, or supplied technical or scientific advice or assistance or provides a facility to administer or use a covered countermeasure in accordance with a declaration under subsection (b).

“(7) QUALIFIED PANDEMIC OR EPIDEMIC PRODUCT.—The term ‘qualified pandemic or epidemic product’ means a drug (as such term is defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)), biological product (as such term is defined by section 351(i) of this Act), or device (as such term is defined by section 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(h)) that is—

“(A)(i) a product manufactured, used, designed, developed, modified, licensed, or procured—

“(I) to diagnose, mitigate, prevent, treat, or cure a pandemic or epidemic; or

“(II) to limit the harm such pandemic or epidemic might otherwise cause; or

“(ii) a product manufactured, used, designed, developed, modified, licensed, or procured to diagnose, mitigate, prevent, treat, or cure a serious or life-threatening disease or condition caused by a product described in clause (i); and

“(B)(i) approved or cleared under chapter V of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of this Act;

“(ii) the object of research for possible use as described by subparagraph (A) and is the subject of an exemption under section 505(i) or 520(g) of the Federal Food, Drug, and Cosmetic Act; or

“(iii) authorized for emergency use in accordance with section 564 of the Federal Food, Drug, and Cosmetic Act.

“(8) QUALIFIED PERSON.—The term ‘qualified person’, when used with respect to the administration or use of a covered countermeasure, means—

“(A) a licensed health professional or other individual who is authorized to prescribe, administer, or dispense such countermeasures under the law of the State in which the countermeasure was prescribed, administered, or dispensed; or

“(B) a person within a category of persons so identified in a declaration by the Secretary under subsection (b).

"(9) Security countermeasure.—The term 'security countermeasure' has the meaning given such term in section 319F-2(c)(1)(B).

"(10) Serious physical injury.—The term 'serious physical injury' means an injury that—

"(A) is life threatening;

"(B) results in permanent impairment of a body function or permanent damage to a body structure; or

"(C) necessitates medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure.".

SEC. 3. COVERED COUNTERMEASURE PROCESS.

Part B of title III of the Public Health Service Act is further amended by inserting after section 319F–3 (as added by section 2) the following new section:

"SEC. 319F–4. COVERED COUNTERMEASURE PROCESS.

"(a) Establishment of Fund.—Upon the issuance by the Secretary of a declaration under section 319F-3(b), there is hereby established in the Treasury an emergency fund designated as the 'Covered Countermeasure Process Fund' for purposes of providing timely, uniform, and adequate compensation to eligible individuals for covered injuries directly caused by the administration or use of a covered countermeasure pursuant to such declaration, which Fund shall consist of such amounts as emergency appropriations under section 402 of H. Con. Res. 95 of the 109th Congress, this emergency designation shall remain in effect through October 1, 2006.

"(b) Payment of Compensation.—

"(1) In general.—If the Secretary issues a declaration under 319F–3(b), the Secretary shall, after amounts have by law been provided for the Fund under subsection (a), provide compensation to an eligible individual for a covered injury directly caused by the administration or use of a covered countermeasure pursuant to such declaration.

"(2) Elements of compensation.—The compensation that shall be provided pursuant to paragraph (1) shall have the same elements, and be in the same amount, as is prescribed by sections 264, 265, and 266 in the case of certain individuals injured as a result of administration of certain countermeasures against smallpox, except that section 266(a)(2)(B) shall not apply.

"(3) Rule of construction.—Neither reasonable and necessary medical benefits nor lifetime total benefits for lost employment income due to permanent and total disability shall be limited by section 266.

"(4) Determination of eligibility and compensation.—Except as provided in this section, the procedures for determining, and for reviewing a determination of, whether an individual is an eligible individual, whether such individual has sustained a covered injury, whether compensation may be available under this section, and the amount of such compensation shall be those stated in section 262 (other than in subsection (d)(2) of such section), in regulations issued pursuant to that section, and in such additional or alternate regulations as the Secretary may promulgate for purposes of this section. In making determinations under this section, other than those described in paragraph (5)(A) as to the direct causation of a covered injury, the Secretary may only make such determination based on compelling, reliable, valid, medical, and scientific evidence.

"(5) Covered countermeasure injury table.—

"(A) In general.—The Secretary shall by regulation establish a table identifying covered injuries that shall be presumed to be directly caused by the administration or use of a covered countermeasure and the time period in which the first symptom or manifestation of onset of each such adverse effect must manifest in order for such presumption to apply. The Secretary may only identify such covered injuries, for purpose of inclusion on the table, where the Secretary determines, based on compelling, reliable, valid, medical, and scientific evidence that administration or use of the covered countermeasure directly caused such covered injury.

"(B) Amendments.—The provisions of section 263 (other than a provision of subsection (a)(2) of such section that relates to accidental vaccinia inoculation) shall apply to the table established under this section.

"(C) Judicial review.—No court of the United States, or of any State, shall have subject matter jurisdiction to review, whether by mandamus or otherwise, any action by the Secretary under this paragraph.

"(6) Meanings of terms.—In applying sections 262, 263, 264, 265, and 266 for purposes of this section—

"(A) the terms 'vaccine' and 'smallpox vaccine' shall be deemed to mean a covered countermeasure;

"(B) the terms 'smallpox vaccine injury table' and 'table established under section 263' shall be deemed to refer to the table established under paragraph (4); and

"(C) other terms used in those sections shall have the meanings given to such terms by this section.

"(c) Voluntary Program.—The Secretary shall ensure that a State, local, or Department of Health and Human Services plan to administer or use a covered countermeasure is consistent with any declaration under 319F–3 and any applicable guidelines of the Centers for Disease Control and Prevention and that potential participants are educated with respect to contraindications, the voluntary nature of the program, and the availability of potential benefits and compensation under this part.

"(d) Exhaustion; Exclusivity; Election.—

"(1) Exhaustion.—Subject to paragraph (5), a covered individual may not bring a civil action under section 319F-3(d) against a covered person (as such term is defined in section 319F–3(i)(2)) unless such individual has exhausted such remedies as are available under subsection (a), except that if amounts have not by law been provided for the Fund under subsection (a), or if the Secretary fails to make a final determination on a request for benefits or compensation filed in accordance with the requirements of this section within 240 days after such request was filed, the individual may seek any remedy that may be available under section 319F-3(d).

"(2) Tolling of statute of limitations.—The time limit for filing a civil action under section 319F-3(d) for an injury or death shall be tolled during the pendency of a claim for compensation under subsection (a).

"(3) Rule of construction.—This section shall not be construed as superseding or otherwise affecting the application of a requirement, under chapter 171 of title 28, United States Code, to exhaust administrative remedies.

"(4) Exclusivity.—The remedy provided by subsection (a) shall be exclusive of any other civil action or proceeding for any claim or suit this section encompasses, except for a proceeding under section 319F–3.

"(5) Election.—If under subsection (a) the Secretary determines that a covered individual qualifies for compensation, the individual has an election to accept the compensation or to bring an action under section 319F–3(d). If such individual elects to accept the compensation, the individual may not bring such an action.

"(e) Definitions.—For purposes of this section, the following terms shall have the following meanings:

"(1) Covered countermeasure.—The term 'covered countermeasure' has the meaning given such term in section 319F-3.

"(2) Covered individual.—The term 'covered individual', with respect to administration or use of a covered countermeasure pursuant to a declaration, means an individual—

"(A) who is in a population specified in such declaration, and with respect to whom the administration or use of the covered countermeasure satisfies the other specifications of such declaration; or

"(B) who uses the covered countermeasure, or to whom the covered countermeasure is administered, in a good faith belief that the individual is in the category described by subparagraph (A).

"(3) Covered injury.—The term 'covered injury' means serious physical injury or death.

"(4) Declaration.—The term 'declaration' means a declaration under section 319F–3(b).

"(5) Eligible individual.—The term 'eligible individual' means an individual who is determined, in accordance with subsection (b), to be a covered individual who sustains a covered injury.".

This Act may be cited as the "Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006".

And the Senate agree to the same.

Bill Young,
David Hobson,
Henry Bonilla,
R. P. Frelinghuysen,
Todd Tiahrt,
Roger F. Wicker,
Jack Kingston,
Kay Granger,
James T. Walsh,
Robert B. Aderholt,
Jerry Lewis,
John P. Murtha,
Norman D. Dicks
(Except for Division C as to ANWR),
Martin Olav Sabo
(Except for 1% cut in Division B and Division C),
Peter J. Visclosky
(Except for Division C and Division B as to 1% cut and avian flu section),
James P. Moran
(Except for Division B and Division C as to 1% cut, avian flu and ANWR provision),
Marcy Kaptur
(Except for ANWR provision and Division B and Division C as to 1% cuts and avian flu),
Chet Edwards
(Except for 1% cut),
David R. Obey
(Except for Division C, Division B as to 1% cut and avian flu),
Managers on the Part of the House.

Ted Stevens,
Thad Cochran,
Arlen Specter,
Pete V. Domenici,
Kit Bond,
Mitch McConnell,
Richard C. Shelby,
Judd Gregg,
Kay Bailey Hutchison,
Conrad Burns,
Daniel K. Inouye,
Robert C. Byrd
(Except ANWR and across the board cut

and avian flu vaccine liability and compensation provisions),

BYRON L. DORGAN

(Except on ANWR and 1% cut and avian flu vaccine liability and compensation provisions),

DIANNE FEINSTEIN

(Except ANWR and 1% cut and avian flu vaccine liability and compensation provisions),

BARBARA A. MIKULSKI

(Except ANWR and 1% ATB cut and avian flu vaccine liability and compensation provisions),

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT

DIVISION A

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2863), making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on the Department of Defense Appropriations Act, 2006, incorporates some of the provisions of the House and Senate versions of the bill as well as some matters under the jurisdiction of the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies of the House Committee on Appropriations that were addressed in the House in H.R. 2528. The language and allocations set forth in House Report 109–119 and Senate Report 109–141, and the relevant language and allocations set forth in House Report 109–95, should be complied with unless specifically addressed in the accompanying conference report and statement of managers to the contrary.

The Senate amendment deleted the entire House bill after the enacting clause and inserted new language. The conference agreement includes revised language.

DEFINITION OF PROGRAM PROJECT, AND ACTIVITY

The conferees agree that for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) and by the Budget Enforcement Act of 1990 (Public Law 101–508), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 2006, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes and reports, and the P–1 and R–1 budget justification documents as subsequently modified by Congressional action. The following exception to the above definition shall apply: for the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act.

At the time the President submits his budget for fiscal year 2007, the conferees direct the Department of Defense to transmit to the congressional defense committees budget justification documents to be known as the "M–1" and "O–1" which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for military personnel and operation and maintenance in any budget request, or amended budget request, for fiscal year 2007.

CLASSIFIED ANNEX

Adjustments to classified programs are addressed in the classified annex accompanying this report.

TITLE I--MILITARY PERSONNEL

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
30805 RECAPITULATION				
30850 MILITARY PERSONNEL, ARMY	28,400,687	28,303,287	28,099,587	28,191,287
30900 MILITARY PERSONNEL, NAVY	23,032,101	23,010,601	22,671,875	22,788,101
30950 MILITARY PERSONNEL, MARINE CORPS	9,024,984	9,018,884	8,894,984	8,968,884
31000 MILITARY PERSONNEL, AIR FORCE	23,494,950	23,323,150	22,908,750	23,199,850
31050 RESERVE PERSONNEL, ARMY	3,249,269	3,172,669	3,052,269	3,172,669
31100 RESERVE PERSONNEL, NAVY	1,774,399	1,677,399	1,617,299	1,686,099
31150 RESERVE PERSONNEL, MARINE CORPS	521,201	513,001	491,601	513,001
31200 RESERVE PERSONNEL, AIR FORCE	1,314,846	1,296,646	1,263,046	1,296,646
31250 NATIONAL GUARD PERSONNEL, ARMY	5,122,794	4,813,394	4,555,794	4,912,794
31300 NATIONAL GUARD PERSONNEL, AIR FORCE	2,300,032	2,276,532	2,125,632	2,267,732
31350 GRAND TOTAL, MILITARY PERSONNEL	98,235,263	97,405,563	95,680,837	96,997,063

REPROGRAMMING AND REPORTING GUIDANCE FOR BASIC ALLOWANCE FOR HOUSING

The conferees direct the Department of Defense to provide budget execution data for Basic Allowance for Housing funding to the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives and the Subcommittee on Defense of the Committee on Appropriations of the Senate. Such budget execution data shall be provided through the DD-COMP(M) 1002 accounting form and delivered no later than forty-five days past the close of each quarter for the fiscal year. The Reserve Component accounts do not provide budget line item data for Basic Allowance for Housing; therefore, the Department is directed to provide comparable DD-COMP(M) 1002 detail when submitting quarterly execution data.

The conferees further direct the Department to distinctly identify Basic Allowance for Housing funding on all prior approval reprogramming requests (Form 1415) submitted to the Congress. All prior approval reprogramming requests affecting Basic Allowance for Housing funding should be submitted to the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies and Subcommittee on Defense of the Committee on Appropriations of the House of Representatives and the Subcommittee on Defense of the Committee on Appropriations of the Senate.

COMPOSITE PAY RATES

For a number of years, the Government Accountability Office (GAO) has used the Department of Defense's draft composite pay rates in its military personnel strength analysis to estimate the financial impact of work year variances on the Services' military personnel budget requests. Although this information has been important to the congressional defense committees in their budget analysis, the conferees believe that GAO's estimates would be more accurate if their estimates used the Services' DoD approved composite rates. Therefore, the conferees believe that DoD should review, approve, and publish the Services' budget year composite pay rates not later than 60 days after the President's budget request is submitted to the Congress.

Active End Strength

[Fiscal year 2006]

	Budget	Conference	Conference vs. Budget
Army	482,400	482,400	—
Navy	352,700	352,700	—
Marine Corps	175,000	175,000	—
Air Force	357,400	357,400	—
Total, Active Personnel	1,367,500	1,367,500	—

MILITARY PERSONNEL, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
50 MILITARY PERSONNEL, ARMY				
100 ACTIVITY 1: PAY AND ALLOWANCES OF OFFICER				
150 BASIC PAY	4,616,228	4,616,228	4,616,228	4,616,228
200 RETIRED PAY ACCRUAL	1,223,300	1,223,300	1,223,300	1,223,300
300 BASIC ALLOWANCE FOR HOUSING	1,271,542	1,271,542	1,271,542	1,271,542
350 BASIC ALLOWANCE FOR SUBSISTENCE	177,968	177,968	177,968	177,968
400 INCENTIVE PAYS	98,295	98,295	98,295	98,295
450 SPECIAL PAYS	220,791	220,791	220,791	220,791
500 ALLOWANCES	149,084	149,084	149,084	149,084
550 SEPARATION PAY	61,999	61,999	61,999	61,999
600 SOCIAL SECURITY TAX	350,042	350,042	350,042	350,042
700 TOTAL, BUDGET ACTIVITY 1	8,169,249	8,169,249	8,169,249	8,169,249
750 ACTIVITY 2: PAY AND ALLOW OF ENLISTED PERS				
800 BASIC PAY	10,035,315	10,035,315	10,035,315	10,035,315
850 RETIRED PAY ACCRUAL	2,659,358	2,659,358	2,659,358	2,659,358
950 BASIC ALLOWANCE FOR HOUSING	2,673,850	2,673,850	2,673,850	2,673,850
1000 INCENTIVE PAYS	85,802	85,802	85,802	85,802
1050 SPECIAL PAYS	493,176	493,176	493,176	493,176
1100 ALLOWANCES	689,395	689,395	689,395	689,395
1150 SEPARATION PAY	294,164	294,164	294,164	294,164
1250 SOCIAL SECURITY TAX	759,022	759,022	759,022	759,022
1350 TOTAL, BUDGET ACTIVITY 2	17,690,082	17,690,082	17,690,082	17,690,082
1400 ACTIVITY 3: PAY AND ALLOW OF CADETS				
1450 ACADEMY CADETS	54,331	54,331	54,331	54,331
1500 ACTIVITY 4: SUBSISTENCE OF ENLISTED PERS				
1550 BASIC ALLOWANCE FOR SUBSISTENCE	827,257	827,257	827,257	827,257
1600 SUBSISTENCE-IN-KIND	561,600	561,600	561,600	561,600
1650 FAMILY SUBSISTENCE SUPPLEMENTAL ALLOWANCE	3,244	3,244	3,244	3,244
1750 TOTAL, BUDGET ACTIVITY 4	1,392,101	1,392,101	1,392,101	1,392,101

(In thousands of dollars)

	Budget	House	Senate	Conference
1800 ACTIVITY 5: PERMANENT CHANGE OF STATION				
1850 ACCESSION TRAVEL	210,533	210,533	210,533	210,533
1900 TRAINING TRAVEL	54,855	54,855	54,855	54,855
1950 OPERATIONAL TRAVEL	198,988	198,988	198,988	198,988
2000 ROTATIONAL TRAVEL	410,789	410,789	410,789	410,789
2050 SEPARATION TRAVEL	173,045	173,045	173,045	173,045
2100 TRAVEL OF ORGANIZED UNITS	3,561	3,561	3,561	3,561
2150 NON-TEMPORARY STORAGE	34,883	34,883	34,883	34,883
2200 TEMPORARY LODGING EXPENSE	24,354	24,354	24,354	24,354
2300 TOTAL, BUDGET ACTIVITY 5	1,111,008	1,111,008	1,111,008	1,111,008
2350 ACTIVITY 6: OTHER MILITARY PERS COSTS				
2400 APPREHENSION OF MILITARY DESERTERS	1,416	1,416	1,416	1,416
2450 INTEREST ON UNIFORMED SERVICES SAVINGS	203	203	203	203
2500 DEATH GRATUITIES	7,080	7,080	7,080	7,080
2550 UNEMPLOYMENT BENEFITS	146,549	146,549	146,549	146,549
2600 SURVIVOR BENEFITS	3,724	3,724	3,724	3,724
2650 EDUCATION BENEFITS	4,268	4,268	4,268	4,268
2700 ADOPTION EXPENSES	452	452	452	452
2800 TRANSPORTATION SUBSIDY	4,365	4,365	4,365	4,365
2850 PARTIAL DISLOCATION ALLOWANCE	2,500	2,500	2,500	2,500
2860 RESERVE OFFICERS TRAINING CORPS (ROTC)	82,933	82,933	82,933	82,933
2870 JUNIOR ROTC	28,600	28,600	28,600	28,600
2950 TOTAL, BUDGET ACTIVITY 6	282,090	282,090	282,090	282,090
3000 LESS REIMBURSABLES	-298,174	-298,174	-298,174	-298,174
3200 UNOBLIGATED BALANCES	---	-97,400	-301,100	-209,400
6300 TOTAL, MILITARY PERSONNEL, ARMY	28,400,687	28,303,287	28,099,587	28,191,287

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustment to the budget activities is as follows:

[In thousands of dollars]

Undistributed:	
3200 Unobligated Balances	−209,400

MILITARY PERSONNEL, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
6350 MILITARY PERSONNEL, NAVY				
6400 ACTIVITY 1: PAY AND ALLOWANCES OF OFFICER				
6450 BASIC PAY	3,234,081	3,234,081	3,234,081	3,234,081
6500 RETIRED PAY ACCRUAL	857,031	857,031	857,031	857,031
6600 BASIC ALLOWANCE FOR HOUSING	963,929	963,929	963,929	963,929
6650 BASIC ALLOWANCE FOR SUBSISTENCE	121,720	121,720	121,720	121,720
6700 INCENTIVE PAYS	219,122	219,122	219,122	219,122
6750 SPECIAL PAYS	288,224	288,224	288,224	288,224
6800 ALLOWANCES	93,792	93,792	93,792	93,792
6850 SEPARATION PAY	98,879	98,879	98,879	98,879
6900 SOCIAL SECURITY TAX	244,979	244,979	244,979	244,979
7000 TOTAL, BUDGET ACTIVITY 1	6,121,757	6,121,757	6,121,757	6,121,757
7050 ACTIVITY 2: PAY AND ALLOW OF ENLISTED PERS				
7100 BASIC PAY	8,068,225	8,068,225	8,068,225	8,068,225
7150 RETIRED PAY ACCRUAL	2,138,078	2,138,078	2,138,078	2,138,078
7250 BASIC ALLOWANCE FOR HOUSING	2,628,976	2,628,976	2,628,976	2,628,976
7300 INCENTIVE PAYS	108,878	108,878	108,878	108,878
7350 SPECIAL PAYS	938,343	938,343	938,343	938,343
7400 ALLOWANCES	507,735	507,735	507,735	507,735
7450 SEPARATION PAY	285,891	285,891	285,891	285,891
7550 SOCIAL SECURITY TAX	612,220	612,220	612,220	612,220
7650 TOTAL, BUDGET ACTIVITY 2	15,288,346	15,288,346	15,288,346	15,288,346
7700 ACTIVITY 3: PAY AND ALLOW OF MIDSHIPMEN				
7750 MIDSHIPMEN	56,108	56,108	56,108	56,108
7800 ACTIVITY 4: SUBSISTENCE OF ENLISTED PERS				
7850 BASIC ALLOWANCE FOR SUBSISTENCE	663,385	663,385	663,385	663,385
7900 SUBSISTENCE-IN-KIND	366,523	366,523	366,523	366,523
7950 FAMILY SUBSISTENCE SUPPLEMENTAL ALLOWANCE	500	500	500	500
8050 TOTAL, BUDGET ACTIVITY 4	1,030,408	1,030,408	1,030,408	1,030,408

	(In thousands of dollars) Budget	House	Senate	Conference
8100 ACTIVITY 5: PERMANENT CHANGE OF STATION				
8150 ACCESSION TRAVEL	67,016	67,016	67,016	67,016
8200 TRAINING TRAVEL	72,913	72,913	72,913	72,913
8250 OPERATIONAL TRAVEL	186,317	186,317	186,317	186,317
8300 ROTATIONAL TRAVEL	281,104	281,104	281,104	281,104
8350 SEPARATION TRAVEL	104,252	104,252	104,252	104,252
8400 TRAVEL OF ORGANIZED UNITS	19,160	19,160	19,160	19,160
8450 NON-TEMPORARY STORAGE	6,350	6,350	6,350	6,350
8500 TEMPORARY LODGING EXPENSE	7,699	7,699	7,699	7,699
8550 OTHER	7,686	7,686	7,686	7,686
8650 TOTAL, BUDGET ACTIVITY 5	752,497	752,497	752,497	752,497
8700 ACTIVITY 6: OTHER MILITARY PERSONNEL COSTS				
8750 APPREHENSION OF MILITARY DESERTERS	825	825	825	825
8800 INTEREST ON UNIFORMED SERVICES SAVINGS	209	209	209	209
8850 DEATH GRATUITIES	3,236	3,236	3,236	3,236
8900 UNEMPLOYMENT BENEFITS	66,358	66,358	66,358	66,358
8950 SURVIVOR BENEFITS	1,139	1,139	1,139	1,139
9000 EDUCATION BENEFITS	1,799	1,799	1,799	1,799
9050 ADOPTION EXPENSES	446	446	446	446
9150 TRANSPORTATION SUBSIDY	3,951	3,951	3,951	3,951
9200 OTHER	2,461	2,461	2,461	2,461
9210 RESERVE OFFICERS TRAINING CORPS (ROTC)	20,704	20,704	20,704	20,704
9220 JUNIOR R.O.T.C	13,094	13,094	13,094	13,094
9300 TOTAL, BUDGET ACTIVITY 6	114,222	114,222	114,222	114,222
9350 LESS REIMBURSABLES	-331,237	-331,237	-331,237	-331,237
9550 UNOBLIGATED BALANCES	---	-21,500	-256,000	-192,000
9630 NAVY FORCE SHAPING TOOLS	---	---	-104,226	-52,000
11350 TOTAL, MILITARY PERSONNEL, NAVY	23,032,101	23,010,601	22,671,875	22,788,101

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Undistributed:	
9550 Unobligated Balances	−192,000
9630 Navy Force Shaping Tools	−52,000

MILITARY PERSONNEL, MARINE CORPS

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
11400 MILITARY PERSONNEL, MARINE CORPS				
11450 ACTIVITY 1: PAY AND ALLOWANCES OF OFFICER				
11500 BASIC PAY	1,103,052	1,103,052	1,103,052	1,103,052
11550 RETIRED PAY ACCRUAL	293,152	293,152	293,152	293,152
11650 BASIC ALLOWANCE FOR HOUSING	305,952	305,952	305,952	305,952
11700 BASIC ALLOWANCE FOR SUBSISTENCE	42,877	42,877	42,877	42,877
11750 INCENTIVE PAYS	48,147	48,147	48,147	48,147
11800 SPECIAL PAYS	4,508	4,508	4,508	4,508
11850 ALLOWANCES	23,318	23,318	23,318	23,318
11900 SEPARATION PAY	14,646	14,646	14,646	14,646
11950 SOCIAL SECURITY TAX	83,587	83,587	83,587	83,587
12050 TOTAL, BUDGET ACTIVITY 1	1,919,239	1,919,239	1,919,239	1,919,239
12100 ACTIVITY 2: PAY AND ALLOW OF ENLISTED PERS				
12150 BASIC PAY	3,647,008	3,647,008	3,647,008	3,647,008
12200 RETIRED PAY ACCRUAL	962,920	962,920	962,920	962,920
12300 BASIC ALLOWANCE FOR HOUSING	873,119	873,119	873,119	873,119
12350 INCENTIVE PAYS	8,360	8,360	8,360	8,360
12400 SPECIAL PAYS	123,583	123,583	123,583	123,583
12450 ALLOWANCES	208,149	208,149	208,149	208,149
12500 SEPARATION PAY	73,647	73,647	73,647	73,647
12600 SOCIAL SECURITY TAX	278,431	278,431	278,431	278,431
12700 TOTAL, BUDGET ACTIVITY 2	6,175,217	6,175,217	6,175,217	6,175,217
12750 ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL				
12800 BASIC ALLOWANCE FOR SUBSISTENCE	308,554	308,554	308,554	308,554
12850 SUBSISTENCE-IN-KIND	247,944	247,944	247,944	247,944
12900 FAMILY SUBSISTENCE SUPPLEMENTAL ALLOWANCE	750	750	750	750
13000 TOTAL, BUDGET ACTIVITY 4	557,248	557,248	557,248	557,248

	(In thousands of dollars)			
	Budget	House	Senate	Conference
13050 ACTIVITY 5: PERMANENT CHANGE OF STATION				
13100 ACCESSION TRAVEL	44,475	44,475	44,475	44,475
13150 TRAINING TRAVEL	9,834	9,834	9,834	9,834
13200 OPERATIONAL TRAVEL	89,565	89,565	89,565	89,565
13250 ROTATIONAL TRAVEL	126,094	126,094	126,094	126,094
13300 SEPARATION TRAVEL	49,739	49,739	49,739	49,739
13350 TRAVEL OF ORGANIZED UNITS	1,722	1,722	1,722	1,722
13400 NON-TEMPORARY STORAGE	5,241	5,241	5,241	5,241
13450 TEMPORARY LODGING EXPENSE	12,593	12,593	12,593	12,593
13500 OTHER	2,438	2,438	2,438	2,438
13600 TOTAL, BUDGET ACTIVITY 5	341,701	341,701	341,701	341,701
13650 ACTIVITY 6: OTHER MILITARY PERSONNEL COSTS				
13700 APPREHENSION OF MILITARY DESERTERS	1,638	1,638	1,638	1,638
13750 INTEREST ON UNIFORMED SERVICES SAVINGS	16	16	16	16
13800 DEATH GRATUITIES	2,100	2,100	2,100	2,100
13850 UNEMPLOYMENT BENEFITS	51,970	51,970	51,970	51,970
13900 SURVIVOR BENEFITS	721	721	721	721
13950 EDUCATION BENEFITS	1,039	1,039	1,039	1,039
14000 ADOPTION EXPENSES	259	259	259	259
14100 TRANSPORTATION SUBSIDY	1,155	1,155	1,155	1,155
14150 OTHER	668	668	668	668
14160 JUNIOR R.O.T.C.	5,302	5,302	5,302	5,302
14250 TOTAL, BUDGET ACTIVITY 6	64,868	64,868	64,868	64,868
14300 LESS REIMBURSABLES	-33,289	-33,289	-33,289	-33,289
14315 UNOBLIGATED BALANCES	---	-6,100	-130,000	-56,100
16250 TOTAL, MILITARY PERSONNEL, MARINE CORPS	9,024,984	9,018,884	8,894,984	8,968,884

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustment to the budget activities is as follows:

[In thousands of dollars]

Undistributed:	
14315 Unobligated Balances	−56,100

MILITARY PERSONNEL, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
16300 MILITARY PERSONNEL, AIR FORCE				
16350 ACTIVITY 1: PAY AND ALLOWANCES OF OFFICER				
16400 BASIC PAY	4,491,448	4,491,448	4,491,448	4,491,448
16450 RETIRED PAY ACCRUAL	1,184,999	1,184,999	1,184,999	1,184,999
16550 BASIC ALLOWANCE FOR HOUSING	1,160,175	1,160,175	1,160,175	1,160,175
16600 BASIC ALLOWANCE FOR SUBSISTENCE	168,228	168,228	168,228	168,228
16650 INCENTIVE PAYS	325,495	325,495	325,495	325,495
16700 SPECIAL PAYS	255,805	255,805	255,805	255,805
16750 ALLOWANCES	133,442	133,442	133,442	133,442
16800 SEPARATION PAY	61,488	61,488	61,488	61,488
16850 SOCIAL SECURITY TAX	340,588	340,588	340,588	340,588
16950 TOTAL, BUDGET ACTIVITY 1	8,121,668	8,121,668	8,121,668	8,121,668
17000 ACTIVITY 2: PAY AND ALLOW OF ENLISTED PERS				
17050 BASIC PAY	7,800,171	7,800,171	7,800,171	7,800,171
17100 RETIRED PAY ACCRUAL	2,046,105	2,046,105	2,046,105	2,046,105
17200 BASIC ALLOWANCE FOR HOUSING	2,079,938	2,079,938	2,079,938	2,079,938
17250 INCENTIVE PAYS	34,496	34,496	34,496	34,496
17300 SPECIAL PAYS	277,381	277,381	277,381	277,381
17350 ALLOWANCES	636,193	636,193	636,193	636,193
17450 SEPARATION PAY	145,474	145,474	145,474	145,474
17500 SOCIAL SECURITY TAX	596,713	596,713	596,713	596,713
17600 TOTAL, BUDGET ACTIVITY 2	13,616,471	13,616,471	13,616,471	13,616,471
17650 ACTIVITY 3: PAY AND ALLOWANCES OF CADETS				
17700 ACADEMY CADETS	55,056	55,056	55,056	55,056
17750 ACTIVITY 4: SUBSISTENCE OF ENLISTED PERS				
17800 BASIC ALLOWANCE FOR SUBSISTENCE	785,720	785,720	785,720	785,720
17850 SUBSISTENCE-IN-KIND	135,216	135,216	135,216	135,216
17900 FAMILY SUBSISTENCE SUPPLEMENTAL ALLOWANCE	1,254	1,254	1,254	1,254
18000 TOTAL, BUDGET ACTIVITY 4	922,190	922,190	922,190	922,190

	(In thousands of dollars)			
	Budget	House	Senate	Conference
18050 ACTIVITY 5: PERMANENT CHANGE OF STATION				
18100 ACCESSION TRAVEL	78,682	78,682	78,682	78,682
18150 TRAINING TRAVEL	95,149	95,149	95,149	95,149
18200 OPERATIONAL TRAVEL	149,826	149,826	149,826	149,826
18250 ROTATIONAL TRAVEL	492,620	492,620	492,620	492,620
18300 SEPARATION TRAVEL	146,340	146,340	146,340	146,340
18350 TRAVEL OF ORGANIZED UNITS	7,406	7,406	7,406	7,406
18400 NON-TEMPORARY STORAGE	27,188	27,188	27,188	27,188
18450 TEMPORARY LODGING EXPENSE	34,844	34,844	34,844	34,844
18550 TOTAL, BUDGET ACTIVITY 5	1,032,055	1,032,055	1,032,055	1,032,055
18600 ACTIVITY 6: OTHER MILITARY PERS COSTS				
18650 APPREHENSION OF MILITARY DESERTERS	100	100	100	100
18700 INTEREST ON UNIFORMED SERVICES SAVINGS	671	671	671	671
18750 DEATH GRATUITIES	2,969	2,969	2,969	2,969
18800 UNEMPLOYMENT BENEFITS	49,711	49,711	49,711	49,711
18850 SURVIVOR BENEFITS	1,546	1,546	1,546	1,546
18900 EDUCATION BENEFITS	3,317	3,317	3,317	3,317
18950 ADOPTION EXPENSES	582	582	582	582
19050 TRANSPORTATION SUBSIDY	3,815	3,815	3,815	3,815
19100 OTHER	4,781	4,781	4,781	4,781
19110 RESERVE OFFICERS TRAINING CORPS (ROTC)	38,728	38,728	38,728	38,728
19120 JUNIOR ROTC	21,630	21,630	21,630	21,630
19200 TOTAL, BUDGET ACTIVITY 6	127,850	127,850	127,850	127,850
19250 LESS REIMBURSABLES	-380,340	-380,340	-380,340	-380,340
19620 UNOBLIGATED BALANCES	---	-171,800	-590,100	-297,900
19625 B-52 ATTRITION RESERVE	---	---	3,900	2,800
22550 TOTAL, MILITARY PERSONNEL, AIR FORCE	23,494,950	23,323,150	22,908,750	23,199,850

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Undistributed:	
19620 Unobligated Balances	−297,900
19625 B–52 Attrition Reserve	2,800

NATIONAL GUARD AND RESERVE FORCES

The conferees agree to provide $13,848,941,000 in Reserve personnel appropriations, and $15,112,612,000 in Reserve operation and maintenance appropriations. These funds support a Selected Reserve end strength of 848,500 as shown below.

SELECTED RESERVE END STRENGTH

[Fiscal Year 2006]

	Budget	Conference	Conference vs. Budget
Selected Reserve:			
Army Reserve	205,000	205,000	—
Navy Reserve	73,100	73,100	—
Marine Corps Reserve	39,600	39,600	—
Air Force Reserve	74,000	74,000	—
Army National Guard	350,000	350,000	—
Air National Guard	106,800	106,800	—
Total	848,500	848,500	—
AGR/TARS:			
Army Reserve	15,270	15,270	—
Navy Reserve	13,392	13,392	—
Marine Corps Reserve	2,261	2,261	—
Air Force Reserve	2,290	2,290	—
Army National Guard	27,345	27,396	+51
Air National Guard	13,089	13,123	+34
Total	73,647	73,732	+85
Technicians:			
Army Reserve	8,344	8,344	—
Air Force Reserve	9,942	9,942	—
Army National Guard	27,163	27,163	—
Air National Guard	23,321	23,321	—
Total	68,770	68,770	—

RESERVE COMPONENTS BUDGET STRUCTURE CHANGE

The conferees agree to a one year test of a consolidated budget structure for the Reserve components' military personnel appropriations. This test will evaluate the budget structure presented in the President's budget request reflecting a single budget activity for execution purposes in fiscal year 2006. The test will conclude with the closure of fiscal year 2006. The conferees direct the Department of Defense to submit its fiscal year 2007 budget request using the two budget activity structure, and the final structure will be addressed in the fiscal year 2007 defense appropriations act. The conferees understand the reasoning behind the Department of Defense's request to provide additional financial management flexibility for the Reserve components to execute their respective appropriations. Given this, the congressional defense committees still require visibility over the movement of funds within the accounts of the Services' appropriations. Therefore, the conferees direct the Department of Defense to provide a semi-annual report to the congressional defense committees showing transfers within the Reserve component military personnel appropriations. The report format will provide separate explanations for all transfers in and out of each appropriation line item that equal, exceed, or cumulate to $5,000,000. Reports will be due 30 days following the end of the second quarter and the fiscal year. The conferees expect the Department of Defense to work with the congressional defense committees on the details of the report format.

RESERVE PERSONNEL, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
22600 RESERVE PERSONNEL, ARMY				
22650 ACTIVITY 1: RESERVE COMPONENT TRAINING AND SUPPORT				
22700 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)	1,021,013	1,021,013	1,021,013	1,021,013
22750 PAY GROUP B TRAINING (BACKFILL FOR ACT DUTY)	48,989	48,989	48,989	48,989
22800 PAY GROUP F TRAINING (RECRUITS)	181,631	181,631	181,631	181,631
22850 PAY GROUP P TRAINING (PIPELINE RECRUITS)	842	842	842	842
22910 MOBILIZATION TRAINING or RETIRE HEALTH ACCRUAL	19,031	---	19,031	19,031
22920 SCHOOL TRAINING	179,008	---	179,008	179,008
22930 SPECIAL TRAINING	159,606	---	159,606	159,606
22940 ADMINISTRATION AND SUPPORT	1,477,861	---	1,477,861	1,477,861
22950 EDUCATION BENEFITS	108,594	---	108,594	108,594
22970 HEALTH PROFESSION SCHOLARSHIP	34,219	---	34,219	34,219
22990 OTHER PROGRAMS	18,475	---	18,475	18,475
23050 TOTAL, BUDGET ACTIVITY 1	3,249,269	1,252,475	3,249,269	3,249,269
23100 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
23150 MOBILIZATION TRAINING or RETIRE HEALTH ACCRUAL	---	19,031	---	---
23200 SCHOOL TRAINING	---	179,008	---	---
23250 SPECIAL TRAINING	---	159,606	---	---
23300 ADMINISTRATION AND SUPPORT	---	1,477,861	---	---
23350 EDUCATION BENEFITS	---	108,594	---	---
23450 HEALTH PROFESSION SCHOLARSHIP	---	34,219	---	---
23550 OTHER PROGRAMS	---	18,475	---	---
23650 TOTAL, BUDGET ACTIVITY 2	---	1,996,794	---	---
23800 UNOBLIGATED BALANCES	---	-19,800	-140,200	-19,800
23810 RESERVES COST AVOIDANCE	---	-55,800	-56,800	-56,800
24000 TOTAL RESERVE PERSONNEL, ARMY	3,249,269	3,172,669	3,052,269	3,172,669

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Undistributed:	
23800 Unobligated Balances	19,800
23810 Reserves Cost Avoidance	56,800

RESERVE PERSONNEL, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
24050 RESERVE PERSONNEL, NAVY				
24100 ACTIVITY 1: RESERVE COMPONENT TRAINING AND SUPPORT				
24150 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)	611,919	611,919	611,919	611,919
24200 PAY GROUP B TRAINING (BACKFILL FOR ACT DUTY)	4,806	4,806	4,806	4,806
24250 PAY GROUP F TRAINING (RECRUITS)	2,964	2,964	2,964	2,964
24310 MOBILIZATION TRAINING	6,971	---	6,971	6,971
24320 SCHOOL TRAINING	34,451	---	34,451	34,451
24330 SPECIAL TRAINING	71,023	---	71,023	71,023
24340 ADMINISTRATION AND SUPPORT	981,196	---	981,196	981,196
24350 EDUCATION BENEFITS	25,177	---	25,177	25,177
24370 HEALTH PROFESSION SCHOLARSHIP	35,892	---	35,892	35,892
24450 TOTAL, BUDGET ACTIVITY 1	1,774,399	619,689	1,774,399	1,774,399
24500 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
24550 MOBILIZATION TRAINING	---	6,971	---	---
24600 SCHOOL TRAINING	---	34,451	---	---
24650 SPECIAL TRAINING	---	71,023	---	---
24700 ADMINISTRATION AND SUPPORT	---	981,196	---	---
24750 EDUCATION BENEFITS	---	25,177	---	---
24850 HEALTH PROFESSION SCHOLARSHIP	---	35,892	---	---
25050 TOTAL, BUDGET ACTIVITY 2	---	1,154,710	---	---
25300 UNOBLIGATED BALANCES	---	-52,300	-112,400	-52,300
25370 RESERVES COST AVOIDANCE	---	-44,700	-44,700	-36,000
25450 TOTAL, RESERVE PERSONNEL, NAVY	1,774,399	1,677,399	1,617,299	1,686,099

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Undistributed:		
25300	Unobligated Balances	−52,300
25370	Reserves Cost Avoidance	−36,000

RESERVE PERSONNEL, MARINE CORPS

The conference agreement on items addressed by either the House or the Senate is as follows:

	Budget	(In thousands of dollars) House	Senate	Conference
25500 RESERVE PERSONNEL, MARINE CORPS				
25550 ACTIVITY 1: RESERVE COMPONENT TRAINING AND SUPPORT				
25600 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)	144,822	144,822	144,822	144,822
25650 PAY GROUP B TRAINING (BACKFILL FOR ACT DUTY)	23,758	23,758	23,758	23,758
25700 PAY GROUP F TRAINING (RECRUITS)	88,140	88,140	88,140	88,140
25750 PAY GROUP P TRAINING (PIPELINE RECRUITS)	64	64	64	64
25810 MOBILIZATION TRAINING	2,622	---	2,622	2,622
25820 SCHOOL TRAINING	12,053	---	12,053	12,053
25830 SPECIAL TRAINING	43,962	---	43,962	43,962
25840 ADMINISTRATION AND SUPPORT	161,851	---	161,851	161,851
25850 PLATOON LEADER CLASS	12,707	---	12,707	12,707
25860 EDUCATION BENEFITS	31,222	---	31,222	31,222
25950 TOTAL, BUDGET ACTIVITY 1	521,201	256,784	521,201	521,201
26000 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
26050 MOBILIZATION TRAINING	---	2,622	---	---
26100 SCHOOL TRAINING	---	12,053	---	---
26150 SPECIAL TRAINING	---	43,962	---	---
26200 ADMINISTRATION AND SUPPORT	---	161,851	---	---
26240 PLATOON LEADER CLASS	---	12,707	---	---
26250 EDUCATION BENEFITS	---	31,222	---	---
26500 TOTAL, BUDGET ACTIVITY 2	---	264,417	---	---
26600 UNOBLIGATED BALANCES	---	-1,600	-23,000	-1,600
26650 RESERVES COST AVOIDANCE	---	-6,600	-6,600	-6,600
26750 TOTAL, RESERVE PERSONNEL, MARINE CORPS	521,201	513,001	491,601	513,001

Adjustments to Budget Activities

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Undistributed:	
26600 Unobligated Balances	−1,600
26650 Reserves Cost Avoidance	−6,600

RESERVE PERSONNEL, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
26800 RESERVE PERSONNEL, AIR FORCE				
26850 ACTIVITY 1: RESERVE COMPONENT TRAINING AND SUPPORT				
26900 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)........	596,669	596,669	596,669	596,669
26950 PAY GROUP B TRAINING (BACKFILL FOR ACT DUTY).........	112,039	112,039	112,039	112,039
27000 PAY GROUP F TRAINING (RECRUITS)......................	47,771	47,771	47,771	47,771
27050 PAY GROUP P TRAINING (PIPELINE RECRUITS).............	97	97	97	97
27110 MOBILIZATION TRAINING................................	1,800	---	1,800	1,800
27120 SCHOOL TRAINING......................................	107,605	---	107,605	107,605
27130 SPECIAL TRAINING.....................................	124,534	---	124,534	124,534
27140 ADMINISTRATION AND SUPPORT...........................	213,247	---	213,247	213,247
27150 EDUCATION BENEFITS...................................	56,438	---	56,438	56,438
27170 HEALTH PROFESSION SCHOLARSHIP........................	28,963	---	28,963	28,963
27190 OTHER PROGRAMS.......................................	25,683	---	25,683	25,683
27200 TOTAL, BUDGET ACTIVITY 1.............................	1,314,846	756,576	1,314,846	1,314,846
27250 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
27300 MOBILIZATION TRAINING................................	---	1,800	---	---
27350 SCHOOL TRAINING......................................	---	107,605	---	---
27400 SPECIAL TRAINING.....................................	---	124,534	---	---
27450 ADMINISTRATION AND SUPPORT...........................	---	213,247	---	---
27500 EDUCATION BENEFITS...................................	---	56,438	---	---
27600 HEALTH PROFESSION SCHOLARSHIP........................	---	28,963	---	---
27700 OTHER PROGRAMS.......................................	---	25,683	---	---
27800 TOTAL, BUDGET ACTIVITY 2.............................	---	558,270	---	---
27900 UNOBLIGATED BALANCES.................................	---	-18,200	-47,100	-18,200
27910 RESERVES COST AVOIDANCE..............................	---	-4,700	-4,700	-4,700
27930 932ND AIRLIFT WING PERSONNEL.........................	---	4,700	---	4,700
28150 TOTAL, RESERVE PERSONNEL, AIR FORCE..................	1,314,846	1,296,646	1,263,046	1,296,646

Adjustments to Budget Activities

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Undistributed:	
27900 Unobligated Balances	−18,200
27910 Reserves Cost Avoidance	−4,700
27930 932nd Airlift Wing Personnel	4,700

NATIONAL GUARD PERSONNEL, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
28200 NATIONAL GUARD PERSONNEL, ARMY				
28250 ACTIVITY 1: RESERVE COMPONENT TRAINING AND SUPPORT				
28300 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)	1,602,858	1,602,858	1,602,858	1,602,858
28350 PAY GROUP F TRAINING (RECRUITS)	315,333	315,333	315,333	315,333
28400 PAY GROUP P TRAINING (PIPELINE RECRUITS)	30,767	30,767	30,767	30,767
28500 SCHOOL TRAINING	300,499	---	300,499	300,499
28510 SPECIAL TRAINING	211,114	---	211,114	211,114
28520 ADMINISTRATION AND SUPPORT	2,436,257	---	2,436,257	2,436,257
28530 EDUCATION BENEFITS	225,966	---	225,966	225,966
28600 TOTAL, BUDGET ACTIVITY 1	5,122,794	1,948,958	5,122,794	5,122,794
28650 ACTIVITY 2: OTHER TRAINING AND SUPPORT				
28700 SCHOOL TRAINING	---	300,499	---	---
28750 SPECIAL TRAINING	---	211,114	---	---
28800 ADMINISTRATION AND SUPPORT	---	2,436,257	---	---
28850 EDUCATION BENEFITS	---	225,966	---	---
29050 TOTAL, BUDGET ACTIVITY 2	---	3,173,836	---	---
29350 UNOBLIGATED BALANCES	---	-11,600	-271,400	-11,600
29410 RESERVES COST AVOIDANCE	---	-297,800	-297,800	-200,000
29435 LEWIS AND CLARK BICENTENNIAL ACTIVITIES	---	---	2,200	1,600
29500 TOTAL, NATIONAL GUARD PERSONNEL, ARMY	5,122,794	4,813,394	4,555,794	4,912,794

Adjustments to Budget Activities

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Undistributed:	
29350 Unobligated Balances	−11,600
29410 Reserves Cost Avoidance	−200,000
29435 Lewis and Clark Bicentennial Activities	1,600

Lewis and Clark Bicentennial Commemoration Support

Funds designated for the Lewis and Clark Bicentennial Commemoration in the National Guard Personnel, Army and the Operation and Maintenance, Army National Guard appropriations are to provide ceremonial, educational, safety, security, and logistics support to include support for up to ten students from each state and territory selected to participate in the Youth Rendezvous.

NATIONAL GUARD PERSONNEL, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
29550 NATIONAL GUARD PERSONNEL, AIR FORCE				
29600 ACTIVITY 1: RESERVE COMPONENT TRAINING AND SUPPORT				
29650 PAY GROUP A TRAINING (15 DAYS & DRILLS 24/48)	877,728	877,728	877,828	877,828
29700 PAY GROUP F TRAINING (RECRUITS)	65,630	65,630	65,630	65,630
29750 PAY GROUP P TRAINING (PIPELINE RECRUITS)	457	457	457	457
29810 SCHOOL TRAINING	155,452	---	155,452	155,452
29820 SPECIAL TRAINING	90,829	---	90,829	90,829
29830 ADMINISTRATION AND SUPPORT	1,035,885	---	1,036,985	1,036,985
29840 EDUCATION BENEFITS	74,051	---	74,051	74,051
29950 TOTAL, BUDGET ACTIVITY 1	2,300,032	943,815	2,301,232	2,301,232
30000 ACTIVITY 2. OTHER TRAINING AND SUPPORT				
30050 SCHOOL TRAINING	---	155,452	---	---
30100 SPECIAL TRAINING	---	90,829	---	---
30150 ADMINISTRATION AND SUPPORT	---	1,035,885	---	---
30200 EDUCATION BENEFITS	---	74,051	---	---
30400 TOTAL, BUDGET ACTIVITY 2	---	1,356,217	---	---
30550 UNOBLIGATED BALANCES	---	-3,500	-165,600	-13,500
30600 RESERVES COST AVOIDANCE	---	-20,000	-10,000	-20,000
30750 TOTAL, NATIONAL GUARD PERSONNEL, AIR FORCE	2,300,032	2,276,532	2,125,632	2,267,732

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Reserve Component Training and Support:	
29650 Pay Group A Training/166th Information Operations Squadron	100
29830 Administration and Support/166th Information Operations Squadron	1,100
Undistributed:	
30550 Unobligated Balances	−13,500
30600 Reserves Cost Avoidance	−20,000

TITLE II-OPERATION AND MAINTENANCE

The conference agreement on items addressed by either the House or the Senate is as follows:

			(In thousands of dollars)		
		Budget	House	Senate	Conference
50005	RECAPITULATION				
50050	O & M, ARMY	25,316,595	24,283,245	24,573,795	24,105,470
50150	O & M, NAVY	30,759,889	30,064,789	30,317,964	29,995,383
50250	O & M, MARINE CORPS	3,804,926	3,677,726	3,780,926	3,695,256
50300	O & M, AIR FORCE	31,521,136	30,505,074	30,891,386	30,313,136
50400	O & M, DEFENSE-WIDE	18,453,469	18,438,916	18,517,218	18,500,716
50500	O & M, ARMY RESERVE	1,987,382	1,995,582	1,956,482	1,973,382
50550	O & M, NAVY RESERVE	1,245,695	1,246,395	1,239,295	1,244,795
50600	O & M, MARINE CORPS RESERVE	199,934	210,034	197,734	202,734
50650	O & M, AIR FORCE RESERVE	2,501,686	2,520,886	2,474,286	2,499,286
50700	O & M, ARMY NATIONAL GUARD	4,509,719	4,534,419	4,428,119	4,491,109
50750	O & M, AIR NATIONAL GUARD	4,724,091	4,732,306	4,681,291	4,701,306
50790	OVERSEAS CONTINGENCY OPERATIONS TRANSFER ACCOUNT	20,000	20,000	---	---
50800	UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES	11,236	11,236	11,236	11,236
50850	ENVIRONMENTAL RESTORATION, ARMY	407,865	407,865	407,865	407,865
50900	ENVIRONMENTAL RESTORATION, NAVY	305,275	305,275	305,275	305,275
50950	ENVIRONMENTAL RESTORATION, AIR FORCE	406,461	406,461	406,461	406,461
51000	ENVIRONMENTAL RESTORATION, DEFENSE-WIDE	28,167	28,167	28,167	28,167
51050	ENVIRONMENTAL RESTORATION, FORMERLY USED DEF. SITES	221,921	221,921	271,921	256,921
51200	OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID	61,546	61,546	61,546	61,546
51300	FORMER SOVIET UNION THREAT REDUCTION ACCOUNT	415,549	415,549	415,549	415,549
51600	GRAND TOTAL, O & M	126,902,542	124,087,392	124,966,516	123,615,593

Response of Federal Government to Disasters

The conferees direct the Director of the Office of Management and Budget, in coordination with the Secretary of Defense and the Secretary of Homeland Security, to conduct a study on improving the response of the Department of Defense and other Federal Government agencies to disasters. In conducting the study the Director should consider mechanisms for coordinating and expediting disaster preparation and response efforts; examine the role of the Department of Defense for participating in disaster response, including planning, logistics, relief and reconstruction assistance; and assess the role of the United States Geological Survey in enhancing disaster preparation measures. The Director shall submit a report on the study to Congress by May 1, 2006. The findings should include recommendations for improving the response of the Department of Defense and other Federal Government agencies to disasters and identify any legislation or regulations that the Director determines necessary to implement such recommendations.

Reimbursement for Protective, Safety, and Health Equipment for Members of the Armed Forces

The Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 authorized the Department of Defense to reimburse members of the Armed Forces for the cost of purchasing protective, safety, or health equipment for use in Operation Noble Eagle, Operation Enduring Freedom, and Operation Iraqi Freedom. In order to more adequately address this situation, the conference agreement amends Section 351 of that Act to extend this authority until April 1, 2006.

In addition, the conferees are concerned that certain types of equipment are not included in the guidance issued by the Department of Defense on October 4, 2005. Therefore, the conferees direct the Department to revise the guidance to include summer gloves, knee pads and elbow pads, deltoid and auxiliary protectors, and side plate body armor. The conferees further direct the Military Departments to implement guidance for submitting and processing these claims not later than January 31, 2006.

Ground Source Heat Pumps

The conferees direct the Secretary of Defense to submit a report to the congressional defense committees by July 1, 2006 on the use of ground source heat pumps at Department of Defense facilities. The report should include a description of the types of facilities that use ground source heat pumps, an assessment of the applicability and cost effectiveness of using ground source heat pumps in different geographic regions of the United States, and an assessment of the applicability to use ground source heat pumps for new construction and retrofitting Department of Defense facilities.

Military to Civilian Conversions

The conferees recognize the Military to Civilian Conversion program as an important tool to alleviate stress on the force by replacing uniformed service members in non-military essential positions with federal civilian or contractor personnel. However, the conferees are concerned that budget justification materials do not adequately describe the Department's Military to Civilian Conversion program and that the Department lacks a clear methodology for developing its budget estimates. Therefore, the conferees have reduced the Military Services' budget request for Military to Civilian Conversions by $282,000,000 due to poor budget justification. These reductions should not be interpreted to limit the number of conversions completed in fiscal year 2006 if sufficient resources are available. The conferees direct the Department to include comprehensive data on the Military to Civilian Conversion Program in future budget justification materials. The budget materials should include: the number of conversions completed in the two fiscal years prior to the budget request year, the mix of positions filled by civilian contractors or government employees, the number of conversions expected to occur in the budget year, the mix of civilian contractors and government employees expected to be hired, and a detailed explanation of the cost estimates used in developing the budget request.

Reprogramming and Reporting Guidance for Facilities Sustainment, Restoration and Modernization

The conferees direct the Department of Defense to provide budget execution data for Facilities Sustainment, Restoration and Modernization funding to the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives and the Subcommittee on Defense of the Committee on Appropriations of the Senate. Such budget execution data shall be provided through the DD-COMP(M) 1002 accounting form and delivered no later than forty-five days past the close of each quarter for the fiscal year. The Operation and Maintenance, Defense-Wide account does not provide budget line item data for Facilities Sustainment, Restoration and Modernization; therefore, the Department is directed to provide comparable DD-COMP(M) 1002 detail when submitting quarterly execution data.

The conferees further direct the Department to distinctly identify Facilities Sustainment, Restoration and Modernization funding on all prior approval reprogramming requests (Form 1415) submitted to the Congress. All prior approval reprogramming requests affecting the Facilities Sustainment, Restoration and Modernization funding should be submitted to the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives and the Subcommittee on Defense of the Committee on Appropriations of the Senate.

OPERATION AND MAINTENANCE, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
100 OPERATION AND MAINTENANCE, ARMY				
150 BUDGET ACTIVITY 1: OPERATING FORCES				
200 LAND FORCES				
250 DIVISIONS	866,129	880,029	866,129	871,869
300 CORPS COMBAT FORCES	430,353	430,353	430,353	433,753
350 CORPS SUPPORT FORCES	351,673	351,673	351,673	351,673
400 ECHELON ABOVE CORPS SUPPORT FORCES	951,681	848,681	848,681	848,681
450 LAND FORCES OPERATIONS SUPPORT	1,260,976	1,254,476	1,264,476	1,260,456
500 LAND FORCES READINESS				
550 FORCE READINESS OPERATIONS SUPPORT	1,870,382	1,847,382	1,894,282	1,867,682
600 LAND FORCES SYSTEMS READINESS	615,063	532,063	606,863	543,653
650 LAND FORCES DEPOT MAINTENANCE	1,229,926	1,016,926	886,126	886,126
700 LAND FORCES READINESS SUPPORT				
750 BASE OPERATIONS SUPPORT	5,347,826	5,338,826	5,352,476	5,351,476
800 FAC SUSTAINMENT, RESTORATION & MOD (OP FORCES)	1,825,518	1,850,518	1,843,518	1,851,118
850 MANAGEMENT & OPERATIONAL HEADQUARTERS	220,288	210,288	220,288	215,288
900 UNIFIED COMMANDS	102,343	102,343	102,343	102,343
950 MISCELLANEOUS ACTIVITIES	230,202	230,202	232,202	231,202
1045 TOTAL, BUDGET ACTIVITY 1	15,302,360	14,893,760	14,899,410	14,815,320
1050 BUDGET ACTIVITY 2: MOBILIZATION				
1100 MOBILITY OPERATIONS				
1200 STRATEGIC MOBILIZATION	248,241	248,241	254,241	251,241
1250 ARMY PREPOSITIONED STOCKS	99,917	99,917	99,917	99,917
1300 INDUSTRIAL PREPAREDNESS	8,833	13,783	16,833	15,833
1350 TOTAL, BUDGET ACTIVITY 2	356,991	361,941	370,991	366,991

	(In thousands of dollars)			
	Budget	House	Senate	Conference
1400 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
1450 ACCESSION TRAINING				
1500 OFFICER ACQUISITION	103,722	103,722	103,722	98,722
1550 RECRUIT TRAINING	32,125	32,125	32,125	32,125
1600 ONE STATION UNIT TRAINING	36,538	36,538	36,538	36,538
1650 SENIOR RESERVE OFFICERS' TRAINING CORPS	270,351	272,351	272,351	273,551
1800 BASIC SKILL/ ADVANCE TRAINING				
1850 SPECIALIZED SKILL TRAINING	510,526	519,826	520,676	525,381
1900 FLIGHT TRAINING	635,105	637,105	635,105	635,105
1950 PROFESSIONAL DEVELOPMENT EDUCATION	114,854	114,854	114,854	115,854
2000 TRAINING SUPPORT	668,981	661,681	670,981	662,781
2150 RECRUITING/OTHER TRAINING				
2200 RECRUITING AND ADVERTISING	481,868	481,868	481,868	481,868
2250 EXAMINING	121,937	121,937	121,937	121,937
2300 OFF-DUTY AND VOLUNTARY EDUCATION	262,410	263,410	262,410	265,810
2350 CIVILIAN EDUCATION AND TRAINING	154,232	122,232	122,232	122,232
2400 JUNIOR RESERVE OFFICERS' TRAINING CORPS	141,416	141,516	141,416	141,516
2500 TOTAL, BUDGET ACTIVITY 3	3,534,065	3,509,165	3,516,215	3,513,420

	(In thousands of dollars)			
	Budget	House	Senate	Conference
2550 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
2600 SECURITY PROGRAMS				
2650 SECURITY PROGRAMS	919,796	940,796	941,196	944,036
2700 LOGISTICS OPERATIONS				
2750 SERVICEWIDE TRANSPORTATION	581,060	513,060	581,060	513,060
2800 CENTRAL SUPPLY ACTIVITIES	570,178	460,278	570,178	459,448
2850 LOGISTICS SUPPORT ACTIVITIES	389,696	400,696	387,396	402,196
2900 AMMUNITION MANAGEMENT	354,162	354,162	354,162	354,162
2950 SERVICEWIDE SUPPORT				
3000 ADMINISTRATION	606,588	606,588	590,088	591,088
3050 SERVICEWIDE COMMUNICATIONS	850,053	839,053	825,153	839,053
3100 MANPOWER MANAGEMENT	238,344	238,344	238,344	238,344
3150 OTHER PERSONNEL SUPPORT	189,720	189,720	189,720	189,720
3200 OTHER SERVICE SUPPORT	850,059	850,959	850,059	850,959
3250 ARMY CLAIMS	197,361	197,361	197,361	197,361
3300 REAL ESTATE MANAGEMENT	45,451	45,451	45,451	45,451
3550 SUPPORT OF OTHER NATIONS				
3600 INTERNATIONAL MILITARY HEADQUARTERS	289,447	289,447	289,447	289,447
3650 MISC. SUPPORT OF OTHER NATIONS	41,264	43,764	41,264	42,514
3700 TOTAL, BUDGET ACTIVITY 4	6,123,179	5,969,679	6,100,879	5,956,839
3715 WCF EXCESS CARRYOVER	---	---	-94,700	-94,700
3730 REPAIRS AT FT. BAKER	---	2,500	---	2,000
4100 ADMINISTRATION AND SERVICEWIDE ACTIVITIES	---	-8,400	---	-8,400
4110 CIVILIAN PAY OVERSTATEMENT	---	-17,000	-17,000	-17,000
4130 MILITARY TO CIVILIAN CONVERSIONS	---	-78,400	-47,000	-47,000
4139 UNOBLIGATED BALANCES	---	-100,000	-85,000	-92,000
4140 PEACE TIME TRAINING OFFSET	---	-250,000	---	-250,000
4145 AUDITS OF DOD FINANCIAL STATEMENTS	---	---	-45,000	-28,000
4150 DEFENSE INFORMATION SYSTEM NETWORK COSTS	---	---	-25,000	-12,500
4160 ARCTIC WINTER GAMES	---	---	---	500
4180 TOTAL, OPERATION AND MAINTENANCE, ARMY	25,316,595	24,283,245	24,573,795	24,105,470

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces	
250 Leakproof Transmission Drip Pans	2,620
250 Modular General Purpose Tent System (MGPTS)	2,620
250 Lightweight Maintenance Enclosure	500
250 Small All-Terrain Military Utility Vehicle (M-Gator)	(title IX)
300 Tactical Operations Centers (ELAMS/MECCS) for USASOC	3.400
400 RFI Sustainment Peace Time Offset	
450 Efficiencies in Administrative and Support Activities	-5,000
450 Contractor Logistics Support Unjustified Growth	-7,000
450 USARPAC Core Warfighting C4 Network Infrastructure	11.480
550 Unjustified Growth in Operations Support Costs	-20,000
550 Cognitive Air Defense Simulators (CADS)	1,500
550 Fleece Insulated Liners for ECWCS	4,000
550 Grenade Range Improvements at Fort Knox	1,000
550 Rx-Capable Dual Sized Ballistic Protective Eyewear Protection System	4.200
550 Battle Command Training Capability	3,900
550 USARPAC Deployable C4 Systems	1,700
550 Chem/Bio Resistant Hydration on the Move (from line 250)	1,000
600 Peace Time Systems Readiness Support Offset	-83,000
600 Corrosion Prevention and Control Program	1,000
600 Golden Hour Technology Containers	5,000
600 Alaska Land Mobile Radio (ALMR)	3,400
600 Ground Forces Readiness Enabler for Advanced Tactical Vehicles	1,000
600 USARPAC GCCS Operations	1.190
650 Remanufactured Generator Engines	1,000
650 Depot Maintenance Peace Time Work Load Adjustment	-344,800
750 Unsupported Growth in Utilities Privatization	-15,000
750 High Performance Conflict Resolution, Skill Development, and Team Building	1,700
750 Service-Wide Safety: Breathscan Alcohol Detectors	3,400
750 Strengthening the Quality of Life for Military Families	650
750 Army Conservation and Ecosystem Management	4,000
750 Fort Wainwright Utilidor Repairs	8,500
750 Lewis Educational Area at Fort Lewis, WA	400
800 Undistributed Increase for SRM	20,000
800 Roof for Building 299 Rock Island Arsenal	5,600
850 Unjustified Growth in Management Headquarters	-5,000
950 Streamlined Assistance to the Severely Wounded	1,000
Budget Activity 2: Mobilization	
1200 Quadruple Specialty Containers	3,000
1300 Rock Island Arsenal Industrial Mobilization Capacity	7,000
Budget Activity 3: Training and Recruiting	
1500 Unjustified Growth in Library Cost (From line 2850)	-5.000
1650 Early Commissioning Program at Military Junior Colleges	1.200
1650 Air Battle Captain	2,000
1850 Global Language Online Support System (GLOSS)	1.680
1850 On-Line Automated Diagnostic Assessment of Language Proficiency	1.000
1850 DLI—Language Laboratory Acquisition	2.125
1850 Military Police Training at the Multi-Jurisdictional Counter-Drug Task Force Training (MCTFT)	1,000
1850 Virtual Interactive Training and Assessment System (VITAS)	1.700
1850 Joint Air Defender Simulation at Fort Bliss	2.100
1850 Language Acquisition Program for Army Officers	150
1850 Military Surgeon Training Initiative for Special Operations Combat Medic Training Program	2.000
1850 Multipurpose Law Enforcement Academy for Military Police	1.000
1850 Satellite Communications for Learning	2.100
1950 Leadership for Leaders at CGSC/CAL and KSU	1,000
2000 Training Doctrine Development Unsupported Growth	-11.300
2000 Automated Delivery of the DLAB and Research on the Next Generation Aptitude Test	1,000
2000 Live Training Instrumentation for Air & Missile Defense Units	2.100
2000 Crossroad Cluster Communities at Fort Knox	1.000
2000 Army Distributed Learning System	1,000
2300 Mobilizing Educational Technology to Support Combat Deployment	1,000
2300 USARAK Online Technology Training Program	1,000
2300 On-line Technology Training Program at Joint Base Lewis/McChord	.1,400
2350 Intern Program Unsupported Growth	-32,000
2400 Philadelphia Military Academies	100
Budget Activity 4: Administration and Service-Wide Activities	
2650 Adjustment to Classified Program	22,090
2650 Unattended Ground Sensors	1,400
2650 Biometrics Identity System for Access	750
2750 Peace time offset for Depot Maintenance Transportation, Port Operations, and Traffic Management Support	-68.000
2800 Sustainment System Technical Support Peace Time Offset	-116,000
2800 Pulse Technology—Army Battery Management Program	2.520
2800 Advanced Technology Batteries	1,750
2800 Aviation/Missile Life Cycle Management Command Integrated Digital Environment Pilot Program	1,000
2850 Common Logistics Operating Environment	1,800
2850 Sense and Respond Logistics	1,200
2850 TACOM Life Cycle Management Command Integrated Digital Environment Pilot Program	1,000
2850 Joint US Army and USMC Autonomic Logistics Prototype	1,000
2850 Controlled Humidity Preservation Program, Soft Portable Tunnels	1,000
2850 Information Assurance Vulnerability Alert (IAVA) Cell	1.500
2850 Standard Army Maintenance System-Enhanced	5.000
3000 Jam Resistant Secure Communications (Transfer to OPA)	-16.500
3000 Salute Our Services/Kids Serve 2	1.000
3050 Communications Unsupported Growth	-11,000
3200 Memorial Day	900
3650 Western Hemisphere Information Exchange Program	1.250
Undistributed:	
3715 Working Capital Fund Excess Carryover	-94.700
3730 Repairs at Fort Baker	2,000
4100 Administration and Service-Wide Activities	-8,400
4110 Civilian Pay Overstatement	-17,000

4130 Military to Civilian Conversions	−47,000
4139 Unobligated Balances	−92,000
4140 Peace Time Training Offset	−250,000
4145 Audit of DoD Financial Systems	−28,000
4150 Defense Information System Network Costs	−12,500
4160 Arctic Winter Games	500

INDUSTRIAL MOBILIZATION CAPACITY

The conferees recognize the critical importance of the Industrial Mobilization Capacity program for offsetting costs to maintain wartime capabilities at Department of Defense depots, arsenals, and ammunition plants. The conferees recommend an additional $7,000,000 for this program at Rock Island Arsenal. The amount provided is in addition to $8,962,000 currently budgeted for Industrial Mobilization Capacity at Rock Island Arsenal. The conferees understand the requirement for Industrial Mobilization Capacity funding may decline during fiscal year 2006 due to increased workloads attributable to ongoing contingency operations. The conferees direct that any Industrial Mobilization Capacity funding designated for Rock Island Arsenal that is not required for its intended purpose be used for other activities or projects which will create efficiencies or improve operations and work conditions at the Arsenal.

OPERATION AND MAINTENANCE, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
4250 OPERATION AND MAINTENANCE, NAVY				
4300 BUDGET ACTIVITY 1: OPERATING FORCES				
4350 AIR OPERATIONS				
4400 MISSION AND OTHER FLIGHT OPERATIONS	3,574,529	3,574,529	3,574,529	3,574,529
4450 FLEET AIR TRAINING	857,918	857,918	857,918	857,918
4500 INTERMEDIATE MAINTENANCE	58,661	58,661	58,661	58,661
4550 AIR OPERATIONS AND SAFETY SUPPORT	114,331	114,331	114,331	114,331
4560 AIR SYSTEMS SUPPORT	473,514	480,514	467,514	472,714
4600 AIRCRAFT DEPOT MAINTENANCE:	961,921	961,921	913,221	913,221
4650 AIRCRAFT DEPOT OPERATIONS SUPPORT	124,133	111,883	106,833	108,558
4800 SHIP OPERATIONS				
4850 MISSION AND OTHER SHIP OPERATIONS	2,999,986	3,002,786	2,993,786	3,014,986
4900 SHIP OPERATIONAL SUPPORT AND TRAINING	588,395	588,395	588,395	588,395
5000 SHIP DEPOT MAINTENANCE	3,967,408	3,967,408	3,967,408	3,967,408
5050 SHIP DEPOT OPERATIONS SUPPORT	833,251	834,751	829,951	831,001
5200 COMBAT OPERATIONS/SUPPORT				
5250 COMBAT COMMUNICATIONS	298,100	298,100	298,100	298,100
5300 ELECTRONIC WARFARE	18,422	18,422	18,422	18,422
5350 SPACE SYSTEMS & SURVEILLANCE	156,814	156,814	156,814	156,814
5400 WARFARE TACTICS	367,830	353,830	367,830	362,830
5450 OPERATIONAL METEOROLOGY & OCEANOGRAPHY	259,807	259,807	264,107	263,807
5500 COMBAT SUPPORT FORCES	1,321,953	1,308,953	1,306,953	1,306,953
5550 EQUIPMENT MAINTENANCE	172,958	173,958	172,958	173,458
5600 DEPOT OPERATIONS SUPPORT	3,703	3,703	9,703	7,203
5750 WEAPONS SUPPORT				
5800 CRUISE MISSILE	181,294	181,294	181,294	181,294
5850 FLEET BALLISTIC MISSILE	830,094	830,094	830,094	830,094
5900 IN-SERVICE WEAPONS SYSTEMS SUPPORT	69,722	51,922	69,722	51,922
5950 WEAPONS MAINTENANCE	473,584	473,584	478,384	476,084

	(In thousands of dollars)			
	Budget	House	Senate	Conference
6200 BASE SUPPORT				
6210 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	1,344,971	1,344,971	1,344,971	1,344,971
6220 BASE SUPPORT	3,417,244	3,379,194	3,386,544	3,361,589
6230 TOTAL, BUDGET ACTIVITY 1	23,470,543	23,387,743	23,358,443	23,335,263
6250 BUDGET ACTIVITY 2: MOBILIZATION				
6300 READY RESERVE AND PREPOSITIONING FORCES				
6350 SHIP PREPOSITIONING AND SURGE	533,527	533,527	533,527	533,527
6400 ACTIVATIONS/INACTIVATIONS				
6450 AIRCRAFT ACTIVATIONS/INACTIVATIONS	3,158	3,158	3,158	3,158
6500 SHIP ACTIVATIONS/INACTIVATIONS	125,629	125,629	125,629	125,629
6550 MOBILIZATION PREPAREDNESS				
6600 FLEET HOSPITAL PROGRAM	28,245	28,245	28,245	28,245
6650 INDUSTRIAL READINESS	1,653	1,653	1,653	1,653
6700 COAST GUARD SUPPORT	19,879	19,879	19,879	19,879
6750 TOTAL, BUDGET ACTIVITY 2	712,091	712,091	712,091	712,091
6800 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
6850 ACCESSION TRAINING				
6900 OFFICER ACQUISITION	123,975	123,975	123,975	123,975
6950 RECRUIT TRAINING	10,153	10,153	10,153	10,153
7000 RESERVE OFFICERS TRAINING CORPS	103,539	103,539	103,539	103,539
7150 BASIC SKILLS AND ADVANCED TRAINING				
7200 SPECIALIZED SKILL TRAINING	494,195	495,195	492,195	493,195
7250 FLIGHT TRAINING	364,692	364,692	364,692	364,692
7300 PROFESSIONAL DEVELOPMENT EDUCATION	134,935	140,935	134,935	139,935
7350 TRAINING SUPPORT	243,596	243,596	244,596	244,596
7500 RECRUITING, AND OTHER TRAINING AND EDUCATION				
7550 RECRUITING AND ADVERTISING	282,293	282,293	282,593	282,593
7600 OFF-DUTY AND VOLUNTARY EDUCATION	155,646	155,646	155,646	155,646
7650 CIVILIAN EDUCATION AND TRAINING	70,983	70,983	70,983	70,983
7700 JUNIOR ROTC	42,875	45,175	42,875	43,875
7850 TOTAL, BUDGET ACTIVITY 3	2,026,882	2,036,182	2,026,182	2,033,182

(In thousands of dollars)

	Budget	House	Senate	Conference
7900 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
7950 SERVICEWIDE SUPPORT				
8000 ADMINISTRATION	739,521	739,521	739,521	739,521
8050 EXTERNAL RELATIONS	3,517	3,517	3,517	3,517
8100 CIVILIAN MANPOWER & PERSONNEL MGT	100,751	100,751	100,751	100,751
8150 MILITARY MANPOWER & PERSONNEL MGT	212,813	212,813	212,813	212,813
8200 OTHER PERSONNEL SUPPORT	250,278	250,278	250,278	250,278
8250 SERVICEWIDE COMMUNICATIONS	773,261	773,261	748,261	758,261
8450 LOGISTICS OPERATIONS AND TECHNICAL SUPPORT				
8500 SERVICEWIDE TRANSPORTATION	188,257	188,257	188,257	188,257
8550 PLANNING, ENGINEERING & DESIGN	306,919	308,419	306,919	307,969
8600 ACQUISITION AND PROGRAM MANAGEMENT	841,706	842,706	841,706	842,706
8700 HULL, MECHANICAL & ELECTRICAL SUPPORT	46,373	48,373	46,373	47,773
8750 COMBAT/WEAPONS SYSTEMS	46,334	47,334	46,334	47,334
8800 SPACE & ELECTRONIC WARFARE SYSTEMS	75,132	75,132	75,132	75,132
8950 SECURITY PROGRAMS				
9000 SECURITY PROGRAMS	374,329	376,329	374,329	375,329
9150 SUPPORT OF OTHER NATIONS				
9200 INTERNATIONAL HDQTRS & AGENCIES	10,663	10,663	10,663	10,663
9210 OTHER PROGRAMS				
9220 OTHER PROGRAMS	580,519	597,619	590,194	599,843
9250 TOTAL, BUDGET ACTIVITY 4	4,550,373	4,574,973	4,535,048	4,560,147
9550 ADMINISTRATION AND SERVICEWIDE ACTIVITIES	---	-48,900	---	-48,900
9570 CIVILIAN PAY OVERSTATEMENT	---	-172,000	-172,000	-172,000
9580 MILITARY TO CIVILIAN CONVERSIONS	---	-76,300	-55,000	-55,000
9615 UNOBLIGATED BALANCES	---	-75,000	-54,000	-65,000
9620 PEACE TIME TRAINING OFFSET	---	-274,000	---	-274,000
9630 AUDITS OF DOD FINANCIAL STATEMENTS	---	---	-32,800	-30,400
9750 TOTAL, OPERATION AND MAINTENANCE, NAVY	30,759,889	30,064,789	30,317,964	29,995,383

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces	
4560 Knowledge Management and Decision Support System	3,500
4560 Automated Explosive Safety Assessment Tools	1,700
4560 Baseline Adjustment for One-Time Increase	-6,000
4600 P-3 SSI Sustainment	-16,700
4600 Depot Maintenance Peace Time Work Load Adjustment	-32,000
4650 Growth in Converged Enterprise Resource Planning	-7,500
4650 Converged Enterprise Resource Planning Transfer to RDTE,N)	-10,000
4650 Low Observability Coatings and Materials Maintenance Program (LOCMM)	1,200
4650 Naval Aviation Depot (NADEP) Support of the FRP	1,200
4650 Composite Repair Training Program	250
4650 CAT & RADCOM Test Program Sets	2,975
4650 NAVAIR Knowledge Management and Decision Support System	3,600
4650 Baseline Adjustment for One-Time Increase	-8,300
4650 Simulation Modeling Analytical Support Systems (SMASS) Naval Aviation Depot Jacksonville	1,000
4850 Man Overboard Safety System Installation	1,000
4850 NULKA (MK 234 Electronic Decoy Cartridge)	1,000
4850 Baseline Adjustment for One-Time Increase	-6,200
4850 SSBN Transit Protection System	19,200
5050 Improved Engineering Design Process	1,050
5050 Flame Contaminant Detection System	1,000
5050 Baseline Adjustment for One-Time Increase	-4,300
5400 Efficiencies in Training Support	-5,000
5450 Center of Excellence for Disaster Management and Humanitarian Assistance (COE)	4,000
5500 Training Support Unjustified Growth including JFCOM	-15,000
5550 Manual Reverse Osmosis Desalinator (MROD) Testing, Repair and Replacement	500
5600 Electric Start System Technology Upgrade	2,500
5600 Marine Gas Turbine Photonic Sensor	1,000
5900 Peace Time System Support Offset	-17,800
5950 Mk 45 Mod 5 Inch Gun Depot Overhauls	13,000
5950 Baseline Adjustment for One-Time Increase	-10,500
6220 Base Operating Support Unjustified Growth	-57,000
6220 Navy Region Northwest—Navy Shore Infrastructure Transformation (NSIT)	2,500
6220 Waterfree Urinal Conservation Initiative	1,000
6220 Toledo Shipyard Improvement Plan	4,000
6220 Service-Wide Safety: Breathscan Alcohol Detectors	1,920
6220 Navy Region Northwest Counterterrorism Program	2,000
6220 PMRF Flood Control	2,125
6220 Waste Water Treatment for NCTAMS	2,000
6220 Baseline Adjustment for One-Time Increase	-14,200
Budget Activity 3: Training and Recruiting	
7200 Virtual Interactive Training and Assessment System (VITAS)	1,000
7200 Baseline Adjustment for One-Time Increase	2,000
7300 Navy Advanced Education Demonstration Project	1,000
7300 Center for Defense Technology and Education for the Military Services (CDTEMS)	3,000
7300 Mobile Distance Learning	1,000
7350 Night Vision Devices in Advanced Helicopter Training	1,000
7550 Naval Sea Cadet Corps	300
7700 Westbury Unified School District Naval Junior ROTC Marine Science Research Program	1,000
Budget Activity 4: Administration and Service-Wide Activities	
8250 Defense Information System Network Costs	-15,000
8550 Stainless Steel Sanitary Space	1,050
8600 Critical Infrastructure Protection Program	1,000
8700 Diagnosis and Prognostication of Gas Turbine Problems	1,400
8750 Total Ship Test Production (TSTP) Program	1,000
9000 Local Situational Assessment Segment, NAS Lemoore	1,000
9220 Adjustment to Classified Program	19,324
Undistributed:	
9550 Administration and Service-wide Activities	-48,900
9570 Civilian Pay Overstatement	-172,000
9580 Military to Civilian Conversion	-55,000
9615 Unobligated Balances	-65,000
9620 Peace Time Training Offset	-274,000
9630 Audit of DoD Financial Systems	-30,400

REACTION FORCE FACILITY BERTHING, KINGS BAY, GEORGIA

The conferees urge the Navy to fully fund and execute needed repairs to temporary berthing facilities for Marines on watch standing duty at the Strategic Weapons Facility Atlantic, and expect the Navy to complete the ongoing renovation of Marine permanent barracks in Building 1061.

OPERATION AND MAINTENANCE, MARINE CORPS

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
9900 OPERATION AND MAINTENANCE, MARINE CORPS				
9950 BUDGET ACTIVITY 1: OPERATING FORCES				
10000 EXPEDITIONARY FORCES				
10050 OPERATIONAL FORCES	479,482	492,082	500,782	497,692
10100 FIELD LOGISTICS	416,501	420,501	415,501	417,901
10150 DEPOT MAINTENANCE	113,791	113,791	90,791	90,791
10160 USMC PREPOSITIONING				
10170 MARITIME PREPOSITIONING	69,343	70,843	69,343	70,393
10180 NORWAY PREPOSITIONING	5,081	5,081	5,081	5,081
10250 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	483,005	483,005	483,005	483,005
10260 BASE SUPPORT	1,344,113	1,364,113	1,350,213	1,366,133
10450 TOTAL, BUDGET ACTIVITY 1	2,911,316	2,949,416	2,914,716	2,930,996
10500 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
10550 ACCESSION TRAINING				
10600 RECRUIT TRAINING	10,885	10,885	10,885	10,885
10650 OFFICER ACQUISITION	374	374	374	374
10800 BASIC SKILLS AND ADVANCED TRAINING				
10850 SPECIALIZED SKILLS TRAINING	40,259	40,259	40,259	40,259
10900 FLIGHT TRAINING	178	178	178	178
10950 PROFESSIONAL DEVELOPMENT EDUCATION	10,687	10,687	10,687	10,687
11000 TRAINING SUPPORT	134,048	134,048	134,048	134,048

(In thousands of dollars)

	Budget	House	Senate	Conference
11150 RECRUITING AND OTHER TRAINING EDUCATION				
11200 RECRUITING AND ADVERTISING	115,498	115,498	115,498	115,498
11250 OFF-DUTY AND VOLUNTARY EDUCATION	51,221	51,221	51,221	51,221
11300 JUNIOR ROTC	16,905	16,905	16,905	16,905
11320 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	67,804	67,804	67,804	67,804
11350 BASE SUPPORT	120,369	120,369	120,369	120,369
11450 TOTAL, BUDGET ACTIVITY 3	568,228	568,228	568,228	568,228
11500 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
11550 SERVICEWIDE SUPPORT				
11650 SPECIAL SUPPORT	243,195	243,195	240,795	238,995
11700 SERVICEWIDE TRANSPORTATION	38,352	38,352	38,352	38,352
11750 ADMINISTRATION	27,737	27,737	27,737	27,737
11850 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	3,151	3,151	3,151	3,151
11860 BASE OPERATING SUPPORT	12,947	12,947	12,947	13,697
11900 TOTAL, BUDGET ACTIVITY 4	325,382	325,382	322,982	321,932
12060 MILITARY TO CIVILIAN CONVERSIONS	---	-59,400	-20,000	-20,000
12070 UNOBLIGATED BALANCES	---	-10,000	-5,000	-10,000
12080 PEACE TIME TRAINING OFFSET	---	-95,900	---	-95,900
12300 TOTAL, OPERATION AND MAINTENANCE, MARINE CORPS	3,804,926	3,677,726	3,780,926	3,695,256

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces	
10050 Acclimate High Performance Undergarments	2,000
10050 Extended Cold Weather Clothing System	
10050 Modular General Purpose Tent System (MGPTS)	3,160
10050 Chem/Bio Resistant Hydration on the Move	1,000
10050 All Purpose Environmental Clothing System (APECS)	5,600
10050 Cold Weather Clothing and Equipment Program Marine Corps Base Layer	2,000
10050 Combat Casualty Care Equipment Upgrade	2,000
10050 Integrated Clothing Component for Mountain Cold Weather Clothing and Equipment Program (MCWCEP)	2,100
10050 Marine Advanced Combat Suit Base Layer—Next to Skin Seamless Battle Apparel	1,750
10050 Marine Corps Contact Glove	1,800
10050 MIOX On-the-Move Individual Water Purification System	4,000
10050 MCCDC Analysis and Requirements Development Center of Excellence Excess Growth	−8,700
10100 Unjustified Growth in Administrative Support	−2,500
10100 Lightweight Maintenance Enclosure	1,250
10100 Ultra Lightweight Camouflage Net System (ULCANS)	2,000
10100 Advanced Technology Batteries	1,750
10100 Corrosion Assessment Teams	1,400
10100 Corrosion Prevention and Control Program	1,000
10100 Rapid Data Management System (RDMS)	3,500
10100 Unjustified Growth in Logistics Support	−7,000
10150 Depot Maintenance Peace Time Work Load Adjustment	−23,000
10170 Advanced Vapor Corrosion Inhibitor Delivery System	1,050
10200 Defense Motor Vehicle Safety Demonstration Program	1,000
10200 MAGTFTC Range Transformation Initiative	16,150
10200 Communications Upgrade MBH	3,400
10200 Communications Support for NOC	1,470
Budget Activity 4: Administration and Service-Wide Activities	
11650 Audit of DoD Financial Systems	−2,000
11650 Deployable Disbursing System (Transfer to RDTE,N)	−2,200
11860 Blunt Island Security	750
Undistributed:	
12060 Military to Civilian Conversions	−20,000
12070 Unobligated Balances	−10,000
12080 Peace Time Training Offset	−95,900

OPERATION AND MAINTENANCE, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
12450 OPERATION AND MAINTENANCE, AIR FORCE				
12500 BUDGET ACTIVITY 1: OPERATING FORCES				
12550 AIR OPERATIONS				
12600 PRIMARY COMBAT FORCES	4,043,366	4,056,966	4,044,216	4,049,141
12650 PRIMARY COMBAT WEAPONS	287,173	287,173	283,673	283,673
12700 COMBAT ENHANCEMENT FORCES	607,049	521,949	522,049	522,049
12750 AIR OPERATIONS TRAINING	1,401,092	1,360,092	1,380,092	1,377,792
12755 COMBAT COMMUNICATIONS	1,479,650	1,484,650	1,455,750	1,460,750
12775 DEPOT MAINTENANCE	2,057,399	2,057,399	1,915,399	1,911,799
12810 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	1,027,414	1,057,414	1,070,114	1,057,414
12850 BASE SUPPORT	2,286,473	2,206,073	2,196,573	2,210,073
12950 COMBAT RELATED OPERATIONS				
13000 GLOBAL C3I AND EARLY WARNING	1,201,149	1,187,649	1,201,149	1,187,649
13050 NAVIGATION/WEATHER SUPPORT	242,433	244,433	239,833	241,533
13100 OTHER COMBAT OPS SUPPORT PROGRAMS	701,889	703,889	697,389	698,639
13150 JCS EXERCISES	29,130	29,130	29,130	29,130
13200 MANAGEMENT/OPERATIONAL HEADQUARTERS	255,866	255,866	255,866	255,866
13250 TACTICAL INTEL AND OTHER SPECIAL ACTIVITIES	340,755	340,755	340,755	340,755
13300 SPACE OPERATIONS				
13350 LAUNCH FACILITIES	349,313	349,313	337,413	337,413
13400 LAUNCH VEHICLES	94,113	97,613	94,113	97,088
13450 SPACE CONTROL SYSTEMS	253,670	253,670	253,670	253,670
13500 SATELLITE SYSTEMS	73,610	73,610	73,610	73,610
13550 OTHER SPACE OPERATIONS	277,926	277,926	277,926	277,926
13560 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	180,604	180,604	180,604	180,604
13600 BASE SUPPORT	554,727	554,727	556,727	555,727
13700 TOTAL, BUDGET ACTIVITY 1	17,744,801	17,580,901	17,406,051	17,402,301

	(In thousands of dollars)			
	Budget	House	Senate	Conference
13750 BUDGET ACTIVITY 2: MOBILIZATION				
13800 MOBILITY OPERATIONS				
13850 AIRLIFT OPERATIONS	2,660,080	2,661,080	2,681,080	2,678,930
13900 AIRLIFT OPERATIONS C3I	51,326	51,326	51,326	51,326
13950 MOBILIZATION PREPAREDNESS	176,764	176,764	176,764	176,764
13975 DEPOT MAINTENANCE	393,248	393,248	393,248	393,248
14000 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	154,650	154,650	154,650	154,650
14050 BASE SUPPORT	526,338	526,338	526,338	526,338
14150 TOTAL, BUDGET ACTIVITY 2	3,962,406	3,963,406	3,983,406	3,981,256
14200 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
14250 ACCESSION TRAINING				
14300 OFFICER ACQUISITION	79,026	79,026	79,026	79,026
14350 RECRUIT TRAINING	6,411	6,411	6,411	6,411
14400 RESERVE OFFICER TRAINING CORPS (ROTC)	99,856	99,856	99,856	99,856
14420 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	34,304	34,304	34,304	34,304
14450 BASE SUPPORT (ACADEMIES ONLY)	75,128	75,128	75,128	75,128
14550 BASIC SKILLS AND ADVANCED TRAINING				
14600 SPECIALIZED SKILL TRAINING	360,192	349,692	360,192	349,692
14650 FLIGHT TRAINING	809,154	809,154	809,154	809,154
14700 PROFESSIONAL DEVELOPMENT EDUCATION	178,515	171,515	178,515	173,515
14750 TRAINING SUPPORT	112,980	122,180	112,980	119,930
14775 DEPOT MAINTENANCE	14,095	14,095	14,095	14,095
14780 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	157,248	157,248	157,248	157,248
14800 BASE SUPPORT (OTHER TRAINING)	588,784	581,784	588,784	583,784
14900 RECRUITING, AND OTHER TRAINING AND EDUCATION				
14950 RECRUITING AND ADVERTISING	136,567	136,567	136,567	136,567
15000 EXAMINING	3,435	3,435	3,435	3,435
15050 OFF DUTY AND VOLUNTARY EDUCATION	187,656	180,656	187,656	180,656
15100 CIVILIAN EDUCATION AND TRAINING	148,557	154,557	144,557	147,257
15150 JUNIOR ROTC	57,573	57,573	57,573	57,573
15200 TOTAL, BUDGET ACTIVITY 3	3,049,481	3,033,181	3,045,481	3,027,631

(In thousands of dollars)

	Budget	House	Senate	Conference
15250 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
15300 LOGISTICS OPERATIONS				
15350 LOGISTICS OPERATIONS	881,829	887,429	885,829	888,429
15400 TECHNICAL SUPPORT ACTIVITIES	651,796	656,796	652,796	656,746
15450 SERVICEWIDE TRANSPORTATION	192,354	192,354	192,354	192,354
15475 DEPOT MAINTENANCE	48,627	48,627	48,627	48,627
15480 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	248,043	248,043	248,043	248,043
15500 BASE SUPPORT	1,079,261	1,079,261	1,079,261	1,079,261
15600 SERVICEWIDE ACTIVITIES				
15650 ADMINISTRATION	348,301	348,301	348,301	348,301
15700 SERVICEWIDE COMMUNICATIONS	533,574	533,574	508,574	513,574
15750 PERSONNEL PROGRAMS	244,970	244,970	244,970	244,970
15900 ARMS CONTROL	48,071	48,071	48,071	48,071
15950 OTHER SERVICEWIDE ACTIVITIES	709,368	715,368	700,868	705,468
16000 OTHER PERSONNEL SUPPORT	42,852	44,352	42,852	43,902
16050 CIVIL AIR PATROL CORPORATION	24,288	24,376	24,288	24,288
16060 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	13,438	13,438	13,438	13,438
16100 BASE SUPPORT	311,498	314,998	311,498	314,698
16200 SECURITY PROGRAMS				
16250 SECURITY PROGRAMS	1,365,179	1,355,929	1,363,679	1,352,979
16300 SUPPORT TO OTHER NATIONS				
16350 INTERNATIONAL SUPPORT	20,999	20,999	20,999	20,999
16400 TOTAL, BUDGET ACTIVITY 4	6,764,448	6,776,886	6,734,448	6,744,148
16630 UNOBLIGATED BALANCES	---	-70,000	-66,000	-68,000
16710 ADMINISTRATION AND SERVICEWIDE ACTIVITIES	---	-130,600	---	-100,000
16780 MILITARY TO CIVILIAN CONVERSIONS	---	-172,700	-160,000	-160,000
16808 PEACE TIME TRAINING OFFSET	---	-476,000	---	-476,000
16855 HOMELAND DEFENSE EDUCATION CONSORTIUM	---	---	3,000	1,800
16865 AUDITS OF DOD FINANCIAL STATEMENTS	---	---	-55,000	-40,000
16910 TOTAL, OPERATION AND MAINTENANCE, AIR FORCE	31,521,136	30,505,074	30,891,386	30,313,136

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces	
12600 Maintain 52 F–117 Aircraft	9,400
12600 MBU–20/P Oxygen Mask and Visor	1,250
12600 B–52 Attrition Reserve	25,000
12600 F–15E Oxygen Concentrator Reliability Improvement Program	4,025
12600 Baseline Adjustment for One-Time Increase	-34,900
12600 Center of Excellence for Defense UAV Education	1,000
12650 Robust Nuclear Earth Penetrator Support	-3,500
12700 Peace Time Training Support Offset	-85,000
12750 Efficiencies in Air Operations Training Support	-41,000
12750 PARC Range Upgrade for Army/Air Force Integration (Phase III)	17,700
12755 Distributed Common Ground System (DCGS) Transfer From RDT&E	5,000
12755 National Airborne Operations Center	700
12755 Baseline Adjustment for One-Time Increase	-6,300
12755 Unjustified Growth in Contractor Logistics Support	-18,300
12775 Aircraft Defect Detection and Performance Management Application	1,000
12775 F–16 Avionics Intermediate Shop Depot Replacement	5,400
12775 Depot Maintenance Peace Time Work Load Adjustment	-152,000
12810 Undistributed Increase for FSRM	15,000
12810 Building 9480 Renovation (Phase II)	15,000
12850 Air Field Lighting System	1,200
12850 Expert Organizational Development System (EXODUS)	2,000
12850 11th Air Force Range Power and Fiber Upgrades	6,000
12850 Desktop Sustainment Architecture, Technology and Interoperability Division at Hickam AFB	1,400
12850 Baseline Adjustment for One-Time Increase	-17,900
12850 Base Services Excess Program Growth	-80,000
12850 Eielson Air Force Base Utilidor Repairs	8,500
12850 Alaska Land Mobile Radio (ALMR)	2,400
13000 Unsupported Growth in Support Costs	-13,500
13050 Notice to Airman (NOTAMS) Program Upgrade	1,700
13050 Baseline Adjustment for One-Time Increase	-2,600
13100 Enhanced Situational Awareness and Analyses for Geospatial Enterprise Infrastructure	1,700
12850 Baseline Adjustment for One-Time Increase	-8,500
13100 C–17 Beddown PACAF	2,550
13100 Contaminant Air Processing System	1,000
13350 Range Sustainment Engineering Excess Funding	-11,900
13400 Maintenance and Upkeep of Rocket Engine Test Stands at Edwards AFB	2,975
13600 Mission Critical Power System Reliability Surveys	1,000
Budget Activity 2: Mobilization	
13850 Emergency Vision Assurance System (EVAS) for the Total Force	1,000
13850 C–17 Beddown PACAF	17,850
Budget Activity 3: Training	
14600 Efficiencies in Specialized Skill Training Support Costs	-10,500
14700 Unsupported Growth in Professional Development Education	-5,000
14750 Engineering Training and Knowledge Preservation System	1,350
14750 Management Support for Air Force Battle Labs	5,100
14750 AFIT Geospatial Distance Learning	500
14750 Competency-Based Distance Education Initiative with Western Governors University	1,000
14750 Baseline Adjustment for One-Time Increase	-1,000
14800 Efficiencies in Base Support Contractor Operations	-5,000
15050 Unexecutable Growth in Off Duty, Voluntary Education	-7,000
15100 Online Technology Training Program Nellis AFB	1,000
15100 Online Technology Training Program Mac Dill AFB	1,700
15100 Baseline Adjustment for One-Time Increase	-4,000
Budget Activity 4: Administration and Service-Wide Activities	
15350 Center for Parts Configuration Management (CPCM)	1,400
15350 Air Operations Combat Support (AOCS)	1,800
13350 Hickam AFB Alternative Fuel Vehicle Program	3,400
15400 Expand Rapid Retargeting Training and Services at WRALC	2,400
15400 Engine Health Management Data Repository Center	2,550
15700 Defense Information System Network Costs	-20,000
15950 Air Force Manufacturing and Technical Assistance Production Program	1,200
15950 Air Force Data Conversion (only for AFRPA BRAC support)	3,400
15950 Baseline Adjustment for One-Time Increase	-8,500
16000 Demonstration Project for Contractors Employing Persons With Disabilities	1,050
16100 Air Force CIO Enterprise	1,000
16100 Service-Wide Safety: Breathscan Alcohol Detectors	1,700
16100 Wright Patterson AFB Critical Infrastructure Data Set Development	500
16250 Security Programs Adjustment	-12,200
Undistributed:	
16630 Unobligated Balances	-68,000
16710 Administration and Service-Wide Activities	-100,000
16780 Military to Civilian Conversions	-160,000
16808 Peace Time Training Offset	-476,000
16855 U.S. Northern Command Homeland Security Education Consortium	1,800
16865 Audit of DoD Financial Systems	-40,000.

F–117 NIGHTHAWK

The conferees provide an additional $9,400,000 to maintain 52 F–117 aircraft in fiscal year 2006. The conferees believe it is premature to retire any F–117 aircraft at this time. The F–117 provides a unique capability to the combatant commanders and remains the only tactical stealth aircraft capable of delivering certain types of precision munitions.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
16950 OPERATION AND MAINTENANCE, DEFENSE-WIDE				
17000 BUDGET ACTIVITY 1: OPERATING FORCES				
17050 JOINT CHIEFS OF STAFF	579,683	264,019	262,719	264,019
17060 FAC SUSTAINMENT, RESTORATION & MODERNIZATION	1,200	1,200	---	1,200
17100 SPECIAL OPERATIONS COMMAND	2,205,693	2,003,847	2,017,397	2,013,997
17150 TOTAL, BUDGET ACTIVITY 1	2,786,576	2,269,066	2,280,116	2,279,216
17200 BUDGET ACTIVITY 2: MOBILIZATION				
17250 DEFENSE LOGISTICS AGENCY	---	39,693	---	39,693
17350 BUDGET ACTIVITY 3: TRAINING AND RECRUITING				
17375 AMERICAN FORCES INFORMATION SERVICE	---	14,679	---	---
17460 DEFENSE ACQUISITION UNIVERSITY	105,601	105,601	105,601	105,601
17465 DEFENSE CONTRACT AUDIT AGENCY	---	5,605	---	---
17480 DEFENSE HUMAN RESOURCES ACTIVITY	---	32,726	---	39,726
17490 DEFENSE SECURITY SERVICE	---	7,543	---	---
17510 DEFENSE THREAT REDUCTION AGENCY	---	5,728	---	---
17600 SPECIAL OPERATIONS COMMAND	---	124,181	124,181	124,181
17610 NATIONAL DEFENSE UNIVERSITY	67,158	71,158	68,658	69,858
17650 TOTAL, BUDGET ACTIVITY 3	172,759	367,221	298,440	339,366
17700 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
17725 AMERICAN FORCES INFORMATION SERVICE	145,792	131,113	147,992	145,792
17730 FAC SUSTAINMENT, RESTORATION & MODERNIZATION	2,200	2,200	---	2,200
17750 CIVIL MILITARY PROGRAMS	100,468	102,968	116,468	114,968
17800 DEFENSE CONTRACT AUDIT AGENCY	379,947	374,342	379,947	379,947
17810 DEFENSE FINANCE AND ACCOUNTING SERVICE	5,481	5,481	5,481	5,481
17820 DEFENSE LEGAL SERVICES AGENCY	38,412	38,412	38,412	38,412
17830 DEFENSE LOGISTICS AGENCY	305,835	285,142	330,835	300,392
17850 DEFENSE POW /MISSING PERSONS OFFICE	16,105	16,105	16,105	16,105
17860 DEFENSE TECHNOLOGY SECURITY ADMINISTRATION	21,697	21,697	21,697	21,697
17870 DEFENSE THREAT REDUCTION AGENCY	320,099	314,371	320,099	320,099

	(In thousands of dollars) Budget	House	Senate	Conference
17880 DEPARTMENT OF DEFENSE DEPENDENTS EDUCATION	1,682,028	1,708,528	1,777,628	1,693,928
17890 FAC SUSTAINMENT, RESTORATION & MODERNIZATION	87,600	87,600	---	87,600
17900 DEFENSE HUMAN RESOURCES ACTIVITY	402,798	358,272	401,998	358,472
17910 DEFENSE CONTRACT MANAGEMENT AGENCY	1,040,422	1,040,422	1,044,322	1,040,422
17920 FAC SUSTAINMENT, RESTORATION & MODERNIZATION	3,900	3,900	---	3,900
17930 DEFENSE INFORMATION SYSTEMS (SERVICES) AGENCY	1,032,025	1,032,025	1,025,125	1,022,025
17940 FAC SUSTAINMENT, RESTORATION & MODERNIZATION	13,100	13,100	---	13,100
18025 DEFENSE SECURITY COOPERATION AGENCY	143,966	143,966	143,966	143,966
18050 DEFENSE SECURITY SERVICE	282,468	254,925	272,468	267,468
18100 OFFICE OF ECONOMIC ADJUSTMENT	30,463	77,613	140,863	164,318
18125 OFFICE OF THE SECRETARY OF DEFENSE	778,858	800,108	737,558	754,383
18150 SPECIAL OPERATIONS COMMAND	---	64,115	64,115	64,115
18200 JOINT CHIEFS OF STAFF	---	295,664	303,164	295,664
18225 WASHINGTON HEADQUARTERS SERVICES	466,083	451,683	467,583	456,183
18230 FAC SUSTAINMENT, RESTORATION & MODERNIZATION	7,400	7,400	---	7,400
18950 TOTAL, BUDGET ACTIVITY 4	7,307,147	7,631,152	7,755,826	7,718,037
19010 IMPACT AID	---	30,000	30,000	30,000
19015 IMPACT AID FOR CHILDREN WITH DISABILITIES	---	---	5,000	5,000
19020 OTHER PROGRAMS	8,186,987	8,144,784	8,160,836	8,115,404
19045 UNOBLIGATED BALANCES	---	-43,000	-26,000	-35,000
19080 SPECIAL ASSISTANCE TO LOCAL EDUCATION AGENCIES	---	---	10,000	7,000
19085 PARENTS AS TEACHERS	---	---	1,000	1,000
19090 CITIZEN SOLDIER SUPPORT PROGRAM	---	---	2,000	---
19110 PUBLIC INTEREST DECLASSIFICATION BOARD	---	---	---	1,000
19450 TOTAL, OPERATION AND MAINTENANCE, DEFENSE-WIDE	18,453,469	18,438,916	18,517,218	18,500,716

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces	
17050 TJS—CoCom Initiative Fund	-5,000
17050 TJS—Program Growth	-7,500
17050 TJS—BA, Realignment	-303,164
17100 SOCOM—Lightweight ATV Program	1,700
17100 SOCOM—Technology Transfer	1,000
17100 SOCOM—Depot Maintenance	-12,000
17100 SOCOM—C4IAS CERP	-6,400
17100 SOCOM—BA Realignment	-188,296
17100 SOCOM—Conversion of LTATV to JP8 Powered Engines	1,200
17100 SOCOM—Factory Refurbishment of Naval Special Warfare Rigid Inflatable Boats	1,000
17100 SOCOM—Advanced SEAL Delivery System (ASDS) Program Restructure	10,100
Budget Activity 2: Mobilization	
17200 DLA—BA Realignment	39,693
Budget Activity 3: Training and Recruiting	
17480 DHRA—BA Realignment	39,726
17600 SOCOM—BA Realignment	124,181
17610 NDU—Agent-based Predictive Analysis Using Subject Matter Expert Generated Data Sets	1,700
17610 NDU—Strategic Language Initiative	1,000
Budget Activity 4: Admin & Servicewide Activities	
17750 CMP—National Guard Youth Challenge Program	13,000
17750 CMP—Outdoor Odyssey	500
17750 CMP—DoD Starbase Program	1,000
17830 DLA—Procurement Technical Assistance Program	7,000
17830 DLA—Commercial Technologies for Maintenance Activities	10,200
17830 DLA—BA Realignment	-39,693
17830 DLA—PartNet/NET Inventory and Subassembly	1,800
17830 DLA—Center for Supply Chain Management	12,750
17830 DLA—Logistics Integration Center (LOGIC)	1,000
17830 DLA—Defense Microelectronics Activity (DMEA)	1,500
17880 DODEA—Lewis Center for Education Research	2,550
17880 DODEA—Jason Foundation	1,000
17880 DODEA—Center for the Study and Treatment of Dyslexia Professional Development Program	1,000
17880 DODEA—Mesorah Heritage Foundation English Literature Curriculum Development	1,000
17880 DODEA—Mathematics and Technology Teachers Development	1,000
17880 DODEA—IDEA International (Galena)	4,250
17880 DODEA—Repair and Improvement of Existing Windows and Doors	1,000
17880 DODEA—Our Military Kids, Inc	100
17900 DHRA—Defense Business Fellows Program	-4,800
17900 DHRA—BA Realignment	-39,726
17900 DHRA—DIMHRS	4,200
17900 DHRA—IMPACT JEMS (Job/Employment for Military Spouses)	1,000
17900 DHRA—DLAMP Program Growth	-5,000
17930 DISA—Program Growth	-10,000
18050 DSS—PSI for Industry Unjustified Growth	-15,000
18100 OEA—Norton AFB	4,250
18100 OEA—George AFB	2,550
18100 OEA—Rialto-Colton Basin Bio-Remediation Demonstration Project	1,250
18100 OEA—Port of Philadelphia	1,500
18100 OEA—Philadelphia Navy Yard	1,000
18100 OEA—Davis Island—Fort Slocum Remediation	5,000
18100 OEA—McClellan AFB Sewer Remediation	2,600
18100 OEA—Citizen Soldier Support Program	3,000
18100 OEA—Bayonne Military Ocean Terminal	4,000
18100 OEA—Port of Port Arthur Drydock Transfer	1,000
18100 OEA—Watervaliet Innovation Center	750
18100 OEA—Hunters Point Naval Shipyard	4,000
18100 OEA—JSFC Infrastructure	1,680
18100 OEA—Toledo Naval Weapons Plant Environmental Restoration	2,450
18100 OEA—Homestead Air Reserve Base Perimeter Improvement	600
18100 OEA—Telecommunication Upgrades at Kodiak Launch Complex	12,325
18100 OEA—UCHSC-DCH Fitzsimmons Medical Campus	1,800
18100 OEA—Port of Anchorage Intermodal Marine Facility Project	8,500
18100 OEA—Increase assistance to local communities	55,000
18100 OEA—Locomotives/Rail Cars to Support Deployment of Stryker Brigade	16,000
18100 OEA—Fort Wainwright Trak Relocation Study	2,000
18100 OEA—Arnold Heights Redevelopment	1,500
18100 OEA—Thorium/Magnesium Excavation—Blue Island	1,000
18100 OEA—Lake Ontario Ordnance Works	100
18125 OSD—Joint ROTC Military Leadership Project at the University of South Florida	3,825
18125 OSD—Wind Demonstration Project	4,250
18125 OSD—Chemical/Biological Resistant Hydration on the Move	1,000
18125 OSD—Foreign Disclosure On-Line Training, Education, and Certification	1,000
18125 OSD—Middle East Regional Security Issues Program	1,500
18125 OSD—National Defense Fiber Optic Network Program	1,000
18125 OSD—Minority Contract Enhancement Program	1,800
18125 OSD—Service-Wide Safety: Alcohol Breath Detectors	250
18125 OSD—Virtual Reality Spray Paint Simulator System and Training Program at Pine Technical College	1,000
18125 OSD—Focus on Family at Neumann College	500
18125 OSD—OSD Studies and Initiatives	-3,000
18125 OSD—Compatible Use Buffer Program	17,000
18125 OSD—Capital Cost Sharing	-61,300
18125 OSD—Information Assurance Scholarships	2,100
18125 OSD—Techlink Southeast Program	1,000
18125 OSD—Country Studies Series	500
18125 OSD—Beyond Goldwater Nichols Project Extension	1,100
18125 OSD—SSBN Transit Protection System	1,000
18125 OSD—Critical Language Training: San Diego State University	1,000
18150 SOCOM—BA Realignment	64,115
18200 TJS—Management Headquarters Program Growth	-7,500
18200 TJS—BA Realignment	303,164
18225 WHS—eGov Program Growth	-8,000
18225 WHS—Child Care Center planning: Budget Justification Error	-4,400
18225 WHS—Pentagon Integrated Campus Pilot Program	2,500
19010—Impact Aid	30,000
19015—Impact Aid For Children With Disabilities	5,000
19020—Other Programs	-71,583
19045—Excess Unobligated Balances	-35,000
19080—Special Assistance to Local Education Agencies	7,000
19085—Parents as Teachers	1,000
19100—Public Interest Declassification Board	1,000

SERVICE-WIDE SAFETY ALCOHOL BREATH DETECTORS

The conferees agree to provide $7,270,000 for service-wide alcohol breath detectors in operation and maintenance accounts. In addition to the guidance provided in House Report 109–19, the conferees direct that these detectors be FDA-cleared, be housed in unbreakable pocketsize containers, and be capable of carrying a Service's safety program imprint.

NATIONAL GUARD YOUTH CHALLENGE PROGRAM

The conferees provide an additional $13,000,000 for the National Guard Youth Challenge Program, which includes $1,700,000 only for preparation of facilities at Joint Forces Training Base Los Alamitos to expand the California National Guard Grizzly Program.

UNIQUE ITEM IDENTIFICATION

The conferees are encouraged by the promise of the Unique Item Identification (UID) program at the Department of Defense to make acquisition, repair, and deployment of items faster and more efficient through unique identification technologies. The conferees direct the Under Secretary for Defense for Acquisition, Technology & Logistics to provide a report to the Appropriations Committees no later than October 1, 2006 on the benefits and progress of UID efforts within DOD. The report should include goals for enhanced operations capabilities, support for the warfighter, and improved financial controls.

DEFENSE PRISONER OF WAR/MISSING PERSONNEL OFFICE

The conferees are aware that the Defense Prisoner of War/Missing Personnel Office

(DPMO) provides information and communication to families, veteran's organizations and the public on issues pertaining to personnel recovery and accounting for Americans from past conflicts. The conferees encourage this office to continue its outreach efforts, annual conferences, and meetings with the POW/Missing Personnel families to ensure those family members have updated information concerning the status of the recovery of their loved ones.

OPERATION AND MAINTENANCE, ARMY RESERVE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
19500 OPERATION AND MAINTENANCE, ARMY RESERVE				
19510 BUDGET ACTIVITY 1: OPERATING FORCES				
19520 LAND FORCES				
19530 DIVISION FORCES	25,875	25,875	25,975	25,375
19540 CORPS COMBAT FORCES	19,133	19,133	19,133	19,133
19550 CORPS SUPPORT FORCES	248,116	248,116	248,116	248,116
19560 ECHELON ABOVE CORPS FORCES	129,191	129,191	129,191	129,191
19570 LAND FORCES OPERATIONS SUPPORT	372,625	372,625	372,625	372,625
19630 LAND FORCES READINESS				
19640 FORCES READINESS OPERATIONS SUPPORT	177,121	177,121	177,121	177,121
19650 LAND FORCES SYSTEM READINESS	81,562	81,562	81,562	81,562
19660 DEPOT MAINTENANCE	97,309	97,309	97,309	97,309
19670 LAND FORCES READINESS SUPPORT				
19680 BASE SUPPORT	462,716	482,716	463,216	473,216
19690 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	204,370	204,370	204,370	204,370
19700 ADDITIONAL ACTIVITIES	5,763	5,763	5,763	5,763
19900 TOTAL, BUDGET ACTIVITY 1	1,823,781	1,843,781	1,824,381	1,833,781
19950 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
19960 ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
19980 ADMINISTRATION	58,298	58,298	58,298	58,298
19990 SERVICEWIDE COMMUNICATIONS	9,293	9,293	9,293	9,293
20000 PERSONNEL/FINANCIAL ADMIN (MANPOWER MGT)	7,577	7,577	7,577	7,577
20010 RECRUITING AND ADVERTISING	88,433	88,433	88,433	88,433
20075 TOTAL, BUDGET ACTIVITY 4	163,601	163,601	163,601	163,601
20220 UNOBLIGATED BALANCES	---	-17,800	-11,500	-17,800
20225 COST AVOIDANCE FOR MOBILIZED MILTECHS	---	---	-20,000	-10,000
20230 US ARMY RESERVE IT CONSOLIDATION	---	2,000	---	400
20231 TACTICAL OPERATIONS CENTER (ELAMS/MECCS)	---	4,000	---	3,400
20700 TOTAL, OPERATION AND MAINTENANCE, ARMY RESERVE	1,987,382	1,995,582	1,956,482	1,973,382

ADJUSTMENT TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
19530 Division Forces/Entended Cold Weather Clothing System (ECWCS)	1,400
19530 Division Forces/Cost Adjustment for Flying Hours	−1,900
19680 Base Support/Unfunded Requirement	10,000
19680 Base Support/Strengthening the Quality of Life for Military Families	500
Undistributed:	
20220 Unobligated Balances	−17,800
20225 Cost Avoidance for Mobilized MilTechs	−10,000
20230 Army Reserve IT Consolidation	400
20231 Tactical Operational Centers (ELAMS/MECCS)	3,400

OPERATION AND MAINTENANCE, NAVY RESERVE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
20850 OPERATION AND MAINTENANCE, NAVY RESERVE				
20900 BUDGET ACTIVITY 1: OPERATING FORCES				
20950 RESERVE AIR OPERATIONS				
21000 MISSION AND OTHER FLIGHT OPERATIONS	518,962	518,962	518,962	518,962
21100 INTERMEDIATE MAINTENANCE	16,250	16,250	16,250	16,250
21150 AIR OPERATION AND SAFETY SUPPORT	2,179	2,179	2,179	2,179
21200 AIRCRAFT DEPOT MAINTENANCE	141,907	146,907	141,907	146,207
21250 AIRCRAFT DEPOT OPS SUPPORT	374	374	374	374
21400 RESERVE SHIP OPERATIONS				
21450 MISSION AND OTHER SHIP OPERATIONS	61,711	61,711	61,711	61,711
21500 SHIP OPERATIONAL SUPPORT AND TRAINING	537	537	537	537
21600 SHIP DEPOT MAINTENANCE	71,895	71,895	71,895	71,895
21650 SHIP DEPOT OPERATIONS SUPPORT	631	631	631	631
21700 RESERVE COMBAT OPERATIONS SUPPORT				
21720 COMBAT COMMUNICATIONS	7,613	7,613	7,613	7,613
21800 COMBAT SUPPORT FORCES	217,255	220,255	217,255	219,355
21950 RESERVE WEAPONS SUPPORT				
22000 WEAPONS MAINTENANCE	5,070	5,070	7,070	5,070
22020 BASE SUPPORT				
22030 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	62,788	67,788	62,788	67,788
22040 BASE SUPPORT	109,878	109,878	109,878	109,878
22090 TOTAL, BUDGET ACTIVITY 1	1,217,050	1,230,050	1,219,050	1,228,450

	(In thousands of dollars) Budget	House	Senate	Conference
22100 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
22150 ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
22200 ADMINISTRATION	4,871	4,871	4,871	4,871
22300 MILITARY MANPOWER & PERSONNEL	9,037	9,037	9,037	9,037
22350 SERVICEWIDE COMMUNICATIONS	3,907	3,907	3,907	3,907
22400 COMBAT/WEAPONS SYSTEM	5,385	5,385	5,385	5,385
22450 OTHER SERVICEWIDE SUPPORT	5,445	5,445	5,445	5,445
22600 TOTAL, BUDGET ACTIVITY 4	28,645	28,645	28,645	28,645
22680 UNOBLIGATED BALANCES	---	-12,300	-8,400	-12,300
23150 TOTAL, OPERATION AND MAINTENANCE, NAVY RESERVE	1,245,695	1,246,395	1,239,295	1,244,795

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
21200 Aircraft Depot Maintenance/Unfunded Requirement	4,300
21800 Combat Support Forces/Gulf Joint Harbor Operations Center (JHOC)—Maritime Domain Awareness Support Program	2,100
22030 Facilities Sustainment, Restoration and Modernization/Undistributed Increase	5,000
Undistributed:	
22680 Unobligated Balances	−12,300

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
23300 OPERATION AND MAINTENANCE, MARINE CORPS RESERVE				
23350 BUDGET ACTIVITY 1: OPERATING FORCES				
23400 MISSION FORCES				
23450 OPERATING FORCES	45,812	57,812	47,812	52,812
23500 DEPOT MAINTENANCE	13,964	13,964	13,964	13,964
23510 TRAINING SUPPORT	26,079	26,079	26,079	26,079
23520 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	10,105	10,105	10,105	10,105
23550 BASE SUPPORT	70,729	70,729	70,729	70,729
23700 TOTAL, BUDGET ACTIVITY 1	166,689	178,689	168,689	173,689
23750 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
23800 ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
23850 SPECIAL SUPPORT	11,975	11,975	9,675	9,675
23900 SERVICEWIDE TRANSPORTATION	815	815	815	815
23950 ADMINISTRATION	7,898	7,898	7,898	7,898
23960 RECRUITING AND ADVERTISING	8,066	8,066	8,066	8,066
24000 BASE SUPPORT	4,491	4,491	4,491	4,491
24100 TOTAL, BUDGET ACTIVITY 4	33,245	33,245	30,945	30,945
24150 UNOBLIGATED BALANCES	---	-1,900	-1,900	-1,900
24600 TOTAL, O&M, MARINE CORPS RESERVE	199,934	210,034	197,734	202,734

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
23450 Operating Forces/Initial Issues	5,000
23450 Operating Forces/Lightweight Maintenance Enclosure (LME)	1,000
23450 Operating Forces/Portable Tent Lighting	1,000
Budget Activity 4: Administration and Servicewide Activities:	
23850 Speical Support/Audit of DoD Financial Systems	−2,300
Undistributed:	
24150 Unobligated Balances	−1,900

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
24750 OPERATION AND MAINTENANCE, AIR FORCE RESERVE				
24800 BUDGET ACTIVITY 1: OPERATING FORCES				
24850 AIR OPERATIONS				
24900 PRIMARY COMBAT FORCES	1,585,504	1,585,504	1,585,504	1,585,504
24950 MISSION SUPPORT OPERATIONS	85,545	85,545	85,545	85,545
24970 DEPOT MAINTENANCE	377,817	387,817	377,817	384,817
24980 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	55,764	55,764	50,364	50,364
25000 BASE SUPPORT	288,387	288,387	288,387	288,387
25150 TOTAL, BUDGET ACTIVITY 1	2,393,017	2,403,017	2,387,617	2,394,617
25200 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
25250 ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
25300 ADMINISTRATION	64,017	64,017	64,017	64,017
25310 RECRUITING AND ADVERTISING	15,854	15,854	15,854	15,854
25350 MILITARY MANPOWER AND PERSONNEL MANAGEMENT	21,095	21,095	21,095	21,095
25450 OTHER PERSONNEL SUPPORT	7,052	7,052	7,052	7,052
25500 AUDIOVISUAL	651	651	651	651
25520 TOTAL, BUDGET ACTIVITY 4	108,669	108,669	108,669	108,669
25665 932ND AIRLIFT WING OPERATIONS AND TRAINING	---	23,100	---	16,000
25670 COST AVOIDANCE FOR MOBILIZED MILTECHS	---	---	-7,000	-5,000
25680 UNOBLIGATED BALANCES	---	-13,900	-15,000	-15,000
25950 TOTAL, OPERATION AND MAINTENANCE, AIR FORCE RESERVE	2,501,686	2,520,886	2,474,286	2,499,286

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars][

Budget Activity 1: Operating Forces:	
24970 Depot Maintenance/Unfunded Requirement	7,000
24980 Facilities Sustainment, Restoration & Modernization/Adjustment to fund sustainment at DoD goal	−5,400
Undistributed:	
25655 932nd Airlift Wing Operations and Training	16,000
25670 Cost Avoidance for Mobilized MilTechs	−5,000
25680 Unobligated Balances	−15,000

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
26100 OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD				
26120 BUDGET ACTIVITY 1: OPERATING FORCES				
26140 LAND FORCES				
26180 DIVISIONS	600,818	600,818	595,718	595,718
26200 CORPS COMBAT FORCES	530,869	530,869	530,869	530,869
26220 CORPS SUPPORT FORCES	322,856	322,856	322,856	322,856
26240 ECHELON ABOVE CORPS FORCES	606,026	606,026	604,526	604,526
26260 LAND FORCES OPERATIONS SUPPORT	26,077	26,077	21,777	21,777
26280 LAND FORCES READINESS				
26320 FORCE READINESS OPERATIONS SUPPORT	227,670	227,670	245,170	240,370
26340 LAND FORCES SYSTEMS READINESS	126,496	126,496	136,696	134,696
26350 LAND FORCES DEPOT MAINTENANCE	255,367	255,367	255,367	255,367
26370 LAND FORCES READINESS SUPPORT				
26420 BASE OPERATIONS SUPPORT	610,219	630,219	604,319	617,619
26440 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	391,544	391,544	401,544	396,544
26460 MANAGEMENT & OPERATIONAL HEADQUARTERS	406,794	406,794	406,794	406,794
26480 MISCELLANEOUS ACTIVITIES	65,363	65,363	49,563	48,863
26580 TOTAL, BUDGET ACTIVITY 1	4,170,099	4,190,099	4,175,199	4,175,999
26600 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
26620 ADMINISTRATION AND SERVICEWIDE ACTIVITIES				
26660 STAFF MANAGEMENT (ADMINISTRATION)	111,552	111,552	104,752	104,752
26680 INFORMATION MANAGEMENT (SERVICEWIDE COMMUNICATIONS)	52,814	53,814	48,814	49,814
26720 PERSONNEL ADMINISTRATION (MANPOWER MANAGEMENT)	50,653	50,653	50,653	50,653
26740 RECRUITING AND ADVERTISING	124,601	124,601	124,601	124,601
26760 TOTAL, BUDGET ACTIVITY 4	339,620	340,620	328,820	329,820

	(In thousands of dollars)			
	Budget	House	Senate	Conference
26820 ANGEL GATE ACADEMY	---	3,000	---	1,800
26830 NATIONAL EMERGENCY AND DISASTER INFORMATION CENTER	---	2,000	---	1,700
26890 JOINT TRAINING AND EXPERIMENTATION PROGRAM	---	4,000	---	3,400
26970 NATIONAL GUARD GLOBAL EDUCATION PROJECT	---	500	---	500
27100 ADV EMERGENCY MEDICAL RESPONSE TRAINING PROGRAM	---	2,500	---	---
27110 HOMELAND OPERATIONAL PLANNING SYSTEM	---	10,000	---	8,500
27345 UNOBLIGATED BALANCES	---	-48,100	-35,900	-40,000
27350 ERP FOR ARMY GUARD INSTALLATIONS	---	2,000	---	1,700
27365 REGIONAL GEOSPATIAL SERVICE CENTER	---	1,000	---	---
27381 COMMUNITY EMERG RESPONSE/INFO ANALYSIS CENTER	---	1,000	---	1,000
27383 STRATEGIC BIODEFENSE INITIATIVE	---	10,000	---	8,500
27384 ADVANCED STARTING SYSTEMS	---	500	---	500
27390 INTERNAL AIRLIFT, HELICOPTER SLINGABLE UNITS (ISUs)	---	4,000	---	2,800
27391 ADVANCED SOLAR COVERS	---	3,200	---	1,600
27392 CIVIL SUPPORT TEAM TRAINER (CSTT) PROGRAM	---	1,000	---	1,000
27393 RCAS	---	5,000	---	4,300
27394 FLORIDA NG OPERATION FAMILY SAFE AT HOME	---	2,100	---	1,800
27396 COST AVOIDANCE FOR MOBILIZED MILTECHS	---	---	-40,000	-20,000
27398 DISTRIBUTED TRAINING TECHNOLOGY PROJECT	---	---	---	1,500
27399 REGIONAL EMERG.RESPONSE NETWORK FOR FL NATIONAL GUARD	---	---	---	4,690
27490 TOTAL, O & M, ARMY NATIONAL GUARD	4,509,719	4,534,419	4,428,119	4,491,109

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

Budget Activity 1: Operating Forces:	
26180 Division/Baseline Adjustments for One-Time Increase	−5,100
26240 Echelon Above Corps Forces/Baseline Adjustment for One-Time Increase	−1,500
26260 Land Forces Operations Support/Baseline Adjustment for One-Time Increase	−4,300
26320 Force Readiness Operations Support/BLSS Kit-PASGT Retrofit Suspension System	1,300
26320 Force Readiness Operations Support/Extended Cold Weather Clothing System (ECWCS)	1,400
26320 Force Readiness Operations Support/Joint Interagency Training Center-East	8,500
26320 Force Readiness Operations Support/Operator Driving Simulators	1,500
26340 Land Forces Systems Readiness/Information Technology Continuity of Operations	6,100
26340 Land Force Systems Readiness/Regional Geospatial Service Center	2,100
26420 Base Operations Support/Unfunded Requirement	14,000
26420 Base Operations Support/Hawaii Wireless Interoperability Network (HWIN)	500
26420 Base Operations Support/Communicator Automated Emergency Notifications System	1,800
26420 Base Operations Support/Baseline Adjustment for One-Time Increase	−8,900
26440 Facilities Sustainment, Restoration and Modernization/Facility Needs at National Guard Training Center, Fort Stewart	5,000
26480 Miscellaneous Activities/Baseline Adjustment for One-Time Increase	−18,300
26480 Miscellaneous Activities/Lewis & Clark Bicentennial Commemoration Support	1,800
Budget Activity 4: Administration and Servicewide Activities:	
26660 Staff Management/Baseline Adjustment for One-Time Increase	−6,800
26680 Information Management/Integrated Command, Control, Communication Unit	1,000
26680 Information Management/Baseline Adjustment for One-Time Increase	−4,000
Undistributed:	
26820 Angel Gate Academy	1,800
26830 National Emergency and Disaster Information Center	1,700
26890 Joint Training and Experimentation Program	3,400
26970 National Guard Global Education Project	500
27110 Homeland Operational Planning System	8,500
27345 Unobligated Balances	−40,000
27350 Enterprise Resource Planning for Army Guard Installations and Deployment Support	1,700
27381 Community Emergency Response/Info Analysis Center	1,000
27383 Strategic Biodefense Initiative	8,500
27384 Advanced Starting Systems	500
27390 Internal Airlift, Helicopter Slingable Units (ISU)	2,800
27391 Advanced Solar Covers	1,600
27392 Civil Support Team Training (CSTT) Program	1,000
27393 RCAS	4,300
27394 Florida NG Operations Family Safe at Home	1,800
27396 Cost Avoidance for Mobilized MilTechs	−20,000
27398 Distributed Training Technology Project	1,500
27399 Regional Emergency Response Network for the Florida National Guard	4,690

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
27500 OPERATION AND MAINTENANCE, AIR NATIONAL GUARD				
27550 BUDGET ACTIVITY 1: OPERATING FORCES				
27600 AIR OPERATIONS				
27650 AIRCRAFT OPERATIONS	2,938,127	2,947,442	2,942,427	2,944,642
27700 MISSION SUPPORT OPERATIONS	497,447	497,447	490,847	495,747
27710 DEPOT MAINTENANCE	612,807	612,807	612,807	612,807
27720 FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	169,791	184,791	169,791	179,791
27750 BASE SUPPORT	467,517	468,517	460,017	460,017
27900 TOTAL, BUDGET ACTIVITY 1	4,685,689	4,711,004	4,675,889	4,693,004
27950 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES				
28000 SERVICEWIDE ACTIVITIES				
28050 ADMINISTRATION	28,949	28,949	28,949	28,949
28100 RECRUITING AND ADVERTISING	9,453	9,453	9,453	9,453
28110 TOTAL, BUDGET ACTIVITY 4	38,402	38,402	38,402	38,402
28115 COST AVOIDANCE FOR MOBILIZED MILTECHS	---	---	-8,000	-8,000
28320 UNOBLIGATED BALANCES	---	-22,100	-25,000	-22,100
28381 DISTRIBUTED TRAINING TECHNOLOGY PROJECT	---	3,000	---	---
28382 EAGLE VISION	---	2,000	---	---
28550 TOTAL, O&M, AIR NATIONAL GUARD	4,724,091	4,732,306	4,681,291	4,701,306

ADJUSTMENTS TO BUDGET ACTIVITIES

Adjustments to the budget activities are as follows:

[In thousands of dollars]

27650 Aircraft Operations/Training Capability Upgrade	
27650 Aircraft Operations/Air Refueling Operational Support	3,400
27650 Aircraft Operations/166th Information Operations Squadron	1,000
27650 Aircraft Operations/Combat Arms Training System	4,000
27650 Aircraft Operations/Baseline Adjustment for One-Time Increase	−2,200
27700 Mission Support Operations/National Guard State Partnership Program	2,200
27700 Mission Support Operations/Baseline Adjustment for One-Time Increase	−9,100
27700 Mission Support Operations/EST 2000 Trainers	1,800
27700 Mission Support Operations/MA-16 Aircraft Inertia Reels	1,000
27700 Mission Support Operations/Survey Systems	1,000
27700 Mission Support Operations/Life Support Radio Test Sets	1,400
27720 Facilities Sustainment, Restoration and Modernization/Undistributed Increase	10,000
27750 Base Support/Baseline Adjustment for One-Time Increase	−7,500
Undistributed:	
28115 Cost Avoidance for Mobilized MilTechs	−8,000
28320 Unobligated Balances	−22,100

OVERSEAS CONTINGENCY OPERATIONS TRANSFER ACCOUNT

The conference agreement provides no appropriation for the Overseas Contingency Operations Transfer Account, instead of $20,000,000 as proposed by the House. The Senate proposed no funding for this account.

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

The conference agreement provides $11,236,000 for the United States Court of Appeals for the Armed Forces.

ENVIRONMENTAL RESTORATION, ARMY

The conference agreement provides $407,865,000 for Environmental Restoration, Army.

ENVIRONMENTAL RESTORATION, NAVY

The conference agreement provides $305,275,000 for Environmental Restoration, Navy.

ENVIRONMENTAL RESTORATION, AIR FORCE

The conference agreement provides $406,461,000 for Environmental Restoration, Air Force.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

The conference agreement provides $28,167,000 for Environmental Restoration, Defense-Wide.

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

The conference agreement provides $256,921,000 for Environmental Restoration, Formerly Used Defense Sites, instead of $221,921,000 as proposed by the House and $271,921,000 as proposed by the Senate.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIL AID

The conference agreement provides $61,546,000 for Overseas Humanitarian, Disaster, and Civic Aid.

FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

The conference agreement provides $415,549,000 for the Former Soviet Union Threat Reduction Account.

TITLE III-PROCUREMENT

The conference agreement on items addressed by either the House or the Senate is as follows:

		(In thousands of dollars)		
	Budget	House	Senate	Conference
SUMMARY				
ARMY				
AIRCRAFT	2,800,880	2,879,380	2,562,480	2,653,280
MISSILES	1,270,850	1,239,350	1,214,919	1,208,919
WEAPONS, TRACKED COMBAT VEHICLES	1,660,149	1,670,949	1,359,465	1,391,615
AMMUNITION	1,720,872	1,753,152	1,708,680	1,733,020
OTHER	4,302,634	4,491,634	4,426,531	4,594,031
TOTAL, ARMY	11,755,385	12,034,465	11,272,075	11,580,865
NAVY				
AIRCRAFT	10,517,126	9,776,440	9,880,492	9,774,749
WEAPONS	2,707,841	2,596,781	2,593,341	2,659,978
AMMUNITION	872,849	885,170	832,791	851,841
SHIPS	8,721,165	9,613,358	8,677,887	9,027,231
OTHER	5,487,818	5,461,196	5,293,157	5,444,294
MARINE CORPS	1,377,705	1,426,405	1,361,605	1,398,955
TOTAL, NAVY	29,684,504	29,759,350	28,639,273	29,157,048
AIR FORCE				
AIRCRAFT	11,973,933	12,424,298	12,729,492	12,737,215
MISSILES	5,490,287	5,062,949	5,068,974	5,174,474
AMMUNITION	1,031,207	1,031,907	996,111	1,016,887
OTHER	14,002,689	13,737,214	14,048,439	14,060,714
TOTAL, AIR FORCE	32,498,116	32,256,368	32,843,016	32,989,290
DEFENSE-WIDE				
DEFENSE-WIDE	2,677,832	2,728,130	2,572,250	2,573,964
NATIONAL GUARD AND RESERVE EQUIPMENT	---	---	422,000	180,000
DEFENSE PRODUCTION ACT PURCHASES	19,573	28,573	68,573	58,248
TOTAL PROCUREMENT	76,635,410	76,806,886	75,817,187	76,539,415

REPROGRAMMING REPORTING REQUIREMENTS

The conferees share the concerns raised in the report accompanying the House version of the fiscal year 2006 Defense Appropriations bill regarding the need to improve the reporting of reprogrammings by the Department of Defense. In the Statement of the Managers accompanying the fiscal year 2005 Defense Appropriations Act, the Department of Defense was directed to evaluate current procedures governing the department's financial practices. In response, the Department issued a report proposing several reporting improvements. The conferees direct the Under Secretary of the Department of Defense, Comptroller, to begin implementing all three of the proposals identified in the report under the heading of "Improved Reporting". The conferees further direct that the quarterly, spreadsheet based DD 1416 reports proposed in the Department's recommendations shall be submitted for service and defense-wide accounts in titles III and IV of this Act and shall also include the reason for which funds are available for reprogramming, the account to which the funds have been reprogrammed, and the requirement for the funds to be reprogrammed.

SPECIAL INTEREST ITEMS

Items for which additional funds have been provided as shown in the project level tables or in paragraphs using the phrase "only for" or "only to" in this report are congressional interest items for the purpose of the Base for Reprogramming (DD 1414). Each of these items must be carried on the DD Form 1414 at the stated amount, or a revised amount if changed during conference or otherwise specifically addressed in the conference report. These items remain special interest items whether or not they are repeated in a subsequent conference report.

REPROGRAMMING GUIDANCE FOR ACQUISITION ACCOUNTS

The conferees direct the Department of Defense to continue to follow the reprogramming guidance specified in the Statement of Managers on the fiscal year 2005 Department of Defense Appropriations Act (House Report 108–622). Specifically, the dollar threshold for reprogramming procurement funds will remain at $20,000,000, and at $10,000,000 for research, development, test and evaluation. The Department shall continue to follow the limitation that prior approval reprogrammings are set at either the specified dollar threshold or 20% of the procurement or research, development, test and evaluation line, whichever is less. These thresholds are cumulative. Therefore, if the combined value of transfers into or out of a procurement (P–1) or research, development, test and evaluation (R–1) line exceeds the identified threshold, the Department of Defense must submit a prior approval reprogramming to the congressional defense committees. In addition, guidelines on the application of prior approval reprogramming procedures for congressional special interest items are established elsewhere in this statement.

C–130J/KC–130J

The conferees agree to provide $690,000,000 for the procurement of eight C-130J aircraft and $384,200,000 for the procurement of five KC-130-J aircraft. The conferees are aware that the current FAR Part 12 multiyear contract for these aircraft is being changed to a more traditional FAR Part 15 contract structure. The conferees expect that all 13 aircraft will be procured under a multiyear contract arrangement that will maximize savings to the taxpayer.

AIRCRAFT PROCUREMENT, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, ARMY				
AIRCRAFT				
FIXED WING				
UTILITY F/W CARGO AIRCRAFT	4,926	4,926	4,926	4,926
UTILITY F/W (MR) AIRCRAFT	---	---	---	4,000
ROTARY				
ARMED RECONNAISSANCE HELICOPTER	70,000	70,000	---	---
HELICOPTER, LIGHT UTILITY	108,000	108,000	63,000	71,600
UH-60 BLACKHAWK (MYP)	505,650	580,650	505,650	580,650
UH-60 BLACKHAWK (MYP) (AP-CY)	79,052	79,052	79,052	79,052
HELICOPTER NEW TRAINING	---	---	4,000	---
TOTAL, AIRCRAFT	767,628	842,628	656,628	740,228
MODIFICATION OF AIRCRAFT				
AH-64 MODS	580,392	590,392	524,292	529,242
AH-64 MODS (AP-CY)	19,000	19,000	19,000	19,000
CH-47 CARGO HELICOPTER MODS	651,343	651,343	655,843	653,593
CH-47 CARGO HELICOPTER MODS (AP-CY)	24,689	24,689	24,689	24,689
UTILITY/CARGO AIRPLANE MODS	13,575	13,575	13,575	13,575
AIRCRAFT LONG RANGE MODS	779	779	779	779
LONGBOW	84,513	84,513	84,513	84,513
UH-60 MODS	33,294	35,094	45,294	59,794
KIOWA WARRIOR	24,478	24,478	24,478	24,478
AIRBORNE AVIONICS	106,124	93,824	106,124	93,824
GATM ROLLUP	31,542	31,542	31,542	31,542
SPARE PARTS (AIR)	3,948	3,948	3,948	3,948
TOTAL, MODIFICATION OF AIRCRAFT	1,573,677	1,573,177	1,534,077	1,538,977

	(In thousands of dollars)			
	Budget	House	Senate	Conference
SUPPORT EQUIPMENT AND FACILITIES				
GROUND SUPPORT AVIONICS				
AIRCRAFT SURVIVABILITY EQUIPMENT	11,200	11,200	---	---
ASE INFRARED CM	211,151	211,151	141,551	141,551
OTHER SUPPORT				
AIRBORNE COMMAND & CONTROL	28,055	28,055	28,055	28,055
AVIONICS SUPPORT EQUIPMENT	3,418	3,418	3,418	3,418
COMMON GROUND EQUIPMENT	70,436	70,436	63,436	62,836
AIRCREW INTEGRATED SYSTEMS	29,352	33,352	29,352	32,252
AIR TRAFFIC CONTROL	62,399	62,399	62,399	62,399
INDUSTRIAL FACILITIES	41,222	41,222	41,222	41,222
LAUNCHER, 2.75 ROCKET	2,342	2,342	2,342	2,342
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	459,575	463,575	371,775	374,075
TOTAL, AIRCRAFT PROCUREMENT, ARMY	2,800,880	2,879,380	2,562,480	2,653,280

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

P-1		Budget Request	House	Senate	Conference
2	**UTILITY F/W (MR) AIRCRAFT**	**0**	**0**	**0**	**4,000**
	US Army Parachute Team, Golden Knights, Replacement Aircraft (Note: transferred from line 7)		0	0	4,000
3	**ARMED RECONNAISSANCE HELICOPTER**	**70,000**	**70,000**	**0**	**0**
	Transfer to RDA			-70,000	-70,000
4	**HELICOPTER, LIGHT UTILITY**	**108,000**	**108,000**	**63,000**	**71,600**
	Program Delays			-45,000	-36,400
5	**UH-60 BLACKHAWK (MYP)**	**505,650**	**580,650**	**505,650**	**580,650**
	HH-60L Medevac Blackhawk Helicopters for the Army Reserve		75,000		75,000
7	**HELICOPTER NEW TRAINING**	**0**	**0**	**4,000**	**0**
	USAPT (Note: transferred to line 2)			4,000	0
10	**AH-64 MODS**	**580,392**	**590,392**	**524,292**	**529,242**
	Modern Signal Processing Unit		4,000		2,800
	Apache Mission Data Digital Recorder (MDDR)		4,000		3,400
	Oil Debris Detection and Burn-Off System (ODDS)		2,000		1,000
	Vibration Management Enhancement Program ARNG			4,500	2,250
	R&S Kits - Buying Ahead of Need			-60,600	-60,600
12	**CH-47 CARGO HELICOPTER MODS**	**651,343**	**651,343**	**655,843**	**653,593**
	CH-47 second source Qualification for Transmission Parts			4,500	2,250
19	**UH-60 MODS**	**33,294**	**35,094**	**45,294**	**59,794**
	Crashworthy External Fuel System (CEFS)		1,800		1,000
	UH-60 Search and Rescue Thermal Imaging Upgrades			4,000	2,000
	Integrated Mechanical Diagnostics--HUMS (Note: transfer from title IX)				19,500
	AN/AAQ-22 FLIR			8,000	4,000
22	**AIRBORNE AVIONICS**	**106,124**	**93,824**	**106,124**	**93,824**
	JTRS Funding ahead of need		-12,300		-12,300
26	**AIRCRAFT SURVIVABILITY EQUIPMENT**	**11,200**	**11,200**	**0**	**0**
	Transfer to Title IX			-11,200	-11,200
27	**ASE INFRARED CM**	**211,151**	**211,151**	**141,551**	**141,551**
	ATIRCM - Transfer to Title IX			-69,600	-69,600
30	**COMMON GROUND EQUIPMENT**	**70,436**	**70,436**	**63,436**	**62,836**
	ARH Transfer to R,D,T&E Army			-9,000	-9,000
	Aviation Maintenance Fall Protection Platforms			2,000	1,400
31	**AIRCREW INTEGRATED SYSTEMS**	**29,352**	**33,352**	**29,352**	**32,252**
	Cockpit Airbag System (CABS)		2,000		1,200
	Vacuum Pack Joint Single Place Life Raft		2,000		1,700

MISSILE PROCUREMENT, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
MISSILE PROCUREMENT, ARMY				
OTHER MISSILES				
SURFACE-TO-AIR MISSILE SYSTEM				
PATRIOT SYSTEM SUMMARY	489,700	489,700	489,700	489,700
SURFACE-LAUNCHED AMRAAM SYSTEM SUMMARY	19,315	19,315	19,315	19,315
AIR-TO-SURFACE MISSILE SYSTEM				
HELLFIRE SYS SUMMARY	80,073	80,073	80,073	80,073
APKWS (ADVANCED PRECISION KILL WEAPON SYSTEM)	27,931	3,931	---	---
ANTI-TANK/ASSAULT MISSILE SYSTEM				
JAVELIN (AAWS-M) SYSTEM SUMMARY	57,636	57,636	57,636	57,636
TOW 2 SYSTEM SUMMARY	27,207	27,207	2,207	2,207
TOW 2 ADVANCE PROCUREMENT (CY)	18,900	18,900	18,900	18,900
GUIDED MLRS ROCKET (GMLRS)	124,814	124,814	124,814	124,814
MLRS REDUCED RANGE PRACTICE ROCKETS (RRPR)	7,726	7,726	7,726	7,726
MLRS LAUNCHER SYSTEMS	20,787	20,787	20,787	20,787
HIMARS LAUNCHER	174,929	167,429	174,929	167,429
ARMY TACTICAL MSL SYS (ATACMS) - SYS SUM	58,458	58,458	58,458	58,458
TOTAL, OTHER MISSILES	1,107,476	1,075,976	1,054,545	1,047,045
MODIFICATION OF MISSILES				
MODIFICATIONS				
PATRIOT MODS	77,411	77,411	77,411	77,411
JAVELIN MISSILE MODS	14,007	14,007	14,007	14,007
ITAS/TOW MODS	9,587	9,587	9,587	9,587
MLRS MODS	14,579	14,579	14,579	14,579
HIMARS MODIFICATIONS: (NON AAO)	8,001	8,001	8,001	8,001
TOTAL, MODIFICATION OF MISSILES	123,585	123,585	123,585	123,585
SPARES AND REPAIR PARTS	30,142	30,142	27,142	28,642
SUPPORT EQUIPMENT AND FACILITIES				
AIR DEFENSE TARGETS	6,156	6,156	6,156	6,156
ITEMS LESS THAN $5.0M (MISSILES)	10	10	10	10
PRODUCTION BASE SUPPORT	3,481	3,481	3,481	3,481
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	9,647	9,647	9,647	9,647
TOTAL, MISSILE PROCUREMENT, ARMY	1,270,850	1,239,350	1,214,919	1,208,919

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

P-1		Budget Request	House	Senate	Conference
5	**APKWS (ADVANCED PRECISION KILL WEAPON SYSTEM)**	**27,931**	**3,931**	**0**	**0**
	Buying ahead of need		-24,000		0
	Program delay			-27,931	-27,931
10	**TOW 2 SYSTEM SUMMARY**	**27,207**	**27,207**	**2,207**	**2,207**
	Transfer to Title IX			-25,000	-25,000
15	**HIMARS LAUNCHER**	**174,929**	**167,429**	**174,929**	**167,429**
	Unit cost growth		-7,500		-7,500
24	**SPARES AND REPAIR PARTS**	**30,142**	**30,142**	**27,142**	**28,642**
	Unjustified request			-3,000	-1,500

GUIDED MULTIPLE LAUNCH ROCKET SYSTEM (GMLRS) UNITARY

The conferees are aware of the recent successful deployment of the GMLRS Unitary Rocket in support of Operation Iraqi Freedom. In the missions in which it has been deployed, GMLRS Unitary has demonstrated both very high accuracy and low collateral damage. Accordingly, the conferees urge the Army to maximize the procurement of GMLRS Unitary Rockets from the $124,814,000 provided in the conference agreement. The conferees further direct that this amount is a congressional special interest item for the base for reprogramming as described elsewhere in this statement.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
PROCUREMENT OF W&TCV, ARMY				
TRACKED COMBAT VEHICLES				
ABRAMS TRNG DEV MOD	3,754	3,754	3,754	3,754
BRADLEY BASE SUSTAINMENT	37,908	44,408	37,908	41,108
BRADLEY FVS TRAINING DEVICES (MOD)	5,679	5,679	5,679	5,679
ABRAMS TANK TRAINING DEVICES	3,709	6,709	5,709	7,259
STRYKER	878,449	882,449	878,449	881,249
MODIFICATION OF TRACKED COMBAT VEHICLES				
BFVS SERIES (MOD)	45,265	45,265	45,265	67,265
HOWITZER, MED SP FT 155MM M109A6 (MOD)	14,801	14,801	14,801	14,801
FAASV PIP TO FLEET	6,439	6,439	6,439	6,439
M1 ABRAMS TANK (MOD)	443,475	443,475	190,775	190,775
SUPPORT EQUIPMENT AND FACILITIES				
ITEMS LESS THAN $5.0M (TCV-WTCV)	407	407	407	407
PRODUCTION BASE SUPPORT (TCV-WTCV)	10,258	10,258	10,258	10,258
TOTAL, TRACKED COMBAT VEHICLES	1,450,144	1,463,644	1,199,444	1,228,994

	(In thousands of dollars)			
	Budget	House	Senate	Conference
WEAPONS AND OTHER COMBAT VEHICLES				
INTEGRATED AIR BURST WEAPON SYSTEM FAMILY	32,484	22,284	---	---
ARMOR MACHINE GUN, 7.62MM M240 SERIES	14,148	14,148	14,148	14,148
MACHINE GUN, 5.56MM (SAW)	80	80	80	80
GRENADE LAUNCHER, AUTO, 40MM, MK19-3	8,715	8,715	8,715	8,715
MORTAR SYSTEMS	200	200	200	200
M16 RIFLE	8,000	8,000	8,000	8,000
M107, CAL. 50, SNIPER RIFLE	9,656	9,656	9,656	9,656
5.56 CARBINE M4	3,215	3,215	3,215	3,215
HOWITZER LT WT 155MM (T)	46,786	46,786	46,786	46,786
MOD OF WEAPONS AND OTHER COMBAT VEH				
MARK-19 MODIFICATIONS	5,444	5,444	5,444	5,444
M4 CARBINE MODS	44,817	44,817	14,817	14,817
SQUAD AUTOMATIC WEAPON (MOD)	3,095	3,095	3,095	3,095
MEDIUM MACHINE GUNS (MODS)	7,089	7,089	7,089	7,089
M119 MODIFICATIONS	1,000	1,000	1,000	1,000
M16 RIFLE MODS	1,970	1,970	1,970	1,970
MODIFICATIONS LESS THAN $5.0M (WOCV-WTCV)	5,146	5,146	5,146	5,146
SUPPORT EQUIPMENT AND FACILITIES				
ITEMS LESS THAN $5.0M (WOCV-WTCV)	488	488	488	488
PRODUCTION BASE SUPPORT (WOCV-WTCV)	6,494	6,494	6,494	6,494
INDUSTRIAL PREPAREDNESS	2,655	5,155	8,655	11,155
SMALL ARMS (SOLDIER ENH PROG)	5,181	10,181	9,181	9,681
TOTAL, WEAPONS AND OTHER COMBAT VEHICLES	206,663	203,963	154,179	157,179
SPARES AND REPAIR PARTS (WTCV)	3,342	3,342	5,842	5,442
TOTAL, PROCUREMENT OF W&TCV, ARMY	1,660,149	1,670,949	1,359,465	1,391,615

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

P-1		Budget Request	House	Senate	Conference
2	**BRADLEY BASE SUSTAINMENT**	**37,908**	**44,408**	**37,908**	**41,108**
	Joint Enhanced Explosion Resistant Coatings for Vehicles		6,500		3,200
4	**ABRAMS TANK TRAINING DEVICES**	**3,709**	**6,709**	**5,709**	**7,259**
	Sub-caliber In-bore Training Device for Direct Fire Platforms for the Army and Army National Guard		3,000		2,550
	Intelligent Graphic Wiring Traceout for Abrams Tank Data			2,000	1,000
5	**STRYKER**	**878,449**	**882,449**	**878,449**	**881,249**
	Stryker Brigade Combat Team Wiring Trace-out		4,000		2,800
9	**BFVS SERIES (MOD)**	**45,265**	**45,265**	**45,265**	**67,265**
	Bradley Reactive Armor Tiles (Note: transferred from Title IX)				22,000
12	**M1 ABRAMS TANK (MOD)**	**443,475**	**443,475**	**190,775**	**190,775**
	Transfer to Title IX			-252,700	-252,700
17	**INTEGRATED AIR BURST WEAPON SYSTEM FAMILY**	**32,484**	**22,284**	**0**	**0**
	Buying ahead of need		-10,200		0
	OICW program delay			-32,484	-32,484
28	**M4 CARBINE MODS**	**44,817**	**44,817**	**14,817**	**14,817**
	Transfer to Title IX			-30,000	-30,000
37	**INDUSTRIAL PREPAREDNESS**	**2,655**	**5,155**	**8,655**	**11,155**
	Arsenal Support Program Initiative		2,500		0
	Arsenal Support Program Initiative (Note: only for Watervliet Arsenal)				3,000
	Arsenal Support Program Initiative (note: only for Rock Island Arsenal)			6,000	5,500
38	**SMALL ARMS (SOLDIER ENH PROG)**	**5,181**	**10,181**	**9,181**	**9,681**
	M2HB Enhanced .50 Caliber Machine Gun Kit		5,000	4,000	4,500
40	**SPARES AND REPAIR PARTS (WTCV)**	**3,342**	**3,342**	**5,842**	**5,442**
	Joint Enhanced Explosion Resistant Coatings for Vehicles			2,500	2,100

OBJECTIVE INDIVIDUAL COMBAT WEAPON (OICW) INCREMENT I

The conferees understand that following a review by the Department of Defense Inspector General (IG) which identified several management issues with the OICW program, the Army has terminated the OICW I request for proposals. However, recognizing the important capabilities that OICW brings to the war fighter, the conferees direct the Army to resolve the management concerns identified in the IG report and obtain joint validation of the OICW Increment I family of weapons requirements through the Joint Requirements Oversight Council. The conferees strongly encourage the Program Manager to subsequently conduct source selection and award a contract in fiscal year 2006.

The conferees direct the Program Manager to provide the congressional defense committees a written report detailing the program's updated requirements, acquisition strategy—to include the Army's strategy for replacing existing weapons—and detailed schedule no later than thirty days after enactment of this Act. Furthermore, the conferees direct the Program Manager to provide quarterly updates on the program's status to the congressional defense committees.

PROCUREMENT OF AMMUNITION, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
PROCUREMENT OF AMMUNITION, ARMY				
AMMUNITION				
SMALL/MEDIUM CAL AMMUNITION				
CTG, 5.56MM, ALL TYPES	142,363	142,363	142,363	142,363
CTG, 7.62MM, ALL TYPES	75,290	75,290	75,290	75,290
CTG, 9MM, ALL TYPES	4,018	4,018	4,018	4,018
CTG, .50 CAL, ALL TYPES	110,043	110,043	110,043	110,043
CTG, 25MM, ALL TYPES	30,965	30,965	30,965	30,965
CTG, 30MM, ALL TYPES	17,618	17,618	17,618	17,618
CTG, 40MM, ALL TYPES	142,594	142,594	142,594	143,094
MORTAR AMMUNITION				
60MM MORTAR, ALL TYPES	14,355	14,355	14,355	14,355
81MM MORTAR, ALL TYPES	85,250	85,250	55,437	55,437
CTG, MORTAR, 120MM, ALL TYPES	62,918	62,918	61,539	61,539
TANK AMMUNITION				
CTG TANK 105MM: ALL TYPES	29,421	29,421	29,421	29,421
120MM TANK TRAINING, ALL TYPES	145,094	145,094	145,094	145,094
CTG, TANK, 120MM TACTICAL, ALL TYPES	52,724	52,724	53,724	53,724
ARTILLERY AMMUNITION				
CTG ARTY 75MM, ALL TYPES	2,246	2,246	2,246	2,246
CTG ARTY 105MM, ALL TYPES	41,873	41,873	41,873	41,873
CTG, ARTY, 155MM, ALL TYPES	124,565	126,565	124,565	126,565
PROJ, 155MM EXTENDED RANGE XM982	25,098	25,098	25,098	25,098
MODULAR ARTILLERY CHARGE SYSTEM (MACS), ALL T	67,966	67,966	67,966	82,966

	(In thousands of dollars)			
	Budget	House	Senate	Conference
ARTILLERY FUZES				
ARTILLERY FUZES, ALL TYPES	22,926	22,926	22,926	22,926
MINES				
MINE, TRAINING, ALL TYPES	230	230	230	230
MINES (CONVENTIONAL), ALL TYPES	4,009	4,009	4,009	4,009
MINE, CLEARING CHARGE, ALL TYPES	4,646	4,646	4,646	4,646
ANTIPERSONNEL LANDMINE ALTERNATIVES	27,876	27,876	27,876	27,876
ROCKETS				
SHOULDER FIRED ROCKETS, ALL TYPES	7,810	7,810	7,810	7,810
ROCKET, HYDRA 70, ALL TYPES	156,879	156,879	156,879	156,879
OTHER AMMUNITION				
DEMOLITION MUNITIONS, ALL TYPES	29,719	42,419	29,719	37,919
GRENADES, ALL TYPES	53,107	53,107	53,107	53,107
SIGNALS, ALL TYPES	26,648	26,648	26,648	26,648
SIMULATORS, ALL TYPES	10,415	10,415	10,415	10,415
MISCELLANEOUS				
AMMO COMPONENTS, ALL TYPES	8,796	8,796	8,796	8,796
NON-LETHAL AMMUNITION, ALL TYPES	18,784	18,784	18,784	18,784
CAD/PAD ALL TYPES	2,598	2,598	2,598	2,598
ITEMS LESS THAN $5 MILLION	5,503	5,503	5,503	5,503
AMMUNITION PECULIAR EQUIPMENT	12,765	19,365	18,765	21,015
FIRST DESTINATION TRANSPORTATION (AMMO)	9,101	9,101	9,101	9,101
CLOSEOUT LIABILITIES	100	100	100	100
TOTAL, AMMUNITION	1,576,313	1,597,613	1,552,121	1,580,071
AMMUNITION PRODUCTION BASE SUPPORT				
PRODUCTION BASE SUPPORT				
PROVISION OF INDUSTRIAL FACILITIES	33,532	42,712	43,532	40,122
LAYAWAY OF INDUSTRIAL FACILITIES	348	348	348	348
MAINTENANCE OF INACTIVE FACILITIES	5,001	5,001	5,001	5,001
CONVENTIONAL AMMO DEMILITARIZATION	102,933	104,733	104,933	104,733
ARMS INITIATIVE	2,745	2,745	2,745	2,745
TOTAL, AMMUNITION PRODUCTION BASE SUPPORT	144,559	155,539	156,559	152,949
TOTAL, PROCUREMENT OF AMMUNITION, ARMY	1,720,872	1,753,152	1,708,680	1,733,020

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		Budget Request	House	Senate	Conference
7	**CTG, 40MM, ALL TYPES**	142,594	142,594	142,594	143,094
	40mm Day/Night Training Cartridge (M281)				500
9	**81MM MORTAR, ALL TYPES**	85,250	85,250	55,437	55,437
	Ctg, Mortar, 81MM HE w/PD Fuze M889A1			-29,813	-29,813
10	**CTG, MORTAR, 120MM, ALL TYPES**	62,918	62,918	61,539	61,539
	Fuze, Electronic Time, XM 784			-1,379	-1,379
13	**CTG, TANK, 120MM TACTICAL, ALL TYPES**	52,724	52,724	53,724	53,724
	120MM Tactical All Types-M1028 Canister Rounds			1,000	1,000
16	**CTG, ARTY, 155MM, ALL TYPES**	124,565	126,565	124,565	126,565
	Projectile Artillery 155mm Smoke WP M110		1,000		1,000
	Projectile Artillery 155mm Illuminating M485		1,000		1,000
18	**MODULAR ARTILLERY CHARGE SYSTEM (MACS), ALL TYPES**	67,966	67,966	67,966	82,966
	Modular Artillery Charge System (MACS)				15,000
26	**DEMOLITION MUNITIONS, ALL TYPES**	29,719	42,419	29,719	37,919
	Rapid Wall Breaching Kit (RWBK)		2,700	3,000	2,700
	Magneto Inductive Remote Activation Munitions System (RAMS)		10,000		8,500
	Charge, Demo Block C4			-3,000	-3,000
34	**AMMUNITION PECULIAR EQUIPMENT**	12,765	19,365	18,765	21,015
	Ammunition Peculiar Equipment Outloading Module, McAlester Army Ammo Plant, OK		3,000	4,000	3,000
	Ammunition Peculiar Equipment Outloading Module		3,600		1,800
	Automated Tactical Ammunition Classification System (ATACS)			2,000	1,000
	Supercritical Water Oxidation Demonstration at BGAD (Note: transferred from Chemical Agents and Munitions Destruction, Army)				2,450
37	**PROVISION OF INDUSTRIAL FACILITIES**	33,532	42,712	43,532	40,122
	Thermobaric Explosives Manufacture at Holston Army Ammunition Plant		3,780		1,890
	Flex LAP Modern Munitions Enterprise		5,400		3,700
	Industrial Facilities Modernization of Scranton Army Ammunition Plant				1,000
	Flexible Load, Assemble and Pack (LAP) Kansas Army Ammunition Plant			10,000	0
40	**CONVENTIONAL MUNITIONS DEMILITARIZATION**	102,933	104,733	104,933	104,733
	Missile Recycling Capability (MRC) Energetics Processing Module (EPM) Commissioning		1,800	2,000	1,800

LIFE CYCLE MANAGEMENT COMMANDS (LCMC)

The conferees support the goal of the Army's LCMC pilot program to establish integrated business enterprises to better support the warfighter. Currently, there is a geographically separated but strategically important life cycle management plan for ammunition management. Given that the Secretary of Defense has recommended, and the Base Realignment and Closure Commission has endorsed, that Picatinny Arsenal become the home for a joint integrated weapons and armaments specialty site for guns and ammunition, the conferees believe the Army must evaluate how this organization should be structured.

The conferees understand that the Army will submit a report to the Office of the Secretary of Defense (OSD) detailing its implementation of LCMC programs by December 2005. Accordingly, the conferees direct the Secretary of Defense to submit a report to the House and Senate Committees on Appropriations providing its assessment of the value of the LCMC construct by February 1, 2006. In addition, by the same date, the Secretary of the Army shall provide a report to the House and Senate Committees on Appropriations that provides a summary of the Army's LCMC review, and that rationalizes the relationship between each component of the life cycle management of ammunition.

OTHER PROCUREMENT, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
OTHER PROCUREMENT, ARMY				
TACTICAL AND SUPPORT VEHICLES				
TACTICAL VEHICLES				
TACTICAL TRAILERS/DOLLY SETS	15,867	15,867	13,867	13,867
SEMITRAILERS, FLATBED	6,049	6,049	8,049	7,249
SEMITRAILERS, TANKERS	6,287	6,287	6,287	6,287
HI MOB MULTI-PURP WHLD VEH (HMMWV)	224,222	224,222	224,222	224,222
TRUCK, DUMP, 20T (CCE)	---	---	---	---
FAMILY OF MEDIUM TACTICAL VEH (FMTV)	449,601	449,601	453,601	452,401
FIRETRUCKS & ASSOCIATED FIREFIGHTING EQUIPMEN	7,523	7,523	7,523	7,523
FAMILY OF HEAVY TACTICAL VEHICLES (FHTV)	207,096	217,296	208,696	214,896
ARMORED SECURITY VEHICLES (ASV)	---	---	---	---
TRUCK, TRACTOR, LINE HAUL, M915/M916	17,063	17,063	17,063	17,063
HVY EXPANDED MOBILE TACTICAL TRUCK EXT SERV P	40,710	40,710	40,710	40,710
HMMWV RECAPITALIZATION PROGRAM	32,800	32,800	32,800	32,800
MODIFICATION OF IN SVC EQUIP	11,659	11,659	11,659	11,659
ITEMS LESS THAN $5.0M (TAC VEH)	378	378	378	378
TOWING DEVICE-FIFTH WHEEL	1,950	3,950	1,950	2,950
NON-TACTICAL VEHICLES				
HEAVY ARMORED SEDAN	2,900	2,900	2,900	2,900
PASSENGER CARRYING VEHICLES	270	270	270	270
NONTACTICAL VEHICLES, OTHER	430	430	430	430
TOTAL, TACTICAL AND SUPPORT VEHICLES	1,024,805	1,037,005	1,030,405	1,035,605

	(In thousands of dollars)			
	Budget	House	Senate	Conference
COMMUNICATIONS AND ELECTRONICS EQUIPMENT				
COMM - JOINT COMMUNICATIONS				
WIN - TACTICAL PROGRAM	122,433	101,433	122,433	101,433
JCSE EQUIPMENT (USREDCOM)	4,240	4,240	4,240	4,240
COMM - SATELLITE COMMUNICATIONS				
SECURED ENROUTE COM PACKAGE	7,582	7,582	7,582	7,582
DEFENSE SATELLITE COMMUNICATIONS SYSTEM (SPAC	55,023	55,023	71,023	71,023
SHF TERM	23,359	30,859	23,359	29,759
SAT TERM, EMUT (SPACE)	1,439	1,439	1,439	1,439
NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE)	44,730	52,330	44,730	50,530
SMART-T (SPACE)	14,607	14,607	14,607	14,607
SCAMP (SPACE)	600	600	600	600
GLOBAL BRDCST SVC - GBS	12,478	12,478	12,478	12,478
MOD OF IN-SVC EQUIP (TAC SAT)	7,699	18,699	7,699	7,699
COMM - C3 SYSTEM				
ARMY GLOBAL CMD & CONTROL SYS (AGCCS)	17,358	17,358	18,358	18,358
COMM - COMBAT COMMUNICATIONS				
ARMY DATA DISTRIBUTION SYSTEM (DATA RADIO)	34,837	34,837	34,837	34,837
RADIO TERMINAL SET, MIDS LVT(2)	3,240	3,240	3,240	3,240
SINCGARS FAMILY	55,511	55,511	55,511	55,511
MULTI-PURPOSE INFORMATION OPERATIONS SYSTEMS	8,602	8,602	8,602	8,602
BRIDGE TO FUTURE NETWORKS	41,288	47,288	56,288	62,988
COMMS-ELEC EQUIP FIELDING	6,837	7,837	6,837	11,837
SOLDIER ENHANCEMENT PROGRAM COMM/ELECTRONICS	8,153	8,153	6,000	6,000
COMBAT SURVIVOR EVADER LOCATOR (CSEL)	15,729	17,229	4,629	5,629
RADIO, IMPROVED HF FAMILY	28,041	38,041	28,041	34,041
MEDICAL COMM FOR CBT CASUALTY CARE (MC4)	8,262	8,262	8,262	8,262
COMM - INTELLIGENCE COMM				
CI AUTOMATION ARCHITECTURE	1,320	1,320	1,320	1,320
INFORMATION SECURITY				
TSEC - ARMY KEY MGT SYS (AKMS)	2,994	2,994	2,994	2,994
INFORMATION SYSTEM SECURITY PROGRAM-ISSP	69,734	71,234	74,934	77,484

	(In thousands of dollars)			
	Budget	House	Senate	Conference
COMM - LONG HAUL COMMUNICATIONS				
TERRESTRIAL TRANSMISSION	15,661	15,661	15,661	15,661
BASE SUPPORT COMMUNICATIONS	33,583	33,583	50,583	52,383
ELECTROMAG COMP PROG (EMCP)	479	479	479	479
WW TECH CON IMP PROG (WWTCIP)	2,704	2,704	2,704	2,704
COMM - BASE COMMUNICATIONS				
INFORMATION SYSTEMS	12,883	12,883	12,883	12,883
DEFENSE MESSAGE SYSTEM (DMS)	6,433	6,433	6,433	6,433
INSTALLATION INFO INFRASTRUCTURE MOD PROGRAM	294,384	294,384	300,884	300,884
PENTAGON INFORMATION MGT AND TELECOM	28,618	28,618	28,618	28,618
ELECT EQUIP - NAT FOR INT PROG (NFIP)				
ELECT EQUIP - TACT INT REL ACT (TIARA)				
ALL SOURCE ANALYSIS SYS (ASAS) (TIARA)	21,204	21,204	21,204	21,204
JTT/CIBS-M (TIARA)	9,862	9,862	9,862	9,862
PROPHET GROUND (TIARA)	13,006	24,506	16,006	21,806
TUAV	26,000	26,000	26,000	68,500
SMALL UAV: (SUAV)	20,000	20,000	20,000	20,000
DIGITAL TOPOGRAPHIC SPT SYS (DTSS) (TIARA)	2,888	2,888	2,888	2,888
DISTRIBUTED COMMON GRND SYSTEM (DCGS) (JMIP)	43,543	43,543	43,543	43,543
JOINT TACTICAL GROUND STATION (JTAGS)	12,648	12,648	12,648	12,648
TROJAN (TIARA)	6,067	6,067	6,067	6,067
MOD OF IN-SVC EQUIP (INTEL SPT) (TIARA)	1,668	1,668	1,668	1,668
CI HUMINT INFO MANAGEMENT SYSTEM (CHIMS) (TIA	730	730	730	730
ITEMS LESS THAN $5.0M (TIARA)	16,563	16,563	16,563	20,563

	(In thousands of dollars)			
	Budget	House	Senate	Conference
ELECT EQUIP - ELECTRONIC WARFARE (EW)				
ELECT EQUIP - TACTICAL SURV. (TAC SURV)				
SENTINEL MODS	8,393	8,393	8,393	8,393
NIGHT VISION DEVICES	164,674	172,674	171,674	175,274
LONG RANGE ADVANCED SCOUT SURVEILLANCE SYSTEM	42,293	42,293	42,293	42,293
NIGHT VISION, THERMAL WPN SIGHT	83,692	83,692	83,692	83,692
ARTILLERY ACCURACY EQUIP	---	1,000	---	1,000
MOD OF IN-SVC EQUIP (MMS)	334	334	334	334
PORTABLE INDUCTIVE ARTILLERY FUZE SETTER	6,763	6,763	6,763	6,763
PROFILER	4,869	4,869	4,869	4,869
MOD OF IN-SVC EQUIP (TAC SURV)	18,027	18,027	18,027	18,027
FORCE XXI BATTLE CMD BRIGADE & BELOW (FBCB2)	146,085	146,085	146,085	146,085
LIGHTWEIGHT LASER DESIGNATOR/RANGEFINDER (LLD	12,720	12,720	12,720	12,720
COMPUTER BALLISTICS: LHMBC XM32	1,415	1,415	1,415	1,415
MORTAR FIRE CONTROL SYSTEM	18,877	18,877	18,877	18,877
INTEGRATED MET SYS SENSORS (IMETS) - TIARA	3,699	3,699	3,699	3,699
ENHANCED SENSOR & MONITORING SYSTEM	2,000	2,000	2,000	2,000
ELECT EQUIP - TACTICAL C2 SYSTEMS				
TACTICAL OPERATIONS CENTERS	58,339	58,339	58,339	58,339
ADV FA TAC DATA SYS / EFF CTRL SYS (AFATDS/EC	29,537	29,537	29,537	29,537
MOD OF IN-SVC EQUIP, AFATDS	5,104	5,104	5,104	5,104
LIGHT WEIGHT TECH FIRE DIRECTION SYS (LWT	2,978	2,978	2,978	2,978
CMBT SVC SUPT CONTROL SYS (CSSCS)	10,139	10,139	10,139	10,139
FAAD C2	26,108	26,108	11,108	16,108
AIR & MSL DEFENSE PLANNING & CONTROL SYS (AMD	3,668	3,668	3,668	3,668
FORWARD ENTRY DEVICE / LIGHTWEIGHT FED (FED/L	3,159	3,159	3,159	3,159
LIFE CYCLE SOFTWARE SUPPORT (LCSS)	1,914	1,914	1,914	1,914
LOGTECH	62,256	65,256	78,256	74,956
TC AIMS II	31,356	16,356	31,356	16,356
JOINT NETWORK MANAGEMENT SYSTEM (JNMS)	11,885	11,885	11,885	11,885
TACTICAL INTERNET MANAGER	16,962	16,962	16,962	16,962
MANEUVER CONTROL SYSTEM (MCS)	49,562	49,562	49,562	49,562
SINGLE ARMY LOGISTICS ENTERPRISE (SALE)	89,017	75,017	54,117	65,317
MOUNTED BATTLE COMMAND ON THE MOVE (MBCOTM)	870	870	870	870

(In thousands of dollars)

	Budget	House	Senate	Conference
ELECT EQUIP - AUTOMATION				
ARMY TRAINING MODERNIZATION	23,722	23,722	23,722	23,722
AUTOMATED DATA PROCESSING EQUIP	152,268	153,288	152,258	153,268
RESERVE COMPONENT AUTOMATION SYS (RCAS)	30,819	30,819	37,819	36,819
ELECT EQUIP - AUDIO VISUAL SYS (A/V)				
AFRTS	2,732	2,732	2,732	2,732
ITEMS LESS THAN $5.0M (A/V)	6,381	6,381	6,381	6,381
ITEMS LESS THAN $5M (SURVEYING EQUIPMENT)	2,895	2,895	2,895	2,895
ELECT EQUIP - SUPPORT				
PRODUCTION BASE SUPPORT (C-E)	438	438	438	438
TOTAL, COMMUNICATIONS AND ELECTRONICS EQUIPMENT	2,300,970	2,321,570	2,331,517	2,400,567
OTHER SUPPORT EQUIPMENT				
CHEMICAL DEFENSIVE EQUIPMENT				
SMOKE & OBSCURANT FAMILY: SOF (NON AAO ITEM)	2,904	2,904	2,904	2,904
BRIDGING EQUIPMENT				
TACTICAL BRIDGING	26,611	26,611	26,611	26,611
TACTICAL BRIDGE, FLOAT-RIBBON	5,913	5,913	5,913	5,913
ENGINEER (NON-CONSTRUCTION) EQUIPMENT				
HANDHELD STANDOFF MINEFIELD DETECTION SYS-HST	7,084	7,084	10,084	8,584
GRND STANDOFF MINE DETECTION SYSTEM (GSTAMIDS	2,962	2,962	2,962	2,962
ROBOTIC COMBAT SUPPORT SYSTEM (RCSS)	1,617	1,617	1,617	1,617
EXPLOSIVE ORDNANCE DISPOSAL EQPMT (EOD EQPMT)	29,786	29,786	29,786	29,786
ITEMS LESS THAN $5M, COUNTERMINE EQUIPMENT	580	580	580	580
COMBAT SERVICE SUPPORT EQUIPMENT				
HEATERS AND ECU'S	3,420	3,420	3,420	3,420
LAUNDRIES, SHOWERS AND LATRINES	1,998	1,998	1,998	1,998
SOLDIER ENHANCEMENT	4,810	4,810	4,810	4,810
LIGHTWEIGHT MAINTENANCE ENCLOSURE (LME)	---	---	4,000	2,800
LAND WARRIOR	35,700	35,700	35,700	35,700
MOUNTED WARRIOR	1,600	3,100	1,600	8,400
FIELD FEEDING EQUIPMENT	26,553	26,553	26,553	26,553
AIR DROP PROGRAM	39,644	39,644	39,644	39,644
ITEMS LESS THAN $5.0M (ENG SPT EQ)	3,282	3,282	3,282	3,282
ITEMS LESS THAN $5.0M (CSS EQ)	---	---	4,500	3,200
PETROLEUM EQUIPMENT				
QUALITY SURVEILLANCE EQUIPMENT	730	730	730	730
DISTRIBUTION SYSTEMS, PETROLEUM & WATER	66,055	66,055	66,055	66,055

	(In thousands of dollars)			
	Budget	House	Senate	Conference
WATER EQUIPMENT				
WATER PURIFICATION SYSTEMS	8,888	8,888	8,888	8,888
MEDICAL EQUIPMENT				
COMBAT SUPPORT MEDICAL	10,686	22,186	15,686	26,886
MAINTENANCE EQUIPMENT				
SHOP EQ CONTACT MAINTENANCE TRK MTD (MYP)	8,244	8,244	8,244	8,244
WELDING SHOP, TRAILER MTD	252	252	252	252
ITEMS LESS THAN $5.0M (MAINT EQ)	1,300	3,100	1,300	2,300
CONSTRUCTION EQUIPMENT				
MISSION MODULES - ENGINEERING	3,785	3,785	3,785	3,785
LOADERS	1,217	1,217	11,217	8,217
TRACTOR, FULL TRACKED	966	5,966	966	4,466
HIGH MOBILITY ENGINEER EXCAVATOR (HMEE)	13,472	13,472	13,472	13,472
CONST EQUIP ESP	3,646	30,646	3,646	23,146
ITEMS LESS THAN $5.0M (CONST EQUIP)	4,285	4,285	4,285	4,285
RAIL FLOAT CONTAINERIZATION EQUIPMENT				
LOGISTIC SUPPORT VESSEL (LSV)	---	---	8,000	6,800
THEATER SUPPORT VESSEL (TSV)	15,000	15,000	---	---
HARBORMASTER COMMAND & CONTROL CENTER (HCCC)	600	600	600	600
CAUSEWAY SYSTEMS	2,000	2,000	12,000	9,000
ITEMS LESS THAN $5.0M (FLOAT/RAIL)	4,988	4,988	4,988	4,988
GENERATORS				
GENERATORS AND ASSOCIATED EQUIP	43,067	48,567	47,067	48,967
MATERIAL HANDLING EQUIPMENT				
ALL TERRAIN LIFTING ARMY SYSTEM	361	361	5,361	4,361
TRAINING EQUIPMENT				
COMBAT TRAINING CENTERS (CTC) SUPPORT	60,811	60,811	60,811	60,811
TRAINING DEVICES, NONSYSTEM	184,529	261,428	218,778	265,028
CLOSE COMBAT TACTICAL TRAINER	63,746	63,746	63,746	63,746
AVIATION COMBINED ARMS TACTICAL TRAINER (AVCA	71,301	71,301	71,301	71,301
TEST MEASURE AND DIG EQUIPMENT (TMD)				
INTEGRATED FAMILY OF TEST EQUIPMENT (IFTE)	21,605	25,605	21,605	25,005
TEST EQUIPMENT MODERNIZATION (TEMOD)	471	471	471	471

	(In thousands of dollars) Budget	House	Senate	Conference
OTHER SUPPORT EQUIPMENT				
RAPID EQUIPPING SOLDIER SUPPORT EQUIPMENT	50,000	58,000	50,000	54,000
PHYSICAL SECURITY SYSTEMS (OPA3)	66,614	76,614	77,614	81,114
BASE LEVEL COM'L EQUIPMENT	6,224	6,224	6,224	6,224
MODIFICATION OF IN-SVC EQUIPMENT (OPA-3)	9,379	9,379	9,379	9,379
PRODUCTION BASE SUPPORT (OTH)	2,638	2,638	2,638	2,638
SPECIAL EQUIPMENT FOR USER TESTING	9,316	9,316	13,316	12,716
MA8975	2,434	2,434	2,434	2,434
TOTAL, OTHER SUPPORT EQUIPMENT	933,073	1,084,273	1,020,823	1,109,073
SPARE AND REPAIR PARTS				
INITIAL SPARES - C&E	33,076	33,076	33,076	33,076
INITIAL SPARES - OTHER SUPPORT EQUIP	732	732	732	732
TOTAL, SPARE AND REPAIR PARTS	33,808	33,808	33,808	33,808
LIGHTWEIGHT COUNTER MORTAR RADAR	---	5,000	---	5,000
CLASSIFIED PROGRAMS	9,978	9,978	9,978	9,978
TOTAL, OTHER PROCUREMENT, ARMY	4,302,634	4,491,634	4,426,531	4,594,031

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		Budget Request	House	Senate	Conference
1	**TACTICAL TRAILERS/DOLLY SETS**	15,867	15,867	13,867	13,867
	Fielding and Support Costs			-2,000	-2,000
2	**SEMITRAILERS, FLATBED**	6,049	6,049	8,049	7,249
	600 Series Commercial Tractor Trailer			2,000	1,200
6	**FAMILY OF MEDIUM TACTICAL VEH (FMTV)**	449,601	449,601	453,601	452,401
	Light Medium Tactical Vehicle - Army National Guard			4,000	2,800
8	**FAMILY OF HEAVY TACTICAL VEHICLES (FHTV)**	207,096	217,296	208,696	214,896
	Container Roll-In/Out Platform (MS CROP)		5,200		3,100
	HEMTT LET		5,000		3,500
	Movement Tracking System (MTS)			1,600	1,200
17	**TOWING DEVICE-FIFTH WHEEL**	1,950	3,950	1,950	2,950
	Fifth Wheel Towing Device (FWTD)–Additional Units		2,000		1,000
21	**WIN - TACTICAL PROGRAM**	122,433	101,433	122,433	101,433
	Excessive Overhead		-21,000		-21,000
23	**DEFENSE SATELLITE COMMUNICATIONS SYSTEM (SPACE)**	55,023	55,023	71,023	71,023
	Jam Resistant Secure Communications (Transfer from O&M, Army - BA 4)			15,000	15,000
	Satellite-Based Prototype Interoperable Network Communication System			1,000	1,000
24	**SHF TERM**	23,359	30,859	23,359	29,759
	National Guard Tactical C4ISR Enhancement		7,500		6,400
26	**NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE)**	44,730	52,330	44,730	50,530
	Defense Advanced GPS Receiver (DAGR)		2,000		1,000
	AN/PSC-5 Spitfire conversion kits		5,600		4,800
31	**MOD OF IN-SVC EQUIP (TAC SAT)**	7,699	18,699	7,699	7,699
	KaSAT		11,000		0
32	**ARMY GLOBAL CMD & CONTROL SYS (AGCCS)**	17,358	17,358	18,358	18,358
	Road Armor Demonstration Software for Computer Security			1,000	1,000
39	**BRIDGE TO FUTURE NETWORKS**	41,288	47,288	56,288	62,988
	AN/UXC-10 Digital Facsimile (TS-21 Blackjack)		6,000		9,400
	High Speed Communications Assemblage Upgrade			10,000	7,000
	AN/TRC-170 Modem Upgrade for the Army Reserve				2,800
	Joint Force Wireless Redundant Communications - Army National Guard			5,000	2,500
40	**COMMS-ELEC EQUIP FIELDING**	6,837	7,837	6,837	11,837
	Satellite Multi-Modal Collaborative Crisis & Training Network (SMM-CCTN) for MN Army Guard		1,000		1,000
	Regional Emergency Response Network for the FL National Guard				3,000
	Adaptive Cell Software Defined Radio Base Station				1,000

P-1		Budget Request	House	Senate	Conference
41	**SOLDIER ENHANCEMENT PROGRAM COMM/ELECTRONICS**	**8,153**	**8,153**	**6,000**	**6,000**
	TBD Hardware			-2,153	-2,153
42	**COMBAT SURVIVOR EVADER LOCATOR (CSEL)**	**15,729**	**17,229**	**4,629**	**5,629**
	U.S. Army Sustainment Center CSAR Technology Upgrade for ARS-6		1,500		1,000
	CSEL--Transfer to Title IX			-11,100	-11,100
43	**RADIO, IMPROVED HF FAMILY**	**28,041**	**38,041**	**28,041**	**34,041**
	AN/PRC-150C High Frequency Radio for the Army Guard and Reserve		10,000		6,000
47	**INFORMATION SYSTEM SECURITY PROGRAM-ISSP**	**69,734**	**71,234**	**74,934**	**77,484**
	Critical Army System - Cyber Attack Technology (CAS-CAT)		1,500		1,500
	Biometrics Identity System for Access			5,200	6,250
49	**BASE SUPPORT COMMUNICATIONS**	**33,583**	**33,583**	**50,583**	**52,383**
	Alaska Land Mobile Radio			7,000	7,000
	Fort Riley ASR-11 Digital Airport Surveillance Radar				3,300
	USARPAC Deployable C4 System			10,000	8,500
55	**INSTALLATION INFO INFRASTRUCTURE MOD PROGRAM**	**294,384**	**294,384**	**300,884**	**300,884**
	GIG-BE ALCOM Expansion			6,500	6,500
62	**PROPHET GROUND (TIARA)**	**13,006**	**24,506**	**16,006**	**21,806**
	Blue Marauder Enhanced System		2,000		1,700
	Prophet Block I System (Note: Only for procurement, production and fielding of Prophet Block I Systems and spares for assignment to Army National Guard organizations with 2006 and 2007 delivery requirements.)		7,500		4,000
	Prophet Ground Signals Intelligence Analytical Capability		2,000		1,000
	Prophet Ground Vehicle Block I Enhancements			3,000	2,100
63	**TUAV**	**26,000**	**26,000**	**26,000**	**68,500**
	I-GNAT (Note: transferred from Title IX)				42,500
74	**ITEMS LESS THAN $5 MILLION (TIARA)**	**16,563**	**16,563**	**16,563**	**20,563**
	ARNG Wideband Imagery Dissemination Systems				4,000
79	**NIGHT VISION DEVICES**	**164,674**	**172,674**	**171,674**	**175,274**
	MX-2 Mini-IR Thermal Imager		8,000	5,000	5,000
	Small Tactical Optical Rifle Mounted Micro-Laser Range Finding System (Note: transferred from Title IX)				4,200
	Ultra-High Intensity Illumination System			2,000	1,400
84	**ARTILLERY ACCURACY EQUIP**	**0**	**1,000**	**0**	**1,000**
	Improved Position and Azimuth Determining System (IPADS)		1,000		1,000
101	**FAAD C2**	**26,108**	**26,108**	**11,108**	**16,108**
	COE Hardware			-15,000	-10,000

P-1		Budget Request	House	Senate	Conference
106	**LOGTECH**	**62,256**	**65,256**	**78,256**	**74,956**
	Army Legacy Logistics Systems Modernization (SAMS-E)		3,000		1,500
	Active Data-Rich RFID for In-Transit Visibility Upgrades and Enhancements			6,000	4,200
	Arsenal/Depot AIT Initiative			10,000	7,000
107	**TC AIMS II**	**31,356**	**16,356**	**31,356**	**16,356**
	Buying ahead of need		-15,000		-15,000
112	**SINGLE ARMY LOGISTICS ENTERPRISE (SALE)**	**89,017**	**75,017**	**54,117**	**65,317**
	Program Growth and Execution		-14,000	-35,200	-24,000
	USARPAC GCCS Operations			300	300
116	**AUTOMATED DATA PROCESSING EQUIP**	**152,268**	**153,268**	**152,268**	**153,268**
	Virtual Mission Preparation (Note: only for the further implementation of the virtual preparation requirements for the National Guard Bureau's Army Training Division.)		1,000		1,000
117	**RESERVE COMPONENT AUTOMATION SYS (RCAS)**	**30,819**	**30,819**	**37,819**	**36,819**
	Pacific Rim Information Technology Infrastructure Improvement Program			7,000	6,000
126	**HANDHELD STANDOFF MINEFIELD DETECTION SYS-HST**	**7,084**	**7,084**	**10,084**	**8,584**
	Handheld Standoff Mine Detection System (HSTAMIDS) - Army Reserve			3,000	1,500
135	**LIGHTWEIGHT MAINTENANCE ENCLOSURE (LME)**	**0**	**0**	**4,000**	**2,800**
	Lightweight Maintenance Enclosure			4,000	2,800
137	**MOUNTED WARRIOR**	**1,600**	**3,100**	**1,600**	**8,400**
	Helmet Mounted Displays (HMD) for Stryker Brigades (Note: only for see-through, daylight-readable, retinal scanning helmet mounted display for Stryker Brigades. Transfer from title IX)		1,500		6,800
143	**ITEMS LESS THAN $5 MILLION (CSS EQ)**	**0**	**0**	**4,500**	**3,200**
	Long Arm High Intensity Handheld Searchlight (RI-2200 and RI-2400)			4,500	3,200
145	**COMBAT SUPPORT MEDICAL**	**10,686**	**22,186**	**15,686**	**26,886**
	Combat Support Hospitals		2,000	5,000	4,300
	Golden Hour Technology (Note: transferred to O&M,A)		5,000		0
	Life Support for Trauma and Transport (LSTAT)		4,500		3,900
	Quick Clot Hemorrhage Control (Note: transferred from Title IX)				3,000
	Self-contained Reusable Blood Container (Note: transferred from Title IX)				5,000
151	**ITEMS LESS THAN $5 MILLION (MAINT EQ)**	**1,300**	**3,100**	**1,300**	**2,300**
	Blast Booths and Paint Boots for Kansas National Guard Readiness Sustainment Maintenance Site (RSMS)		1,800		1,000
153	**LOADERS**	**1,217**	**1,217**	**11,217**	**8,217**
	Loaders - Army Reserve			10,000	7,000
154	**TRACTOR, FULL TRACKED**	**966**	**5,966**	**966**	**4,466**
	C-130 Transportable Motor Graders		5,000		3,500

P-1	Budget Request	House	Senate	Conference
158 CONST EQUIP ESP	**3,646**	**30,646**	**3,646**	**23,146**
Construction Equipment SLEP for Active component		10,000		7,000
Construction Equipment SLEP for AR and ARNG		15,000		10,500
MW24C Loader Modification		1,000		1,000
M4K Forklift Modifications		1,000		1,000
160 LOGISTIC SUPPORT VESSEL (LSV)	**0**	**0**	**8,000**	**6,800**
Logistics Support Vessel Enhancement Program			8,000	6,800
161 THEATER SUPPORT VESSEL (TSV)	**15,000**	**15,000**	**0**	**0**
Program Merger and Delay			-15,000	-15,000
163 CAUSEWAY SYSTEMS	**2,000**	**2,000**	**12,000**	**9,000**
Modular Causeway System			10,000	7,000
165 GENERATORS AND ASSOCIATED EQUIP	**43,067**	**48,567**	**47,067**	**48,967**
Deployable Power Generation Distribution System		5,500		3,900
100kW Tactical Quiet Generator			4,000	2,000
167 ALL TERRAIN LIFTING ARMY SYSTEM	**361**	**361**	**5,361**	**4,361**
All Terrain Lifting Army System - Army Reserve			5,000	3,500
Central Automated Lubrication System for the ATLAS program				500
171 TRAINING DEVICES, NONSYSTEM	**184,528**	**261,428**	**218,778**	**265,028**
172nd SIB Range Improvement Plan			14,000	14,000
AB-FIST for the Army National Guard		3,000		1,500
Advanced Bradley Full-Crew Interactive Simulator Trainers			12,000	10,200
America's Army Future Soldier Trainer (AA-FST) (Note: only to continue the Military Skills Engagement Trainer pilot program redesignated America's Army Future Soldier Trainer)		20,000		14,000
America's Army Live Fire Trainer Shoot House Deployment (Note: only to upgrade current U.S. Army live fire urban combat shoot houses with fully engageable virtual targets)		10,000		7,000
Call For Fire Trainer/Joint Fires and Effects Trainer System			2,500	2,500
Combat Arms Training System (CATS) - Army National Guard		2,000	4,000	2,000
Digital Deployed Training Campus (DDTC) Program-ARNG		10,000		8,500
Immersive Group Simulation Demonstration Project		2,000		1,300
Joint Readiness Training Center (JRTC) Instrumentation System (IS)		5,400		2,700
Laser Marksmanship Training System (LMTS) for the Army		10,000		6,000
Laser Marksmanship Training System (LMTS) for the Army Reserve		2,500		2,200
Tabletop Gunnery Trainers (TGT) and Full-fidelity Trainers (TFT)		3,000		1,100
Tabletop Gunnery Trainers (TGT) and Full-fidelity Trainers (TFT) for Army National Guard		3,000		1,500
Up-armored HMMWV & Tactical Truck Crew Trainers--OHARNG		1,000		1,000

P-1		Budget Request	House	Senate	Conference
	Up-Armored HMMWV and Tactical Truck Crew Trainers for the Army National Guard		5,000		3,500
	USARPAC Core Warfighting C4 Network Infrastructure			1,750	1,500
175	**INTEGRATED FAMILY OF TEST EQUIPMENT (IFTE)**	**21,605**	**25,605**	**21,605**	**25,005**
	Integrated Family of Test Equipment		4,000		3,400
177	**RAPID EQUIPPING SOLDIER SUPPORT EQUIPMENT**	**50,000**	**58,000**	**50,000**	**54,000**
	Insurgent Command and Control Technology		8,000		4,000
178	**PHYSICAL SECURITY SYSTEMS (OPA3)**	**66,614**	**76,614**	**77,614**	**81,114**
	Threat Systems Management Office Satellite Operating Center - West (Note: Only to procure four critically needed Mi-17 assets for realistic training of US, allied and coalition forces.)		10,000		8,500
	Battlefield Anti-Intrusion System			10,000	5,000
	Gamma Radiographic Detection System (GaRDS) Mobile Car & Truck Inspection Unit			1,000	1,000
182	**SPECIAL EQUIPMENT FOR USER TESTING**	**9,316**	**9,316**	**13,316**	**12,716**
	Advanced Threat Communications Network			4,000	3,400
NEW	**LIGHTWEIGHT COUNTER MORTAR RADAR-ENHANCEMENTS (LCMR-E)**	**0**	**5,000**	**0**	**5,000**

LIVE FIRE TRAINER SHOOT HOUSE DEVELOPMENT

The conferees believe that America's Army Live Fire Trainer, using "America's Army" software and thermal image ballistic tracking and weapon middleware will improve training of soldiers, sailors, and marines in critical urban combat skills. Of note, current U.S. Army live fire urban combat shoot houses will be upgraded to replace paper targets with fully engagable virtual targets, representing enemy, friendly, and non-combatant personnel. As a result, this platform has a tremendous capability to improve marksmanship, adaptive thinking, and critical combat related tasks in a live-fire environment.

BATTLEFIELD OPERATING SYSTEMS

The conferees direct the Secretary of the Army to provide a report to the congressional defense committees, no later than February 15, 2006, detailing the Army's plan to close the information-sharing gap across Battlefield Operating Systems and provide increased information awareness from multiple domains to the commands and forces engaged in Operation Iraqi Freedom. The conferees also direct that this report provide information regarding the return on investment of expanding or redirecting resources to the operation and expansion of net-centric information-sharing applications such as Federated Search, Alerts, and FusionNet, delivered by the Horizontal Fusion program. Finally, the conferees direct that this report provide information about the architecture and development of net-centric services that will improve battle command in Operation Iraqi Freedom.

AIRCRAFT PROCUREMENT, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, NAVY				
COMBAT AIRCRAFT				
AV-8B (V/STOL)HARRIER (MYP)	1,707	1,707	1,707	1,707
EA-18G	310,175	310,175	310,175	310,175
EA-18G (AP-CY)	26,486	26,486	26,486	26,486
F/A-18E/F (FIGHTER) HORNET (MYP)	2,736,230	2,736,230	2,744,080	2,740,230
F/A-18E/F (FIGHTER) HORNET (MYP) (AP-CY)	86,105	86,105	86,105	86,105
V-22 (MEDIUM LIFT)	993,302	993,302	993,302	993,302
V-22 (MEDIUM LIFT) (AP-CY)	67,274	67,274	67,274	67,274
UH-1Y/AH-1Z	307,479	318,279	307,479	307,479
MH-60S (MYP)	463,369	463,369	463,369	463,369
MH-60S (MYP) (AP-CY)	125,698	125,698	125,698	125,698
MH-60R	435,421	439,421	435,421	438,821
MH-60R (AP-CY)	119,078	119,078	119,078	119,078
E-2C (EARLY WARNING) HAWKEYE (MYP)	210,952	210,952	210,952	210,952
E-2C (EARLY WARNING) HAWKEYE (MYP) (AP-CY)	38,000	38,000	38,000	38,000
TOTAL, COMBAT AIRCRAFT	5,921,276	5,936,076	5,929,126	5,928,676
AIRLIFT AIRCRAFT				
C-40A	10,312	10,312	10,312	10,312
TOTAL, AIRLIFT AIRCRAFT	10,312	10,312	10,312	10,312

	Budget	(In thousands of dollars) House	Senate	Conference
TRAINER AIRCRAFT				
T-45TS (TRAINER) GOSHAWK	239,240	239,240	239,240	239,240
JPATS	2,411	24,911	14,011	19,411
TOTAL, TRAINER AIRCRAFT	241,651	264,151	253,251	258,651
OTHER AIRCRAFT				
KC-130J	1,092,743	321,089	447,296	384,200
ADVANCE PROCUREMENT (CY)	---	45,626	71,000	58,000
F-5	4,517	4,517	4,517	4,517
TOTAL, OTHER AIRCRAFT	1,097,260	371,232	522,813	446,717
MODIFICATION OF AIRCRAFT				
EA-6 SERIES	120,619	123,619	120,619	122,119
AV-8 SERIES	34,862	34,862	34,862	34,862
ADVERSARY	5,013	5,013	5,013	5,013
F-18 SERIES	422,444	417,444	442,444	433,444
H-46 SERIES	55,427	55,427	55,427	55,427
AH-1W SERIES	7,656	17,156	7,656	15,056
H-53 SERIES	14,917	22,917	14,917	20,717
SH-60 SERIES	12,360	12,360	12,360	12,360
H-1 SERIES	7,395	8,395	7,395	7,895
EP-3 SERIES	55,120	55,120	44,120	44,120
P-3 SERIES	163,348	185,500	161,348	173,248
S-3 SERIES	751	751	751	751
E-2 SERIES	13,654	13,654	13,654	13,654
TRAINER A/C SERIES	14,004	14,004	14,004	14,004
C-2A	29,575	29,575	29,575	29,575
C-130 SERIES	42,698	32,698	42,698	32,698

	(In thousands of dollars)			
	Budget	House	Senate	Conference
FEWSG	605	605	605	605
CARGO/TRANSPORT A/C SERIES	19,914	19,914	19,914	19,914
E-6 SERIES	11,219	11,219	11,219	11,219
EXECUTIVE HELICOPTERS SERIES	16,734	16,734	16,734	16,734
SPECIAL PROJECT AIRCRAFT	20,762	28,262	20,762	26,562
T-45 SERIES	49,980	42,980	53,980	45,780
POWER PLANT CHANGES	26,334	26,334	26,334	26,334
JPATS SERIES	719	719	719	719
AVIATION LIFE SUPPORT MODS	323	323	323	323
COMMON ECM EQUIPMENT	51,376	55,376	51,376	54,776
COMMON AVIONICS CHANGES	214,202	181,395	189,202	181,395
COMMON DEFENSIVE WEAPON SYSTEM	13,752	13,752	13,752	13,752
ID SYSTEMS	7,741	7,741	7,741	7,741
V-22 (TILT/ROTOR ACFT) OSPREY	81,002	81,002	81,002	81,002
TOTAL, MODIFICATION OF AIRCRAFT	1,514,506	1,514,851	1,500,506	1,501,799
AIRCRAFT SPARES AND REPAIR PARTS				
SPARES AND REPAIR PARTS	1,089,236	1,060,823	1,028,036	1,019,036
AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES				
COMMON GROUND EQUIPMENT	499,469	475,579	503,469	478,079
AIRCRAFT INDUSTRIAL FACILITIES	9,508	9,508	9,508	9,508
WAR CONSUMABLES	10,437	10,437	---	---
OTHER PRODUCTION CHARGES	15,467	15,467	15,467	13,967
SPECIAL SUPPORT EQUIPMENT	106,376	106,376	106,376	106,376
FIRST DESTINATION TRANSPORTATION	1,628	1,628	1,628	1,628
TOTAL, AIRCRAFT SUPPORT EQUIPMENT & FACILITIES	642,885	618,995	636,448	609,558
TOTAL, AIRCRAFT PROCUREMENT, NAVY	10,517,126	9,776,440	9,880,492	9,774,749

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		Budget Request	House	Senate	Conference
4	**F/A-18E/F (FIGHTER) HORNET (MYP)**	**2,736,230**	**2,736,230**	**2,744,080**	**2,740,230**
	Shared reconnaissance pod (SHARP)			7,850	4,000
8	**UH-1Y/AH-1Z**	**307,479**	**318,279**	**307,479**	**307,479**
	Non-recurring engineering to build new AH-1Z (Note: Conference funding is included under title IX, "Aircraft Procurement, Navy")		10,800		0
11	**MH-60R**	**435,421**	**439,421**	**435,421**	**438,821**
	AQS-22 advanced low frequency sonar (ALFS)		4,000		3,400
20	**JPATS**	**2,411**	**24,911**	**14,011**	**19,411**
	Additional aircraft		22,500	11,600	17,000
21	**KC-130J**	**1,092,743**	**321,089**	**447,296**	**384,200**
	Reduction from 12 to 4 aircraft		-771,654		
	Reduction from 12 to 6 aircraft			-645,447	
	Reduction from 12 to 5 aircraft				-708,543
22	**KC-130J ADVANCE PROCUREMENT (CY)**	**0**	**45,626**	**71,000**	**58,000**
	Advance procurement funding for FY07		45,626	71,000	58,000
24	**EA-6 SERIES**	**120,619**	**123,619**	**120,619**	**122,119**
	EA-6B support jamming upgrade		3,000		1,500
27	**F-18 SERIES**	**422,444**	**417,444**	**442,444**	**433,444**
	Discrepancy reductions; trainer upgrades		-5,000		0
	Spare engines and modules			30,000	21,000
	Underexecution			-10,000	-10,000
29	**AH-1W SERIES**	**7,656**	**17,156**	**7,656**	**15,056**
	AH-1W ANVIS HUD 24		5,000		3,500
	USMC AH-1W Cobra night targeting system		4,500		3,900
30	**H-53 SERIES**	**14,917**	**22,917**	**14,917**	**20,717**
	CH-53 crashworthy seat		4,000		3,400
	H-53E EAPS barrier filter		4,000		2,400
32	**H-1 SERIES**	**7,395**	**8,395**	**7,395**	**7,895**
	Brite Star reduction in unit costs		-2,000		-1,000
	USMC UH-1N Huey helo navigation thermal imaging system		3,000		1,500
33	**EP-3 SERIES**	**55,120**	**55,120**	**44,120**	**44,120**
	Premature JMOD spiral II request			-11,000	-11,000
34	**P-3 SERIES**	**163,348**	**185,500**	**161,348**	**173,248**
	Program reductions		-3,348		0
	P-3C high resolution digital recorder		2,000		1,000
	P-3C mission system sustainment AMIP		8,000	7,000	7,000
	P-3C ALR-95 ESM geolocation upgrade		4,000		1,400
	P-3C COTS aircraft health monitoring system (AHMS)		2,500		1,800
	P-3C ALR-95 ESM system library, integrated logistics and training support		5,000		4,300
	P-3C AIP ESM system wingtip antennas and receivers		4,000		3,400
	COP rephasing			-10,000	-10,000
	CURTIS upgrades to the P-3C BMUP			1,000	1,000

P-1		Budget Request	House	Senate	Conference
39	**C-130 SERIES**	**42,698**	**32,698**	**42,698**	**32,698**
	Slower growth in avionics modernization program		-10,000		-10,000
44	**SPECIAL PROJECT AIRCRAFT**	**20,762**	**28,262**	**20,762**	**26,562**
	Communications upgrade		2,500		1,500
	Aircraft advanced collection system		5,000		4,300
45	**T-45 SERIES**	**49,980**	**42,980**	**53,980**	**45,780**
	Defer SAR training curriculum		-7,000		-7,000
	Crash survivable memory unit			4,000	2,800
49	**COMMON ECM EQUIPMENT**	**51,376**	**55,376**	**51,376**	**54,776**
	AN/APR-39A(V2)		4,000		3,400
50	**COMMON AVIONICS CHANGES**	**214,202**	**181,395**	**189,202**	**181,395**
	Reduce growth in common avionics		-32,807	-25,000	-32,807
54	**SPARES AND REPAIR PARTS**	**1,089,236**	**1,060,823**	**1,028,036**	**1,019,036**
	KC-130J aircraft		-28,413	-10,000	-19,000
	V-22 program delays			-24,200	-24,200
	MH-60 program delays			-27,000	-27,000
55	**COMMON GROUND EQUIPMENT**	**499,469**	**475,579**	**503,469**	**478,079**
	CASS automatic test equipment		-5,000		-5,000
	Other training equipment (Note: No reduction shall be allocated to U. S. Marine Corps programs)		-21,890		-21,890
	Aviation maintenance training continuum system		3,000		2,100
	Direct squadron support readiness training program			4,000	3,400
57	**WAR CONSUMABLES**	**10,437**	**10,437**	**0**	**0**
	Transfer to title IX			-10,437	-10,437
58	**OTHER PRODUCTION CHARGES**	**15,467**	**15,467**	**15,467**	**13,967**
	Tactical Combat Training System		-5,000		-5,000
	LAU-7 sidewinder missile launcher replacement		5,000		3,500

MH-60R HELICOPTER PROGRAM

The conference agreement provides $438,821,000 for the MH-60R helicopter program. The conferees note that, as the MH-60R moves into full rate production, the Navy would be able to realize long term cost savings through a multiyear procurement of this aircraft, as is being accomplished with other Navy aircraft, including the MH-60S. The conferees urge the Department of the Navy to examine the business case for a multiyear procurement of the MH-60R helicopter and, if warranted by the analysis, to implement a multiyear procurement as soon as possible to maximize program savings.

WEAPONS PROCUREMENT, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
WEAPONS PROCUREMENT, NAVY				
MODIFICATION OF MISSILES				
TRIDENT II MODS	932,680	932,680	842,680	917,680
SUPPORT EQUIPMENT AND FACILITIES				
MISSILE INDUSTRIAL FACILITIES	3,413	3,413	3,413	3,413
TOTAL, BALLISTIC MISSILES	936,093	936,093	846,093	921,093
OTHER MISSILES				
STRATEGIC MISSILES				
TOMAHAWK	353,409	301,153	353,409	301,153
TACTICAL MISSILES				
AMRAAM	81,507	81,507	4,507	74,600
SIDEWINDER	37,823	37,823	37,823	37,823
JSOW	144,449	146,449	144,449	146,149
STANDARD MISSILE	145,676	145,676	145,676	145,676
RAM	86,944	86,944	86,944	86,944
AERIAL TARGETS	101,882	92,882	101,882	92,882
DRONES AND DECOYS	---	---	20,000	17,000
OTHER MISSILE SUPPORT	10,336	10,336	10,336	10,336
MODIFICATION OF MISSILES				
ESSM	99,833	99,833	99,833	99,833
STANDARD MISSILES MODS	53,531	53,531	61,031	57,281
SUPPORT EQUIPMENT AND FACILITIES				
WEAPONS INDUSTRIAL FACILITIES	4,112	4,112	35,112	30,462
ORDNANCE SUPPORT EQUIPMENT				
ORDNANCE SUPPORT EQUIPMENT	45,410	52,410	45,410	51,610
TOTAL, OTHER MISSILES	1,164,912	1,112,656	1,146,412	1,151,749

	(In thousands of dollars)			
	Budget	House	Senate	Conference
TORPEDOES AND RELATED EQUIPMENT				
TORPEDOES AND RELATED EQUIP.				
SSTD	3,994	3,994	3,994	3,994
ASW TARGETS	24,557	24,557	24,557	24,557
MOD OF TORPEDOES AND RELATED EQUIP				
MK-46 TORPEDO MODS	76,591	76,591	61,591	69,591
MK-48 TORPEDO ADCAP MODS	61,309	35,920	61,309	58,309
QUICKSTRIKE MINE	3,018	3,018	3,018	3,018
SUPPORT EQUIPMENT				
TORPEDO SUPPORT EQUIPMENT	29,234	29,234	29,234	29,234
ASW RANGE SUPPORT	13,039	13,039	13,039	13,039
DESTINATION TRANSPORTATION				
FIRST DESTINATION TRANSPORTATION	3,188	3,188	3,188	3,188
TOTAL, TORPEDOES AND RELATED EQUIPMENT	214,930	189,541	199,930	204,930
OTHER WEAPONS				
GUNS AND GUN MOUNTS				
SMALL ARMS AND WEAPONS	22,515	22,515	18,515	18,515
MODIFICATION OF GUNS AND GUN MOUNTS				
CIWS MODS	195,648	195,648	195,648	195,648
COAST GUARD WEAPONS	5,375	5,375	5,375	5,375
GUN MOUNT MODS	84,142	55,727	97,142	83,442
OTHER				
TACTICAL UAV - PIONEER	1,964	1,964	1,964	1,964
CRUISER MODERNIZATION	5,428	5,428	5,428	5,428
AIRBORNE MINE NEUTRALIZATION SYSTEMS	1,515	1,515	1,515	1,515
TOTAL, OTHER WEAPONS	316,587	288,172	325,587	311,887
SPARES AND REPAIR PARTS	75,319	70,319	75,319	70,319
TOTAL, WEAPONS PROCUREMENT, NAVY	2,707,841	2,596,781	2,593,341	2,659,978

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		Budget Request	House	Senate	Conference
2	**TRIDENT II MODS**	932,680	932,680	842,680	917,680
	LE -- excessive growth			-90,000	-15,000
4	**TOMAHAWK**	353,409	301,153	353,409	301,153
	Reduction in quantity from 379 to 308		-52,256		-52,256
5	**AMRAAM**	81,507	81,507	4,507	74,600
	Program reduction			-77,000	-6,907
7	**JSOW**	144,449	146,449	144,449	146,149
	Program increase		2,000		1,700
12	**AERIAL TARGETS**	101,882	92,882	101,882	92,882
	TA/AS range instrumentation equipment		-9,000		-9,000
13	**DRONES AND DECOYS**	0	0	20,000	17,000
	ITALD			20,000	17,000
16	**STANDARD MISSILES MODS**	53,531	53,531	61,031	57,281
	Rocket motor modification			7,500	3,750
17	**WEAPONS INDUSTRIAL FACILITIES**	4,112	4,112	35,112	30,462
	Allegany Ballistics Lab - facility restoration plan			31,000	26,350
18	**ORDNANCE SUPPORT EQUIPMENT**	45,410	52,410	45,410	51,610
	MK-48 ADCAP torpedo critical components production		5,000		3,500
	Torpedo technology insertion		2,000		2,700
21	**MK-46 TORPEDO MODS**	76,591	76,591	61,591	69,591
	Cost growth			-15,000	-7,000
22	**MK-48 TORPEDO ADCAP MODS**	61,309	35,920	61,309	58,309
	MK-48 CBASS reduction in procurement rate		-25,389		-3,000
27	**SMALL ARMS AND WEAPONS**	22,515	22,515	18,515	18,515
	Unjustified growth			-4,000	-4,000
30	**GUN MOUNT MODS**	84,142	55,727	97,142	83,442
	Reduce growth in MK 38 mod 2 gun mount		-29,415		-15,000
	MK 45 Mod 4 gun upgrades		1,000	10,000	7,000
	Minor caliber gun system			3,000	2,100
	SSBN transit protection system (Note: Funding is transferred from Other Procurement, Navy, line 13)				5,200
35	**SPARES AND REPAIR PARTS**	75,319	70,319	75,319	70,319
	Reduction to growth -- Standard missile		-5,000		-5,000

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
PROCUREMENT OF AMMO, NAVY & MARINE CORPS				
PROC AMMO, NAVY				
NAVY AMMUNITION				
GENERAL PURPOSE BOMBS	135,355	135,355	135,355	135,355
JDAM	82,589	82,589	82,589	82,589
AIRBORNE ROCKETS, ALL TYPES	35,159	27,080	27,080	27,080
MACHINE GUN AMMUNITION	23,666	23,666	23,666	23,666
PRACTICE BOMBS	56,569	56,569	56,569	56,569
CARTRIDGES & CART ACTUATED DEVICES	32,586	32,586	32,586	32,586
AIRCRAFT ESCAPE ROCKETS	10,860	10,860	10,860	10,860
AIR EXPENDABLE COUNTERMEASURES	70,174	70,174	63,680	63,680
JATOS	4,566	4,566	4,566	4,566
5 INCH/54 GUN AMMUNITION	25,923	25,923	25,923	25,923
INTERMEDIATE CALIBER GUN AMMUNITION	1,252	1,252	1,252	1,252
OTHER SHIP GUN AMMUNITION	40,144	40,144	31,144	35,644
SMALL ARMS & LANDING PARTY AMMO	35,639	35,639	35,639	35,639
PYROTECHNIC AND DEMOLITION	13,910	13,910	13,910	13,910
AMMUNITION LESS THAN $5 MILLION	3,157	3,157	3,157	3,157
TOTAL, PROC AMMO, NAVY	571,549	563,470	547,976	552,476

	(In thousands of dollars) Budget	House	Senate	Conference
PROC AMMO, MC				
MARINE CORPS AMMUNITION				
5.56 MM, ALL TYPES	37,452	37,452	37,452	37,452
7.62 MM, ALL TYPES	13,731	13,731	13,731	13,731
LINEAR CHARGES, ALL TYPES	38,761	43,461	38,761	41,111
.50 CALIBER	34,882	34,882	34,882	34,882
40 MM, ALL TYPES	58,148	60,148	58,148	59,148
60MM, ALL TYPES	16,224	16,224	16,224	16,224
81MM, ALL TYPES	17,211	17,211	17,211	17,211
120MM, ALL TYPES	7,231	9,931	7,231	9,531
CTG 25MM, ALL TYPES	2,118	2,118	2,118	2,118
GRENADES, ALL TYPES	5,315	5,315	5,315	5,315
ROCKETS, ALL TYPES	---	9,000	---	7,200
ARTILLERY, ALL TYPES	31,810	31,810	31,810	31,810
EXPEDITIONARY FIGHTING VEHICLE	5,738	5,738	5,738	5,738
DEMOLITION MUNITIONS, ALL TYPES	2,353	2,353	2,353	2,353
FUZE, ALL TYPES	3,648	3,648	3,648	3,648
NON LETHALS	1,127	1,127	1,127	1,127
AMMO MODERNIZATION	7,350	9,350	7,350	9,050
ITEMS LESS THAN $5 MILLION	18,201	18,201	1,716	1,716
TOTAL, PROC AMMO, MC	301,300	321,700	284,815	299,365
TOTAL, PROCUREMENT OF AMMO, NAVY & MARINE CORPS	872,849	885,170	832,791	851,841

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		Budget Request	House	Senate	Conference
3	**AIRBORNE ROCKETS, ALL TYPES**	35,159	27,080	27,080	27,080
	Program delay		-8,079	-8,079	-8,079
8	**AIR EXPENDABLE COUNTERMEASURES**	70,174	70,174	63,680	63,680
	MJU 50 pyrophoric decoy device			-2,924	-2,924
	Fiber optic towed decoy/integrated defensive ECM			-3,570	-3,570
14	**OTHER SHIP AMMUNITION**	40,144	40,144	31,144	35,644
	20mm Phalanx enhanced lethality cartridge			-9,000	-4,500
21	**LINEAR CHARGES, ALL TYPES**	38,761	43,461	38,761	41,111
	Charge, Demolition, Linear, High Explosive (HE), Composition C4, M58A4 with Fuze, Electric M113A4		2,000		1,000
	Anti-Personnel Obstacle Breaching System (APOBS)		2,700		1,350
23	**40 MM, ALL TYPES**	58,148	60,148	58,148	59,148
	Cartridge, 40mm High Explosive Dual Purpose (HEDP), M430		2,000		1,000
26	**120MM, ALL TYPES**	7,231	9,931	7,231	9,531
	120 MM Tank Ammunition-M1028 Canister Rounds		2,700		2,300
30	**ROCKETS, ALL TYPES**	0	9,000	0	7,200
	SMAW, NE Ammunition		4,000		2,800
	SMAW, High Explosive Dual Purpose (HEDP) Ammunition		1,000		1,000
	M72A7 Lightweight Attack Weapon System (LAW)		4,000		3,400
36	**AMMO MODERNIZATION**	7,350	9,350	7,350	9,050
	Multi-Purpose Optic-USMC Systems Command		2,000		1,700
37	**ITEMS LESS THAN $5 MILLION**	18,201	18,201	1,716	1,716
	Asbly, pyro MK 34 – transfer to title IX			-16,485	-16,485

JOINT DIRECT ATTACK MUNITION LASER CAPABILITY

The conferees understand that combatant commanders in OEF/OIF have requested the addition of a laser capability to existing Joint Direct Attack Munition (JDAM) weapon kits. This change could provide improved JDAM operational flexibility and time-sensitive target capability. Therefore, the conferees agree with Senate language encouraging the Department to consider laser JDAM testing to provide these increased capabilities to the warfighter.

SHIPBUILDING AND CONVERSION, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
SHIPBUILDING & CONVERSION, NAVY				
OTHER WARSHIPS				
CARRIER REPLACEMENT PROGRAM (AP-CY)	564,913	564,913	651,613	626,913
VIRGINIA CLASS SUBMARINE	1,637,698	1,637,698	1,637,698	1,637,698
VIRGINIA CLASS SUBMARINE (AP-CY)	763,786	763,786	763,786	763,786
SSGN CONVERSION	286,516	286,516	286,516	286,516
CVN REFUELING OVERHAUL	1,493,563	1,300,000	1,493,563	1,318,563
CVN REFUELING OVERHAULS (AP-CY)	20,000	20,000	20,000	20,000
SSN ERO (AP-CY)	39,524	39,524	---	---
SSBN ERO	230,193	230,193	230,193	230,193
SSBN REFUELING OVERHAULS (AP-CY)	62,248	62,248	62,248	62,248
DD(X) (ADV PROCUREMENT)	715,992	---	765,992	715,992
DDG-51	225,427	1,550,000	29,773	150,000
DDG-51 MODERNIZATION PROGRAM	---	50,000	---	50,000
LITTORAL COMBAT SHIP	---	440,000	---	440,000
TOTAL, OTHER WARSHIPS	6,039,860	6,944,878	5,941,382	6,301,909
AMPHIBIOUS SHIPS				
LHD-1 AMPHIBIOUS ASSAULT SHIP	197,769	197,769	197,769	197,769
LPD-17	1,344,741	1,344,741	1,344,741	1,344,741
LHA-R (AP-CY)	150,447	200,447	150,447	150,447
TOTAL, AMPHIBIOUS SHIPS	1,692,957	1,742,957	1,692,957	1,692,957
AUXILIARIES, CRAFT, AND PRIOR-YEAR PROGRAM COSTS				
AUXILIARIES, CRAFT AND PRIOR YEAR PROGRAM COST OUTFITTING	426,987	385,000	369,387	369,387
SERVICE CRAFT	56,255	46,000	46,055	45,455
LCAC SLEP	110,583	100,000	110,583	100,000
COMPLETION OF PY SHIPBUILDING PROGRAMS	394,523	394,523	517,523	517,523
TOTAL, AUXILIARIES, CRAFT, AND PRIOR-YEAR PROGRAM	988,348	925,523	1,043,548	1,032,365
TOTAL, SHIPBUILDING & CONVERSION, NAVY	8,721,165	9,613,358	8,677,887	9,027,231

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		Budget Request	House	Senate	Conference
1	**CARRIER REPLACEMENT PROGRAM**	**564,913**	**564,913**	**651,613**	**626,913**
	CVN-21 schedule maintenance			86,700	62,000
6	**CVN REFUELING OVERHAUL**	**1,493,563**	**1,300,000**	**1,493,563**	**1,318,563**
	Reduction in scope of FY06 work		-193,563		-175,000
9	**SSN ERO (AP-CY)**	**39,524**	**39,524**	**0**	**0**
	Program delays			-39,524	-39,524
13	**DD(X) (AP-CY)**	**715,992**	**0**	**765,992**	**715,992**
	Deferral of program funding		-715,992		0
	AP FY 2006 for FY 2008 ship			50,000	0
14	**DDG-51**	**225,427**	**1,550,000**	**29,773**	**150,000**
	Additional DDG-51 destroyer		1,400,000		0
	Items in the budget request		150,000		150,000
	Premature request/contract structure			-195,654	0
	DDG-51 MODERNIZATION PROGRAM	**0**	**50,000**	**0**	**50,000**
	Continuation of modernization program		50,000		50,000
	LITTORAL COMBAT SHIP	**0**	**440,000**	**0**	**440,000**
	Two additional LCS ships		440,000		440,000
19	**LHA-R (AP-CY)**	**150,447**	**200,447**	**150,447**	**150,447**
	Additional funding		50,000		0
21	**OUTFITTING**	**426,987**	**385,000**	**369,387**	**369,387**
	Reduction in growth		-41,987	-57,600	-57,600
22	**SERVICE CRAFT**	**56,255**	**46,000**	**46,055**	**45,455**
	Reduction in growth/program delays/slow obligations		-16,255	-20,000	-20,000
	Aft ramp range retriever craft		6,000		4,200
	Tug boat craft			9,800	5,000
23	**LCAC SLEP**	**110,583**	**100,000**	**110,583**	**100,000**
	Competitive contract savings		-10,583		-10,583
25	**COMPLETION OF PRIOR YEAR SHIPBUILDING**	**394,523**	**394,523**	**517,523**	**517,523**
	LPD-17 class amphibious ships			123,000	123,000

COST GROWTH RESOLUTION PLAN

The conferees are concerned over the unanticipated cost growth on existing Navy shipbuilding contracts, and agree that the plan directed by the House on this subject is to include details on the cost growth for all existing shipbuilding and conversion efforts. The plan is to be submitted to the congressional defense committees not later than February 1, 2006, and shall make recommendations on mechanisms to resolve the cost growth, including the option of converting the remaining work to fixed-price contracts.

LHA(R) FUNDING

The conferees do not agree with House direction urging the Navy to reconsider split funding for the LHA(R) Program. The conferees agree to consider either split funding or full funding if proposed by the Administration.

LITTORAL COMBAT SHIP REPORT

The conferees agree to the report on Littoral Combat Ship (LCS) mission modules proposed by the House, and specify that such report should include cost estimates for these modules by fiscal year.

OTHER PROCUREMENT, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
OTHER PROCUREMENT, NAVY				
SHIPS SUPPORT EQUIPMENT				
SHIP PROPULSION EQUIPMENT				
LM-2500 GAS TURBINE	8,644	6,894	8,644	6,894
ALLISON 501K GAS TURBINE	22,208	21,696	25,608	24,096
NAVIGATION EQUIPMENT				
OTHER NAVIGATION EQUIPMENT	30,747	26,409	30,747	25,913
UNDERWAY REPLENISHMENT EQUIPMENT				
UNDERWAY REPLENISHMENT EQUIPMENT	918	918	918	918
PERISCOPES				
SUB PERISCOPES & IMAGING EQUIP	76,613	62,642	80,613	65,442
OTHER SHIPBOARD EQUIPMENT				
DDG MOD	2,998	2,998	2,998	2,998
FIREFIGHTING EQUIPMENT	31,710	35,710	31,710	35,110
COMMAND AND CONTROL SWITCHBOARD	2,852	2,852	2,852	2,852
POLLUTION CONTROL EQUIPMENT	32,889	32,889	32,889	32,889
SUBMARINE SUPPORT EQUIPMENT	19,912	20,912	15,912	16,912
VIRGINIA CLASS SUPPORT EQUIPMENT	175,572	128,072	152,272	145,672
SUBMARINE BATTERIES	26,575	26,575	26,575	26,575
STRATEGIC PLATFORM SUPPORT EQUIP	70,429	78,429	11,024	14,824
DSSP EQUIPMENT	12,718	12,718	12.718	12,718
CG-MODERNIZATION	135,253	135,253	127,215	127.215
LCAC	19,953	19,953	19,953	19,953
MINESWEEPING EQUIPMENT	12,372	12,372	12.372	12,372
ITEMS LESS THAN $5 MILLION	134,019	148,719	152.519	151,569
CHEMICAL WARFARE DETECTORS	897	897	897	897
SUBMARINE LIFE SUPPORT SYSTEM	13,672	13,672	13,672	14,672

	Budget	(In thousands of dollars) House	Senate	Conference
REACTOR PLANT EQUIPMENT				
REACTOR POWER UNITS	373,865	373,865	373,865	373,865
REACTOR COMPONENTS	222,596	222,596	222,596	222,596
OCEAN ENGINEERING				
DIVING AND SALVAGE EQUIPMENT	8,592	8,592	8,592	8,592
SMALL BOATS				
STANDARD BOATS	15,671	18,671	11,671	63,071
TRAINING EQUIPMENT				
OTHER SHIPS TRAINING EQUIPMENT	3,126	3,126	3,126	3,126
PRODUCTION FACILITIES EQUIPMENT				
OPERATING FORCES IPE	25,657	25,657	26,657	26,657
OTHER SHIP SUPPORT				
NUCLEAR ALTERATIONS	135,252	135,252	135,252	135,252
LCS MODULES	36,811	36,811	44,411	40,611
TOTAL, SHIPS SUPPORT EQUIPMENT	1,652,521	1,615,150	1,588,278	1,614,261
COMMUNICATIONS AND ELECTRONICS EQUIPMENT				
SHIP RADARS				
RADAR SUPPORT	---	17,000	---	15,800
SPQ-9B RADAR	5,913	14,913	5,913	12,813
SHIP SONARS				
AN/SQQ-89 SURF ASW COMBAT SYSTEM	25,520	33,520	25,520	34,320
SSN ACOUSTICS	226,914	235,614	231,914	234,614
UNDERSEA WARFARE SUPPORT EQUIPMENT	13,962	15,962	13,962	15,662
SONAR SWITCHES AND TRANSDUCERS	12,263	12,263	12,263	12,263
ASW ELECTRONIC EQUIPMENT				
SUBMARINE ACOUSTIC WARFARE SYSTEM	27,332	30,332	24,332	25,832
SSTD	22,898	30,898	22,898	28,698
FIXED SURVEILLANCE SYSTEM	65,334	65,334	65,334	65,334
SURTASS	3,848	3,848	3,848	3,848
ASW OPERATIONS CENTER	5,270	5,270	5,270	5,270
ELECTRONIC WARFARE EQUIPMENT				
AN/SLQ-32	25,053	25,053	25,053	25,053
INFORMATION WARFARE SYSTEMS	3,787	3,787	3,787	3,787
RECONNAISSANCE EQUIPMENT				
SHIPBOARD IW EXPLOIT	62,721	68,721	54,721	59,821
SUBMARINE SURVEILLANCE EQUIPMENT				
SUBMARINE SUPPORT EQUIPMENT PROG	92,806	92,806	97,306	95,956
OTHER SHIP ELECTRONIC EQUIPMENT				
NAVY TACTICAL DATA SYSTEM	---	10,000	---	8,500

(In thousands of dollars)

	Budget	House	Senate	Conference
COOPERATIVE ENGAGEMENT CAPABILITY	16,474	21,474	16,474	20,724
GCCS-M EQUIPMENT	91,511	91,511	86,511	86,511
NAVAL TACTICAL COMMAND SUPPORT SYSTEM (NTCSS)	59,226	62,226	44,226	51,776
ATDLS	14,102	14,102	14,102	14,102
MINESWEEPING SYSTEM REPLACEMENT	84,045	84,045	84,045	84,045
SHALLOW WATER MCM	2,277	2,277	2,277	2,277
NAVSTAR GPS RECEIVERS (SPACE)	14,715	14,715	14,715	14,715
ARMED FORCES RADIO AND TV	4,366	4,366	4,366	4,366
STRATEGIC PLATFORM SUPPORT EQUIP	3,285	3,285	3,285	3,285
TRAINING EQUIPMENT				
OTHER TRAINING EQUIPMENT	62,027	42,000	40,027	40,027
AVIATION ELECTRONIC EQUIPMENT				
MATCALS	19,584	19,584	19,584	19,584
SHIPBOARD AIR TRAFFIC CONTROL	7,307	7,307	7,307	7,307
AUTOMATIC CARRIER LANDING SYSTEM	17,388	17,388	17,388	17,388
NATIONAL AIR SPACE SYSTEM	18,446	18,446	18,446	18,446
AIR STATION SUPPORT EQUIPMENT	3,870	3,870	3,870	3,870
MICROWAVE LANDING SYSTEM	7,733	7,733	7,733	7,733
FACSFAC	3,609	3,609	3,609	3,609
ID SYSTEMS	24,915	24,915	24,915	24,915
TAC A/C MISSION PLANNING SYS(TAMPS)	7,857	7,857	7,857	7,857
OTHER SHORE ELECTRONIC EQUIPMENT				
DEPLOYABLE JOINT COMMAND AND CONT	27,901	27,901	27,901	27,901
COMMON IMAGERY GROUND SURFACE SYSTEMS	20,422	20,422	20,422	20,422
RADIAC	9,783	13,783	9,783	13,183
GPETE	6,944	9,944	5,944	8,444
INTEG COMBAT SYSTEM TEST FACILITY	4,381	4,381	4,381	4,381
EMI CONTROL INSTRUMENTATION	5,995	7,995	5,995	7,695
ITEMS LESS THAN $5 MILLION	19,721	19,721	19,721	19,721
SHIPBOARD COMMUNICATIONS				
SHIPBOARD TACTICAL COMMUNICATIONS	2,597	2,597	2,597	2,597
PORTABLE RADIOS	10,058	10,058	10,058	10,058
SHIP COMMUNICATIONS AUTOMATION	253,960	202,000	238,960	202,000
COMMUNICATIONS ITEMS UNDER $5M	15,248	15,248	15,248	15,248

	(In thousands of dollars) Budget	House	Senate	Conference
SUBMARINE COMMUNICATIONS				
SUBMARINE BROADCAST SUPPORT	2,162	2,162	2,162	2,162
SUBMARINE COMMUNICATION EQUIPMENT	127,409	128,909	112,409	128,409
SATELLITE COMMUNICATIONS				
SATELLITE COMMUNICATIONS SYSTEMS	71,754	78,954	71,754	75,354
SHORE COMMUNICATIONS				
JCS COMMUNICATIONS EQUIPMENT	2,950	2,950	2,950	2,950
ELECTRICAL POWER SYSTEMS	1,274	1,274	1,274	1,274
JEDMICS	---	---	8,000	6,800
NAVAL SHORE COMMUNICATIONS	59,208	59,208	59,208	59,208
CRYPTOGRAPHIC EQUIPMENT				
INFO SYSTEMS SECURITY PROGRAM (ISSP)	96,201	99,201	96,201	98,751
CRYPTOLOGIC EQUIPMENT				
CRYPTOLOGIC COMMUNICATIONS EQUIP	22,281	22,281	22,281	22,281
OTHER ELECTRONIC SUPPORT				
COAST GUARD EQUIPMENT	31,377	15,000	31,377	31,377
TOTAL, COMMUNICATIONS AND ELECTRONICS EQUIPMENT	1,847,984	1,860,020	1,782,484	1,840,324
AVIATION SUPPORT EQUIPMENT				
SONOBUOYS				
SONOBUOYS - ALL TYPES	58,422	58,422	58,422	58,422
AIRCRAFT SUPPORT EQUIPMENT				
WEAPONS RANGE SUPPORT EQUIPMENT	46,622	52,322	56,622	60,072
EXPEDITIONARY AIRFIELDS	7,860	7,860	7,860	7,860
AIRCRAFT REARMING EQUIPMENT	11,984	11,984	11,984	11,984
AIRCRAFT LAUNCH & RECOVERY EQUIPMENT	27,042	24,000	27,042	24,000
METEOROLOGICAL EQUIPMENT	25,129	22,818	25,129	22,818
OTHER PHOTOGRAPHIC EQUIPMENT	1,434	1,434	1,434	1,434
AVIATION LIFE SUPPORT	26,946	26,946	27,846	25,646
AIRBORNE MINE COUNTERMEASURES	38,036	38,036	38,036	38,036
LAMPS MK III SHIPBOARD EQUIPMENT	18,152	20,152	18,152	19,852
OTHER AVIATION SUPPORT EQUIPMENT	6,458	12,458	6,458	11,558
TOTAL, AVIATION SUPPORT EQUIPMENT	268,085	276,432	278,985	281,682

	(In thousands of dollars)			
	Budget	House	Senate	Conference
ORDNANCE SUPPORT EQUIPMENT				
SHIP GUN SYSTEM EQUIPMENT				
NAVAL FIRES CONTROL SYSTEM	6.057	4,347	6.057	4,347
GUN FIRE CONTROL EQUIPMENT	11,077	11,077	11,077	11,077
SHIP MISSILE SYSTEMS EQUIPMENT				
NATO SEASPARROW	38,442	38,442	38,442	38,442
RAM GMLS	17,488	22,488	29,488	25,888
SHIP SELF DEFENSE SYSTEM	33,428	33,428	29,403	29,403
AEGIS SUPPORT EQUIPMENT	98,881	105,781	98,881	102,911
TOMAHAWK SUPPORT EQUIPMENT	75,075	75,075	75,075	75,075
VERTICAL LAUNCH SYSTEMS	8,645	8,645	8,645	8,645
FBM SUPPORT EQUIPMENT				
STRATEGIC MISSILE SYSTEMS EQUIP	108,106	108,106	108.106	108,106
ASW SUPPORT EQUIPMENT				
SSN COMBAT CONTROL SYSTEMS	138,180	135,199	138,180	133,899
SUBMARINE ASW SUPPORT EQUIPMENT	4,836	4,836	4,836	4,836
SURFACE ASW SUPPORT EQUIPMENT	4,603	4,603	7,103	6,353
ASW RANGE SUPPORT EQUIPMENT	7,232	7,232	7,232	7,232
OTHER ORDNANCE SUPPORT EQUIPMENT				
EXPLOSIVE ORDNANCE DISPOSAL EQUIP	28,403	28,403	31,303	30,403
ITEMS LESS THAN $5 MILLION	3,978	3,978	3,978	3,978
OTHER EXPENDABLE ORDNANCE				
ANTI-SHIP MISSILE DECOY SYSTEM	40,436	40,436	46,436	43,436
SURFACE TRAINING DEVICE MODS	10,618	10,618	10,618	10,618
SUBMARINE TRAINING DEVICE MODS	31,760	31,760	37,760	35,160
TOTAL, ORDNANCE SUPPORT EQUIPMENT	667,245	674,454	692,620	679,809

	Budget	House	Senate	Conference
	(In thousands of dollars)			
CIVIL ENGINEERING SUPPORT EQUIPMENT				
PASSENGER CARRYING VEHICLES	1,796	1,796	1,796	1,796
GENERAL PURPOSE TRUCKS	2,049	2,049	2,049	2,049
CONSTRUCTION & MAINTENANCE EQUIP	31,033	44,033	35,533	40,133
FIRE FIGHTING EQUIPMENT	14,320	15,820	14,320	15,370
TACTICAL VEHICLES	44,383	44,383	44,383	44,383
AMPHIBIOUS EQUIPMENT	149,702	149,702	149,702	149,702
POLLUTION CONTROL EQUIPMENT	11,736	11,736	11,736	11,736
ITEMS UNDER $5 MILLION	26,459	30,459	26,459	29,959
PHYSICAL SECURITY VEHICLES	1,200	1,200	1,200	1,200
TOTAL, CIVIL ENGINEERING SUPPORT EQUIPMENT	282,678	301,178	287,178	296,328
SUPPLY SUPPORT EQUIPMENT				
MATERIALS HANDLING EQUIPMENT	12,946	13,946	17,946	17,446
OTHER SUPPLY SUPPORT EQUIPMENT	15,872	17,872	18,372	18,622
FIRST DESTINATION TRANSPORTATION	5,785	5,785	5,785	5,785
SPECIAL PURPOSE SUPPLY SYSTEMS	73,383	73,383	73,383	73,383
TOTAL, SUPPLY SUPPORT EQUIPMENT	107,986	110,986	115,486	115,236
PERSONNEL AND COMMAND SUPPORT EQUIPMENT				
TRAINING DEVICES				
TRAINING SUPPORT EQUIPMENT	15,984	19,984	10,984	13,484
COMMAND SUPPORT EQUIPMENT				
COMMAND SUPPORT EQUIPMENT	60,768	62,268	60,673	57,943
EDUCATION SUPPORT EQUIPMENT	426	426	426	426
MEDICAL SUPPORT EQUIPMENT	8,772	8,772	9,772	9,772
OPERATING FORCES SUPPORT EQUIPMENT	7,925	10,925	10,925	10,925
MOBILE SENSOR PLATFORM	31,773	31,773	31,773	31,773
ENVIRONMENTAL SUPPORT EQUIPMENT	17,755	17,755	17,755	17,755
PHYSICAL SECURITY EQUIPMENT	238,276	191,476	127,528	194,176
TOTAL, PERSONNEL AND COMMAND SUPPORT EQUIPMENT	381,679	343,379	269,836	336,254
SPARES AND REPAIR PARTS	268,741	268,741	261,741	254,741
CLASSIFIED PROGRAMS	10,899	10,856	16,549	15,659
TOTAL, OTHER PROCUREMENT, NAVY	5,487,818	5,461,196	5,293,157	5,444,294

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		Budget Request	House	Senate	Conference
1	**LM-2500 GAS TURBINE**	**8,644**	**6,894**	**8,644**	**6,894**
	Reduce FADEC shipsets from 5 to 3		-1,750		-1,750
2	**ALLISON 501K GAS TURBINE**	**22,208**	**21,696**	**25,608**	**24,096**
	Reduction in FADEC (GF015) unit cost		-512		-512
	Optical flash detection system			3,400	2,400
3	**OTHER NAVIGATION EQUIPMENT**	**30,747**	**26,409**	**30,747**	**25,913**
	Scalable ECDIS-N production rate reduction		-1,004	-3,000	-3,000
	INS ECP/FC kits		-3,334		-3,334
	AMPHIB integrated bridge system			3,000	1,500
5	**SUB PERISCOPES & IMAGING EQUIP**	**76,613**	**62,642**	**80,613**	**65,442**
	Hold procurement rate for type 8 rangefinder and IRST systems to FY05 level		-13,971		-13,971
	Photonic mast spares for SSGN class submarines			4,000	2,800
7	**FIREFIGHTING EQUIPMENT**	**31,710**	**35,710**	**31,710**	**35,110**
	Joint water activated release system		4,000		3,400
10	**SUBMARINE SUPPORT EQUIPMENT**	**19,912**	**20,912**	**15,912**	**16,912**
	High performance brush program		1,000		1,000
	Warm water operations excessive cost growth			-4,000	-4,000
11	**VIRGINIA CLASS SUPPORT EQUIPMENT**	**175,572**	**128,072**	**152,272**	**145,672**
	Integrated test and maintenance system		-8,300		0
	Technology insertion, refresh, and upgrades		-45,200		0
	Wireless non-tactical data processing system		6,000		5,100
	Funding ahead of need			-23,300	0
	Program reduction				-35,000
13	**STRATEGIC PLATFORM SUPPORT EQUIPMENT**	**70,429**	**78,429**	**11,024**	**14,824**
	Submarine common electronic equipment replacement Q-70		8,000		3,800
	Change in acquisition strategy (Note: Conference funding is included under line 24, "Standard Boats")			-59,405	-59,405
15	**CG MODERNIZATION**	**135,253**	**135,253**	**127,215**	**127,215**
	Baseline III upgrades			-8,038	-8,038
16	**ITEMS LESS THAN $5 MILLION**	**134,019**	**148,719**	**152,519**	**151,569**
	Machinery control surveillance system project		4,000	3,000	3,500
	Canned lube pump for LSD-41/49 class		2,000	3,500	2,000
	CVN propeller replacement program		3,000	4,000	3,400
	Aircraft carrier aircraft elevator modification		5,700	3,000	4,850
	Advanced control monitoring system			4,000	2,800
	Fuel and engine maintenance savings system (FEMSS) LSD 41/49 class ships			1,000	1,000
20	**SUBMARINE LIFE SUPPORT SYSTEM**	**13,672**	**13,672**	**13,672**	**14,672**
	Central atmosphere monitoring system IIA (CAMS IIA)				1,000
24	**STANDARD BOATS**	**15,671**	**18,671**	**11,671**	**63,071**
	Special operations swimmer/diver training craft		3,000		2,100
	Unjustified growth			-4,000	-4,000
	SSBN transit protection system (Note: Funding is transferred from Other Procurement, Navy, line 13)				45,300

P-1		Budget Request	House	Senate	Conference
	Life raft procurement				4,000
26	**OPERATING FORCES IPE**	**25,657**	**25,657**	**26,657**	**26,657**
	IPDE enhancement and DoD PDM interoperability program			1,000	1,000
28	**LCS MODULES**	**36,811**	**36,811**	**44,411**	**40,611**
	MT30 marine gas turbine spare engine			7,600	3,800
30	**RADAR SUPPORT**	**0**	**17,000**	**0**	**15,800**
	AN/SYS-2(V) 13 track management systems for FFG-7 ships		5,000		3,500
	Maritime small target and threat detector - enhanced detection processor (Note: Funding is transferred from RDT&E, Navy, line 168)				2,100
	SPS-67 radar backfit upgrade		12,000		10,200
32	**SPQ-9B RADAR**	**5,913**	**14,913**	**5,913**	**12,813**
	AN/SPQ-9B shipboard radar transmitter upgrade		3,000		1,800
	SPA-25G radar display refresher kits		6,000		5,100
33	**AN/SQQ-89 SURF ASW COMBAT SYSTEM**	**25,520**	**33,520**	**25,520**	**34,320**
	Improved performance sonar (IPS) commonality		8,000		8,800
34	**SSN ACOUSTICS**	**226,914**	**235,614**	**231,914**	**234,614**
	Submarine acoustic modemization installation (ARCI)		3,000	5,000	4,000
	Complementary submarine acoustic system imps		1,700		1,000
	Common depth sounder		2,000		1,000
	Submarine technology insertion (Note: SBR(S) N96-278 and N03-049)		2,000		1,700
35	**UNDERSEA WARFARE SUPPORT EQUIPMENT**	**13,962**	**15,962**	**13,962**	**15,662**
	Distributed engineering center for torpedo defense		2,000		1,700
37	**SUBMARINE ACOUSTIC WARFARE SYSTEM**	**27,332**	**30,332**	**24,332**	**25,832**
	Common acoustic sensor initiative		3,000		1,500
	Unjustified growth			-3,000	-3,000
38	**SSTD**	**22,898**	**30,898**	**22,898**	**28,698**
	AN/SLQ-25A torpedo countermeasure systems upgrades		8,000		5,800
44	**SHIPBOARD IW EXPLOIT**	**62,721**	**68,721**	**54,721**	**59,821**
	Tapered slot antenna		2,000		1,700
	Tactical COMINT/ELINT integration		4,000		3,400
	SSEE increment E -- buying 2 ahead of need			-8,000	-8,000
45	**SUBMARINE SUPPORT EQUIPMENT PROGRAM**	**92,806**	**92,806**	**97,306**	**95,956**
	BLQ-10 radar narrow band ESM technology refresh			4,500	3,150
46	**NAVY TACTICAL DATA SYSTEM**	**0**	**10,000**	**0**	**8,500**
	SVS for carriers and Wallops Island		2,000		1,700
	LHA Q-70 upgrade		3,000		2,550
	Fleet peripheral equipment fielding		2,000		1,700
	SSDS/ACDS shore site upgrades		3,000		2,550
47	**COOPERATIVE ENGAGEMENT CAPABILITY**	**16,474**	**21,474**	**16,474**	**20,724**
	Program increase		5,000		4,250

P-1		Budget Request	House	Senate	Conference
48	**GCCS-M EQUIPMENT**	91,511	91,511	86,511	86,511
	GCCS-M afloat cost growth			-5,000	-5,000
49	**NAVAL TACTICAL COMMAND SUPPORT SYSTEM (NTCSS)**	59,226	62,226	44,226	51,776
	Q-70-based IT-21 servers		3,000		2,550
	Execution			-15,000	-10,000
56	**OTHER TRAINING EQUIPMENT**	62,027	42,000	40,027	40,027
	Fund at FY05 level due to budget constraints		-20,027		0
	TSTC unjustified growth			-22,000	0
	Program reduction				-22,000
69	**RADIAC**	9,783	13,783	9,783	13,183
	Personal dosimeters		4,000		3,400
70	**GPETE**	6,944	9,944	6,944	8,444
	Allen telescope array		3,000		1,500
72	**EMI CONTROL INSTRUMENTATION**	5,995	7,995	5,995	7,695
	TREX network centric monitoring stations		2,000		1,700
76	**SHIP COMMUNICATIONS AUTOMATION**	253,960	202,000	238,960	202,000
	Reduction in growth due to budget constraints		-51,960		-51,960
	Tactical switching growth			-15,000	0
79	**SUBMARINE COMMUNICATION EQUIPMENT**	127,409	128,909	112,409	128,409
	Replace/upgrade LF Awase, Japan Helix House		1,500		1,000
	HDR buying ahead of need			-15,000	0
80	**SATELLITE COMMUNICATIONS SYSTEMS**	71,754	78,954	71,754	75,354
	Mini-DAMA communications set (AN/USC-42(v)(2))		7,200		3,600
84	**JEDMICS**	0	0	8,000	6,800
	PACOM agile coalition environment			8,000	6,800
86	**INFO SYSTEMS SECURITY PROGRAM (ISSP)**	96,201	99,201	96,201	98,751
	Intelligent agent security module (IASM)		3,000		2,550
88	**COAST GUARD EQUIPMENT**	31,377	15,000	31,377	31,377
	Reduction to growth		-16,377		0
91	**WEAPONS RANGE SUPPORT EQUIPMENT**	46,622	52,322	56,622	60,072
	Multispectral threat emitter system		3,000		2,100
	Smart target threats – Southern California offshore range		2,700		1,350
	PMRF equipment			10,000	10,000
94	**AIRCRAFT LAUNCH & RECOVERY EQUIPMENT**	27,042	24,000	27,042	24,000
	Reduction to growth due to budget constraints		-3,042		0
	Unjustified request				-3,042
95	**METEOROLOGICAL EQUIPMENT**	25,129	22,818	25,129	22,818
	Hold Tactical Environmental Support System to 6 units		-2,311		-2,311
97	**AVIATION LIFE SUPPORT**	26,946	26,946	27,846	25,846
	CSEL transfer to title IX			-9,100	-9,100
	Multi climate protection system			6,000	3,000

P-1		Budget Request	House	Senate	Conference
	Joint aviation technical data integration program				2,000
	US Navy M-176 microphone and mask			4,000	2,800
99	**LAMPS MK III SHIPBOARD EQUIPMENT**	**18,152**	**20,152**	**18,152**	**19,852**
	AN/SRQ-4 LAMPS MK III		2,000		1,700
100	**OTHER AVIATION SUPPORT EQUIPMENT**	**6,458**	**12,458**	**6,458**	**11,558**
	Joint aviation logistics technical data integration system security solution		6,000		5,100
101	**NAVAL FIRES CONTROL SYSTEM**	**6,057**	**4,347**	**6,057**	**4,347**
	Smooth out procurement and installation rate		-1,710		-1,710
104	**RAM GMLS**	**17,488**	**22,488**	**29,488**	**25,888**
	Phalanx SeaRAM		5,000	12,000	8,400
105	**SHIP SELF DEFENSE SYSTEM**	**33,428**	**33,428**	**29,403**	**29,403**
	SSDS COTS replacement unjustified growth			-4,025	-4,025
106	**AEGIS SUPPORT EQUIPMENT**	**98,881**	**105,781**	**98,881**	**102,911**
	Aegis computer center upgrades		4,000		2,000
	Naval tactical fiber switch		2,900		2,030
112	**SSN COMBAT CONTROL SYSTEMS**	**138,180**	**135,199**	**138,180**	**133,899**
	SSGN sustaining support		-6,981		-6,981
	Virginia-class automation/manning reduction tech (Note: SBIR N03-046)		2,000		1,000
	Weapon launch systems technology insertion		2,000		1,700
114	**SURFACE ASW SUPPORT EQUIPMENT**	**4,603**	**4,603**	**7,103**	**6,353**
	MK 32 surface vessel torpedo tube (SVTT) remanufacture			2,500	1,750
116	**EXPLOSIVE ORDNANCE DISPOSAL EQUIPMENT**	**28,403**	**28,403**	**31,303**	**30,403**
	SCOUT high pressure air system			2,900	2,000
118	**ANTI-SHIP MISSILE DECOY SYSTEM**	**40,436**	**40,436**	**46,436**	**43,436**
	MK 53 NULKA decoy system			6,000	3,000
120	**SUBMARINE TRAINING DEVICE MODS**	**31,760**	**31,760**	**37,760**	**35,160**
	INTERLOCKS development tool			4,000	2,000
	Performance centric mission essential content delivery			2,000	1,400
123	**CONSTRUCTION & MAINTENANCE EQUIPMENT**	**31,033**	**44,033**	**35,533**	**40,133**
	Naval construction force construction and maintenance equipment		13,000		9,100
	Earthmoving equipment for U. S. Navy construction units (Note: Conference funding is included under line 123, "Naval construction force construction and maintenance equipment")			4,500	0
124	**FIRE FIGHTING EQUIPMENT**	**14,320**	**15,820**	**14,320**	**15,370**
	Firefighting, Naval District Washington		1,500		1,050
128	**ITEMS UNDER $5 MILLION**	**26,459**	**30,459**	**26,459**	**29,959**
	Digital stores management system (DSMS)		4,000		3,500
130	**MATERIALS HANDLING EQUIPMENT**	**12,946**	**13,946**	**17,946**	**17,446**

P-1		Budget Request	House	Senate	Conference
	NIROP industrial facilities materials staging area		1,000		1,000
	SeaBee loaders with six ton MHE capability			5,000	3,500
131	**OTHER SUPPLY SUPPORT EQUIPMENT**	**15,872**	**17,872**	**18,372**	**18,622**
	Serial number tracking system		2,000		1,000
	DWMS/RFID for improved operational logistics, warfighter support, and asset tracking and visibility			2,500	1,750
134	**TRAINING SUPPORT EQUIPMENT**	**15,984**	**19,984**	**10,984**	**13,484**
	Laser marksmanship training system for the Navy Reserve		3,000		1,500
	Virtual reality parachute simulator (ParaSim)		1,000		1,000
	Unjustified growth			-5,000	-5,000
135	**COMMAND SUPPORT EQUIPMENT**	**60,768**	**62,268**	**60,673**	**57,943**
	Man overboard identification system		1,500	9,100	6,370
	Navy Oracle ESL			-9,195	-9,195
137	**MEDICAL SUPPORT EQUIPMENT**	**8,772**	**8,772**	**9,772**	**9,772**
	Navy medical automated information technology insertion			1,000	1,000
139	**OPERATING FORCES SUPPORT EQUIPMENT**	**7,925**	**10,925**	**10,925**	**10,925**
	Envelope protective covers for weapons and deck equipment protection on surface combatants		3,000	3,000	3,000
142	**PHYSICAL SECURITY EQUIPMENT**	**238,276**	**191,476**	**127,528**	**194,176**
	Transfer to title IX		-48,800		0
	Body armor quick release systems for naval anti-terrorism		2,000		1,700
	SPS cost growth			-8,800	-8,800
	SPS transfer to title IX			-40,000	-40,000
	WRAS transfer to title IX			-66,948	0
	Navy Region Northwest remote sentry			2,000	1,200
	SEAFOX remote controlled surface vehicle			3,000	1,800
146	**SPARES AND REPAIR PARTS**	**268,741**	**268,741**	**261,741**	**264,741**
	Buying ahead of need			-7,000	-4,000
999	**CLASSIFIED PROGRAMS**	**10,899**	**10,856**	**16,549**	**15,659**
	Program adjustments		-43	5,650	4,760

SSBN Transit Protection System

The conference agreement provides $70,700,000 in new budget authority for the SSBN Transit Protection System. The following table summarizes conference actions on this program:

Appropriation	Budget line	Conference agreement
Other Procurement, Navy (rescission of fiscal year 2005 funds)	13	−$43,000,000
Other Procurement, Navy	24	45,300,000
Weapons Procurement, Navy	30	5,200,000
Operation and Maintenance, Navy	N/A	19,200,000
Operation and Maintenance, Defense-Wide	N/A	1,000,000
Total, new budget authority		70,700,000

The conference agreement provides $70,700,000 for the Navy's restructured SSBN Transit Protection Program, including $45,300,000 in Other Procurement, Navy for the procurement of two 87-foot escort cutters and 11 medium escort vessels, and $5,200,000 in Weapons Procurement, Navy for weapons for larger screening vessels. In addition, the conferees provide $19,200,000 in Operation and Maintenance, Navy for the lease of not less than two large screening vessels during fiscal year 2006. The conferees would not oppose efforts by the Navy to provide additional resources to the program during fiscal year 2006 from existing Navy funds. However, while the conferees share the Navy's force protection concerns and provide significant funds for these efforts throughout this Act, the conferees are concerned about aspects of this approach created by the Navy's revised concept of operations. Given programmatic changes over the past year, the conferees believe it would be important to have an independent review of the current concept of operations. Therefore, the conferees direct the Office of Program Analysis and Evaluation to oversee a study that analyzes the Navy's concept of operations and explores alternatives to the current design, and include $1,000,000 in Operation and Maintenance, Defense-Wide for that purpose. The Office of Program Analysis and Evaluation is directed to present the results of its analysis to the congressional defense committees within 180 days of enactment of this Act.

Senate direction to withhold the obligation of funds (Senate Report No. 109–141) pending submission of a report on this program was satisfied when such report was submitted on October 12, 2005.

PROCUREMENT, MARINE CORPS

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
PROCUREMENT, MARINE CORPS				
WEAPONS AND COMBAT VEHICLES				
TRACKED COMBAT VEHICLES				
AAV7A1 PIP	26,134	26,134	22,134	22,134
EXPEDITIONARY FIGHTING VEHICLE	30,359	30,359	30,359	30,359
LAV PIP	59,699	59,699	59,699	59,699
MODIFICATION KITS (ARMOR AND FIRE SUPPORT)	---	---	1,000	1,000
M1A1 FIREPOWER ENHANCEMENTS	33,454	33,454	33,454	33,454
ARTILLERY AND OTHER WEAPONS				
EXPEDITIONARY FIRE SUPPORT SYSTEM	5,965	5,965	5,965	5,965
155MM LIGHTWEIGHT TOWED HOWITZER	178,364	178,364	178,364	178,364
HIGH MOBILITY ARTILLERY ROCKET SYSTEM	176,795	146,795	176,795	156,795
WEAPONS AND COMBAT VEHICLES UNDER $5 MILLION	7,743	10,743	7,743	9,843
WEAPONS				
MODULAR WEAPON SYSTEM	23,604	23,604	13,604	13,604
OTHER SUPPORT				
MODIFICATION KITS	10,638	10,638	10,638	10,638
WEAPONS ENHANCEMENT PROGRAM	5,357	5,357	5,357	5,357
TOTAL, WEAPONS AND COMBAT VEHICLES	558,112	531,112	545,112	527,212
GUIDED MISSILES AND EQUIPMENT				
GUIDED MISSILES				
EADS MOD	1,997	1,997	1,997	1,997
COMPLEMENTARY LOW ALTITUDE WEAPON SYSTEM	442	442	442	442
OTHER SUPPORT				
MODIFICATION KITS	---	2,500	---	2,200
TOTAL, GUIDED MISSILES AND EQUIPMENT	2,439	4,939	2,439	4,639

(In thousands of dollars)

	Budget	House	Senate	Conference
COMMUNICATIONS AND ELECTRONICS EQUIPMENT				
COMMAND AND CONTROL SYSTEMS				
UNIT OPERATIONS CENTER	952	952	5,752	4,352
REPAIR AND TEST EQUIPMENT				
REPAIR AND TEST EQUIPMENT	25,749	25,749	25,749	25,749
AUTO TEST SYSTEM	---	---	20,000	17,000
OTHER SUPPORT (TEL)				
COMBAT SUPPORT SYSTEM	23,757	23,757	27,257	25,857
MODIFICATION KITS	23,611	23,611	23,611	23,611
ITEMS UNDER $5 MILLION (COMM & ELEC)	2,043	2,043	2,043	2,043
AIR OPERATIONS C2 SYSTEMS	13,058	13,058	13,058	13,058
JOINT TACTICAL RADIO SYSTEMS	14,837	7,837	14,837	7,837
RADAR + EQUIPMENT (NON-TEL)				
RADAR SYSTEMS	12,167	12,167	12,167	12,167
INTELL/COMM EQUIPMENT (NON-TEL)				
TACTICAL REMOTE SENSOR SYSTEM	---	3,000	---	1,800
FIRE SUPPORT SYSTEM	33,460	33,460	13,460	13,460
INTELLIGENCE SUPPORT EQUIPMENT	65,973	67,973	50,873	52,573
NIGHT VISION EQUIPMENT	20,795	31,795	20,795	32,095
OTHER SUPPORT (NON-TEL)				
COMMON COMPUTER RESOURCES	48,589	48,589	48,589	48,589
COMMAND POST SYSTEMS	17,255	22,255	17,255	20,255
RADIO SYSTEMS	28,972	28,972	28,972	28,972
COMM SWITCHING & CONTROL SYSTEMS	54,324	54,324	54,324	54,324
COMM & ELEC INFRASTRUCTURE SUPPORT	17,805	20,005	20,005	20,005
TOTAL, COMMUNICATIONS AND ELECTRONICS EQUIPMENT	403,347	419,547	398,747	403,747

	(In thousands of dollars) Budget	House	Senate	Conference
SUPPORT VEHICLES				
ADMINISTRATIVE VEHICLES				
COMMERCIAL PASSENGER VEHICLES	775	775	775	775
COMMERCIAL CARGO VEHICLES	11,776	11,776	11,776	11,776
TACTICAL VEHICLES				
5/4T TRUCK HMMWV (MYP)	97,988	97,988	97,988	97,988
LIGHTWEIGHT PRIME MOVER	3,445	3,445	3,445	3,445
LOGISTICS VEHICLE SYSTEM REP	28,366	29,366	28,366	29,366
FAMILY OF TACTICAL TRAILERS	6,906	6,906	6,906	6,906
OTHER SUPPORT				
ITEMS LESS THAN $5 MILLION	3,748	3,748	3,748	3,748
TOTAL, SUPPORT VEHICLES	153,004	154,004	153,004	154,004
ENGINEER AND OTHER EQUIPMENT				
ENGINEER AND OTHER EQUIPMENT				
ENVIRONMENTAL CONTROL EQUIP ASSORT	3,450	3,450	3,450	3,450
BULK LIQUID EQUIPMENT	21,887	21,887	21,887	21,887
TACTICAL FUEL SYSTEMS	5,338	8,338	5,338	7,938
POWER EQUIPMENT ASSORTED	12,153	14,153	13,653	14,903
AMPHIBIOUS SUPPORT EQUIPMENT	16,105	16,105	16,105	16,105
EOD SYSTEMS	71,185	71,185	71,185	71,185
MATERIALS HANDLING EQUIPMENT				
PHYSICAL SECURITY EQUIPMENT	5,064	5,064	5,064	5,064
GARRISON MOBILE ENGR EQUIP	10,914	10,914	10,914	10,914
MATERIAL HANDLING EQUIP	21,132	21,132	21,132	21,132
FIRST DESTINATION TRANSPORTATION	3,421	3,421	3,421	3,421

	(In thousands of dollars) Budget	House	Senate	Conference
GENERAL PROPERTY FIELD MEDICAL EQUIPMENT	2,459	4,459	2,459	3,859
TRAINING DEVICES	17,722	65,722	17,722	58,522
CONTAINER FAMILY	3,721	3,721	3,721	3,721
FAMILY OF CONSTRUCTION EQUIPMENT	19,745	20,745	19,745	20,745
FAMILY OF INTERNALLY TRANSPORTABLE VEH (ITV)	3,786	3,786	3,786	3,786
RAPID DEPLOYABLE KITCHEN	5,405	5,405	5,405	5,405
OTHER SUPPORT ITEMS LESS THAN $5 MILLION	10,412	10,412	10,412	10,412
TOTAL, ENGINEER AND OTHER EQUIPMENT	233,899	289,899	235,399	282,449
SPARES AND REPAIR PARTS	26,904	26,904	26,904	26,904
TOTAL, PROCUREMENT, MARINE CORPS	1,377,705	1,426,405	1,361,605	1,398,955

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

P-1		Budget Request	House	Senate	Conference
1	**AAV7A1 PIP**	**26,134**	**26,134**	**22,134**	**22,134**
	Pricing inconsistencies			-4,000	-4,000
6	**MODIFICATION KITS (ARMOR AND FIRE SUPPORT)**	**0**	**0**	**1,000**	**1,000**
	MK 19 Modification Kits			1,000	1,000
12	**HIGH MOBILITY ARTILLERY ROCKET SYSTEM**	**176,795**	**146,795**	**176,795**	**156,795**
	Unit Cost growth		-30,000		-20,000
13	**WEAPONS AND COMBAT VEHICLES UNDER $5 MILLION**	**7,743**	**10,743**	**7,743**	**9,843**
	M9 Pistol Modernization Through Spares (P-MTS)		3,000		2,100
14	**MODULAR WEAPON SYSTEM**	**23,604**	**23,604**	**13,604**	**13,604**
	Transfer to Title IX			-10,000	-10,000
24	**MODIFICATION KITS**	**0**	**2,500**	**0**	**2,200**
	USMC Hitchhiker Baseline COC--Airborne Variant		2,500		2,200
25	**UNIT OPERATIONS CENTER**	**952**	**952**	**5,752**	**4,352**
	USMC Hitchhiker Baseline COC--Ground Variant			4,800	3,400
27	**AUTO TEST EQUIP SYS**	**0**	**0**	**20,000**	**17,000**
	Digitization of DoD Manuals			20,000	17,000
30	**COMBAT SUPPORT SYSTEM**	**23,757**	**23,757**	**27,257**	**25,857**
	Floodlight Set Upgrade/Replacement			3,500	2,100
37	**JOINT TACTICAL RADIO SYSTEMS**	**14,837**	**7,837**	**14,837**	**7,837**
	JTRS program reduction		-7,000		-7,000
41	**TACTICAL REMOTE SENSOR SYSTEM**	**0**	**3,000**	**0**	**1,800**
	Tactical Remote Sensor Systems (TRSS)		3,000		1,800
42	**FIRE SUPPORT SYSTEM**	**33,460**	**33,460**	**13,460**	**13,460**
	Transfer to Title IX			-20,000	-20,000
44	**INTELLIGENCE SUPPORT EQUIPMENT**	**65,973**	**67,973**	**50,873**	**52,573**
	BRITE M22 Imagery Dissemination Systems		2,000		1,700
	SURSS mod kits buying ahead of need			-5,100	-5,100
	Transfer to Title IX			-10,000	-10,000
48	**NIGHT VISION EQUIPMENT**	**20,795**	**31,795**	**20,795**	**32,095**
	Close Quarters Battle Sight (CQBS)		6,000		5,500
	Long Range Scout Sniper Night Sight (SSNS)		5,000		3,000
	AN/PSQ-18A, M203 Day/Night Sight (Note: transferred from Title IX)				2,800
50	**COMMAND POST SYSTEMS**	**17,255**	**22,255**	**17,255**	**20,255**
	Mobile Optical Sensor Suite (MOSS)		1,000		1,000
	EMI Flourescent Stringable Tent Lights for Active and Reserve		4,000		2,000
53	**COMM & ELEC INFRASTRUCTURE SUPPORT**	**17,805**	**20,005**	**20,005**	**20,005**
	USMC Continuity of Operations Program (COOP)		2,200	2,200	2,200

P-1		Budget Request	House	Senate	Conference
61	**LOGISTICS VEHICLE SYSTEM REP**	**28,366**	**29,366**	**28,366**	**29,366**
	Aviation Refueler		1,000		1,000
67	**TACTICAL FUEL SYSTEMS**	**5,338**	**8,338**	**5,338**	**7,938**
	Ground Expedient Refueling System		3,000		2,600
69	**POWER EQUIPMENT ASSORTED**	**12,153**	**14,153**	**13,653**	**14,903**
	2 kW Military Tactical Generators		2,000	1,500	1,750
	Mobile Transformers and Mobile Substations Demonstration Project				1,000
78	**FIELD MEDICAL EQUIPMENT**	**2,459**	**4,459**	**2,459**	**3,859**
	Hemacool (Portable Low-Power Blood Cooling and Storage)		2,000		1,400
80	**TRAINING DEVICES**	**17,722**	**65,722**	**17,722**	**58,522**
	MAGTFTC Range Transformation Initiative		48,000		40,800
82	**FAMILY OF CONSTRUCTION EQUIPMENT**	**19,745**	**20,745**	**19,745**	**20,745**
	Mobi-Mat		1,000		1,000

AIRCRAFT PROCUREMENT, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, AIR FORCE				
COMBAT AIRCRAFT				
TACTICAL FORCES				
JOINT STRIKE FIGHTER (AP-CY)	152,377	---	152,377	120,000
F-22 RAPTOR	3,186,622	3,186,622	3,186,622	3,186,622
F-22 RAPTOR (AP-CY)	576,877	576,877	576,877	576,877
F-15E	---	---	65,000	65,000
TOTAL, COMBAT AIRCRAFT	3,915,876	3,763,499	3,980,876	3,948,499
AIRLIFT AIRCRAFT				
TACTICAL AIRLIFT				
C-17A (MYP)	2,790,859	2,790,859	2,790,859	2,790,859
C-17A (MYP) (AP-CY)	445,423	445,423	445,423	445,423
C-17 ICS	---	---	28,000	27,000
OTHER AIRLIFT				
C-130J	98,983	743,983	516,600	690,000
C-130J ADVANCE PROCUREMENT (CY)	---	90,000	90,000	80,000
TOTAL, AIRLIFT AIRCRAFT	3,335,265	4,070,265	3,870,882	4,033,282
TRAINER AIRCRAFT				
OPERATIONAL TRAINERS				
JPATS	333,307	333,307	333,307	333,307
OTHER AIRCRAFT				
HELICOPTERS				
V-22 OSPREY	233,793	222,243	233,793	222,243
V-22 OSPREY (AP-CY)	10,525	10,525	10,525	10,525
MISSION SUPPORT AIRCRAFT				
CIVIL AIR PATROL A/C	571	8,571	6,571	6,571
OTHER AIRCRAFT				
TARGET DRONES	82,907	82,907	82,907	82,907
HAEUAV	327,659	199,459	327,659	299,459
HAEUAV (AP-CY)	69,993	59,993	69,993	64,993
PREDATOR UAV	125,566	177,566	125,566	125,566
TOTAL, OTHER AIRCRAFT	851,014	761,264	857,014	812,264

(In thousands of dollars)

	Budget	House	Senate	Conference
MODIFICATION OF INSERVICE AIRCRAFT				
STRATEGIC AIRCRAFT				
B-2A	59,134	59,134	59,134	59,134
B-1B	27,875	26,075	45,375	37,675
B-52	145,025	110,225	153,025	130,225
F-117	17,221	17,221	7,621	9,621
TACTICAL AIRCRAFT				
A-10	52,159	52,159	52,159	52,159
F-15	151,518	225,718	171,418	225,118
F-16	380,960	402,460	433,960	419,960
F22 RAPTOR	53,992	53,992	53,992	53,992
AIRLIFT AIRCRAFT				
C-5	71,137	76,537	86,137	93,137
C-5 (AP-CY)	20,000	20,000	35,000	20,000
C-17A	260,826	176,826	176,826	176,826
C-21	3,924	10,424	3,924	7,924
C-32A	194	194	194	194
C-37A	382	382	45,382	45,382
TRAINER AIRCRAFT				
GLIDER MODS	3,174	3,174	3,174	3,174
T6 MODIFICATIONS	6,143	6,143	6,143	6,143
T-1	181	181	181	181
T-38	202,694	182,694	202,694	192,694
T-43	2,014	2,014	2,014	2,014
OTHER AIRCRAFT				
KC-10A (ATCA)	21,937	21,937	21,937	21,937
C-12	6,295	6,295	6,295	6,295
C-20 MODS	488	488	488	488
VC-25A MOD	978	978	978	978
C-40	194	194	194	194
C-130	185,651	176,451	176,851	172,951
C130J MODS	5,988	17,988	5,988	5,988
C-135	88,748	90,748	93,748	93,348
COMPASS CALL MODS	27,421	27,421	27,421	27,421
C-29A MODS	3,816	3,816	3,816	3,816
DARP	85,470	85,470	85,470	85,470

(In thousands of dollars)

	Budget	House	Senate	Conference
E-3	49,292	49,292	50,292	50,292
E-4	85,342	85,342	85,342	85,342
E-8	15,506	29,006	15,506	15,506
H-1	32,418	32,418	36,418	34,418
H-60	50,497	50,497	52,497	51,497
OTHER AIRCRAFT	70,953	46,953	156,953	76,553
PREDATOR MODS	30,286	30,286	30,286	30,286
CV-22 MODS	102	3,652	102	3,652
CLASSIFIED PROJECTS	---	---	4,000	2,000
TOTAL, MODIFICATION OF INSERVICE AIRCRAFT	2,219,935	2,184,785	2,392,935	2,303,985
AIRCRAFT SPARES AND REPAIR PARTS				
INDUSTRIAL FACILITIES	204,038	203,038	204,038	203,038
AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES				
COMMON SUPPORT EQUIPMENT				
COMMON SUPPORT EQUIPMENT	124,420	124,420	124,420	124,420
POST PRODUCTION SUPPORT				
B-1	13,466	13,466	13,466	13,466
B-2A	7,304	7,304	7,304	7,304
B-2A	22,111	22,111	22,111	22,111
B-52	21,162	21,162	21,162	21,162
C-130	20,502	20,502	20,502	20,502
F-15 POST PRODUCTION SUPPORT	13,170	13,170	13,170	13,170
F-16 POST PRODUCTION SUPPORT	17,833	17,833	17,833	17,833
INDUSTRIAL PREPAREDNESS	22,360	22,360	22,360	22,360
WAR CONSUMABLES				
WAR CONSUMABLES	24,058	---	---	---
OTHER PRODUCTION CHARGES				
REPLEN SPARES/REPAIR PARTS	644,155	661,855	644,155	656,555
DEPOT MODERNIZATION	115,525	115,525	115,525	115,525
DARP				
DARP	68,432	68,432	68,432	68,432
TOTAL, AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES	1,114,498	1,108,140	1,090,440	1,102,840
TOTAL, AIRCRAFT PROCUREMENT, AIR FORCE	11,973,933	12,424,298	12,729,492	12,737,215

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

P-1		Budget Request	House	Senate	Conference
1	**JOINT STRIKE FIGHTER (AP-CY)**	152,377	0	152,377	120,000
	JSF Advance Procurement		-152,377		-32,377
5	**F-15E (AP)**	0	0	65,000	65,000
	Additional Aircraft			65,000	65,000
8	**C-17 ICS**	0	0	28,000	27,000
	PACAF C-17 Maintenance Training System			28,000	27,000
10	**C-130J**	98,983	743,983	516,600	690,000
	Full Funding of MYP Program		645,000		
	Restore 7 Aircraft			417,617	
	8 Aircraft				591,017
11	**C-130J ADVANCE PROCUREMENT (CY)**	0	90,000	90,000	80,000
	Advance Procurement for 9 MYP Program Aircraft		90,000	90,000	
	Advance Procurement for 8 MYP Program Aircraft				80,000
14	**V-22 OSPREY**	233,793	222,243	233,793	222,243
	AF Requested Transfer to P-62		-3,550		-3,550
	AF Requested Transfer to P-64		-8,000		-8,000
16	**CIVIL AIR PATROL A/C**	571	8,571	6,571	6,571
	Aircraft Replacement		8,000	6,000	6,000
18	**HAEUAV**	327,659	199,459	327,659	299,459
	Aircraft Delivery Delays		-110,000		-10,000
	Air Force Requested Transfer to RDTE, Global Hawk		-18,200		-18,200
19	**HAEUAV (AP-CY)**	69,993	59,993	69,993	64,993
	Advance Procurement for 1 Aircraft		-10,000		
	Advance Procurement				-5,000
20	**PREDATOR UAV**	125,566	177,566	125,566	125,566
	Predator BQM-9 Hunter Killer Remotely Operated Aircraft (Note: Transferred to RDTE, Navy)		52,000		0
22	**B-1B**	27,875	26,075	45,375	37,675
	DSUP Reprogramming		-1,800		-1,800
	B-1B Pneumatic Assisted Release (PAR) Bomb Rack Upgrade			3,500	1,800
	B-1 Aircraft Digital Communications Improvement			14,000	9,800
23	**B-52**	145,025	110,225	153,025	130,225
	CALCM Inflight Beyond Line of Sight Rapid Retasking / CONECT		-27,000	-19,900	-27,000
	DSUP Reprogramming		-7,800		-7,800
	B-52 Attrition Reserve			27,900	20,000
24	**F-117**	17,221	17,221	7,621	9,621
	Dual Radio Production			-5,700	-4,700
	SATCOM Antenna Production			-3,900	-2,900

P-1		Budget Request	House	Senate	Conference
26	**F-15**	**151,518**	**225,718**	**171,418**	**225,118**
	AESA V3 Radar Procurement		52,200		52,200
	AESA Attrition Reserve Array and Low Rate Test Equipment		20,000	19,900	20,000
	F-15 E Kit Modifications		2,000		1,400
27	**F-16**	**380,960**	**402,460**	**433,960**	**419,960**
	ANG Block 42 F-16 Engine Upgrade		15,000	30,000	21,000
	APG-68 V (10) Radar for F-16 Block 30 Aircraft for the AFRC		6,500		3,500
	F-16 Advanced Identification Friend of Foe (AIFF) Interrogator			8,000	3,500
	ANG F-16 Block 30 MTC			15,000	11,000
30	**C-5**	**71,137**	**76,537**	**86,137**	**93,137**
	C-5 Avionics Modernization Program (AMP) for the Air National Guard and Reserve C-5 Units		5,400	15,000	11,000
	C-5 Reliability Enhancement and Re-engining Program (RERP) (Note: Transferred from Line 31)			0	11,000
31	**C-5 (AP-CY)**	**20,000**	**20,000**	**35,000**	**20,000**
	C-5 Reliability Enhancement and Re-engining Program (RERP) (Note: Transferred to Line 30)			15,000	0
33	**C-17A**	**260,826**	**176,826**	**176,826**	**176,826**
	LAIRCM Installs - Transfer to Title IX		-84,000	-84,000	-84,000
34	**C-21**	**3,924**	**10,424**	**3,924**	**7,924**
	Minimum (RVSM) Upgrades		6,500		4,000
36	**C-37A**	**382**	**382**	**45,382**	**45,382**
	Additional aircraft			45,000	45,000
41	**T-38**	**202,694**	**182,694**	**202,694**	**192,694**
	Propulsion Modifications		-20,000		-10,000
49	**C-130**	**185,651**	**176,451**	**176,851**	**172,951**
	LAIRCM Installs - Transfer to Title IX		-7,200		-7,200
	Speaker Based Active Noise Cancellation System for ANG C-130 Aircraft		1,500		1,100
	AF Requested Transfer to R-71, EW Development, for the ALR-69A		-8,500	-8,500	-8,500
	Airborne Synthetic Aperture Radar System - 109th Airlift Group		2,000		1,000
	High Pressure Spray System for 910th Airlift Wing		3,000		1,500
	APN-241 Color Weather Radar for AFRC C-130H2			15,000	7,500
	Scathe View Communications Upgrade Program			5,000	3,500
	Senior Scout Intelligent Communications Exploitation (ICE) Program			5,000	3,500
	AMP			-25,300	-25,300
	AFFS for Western States Fire Fighting (Note: Transferred from Line 50)				10,200
50	**C130J MODS**	**5,988**	**17,988**	**5,988**	**5,988**
	AFFS for Western States Fire Fighting (Note: Transferred to Line 49)		12,000		0
51	**C-135**	**88,748**	**90,748**	**93,748**	**93,348**
	Global Air Traffic Management Program		2,000	2,000	2,000
	Emergency Vision Assurance System for ANG Tankers			3,000	2,600

P-1		Budget Request	House	Senate	Conference
55	**E-3**	**49,292**	**49,292**	**50,292**	**50,292**
	E-3 Rotary Coupler Improvement Program			1,000	1,000
57	**E-8**	**15,506**	**29,006**	**15,506**	**15,506**
	E-8C Joint Stars Re-Engine Initiative (Note: Transferred to RDTE, AF, Line 155)		13,500		0
58	**H-1**	**32,418**	**32,418**	**36,418**	**34,418**
	UH-1N Navigation Thermal Imaging Systems			4,000	2,000
59	**H-60**	**50,497**	**50,497**	**52,497**	**51,497**
	HH60G Weapon System Trainer/Operation Flight Trainer			2,000	1,000
60	**OTHER AIRCRAFT**	**70,953**	**46,953**	**156,953**	**76,553**
	A-10 MIDS JTRS Installs		-24,000	-25,000	-25,000
	Auxiliary Fuel Tanks			36,000	30,600
	PRV - Transfer from R&D,AF			75,000	0
62	**CV-22 MODS**	**102**	**3,652**	**102**	**3,652**
	AF Requested Transfer from P-14		3,550		3,550
63	**CLASSIFIED PROJECTS**	**0**	**0**	**4,000**	**2,000**
	Compass Call			4,000	2,000
64	**INDUSTRIAL FACILITIES**	**204,038**	**203,038**	**204,038**	**203,038**
	Execution		-9,000		-9,000
	AF Requested Transfer from P-14		8,000		8,000
74	**WAR CONSUMABLES**	**24,058**	**0**	**0**	**0**
	Transfer to Title IX		-24,058	-24,058	-24,058
75	**REPLEN SPARES/REPAIR PARTS**	**644,155**	**661,855**	**644,155**	**656,555**
	Sniper or Litening Advance Targeting Pod (Note: Only for Air Force Reserve A-10s at Whiteman AFB)		17,700		12,400

Future Years Procurement Strategy for the F/A–22 Raptor

The conferees direct the Secretary of Defense to report to the congressional defense committees, by March 30, 2006, on alternatives for the continued acquisition of the F/A–22. The report should consider, but not be limited to, the following: analyses of the advantages of a multiyear procurement program, of extending the F/A–22 procurement profile, and of the effects of F/A–22 procurement on the Joint Strike Fighter production line.

F/A–22 Titanium Requirements

The conferees are aware of the potential impact that industry trends in the titanium market could have on the production timelines for the Lot 8 F/A–22 aircraft. The conferees are sensitive to this issue and encourage the Department of Defense to propose a comprehensive solution to the congressional defense committees not later than 90 days after enactment of this Act.

Predator B

The conferees direct the Secretary of the Air Force, in conjunction with the Joint Staff, to provide the congressional defense committees a detailed written report on the deployment status of the MQ–9 in Iraq and the weaponization plan for the aircraft by February 3, 2006.

Operational Support Aircraft

The conferees direct that the Department of Defense maintain the current allocation of Operational Support Aircraft (OSA) assets to support Combatant Commanders and that the congressional defense committees be notified at least 30 days prior to any alteration of such assignments.

MISSILE PROCUREMENT, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
MISSILE PROCUREMENT, AIR FORCE				
BALLISTIC MISSILES				
MISSILE REPLACEMENT EQUIPMENT - BALLISTIC				
ADVANCED CRUISE MISSILE	2,027	2,027	2,027	2,027
LGM-30F/G MINUTEMAN II/III	41,635	41,635	38,635	38,635
OTHER MISSILES				
TACTICAL				
JASSM	150,238	2,000	100,000	100,000
JOINT STANDOFF WEAPON	971	971	971	971
SIDEWINDER (AIM-9X)	44,963	44,963	44,963	44,963
AMRAAM	120,668	120,668	2,668	104,468
PREDATOR HELLFIRE MISSILE	38,135	38,135	21,135	21,135
SMALL DIAMETER BOMB	59,052	59,052	54,052	54,052
INDUSTRIAL FACILITIES				
INDUSTRIAL FACILITIES	1,225	1,225	1,225	1,225
POLLUTION PREVENTION ACTIVITY	895	895	895	895
TOTAL, OTHER MISSILES	416,147	267,909	225,909	327,709
MODIFICATION OF INSERVICE MISSILES				
CLASS IV				
ADVANCED CRUISE MISSILE	3,251	3,251	3,251	3,251
MM III MODIFICATIONS	672,633	676,533	679,133	676,633
AGM-65D MAVERICK	233	233	---	---
AGM-88C HARM	38	38	---	---
AIR LAUNCH CRUISE MISSILE	24,764	24,764	24,764	24,764
TOTAL, MODIFICATION OF INSERVICE MISSILES	700,919	704,819	707,148	704,648

	(In thousands of dollars) Budget	House	Senate	Conference
SPARES AND REPAIR PARTS				
MISSILE SPARES/REPAIR PARTS	85,094	85,094	75,094	77,594
OTHER SUPPORT				
SPACE PROGRAMS				
ADVANCED EHF	528,978	528,978	528,978	528,978
WIDEBAND GAPFILLER SATELLITES	22,300	22,300	22,300	22,300
WIDEBAND GAPFILLER SATELLITES (AP-CY)	50,217	50,217	50,217	50,217
SPACEBORNE EQUIP (COMSEC)	9,575	9,575	9,575	9,575
GLOBAL POSITIONING (SPACE)	276,086	276,086	276,086	276,086
GLOBAL POSITIONING (SPACE) (AP-CY)	42,000	42,000	42,000	42,000
DEF METEOROLOGICAL SAT PROG(S	67,175	67,175	67,175	67,175
DEFENSE SUPPORT PROGRAM(SPACE	42,713	42,713	42,713	42,713
TITAN SPACE BOOSTERS(SPACE)	66,180	66,180	66,180	66,180
EVOLVED EXPENDABLE LAUNCH VEH	838,347	747,347	784,347	784,347
MEDIUM LAUNCH VEHICLE(SPACE)	111,166	111,166	111,166	111,166
SPECIAL PROGRAMS				
DEFENSE SPACE RECONN PROGRAM	320,606	320,606	320,606	320,606
SPECIAL UPDATE PROGRAMS	26,250	26,250	26,250	26,250
TOTAL, OTHER SUPPORT	2,401,593	2,310,593	2,347,593	2,347,593
CLASSIFIED PROGRAMS	1,842,872	1,650,872	1,672,568	1,676,268
TOTAL, MISSILE PROCUREMENT, AIR FORCE	5,490,287	5,062,949	5,068,974	5,174,474

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

P-1		Budget Request	House	Senate	Conference
2	**LGM-30F/G MINUTEMAN II/III**	**41,635**	**41,635**	**38,635**	**38,635**
	E35E Unjustified Growth			-3,000	-3,000
3	**JASSM**	**150,238**	**2,000**	**100,000**	**100,000**
	Contract Termination		-148,238		0
	Sustain Minimum Production			-50,238	-50,238
6	**AMRAAM**	**120,668**	**120,668**	**2,668**	**104,468**
	Program Reduction			-118,000	-16,200
7	**PREDATOR HELLFIRE MISSILE**	**38,135**	**38,135**	**21,135**	**21,135**
	Transfer to Title IX			-17,000	-17,000
8	**SMALL DIAMETER BOMB**	**59,052**	**59,052**	**54,052**	**54,052**
	Unit Cost Efficiencies			-5,000	-5,000
12	**MM III MODIFICATIONS**	**672,633**	**676,533**	**679,133**	**676,633**
	Propulsion System Rocket Engine (PSRE) Life Extension Program		3,900	3,000	3,000
	Propulsion Replacement Program (PRP)			8,500	6,000
	Buying ahead of need			-5,000	-5,000
13	**AGM-65D MAVERICK**	**233**	**233**	**0**	**0**
	Unjustified request			-233	-233
14	**AGM-88C HARM**	**38**	**38**	**0**	**0**
	Unjustified request			-38	-38
16	**MISSILE SPARES/REPAIR PARTS**	**85,094**	**85,094**	**75,094**	**77,594**
	Excessive growth			-10,000	-7,500
28	**EVOLVED EXPENDABLE LAUNCH VEHICLE**	**838,347**	**747,347**	**784,347**	**784,347**
	Defer Funding for SBIRS High Launch		-91,000	-54,000	-54,000

JOINT AIR-TO-SURFACE STANDOFF MISSILE

The conferees agree to provide $100,000,000 for the Joint Air-to-Surface Standoff Missile (JASSM) as proposed by the Senate. Of the funds provided, the conferees direct the following: that not more than $70,000,000 shall be for the purpose of maintaining missile hardware procurement at a minimum sustainable production rate; that of the remaining funds, not less than $20,000,000 shall be for testing and reliability improvement; that an additional 4 test shots be added to the JASSM weapons system evaluation program to evaluate the reliability of Lot 1 and Lot 2 missiles in storage; and, that the Program Manager submit to the congressional defense committees an updated JASSM test schedule no later than 30 days after the enactment of this Act, to include the requirements established in this paragraph.

EVOLVED EXPANDABLE LAUNCH VEHICLE (EELV)

The conferees support contracting procedures that facilitate competition, assure access to space, and lead to "best value" procurements. The conferees note that the Air Force is transitioning to a new EELV acquisition strategy that contractually splits launch services (including launch vehicles) from launch infrastructure. The conferees direct that launch services contracts provide an annual opportunity for companies to present their qualifications to meet objective criteria for reliability, mission assurance, oversight, and cost credibility, and compete based on their ability to meet these criteria. The conferees further direct the elimination of multi-year "allocations" "pre-awards," and "block buys" from Buy 3 and future EELV launch services contracts.

Concerning space launch infrastructure, the conferees understand the business case to maintain the EELV infrastructure and support the Buy-3 contracting procedure to award launch capabilities (infrastructure) contracts on a bi-annual basis.

PROCUREMENT OF AMMUNITION, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
PROCUREMENT OF AMMUNITION, AIR FORCE				
PROCUREMENT OF AMMO, AIR FORCE				
ROCKETS	36,302	36,302	36,302	36,302
CARTRIDGES	160,530	140,530	150,530	144,830
BOMBS				
PRACTICE BOMBS	14,278	14,278	14,278	14,278
GENERAL PURPOSE BOMBS	240,231	245,231	240,231	244,531
SENSOR FUZED WEAPON	120,379	120,379	120,379	120,379
JOINT DIRECT ATTACK MUNITION	223,285	223,285	223,285	223,285
SENSOR FUZED WEAPON - ER	---	15,700	---	15,700
FLARE, IR MJU-7B				
CAD/PAD	21,212	21,212	21,212	21,212
EXPLOSIVE ORDINANCE DISPOSAL I1063	2,958	2,958	2,958	2,958
SPARES AND REPAIR PARTS	4,354	4,354	4,354	4,354
MODIFICATIONS LESS THAN $5M	892	892	892	892
ITEMS LESS THAN $5,000,000	3,948	3,948	3,948	3,948
FUZES				
FLARES	143,620	143,620	127,144	133,620
FUZES	53,176	53,176	44,556	44,556
TOTAL, PROCUREMENT OF AMMO, AIR FORCE	1,025,165	1,025,865	990,069	1,010,845
WEAPONS				
SMALL ARMS	6,042	6,042	6,042	6,042
TOTAL, PROCUREMENT OF AMMUNITION, AIR FORCE	1,031,207	1,031,907	996,111	1,016,887

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		Budget Request	House	Senate	Conference
3	**CARTRIDGES**	**160,530**	**140,530**	**150,530**	**144,830**
	Execution		-25,000		-20,000
	PGU-14 API, 30mm Ammunition		5,000		4,300
	30MM TP PGU-15/B, B116 unit cost savings			-10,000	0
5	**GENERAL PURPOSE BOMBS**	**240,231**	**245,231**	**240,231**	**244,531**
	Enhanced Paveway III		5,000		4,300
New	**SENSOR FUZED WEAPON - ER**	**0**	**15,700**	**0**	**15,700**
	(Note: Transfer from RDTE, Air Force, Line 79, Munitions Dispenser Development)		15,700		15,700
16	**FLARES**	**143,620**	**143,620**	**127,144**	**133,620**
	MJU 10/B IR CM FLARE L461			-16,476	-10,000
17	**FUZES**	**53,176**	**53,176**	**44,556**	**44,556**
	FMU 139			-8,620	-8,620

OTHER PROCUREMENT, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
OTHER PROCUREMENT, AIR FORCE				
VEHICULAR EQUIPMENT				
PASSENGER CARRYING VEHICLES				
ARMORED VEHICLE	503	503	503	503
PASSENGER CARRYING VEHICLE	14,399	14,399	14,399	14,399
CARGO + UTILITY VEHICLES				
FAMILY MEDIUM TACTICAL VEHICLE	13,058	13,058	13,058	13,058
HIGH MOBILITY VEHICLE (MYP)	3,257	3,257	3,257	3,257
CAP VEHICLES	821	821	821	821
SPECIAL PURPOSE VEHICLES				
HMMWV, ARMORED	2,190	2,190	2,190	2,190
HMMWV, UP-ARMORED	11,058	11,058	11,058	11,058
FIRE FIGHTING EQUIPMENT				
TRUCK CRASH P-19	21,414	21,414	21,414	21,414
MATERIALS HANDLING EQUIPMENT				
HALVERSEN LOADER	16,311	23,311	16,311	22,311
BASE MAINTENANCE SUPPORT				
RUNWAY SNOW REMOVAL & CLEANING	22,026	22,026	22,026	22,026
ITEMS LESS THAN $5M	10,546	10,546	10,546	10,546
TOTAL, VEHICULAR EQUIPMENT	115,583	122,583	115,583	121,583
ELECTRONICS AND TELECOMMUNICATIONS EQUIP				
COMM SECURITY EQUIPMENT(COMSEC)				
COMSEC EQUIPMENT	58,176	58,176	58,176	58,176
MODIFICATIONS (COMSEC)	2,399	2,399	2,399	2,399
INTELLIGENCE PROGRAMS				
INTELLIGENCE TRAINING EQUIPMENT	4,744	4,744	4,744	4,744
INTELLIGENCE COMM EQUIP	1,523	1,523	1,523	1,523
ELECTRONICS PROGRAMS				
AIR TRAFFIC CTRL/LAND SYS (AT	16,795	19,795	16,795	35,045
NATIONAL AIRSPACE SYSTEM	51,919	58,919	51,919	55,419
THEATER AIR CONTROL SYS IMPRO	76,752	51,852	76,752	66,852
WEATHER OBSERVE/FORECAST	35,723	35,723	35,723	35,723
STRATEGIC COMMAND AND CONTROL	44,690	44,690	44,690	44,690
CHEYENNE MOUNTAIN COMPLEX	23,009	23,009	23,009	23,009
DRUG INTERDICTION PROGRAM	416	416	416	416

	(In thousands of dollars)			
	Budget	House	Senate	Conference
SPECIAL COMM-ELECTRONICS PROJECTS				
GENERAL INFORMATION TECHNOLOGY	110,997	114,997	125,997	121,597
AF GLOBAL COMMAND & CONTROL S	11,891	11,891	11,891	11,891
MOBILITY COMMAND AND CONTROL	9,488	9,488	9,488	9,488
AIR FORCE PHYSICAL SECURITY S	35,910	36,910	35,910	37,910
COMBAT TRAINING RANGES	36,096	45,096	50,696	58,696
MINIMUM ESSENTIAL EMERGENCY COM	20,545	---	20,545	---
C3 COUNTERMEASURES	4,517	4,517	4,517	4,517
GCSS-AF FOS	12,738	12,738	12,738	12,738
THEATER BATTLE MGT C2 SYS	41,709	44,709	41,709	41,709
AIR OPERATIONS CENTER (AOC)	21,816	21,816	21,816	21,816
AIR FORCE COMMUNICATIONS				
BASE INFORMATION INFRASTRUCTURE	374,926	378,426	324,926	352,826
USCENTCOM	31,059	31,059	31,059	31,059
DISA PROGRAMS				
SPACE BASED IR SENSOR PROG SP	3,689	3,689	3,689	3,689
NAVSTAR GPS SPACE	9,096	9,096	9,096	9,096
NUDET DETECTION SYS (NDS) SPA	9,396	9,396	9,396	9,396
AF SATELLITE CONTROL NETWORK	51,778	51,778	51,778	51,778
SPACELIFT RANGE SYSTEM SPACE	114,189	114,189	106,189	108,189
MILSATCOM SPACE	28,720	28,720	28,720	28,720
SPACE MODS SPACE	25,063	25,063	25,063	25,063
ORGANIZATION AND BASE				
TACTICAL C-E EQUIPMENT	131,120	131,120	127,570	129,120
COMBAT SURVIVOR EVADER LOCATE	24,726	24,726	7,226	7,226
RADIO EQUIPMENT	7,458	7,458	7,458	7,458
TV EQUIPMENT (AFRTV)	5,871	5,871	5,871	5,871
CCTV/AUDIOVISUAL EQUIPMENT	3,193	3,193	3,193	3,193
BASE COMM INFRASTRUCTURE	107,007	110,507	121,207	122,307
ITEMS LESS THAN $5M	3,662	3,662	3,662	3,662
MODIFICATIONS				
COMM ELECT MODS	24,714	24,714	24,714	24,714
TOTAL, ELECTRONICS AND TELECOMMUNICATIONS EQUIP	1,577,520	1,566,075	1,542,270	1,571,725

	(In thousands of dollars)			
	Budget	House	Senate	Conference
OTHER BASE MAINTENANCE AND SUPPORT EQUIP				
PERSONAL SAFETY AND RESCUE EQUIP				
NIGHT VISION GOGGLES	11,965	11,965	11,965	11,965
ITEMS LESS THAN $5M	---	3,800	3,000	2,100
DEPOT PLANT + MATERIALS HANDLING EQ				
MECHANIZED MATERIAL HANDLING	14,617	17,617	17,617	17,617
BASE SUPPORT EQUIPMENT				
BASE PROCURED EQUIPMENT	23,188	32,288	23,188	26,488
MEDICAL/DENTAL EQUIPMENT	14,695	16,695	14,695	15,695
AIR BASE OPERABILITY	5,463	5,463	5,463	5,463
PRODUCTIVITY ENHANCING CAPITA	5,324	5,324	5,324	5,324
MOBILITY EQUIPMENT	23,370	23,370	23,370	23,370
AIR CONDITIONERS	---	1,000	---	---
ITEMS LESS THAN $5M	28,693	28,693	28,693	28,693
SPECIAL SUPPORT PROJECTS				
DARP RC135	21,507	21,507	21,507	21,507
DARP, MRIGS	147,952	147,952	155,952	153,552
SPECIAL UPDATE PROGRAM	270,788	270,788	270,788	270,788
DEFENSE SPACE RECONNAISSANCE	14,631	14,631	14,631	14,631
TOTAL, OTHER BASE MAINTENANCE AND SUPPORT EQUIP	582,193	601,093	596,193	597,193
SPARE AND REPAIR PARTS				
SPARES AND REPAIR PARTS	30,340	30,340	30,340	30,340
CLASSIFIED PROGRAMS	11,697,053	11,417,123	11,764,053	11,739,873
TOTAL, OTHER PROCUREMENT, AIR FORCE	14,002,689	13,737,214	14,048,439	14,060,714

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1	Budget Request	House	Senate	Conference
26 HALVORSEN LOADER	**16,311**	**23,311**	**16,311**	**22,311**
Halvorsen Loaders		7,000		6,000
40 AIR TRAFFIC CTRL/LAND SYS	**16,795**	**19,795**	**16,795**	**35,045**
Automatic Asset Following System Pilot Project at McEntire Air Base		3,000		1,000
242 ATAS ANG Mobile Approach Control System (MACS) (Note: Transfer from RDTE, AF, Line 182)				17,250
41 NATIONAL AIRSPACE SYSTEM	**51,919**	**58,919**	**51,919**	**55,419**
DASR/DAAS (Note: only for Whiteman AFB)		5,000		3,500
Airborne Threat Detection Capability Expansion (Note: Transferred to RDTE, D-W, Line 27)		2,000		0
42 THEATER AIR CONTROL SYSTEM IMPROVEMENTS	**76,752**	**51,852**	**76,752**	**66,852**
Execution Delays		-15,000		0
AF Requested Transfer to R-145, for BCS-M Spiral 3 Software Development		-9,900		-9,900
48 GENERAL INFORMATION TECHNOLOGY	**110,997**	**114,997**	**125,997**	**121,597**
Worldwide Warehouse Redistribution System		2,000		1,400
Pocket J Production		2,000		1,700
Joint Interface Control Officer Support System			-10,000	-10,000
Palmtop Emergency Action for Chemical (PEAC)			7,000	3,500
Science and Engineering Lab Integration (SELDI)			5,000	2,500
11th AF Link 16			13,000	8,500
Eagle Vision IV (Note: Transferred from Line 56)		0		3,000
51 AIR FORCE PHYSICAL SECURITY SYSTEMS	**35,910**	**36,910**	**35,910**	**37,910**
Force Protection Near Real Time Surveillance System		1,000		1,000
Advanced Video Surveillance Equipment (Note: Transferred from Operation and Maintenance, Air National Guard)				1,000
52 COMBAT TRAINING RANGES	**36,096**	**45,096**	**50,696**	**58,696**
UMTE Modernization		8,000	9,000	8,000
Joint Threat Emitter - Townsend Range Complex		1,000		1,000
Delay for Joint Threat Emitters for Joint National Training Capability			-8,000	0
Cope Thunder Link 16 Terminal			1,600	1,600
Red Integrated Air Defense			12,000	12,000
53 MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS	**20,545**	**0**	**20,545**	**0**
GEMS		-20,545		-20,545
56 THEATER BATTLE MGT C2 SYSTEMS	**41,709**	**44,709**	**41,709**	**41,709**
Eagle Vision IV (Note: Transferred to Line 48)		3,000		0
58 BASE INFORMATION INFRASTRUCTURE	**374,926**	**378,426**	**324,926**	**352,826**
AFRC COOP, March AFB		3,500		2,900
Network Operations/Information Assurance			-50,000	-25,000
65 SPACELIFT RANGE SYSTEM SPACE	**114,189**	**114,189**	**106,189**	**108,189**
Reduction for Support Costs			-8,000	-6,000

P-1	Budget Request	House	Senate	Conference
68 TACTICAL C-E EQUIPMENT	**131,120**	**131,120**	**127,570**	**129,120**
LITES Contract Termination			-3,550	-2,000
69 COMBAT SURVIVOR EVADER LOCATE	**24,726**	**24,726**	**7,226**	**7,226**
CSEL Transfer to R&D Air Force for development of TAC/TAG			-17,500	-17,500
73 BASE COMM INFRASTRUCTURE	**107,007**	**110,507**	**121,207**	**122,307**
Digital Deployed Training Campus for ANG		3,500		1,700
Secure Wireless LAN Infrastructure for Point of Maintenance 126th Air Refueling Wing (IL ANG)			2,000	1,400
Air National Guard Network Operations and Security Center			1,000	1,000
GIG-BE ALCOM Expansion			11,200	11,200
80 ITEMS LESS THAN $5 MILLION	**0**	**3,800**	**3,000**	**2,100**
MA-16 Aircraft Inertia Reels (Note: Transferred to O&M, Air National Guard)		1,800		0
Life Support Radio Test Sets for ANG (Note: Transferred to O&M, Air National Guard)		2,000		0
Advanced Mission Extender Device (AMXD) Kits			3,000	2,100
81 MECHANIZED MATERIAL HANDLING	**14,617**	**17,617**	**17,617**	**17,617**
Point of Maintenance/Combat Ammunition System (POMX/CAS) Initiative		3,000	3,000	3,000
85 BASE PROCURED EQUIPMENT	**23,188**	**32,288**	**23,188**	**26,488**
Engineered Building Machines		1,500		1,300
Combat Arms Training System (CATS) for the ANG (Note: Transferred to Operation and Maintenance, Air National Guard)		4,000		0
EST 2000 Trainers for the Air National Guard (Note: Transferred to Operation and Maintenance, Air National Guard)		3,600		0
Laser Marksmanship Training System				2,000
86 MEDICAL/DENTAL EQUIPMENT	**14,695**	**16,695**	**14,695**	**15,695**
Expeditionary Deployable Oxygen Concentration System (EDOCS) and Mobile Oxygen Storage Tank (MOST)		2,000		1,000
92 AIR CONDITIONERS	**0**	**1,000**	**0**	**0**
ANG Survey Systems (Note: Transferred to Operation and Maintenance, Air National Guard)		1,000		0
97 DARP, MRIGS	**147,952**	**147,952**	**155,952**	**153,552**
161st Intelligence Squadron Equipment			8,000	5,600

PROCUREMENT, DEFENSE-WIDE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
PROCUREMENT, DEFENSE-WIDE				
MAJOR EQUIPMENT				
MAJOR EQUIPMENT, OSD				
MAJOR EQUIPMENT, OSD	98,045	105,045	103,045	102,045
MAJOR EQUIPMENT, NSA				
INFORMATION SYSTEM SECURITY PROGRAM	7,790	7,790	7,790	7,790
MAJOR EQUIPMENT, WHS	26,307	26,307	26,307	26,307
MAJOR EQUIPMENT, DISA				
INFORMATION SYSTEMS SECURITY	27,072	27,072	27,072	27,072
DEFENSE MESSAGE SYSTEM	8,912	8,912	8,912	8,912
GLOBAL COMMAND AND CONTROL SYS	5,498	5,498	5,498	5,498
GLOBAL COMBAT SUPPORT SYSTEM	2,686	2,686	2,686	2,686
TELEPORT PROGRAM	98,320	98,320	98,320	98,320
ITEMS LESS THAN $5M	33,491	33,491	33,491	33,491
DEFENSE INFORMATION SYSTEMS NETWORK	25,568	25,568	25,568	25,568
MAJOR EQUIPMENT, DLA				
MAJOR EQUIPMENT	8,328	8,328	8,328	8,328
MAJOR EQUIPMENT, DCAA				
MAJOR EQUIPMENT ITEMS LESS THAN $5M	1,497	1,497	1,497	1,497
MAJOR EQUIPMENT, TJS				
MAJOR EQUIPMENT, TJS	42,473	42,473	42,473	42,473
MAJOR EQUIPMENT, DHRA				
PERSONNEL ADMINISTRATION	7,496	7,496	7,496	7,496
DEFENSE THREAT REDUCTION AGENCY				
VEHICLES	200	200	200	200

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER MAJOR EQUIPMENT	16,319	16,319	16,319	16,319
OTHER MAJOR EQUIPMENT	780	780	780	780
MAJOR EQUIPMENT, AFIS				
MAJOR EQUIPMENT, AFIS	6,521	6,521	6,521	6,521
MAJOR EQUIPMENT, DODDE				
AUTOMATION/EDUCATIONAL SUPPORT & LOGISTICS	1,500	1,500	1,500	1,500
MAJOR EQUIPMENT, DCMA				
MAJOR EQUIPMENT	12,068	12,068	12,068	12,068
MAJOR EQUIPMENT, DTSA				
MAJOR EQUIPMENT	407	407	407	407
TOTAL, MAJOR EQUIPMENT	431,278	438,278	436,278	435,278
SPECIAL OPERATIONS COMMAND				
AVIATION PROGRAMS				
SOF ROTARY WING UPGRADES	129,748	136,748	132,448	139,348
SOF TRAINING SYSTEMS	13,897	13,897	13,897	13,897
MH-130H AIR REFUELING SYSTEM	18,268	18,268	18,268	18,268
MH-47 SLEP	83,737	83,737	83,737	83,737
MH-60 SLEP	29,629	29,629	29,629	29,629
MC-130H COMBAT TALON II	66,288	66,288	66,288	66,288
CV-22 SOF MODIFICATION	117,923	117,923	117,923	117,923
C-130 MODIFICATIONS	67,270	67,270	51,970	61,970
AIRCRAFT SUPPORT	1,045	1,045	1,045	1,045
ADVANCED SEAL DELIVERY SYS (AP-CY)	71,694	71,694	71,694	---
SHIPBUILDING				
ADVANCED SEAL DELIVERY SYS	12,350	12,350	12,350	21,000
MK VIII MOD 1 - SEAL DELIVERY VEH	2,151	2,151	2,151	2,151
AMMUNITION PROGRAMS				
SOF ORDNANCE REPLENISHMENT	38,126	28,026	36,126	20,026
SOF ORDNANCE ACQUISITION	11,158	11,158	6,758	6,758

(In thousands of dollars)

	Budget	House	Senate	Conference
OTHER PROCUREMENT PROGRAMS				
COMM EQUIPMENT & ELECTRONICS	69,898	65,296	69,898	64,296
SOF INTELLIGENCE SYSTEMS	27,642	30,642	32,142	30,892
SOF SMALL ARMS & WEAPONS	119,372	124,872	84,372	88,572
MARITIME EQUIPMENT MODS	2,275	2,275	2,275	2,275
SPECIAL APPLICATIONS FOR CONTINGENCIES	16,511	16,511	16,511	16,511
SOF COMBATANT CRAFT SYSTEMS	17,732	17,732	19,232	19,232
SPARES AND REPAIR PARTS	5,114	2,114	5,114	2,114
TACTICAL VEHICLES	4,541	4,541	4,541	4,541
SOF MARITIME EQUIPMENT	1,088	1,088	1,088	1,088
MISCELLANEOUS EQUIPMENT	22,271	23,771	22,271	23,271
SOF OPERATIONAL ENHANCEMENTS	233,824	234,824	199,824	221,724
PSYOP EQUIPMENT	46,649	46,649	36,649	36,649
EMERGENT CRITICAL COMBAT MISSION NEEDS EQUIPMENT	---	43,000	---	21,000
TOTAL, SPECIAL OPERATIONS COMMAND	1,230,201	1,273,499	1,138,201	1,114,205
CHEMICAL/BIOLOGICAL DEFENSE				
CBDP				
INSTALLATION FORCE PROTECTION	198,045	198,045	208,245	205,245
INDIVIDUAL PROTECTION	97,183	97,183	97,183	97,183
DECONTAMINATION	2,950	2,950	2,950	2,950
JOINT BIOLOGICAL DEFENSE PROGRAM	62,341	62,341	62,341	62,341
COLLECTIVE PROTECTION	31,841	31,841	31,841	31,841
CONTAMINATION AVOIDANCE	258,299	258,299	269,177	264,377
TOTAL, CHEMICAL/BIOLOGICAL DEFENSE	650,659	650,659	671,737	663,937
CLASSIFIED PROGRAMS	365,694	365,694	326,034	360,544
TOTAL, PROCUREMENT, DEFENSE-WIDE	2,677,832	2,729,130	2,572,250	2,573,964

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		Budget Request	House	Senate	Conference
1	**MAJOR EQUIPMENT, OSD**	**98,045**	**105,045**	**103,045**	**102,045**
	W-P HPC Modernization (Transferred to RDTE,DW Line 45)		3,000		0
	AHPCRC - Supercomputer Procurement		4,000	5,000	4,000
33	**SOF ROTARY WING UPGRADES**	**129,748**	**136,748**	**132,448**	**139,348**
	MH-47 D/E Infrared Exhaust Suppressor (Note: only for the procurement of Infrared Suppression Kits for SOCOM MH-47 helicopters) (Includes transfer from Title IX P,DW)		7,000		7,700
	AN/ARS - 6 V12 Personnel Locator System			**2,700**	1,900
41	**C-130 MODIFICATIONS..**	**67,270**	**67,270**	**51,970**	**61,970**
	AMP Delays			-2,300	-2,300
	30 MM Rephasing			-13,000	-3,000
43	**ADVANCED SEAL DELIVERY SYS (AP-CY)**	**71,694**	**71,694**	**{71,694}**	**0**
	Program Restructure				-71,694
44	**ADVANCED SEAL DELIVERY SYS**	**12,350**	**12,350**	**12,350**	**21,000**
	Program Restructure				8,650
46	**SOF ORDNANCE REPLENISHMENT**	**38,126**	**28,026**	**36,126**	**20,026**
	Reduction based on Supplemental funding		-12,100		-12,100
	M 153 Time Delayed Firing Device/Sympathetic Detonator (TDFD/SUDET)		2,000	8,000	4,000
	Transfer to Title IX			-10,000	-10,000
47	**SOF ORDNANCE ACQUISITION**	**11,158**	**11,158**	**6,758**	**6,758**
	ALGL Ammunition			-4,400	-4,400
48	**COMM EQUIPMENT & ELECTRONICS**	**69,898**	**65,296**	**69,898**	**64,296**
	C41AS Expansion		-6,602		-6,602
	Software Radio Anywave Base Station		2,000		1,000
49	**SOF INTELLIGENCE SYSTEMS**	**27,642**	**30,642**	**32,142**	**30,892**
	Miniature Multi-band Beacons		2,000	4,500	2,250
	Joint Threat Warning System-Air (JTWS-AIR)		1,000		1,000
50	**SOF SMALL ARMS & WEAPONS**	**119,372**	**124,872**	**84,372**	**88,572**
	Nickel Boron Coating for Small Arms		2,000		1,700
	Low Profile Night Vision Goggles		1,000		1,000
	Green/Infrared Illumination Pointing Laser (GRI2P)		2,000		1,000
	Universal Night Sight		500		500
	Transfer to Title IX			-35,000	-35,000
54	**SOF COMBATANT CRAFT SYSTEMS**	**17,732**	**17,732**	**19,232**	**19,232**
	Rigid Hull Inflatable Boat Procurement			1,500	1,500
55	**SPARES AND REPAIR PARTS**	**5,114**	**2,114**	**5,114**	**2,114**
	Reduction based on previous experience		-3,000		-3,000
62	**MISCELLANEOUS EQUIPMENT**	**22,271**	**23,771**	**22,271**	**23,271**
	Tracking and Locating Devices		1,500		1,000

P-1		Budget Request	House	Senate	Conference
64	**SOF OPERATIONAL ENHANCEMENTS**	**233,824**	**234,824**	**199,824**	**221,724**
	SWORDS Mobile Weapon System for Force Protection (Includes transfer from Title IX)		1,000		1,400
	Helmet Mount Track system			5,000	5,000
	Classified Adjustment			-39,000	-19,500
	M1/M2 Gunfire/Sniper Detection System				1,000
65	**PSYOP EQUIPMENT**	**46,649**	**46,649**	**36,649**	**36,649**
	Slow Execution			-10,000	-10,000
65A	**EMERGENT CRITICAL COMBAT MISSION NEEDS EQUIPMENT**	**0**	**43,000**	**0**	**21,000**
66	**INSTALLATION FORCE PROTECTION**	**198,045**	**198,045**	**208,245**	**205,245**
	Military Mail Screening Equipment			10,200	7,200
71	**CONTAMINATION AVOIDANCE**	**258,299**	**258,299**	**269,177**	**264,377**
	M22 Automatic Chemical Agent Alarm (ACADA)			16,000	11,200
	JCAD Program Delays			-5,122	-5,122
999	**CLASSIFIED PROGRAMS**	**365,694**	**365,694**	**326,034**	**360,544**

ADVANCED SEAL DELIVERY SYSTEM (ASDS)

Since program inception ASDS has experienced design, construction, performance, and reliability challenges. Since November of this year, the conferees have been made aware of additional reliability concerns with the first ASDS. Based on these concerns, Special Operations Command has again decided to delay construction of the second ASDS. The conferees find this decision prudent and thus recommend a realignment of the resources provided in both the House and Senate bills for advance procurement of the second ASDS. The conferees recommend increasing research and development funding by $21,160,000 to conduct critical system reviews, address obsolescence and improve technologies. The conferees recommend increasing procurement funding by $8,650,000 to address modernization, and equipment shortfalls and operation and maintenance funding by $10,100,000 for unforeseen depot and fleet maintenance. The conferees continue to be frustrated by the chronic problems with the ASDS and expect both the Command and the Navy to dramatically increase the level of technical engineering and management oversight dedicated to this program.

NATIONAL GUARD AND RESERVE EQUIPMENT

The conference agreement on items addressed by either the House or the Senate is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
NATIONAL GUARD & RESERVE EQUIPMENT				
NATIONAL GUARD & RESERVE EQUIPMENT	---	---	422,000	---
ARMY RESERVE MISCELLANEOUS EQUIPMENT	---	---	---	30,000
NAVY RESERVE MISCELLANEOUS EQUIPMENT	---	---	---	30,000
MARINE CORPS RESERVE MISCELLANEOUS EQUIPMENT	---	---	---	30,000
AIR FORCE RESERVE MISCELLANEOUS EQUIPMENT	---	---	---	30,000
TOTAL, RESERVE EQUIPMENT	---	---	---	120,000
ARMY NATIONAL GUARD MISCELLANEOUS EQUIPMENT	---	---	---	30,000
AIR NATIONAL GUARD MISCELLANEOUS EQUIPMENT	---	---	---	30,000
TOTAL, NATIONAL GUARD EQUIPMENT	---	---	---	60,000
TOTAL, NATIONAL GUARD & RESERVE EQUIPMENT	---	---	422,000	180,000

NATIONAL GUARD AND RESERVE EQUIPMENT

The conferees agree that National Guard and Reserve forces are integral to our efforts in Iraq and Afghanistan and play a critical role in our Nation's response to national disasters. The conferees are aware that the equipment needs of our Reserve Component forces far exceed the amounts provided in the budget request for those items and agree to provide a total of $4,131,653,000 for guard and reserve equipment. The funding provided in the conference agreement is located in the following accounts: $2,654,353,000 as requested in the budget throughout the procurement accounts; $265,000,000 in addition to the budget request throughout the procurement accounts; $32,300,000 in the operation and maintenance accounts; $180,000,000 in the National Guard and Reserve Equipment account; $100,000,000 for Army Reserve equipment in Title IX for contingency operations; $700,000,000 for the Army National Guard in Title IX; and $200,000,000 for the Air National Guard in Title IX.

The House provided specific funding in many of the procurement accounts as requested in the Budget. The Senate provided funding in the National Guard and Reserve Equipment account. The conferees agree to provide the funding identified above in the Guard and Reserve Equipment account and in Title IX, and expect the Department to provide at a minimum the following amounts to the Guard and Reserve components in the following procurement accounts:

Aircraft Procurement, Army	$317,750,000
Missile Procurement Army	$150,000,000
Procurement of Weapons and Tracked Combat Vehicles, Army	$614,800,000
Procurement of Ammunition, Army	$119,000,000
Other Procurement, Army	$841,100,000
Aircraft Procurement, Navy	$57,779,000
Procurement of Ammunition, Navy and Marine Corps	$19,562,000
Other Procurement, Navy	$45,212,000
Aircraft Procurement, Air Force	$466,300,000
Procurement of Ammunition, Air Force	$164,800,000
Other Procurement, Air Force	$160,050,000

Items of Special Interest

The conferees agree that the National Guard and Reserve equipment program shall be executed by the heads of the Guard and Reserve components with priority consideration for miscellaneous equipment appropriations given to the following items: Radio Test Sets, F-15 Enhanced GPS/INS—Air National Guard, Heavy Expanded Mobility Tactical Trucks (HEMTT), M777A1 Lw 155mm Howitzers, Heli-Basket Module Technology, Helicopter Maintenance Work Platform Systems, High Mobility Multi-Purpose Wheeled Vehicles (HMMWVs), Joint Helmet Mounted Cueing Systems, M4K Forklifts, CMHS Medical Readiness Systems, MW24C Loaders, Night Vision Devices, MK6 Assisted Take-Off replacement, SINCGARS, LAIRCM, V-3 AESA Radar, Small Arms, Apache Helicopter Bladefold Kits, F-16 Full Mission Training Simulators, Light Medium Tactical Vehicle (LMTV), Medium Tactical Vehicle (MTV), PLS Trailers, LITENING Targeting Pods, Aviation Maintenance Fall Protection Platforms, Autonomous Air Combat Evaluation System (ACE), Advanced Targeting Pods for A-10s, IMD-HUMS, Service Life Extension Program for Aviation Equipment, Joint CONUS Communications Support Environment, Forward Osmosis Water Filtration Program, APG-68V(10) Radar, DFIRST, Combo PAK, Crashworthy External Fuel Systems (CEFs), F-16 Falcon BRU-57 Smart Rack for the Air National Guard, Joint Threat Emitters, AB-FIST, Up-Armored HMMWVs, Tactical Truck Crew Trainers, and Laser Marksmanship Training Systems.

DEFENSE PRODUCTION ACT PURCHASES

The conferees agree to provide a total of $58,248,000 for the Defense Production Act Purchases appropriation instead of $28,573,000 as proposed by the House and $68,573,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or the Senate is as follows:

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

Project	House	Senate	Conference
Amplifying fluorescent polymer based IED detection devices	$2,000		$1,200
Flexible aerogel material supplier initiative	2,000	$5,000	7,500
ALON and spinel optical ceramics	3,000		1,500
Thermal battery industrial base infrastructure	3,000		2,550
Hydrogen ion implantation equipment		4,000	2,800
Ceramic armor manufacturing to protect armed forces		5,000	3,500
Advanced metal composite process		8,000	6,800
Miniature compressor development		5,000	2,500
POSS nanotechnology engineering scale-up initiative		7,500	6,375
Reactive plastic CO2 absorbent production capacity		7,500	3,750
Read out integrated circuit manufacturing improvement		4,000	2,400
High performance coatings production initiative	3,868	3,868	3,868
Beryllium supply industrial base	6,000	9,000	7,800
High performance batteries and fuel cells production initiative	5,800	6,800	6,800
Boron fiber production initiative			1,000
Next generation radiation hardened microprocessors	2,905	2,905	2,905
Total	28,573	68,573	58,248

Amplifying Fluorescent Polymer-Based IED Detection Devices

The conferees have been advised that a fluorescent polymer-based technology for IED detection has shown great promise in Iraq and has had some very significant independent test results demonstrating that it can be beneficial in the war on terror. Therefore, the conferees direct the Technical Support Working Group to review these tests and the technology to determine its applicability to the mission of defeating IEDs. The Technical Support Working Group is to report back to the congressional defense Committees within 60 days of enactment of this Act regarding the technical feasibility of the technology and its status in the acquisition process.

TITLE IV—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
RECAPITULATION				
Research, Development, Test and Evaluation, Army	9,733,824	10,827,174	10,520,592	11,172,397
Research, Development, Test and Evaluation, Navy......	18,037,991	18,481,862	18,557,904	18,993,135
Research, Development, Test and Evaluation, Air Force.	22,612,351	22,664,868	21,859,010	21,999,649
Research, Development, Test and Evaluation, Defense-Wide......................................	18,803,416	19,514,530	19,301,618	19,798,599
Operational Test and Evaluation, Defense.............	168,458	168,458	168,458	168,458
GRAND TOTAL..	69,356,040	71,656,892	70,407,582	72,132,238

SPECIAL INTEREST ITEMS

Items for which additional funds have been provided as shown in the project level tables or in paragraphs using the phrase "only for" or "only to" in this report are congressional interest items for the purpose of the Base for Reprogramming (DD 1414). Each of these items must be carried on the DD Form 1414 at the stated amount, or a revised amount if changed during conference or otherwise specifically addressed in the conference report. These items remain special interest items whether or not they are repeated in a subsequent conference report.

REPROGRAMMING GUIDANCE FOR RESEARCH, DEVELOPMENT, TEST AND EVALUATION ACCOUNTS

The conferees direct the Department of Defense to continue to follow the reprogramming guidance specified in the Statement of the Managers on the fiscal year 2005 Department of Defense Appropriations Act (House Report 108–622). Specifically, the dollar threshold for reprogramming procurement funds will remain at $20,000,000, and at $10,000,000 for research, development, test and evaluation. The Department shall continue to follow the limitation that prior approval reprogrammings are set at either the specified dollar threshold or 20% of the procurement or research, development, test and evaluation line, whichever is less. These thresholds are cumulative. Therefore, if the combined value of transfers into or out of a procurement (P–1) or research, development, test and evaluation (R–1) line exceeds[5] the identified threshold, the Department of Defense must submit a prior approval reprogramming to the congressional defense committees. In addition, guidelines on the application of prior approval reprogramming procedures for congressional special interest items are established elsewhere in this statement.

JOINT TACTICAL RADIO SYSTEM (JTRS)

The conferees direct the Secretary of Defense to submit a report to the congressional defense committees not later than January 30, 2006, on the status of JTRS. The report shall include the following elements: mitigation plans of the Military Services to compensate for the restructuring of the JTRS program including a detailed description of the legacy or other radios required as well as detailed estimates of the cost of these plans; an explanation of Army plans to meet Future Combat System requirements associated with all developmental spirals as a result of the JTRS program revisions, to include a detailed description of the compatibility between legacy radios and the Army's Warfighter Information Network-Tactical (WIN–T) as well as the compatibility between JTRS and WIN–T; and a summary of DoD acquisition decisions including the results of the Defense Acquisition Board (DAB) meetings held in August and November 2005 to rebaseline this program. In addition, the conferees direct the Government Accountability Office (GAO) to continue its ongoing review of the JTRS program to include a review of technical, management, cost and schedule issues associated with the program.

In addition, the conferees urge the Department to formally establish the Joint Program Executive Office (JPEO) organization for JTRS, specify its authorities, and resource it appropriately to accomplish its mission. The conferees also urge the Department to establish associated operation and maintenance funding to establish and provide for the operating expenses of this organization. Finally, the conferees direct the Secretary of Defense to provide a report on the organization, authorities, and plan to resource the JPEO within 90 days of enactment of this Act.

The table below summarizes reductions to the JTRS program included in the conference agreement:

[$thousands]

Fiscal Year 2006 Reductions:	
Aircraft Procurement, Army	−12,300
Procurement, Marine Corps	−7,000
Aircraft Procurement, Air Force	−25,000
Research, Development, Test and Evaluation, Army	−94,600
Research, Development, Test and Evaluation, Navy	
(including Marine Corps programs)	−84,900
Research, Development, Test and Evaluation, Air Force	−41,900
Total	−265,700
Rescissions:	
Other Procurement, Army FY 05/07	−68,637
Total	−68,637
Grand Total	−334,337

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
RESEARCH, DEVELOPMENT, TEST & EVAL, ARMY				
BASIC RESEARCH				
IN-HOUSE LABORATORY INDEPENDENT RESEARCH	20,542	23,542	20,542	21,542
DEFENSE RESEARCH SCIENCES	137,898	162,498	159,398	176,048
UNIVERSITY RESEARCH INITIATIVES	67,201	71,001	78,201	78,101
UNIVERSITY AND INDUSTRY RESEARCH CENTERS	81,953	94,453	103,578	101,953
TOTAL, BASIC RESEARCH	307,594	351,494	361,719	377,644
APPLIED RESEARCH				
MATERIALS TECHNOLOGY	17,559	30,259	40,059	35,559
SENSORS AND ELECTRONIC SURVIVABILITY	32,147	48,147	48,647	52,247
TRACTOR HIP	7,804	7,804	7,804	7,804
AVIATION TECHNOLOGY	34,295	42,295	34,295	39,995
ELECTRONIC WARFARE TECHNOLOGY	19,129	27,629	29,129	29,729
MISSILE TECHNOLOGY	62,524	66,024	110,524	92,024
ADVANCED WEAPONS TECHNOLOGY	21,139	27,139	41,639	37,239
ADVANCED CONCEPTS AND SIMULATION	16,013	23,013	25,013	27,813
COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY	64,883	102,583	78,383	94,283
BALLISTICS TECHNOLOGY	49,163	52,163	51,163	52,763
CHEMICAL, SMOKE AND EQUIPMENT DEFEATING TECHNOLOGY	2,519	13,019	12,519	10,719
JOINT SERVICE SMALL ARMS PROGRAM	5,703	6,703	5,703	6,703
WEAPONS AND MUNITIONS TECHNOLOGY	37,824	106,124	100,624	127,079
ELECTRONICS AND ELECTRONIC DEVICES	39,554	81,454	63,554	93,254
NIGHT VISION TECHNOLOGY	23,823	38,123	23,823	32,123
COUNTERMINE SYSTEMS	19,293	22,293	27,293	29,593
HUMAN FACTORS ENGINEERING TECHNOLOGY	17,482	31,482	21,482	28,832
ENVIRONMENTAL QUALITY TECHNOLOGY	16,417	16,417	27,417	18,117
COMMAND, CONTROL, COMMUNICATIONS TECHNOLOGY	21,787	56,787	23,787	50,037
COMPUTER AND SOFTWARE TECHNOLOGY	3,590	3,590	4,890	4,590
MILITARY ENGINEERING TECHNOLOGY	47,046	51,346	49,046	51,046
MANPOWER/PERSONNEL/TRAINING TECHNOLOGY	15,207	15,207	19,207	15,207

	(In thousands of dollars) Budget	House	Senate	Conference
WARFIGHTER TECHNOLOGY	21,707	36,407	45,907	48,357
MEDICAL TECHNOLOGY	74,694	280,844	163,894	283,844
TOTAL, APPLIED RESEARCH	671,302	1,186,852	1,055,802	1,268,957
ADVANCED TECHNOLOGY DEVELOPMENT				
WARFIGHTER ADVANCED TECHNOLOGY	63,754	79,454	72,754	78,554
MEDICAL ADVANCED TECHNOLOGY	45,160	318,710	132,510	305,135
AVIATION ADVANCED TECHNOLOGY	48,318	90,018	103,218	108,118
WEAPONS AND MUNITIONS ADVANCED TECHNOLOGY	74,927	103,427	89,927	103,327
COMBAT VEHICLE AND AUTOMOTIVE ADVANCED TECHNOLOGY	142,866	238,566	213,266	245,866
COMMAND, CONTROL, COMMUNICATIONS ADVANCED TECHNOLOGY	12,066	13,866	12,066	13,066
MANPOWER, PERSONNEL AND TRAINING ADVANCED TECHNOLOGY	6,783	7,783	12,783	10,383
ELECTRONIC WARFARE ADVANCED TECHNOLOGY	45,322	63,322	55,322	61,922
TRACTOR HIKE	8,777	8,777	8,777	8,777
NEXT GENERATION TRAINING & SIMULATION SYSTEMS	19,982	22,682	28,982	28,332
TRACTOR ROSE	4,956	4,956	4,956	4,956
EXPLOSIVES DEMILITARIZATION TECHNOLOGY	9,865	13,465	24,445	21,345
MILITARY HIV RESEARCH	6,842	16,842	6,842	13,842
COMBATING TERRORISM, TECHNOLOGY DEVELOPMENT	6,306	11,306	10,306	10,306
GLOBAL SURVEILLANCE/AIR DEFENSE/PRECISION STRIKE TECHN	12,111	12,111	12,111	12,111
ELECTRONIC WARFARE TECHNOLOGY	16,801	25,801	14,801	22,601
MISSILE AND ROCKET ADVANCED TECHNOLOGY	70,066	92,066	109,566	115,666
TRACTOR CAGE	15,406	15,406	15,406	15,406
LANDMINE WARFARE AND BARRIER ADVANCED TECHNOLOGY	25,327	25,327	32,227	30,527
JOINT SERVICE SMALL ARMS PROGRAM	6,581	6,581	8,581	7,581
NIGHT VISION ADVANCED TECHNOLOGY	51,761	110,561	69,761	103,161
ENVIRONMENTAL QUALITY TECHNOLOGY DEMONSTRATIONS	12,606	16,606	12,606	16,006
MILITARY ENGINEERING ADVANCED TECHNOLOGY	7,301	20,401	20,301	21,701
ADVANCED TACTICAL COMPUTER SCIENCE & SENSOR TECHNOLOGY	42,475	55,575	38,075	46,275
TOTAL, ADVANCED TECHNOLOGY DEVELOPMENT	756,359	1,373,609	1,109,589	1,404,964

	(In thousands of dollars)			
	Budget	House	Senate	Conference
DEMONSTRATION & VALIDATION				
UNIQUE ITEM IDENTIFICATION (UID)	1,500	1,500	1,500	1,500
ARMY MISSILE DEFENSE SYSTEMS INTEGRATION	14,573	80,223	54,323	82,673
ARMY MISSILE DEFENSE SYSTEMS INTEGRATION (DEM/VAL)	9,284	10,784	58,584	48,884
AIR AND MISSILE DEFENSE SYSTEMS ENGINEERING	83,063	99,763	100,063	101,863
LANDMINE WARFARE AND BARRIER - ADV DEV	---	2,500	---	---
SMOKE, OBSCURANT AND TARGET DEFEATING SYS-ADV DEV	5,733	5,733	5,733	5,733
TANK AND MEDIUM CALIBER AMMUNITION	---	6,000	6,000	8,400
ADVANCED TANK ARMAMENT SYSTEM (ATAS)	26,712	26,712	26,712	26,712
SOLDIER SUPPORT AND SURVIVABILITY	3,393	3,393	3,393	3,393
TACTICAL ELECTRONIC SURVEILLANCE SYSTEM - ADV DEV	18,907	18,907	18,907	18,907
NIGHT VISION SYSTEMS ADVANCED DEVELOPMENT	6,885	6,885	6,885	6,885
ENVIRONMENTAL QUALITY TECHNOLOGY	5,166	42,816	21,866	35,766
WARFIGHTER INFORMATION NETWORK-TACTICAL (DEM/VAL)	131,081	87,181	131,081	99,481
NATO RESEARCH AND DEVELOPMENT	4,902	4,902	4,902	4,902
AVIATION - ADV DEV	6,249	7,249	6,249	7,249
LOGISTICS AND ENGINEER EQUIPMENT - ADV DEV	13,375	13,375	13,375	13,375
COMBAT SERVICE SUPPORT CONTROL SYSTEM EVALUATION	10,659	10,659	10,659	10,659
MEDICAL SYSTEMS - ADV DEV	10,134	14,634	25,934	23,484
SOLDIER SYSTEMS - ADVANCED DEVELOPMENT	10,595	12,595	10,595	12,295
INTEGRATED BROADCAST SERVICE (JMIP/DISTP)	2,762	2,762	2,762	2,762
TOTAL, DEMONSTRATION & VALIDATION	364,973	458,573	509,523	514,923
ENGINEERING & MANUFACTURING DEVELOPMENT				
AIRCRAFT AVIONICS	23,451	31,451	13,451	13,451
ARMED, DEPLOYABLE OH-58D	13,964	13,964	93,206	93,206
ELECTRONIC WARFARE DEVELOPMENT	32,179	34,179	32,179	33,879
JOINT TACTICAL RADIO	156,665	156,665	156,665	141,565
ALL SOURCE ANALYSIS SYSTEM	7,973	9,973	7,973	9,173
TRACTOR CAGE	16,099	16,099	16,099	16,099
COMMON MISSILE	---	45,000	---	26,000

	Budget	House	Senate	Conference
	(In thousands of dollars)			
INFANTRY SUPPORT WEAPONS	34,627	45,927	39,627	54,027
MEDIUM TACTICAL VEHICLES	1,886	14,486	1,886	18,786
FAMILY OF HEAVY TACTICAL VEHICLES	3,415	6,415	15,415	21,215
AIR TRAFFIC CONTROL	4,508	4,508	4,508	4,508
LIGHT TACTICAL WHEELED VEHICLES	---	12,000	---	7,500
ARMORED SYSTEMS MODERNIZATION (ASM)-ENG DEV	3,065,629	2,616,629	2,965,629	2,785,829
NON-LIGHT OF SIGHT LAUNCH SYSTEM	231,554	233,154	235,554	234,554
NON-LINE OF SIGHT CANNON	107,587	157,587	107,587	148,387
NIGHT VISION SYSTEMS - SDD	26,449	28,449	28,949	29,399
COMBAT FEEDING, CLOTHING, AND EQUIPMENT	3,383	3,383	3,383	3,383
NON-SYSTEM TRAINING DEVICES - SDD	61,090	61,090	61,090	61,090
AIR DEFENSE COMMAND, CONTROL AND INTELLIGENCE -SDD	29,012	29,012	29,012	29,012
CONSTRUCTIVE SIMULATION SYSTEMS DEVELOPMENT	40,572	40,572	40,572	40,572
AUTOMATIC TEST EQUIPMENT DEVELOPMENT	54	2,554	54	2,254
DISTRIBUTIVE INTERACTIVE SIMULATIONS (DIS) -ENGINEER	22,057	23,457	32,057	30,057
COMBINED ARMS TACTICAL TRAINER (CATT) CORE	37,471	49,471	42,971	43,971
JOINT NETWORK MANAGEMENT SYSTEM	5,092	5,092	5,092	5,092
AVIATION - SDD	---	---	2,000	1,400
WEAPONS AND MUNITIONS - SDD	87,034	110,534	87,034	105,534
LOGISTICS AND ENGINEER EQUIPMENT - SDD	13,353	13,353	14,353	14,353
COMMAND, CONTROL, COMMUNICATIONS SYSTEMS - SDD	393,062	323,562	225,062	323,562
MEDICAL MATERIEL/MEDICAL BIOLOGICAL DEFENSE EQUIPMENT	5,627	18,127	10,627	16,727
LANDMINE WARFARE/BARRIER - SDD	80,560	75,560	80,560	75,560
ARTILLERY MUNITIONS	113,368	115,368	113,368	116,368
COMBAT IDENTIFICATION	2,973	2,973	7,973	5,473
ARMY TACTICAL COMMAND & CONTROL HARDWARE & SOFTWARE	66,980	66,980	66,980	66,980
RADAR DEVELOPMENT	5,080	5,080	5,080	5,080
GENERAL FUND ENTERPRISE BUSINESS SYSTEM (GFEBS)	71,119	71,119	71,119	71,119
FIREFINDER	46,061	46,061	46,061	46,061

	(In thousands of dollars) Budget	House	Senate	Conference
SOLDIER SYSTEMS - WARRIOR DEM/VAL	57,818	60,818	57,818	59,318
ARTILLERY SYSTEMS	5,476	5,476	5,476	5,476
PATRIOT/MEADS COMBINED AGGREGATE PROGRAM (CAP)	288,785	288,785	288,785	288,785
INFORMATION TECHNOLOGY DEVELOPMENT	63,662	65,662	65,662	67,062
TOTAL, ENGINEERING & MANUFACTURING DEVELOPMENT	5,225,675	4,910,575	5,080,917	5,121,867
RDT&E MANAGEMENT SUPPORT				
THREAT SIMULATOR DEVELOPMENT	23,796	28,196	25,796	29,296
TARGET SYSTEMS DEVELOPMENT	10,855	11,855	12,355	11,955
MAJOR T&E INVESTMENT	64,498	68,498	64,498	66,998
RAND ARROYO CENTER	23,800	23,800	23,800	23,800
ARMY KWAJALEIN ATOLL	154,535	155,535	154,535	155,535
CONCEPTS EXPERIMENTATION PROGRAM	31,653	38,653	31,653	39,053
ARMY TEST RANGES AND FACILITIES	369,943	369,943	369,943	369,943
ARMY TECHNICAL TEST INSTRUMENTATION AND TARGETS	62,687	66,687	68,187	69,287
SURVIVABILITY/LETHALITY ANALYSIS	38,306	42,306	43,306	42,306
DOD HIGH ENERGY LASER TEST FACILITY	17,688	17,688	20,688	19,788
AIRCRAFT CERTIFICATION	2,748	2,748	2,748	2,748
METEOROLOGICAL SUPPORT TO RDT&E ACTIVITIES	8,829	8,829	8,829	8,829
MATERIEL SYSTEMS ANALYSIS	15,517	15,517	15,517	15,517
EXPLOITATION OF FOREIGN ITEMS	4,710	4,710	4,710	4,710
SUPPORT OF OPERATIONAL TESTING	75,993	76,993	75,993	76,993
ARMY EVALUATION CENTER	57,305	57,305	57,305	57,305
SIMULATION & MODELING FOR ACQ, RQTS, & TNG (SMART)	9,437	5,437	9,437	5,437
PROGRAMWIDE ACTIVITIES	54,269	54,269	54,269	54,269
TECHNICAL INFORMATION ACTIVITIES	32,237	48,237	42,237	47,437
MUNITIONS STANDARDIZATION, EFFECTIVENESS AND SAFETY	16,922	37,622	28,922	38,072
ENVIRONMENTAL QUALITY TECHNOLOGY MGMT SUPPORT	4,014	4,014	4,014	4,014
MANAGEMENT HEADQUARTERS (RESEARCH AND DEVELOPMENT)	12,908	12,908	12,908	12,908
TOTAL, RDT&E MANAGEMENT SUPPORT	1,092,650	1,151,750	1,131,650	1,156,200

	(In thousands of dollars)			
	Budget	House	Senate	Conference
OPERATIONAL SYSTEMS DEVELOPMENT				
MLRS PRODUCT IMPROVEMENT PROGRAM	114,297	114,297	116,297	115,297
WEAPONS CAPABILITY MODIFICATIONS UAV	---	---	9,000	5,400
JOINT LAND ATTACK CRUISE MISSILES DEFENSE (JLENS)	106,420	107,420	106,420	107,420
HIGH ALTITUDE AIRSHIP	---	---	17,500	---
ADV FIELD ARTILLERY TACTICAL DATA SYSTEM	16,064	16,064	17,064	17,064
COMBAT VEHICLE IMPROVEMENT PROGRAMS	12,030	16,030	17,030	17,530
MANEUVER CONTROL SYSTEM	44,903	41,403	44,903	41,403
AIRCRAFT MODIFICATIONS/PRODUCT IMPROVEMENT PROGRAMS	409,103	416,603	287,103	341,853
AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM	2,066	2,066	2,066	2,066
DIGITIZATION	12,343	13,343	12,343	13,343
FORCE XXI BATTLE COMMAND, BRIGADE AND BELOW (FBCB2)	20,201	20,201	20,201	20,201
MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT PROGRAM	16,188	16,188	16,188	16,188
OTHER MISSILE PRODUCT IMPROVEMENT PROGRAMS	23,560	23,560	18,681	18,681
TRACTOR CARD	6,797	6,797	6,797	6,797
JOINT TACTICAL COMMUNICATIONS PROGRAM (TRI-TAC)	24,906	24,906	24,906	24,906
JOINT TACTICAL GROUND SYSTEM	12,854	12,854	12,854	12,854
JOINT HIGH SPEED VESSEL (JHSV)	3,261	3,261	3,261	3,261
SECURITY AND INTELLIGENCE ACTIVITIES	2,992	13,492	4,992	11,292
INFORMATION SYSTEMS SECURITY PROGRAM	22,903	26,903	23,903	26,703
GLOBAL COMBAT SUPPORT SYSTEM	79,752	74,752	64,752	69,252
SATCOM GROUND ENVIRONMENT (SPACE)	58,659	58,659	58,659	58,659
WWMCCS/GLOBAL COMMAND AND CONTROL SYSTEM	13,647	13,647	13,647	13,647
JOINT COMMAND AND CONTROL PROGRAM (JC2)	1,696	1,696	1,696	1,696
TACTICAL UNMANNED AERIAL VEHICLES	139,610	142,610	156,610	150,810
AIRBORNE RECONNAISSANCE SYSTEMS	5,398	5,398	5,398	5,398
DISTRIBUTED COMMON GROUND SYSTEMS	91,587	98,837	91,587	93,187
AVIONICS COMPONENT IMPROVEMENT PROGRAM	994	994	994	994
END ITEM INDUSTRIAL PREPAREDNESS ACTIVITIES	68,505	96,805	112,005	112,405
NATO JOINT STARS	569	569	569	569

	(In thousands of dollars) Budget	House	Senate	Conference
TACTICAL WHEELED VEHICLE PRODUCT IMPROVEMENT..........	---	20,000	---	14,000
SMALL BUSINESS INNOVATIVE RESEARCH....................	---	1,000	---	1,000
TOTAL, OPERATIONAL SYSTEMS DEVELOPMENT.............	1,311,305	1,390,355	1,267,426	1,323,876
CLASSIFIED PROGRAMS...................................	3,966	3,966	3,966	3,966
TOTAL, RESEARCH, DEVELOPMENT, TEST & EVAL, ARMY.....	9,733,824	10,827,174	10,520,592	11,172,397

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[in thousands of dollars]

R-1		Budget Request	House	Senate	Conference
1	**IN-HOUSE LABORATORY INDEPENDENT RESEARCH**	**20,542**	**23,542**	**20,542**	**21,542**
	Tesla Human Whole-Body Research MRI		1,000		1,000
	Center for Ferroelectric-Photonics Nanodevices (Note: transferred to line 4)		2,000		0
2	**DEFENSE RESEARCH SCIENCES**	**137,898**	**162,498**	**159,398**	**176,048**
	Reduce program growth		-7,000		-7,000
	Advanced Carbon Nanotechnology Program		3,000	4,000	3,500
	Advanced Portable Power Institute		1,000		1,000
	Advanced Research and Technology Initiative		4,600		2,300
	Cyber TA (Note: only for CyberTA Phase 2 to develop real-time detection of emerging internet threats and develop solutions to actively guard against cyber-attacks, including $750,000 to demonstrate incorporation of IASM capabilities.)				5,500
	Desert Research Institute Desert Terrain Analysis for Enhancing Military Operations		1,000	3,000	2,100
	Functionally Integrated Reactive Surfaces Technologies Program		3,000		1,800
	Knowledge Integration and Management Center of Excellence		2,000		1,000
	National Research Consortium for Stress Induced Neurochemically-Based Mood Disorders		5,000		4,500
	PASIS (Perpetually Assailable and Secure Information Systems)		8,000		6,800
	Plasti-Bone Artificial Bone Graft Development				1,000
	Technology Commercialization and Management Network		4,000		3,400
	Advanced Ground Vehicle Reliability Research			1,000	1,000
	Brain Imaging and Deception Detection Research			2,500	1,250
	Biological Raman and Optical Imaging Program			1,000	1,000
	Document Exploitation Technology Upgrade			5,000	3,500
	Optical Technologies Research			3,000	4,100
	Terrain Processes Research to Optimize Battlefield Operations			2,000	1,400
3	**UNIVERSITY RESEARCH INITIATIVES**	**67,201**	**71,001**	**78,201**	**78,101**
	Laboratory for Engineered Human Protection		2,000		1,200
	Phase 2 SmartResponsive Nanocomposite (SRN) Systems		1,800		1,000
	Institute of Bioengineering and Nanoscience in Advanced Medicine				1,000
	Advanced Imaging Technology Research			1,000	1,000
	Burn and Shock Trauma Research			2,000	1,400
	High Resolution Analytical Transmission Electron Microscope			1,000	1,000
	Integrated Systems in Sensing, Imaging and Communications Research			2,000	1,400
	Low Temperature Vehicle Research			2,000	1,400
	Nanotechnology and Health Research			3,000	1,500

R-1		Budget Request	House	Senate	Conference
4	**UNIVERSITY AND INDUSTRY RESEARCH CENTERS**	**81,953**	**94,453**	**103,578**	**101,953**
	Modeling & Analysis of Response Structures		1,000		0
	Strategic Defense Systems Manufacturing Technology		2,000	3,000	2,000
	Photonics Research		4,500		1,700
	Advanced Steel Casting Technology for Weapons Systems		1,000	1,000	1,000
	Advanced, Multifunctional Composites for Joint Rapid Airfield Construction (JRAC)		500		500
	Centers of Excellence (HBCU/MI)		3,500		2,500
	Advanced Coating Systems for Ground-based Military Vehicles			1,625	1,200
	Advanced Sensors Research			1,000	1,000
	Automotive Research			2,000	1,700
	Ferroelectric Electronic - Photonic Nanodevices			4,000	2,000
	Nanoscience and Nanotechnology Research				1,000
	Nanotubes Optimized for Lightweight Exceptional Strength Composite Materials			4,000	2,000
	Next Generation Joining Technology Research			2,000	1,200
	Real Time Classification Through Wall Sensor			2,000	1,200
	Visualization for Training and Simulation in Urban Terrains			1,000	1,000
6	**MATERIALS TECHNOLOGY**	**17,559**	**30,259**	**40,059**	**35,559**
	Advanced Ceramic Armor in High Mobility Combat Vehicles		1,000		1,000
	Advanced Lightweight Composite Armor Materials for Ballistic Impact and Blast Protection		2,000		1,000
	Advanced Materials for Mine Detection and Blast Mitigation			3,000	1,500
	Composite Materials Technology for Future Combat System			3,000	1,500
	Future Affordable Multi-Utility Materials for Future Army Combat		2,500	4,000	3,000
	Lightweight Blast Containment Vessel Development			2,000	1,400
	LRIP LASSO			2,500	2,200
	MEMS Sensors for Rolling Bearings		3,200	2,000	2,000
	Multifunctional Nanostructured Materials for Future Combat System (FCS)		2,000	4,000	2,400
	Tactical Armor Manufacturing Technology (Note: only for a materials processing technology program for a unique polycrystalline ceramic with superior armor and optics qualities compared to present state-of-the-art materials)		2,000	2,000	2,000

R-1		Budget Request	House	Senate	Conference
7	**SENSORS AND ELECTRONIC SURVIVABILITY**	**32,147**	**48,147**	**48,647**	**52,247**
	Scalable High Efficiency Solid State Laser (SHESSL)		2,000	3,000	2,000
	Urban Warfare Analysis Center		5,000		3,000
	Network Enabled Combat Identification (CID)		3,000		1,500
	Disposable Sensors for Battlefield and Urban Warfare		3,000		1,500
	Wireless Networking and Smart Power for Small or Mini-UAVs		1,500		1,300
	Project 12		1,500		1,050
	Advanced Detection of Explosives Program				1,500
	Digital Radio Frequency Tags			4,000	2,800
	Optical Combat Identification System (OCIDS)			2,000	1,700
	Persistent Multi-Dimensional Surveillance In Non-Permissive Environments			2,000	1,000
	Small Airship Surveillance System			3,000	1,500
	SmartCam3D Technology			2,500	1,250
9	**AVIATION TECHNOLOGY**	**34,295**	**42,295**	**34,295**	**39,995**
	Aircraft Structural Condition Monitoring (ASCM) for Diagnostics and Prognostics		2,000		1,200
	Center for Rotorcraft Innovation		5,000		2,500
	Mono Tiltrotor Scaled Demonstrator				1,000
	Composite Small Main Rotor Blades		1,000		1,000
10	**ELECTRONIC WARFARE TECHNOLOGY**	**19,129**	**27,629**	**29,129**	**29,729**
	Silver Fox Unmanned Aerial Vehicle		4,500	4,000	4,000
	Xenon Light Source for Non-Lethal Deterrence from Small Unmanned Vehicles		2,000		1,400
	GLAVID for Force Protection		2,000		1,400
	Real-Time Laser Threat Warning Development			4,000	2,800
	Subterranean Target Identification			2,000	1,000
11	**MISSILE TECHNOLOGY**	**62,524**	**66,024**	**110,524**	**92,024**
	Reduce program growth for hypersonic missile technology		-4,500		-4,500
	MARIAH II Hypersonic Wind Tunnel Development Program		6,000	12,000	9,000
	Cruise Missile Defense Via Passive RF Detection		2,000		1,400
	Enhanced Area Protection and Survivability (EAPS)			5,000	3,500
	LENS X Hypervelocity Ground Testing			5,000	2,500
	Nanoscience Initiative for Next Generation Missiles			3,000	2,100
	Near Hermetic Packaging and Interconnection Technology			3,000	1,500
	Red Rain			3,000	2,100
	Unique Waveform Based Missile Technologies for Horizontal Integration and IED Detection			12,000	8,400
	Unmanned Systems Initiative at AMRDEC			5,000	3,500
12	**ADVANCED WEAPONS TECHNOLOGY**	**21,139**	**27,139**	**41,639**	**37,239**
	Solid-State High-Output Diode Arrays		5,000	2,500	2,500
	Single Crystal Chemical Vapor Deposition (CVD) Diamond Lens Elements for High-Energy Lasers		1,000		1,000
	Army Missile and Space Technology Initiative			18,000	12,600

R-1		Budget Request	House	Senate	Conference
13	**ADVANCED CONCEPTS AND SIMULATION**	**16,013**	**23,013**	**25,013**	**27,813**
	Automated Man-In-Simulant-Test (MIST)		1,000		1,000
	Photonics Center (Note: only for the integrated acoustic finding surveillance targeting robot platform)		4,000		3,400
	Institute for Creative Technologies		2,000		1,400
	Surveillance and Targeting Robot Platform (Red Owl)			9,000	6,000
14	**COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY**	**64,883**	**102,583**	**78,383**	**94,283**
	Nanofluids for Advanced Military Mobility Systems		1,000		1,000
	Nano-Engineered Multi-Functional Transparent Armor		4,000		2,000
	Gaming Technology Software Initiative (GTSI)		2,000		1,000
	Advanced Affordable JP-8 PEM Fuel Cell Components for Army APU and Ground Vehicle Applications		4,000		2,000
	Center for Tribology and Coatings		2,000		1,800
	Light Utility Vehicle (LUV) (Note: only to continue work toward completing the prototype LUV)		5,000		3,500
	Liquid Desicant-Based Atmospheric Water Generation (Note: only for liquid desicant-based atmospheric water generation without reverse osmosis.)				500
	Family of Scalable Trailers (FAST) (Note: transferred to line 90)		2,500		0
	HAMMER		4,000		1,800
	Rapid Product Development and Deployment Portal		3,000		1,500
	Plasma JP-8 Fuel Reformer		2,700		1,600
	Hydrogen PEM Ambient Pressure Fuel Cell Medium/Heavy Duty Vehicle		4,000		2,000
	Transportable Synthetic Fuel Manufacturing Modules		2,000		1,000
	Advanced Electric Drive		1,500	3,500	2,100
	Defense Transportation Energy Research			3,000	2,100
	Ultra Light Cargo Vehicle			4,000	3,400
	Unmanned Vehicle Control Technologies			3,000	2,100
15	**BALLISTICS TECHNOLOGY**	**49,163**	**52,163**	**51,163**	**52,763**
	Advanced Tungsten Penetrators and Ballistic Materials		3,000		2,600
	Gun Barrel Coatings			2,000	1,000

R-1		Budget Request	House	Senate	Conference
16	**CHEMICAL, SMOKE AND EQUIPMENT DEFEATING TECHNOLOGY**	**2,519**	**13,019**	**12,519**	**10,719**
	Bioaerosol Sampling Systems for US Army Force Protection		2,000		1,200
	Fluorescence Activated Sensing Technology (FAST)				
	Integrated Threat Management System (Note: transferred to RDTE,D-W line 5)		4,000		0
	Biotechnology Education Initiative		1,000		1,000
	Application of CHP-105 to Class A Biowarfare Agents		1,500		1,000
	Automated Multiplexed Diagnostic System for Biowarfare Agent Detection		2,000		1,000
	Battlefield Production of Modified Vaporous Hydrogen Peroxide for Field Decontamination			5,000	3,000
	Development/Operation of Test Range for Advanced Sensors and Obscurants			1,000	1,000
	Global Pathogen Portal (Note: transferred to RDTE,DW line 15)			4,000	0
17	**JOINT SERVICE SMALL ARMS PROGRAM**	**5,703**	**6,703**	**5,703**	**6,703**
	Joint Service Small Arms Program Advanced Recoil Reduction		1,000		1,000
18	**WEAPONS AND MUNITIONS TECHNOLOGY**	**37,824**	**106,124**	**100,624**	**127,079**
	Acoustic Counter Battery System (ACBS)		2,000		1,700
	Active Coatings Technology (ACT)		1,000	3,500	1,750
	Advanced Materials and Processes for Armament Structures (AMPAS)		10,800		6,400
	Alloy-Tungsten for Armor Piercing Ammunition		2,000		1,700
	Army Syst Engineering and Integration		2,000		1,400
	Armament Systems Engineering - ASEI2		4,000		2,800
	Armaments Systems Info Assurance		2,000		1,400
	Armor and Structures Transformation Initiative (ASTI)--Steel to Titanium				2,000
	Center for Integrated Security Logistics		2,000		1,400
	Developmental Mission Integration		4,000		2,800
	Dynamic Pulse Detonation		6,000		3,000
	Effects Planning and Course of Action Tool (EPCAT)		2,000		1,400
	Green Armaments/Rangesafe		4,000		2,800
	Integrated Emergency Operations Capabilities		6,000		5,100
	Less than lethal and scalable protection		3,000		2,100
	Micro-Laminate Ceramic Armor		5,000		2,000
	Nanoparticle Development for Energetic Materials and Protective Systems		2,500		2,200
	Perimeter Defense Technologies		2,000		1,400
	Remotely Operated Weapon/Sensor Technology		3,000		2,100
	Seamless Data to Display (SDD)		5,000		3,500
	Advanced Materials and Nanotechnology for Ammunition			3,000	1,800
	Advanced Technology Lightweight Armament System - Rarefaction Wave Gun			4,000	2,000
	Army Center of Excellence in Acoustics			6,300	5,400
	Electroconversion of Energetic Materials			7,500	3,750
	Engineered Surfaces for Weapons Systems' Life Extension			5,000	3,500
	Fatigue Odometer for Vehicle Components and Gun Barrels Project			4,000	2,400
	Micro/Nano Systems Technology Research			3,000	2,100
	Non-nuclear Earth Penetrator Operational Prototype (Note: only for the "Deep Digger" program)			7,000	3,500
	Polymer Cased 5.56mm Small Arms Ammunition			1,000	1,000

R-1		Budget Request	House	Senate	Conference
	Precision Manufacturing Initiative			4,000	2,800
	SLEUTH Tungsten Heavy Alloy Penetrator and Warhead Development			4,500	3,200
	Titanium Extraction Mining and Process Engineering Research			7,000	5,655
	Toxin Guard Research (Note: transferred from line 28)			0	1,000
	Transition Laser Engineered Net Shaping Technology			1,000	1,000
	Ultra Wide Band Sensors			2,000	1,200
19	**ELECTRONICS AND ELECTRONIC DEVICES**	**39,554**	**81,454**	**63,554**	**93,254**
	Advanced Oscillator Technology for Radar and Communications Systems		1,000		1,000
	Advanced Power Component Technologies		1,000		1,000
	Bipolar Wafer-cell Lithium-ion Batteries			1,000	1,000
	Carbon Dioxide Heating and Cooling Technology		1,800		1,000
	Conformal LI-ION Polymer Belt Battery for Urban 1st Responders		2,000		1,000
	Development of Clean Sources of Hydrogen for Fuel Cells		1,000		1,000
	Direct Methanol Fuel Cell Lifetime Improvement Program (DMFC-LIP)		4,000		2,000
	E-Beam Reticle and Lithography Inspection Tool (Note: only to continue development of a prototype Electronic Beam Reticle and Lithography Inspection tool)		4,000		2,000
	Field-Ruggedized Mid-Range Direct Methanol Fuel Cells		1,000		1,000
	Flexible Microelectronics in Support of Flexible Display Initiative (FDI)		2,000		1,000
	Flexible Polymer Multilaminate Packaging		3,000		2,600
	Future Soldier Hybrid Power Sources for the Battlefield			1,000	1,000
	Higher Energy Density Rechargeable Batteries Based on Stabilized Lithium Metal Powder (SLMP)		1,000		1,000
	Jet/Diesel-Fueled Military Fuel Cell System (Note: transferred from RDTE,D-W line 44)				3,600
	Liquid Silicone (Large Format Plate Type) Li Rechargeable Battery for the Future Force Warrior		1,000		1,000
	Lithium Air Metal Battery		1,000		2,200
	Lithium Carbide Monoflouride Military Battery Packs			1,000	2,500
	Manufacturing Technology Development of Advanced Components for High Power Solid-State Lasers		3,600		1,800
	Miniature Tactical Energy Systems Development			3,000	1,500
	Nanofluidic Electronic BioSensor Technologies for Defense Applications		1,500		1,000
	Novel Zinc Air Power Sources for Military Applications			2,000	1,400
	ONAMI Miniature Tactical Energy Systems Development		2,000		1,000
	PEM Fuel Cell Tactical Quiet Generators			1,000	1,000
	Portable Power Technology and Manufacture				2,000
	Portable Reforming on the Battlefield		1,000		1,000
	Portable Solid Oxide Fuel Cell SOFC/JP-8 Demonstrator		2,000	2,000	2,000
	Revolutionary 1.5V Alkaline		1,000		2,700
	Software Defined Radio Interoperability Initiative (Note: transferred to line 24)			2,000	0
	Soldier Fuel Cell System		2,000		1,400
	Soldier Portable Fuel Cell Power Using Solid Fuel Hydrogen Generator				1,500
	State of Charge Battery Life Indicator		2,000	2,000	2,000
	Thin Cylindrical Iron Disulfide Primary Battery		1,000	4,000	2,800
	Transcritical Carbon Dioxide (CO2) Environmental Control Unit			5,000	3,000

R-1		Budget Request	House	Senate	Conference
	Weapons of Mass Destruction Marking Set		2,000		1,700
20	**NIGHT VISION TECHNOLOGY**	**23,823**	**38,123**	**23,823**	**32,123**
	Compact Lightweight Solid State Glass Lasers for Military Applications		1,000		1,000
	Enhanced Micro-Image Display Technology		3,000		1,500
	Crystal Materials for Electro-Optic Imaging and Communication		1,500		1,300
	Diffractive Optics for Advanced Imaging		1,800		1,000
	Miniaturized Sensors for Small and Tactical Unmanned Aerial Vehicles (MINISENS)		2,000		1,000
	Next Generation Focal Plane Array (FPA)		5,000		2,500
21	**COUNTERMINE SYSTEMS**	**19,293**	**22,293**	**27,293**	**29,593**
	Stoichiometric Explosive Detector System		2,000		1,000
	Quantum Research Facility		1,000		4,000
	Biological Detection of Unexploded Ordnance and Land Mines			4,000	2,800
	Explosives Detection and Mitigation - INL			3,000	1,500
	Small Synthetic Aperture Radar (SAR) Buried Mine Detection			1,000	1,000
22	**HUMAN FACTORS ENGINEERING TECHNOLOGY**	**17,482**	**31,482**	**21,482**	**28,832**
	3rd Generation Omni-Directional Treadmill, LITE		4,500		3,500
	Team Performance and Optimization in Agent and Human Agent Teams		4,000	4,000	4,000
	MANPRINT		5,500		3,850
23	**ENVIRONMENTAL QUALITY TECHNOLOGY**	**16,417**	**16,417**	**27,417**	**18,117**
	Advanced Bio-Based Binders			1,000	0
	Chemical Materials and Environmental Modeling Project			2,000	1,700
	Quantum Research Facility (Note: transferred to line 21)			8,000	0
24	**COMMAND, CONTROL, COMMUNICATIONS TECHNOLOGY**	**21,787**	**56,787**	**23,787**	**50,037**
	Lightweight Inter-theater Transportable Tactical Operations Center		5,000		4,300
	All Digital Transceiver (ADT) Development		1,000		500
	Integrated Lightweight Electronics Shelter		3,500		1,750
	HEAT - Heterogeneous Agent Teams for FCS Command and Control		2,000		1,000
	Portable Flexible Communication Display Device		3,000		1,500
	USB Data Acquisition for Voice Recognition/ Response		1,000		1,000
	Highly Mobile Large-Scale C4ISR Command Post Systems, C-130 Compatible Command Trailer		4,000		2,400
	Improved Bandwidth for Battle Communications		4,000		3,400
	Enhanced Wireless Digital Communications for Urban First Responders		7,000		6,000
	Digital Alert Display for Army Commanders		1,000		1,000
	Center for Urban Warfare Preparedness and Response		2,500		2,000
	Center for Integrated Systems in Sensing, Imaging, and Communications at Michigan Technological University		1,000		1,000
	Software Defined Radio Interoperability Initiative (Note: transferred from line 19)				1,000
	Ultra Wideband Chip Set			2,000	1,400
25	**COMPUTER AND SOFTWARE TECHNOLOGY**	**3,590**	**3,590**	**4,890**	**4,590**
	Software Reliability and Security Improvements			1,300	1,000

R-1		Budget Request	House	Senate	Conference
26	**MILITARY ENGINEERING TECHNOLOGY**	**47,046**	**51,346**	**49,046**	**51,046**
	Center for Geospatial Intelligence and Investigation		500		500
	Detonation Suppression System Pilot Program (Note: only for a materials processing technologies program for a detonation suppression system with the use of aluminum alloy mesh materials which mitigates explosions and suppresses fire for storage or vehicular tank/containers. The detonation suppression system must have an approved NATO stock number.)		1,500		1,000
	Fuel Cell Systems for the War Fighter		2,300		1,300
	Geosciences Research			2,000	1,200
27	**MANPOWER/PERSONNEL/TRAINING TECHNOLOGY**	**15,207**	**15,207**	**19,207**	**15,207**
	Language Instruction for the Troops			4,000	0
28	**WARFIGHTER TECHNOLOGY**	**21,707**	**36,407**	**45,907**	**48,357**
	GPS-Guided Parasail System		4,000		3,400
	Smart Apparel for Warriors (SAW), Next Generation ACU		1,000		1,000
	Electro-Textile		1,000		1,000
	Army Combat Uniform Advanced Fabric Treatment Technology Demonstration		1,000		1,000
	Soldier Systems Center 6.3		1,500		1,000
	Research on Structures and Composites in Construction for Force Protection		2,000		1,000
	Center for Geosciences Phase IV		2,700		1,700
	Advanced Warfighter Sustainment Systems for the 21st Century (AWSS-21)		1,500	3,500	1,750
	Biosecurity Research for Soldier Food Safety			3,700	2,600
	Development of Long Shelf-Life Fruits and Vegetables for Military Rations			3,000	1,800
	Improved Self Sintered Silicon Carbide to Meet Body Armor Protection			500	500
	Integrated, Unbreakable, Flexible Visible Infrared Lighting Surfaces for Shelters			4,000	2,800
	Mosaic Flexible Armor			1,000	1,000
	NBC Integrated Protection Membrane Shelters			5,000	4,300
	Toxin Guard Research (Note: transferred to line 18)			1,000	0
	Ultra Lightweight Flexible Photovoltaics for the Individual Warrior			2,500	1,800

R-1		Budget Request	House	Senate	Conference
29	**MEDICAL TECHNOLOGY**	**74,694**	**280,844**	**163,894**	**283,844**
	Advanced Proteomics for Clinical Applications		2,000		1,000
	Alzheimer's Patient Corroborative Care Program		2,000		0
	Antidotes Against Combat Injuries		1,000		1,000
	Applied and Clinical Prosthetic Research Program at the Walter Reed Amputee Center		10,000		5,500
	Basic Clinical Translational Genetics Research (Note: only for Maine Institute for Human Genetics and Health)				2,000
	Biological and Immunological Infectious Agent and Cancer Vaccine Research		2,700		2,300
	Biomarkers: Evaluating and Treating Acute and Chronic TBI		2,500		2,200
	Blood Based Therapy for Traumatic Brain Injury		1,900		1,000
	Bone Health and Military Medical Readiness		1,000		1,000
	Broad Spectrum Anti-Viral Host Oriented Therapeutics				1,000
	Cancer Prevention through Remote Biological Detection		2,000		1,000
	Center for Advanced Surgical and Interventional Technology (CASIT)		8,000		6,800
	Center for Diagnosis of Pathogens		1,000		1,000
	Clinical Trials using Piezoelectric Dry Powder Inhalation Device		4,000		3,400
	Combat Stress Intervention Program		2,000		1,700
	Copper Air Quality Program		2,000		1,000
	CRF Spinal Chord Injury Clinical Trials Research Initiative		5,000		3,000
	Defense and Veterans Head Injury Program (Note: funding provided in the Defense Health Program)		2,000		0
	Defense Graduate Psychology Education Program (Note: transferred to RDTE, N Line 130)		4,000		0
	Development of a Continuous Monitor for Sensing Glucose and Lactate		1,000		1,000
	Development of Biomedical Assistive Technologies for Disabled Service Members		1,000		1,000
	Digital Imaging and Catheterization Equipment Project				1,000
	Early and Rapid Analyzer for Heart Attack Diagnosis		1,000		500
	Evaluation of p75 protein for Non-surgical Treatment of Central Nervous System Trauma		1,300		1,100
	Genetic Reassortment by Mismatched Repair Biowarfare Therapy Program		1,000		1,000
	IC4 Program (Integrated Medicine, Communications, Compassion, Chronic, Care Program)		3,000		2,100
	ImPACT Battlefield Head Injury Diagnosis and Triage Program		1,000		500
	Improving Soldier Recovery from Catastrophic Bone Injuries		3,000		1,800
	Infrastructure Support for Clinical Trials of Orphan Retinal Degenerative Diseases		3,000		2,600
	Invitro Surrogate Lung Test Bed		1,000		1,000
	Life Science Research Initiative				500
	Medical Area Network for Virtual Technology (MANVT)		6,000		5,100

R-1	Budget Request	House	Senate	Conference
Medical Image Database Holographic Archiving Library System (Note: to provide for advanced prototyping demonstrations of this system for the Army. The storage, distribution, retrieval, and analysis of Picture and Archived (PACS) medical documents are critical factors for the administration of timely medical care. MIDHALS will integrate available holographic data storage technology with other storage systems to deliver a combined storage and retrieval capability.)		3,000	2,000	2,000
Medical Resource Conservation Technology System		4,000		2,800
MIL-CAM (Complementary and Alternative Medicine Research for Military Operations and Healthcare)		1,000	6,000	5,000
Military Molecular Medicine Initiative (M3I) (Note: only for the continuation of a public/private effort, in coordination with a rural non-profit biomedical research institute and a non-profit medical foundation, to provide a consolidated program of molecular studies of chronic diseases including breast cancer, diabetes, heart disease, and obesity, in the areas of risk assessment, diagnosis, treatment, and research for the Department of Defense.)		25,000		21,300
Military Nutrition Research: Personnel Readiness and Warfighter Performance (Note: transferred from BLIN 31)		2,500		2,000
Mobile Electronic Health Records Initiative		2,000		1,000
MCIS Portable Clinical Information Initiative				1,000
Nanofabricated Bioartificial Kidney		2,700		1,600
Neural Controlled Prosthetic Device for Amputees		2,000		1,700
Neutron Therapy		1,600		1,800
Non-Electric Disposable IV Infusion Pump		3,000		2,100
Northern California Institute for Research and Education		4,700		3,300
Online Health Services Optimization				1,000
Orthopedic Extremity Trauma Research		15,000		7,500
Orthopedic Implant Design and Manufacturing for Traumatic Injuries		1,300		1,000
Orthopedic Trauma Research Center		1,000		1,000
Center for Traumatic Amputee Rehabilitation and Research		1,200		1,000
Pain and Neuroscience Center Research (Note: only for a public/private effort among DOD Medical Treatment Facilities and a primary health care center to provide a comprehensive program in pain and neurosciences for DoD medical beneficiaries.)		14,000		11,900
Personal Medical Record (PMR)		1,000		1,000
Post-Traumatic Stress Syndrome Center		500		500
Prevention of Compartment Syndrome		1,000	2,000	1,000
Preventive Medicine Research Institute		2,000		1,400
Protein Hydrogel		1,800		1,000
Rapid Wound Healing Technology Development Project		1,000		1,000
Rare Blood Program		1,000		1,000
Remote Acoustic Hemostasis/Image-Guide HIFU Therapy		2,000		1,400
Scleroderma Research		500		500
Silver Foam Technologies Healing Research		2,000		1,200
Synchrotron-Based Scanning Research		10,000		8,500
Targeted Nano-Therapeutics for Advanced Breast & Prostate Cancers		2,000		1,000
TEDCO-MRASC Applied Research Demonstration Project		1,000	1,000	1,000

R-1		Budget Request	House	Senate	Conference
	TexSHIELD (Texas Science, Humanitarian Intervention, Education and Leadership for Disasters)		8,100		5,700
	Tissue Replacement and Repair for Battlefield Injuries		2,000		1,000
	Transportable Pathogen Reduction and Blood Safety System		2,500		1,250
	Trauma Prevention, Treatment and Rehabilitation, Ryder Trauma Center		1,350		1,000
	Type 1 Diabetes Regeneration Project		4,000		3,400
	Ultra High Speed MEMS Electromagnetic Cell Sorter		3,000	5,800	3,000
	USP Laser Scalpel				1,000
	Adult Stem Cells for Wound Healing and Immune Reconstruction			4,000	2,800
	Automated Medical Emergency Intravascular Access			3,000	1,500
	Bio-Foam Bleeding Sealant for Battlefield Trauma			2,600	1,300
	Biomedical Sciences and Technology			2,500	1,800
	Colorimetric PDA-Based Sensor for Rapid Pathogen Detection			7,000	4,200
	Combat Casualty Care - Battlefield Wounds			4,000	2,800
	Computational Proteomics			1,000	1,000
	Control of Inflammation and Tissue Repair			5,000	2,500
	Hibernation Genomics (UAF)			3,000	2,600
	HSDI			7,000	6,000
	Integrative Healing Practices for Veterans (VET-HEAL)			3,500	2,500
	Military Biomaterials Research			4,000	2,000
	Molecular Switching Vaccines for Biodefense				2,100
	National Eye Evaluation and Research Network			3,500	2,500
	Plasma Discharge Medical Device Sterilization Technology			2,500	1,750
	Platelet Gels for Treatment of Traumatic Injuries			3,000	0
	Post-Traumatic Stress Disorder Research			1,000	1,000
	Respiratory Biodefense Research				1,850
	Telemedicine and Surgical Innovation Research			2,000	1,200
	Vaccine Research in Biodefense and Emerging Infections			1,000	1,000
	Vaccines and Therapeutics to Counter Biological Threats			4,000	2,800
	Vascular Graft Development on Elastin Biomatrices (Note: transferred to BLIN 31)			4,800	0
	Vigilance Surgical Safety System			4,000	4,000
30	**WARFIGHTER ADVANCED TECHNOLOGY**	**63,754**	**79,454**	**72,754**	**78,554**
	Reduce program growth		-6,000		-6,000
	Joint Precision Airdrop System (JPADS) - 2k lb Resupply Requirement & Support		2,700		1,300
	Multi-Layer Coextrusion for High Performance Packaging Film		3,500		3,000
	Ration Packaging Materials and Systems for Meals-Ready-to-Eat		5,500	2,000	4,700
	Multifunctional Protective Packaging Technology		3,000		2,600
	Antimicrobial/Medical Base Layer Garment Technology		3,000		1,500
	Precision Airdrop System for Special Operations Forces		4,000		2,800
	Self-Decontaminating Selectively Permeable Membranes for Chem-Bio Protection			2,000	1,400
	Small Business Development and Transition			2,000	2,000
	Technology and Human Systems Integration Program			3,000	1,500

R-1		Budget Request	House	Senate	Conference
31	**MEDICAL ADVANCED TECHNOLOGY**	**45,160**	**318,710**	**132,510**	**305,135**
	Acute Care of Blast Effects and Head Injuries		2,000		1,000
	Advance of Non-Invasive Glucose Monitoring		2,000		1,700
	Advanced Diagnostic and Therapeutic Digital Technologies		2,000		1,000
	Advanced Proteomics Program		3,000		1,500
	Advanced Regenerative Medicine Skin Cell Therapies: Burn, Limb and Digit Treatment		2,500		2,200
	Advanced Technology for Vaccines and Biologics Initiative		5,000		4,250
	Advances in Breast Cancer Therapy		2,000		1,700
	Alliance for NanoHealth		3,600		2,100
	Anderson Cancer Center, Prostate Cancer Study		500		500
	Angiogenesis and Tissue Engineering Research		1,000		1,000
	Assistive Technology Research Center at the National Rehabilitation Hospital (Note: Only for assistive technology to support innovative applied technology programs for veterans, service members and their families at the Assistive Technology and Research Center at the National Rehabilitation Hospital)		3,000		2,600
	Battlefield Blood Sample Preparation		650		650
	Battlefield Exercise and Combát Related Spinal Cord Injury Research		2,700		1,300
	Battlefield Liquid Infusion System				500
	Behavioral Genomics Project		1,000		1,000
	BESCT Lung Cancer Research Program (MDACC)		9,500		6,700
	Biodefense Vaccine Development and Engineering		1,000		1,000
	Bioinformatics and Biotechnology Research Initiative		3,000		1,500
	Blood Safety and Decontamination		6,000		3,600
	Brain, Biology and Machine		3,000	2,000	2,000
	Cancer Biomolecular Markers Research				1,000
	Center for Proteomics		3,000		2,600
	Center for Targeted Cancer Therapy		1,000		1,000
	Center for Women's Cancer Genetics		3,000		1,500
	Center for Integration of Medicine and Innovative Technology		13,000		11,000
	Childhood Cancer Research (Note: only to support studies covering all principle cancers of infants, children and adolescents)		3,000		2,375
	Combat Medic Training		1,000		1,000
	Consortium on Preparedness at the NYU School of Medicine		1,000		1,000
	Dean and Betty Gallo Prostate Cancer Center		1,000		1,000
	Diagnostic and Therapeutic Cancer Care Equipment		5,000		4,300
	DMCT Medical/Training Technology Enhancement Initiative Pocket PC		1,500		1,100
	Exceptional Family Transitional Training Program (EFTT)		1,000		1,000
	Gallo Center - Department of Neurology		8,000		5,600
	Genomic Medicine Project and Gene Therapy		4,500		2,200
	Genomics and Computational Science Initiative		1,000		1,000
	Gynecologic Disease Program		4,000		3,400
	Hands-Free Electronic Health Record		1,000		1,000
	Hospital of the Future Program		3,000		1,500
	Infectious and Inflammatory Disease Center of Excellence		3,000		0
	Integrated Functional Materials Project		2,000		1,000
	Intelligent Orthopedic Fracture Implant Program		1,000		1,000
	Intravenous Membrane Oxygenator		2,700	1,000	1,800

R-1	Budget Request	House	Senate	Conference
IURTC (Note: only for research on the ability of gene manipulation to address health and disease outbreaks from biological and chemical weaponry)		500		500
Joint Collaborative Medical Information System (JCMIS)		3,000		2,600
Joint US-Norwegian Telemedicine Program		2,000		1,000
Joslin Diabetes		5,000		4,300
Marshall Island Diabetes				1,000
Maryland EMS and Shock Trauma as a Resuscitation Research Test Bed		2,000		1,000
Medical Information Network Decision Support (MINDS) Tool Development		2,000		1,000
Medical Pneumothorax Device (PTX)				1,000
Medviser Secure Telemedicine				2,000
Miami Children's Hospital Pediatric Brain Tumor and Neurological Disease Institute		3,000		1,500
Military Asthma Program		1,000		1,000
Military Family Mental Health Readiness System and Portal		1,500		1,000
Military Low Vision Research Program		1,000	4,000	2,000
Modeling and Managing the Impact of Sleep Deprivation (MMISD)		3,000		2,600
Muscular Dystrophy Research and Application		2,000		1,700
National Bioterrorism Civilian Medical Response Center		3,000	2,000	2,000
National Functional Genomics Center		10,000		5,000
National Functional Genomics Center (SNCC)		2,500		1,500
NCDR - Field Medical Robotics for Military Combat Casualty Care		1,000		1,000
Neurofibromatosis (NF) Research		20,000		17,000
Neuroprosthetics and Solutions for Spinal Chord Dysfunction		2,500		2,200
Neuroproteomics Center		3,600		1,800
Neurotoxin Exposure Treatment Research Program		26,500		23,000
New Radiation Therapy Systems: Applications to Human Cancer Treatment and Novel Drug Discovery (NCI)		3,000		1,500
Nightengale Personal Status Monitor System		2,000		1,200
Opthamology Training and Education (Wills Eye)				1,500
Orphan Disease Drug Discovery Program		2,000		1,700
Oxygen Diffusion Dressing for Battlefield Wounds		1,000		0
Picture Archiving and Communications Systems (PACS), Phase III		2,500		1,700
Plasma Sterilizer		1,000	3,000	1,500
Portable Digital X-Ray Machine				1,000
Project Collaboration				1,000
Project Genesis		3,000		2,100
Prostate Cancer DNA Detection Initiative		4,000		2,800
Proton Beam Therapy (Note: only to continue a civilian-military collaborative proton beam therapy initiative on the East Coast of the United States in conjunction with WRAMC to provide state-of-the-art radiation treatment as well as clinical and non-clinical research.)		10,000		8,500
Rapid Bio-Pathogen Detection Technology Program		1,000		1,000
Regional Medical Distributed Learning Center		1,000		1,000
Retinal Implants for the Restoration of Sight		2,000		1,700
Rugged Textile Electronic Garments (MH6)		1,000	2,200	1,100
Rural Health - CERMUSA		5,000		4,300
Spinal Muscular Atrophy Research		3,500		2,500
Surgical Wound Disinfection and Biological Agents		2,000		2,000
Technologies for Metabolic Monitoring		2,000	1,000	1,000
Thunderbolt				1,000

R-1	Budget Request	House	Senate	Conference
Tissue and Limb Transplantation Medical Technology Development (Note: transferred from RDTE,N Line 25)		4,500		3,500
Translational Genomics Research Institue				500
Ultra-high Resolution Display for Army Medicine		3,300		1,600
UMDNJ Cancer Initiative (Note: only to include the continuation of the Gallo Prostate Cancer Center)		1,000		1,000
Universal Medical/Surgical Product Catalog		4,000		2,800
UTCI Cancer Care Initiative		2,000		1,000
Veterinary Manpower Development for Defense		500		500
Gulf War Illness Research		(10,000)		(5,000)
Autonomous Non-Invasive Alcohol Testing			1,000	1,000
Bio-Surveillance in a Highly Mobile Population			1,500	1,100
Center for Minimally Invasive Technology			7,500	3,750
Fibrogen Bandages for Battlefield Wounds			5,000	2,500
Human Operator Performance Research			3,000	1,500
Medical Modeling and Simulation through Synthetic Genes			1,750	1,000
Metroplex Comprehensive Imaging Center			10,000	7,000
Military Nutrition Research: Personnel Readiness and Warfighter Performance (Note: transferred to BLIN 29)			2,000	0
Minimally Invasive Surgery Modeling and Simulation			1,500	1,100
National Tissue Engineering Center			3,500	1,750
Online Medical Training for Military Personnel			3,000	2,100
Pharmacological Countermeasures to Ionizing Radiation			2,500	1,250
PolyHeme Blood Substitute			5,000	3,500
Portable Ultra Sound Finger Probe			4,000	2,000
Pseudofolliculitis Barbae Skin Therapy System			1,000	1,000
Rural Electronic Medical Record (EMR)/Teleradiology System			2,000	1,200
SEA-Med Oral Health Program			500	500
Smart Prosthetic Devices Technology			1,000	1,000
Soldier Mounted Eye Tracking and Control Systems			3,500	2,500
Soldier Treatment and Regeneration Consortium			2,000	1,000
Tripler Army Medical Center eICU Remote Critical Care			1,000	1,000
Untethered Healthcare Program			2,000	1,000
Vascular Graft Development on Elastin Biomatrices (Note: transferred from BLIN 29)			3,000	4,600
Walter Reed Army Medical Center Wireless Network			1,400	1,000
Weight Measurements and Standards for Military Personnel			3,500	1,750

R-1		Budget Request	House	Senate	Conference
32	**AVIATION ADVANCED TECHNOLOGY**	**48,318**	**90,018**	**103,218**	**108,118**
	Advanced Performance for Military Helicopters		1,000		1,000
	Army/Joint Aviation Technical Data Integration (JADTI)		2,500		1,500
	Cutting Tools for Aerospace Materials		2,000		1,000
	Electromagnetic Weapons Systems for UAV Payloads		1,000		800
	Excalibur Unmanned Combat Aerial Vehicle			7,900	6,900
	Fuel Cells for Mobile Robotic System Projects		2,500	5,000	3,500
	Helicopter Nanocrystalline Diamond Rotor Blade Leading Edge Protection		2,000		1,000
	Helicopter Situational Awareness Enhancement in Zero Visibility Conditions		2,000		1,500
	Improved VAROC/Unmanned Aerial Vehicle Compression System Development			7,000	4,900
	Integrated Oil Debris and Condition Sensor for Condition-Based Maintenance			3,000	1,500
	Joint Ground Forces Interoperability		4,000		2,800
	Locust USA Heavy Fuel Burning Engines for UAVs		5,400		3,700
	Mission Execution Technology Implementation			3,000	2,100
	Multilayered Sacrificial Film Laminates for Helicopter Windscreens		1,500		1,000
	Portable Reconfigurable Tooling System		1,800		1,000
	Process Technologies for Replacement Part Production		6,000	2,000	6,000
	Reconfigurable Tooling Systems			2,000	1,400
	Remotely Piloted Airship Testbed		1,000		500
	UAV Guided Dispenser Unit		2,000		1,400
	Universal Control - Full Authority Digital Engine Control (FADEC)		2,000	4,000	2,000
	Unmanned Aerial Vehicle - Resupply		1,000	7,500	3,750
	Versatile Affordable Advanced Turbine Engine (VAATE)		4,000		2,400
	Vertical Takeoff and Landing Unmanned Aerial Vehicle			4,500	2,250
	VTDP Compound Helicopter Technology Flight Demonstration			5,000	3,500
	Wiring Traceout for Joint Aviation Technical Data Integration			4,000	2,400
33	**WEAPONS AND MUNITIONS ADVANCED TECHNOLOGY**	**74,927**	**103,427**	**89,927**	**103,327**
	Storage and Quality Requirements for Military MEMS		1,000		1,000
	Technology Demonstration for Prevention of Material Degradation (Transferred to RDTE,D-W Line 81)		3,000		0
	Advanced Technology Center (Note: only to continue a Partnership Intermediary Agreement begun in 2004 between a qualified non-profit corporation headquartered at Picatinny Arsenal and U.S. Army ARDEC)		1,000		1,000
	Armament Titanium Casting Advancement Program				1,000
	Rapid Insertion of Development Technology		4,000		2,800
	Disruptive Technology Acceleration		4,000		2,800
	Munitions Public Private Partnering		3,000		2,100
	Rapid Prototyping for Special Projects		4,000		2,800
	Demonstration of Corrosion Control Tool Kits for Effective Corrosion Removal and Surface Preparation		3,000		2,100
	National Nano Manufacturing Center (NNMC)		500		500
	Joint Manufacturing Technology Center		1,000		1,000
	Advanced Technology for Fabrication at Remote Sites		1,000		1,000
	Manufacturing of Precision Molded Aspheric Optics		1,000	4,000	2,800
	Digital Array Radar Technology Development (Note: transferred to line 54)		1,000		0
	Mid-Range Munition (MRM-KE), Project 232		1,000		1,000

R-1		Budget Request	House	Senate	Conference
	Electromagnetic Gun Technology Maturation and Demonstration Program				1,000
	Armament and RangeSafe Technology Initiatives			4,000	2,000
	Miniaturized RAMAN Chemical Identification System			4,000	2,000
	Nanotechnology Manufacturing Research			3,000	1,500
34	**COMBAT VEHICLE AND AUTOMOTIVE ADVANCED TECHNOLOGY**	**142,866**	**238,566**	**213,266**	**245,866**
	Advanced Battery Development		1,500		1,300
	Advanced Drivetrains for Enhanced Mobility and Safety		1,800		1,000
	Advanced Technology Integration Environment		2,000		1,000
	Advanced Thermal Management Controls		4,000	4,000	4,000
	Collaborative Development Approach for Non-line of Sight Cannon and Mortar			2,000	1,400
	All Composite Mil Vehicle		7,000		4,900
	Alternative Mobility Vehicles for Special Operations Forces		2,000		4,000
	Armored Composite Cab Development Program			4,000	2,000
	Battery Charging Technology		2,000		1,700
	CCMMC Lightweight Diesel Engine Initiative for Army Ground Vehicles		3,000		1,500
	Center for Innovative Materials Research (CIMR) at Lawrence Tech. University		1,000		1,000
	Center for Military Vehicle Technologies			11,800	8,100
	Combat Vehicle Research-Weight Reduction, Survivability & Mobility		1,000		1,000
	Commercially Based Logistical Support Trucks		5,000	7,500	5,000
	Component Optimization for Ground Systems (COGS)		3,000		1,500
	Composite Body Parts - Composite Armored Vehicle Technology Transition			4,000	2,800
	Composite Shelters for the Future Tactical Truck and Retrofit of Current Vehicle Shelters			3,000	2,600
	Counter Sniper/RPG self protection system		1,000		1,000
	Development of Logistical Fuel Processors to Meet Army/TARDEC/TACOM Needs		3,700		1,800
	Digital Humans and Virtual Reality Technologies for Future Combat System		1,300	2,000	1,400
	Electrochromatics Program				1,000
	Fastening and Joining Technology			2,000	1,400
	FREEDOM Software		1,000		1,000
	Full Spectrum Active Protection Close-In Layered Shield (FCLAS)			5,000	2,500
	Future Lightweight Military Trailer Chassis		4,000	5,000	4,000
	HAZ-MAT Material Vacuum System		2,000		1,700
	HEMTT Structural Weight/Cost Reduction and Efficient Armor Integration Initiative		3,600		2,500
	High Strength Powder Metal Gears for Vehicle Transmissions		1,700		1,000
	Hydraulic Hybrid Vehicle Technology for the U.S. Army		5,300	5,000	5,000
	Improved Abrams Track		4,300		2,100
	Joint Technology Evaluation and Analysis (JTEA) Program				500
	Light Weight Structural Composite Armor for Blast and Ballistic Protection		4,500		2,600
	Lightweight Composite Structural Armor for Ground Combat Vehicles		1,800		1,000
	Liquid Hydrogen Storage System		2,000		1,400
	Mobile Hydrogen Infrastructure (MHI)		2,000		500
	Next Generation Non-Tactical Vehicle Propulsion		3,000	2,000	2,000

R-1		Budget Request	House	Senate	Conference
	Non-Line of Sight Cannon (NLOS-C) and Mortar (NLOS-M) lightweight technologies including aluminum vehicle design technologies		2,700		1,900
	N-STEP Enabled Manufacturing Cell for Future Combat System		3,600	3,600	3,600
	On-Board Secure Telematics for Advanced Combat Vehicles		2,000		1,000
	Pacific Rim Environmental Degradation of Materials Research Program at UH			2,000	1,700
	PEM Fuel Cell-Based Ground Support Equipment		3,000		1,500
	Amphibious Personal Mobility Vehicle			3,000	2,600
	Rocket Propelled Grenade Vehicle Protection System		1,000	1,500	1,000
	Secure Pervasive Computing (PvC) for Advanced Combat Vehicles		4,000		2,800
	ShotSpotter Individual Soldier Worn Weapon Detection and Location System		900		900
	Solid Oxide Fuel Cell Materials and Manufacturing			3,000	2,100
	Split-Cycle Engine Technology (Note: only to build a working prototype of the split-cycle engine)		2,000		1,200
	3-D Advanced Battery Technology (3-D ABT)				2,500
	Virtual Explosives Detection-Image Matching (VED-Imatch)		2,000		1,000
35	**COMMAND, CONTROL, COMMUNICATIONS ADVANCED TECHNOLOGY**	**12,066**	**13,866**	**12,066**	**13,066**
	Communications and Electronics Cost Module (CECM)		1,800		1,000
36	**MANPOWER, PERSONNEL AND TRAINING ADVANCED TECHNOLOGY**	**6,783**	**7,783**	**12,783**	**10,383**
	Battle Command Team Training Program Phase II		1,000	3,000	2,100
	Modeling and Simulation Technologies for Homeland Defense/Security Training			3,000	1,500
37	**ELECTRONIC WARFARE ADVANCED TECHNOLOGY**	**45,322**	**63,322**	**55,322**	**61,922**
	Applied Communications and Information Networking (ACIN)		7,000	6,500	6,500
	Joint Unified Maritime Protection System (JUMPS)		2,000		1,700
	Rock Drill Battlefield Planning Tool		2,000		1,700
	Soldier/Sensor Intrusion Detection		2,000		1,700
	Portable and Mobile Emergency Broadband System		3,000	2,500	2,500
	Advanced Antenna Technologies		2,000		1,500
	TACOM Software Tools Supporting Structural Assessment of Wheeled Vehicles			1,000	1000
39	**NEXT GENERATION TRAINING & SIMULATION SYSTEMS**	**19,982**	**22,682**	**28,982**	**28,332**
	Medical Combined Arms Tactical Trainer - Hospital Based (MedCATT-HB)		2,700		1,350
	Vigilant Auto ID and Access Control System				500
	CAVE Automatic Virtual Environment - Desert Research Institute			4,000	4,000
	Institute for Creative Technologies Joint Fires and Effects Trainer System			5,000	2,500
41	**EXPLOSIVES DEMILITARIZATION TECHNOLOGY**	**9,865**	**13,465**	**24,445**	**21,345**
	Sierra Army Depot Cryofracture/Plasma Arc Demilitarization Program		3,600	2,500	2,500
	Explosive Demilitarization Technology			980	980
	HMX Requalification Program			2,000	1,400

R-1		Budget Request	House	Senate	Conference
	NAVAIR Systems Command Data Conversion Effort			1,500	1,300
	Western Area Demilitarization Facility - Hawthorne Army Depot			7,600	5,300
42	**MILITARY HIV RESEARCH**	**6,842**	**16,842**	**6,842**	**13,842**
	Test, Treatment and Preventive Vaccines		10,000		7,000
43	**COMBATING TERRORISM TECHNOLOGY DEVELOPMENT**	**6,306**	**11,306**	**10,306**	**10,306**
	Secure Commercially Interoperable Cell Phone Transmission System for Sensitive but Unclassified Information		2,000		1,000
	Advanced Mobile Microgrid Liquid Fueler		3,000	4,000	3,000
45	**ELECTRONIC WARFARE TECHNOLOGY**	**16,801**	**25,801**	**14,801**	**22,601**
	Portable, Level I Fusion Toolset		2,500		2,200
	US Army Future Force ELINT		4,500		3,200
	Short Range Electronic Detection (SHRED)		2,000		1,400
	Aerial Canopy MASINT Sensor (ACMS)				2,000
	Program Growth			-4,000	-4,000
	GeoFence Pipeline Monitoring and Safety Project			2,000	1,000
46	**MISSILE AND ROCKET ADVANCED TECHNOLOGY**	**70,066**	**92,066**	**109,566**	**115,666**
	Waterside Wide Area Tactical Coverage and Homing (WaterWATCH)		2,000		1,200
	Persistent Protective Surveillance for Rotary Winged Aircraft (Year 2)		3,000		1,800
	FTT50 High Efficiency Turbine Engine		5,000		2,500
	Compact Kinetic Energy		4,500		2,700
	Applied Counterspace Technology Testbed		7,500	24,000	20,500
	Close-in Active Protection System for Stryker Family of Vehicles (Note: transferred from Title IX)				6,000
	Missile Simulation Technology Rapid Assessment and Deployment of Systems Initiative			10,000	7,000
	Warfighter Protection and Homeland Security Lab			5,500	3,900
48	**LANDMINE WARFARE AND BARRIER ADVANCED TECHNOLOGY**	**25,327**	**25,327**	**32,227**	**30,527**
	Advanced Demining Technology			5,900	4,200
	Electromagnetic Detection and Imaging Transceiver (EDIT) Landmine Detector			1,000	1,000
49	**JOINT SERVICE SMALL ARMS PROGRAM**	**6,581**	**6,581**	**8,581**	**7,581**
	Lightweight Machine Gun and Ammunition			2,000	1,000
51	**NIGHT VISION ADVANCED TECHNOLOGY**	**51,761**	**110,561**	**69,761**	**103,161**
	Low Altitude Improvised Explosive Device Detection System (LAIDS)		2,000		1,000
	Buster Backpack UAV		8,000		5,600
	Advanced Passive Milimeter Wave Detection Initiative		4,000		0
	Pilot port security sensor technology initiative in Tampa Bay		5,000		4,300
	Sensor Technology for Force Protection/Camera Assisted Monitoring System		13,800		11,800
	Digital Night Vision (DNV) Systems		10,000		5,000
	Perimeter Security Technology Program		1,500		1,100
	Soldier Mobility and Rifle Targeting System (SMARTS)		1,500		1,000
	Intelligent Surveillance Sensor Suite		4,000		3,000

R-1		Budget Request	House	Senate	Conference
	Night Vision Advanced Technology (UPS Project)		6,000		4,200
	ISC Personal Miniature Thermal Vision System (PMTV)		2,000		1,000
	Portable Infrared Target Detection and Location Reporting System (COBRA-I PLUS)		1,000		1,000
	Cost Effective Targeting System			4,000	2,000
	Electron Bombarded Active Pixel Sensor Camera			4,000	2,800
	Enhanced Digital Electronic Night-Vision for Unmanned Ground Vehicles			4,000	2,800
	Night Vision Fusion			1,000	1,000
	Real-Time Geospatial Video Sensor Intelligence for NVESD			1,000	1,000
	Warfighter Position, Location and Tracking Sensor			4,000	2,800
52	**ENVIRONMENTAL QUALITY TECHNOLOGY DEMONSTRATIONS**	**12,606**	**16,606**	**12,606**	**16,006**
	Alternate Power Fuel Cell Demonstration at Ft. Irwin (Note: only for High Electrical Efficiency and Fault Tolerant Always-On Planar Solid Oxide Fuel Cell System Cluster Demonstration)		4,000		3,400
53	**MILITARY ENGINEERING ADVANCED TECHNOLOGY**	**7,301**	**20,401**	**20,301**	**21,701**
	GEDAC Demonstration		3,600		1,800
	Defense Applications of Stationary Carbonite Fuel Cells		3,000		1,500
	Integration of Commercial GIS capabilities into Army C4ISR		1,000		1,000
	Advanced Structures and Composites in Construction for Protective Structures		2,000	3,000	2,000
	Battlefield Production of Hydrogen for Fuel Cell Vehicles			2,000	1,400
	Fireproofing/Corrosion Resistant Coating System			1,500	1,100
	Fuel Cell Hybrid Generating System - Ramgen Technology		3,500	4,000	3,500
	Real-Time Drinking Water Security Program			1,000	1,000
	Reforming Technologies for Renewable and Flexible Fuel Sources			1,500	1,100
54	**ADVANCED TACTICAL COMPUTER SCIENCE AND SENSOR TECHNOLOGY**	**42,475**	**55,575**	**38,075**	**46,275**
	A Distributed, Scalable C2 Communication System		2,000		1,000
	Blast and Damage Assessment Risk Analysis and Mitigation Application (BADARAMA)		2,000		1,700
	Phraserlator		1,000		1,000
	Bi-Directional English-Iraqi Translation System for the Warfighter		2,600		1,300
	Radar Tags		3,000		0
	C4ISR Integrated Digital Environment Service Module (IDESM)		2,500		1,200
	Digital Array Radar Technology Development (Note: transferred from line 33)				1,000
	Net-Centric Multi-Sensor Enhancements and Support Operations				1,000
	Program Growth			-7,000	-7,000
	Hyperspectral Imaging and Synthetic Aperture Radar for UAVs			1,000	1,000
	MVMNT Program for Simulation Based Operations			600	600
	X-Band Interferometric Radar Development			1,000	1,000

R-1		Budget Request	House	Senate	Conference
56	**ARMY MISSILE DEFENSE SYSTEMS INTEGRATION**	**14,573**	**80,223**	**54,323**	**82,673**
	Advanced Battery Technology (Note only for Advanced Battery Development to be executed by the Space and Missile Defense Technical Center (SMDTC))		3,000		2,600
	Advanced Laser Electric Power				500
	Advanced Strap Down Seeker (ASDS)		2,500		1,200
	Aero Acoustic Test Facility (Phase II)		2,500		1,800
	Army Missile Defense - Advanced Electronics Rosebud Integration			3,000	1,800
	Army Missile Defense Integration of Thermo-Acoustic Piezo Energy Conversion			1,000	1,000
	Ballute Technology Development		1,400		1,000
	Biological Air Filtering System Technology (BAFST)		1,000		1,000
	Carbon Foam Program - Missile Defense			7,250	6,200
	Component Integrated Modeling and Simulation Test Analysis Environment		1,000		1,000
	Continuation of Microelectromechanical Systems and Nanotechnology		2,800		2,400
	Credible Threat Prediction Capability Development		4,000		2,400
	Dielectric Enhanced Sensor Systems (DESS)		3,000		2,100
	Global Infrasound Monitoring			3,000	2,600
	Integrated Composite Missile Structures			2,500	1,200
	Joint Wavelet Transform of Hyperspectral Data (JWaTH)		3,000		1,500
	Low Cost Avionics			2,000	1,000
	Low-Cost Surveillance System (LCSS)		1,000		1,000
	Mobile Optical Sensor Suite (MOSS)		1,000		1,000
	Multiple Component Army Flight Test		3,250		2,800
	Next Generation Interceptors Materials Research		6,200		3,100
	Next Generation Passive Sensors		2,500	3,000	2,600
	Radar Power Technology (RPT)		2,000		1,400
	Radar-on-a-Chip (RAD-CHIP) Research Program		2,000	1,000	1,500
	Standoff Hazardous Agent Detection and Evaluation System (SHADES) Research Program		2,000	4,000	2,000
	Standoff Sensor for Radionuclide Identification (SSRID)		3,000	8,000	4,000
	Tactical High Energy Laser (THEL) - Army		3,500		2,500
	Technology Transfer from Missile Defense for Improved Medical Imaging		1,000		1,000
	Thermal and Electronic Nanoscale Transport (TENT)		2,000		1,000
	Transfer Missile Power System - Onboard Vehicle Power			4,000	3,400
	UAV Platform for Sensor Package and Mission Profile Development		6,000		5,200
	Ultra Light UAV Sensor Platform		4,000		2,800
	Vertical Integration for Missile Defense Surveillance Data		2,000	1,000	1,500
57	**ARMY MISSILE DEFENSE SYSTEMS INTEGRATION (DEM/VAL)**	**9,284**	**10,784**	**58,584**	**48,884**
	Advanced Hypersonic Weapon (AHW)		1,500		1,000
	Allen Army Airfield Upgrades			16,000	15,100
	Low Cost Interceptor			15,000	10,500
	Near Space Long Loiter Sensor and Communications Platform			18,300	13,000

R-1		Budget Request	House	Senate	Conference
58	**AIR AND MISSILE DEFENSE SYSTEMS ENGINEERING**	83,063	99,763	100,063	101,863
	Army Extended Range Attack Missile (AERAM)		4,000	8,000	4,800
	AERAM Turbine Engine Development		5,000		4,000
	Geospatial Info Decision Support - SIAP (GIDS-SIAP)		5,000		3,500
	SituSpace Single Integrated Space Picture		2,700	5,000	2,700
	ASMD System of Systems Hardware in the Loop Test Bed			4,000	2,800
	Command Responder (Note: transferred from RDTE,AF line 142)				1,000
59	**LANDMINE WARFARE AND BARRIER - ADV DEV**	0	2,500	0	0
	AT4 Confined Space (AT4CS) Anti-Structure Tandem (Note: transferred to RDTE,D-W line 126)		2,500		0
61	**TANK AND MEDIUM CALIBER AMMUNITION**	0	6,000	6,000	8,400
	GPS Interference Suppression Unit		4,000		2,800
	Mid-Range Munition - CE		2,000		1,400
	Mid Range Munition - CE - TM3			6,000	4,200
66	**ENVIRONMENTAL QUALITY TECHNOLOGY DEM/VAL**	5,166	42,816	21,866	35,766
	Aberdeen Proving Ground Asbestos Conversion Facility		2,000		1,400
	Battlefield Plastic Biodiesel		5,500		3,300
	Casting Emissions Reduction Program		1,000	6,200	4,400
	Mission Critical ESOH Technology Transition		4,000		3,400
	No Rinse Decontamination of Battlefield Equipment		2,000		1,000
	Plasma Energy Pyrolysis System (PEPS) Gasification Unit		2,700		1,400
	Rapid Response Bio-Chem Decon, Liquid and Dry (Decon Green)		1,000	1,000	1,000
	Solid Waste Sustainability for Active and BRAC Installations		3,000		2,600
	Sustainable Installations Initiative		2,500		2,100
	Transportable Donovan Controlled Detonation Chamber		10,800		4,000
	Vanadium Technology Partnership		3,150		1,500
	Environmental Management System Pilot			3,000	2,000
	Environmental Security Initiative			1,000	1,000
	Magna Water District - Perchlorate and Arsenic Treatment			2,500	1,500
	Wellhead Treatment of Perchlorate Contaminated Wells (Note: transferred to RDTE, D-W line 41)			3,000	0
67	**WARFIGHTER INFORMATION NETWORK-TACTICAL - DEM/VAL**	131,081	87,181	131,081	99,481
	Schedule Concurrency		-43,900		-31,600
69	**AVIATION - ADV DEV**	6,249	7,249	6,249	7,249
	Improved Airborne Command and Control System (A2C2S) for Pennsylvania ARNG		1,000		1,000
73	**MEDICAL SYSTEMS - ADV DEV**	10,134	14,634	25,934	23,484
	Electro-osmotic Pain Therapy System for Adjustable Rate Implantable Drug Delivery		1,500		1,000
	Leishmania Diagnostic Test		1,000		1,000
	Lightweight Trauma Module		1,000		1,000
	Non-Invasive Medical Sensors - Enhanced		1,000		1,000
	Combat Support Hospital - Mobile Surgical Unit			8,300	4,100
	Future Medical Shelter System - 21st Century Military Hospital System			7,500	5,250

R-1		Budget Request	House	Senate	Conference
74	**SOLDIER SYSTEMS - ADVANCED DEVELOPMENT**	**10,595**	**12,595**	**10,595**	**12,295**
	New Metal Coating Technology for Greaseless Weapons (Note funds are available only to incorporate ASTM B607 Nickel Boron coatings on M2 .50 cal machine gun components, and M249 Squad Automatic Weapons (SAW))		2,000		1,700
78	**AIRCRAFT AVIONICS**	**23,451**	**31,451**	**13,451**	**13,451**
	ICNIA technology for JTRS radios/aviation		8,000		0
	JTRS Program Delay and Restructure			-10,000	-10,000
79	**ARMED, DEPLOYABLE OH-58D**	**13,964**	**13,964**	**93,206**	**93,206**
	Army Requested Transfer from APA, Line 3–ARH			70,000	70,000
	Army Requested Transfer from APA, Line 30–ARH Ground Support Equipment			9,242	9,242
81	**ELECTRONIC WARFARE DEVELOPMENT**	**32,179**	**34,179**	**32,179**	**33,879**
	Blue Marauder Enhanced System		2,000		1,700
82	**JOINT TACTICAL RADIO**	**156,665**	**156,665**	**156,665**	**141,565**
	JTRS Program Delay and Restructure				-15,100
83	**ALL SOURCE ANALYSIS SYSTEM**	**7,973**	**9,973**	**7,973**	**9,173**
	ACE-CCS Tactical Equipment Modernization		2,000		1,200
85	**COMMON MISSILE**	**0**	**45,000**	**0**	**26,000**
	Continued Joint Common Missile Development		45,000		26,000
86	**INFANTRY SUPPORT WEAPONS**	**34,627**	**45,927**	**39,627**	**54,027**
	Polymer 5.56mm Ammunition		1,300		1,000
	Type Classification of the Light Weight 5.56mm, 7.62x51mm, and .50cal		1,000		1,000
	Common Remotely Operated Weapons Station-Light (CROWS-Lightning)		4,000		2,400
	OICW Increment I (Transfer from WTCV,A)				10,000
	XM25 Advanced Airburst Weapon System		5,000	5,000	5,000
87	**MEDIUM TACTICAL VEHICLES**	**1,886**	**14,486**	**1,886**	**18,786**
	Medium Tactical Vehicles		12,600		10,000
	Embedded Diagnostic Systems Test Module (EDSTM) (Note: transferred from line 90)				3,900
	Medium Tactical Vehicle Modifications				3,000
90	**FAMILY OF HEAVY TACTICAL VEHICLES**	**3,415**	**6,415**	**15,415**	**21,215**
	Embedded Diagnostic Systems Test Module (EDSTM) (Note: transferred to line 87)		3,000		0
	Family of Scalable Trailers (FAST) (Note: transferred from line 14)				2,200
	Advanced Drivetrains for Enhanced Mobility and Safety			2,000	1,400
	Heavy Expanded Mobile Tactical Truck (HEMTT)--A3 (Note: transferred from Title IX)				7,200
	Future Tactical Truck System			10,000	7,000
92	**LIGHT TACTICAL WHEELED VEHICLES**	**0**	**12,000**	**0**	**7,500**
	PM Program for Bloc Improvement Program (HMMWV)		10,000		5,800
	VePRO-Vehicle Maintenance Prognostics System		2,000		1,700

R-1		Budget Request	House	Senate	Conference
93	**ARMORED SYSTEMS MODERNIZATION (ASM)-ENG DEV**	**3,065,629**	**2,616,629**	**2,965,629**	**2,785,829**
	Program Overhead/Excess Management Reserve		-449,000	-100,000	-279,800
94	**NON-LINE OF SIGHT LAUNCH SYSTEM**	**231,554**	**233,154**	**235,554**	**234,554**
	Non-Line of Sight - Launch System (NLOS-LS) turbojet engine-generator		1,600		1,000
	EnforcIT Anti-Tamper Software			4,000	2,000
95	**NON-LINE OF SIGHT CANNON**	**107,587**	**157,587**	**107,587**	**148,387**
	Development of NLOS-C preproduction vehicles		50,000		40,800
96	**NIGHT VISION SYSTEMS - SDD**	**26,449**	**28,449**	**28,949**	**29,399**
	Soldier Wearable Acoustic Targeting System (SWATS)		2,000		1,700
	Small Arms and Light Weapons, Soldier Mounted Detection and Location System			2,500	1,250
103	**AUTOMATIC TEST EQUIPMENT DEVELOPMENT**	**54**	**2,554**	**54**	**2,254**
	Integrated Family of Test Equipment		2,500		2,200
104	**DISTRIBUTIVE INTERACTIVE SIMULATIONS (DIS) - ENGINEER**	**22,057**	**23,457**	**32,057**	**30,057**
	Joint Training Integration and Evaluation Center (JTIEC)		1,400		1,000
	Army Space Modeling and Simulation			10,000	7,000
109	**COMBINED ARMS TACTICAL TRAINER (CATT) CORE**	**37,471**	**49,471**	**42,971**	**43,971**
	Army Aviation Combined Arms Tactical Trainer (AVCATT-A)		7,000	2,500	3,500
	Gunner-Crew Chief Station Trainer		5,000	3,000	3,000
111	**AVIATION - SDD**	**0**	**0**	**2,000**	**1,400**
	Aviation System Integration Facility and Rapid Equipment Fielding Office			2,000	1,400
112	**WEAPONS AND MUNITIONS - SDD**	**87,034**	**110,534**	**87,034**	**105,534**
	HYBRID Propellant for Medium and Large Caliber Ammunition		2,000		1,200
	Advanced Cannon Artillery Ammunition Programs Type Classification		15,000		12,800
	XM932 120mm Mortar - Short Range Practice Cartridge (SRPC)		1,500		1,000
	Reactive Materials Technology		5,000		3,500
113	**LOGISTICS AND ENGINEER EQUIPMENT - SDD**	**13,353**	**13,353**	**14,353**	**14,353**
	Advanced Medium Mobile Power Systems			1,000	1,000
114	**COMMAND, CONTROL, COMMUNICATIONS SYSTEMS - SDD**	**393,062**	**323,562**	**225,062**	**323,562**
	JTRS Cluster 1 Program Delay and Restructure		-55,500	-120,000	-55,500
	JTRS Cluster 5 Program Delay and Restructure		-14,000	-48,000	-14,000
115	**MEDICAL MATERIEL/MEDICAL BIOLOGICAL DEFENSE EQUIPMENT**	**5,627**	**18,127**	**10,627**	**16,727**
	Battlefield Respirator and Ventilator (BRAV)		4,000		2,000
	Biothreat Database Program		1,500		1,000
	Cartledge Infuser		1,000	1,000	1,000
	Life Support for Trauma and Transport (LSTAT)		4,000		2,000
	Oxygen Generation Advanced Development		2,000		1,700
	Chitosan Bandage Component			4,000	3,400

R-1		Budget Request	House	Senate	Conference
116	**LANDMINE WARFARE/BARRIER - SDD**	**80,560**	**75,560**	**80,560**	**75,560**
	Reduce program growth		-5,000		-5,000
117	**ARTILLERY MUNITIONS**	**113,368**	**115,368**	**113,368**	**116,368**
	Excalibur XM 982 Life Cycle Improvements		2,000		3,000
118	**COMBAT IDENTIFICATION**	**2,973**	**2,973**	**7,973**	**5,473**
	Command Post Platform			5,000	2,500
124	**SOLDIER SYSTEMS - WARRIOR DEM/VAL**	**57,818**	**60,818**	**57,818**	**59,318**
	Mounted Warrior Command and Control Heads Up Display (CSHUD) (Note: only for see-through, daylight readable, retinaly scanning helmet mounted display)		3,000		1,500
128	**INFORMATION TECHNOLOGY DEVELOPMENT**	**63,662**	**65,662**	**65,662**	**67,062**
	ARDEC Knowledgebase System		2,000		1,700
	Army Enterprise Human Resource System (eHRS)			2,000	1,700
129	**THREAT SIMULATOR DEVELOPMENT**	**23,796**	**28,196**	**25,796**	**29,296**
	Townsend Electronic Combat Training Range		2,000		1,400
	Threat Systems Management Office Satellite Operating Center - West (Project 976)		2,400		2,100
	Distributed RF/SAM Threat Systems			1,000	1,000
	Web Assured Response Protocol			1,000	1,000
130	**TARGET SYSTEMS DEVELOPMENT**	**10,855**	**11,855**	**12,355**	**11,955**
	Next Generation Ice Protection System for Unmanned Aerial Vehicles		1,000	1,500	1,100
131	**MAJOR T&E INVESTMENT**	**64,498**	**68,498**	**64,498**	**66,998**
	Vehicle Durability Simulator		1,000		1,000
	Network Centric Warfare - Digital Battlefield Instrumentation (NCW-DBI)		3,000		1,500
133	**ARMY KWAJALEIN ATOLL**	**154,535**	**155,535**	**154,535**	**155,535**
	Replacement Dome Tactical Operations and Control Center, US Kwajalein Atoll		1,000		1,000
134	**CONCEPTS EXPERIMENTATION PROGRAM**	**31,653**	**38,653**	**31,653**	**39,053**
	Automated Language Translation (Note: only for automatic translation software proven in deployments within the Federal Government and employing a new statistical approach to machine translation.)		3,500		2,500
	Online Arabic Language Learning Community--Pilot				2,400
	Biometric ID Device		2,000		1,000
	Handwritten Optical Character Recognition Software		500		500
	Automated Communications Support System for WARFIGHTERS, Intelligence Community, Linguists, and Analysts		1,000		1,000
137	**ARMY TECHNICAL TEST INSTRUMENTATION AND TARGETS**	**62,687**	**66,687**	**68,187**	**69,287**
	Dugway Testing and Infrastructure Upgrade		2,000		1,000
	Mobile Optical Tracking System		2,000		1,400
	Aberdeen Technology Transfer Initiative			1,500	1,100
	Accelerator-Based Neutron Production Study			1,000	1,000
	White Sands Missile Range Film Elimination			3,000	2,100

R-1		Budget Request	House	Senate	Conference
138	**SURVIVABILITY/LETHALITY ANALYSIS**	**38,306**	**42,306**	**43,306**	**42,306**
	Rotorcraft Survivability Assessment Facility		4,000	5,000	4,000
139	**DOD HIGH ENERGY LASER TEST FACILITY**	**17,688**	**17,688**	**20,688**	**19,788**
	High Energy Laser Test Facility Upgrade			3,000	2,100
144	**SUPPORT OF OPERATIONAL TESTING**	**75,993**	**76,993**	**75,993**	**76,993**
	MATTRACKS Track Conversion System for Light Wheeled Vehicles		1,000		1,000
146	**SIMULATION & MODELING FOR ACQ, RQTS, & TNG (SMART)**	**9,437**	**5,437**	**9,437**	**5,437**
	Reduce program growth		-4,000		-4,000
148	**TECHNICAL INFORMATION ACTIVITIES**	**32,237**	**48,237**	**42,237**	**47,437**
	Knowledge Integration and Management Center of Excellence		1,000		1,000
	Army High Performance Computing Research Center		15,000	8,000	12,800
	Knowledge System and Relational Database			2,000	1,400
149	**MUNITIONS STANDARDIZATION, EFFECTIVENESS AND SAFETY**	**16,922**	**37,622**	**28,922**	**38,072**
	Advanced Cluster Energetics (ACE)		2,000	3,000	2,000
	Advanced Munitions MANTECH		2,000		1,000
	Aluminum Matrix Composite Technology Partnership - Munitions			3,000	1,500
	Armament Research Development and Engineering Center, Picatinny Arsenal		3,000		0
	Depleted Uranium Sensing and Treatment for Removal (DUSTR)				4,000
	Gun Propellant Demilitarization		2,700		1,350
	Life Cycle Pilot Process		4,000		2,800
	Medium Caliber Metal Parts Upgrade			2,000	1,400
	MEMS Nano Consortium		3,000	3,000	3,000
	Rapid prototyping for Advanced Nanotech		1,000		1,000
	Small and Medium Caliber Armor Piercing Ammunition Improvements			1,000	1,000
	SMCA Munitions Integration		3,000		2,100
152	**MLRS PRODUCT IMPROVEMENT PROGRAM**	**114,297**	**114,297**	**116,297**	**115,297**
	HIMARS Command and Control			2,000	1,000
153S	**WEAPONS CAPABILITY MODIFICATIONS UAV**	**0**	**0**	**9,000**	**5,400**
	Alternate Payload Munition (AP-BLU)			4,000	2,400
	Guided Dispenser System for Unmanned Aerial Vehicles			5,000	3,000
153	**JOINT LAND ATTACK CRUISE MISSILE DEFENSE (JLENS)**	**106,420**	**107,420**	**106,420**	**107,420**
	MEMS Demonstration Radar System (MEMS DRS)		1,000		1,000
154A	**HIGH ALTITUDE AIRSHIP**	**0**	**0**	**17,500**	**0**
	Transferred to RDTE,D-W			10,000	0
	Conformal Embedded Rectennas for High Altitude Airships (Note: transferred to line 29 RDTE,DW)			5,000	0
	Hydrogen-Oxygen PEM Regenerative Fuel Cell for High Altitude Airships (Note: transferred to line 29 RDTE,DW)			2,500	0

R-1		Budget Request	House	Senate	Conference
155	**ADV FIELD ARTILLERY TACTICAL DATA SYSTEM**	**16,064**	**16,064**	**17,064**	**17,064**
	Gun Display Unit-Replacement, Block II			1,000	1,000
156	**COMBAT VEHICLE IMPROVEMENT PROGRAMS**	**12,030**	**16,030**	**17,030**	**17,530**
	Combat Vehicle Electronics for Current and Future Systems		4,000		2,000
	Abrams M1A1 Vehicle Prognostics Development			5,000	3,500
157	**MANEUVER CONTROL SYSTEM**	**44,903**	**41,403**	**44,903**	**41,403**
	Command Post of the Future reduce program growth		-3,500		-3,500
158	**AIRCRAFT MODIFICATIONS/PRODUCT IMPROVEMENT PROGRAMS**	**409,103**	**416,603**	**287,103**	**341,853**
	CH-47 Maintenance Analysis Safety and Training Program		4,500		3,900
	Communication High Accuracy Locations Systems (CHALS)		1,000		1,000
	Army Distribution Mission Training System (ADMT)		2,000		0
	CH-47 Integrated Mechanical Diagnostics (IMDS) Demonstration (Note: transferred from Title IX)				19,500
	ACS Program Delay			-130,000	-98,650
	Helicopter Autonomous Landing System (HALS) for Blackhawks			8,000	7,000
160	**DIGITIZATION**	**12,343**	**13,343**	**12,343**	**13,343**
	Digitization Support To Fort Hood - University XXI		1,000		1,000
163	**OTHER MISSILE PRODUCT IMPROVEMENT PROGRAMS**	**23,560**	**23,560**	**18,681**	**18,681**
	APKWS Simulator Upgrade			-4,879	-4,879
172	**SECURITY AND INTELLIGENCE ACTIVITIES**	**2,992**	**13,492**	**4,992**	**11,292**
	Global Anti-Terrorist Activity Analysis Capability at INSCOM Info Dominance Center		3,500		2,100
	Joint Visualization System (JVS)		3,000		2,600
	Enemy Prisoner of War Biometric Records				600
	Portable Iris Enrollment and Recognition (PIER) Device		4,000	2,000	3,000
173	**INFORMATION SYSTEMS SECURITY PROGRAM**	**22,903**	**26,903**	**23,903**	**26,703**
	Army Information Dominance Center Mobile Object Technology		4,000		2,800
	Retinal/Iris Multimodal Biometrics Technology for Secure Identification			1,000	1,000
174	**GLOBAL COMBAT SUPPORT SYSTEM**	**79,752**	**74,752**	**64,752**	**69,252**
	Funding ahead of need		-8,000	-15,000	-12,000
	Army Legacy Logistics Systems Modernization (SAMS-E)		3,000		1,500
179	**TACTICAL UNMANNED AERIAL VEHICLES**	**139,610**	**142,610**	**156,610**	**150,810**
	I-GNAT ER Remotely Operated Aircraft System		3,000		1,500
	Small Platform Modem Signal Communications Intelligence (COMINT)			7,000	4,900
	Tactical Hyperspectral Imaging System for the Shadow UAV			4,000	1,800
	Tactical Unmanned Aerial Vehicle Testing and Engineering Support			3,000	1,500
	UAV to Soldier Real Time Video Link			3,000	1,500

R-1		Budget Request	House	Senate	Conference
181	**DISTRIBUTED COMMON GROUND SYSTEMS**	**91,587**	**98,837**	**91,587**	**93,187**
	Funding ahead of need		-10,000		-10,000
	Distributed Common Ground Station - Army		1,500		1,100
	Automatic Target Cueing System		5,000		3,000
	National Defense Imagery Processing Program (NDIP)		6,750		4,100
	Intelligence Data Exchange for Execution and Planning, Distributed Common Ground System		4,000		3,400
183	**END ITEM INDUSTRIAL PREPAREDNESS ACTIVITIES**	**68,505**	**96,805**	**112,005**	**112,405**
	Advanced Modeling Technology - Large Structure Titanium Machining Initiative		1,000	4,500	2,250
	Ammo Technical & Engineering Data Manufacturing Tech Management		1,000		0
	Center for Optics Manufacturing		2,500		1,250
	Durable Gun Barrel Steel				1,000
	Electrodeposited Coatings Systems for Munitions			4,000	2,400
	Laser Engineered Net Shaping (LENS) Manufacturing Qualification			3,000	2,100
	Laser Peening for Army Helicopters			3,000	1,800
	Lean Munitions		2,000	4,500	2,250
	Legacy Aerospace Gear Drive Re-engineering Initiative			4,000	2,000
	Low Cost Domestic Titanium Reduction to Powder Initiative			4,000	2,800
	Manufacturing Metrology for Weapon System Production and Sustainment			1,000	1,000
	Manufacturing Systems Demonstration			4,000	2,800
	Materials Joining for Army Weapons Systems			3,000	1,800
	National Center for Manufacturing and Machining		5,000		4,300
	Packaging and Interconnection Technology			3,000	0
	Reactive Atom Plasma (RAP) Processing		3,000		2,600
	Small Manufacturers Defense (SMD) Initiative				1,000
	Smart Machine Platform Initiative		4,000		2,000
	Spring Suspended Airless Tires for Convoy Protection		6,000		6,000
	Super-pulse Laser Processing Technology			3,500	1,750
	Vehicle Common Armor - Affordable Modular Manufacturing Process (VCAMP)		2,800		1,400
	Virtual Parts Engineering Research Center		1,000	2,000	1,400
NEW	**Tactical Wheeled Vehicle Product Improvement Program**	**0**	**20,000**	**0**	**14,000**
	Tactical Wheeled Vehicle Product Improvement Program		20,000		14,000
135	**SMALL BUSINESS INNOVATIVE RESEARCH**	**0**	**1,000**	**0**	**1,000**
	SBIR Phase III/RDECOM/CERDEC Space and Terrestrial Communications		1,000		1,000

Joint Common Missile (JCM)

The conferees support continuation of this program noting that this is the first program to have successfully completed the requirements determination process implemented in the Joint Capabilities Integration and Development System (JCIDS). The conferees recommend that the Department of Defense reevaluate the decision to terminate this program and, accordingly, provide $30,000,000 above the budget request to continue development of the JCM. Of this amount, $26,000,000 is provided in Research, Development, Test and Evaluation, Army, and $4,000,000 is provided in Research, Development, Test and Evaluation, Navy. In addition, the conferees direct the Secretary of Defense to submit a report to the congressional defense committees no later than January 30, 2006, that explains how the Department of Defense will mitigate the capability gaps identified in the JCIDS analysis and provides a cost comparison analysis of continuing the JCM program versus JCM termination and continued procurement of legacy air-to-ground missiles to fulfill mission requirements.

Future Combat System (FCS)

The Statement of the Managers accompanying the Department of Defense Appropriations Act for fiscal year 2005 (House Report 108–622) established a structure for budget preparation and execution for FCS which included broadly defined projects within the Armored Systems Modernization program element. In addition, the statement directed the Army to establish separate program elements for the Non Line of Sight Launch System (NLOS–LS) and the Non Line of Sight Cannon (NLOS–C). The conferees believe that this remains a reasonable structure, and direct the Army to continue to use this as the basis for executing appropriations provided by the Congress, and as the basis for preparing the fiscal year 2007 and subsequent budget submissions. This funding structure includes the following components:

Program Element 0604645A Armored Systems Modernization to include the following projects:
  F52—FCS Reconnaissance Platforms & Sensors
  F53—FCS Unmanned Ground Vehicles
  F54—Unattended Sensors
  F55—Sustainment
  F57—F57 Manned Ground Vehicles
  F61—System of Systems Engineering and Program Management
Program Element 0604646A Non Line of Sight Launch System (NLOS–LS)
Program Element 0604647 A Non Line of Sight Cannon (NLOS–C)

The conferees direct the Secretary of the Army to report to the congressional defense committees within 30 days of enactment of this Act on the plan to distribute the $2,785,829,000 provided by the conference agreement for the Armored Systems Modernization program element (PE 0604645A) to each of the projects listed above. The conferees designate these projects as congressional special interest items for the purpose of prior approval reprogrammings as discussed elsewhere in this report. The NLOS–LS and NLOS–C program elements are subject to normal prior approval reprogramming procedures as described elsewhere in this report. In addition, the conferees direct the Army to provide a report to the congressional defense committees not later than January 15, 2006, which provides a detailed list and description of the systems and technologies to be included in each of the FCS developmental spirals.

Non-Line-of-Sight Cannon (NLOS–C)

The conferees note that the Army provided the congressional defense committees with a report on September 28, 2005, pursuant to language included in the report accompanying the House-passed version of the fiscal year 2006 Department of Defense Appropriations Act. The conferees find the report encouraging because it indicates that the Army plans to produce a self-propelled Future Combat System non-line-of-sight cannon indirect fire capability to equip the future force as required by section 216 of the National Defense Authorization Act for fiscal year 2003, and section 8121 of the Department of Defense Appropriations Act for fiscal year 2003. The conferees note that each annual Department of Defense Appropriations Act since 2003 has included similar language. The conferees are further encouraged by the Army's plan to produce a quantity of eight pre-production prototypes, and to begin fielding these guns starting in 2008. Accordingly, the conference agreement provides $148,387,000, an increase of $40,800,000 above the budget request, to enable the Army to continue this effort.

Multi-Sensor Architecture

The conferees agree to recommend additional funding for obtaining, evaluating, and integrating new sensors into the Cerberus architecture. These would include fiber optic perimeter sensors, medium range millimeter wave radars, and low cost thermal imaging surveillance sensors. Evaluation and integration of these sensors are to be managed by the Army Night Vision Electronic Sensor Division.

Flexible Electronics Research Initiative for Army Soldiers (FERIAS)

The conferees recognize the importance of developing new materials for flexible electronics technologies that will have broad impact for multiple military applications. The combination of these new materials and technologies will lead to soldiers receiving information in real time on maps and displays, imrroving both military communications and soldier safety. The resiliency of these devices could also increase the lifetime and reliability of current display applications in harsh environments, including the battlefield.

The conferees direct the Army Research Laboratory (ARL) to continue to aggressively pursue and take all necessary steps to develop new technologies that will enable flexible electronics to become an integral part of the Army's transformation. The conferees also direct ARL to collaborate with the leading developers of flexible display technology to fully develop the Flexible Electronics Research Initiative for Army Soldiers (FERIAS).

Applied and Clinical Prosthetic Research

The conferees support the Army's effort to sustain a collaborative applied and clinical prosthetic research activity at the Walter Reed Army Medical Center Amputee Care Center, and provide $5,500,000 to further develop this program to advance prosthetic technological achievement through applied and clinical research activities. Included in this amount is funding for continuation of the effort to improve and harden microprocessor knee componentry.

Preventive Medicine

The conferees remain concerned about rising personnel costs, especially health care costs, as a percent of the total Department budget. Eliminating or reducing health care services to our military members, retirees, and their families, however, is not a viable alternative to reigning in future increases in health care costs. As such, the conferees applaud the preventive medicine programs being undertaken by the tri-service community, and see these programs as vital to controlling the rising costs of treating diseases, including cardiovascular diseases, cancer, and diabetes. The conferees encourage the continuation and future development of programs that stress early detection and individual lifestyle changes to promote a healthier military community.

Chiropractic Care

The conferees note military personnel receive chiropractic health care benefits. Further, chiropractic medicine is an established and sought after form of treatment in military medical facilities. The conferees, therefore, encourage the Army to evaluate establishing a research facility that supports chiropractic medicine for military applications.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
RESEARCH, DEVELOPMENT, TEST & EVAL, NAVY				
BASIC RESEARCH				
UNIVERSITY RESEARCH INITIATIVES	75,910	92,410	79,410	87,810
IN-HOUSE LABORATORY INDEPENDENT RESEARCH	15,500	15,500	18,500	17,600
DEFENSE RESEARCH SCIENCES	356,885	372,785	372,385	376,485
TOTAL, BASIC RESEARCH	448,295	480,695	470,295	481,895
APPLIED RESEARCH				
POWER PROJECTION APPLIED RESEARCH	94,148	114,098	123,648	136,898
FORCE PROTECTION APPLIED RESEARCH	101,650	125,150	141,650	139,550
MARINE CORPS LANDING FORCE TECHNOLOGY	37,590	37,590	39,090	38,590
MATERIALS, ELECTRONICS AND COMPUTER TECHNOLOGY	---	---	2,500	1,500
COMMON PICTURE APPLIED RESEARCH	57,693	70,393	112,193	105,643
WARFIGHTER SUSTAINMENT APPLIED RESEARCH	82,856	107,500	101,856	111,306
RF SYSTEMS APPLIED RESEARCH	47,302	59,002	60,802	67,052
OCEAN WARFIGHTING ENVIRONMENT APPLIED RESEARCH	49,793	64,393	52,293	63,218
JOINT NON-LETHAL WEAPONS APPLIED RESEARCH	6,000	10,000	6,000	9,000
UNDERSEA WARFARE APPLIED RESEARCH	71,362	78,362	83,162	85,562
MINE AND EXPEDITIONARY WARFARE APPLIED RESEARCH	49,520	49,520	50,520	49,620
TOTAL, APPLIED RESEARCH	597,914	716,008	773,714	807,939
ADVANCED TECHNOLOGY DEVELOPMENT				
POWER PROJECTION ADVANCED TECHNOLOGY	82,538	112,638	135,538	137,288
FORCE PROTECTION ADVANCED TECHNOLOGY	71,488	157,388	125,988	166,688
COMMON PICTURE ADVANCED TECHNOLOGY	60,589	71,389	67,989	73,989
WARFIGHTER SUSTAINMENT ADVANCED TECHNOLOGY	68,540	95,495	87,040	98,295
RF SYSTEMS ADVANCED TECHNOLOGY	75,070	95,070	90,070	102,120
MARINE CORPS ADVANCED TECHNOLOGY DEMONSTRATION (ATD)	56,434	82,134	80,634	89,034
JOINT NON-LETHAL WEAPONS TECHNOLOGY DEVELOPMENT	2,394	2,394	2,394	2,394
NAVY TECHNICAL INFORMATION PRESENTATION SYSTEM	187,943	189,443	175,943	183,043
WARFIGHTER PROTECTION ADVANCED TECHNOLOGY	16,068	60,768	29,568	59,568
UNDERSEA WARFARE ADVANCED TECHNOLOGY	27,603	30,103	30,603	35,553

	(In thousands of dollars) Budget	House	Senate	Conference
NAVY WARFIGHTING EXPERIMENTS AND DEMONSTRATIONS	49,288	49,288	49,288	49,288
MINE AND EXPEDITIONARY WARFARE ADVANCED TECHNOLOGY	31,897	35,097	33,897	35,597
TOTAL, ADVANCED TECHNOLOGY DEVELOPMENT	729,852	981,207	908,952	1,032,857
DEMONSTRATION & VALIDATION				
AIR/OCEAN TACTICAL APPLICATIONS	27,094	29,594	30,594	31,594
AVIATION SURVIVABILITY	6,255	41,455	27,605	44,355
DEPLOYABLE JOINT COMMAND AND CONTROL	41,464	41,464	41,464	41,464
ASW SYSTEMS DEVELOPMENT	7,050	12,050	16,050	19,050
TACTICAL AIRBORNE RECONNAISSANCE	3,938	3,938	3,938	3,938
ADVANCED COMBAT SYSTEMS TECHNOLOGY	30,166	36,166	30,166	34,066
SURFACE AND SHALLOW WATER MINE COUNTERMEASURES	122,122	122,122	121,122	120,522
SURFACE SHIP TORPEDO DEFENSE	47,039	53,039	53,039	53,839
CARRIER SYSTEMS DEVELOPMENT	167,823	169,823	167,823	170,823
SHIPBOARD SYSTEM COMPONENT DEVELOPMENT	22,150	43,550	44,900	51,250
PILOT FISH	141,369	141,369	141,369	141,369
RETRACT LARCH	82,717	82,717	82,717	82,717
RETRACT JUNIPER	54,887	54,887	54,887	54,887
RADIOLOGICAL CONTROL	1,845	1,845	1,845	1,845
SURFACE ASW	17,343	23,343	21,843	23,693
SSGN CONVERSION	24,020	28,520	24,020	24,020
ADVANCED SUBMARINE SYSTEM DEVELOPMENT	162,953	182,953	162,953	162,053
SUBMARINE TACTICAL WARFARE SYSTEMS	7,125	7,125	7,125	7,125
SHIP CONCEPT ADVANCED DESIGN	11,899	15,899	20,899	21,399
SHIP PRELIMINARY DESIGN & FEASIBILITY STUDIES	27,021	27,021	27,021	27,021
ADVANCED NUCLEAR POWER SYSTEMS	168,373	168,373	168,373	168,373
ADVANCED SURFACE MACHINERY SYSTEMS	---	6,000	---	5,100
CHALK EAGLE	116,230	116,230	116,230	116,230
LITTORAL COMBAT SHIP (LCS)	576,454	581,954	581,454	582,654
COMBAT SYSTEM INTEGRATION	76,975	82,975	91,975	93,475
CONVENTIONAL MUNITIONS	36,940	36,940	36,940	36,940

	(In thousands of dollars) Budget	House	Senate	Conference
MARINE CORPS ASSAULT VEHICLES	253,675	253,675	253,675	253,675
MARINE CORPS MINE/COUNTERMEASURES SYSTEMS - ADV DEV	3,265	3,265	3,265	3,265
MARINE CORPS GROUND COMBAT/SUPPORT SYSTEM	500	3,000	15,500	13,300
JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOPMENT	34,418	23,218	34,418	34,418
COOPERATIVE ENGAGEMENT	88,135	103,135	88,135	100,935
OCEAN ENGINEERING TECHNOLOGY DEVELOPMENT	24,620	24,620	24,620	24,620
ENVIRONMENTAL PROTECTION	21,977	24,977	27,377	27,877
NAVY ENERGY PROGRAM	1,595	3,595	13,095	8,545
FACILITIES IMPROVEMENT	4,158	6,158	5,658	6,458
CHALK CORAL	52,769	52,769	52,769	52,769
NAVY LOGISTIC PRODUCTIVITY	8,909	24,009	10,909	20,709
RETRACT MAPLE	308,708	308,708	308,708	308,708
LINK PLUMERIA	81,723	79,823	81,723	81,723
RETRACT ELM	57,036	57,036	57,036	57,036
SHIP SELF DEFENSE	9,592	9,592	9,592	9,592
LINK EVERGREEN	58,153	58,153	58,153	58,153
SPECIAL PROCESSES	47,908	47,908	47,908	47,908
NATO RESEARCH AND DEVELOPMENT	10,335	10,335	10,335	10,335
LAND ATTACK TECHNOLOGY	14,195	72,695	38,195	74,195
NONLETHAL WEAPONS (DEM/VAL)	43,981	48,981	43,981	47,581
ALL SERVICE COMBAT IDENTIFICATION EVALUATION TEAM	15,696	15,696	15,696	15,696
JOINT PRECISION APPROACH AND LANDING SYSTEMS (DEM/VAL)	39,260	39,260	39,260	39,260
SINGLE INTEGRATED AIR PICTURE (SIAP) SYSTEM ENGINEER	36,721	36,721	36,721	36,721
COUNTER-DRUG RDT&E PROJECTS	---	3,400	11,000	8,150
TACTICAL AIR DIRECTIONAL INFRARED COUNTERMEASURES	9,956	9,956	9,956	9,956
HARD AND DEEPLY BURIED TARGET DEFEAT SYSTEM (HDBTDS)	---	---	12,000	7,200
SPACE & ELECTRONIC WARFARE (SEW) ARCHITECTURE/ENGINE	44,469	35,950	44,469	35,950
JOINT WARFARE TRANSFORMATION PROGRAMS	23,385	23,385	23,385	23,385
TOTAL, DEMONSTRATION & VALIDATION	3,276,391	3,491,372	3,453,891	3,537,922

	(In thousands of dollars)			
	Budget	House	Senate	Conference
ENGINEERING & MANUFACTURING DEVELOPMENT				
OTHER HELO DEVELOPMENT	81,112	81,112	81,112	81,112
AV-8B AIRCRAFT - ENG DEV	15,556	15,556	15,556	15,556
STANDARDS DEVELOPMENT	84,308	81,308	86,308	85,508
MULTI-MISSION HELICOPTER UPGRADE DEVELOPMENT	48,144	50,144	48,144	49,844
AIR/OCEAN EQUIPMENT ENGINEERING	4,558	4,558	4,558	4,558
P-3 MODERNIZATION PROGRAM	7,401	11,101	8,401	10,751
WARFARE SUPPORT SYSTEM	2,275	2,275	2,275	2,275
TACTICAL COMMAND SYSTEM	51,177	64,177	56,177	64,777
ADVANCED HAWKEYE	629,682	629,682	579,682	623,682
H-1 UPGRADES	42,012	42,012	42,012	42,012
ACOUSTIC SEARCH SENSORS	29,522	38,522	29,522	34,022
V-22A	206,376	206,376	206,376	206,376
AIR CREW SYSTEMS DEVELOPMENT	10,902	14,102	10,902	13,652
EA-18	409,097	400,000	409,097	400,000
ELECTRONIC WARFARE DEVELOPMENT	42,667	42,667	45,167	43,917
VHXX EXECUTIVE HELO DEVELOPMENT	935,932	935,932	935,932	935,932
JOINT TACTICAL RADIO SYSTEM - NAVY (JTRS-NAVY)	250,766	204,000	220,766	172,366
SC-21 TOTAL SHIP SYSTEM ENGINEERING	1,114,791	757,000	1,127,791	1,156,891
SURFACE COMBATANT COMBAT SYSTEM ENGINEERING	216,313	233,313	220,313	232,213
LPD-17 CLASS SYSTEMS INTEGRATION	11,443	11,443	11,443	11,443
SMALL DIAMETER BOMB (SDB)	9,965	9,965	9,965	9,965
STANDARD MISSILE IMPROVEMENTS	145,634	151,134	149,634	150,734
AIRBORNE MCM	54,659	54,659	54,659	54,659
SSN-688 AND TRIDENT MODERNIZATION	95,499	105,499	100,499	107,499
AIR CONTROL	10,151	10,151	13,151	11,651
ENHANCED MODULAR SIGNAL PROCESSOR	1,079	1,079	1,079	1,079
SHIPBOARD AVIATION SYSTEMS	33,029	33,029	42,529	38,279
COMBAT INFORMATION CENTER CONVERSION	6,908	7,908	6,908	7,908
NEW DESIGN SSN	155,807	169,307	193,807	177,907

		(In thousands of dollars)		
	Budget	House	Senate	Conference
SSN-21 DEVELOPMENTS	2,928	2,928	2,928	2,928
SUBMARINE TACTICAL WARFARE SYSTEM	40,690	42,690	47,690	46,640
SHIP CONTRACT DESIGN/ LIVE FIRE T&E	55,672	58,672	55,672	58,272
NAVY TACTICAL COMPUTER RESOURCES	2,220	7,220	2,220	6,520
MINE DEVELOPMENT	15,392	15,392	15,392	15,392
LIGHTWEIGHT TORPEDO DEVELOPMENT	31,826	31,826	31,826	31,826
JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOPMENT	8,880	8,880	8,880	8,880
PERSONNEL, TRAINING, SIMULATION, AND HUMAN FACTORS	3,097	6,097	3,097	5,197
BATTLE GROUP PASSIVE HORIZON EXTENSION SYSTEM	18,456	34,456	22,456	33,056
JOINT STANDOFF WEAPON SYSTEMS	13,517	13,517	13,517	13,517
SHIP SELF DEFENSE (DETECT & CONTROL)	45,931	56,931	49,931	57,331
SHIP SELF DEFENSE (ENGAGE: HARD KILL)	46,026	52,026	48,026	50,526
SHIP SELF DEFENSE (ENGAGE: SOFT KILL/EW)	24,012	40,212	33,012	33,912
INTELLIGENCE ENGINEERING	5,002	5,002	5,002	5,002
MEDICAL DEVELOPMENT	7,202	42,702	26,702	47,402
NAVIGATION/ID SYSTEM	52,717	52,717	47,717	47,717
DISTRIBUTED SURVEILLANCE SYSTEM	54,256	58,256	54,256	56,656
JOINT STRIKE FIGHTER (JSF) - EMD	2,393,013	2,399,213	2,269,013	2,305,113
SMART CARD	715	715	715	715
INFORMATION TECHNOLOGY DEVELOPMENT	19,150	22,750	19,150	25,650
INFORMATION TECHNOLOGY DEVELOPMENT	60,859	92,359	92,859	105,659
MULTINATIONAL INFORMATION SHARING (MNIS)	33,557	22,000	33,557	22,000
CH-53X	271,941	271,941	271,941	271,941
MULTI-MISSION MARITIME AIRCRAFT (MMA)	964,067	964,067	964,067	964,067
TOTAL, ENGINEERING & MANUFACTURING DEVELOPMENT	8,877,891	8,670,580	8,833,391	8,962,487
RDT&E MANAGEMENT SUPPORT				
THREAT SIMULATOR DEVELOPMENT	23,918	23,918	23,918	23,918
TARGET SYSTEMS DEVELOPMENT	52,963	41,555	52,963	41,555
MAJOR T&E INVESTMENT	39,682	39,682	41,682	41,082

	(In thousands of dollars)			
	Budget	House	Senate	Conference
STUDIES AND ANALYSIS SUPPORT - NAVY	9,629	10,208	9,629	9,008
CENTER FOR NAVAL ANALYSES	49,891	49,891	49,891	49,891
FLEET TACTICAL DEVELOPMENT	2,266	2,266	2,266	2,266
TECHNICAL INFORMATION SERVICES	714	9,714	26,714	28,914
MANAGEMENT, TECHNICAL & INTERNATIONAL SUPPORT	44,847	42,604	44,847	43,347
STRATEGIC TECHNICAL SUPPORT	3,451	3,451	3,451	3,451
RDT&E SCIENCE AND TECHNOLOGY MANAGEMENT	63,508	63,508	63,508	63,508
RDT&E INSTRUMENTATION MODERNIZATION	1,632	1,632	1,632	1,632
RDT&E SHIP AND AIRCRAFT SUPPORT	77,131	77,131	77,131	77,131
TEST AND EVALUATION SUPPORT	320,133	320,133	320,133	320,133
OPERATIONAL TEST AND EVALUATION CAPABILITY	13,101	13,101	13,101	13,101
NAVY SPACE AND ELECTRONIC WARFARE (SEW) SUPPORT	2,829	2,829	2,829	2,829
SEW SURVEILLANCE/RECONNAISSANCE SUPPORT	13,030	13,030	13,030	13,030
MARINE CORPS PROGRAM WIDE SUPPORT	28,224	38,224	30,224	36,624
SERVICE SUPPORT TO JFCOM, JNTC	10,000	18,500	10,000	18,300
TOTAL, RDT&E MANAGEMENT SUPPORT	756,949	771,377	786,949	789,720

		(In thousands of dollars)		
	Budget	House	Senate	Conference
OPERATIONAL SYSTEMS DEVELOPMENT				
STRATEGIC SUB & WEAPONS SYSTEM SUPPORT	90,022	95,022	95,022	93,522
SSBN SECURITY TECHNOLOGY PROGRAM	44,063	44,063	44,063	44,063
SUBMARINE ACOUSTIC WARFARE DEVELOPMENT	8,527	9,527	8,527	9,527
NAVY STRATEGIC COMMUNICATIONS	31,443	38,143	31,443	35,543
RAPID TECHNOLOGY TRANSITION (RTT)	24,653	28,653	24,653	25,653
F/A-18 SQUADRONS	88,720	88,720	90,720	87,420
E-2 SQUADRONS	2,256	15,756	6,256	17,056
FLEET TELECOMMUNICATIONS (TACTICAL)	32,694	32,694	34,694	32,694
TOMAHAWK AND TOMAHAWK MISSION PLANNING CENTER (TMPC)	20,342	28,342	26,342	27,342
INTEGRATED SURVEILLANCE SYSTEM	23,453	25,453	29,453	31,003
AMPHIBIOUS TACTICAL SUPPORT UNITS	4,768	4,768	4,768	4,768
CONSOLIDATED TRAINING SYSTEMS DEVELOPMENT	42,248	43,248	42,248	44,248
CRYPTOLOGIC DIRECT SUPPORT	1,422	1,422	1,422	1,422
ELECTRONIC WARFARE (EW) READINESS SUPPORT	13,987	13,987	13,987	13,987
HARM IMPROVEMENT	90,832	97,332	80,832	85,932
TACTICAL DATA LINKS	86,364	86,364	86,364	88,164
SURFACE ASW COMBAT SYSTEM INTEGRATION	4,519	18,019	4,519	12,819
MK-48 ADCAP	21,619	21,619	21,619	21,619
AVIATION IMPROVEMENTS	81,546	94,546	83,546	96,151
NAVY SCIENCE ASSISTANCE PROGRAM	3,917	3,917	3,917	3,917
OPERATIONAL NUCLEAR POWER SYSTEMS	64,054	64,054	64,054	64,054
MARINE CORPS COMMUNICATIONS SYSTEMS	237,081	264,381	243,781	259,981
MARINE CORPS GROUND COMBAT/SUPPORTING ARMS SYSTEMS	48,409	71,909	68,009	73,709
MARINE CORPS COMBAT SERVICES SUPPORT	10,476	15,476	15,476	16,476
TACTICAL AIM MISSILES	9,384	9,384	9,384	9,384
ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM)	3,584	3,584	3,584	3,584
SATELLITE COMMUNICATIONS (SPACE)	541,980	450,980	541,980	547,980
INFORMATION SYSTEMS SECURITY PROGRAM	28,660	20,700	28,660	22,000
JOINT COMMAND AND CONTROL PROGRAM (JC2)	5,000	5,000	5,000	5,000

	(In thousands of dollars)			
	Budget	House	Senate	Conference
COBRA JUDY	121,261	121,261	121,261	121,261
NAVY METEOROLOGICAL AND OCEAN SENSORS-SPACE (METOC)	9,122	11,122	9,122	10,122
JOINT C4ISR BATTLE CENTER (JBC)	55,326	49,326	55,326	52,326
JOINT MILITARY INTELLIGENCE PROGRAMS	4,290	4,290	4,290	4,290
TACTICAL UNMANNED AERIAL VEHICLES	99,349	106,799	115,162	118,862
AIRBORNE RECONNAISSANCE SYSTEMS	27,918	27,918	36,068	31,818
MANNED RECONNAISSANCE SYSTEMS	21,322	22,322	21,322	62,322
DISTRIBUTED COMMON GROUND SYSTEMS	12,354	16,354	12,354	12,354
AERIAL COMMON SENSOR (ACS) (JMIP)	133,642	134,642	13,642	37,000
MODELING AND SIMULATION SUPPORT	6,812	6,812	6,812	7,812
DEPOT MAINTENANCE (NON-IF)	10,012	13,012	10,012	12,612
INDUSTRIAL PREPAREDNESS	57,753	62,753	57,753	60,153
MARITIME TECHNOLOGY (MARITECH)	---	---	4,000	3,400
TOTAL, OPERATIONAL SYSTEMS DEVELOPMENT	2,225,184	2,273,674	2,181,447	2,313,350
CLASSIFIED PROGRAMS	1,125,515	1,096,949	1,149,265	1,066,965
TOTAL, RESEARCH, DEVELOPMENT, TEST & EVAL, NAVY	18,037,991	18,481,862	18,557,904	18,993,135

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

R-1		Budget Request	House	Senate	Conference
1	**UNIVERSITY RESEARCH INITIATIVES**	**75,910**	**92,410**	**79,410**	**87,810**
	Center for Southeastern Tropical Advanced Remote Sensing (CSTARS)		4,500	2,500	2,500
	Research infrastructure -- University of Washington APL		4,000		2,800
	National security training		3,000		1,800
	Center for Catastrophe Preparedness and Response, NYU		1,000		1,000
	Defense commercialization research initiative		4,000		2,800
	Multifunctional materials for naval structures			1,000	1,000
2	**IN-HOUSE LABORATORY INDEPENDENT RESEARCH**	**15,500**	**15,500**	**18,500**	**17,600**
	Navy S&T outreach			3,000	2,100
3	**DEFENSE RESEARCH SCIENCES**	**356,885**	**372,785**	**372,385**	**376,485**
	S&E education, career development, and outreach		-5,000		-5,000
	Center for Photochemical Sciences		1,000		1,000
	Intelligent autonomous networks and systems program ad hoc data communications		1,000		1,000
	Carbon nanotube-based radiation-hard non-volatile RAM		9,900		7,000
	Energetics S&T workforce revitalization initiative		4,000		2,800
	Navy use of UNOLS ships		5,000		4,250
	Bio-inspired materials -- applications in catalysis, magnetics, electronics and medicine			2,000	1,400
	Nanoelectronics and nanometrology initiative			5,000	2,500
	Neurobiologically inspired computational architectures and methodologies			2,000	1,400
	Rotational molded double wall hull using thermo-plastic cross-link material			2,500	1,250
	UNOLS research vessel			4,000	2,000
4	**POWER PROJECTION APPLIED RESEARCH**	**94,148**	**114,098**	**123,648**	**136,898**
	Electric weapons		-20,200		-5,000
	Oblique angle hyperspectral image fusion		1,650		1,650
	Work flow engine for off-line imagery		1,000		1,000
	High power FEL development for Navy applications		3,000		1,500
	Autonomous underwater vehicle docking and recharging station		3,000		2,100
	Retroreflecting optical communications for special operations		2,000		1,000
	DoD agile manufacturing center for castings technology (AMCast)		3,000		2,100
	Marine mammal research program		2,000		1,000
	Spectral beam combining fiber lasers		1,000		1,000
	Electronic motion actuation systems		3,600		2,200
	Ultra HD projection display		3,000		1,500
	High performance frequency modulated fiberoptic link		2,000		1,200
	High energy density capacitors for military applications		3,000		1,500
	Development processes for full scale production of silicon carbide wafers		2,000		1,700
	Millimeter terahertz imaging arrays		4,200		3,600
	Device integration of wide band gap semiconductors and multifunctional oxides		1,700		1,500
	Warheads of advanced reactive material enhanced nanocomposites (WARMEN)		3,000		0
	Navy security automation and future electro-robots		1,000		1,000
	Aircraft carrier surveillance system			5,000	3,500
	Combustion light gas gun			5,000	4,250

R-1		Budget Request	House	Senate	Conference
	Free electron laser			5,000	3,500
	MDETEC			1,000	1,000
	Multi-sensor hyperspectral system for day/night reconnaissance			3,000	2,600
	Silver Fox unmanned aerial vehicle			2,500	1,750
	Thermal management systems for high density electronics			8,000	5,600
5	**FORCE PROTECTION APPLIED RESEARCH**	**101,650**	**125,150**	**141,650**	**139,550**
	MK V patrol boat replacement craft prototype		5,000		2,500
	Magnetic refrigeration technology for naval applications		1,000	3,200	1,900
	Lithium ion battery for multiple Navy aircraft		1,500	3,000	1,500
	Facial recognition technology		2,000		1,400
	Low cost, rapid prototype/production technology for polymeric aircraft components initiative		2,000		1,000
	High efficiency quiet electric drive		1,500	3,000	1,500
	Thin film battery		2,000		1,400
	Secure infrastructure technology laboratory		8,000		6,800
	Lightweight ship structures		500		500
	Advanced fusion processor			3,000	2,600
	High frequency acoustic signal processor system			6,000	3,000
	Nano-magnetic materials for future military propulsion and energy systems			2,000	1,400
	NAVAIR corrosion modeling software project			3,000	2,100
	PEM fuel cell for vehicle sensors			1,000	1,000
	PMRF force protection lab			4,000	3,400
	Polymeric aircraft components			2,000	1,000
	Small watercraft propulsion demonstrator			3,000	1,500
	Undersea perimeter security technology			2,300	1,200
	Unmanned sea surface vehicles for maritime missions			4,500	2,200
6	**MARINE CORPS LANDING FORCE TECHNOLOGY**	**37,590**	**37,590**	**39,090**	**38,590**
	Advanced lead acid battery development for military vehicles			1,500	1,000
8	**MATERIALS, ELECTRONICS AND COMPUTER TECHNOLOGY**	**0**	**0**	**2,500**	**1,500**
	Agile manufacturing center for castings technology – Keyport Naval Base			2,500	1,500
9	**COMMON PICTURE APPLIED RESEARCH**	**57,693**	**70,393**	**112,193**	**105,643**
	SensorNet common data highway (Note: Conference funding is provided under line 9, "SensorNet")		2,700		0
	Radio sensor module (RASM)		2,000		1,200
	Coordinated operation of unmanned vehicle for littoral waters		3,000		2,600
	Theater undersea warfare initiative		5,000	7,000	6,000
	AIREP			6,500	5,550
	Critical area protection systems high resolution situational awareness			1,000	1,500
	M2C2			7,000	6,500
	NAIF			6,000	5,100
	SensorNet			25,000	17,500
	Webster integration			2,000	1,000
	Expeditonary warfare testbed global information grid enterprise services (Note: House included funding under line 10, "Warfighter sustainment applied research")				1,000

R-1		Budget Request	House	Senate	Conference
10	**WARFIGHTER SUSTAINMENT APPLIED RESEARCH**	**82,856**	**107,500**	**101,856**	**111,306**
	Reduction in program growth due to budget constraints		-8,856		0
	Biosensors for defense applications		2,000	1,500	1,500
	Nonlinear systems research center (Note: Only for use by the West Virginia High Technology Consortium Foundation)		1,000		1,000
	Expeditonary warfare testbed global information grid enterprise services (Note: Conference funding is included under line 9, "Common picture applied research")		1,000		0
	Mast-mounted in port video force protection surveillance system		5,000		3,400
	Advanced fouling and corrosion control coatings		2,000	8,000	5,600
	Automated language translation tools for intelligence community		1,000		1,000
	POSS biofilm packaging materials		2,000		1,000
	Durability of composite materials and structures		2,500		1,250
	National Center for Advanced Secure Systems Research		4,000		2,800
	Titanium-based alloy for advanced aerospace applications		1,500		1,300
	Continuation of hydrate desalination technology		2,000		1,700
	Atmospheric water harvesting		1,000		1,000
	Virtual clinical learning lab		4,000		2,000
	Partnership simulation laboratory for military health professions and first responder education		2,000		1,000
	Environmental micro-biological energy harvesting		2,000		1,200
	Advanced magnetic resonance imaging		500		500
	Seabasing research			-7,500	-7,500
	Training technologies program execution			-3,000	-3,000
	Automated video threat recognition			2,500	1,800
	Friction stir welding			2,000	1,200
	Intelligent processing of multifunctional composite materials			3,000	1,500
	Methane desalination systems			1,000	1,000
	Multifunction composites for next Navy seaframes			3,500	2,500
	Optimizing adaptive warrior performance			2,000	1,700
	Rapid detection of biowarfare agents in water			3,000	1,500
	Transportable transponder landing system			3,000	1,500
11	**RF SYSTEMS APPLIED RESEARCH**	**47,302**	**59,002**	**60,802**	**67,052**
	Novel silicon carbide technology development		1,400		1,000
	Lithium-based battery development for asset tracking		1,800		1,000
	Broadband electronics for RF systems		2,500		1,250
	Wide bandgap materials for power electronics		3,000		2,600
	Center for microwave ferrites and multifunctional integrated circuits		1,000		1,000
	Core reparative medicine for traumatic injuries		1,000		1,000
	Reparative health initiative		1,000		1,000
	Advanced microwave ferrite research for RF systems			2,500	1,500
	Gallium nitride RF power technology			2,000	1,000
	Maritime synthetic range			7,000	6,700
	Pacific theater data fusion testbed			2,000	1,700

R-1		Budget Request	House	Senate	Conference
12	**OCEAN WARFIGHTING ENVIRONMENT APPLIED RESEARCH**	**49,793**	**64,393**	**52,293**	**63,218**
	Southeast Coastal Ocean Observing System (SEACOOS)		2,000		1,625
	New Jersey Coastal Observing System		1,000		1,000
	Continuation of research in ocean technology and autonomous marine sensors		5,600		4,800
	Coastal MASINT		6,000		4,200
	Integrated littoral sensor network			2,500	1,800
13	**JOINT NON-LETHAL WEAPONS APPLIED RESEARCH**	**6,000**	**10,000**	**6,000**	**9,000**
	Bioluminescence truth data measurement and signature detection		1,500		1,000
	Extended capability underwater optical imaging		1,500		1,000
	Enhance the open submarine model		1,000		1,000
14	**UNDERSEA WARFARE APPLIED RESEARCH**	**71,362**	**78,362**	**83,162**	**85,562**
	Prototype demonstration of point defense undersea weapon		4,000		2,500
	ATT (6.75 inch diameter) multi-mission weapon		2,000		1,700
	Tow cable shape estimation		1,000		1,000
	Acoustic littoral glider system			4,500	3,900
	High power, high duty transducers			3,300	2,300
	MEMS-IMU for an advanced underwater sensor			4,000	2,800
15	**MINE AND EXPEDITIONARY WARFARE APPLIED RESEARCH**	**49,520**	**49,520**	**50,520**	**49,620**
	Program execution			-3,000	-3,000
	Coordinated, heterogeneous teams of unmanned vehicles			3,000	2,100
	Hyperspectral imager for the coastal ocean			1,000	1,000
16	**POWER PROJECTION ADVANCED TECHNOLOGY**	**82,538**	**112,638**	**135,538**	**137,288**
	Terahertz detection system for IEDs/landmines		2,000		1,200
	Advanced panoramic sensor systems for UAVs		2,500	1,000	1,250
	DP-2 vectored thrust aircraft program		7,000		3,900
	Structurally integrated low observable coating system		6,000		4,200
	Low cost terminal imaging seeker		4,000		2,000
	Short pulse laser development for micromachining applications		2,200		1,900
	Advanced technologies for high velocity particle consolidation		1,000		1,000
	LADAR		1,000		1,000
	Long wavelength array		3,400	5,000	3,500
	Countermine LIDAR UAV-based system (CLUBS)		1,000		1,000
	Articulated stable ocean platform			1,000	1,000
	Bow lifting body ship research			7,000	6,000
	Excalibur unmanned combat aerial vehicle			1,000	1,000
	Expeditionary craft			9,000	9,000
	High speed anti-radiation demonstration -- airframe/propulsion section			10,000	5,000
	Information sharing for ISR targeting and engagement of mobile targets			3,000	1,500
	Low power polymer based infrared technology			3,000	1,500
	Quiet high speed propulsion			8,000	4,800
	Internal rotor urban flight vehicle (Note: For concept development)				500
	Smart instrument development for the Magdalena Ridge Observatory			5,000	3,500

R-1	Budget Request	House	Senate	Conference
17 FORCE PROTECTION ADVANCED TECHNOLOGY	**71,488**	**148,388**	**125,988**	**166,688**
High performance sandwich panel construction techniques		2,500	1,000	1,250
Unmanned force augmentation system		3,000	5,000	3,000
Multi-fuel portable fuel cell power project		1,000		1,000
M-65 bismaleimide carbon fiber prepreg resin system qualification for use with automated placement machines		4,500		2,700
ZEUS light strike vehicle hybrid electric pilot		1,000		1,000
At sea decontamination platform development and conceptual design		1,000		1,000
DD(X) advanced ship service fuel cell (SSFC) power plant		2,000		1,000
Enabling materials for MEMS fabrication and packaging		6,500		4,500
Multipolar motor		1,000		1,000
Wave powered electric power generating system for naval base		3,000		1,500
Porous silicon-based direct methanol fuel cell		3,500		1,750
Fourth generation naval propulsion permanent magnet motor		2,500		1,500
Wireless condition-based maintenance monitoring for shipyard equipment and facilities		5,400		3,200
Force protection digital direction finder		3,000		2,100
Project M		1,000		1,000
Universal solid state breaker		1,000		1,000
Integrated advanced communications terminal		1,000		1,000
Reduced ship crew by virtual presence		2,000		1,000
Electromagnetic rail gun test munition		1,500		1,100
Life cycle program support for unmanned systems		4,000		3,400
Aviation ground advanced technology		1,500		1,300
NCDR - Lightweight, ruggedized reconnaissance robot		1,500		1,300
Unmanned systems technologies for explosive ordnance disposal		1,500		1,300
Autonomous technologies in support of Sea Power 21		2,000		1,700
X Craft		15,000		10,500
Strategic mobility 21 deployment technology		3,000		2,600
Light strike medical evacuation vehicle pilot		2,000		1,700
Agile port and high speed ship technology			5,000	4,500
Copper-ceramic solid oxide fuel cell technology			1,000	1,000
High temperature superconducting generators		3,000	5,000	3,500
Large unmanned undersea vehicle test bed		3,000	6,000	4,200
Mobile manufacturing and repair cell		3,000	5,000	3,500
Planar solid oxide fuel cell cluster demonstration			6,000	5,100
Pure hydrogen supply from logistics fuel		3,000	1,500	2,500
Remote energetic material manufacturing for pyrotechnic infrared decoys			3,000	1,300
Ship service fuel cell			6,000	3,000
Wide bandgap semiconductor substrate materials			8,000	5,600
Superconducting DC homopolar motor for electric drive ships				1,200
Missile warning system				3,000
Wireless sensor system			2,000	1,400

R-1		Budget Request	House	Senate	Conference
18	**COMMON PICTURE ADVANCED TECHNOLOGY**	**60,589**	**71,389**	**67,989**	**73,989**
	Internet protocol version 6		1,000		1,000
	MIST affordable high resolution phased array radar		4,300		3,000
	Consolidated undersea situational awareness system (CUSAS)		2,000	3,400	2,900
	CIP advisor for global maritime awareness		1,000		1,000
	Maritime domain identification system		1,500		1,000
	Autonomous service aggregation for the expeditionary warfare testbed		1,000		1,000
	Shipboard automated reconstruction capability				1,500
	Improved shipboard combat information			4,000	2,000
19	**WARFIGHTER SUSTAINMENT ADVANCED TECHNOLOGY**	**68,540**	**95,495**	**87,040**	**98,295**
	Manpower and personnel development		-3,970		-3,970
	Littoral combat		-2,075		-2,075
	Protective apparel technology systems		3,000	3,000	3,000
	ONR virtual at sea training initiative		3,000		1,500
	Integrated asymmetric urban warfare		1,500		1,000
	Defense systems modernization and sustainment initiative		3,000	4,000	3,000
	Motion-coupled visual environment (MOCOVE)		1,000		1,000
	Autonomous sustainment cargo container delivery system		2,000		1,000
	Shipboard personal locator beacon		1,500		1,100
	Damage control onboard simulation		3,000		2,600
	Photonic machining of electronic materials		1,000		1,000
	SEAPRINT		6,000		4,200
	Intelligent work management		2,000		1,700
	CRESST skill set analysis		6,000		5,100
	Automated container and cargo handling system			4,000	2,000
	HEET			4,500	4,500
	Curve plate technology				1,000
	Wireless sensors for Navy aircraft			3,000	2,100
20	**RF SYSTEMS ADVANCED TECHNOLOGY**	**75,070**	**95,070**	**90,070**	**102,120**
	Horizon extension surveillance systems		2,000		1,400
	C band active array radar (CBAAR)		15,000		12,750
	Highly mobile tactical communications		3,000		2,600
	APY-6 real-time precision targeting radar			4,000	2,000
	Common affordable radar processor			8,000	6,800
	Joint electronic attack unmanned vehicles			3,000	1,500
21	**MARINE CORPS ADVANCED TECHNOLOGY DEMONSTRATION (ATD)**	**56,434**	**82,134**	**80,634**	**89,034**
	Telepresent rapid aiming platform (TRAP)		3,500		3,000
	C3RP		4,000		3,400
	Advanced deployable water purification technology		2,700		1,300
	Common Remotely Operated Weapon System (CROWS)		2,000		1,000
	ULTRA Program		2,000		0
	Craft Integrated Electronic Suite (CIES)		1,500		1,000
	Precision Approach and Landing System (PALS)		4,500		2,700
	Man-Portable Quadrupole Resonance Landmine Detection		3,000		2,600
	Armored patrol vehicle			3,000	1,500
	Expeditionary unit water purification II			11,000	8,700
	Laser integrated target engagement system			5,200	3,600

R-1		Budget Request	House	Senate	Conference
	Maritime air-ground task force situational awareness			1,000	1,000
	Mobile fire support system -- Dragonfire II		2,500	4,000	2,800
24	**NAVY TECHNICAL INFORMATION PRESENTATION SYSTEM**	**187,943**	**189,443**	**175,943**	**183,043**
	Joint experimentation visualization		1,500		2,000
	Program growth			-20,000	-12,500
	Modeling and simulation for urban operations			8,000	5,600
25	**WARFIGHTER PROTECTION ADVANCED TECHNOLOGY**	**16,068**	**60,768**	**29,568**	**59,568**
	Authentic tactical flight simulator operational validation		2,700		1,350
	Nursing telehealth research program		3,000		2,600
	C. W. Bill Young Marrow Donor Recruitment and Research Program		35,000		30,000
	Antioxidant micronutrient program for warfighter exposure		2,000		1,000
	Navy special warfare performance and injury prevention program		2,000		1,000
	High speed blood and fluid transfusion equipment			3,000	2,100
	Advanced warfighter protection -- composite tissue transplant				1,700
	Integrated warfighter biodefense program			7,500	3,750
	Tissue and limb transplantation medical technology development (Note: Conference funding is included under RDT&E, Army, line 31)			3,000	0
26	**UNDERSEA WARFARE ADVANCED TECHNOLOGY**	**27,603**	**30,103**	**30,603**	**35,553**
	Validation and implementation of sensor sweet spot selection algorithms		2,500		1,250
	Hawaii undersea vehicle test and training environment			2,000	1,700
	MPP/APB torpedo improvement program (Note: Only to continue MPP/ABP phase 3 SBIR technology insertion into naval torpedoes.)				4,000
	SAUVIM			1,000	1,000
29	**MINE AND EXPEDITIONARY WARFARE ADVANCED TECHNOLOGY**	**31,897**	**35,097**	**33,897**	**35,597**
	Upward looking sensor		1,200		1,000
	Modeling the warrior as a cognitive system		2,000		1,700
	Visual integrated bridge system			2,000	1,000
30	**AIR/OCEAN TACTICAL APPLICATIONS**	**27,094**	**29,594**	**30,594**	**31,594**
	3D-CMAPS		2,500	2,500	2,500
	Gateway system				1,000
	Littoral acoustic demonstration center			1,000	1,000
31	**AVIATION SURVIVABILITY**	**6,255**	**41,455**	**27,605**	**44,355**
	Ceramic air-deployed sensor		2,500		1,750
	Kingfisher II hybrid UAV/USV		5,000		3,500
	Smart visor		1,500		1,000
	Intelligent autonomy technology transition program		5,000		2,500
	Equipment life extension project		2,700		1,350
	Rotorcraft external airbag protection		1,000	4,000	2,800
	Agile laser eye protection		2,500	2,000	2,000
	Command chair active isolation		4,000		3,400
	Modular advanced vision system		5,000		2,300
	Advanced Maritime Technology Center		3,000		2,100

R-1		Budget Request	House	Senate	Conference
	Operational experimentation environment at Patuxent River, MD		3,000		2,100
	Aviation fire suppression production alignment			1,000	1,000
	Integrated manifold and tube ceramic oxygen generator			6,000	4,200
	Intelligent control systems for SWARM UAVs			4,350	3,700
	Integrated mission helmet (Note: Funding transferred from RDT&E, Air Force)				1,600
	Silver Fox UAV			4,000	2,800
33	**ASW SYSTEMS DEVELOPMENT**	**7,050**	**12,050**	**16,050**	**19,050**
	Tactical e-field buoy development program		5,000		3,500
	Electro-optic passive ASW (EPAS)			8,000	7,500
	Lithium battery sonobuoy packs			1,000	1,000
35	**ADVANCED COMBAT SYSTEMS TECHNOLOGY**	**30,166**	**36,166**	**30,166**	**34,066**
	Multiview data standards for the integrated digital environment		3,000		1,500
	High pressure pure air generator/second source		2,000		1,400
	Advanced combat system technology		1,000		1,000
36	**SURFACE AND SHALLOW WATER MINE COUNTERMEASURES**	**122,122**	**122,122**	**121,122**	**120,522**
	EMNS contract award delay			-3,000	-3,000
	Surface Navy integrated undersea tactical technology			2,000	1,400
37	**SURFACE SHIP TORPEDO DEFENSE**	**47,039**	**53,039**	**53,039**	**53,839**
	Low cost component development for anti-torpedo torpedo (ATT)		4,000	3,000	3,000
	SLQ-25A torpedo countermeasure improvement program		2,000		1,700
	Integrated multi-platform sonar system			3,000	2,100
38	**CARRIER SYSTEMS DEVELOPMENT**	**167,823**	**169,823**	**167,823**	**170,823**
	Ship security perimeter monitoring using millimeter wave radar		1,000		1,000
	Quips integration with CV tactical support center				1,000
	Sentinel Net		1,000		1,000
39	**SHIPBOARD SYSTEM COMPONENT DEVELOPMENT**	**22,150**	**43,550**	**44,900**	**51,250**
	Flash detection system for Navy 501 shipboard engines		3,000		1,500
	Electromagnetic launcher (rail gun)		4,200		2,950
	Smart machinery spaces system		4,200		3,950
	HTS AC synchronous propulsion motor		2,000	8,000	4,000
	Integrated power distribution system for next generation all-electric ship		6,000		3,000
	Alternative composition, low cost pipe for shipboard applications		2,000		1,700
	Amorphous metal permanent magnet generator			1,500	1,000
	Carbon foam program			2,250	2,000
	MTTC/IPI and National Surface Treatment Center			10,000	7,000
	Intelligent Systems Consortium NAVSEA-Carderock/SHSU				1,000
	Water mist fire protection systems			1,000	1,000
44	**SURFACE ASW**	**17,343**	**23,343**	**21,843**	**23,693**
	Medium offboard distributed acoustic sensors		2,000		1,000
	Automated readiness measurement system		1,000		500
	Continuous active sonar		3,000		2,600
	Improved surface vessel torpedo launcher			4,500	2,250

R-1		Budget Request	House	Senate	Conference
45	**SSGN CONVERSION**	24,020	28,520	24,020	24,020
	SSGN UUV integration program (Note: Conference funding is included under item 46, "SSGN/Unmanned undersea vehicle integration program")		4,500		0
46	**ADVANCED SUBMARINE SYSTEM DEVELOPMENT**	162,953	182,953	162,953	162,053
	Experimental research transformational submersible studies		3,000		2,600
	Inner and outer decoupler materials for hull arrays		5,000		3,000
	SSN navigation enhancement module		1,500		1,000
	Submarine tactical monitor (SubTaM)		4,500		2,500
	MPP/APB torpedo improvement program (Note: Conference funding is included under line 26, "Undersea warfare advanced technology")		6,000		0
	Program reduction			-20,000	-20,000
	SSGN/Unmanned undersea vehicle integration program			20,000	10,000
48	**SHIP CONCEPT ADVANCED DESIGN**	11,899	15,899	20,899	21,399
	HM&E data integration		2,000		0
	Video analysis research and development for shipboard assessments		2,000		1,700
	Autonomous maritime navigation program			8,000	6,800
	Security video distribution system for shipboard force protection			1,000	1,000
51	**ADVANCED SURFACE MACHINERY SYSTEMS**	0	6,000	0	5,100
	LCS advanced lightweight metals technology for aluminum intensive marine structures		2,000		1,700
	Advanced combatant materials research		4,000		3,400
53	**LITTORAL COMBAT SHIP (LCS)**	576,454	581,954	581,454	582,654
	Remote operation of active sonar technology (ROAST)		3,000	5,000	3,000
	ASW multistatic sensor mission planning upgrade; USN LCS mission package projects				1,000
	Unmanned surface vehicle concepts and technology solutions		2,500		2,200
54	**COMBAT SYSTEM INTEGRATION**	76,975	82,975	91,975	93,475
	Trouble report information data warehouse		1,000	2,000	1,000
	Optical line replaceable units		1,000		1,000
	Lasers for Navy applications		4,000		3,400
	Transportable laser induced plasma channel			13,000	11,100
58	**MARINE CORPS GROUND COMBAT/SUPPORT SYSTEM**	500	3,000	15,500	13,300
	Urban terrain target designator		1,000		1,000
	Modeling and simulation of warhead interactions		1,500		1,300
	Anti-sniper infrared targeting system			6,000	4,200
	Marine expeditionary rifle squad			2,000	1,400
	Neutralizing facility threats with novel technology			1,500	1,100
	Urban operating environment laboratory			5,500	3,800
59	**JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOPMENT**	34,418	23,218	34,418	34,418
	Transfer of classified program to Title IX		-11,200		0

R-1		Budget Request	House	Senate	Conference
60	**COOPERATIVE ENGAGEMENT**	**88,135**	**103,135**	**88,135**	**100,935**
	Cooperative engagement capability tech refresh, integration into NIFC-CA		15,000		12,800
62	**ENVIRONMENTAL PROTECTION**	**21,977**	**24,977**	**27,377**	**27,877**
	Puget Sound anoxia research		2,500		1,800
	Invasive species eradication program		500		500
	Coatings and polymeric films development for naval applications			2,400	2,100
	Integrated marine mammal monitoring and protection system			3,000	1,500
63	**NAVY ENERGY PROGRAM**	**1,595**	**3,595**	**13,095**	**8,545**
	One megawatt molten carbonate fuel cell demonstrator -- Pearl Harbor Naval Station			7,500	3,750
	One megawatt molten carbonate fuel cell demonstrator -- Camp Pendleton		2,000	4,000	3,200
64	**FACILITIES IMPROVEMENT**	**4,158**	**6,158**	**5,658**	**6,458**
	Regenerative fuel cell back up power systems for land installations		2,000		1,200
	Playas instrumentation network design and development			1,500	1,100
66	**NAVY LOGISTIC PRODUCTIVITY**	**8,909**	**24,009**	**10,909**	**20,709**
	Navy Logistics Readiness Research Center		1,000		1,000
	SEALEGS system on chip-based radar warning receiver processor		3,600		1,800
	Logistics impact of lead free circuits and components		1,000		1,000
	Joint engineering data management information and control system (JEDMICS)		4,500		2,700
	Collaborative logistics productivity		5,000		4,300
	AIT-enabled aviation pack-up kit			2,000	1,000
68	**LINK PLUMERIA**	**81,723**	**79,823**	**81,723**	**81,723**
	Transfer of classified program to Title IX		-1,900		0
74	**LAND ATTACK TECHNOLOGY**	**14,195**	**72,695**	**38,195**	**74,195**
	Airborne tactical server (Note: Conference funding is included in line 179, "Tactical data links")		2,500		0
	Millennium gun system		2,000		4,000
	Advanced medium gun demonstrator		4,000		2,400
	Affordable weapon		50,000		35,000
	Ballistic trajectory extended range munition program			12,000	10,200
	MK 57mm gun/ammo transition and start-up			12,000	8,400
75	**NONLETHAL WEAPONS - DEM/VAL**	**43,981**	**48,981**	**43,981**	**47,581**
	Boat trap system for port security/watercraft interdiction		2,000		1,000
	National Center for Non-Lethal Technology Research, Development, Testing, and Training		3,000		2,600
79	**COUNTER-DRUG RDT&E PROJECTS**	**0**	**1,000**	**11,000**	**8,150**
	Force protection and installation management system		1,000		1,000
	76mm super rapid medium caliber gun for littoral combat ships			500	1,000
	Athena beta site			7,500	3,750
	Research of frequency selective surfaces and thermal signatures -- INL		2,400	3,000	2,400

R-1		Budget Request	House	Senate	Conference
81	**HARD AND DEEPLY BURIED TARGET DEFEAT SYSTEM (HDBTDS) PROGRAM**	**0**	**0**	**12,000**	**7,200**
	Submarine launched intermediate range ballistic missile			12,000	7,200
82	**SPACE AND ELECTRONIC WARFARE (SEW) ARCHITECTURE/ENGINEERING SUPPORT**	**44,469**	**35,950**	**44,469**	**35,950**
	Maritime battle center		-8,519		-8,519
86	**STANDARDS DEVELOPMENT**	**84,308**	**81,308**	**86,308**	**85,508**
	Reduction in program growth due to budget constraints		-7,000		-7,000
	DoD metrology research and development		4,000		2,000
	SCRAMscreen display technology (Note: Only for design, development, testing, and qualification of the E-2C replacement display)				4,500
	Advanced virtual test system project			2,000	1,700
87	**MULTI-MISSION HELICOPTER UPGRADE DEVELOPMENT**	**48,144**	**50,144**	**48,144**	**49,844**
	Multi-mission helicopter legacy subsystems improvement program		2,000		1,700
89	**P-3 MODERNIZATION PROGRAM**	**7,401**	**11,101**	**8,401**	**10,751**
	ALR-95 ESM system SEI networking and performance upgrade		2,700		1,350
	P-3C high resolution digital recorder		1,000		1,000
	Personal digital assistant maintenance application project			1,000	1,000
91	**TACTICAL COMMAND SYSTEM**	**51,177**	**64,177**	**56,177**	**64,777**
	Tactical 3D common operational picture		4,000		3,400
	UYQ-70-based IT-21 C4ISR upgrades		2,000		1,700
	Advanced technology sensor payloads		4,000		3,400
	ACETEF upgraded RDT&E capability		3,000		2,100
	Logistics common operating picture			4,000	2,000
	Naval special warfare UUV sensors and C2 - STTR			1,000	1,000
92	**ADVANCED HAWKEYE**	**629,682**	**629,682**	**579,682**	**623,682**
	Program execution			-50,000	-6,000
94	**ACOUSTIC SEARCH SENSORS**	**29,522**	**38,522**	**29,522**	**34,022**
	Automatic radar periscope detection and discrimination (ARPDD) (Note: Only for insertion into APS-137 radar system)		5,000		2,500
	Acoustic environmental sensor system		4,000		2,000
96	**AIR CREW SYSTEMS DEVELOPMENT**	**10,902**	**14,102**	**10,902**	**13,652**
	Night vision tube technology development		3,200		2,750
97	**EA-18**	**409,097**	**400,000**	**409,097**	**400,000**
	Program support costs		-9,097		-9,097
98	**ELECTRONIC WARFARE DEVELOPMENT**	**42,667**	**42,667**	**45,167**	**43,917**
	Infrared signature reduction to mitigate terrorist missile threats			2,500	1,250
100	**JOINT TACTICAL RADIO SYSTEM - NAVY (JTRS-NAVY)**	**250,766**	**204,000**	**220,766**	**172,366**
	Program delay and restructure - A/M/F JTRS		-50,766		-80,800

R-1		Budget Request	House	Senate	Conference
	Digital modular radio		4,000		2,400
	Airborne/Maritime/Fixed JTRS			-30,000	0
101	**SC-21 TOTAL SHIP SYSTEM ENGINEERING**	**1,114,791**	**757,000**	**1,127,791**	**1,156,891**
	DD(X)-related reduction		-414,791		0
	CG(X) system concept and design		50,000		30,000
	Floating area network (Note: Senate included funding in line 171, "Floating area network")		2,000		2,000
	Wireless maritime inspection system		3,000		1,500
	Surface vessel electric actuator technology development		1,000		1,000
	Naval smartships that anticipate and manage		1,000	2,000	1,000
	Permanent magnet motor			11,000	6,600
102	**SURFACE COMBATANT COMBAT SYSTEM ENGINEERING**	**216,313**	**233,313**	**220,313**	**232,213**
	Smart integrated data environment		1,000		1,000
	Smart link planar scanner antenna modernization		2,000		1,000
	Integrated display and enhanced architecture/Aegis common display architecture		6,000		5,100
	Integrated display and enhanced architecture/CV-TSC common display architecture		4,000		3,400
	AN/SPY-1 radar system readiness improvement		4,000		3,400
	Silicon carbide MMIC program			4,000	2,000
106	**STANDARD MISSILE IMPROVEMENTS**	**145,634**	**151,134**	**149,634**	**150,734**
	Standard missile insensitive munitions improvements		4,500		1,300
	Alternative thermal battery production capability				1,000
	MK 41 vertical launching systems open architecture		1,000	4,000	2,800
108	**SSN-688 AND TRIDENT MODERNIZATION**	**95,499**	**105,499**	**100,499**	**107,499**
	Affordable towed array construction		3,000		1,500
	Common submarine radio room		3,000		1,000
	Multi-use littoral TB-23 towed array		1,000		1,000
	Littoral tactical array system		1,000		1,000
	SONAR advanced optical co-processor (SAOC)		2,000		1,200
	Submarine launched expendable communications and sensor buoy				1,800
	Submarine-enabling airborne data exchange and enhancement (SEADeep)				2,000
	Improved submarine towed array handler and reliability			5,000	2,500
109	**AIR CONTROL**	**10,151**	**10,151**	**13,151**	**11,651**
	Transportable transponder landing system			3,000	1,500
111	**SHIPBOARD AVIATION SYSTEMS**	**33,029**	**33,029**	**42,529**	**38,279**
	Aircraft carrier aviation modernization			6,500	3,250
	Machine vision confirmation of launch bar engagement system			1,000	1,000
	Synthetic material arresting gear cable			2,000	1,000
112	**COMBAT INFORMATION CENTER CONVERSION**	**6,908**	**7,908**	**6,908**	**7,908**
	Command and control web-based architecture		1,000		1,000
113	**NEW DESIGN SSN**	**155,807**	**169,307**	**193,807**	**177,907**
	Project 1947 - reduction in test and evaluation costs		-11,400		-11,400
	Sub command and control systs lower power advanced technology insertion		3,000		1,500
	Surface ship open architecture technology insertion		5,400		1,700

R-1		Budget Request	House	Senate	Conference
	Multimission module		4,500	30,000	15,000
	Large aperture bow array for Virginia-class submarines		3,000		1,800
	ShipMATES integrated shipboard learning environment		4,000		2,400
	Virginia-class submarine technology insertion and cost reduction SBIR N96-278		3,000		4,600
	Submarine common electronics replacement		2,000		1,700
	Network centric capability technology insertion			4,000	2,800
	Submarine COTS web enabled services toolkit			4,000	2,000
115	**SUBMARINE TACTICAL WARFARE SYSTEM**	**40,690**	**42,690**	**47,690**	**46,640**
	Bandwidth management for distance support		2,000		1,700
	Automated submarine command and control center			3,500	1,750
	Submarine open architecture technology insertion			3,500	2,500
116	**SHIP CONTRACT DESIGN/LIVE FIRE T&E**	**55,672**	**58,672**	**55,672**	**58,272**
	Integrated modernization environment		3,000		2,600
117	**NAVY TACTICAL COMPUTER RESOURCES**	**2,220**	**7,220**	**2,220**	**6,520**
	Q-70 (V) system technology improvements		5,000		4,300
123	**PERSONNEL, TRAINING, SIMULATION, AND HUMAN FACTORS**	**3,097**	**6,097**	**3,097**	**5,197**
	Human system design support tool		3,000		2,100
124	**BATTLE GROUP PASSIVE HORIZON EXTENSION SYSTEM**	**18,456**	**34,456**	**22,456**	**33,056**
	Remote sensing and data management/container security		3,000		2,100
	Navy intelligent agent security module		3,000		1,500
	Smart signal parser and actionable intelligence extractor		2,000		1,400
	Tapered slot antenna		2,000		1,700
	Advanced tactical communications intercept capability		4,000		3,400
	TREX/MILDEC tactical target generator system		2,000		1,700
	COBLU – network centric warfare enhancement			4,000	2,800
126	**SHIP SELF DEFENSE (DETECT/CONTROL)**	**45,931**	**56,931**	**49,931**	**57,331**
	Integrated display and enhanced architecture/ship self defense system		6,000		5,100
	Shipboard swimmer detection system		5,000		4,300
	Autonomous unmanned surface vessel			4,000	2,000
127	**SHIP SELF DEFENSE (ENGAGE: HARD KILL)**	**46,026**	**52,026**	**48,026**	**50,526**
	Phalanx CIWS self-destructing ammunition		3,000		2,500
	Phalanx CIWS future concepts		3,000	2,000	2,000
128	**SHIP SELF DEFENSE (ENGAGE: SOFT KILL/EW)**	**24,012**	**40,212**	**33,012**	**33,912**
	Advanced radar absorbing tiles for surface ships		3,000		1,500
	Surface ship electronic warfare improvement program (Note: Conference funding is included in item below)		7,200		0
	Surface ship EW improvement program (Note: Only for continuation of SBIR phase III follow-on)		6,000		3,900
	NULKA decoy system			4,000	2,000
	Sea raptor			5,000	2,500
130	**MEDICAL DEVELOPMENT**	**7,202**	**42,702**	**26,702**	**47,402**
	Navy medical interactive data system (NMIDS)		3,500		4,700
	Discovery, early detection, evaluation, treatment, and prevention in cancer		6,000		5,100

R-1		Budget Request	House	Senate	Conference
	Diabetes research, somatic cell processing program		2,000		1,700
	Military dental research		4,000		3,400
	Biomedical research imaging core - City of Hope National Medical Center		4,000		2,000
	Minimally invasive surgical technology institute -- CSMC		3,500		2,100
	Implantable middle ear hearing system		3,000		1,500
	HUVACTC proton beam therapy research		2,000		1,000
	US Navy cancer vaccine program		2,000		1,000
	Infusible hemostatic therapeutic trials		1,500	3,000	1,500
	Bioadhesion research to combat biological warfare			4,000	2,800
	Hemoglobin-based oxygen carrier research		4,000	4,000	4,000
	Defense graduate psychology education program (Note: Only to continue program between WRAMC and USUHS. Transfer from RDT&E, Army, line 29)				3,400
	Multivalent dengue vaccine program			3,000	1,500
	Non-invasive vectored vaccine research			3,500	2,500
	On demand custom body implants/prosthesis for injured personnel			1,000	1,000
	Rescue streamer distress signal			1,000	1,000
131	**NAVIGATION/ID SYSTEM**	**52,717**	**52,717**	**47,717**	**47,717**
	Mode 5 prototype hardware and crypto module delay			-5,000	-5,000
132	**DISTRIBUTED SURVEILLANCE SYSTEM**	**54,256**	**58,256**	**54,256**	**56,656**
	Project Centurion		2,000		1,000
	SureTrak		2,000		1,400
133	**JOINT STRIKE FIGHTER (JSF) - EMD**	**2,393,013**	**2,399,213**	**2,269,013**	**2,305,113**
	SDD program (Note: Only for thrust growth studies)		3,500		1,750
	Innovative technologies for JSF core processor		2,700		1,350
	Program adjustment			-124,000	-92,000
	JSF engine weight reduction				1,000
135	**INFORMATION TECHNOLOGY DEVELOPMENT**	**19,150**	**22,750**	**19,150**	**25,650**
	Automated manifest system -- tactical		3,600		1,800
	Intelligent systems and communications (Note: To implement UCR aware building concept; transfer from RDT&E, Defense-Wide, line 210)				2,500
	Deployable disbursing system				2,200
136	**INFORMATION TECHNOLOGY DEVELOPMENT**	**60,859**	**92,359**	**92,859**	**105,659**
	Controlled adaptive collaborative environment		9,000		0
	SPAWAR Systems Center Information Technology Center (ITC)		4,000	18,000	10,800
	Virtual perimeter monitoring system		3,000		1,800
	Fiber optic components for military applications		2,500		2,200
	Fiber optic interconnect technology		3,000		2,600
	Navair deckplate		1,000		1,000
	Distance learning center (civilian workforce)		3,000		2,600
	Distance learning IT center		6,000		0
	Condition-based maintenance enabling technologies program			3,000	2,600
	Digitization, integration and analyst access of NCIS investigative files			6,000	5,100
	Integration of logistics information for knowledge projection and readiness assessment			2,000	1,700
	Internet chat relay upgrade			2,000	1,700

R-1		Budget Request	House	Senate	Conference
	Converged enterprise resource program (Note: Funding is transferred from O&M, Navy)				10,000
	Automatic scheduling tool for joint air logistics information systems				1,700
	Next generation networking electronic medical record project			1,000	1,000
138	**MULTINATIONAL INFORMATION SHARING (MNIS)**	**33,557**	**22,000**	**33,557**	**22,000**
	Reduction in new start due to budget constraints		-11,557		-11,557
143	**TARGET SYSTEMS DEVELOPMENT**	**52,963**	**41,555**	**52,963**	**41,555**
	Reduce procurement of QF-4 target from 6 to 3 units		-12,408		-12,408
	Air Coyote supersonic sea skimming target development		1,000		1,000
144	**MAJOR T&E INVESTMENT**	**39,682**	**39,682**	**41,682**	**41,082**
	Integrating Navy RDT&E and training resources to accelerate transformation of the fleet			2,000	1,400
145	**STUDIES AND ANALYSIS SUPPORT - NAVY**	**9,629**	**10,208**	**9,629**	**9,008**
	Project 2092 – Hold naval aviation studies to FY05 level		-3,421		-3,421
	Warfare analysis environment		4,000		2,800
149	**TECHNICAL INFORMATION SERVICES**	**714**	**9,714**	**26,714**	**28,914**
	Illinois Technology Transition Center		1,000		1,000
	Commercialization of advanced technology		8,000		5,000
	HTDV			4,000	4,000
	Integrated manufacturing enterprise project			5,000	3,000
	JITC			9,000	7,700
	Pacific-based joint info tech center			8,000	7,500
150	**MANAGEMENT, TECHNICAL & INTERNATIONAL SUPPORT**	**44,847**	**42,604**	**44,847**	**43,347**
	Reduce growth in CHENG support		-2,243		-1,500
159	**MARINE CORPS PROGRAM WIDE SUPPORT**	**28,224**	**38,224**	**30,224**	**36,624**
	USMC operational logistics modernization		2,500		2,200
	Chemical-biological multi-sensor analyzer/detector (MSAD)		1,500		1,300
	Marine Corps Corrosion Center of Excellence		2,000		1,400
	CBIRF NCR integration		1,000		1,000
	Corrosion service teams		3,000		1,500
	Detection and recovery of UXO, Brown Island, Camp LeJeune			2,000	1,000
160	**SERVICE SUPPORT TO JFCOM, JNTC**	**10,000**	**18,500**	**10,000**	**18,300**
	Training transformation for training and test and evaluation at Eglin Range		8,500		7,300
	Masking shunt				1,000
164	**STRATEGIC SUB & WEAPONS SYSTEM SUPPORT**	**90,022**	**95,022**	**95,022**	**93,522**
	Submarine launched IRBM (Note: Conference funding is included in line 81, "Submarine launched intermediate range ballistic missile")		5,000		0
	Thin plate pure lead technology in submarine batteries			5,000	3,500
166	**SUBMARINE ACOUSTIC WARFARE DEVELOPMENT**	**8,527**	**9,527**	**8,527**	**9,527**
	Mobile acoustic countermeasure		1,000		1,000

R-1		Budget Request	House	Senate	Conference
167	**NAVY STRATEGIC COMMUNICATIONS**	**31,443**	**38,143**	**31,443**	**35,543**
	E-6B aircraft block 1 mod program: APU/ECS upgrade		6,700		4,100
168	**RAPID TECHNOLOGY TRANSITION (RTT)**	**24,653**	**28,653**	**24,653**	**25,653**
	Maritime small target and threat detector - enhanced detection processor (Note: Conference funding is included under Other Procurement, Navy, line 30)		3,000		0
	120mm high explosive plastic ammunition program		1,000		1,000
169	**F/A-18 SQUADRONS**	**88,720**	**88,720**	**90,720**	**87,420**
	Program execution			-10,000	-10,000
	F/A-18E/F net centric operations upgrades			10,000	7,000
	Military rapid response command information system			2,000	1,700
170	**E-2 SQUADRONS**	**2,256**	**15,756**	**6,256**	**17,056**
	Magneto rheological side lateral engine mount for E-2C		1,000		1,000
	E-2C open architecture computing framework		3,000		2,100
	Airborne advanced network		3,000		2,600
	Non-cooperative combat identification capability		1,500		1,300
	Pacific Missile Range Facility/Pearl Harbor integrated network		4,000		3,400
	Global information grid (GIG) middleware portal		1,000		1,000
	Makaha Ridge FORCEnet lab			4,000	3,400
171	**FLEET TELECOMMUNICATIONS (TACTICAL)**	**32,694**	**32,694**	**34,694**	**32,694**
	Floating area network (Note: Conference includes funding under line 101, "SC-21 total ship system engineering")			2,000	0
172	**TOMAHAWK AND TOMAHAWK MISSION PLANNING CENTER (TMPC)**	**20,342**	**28,342**	**26,342**	**27,342**
	Precision terrain-aided navigation (PTAN)		8,000	6,000	7,000
173	**INTEGRATED SURVEILLANCE SYSTEM**	**23,453**	**25,453**	**29,453**	**31,003**
	Ultra-thin disposable fiberoptic undersea surveillance arrays		2,000		1,700
	IUSS common processor automation, workload reduction, and adaptive bandwidth management				2,250
	Fiber optic conformal acoustic velocity system			6,000	3,600
175	**CONSOLIDATED TRAINING SYSTEMS DEVELOPMENT**	**42,248**	**43,248**	**42,248**	**44,248**
	Total ship training system (TSTS)				1,000
	SH-60B sea target laser aim scoring system (STLASS)		1,000		1,000
178	**HARM IMPROVEMENT**	**90,832**	**97,332**	**80,832**	**85,932**
	Joint Common Missile development		5,000		4,000
	Advanced anti-radiation guided missile derivative program		1,500		1,100
	APKWS program curtailment			-10,000	-10,000
179	**TACTICAL DATA LINKS**	**86,364**	**86,364**	**86,364**	**88,164**
	Airborne tactical server (Note: House funding was included under line 74, "Land attack technology")				1,800
180	**SURFACE ASW COMBAT SYSTEM INTEGRATION**	**4,519**	**18,019**	**4,519**	**12,819**
	Common surface and air undersea warfare		3,000		2,100
	Surface ship sonar integrated data fusion initiative		2,500		2,200
	Surface ship ASW R&D improvements (SQQ-89)		8,000		4,000

R-1		Budget Request	House	Senate	Conference
182	**AVIATION IMPROVEMENTS**	**81,546**	**94,546**	**83,546**	**96,151**
	Navair depot maintenance operations unique ID		6,000		4,200
	Automated wire analysis - Navy		6,000		5,100
	Advanced very lightweight avionics system for airborne platforms		1,000	1,000	500
	DMS aviation improvements				750
	Real-time weight and balance system				2,000
	F404/414 borescope equipment service life extension program				1,055
	Smart multi-functional corrosion inhibiting coatings			1,000	1,000
185	**MARINE CORPS COMMUNICATIONS SYSTEMS**	**237,081**	**264,381**	**243,781**	**259,981**
	JTRS program delay and restructure		-4,100	-3,300	-4,100
	Remote tactical collection and transmission system		2,000		1,700
	Reconnaissance, targeting, and surveillance vehicle (RST-V)		8,000		6,800
	Metadata		2,700	1,500	1,500
	Critical Infrastructure Protection Transportation Technology Validation Center		1,000		0
	USMC electronic battlefield fusion		3,000		1,500
	Critical Infrastructure Protection Center		2,700	3,500	2,700
	Ground/air task oriented radar (G/ATOR) engineering development model		3,000		1,800
	TPS-59/HELRASR support for US ballistic missile defense system		5,000		3,000
	Marine Corps composite tracking network engineering development		3,000		2,600
	Radio battalions information operations training		1,000		1,000
	Improved ground based transportable radar			4,000	3,400
	Marine Corps DCGS and net centric center			1,000	1,000
186	**MARINE CORPS GROUND COMBAT/SUPPORTING ARMS SYSTEMS**	**48,409**	**71,909**	**68,009**	**73,709**
	USMC LAV integrated digital and collaborative environment service network		3,000		2,600
	Ultrasonic consolidation of embedded sensors		3,000	4,000	3,000
	M200 long range rifle system		1,000		1,000
	Expeditionary fire support system		13,000	5,500	11,000
	Solid state laminated metal-ceramic armor		3,500		2,100
	Antioxidant micronutrients program			600	600
	Multi-role intermediate support craft			9,500	5,000
187	**MARINE CORPS COMBAT SERVICES SUPPORT**	**10,476**	**15,476**	**15,476**	**16,476**
	Battlefield management system (BMS)		5,000		3,500
	Autonomic logistics			5,000	2,500
193	**SATELLITE COMMUNICATIONS (SPACE)**	**541,980**	**450,980**	**541,980**	**547,980**
	MUOS expected FY05 fund carryover		-100,000		0
	AEHF Navy multiband terminal		3,000		2,000
	Joint integrated systems for advanced digital networking (JIST NET)		5,000		3,500
	Covert communications and information transfer project		1,000		500
194	**INFORMATION SYSTEMS SECURITY PROGRAM**	**28,660**	**20,700**	**28,660**	**22,000**
	Reduction in base program		-7,960		-7,960
	Navy ISSP system (modifications/upgrade)--Content-based security toolkit (SECUREkit)				1,300

R-1		Budget Request	House	Senate	Conference
198	**NAVY METEOROLOGICAL AND OCEAN SENSORS-SPACE (METOC)**	9,122	11,122	9,122	10,122
	Reconfigurable payload processor for staring sensors		2,000		1,000
199	**JOINT C4ISR BATTLE CENTER (JBC)**	55,326	49,326	55,326	52,326
	Joint interoperability and integration		-6,000		-3,000
201	**TACTICAL UNMANNED AERIAL VEHICLES**	99,349	106,799	115,162	118,862
	Joint operational test bed system		4,950		3,000
	Center for Coastline Security Technology		2,500		2,200
	Marine Corps VUAV program cancellation			-9,187	-5,187
	Advanced airship flying laboratory, phase II			5,000	2,500
	Fire Scout RQ-8B			20,000	17,000
203	**AIRBORNE RECONNAISSANCE SYSTEMS**	27,918	27,918	36,068	31,818
	Deployable UAV system for targeting exploitation and reconnaissance (DUSTER)			6,500	3,900
	Oblique angle hyperspectral image fusion and analysis for change detection (Note: Conference funding is included under line 4, "Oblique angle hyperspectral image fusion")			1,650	0
204	**MANNED RECONNAISSANCE SYSTEMS**	21,322	22,322	21,322	62,322
	Miniature radar responsive tag		1,000		1,000
	Predator BQM-9 hunter killer remotely operated aircraft (Note: Funding transferred from "Aircraft Procurement, Air Force". Funding is only to procure no fewer than 4 Predator B aircraft with spares/support)				40,000
205	**DISTRIBUTED COMMON GROUND SYSTEMS**	12,354	16,354	12,354	12,354
	Distributed common ground station/Navy		4,000		0
206	**AERIAL COMMON SENSOR (ACS) (JMIP)**	133,642	134,642	13,642	37,000
	ELINT RF converter		1,000		1,000
	ACS program delay			-120,000	-97,642
207	**MODELING AND SIMULATION SUPPORT**	6,812	6,812	6,812	7,812
	U. S. Navy Space and Naval Warfare Command net centric operations program				1,000
208	**DEPOT MAINTENANCE (NON-IF)**	10,012	13,012	10,012	12,612
	Portable laser depainting system		3,000		2,600
209	**INDUSTRIAL PREPAREDNESS**	57,753	62,753	57,753	60,153
	Mobile manufacturing and repair cell using friction stir welding/processing (Note: Conference funding is included under line 17, "Mobile manufacturing and repair cell")		3,000		0
	Nano-imprint at manufacturing scale		2,000		1,400
	Naval application of laser peening technology				1,000
210	**MARITIME TECHNOLOGY (MARITECH)**	0	0	4,000	3,400
	Navy automatic identification technology (AIT) engineering support center			4,000	3,400
999	**CLASSIFIED PROGRAMS**	1,125,515	1,096,949	1,149,265	1,066,965
	Classified adjustment			23,750	-58,550

ADVANCED SUBMARINE SYSTEM DEVELOPMENT

The conference agreement includes a program reduction of $20,000,000 as proposed by the Senate. In fiscal year 2006 budget deliberations, the Department of Defense added $600,000,000 over the future years defense plan (FYDP) for development of an advanced undersea superiority system. The conferees reduce this project by $20,000,000, and direct the Office of the Secretary of Defense, in consultation with the Department of the Navy, to submit a comprehensive plan describing the scope, objectives, schedules, and project costs for this program over the FYDP. In addition, the report should discuss how these additional efforts fit in with ongoing Navy and DARPA programs in both advanced submarine development and antisubmarine warfare. This plan should be submitted to the congressional defense committees not later than March 1, 2006.

JOINT TACTICAL RADIO SYSTEM—NAVY

The conference agreement includes a reduction of $80,800,000 to the Joint Tactical Radio System (JTRS)—Navy program, instead of $50,766,000 as proposed by the House and $30,000,000 as proposed by the Senate. The conferees agree that none of this reduction should be applied against the Multifunctional Information Distribution System (MIDS) project.

UNIVERSITY NATIONAL OCEAN LABORATORY SYSTEM FLEET

The conferees agree that, if funds are requested in fiscal year 2007 for recapitalization of the University National Ocean Laboratory System (UNOLS) fleet of research vessels, such funds should be requested in the Shipbuilding and Conversion, Navy (SCN) appropriation.

MILITARY DENTAL RESEARCH

The conferees remain deeply concerned about the provision of quality medical care to our injured troops as they return from conflict in Iraq and Afghanistan. Head and neck trauma account for almost 50 percent of these injuries and are presenting the most difficult long-term morbidity challenges, particularly for our military's oral surgeons. Army and Naval researchers at the U.S. Army Dental Trauma and Research Detachment at the Great Lakes facility are developing innovative protective equipment and rapid-read diagnostic tests to help reduce the severity and number of casualties. The conferees are encouraged by this research and provide $3,400,000 to further the development of these and other protective measures.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
RESEARCH, DEVELOPMENT, TEST & EVAL, AF				
BASIC RESEARCH				
DEFENSE RESEARCH SCIENCES	223,894	232,294	242,744	244,944
UNIVERSITY RESEARCH INITIATIVES	105,029	108,029	111,029	110,329
HIGH ENERGY LASER RESEARCH INITIATIVES	11,894	11,894	12,594	12,594
TOTAL, BASIC RESEARCH	340,817	352,217	366,367	367,867
APPLIED RESEARCH				
MATERIALS	74,156	92,506	126,756	123,206
AEROSPACE VEHICLE TECHNOLOGIES	96,679	102,679	104,679	105,979
HUMAN EFFECTIVENESS APPLIED RESEARCH	79,442	94,842	106,842	109,742
AEROSPACE PROPULSION	107,523	162,123	119,523	157,923
AEROSPACE SENSORS	93,263	103,763	120,463	117,363
MULTI-DISCIPLINARY SPACE TECHNOLOGY	81,339	86,339	92,639	93,039
SPACE TECHNOLOGY	84,540	101,740	106,640	105,940
CONVENTIONAL MUNITIONS	58,058	61,058	62,058	62,958
DIRECTED ENERGY TECHNOLOGY	37,709	51,959	38,709	44,809
COMMAND CONTROL AND COMMUNICATIONS	93,316	98,316	95,216	98,116
DUAL USE SCIENCE AND TECHNOLOGY PROGRAM	---	1,500	---	1,000
HIGH ENERGY LASER RESEARCH	45,678	48,178	45,678	47,378
NATIONAL DIABETES MODEL PROGRAM	---	22,000	---	18,700
TOTAL, APPLIED RESEARCH	851,703	1,027,003	1,019,203	1,086,153

	(In thousands of dollars)			
	Budget	House	Senate	Conference
ADVANCED TECHNOLOGY DEVELOPMENT				
ADVANCED MATERIALS FOR WEAPON SYSTEMS	36,714	69,114	60,214	71,114
ADVANCED AEROSPACE SENSORS	35,157	35,157	35,157	40,357
AEROSPACE TECHNOLOGY DEV/DEMO	25,133	59,133	29,633	54,433
AEROSPACE PROPULSION AND POWER TECHNOLOGY	77,268	92,268	94,768	98,568
CREW SYSTEMS AND PERSONNEL PROTECTION TECHNOLOGY	29,775	38,275	29,775	35,475
ELECTRONIC COMBAT TECHNOLOGY	23,923	31,423	30,423	33,823
BALLISTIC MISSILE TECHNOLOGY	---	11,700	3,750	11,600
JOINT UNMANNED COMBAT AIR SYSTEMS (J-UCAS)	77,800	77,800	77,800	77,800
ADVANCED SPACECRAFT TECHNOLOGY	60,915	79,415	95,415	86,815
MAUI SPACE SURVEILLANCE SYSTEM (MSSS)	5,848	5,848	50,848	47,848
MULTI-DISCIPLINARY ADVANCED DEVELOPMENT SPACE TECH	53,437	55,437	56,437	56,537
CONVENTIONAL WEAPONS TECHNOLOGY	18,660	30,160	21,960	30,960
ADVANCED WEAPONS TECHNOLOGY	26,955	43,455	38,955	50,555
ENVIRONMENTAL ENGINEERING TECHNOLOGY	---	---	2,700	1,900
C3I ADVANCED DEVELOPMENT	30,125	41,325	39,225	41,725
SPECIAL PROGRAMS	280,135	280,135	280,135	280,135
HIGH ENERGY LASER ADVANCED TECHNOLOGY PROGRAM	5,801	5,801	5,801	5,801
TOTAL, ADVANCED TECHNOLOGY DEVELOPMENT	787,646	956,446	952,996	1,025,446
DEMONSTRATION & VALIDATION				
INTELLIGENCE ADVANCED DEVELOPMENT	4,580	4,580	4,580	4,830
PHYSICAL SECURITY EQUIPMENT	21,937	22,937	21,937	25,937
NAVSTAR GLOBAL POSITIONING SYSTEM III	87,364	87,364	87,364	87,364
ADVANCED EHF MILSATCOM (SPACE)	665,257	665,257	665,257	665,257
POLAR MILSATCOM (SPACE)	2,185	2,185	2,185	2,185
SPACE CONTROL TECHNOLOGY	14,205	14,205	16,205	15,905
COMBAT IDENTIFICATION TECHNOLOGY	51,893	51,893	51,893	51,893
NATO RESEARCH AND DEVELOPMENT	3,973	3,973	3,973	3,973
INTERNATIONAL SPACE COOPERATIVE R&D	574	574	574	574
TRANSFORMATIONAL SATCOM (TSAT)	835,769	436,769	585,769	436,769

	(In thousands of dollars)			
	Budget	House	Senate	Conference
INTEGRATED BROADCAST SERVICE (DEM/VAL)	15,344	15,344	15,344	15,344
INTERCONTINENTAL BALLISTIC MISSILE (DEM/VAL)	44,672	63,672	44,672	57,922
WIDEBAND GAPFILLER SYSTEM RDT&E (SPACE)	93,858	93,858	93,858	93,858
SPACE-BASED RADAR (DEM/VAL)	225,839	100,000	100,000	100,000
POLLUTION PREVENTION (DEM/VAL)	2,735	11,235	4,235	10,635
JOINT PRECISION APPROACH AND LANDING SYSTEMS (DEM/VAL)	11,211	11,211	11,211	11,211
NEXT GENERATION BOMBER	25,135	25,135	25,135	25,135
HARD AND DEEPLY BURIED TARGET DEFEAT SYSTEM (HDBTDS)	---	4,000	---	4,000
J-UCAS ADVANCED COMPONENT & PROTOTYPE	272,300	272,300	72,300	232,300
OPERATIONALLY RESPONSIVE LAUNCH	23,480	36,980	36,480	39,080
COMMON AERO VEHICLE (CAV)	27,394	27,394	27,394	27,394
ADVANCED COMMUNICATIONS SYSTEMS	969	969	2,269	1,969
NATIONAL POLAR-ORBITING OPERATIONAL ENVIRONMENTAL SATE	323,665	323,665	323,665	323,665
TOTAL, DEMONSTRATION & VALIDATION	2,754,339	2,275,500	2,196,300	2,237,200
ENGINEERING & MANUFACTURING DEVELOPMENT				
GLOBAL BROADCAST SERVICE (GBS)	18,283	20,283	18,283	19,683
JOINT HELMET MOUNTED CUEING SYSTEM (JHMCS)	2,912	2,912	2,912	2,912
NUCLEAR WEAPONS SUPPORT	15,154	15,154	12,712	14,154
B-1B	132,496	95,296	137,496	97,296
SPECIALIZED UNDERGRADUATE FLIGHT TRAINING	8,593	8,593	8,593	8,593
F-22 - EMD	76,203	76,203	76,203	76,203
B-2 ADVANCED TECHNOLOGY BOMBER	285,205	305,205	285,205	299,205
ELECTRONIC WARFARE DEVELOPMENT	82,587	93,087	91,087	92,487
JOINT TACTICAL RADIO	124,225	33,225	99,225	82,325
PHYSICAL SECURITY EQUIPMENT	11,153	11,153	11,153	11,153
SMALL DIAMETER BOMB (SDB) EMD	85,988	65,988	62,438	64,438
COUNTERSPACE SYSTEMS	24,651	24,651	31,651	29,551
AIRBORNE ELECTRONIC ATTACK	120,985	120,985	120,985	120,985
SPACE BASED INFRARED SYSTEM (SBIRS) HIGH EMD	756,630	756,630	656,630	706,630
MUNITIONS DISPENSER DEVELOPMENT	21,738	6,038	21,738	6,038

		(In thousands of dollars)		
	Budget	House	Senate	Conference
ARMAMENT/ORDNANCE DEVELOPMENT	7,786	7,786	7,786	7,786
SUBMUNITIONS	5,475	5,475	5,475	5,475
AGILE COMBAT SUPPORT	10,173	12,673	10,173	11,373
LIFE SUPPORT SYSTEMS	7,315	14,115	14,315	13,565
COMBAT TRAINING RANGES	6,122	10,122	6,122	8,922
INTEGRATED COMMAND & CONTROL APPLICATIONS (IC2A)	161	20,161	11,161	19,161
INTELLIGENCE EQUIPMENT	1,369	3,369	1,369	2,769
COMMON LOW OBSERVABLES VERIFICATION SYSTEM (CLOVERS)	8,692	8,692	8,692	8,692
JOINT STRIKE FIGHTER (JSF)	2,474,763	2,474,763	2,328,763	2,366,763
INTERCONTINENTAL BALLISTIC MISSILE - EMD	32,415	32,415	32,415	32,415
EVOLVED EXPENDABLE LAUNCH VEHICLE PROGRAM (SPACE)	26,093	26,093	26,093	26,093
RDT&E FOR AGING AIRCRAFT	24,384	31,384	50,384	41,684
TEST AND EVALUATION SUPPORT	50,000	50,000	50,000	50,000
LINK-16 SUPPORT AND SUSTAINMENT	157,677	159,677	157,677	163,677
FAMILY OF INTEROPERABLE OPERATIONAL PICTURES (FIOP)	29,296	29,296	29,296	29,296
E-10 SQUADRONS	397,011	397,011	397,011	397,011
FULL COMBAT MISSION TRAINING	26,423	26,423	26,423	26,423
COMBAT SURVIVOR EVADER LOCATOR	---	---	17,500	17,500
CV-22	39,532	41,532	39,532	40,532
TOTAL, ENGINEERING & MANUFACTURING DEVELOPMENT	5,071,490	4,986,390	4,856,498	4,900,790

	(In thousands of dollars) Budget	House	Senate	Conference
RDT&E MANAGEMENT SUPPORT				
THREAT SIMULATOR DEVELOPMENT	32,546	32,546	32,546	32,546
MAJOR T&E INVESTMENT	55,339	62,739	62,339	64,939
RAND PROJECT AIR FORCE	28,354	28,354	28,354	28,354
RANCH HAND II EPIDEMIOLOGY STUDY	4,188	4,188	4,188	4,188
INITIAL OPERATIONAL TEST & EVALUATION	34,615	34,615	34,615	34,615
TEST AND EVALUATION SUPPORT	642,665	644,665	642,665	643,665
ROCKET SYSTEMS LAUNCH PROGRAM (SPACE)	13,773	27,273	26,773	26,773
SPACE TEST PROGRAM (STP)	48,157	48,157	48,157	48,157
FACILITIES RESTORATION & MODERNIZATION - TEST & EVAL	60,561	62,561	60,561	61,961
FACILITIES SUSTAINMENT - TEST AND EVALUATION SUPPORT	26,238	31,238	26,238	28,738
GENERAL SKILL TRAINING	331	331	331	331
INTERNATIONAL ACTIVITIES	3,739	3,739	3,739	3,739
TOTAL, RDT&E MANAGEMENT SUPPORT	950,506	980,406	970,506	978,006
OPERATIONAL SYSTEMS DEVELOPMENT				
ANTI-TAMPER TECHNOLOGY EXECUTIVE AGENCY	7,827	7,827	7,827	7,827
B-52 SQUADRONS	22,784	30,784	22,784	27,134
ADVANCED CRUISE MISSILE	1,989	1,989	1,989	1,989
AIR-LAUNCHED CRUISE MISSILE (ALCM)	2,250	2,250	2,250	2,250
STRAT WAR PLANNING SYSTEM - USSTRATCOM	29,134	29,134	29,134	30,134
NIGHT FIST - USSTRATCOM	5,013	5,013	5,013	5,013
ADVANCED STRATEGIC PROGRAMS	9,875	9,875	9,875	9,875
REGION/SECTOR OPERATION CONTROL CENTER MODERNIZATION	18,237	18,237	18,237	18,237
WARFIGHTER RAPID ACQUISITION PROCESS (WRAP) RAPID TRAN	30,093	30,093	17,193	23,093
A-10 SQUADRONS	51,835	51,835	61,835	56,835
F-16 SQUADRONS	155,666	155,666	155,666	156,766
F-15E SQUADRONS	124,647	145,647	134,147	145,647
MANNED DESTRUCTIVE SUPPRESSION	9,394	9,394	9,394	9,394
F-22 SQUADRONS	403,517	403,517	378,517	378,517
F-117A SQUADRONS	13,600	13,600	13,600	13,600

	(In thousands of dollars)			
	Budget	House	Senate	Conference
TACTICAL AIM MISSILES	15,639	15,639	15,639	15,639
ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM)	33,262	33,262	33,262	33,262
COMBAT RESCUE AND RECOVERY	113,825	71,825	20,000	71,825
AF TENCAP	10,829	13,829	10,829	11,829
SPECIAL EVALUATION PROGRAM	276,219	276,219	276,219	277,419
COMPASS CALL	4,650	14,650	4,650	10,050
AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM	153,265	153,265	153,265	153,265
CSAF INNOVATION PROGRAM	1,737	1,737	2,737	1,737
JOINT AIR-TO-SURFACE STANDOFF MISSILE (JASSM)	66,997	66,997	66,997	66,997
AIR AND SPACE OPERATIONS CENTER (AOC)	68,099	68,099	68,099	68,099
CONTROL AND REPORTING CENTER (CRC)	9,289	19,189	9,289	19,189
AIRBORNE WARNING AND CONTROL SYSTEM (AWACS)	121,565	121,565	121,565	121,565
ADVANCED COMMUNICATIONS SYSTEMS	28,938	28,938	32,438	31,438
EVALUATION AND ANALYSIS PROGRAM	---	3,000	---	2,600
ADVANCED PROGRAM TECHNOLOGY	300,673	300,673	300,673	300,673
THEATER BATTLE MANAGEMENT (TBM) C4I	40,472	40,472	40,472	40,472
FIGHTER TACTICAL DATA LINK	122,160	122,160	122,160	122,160
BOMBER TACTICAL DATA LINK	144,863	144,863	144,863	144,863
C2ISR TACTICAL DATA LINK	14,838	14,838	14,838	14,838
COMMAND AND CONTROL (C2) CONSTELLATION	41,071	41,071	41,071	41,071
JOINT SURVEILLANCE AND TARGET ATTACK RADAR SYSTEM	78,084	82,084	100,984	105,184
SEEK EAGLE	19,510	19,510	19,510	19,510
ADVANCED PROGRAM EVALUATION	290,589	290,589	290,589	290,589
USAF MODELING AND SIMULATION	30,541	31,541	24,510	25,510
WARGAMING AND SIMULATION CENTERS	6,369	6,369	6,369	6,369
DISTRIBUTED TRAINING AND EXERCISES	4,222	4,222	4,222	4,222
MISSION PLANNING SYSTEMS	138,475	138,475	121,739	121,739
INFORMATION WARFARE SUPPORT	15,204	15,204	15,204	15,204
E-4B NATIONAL AIRBORNE OPERATIONS CENTER (NAOC)	18,909	21,909	18,909	18,909
MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS NETWORK	57,344	57,344	49,076	49,076

	(In thousands of dollars)			
	Budget	House	Senate	Conference
INFORMATION SYSTEMS SECURITY PROGRAM	109,292	117,292	112,292	118,392
GLOBAL COMBAT SUPPORT SYSTEM	20,555	20,555	20,555	20,555
GLOBAL COMMAND AND CONTROL SYSTEM	3,541	13,541	7,741	13,541
JOINT COMMAND AND CONTROL PROGRAM (JC2)	5,200	5,200	5,200	5,200
MILSATCOM TERMINALS	273,974	273,974	273,974	273,974
AIRBORNE SIGINT ENTERPRISE (JMIP)	78,920	78,920	78,920	78,920
GLOBAL AIR TRAFFIC MANAGEMENT (GATM)	7,139	7,139	7,139	7,139
SATELLITE CONTROL NETWORK (SPACE)	29,143	29,143	34,143	31,643
WEATHER SERVICE	28,675	28,675	28,675	28,675
AIR TRAFFIC CONTROL, APPROACH, AND LANDING SYSTEM (ATC	---	---	21,750	2,200
AERIAL TARGETS	6,641	6,641	6,641	6,641
SECURITY AND INVESTIGATIVE ACTIVITIES	491	491	491	491
DEFENSE METEOROLOGICAL SATELLITE PROGRAM (SPACE)	3,908	3,908	3,908	3,908
NAVSTAR GLOBAL POSITIONING SYSTEM (USER EQUIPMENT)	125,778	125,778	125,778	125,778
NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE AND CONTROL)	188,301	188,301	188,301	188,301
SPACE WARFARE CENTER	411	411	411	411
SPACELIFT RANGE SYSTEM (SPACE)	48,854	49,854	48,854	49,854
INTELLIGENCE SUPPORT TO INFORMATION OPERATIONS (JMIP)	3,618	3,618	3,618	3,618
DRAGON U-2 (JMIP)	10,158	10,158	10,158	10,158
AIRBORNE RECONNAISSANCE SYSTEMS	51,769	54,369	51,769	53,569
MANNED RECONNAISSANCE SYSTEMS	8,101	12,601	16,601	18,401
DISTRIBUTED COMMON GROUND SYSTEMS	40,402	32,402	40,402	35,402
PREDATOR UAV (JMIP)	61,007	63,507	63,507	63,507
GLOBAL HAWK UAV (JMIP)	308,533	329,733	317,533	332,433
NETWORK-CENTRIC COLLABORATIVE TARGET (TIARA)	8,647	8,647	8,647	8,647
INTELLIGENCE SUPPORT TO INFORMATION WARFARE	978	978	978	978
NCMC - TW/AA SYSTEM	85,222	87,222	64,036	74,222
SPACETRACK (SPACE)	151,102	151,102	176,102	167,102
NUDET DETECTION SYSTEM (SPACE)	32,783	32,783	32,783	32,783

	(In thousands of dollars) Budget	House	Senate	Conference
SPACE ARCHITECT	12,878	12,878	12,878	12,878
NASS. IO TECHNOLOGY INTEGRATION & TOOL DEV	15,182	15,182	15,182	15,182
SHARED EARLY WARNING (SEW)	3,295	3,295	3,295	3,295
C-130 AIRLIFT SQUADRON	233,028	238,028	238,028	235,528
C-5 AIRLIFT SQUADRONS	226,479	226,479	226,479	226,479
C-17 AIRCRAFT	165,762	165,762	167,762	167,162
C-130J PROGRAM	6,681	6,681	6,681	6,681
AEROMEDICAL EVACUATION	2,077	2,077	2,077	2,077
LARGE AIRCRAFT IR COUNTERMEASURES (LAIRCM)	55,743	55,743	55,743	55,743
KC-135S	1,498	1,498	1,498	1,498
KC-10S	13,472	13,472	13,472	13,472
KC-135 TANKER REPLACEMENT	99,210	99,210	99,210	99,210
SPECIAL TACTICS / COMBAT CONTROL	2,156	2,156	2,156	2,156
DEPOT MAINTENANCE (NON-IF)	1,408	1,408	1,408	1,408
ACQUISITION AND MANAGEMENT SUPPORT	3,404	5,404	3,404	4,804
INDUSTRIAL PREPAREDNESS	35,934	61,934	51,434	55,934
LOGISTICS SUPPORT ACTIVITIES	---	4,000	---	2,800
LOGISTICS INFORMATION TECHNOLOGY (LOGIT)	44,503	44,503	44,503	44,503
SUPPORT SYSTEMS DEVELOPMENT	10,316	26,616	27,216	27,016
JOINT NATIONAL TRAINING CENTER	2,924	2,924	2,924	2,924
OTHER PERSONNEL ACTIVITIES	111	111	111	111
JOINT PERSONNEL RECOVERY AGENCY	978	978	978	978
CIVILIAN COMPENSATION PROGRAM	7,445	7,445	7,445	7,445
PERSONNEL ADMINISTRATION	16,383	16,383	16,383	16,383
FINANCIAL MANAGEMENT INFORMATION SYSTEMS DEVELOPMENT	17,531	17,531	17,531	17,531
TOTAL, OPERATIONAL SYSTEMS DEVELOPMENT	5,786,040	5,903,040	5,766,344	5,871,255
CLASSIFIED PROGRAMS	6,069,810	6,183,866	5,730,796	5,532,932
TOTAL, RESEARCH, DEVELOPMENT, TEST & EVAL, AF	22,612,351	22,664,868	21,859,010	21,999,649

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

R-1		Budget Request	House	Senate	Conference
1	**DEFENSE RESEARCH SCIENCES**	**223,894**	**232,294**	**242,744**	**244,944**
	National Hypersonic Research Center		1,500	4,000	2,000
	Network Information and Space Security Center		4,900	4,600	4,600
	Griffith Observatory's Planetarium		1,000		1,000
	Fully-Integrated Solar-Powered Interior Lighting Technology		1,000		1,000
	Corrosion Protection of Aluminum Alloys Used in Aircraft			2,000	1,400
	Nanophotonic Components			2,500	1,800
	Non-lethal Stunning/Immobilizing Weapons			750	750
	Virtual Operation for Unmanned Aerial Vehicles			5,000	3,500
	Coal-Based Fuel (Note: Only for the continuation of efforts between the Energy Institute of Penn State University and the U.S. Air Force)				5,000
2	**UNIVERSITY RESEARCH INITIATIVES**	**105,029**	**108,029**	**111,029**	**110,329**
	Bio/Nano Electronic Devices and Sensors		3,000		1,500
	21st Century Information Operations Workforce			1,500	1,100
	Military Logistics Readiness			1,000	1,000
	Secure and Assured Information Sharing			3,500	1,700
3	**HIGH ENERGY LASER RESEARCH INITIATIVES**	**11,894**	**11,894**	**12,594**	**12,594**
	Landscape Operational and Knowledge-based Characterization			700	700
4	**MATERIALS**	**74,156**	**92,506**	**126,756**	**123,206**
	Polymer Nanocomposites as Future Materials for Defense and Energy Applications		1,000		1,000
	Computational Tools for Materials Development		2,000		1,400
	Domestic Titanium Powder Manufacturing Initiative		3,000		2,000
	Power Electronics Reliability		3,700		3,200
	Domestic High Modulus PAN Carbon Fiber Qualification Initiative		2,250	2,500	2,250
	Large Area, APVT Materials for Hi-Powered Devices		3,000		2,100
	Safer Nanomaterials and Nanomanufacturing		1,000	3,500	1,700
	Blast Resistant Barriers for Homeland Defense		2,400		1,400
	Advanced Materials Deposition for Semiconductor			1,400	1,000
	Advanced Manufacturing Technologies for Metals, Composites, Materials			1,000	1,000
	Air Force Minority Leaders Program			5,000	3,500
	Carbon Nanostructured Material for Fluid Purification			10,000	5,000
	Complex Composite Structures for Manned-Unmanned Air Vehicles			2,000	1,000
	Innovative Process for Continuous Fabrication of Carbon Nanotube Membranes			2,500	1,500
	Durable Hybrid Coatings for Aircraft Systems			1,000	1,000
	Engineered Optical Materials for High Energy Laser Development			2,200	1,100
	Nanoparticle Materials Coatings Research			1,000	1,000
	Strategic Partnership for Research in Nanotechnology			15,000	11,000
	Thermal Sprays for Structural Blast Mitigation			3,000	2,100
	Minority LEADERS Research Program			2,500	1,800

R-1		Budget Request	House	Senate	Conference
	Nano Organic Polymer Materials: Dynamic Camouflage				1,000
	Chrome-Free Environmentally Friendly Corrosion Protection for Aircraft				1,000
	Nanomaterials Commercialization Center of Pennsylvania				1,000
5	**AEROSPACE VEHICLE TECHNOLOGIES**	**96,679**	**101,679**	**104,679**	**105,979**
	Modeling and Simulation for Rapid Integration and Technology Evaluation		2,000		1,700
	Intelligent Flight Control Simulation Research Laboratory (SRL) (Note: Only for use by the West Virginia High Technology Consortium)		1,000		1,000
	Unique Stealth UAV Houck Aircraft Design Program		2,000		1,400
	Sentient Adaptive Systems Technology for Vehicle Condition-based Maintenance			2,000	1,700
	Unmanned Systems Initiative at AMRDEC			5,000	2,500
	WBI - Characterization of Airborne Environment for Tactical Lasers			1,000	1,000
6	**HUMAN EFFECTIVENESS APPLIED RESEARCH**	**79,442**	**94,842**	**106,842**	**109,742**
	Genetics of Sleep Deprivation and Fatigue		1,000		1,000
	Flexible Display and Integrated Communication Device for the BAO		1,000		1,000
	Eyewear Display for Battlefield Operations		1,200		1,000
	Nanoparticles Directed by DNA Capture Elements for the Detection and Neutralization of Bioterrorist Agents		2,700	1,000	1,300
	IMPRINT		3,500		2,500
	Bio Medical DNA Program		1,000		1,000
	Network Warfight Decision Support		2,000		1,400
	Special Operations Target Acquisition & Control Suite (SO-TACS)		2,000		1,400
	C4ISR Fusion System		1,000		1,000
	Bacterial Ghost Vaccine for Influenza Virus			1,000	1,000
	Component Object Model Attitude Control System Simulation/Trainer			4,500	2,200
	Fused Carbon Nanotube Material for Fluid Purification			3,500	2,500
	Solid Electrolyte Oxygen Separator			6,900	4,800
	Warfighter Pocket XP Project (Note: Transferred from Line 7)			6,500	4,400
	Warfighter Sustainability: Maximizing Human Performance			4,000	2,800
	Rapid ID and Treatment for Air Force Medical Service				1,000
7	**AEROSPACE PROPULSION**	**107,523**	**162,123**	**119,523**	**157,923**
	Information Assurance Initiative		1,000		1,000
	Wavelength Agile Spectral Harmonic Oxygen Sensor		2,000		1,000
	Aerospace Lab Equipment		1,000		1,000
	Cell Level Battery Controller		1,000		1,000
	High Flux ESC System with TES for Military High Energy Laser		1,500		1,300
	Pulse Detonation Engine		3,000		2,500
	JRETS		21,000		18,000
	Advanced Vehicle and Propulsion Center (AVPC)		5,000		4,300
	Integrated Power and Aircraft Technologies (INPACT)		3,600	7,500	5,300
	Warfighter's Pocket XP (Note: Transferred to Line 6)		3,000		0
	Lightweight Photovoltaic Electricity and Hydrogen for Portable, On-Demand Power for Defense Applications		1,000		1,000
	VAATE - TMC Flade Technology Demonstration		1,000		1,800
	Notre Dame Center for Flow Physics and Control		3,000		3,000
	Center for Security of Large-Scale Systems		2,000		1,400

R-1		Budget Request	House	Senate	Conference
	High Regression Rate Hybrid Rocket Fuels		1,500		1,000
	MEPS Thermal Management		2,000		1,400
	Ultrafast, Ultraintense, Laser Micro Fabrication & Diagnostics		2,000		1,400
	Affordable Lightweight Power Supply Development			2,500	1,800
	Portable Power Solution Employing Chemical Hydrides			2,000	1,700
	Intelligent Engine Software Development for Advance Turbine Engines				500
8	**AEROSPACE SENSORS**	**93,263**	**103,763**	**120,463**	**117,363**
	Compact, Ultra-Sensitive Optical Receiver for Smart and Loitering Standoff Weapons		2,000		1,000
	Center for Advanced Sensor and Communications Antennas		2,000		1,200
	Stable Articulating Backbone for Ultralight Radar (SABUR)		2,000		1,000
	Phased Array Antenna Control Computer		1,000		1,000
	OMEV		1,000		1,000
	3-D Packaging for High Speed RF		1,500	4,000	2,000
	OPAL		1,000		1,000
	Minority LEADERS Research Program			2,500	1,800
	Advanced Sensor-based Vigilance Technologies			1,300	1,000
	Super-resolution Sensor System (S3)			5,400	3,300
	Small Disadvantaged Business, Historically Black Colleges and Universities			8,000	5,600
	Watchkeeper			6,000	4,200
9	**MULTI-DISCIPLINARY SPACE TECHNOLOGY**	**81,339**	**86,339**	**92,639**	**93,039**
	Engineering Tool Improvement Program (ETIP)		5,000		4,300
	Space Qualification of the Common Data Link			5,300	3,200
	Universal Small Launch Vehicle			6,000	4,200
10	**SPACE TECHNOLOGY**	**84,540**	**101,740**	**106,640**	**105,940**
	Consortium for Autonomous Satellite Systems		2,000	1,500	1,500
	Integrated Control for Autonomous Space Systems (ICASS)		5,000	1,000	2,500
	Nano-reinforced Structures and Advanced Multi-functional Structures for Space Programs		2,000	4,000	2,400
	Large Aperture Deployable Structure Systems for Space (Note: Funds are only to institute a program to develop, assess and implement advanced thermal and structurally stable deployable, responsive structures)		1,000	3,300	2,000
	Elastic Memory Composites		1,000	2,500	1,500
	Converted Silicon Carbide for High Performance Optic Structures		6,200		4,400
	HAARP			4,000	3,400
	Deployable Structures Experiment			3,800	2,300
	National Security Research - Signature Exploitation			2,000	1,400
11	**CONVENTIONAL MUNITIONS**	**58,058**	**61,058**	**62,058**	**62,958**
	Falcon Eye		3,000		2,100
	Advanced Energy Technology for Munitions - Dominator Program			4,000	2,800

R-1		Budget Request	House	Senate	Conference
12	**DIRECTED ENERGY TECHNOLOGY**	**37,709**	**51,959**	**38,709**	**44,809**
	Advanced Laser Materials Development		5,650		2,800
	Adaptive Optics Lasercom		5,000	1,000	2,500
	Ceramics for Next-Generation Tactical Laser Systems		3,600		1,800
13	**COMMAND CONTROL AND COMMUNICATIONS**	**93,316**	**98,316**	**95,216**	**98,116**
	Decision Support Tools		4,000		2,800
	Advanced Collaboration Platform for Net Centric Command and Control		1,000		1,000
	Cyber Situational Awareness			1,900	1,000
14	**DUAL USE SCIENCE AND TECHNOLOGY PROGRAM**	**0**	**1,500**	**0**	**1,000**
	Project HMA		1,500		1,000
15	**HIGH ENERGY LASER RESEARCH**	**45,678**	**48,178**	**45,678**	**47,378**
	High Power Fiber Laser Program		1,500		1,200
	Oxygen Laser Optical Source		1,000		500
NEW	**NATIONAL DIABETES MODEL PROGRAM**	**0**	**22,000**	**0**	**18,700**
	Assessment and Demonstration Center for the USAF Surgeon General		2,000		1,700
16	**ADVANCED MATERIALS FOR WEAPON SYSTEMS**	**36,714**	**69,114**	**60,214**	**71,114**
	Reduced Composite Manufacturing Costs Through the Application of Advanced Textile Technology		2,000		1,200
	XD-2 Explosives Detection System		3,000		2,600
	Metals Affordability Initiative		2,500	7,000	5,000
	Coated Field Repair		1,000		1,000
	Transparent Conductive Polymer Technology Development		3,000		1,500
	Materials Integrity Management Research for AF		1,000	1,000	1,000
	National Operational Signature Production and Research Capability (Note: Transferred to Line 17)		8,500		0
	Design Manual for Titanium Honeycomb Sandwich Composite		1,000	4,000	3,300
	Advanced Composite Processes for Unmanned Aerial Vehicles (UAVs)		1,000	1,000	1,000
	Continuous Integrated Vehicle Monitoring System		1,800		1,000
	Ultra-Lightweight Composites		1,000		1,000
	Hybrid Bearing		3,600	2,000	2,100
	Large Panel Sapphire Producability		3,000		2,600
	Hydrothermal Oxidation			2,000	1,700
	Assessing Aging Military Aircraft			3,000	2,100
	Stealth RAM Coatings			3,500	2,500
	Aging Military A/C fleet support at National Institute for Aviation Research (Note: Transferred from Line 93)				4,800
17	**ADVANCED AEROSPACE SENSORS**	**35,157**	**35,157**	**35,157**	**40,357**
	National Operational Signature Production and Research Capability (Note: Transferred from Line 16)				5,200
19	**AEROSPACE TECHNOLOGY DEV/DEMO**	**25,133**	**59,133**	**29,633**	**54,433**
	National Aerospace Leadership Initiative		25,000		21,000
	Fly By Light		3,000		2,100
	WBI - Capabilities Analyses Phase 2		6,000	3,500	4,200

R-1		Budget Request	House	Senate	Conference
	Hybrid Radio Frequency - Optical Communications Terminal			1,000	1,000
	Next Generation Helmet Tracking & Display Technology				1,000
20	**AEROSPACE PROPULSION AND POWER TECHNOLOGY**	**77,268**	**92,288**	**94,768**	**98,568**
	Solid Boost Propulsion Technology		3,000		1,500
	Field Renewable Energy System Hybrids (FRESH) Li Ion Battery Program		2,000		1,000
	Advanced Satellite Thermal Control Program		2,000		1,700
	Versatile Affordable Advance Turbine Engine (Note: Only for the XTC 58F/1 Demonstrator Program)		8,000		6,800
	More Electric Technology for Mission Critical Power Systems			3,000	2,100
	VAATE Advanced Supersonic Cruise Missile Engine			10,000	6,000
	Versatile Affordable Advanced Turbine Engines - 5K - 7K Thrust Category			2,500	1,200
	X-43C Development			2,000	1,000
21	**CREW SYSTEMS AND PERSONNEL PROTECTION TECHNOLOGY**	**29,775**	**38,275**	**29,775**	**35,475**
	Full Spectrum Laser Eye Protection		1,000		1,000
	Virtual Medical Trainer		2,000		1,700
	Variable Transmittance Visor		2,000		1,000
	Deployment Environment and Biological Surveillance		500		500
	Air Force Advanced Micro-Compression Sock (AFAMS)		3,000		1,500
22	**ELECTRONIC COMBAT TECHNOLOGY**	**23,923**	**31,423**	**30,423**	**33,823**
	Detect and Avoid for UAVs		2,000		1,400
	Electronic Combat Battle Management		2,500		1,000
	BLADES		2,000		1,400
	RAPCEval		1,000		1,000
	Advanced Threat Alert ATD - Technology Insertion			2,000	2,000
	Affordable Visible Missile Warning System			3,500	2,100
	Infrared Countermeasures Electronics Improvement Program			1,000	1,000
23	**BALLISTIC MISSILE TECHNOLOGY**	**0**	**11,700**	**3,750**	**11,600**
	Ballistic Missile Technology		11,700		8,300
	Pacific Ballistic Missile Technology Program			1,500	1,300
	P-Net			2,250	2,000
26	**ADVANCED SPACECRAFT TECHNOLOGY**	**60,915**	**79,415**	**95,415**	**86,815**
	Large Automated Production of Expendable Launch Structure (LAPELS)		4,000	4,500	4,000
	Intelligent Free Space Optical Satellite Communications Node		3,000	3,000	3,000
	Precision Integrated Navigation and Position-Intelligent Networking Technology		2,500		1,200
	Beta Energy Cells (BEC) for Defense and Intelligence Applications		4,000	6,000	4,200
	Radiation Hardened Microelectronics		2,000		1,200
	AC Coupled Interconnect		1,000	3,000	1,500
	Radially Segmented Launch Vehicle Risk Reduction		2,000		1,000
	Integrated Spacecraft Engineering Tool			1,000	1,000
	Magnetic Random-Access Memory Communications Materials			1,000	1,000
	Microsatellite Serial Manufacturing Process			2,000	1,400
	Thin Film Amorphous Solar Arrays			10,000	4,000
	System Approach to Radiation Hardened Electronics			4,000	2,400

R-1		Budget Request	House	Senate	Conference
27	**MAUI SPACE SURVEILLANCE SYSTEM (MSSS)**	**5,848**	**5,848**	**50,848**	**47,848**
	High Accuracy Network Determination System (HANDS)			10,000	10,000
	MSSS Operations & Research			25,000	22,000
	PanSTARRS			10,000	10,000
28	**MULTI-DISCIPLINARY ADVANCED DEVELOPMENT**	**53,437**	**55,437**	**56,437**	**56,537**
	Upper Stage Engine Technology (USET)		2,000		1,000
	Aerospace Relay Mirror System			3,000	2,100
29	**CONVENTIONAL WEAPONS TECHNOLOGY**	**18,660**	**30,160**	**21,960**	**30,960**
	Micro-Sized Air Launched Atmospheric Visibility Sonde		2,000		1,700
	AF/SO Miniature Infrared Camera		1,500		1,300
	Clandestine Electric Reconnaissance Vehicle		2,000		1,700
	IP Targeting Extension System		1,000		1,000
	High Speed Strike Weapon		1,000	3,300	2,900
	Body Armor and Fragmentation Protection		2,000		1,700
	Plug and Play Capability for Air-Launched Weapons		1,000		1,000
	Fuze Air to Surface Technology		1,000		1,000
30	**ADVANCED WEAPONS TECHNOLOGY**	**26,955**	**43,455**	**38,955**	**50,555**
	Mobile Active Targeting Resource for Integrated Experiments		2,000		1,700
	Low Speed Airspeed System		4,000		3,400
	Laser Spark Countermeasure Program		6,000		5,100
	Near Earth Space Surveillance Initiative		2,500		1,800
	Wafer Integrated Semiconductor Laser		2,000		2,000
	Applications of LIDAR to Vehicles with Analysis (ALVA)			7,000	6,000
	High Brightness Laser Diode Source for Fiber Laser Pumps			3,500	2,500
	Satellite Active Imaging National Testbed Program			1,500	1,100
31	**ENVIRONMENTAL ENGINEERING TECHNOLOGY**	**0**	**0**	**2,700**	**1,900**
	MMPOI for Battlespace Information Exchange			2,700	1,900
32	**C3I ADVANCED DEVELOPMENT**	**30,125**	**41,325**	**39,225**	**41,725**
	Information for Global Reach		2,500		1,200
	Air Operations Center Secured Data Access		2,000		1,700
	National Center for Multi-Source Information Fusion Research		2,000		1,000
	Battlespace Information Exchange		2,700		1,300
	Griffith Institute - Accelerated Course in Engineering		2,000		1,000
	Enable Network Centric Warfare			3,200	1,600
	Massively Parallel Optical Interconnects for Battlespace Datacom			1,900	1,000
	Net-Centric Dissimilar Data Fusion Program			4,000	2,800
39	**INTELLIGENCE ADVANCED DEVELOPMENT**	**4,580**	**4,580**	**4,580**	**4,830**
	AVT234 - Smart Camera System with Target Motion Cueing				250

R-1		Budget Request	House	Senate	Conference
40	**PHYSICAL SECURITY EQUIPMENT**	**21,937**	**22,937**	**21,937**	**25,937**
	Digital Network Centric Remotely Operated Weapons System		1,000		1,000
	Military Base Protection Using Shaped Energy X-Ray Detection Systems				1,500
	XML Wide Area Multi-Sensor Technology Project				1,500
45	**SPACE CONTROL TECHNOLOGY**	**14,205**	**14,205**	**16,205**	**15,905**
	Multifunctional Daytime Optical System			2,000	1,700
49	**TRANSFORMATIONAL SATCOM (TSAT)**	**835,769**	**436,769**	**585,769**	**436,769**
	Authorization Adjustment		-400,000		-400,000
	Hanscom AFB Collaboration on Meta-Materials and Conformal Antennas		1,000		1,000
	Technology maturation delays			-250,000	0
51	**INTERCONTINENTAL BALLISTIC MISSILE - DEM/VAL**	**44,672**	**63,672**	**44,672**	**57,922**
	Conventional Ballistic Missile Systems Engineering Studies		7,000		5,000
	Infralynx Technology to Support Secure Transportation of Strategic Assets		5,000		3,250
	Adaptive Missile Engineering Modernization		7,000		5,000
53	**SPACE-BASED RADAR DEM/VAL**	**225,839**	**100,000**	**100,000**	**100,000**
	Authorization Adjustment / Space Radar excessive program growth		-125,839	-125,839	-125,839
54	**POLLUTION PREVENTION (DEM/VAL)**	**2,735**	**11,235**	**4,235**	**10,635**
	Advanced Power Technologies		5,000		3,800
	Laser Applications to Improve Air Force Operations and Readiness		3,500		3,000
	O2 Diesel Particulate Emissions Reduction Research Project			1,500	1,100
57	**HARD AND DEEPLY BURIED TARGET DEFEAT SYSTEM (HDBTDS)**	**0**	**4,000**	**0**	**4,000**
	Conventional Penetrator Study		4,000		4,000
58	**J-UCAS ADVANCED COMPONENT & PROTOTYPE**	**272,300**	**272,300**	**72,300**	**232,300**
	J-UCAS requirement uncertainty			-200,000	-40,000
60	**OPERATIONALLY RESPONSIVE LAUNCH**	**23,480**	**36,980**	**36,480**	**39,080**
	TACSAT Launch		13,500		7,800
	Near Space Analysis and Program Development			3,500	2,100
	Tactical Satellite Demonstrations			9,500	5,700
62	**ADVANCED COMMUNICATIONS SYSTEMS**	**969**	**969**	**2,269**	**1,969**
	Massively Parallel Optical Interconnects for MicroSatellite Datacom			1,300	1,000
64	**GLOBAL BROADCAST SERVICE (GBS)**	**18,283**	**20,283**	**18,283**	**19,683**
	Global Broadcast Service Development		2,000		1,400
66	**NUCLEAR WEAPONS SUPPORT**	**15,154**	**15,154**	**12,712**	**14,154**
	Robust Nuclear Earth Penetrator			-2,442	-1,000

R-1	Budget Request	House	Senate	Conference
67 B-1B	**132,496**	**95,296**	**137,496**	**97,296**
BRU-56 Bomb Rack Upgrade		2,000		1,000
Radar Improvement Program		-21,000		-21,000
B-1 DSUP Reprogrammings		-18,200		-18,200
B-1 Secure Digital Communications Improvement			5,000	3,000
70 B-2 ADVANCED TECHNOLOGY BOMBER	**285,205**	**305,205**	**285,205**	**299,205**
Processor Modernization		20,000		14,000
71 ELECTRONIC WARFARE DEVELOPMENT	**82,587**	**93,087**	**91,087**	**92,487**
Rapid Replacement of Mission Critical Logistics Electronic Components at Warner Robins AFB		2,000		1,400
AF Requested Transfer from Procurement for AN/ALR-69A Development		8,500	8,500	8,500
72 JOINT TACTICAL RADIO	**124,225**	**33,225**	**99,225**	**82,325**
SDD Contract Award		-91,000	-25,000	-41,900
74 SMALL DIAMETER BOMB (SDB) EMD	**85,988**	**65,988**	**62,438**	**64,438**
Increment II Contract Award		-20,000	-23,550	-21,550
75 COUNTERSPACE SYSTEMS	**24,651**	**24,651**	**31,651**	**29,551**
Space Control Test Capabilities			7,000	4,900
77 SPACE BASED INFRARED SYSTEM (SBIRS) HIGH EMD	**756,630**	**756,630**	**656,630**	**706,630**
Excessive program growth given Nunn-McCurdy breach			-100,000	-50,000
79 MUNITIONS DISPENSER DEVELOPMENT	**21,738**	**6,038**	**21,738**	**6,038**
Transfer to Procurement, Sensor Fuzed Weapon - ER		-15,700		-15,700
82 AGILE COMBAT SUPPORT	**10,173**	**12,673**	**10,173**	**11,373**
Biostatic Protective Clothing		2,500		1,200
84 LIFE SUPPORT SYSTEMS	**7,315**	**14,115**	**14,315**	**13,565**
ACES II Ejection Seat Improvement		2,000		1,700
Integrated Mission Helmet (Note: Transferred to RDTE, Navy, Line 31)		2,700		0
Joint Service Advanced Anti-Gravity Suit (JSAAGS) Lower Anti-G Garment		2,100		1,050
Enhanced Quick Donning Oxygen Mask			5,000	3,500
MBU-23 Oxygen Mask, Visor, Microphone			2,000	0
85 COMBAT TRAINING RANGES	**6,122**	**10,122**	**6,122**	**8,922**
Nellis Air Combat Training P4A pods		4,000		2,800
86 INTEGRATED COMMAND & CONTROL APPLICATIONS	**161**	**20,161**	**11,161**	**19,161**
Enterprise Services for Reach Back Capabilities		3,000		1,800
Air Force Electronic Systems Command/National Product Line Asset Center (NPLACE)		3,500		2,500
Airborne Web Services (AWS) Spiral 3		2,000		1,700
Integration of Force Protection Enterprise Systems		2,000		1,700
Net-Centric Information Visualization Services (NIVS)		3,000		1,000
Rapid Assessment Framework for Net-Centric Interoperability		1,500		0
Distributed Mission Interoperability Toolkit		5,000	6,000	5,000
Asset eWing Program			5,000	4,300
Global Awareness Presentation System for USSTRATCOM				1,000

R-1		Budget Request	House	Senate	Conference
87	**INTELLIGENCE EQUIPMENT**	**1,369**	**3,369**	**1,369**	**2,769**
	Hard and Deeply Buried Targets		2,000		1,400
90	**JOINT STRIKE FIGHTER**	**2,474,763**	**2,474,763**	**2,328,763**	**2,366,763**
	Excessive program risk remains prior to CDR			-146,000	-108,000
93	**RDT&E FOR AGING AIRCRAFT**	**24,384**	**31,384**	**50,384**	**41,684**
	Smart Weapons Triple Ejection Rack Development		2,000		1,400
	Aging Military A/C fleet support at National Institute for Aviation Research (Note: Transferred to Line 16)		1,000	6,000	0
	Non-Destructive Testing (NDI) Corrosion Detection		1,000		1,000
	Electro-Magnetic In-Flight Propeller Balancing System		3,000	1,500	1,500
	Aging Aircraft Structural Repair Facility Study			1,000	1,000
	Aging Landing Gear Life Extension (ALGLE)			7,000	4,200
	Improved Fleet Readiness and 3-D Modeling			3,500	2,500
	Skill Kitting Inventory Tracking and Technology for Oklahoma City ALC			1,000	1,000
	Productivity Improvements for Landing Gear Overhaul Technologies			6,000	4,200
	Advanced Avionics Insertion for Legacy Aircraft				500
96	**LINK-16 SUPPORT AND SUSTAINMENT**	**157,677**	**159,677**	**157,677**	**163,677**
	Pocket J Enhancements		2,000		1,700
	11th AF Link 16				2,600
	Suitcase Link 16				1,700
100	**COMBAT SURVIVOR EVADER LOCATOR**	**0**	**0**	**17,500**	**17,500**
	Combat Survivor Evader Locator (CSEL) (Note: Transfer from OPAF for development of TAC/TAG)			17,500	17,500
101	**CV-22**	**39,532**	**41,532**	**39,532**	**40,532**
	Room Temperature Nanocrystalline Diamond Coating for De-Icing		2,000		1,000
103	**MAJOR T&E INVESTMENT**	**55,339**	**62,739**	**62,339**	**64,939**
	3-D Data Track Assembly (3-DATA) Imaging System		3,400		2,400
	ILIAD and ETDMS Flight Testing Data Management		4,000		2,000
	FPS-16 Radar Mobilization and Upgrade			1,000	1,000
	Holloman High Speed Test Track Upgrade			6,000	4,200
108	**TEST AND EVALUATION SUPPORT**	**642,665**	**644,665**	**642,665**	**643,665**
	Cluster Computing Initiative		2,000		1,000
109	**ROCKET SYSTEMS LAUNCH PROGRAM (SPACE)**	**13,773**	**27,273**	**26,773**	**26,773**
	Ballistic Missile Range Safety Technology		13,500	13,000	13,000
111	**FACILITIES RESTORATION AND MODERNIZATION - TEST AND EVALUATION**	**60,561**	**62,561**	**60,561**	**61,961**
	Internal Base Facility Energy Independence – Wind / Turbine Power		2,000		1,400
112	**FACILITIES SUSTAINMENT - TEST AND EVALUATION SUPPORT**	**26,238**	**31,238**	**26,238**	**28,738**
	Base Facility Energy Independence		5,000		2,500
120	**B-52 SQUADRONS**	**22,784**	**30,784**	**22,784**	**27,134**
	B-52 MIL-STD 1760		8,000		4,350

R-1		Budget Request	House	Senate	Conference
123	**STRAT WAR PLANNING SYSTEM - USSTRATCOM**	29,134	29,134	29,134	30,134
	Global Command and Control Development Center				1,000
127	**WARFIGHTER RAPID ACQUISITION PROCESS (WRAP) RAPID TRANSITION**	30,093	30,093	17,193	23,093
	Program underexecution			-12,900	-7,000
129	**A-10 SQUADRONS**	51,835	51,835	61,835	56,835
	A-10 Propulsion Upgrade			10,000	5,000
130	**F-16 SQUADRONS**	155,666	155,666	155,666	156,766
	Block 30 APG-68(V)10 Integration for the AFRC				1,100
131	**F-15E SQUADRONS**	124,647	145,647	134,147	145,647
	AESA Development and Demonstration		11,500		11,500
	F-15 BOL Pilot Vehicle Interface (PVI) for the ANG		9,500	9,500	9,500
133	**F-22 SQUADRONS**	403,517	403,517	378,517	378,517
	Program underexecution			-25,000	-25,000
137	**COMBAT RESCUE AND RECOVERY**	113,825	71,825	20,000	71,825
	Contract Award Delays		-42,000		-42,000
	Personnel Recovery Vehicle Contract Award Delay, Transfer to APAF			-93,825	0
138	**AF TENCAP**	10,829	13,829	10,829	11,829
	FOGLITE		3,000		1,000
139	**SPECIAL EVALUATION PROGRAM**	276,219	276,219	276,219	277,419
	Classified Program				1,200
140	**COMPASS CALL**	4,650	14,650	4,650	10,050
	RSAT		2,000		1,400
	EC-130H Compass Call (Note: only for network centric information operations capability improvements to the Block 35 prime mission equipment)		8,000		4,000
142	**CSAF INNOVATION PROGRAM**	1,737	1,737	2,737	1,737
	Command Responder (Note: Transferred to RDTE, Army, Line 58)			1,000	0
145	**CONTROL AND REPORTING CENTER (CRC)**	9,289	19,189	9,289	19,189
	AF Requested Transfer from Procurement for BCS-M Development		9,900		9,900
147	**ADVANCED COMMUNICATIONS SYSTEMS**	28,938	28,938	32,438	31,438
	Adaptive Joint C4ISR Node (AJCN) Security Certification			3,500	2,500
148	**EVALUATION AND ANALYSIS PROGRAM**	0	3,000	-	2,600
	Adaptive Information Protection Technologies		3,000		2,600
155	**JOINT SURVEILLANCE AND TARGET ATTACK RADAR SYSTEM**	78,084	82,084	100,984	105,184
	Joint STARS Blue Force Tracking		4,000		1,700
	E-8C Joint Stars Re-Engine Initiative			10,000	12,500
	Joint STARS Advanced Radar Modes (ARM)			12,900	12,900

R-1		Budget Request	House	Senate	Conference
158	**USAF MODELING AND SIMULATION**	**30,541**	**31,541**	**24,510**	**25,510**
	Synthetic Theater Operations Research Model		1,000		1,000
	Excessive program growth			-6,031	-6,031
161	**MISSION PLANNING SYSTEMS**	**138,475**	**138,475**	**121,739**	**121,739**
	Milestone decision delay			-16,736	-16,736
169	**E-4B NATIONAL AIRBORNE OPERATIONS CENTER**	**18,909**	**21,909**	**18,909**	**18,909**
	Cybersecurity Defend and Attack Exercises (Note: Transferred to Line 171)		3,000		0
170	**MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS NETWORK**	**57,344**	**57,344**	**49,076**	**49,076**
	Program under execution and excessive program growth			-8,268	-8,268
171	**INFORMATION SYSTEMS SECURITY PROGRAM**	**109,292**	**117,292**	**112,292**	**118,392**
	Worldwide Infrastructure Security Environment (WISE)		8,000		5,000
	Homeland Defense and Civil Support Threat Information Collection			1,000	1,000
	Infrastructure Assurance and Security			2,000	1,000
	Cybersecurity Defend and Attack Exercises (Note: Transferred from Line 169)		3,000		2,100
173	**GLOBAL COMMAND AND CONTROL SYSTEM**	**3,541**	**13,541**	**7,741**	**13,541**
	Command and Control Service Level Management		10,000		7,000
	Applied Research in Computing Enterprise Services (ARCES)			4,200	3,000
180	**SATELLITE CONTROL NETWORK (SPACE)**	**29,143**	**29,143**	**34,143**	**31,643**
	Civil Reserve Space Service (CRSS) Initiative			5,000	2,500
182	**AIR TRAFFIC CONTROL, APPROACH, AND LANDING SYSTEM**	**0**	**0**	**21,750**	**2,200**
	242 ATAS ANG Mobile Approach Control System (MACS) (Note: Transferred to Other Procurement, Air Force, Line 40)			17,250	0
	Transportable Transponder Landing System			4,500	2,200
194	**SPACELIFT RANGE SYSTEM (SPACE)**	**48,854**	**49,854**	**48,854**	**49,854**
	California Space Infrastructure Program (CSIP)		1,000		1,000
198	**AIRBORNE RECONNAISSANCE SYSTEMS**	**51,769**	**54,369**	**51,769**	**53,569**
	Airborne Optical Comm Flight Demo		2,600		1,800
199	**MANNED RECONNAISSANCE SYSTEMS**	**8,101**	**12,601**	**16,601**	**18,401**
	Apertures for Modern Threat Environments		4,500		3,100
	Combat Sent Tactical ELINT System Modernization			3,500	1,700
	Rivet Joint Reachback			5,000	3,000
	RC-135 Processing Forward Network (Note: Transferred from Title IX, RDTE,D-W)				2,500
200	**DISTRIBUTED COMMON GROUND SYSTEMS**	**40,402**	**32,402**	**40,402**	**35,402**
	Program Growth		-3,000		0
	AF Requested Transfer to Operation and Maintenance, DCGS Program		-5,000		-5,000

R-1	Budget Request	House	Senate	Conference
201 PREDATOR UAV (JMIP)	**61,007**	**63,507**	**63,507**	**63,507**
Small Tactical UAVs for Battlefield Intelligence, Communications, and Atmospheric Data Collection		2,500	2,500	2,500
202 GLOBAL HAWK UAV (JMIP)	**308,533**	**329,733**	**317,533**	**332,433**
AF Requested Transfer from Procurement, Global Hawk		18,200		18,200
Night Hunter II Integration on RQ-4B Global Hawk		2,000		1,200
Global Hawk Growth Engine		1,000	9,000	4,500
205 NCMC - TW/AA SYSTEM	**85,222**	**87,222**	**64,036**	**74,222**
Technology Applications for Homeland Defense & Security		2,000		0
Combatant Commander's Integrated C2 System program spiral delays			-21,186	-11,000
206 SPACETRACK (SPACE)	**151,102**	**151,102**	**176,102**	**167,102**
AF Space Surveillance System S Band Sensor			10,000	7,000
Space Based Space Surveillance			15,000	9,000
211 C-130 AIRLIFT SQUADRON	**233,028**	**238,028**	**238,028**	**235,528**
Real-Time Measurement Weight and Balance System for C-130s (Note: Transfer to RDTE, Navy)		2,000	2,500	0
C-130 Automated Inspection, Repair, Corrosion, and Aircraft Tracking (AIRCAT)		3,000	2,500	2,500
213 C-17 AIRCRAFT	**165,762**	**165,762**	**167,762**	**167,162**
C-17 Engine Vibration Monitoring System			2,000	1,400
223 ACQUISITION AND MANAGEMENT SUPPORT	**3,404**	**5,404**	**3,404**	**4,804**
ACS-Acquisition Data Repository		2,000		1,400
224 INDUSTRIAL PREPAREDNESS	**36,934**	**55,934**	**51,434**	**55,934**
e-LINCS		1,000		1,000
Affordable Multi-Junction Solar Cells		1,500		1,000
AMP-Aerial Multi-Axis Platform		4,500		2,700
Rapid Qual/Cert/Inspect Parts		1,000		1,000
WBI-RFID Rapid Adoption Collaboration Initiative		5,000	8,500	5,100
TIDE Program		6,000		4,000
Nanomaterial Manufacturing and Military Application			4,000	2,800
Supply Chain Optimization Universal Tool Kit			2,000	1,400
225 LOGISTICS SUPPORT ACTIVITIES	**0**	**4,000**	**0**	**2,800**
Logistics Operations Support		2,000		1,400
REMIS		2,000		1,400
228 SUPPORT SYSTEMS DEVELOPMENT	**10,316**	**26,616**	**25,216**	**27,016**
Fuel Cell Power Non-Tactical Vehicle		1,000		1,000
Air Force Center of Acquisition Reengineering & Enabling Technologies		2,500		1,500
Real-Time Health Care Management		2,000		1,400
Heavy Duty Hybrid Electric		2,000	3,500	2,500
Information Assurance for Reengineering and Enabling Technologies		3,000		1,800
Center for Aircraft Support/System Infrastructure		1,800		1,000
Warner Robbins Aging Aircraft		4,000	4,900	4,000
C-17 Aging Aircraft Logistics Management Program			5,000	2,500
Teleoperated Semi-autonomous Robot for Aging Aircraft Maintenance			1,500	1,000

Space Radar

The conferees have reviewed the authorization and appropriation language of the various committees of jurisdiction for the Space Radar program and note that there appears to be broad congressional consensus on many key issues. First, in the absence of a major breakthrough, there is significant across the board concern regarding the ultimate cost and affordability of the Space Radar program. Second, there is concern about the space acquisition workforce and the Air Force and industry's ability to manage expensive and complicated satellite programs such as Space Radar. Finally, there is broad agreement that the Air Force should place greater emphasis on maturing technologies, seeking out new technical breakthroughs, experimenting with existing radar assets (such as airborne surrogates), and developing critical ground processing capabilities instead of focusing so heavily on near term satellite system development. The conferees agree that the funds provided are only for the elements of congressional consensus described above. Further, the conferees agree with the House direction requiring submission of a spend plan prior to obligation of fiscal year 2006 funds.

Transformational SATCOM (TSAT)

The conferees support the Defense Department's concept for global high-speed communications and recognize the value that TSAT-like capabilities would provide to world-wide military operations. However, the conferees are concerned about the state of technical maturity for the key subsystems and do not support the program's aggressive schedule for acquisition. The conferees are also concerned that DoD may have prematurely ruled out the possibility of evolving Advanced EHF (AEHF) and the Wideband Gapfiller System (WGS) programs to provide TSAT-like capabilities. Therefore, the conferees agree to reduce the program by $400,000,000 and direct the program to focus on technology maturation for the key subsystems, particularly laser communications and the processor router. Transition to a formal acquisition program should be deferred until the technologies are mature and have been demonstrated in a relevant environment.

Of the remaining $436,769,000, the conferees direct that no more than $316,769,000 may be obligated until DoD submits to the congressional defense committees the results of an independent review that: (1) determines whether additional AEHF or WGS satellites will be required and how many; and (2) whether it is feasible, taking into consideration cost, risk, contract requirements, and other factors, to insert advanced capabilities by evolving the AEHF or WGS programs. In the event the Department determines a fourth AEHF is required, $120,000,000 shall be available for advance procurement and research and development activities in support of the fourth AEHF. In the event the Defense Department determines a fourth AEHF is not required, the $120,000,000 shall be available to support expanded system development and maturation of the key TSAT technologies.

Joint Unmanned Combat Air Systems (J–UCAS)

The conferees are concerned over whether the Navy and Air Force share the same requirements and concept of operations for the J–UCAS. Given that the Department of Defense proposes to make substantial investments in the J–UCAS program, exceeding $5 billion for development alone, it is important to ensure from the outset that there is stability in the program. Given these concerns, the conferees have reduced the budget request by $40,090,000 and direct the Department of Defense to conduct an independent study to objectively review the J–UCAS program for both Navy and Air Force technical, military operations, and test and evaluation requirements, as well as options for cost savings. The conferees direct that the report include a schedule and budget for the J–UCAS program, to include entering system development and demonstration, and an evaluation of the Air Force as the Executive Agent. The conferees further direct that the report provide an analysis and recommendation on whether the Air Force and Navy programs are sufficiently different in their respective requirements and level of development to merit separation into service unique programs. The report should be provided to the congressional defense committees not later than May 3, 2006.

Combat Search and Rescue (CSAR–X)

The conferees are concerned that a major development effort for the CSAR–X program could be cost prohibitive and would not yield a sufficient number of helicopters to replace the Air Force's current aging fleet in a timely manner. Due to these concerns, the conferees expect the Air Force to select an existing aircraft that will require minimum research and development to field and that presents an overall "best value" to the government, giving full consideration to military utility and costs in the contract selection process. The conferees agree to reduce the request by $42,000,000 due to a delay in the request for proposal and contract award date. The conferees further agree to restrict $66,069,000, of the available $71,825,000, pending the submission of a report to the congressional defense committees with detailed cost and schedule estimates for development and production. The report shall be submitted following contract award and also include estimated operation and support costs, necessary military configuration modifications, and a test and evaluation plan.

Joint Surveillance and Target Attack Radar System (JointSTARS) Re-Engining

The conferees have provided $12,500,000 to begin the non-recurring engineering (NRE) activities associated with re-engining the JointSTARS aircraft fleet and expect the Secretary of the Air Force to include funding for NRE activities in the FY 2007 budget request. The conferees note that in January 2005 the Under Secretary of Defense for Acquisition, Technology, and Logistics announced the Department's intent to request updated quotes from industry on the costs to modify JointSTARS aircraft with new engines, and that the Department is currently in the process of evaluating these quotes. Upon completion of this activity, the conferees direct the Secretary of the Air Force to submit to the congressional defense committees an evaluation of potential development and acquisition options for re-engining all or part of the JointSTARS aircraft fleet.

Real-Time Measurement Weight and Balance System

The conferees direct the Under Secretary of Defense, Comptroller, to transfer fiscal year 2005 Air Force Research, Development, Test and Evaluation funding for the "Real-Time Measurement Weight and Balance System" to Research, Development, Test and Evaluation, Navy, Line 182, Aviation Improvements.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars)			
	Budget	House	Senate	Conference
RESEARCH, DEVELOPMENT, TEST & EVAL, DW				
BASIC RESEARCH				
DEFENSE RESEARCH SCIENCES	130,090	136,090	136,590	135,240
GOVERNMENT/INDUSTRY COSPONSORSHIP OF UNIVERSITY RESEAR	---	12,000	4,000	10,200
DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE	9,164	9,164	13,164	12,564
NATIONAL DEFENSE EDUCATION PROGRAM	10,282	10,282	10,282	10,282
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	72,533	101,533	83,383	95,733
TOTAL, BASIC RESEARCH	222,069	269,069	247,419	264,019
APPLIED RESEARCH				
INSENSITIVE MUNITIONS--EXPLORATORY DEVELOPMENT	5,176	5,176	7,176	6,176
MEDICAL FREE ELECTRON LASER	9,845	9,845	21,845	20,045
HISTORICALLY BLACK & HISPANIC SERVNG INSTITU SCIENCES	13,887	17,387	15,887	17,887
LINCOLN LABORATORY RESEARCH PROGRAM	29,914	29,914	29,914	29,914
INFORMATION AND COMMUNICATIONS TECHNOLOGY	198,831	198,831	198,831	198,831
COGNITIVE COMPUTING SYSTEMS	200,799	200,799	145,799	165,799
BIOLOGICAL WARFARE DEFENSE	145,354	149,454	147,854	150,254
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	187,787	251,487	229,637	250,557
TACTICAL TECHNOLOGY	361,562	363,562	336,362	352,962
MATERIALS AND BIOLOGICAL TECHNOLOGY	294,188	294,588	281,688	292,938
WMD DEFEAT TECHNOLOGY	206,487	208,487	206,487	207,487
ELECTRONICS TECHNOLOGY	241,736	244,236	241,736	243,436
WMD DEFENSE TECHNOLOGIES	106,708	112,708	106,708	111,508
SPECIAL OPERATIONS TECHNOLOGY DEVELOPMENT	13,595	38,095	21,595	30,395
SOF MEDICAL TECHNOLOGY DEVELOPMENT	2,215	2,215	2,215	2,215
TOTAL, APPLIED RESEARCH	2,018,084	2,126,784	1,993,734	2,080,404

	(In thousands of dollars) Budget	House	Senate	Conference
ADVANCED TECHNOLOGY DEVELOPMENT				
SO/LIC ADVANCED DEVELOPMENT	34,529	52,029	36,529	46,429
COMBATING TERRORISM TECHNOLOGY SUPPORT	55,301	116,551	69,301	120,876
COUNTERPROLIFERATION ADVANCED DEVELOPMENT TECHNOLOGIES	96,143	99,643	107,143	109,443
BALLISTIC MISSILE DEFENSE TECHNOLOGY	136,241	128,385	125,647	162,297
JOINT DOD-DOE MUNITIONS TECHNOLOGY DEVELOPMENT	25,102	25,102	25,102	25,102
ADVANCED AEROSPACE	75,866	77,866	58,466	61,066
SPACE PROGRAMS AND TECHNOLOGY	223,811	223,811	213,811	213,811
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - ADVANCED DEV	164,481	212,881	227,981	237,456
JOINT CAPABILITY TECHNOLOGY DEMONSTRATIONS	35,000	35,000	35,000	35,000
SPECIAL TECHNICAL SUPPORT	---	---	2,000	1,400
GENERIC LOGISTICS R&D TECHNOLOGY DEMONSTRATIONS	22,360	56,780	73,360	77,320
DISTRIBUTION PROCESS OWNER TECH. DEV. & IMPLEMENTATION	10,000	10,000	10,000	10,000
STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM	64,101	68,101	78,101	76,651
MICROELECTRONIC TECHNOLOGY DEVELOPMENT AND SUPPORT	---	118,500	---	92,150
JOINT WARFIGHTING PROGRAM	10,205	10,205	10,205	10,205
ADVANCED ELECTRONICS TECHNOLOGIES	214,378	217,378	223,878	224,078
ADVANCED CONCEPT TECHNOLOGY DEMONSTRATIONS	163,649	177,849	169,849	173,049
HIGH PERFORMANCE COMPUTING MODERNIZATION PROGRAM	189,747	200,247	213,247	220,997
COMMAND, CONTROL AND COMMUNICATIONS SYSTEMS	216,408	216,408	216,408	216,408
LAND WARFARE TECHNOLOGY	139,100	139,100	104,200	127,200
CLASSIFIED DARPA PROGRAMS	162,534	162,534	162,534	162,534
NETWORK-CENTRIC WARFARE TECHNOLOGY	136,899	136,899	131,899	136,899
SENSOR TECHNOLOGY	189,452	189,452	171,452	189,452
GUIDANCE TECHNOLOGY	103,272	103,272	103,272	103,272
DISTRIBUTED LEARNING ADVANCED TECHNOLOGY DEVELOPMENT	14,689	17,189	14,689	16,814
SOFTWARE ENGINEERING INSTITUTE	25,209	28,209	30,209	31,259
QUICK REACTION SPECIAL PROJECTS	110,717	110,717	110,717	110,717
JOINT WARGAMING SIMULATION MANAGEMENT OFFICE	34,928	34,928	34,928	34,928
TEST & EVALUATION SCIENCE & TECHNOLOGY	28,614	28,614	34,614	27,814

	(In thousands of dollars) Budget	House	Senate	Conference
TECHNOLOGY LINK	3,435	5,435	11,185	16,585
SPECIAL OPERATIONS ADVANCED TECHNOLOGY DEVELOPMENT	104,315	147,915	103,015	145,185
TOTAL, ADVANCED TECHNOLOGY DEVELOPMENT	2,790,486	3,151,000	2,908,742	3,216,397
DEMONSTRATION & VALIDATION				
PHYSICAL SECURITY EQUIPMENT	---	7,100	9,000	10,010
RETRACT LARCH	6,683	6,683	6,683	6,683
JOINT ROBOTICS PROGRAM	11,755	24,755	14,755	27,705
ADVANCED SENSOR APPLICATIONS PROGRAM	18,275	21,275	26,275	25,075
ENVIRONMENTAL SECURITY TECHNICAL CERTIFICATION PROGRAM	30,632	45,332	30,632	37,032
BALLISTIC MISSILE DEFENSE TERMINAL DEFENSE SEGMENT	1,143,610	1,123,698	1,208,610	1,198,860
BALLISTIC MISSILE DEFENSE MIDCOURSE DEFENSE SEGMENT	3,266,196	---	---	---
BALLISTIC MISSILE DEF GROUNDBASED MIDCOURSE DEF SEG	---	2,267,070	2,541,657	2,489,257
BALLISTIC MISSILE DEF SEABASED MIDCOURSE DEF SEGMENT	---	892,901	930,426	939,066
MULTIPLE KILL VEHICLES	---	---	83,000	83,000
BALLISTIC MISSILE DEFENSE BOOST DEFENSE SEGMENT	483,863	464,867	493,863	490,863
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - DEM/VAL	100,796	137,596	100,796	124,046
BALLISTIC MISSILE DEFENSE SENSORS	529,829	---	---	---
BALLISTIC MISSILE DEFENSE SATELLITES	---	231,358	---	239,998
SPACE SURVEILLANCE & TRACKING SYSTEM	---	---	245,536	---
BALLISTIC MISSILE DEFENSE RADARS	---	289,743	294,293	294,283
BALLISTIC MISSILE DEFENSE SYSTEM INTERCEPTOR	229,658	218,749	114,952	215,952
BALLISTIC MISSILE DEFENSE TEST & TARGETS	617,456	614,513	624,456	627,206
BALLISTIC MISSILE DEFENSE PRODUCTS	455,152	383,604	425,152	394,652
BALLISTIC MISSILE DEFENSE SYSTEMS CORE	447,006	404,428	417,006	420,151
SPECIAL PROGRAMS - MDA	349,522	349,522	299,522	324,522
BALLISTIC MISSILE DEFENSE PROGRAM SUPPORT	---	140,983	---	---
HUMANITARIAN DEMINING	14,305	14,305	14,305	14,305
COALITION WARFARE	5,777	5,777	5,777	5,777
DEPARTMENT OF DEFENSE CORROSION PROGRAM	5,141	5,141	5,141	7,741
JOINT CAPABILITY TECHNOLOGY DEMONSTRATIONS	3,000	3,000	7,000	7,000

(In thousands of dollars)

	Budget	House	Senate	Conference
REDUCTION OF TOTAL OWNERSHIP COST	24,824	24,824	24,824	24,824
JOINT ELECTROMAGNETIC TECHNOLOGY (JET) PROGRAM	3,566	6,066	11,566	12,641
TOTAL, DEMONSTRATION & VALIDATION	7,747,046	7,683,290	7,935,227	8,020,649
ENGINEERING & MANUFACTURING DEVELOPMENT				
DEFENSE ACQUISITION CHALLENGE PROGRAM (DACP)	28,975	34,975	28,975	34,075
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - EMD	280,908	290,408	259,408	264,083
MANPADS DEFENSE PROGRAM	13,349	19,349	16,349	18,849
JOINT ROBOTICS PROGRAM - EMD	13,745	23,745	15,745	20,795
ADVANCED IT SERVICES JOINT PROGRAM OFFICE (AITS-JPO)	9,325	9,325	9,325	9,325
JOINT TACTICAL INFORMATION DISTRIBUTION SYSTEM (JTIDS)	11,075	11,075	11,075	11,075
INFORMATION TECHNOLOGY DEVELOPMENT	19,574	19,574	19,574	19,574
INFORMATION TECHNOLOGY DEVELOPMENT-STANDARD PROCUREMEN	5,074	5,074	5,074	5,074
FINANCIAL MANAGEMENT SYSTEM IMPROVEMENTS	75,987	75,987	80,987	80,987
DEFENSE INTEGRATED MILITARY HUMAN RESOURCES SYSTEM	20,322	20,322	45,322	37,822
ACQUISITION DOMAIN	3,600	3,600	3,600	3,600
TRUSTED FOUNDRY	31,655	31,655	31,655	31,655
DEFENSE ACQUISITION EXECUTIVE (DAE) PILOT PROGRAM	1,000	1,000	1,000	1,000
DEFENSE MESSAGE SYSTEM	13,367	13,367	13,367	13,367
GLOBAL COMBAT SUPPORT SYSTEM	17,952	17,952	17,952	17,952
JOINT COMMAND AND CONTROL PROGRAM (JC2)	14,580	15,580	14,580	15,580
ELECTRONIC COMMERCE	6,698	6,698	6,698	6,698
BMMP DOMAIN MANAGEMENT AND SYSTEMS INTEGRATION	11,802	11,802	11,802	11,802
TOTAL, ENGINEERING & MANUFACTURING DEVELOPMENT	578,988	611,488	592,488	603,313
RDT&E MANAGEMENT SUPPORT				
SPECIAL TECHNICAL SUPPORT	19,916	19,916	19,916	19,916
TRANSFORMATION INITIATIVES PROGRAM	10,152	---	---	---
CAPITAL ASSET MANAGEMENT SYSTEM-MILITARY EQUIPMENT	4,812	4,812	4,812	4,812
DEFENSE READINESS REPORTING SYSTEM (DRRS)	13,475	13,475	13,475	15,475
JOINT SYSTEMS ARCHITECTURE DEVELOPMENT	9,254	11,254	9,254	10,954

	(In thousands of dollars)			
	Budget	House	Senate	Conference
CENTRAL TEST AND EVALUATION INVESTMENT DEVELOPMENT	128,759	137,759	136,759	141,159
THERMAL VICAR	7,278	7,278	7,278	7,278
TECHNICAL STUDIES, SUPPORT AND ANALYSIS	31,075	33,075	31,075	33,075
USD(A&T)--CRITICAL TECHNOLOGY SUPPORT	1,999	1,999	1,999	1,999
FOREIGN MATERIAL ACQUISITION AND EXPLOITATION	36,895	36,895	56,895	56,895
DEFENSE TRAVEL SYSTEM	20,441	20,441	20,441	20,441
JOINT THEATER AIR AND MISSILE DEFENSE ORGANIZATION	81,504	81,504	81,504	81,504
CLASSIFIED PROGRAM USD(P)	---	---	100,000	90,000
FOREIGN COMPARATIVE TESTING	35,738	35,738	35,738	37,863
NUCLEAR MATTERS	12,442	12,442	12,442	12,442
SUPPORT TO NETWORKS AND INFORMATION INTEGRATION	10,706	11,706	16,706	16,806
GENERAL SUPPORT TO USD (INTELLIGENCE)	5,282	5,282	5,282	5,282
CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	81,425	81,425	83,925	82,675
CLASSIFIED PROGRAMS - C3I	---	9,000	10,000	9,000
SMALL BUSINESS INNOVATION RESEARCH/CHALLENGE ADMINISTR	1,983	7,983	4,983	7,083
DEFENSE TECHNOLOGY ANALYSIS	5,393	5,393	5,393	7,093
FORCE TRANSFORMATION DIRECTORATE	19,927	71,927	19,927	61,427
DEFENSE TECHNICAL INFORMATION SERVICES (DTIC)	49,969	49,969	49,969	49,969
R&D IN SUPPORT OF DOD ENLISTMENT, TESTING & EVALUATION	8,853	8,853	8,853	8,853
DEVELOPMENT TEST AND EVALUATION	8,873	8,873	8,873	8,873
MANAGEMENT HEADQUARTERS (RESEARCH & DEVELOPMENT) DARP.	49,472	49,472	49,472	49,472
INFORMATION TECHNOLOGY RAPID ACQUISITION	5,580	5,580	5,580	5,580
INTELLIGENCE SUPPORT TO INFORMATION OPERATIONS (IO)	13,940	13,940	13,940	13,940
PENTAGON RESERVATION	17,386	22,386	17,386	17,386
MANAGEMENT HEADQUARTERS - MDA	99,327	99,327	99,327	99,327
IT SOFTWARE DEV INITIATIVES	1,694	1,694	1,694	1,694
TOTAL, RDT&E MANAGEMENT SUPPORT	793,550	869,398	932,898	978,273

	(In thousands of dollars)			
	Budget	House	Senate	Conference
OPERATIONAL SYSTEMS DEVELOPMENT				
DEFENSE INFORMATION SYSTEM FOR SECURITY (DISS)........	16,850	16,850	16,850	16,850
PARTNERSHIP FOR PEACE (PFP) INFORMATION MANAGEMENT SYS	5,660	5,660	5,660	5,660
CHEMICAL AND BIOLOGICAL DEFENSE (OPERATIONAL SYSTEMS D	10,093	10,093	10,093	10,093
ISLAND SUN...	1,570	1,570	1,570	1,570
C4I INTEROPERABILITY.................................	65,517	67,517	65,517	67,217
NATIONAL MILITARY COMMAND SYSTEM-WIDE SUPPORT.........	659	659	659	659
DEFENSE INFO INFRASTRUCTURE ENGINEERING AND INTEGRATIO	5,466	5,466	5,466	5,466
LONG HAUL COMMUNICATIONS (DCS).......................	1,470	1,470	1,470	1,470
MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS NETWORK....	7,438	7,438	7,438	7,438
INFORMATION SYSTEMS SECURITY PROGRAM..................	12,546	12,546	12,546	12,546
INFORMATION SYSTEMS SECURITY PROGRAM..................	462,211	462,211	462,211	462,211
DISA MISSION SUPPORT OPERATIONS......................	3,426	3,426	13,426	9,426
C4I FOR THE WARRIOR..................................	3,549	3,549	3,549	3,549
C4I FOR THE WARRIOR..................................	6,311	6,311	6,311	6,311
GLOBAL COMMAND AND CONTROL SYSTEM.....................	52,331	52,331	52,331	52,331
JOINT SPECTRUM CENTER................................	14,097	14,097	14,097	14,097
NET-CENTRIC ENTERPRISE SERVICES (NCES)................	79,018	79,018	79,018	79,018
TELEPORT PROGRAM.....................................	12,180	12,180	7,180	7,180
SPECIAL APPLICATIONS FOR CONTINGENCIES................	21,116	21,116	21,116	21,116
CRITICAL INFRASTRUCTURE PROTECTION (CIP)..............	11,363	13,363	11,363	12,363
DEFENSE JOINT COUNTERINTELLIGENCE PROGRAM (JMIP)......	20,406	20,406	20,406	20,406
NET CENTRICITY.......................................	8,387	9,387	8,387	8,387
INDUSTRIAL PREPAREDNESS..............................	18,219	36,219	24,719	35,169
LOGISTICS SUPPORT ACTIVITIES.........................	2,900	2,900	2,900	2,900
MANAGEMENT HEADQUARTERS (OJCS).......................	5,762	5,762	5,762	5,762
NATO JOINT STARS.....................................	25,474	25,474	25,474	25,474
SPECIAL OPERATIONS AVIATION SYSTEMS ADVANCED DEV......	104,330	104,330	104,330	104,330
SPECIAL OPERATIONS TACTICAL SYSTEMS DEVELOPMENT.......	63,513	115,483	80,813	106,763
SPECIAL OPERATIONS INTELLIGENCE SYSTEMS DEVELOPMENT...	33,167	53,267	52,167	60,617

	(In thousands of dollars)			
	Budget	House	Senate	Conference
SOF OPERATIONAL ENHANCEMENTS	66,313	74,213	77,813	75,563
CV-22	29,954	29,954	29,954	29,954
SPECIAL OPERATIONS AIRCRAFT DEFENSIVE SYSTEMS	38,824	27,324	38,824	27,324
OPS ADVANCED SEAL DELIVERY SYSTEM (ASDS) DEVELOPMENT	2,040	5,040	11,040	32,350
TOTAL, OPERATIONAL SYSTEMS DEVELOPMENT	1,212,160	1,306,630	1,280,460	1,331,570
CLASSIFIED PROGRAMS	3,441,033	3,496,871	3,410,650	3,503,974
MISSILE DEFENSE PROGRAMS--UNDISTRIBUTED REDUCTION	---	---	---	-200,000
TOTAL, RESEARCH, DEVELOPMENT, TEST & EVAL, DW	18,803,416	19,514,530	19,301,618	19,798,599

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

R-1		Budget Request	House	Senate	Conference
1	**DEFENSE RESEARCH SCIENCES**	**130,090**	**136,090**	**136,590**	**135,240**
	Institute for Comparative Genomics: Research to Advance National Security Goals		3,000		1,500
	Biomedical Engineering Initiative (Note: for continuation only)		3,000		1,500
	Advanced Materials for Quantum Computing			4,500	2,650
	PBO			2,000	1,000
	Infotonics Research (Transferred from RDTE,DW Line 2)				2,000
	Bio-computational Systems (Transferred from RDTE,DW Line18)			0	-3,500
2	**GOVERNMENT/INDUSTRY COSPONSORSHIP OF UNIVERSITY RESEARCH**	**0**	**12,000**	**4,000**	**10,200**
	Focus Center Research Program		12,000		10,200
	Infotonics Research (Transferred to RDTE,DW Line 1)			4,000	0
3	**DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH**	**9,164**	**9,164**	**13,164**	**12,564**
	Additional Funding			4,000	3,400
5	**CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM**	**72,533**	**101,533**	**83,383**	**95,733**
	CBDP Initiative Program		9,000		7,000
	Biomarker Molecular Toxicology Initiative		4,000		2,800
	Bug to Drug Program (Transferred to RDT&E,DW Line 16)		5,000		0
	Fluorescence Activated Sensing Technology (FAST)				
	Integrated Threat Management System (Includes transfer from RDT&E,A Line 16)		4,000		2,000
	Monoclonal Antibody Manufacturing for the Treatment of Emerging Infections		1,000		1,000
	New York Structural Biology Center (NYSBC)		2,000		1,000
	Northeast Biodefense Center		2,000		1,000
	Selective Biological Countermeasures		2,000		1,000
	Ricin and Anthrax Countermeasures			4,000	2,000
	Superstructural Particle Evaluation & Characterization with Targeted Reaction Analysis			1,850	1,000
	Vaccine Development Program			1,000	1,000
	Photoscrub			1,000	1,000
	Detection of Biological Agents in Water			2,000	1,400
	DNA Safeguard Project at Boise State University			1,000	1,000
6	**INSENSITIVE MUNITIONS--EXPLORATORY DEVELOPMENT**	**5,176**	**5,176**	**7,176**	**6,176**
	Nanomedical Technology Research			2,000	1,000
7	**MEDICAL FREE ELECTRON LASER**	**9,845**	**9,845**	**21,845**	**20,045**
	Medical Free Electron Laser (MFEL)			12,000	10,200

R-1		Budget Request	House	Senate	Conference
8	**HISTORICALLY BLACK & HISPANIC SERVING INSTITUTE SCIENCES**	**13,887**	**17,387**	**15,887**	**17,887**
	Morehouse College John. H Hopps Defense Research Program		2,000		1,700
	Nanoscience and Biotechnology Laboratory Research		1,500		1,000
	Tribal Colleges-Science Lab and Computer Equipment			2,000	1,200
	Thurgood Marshall Scholarship Fund				100
13	**COGNITIVE COMPUTING SYSTEMS**	**200,799**	**200,799**	**145,799**	**165,799**
	Learning, Reasoning and Integrated Cognitive Systems			-55,000	-35,000
14	**BIOLOGICAL WARFARE DEFENSE**	**145,354**	**149,454**	**147,854**	**150,254**
	Asymmetrical Protocols for Biological Defense Enhancement		2,600		1,300
	Novel Sensors for Chemical & Bio-Defense		1,000		1,000
	Specific Gas Detector		500		500
	Noninvasive Biomodulation System			2,500	2,100
15	**CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM**	**187,787**	**251,487**	**229,637**	**250,557**
	Advanced Neutron Radiography		2,000		1,000
	Alternative Delivery Methods for Recombinant Protein Vaccines		1,600	4,700	3,300
	Automated Intelligent Rapid Decontamination System (AIRDS) for Nerve Agents		1,000		0
	Biowarfare Diagnosis and Therapy via Mismatch Repair		3,000		2,550
	Botulinum Neurotoxin Research (Note: Only for collaborative research program conducted by the U.S. Army Medical Research Institute of Chemical Defense.)		3,000		2,550
	CBDP Initiative Program		8,000		7,000
	Chem-Bio Disinfectant/Neutralization Effort		1,500		1,050
	CUBRC GAMMA-ID: Genetic Analysis Microarray for Multiple Agent Identification		3,000		0
	Global Pathogen Portal (PathPort).(Includes transfer from RDTE,A Line 16)		5,000		2,500
	Immuno-Array		1,000		1,000
	IMS Sample Concentration and Bioagent Detection		1,000		1,000
	Institute for Advanced Pharmaceutical Sciences		1,000		1,000
	Low-Cost Protective Chem-Bio Shelters		5,000		3,500
	Multipurpose Biodefense Immunoarray		3,000	2,000	1,400
	Novel Viral Biowarfare Agent ID and Treatment		4,000	5,700	4,000
	Omni Spray Development of Desportion Electro-Spray Ionization (DESI)		1,500		1,000
	Quantum Fingerprint Technology for Chem-Bio Sensing		1,500		1,050
	Rapid Antibody-Based Bio Countermeasures		4,500		0
	Rapid Pathogen Amplification and Detection System (RPADS)		1,800		1,000
	Rapid Response Detection of Chemical and Biological Warfare Agents Program		1,200		1,000
	Real-Time Non-Specific Viral Agent Detector		2,000		1,000
	Self Decontaminating Polymer System for Chemical and Biological Warfare Agents		4,100		2,870
	Theater Level Modeling of Chemical and Biological Operational Effects at the Level of the Individual Soldier		1,000		500
	Vulnerability Determination for Air Vehicle Contamination		1,000		1,000
	Zumwalt Program for Countermeasures to Biological and Chemical Threats		2,000		1,400

R-1		Budget Request	House	Senate	Conference
	Advanced Emergency Medical Response Training Program			3,000	2,500
	Bug-to-Drug Program (Includes transfer from Line 5)			9,000	5,000
	Marburg Countermeasures			6,000	3,000
	Mustard Gas Antidote Research Consortium			3,000	2,550
	Nanowire Mesh Fabrics for Chem/ Bio Defense			1,600	1,600
	Nanotechnology for Detection of Biological Agents			1,900	1,600
	Portable Chemical/Biological Detection Sensor System			2,000	1,400
	Proteomics R&D Improved Drugs and Diagnostics Against Biowarfare			1,500	1,000
	Research on Molecular Approach to Hazardous Materials Decontamination			1,000	1,000
	System for Bacterial Warfare Agent Detection			450	450
16	**TACTICAL TECHNOLOGY**	**361,562**	**363,562**	**336,362**	**352,962**
	R31 Systems: The Next Generation of Intelligent Communications and Radar Systems		2,000		1,700
	Home Field			-3,000	0
	Pre-Conflict Anticipation and Shaping (PCAS)			-4,800	0
	Combat Zones that See			-7,400	0
	Walrus			-20,000	-20,000
	Counter Sniper/RPG Self Protection System			1,000	1,000
	Enhancement of Communications and Telemetry Support Equipment			2,000	1,700
	CEROS			7,000	6,000
	MESH - Enabled Architecture				1,000
18	**MATERIALS AND BIOLOGICAL TECHNOLOGY**	**294,188**	**294,588**	**281,688**	**292,938**
	MMI/MBI Nanotechnology Solutions		400		400
	Bio-magnetic Interfacing Concepts			-12,000	-6,000
	Bio-computational Systems (Transferred to RDTE,DW Line 1)			-6,500	0
	Characterization, Reliability, & Applications of 3-D Microstructures			3,000	1,800
	Strategic Materials			3,000	2,550
19	**WMD DEFEAT TECHNOLOGY**	**206,487**	**208,487**	**206,487**	**207,487**
	Center for Nonproliferation Studies, Monterey Institute for International Affairs		2,000		1,000
20	**ELECTRONICS TECHNOLOGY**	**241,736**	**244,236**	**241,736**	**243,436**
	Secure Advanced Fabrication Facility for Electronics (SAFFE) "National Secure Foundry" Initiative		2,000		1,200
	Semiconductor Nanoelectronics Research		500		500
21	**WMD DEFENSE TECHNOLOGIES**	**106,708**	**112,708**	**106,708**	**111,508**
	National Center for Blast Mitigation and Protection		1,000		1,000
	WMD Defense Technologies		3,000		2,100
	Advanced Portable Mercuric Iodine Imaging Technology for CBRNE Special Operations		2,000		1,700

R-1		Budget Request	House	Senate	Conference
23	**SPECIAL OPERATIONS TECHNOLOGY DEVELOPMENT**	**13,595**	**38,095**	**21,595**	**30,395**
	Helios/Global Observer		8,000		6,800
	Angel Fire for FLAS		9,000	8,000	8,000
	Call for Fire Trainer (CFFT) (Transferred to OP,A Line 171)		4,000		0
	Navigational Technique Enhancements		1,500		1,000
	Technology Infusion Cells for Special Operations Forces (note: only to establish the USSOCOM Technology Infusion Cell at Ft. Bragg, NC in support of Special Operations Forces world-wide)		2,000		1,000
26	**SO/LIC ADVANCED DEVELOPMENT**	**34,529**	**52,029**	**36,529**	**46,429**
	Aerial Canopy Sensor Delivery System (ACSDS)		2,000		2,000
	Air Deployed Reconnaissance & Surveillance Capability (ADRSC)		5,000		2,500
	Day/Night Wide Area Surveillance System (D/NWASS)		1,000		1,000
	DoD Office of Technology Transition/Technology Matching (Transferred to RDTE,DW, Line 60)		2,500		0
	Miniaturized BIGFOOT Tag		1,500		1,000
	Return Path Guidance System		1,000		1,000
	Threat Support Working Group/Advanced Robotic Vehicle Development		2,500		2,000
	Laser Photo-Acoustic Spectroscopy		2,000		1,400
	University Multi-Spectral Laboratory/ASCENT Program			2,000	1,000
27	**COMBATING TERRORISM TECHNOLOGY SUPPORT**	**55,301**	**116,551**	**69,301**	**120,876**
	Asymmetric Warfare Initiative		4,000		3,400
	Automated Threat Identification System		2,250		1,125
	CARETAKER		2,500		2,125
	CBRNE Force Response Element - Education, Development, Operations, and Mitigation (FREEDOM)		2,000		1,700
	Counter Terrorism - Quality Assurance Science (CT-QAS) Program		2,000		1,000
	DICAST Beta Site Deployment		3,000		2,550
	Early Responders Distance Learning Center		1,000		1,000
	Ex-Rad Radiation Protection Program		1,000		1,000
	Facility Security		12,000		10,200
	Fuel Cell Power for Continuity of Operations		2,000	2,000	2,000
	International Technology Transfer (Note: Only for the International Institute for Homeland Security to facilitate interagency/international counterterrorism technology identification and transfer across the public and private sectors.)		5,000		4,250
	Large Vehicle Quadrupole Resonance Bomb Detection		2,000		1,000
	Long Range Radar-Based 3D Facial Recognition Technology		500		500
	Maritime/Port Security Counterterrorism Initiative (MPSCI)		1,000		1,000
	National Terrorism Preparedness Institute/National Center for Cybersercurity Education		4,000		3,400
	Portable Armor Wall System		3,000		2,000
	Roll-on Roll-off Reconnaissance Pallet Improvements		4,000		3,400
	Sensor & Control Systems for Fast Patrol Craft Test Platform		2,500		1,750
	Standoff Detection of Concealed Explosives		3,000		2,550
	Weapons of Mass Destruction Education and Training (WMD E&T)		2,500		2,125

R-1		Budget Request	House	Senate	Conference
	Counter-Terrorism Intelligence Surveillance Reconnaissance			4,000	2,800
	Electromagnetic Wave Gradiometer for the Detection and Confirmation of Underground Hiding Places and Passageways		2,000	3,000	2,100
	Fuel Cell Ground Support Equipment Demo			5,000	3,500
	Foxhound Transileration and Genealogical Search Tool (Transferred from RDTE,DW Line 159)				2,100
	Defense Against Explosive Effects Explosive Loading Laboratory and Field Testing Program				4,000
	TSWG Information Sharing Pilot Project w/ Pinellas County, Florida				3,000
28	**COUNTERPROLIFERATION ADVANCED DEVELOPMENT TECHNOLOGIES**	**96,143**	**99,643**	**107,143**	**109,443**
	New Technology for Detecting Nuclear Weapons Materials		1,000		1,000
	Innovative Technologies and Equipment to Counter NBC Threat		2,500		2,125
	DETECTIVE (HPGe) Radiation Portal Monitors			3,000	2,550
	Guardian Glass Scintillation Fiber Radiation Detectors			8,000	6,800
	US Nuclear Strategy Commission				825
29	**BALLISTIC MISSILE DEFENSE TECHNOLOGY**	**136,241**	**128,385**	**125,647**	**162,297**
	Program Support		-4,456		0
	Advanced Processing Architecture		2,000		1,000
	Aluminum Nitride Substrates for Wide Bandgap Devices		3,600		1,800
	Massively Parallel Optical Interconnects for Microsatellite Applications		2,000	2,600	2,600
	High Altitude Airship		-11,000		-5,000
	Transfer High Altitude Airship to RDA, Line 154A			-16,900	0
	Center for Optical Logic Devices			1,000	1,000
	High Density Power Supplies using Silicon Carbide			5,000	4,250
	Advanced RF Technology Development			4,000	3,400
	Multiple-Target-Tracking Optical Sensor-Array Technology (MOST)			1,000	1,000
	Porous Silicon			1,000	500
	SiC Thick Film Mirror Coatings			3,000	2,550
	BMD Technology			-25,000	-12,500
	NFIRE (Transfer from RDT&E, line 74)			13,706	13,706
	Conformal Embedded Rectennas for High Altitude Airships (Transferred from RDTE,A)				2,500
	Hydrogen-Oxygen PEM Regenerative Fuel Cell for High Altitude Airships (Transferred from RDTE,A)				1,250
	Day and Night Vision Sensor				1,000
	NCADE (Transfer from RDT&E, line 74)				7,000
32	**ADVANCED AEROSPACE**	**75,866**	**77,866**	**58,466**	**61,066**
	Improved Suborbital Operations		2,000	8,000	5,600
	HABIT			-14,000	-14,000
	Advanced Aeronautics Demonstration (CRW and Heliplane)			-5,000	0
	Long Gun			-6,400	-6,400

R-1		Budget Request	House	Senate	Conference
33	**SPACE PROGRAMS AND TECHNOLOGY**	**223,811**	**223,811**	**213,811**	**213,811**
	Space Assembly and Manufacture			-10,000	-10,000
34	**CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - ADVANCED DEVELOPMENT**	**164,481**	**212,881**	**227,981**	**237,456**
	Advanced Engineered Enzyme Decontamination Systems		4,500		2,000
	CBDP Initiative Program		8,000		7,000
	Clinical Treatment for Sulfur Mustard Agent Burns		1,000		1,000
	Cooperative Unmanned Ground and Aerial Vehicle Incubator		1,000		1,000
	Hackensack University Medical Center-Chemical and Biological Defense Initiative		2,000		1,200
	Hand-held Biological Agent Detection (HBAD) System		3,000	4,500	3,000
	Hand-held Biosensor and Continuous Monitor for Biodetection		4,000		3,400
	Heteropolymer Anthrax Monoclonal Antibody		1,000		1,000
	UCLA High Speed, High Volume Laboratory Network for Infectious Diseases		6,000		6,000
	Immunological Biological/Chemical Agent Detector		2,000	4,000	2,400
	Industry-Based Research to Miniaturize Chemical and Biological Detectors (Continuation only)		2,500		2,125
	LISA-JCSD Solid-State Laser Technology		1,000		1,000
	Notre Dame Center for Environmental Networked Embedded Sensor Technology (ND-CENEST)		2,000		2,000
	Novel Sample Concentration Technologies for Contaminant Detection in Drinking Water		1,000		1,000
	Personnel Decontamination Using Liquid Technology		3,600		1,800
	Portable Rapid Bacterial Warfare Detection Unit		1,800		1,000
	Removal of NBC Agents in Drinking Water		4,000		2,800
	Dengue Countermeasures			6,000	3,000
	Ebola Countermeasures			6,000	3,000
	NIDS Handheld Biological Agent Detectors			12,000	6,000
	Oral Adjuvants			2,000	1,400
	Outbreak Detection Information Network (ODIN)			4,000	2,000
	Plant Vaccine Development			7,000	3,500
	Polyclonal Human Antibody Production System			3,500	2,100
	Rapid Response Database Systems			1,000	1,000
	Reactive Air Purification for Individual and Collective Protection			8,000	5,600
	Self-Detoxifying Materials in CB Protective Clothing			3,000	2,100
	Small Accelerators and Detection Systems			2,500	1,500
	Anthrax Monoclonal Antibody Therapeutic and Prophylaxis Program				2,050
37	**SPECIAL TECHNICAL SUPPORT**	**0**	**0**	**2,000**	**1,400**
	Spray Technique Analysis and Research for Defense			2,000	1,400
39	**GENERIC LOGISTICS R&D TECHNOLOGY DEMONSTRATIONS**	**22,360**	**56,780**	**73,360**	**77,320**
	California Manufacturing Technology Center (CMTC)		8,000		5,000
	Desert Research Institute CAVE Automatic Virtual Environment (Transferred to RDT&E,A Line 39)		3,600		0
	Distributed Inventory Management System		1,000		1,000
	DMS Center for Excellence Program		2,500		1,000
	E/CIT Program - Embedded Passives R&D Testbed		4,320		2,160
	Intelligent Logistics Information Management Bridge System (LIMBS)		1,000		1,000

R-1		Budget Request	House	Senate	Conference
	Monolithic RF/Digital Ics		4,000		0
	Pilot Project to Improve Energy Procurement Practices and Procedures		1,000		1,000
	Processing Fuel Cell Components for Light Weight, Low Cost Transportation System using a 3+ Ring Extruder		5,000		2,500
	Secure Digital Coherent Optical Communications		2,000		1,700
	Tactical Wheeled Vehicle Safety Intervention		2,000		1,000
	Advanced Power Management for Wireless Systems			2,000	1,400
	Aging Systems Sustainment and Enabling Technologies (ASSET)			2,000	1,000
	Chameleon Miniaturized Wireless Systems			9,000	6,300
	DOD Email Net Inventory Service			2,000	1,000
	Hydrogen Logistics Fuel Initiative			1,500	1,000
	Manufacturing Extention Partnership -- Midwest			2,000	1,200
	Next Generation Air Start Cart			2,000	1,700
	Solid Hydrogen Storage and Fuel Cell Systems			3,500	2,100
	Ultra-low Power Battlefield Sensor System			20,000	15,000
	Vehicle Fuel Cell Program			7,000	4,900
	New England Manufacturing Supply Chain				1,000
	Thermal Transinformative Barcoding of Perishable Consumables (Note: only for temperature reactive pigment barcoding of perishables to facilitate indentification of spoiled/unsafe consumables.)				1,000
	Connectory for Rapid Ientifcation of Technology Sources for DoD				1,000
39A	**MICROELECTRONIC TECHNOLOGY DEVELOPMENT AND SUPPORT**		**118,500**	**0**	**92,150**
	Ferrite Technology		1,500		1,050
	University Materials Characterization and Metrology Center		1,000		1,000
	DMEA Core Research Funding		48,000		20,000
	Spintronics Memory Storage Technology		12,000		10,200
	California Center for Nanoscience Innovations for Defense (CALCNID)		10,000		8,500
	Ruggedized Smart/Secure RFID (Note: Only to continue and expand the "Ruggedized Military RFID" program)		6,000		5,100
	Optimized Electronics for Advanced Controlled Environment Systems		5,000		4,250
	Spray Cooling Migration Program		6,000		5,100
	Low Voltage Tunable Material		3,000		2,000
	Tunable Monolithic Integrated Circuit		3,000		2,000
	Short Cycle RF System on Chip (RFSoC) Design		2,000		1,500
	Development for Low Cost HTS Receiver Manufacturing		3,000		2,550
	Advanced Power Management for Wireless Systems (Note: Only for technology demonstration of autonomous on-demand power systems to include creating electrical and mechanical designs, algorithms, and embedded software development.)		5,000		4,250
	Molecular Electronics		1,000		1,000
	Advance Beam Steering Program		1,000		1,000
	Advanced Dynamic Technology Optics Program		1,000		1,000
	Advanced Filter Program		1,000		1,000

R-1		Budget Request	House	Senate	Conference
	Foliage-penetrating Acoustically Cued Imagery Sensor		4,000		3,400
	Semiconductor Photomask Technology Initiative (Note: Only for the development of a domestic supplier of semiconductor mask capability)		5,000		4,250
	Rugged Integrated Battlefield Server (Note: only to develop and deploy a spay-cooled collection management toolset for ISR synchronization efforts in Operation Enduring Freedom.)				10,000
	Superlattice (Note: only to continue the current research and to incorporate Molecular Beam Epitaxy)				3,000
41	**STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM**	**64,101**	**68,101**	**78,101**	**76,651**
	Risk Based Approaches for Improved Toxic Chemical Management		1,000		1,000
	National Environmental Educational and Training Center		3,000		0
	ChemNet Environmax 4.0			3,000	1,800
	Wellhead Treatment of Perchlorate Contaminated Wells (Includes transfer from RDT&E,A, Line 66)			10,000	8,750
	Remediation of Environments Contaminated by Ammonium Perchlorate at the University of Idaho			1,000	1,000
43	**ADVANCED ELECTRONICS TECHNOLOGIES**	**214,378**	**217,378**	**223,878**	**224,078**
	Advanced Lithography Fabrication Processing		3,000		2,550
	Electronic Miniaturization			6,000	5,100
	MIL Tech Extension			1,500	1,050
	Small Scale Systems Packaging Center			2,000	1,000
44	**ADVANCED CONCEPT TECHNOLOGY DEMONSTRATIONS**	**163,649**	**177,849**	**169,849**	**173,049**
	Anti-Terrorist Explosive Ordnance Disposal (EOD) Real-Time Mission Support System		1,000		1,000
	for a joint program involving Louisiana National Guard, the South LA Economic Council, Nicholls State University and Louisiana State Police. Program to be conducted with Nicholls State University facilities.)		2,000		1,000
	Flexible JP-8 Military Fuel Certification		3,600	4,000	3,600
	Potable Water System		1,000		0
	Jet/Diesel-Fueled Military Fuel Cell System (Transferred to RDTE,A Line 19)		3,600		0
	Spike Missile Development and Production		3,000		1,500
	Crossed Field Radiation Technology			1,000	1,000
	High Altitude Airship			-4,800	-4,800
	Portal Security			6,000	5,100
	SecureD Development, Testing Demonstration and Validation				1,000
45	**HIGH PERFORMANCE COMPUTING MODERNIZATION PROGRAM**	**189,747**	**200,247**	**213,247**	**220,997**
	Upgrade Prototype "Eldorado" Supercomputer for National Security (Transferred to RDTE,DW)		1,500		0
	Data Intensive High Performance Computing		5,000		3,500
	High Performance Computer Prototype - Naval Research Lab		4,000		3,400
	Arctic Regional Supercomputer			5,500	4,700
	High Performance Computational Design of Novel Materials			3,000	2,550
	MHPCC Technology Upgrade			15,000	15,000
	W-P HPC Modernization (Transferred from P,DW Line 1)				2,100

R-1		Budget Request	House	Senate	Conference
49	**LAND WARFARE TECHNOLOGY**	**139,100**	**139,100**	**104,200**	**127,200**
	Non-lethal Alternatives for Urban Operations			-6,000	0
	DPX-5			-5,900	-5,900
	Mobile Network MIMO			-17,000	0
	C-130 STOL Demo			-6,000	-6,000
51	**NETWORK-CENTRIC WARFARE TECHNOLOGY**	**136,899**	**136,899**	**131,899**	**136,899**
	Precision Urban Combat System			-5,000	0
52	**SENSOR TECHNOLOGY**	**189,452**	**189,452**	**171,452**	**189,452**
	ISIS			-18,000	0
54	**DISTRIBUTED LEARNING ADVANCED TECHNOLOGY DEVELOPMENT**	**14,689**	**17,189**	**14,689**	**16,814**
	Network Centric Warrior Training Program		2,500		2,125
55	**SOFTWARE ENGINEERING INSTITUTE**	**25,209**	**28,209**	**30,209**	**31,259**
	Software Engineering Institute (Note: Only for increased software research at Carnegie Mellon University's software Engineering Institute, Project 781)		3,000		2,550
	Advanced Lithography - Thiri Film Masks for Lithography			5,000	3,500
59	**TEST & EVALUATION SCIENCE & TECHNOLOGY**	**28,614**	**28,614**	**34,614**	**27,814**
	Advanced Unmanned Vehicle System Development			7,000	4,200
	National Unmanned Systems Experimentation Environment (NUSE2) (Transferred to RDTE,DW line 65)			4,000	0
	Program Growth			-5,000	-5,000
60	**TECHNOLOGY LINK**	**3,435**	**5,435**	**11,185**	**16,585**
	IEE Technology Transfer		2,000		1,700
	Springboard			7,750	7,750
	Remote Presence - Red Cell Crisis Alert				1,700
	DoD Office of Technology Transition/Technology Matching (Transferred from RDTE,DW Line 23)				2,000
62	**SPECIAL OPERATIONS ADVANCED TECHNOLOGY DEVELOPMENT**	**104,315**	**147,915**	**103,015**	**145,185**
	Advanced Multipurpose Microdisplay System		6,000		5,100
	Advanced Tactical Laser		-20,000	-10,000	-12,000
	Army DRAMA/COMPOSER Integration & Development		2,000		1,700
	Autonomous Navigation Sensor Suites		2,800		2,380
	Counter Sniper & Surveillance Detection System		2,500		2,125
	Field Experimentation Program for Special Operations (FEPSO)		1,000		1,000
	Foxhound Arabic Software Testing and Evaluation		2,700		1,350
	High Altitude Long Endurance Airships (Note: only for the development of a fully-automated syntheses devise for producing electronically and optically active nanostructures for high altitude airship electronics and sensors)		1,500		1,050
	Improved Materials for Fireproof Protective Clothing		1,500		1,275
	Improved Special Operations Fast Rope (Soft Rope) Kit		2,000		1,700
	Improved Special Operations Reconnaissance Kits Program		5,000		2,250
	Integrated Cyber Command and Control		2,000		1,000
	Magnum Universal Night Sight (MUNS)		1,000		1,000
	Satellite Synthetic Aperture Radar		3,000		2,550

R-1		Budget Request	House	Senate	Conference
	SAVIOR-Surveillance Augmentation Vehicle-Insertable on Request		3,000		1,800
	Smart Sight, Remote Video Weapon Site, USSOCOM SBIR		3,000		1,500
	Snapshot Synthetic Aperture Radar (Snapshot SAR)		1,000		1,000
	SOF Unmanned Vehicle Targeting		2,000		1,700
	Special Forces Personnel and Equipment Survivability Activity		1,800		1,260
	Special Operations Airborne Intelligence and Reconnaissance Program		2,000		1,700
	Special Operations Command Tactical Systems Development		2,000		1,700
	Three Dimensional Imaging Technology Development		3,800		3,230
	Unmanned Aerial Vehicle Certification and Support		2,000		1,700
	Unmanned Aerial Vehicle Synthetic Aperture Radar		3,000		2,550
	Urban Tactical Warfare Planning Tool		1,000		1,000
	USSOCOM Improved Information Transfer		4,000		3,400
	Waterway Threat Detection Sensor System		2,000		1,700
	C-130 Advanced Tactical Airborne C4ISR System (ATACS)			2,500	1,250
	LRIP LASSO			2,500	0
	Long Range Biometric Target Identification System			3,000	1,500
	Mark V Patrol Boat Replacement			1,500	1,500
	Mobile Electrical Power Utilizing Energy Harvesting			1,900	1,300
	Special Operations Portable Power Source			5,000	3,500
	Voice Activated Handheld Translator			2,300	1,100
	SOST Program Growth			-10,000	-7,500
	Digital Camera Rifle Scope				500
	Airborne Threat Detection Capability Expansion (Transferred from OP, AF Line 41)				1,000
63	**PHYSICAL SECURITY EQUIPMENT**	**0**	**7,100**	**9,000**	**10,010**
	360-Degree Portable Surveillance and Reconnaissance Technologies		3,600		1,160
	Family of Integrated Rapid Response Equipment (FIRRE)		1,000		1,000
	Physical Security Enhancements for Federally Funded Research and Development Centers (FFRDC's)		2,500		1,250
	Persistant Perimeter Security with Unmanned Mobile Sensors			8,000	5,600
	Intelligent Decision Exploration			1,000	1,000
65	**JOINT ROBOTICS PROGRAM - EMD**	**11,755**	**24,755**	**14,755**	**27,705**
	Joint Robotics Research and Development		5,000		3,500
	Embedded GPS for Robotic Applications		1,000		0
	Robotics Work Force Curriculum Partnership		2,000		1,700
	Under Vehicle Mobile Inspection		5,000		4,250
	Robotic Assisted Convoy Operations			3,000	1,800
	Scalable Stabilization Technology of Mobile Sensors and Weapons				1,700
	Remotely Operated Electronic Ballistic Technology				1,000
	National Unmanned Systems Experimentation Environment (NUSE2) (Transferred from RDTE,DW line 59)				2,000

R-1		Budget Request	House	Senate	Conference
66	**ADVANCED SENSOR APPLICATIONS PROGRAM**	**18,275**	**21,275**	**26,275**	**25,075**
	Secure Airborne Freespace Optical Comm		3,000	4,000	3,000
	Biometric Signatures Research			4,000	2,800
	Advanced Tactical Geolocation				1,000
67	**ENVIRONMENTAL SECURITY TECHNICAL CERTIFICATION PROGRAM**	**30,632**	**45,332**	**30,632**	**37,032**
	Wide Area Assessment for UXO Cleanup		5,000		2,500
	Development of Advanced, Sophisticated Discrimination Technologies for UXO Cleanup		5,000		2,500
	Toussaint River Explosive Ordnance Removal		2,000		1,400
	Perchlorate Destruction and Remediation Using Multiple Technologies including Zero-Valent Iron w/ Emission Technology		2,700		0
69	**BALLISTIC MISSILE DEFENSE TERMINAL DEFENSE SEGMENT**	**1,143,610**	**1,123,698**	**1,208,610**	**1,198,860**
	Program Support		-19,912		0
	Arrow Co-Production			55,000	45,250
	Short Range Ballistic Missile Defense			10,000	10,000
70	**BALLISTIC MISSILE DEFENSE MIDCOURSE DEFENSE SEGMENT**	**3,266,196**	**0**	**0**	**0**
	Ground-based Midcourse Defense Segment to line 70A		-2,335,770	-2,335,770	-2,335,770
	Sea-based Midcourse Defense Segment to line 70B		-848,426	-848,426	-848,426
	Multiple Kill Vehicle to line 70C		-82,000	-82,000	-82,000
70A	**BALLISTIC MISSILE DEFENSE GROUNDBASED MIDCOURSE DEFENSE SEGMENT**		**2,267,070**	**2,541,657**	**2,489,257**
	Ground-based Midcourse Defense Segment		2,334,657	2,334,657	2,334,657
	Multiple Kill Vehicle		82,000		0
	Block 2004/2006 Element Test and Evaluation		-100,000		0
	Ground Test Equipment and Hardware		100,000		0
	GBIs 31-40		-50,000		0
	Silos		-12,961		0
	Unjustified Program		-50,000		0
	Program Support		-36,626		0
	Ground Based Mid-Course Defense Test Program/Enhancements			200,000	150,000
	Improved Materials for Optical Materials			8,000	5,600
	Multiple Kill Vehicles Program Support to line 70C			-1,000	-1,000
70B	**BALLISTIC MISSILE DEFENSE SEABASED MIDCOURSE DEFENSE SEGMENT**		**892,901**	**930,426**	**939,066**
	Sea-based Midcourse Defense Segment		845,426	845,426	845,426
	Asymmetric Threat Initiative		20,000		10,000
	S-Band Advanced Radar		13,000		5,650
	Ballistic Missile Defense Signals Processor		27,000		27,000
	Program Support		-12,525		0
	Aegis SM-3 development and deployment			75,000	41,000
	Kauai Test Facility			{4,000}	{4,000}
	PMRF Upgrades			5,000	5,000
	Range Mission Tool			2,500	2,495
	Sensor Data Fusion and Communications			2,500	2,495

R-1		Budget Request	House	Senate	Conference
70C	**MULTIPLE KILL VEHICLES**			**83,000**	**83,000**
	Multiple Kill Vehicles from line 70			82,000	82,000
	Program Support from line 70A			1,000	1,000
71	**BALLISTIC MISSILE DEFENSE BOOST DEFENSE SEGMENT**	**483,863**	**464,867**	**493,863**	**490,863**
	Program Support		-18,996		0
	Airborne Laser			10,000	7,000
72	**CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - DEM/VAL**	**100,796**	**137,596**	**100,796**	**124,046**
	Wide-Spectrum Bio-ID Sensor		6,000		4,200
	Advanced Sensor Technology Research and Development Center		3,000		1,500
	High Throughput Automated Laboratory Network Against Infectious Disease Outbreaks and Bioterrorism		3,000		0
	E-Smart Threat Agent Network for Liberty Island		6,000		3,000
	Next Generation Dual Use Bio-Defense Technologies		1,800		1,000
	Roll-on Roll-off Infection Control Facility		3,000		2,550
	Countermeasures to Chemical and Biological Threats/Rapid Response		10,000		8,500
	BioBlower		3,000		1,500
	Continuation of Robotics Testbed and establishment of Cooperative Unmanned Ground and Aerial Vehicle Incubator		1,000		1,000
73	**BALLISTIC MISSILE DEFENSE SENSORS**	**529,829**	**0**	**0**	**0**
	SSTS transfer to line 73A		-235,536	-235,536	-235,536
	RADARS transfer to line 73B		-294,293	-294,293	-294,293
73A	**SPACE SURVEILLANCE AND TRACKING SYSTEM**		**231,358**	**245,536**	**239,998**
	SSTS		235,536	235,536	235,536
	Program Support		-3,640		0
	SSTS Block 12 - Premature Request		-538		-538
	Airborne Infrared Surveillance Systems (AIRS)			10,000	5,000
73B	**RADARS**		**289,743**	**294,293**	**294,283**
	RADARS		294,293	294,293	294,283
	Program Support		-4,550		0
74	**BALLISTIC MISSILE DEFENSE SYSTEM INTERCEPTOR**	**229,658**	**218,749**	**114,952**	**215,952**
	Program Support		-10,909		0
	BMD System Interceptors			-111,000	0
	NFIRE to line 29			-13,706	-13,706
	Net Centric Airborne Defense Element (Transferred to RDT&E,DW Line 39)			10,000	0
75	**BALLISTIC MISSILE DEFENSE TEST & TARGETS**	**617,456**	**614,513**	**624,456**	**627,206**
	Program Support		-6,543		0
	Combined Environments Radiation Effects Simulation		3,600		1,800
	Multi-Frame Blind Deconvolution			3,000	2,550
	Optical Sensors for PMRF (SHOTS)			4,000	3,400
	Scorpius Sub-Orbital Family of Responsive Low-Cost Rockets				2,000

R-1		Budget Request	House	Senate	Conference
76	**BALLISTIC MISSILE DEFENSE PRODUCTS**	**455,152**	**383,604**	**425,152**	**394,652**
	Program Support		-10,548		0
	C2BMC Block 2008		-25,000		0
	Hercules Block 2010 - Premature Request		-11,000		-5,500
	Joint Warfighter Sustainment - Unjustified Program Growth		-25,000		-25,000
	C2BMC National Team Unjustified Program Growth			-30,000	-30,000
77	**BALLISTIC MISSILE DEFENSE SYSTEMS CORE**	**447,006**	**404,428**	**417,006**	**420,151**
	Program Support		-12,278		0
	Program Reduction		-40,000		0
	Affordable Integrated Composite Structures/Resin Transfer Molding Manufacturing		1,000		0
	Sensor Reliability		3,700		3,145
	Optimizing Pump Sources for High Energy Lasers		4,000		4,000
	Lean Pathway Deployment Through Distance Learning		1,000		1,000
	BMD System Core			-30,000	-35,000
78	**SPECIAL PROGRAMS - MDA**	**349,522**	**349,522**	**299,522**	**324,522**
	BMD Special Projects			-50,000	-25,000
78A	**BALLISTIC MISSILE DEFENSE PROGRAM SUPPORT**		**140,983**	**0**	**0**
	Program Support		140,983		0
81	**DEPARTMENT OF DEFENSE CORROSION PROGRAM**	**5,141**	**5,141**	**5,141**	**7,741**
	Technology Demonstration for Prevention of Material Degradation (Transferred from RDTE,A Line 33)				2,600
83	**JOINT CAPABILITY TECHNOLOGY DEMONSTRATIONS**	**3,000**	**3,000**	**7,000**	**7,000**
	Satellite Assets for Joint Navigation Warfare (Transferred from RDTE,DW Line 183)			4,000	4,000
86	**JOINT ELECTROMAGNETIC TECHNOLOGY (JET) PROGRAM**	**3,566**	**6,066**	**11,566**	**12,641**
	Joint Electromagnetic Technology (JET) Program (only for Wireless Power Platform RF Energy Harvesting)		1,500		1,275
	IED Electronic Signature Detection		1,000		1,000
	Delta Mining Training Center			4,000	3,400
	HIPAS			4,000	3,400
87	**DEFENSE ACQUISITION CHALLENGE PROGRAM (DACP)**	**28,975**	**34,975**	**28,975**	**34,075**
	Defense Challenge Program		6,000		5,100
88	**CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - EMD**	**280,908**	**290,408**	**259,408**	**264,083**
	Bio and Chemical Agents Detector		1,500		1,000
	Joint Warning and Reporting Network (JWARN)		2,500		1,750
	ParallelaVax Rapid Vaccine Testing Technology		2,000	3,500	2,450
	CA5 Contamination Avoidance		3,500		2,975
	Program Growth			-25,000	-25,000
89	**MANPADS DEFENSE PROGRAM**	**13,349**	**19,349**	**16,349**	**18,849**
	Counter-ManPads Airspace Protection System (CMAPS)		2,000	3,000	2,100
	Counter MANPADS		4,000		3,400

R-1		Budget Request	House	Senate	Conference
90	**JOINT ROBOTICS PROGRAM - EMD**	13,745	23,745	15,745	20,795
	Joint Robotics Research and Development		5,000		3,500
	Robotic Gator (R-Gator)		2,000		1,000
	Gladiator Teleoperated Unmanned Vehicle (Note: For risk reduction initiatives in digital communications, weight reduction and payload accuracy)		3,000		2,550
	Unmanned Ground Vehicles			2,000	0
95	**FINANCIAL MANAGEMENT SYSTEM IMPROVEMENTS**	75,987	75,987	80,987	80,987
	Small Business Pilot Program to Re-Engineer DoD Vendor Pay Process			5,000	2,500
	Pentagon Integrated Campus Pilot Program (Transferred from RDT&E,DW Line 149)				2,500
96	**DEFENSE INTEGRATED MILITARY HUMAN RESOURCES SYSTEM**	20,322	20,322	45,322	37,822
	DIMHRS			25,000	17,500
103	**JOINT COMMAND AND CONTROL PROGRAM (JC2)**	14,580	15,580	14,580	15,580
	Operational Security		1,000		1,000
109	**TRANSFORMATION INITIATIVES PROGRAM**	10,152	0	0	0
	Unjustified Program		-10,152	-10,152	-10,152
112	**DEFENSE READINESS REPORTING SYSTEM (DRRS)**	13,475	13,475	13,475	15,475
	DRRS National Readiness Prototype				2,000
113	**JOINT SYSTEMS ARCHITECTURE DEVELOPMENT**	9,254	11,254	9,254	10,954
	Special Operations Joint Architecture Integration		2,000		1,700
114	**CENTRAL TEST AND EVALUATION INVESTMENT DEVELOPMENT**	128,759	137,759	136,759	141,159
	Range Tactical Data Link and Relay Capability		3,000		2,100
	Joint Gulf Range Complex Upgrade		2,000		1,000
	Re-locatable Command, Control, and Communications (C3) for Gulf Range Support		4,000		3,400
	UAV Systems and Operations Validations Program			7,000	4,900
	Unmanned Systems Testbed			1,000	1,000
116	**TECHNICAL STUDIES, SUPPORT AND ANALYSIS**	31,075	33,075	31,075	33,075
	Capabilities Study for IED Detection		1,000		1,000
	NDU Technology Pilot Program		1,000		1,000
121	**FOREIGN MATERIAL ACQUISITION AND EXPLOITATION**	36,895	36,895	56,895	56,895
	Classified Adjustment			20,000	20,000
125	**CLASSIFIED PROGRAM USD(P)**	0	0	100,000	90,000
	Classified Adjustment			100,000	90,000
126	**FOREIGN COMPARATIVE TESTING**	35,738	35,738	35,738	37,863
	AT4 Confined Space AT4CS Anti-Structure Tandem (AST) (Transferred from RDTE,A)				2,125

R-1		Budget Request	House	Senate	Conference
128	**SUPPORT TO NETWORKS AND INFORMATION INTEGRATION**	**10,706**	**11,706**	**16,706**	**16,806**
	Command Information Superiority Architectures (CISA) Program		1,000		1,000
	Pacific Disaster Center			6,000	5,100
130	**CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM**	**81,425**	**81,425**	**83,925**	**82,675**
	Advanced Chemical/Biological Integrated Response Course			2,500	1,250
135	**CLASSIFIED PROGRAMS - C3I**	**0**	**9,000**	**10,000**	**9,000**
	Foreign Supplier Assessment Center		9,000	10,000	9,000
136	**SMALL BUSINESS INNOVATION RESEARCH/CHALLENGE ADMINISTRATION**	**1,983**	**7,983**	**4,983**	**7,083**
	Vacuum Sampling Pathogen Collection and Concentration		3,000		1,500
	Hardened Electronic Design and Test Platform Technology		3,000		1,500
	Advanced Metalized Gelled Propellants			3,000	2,100
137	**DEFENSE TECHNOLOGY ANALYSIS**	**5,393**	**5,393**	**5,393**	**7,093**
	Commodity Management Systems Consolidation Program (Transfer from RDT&E,AF Line 228)				1,700
138	**FORCE TRANSFORMATION DIRECTORATE**	**19,927**	**71,927**	**19,927**	**61,427**
	Operationally Responsive Space (ORS)		47,000		39,000
	Project Sheriff		5,000		2,500
149	**PENTAGON RESERVATION**	**17,386**	**22,386**	**17,386**	**17,386**
	Pentagon Integrated Campus Pilot Program (Transferred to RDT&E,DW Line 95)		5,000		0
156	**C4I INTEROPERABILITY**	**65,517**	**67,517**	**65,517**	**67,217**
	System of Systems Engineering Center of Excellence		2,000		1,700
170	**DISA MISSION SUPPORT OPERATIONS**	**3,426**	**3,426**	**13,426**	**9,426**
	Critical Infrastructure Test Range at the Idaho National Laboratory			10,000	6,000
177	**TELEPORT PROGRAM**	**12,180**	**12,180**	**7,180**	**7,180**
	Execution Delays			-5,000	-5,000
181	**CRITICAL INFRASTRUCTURE PROTECTION (CIP)**	**11,363**	**13,363**	**11,363**	**12,363**
	Collaborative and Virtual Reality Training System		2,000		1,000
189	**NET CENTRICITY**	**8,387**	**9,387**	**8,387**	**8,387**
	Visual Enterprise Monitoring (VEM)		1,000		0

R-1		Budget Request	House	Senate	Conference
202	**INDUSTRIAL PREPAREDNESS**	**18,219**	**36,219**	**24,719**	**35,169**
	Castings for Improved Defense Readiness (CIDR)		1,000		1,000
	Surfaces		4,000		2,000
	Copper-Based Casting Technology Program (C-BCT)		2,000		1,200
	Intensive Quenching for Advance Weapons Systems		1,000		1,000
	Defense Supply Chain Technology Program		10,000		6,500
	Center for Advanced Manufacturing			1,500	1,000
	Manufacturing Engineering of Spray Cooling Technology			5,000	4,250
208	**SPECIAL OPERATIONS TACTICAL SYSTEMS DEVELOPMENT**	**63,513**	**115,483**	**80,813**	**106,763**
	Command and Control Mission Manager Spiral 3		1,000		1,000
	Covert Wavelet Packet Modulation		2,000		1,400
	Development, production, and testing of a prototype advanced design of Mark V craft		2,020		1,800
	Dominant Vision		2,000		1,000
	Dual-Band Universal Night Sight (DUNS)		1,000		1,000
	High Value Target Tracking Devices		2,500		2,100
	Integrated Bridge System		1,000		1,000
	M72 Lightweight Attack Weapon System (LAW)		3,000		2,550
	Magneto Inductive Remote Activation Munitions Systems (MI-RAMS) (Note: $1M only to accelerate TC-STD Fielding of the XM40 and $3.25M only to integrate TC-STD Dual Mode Function to the XM40)		5,000		4,250
	Modular Computing Technology		1,250		1,000
	Mountain Climbing/Arctic Warfare Boot		1,000	1,000	1,000
	Multi-Role, Anti-Armor, Anti-Personnel Weapon System Multi-Target Warhead		1,000		500
	Next Generation Navigation System		1,200		1,000
	SOCOM Rotary Wing UAV(Note: Only to continue the ongoing ACTD and to operationalize current systems)		20,000		7,000
	Tactical Communication Systems Testbed Initiative		2,000		1,700
	USSOCOM STAR-TEC Partnership Program		3,000		2,600
	Warrior Reach		3,000		1,500
	Alternative Mobility Vehicles (AMV) for Special Operations Applications			3,500	2,450
	Covert Waveform Communications Modules			4,800	2,400
	SOF Unmanned Vehicle Targeting			8,000	4,000
	SOCOM Imagery Dissemination System				2,000
209	**SPECIAL OPERATIONS INTELLIGENCE SYSTEMS DEVELOPMENT**	**33,167**	**53,267**	**52,167**	**60,617**
	SOF Individual Threat Warning Receiver (Note: Only for development and operational testing of the Individual Threat Warning System under the MANPACK ACTD initiated under SBIR SOCOM01-006.)		9,000		7,700
	Nanotechnology Integration Team		2,700		2,300
	SOCOM Power Sources Integration Team		2,700		2,300
	Tactical Miniature SDR Receiver		2,700	3,000	2,700
	Near Real Time Video		1,000		1,000

R-1		Budget Request	House	Senate	Conference
	Night Vision Integrated Display System		500		500
	Optimal Placement of Unattended Sensors (OPUS)		1,500		1,000
	Bio-Warfare Testing			1,500	1,000
	Joint Threat Warning System - GSK and UAV			6,000	3,000
	Application Specific Integrated Circuit (ASIC) Development			6,000	4,200
	Special Operations Wireless Mgmt and Ctrl (SOWMAC)			2,500	1,750
210	**SOF OPERATIONAL ENHANCEMENTS**	**66,313**	**74,213**	**77,813**	**75,563**
	Intelligent Systems and Communications (Transferred to RDTE,N Line 135)		3,000		0
	Special Payload for Neptune UAV System		4,900	3,000	3,400
	B-Band Covert Night Vision System Low-Rate Initial Production			5,500	3,850
	Lightweight Portable Solar Panels			1,500	1,000
	Special Operations Tactical Mobility Simulator			1,500	1,000
212	**SPECIAL OPERATIONS AIRCRAFT DEFENSIVE SYSTEMS**	**38,824**	**27,324**	**38,824**	**27,324**
	Towed Decoy		-11,500		-11,500
213	**OPS ADVANCED SEAL DELIVERY SYSTEM (ASDS) DEVELOPMENT**	**2,040**	**5,040**	**11,040**	**32,350**
	High Speed Military Craft (note: only for the purpose of demonstrating the efficiency of advanced composite materials systems for the new high-speed patrol craft using the expertise developed for the Virginia Class Submarine)		3,000		1,500
	Advanced Materials & Processes Demo for High-Speed Military Craft			9,000	7,650
	Program Restructure				21,160
999	**CLASSIFIED PROGRAMS**	**3,441,033**	**3,496,871**	**3,410,650**	**3,503,974**
	MISSILE DEFENSE PROGRAMS - UNDISTRIBUTED REDUCTION				**-200,000**

Initiative Funds

The conferees direct the Secretary of Defense to provide quarterly reports beginning the first fiscal quarter after the enactment of this Act to the congressional defense committees detailing the specific programs that are funded from the Quick Reaction Special Projects, the Counter Terrorism Technology Support Program and the Combating Terrorism Technology Task Force funds. The reports should include project descriptions with their respective schedule and funding requirement, transition plans to the services for further development and lessons learned from completed projects. The conferees further direct the Secretary to provide the reports to the Director of National Intelligence and the Secretary of Homeland Security.

Chemical and Biological Defense Program

The conference agreement provides an increase of $21,000,000 for the Chemical and Biological Defense Initiative. The Secretary of Defense is directed to allocate these funds among the programs that yield the greatest gain in our chem-bio defensive posture. The conferees further direct that such funds may not be obligated until 15 days after a report, including a description of projects to be funded, is provided to the congressional defense committees.

Operationally Responsive Space

The conference agreement includes an increase of $39,000,000 for Operationally Responsive Space (ORS) projects. Of this amount, $20,000,000 is only for standardized bus development, and $19,000,000 is only for operationally responsive payload development.

Asymmetric Missile Threat

The conferees are increasingly concerned about the possibility of an asymmetric missile threat against the United States homeland where terrorists would move short-range missiles closer to the United States on sea-based platforms. The conferees recommend $10,000,000 to conduct a comprehensive analysis on the need for and deployment of an asymmetric missile defense capability, including both land and sea-based solutions, against the full range of asymmetric missile threats. Accordingly, the Director of the Defense Intelligence Agency shall provide a report to the congressional defense committees not later than March 1, 2006, which examines this threat and assesses its validity. Based on those findings, the Director of the Missile Defense Agency, in consultation with U.S. Northern Command and U.S. Strategic Command, shall provide a report to the congressional defense committees not later than June 1, 2006, that provides its recommendations for deployment options of an asymmetric missile defense capability that would protect population centers, use mature technologies, and include progressions for spiral technology upgrades that would enhance missile defense capabilities over time.

Kinetic Energy Interceptor

The conference agreement provides $215,952,000 for the Kinetic Energy Interceptor instead of $202,246,000 as proposed by the House and $104,952,000 as proposed by the Senate. The conferees direct the Missile Defense Agency to execute the program as proposed in the fiscal year 2006 President's Budget.

NFIRE

The conferees encourage the Missile Defense Agency to continue development and mission integration of the deployable NFIRE Kill Vehicle.

High Performance Computing

The Fiscal Year 2002 Defense Appropriations Act directed the Secretary of Defense to submit a development and acquisition plan for a comprehensive, long-range, integrated, high-end computing program to Congress by July 1, 2002. The report, "High Performance Computing for the National Security Community", was submitted to Congress on April 9, 2003. The letter accompanying the report stated that, "Over the next 6 months, the Department will develop an appropriate implementation plan for high-end computing, working in close coordination with other government agencies." The conferees are concerned that the Department has not developed an implementation plan as promised. Therefore, the conferees direct the Office of the Secretary of Defense to submit to Congress no later than 90 days after enactment of this Act a report outlining plans for implementing and funding the Integrated High-End Computing (IHEC) Program and for creating a Joint Program Office to oversee the program. The conferees encourage the Secretary of Defense to include and fully fund a complete IHEC program in the President's Budget for FY 2007.

Identity Authentication

The conferees are aware that the Department of Defense has a pressing need to acquire and deploy systems that authenticate the identities of individuals seeking access to its installations. The conferees believe that acquisition of such systems should be based on sound performance requirements and take advantage of the innovation and capabilities of the commercial marketplace. Such systems should draw on a variety of bona fide data sources (including those maintained by the Department) to permit access only to those who require it.

OPERATIONAL TEST AND EVALUATION, DEFENSE

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
OPERATIONAL TEST & EVAL, DEFENSE				
RDT&E MANAGEMENT SUPPORT				
CENTRAL TEST AND EVALUATION INVESTMENT DEVELOPMENT (CT	---	---	---	---
OPERATIONAL TEST AND EVALUATION........................	43,928	43,928	43,928	43,928
LIVE FIRE TESTING.....................................	10,340	10,340	10,340	10,340
DEVELOPMENT TEST AND EVALUATION.......................	114,190	114,190	114,190	114,190
TOTAL, RDT&E MANAGEMENT SUPPORT.......................	168,458	168,458	168,458	168,458
TOTAL, OPERATIONAL TEST & EVAL, DEFENSE............	168,458	168,458	168,458	168,458

TITLE V—REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

The conferees recommend an appropriation of $1,154,940,000 for the Defense Working Capital Funds as proposed by the Senate instead of $1,154,340,000 as proposed by the House.

NATIONAL DEFENSE SEALIFT FUND

The conferees agree to provide a total of $1,089,056,000 for the National Defense Sealift Fund instead of $1,599,459,000 as proposed by the House and $579,954,000 as proposed by the Senate.

The conference agreement on items addressed by either the House or the Senate is as follows:

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget Request	House	Senate	Conference
T-AKE	380,143	714,143	0	380,143
Procure one additional ship		384,000		0
Reduce basic construction and contract renegotiation costs		−50,000		0
Premature Request			−380,143	0
DOD Strategic Vessel Modernization	764,187	389,400	126,987	264,187
MPS Lease Buyout		−374,787	−637,200	−500,00
Sealift R&D	103,057	94,799	80,567	72,309
MPF(F) acquisition and management overhead		−7,301		−7,301
Sealift concept studies		−957		−957
TAOE(X)			−22,490	22,490

T-AKE DRY CARGO AMMUNITION SHIP

The conferees agree to provide $380,143,000 to purchase one T-AKE cargo ship, as requested by the Department of Defense. The House version of the bill included additional funds to purchase one more T-AKE ship, whereas the Senate proposed eliminating funding for this program.

The conferees understand that approving the Department's request will likely cause a break in the contract between the Navy and the shipbuilder. As such, the conferees intend to closely monitor possible contract renegotiations on this program to ensure that any cost increases are justified by legitimate changes in Navy requirements or other legitimate equitable adjustments.

TITLE VI – OTHER DEPARTMENT OF DEFENSE PROGRAMS

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
TITLE VI				
OTHER DEPARTMENT OF DEFENSE PROGRAMS				
Defense Health Program:				
Operation and maintenance	19,247,137	19,184,537	19,345,087	19,299,787
Procurement	375,319	355,119	377,319	379,119
Research and development	169,156	444,256	515,556	542,306
Total, Defense Health Program	19,791,612	19,983,912	20,237,962	20,221,212
Chemical Agents & Munitions Destruction, Army:				
Operation and maintenance	1,241,514	1,191,514	1,241,514	1,216,514
Procurement	116,527	116,527	116,527	116,527
Research, development, test and evaluation	47,786	47,786	72,686	67,786
Total, Chemical Agents 1/	1,405,827	1,355,827	1,430,727	1,400,827
Drug Interdiction and Counter-Drug Activities, Defense	895,741	906,941	926,821	917,651
Office of the Inspector General	209,687	209,687	209,687	209,687
Total, title VI, Other Department of Defense Programs	22,302,867	22,456,367	22,805,197	22,749,377

1/ Included in Budget under Procurement title.

DEFENSE HEALTH PROGRAM

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget Request	House	Senate	Conference
OPERATION AND MAINTENANCE	**19,247,137**	**19,184,537**	**19,345,087**	**19,299,787**
IN-HOUSE CARE	**5,210,340**	**5,139,740**	**5,301,190**	**5,208,140**
Walter Reed Amputee Care Center		5,500		3,900
Pharmacy Reduction		-50,000		0
Unobligated Balances		-26,100		-26,100
Alaska Federal Health Care Network			2,500	2,200
Blast Injury Prevention, Mitigation, and Treatment Initiative			18,000	7,000
Pacific Island Health Care Referral			4,250	3,600
Madigan Army Medical Trauma Unit			2,000	1,200
Comprehensive Cancer Screening and Diagnostics			7,000	6,000
Special Operations Injury Prevention Program (Note: moved to R&D)			1,600	0
PTSD Resource Sharing Demonstration at Fort Ethan Allen			500	0
In-house Care Increase			55,000	0
PRIVATE SECTOR CARE	**10,212,427**	**10,212,427**	**10,157,427**	**10,212,427**
Reduction			-55,000	0
CONSOLIDATED HEALTH CARE SUPPORT	**1,162,589**	**1,162,589**	**1,191,489**	**1,185,039**
Adaptive Sport Program			150	0
Digital Access and Analysis of Historic Records at AFIP			20,000	17,000
Health Study at the Iowa Army Ammunition Plant			750	750
Brown Tree Snakes			2,000	1,700
Vaccine Health Care Centers			6,000	3,000
INFORMATION MANAGEMENT	**841,554**	**849,554**	**865,254**	**864,654**
Maternal Fetal Informatics and Outreach Program		1,000	1,000	1,000
Medical Data Conversion at WRAMC		1,000		1,000
Trauma Registry and Research Database		4,000		3,400
Interactive Internet at WRAMC		2,000		2,000
Army Medical Department Enterprise Resource Planning			2,100	1,500
Air Force Medical Service Database Initiative			3,000	1,800
Automated Clinical Practice Guidelines			2,000	1,400
HealtheForces			5,000	4,200
Information Therapy Program			2,600	1,500
Integrated Clinical Information Systems Collaboration			3,000	1,500
Military Health Record Digital Conversion Pilot Project				1,000
USAF Digitized Health Record			1,000	1,000
Clinical Coupler Integration			4,000	2,800
MANAGEMENT ACTIVITIES	**229,382**	**229,382**	**229,382**	**229,382**
EDUCATION AND TRAINING	**443,462**	**443,462**	**452,962**	**452,762**
Graduate School of Nursing			2,500	2,300
Tri-Service Nursing Research Program			6,000	6,000
USUHS WMD Collaborative Medical Readiness Initiative			1,000	1,000
BASE OPERATIONS/COMMUNICATIONS	**1,147,383**	**1,147,383**	**1,147,383**	**1,147,383**

	Budget Request	House	Senate	Conference
PROCUREMENT	**375,319**	**355,119**	**377,319**	**379,119**
Protected Health Information Initiative		3,000		1,800
Unobligated Balances		-23,200		0
Hyperbaric Oxygenation Chamber			2,000	2,000
RESEARCH, DEVELOPMENT, TEST AND EVALUATION	**169,156**	**444,256**	**515,556**	**542,306**
Air Force Surgeon General Server Consolidation initiative		3,500		2,500
Amyotrophic Lateral Sclerosis (ALS)		3,000		2,600
Bethesda Hospital Emergency Preparedness Program		5,000		4,300
Bio-Molecular Material Composites Research Program		1,000		1,000
Chronic Epilepsy in Severe Head Injuries		1,500		1,000
Computer Assisted Medical Diagnostics		1,500		1,500
Copper Antimicrobial Research Program		2,000	2,000	2,000
Directed Mission Upgrades of the Defense Medical Logistics Standard Support System (DMLSS)		5,000		4,300
Downed Pilot Forward Osmosis Water Filtration System		4,100		2,100
Early Diagnosis, Treatment and Care of Cancer Patients		2,500		2,500
Global HIV/AIDS Prevention Program		7,500		5,300
Healthcare Informatics Testbed		2,500		1,500
Leukemia Research (CMLRP)		5,000		4,300
Metabolic Defense Research Program		2,500		2,200
Medical Surveillance Technology - Clinical Looking Glass				2,100
Microencapsulation and Vaccine Delivery Research		3,000		2,600
Muscle Research Consortium		3,500		2,400
Peer Reviewed Breast Cancer Research Program		115,000	150,000	127,500
Ovarian Cancer Research Program		15,000	10,000	10,000
Prostate Cancer Research Program		80,000	85,000	80,000
Periscopic Surgery Research		2,500		1,500
Stress Disorders Research Initiative at Ft. Hood		3,000		3,000
Tuberous Sclerosis Complex (TSC)		5,000		4,300
United States Military Cancer Care Institute at WRAMC		2,500		3,000
Unobligated Balances		-2,100		0
Unobligated Balances TMA		-5,900		0
USAF Environmental and Occupational Factors in Women's Health Program		2,000		1,200
Military Burn Victim Treatment and Care		2,000		1,000
Water-Related Viral Disease Countermeasures for the Air Force		3,000		1,800
Preventive Medicine Research for Prostate Cancer			2,000	1,700
Peer Reviewed Medical Research Program			50,000	50,000
Hawaii Federal Health Care Network			25,000	21,650
Armed Forces Medical and Food Research			2,000	1,400
Inositol-Signaling, Molecule-Based Radioprotectant Drug Development			2,000	1,200
Manganese Health Research Program			2,000	1,400
Medical Vanguard Diabetes Management Project			900	900
Noninvasive Hydration and Hemodynamic Monitoring			1,000	1,000
Platelet Transfusion Therapy			1,000	1,000
Regenerative Medicine Research			2,000	1,000
Special Operations Injury Prevention Program				1,100
Supervision Using Electro-Active Optics			5,000	3,500
Blast Injury Prevention, Mitigation, and Treatment Initiative				5,600
Telerobotic and Minimally Invasive Surgery			2,500	2,200
Noninvasive Nanodiagnositcs of Cancer			4,000	2,000

	Budget Request	House	Senate	Conference
OPERATION AND MAINTENANCE	19,247,137	19,184,537	19,345,087	19,299,787
PROCUREMENT	375,319	355,119	377,319	379,119
RESEARCH, DEVELOPMENT, TEST AND EVALUATION	169,156	444,256	515,556	542,306
TOTAL	19,791,612	19,983,912	20,237,962	20,221,212

Reprogramming Guidance for the Defense Health Program

Any additional funds provided by the conferees for programs and/or activities above the budget request are to be considered as congressional special interest items for the purpose of the Base for Reprogramming Form (DD 1414). Therefore, each of these items must be submitted to the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives and the Subcommittee on Defense of the Committee on Appropriations of the Senate on a DD 1414 at the stated amount.

Reprogramming Guidance for the Direct (In-House) Care Budget Activity

The conferees remain concerned regarding the transfer of funds from Direct (or Inhouse) Care to pay for contractor-provided medical care. To limit such transfers and continue oversight within the Defense Health Program operation and maintenance account, the conferees have included bill language which limits the funds available for Private Sector Care under the TRICARE program subject to prior approval reprogramming procedures. In addition, the conferees also designate the funding for the Direct Care System as a special interest item, as defined elsewhere in this report. Any transfer of funds from the Direct (or In-house) Care budget activity into the Private Sector Care Budget activity will require the Department of Defense to follow prior approval reprogramming procedures. The bill language and accompanying report language included by the conferees should not be interpreted by the Department as limiting the amount of funds that may be transferred to the direct care system from other budget activities within the Defense Health Program.

In addition, the conferees direct the Department of Defense to provide budget execution data for all of the Defense Health Program accounts. Such budget execution data shall be provided quarterly through the DD–COMP(M) 1002 accounting form and delivered to the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives and the Subcommittee on Defense of the Committee on Appropriations of the Senate not later than one week after the conclusion of the quarter.

Private Sector Care

During the fiscal year 2006 budget briefs the documentation presented was wrought with errors making it extremely difficult to follow specifics regarding the total program requirement. Therefore, the conferees direct the Department to notify the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives and the Subcommittee on Defense of the Committee on Appropriations of the Senate on the movement of dollars within the private sector care budget activity group on a quarterly basis beginning in the first quarter of fiscal year 2006. The quarterly reports are to be delivered not later than one week after the conclusion of the quarter.

GAO Report Request on the Department of Defense Pharmacy Program

The conferees direct that the Government Accountability Office (GAO) conduct a review of the Department of Defense's Pharmacy Program. The review should include, but not be limited to the following: (1) Federal pricing controls implemented for retail pharmacy; (2) pharmacy growth above inflation, increased demand and utilization; (3) comparison of to the National rate and the Department of Defense rate and; (4) assumed savings in fiscal years 2005, 2006 and 2007 from Federal pricing. Further, the review should be made available to the congressional defense committees not later than April 1, 2006.

Peer Reviewed Medical Research Program

The Senate recommended $50,000,000 for a Peer Reviewed Medical Research program. The conferees agree to provide $50,000,000 for this program, and recommend the following projects as candidates for study: advanced proteomics; alcoholism research; autism; blood-related cancer research such as leukemia, lymphoma, and multiple myeloma; childhood asthma; chronic pain and fatigue research; childhood cancer research; diabetes research; Duchenne's disease research; eye and vision research; fibromyalgia; Interstitial Cystitis Syndrome; kidney cancer research; Lupus Research; osteoporosis and bone-related diseases; polycystic kidney disease; pulmonary hypertension; Padget's disease; post traumatic stress disorders; social work research; and autoimmune diseases such as scleroderma and Sjogren's syndrome.

The conferees direct the Department to provide a report by March 1, 2006, on the status of this Peer Reviewed Medical Research Program.

Defense and Veterans Head Injury Program Funding

The conferees are concerned with the management of the funds for the Defense and Veterans Head Injury Program (DVHIP). Therefore the conferees direct that the President's Budget request of $7,000,000 for DVHIP, as well as any other funds directed to this program, be transferred from the Uniformed Services University of the Health Science (USUHS) to the Army Medical Research and Materiel Command (AMRMC) at Fort Detrick beginning in fiscal year 2006.

Blast Injury Prevention, Mitigation, and Treatment Initiative

The Military Health System has seen an increase in the number of traumatic brain and head injuries to servicemembers as a result of ongoing combat operations. Therefore, the conferees have provided $12,600,000 for the Blast Injury Prevention, Mitigation, and Treatment Initiative to increase research, diagnosis and treatment for servicemembers afflicted with these types of injuries. The conferees also expect the Defense and Veterans Head Injury Program (DVHIP) to have a substantial role in the use of these funds as the DVHIP has been an integral part of research, diagnosis, and treatment since 1991.

Smoking and Tobacco Use Cessation

The House and Senate both expressed concern over the costs associated with smoking and tobacco cessation products and that they are not reimbursable under TRICARE Prime. Additionally, the conferees are concerned that the Department has not been aggressively incorporating suggested pilot programs.

The conferees direct the Department to report to the congressional defense committees not later than March 1, 2006 on the Department's plan to address these concerns. The report should include, but not be limited to, the following subjects:

—Pilot projects to be incorporated with the TRICARE Prime benefit;

—Measures that will be taken by the military services to expedite tobacco use prevention and cessation programs available to all military personnel;

—A plan that the Secretary of Defense determines appropriate for improving the out of pocket costs to military personnel for smoking cessation products; and

—A plan for continuing the "Healthy Choices for Life" demonstration program.

Directed Mission Upgrades of the Defense Medical Logistics Standard Support System (DMLSS)

The Department of Defense has mandated that its suppliers use Radio Frequency Identification (RFID) on all cases in the supply chain by 2008. For this to happen, RFID technology must be integrated into the DMLSS by January 1, 2007. The conferees are disturbed that the Office of the Secretary of Defense (OSD) mandated this policy initiative while at the same time allowing the TRI—CARE Management Activity to cut the budget for this program in fiscal year 2006. This action reduces the DMLSS development budget for new capabilities and defers development to fiscal year 2010 and deployment to fiscal year 2011.

Therefore, the conferees have provided $4,300,000 to help prevent this program from slipping further and direct the Department to fully fund this initiative in the fiscal year 2007 budget and beyond to ensure the Department's established goal is reached.

Special Mental Health Care—TRICARE South Region

The conferees are aware of the growing need for post traumatic stress disorder (PTSD) and special mental health care treatment and the growing number of Active and Reserve Component soldiers returning to the southeast region requiring such specialized care. The conferees direct the Assistant Secretary of Defense for Health Affairs, in conjunction with the TRICARE Regional Director for the South to report, not later than March 1, 2006 to the congressional defense committees with a plan to expand existing capabilities to ensure that potential regional PTSD and related mental health challenges in this area are adequately addressed, to include Phoebe Putney Memorial Hospital.

DoD/VA Patient Records

The conferees are aware that the Department of Defense and the Department of Veterans Affairs do not presently share in real time the medical records of patients that transfer between their two systems, despite existing technology which could allow such sharing. The conferees are concerned that patient care may be compromised as a result and understand that the Navy has proposed a memorandum of understanding (MOU) between Bethesda Naval Hospital and a regional polytrauma VA hospital to allow two physicians at each institution to have unlimited electronic access to the medical records of patients they have shared or are about to share. The conferees direct the Secretaries of Defense and Veterans Affairs to establish a similar system of medical record sharing which will allow physicians at Bethesda, Walter Reed or other DoD medical facilities, and hospitals in the VA system real time access to the records of their patients at each of the other institutions.

The conferees further direct the Secretary of Defense and the Secretary of Veterans Affairs to report to the congressional defense committees not later than April 1, 2006 on a plan, including cost, to achieve medical record sharing.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

The conference agreement on items addressed by either the House or the Senate is as follows:

	(In thousands of dollars) Budget	House	Senate	Conference
CHEM AGENTS & MUNITIONS DESTRUCTION, ARMY				
CHEM DEMILITARIZATION - O&M	1,241,514	1,191,514	1,241,514	1,216,514
CHEM DEMILITARIZATION - PROC	116,527	116,527	116,527	116,527
CHEM DEMILITARIZATION - RDTE	47,786	47,786	72,686	67,786
TOTAL, CHEM AGENTS & MUNITIONS DESTRUCTION, ARMY	1,405,827	1,355,827	1,430,727	1,400,827

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

	Budget Request	House	Senate	Conference
CHEM DEMILITARIZATION-O&M	**1,241,514**	**1,191,514**	**1,241,514**	**1,216,514**
Underexecution				-25,000
CHEM DEMILITARIZATION-PROC	**116,527**	**116,527**	**116,527**	**116,527**
CHEM DEMILITARIZATION-RDTE	**47,786**	**47,786**	**72,686**	**67,786**
ACWA Program Management			-31,000	-31,000
ACWA Blue Grass and Pueblo Construction			51,000	51,000
ACWA Supercritical Water Oxidation Development (Note: transferred to Procurement of Ammunition, Army Line 34)			4,900	0
TOTAL, CHEM AGENTS & MUNITIONS DESTRUCTION, ARMY	**1,405,827**	**1,355,827**	**1,430,727**	**1,400,827**

BLUE GRASS AND PUEBLO CHEMICAL DEMILITARIZATION SITES

The conferees have provided up to $51,000,000 in Chemical Agents and Munitions Destruction, Army, R&D funding to support planning, design, and construction of facilities at the Blue Grass and Pueblo Chemical Demilitarization sites. The conferees note this is a one-time exception to assist the Department of Defense to re-start the critical work that must be accomplished at these two sites in order for the Nation to comply with the Chemical Weapons Convention (CWC) Treaty. Further, the conferees direct the Department of Defense to request the appropriate authorizations and appropriations in order to continue and complete the Blue Grass and Pueblo sites, and that these requirements be reflected in its fiscal year 2007 budget submission.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

The conference agreement includes $917,651,000 for "Drug Interdiction and Counter-Drug Activities, Defense" as opposed to $906,941,000 as proposed by the House and $926,821,000 as proposed by the Senate. Adjustments to the budget request are as follows:

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES DEFENSE

(In thousands of dollars)

	Budget 895,741	House 906,941	Senate 926,821	Conference 917,651
Recommended Increases:				
Southwest Border Fence		5,000		3,500
Multi-jurisdictional Counter-Drug Task Force Training		3,500		3,000
Florida National Guard Counter-Drug Activities		3,000		2,600
Young Marines		2,700		2,500
Indiana National Guard Counter-Drug Activities		1,000		0
Nevada National Guard Counter-Drug RAID Program		3,500	3,500	3,500
Project Athena Beta Site (note: moved to RDTE,N line 79)		2,500		0
Alaska National Guard Counterdrug Program			3,000	2,600
Hawaii National Guard Counterdrug Program			3,100	2,685
Appalachia High Intensity Trafficking Area			2,000	1,400
West Virginia National Guard Counterdrug Program			3,000	2,600
Kentucky National Guard Counterdrug and HIDTA Program			3,600	2,520
New Mexico National Guard Counterdrug Program			4,000	2,800
Regional Counterdrug Training Academy, Mississippi			1,500	1,325
Northeast Regional Counterdrug Training Center			4,000	2,800
Midwest Regional Counterdrug Training Center			6,000	4,200
National Guard Counterdrug Support			25,000	18,000
Recommended Reductions:				
ADNET		−1,000		−1,000
RINGGOLD		−1,000		−1,000
OCONUS OPS Support		−2,000		0
ROTHR		−2,000		−2,000
ISR/AFW/Tanker Support		−500		−500
SOF CN Support		−1,500		−1,000
SOUTHCOM CN Operational Support		−2,000		−1,000
PC 9220 Afghanistan (note: moved to Title IX)			−3,900	−3,900
PC 4101 CENTCOM CN HQ Support (note: moved to Title IX)			−4,400	−4,400
PC 6503 SOF CN Support—CENTCOM (note: moved to Title IX)			−920	−920
PC 9204 CENTCOM CN OPS Support (note: moved to Title IX)			−6,200	−6,200
PC 9213 CENTCOM CN Reserve Support (note: moved to Title IX)			−600	−600
PC 9495 Enhanced CENTCOM Support (note: moved to Title IX)			−11,600	−11,600

OFFICE OF THE INSPECTOR GENERAL

The conferees have agreed to provide a total amount of $209,687,000 for the Office of the Inspector General. Of this amount, $208,687,000 shall be for operation and maintenance, and $1,000,000 shall be for procurement.

TITLE VII—RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

The conference agreement provides $244,600,000 for payment to the Central Intelligence Agency Retirement and Disability System Fund, as proposed by both the House and the Senate.

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

The conference agreement provides $422,344,000 for the Intelligence Community Management Account, instead of $376,844,000 as proposed by the House and $413,344,000 as proposed by the Senate.

The conference agreement provides for a transfer of $39,000,000 to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, the same amount proposed by the House.

TITLE VII—GENERAL PROVISIONS

The conference agreement incorporated general provisions of the House and Senate versions of the bill which were not amended. Those general provisions that were amended in conference follow:

The conferees include a general provision (Section 8005) which amends language, as proposed by the House and the Senate, that increases the level of general transfer authority for the Department of Defense.

The conferees include a general provision (Section 8008) which amends language, as proposed by the House and the Senate, concerning multi-year procurement authority. The conference agreement provides multi-year procurement authority for UH-60/MH-60 helicopters, Apache Block II Conversions, Modernized Target Acquisition Designation Sight/Pilot Night Vision Sensor (MTADS/PNVS), and C-17 Aircraft.

The conferees include a general provision (Section 8026) which amends language, as proposed by the House and Senate, with respect to Federally Funded Research and Development Centers.

The conferees include a general provision (Section 8028) which amends language, as proposed by the House and Senate, which expands the definition of the congressional defense committees for accounts under the jurisdiction of the Subcommittee on Military Quality of Life and Veterans Affairs, Related Agencies of the Committee on Appropriations of the House of Representatives.

The conferees include a general provision (Section 8044) which amends language, as proposed by the House and Senate, which provides that of the funds available under "Operation and Maintenance, Defense-Wide", the Office of Economic Adjustment is authorized to make grants.

The conferees include a general provision (Section 8045) which amends language, as proposed by the House and Senate, recommending rescissions. The rescissions agreed to are:

(RESCISSIONS)

2004 Appropriations:	
Missile Procurement, Army:	
LOSAT	$20,000,000
2005 Appropriations:	
Missile Procurement, Army:	
LOSAT	14,931,000
Other Procurement, Army:	
Joint Tactical Radio System	68,637,000
Aircraft Procurement, Navy:	
V–22 (AP)	16,800,000
Shipbuilding and Conversion, Navy:	
Service Craft	21,000,000
LCU(X)	5,900,000
SSN ERO	15,300,000
Other Procurement, Navy:	
SSBN SHIPALT	43,000,000
Procurement, Marine Corps:	
AN/UXC-10 Digital Facsimile (TS-21 Blackjack Marine Corps)	4,300,000
Missile Procurement, Air Force:	
EELV AEHF Satellite Launcher	92,000,000
Other Procurement, Air Force:	
Classified Programs	3,400,000
Research, Development, Test and Evaluation, Army:	
APKWS Simulator Upgrade	4,300,000
Research, Development, Test and Evaluation, Navy:	
BAMS/UAV	31,700,000
Development of Next Generation Technology for the Inspection of Aircraft Engines, Diagnostics and Repair	1,055,000
Research, Development, Test and Evaluation, Air Force:	
Classified Programs	63,400,000

The conferees include a general provision (Section 8079) which amends language, as proposed by the House and Senate, to provide for the waiver of payment for the lease of personal property for certain non-profit organizations.

The conferees include a general provision (Section 8084) which amends language, as proposed by the House, to provide funds for additional Fisher Houses.

The conferees include a general provision (Section 8086) which amends language, as proposed by the House and the Senate, to reduce funds available in Operation and Maintenance accounts by $265,000,000 for excessive growth in other contracted services.

The conferees include a general provision (Section 8087) which amends language, as proposed by the House and the Senate, to reduce funds available in Operation and Maintenance accounts by $100,000,000 for excessive growth in advisory and assistance services.

The conferees include a general provision (Section 8088) which amends language, as proposed by the House and Senate, concerning the Arrow missile defense program. The conference agreement provides a total of $132,866,000 for the Arrow program of which $60,250,000 is earmarked for missile component co-production, and $100,000,000 is earmarked only for a joint feasibility study on a Short Range Ballistic Missile Defense initiative.

The conferees include a general provision (Section 8094) which amends language, as proposed by the House and Senate, to reduce amounts available in title II by $250,000,000 to reflect cash balance and rate stabilization adjustments.

The conferees include a general provision (Section 8095) which amends language, as proposed by the House, to provide funds for a grant to the Center for Military Recruitment, Assessment and Veterans Employment.

The conferees include a general provision (Section 8097) which amends language, as proposed by the Senate, to provide up to $2,125,000 from funds available in "Operation and Maintenance, Navy" in this Act for the Pacific Missile Range Facility to contract for the repair, maintenance, operation of off-base water, drainage, flood control, electrical upgrades, and for a range footprint expansion.

The conferees include a general provision (Section 8098) which amends language, as proposed by the House and the Senate, which provides $33,350,000 for grants to various organizations.

The conferees include a new general provision (Section 8099) which provides that, subject to certain limitations, the Secretary of the military department concerned may make a military working dog available for adoption by its former handler.

The conferees include a general provision (Section 8105) which amends language, as proposed by the House, which earmarks up to $7,000,000 from funds available in "Operation and Maintenance, Army" only for improvements on Fort Irwin Road, and which earmarks $4,800,000 from funds available in "Operation and Maintenance, Marine Corps", for a grant to widen and make safety improvements on Adobe Road.

The conferees include a general provision (Section 8108) which amends language, as proposed by the House and Senate, regarding transfer authority for Navy ship construction programs. The amendment allows up to $100,000,000 in special transfer authority. This authority is provided to the Secretary of Defense, and requires prior notification to the Congress.

The conferees include a general provision (Section 8111) which amends language, as proposed by the House and the Senate, which reduces $361,000,000 from certain procurement accounts.

The conferees include a general provision (Section 8117) which amends language, as proposed by the Senate, which makes certain findings regarding past budgeting for ongoing military operations, and expresses a sense of the Senate that funding for continuing military operations beyond fiscal year 2006 should be included in the annual budget request; that the President should submit a budget request for fiscal year 2006 providing estimates for ongoing military operations overseas; and that funds provided for ongoing military operations should be provided in specific appropriations accounts.

The conferees include a general provision (Section 8118) which amends language, as proposed by the Senate, which amends section 351 of the Ronald W. Reagan National Defense Authorization Act for fiscal year 2005 directing reimbursement to members of the military for the cost of certain protective, safety, or health equipment purchased by or for members of the Armed Forces for deployment in Operation Noble Eagle, Operation Iraqi Freedom, and Operation Enduring Freedom; adding certain items eligible for reimbursement; and extending the authorized time frame for purchase of equipment eligible for reimbursement until April 1, 2006.

The conferees include a general provision (Section 8120) which amends language, as proposed by the Senate, which requires the Secretary of Defense to report on the status of the implementation of the recommendations of the Government Accountability Office (GAO) report concerning the transition assistance program (TAP).

The conferees include a general provision (Section 8124) which amends language, as proposed by the Senate, to increase the rate of basic pay of the senior enlisted advisor for the Chairman of the Joint Chiefs of Staff.

The conferees include a new general provision (Section 8125) which reduces funding provided in titles II, III, and IV of this Act by a total of $771,300,000 to reflect savings from revised economic assumptions.

The conferees include a new general provision (Section 8127) which provides authorization for the Secretary of Defense to prescribe regulations to clarify gift acceptance policy for injured service members and their families.

The conferees include a new general provision (Section 8128) which amends the Alaska Natural Gas Pipeline Act to provide for a technical correction.

The conferees include a new general provision (Section 8129) which allows the U.S. Capitol attending physician to continue on active duty.

The conferees include a new title X concerning matters relating to detainees, the "Detainee Treatment Act of 2005".

TITLE IX—ADDITIONAL APPROPRIATIONS

The following table provides details of the supplemental appropriations in this title.

[In thousands of dollars]

Account	House	Senate	Conference
Military Personnel:			
Military Personnel, Army	5,877,400	5,009,420	4,713,245
Military Personnel, Navy	282,000	180	144,000
Military Personnel, Marine Corps	667,800	455,420	455,000
Military Personnel, Air Force	982,800	372,480	508,000
Reserve Personnel, Army	138,755	121,500	138,755
Reserve Personnel, Navy	-	10,000	10,000
National Guard Personnel, Army	67,000	232,300	234,400
National Guard Personnel, Air Force	-	5,300	3,200
Total Military Personnel	8,015,755	6,206,600	6,206,600
Operation and Maintenance:			
O&M, Army	20,398,450	21,915,547	21,348,886
O&M, Navy	1,907,800	1,806,400	1,810,500
O&M, Marine Corps	1,827,150	1,275,800	1,833,126
O&M, Air Force	3,559,900	2,014,900	2,483,900
O&M, Defense-Wide	826,000	980,000	805,000
Iraq Freedom Fund	3,500,000	4,100,000	4,658,686
O&M, Army Reserve	35,700	53,700	48,200
O&M, Navy Reserve	-	9,400	6,400
O&M, Marine Corps Reserve	23,950	27,950	27,950
O&M, Air Force Reserve	-	7,000	5,000
O&M, Army National Guard	159,500	201,300	183,000
O&M, Air National Guard	-	13,400	7,200
Total Operation and Maintenance	32,238,450	32,405,397	33,217,848
Procurement:			
Aircraft Procurement, Army	-	348,100	232,100
Missile Procurement, Army	-	80,000	55,000
Procurement of WTCV, Army	455,427	910,700	860,190
Procurement of Ammunition, Army	13,900	335,780	273,000
Other Procurement, Army	1,501,270	3,916,000	3,174,900
Aircraft Procurement, Navy	-	151,537	138,837
Weapons Procurement, Navy	81,696	56,700	116,900
Procurement of Ammunition, Navy & Marine Corps	144,721	48,485	38,885
Other Procurement, Navy	48,800	116,048	49,100
Procurement, Marine Corps	389,900	2,303,700	1,710,145
Aircraft Procurement, Air Force	115,300	118,058	115,300
Missile Procurement, Air Force	-	17,000	17,000
Other Procurement, Air Force	2,400	17,500	17,500
Procurement, Defense-Wide	103,900	132,075	182,075
National Guard and Reserve Equipment	-	1,300,000	1,000,000
Total Procurement	2,857,314	9,851,683	7,980,932
Research, Development, Test and Evaluation:			
RDT&E, Army	-	72,000	13,100
RDT&E, Navy	13,100	-	-
RDT&E, Air Force	-	17,800	12,500
RDT&E, Defense-Wide	75,000	2,500	25,000
Total RDT&E	88,100	92,300	50,600

[In thousands of dollars]

Account	House	Senate	Conference
Revolving and Management Funds:			
Defense Working Capital Funds			
Fuel	1,738,000	2,400,000	2,200,000
WCF Wartime Costs (war reserves, etc.)	317,000	316,400	316,400
Total Revolving and Management Funds	2,055,000	2,716,400	2,516,400
Other Department of Defense Programs:			
Drug Interdiction and Counter-Drug Activities, Defense			
Afghanistan	-	27,620	27,620
Total Other DoD Programs	-	27,620	27,620
General Provision - Transfer Authority [Non add]	[2,500,000]	[2,500,000]	[2,500,000]
Grand Total Title IX	45,254,619	51,300,000	50,000,000

REPORTING REQUIREMENTS

The conferees direct the Secretary of Defense to provide a report to the congressional defense committees within 30 days of enactment of this legislation on the allocation of the funds within the accounts listed in this title. The Secretary shall submit updated reports 30 days after the end of each fiscal quarter until funds listed in this title are no longer available for obligation. The conferees direct that these reports shall include: a detailed accounting of obligations and expenditures of appropriations provided in this title by program and subactivity group for the continuation of the war in Iraq and Afghanistan; and a listing of equipment procured using funds provided in this title. The conferees expect that in order to meet unanticipated requirements, the Department of Defense may need to transfer funds within these appropriation accounts for purposes other than those specified in this report. The conferees direct the Department of Defense to follow normal prior approval reprogramming procedures should it be necessary to transfer funding between different appropriations accounts in this title.

Additionally, the conferees direct that the bi-annual reporting requirements of section 9010 of Public Law 108–287, the Department of Defense Appropriations Act, 2005, regarding the military operations of the Armed Forces and the reconstruction activities of the Department of Defense in Iraq and Afghanistan shall apply to the funds appropriated in this Act.

MILITARY PERSONNEL

The following table provides details of the supplemental appropriations in this title.

[In thousands of dollars]

Account	House	Senate	Conference
Military Personnel, Army:			
Incremental OIF/OEF wartime costs	5,119,600	4,159,000	3,867,745
Army active duty overstrength	346,800	346,000	346,000
Recruiting and Retention Initiatives	257,000	424,000	424,000
Imminent Danger/Hostile Fire Pay Extension	-	4,920	-
SGLI/Death Gratuity	154,000	75,500	75,500
Total Military Personnel, Army	5,877,400	5,009,420	4,713,245
Military Personnel, Navy:			
Incremental OIF/OEF wartime costs	276,000	-	138,000
Imminent Danger/Hostile Fire Pay Extension	-	180	-
SGLI/Death Gratuity	6,000	-	6,000
Total Military Personnel, Navy	282,000	180	144,000
Military Personnel, Marine Corps:			
Incremental OIF/OEF wartime costs	435,600	306,000	306,000
Marine Corps active duty end strength increase	167,200	84,000	84,000
Imminent Danger/Hostile Fire Pay Extension	-	420	-
SGLI/Death Gratuity	65,000	65,000	65,000
Total Military Personnel, Marine Corps	667,800	455,420	455,000
Military Personnel, Air Force:			
Incremental OIF/OEF wartime costs	752,400	369,000	369,000
Incremental ONE wartime costs	225,400	-	136,000
Imminent Danger/Hostile Fire Pay Extension	-	480	-
SGLI/Death Gratuity	5,000	3,000	3,000
Total Military Personnel, Air Force	982,800	372,480	508,000
Reserve Personnel, Army:			
Recruiting and Retention Initiatives	68,000	68,000	68,000
SGLI/Death Gratuity	855	-	855
AGR Recruiters	-	29,500	29,500
Special Training	47,700	24,000	40,400
Branch Officer Basic Course	22,200	-	-
Total Reserve Personnel, Army	138,755	121,500	138,755
Reserve Personnel, Navy:			
Full Accession Training	-	10,000	10,000
Total Reserve Personnel, Navy	-	10,000	10,000
National Guard Personnel, Army:			
Initial Entry Training	67,000	-	67,000
Recruiting and Retention (Bonuses and Incentives)	-	130,500	160,000
Schools	-	62,500	-
Active Guard and Reserve	-	34,000	-
National Guard CERFP Teams	-	5,300	7,400
Total National Guard Personnel, Army	67,000	232,300	234,400
National Guard Personnel, Air Force:			
National Guard CERFP Teams	-	5,300	3,200
Total National Guard Personnel, Air Force	-	5,300	3,200
Total Military Personnel	8,015,755	6,206,600	6,206,600

OPERATION AND MAINTENANCE

The following table provides details of the supplemental appropriations in this title.

[In thousands of dollars]

Account	House	Senate	Conference
Operation and Maintenance, Army:			
Incremental Wartime Operating Costs	13,543,000	13,554,897	13,647,736
Incremental Operation Noble Eagle Costs	181,000	-	-
Depot Maintenance	1,151,400	1,493,000	1,270,000
Reset (Unit and Intermediate Maintenance)	1,747,400	1,760,000	1,760,000
Rapid Fielding Initiative; Force Protection; IBA	1,233,000	1,336,000	1,240,000
CERP; Program Contracting Office; Other	1,314,600	700,000	700,000
Base Support Costs for Mobilization and Demobilization	448,700	750,000	750,000
Unit of Action Implementation	37,200	100,000	75,000
Second Destination Transportation	101,700	500,000	350,000
Operational C2 Connectivity	46,000	150,000	90,000
Sustainment System Technical Support	168,000	85,000	148,000
All Terrain Military Utility Vehicles (M-Gator)	-	7,000	3,500
Personnel Sustainment for Added End Strength	124,700	250,000	200,000
Recruiting and Advertising	200,000	400,000	400,000
Chitosan Hemorrhage Control Dressing	-	5,000	5,000
Virtual Combat Trainer	7,700	-	-
Ammunition Depot Operations and Maintenance	91,800	-	-
Travel for Family Member of Hospitalized Soldier	2,250	2,250	2,250
Body Armor	-	57,400	57,400
Army Linguistics Support	-	290,000	200,000
Army Pre-positioned Stocks/Prepare to Deploy Order Materiel	-	320,000	300,000
Medical Support for Tactical Units	-	150,000	150,000
Vehicle Body Armor Support System	-	5,000	-
Total Operation and Maintenance, Army	20,398,450	21,915,547	21,348,886
Operation and Maintenance, Navy:			
Incremental Wartime Operating Costs	1,870,000	-	-
Counter IED Collection and Exploitation	17,800	-	17,800
Recruiting and Advertising	20,000	-	20,000
Personnel Support Costs	-	151,800	151,800
Steaming - Carrier and Expeditionary Strike Group	-	94,600	90,000
Flying Hours	-	283,700	283,700
Depot Level Maintenance	-	315,600	315,600
C4I, Logistics, Material and Training Support	-	275,000	275,000
Other Support Costs	-	194,100	165,000
Transportation	-	488,500	488,500
Body Armor	-	3,100	3,100
Total Operation and Maintenance, Navy	1,907,800	1,806,400	1,810,500

[In thousands of dollars]

Account	House	Senate	Conference
Operation and Maintenance, Marine Corps:			
Incremental Wartime Operating Costs/Force Protection/Field Logistics	1,195,900	847,000	1,116,076
Base Support Including Mobilization	18,500	18,500	18,500
Second Destination Transportation	163,500	163,500	163,500
Reset, Organizational Maintenance, Spare Parts	250,000	-	250,000
Recruiting and Advertising	9,600	9,600	9,600
Depot Maintenance	151,400	174,400	174,400
Initial Issue Including Clothing, Body Armor, Tents	25,500	-	25,500
Personnel Sustainment for Added End Strength	12,000	-	12,000
Travel for Family Member of Hospitalized Marine	750	-	750
Maritime Prepositioning	-	18,800	18,800
Body Armor	-	25,000	25,000
Field Medical Equipment	-	19,000	19,000
Total Operation and Maintenance, Marine Corps	1,827,150	1,275,800	1,833,126
Operation and Maintenance, Air Force:			
Incremental Wartime Operating Costs/Flying Hours	2,967,800	1,400,000	1,835,000
Incremental Operation Noble Eagle Costs	270,000	-	-
Predator Operations and Support	85,100	85,000	85,000
B-1 Deployable Phase Maintenance Kit	34,000	17,000	25,000
B-52 Deployable Phase Maintenance Kit	52,000	-	26,000
Transportation	-	306,000	306,000
Body Armor	-	54,900	54,900
Depot Maintenance	151,000	152,000	152,000
Total Operation and Maintenance, Air Force	3,559,900	2,014,900	2,483,900
Operation and Maintenance, Defense-Wide:			
Incremental Wartime Operating Costs	490,000	490,000	490,000
DISA	62,000	40,000	40,000
DLA	264,000	215,000	215,000
DHRA - Joint Advertising, Market Research and Studies	10,000	-	10,000
Child Care for Military Families	-	20,000	20,000
Family Advocacy Program and Counseling Assistance for Military Families	-	20,000	30,000
Coalition Support	-	195,000	-
Total Operation and Maintenance, Defense-Wide	826,000	980,000	805,000
Iraq Freedom Fund:			
Incremental Wartime Operating Costs	1,000,000	1,250,000	250,000
IED Defeat Task Force			1,360,000
Classified Programs	2,500,000	2,850,000	3,048,686
Total Iraq Freedom Fund	3,500,000	4,100,000	4,658,686

[In thousands of dollars]

Account	House	Senate	Conference
Operation and Maintenance, Army Reserve:			
Recruiting and Retention Support	13,900	13,900	13,900
Medical Readiness Screening	-	18,000	10,000
Army Reserve Family Support Centers	12,500	6,000	8,500
Advertising and Marketing Support	9,300	9,300	9,300
Tuition Assistance	-	6,500	6,500
Total Operation and Maintenance, Army Reserve	35,700	53,700	48,200
Operation and Maintenance, Navy Reserve:			
Medical Readiness Screening	-	7,000	4,000
Body Armor	-	2,400	2,400
Total Operation and Maintenance, Navy Reserve	-	9,400	6,400
Operation and Maintenance, Marine Corps Reserve:			
Operating Forces	22,575	22,575	22,575
Medical Readiness Screening	-	4,000	4,000
Training Support	1,000	1,000	1,000
Base Operation Support	375	375	375
Total Operation and Maintenance, Marine Corps Res.	23,950	27,950	27,950
Operation and Maintenance, Air Force Reserve:			
Medical Readiness Screening	-	7,000	5,000
Total Operation and Maintenance Marine Corps Res.	-	7,000	5,000
Operation and Maintenance, Army National Guard:			
Recruiting and Advertising	147,000	147,000	147,000
National Guard Family Support Centers	12,500	12,500	12,500
Medical Readiness Screening	-	31,000	16,000
CERFP Teams	-	5,800	4,000
All Terrain Military Utility Vehicle	-	5,000	3,500
Total Operation and Maintenance, Army National Gd.	159,500	201,300	183,000
Operation and Maintenance, Air National Guard:			
Medical Readiness Screening	-	10,000	5,000
CERFP Teams	-	3,400	2,200
Total Operation and Maintenance, Air National Guard	-	13,400	7,200
Total Operation and Maintenance	32,238,450	32,405,397	33,217,848

HOME STATION READINESS TRAINING AND LOGISTICS

In this title the conferees recommend **$50,000,000,000** as a "bridge fund" in support of ongoing contingency operations related to the Global War on Terror, including **$33,217,848,000** in the operation and maintenance accounts. Substantial funding will be required to support continuing combat and security operations in Afghanistan and Iraq. The conferees understand that substantial amounts will be needed as well in support of unit mobilizations, specialized pre-deployment training, transportation to and from the areas of operation, home station recovery and reset, and post-deployment training to ensure recovery to established readiness standards for full spectrum combat operations around the world. Specialized training before deployment, and retraining after deployment, with the associated transportation, base operations, logistical, maintenance and reset costs, though accrued at home station, should be attributed to the continuing combat and peacekeeping operations. To the extent that such training, maintenance and reset activities displace normal peacetime training events, the amounts provided in home station operation and maintenance lines have been reduced. The Department of Defense should allocate title IX operation and maintenance funding accordingly, to ensure full support for pre-deployment and post-deployment operations, as well as for continuing combat and security operations in support of the Global War on Terror.

IRAQ FREEDOM FUND

The conference agreement includes **$4,658,686,000** for the Iraq Freedom Fund. Of this amount, **$1,360,000,000** is for the IED Defeat Task Force, **$3,048,686,000** is for classified activities described further in a classified annex to this report, and **$250,000,000** is for emergent needs for the Global War on Terror. Additionally, the conference agreement provides that up to **$100,000,000** shall be available for the Department of Homeland Security, "United States Coast Guard, Operating Expenses".

PROCUREMENT

The following table provides details of the supplemental appropriations in this title.

[In thousands of dollars]

Account	House	Senate	Conference
Aircraft Procurement, Army:			
AH-64 Apache Mods	-	98,800	74,100
GUARDRAIL Mods (TIARA)	-	25,000	18,700
UH-60L Blackhawk Helicopters	-	90,000	30,000
Integrated Mechanical Diagnostics--HUMS	-	25,000	-
Aircraft Survivability Equipment	-	11,200	11,200
ASE CM	-	69,600	69,600
CH-47 Replacement	-	28,500	28,500
Total Aircraft Procurement, Army	-	348,100	232,100
Missile Procurement, Army:			
TOW 2B	-	80,000	55,000
Total Missile Procurement, Army	-	80,000	55,000
Procurement of Weapons and Tracked Combat Vehicles, Army:			
Bradley Base Sustainment	-	100,000	50,000
Bradley Reactive Tiles	-	25,000	-
M1 Abrams Tank Power Pack Improvement and Integration Optimization	-	252,700	252,700
Stryker--Combat Losses	-	50,000	50,000
Stryker	-	130,000	130,000
Carrier Mods	-	75,000	62,000
CROWS	-	75,000	75,000
Gun Trucks	2,450	-	-
Small Arms Programs			
M16 rifle mods	55,300	10,000	9,590
M240 medium machine gun mods	9,372	10,000	9,000
M240 medium machine gun (7.62mm)	107,944	10,000	18,000
M4 carbine mods	29,595	130,000	75,000
M4 carbine	168,237	-	63,000
M249 SAW mods	5,728	9,000	4,500
M249 SAW machine gun (5.56mm)	54,111	5,000	3,500
M107, Cal. 50 sniper rifle	9,274	1,000	1,000
Small Arms Equipment (Soldier Enhancement Program)	3,416	5,000	5,000
M2HB Enhanced .50 Caliber Machine Gun Kits	10,000	-	-
Mortar Systems	-	23,000	15,000
Counter Rocket, Artillery and Mortar FOB (note: transferred from OP,A)			36,900
Total Procurement of WTCV, Army	455,427	910,700	860,190
Procurement of Ammunition, Army:			
First Destination Transportation	2,000	-	-
Ammunition Production Force Protection	11,900	-	-
CTG, 5.56MM, All Types	-	20,753	30,000
CTG, 7.62MM, All Types	-	14,889	21,000
CTG, 9MM, All Types	-	1,513	-
CTG, .50 CAL, All Types	-	6,685	15,000
CTG, 20MM Phalanx (for C-RAM development)	-	-	6,000
CTG, 25MM, All Types	-	6,999	-
CTG, 30MM, All Types	-	10,531	20,000
CTG, 40MM, All Types	-	42,747	35,000
CTG, 60MM MORTAR, All Types	-	15,335	-
CTG, 81MM MORTAR, All Types	-	32,286	-

[In thousands of dollars]

Account	House	Senate	Conference
CTG, MORTAR, 120MM, All Types	-	69,963	-
CTG, Tank Training, All Types	-	1,132	-
CTG, ARTY, 155MM, All Types	-	4,593	-
CTG, Artillery, 155MM, All Types	-	6,999	4,500
Modular Artillery Charge System (MACS), All Types	-	841	600
Mines (Conventional), All Types	-	486	-
Shoulder Fired Rockets, All Types	-	6,786	5,000
Rocket, Hydra 70, All Types	-	10,000	-
Demolition Munitions, All Types	-	11,257	2,900
Grenades, All Types	-	5,529	-
Signals, All Types	-	1,209	116,000
Simulators, All Types	-	1,154	2,000
Non-Lethal Ammunition, All Types	-	46,782	-
Items Less Than $5 Million	-	2,311	-
Provision of Industrial Facilities	-	15,000	15,000
(Note: for Holston Army Ammunition Plant)			
Total Procurement of Ammunition, Army	13,900	335,780	273,000
Other Procurement, Army:			
Up-Armor HMMWVs: M1114, M1151, M1152	170,000	240,000	170,000
Add-on-Armor plate for level III and ballistic glass	20,000	150,000	50,000
Tactical Wheeled Vehicle Recap Modernization Program			
HMMWV Recap	193,000	690,000	463,500
HMMWVs--AR	60,000	-	-
Up-armored HMMWVs (M1114)--AR	5,370	-	-
FMTVs	50,000	-	45,000
Light Medium Tactical Vehicle (LMTV) 2.5 ton--AR	15,000	-	-
Medium Tactical Vehicle 5 ton--AR	41,000	-	-
HEMTT Recap	60,400	48,000	48,000
Truck Cargo PLS M1075--AR	37,000	-	-
PLS Trailers--AR	9,000	-	-
FHTV	-	70,800	60,000
FHTV Trailers	-	-	12,500
Tactical Trailer/Dolly Sets	-	9,000	9,000
M915A1 Replacements	15,000	-	-
Freightliner Military Linehaul Tractors--M915A3	-	12,000	6,000
Movement Tracking System	-	2,000	2,000
Armored Security Vehicles	-	54,400	40,800
SINCGARS Family	87,000	500,000	450,000
High Frequency Radio--AR	21,000	-	-
Radio Improved, HF Family	-	600,000	575,000
Army Data Distribution System (Data Radio)	-	-	27,000
Combat Survivor Radios	-	11,100	11,100
Radio Set, AN/VDR-2	-	-	-
Bridge to Future Networks (ACUS MODS)	-	200,000	175,000
Force XXI Battle Command BDE and Below (FBCB2)	116,900	116,000	116,000
Defense advanced global positioning system receiver (DAGR)	5,000	-	-
Air & Missile Defense Planning & Control System (AMD PCS)	-	100,000	100,000
Maneuver Control System (MCS)	-	30,000	30,000
NAVSTAR Global Positioning System (Space)	-	14,000	14,000
Digital Topographic Support System	-	18,000	18,000
Mounted Battle Command on the Move (MBCOTM)	30,000	30,000	30,000
Prophet/COBRA	145,000	-	37,500

[In thousands of dollars]

Account	House	Senate	Conference
Prophet Ground (TIARA)	-	75,000	37,500
Items Less Than $5.0M (TIARA)	-	14,000	-
Night Vision Devices	-	245,000	225,000
Thermal Weapon System--Night Vision Equipment	-	73,000	68,000
Lightweight Counter Mortar Radar Enhancement	-	6,000	-
Small Tactical Optical Rifle Mounted Micro-Laser Range Finding System	-	6,000	-
Long Range Advanced Scout Surveillance System	-	5,000	5,000
IED Jammers	35,000	-	-
Low cost ECM production	10,000	-	-
Multi-Band SHF Terminal (Phoenix)--AR	12,000	-	-
Tactical Common Data Link	72,000	-	-
Biometrics Automated Toolset (BAT)	14,700	-	-
Tactical Operations Centers	84,000	85,000	72,000
All Source Analysis System	-	14,000	14,000
Tactical Unmanned Aerial Vehicle (TUAV) (JMIP)	-	174,000	140,000
I-GNAT	-	50,000	-
Smoke & Obscurant Systems	-	10,000	-
Handheld Standoff Minefield Detection System (HSTAMIDS)	-	15,000	13,000
Nomad Helmet Mounted Display for Stryker Brigades	-	11,200	-
Construction Equipment SLEP	25,000	10,000	-
Medical Comm for Combat Casualty Care (MC4)	-	33,000	28,000
Combat Support Medical	-	26,500	23,000
Quick Clot Hemorrhage Control	5,000	-	-
Chitosan Hemorrhage Control Dressing	5,000	-	-
Self-contained Reusable Blood Container	10,000	-	-
HMMWV and Tactical Truck Crew Trainers	25,000	20,000	20,000
Counter Rocket, Artillery and Mortar (C-RAM) (FAAD C2)	107,900	80,000	24,000
Explosive Detection Equipment (Backscatter)	-	68,000	-
Persistent Threat Detection System, OIF loss replacement	15,000	-	15,000
Total Other Procurement, Army	1,501,270	3,916,000	3,174,900
Aircraft Procurement, Navy:			
P-3 SSI-K	-	6,400	4,600
P-3C Center Wing Replacement	-	13,800	13,800
AH-1W Increased Survivability	-	6,600	6,600
AH-1W Turned Exhaust	-	15,900	15,900
AH-1W Turned Exhaust (Spares)	-	1,300	1,300
CH-53 Sustainment	-	10,000	10,000
KC-130T DECM/NVL Ground Up	-	24,700	18,000
UC-35 Aircraft Survivability Equipment	-	7,500	7,500
AAR-47 Missile Warning System Upgrade	-	8,100	8,100
ALQ-157 Maintainability Improvement	-	3,000	3,000
Mobile Facility Power	-	3,800	3,800
UH-1Y/AH-1Z NRE	-	10,000	10,800
F/A-18 Litening Pods	-	15,000	15,000
War Consumables	-	10,437	10,437
AT FLIR	-	15,000	10,000
Total Aircraft Procurement, Navy	-	151,537	138,837

[In thousands of dollars]

Account	House	Senate	Conference
Weapons Procurement, Navy:			
Tomahawk Missiles	81,696	-	75,900
Hellfire Missiles (Thermobaric and Blast/Frag Variants)	-	50,000	38,000
Pioneer TUAV Engines and Avionics	-	6,700	3,000
Total Weapons Procurement, Navy	81,696	56,700	116,900
Procurement of Ammunition, Navy and Marine Corps:			
Ammunition Requirements for FSRG	20,221	-	-
155mm Fuze-Electronic Time M762A1	10,000	-	-
Igniter-Time Blasting Fuze M81	5,000	5,000	3,500
Detonator, Non-Electric MK154	10,000	-	-
66mm Rocket-High Explosive M72A7	11,000	-	-
155mm Multi Option Fuze M782	6,000	-	-
120mm Tank Ammunition-M1028 Canister	3,000	3,000	-
155mm High Explosive Projectile M795	15,000	15,000	12,000
.50 Caliber Cartridges	13,000	-	-
7.62mm Cartridges	1,500	-	-
40mm M430 HEDP	30,000	-	-
120mm Cartridges M830A1 HEAT-MP-T	10,000	-	-
C4 Charges M58A4 HE	10,000	-	-
Small Arms and Landing Party Ammo	-	3,200	2,400
Air Expendable Countermeasures	-	5,800	4,500
Asbly, Pyro MK 34	-	16,485	16,485
Total Procurement of Ammunition, Navy and Marine Corps	144,721	48,485	38,885
Other Procurement, Navy:			
Physical Security Equipment	48,800	106,948	40,000
Combat Survivor Radios	-	9,100	9,100
Total Other Procurement, Navy	48,800	116,048	49,100
Procurement, Marine Corps:			
Miniature Transceiver (Blue Force Tracker)	7,400	-	-
Light Armored Vehicle (LAV) - 48 vehicles to support FSRG	102,500	-	57,000
Light Armored Vehicle (LAV) Combat Losses	-	25,000	25,000
Weapons under $5 million	10,800	100,000	90,000
Modular Weapon System	-	10,000	10,000
Guided Missile and Equipment Mod Kits	-	1,500	1,000
Guided MLRS Pods for HIMARS	-	54,500	30,000
Up Armored HMMWV: M1114, M1151, M1152	-	200,000	178,645
MTVR	-	500,000	275,000
Logistics Vehicle Replacement	-	7,000	3,500
Commercial Cargo Vehicles	-	7,000	3,500
Family of Tactical Trailers	-	20,000	15,000
AN/PSQ-18A, M203 Day/Night Sight	-	4,000	-
Close Quarters Battle Sight	-	5,000	-
Mod Kits, Armor and Fire Support	-	12,000	8,000
Comm Switching and Control Systems	-	120,000	92,000
MAGTF Support (Air Ops C2 Systems)	-	10,000	5,000
Radar Systems	-	25,000	18,000
Tactical Remote Sensor System	-	25,000	14,000
Repair and Test Equipment	-	20,000	15,000
Fire Support System	-	30,000	20,000
Intelligence Support Equipment	-	25,000	15,000

[In thousands of dollars]

Account	House	Senate	Conference
Mod Kits (Intell)	-	11,000	3,000
General Purpose Tools	-	1,000	1,000
Command Post Systems	-	100,000	85,000
Common Computer Resources	-	15,000	12,000
Small Unit Remote Scouting System	-	7,500	6,000
Night Vision Equipment	225,000	90,000	72,000
Environmental Control Equipment	-	3,000	2,000
Bulk Liquid Equipment	-	20,000	14,000
Tactical Fuel Systems	-	23,000	16,000
Assorted Power Equipment	-	15,000	10,000
Construction Equipment	-	15,000	12,000
Engineering Mod Kits	-	5,000	3,500
Engineer and Other Equipment Items Less Than $5m	-	7,000	4,500
Field Medical Equipment	-	8,500	8,500
Family of EOD Equipment and EOD Systems	-	140,000	23,000
High Power Jammmers UUNS	-	362,700	362,700
Z Backscatter UUNS	-	29,000	-
PSS-14 Metal Detectors and Other Items	1,300	-	-
EOD Systems (demolition equipment)	-	-	5,300
Tactical Radios (PRC-117 and PRC-150 radios)	25,000	-	-
JTRS Legacy Bridge - EPLRS	17,900	-	-
Radio Systems		250,000	194,000
Total Procurement, Marine Corps	389,900	2,303,700	1,710,145
Aircraft Procurement, Air Force:			
ANG F-16 / A-10 Litening Pods	-	10,000	10,000
C- 17 Modifications - LAIRCM installs	84,000	84,000	84,000
C-130 Modifications - LAIRCM installs	7,200	-	7,200
War Consumables - Initial/replacement of towed decoys and rocket launcher motors	24,100	24,058	24,100
Total Aircraft Procurement, Air Force	115,300	118,058	115,300
Missile Procurement, Air Force:			
Hellfire Missiles	-	17,000	17,000
Total Missile Procurement, Air Force	-	17,000	17,000
Other Procurement, Air Force:			
HMMWV, Up-Armored	2,400	2,400	2,400
Advanced Ground Blue Force Tracker	-	2,000	2,000
463L Cargo Nets	-	4,100	4,100
Cargo Pallets	-	9,000	9,000
Total Other Procurement, Air Force	2,400	17,500	17,500
Procurement, Defense-Wide:			
MH-47 infrared engine exhaust suppressor (moved to PDW line 33)	7,700	7,700	-
High performance mobility FLIR (ground)	10,800	-	10,800
High performance mobility FLIR (maritime)	6,000	-	6,000
Multi-band inter/intra team radio	13,500	-	-
Multi-band multi mission radio	65,900	-	45,900
RAMS	-	950	950
ALGL	-	10,760	-

[In thousands of dollars]

Account	House	Senate	Conference
ALQ-172	-	2,700	2,700
AN/PAS-21	-	10,452	6,000
TACTICOMP	-	8,000	7,025
ITWS	-	3,400	3,400
AGMS	-	21,146	15,000
HPMMR	-	2,584	1,600
TACLAN	-	1,983	1,000
SWORD (moved to PDW line 64)	-	2,000	-
SOF Ordnance Replenishment	-	10,000	10,000
Small Arms and Weapons	-	31,300	31,300
Body Armor	-	3,700	3,700
MH-47 Battle Loss Conversion	-	15,400	15,400
A/MH-6M Little bird Helicopters	-	-	21,300
Total Procurement, Defense-Wide	103,900	132,075	182,075
National Guard and Reserve Equipment:			
National Guard and Reserve Equpment	-	1,300,000	1,000,000
Total Procurement	2,857,314	8,551,683	7,980,932

NATIONAL GUARD AND RESERVE EQUIPMENT

The conferees agree to provide $1,000,000,000 in title IX for National Guard and Reserve Equipment, to be distributed as follows: $700,000,000 for the Army National Guard; $200,000,000 for the Air National Guard; $100,000,000 for the Army Reserve. The conferees agree that to the maximum extent possible, the National Guard equipment provided in title IX should be equipment identified by the Chief of the National Guard Bureau to the House and Senate Appropriations Committees in the September 22, 2005 document entitled "National Guard Equipment Requirements, Protecting America at Home and Abroad". The conferees direct the Chief of the National Guard Bureau and the Chief of the Army Reserve to submit to the congressional defense committees a report specifying the items to be procured with this funding and a fielding plan for this equipment not later than 30 days after the enactment of this Act.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The following table provides details of the supplemental appropriations in this title.

[In thousands of dollars]

Account	House	Senate	Conference
RDT&E, Army:			
Surgical Wound Disinfection and Biological Agents............	-	2,000	-
Close-in Active Protection System for Stryker Family of Vehicles	-	12,000	
Family of Medium Tactical Vehicles (FMTV)--A2....................	-	10,000	-
Heavy Expanded Mobile Tactical Truck (HEMTT)--A3..................	-	12,000	
PM Bloc Improvement Program for HMMWVs.........................	-	5,000	-
Excalibur XM982 Life Cycle Improvements..............................	-	6,000	-
Counter Rocket, Artillery and Mortar (C-RAM)	-	-	13,100
CH-47 Integrated Mechanical Diagnostics (IMDS) Demonstration	-	25,000	
Total RDT&E, Army	-	72,000	13,100
RDT&E, Navy:			
Classified Program..	13,100	-	-
Total RDT&E, Navy...	13,100	-	-
RDT&E, Air Force:			
Horned Owl Project...	-	5,000	3,500
Large Aircraft Infrared Countermeasures (LAIRCM)..................	-	7,500	3,700
Predator A: Additional Capability..	-	1,500	1,500
Theater Airborne Reconnaissance System...............................	-	3,000	3,000
Interim Capability for Airborne Networking................................	-	800	800
Total RDT&E, Air Force..	-	17,800	12,500
RDT&E, Defense-Wide:			
Counter-Terrorism Technical Working Group........................	25,000	-	25,000
Quick Reaction Special Projects....................................	50,000	-	-
RC-135 Processing Forward Network [Note: Transferred to RDTE, AF, Line 199]	-	2,500	-
Total RDT&E, Defense-Wide..	75,000	2,500	25,000
Total RDT&E..	88,100	92,300	50,600

Interoperable Communications in Disaster Response

The conferees recognize the need to ensure rapid and uninterrupted communications between Federal, state, and local first responders and the National Guard. As recently demonstrated in the response to Hurricane Katrina, communications breakdowns limit the Guard's ability to respond effectively and rapidly in either a man-made or natural disaster. The conferees fully support the National Guard Bureau's initiatives to develop interoperable and reliable communications. Of particular interest is the Joint CONUS Communications Support Enterprise team concept. As a part of this initiative, the conferees are aware that the National Guard Bureau has developed a concept called the National Guard Bureau Incident Area Communications Program. This program would deploy a software-based solution that improves interoperability by enabling disparate communications devices and networks to work together. Therefore, the conferees urge the Department of Defense to fully fund this initiative to ensure a robust interoperable solution for the National Guard to meet its first responder communications needs.

Joint Network Nodes

The conferees agree to provide $175,000,000 for procurement of the Joint Network Nodes (JNN) program in title IX, Other Procurement, Army, within the Bridge to Future Networks line. The House and Senate continue to support the procurement of JNN based on the Army requirement to respond to the urgent needs of ground forces for tactical communications. The conferees are concerned, however, that the Army is not evolving its network communications programs at a sufficiently fast rate from JNN to objective WIN-T capability. For example, JNN funding contained in title IX could resource a JNN+ capability that moves network communication capability closer to the WIN-T requirement. Therefore, the conferees direct the Army to submit a report not later than January 15, 2006, detailing its plans to procure evolutionary capability in its network communications programs.

Improvised Explosive Device Countermeasures

The conferees support DoD efforts to provide the strongest possible defense against the Improvised Explosive Device (IED) threat faced in theater, and provide not less than $1,360,000,000 in the Iraq Freedom Fund (IFF) for this purpose. The conferees are aware of several specific Service requirements along these lines and direct the Joint IED Task Force to fully fund validated Army and Marine Corps requirements for Backscatter Radars and related equipment, and H2K ICE Jammers. In addition, the conferees direct the Task Force to provide quarterly updates to the congressional defense committees, to include assessments of the evolving threat posed to war fighters by IEDs, individual Service requirements to counter this threat, and a report on the execution of funds provided to the Joint IED Task Force.

In addition, the conferees recognize and commend the ongoing effort of the Department of Defense to develop the next generation of countermeasures for IEDs. Furthermore, the conferees note that current counter-IED systems deployed in Operation Iraqi Freedom and Operation Enduring Freedom provide an important force protection capability. The conferees, therefore, direct the Department to continue procurement of sufficient quantities of currently deployed counter-IED technologies and, where applicable, to provide those systems with available upgrades.

General Provisions—This Title

The conferees include a general provision (Section 9001) as proposed by the House and the Senate which provides that appropriations made in this title are available for obligation until September 30, 2006, unless otherwise so provided in this title.

The conferees include a general provision (Section 9002) as proposed by the House and the Senate which provides that funds made available in this title are in addition to amounts provided elsewhere in this Act.

The conferees include a general provision (Section 9003) as proposed by the Senate which provides that the Secretary of Defense is permitted to transfer up to $2,500,000,000 of funds made available in this title subject to certain conditions and reporting requirements. The House included a similar provision.

The conferees include a general provision (Section 9004) as proposed by the Senate which provides that funds appropriated in title IX of this Act for intelligence activities are deemed to be authorized for purposes of section 504 of the National Security Act of 1947. The House included a similar provision.

The conferees include a general provision (Section 9005) as proposed by the House which prohibits use of funds provided in title IX to finance programs or activities denied by Congress, or to initiate a new start program without prior notification to the congressional defense committees. The Senate included a similar provision.

The conferees include a general provision (Section 9006) which amends language as proposed by the House, which provides up to $500,000,000 from funds available in this title for support to military and security forces of Iraq and Afghanistan. The Senate included a similar provision.

The conferees include a general provision (Section 9007) as proposed by the Senate which provides funding for the Commander's Emergency Response Program and makes $500,000,000 available for the program from funds available in title IX. The House included a similar provision.

The conferees include a general provision (Section 9008) which amends language as proposed by the Senate which provides that amounts provided in this title for operations in Iraq and Afghanistan may be used to purchase certain armored vehicles, and requires quarterly reports. The House did not address this matter.

The conferees include a general provision (Section 9009) as proposed by the House and the Senate which provides that funds available to the Department of Defense for operation and maintenance may be used to provide supplies, services and transportation to coalition forces in Afghanistan and Iraq.

The conferees include a general provision (Section 9010) as proposed by the Senate which requires the Secretary of Defense to provide quarterly reports on certain indicators and measures for progress toward military and political stability in Iraq. The House did not address this matter.

The conferees delete a general provision as proposed by the House and the Senate which reaffirmed that torture of prisoners of war and detainees is illegal. This matter is addressed elsewhere in this conference report.

The conferees delete language as proposed by the House which directs semi-annual reports to Congress on military operation and reconstruction activities in Iraq and Afghanistan. The reporting requirements are included in the Joint Explanatory Statement. The Senate did not address this matter.

The conferees delete language as proposed by the House concerning religious freedom and tolerance at the United States Air Force Academy. The Senate did not address this matter.

The conferees delete a general provision as proposed by the House regarding implementing the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Senate included a similar provision. This matter is addressed elsewhere in this conference report.

The conferees include a general provision (Section 9011) as proposed by the Senate which provides that for construction projects in Iraq and Afghanistan funded with operation and maintenance funds, supervisory and administrative costs may be obligated when the contract is awarded. The House did not address this matter.

The conferees include a general provision (Section 9012) as proposed by the Senate which designates amounts appropriated or otherwise made available in this title as making appropriations for contingency operations related to the global war on terrorism. The House included such designation in each appropriation account.

Conference Total—With Comparisons

The total new budget (obligational) authority for the fiscal year 2006 recommended by the Committee of Conference, with comparisons to the fiscal year 2005 amount, the 2006 budget estimates, and the House and Senate bills for 2006 follow:

[In thousands of dollars]

New budget (obligational) authority, fiscal year 2005	$467,128,020
Budget estimates of new (obligational) authority, fiscal year 2006	397,214,410
House bill, fiscal year 2006	439,456,182
Senate bill, fiscal year 2006	445,448,117
Conference agreement, fiscal year 2006	442,789,753
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2005	−24,338,267
Budget estimates of new (obligational) authority, fiscal year 2006	+45,575,343
House bill, fiscal year 2006	+3,333,571
Senate bill, fiscal year 2006	−2,658,364

[1] Includes funding contained in the House Military Quality of Life and Veterans Affairs Appropriations Bill, 2006.

DIVISION B—EMERGENCY SUPPLEMENTAL APPROPRIATIONS TO ADDRESS HURRICANES IN THE GULF OF MEXICO AND PANDEMIC INFLUENZA, 2006

TITLE I—EMERGENCY SUPPLEMENTAL APPROPRIATIONS TO ADDRESS HURRICANES IN THE GULF OF MEXICO

CHAPTER 1

DEPARTMENT OF AGRICULTURE

Executive Operations

Working Capital Fund

The conference agreement provides $35,000,000 for the Working Capital Fund.

Agricultural Research Service

BUILDINGS AND FACILITIES

The conference agreement provides $9,200,000 for the Agricultural Research Service, Buildings and Facilities account.

RURAL DEVELOPMENT PROGRAMS

RURAL COMMUNITY ADVANCEMENT PROGRAM

The conference agreement provides $45,000,000 for the Rural Community Advancement Program.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

The conference agreement provides $45,000,000 for the Rural Housing Insurance Fund Program Account.

RURAL HOUSING ASSISTANCE GRANTS

The conference agreement provides $20,000,000 for Rural Housing Assistance Grants.

RURAL UTILITIES SERVICE

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM ACCOUNT

The conference agreement provides a subsidy of $8,000,000 for the cost of loan modifications to the rural electric loan program.

The conference agreement provides a loan level of $50,000,000 for the direct rural telecommunications loan program.

FOOD AND NUTRITION SERVICE

COMMODITY ASSISTANCE PROGRAM

The conference agreement provides $10,000,000 for the Commodity Assistance Program.

GENERAL PROVISIONS—THIS CHAPTER

Section 101.—The conference agreement provides $199,800,000 for the Emergency Conservation Program to repair damage caused by hurricanes in 2005.

Section 102.—The conference agreement provides $300,000,000 for the Emergency Watershed Program (EWP) to repair damage caused by hurricanes in 2005 to waterways and watersheds, and for other specified purposes related to damage from hurricanes. Of the total provided, no less than $283,890,365 is for the hurricane Katrina, Rita, or Wilma-related projects specified in the December 8, 2005, "EWP Recovery Projects Unfunded" table.

Section 103.—The conference agreement includes language allowing for the reimbursement of accounts related to hurricane costs.

Section 104.—The conference agreement includes language allowing the transfer of funds between the Rural Housing Insurance Fund and the Rural Housing Assistance Grant accounts.

Section 105.—The conference agreement includes language granting the Secretary of Agriculture temporary authorities for certain programs under the Rural Development mission area.

Section 106.—The conference agreement includes a technical correction to Section 759 of P.L. 109-97.

CHAPTER 2

DEPARMENT OF DEFENSE—MILITARY

In this chapter, the conferees recommend total new appropriations of $5,112,438,000, minus a general reduction of $737,089,000 elsewhere in the conference agreement. Funding by category is as follows:

Military Personnel	$554,535,000
Operation and Maintenance	1,953,318,000
Procurement	2,309,778,000
Research, Development, Test and Evaluation	41,382,000
Revolving and Management Funds	7,224,000
Trust Funds	44,341,000
Other Department of Defense Programs	201,860,000

Funds are provided for specific appropriations accounts, and quarterly reports are required on the obligation of funds.

The following table provides details of the supplemental appropriations in this chapter:

[In thousands of dollars]

Account	Request	Conference
Military Personnel:		
Military Peresonnel, Army	29,830	29,830
Military Personnel, Navy	57,691	57,691
Military Personnel, Marine Corps	14,193	14,193
Military Personnel, Air Force	105,034	105,034
Reserve Personnel, Army	11,100	11,100
Reserve Personnel, Navy	33,015	33,015
Reserve Personnel, Marine Corps	3,028	3,028
Reserve Personnel, Air Force	2,370	2,370
National Guard Personnel, Army	220,556	220,556
National Guard Personnel, Air Force	77,718	77,718
Total Military Personnel	554,535	554,535
Operation and Maintenance.		
O&M, Army	156,166	156,166
O&M, Navy	543,590	544,690
O&M, Marine Corps	7,343	7,343
O&M, Air Force	554,252	554,252
O&M, Defense Wide	29,027	29,027
O&M, Army Reserve	16,118	16,118
O&M, Navy Reserve	480,084	480,084
O&M, Marine Corps Reserve	16,331	16,331
O&M, Air Force Reserve	2,366	2,366
O&M, Army National Guard	98,855	98,855
O&M, Air National Guard	48,086	48,086
Total Operation and Maintenance	1,952,218	1,953,318
Procurement:		
Procurement of WTCV, Army	1,600	1,600
Procurement of Ammunition, Army	1,000	1,000
Other Procurement, Army	1,390	43,390
Aircraft Procurement, Navy	3,856	3,856
Procurement of Ammunition, Navy & Marine Corps	2,600	2,600
Shipbuilding and Conversion, Navy	1,987,000	1,987,000
Other Procurement, Navy	89,675	76,675
Other Procurement, Air Force	170,300	162,315
Procurement, Defense-Wide	12,082	12,082
National Guard and Reserve Equipment	19,260	19,260
Total Procurement	2,288,763	2,309,778
Research, Development, Test and Evaluation:		
RDT&E, Navy	27,612	2,462
RDT&E, Air Force	6,200	6,200
RDT&E Defense-Wide	32,720	32,720
Total RDT&E	66,532	41,382
Revolving and Management Funds:		
Defense Working Capital Funds	7,224	7,224
Trust Funds		
Surcharge Collections, Sales of Commissary Stores, Defense	44,341	44,341
Other Department of Defense Programs:		
Defense Health Program O&M	161,858	172,958
Defense Health Program Procurement	39,692	28,592
Office of the Inspector General—Evac Personnel	30	30
Office of the Inspector General—Equipment Repair	280	280
Total Other DoD Programs	201,860	201,860
General Provision—Transfer Authority [Non add]	[750,000]	[500,000]
Total	5,115,473	5,112,438
General Reduction		(737,089)
Grand Total		4,375,349

CLASSIFIED PROGRAMS

Adjustments to classified programs are addressed in the classified annex accompanying this Joint Explanatory Statement.

REPORTING REQUIREMENTS

The conferees direct the Secretary of Defense to provide a report to the congressional defense committees within 30 days of enactment of this legislation on the allocation of the funds within the accounts listed in this chapter. The Secretary shall submit updated reports 30 days after the end of each fiscal quarter until funds listed in this chapter are no longer available for obligation. The conferees direct that these reports shall include: a detailed accounting, by programs and subactivity groups, of obligations and expenditures of appropriations provided in this chapter for the continuation of relief and recovery operations from the storm damage; and a listing of equipment procured using funds provided in this chapter.

The conferees expect that in order to meet unanticipated requirements, the Department of Defense may need to transfer funds within these appropriations accounts for purposes other than those specified in this chapter. The conferees expect the Department to follow normal prior-approval reprogramming procedures should it be necessary to transfer funding between different appropriations accounts in this chapter.

MILITARY PERSONNEL

The following table provides details of the recommendations for the military personnel accounts:

[In thousands of dollars]

Account	Request	Conference
Military Personnel, Army		
Military Pay and Allowances	9,005	9,005
Evacuation of DoD Personnel	20,825	20,825
Total Military Personnel, Army	29,830	29,830
Military Personnel, Navy:		
Evacuation of DoD Personnel	57,691	57,691
Total Military Personnel, Navy	57,691	57,691
Military Personnel, Marine Corps:		
Evacuation of DoD Personnel	14,193	14,193
Total Military Personnel, Marine Corps	14,193	14,193
Military Personnel, Air Force:		
Military Pay and Allowances	57,279	57,279
Basic Allowance for Housing	6,526	6,526
Evacuation of DoD Personnel	41,229	41,229
Total Military Personnel, Air Force	105,034	105,034
Reserve Personnel, Army:		
Military Pay and Allowances	10,739	10,739
Basic Allowance for Housing	361	361
Total Reserve Personnel, Army	11,100	11,100
Reserve Personnel, Navy		
Military Pay and Allowances	13,647	13,647
Basic Allowance for Housing	1,053	1,053
Evacuation of DoD Personnel	18,315	18,315
Total Reserve Personnel, Navy	33,015	33,015
Reserve Personnel, Marine Corps		
Evacuation of DoD Personnel	3,028	3,028
Total Reserve Personnel, Marine Corps	3,078	3,708
Reserve Personnel, Air Force:		
Military Pay and Allowances	2,285	2,285
Basic Allowance for Housing	85	85
Total Reserve Personnel, Air Force	2,370	2,370
National Guard Personnel, Army:		
Military Pay and Allowance	188,262	188,262
Basic Allowance for Housing	32,294	32,294
Total National Guard Personnel, Army	220,556	220,556
National Guard Personnel, Air Force:		
Military Pay and Allowances	67,429	67,429
Basic Allowance for Housing	10,289	10,289
Total National Guard Personnel, Air Force	77,718	77,718
Total Military Personnel	554,535	554,535

Additional funds are provided in the military personnel accounts to continue hurricane relief efforts during fiscal year 2006. Funds are provided for military pay and allowances, subsistence, and travel and related expenses for active duty and full-time Guard and Reserve personnel providing support to hurricane relief and recovery efforts in areas affected by hurricanes in the Gulf of Mexico in calendar year 2005. In addition, funds are provided for per diem costs for the evacuation of family members of military personnel.

BASIC ALLOWANCE FOR HOUSING

The conference agreement includes a general provision which provides the Services the authority to temporarily adjust Basic Allowance for Housing (BAH) rates for those areas affected by hurricanes in the Gulf of Mexico in calendar year 2005. The conferees direct that any additional costs to the military personnel accounts for this change to the BAH entitlement should be requested and funded through a supplemental appropriations bill for hurricane-related disaster relief.

OPERATION AND MAINTENANCE

The following table provides details of the recommendations for the operation and maintenance accounts:

[In thousands of dallars]

Account	Request	Conference
Operation and Maintenance, Army:		
Urgent Repair and Recovery (Non SRM)	55,910	55,910
Evacuation of DoD Personnel	67,076	67,076
Temporary Continuing Operations	13,342	13,342
Temporary Continuing Operations (Non-SRM)	12,764	12,764
Equipment Repair and Replacement	7,074	7,074
Total Operation and Maintenance, Army	156,166	156,166
Operation and Maintenance, Navy:		
Urgent Repair and Recovery (Non-SRM)	139,690	139,690
Evacuation of DoD Personnel	120,029	120,029
Temporary Continuing Operations	65,772	65,772
Equipment Repair and Replacement	2,600	2,600
Facilities Restoration (SRM)	215,499	215,499
Classified Adjustment	—	(1,500)
Naval Station Pascagoula Pier Repair and Force Protection	—	2,600
Total Operation and Maintenance, Navy	543,590	544,690
Operation and Maintenance, Marine Corps:		
Evacuation of DoD Personnel	7,343	7,343
Total Operation and Maintenance, Marine Corps	7,343	7,343
Operation and Maintenance, Air Force:		
Urgent Repair and Recovery (Non-SRM)	273,038	273,038
Evacuation of DoD Personnel	184,371	184,371
Temporary Continuing Operations	18,938	18,938
Equipment Repair and Replacement	8,900	8,900
Facilities Restoration (SRM)	69,005	69,005
Total Operation and Maintenance, Air Force	554,252	554,252
Operation and Maintenance, Defense-Wide:		
Urgent Repair and Recovery—SOCOM	4,070	4,070
Evacuation of DoD Personnel	10,768	10,768
Temporary Continuing Operations.		
SOCOM	100	100
DISA	558	558
DIA	2,636	2,636
DCAA	250	250
DCMA	4,007	4,007
Equipment Repair and Replacement	800	800
Equipment Repair and Replacement—DISA.		
Facilities Restoration (SRM).		
SOCOM	4,644	4,644
DISA	469	469
DCAA	125	125
Total Operation Maintenance, Defense-Wide	29,027	29,027
Operation and Maintenance, Army Reserve:		
Urgent Repair and Recovery (Non-SRM)	10,590	10,590
Temporary Continuing Operations	4,400	4,400
Facilities Restoration (SRM)	1,128	1,128
Total Operation and Maintenance, Army Reserve	16,118	16,118
Operation and Maintenance, Navy Reserve:		
Urgent Repair and Recovery (Non-SRM)	128,849	128,849
Evacuation of DoD Personnel	21,466	21,466
Temporary Continuing Operations	19,745	19,745
Facilities Restoration (SRM)	310,024	310,024
Total Operation and Maintenance, Navy Reserve	480,084	480,084
Operation and Maintenance, Marine Corps Reserve:		
Evacuation of DoD Personnel	3,537	3,537
Temporary Continuing Operations	11,700	11,700
Facilities Restoration (SRM)	1,094	1,094
Total Operation and Maintenance, Marine Corps Reserve	16,331	16,331
Operation and Maintenance, Air Force Reserve:		
Temporary continuing Operations	449	449
Equipment Repair and Replacement	1,917	1,917
Total Operation and Maintenance Air Force Reserve	2,366	2,366
Operation and Maintenance, Army National Guard:		
Army National Guard Support (Non SRM)	42,803	42,803
Urgent Repair and Recovery (Non-SRM)	6,200	6,200
Temporary Continuing Operations	635	635
Facilities Restoration (SRM)	49,217	49,217
Total Operation and Maintenance, Army National Guard	98,855	98,855
Operation and Maintenance, Air National Guard:		
Urgent Repair and Recovery (Non-SRM)	25,449	25,449
Temporary Continuing Operations	9,080	9,080
Facilities Restoration (SRM)	13,557	13,557
Total Operation and Maintenance, Air National Guard	48,086	48,086
Total Operation and Maintenance	1,952,218	1,953,318

Additional funds are provided in the operation and maintenance accounts to address a broad spectrum of hurricane-related relief and recovery activities including repair of Department of Defense facilities, establishment of alternate operating sites for displaced military functions and sustainment of temporary continuing operations. Funds will support the repair and replacement of equipment, debris removal, hazardous waste cleanup and disposal, utility and electrical repair, furniture replacement, and transportation costs. Additionally, funding will provide for the reestablishment of recruiting centers and Reserve Officer Training campus sites. The funds provided will support the evacuation and sustainment of Active and Reserve Component personnel, federal civilian employees, and their dependents. Funds also are provided in support of Army and Air National Guard storm related activities including flying hours, ground support, aviation technical assistance, supplies and repairs.

PROCUREMENT

The following table provides details of the recommendations for the procurement accounts:

[In thousands of dollars]

Account	Request	Conference
Procurement of Weapons and Tracked Combat Vehicles, Army:		
Lightweight (LW) 155mm Howitzer	1,600	1,600
Total Procurement of WTCV, Army	1,600	1,600
Procurement of Ammunition, Army:		
Mississippi Ammunition plant repairs	1,000	1,000
Total Procurement of Ammunition, Army	1,000	1,000
Other Procurement, Army:		
Family of Heavy Tactical Vehicles (FHTV) Movement Tracking:		
System (MTS)	42	42
Automated Date Processing Equipment	90	90
Radio Frequency in Transit Visibility (RFITV)	175	175
Medical Comm for Combat Casualty Care (MC4)	175	175
Force Provider	908	908
Armored Security Vehicles	—	42,000
Total Other Procurement, Army	1,390	43,390
Aircraft Procurement, Navy:		
Precision Approach Radar Trainers—NAS New Orleans	96	96
Calibration Standards Equipment—NS Algiers	3,760	3,760
Total Aircraft Procurement, Navy	3,856	3,856
Procurement of Ammunition, Navy and Marine Corps:		
5 Inch/55 Gun Ammunition	601	601
76MM Gun Ammunition	166	166
Other Ship Gun Ammunition	649	649
Small Arms and Landing Party Ammunition	744	744
Pyrotechnics and Demolition Material	440	440
Total Procurement of Ammunition, Navy and Marine Corps	2,600	2,600
Shipbuilding and Conversion, Navy:		
Total Shipbuilding and Conversion, Navy	1,987,000	1,987,000
Other Procurement, Navy:		
ATC Radar—NAS New Orleans	100	100
Precision Approach Radar—NAS New Orleans	160	160
Deployable Joint Command and Control System	175	175
Navy Standard Integrated Personnel System	150	150
Military Construction Support Equipment Under $5 Million	2,514	2,514
Construction and Maintenance Equipment	7,840	7,840
Tactical Vehicles—Naval Construction Battalion Center	846	846
Digital Phone Systems	27,581	27,581
Trailers for Classrooms, Child Development Centers, Etc	30,000	17,000
SPAWAR Systems Center	13,250	13,250
BUPERS Generator	1,659	1,659
Back-Up Power Supply—Stennis Space Center	4,000	4,000
Oceanographic Survey Equipment—Stennis Space Center	1,400	1,400
Total Other Procurement, Navy	89,675	76,675
Other Procurement, Air Force:		
Replacement of vehicles at Keesler AFB	2,803	2,803
Host & Remote Voice Systems	22,377	22,377
Data Systems—Information Transport Node (ITN)	2,163	2,163
Data Systems—End Building Node (EBN)	24,676	24,676
Data Systems—SIPRNet (TACLANE)	418	418
Data Systems—First 400' Core 1 & 2 Buildings	12,029	12,029
Data Systems—Video—Closed Circuit TV	259	259
Network Control Center	7,150	7,150
Flight Support (ATCALS)	3,795	3,795
Flight Support Air Traffic Control Tower	2,145	2,145
Security Systems	3,000	3,000
Command Post Communications	1,936	1,936
ROVER III model 301 video downlink	57	57
Training Communications Equipment	22,728	22,728
Air National Guard Switching Equipment	3,051	3,051
Communications System Support	33	33
Deployable Communications	7,985	—
General Training Equipment	27,500	27,500
BEAR Kits	25,645	25,645
ANG Generators	330	330
ANG Firefighting Equipment	220	220
Total Other Procurement, Air Force	170,300	162,315
Procurement, Defense-Wide:		
SOCOM Equipment Replacement	12,082	12,082
Total Procurement, Defense Wide	12,082	12,082
National Guard and Reserve Equipment.		
National Guard Equipment (Army National Guard)	19,260	19,260
Total National Guard and Reserve Equipment	19,260	19,260
Total Procurement	2,288,763	2,309,778

OVERSIGHT OF PROCUREMENT PROGRAMS

The conference agreement provides **$1,987,000,000** for extraordinary shipbuilding and ship repair costs and **$42,000,000**, above the budget request, for production of the Army Armored Security Vehicle (ASV). This funding is intended to cover costs relating to real property damage, including damage to government- and contractor-furnished equipment; cleanup of facilities; business interruption, to include idle payroll; temporary housing and transportation for employees; and additional business expenses, including but not limited to power, security, information technology support, and necessary equipment rentals.

The conferees believe these expenses require special oversight by the Department of Defense and the Congress. Accordingly, the conferees direct that none of the funds provided for "Shipbuilding and Conversion, Navy" or for the Army ASV shall be obligated or expended until 30 days after the Secretary of the Navy or Secretary of the Army, as applicable, submits a report to the House and Senate Committees on Appropriations certifying that the increased direct and indirect costs relating to contractor-funded programs are: (a) incurred or required to be incurred for hurricane relief; (b) not subject to reimbursement by any third party (e.g., FEMA or private insurer); and (c) directly allocable to the program for which funds are being provided. All such costs shall be subject to review, audit, and validation by appropriate management officials of the military service, including the Government Procurement Contracting Officer and service audit teams. Approved costs will be reimbursed as they are incurred with no application of general and administrative overhead or profit.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The following table provides details of the recommendations for the Research, Development, Test and Evaluation accounts:

Account	Request	Conference
RDT&E, Navy:		
Composite watercraft	11,600	750
Advanced Electric Ship Demonstrator Composite Deckhouse	1,000	200
Ocean Engineering Technology Development	237	237
Test and Evaluation Support—AUTEC Damage Repair	775	775
Classified Project	13,500	
MK-48 ADCAP Torpedo	500	500
Total RDT&E, Navy	27,612	2,462
RDT&E Air Force:		
Test and Evaluation Support	1,900	1,900
Facilities Restoration and Modernization—T&E Support	4,300	4,300
Total RDT&E, Air Force	6,200	6,200
RDT&E, Defense-Wide:		
DIMHRS	32,720	32,702
Total RDT&E, Defense-Wide:	32,720	32,720
Total RDT&E	66,532	41,382

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

The conference agreement includes **$7,224,000** for Defense Working Capital Funds for transportation and contingency operations costs for the Defense Logistics Agency, for the replacement of commissary stock and equipment, and for the replacement of equipment for Air Force Working Capital Fund entities.

TRUST FUNDS

SURCHARGE COLLECTIONS, SALES OF COMMISSARY STORES, DEFENSE

The conference agreement includes **$44,341,000** for Surcharge Collections, Sales of Commissary Stores, Defense, to rebuild commissaries at Keesler Air Force base and Gulfport Naval Construction Battalion Center.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

The conference agreement provides **$201,550,000** for the Defense Health Program, of which **$172,958,000** shall be for Operation and Maintenance, and of which **$28,592,000** shall be for Procurement. This funding will provide for healthcare for guard and reserve members activated for duty, replacement of medical supplies and equipment, backfilling deployed medical personnel and increases in private sector care costs.

KEESLER MEDICAL CENTER

Evacuations and damages at military medical facilities along the Gulf Coast demonstrated the need to improve the procedures for inventory management and for medical record management to provide a seamless transition of medical care between facilities.

Within the funds made available for repair and recovery of the Keesler Medical Center, the Air Force is encouraged to continue their initiative of making medical records available electronically for health care providers and for establishing an automated inventory management system using RFID technology.

OFFICE OF THE INSPECTOR GENERAL

The conferees have agreed to provide a total amount of **$310,000** for the Office of the Inspector General. Of this amount **$30,000** is for the relocation of the Inspector General's office in Slidell, Louisiana, and **$280,000** is for replacement and repair of storm damaged equipment in the Inspector General's office, Slidell, Louisiana.

GENERAL PROVISIONS—THIS CHAPTER

Chapter 2 of this title contains five general provisions. A description of the recommended general provisions follows.

The conferees agree to include language which provides for transfer between appropriations of up to **$500,000,000** of the funds made available to the Department of Defense in this chapter, and provides for promptnotification to the Congress of each transfer made under this authority. The transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense.

The conferees agree to include language which provides that military members on active duty in support of hurricanes in the Gulf of Mexico in calendar year 2005 may retain accumulated leave, not to exceed 120 days at the end of fiscal year 2005.

The conferees agree to include language which provides that the Secretary of Defense may prescribe a temporary adjustment in the geographic location rates of the basic allowance for housing within an area declared a major disaster under the Robert T. Stafford Disaster Relief and Emergency Act resulting from hurricanes in the Gulf of Mexico in calendar year 2005. Such temporary adjustment shall be based on the Secretary's redetermination of housing costs and shall not exceed 20 percent of the current rate for an affected area. Members must certify that an increased housing cost has been incurred. No temporary adjustment may be made after September 30, 2006, and assistance may not extend beyond January 1, 2007.

The conferees agree to include language which provides that funds appropriated in this chapter for intelligence activities are deemed to be authorized for purposes of section 504 of the National Security Act of 1947.

The conferees agree to include language that makes general reduction of **$737,089,000**.

CHAPTER 3

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The conference agreement provides emergency funding to address water resource projects damaged by Hurricanes Katrina, Rita, Ophelia and Wilma. The funding provided in this chapter is based on Corps of Engineers' estimates of the requirements of all areas of the Nation impacted by these hurricanes. The conferees expect the funds provided herein shall be expended substantially in accordance with those estimates.

INVESTIGATIONS

Funds totaling **$37,300,000** are provided to expedite ongoing studies in the areas recently affected by recent hurricanes, as shown below:

Louisiana Coastal Area Ecosystem Restoration, LA	$11,000,000
Hurricane Protection, LA	12,000,000
Hurricane Protection, MS	10,000,000
Plaquemines Parish, Urban Flood Control, LA	1,200,000
St. Bernard Parish Urban Flood Control, LA	1,200,000
St. Charles Parish Urban Flood Control, LA	1,100,000
Southwest Coastal Louisiana, LA	500,000
Bouge Banks, NC	100,000
Hatteras and Ocracoke Islands, NC	100,000
Surf City and North Topsail Beach, NC	100,000

The conference agreement includes **$11,000,000** for the Louisiana Coastal Area Ecosystem study. These funds, together with **$10,000,000** provided in the Energy and Water Development Appropriations Act, 2006, provide the amounts necessary to continue the Louisiana Coastal Plan this fiscal year. Within these amounts, funds are provided for hurricane or storm damage assessment, including coastal data collection.

The conference agreement includes a provision that withholds funding provided for the Louisiana Hurricane Protection Study in this Act until the State of Louisiana establishes a single state or quasi-state entity to act as the local sponsor for construction, operation and maintenance for all hurricane, storm damage reduction and flood control projects in the greater New Orleans and southeast Louisiana area. The conferees expect that no funds shall be available for the final report after the completion of the preliminary technical report until a functioning single entity is established by the State to meet local responsibilities for Federal projects.

CONSTRUCTION

Funds totaling **$101,417,000** are provided to repair flood and storm damage reduction, commercial navigation and other projects damaged by Hurricanes Katrina, Rita, Ophelia and Wilma.

Citing a lack of authorization, the conferees did not provide the request of **$250,000,000** for coastal mitigation; however, a total of **$96,000,000** is available in fiscal year 2006 for activities related to improving the

Gulf Coast coastal wetlands to reduce the risk of storm damage to the greater New Orleans metropolitan area. In this Act, $11,000,000 is provided to further the Louisiana Coastal study in the Investigations account, together with $10,000,000 provided in the Energy and Water Development Appropriations Act, 2006. In addition, $75,000,000 is provided in this Act in the Operations and Maintenance account for authorized activities to preserve and maintain existing wetlands, enhance estuarine habitat and provide erosion protection for hurricane protection projects. The conferees encourage the Administration to submit a legislative proposal to the appropriate authorizing committees for full and further consideration.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI AND TENNESSEE

Funds totaling $153,750,000 are provided to repair levees; remove hazards to navigation; cover the increased cost of mat laying operations due to storm impacts; repair damaged training works, including dikes; and repair damaged levees to provide protection from riverine flooding resulting from Hurricanes Katrina and Rita.

OPERATION AND MAINTENANCE

Funds totaling $327,517,000 are provided to restore navigation channels and harbors to pre-storm conditions and to repair flood damage reduction and other projects in states affected by Hurricanes Katrina, Rita, Ophelia and Wilma. Of this amount, $75,000,000 is provided for authorized operation and maintenance activities to enhance estuarine habitats through monitoring and control of marine and river flow and reef building initiatives and providing foreshore bank protection in the form of revetment and rock placement to protect endangered wetlands and provide erosion protection for hurricane protection projects along the Mississippi River-Gulf Outlet Channel. The expenditure of funds shall be limited to those activities necessary for the protection of existing wetlands, navigation, flood and storm damage reduction projects along the Mississippi River-Gulf Outlet Channel and funds shall not be expended on any project that would otherwise preclude or foreclose any final disposition of the navigation channel; funds are not available to conduct any dredging of the Mississippi River-Gulf Outlet Channel.

FLOOD CONTROL AND COASTAL EMERGENCIES

Funds totaling $2,277,965,000 are provided to continue repairs to flood and storm damage reduction projects in states affected by Hurricanes Katrina, Rita, Ophelia and Wilma. Funds are provided to fund at full Federal expense repairs to non-federal levees and pumps and to construct levees and floodwalls to original design levels rather than pre-storm conditions. Within the funds provided, $75,000,000 shall be available to accelerate completion of authorized projects in the State of Mississippi along the Mississippi Gulf Coast.

Further, this amount includes $544,460,000 to accelerate the completion of unconstructed portions of authorized hurricane, storm damage reduction and flood control projects in the greater New Orleans and south Louisiana area, as follows:

New Orleans to Venice, LA	$32,487,000
West Bank and Vicinity, LA	147,614,000
Lake Pontchartrain and Vicinity, LA	120,554,000
Southeast Louisiana, LA	224,755,000
Larose to Golden Meadow, LA	4,026,000
Grand Isle, LA	15,024,000

The conference agreement includes $70,000,000 to prepare for flood, hurricane and other natural disasters and support emergency operations, repairs, and other activities in response to flood and hurricane emergencies, as authorized by law. Funding is provided to cover annual recurring costs of the program as well as costs related to recent natural disasters. The Army Corps of Engineers is directed to include recurring annual funding requirements for this program in its fiscal year 2007 budget request and to address event-related costs in the appropriate emergency supplemental requests.

The conference agreement includes approximately $468,000,000 to reimburse projects from which funds were transferred to meet emergency requirements.

GENERAL EXPENSES

Funds totaling $1,600,000 are provided for additional oversight and management costs associated with Hurricanes Katrina and Rita.

CHAPTER 4

DEPARTMENT OF HOMELAND SECURITY

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

OFFICE OF POLICY

The conferees agree to clarify Public Law 109–90 does not include an increase of $1,512,000 and 3 full-time equivalent positions for the Embassy Baghdad Initiative requested in the President's Fiscal Year 2006 Budget. Public Law 109–90 does include the transfer of $5,176,000 to the Office of Policy for the Border and Transportation Security Policy Office and Operations staff. Any fiscal year 2005 funding for a Department of Homeland Security (DHS) attaché in Baghdad included in this amount is continued in fiscal year 2006 at the fiscal year 2005 level. The conferees prohibit the use of any funds available to the Department for increasing resources for the Embassy Baghdad Initiative beyond the fiscal year 2005 level without approval of a reprogramming notification submitted pursuant to Section 503 of Public Law 109–90. The conferees provide this clarification to ensure the Department's actions are consistent with the intent of the Committees as indicated in the Statement of Managers accompanying the fiscal year 2006 appropriations conference report. The Department is directed to submit within 15 days of enactment of this Act to the House and Senate Committees on Appropriations a fiscal year 2006 program, project, and activity breakdown of the funding and staffing level of the Office of Policy including the $5,176,000 transfer for the Office of Policy.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

The conferees agree to provide $24,100,000 instead of $27,100,000 as proposed by the President to repair and replace critical information technology, equipment, and property damaged by Hurricane Katrina and other natural disasters.

CONSTRUCTION

The conferees agree to provide $10,400,000 for planning, engineering, and other equipment for structures damaged by Hurricane Katrina and other natural disasters instead of $26,700,000 as proposed by the President. The conferees are aware of uncertainty associated with the replacement of various facilities damaged by recent hurricanes and direct Customs and Border Protection to submit to the House and Senate Committees on Appropriations a detailed estimate of the total cost of replacing these facilities once relocation sites and total costs are determined. Funds are available until expended.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

The conferees agree to provide $13,000,000, instead of $13,848,000 as requested by the President to repair and replace critical information technology, communications equipment, and facilities damaged by Hurricane Katrina and other natural disasters.

UNITED STATES COAST GUARD

OPERATING EXPENSES

The conferees agree to provide $132,000,000 instead of $139,300,000 as requested by the President for clean-up and repair needs at facilities damaged by Hurricane Katrina and other natural disasters; activation of reservists to assist in hurricane recovery efforts; and repair and replacement of equipment, materials, and supplies lost due to these hurricanes. Funds are available until expended.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

The conferees agree to provide $74,500,000 instead of $136,660,000 as proposed by the President for major repair and reconstruction projects at facilities damaged by Hurricane Katrina and other natural disasters, and for damage to vessels currently under construction. The conferees are aware of uncertainty associated with the replacement of the New Orleans Integrated Support Command. The conferees agree to provide funding for the survey, planning, and engineering costs related to this facility and direct the Coast Guard to submit to the House and Senate Committees on Appropriations a detailed estimate for the total cost of replacing this facility once a relocation site is determined. Funds are available until expended.

OIL SPILL LIABILITY

The conferees understand over 3,800 oil spills have been caused by Hurricanes Katrina and Rita, with more than 8 million gallons of oil spilled from Hurricane Katrina alone. Currently, oil pollution response costs are being funded from the Federal Emergency Management Agency (FEMA) Disaster Relief Fund (DRF). However, the DRF will not pay for long-term oil removal costs and natural resource damages, leaving a significant funding gap not addressed in the supplemental request. While oil removal costs and damage claims may be eligible under the Oil Spill Liability Trust Fund (OSLTF), costs related to Hurricane Katrina are expected to easily exceed $1,000,000,000, leaving the existing balance of $750,000,000 in the OSLTF in jeopardy. The Department is directed to provide the House and Senate Appropriations Committees an analysis of the projected impacts to the OSLTF for any Oil Pollution Act removal and damage costs resulting from Hurricanes Katrina and Rita, and a plan to address the expected funding shortfall. This report is due no later than March 15, 2006.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

The conferees agree to provide $3,600,000 for equipment, vehicle replacement, and personnel relocation due to damage caused by Hurricane Katrina and other natural disasters.

OFFICE FOR DOMESTIC PREPAREDNESS

STATE AND LOCAL PROGRAMS

The conferees agree to provide $10,300,000 for replacement equipment for the

Prepositioned Equipment Program utilized during Hurricane Katrina.

The conferees agree notification required by Section 508 of Public Law 109-90 shall include any announcements of grant eligibility in which the Department limits the number or type of potential grantees.

Federal Emergency Management Agency

ADMINISTRATIVE AND REGIONAL OPERATIONS

The conferees agree to provide $17,200,000 instead of $87,100,000 as requested by the President to repair and improve warning and crisis communication systems, and to ensure proper controls are in place over the expenditure and management of funds for hurricane response and recovery.

PUBLIC HEALTH PROGRAMS

The conferees are concerned about the National Disaster Medical System (NDMS). The conferees direct the Chief Medical Officer to provide a report to the House and Senate Committees on Appropriations by April 30, 2006, outlining the goals of NDMS, the ability of the current program to meet these goals, the resources (people, training, and funding) required to maintain a system design to rapidly meet nationwide disaster medical needs, and the appropriate roles of DHS and the Department of Health and Human Services in the oversight and management of this critical program.

The conferees are aware of FEMA's intention to use the authority provided by Public Law 109–62 to transfer up to $100,000,000 for the NDMS to support medical care as authorized by Public Law 107–188. The conferees direct FEMA to provide to the House and Senate Committees on Appropriations by February 28, 2006, a spend plan for the amount transferred, including the amounts obligated and expended as of the date of the report, the methods used for allocating funds, and the rules established regarding the expenses eligible for payment from this appropriation.

DISASTER RELIEF

(TRANSFER OF FUNDS)

The conferees agree to transfer $1,500,000 from the Disaster Relief Fund for administrative expenses of the Community Disaster Loan program. This funding is in addition to the $1,000,000 made available for transfer in Public Law 109-88. The conferees agree the Department shall notify the House and Senate Committees on Appropriations no later than 15 days after a community disaster loan has been awarded. Such notification shall include the amount of the loan, a brief assessment of the borrower's financial position, reasons for the necessity of the loan, and a description of the essential services to be provided through the loan.

The conferees believe a comprehensive long-term recovery plan is critical for the rehabilitation of the Gulf Coast and should be implemented as quickly as possible. The conferees direct the Department to provide this plan to the House and Senate Committees on Appropriations by February 28, 2006. The plan should be prepared in coordination with state and local officials as well as other Federal agencies involved in recovery efforts.

The conferees are concerned with the lack of guidance on housing assistance. Within two weeks from the date of enactment of this Act, the Director of FEMA shall issue guidance used to determine continued eligibility for housing assistance under the Section 408 program. Consistent with current FEMA regulations, such guidance shall include the extension of assistance if the recipient is unable to afford local housing at the Fair Market Rent level.

GENERAL PROVISION—THIS CHAPTER

Sec. 401. The conferees include a general provision allowing the Secretary of Homeland Security to permit active duty personnel who performed duties in response to the hurricanes to carryover accumulated leave until the end of fiscal year 2007.

CHAPTER 5

DEPARTMENT OF THE INTERIOR

United States Fish and Wildlife Service

CONSTRUCTION

The conference agreement provides $30,000,000 for construction costs of the United States Fish and Wildlife Service related to Hurricanes Katrina, Rita, Wilma, and Ophelia. These funds will be used for repair and reconstruction and operational costs incurred in responding to and cleaning up from the storms. In addition to repair and reconstruction of Federal facilities, the funds should be used to repay construction projects from which funds were transferred on an emergency basis. They also are available to pay for un-reimbursed overtime and operational costs.

National Park Service

CONSTRUCTION

The conference agreement provides $19,000,000 for construction costs of the National Park Service related to Hurricanes Katrina, Rita, and Wilma. These funds will be used for repair and reconstruction and operational costs incurred in responding to and cleaning up from the storms. In addition to repair and reconstruction of Federal facilities, the funds should be used to repay construction projects from which funds were transferred on an emergency basis. They also are available to pay for un-reimbursed overtime and operational costs.

United States Geological Survey

SURVEYS, INVESTIGATIONS, AND RESEARCH

The conference agreement provides $5,300,000, as requested, for surveys, investigations, and research costs of the United States Geological Survey. The funds are for facility and equipment repair and replacement needs, including stream gage repair and replacement, at Survey sites in the Southeast that were damaged by Hurricanes Katrina and Rita.

Minerals Management Service

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

The conference agreement provides $16,000,000 for royalty and offshore minerals management. The funds are provided for the temporary relocation of the Minerals Management Service's Gulf of Mexico regional office from Louisiana to Houston, TX; including immediate recovery costs to purchase new equipment, locate temporary offices and additional personnel, and operational costs incurred as a result of the hurricanes during the first six months after the events.

Environmental Protection Agency

LEAKING UNDERGROUND STORAGE TANK PROGRAM

The conference agreement provides $8,000,000 for the leaking underground storage tank program. These funds will be used to address the most immediate underground storage tank needs in areas affected by Hurricanes Katrina and Rita: including site assessments of leaking tanks to identify problems and initiate appropriate corrective actions.

DEPARTMENT OF AGRICULTURE

Forest Service

STATE AND PRIVATE FORESTRY

The conference agreement provides $30,000,000 for State and private forestry instead of providing the $50,000,000 requested for a new forestry disaster assistance fund. The managers believe that the proposed new fund is unnecessary in that the activities that would be funded, including assistance to timber land owners for debris removal, timber salvage, wildfire mitigation, and wildlife habitat stabilization, are more appropriately funded within authorized activities under the existing State and private forestry account. The funding provided should be used for urgently needed activities associated with Hurricanes Katrina and Rita recovery, clean-up, and restoration. The managers direct the Secretary of Agriculture to notify the House and Senate Committees on Appropriations on the proposed distribution of funds at least ten days before allocating these funds to the field.

NATIONAL FOREST SYSTEM

The conference agreement provides $20,000,000 for the national forest system for urgently needed activities associated with Hurricanes Katrina and Rita recovery, clean-up, and restoration. A portion of these funds may be used for hazardous fuels reduction activities on national forest system lands. The managers direct the Secretary of Agriculture to notify the House and Senate Committees on Appropriations on the proposed distribution of funds at least ten days before allocating these funds to the field.

CAPITAL IMPROVEMENT AND MAINTENANCE

The conference agreement provides $7,000,000 for capital improvement and maintenance to repair roads and to repair or replace hurricane damaged bridges and other facilities in National Forests affected by Hurricanes Katrina and Rita.

CHAPTER 6

DEPARTMENT OF LABOR

Employment and Training Administration

TRAINING AND EMPLOYMENT SERVICES

The conference agreement includes a supplemental appropriation of $125,000,000 for the Employment and Training Administration to award national emergency grants related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005. These funds may be used to replace grant funds previously obligated to the impacted areas.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

The conference agreement includes language that extends the availability of funds provided under this heading in Public Law 108–447, which have been allocated to the States of Alabama, Louisiana, and Mississippi. The funding shall remain available for obligation by those States through September 30, 2006 and funds used for automation by those States shall remain available through September 30, 2008.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

SOCIAL SERVICES BLOCK GRANT

The conference agreement includes a supplemental appropriation of $550,000,000 for the Social Services Block Grant (SSBG). The conferees note that the hurricanes in the Gulf of Mexico in calendar year 2005 have imposed extreme demands for social and health care services in affected States. States may use SSBG funds for a wide array of human services.

In addition to other uses, the conferees intend these funds to be available to help meet the health care needs of people affected by the hurricanes in the Gulf of Mexico in calendar year 2005 and lacking health insurance or other adequate access to care, and to help health care "safety net" providers restore and resume their operations. Accordingly, the conferees have included bill language intended to remove any uncertainties as to the eligibility of health care providers and facilities (including mental health providers and facilities) to receive Social Services Block Grant funds from this appropriation. Examples of institutions that could receive these funds include community health centers, rural hospitals and clinics, community mental health centers, public hospitals, and other providers with substantial percentages of uninsured patients. In addition to helping meet health care needs arising from the hurricanes, funds may be made available for repairs or reconstruction needed to allow health centers and similar providers to resume or expand operations, or to help key providers meet salary and other costs associated with resuming or restoring health services.

The conferees are concerned about the mental health impact of the hurricanes in the Gulf of Mexico in calendar year 2005. The Centers for Disease Control and Prevention (CDC) reports that as many as 500,000 Gulf Coast residents might need mental health care. The conferees encourage the Secretary to work with State governments in the region to ensure that adequate funding is available, within the amounts appropriated, for community safety net providers to meet this emerging public mental health crisis.

CHILDREN AND FAMILIES SERVICES PROGRAMS

The conference agreement includes a supplemental appropriation of $90,000,000 for Head Start to serve children displaced by the hurricanes in the Gulf of Mexico in calendar year 2005 and to cover costs associated with renovating Head Start facilities, which were affected by the hurricanes, to the extent that FEMA and insurance companies do not fully cover such costs.

DEPARTMENT OF EDUCATION

The conference agreement includes a supplemental appropriation of $750,000,000 for immediate aid to restart school operations and reimburse States for costs already incurred in reopening schools affected by the Gulf hurricanes. This funding is to be distributed to State educational agencies in Louisiana, Mississippi, Alabama, and Texas for assistance to schools that were impacted by the hurricanes in the Gulf of Mexico in calendar year 2005. The State educational agencies shall provide services and assistance to local educational agencies and nonpublic schools consistent with provisions outlined in section 102 of title IV, division B of this Act.

The conference agreement includes a supplemental appropriation of $5,000,000 for assistance for homeless children and youths displaced by the hurricanes in the Gulf of Mexico in calendar year 2005 consistent with provisions outlined in section 106 of title IV, division B of this Act.

The conference agreement includes a supplemental appropriation of $645,000,000 for temporary emergency impact aid for displaced students during the 2005-2006 school year. This funding is to be distributed to eligible schools that serve students who were displaced by the hurricanes in the Gulf of Mexico in calendar year 2005. Public, private, and charter schools are eligible for assistance consistent with provisions outlined in section 107 of title IV, division B of this Act.

The conference agreement includes a supplemental appropriation of $200,000,000 to assist college students and higher education institutions with unanticipated expenses associated with the hurricanes in the Gulf of Mexico in calendar year 2005. Within the amount provided, $95,000,000 is for the Mississippi Institutes of Higher Learning for additional student financial aid for students and families impacted by the Gulf hurricanes. The conferees intend for these funds to be made available for assistance to any eligible student attending a title IV eligible institution, including independent colleges and universities, private institutions, community colleges, junior colleges, and graduate institutions.

Of the amount provided, $95,000,000 is for the Louisiana Board of Regents, which may be used to provide emergency assistance for student financial assistance, faculty salaries, or any purpose authorized under the Higher Education Act, to institutions of higher education that are located in an area affected by the Gulf hurricanes. The conferees intend for these funds to be used only for authorized purposes at the impacted institutions of higher education; allocated only to affected postsecondary educational institutions that were forced to suspend operations for 30 days or more; and distributed primarily to those institutions demonstrating that they were not able to reopen in existing facilities or fully re-open to pre-Gulf hurricane levels. The conferees intend for these funds to supplement and not supplant any portion of an institution's State support. In allocating these funds, the conferees strongly urge the Board to consult with the presidents or chancellors of the eligible colleges and universities and equitably allocate funding, within 45 days, based only on the need criteria agreed to by these officials.

The Committees on Appropriations of the House and Senate request that the Department submit a report not later than March 1, 2006 on the obligation and allocation of these supplemental funds provided under the Higher Education Act.

CHAPTER 7

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

Military Construction Projects Repaired Using Operation and Maintenance Funds.—The conferees understand that all military construction projects requested by the President which have not been included in the agreement have been, or will be, repaired using operation and maintenance funds, rather than requiring replacement through military construction. Each military Service or Defense agency shall notify the Committees on Appropriations of both Houses of Congress, within seven days after the decision to execute, if a repair project is carried out with operation and maintenance funds in lieu of a project appropriated in this chapter.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

The agreement provides $291,219,000, instead of $314,629,000 as proposed in the reallocation request dated October 28, 2005. The funds are provided as follows:

Location	Project description	Request	Conference agreement
MS: NCBC Gulfport	Applied Electronics/Water Treatment Training Facility	1,910,000	1,910,000
MS: NCBC Gulfport	Armory	4,600,000	4,600,000
MS: NCBC Gulfport	Auto Vehicle Training Shop	940,000	940,000
MS: NCBC Gulfport	Bachelor Enlisted Quarters	13,400,000	13,400,000
MS: NCBC Gulfport	Bachelor Enlisted Quarters—NCTC	20,700,000	20,700,000
MS: NCBC Gulfport	Broad Road Security Improvements	2,310,000	2,310,000
MS: NCBC Gulfport	Builders Applied Instruction Facility	13,400,000	13,400,000
MS: NCBC Gulfport	Command and Control Facility	5,530,000	5,530,000
MS: NCBC Gulfport	Comprehensive Utilities Hardening	20,500,000	20,500,000
MS: NCBC Gulfport	Consolidated Professional Development Ctr	8,030,000	8,030,000
MS: NCBC Gulfport	Consolidated Public Works Facility	10,730,000	10,730,000
MS: NCBC Gulfport	Consolidated Security Complex	6,900,000	6,900,000
MS: NCBC Gulfport	Disaster Recovery Training Facility	6,800,000	6,800,000
MS: NCBC Gulfport	Pass Road Security Improvements	2,110,000	2,110,000
MS: NCBC Gulfport	Pollution Prevention Facility	890,000	890,000
MS: NCBC Gulfport	Sandblast Facility	1,410,000	1,410,000
MS: NCBC Gulfport	Steelworkers Training Facility	8,300,000	8,300,000
MS: NCBC Gulfport	Storm Drainage Improvements	14,200,000	14,200,000
MS: NCBC Gulfport	Supply Integrated Logistics Facility		33,400,000
MS: NCBC Gulfport	Tactical Training Facility	15,310,000	15,310,000
MS: NCBC Gulfport	Training Complex	14,610,000	14,610,000
MS: NCBC Gulfport	Training Hall	6,930,000	6,930,000
MS: NS Pascagoula	Lakeside Bachelor Enlisted Quarters "A"	28,710,000	
MS: NS Pascagoula	Lakeside Bachelor Enlisted Quarters "B"	28,100,000	
MS: Stennis Space Center	Boat Operations Building	2,920,000	2,920,000
MS: Stennis Space Center	Ocean Sciences Laboratory	47,010,000	47,010,000
MS: Stennis Space Center	UPS and Generator Upgrades	14,400,000	14,400,000
Worldwide: Unspecified	Planning and Design	13,979,000	13,979,000
Total		314,629,000	291,219,000

MILITARY CONSTRUCTION, AIR FORCE

The agreement provides $52,612,000, instead of $44,305,000 as proposed in the reallocation request dated October 28, 2005. The funds are provided as follows:

Location	Project description	Request	Conference agreement
MS: KEESLER AFB	Base Personnel Facility	3,500,000	
MS: KEESLER AFB	Consolidated Open Mess	7,800,000	13,100,000
MS: KEESLER AFB	Fence, Boundary	4,000,000	
MS: KEESLER AFB	Headquarters Group Facility	1,000,000	
MS: KEESLER AFB	Interior Fencing	1,000,000	
MS: KEESLER AFB	Munitions Inspection Facility	1,300,000	1,300,000
MS: KEESLER AFB	Postal Center	2,500,000	2,500,000
MS: KEESLER AFB	Recreation Center		10,200,000
MS: KEESLER AFB	Refueler Maintenance Facility	1,300,000	1,300,000
MS: KEESLER AFB	Reserve Forces Operational Training Facility	3,400,000	
MS: KEESLER AFB	Technical Training Lab/Shop—Dolan Hall	1,000,000	
MS: KEESLER AFB	Technical Training Lab/Shop—Hewes Hall	1,000,000	
MS: KEESLER AFB	Temporary Base Exchange		3,800,000
MS: KEESLER AFB	Training Aids Facility	11,200,000	11,200,000
Worldwide: Unspecified	Planning and Design	5,305,000	9,212,000
Total		44,305,000	52,612,000

MILITARY CONSTRUCTION, DEFENSE-WIDE

The agreement provides $45,000,000 as proposed in the reallocation request dated October 28, 2005. The funds are provided as follows:

Location	Project description	Request	Conference agreement
MS: Keesler AFB	Central Energy Plant, KMC	20,000,000	20,000,000
MS: Keesler AFB	Diagnostic Imaging Center, KMC	25,000,000	25,000,000
Total		45,000,000	45,000,000

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

The agreement provides $374,300,000, instead of $414,118,000 as proposed in the reallocation request dated October 28, 2005. The funds are provided as follows:

Location	Project description	Request	Conference agreement
LA: Bogalusa	Readiness Center	16,413,000	16,413,000
LA: Covington	Readiness Center	15,833,000	15,833,000
LA: Hammond	Readiness Center	40,318,000	40,318,000
LA: Jackson Barracks	Field Maintenance Shop 12	17,586,000	17,586,000
LA: Jackson Barracks	Field Maintenance Shop 13	19,308,000	19,308,000
LA: Jackson Barracks	Infrastructure Replacement	21,535,000	21,535,000
LA: Jackson Barracks	Readiness Center	31,041,000	31,041,000
LA: Jackson Barracks	Barracks Complex	22,130,000	22,130,000
LA: Marrero	Readiness Center	19,166,000	19,166,000
LA: Pineville	Consolidated Maintenance Facility, Ph II/III	37,294,000	37,294,000
LA: Reserve	Readiness Center	15,850,000	15,850,000
MS: Bay St. Louis	Readiness Center	12,286,000	12,286,000
MS: Biloxi	Readiness Center	26,353,000	16,987,000
MS: Camp Shelby	Readiness Center	12,403,000	
MS: Columbia	Readiness Center	14,286,000	14,286,000
MS: Decatur	Field Maintenance Shop	12,403,000	12,403,000
MS: Gulfport	Field Maintenance Shop, Phase 1	13,393,000	13,393,000
MS: Poplarville	Readiness Center	12,500,000	12,500,000
MS: Purvis	Readiness Center	12,294,000	—
MS: Wiggins	Readiness Center	12,786,000	12,786,000
Worldwide: Unspecified	Planning and Design	28,940,000	23,185,000
Total		414,118,000	374,300,000

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

The agreement provides $35,000,000 as proposed in the reallocation request dated October 28, 2005. The funds are provided as follows:

Location	Project description	Request	Conference agreement
MS: CRTC Gulfport	Replace Civil Engineering Complex	5,900,000	5,900,000
MS: CRTC Gulfport	Replace Regional Training Site Complex	7,000,000	7,000,000
MS: CRTC Gulfport	Replace Squadron/Wing Operations Facility	9,000,000	9,000,000
MS: CRTC Gulfport	Replace Troop Quarters	2,400,000	2,400,000
MS: CRTC Gulfport	Electrical Distribution System	5,500,000	5,500,000
MS: CRTC Gulfport	Storm Water System	2,300,000	2,300,000
Worldwide: Unspecified	Planning and Design	2,900,000	2,900,000
Total		35,000,000	35,000,000

MILITARY CONSTRUCTION, NAVAL RESERVE

The agreement provides $120,132,000 as proposed in the reallocation request dated October 28, 2005. The funds are provided as follows:

Location	Project description	Request	Conference agreement
LA: NAS/JRB New Orleans	Comprehensive Utilities	9,060,000	9,060,000
LA: NAS/JRB New Orleans	Fitness Center	9,320,000	9,320,000

Location	Project description	Request	Conference agreement
LA: NAS/JRB New Orleans	Hangar 263	33,160,000	33,160,000
LA: NAS/JRB New Orleans	Hangar 4	23,510,000	23,510,000
LA: NSA New Orleans	Building 11, Admin Building	9,870,000	9,870,000
LA: NSA New Orleans	Building 252, Public Works Complex	3,630,000	3,630,000
LA: NSA New Orleans	Building 703, Bachelor Enlisted Quarters	8,820,000	8,820,000
LA: NSA New Orleans	Building 9, Youth Center	4,470,000	4,470,000
LA: NSA New Orleans	Comprehensive Utilities	13,420,000	13,420,000
Worldwide: Unspecified	Planning and Design	4,872,000	4,872,000
Total		120,132,000	120,132,000

FAMILY HOUSING

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

The agreement provides $86,165,000 as proposed in the reallocation request dated October 28, 2005. The funds are provided as follows:

Location	Project description	Request	Conference agreement
MS: Gulfport/Stennis	New Construction Housing	81,600,000	81,600,000
MS: NCBC Gulfport	Housing Office (Metro Conversion)	1,150,000	1,150,000
Worldwide: Unspecified	Planning and Design	3,415,000	3,415,000
Total		86,165,000	86,165,000

FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

The agreement provides $48,889,000 as proposed in the reallocation request dated October 28, 2005.

FAMILY HOUSING CONSTRUCTION, AIR FORCE

The agreement provides $278,000,000, instead of $313,000,000 as proposed in the reallocation request dated October 28, 2005. The funds are provided as follows:

Location	Project description	Request	Conference agreement
MS: Keesler AFB	Construct Family Housing (1,067 Units)	299,500,000	264,500,000
Worldwide: Unspecified	Planning and Design	13,500,000	13,500,000
Total		313,000,000	278,000,000

Family Housing, Keesler AFB, MS.—The conferees understand the need for family housing at Keesler Air Force Base and fully support efforts to rebuild lost or damaged units. The conferees further understand the full requirement of $313,000,000 at Keesler will be met by the $278,000,000 appropriated in this chapter and the $35,854,000 appropriated for family housing at Keesler in the Military Construction Appropriations Act, 2005.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

The agreement provides $47,019,000 as proposed in the reallocation request dated October 28, 2005.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

The agreement provides $198,265,000 for Medical Services as proposed in the reallocation request dated October 28, 2005.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

The agreement provides $24,871,000 for General Operating Expenses as proposed in the reallocation request dated October 28, 2005.

NATIONAL CEMETERY ADMINISTRATION

The agreement provides $200,000 for the National Cemetery Administration as proposed in the reallocation request dated October 28, 2005.

CONSTRUCTION, MAJOR PROJECTS

The agreement provides $367,500,000 for Construction, Major Projects. The amount provided is $787,500,000 less than proposed in the reallocation request dated October 28, 2005. The agreement provides $292,500,000 for the construction of a new hospital at Biloxi, Mississippi consistent with the recommendations of the Capital Asset Realignment for Enhanced Services report, to replace the facility destroyed at Gulfport, Mississippi. The agreement does not include full funding for a replacement hospital at New Orleans, Louisiana at this time because there is insufficient information to determine the actual cost. The agreement does include funding of $75,000,000 for advance planning and design associated with construction of a replacement hospital in the New Orleans area.

The Department is directed to report to the Committees on Appropriations of both Houses of Congress by February 28, 2006 on the long term plans for the construction of a replacement hospital in New Orleans, Louisiana.

CONSTRUCTION, MINOR PROJECTS

The agreement provides $1,800,000 for Construction, Minor Projects as proposed in the reallocation request dated October 28, 2005.

RELATED AGENCY

ARMED FORCES RETIREMENT HOME

The agreement provides $65,800,000 for the Armed Forces Retirement Home instead of $20,800,000 as proposed in the reallocation request dated October 28, 2005. Of the amount provided, $45,000,000 is to be used to begin the process of advanced planning and design for the reuse of the Gulfport, Mississippi facility. Within 60 days of enactment of this Act, the Armed Forces Retirement Home is to provide a report to the Committees on Appropriations of both Houses of Congress outlining in detail the expected use of these funds and long-term plans for renovations and construction at both the Washington and the Gulfport facilities.

GENERAL PROVISIONS—THIS CHAPTER

The agreement includes a provision that waives the limit on the amount of Federal funds that can be provided for Army National Guard readiness center projects appropriated in this chapter.

The agreement includes a provision relating to the disposal of Navy property on the Gulf Coast.

The agreement includes four provisions, all requested in the reallocation request of October 28, 2005. The provisions give the Department the authority to address specific limitations that currently inhibit the ability of the Department to address emergent needs of veterans in the areas affected by hurricanes in the Gulf of Mexico. The expanded authority granted by these provisions will expire on September 30, 2006.

CHAPTER 8

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

The conference agreement includes $9,000,000 for the United States Attorneys to support operational recovery from hurricane-related damage in the Gulf Coast region.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

The conference agreement includes $9,000,000 for the United States Marshals Service to support operational recovery from hurricane-related damage in the Gulf Coast region.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

The conference agreement includes $45,000,000 for the Federal Bureau of Investigation to support operational recovery from hurricane-related damage in the Gulf Coast region.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement includes $10,000,000 for the Drug Enforcement Administration to support operational recovery from hurricane-related damage in the Gulf Coast region.

Bureau of Alcohol, Tobacco, Firearms and Explosives

SALARIES AND EXPENSES

The conference agreement includes $20,000,000 for the Bureau of Alcohol, Tobacco, Firearms and Explosives to support operational recovery from hurricane-related damage in the Gulf Coast region.

Federal Prison System

BUILDINGS AND FACILITIES

The conference agreement includes $11,000,000 for the Federal Prison System to repair hurricane-related damage in the Gulf Coast region.

Office of Justice Programs

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

The conference agreement includes $125,000,000 for grants to State and local law enforcement entities in the areas affected by recent Gulf Coast hurricanes.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH, AND FACILITIES

The conference agreement includes $17,200,000 for repair of weather-related facilities, unplanned operational costs for weather forecasting activities, upgrades and enhancements of hurricane forecasting instruments, and acceleration of storm surge and flood forecasting.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

The conference agreement includes $37,400,000 for repair of weather-related facilities and observation platforms, including damaged weather buoys and automated surface weather observation stations, upgrades and enhancements of hurricane forecasting instruments, an additional aircraft for hurricane observations, and temporary operating space and requirements for the damaged fisheries laboratory facility in Pascagoula, Mississippi.

National Aeronautics and Space Administration

EXPLORATION CAPABILITIES

The conference agreement includes $349,800,000 for repair and rehabilitation of National Aeronautics and Space Administration facilities and other high priority requirements resulting from recent Gulf Coast hurricanes.

Small Business Administration

OFFICE OF INSPECTOR GENERAL

The conference agreement includes $5,000,000 for the Office of Inspector General to conduct audits, reviews, and investigations of disaster-related activities.

DISASTER LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $441,000,000 for the Disaster Loans Program Account for loan subsidy costs and associated administrative expenses. The amount provided will allow the Small Business Administration (SBA) to make disaster loans to individuals and businesses in the wake of recent Gulf Coast hurricanes. The conferees expect the SBA to make not less than $50,000 available to increase call center capacity and respond fully to questions from loan applicants, including providing applicants with reasons for denying their applications.

The conferees are concerned about the SBA's slow pace of approving disaster loan applications in the Gulf Coast hurricane-affected region. The conferees encourage the SBA to deliver disaster assistance as quickly as possible without jeopardizing program integrity. The SBA shall immediately report to the Committees on Appropriations on specific ways it will expedite the disaster loan approval process, improve information flow to disaster loan applicants, and expand the disaster loan program to assist the widest population possible.

GENERAL PROVISIONS—THIS CHAPTER

(INCLUDING TRANSFER OF FUNDS)

SEC. 801. The conference agreement includes language regarding Manufacturing Extension Centers serving hurricane-affected areas.

SEC. 802. The conference agreement includes language requiring the Department of Justice to transfer funds made available for the purchase of portable and mobile radios to the Narrowband Communications/Integrated Wireless Network account.

CHAPTER 9

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

The conference agreement provides $40,600,000 for the Federal Aviation Administration's (FAA) facilities and equipment account for emergency hurricane-related response activities. Multiple FAA facilities including control towers, buildings and navigation aids were damaged by the recent hurricanes and need to be repaired or replaced.

Federal Highway Administration

EMERGENCY RELIEF PROGRAM

The conference agreement provides $2,750,000,000 to the Department of Transportation (DOT) for repairing and rebuilding highways, roads, bridges, and trails damaged by Hurricanes Katrina, Rita, Wilma, and prior disasters that are eligible for assistance under the Federal Highway Administration's Emergency Relief (ER) program.

Within the funds provided, up to $629,000,000 is available to repair and reconstruct the I–10 bridge connecting New Orleans and Slidell, Louisiana. These funds may be used to rebuild the bridge to current design standards as allowable under Section 125 of title 23, United States Code.

The funds provided are available until expended. The conference agreement waives the State matching share requirements for all of the ER projects related to these hurricanes and exempts projects for these hurricanes, Hurricane Dennis, and the 2004–2005 winter storms in the State of California from the ER program's $100,000,000 per State per event cap.

The conference agreement allows DOT to spend any excess funds on other ER projects. The conferees permit DOT to promptly allocate up to $550,000,000 of the funds provided to address the existing backlog of ER projects to the extent the funds are needed to contend with damages caused by natural disasters or catastrophic failures from external causes that occurred prior to Hurricane Wilma, provided that such projects are ready to proceed to construction or are otherwise eligible for reimbursement.

Maritime Administration

OPERATIONS AND TRAINING

The conference agreement provides an additional $7,500,000 to the Department of Transportation to repair and reconstruct the Poland Street pier and warehouse in New Orleans, Louisiana, damaged as a result of Hurricane Katrina. These assets are owned by the Maritime Administration and are used in conjunction with the U.S. Navy to support the Ready Reserve Force Fleet.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Public and Indian Housing

TENANT-BASED RENTAL ASSISTANCE

The conference agreement includes $390,299,500 for tenant-based rental assistance. The conferees agree to limit the use of funds to those individuals and families who were receiving federal assistance or were homeless or in emergency shelters in the declared disaster area prior to Hurricanes Katrina and Rita.

Community Planning and Development

COMMUNITY DEVELOPMENT FUND

The conference agreement includes $11,500,000,000 for necessary expenses related to disaster relief, long term recovery, restoration of infrastructure and mitigation in communities in any declared disaster area in Louisiana, Mississippi, Alabama, Florida, and Texas related to Hurricanes Katrina, Rita or Wilma. Not more than five percent of the funds granted may be used for administrative and overhead expenses.

The conference agreement emphasizes the requirement that the States with the most impacted and distressed areas in connection with the Gulf of Mexico hurricanes receive priority consideration in the allocation of funds by HUD.

Of the amounts made available under this heading up to $40,000,000 may be made available for LISC and the Enterprise Foundation for activities authorized under section 4 of the HUD Demonstration Act of 1993 and section 11 of the Housing Opportunity Program Extension Act of 1996.

The conference agreement requires HUD, upon request by the state and a finding by the Secretary that the waiver would not be inconsistent with the overall purpose of the program, to issue certain waivers and to review the waivers after two years. The conference agreement also includes several notification and reporting requirements prior to and during the period in which any waiver is in effect.

The conferees note that the Lower Manhattan Development Corporation (LMDC), which was established as the entity to plan and execute most of the redevelopment of the area impacted by the September 11, 2001 terrorist attack in New York City, has worked well to ensure an effective and efficient use of emergency funds made available for site redevelopment. The conferees encourage States to use the LMDC as a model for implementing the provision in this Act, which mandates that funds allocated under this heading be administered through entities designated by the Governor of each state.

Administrative Provisions

Section 901 permits the Secretary during calendar year 2006 to authorize a public housing agency in the areas most heavily impacted by Hurricanes Katrina and Rita to combine their Capital Fund, Operating Fund and Section 8 tenant-based monies to more effectively assist families receiving assistance prior to Hurricanes Katrina and Rita.

Section 902 directs HUD to preserve assisted housing to the maximum extent possible considering costs and feasibility.

The Judiciary

Courts of Appeals, District Courts, and Other Judicial Services

SALARIES AND EXPENSES

The conference agreement provides $18,000,000 for direct hurricane recovery costs for affected Gulf Coast courts, as reflected in the Judiciary's revised supplemental appropriations request. The conferees deny the request for $10,641,000 to cover the costs of future preparedness activities and direct the Judicial Conference to include these items in the fiscal year 2006 financial plan.

INDEPENDENT AGENCY

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

The conference agreement provides $38,000,000 for the General Services Administration's federal buildings fund to be available until expended. This includes funding for emergency building operations, in support of cleaning, assessing damage and repairing Federal buildings and United States Courthouses damaged in the wake of Hurricanes Katrina and Rita. These funds will be used for the unplanned costs for equipment and additional professional and nonprofessional contract staffing to support GSA personnel in the field with damage assessment, recovery efforts and facilities operations and maintenance, debris removal and clean-up activities. In addition, this funding level will provide, to the extent possible, for the short- and long-term repair and alterations of the following buildings impacted by Hurricanes Katrina and Rita, under the repairs and alterations account: Courthouse—Mobile, AL; Federal Building—Mobile, AL; Federal Building Courthouse—Hattiesburg, MS; Post Office/Courthouse—Jackson, MS; McCoy Federal Building—Jackson, MS; Federal Building/Courthouse—Gulfport, MS; Courthouse Annex—Gulfport, MS; Gulfport Mechanical Building—Gulfport, MS; U.S. Courthouse—Pensacola, FL; Customs House—New Orleans, LA; FE Hebert Federal Building—New Orleans, LA; JM Wisdom Courthouse; Hale Boggs Federal Building—Courthouse; Border Patrol Sector Headquarters (multiple buildings); New Orleans Post .Office (leased)—New Orleans, LA; and Harahan Depot (three buildings)—Harahan, LA.

TITLE II—EMERGENCY SUPPLEMENTAL APPROPRIATIONS TO ADDRESS PANDEMIC INFLUENZA

CHAPTER 1

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

The conference agreement provides $11,350,000 for the Office of the Secretary.

The conferees direct the Secretary of Agriculture to provide the Committees on Appropriations with quarterly reports on the expenditure of the funds provided to the Department in this Act for pandemic influenza preparedness and hurricane relief. The reports shall also include details on any reimbursements received by the Department from any other federal agencies for expenses incurred in hurricane relief or pandemic influenza preparedness. The first report shall be transmitted no later than February 15, 2006.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

The conference agreement provides $7,000,000 for the Agricultural Research Service, Salaries and Expenses account.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION ACTIVITIES

The conference agreement provides $1,500,000 for the Cooperative State Research, Education, and Extension Service, Research and Education Activities for surveillance of the Pacific flyway.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

The conference agreement provides $71.500.000 for the Animal and Plant Health Inspection Service, Salaries and Expenses account.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement provides $20,000,000 for the Food and Drug Administration (FDA), Salaries and Expenses account, to enhance the FDA regulatory science base to facilitate the production of new influenza vaccine drugs and diagnostic products. This funding is to be directed toward expediting the development, evaluation, and licensure of influenza vaccines; enhancing the manufacturing capacity of vaccine drug and diagnostic products; ensuring and monitoring the safety and effectiveness of vaccines; ensuring the quality of the vaccine manufacturing process, and developing better, more rapid tests and assays.

The conferees direct the Secretary of Health and Human Services to provide the Committees on Appropriations with quarterly reports on the expenditure of the funds provided for the Food and Drug Administration in this Act for pandemic influenza preparedness. The reports shall also include details on any reimbursements received by the agency from any other federal agencies for expenses incurred for pandemic influenza preparedness. The first report shall be transmitted no later than February 15, 2006.

CHAPTER 2

DEPARTMENT OF DEFENSE—MILITARY

The following table provides details of the supplemental appropriations for the Department of Defense in this title:

[In thousands of dollars]

Account	Request	Conference
Avian flu:		
Operation and Maintenance, Defense Wide	10,000	10,000
Defense Health Program	120,000	120,000
Total Pandemic Flu	130,000	130,000

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, DEFENSE-WIDE

The conference agreement provides $10,000,000 for Operation and maintenance, Defense-wide, for response preparedness and training activities, as well as diagnostic, surveillance, and communication equipment.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

The conference agreement provides $120,000,000 for the Defense Health Program to purchase avian influenza vaccines, increase world-wide surveillance, and upgrade surveillance, laboratory and information management equipment.

CHAPTER 3

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT (USAID)

The conference agreement includes $131,530,000 for USAID for activities associated with planning for and responding to the avian influenza virus.

GENERAL PROVISIONS—THIS CHAPTER

The conference agreement includes a provision that requires the United States Agency for International Development submit a report to the Committee on Appropriations detailing the use of funds provided to the Agency in this Act.

CHAPTER 4

DEPARTMENT OF HOMELAND SECURITY

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

The conferees agree to provide $47,283,000, to remain available until expended, for necessary expenditures related to planning for the consequences of a pandemic flu outbreak. Funds are available for transfer to other appropriations accounts subject to requirements for the reprogramming and transfer of funds in Section 503 of Public Law 109–90.

The additional funds will allow for training of Department of Homeland Security personnel in emergency response procedures and protocols related to the potential outbreak of a highly pathogenic pandemic influenza, preparedness planning within the Department, protection of Department employees, modeling capabilities of likely patterns of pathogen dispersion, and equipment to isolate potentially exposed individuals. Recognizing pandemic influenza is not the only pathogenic threat that may enter the Nation, the Department should leverage its pandemic influenza activities to guard against other highly infectious and deadly diseases.

CHAPTER 5

DEPARMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

The conference agreement provides $7,398,000, as requested, for resource management to increase field monitoring for avian influenza.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

The conference agreement provides $525,000, as requested, for operation of the National Park System to coordinate surveillance and monitoring of wild birds for avian influenza within national parks.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

The conference agreement provides $3,670,000, as requested, for surveys, investigations, and research for an interagency effort to detect avian influenza in wild birds, with an initial focus on early detection activities in areas with a high potential for contact between Asian and North American birds.

CHAPTER 6

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

The conference agreement provides $3,300,000,000 to prepare for and respond to an influenza pandemic, of which $3,204,000,000 is to remain available until expended. Section 8116 of the Senate bill included $3,913,000,000 for this purpose to remain available until expended. In addition, the Senate included $8,158,589,000 for pandemic influenza in H.R. 3010, the appropriations bill for the Department of Health and Human Services, of which $8,095,000,000 was to remain available until expended.

The conference agreement includes bill language designating $350,000,000 for upgrading State and local response capacity, particularly the planning and exercising of pandemic response plans by State and local officials. Section 8116 of the Senate bill proposed $600,000,000 for this activity. The conferees are aware that any successful response to a pandemic influenza must include an effective response at the State and local levels. This will require pre-established partnerships and collaborative planning by public health officials, law enforcement officials, hospital administrators, and community leaders, who have considered a broad range of scenarios and participated in realistic response exercises. These planning and response exercises should enable public health and law enforcement officials to establish procedures and locations for quarantine, surge capacity, diagnostics, and communication. The conferees intend that most of these funds be put toward planning and exercises. The conferees intend that these funds be provided accompanied by established benchmarks and that a portion of the funding be made available based on meeting performance objectives at both the State and local levels.

The conference agreement includes bill language designating $50,000,000 for laboratory capacity and research at the Centers for Disease Control and Prevention (CDC). Section 8116 of the Senate bill included $125,000,000 for this purpose. The conferees intend that a portion of these funds go to address a critical lack of influenza laboratory capacity, which has resulted in delays in processing influenza virus samples and the sharing of DNA sequence information with outside laboratories in a timely manner. The conferees also recognize that the proper laboratory and research assets are vital to definitively characterize virus strains and determine best practices among protective public health measures. Finally, the conferees encourage the development of an evidence base for the effectiveness of policies and technologies to reduce respiratory disease transmission, modeling means of social distancing, and accelerating the development of rapid field diagnostic tests suitable for both domestic and international use, particularly use in developing nations.

The conference agreement includes bill language designating $246,000,000 for international activities, disease surveillance, vaccine registries, research, and clinical trials. $150,000,000 of this amount is designated in bill language to CDC and is available until expended to carry out global and domestic disease surveillance, laboratory diagnostics, rapid response and quarantine. The conferees recognize that increased international surveillance to track influenza strains, implementation of surveillance and quarantine measures at U.S. points-of-entry, and enhanced domestic surveillance are key elements to the pandemic response plan. An integrated global and domestic surveillance and control system will serve to slow introduction of a pandemic influenza strain into the general population, thereby increasing the amount of time available for preparing and deploying appropriate countermeasures.

The balance of the funds provided, $2,750,000,000 are available to support, at the Secretary's discretion, other core preparedness activities, such as expanding the domestic production capacity of influenza vaccine, developing and stockpiling pandemic vaccine, and stockpiling antivirals and other medical supplies necessary to protect and preserve lives in the event of an outbreak of pandemic influenza.

The conference agreement does not contain specific earmarks of $3,080,000,000 for the stockpiling of antivirals and medical supplies, $33,000,000 for global surveillance, and $75,000,000 for risk communication as was included in section 8116 of the Senate bill.

The conferees encourage CDC to partner with industry to ensure it has the proper diagnostic "surge capacity" in place for both surveillance and pandemic response. The conferees also request that the Secretary be prepared to report on a plan for using diagnostics in early-stage clinical response to an emerging pandemic during the hearings on the fiscal year 2007 budget.

The conferees believe that HHS should give priority to research and development activities that could realistically be translated into vaccine production or pandemic detection, diagnosis, or treatment regimes in the near to medium term. The conferees encourage HHS to allocate funding to such areas as vaccine development, testing, and production, including cell culture technologies and cell line development; antivirals, including dosing, timing, and efficacy screening; alternative vaccine technologies, including synthetic vaccines and vaccines composed of virus-like particles; antiviral delivery mechanisms; improved diagnostics and surveillance tools for influenza; enhanced tools and methods for the molecular analysis of viruses, virus subtypes, and host immunological response; antigen-sparing, heterosubtypic immunity protective measures; and research into modes of influenza transmission. The Secretary is strongly encouraged to use the simplified acquisition authorities provided under sections 319F-1 and 319F-2 of the Public Health Service Act in awarding contracts, grants, and cooperative agreements.

The conferees support the elaboration of novel adjuvant, antigen-sparing and multivalent technologies that can bolster the effectiveness and scope of vaccines based on adaptive or innate immunological response.

The conferees are aware of the key role migratory bird tracking has played in predicting the spread of avian influenza. The conferees encourage CDC to ensure that this important activity is part of its surveillance activities.

The conferees understand that smoking substantially increases both the incidence and severity of influenza because it compromises the upper respiratory system. One study found that smoking more than doubles the risk of developing clinical influenza. The conferees encourage CDC to provide information about the link between smoking and an increased risk for influenza infection and severity of illness through existing quitlines and to collaborate with other countries to assess the role of smoking in flu epidemics.

The conferees encourage HHS to procure for the Strategic National Stockpile essential supplies that may be needed in the event of a pandemic including syringes, ventilators, respirators, diagnostic equipment, surgical masks, and gloves.

To prevent co-infection, the conferees urge the Secretary to promote the widespread vaccination against seasonal influenza.

The conferees encourage the Centers for Medicare and Medicaid Services to establish standards for the measurement of use by beneficiaries under the Medicare and Medicaid programs of adult immunizations for influenza and to conduct a study to determine the feasibility and advisability of including adult immunization for influenza as a performance measure under quality initiatives conducted by the Secretary under the Medicare and Medicaid programs. The study should also consider as a requirement of accreditation of a provider of services compliance with recommended adult immunizations.

The conferees direct the Secretary to provide on a semi-annual basis to the House and Senate Appropriations Committees a report identifying the disbursements of funds received under this heading and a listing of the governments, companies and organizations that received funding. The report should include the amount and purpose of each grant or other form of assistance. Finally, the report should include the cumulative obligations by activity of the funds made available under this heading for pandemic preparedness, as well as any remaining unobligated balances.

CHAPTER 7

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

The agreement provides $27,000,000 for Medical Services for enhanced human health surveillance related to avian and pandemic influenza as proposed in the request dated November 1, 2005.

CHAPTER 8

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

The conference agreement includes $16,000,000 for diplomatic outreach, health support of United States Government employees, Peace Corps volunteers, and families, and continuity of operations at United States missions overseas due to the impact of avian and pandemic influenza. The conference agreement includes language directing that $1,100,000 be transferred to the Peace Corps for costs associated with Peace Corps volunteers.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

The conference agreement includes $15,000,000 for costs of emergency evacuation of United States Government personnel and dependents from United States missions overseas due to the impact of avian and pandemic influenza. The conferees request to be consulted prior to the use of any funds relating to evacuation of Peace Corps volunteers.

The conference agreement includes language allowing the Secretary of State to transfer additional funding to this account should evacuation requirements exceed the available resources. The exercise of the transfer authority is subject to the Secretary's determination that circumstances related to the avian influenza require additional funding from this account, and notification to the Committees on Appropriations five days in advance of any transfer using this authority. The authority to transfer funds for this purpose is not subject to the percentage limitations contained in section 402 of Public Law 109–108 that are normally applicable to transfers between accounts. The conferees note that, in addition to fiscal year 2006 appropriations, unobligated balances totaling $17,000,000 are currently available in this account.

TITLE III—RESCISSIONS AND OFFSETS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

NATURAL RESOURCES CONSERVATION SERVICE

CONSERVATION OPERATIONS

The conference agreement includes language that rescinds certain unobligated balances in the Conservation Operations program.

RURAL UTILITIES SERVICE

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

The conference agreement includes language that rescinds certain unobligated balances in the Public Broadcast grant program.

Food and Nutrition Service

FOOD STAMP PROGRAM

The conference agreement includes language that rescinds certain unobligated prior-year balances in the Food Stamp Employment and Training program.

Foreign Agricultural Service

PUBLIC LAW 480 TITLE I [OCEAN FREIGHT DIFFERENTIAL GRANTS]

The conference agreement includes language that rescinds certain unobligated balances of the ocean freight differential grant program.

CHAPTER 2

DEPARTMENT OF DEFENSE—MILITARY

The following table provides details of the offsets for the Department of Defense in this title:

[In thousands of dollars]

Account	Request	Conference
Rescissions:		
Operation and Maintenance		
Support for International Sporting Competitions	26,000	
Disposal of Department of Defense Real Property	45,000	45,000
Lease of Department of Defense Real Property	30,000	30,000
Overseas Military Facility Investment Recovery	5,000	5,000
Research, Development, Test and Evaluation.		
RDT&E, Army		
Venture Capital	14,000	—
Joint Common Missile (JCM) Program	34,600	—
Total Rescissions	154,600	80,000

CHAPTER 3

FOREIGN OPERATIONS

The conference agreement includes language that reduces balances in Public Law 109-102 and Public Law 108-447, under the heading, "Export-Import Bank Subsidy Appropriation", by a total of $25,000,000

CHAPTER 4

DEPARTMENT OF HOMELAND SECURITY

United States Coast Guard

OPERATING EXPENSES

(RESCISSION OF FUNDS)

The conferees agree to rescind $260,533,000 for accrual payments for Medicare-eligible employees which have been met using permanent indefinite discretionary authority.

Federal Emergency Management Agency

DISASTER RELIEF

(RESCISSION OF FUNDS)

The conferees agree to rescind $23,409,300,000 from the Disaster Relief Fund.

CHAPTER 5

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MANAGEMENT OF LANDS AND RESOURCES

(RESCISSION)

The conference agreement rescinds $500,000 in unobligated balances in the management of lands and resources account.

United States Fish and Wildlife Service

LANDOWNER INCENTIVE PROGRAM

(RESCISSION)

The conference agreement rescinds $2,000,000 in unobligated balances in the landowner incentive program.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

(RESCISSION)

The conference agreement rescinds $1,000,000 in unobligated balances in the cooperative endangered species conservation fund.

CHAPTER 6

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

The conference agreement includes a rescission of $7,000,000 from unobligated balances available under this heading.

DEPARTMENT OF STATE

Administration of Foreign Affairs

DIPLOMATIC AND CONSULAR PROGRAMS

(RESCISSION)

The conference agreement includes a rescission of $10,000,000 from unobligated balances available under this heading.

EMBASSY SECURITY, CONSTRUCTION AND MAINTENANCE

(RESCISSION)

The conference agreement includes a rescission of $20,000,000 from unobligated balances available under this heading.

CHAPTER 7

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

FEDERAL-AID HIGHWAYS

(HIGHWAY TRUST FUND)

(RESCISSION)

The conference agreement includes a rescission of $1,143,000,000 of the unobligated balances of funds apportioned to the States under chapter 1 of title 23, United States Code, excluding safety programs and funds set aside within the State for population areas. The conferees direct the Federal Highway Administration to administer the rescission by allowing each State maximum flexibility in making adjustments among the apportioned highway programs.

Federal Railroad Administration

EFFICIENCY INCENTIVE GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

(RESCISSION)

The conference agreement rescinds $8,300,000 from Efficiency Incentive Grants to the National Railroad Passenger Corporation and repeals section 135 of Division A of Public Law 109-115.

CHAPTER 8

GOVERNMENT-WIDE RESCISSIONS

The conference agreement includes a 1 percent across-the-board rescission to discretionary budgetary resources provided in fiscal year 2006 regular appropriations Acts, as well as to any previously enacted fiscal year 2006 advance appropriation and to any contract authority subject to limitation. The rescission does not apply to the Department of Veterans Affairs or spending designated as an emergency requirement.

TITLE IV—HURRICANE EDUCATION RECOVERY ACT

Subtitle A—Elementary and Secondary Education Hurricane Relief

The conference agreement includes language that authorizes assistance to elementary and secondary students and schools impacted by the hurricanes in the Gulf of Mexico in calendar year 2005. Funding to carry out this authority is included in chapter 6 of title 1.

Subtitle B—Higher Education Hurricane Relief

The conference agreement includes temporary waivers to and modifications of certain higher education act requirements in order to provide flexibility to and ease financial burdens on postsecondary students and institutions impacted by the hurricanes in the Gulf of Mexico in calendar year 2005.

Subtitle C—Education and Related Programs Hurricane Relief

The conference agreement includes language to extend certain deadlines of the individuals with disabilities education act and waivers relating to Head Start and the Child Care and Development Block Grant. This language is included to facilitate assistance related to the hurricanes in the Gulf of Mexico in calendar year 2005.

TITLE V—GENERAL PROVISIONS AND TECHNICAL CORRECTIONS

The conference agreement includes a provision relating to the availability of funds.

The conference agreement includes a provision relating to any reference to "this Act".

The conference agreement includes a provision removing the authority to make further transfers to or from the Emergency Response Fund.

The conference agreement includes a technical correction regarding funds appropriated to the Cooperative State Research Education and Extension Service.

The conference agreement includes a technical correction to the Energy and Water Development Appropriations Act, 2005, relating to the Animas-La Plata project.

The conference agreement includes a technical correction to the Energy and Water Development Appropriations Act, 2006, relating to the San Gabriel Basin Restoration Fund.

The conference agreement includes a technical correction to the Energy and Water Development Appropriations Act, 2006, relating to the Placer County, California, wastewater treatment project.

The conference agreement includes a technical correction to the Energy and Water Development Appropriations Act, 2006, relating to the Central New Mexico Project.

The conference agreement includes a provision correcting an enrollment error in the Energy and Water Development Appropriations Act, 2006, relating to a Hurricane Protection Study in Louisiana.

The conference agreement includes a technical correction to the Energy and Water Development Appropriations Act, 2006, related to the Western Area Power Administration.

The conference agreement includes a general provision making $50,000,000 available to the New York State Uninsured Employers Fund and $75,000,000 to the Centers for Disease Control and Prevention for purposes related to the September 11, 2001 terrorist attacks. These funds replace $125,000,000 included in the supplemental appropriations for New York State made following the September 11th attacks that were unable to be spent for administering worker compensation claims and were rescinded in the regular FY 2006 Labor-HHS-Education Appropriations Act.

The conference agreement includes language that amends the Flexibility for Displaced Workers Act (Public Law 109-72) to strike "Hurricane Katrina" and insert "hurricanes in the Gulf of Mexico in calendar year 2005" each place it appears.

The conference agreement includes a provision that amends section 124 of Public Law 109-114.

The conference agreement includes a provision that amends section 128 of Public Law 109-114.

The conference agreement includes a provision that makes a technical correction to a military construction project in Public Law 109–114.

The conference agreement includes a provision that makes a technical correction to the short title of Public Law 109–114.

The conference agreement makes technical corrections to the capital investment grants listed in Public Law 109–115.

The conference agreement clarifies activities that are subject to section 205 of division A of Public Law 109–115.

The conference agreement makes a technical correction to an economic development grant in Public Law 108–447.

The conference agreement makes technical corrections to economic development grants in Public Law 109–115.

The conference agreement makes technical corrections to an economic development grant in Public Law 108–447.

The conference agreement precludes the funds appropriated to the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks from being transferred to or from the Emergency Response Fund.

CONFERENCE TOTAL—WITH COMPARISON

The total new budget (obligational) authority for the fiscal year 2006 recommended by the Committee of Conference and comparisons to the 2006 budget estimates for 2006 follow:

[In thousands of dollars]

Budget estimates of new (obligational) authority, fiscal year 2006	4,825,347
Conference agreement, fiscal year 2006	–618,007
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 2006	–5,443,354

DIVISION C—AMERICAN ENERGY INDEPENDENCE AND SECURITY

The conference report includes division C concerning the lease of lands for oil and gas exploration and production within a defined area of the Arctic National Wildlife Refuge.

DIVISION D—DISTRIBUTION OF REVENUES AND DISASTER ASSISTANCE

The conference report includes division D, which provides for the distribution of revenues derived from bonus, rental, and royalty receipts from federal oil and gas leasing and operations within the Arctic National Wildlife Refuge and from receipts derived from the Digital Television Transition and Public Safety Fund.

DIVISION E

The conference agreement includes as division E the "Public Readiness and Emergency Preparedness Act".

BILL YOUNG,
DAVID HOBSON,
HENRY BONILLA,
R.P. FRELINGHUYSEN,
TODD TIAHRT,
ROGER F. WICKER,
JACK KINGSTON,
KAY GRANGER,
JAMES T. WALSH,
ROBERT B. ADERHOLT,
JERRY LEWIS,
JOHN P. MURTHA,
NORMAN D. DICKS
(Except for Division C as to ANWR),
MARTIN OLAV SABO
(Except for 1% cut in Division B and Division C),
PETER J. VISCLOSKY
(Except for Division C and Division B as to 1% cut and avian flu section),
JAMES P. MORAN
(Except for Division B and Division C as to 1% cut, avian flu and ANWR provision),
MARCY KAPTUR
(Except for ANWR provision and Division B and Division C as to 1% cuts and avian flu),
CHET EDWARDS
(Except for 1% cut),
DAVID R. OBEY
(Except for Division C, Division B as to 1% cut and avian flu),
Managers on the Part of the House.

TED STEVENS,
THAD COCHRAN,
ARLEN SPECTER,
PETE V. DOMENICI,
KIT BOND,
MITCH MCCONNELL,
RICHARD C. SHELBY,
JUDD GREGG,
KAY BAILEY HUTCHISON,
CONRAD BURNS,
DANIEL K. INOUYE,
ROBERT C. BYRD
(Except ANWR and across the board cut and avian flu vaccine liability and compensation provisions),
BYRON L. DORGAN
(Except for ANWR and 1% cut and avian flu vaccine liability and compensation provisions),
DIANNE FEINSTEIN
(Except ANWR and 1% cut and avian flu vaccine liability and compensation provisions),
BARBARA A. MIKULSKI
(Except ANWR and 1% A+B cut and avian flu vaccine liability and compensation provisions),
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 1815, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

Mr. HUNTER submitted the following conference report and statement on the bill (H.R. 1815) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes:

CONFERENCE REPORT (H. REPT. 109–360)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1815), to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2006".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Divisions C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.

Subtitle B—Army Programs

Sec. 111. Multiyear procurement authority for utility helicopters.
Sec. 112. Multiyear procurement authority for modernized target acquisition designation sight/pilot night vision sensors for AH–64 Apache attack helicopters.
Sec. 113. Multiyear procurement authority for conversion of AH–64A Apache attack helicopters to the AH–64D Block II configuration.
Sec. 114. Acquisition strategy for tactical wheeled vehicle programs.
Sec. 115. Report on Army Modular Force Initiative.

Subtitle C—Navy Programs

Sec. 121. Virginia-class submarine program.
Sec. 122. LHA Replacement (LHA(R)) amphibious assault ship program.
Sec. 123. Cost limitation for next-generation destroyer program.
Sec. 124. Littoral Combat Ship (LCS) program.
Sec. 125. Prohibition on acquisition of next-generation destroyer through a single shipyard.
Sec. 126. Aircraft carrier force structure.
Sec. 127. Refueling and complex overhaul of the U.S.S. Carl Vinson.
Sec. 128. CVN-78 aircraft carrier.
Sec. 129. LHA Replacement (LHA(R)) ship.
Sec. 130. Report on alternative propulsion methods for surface combatants and amphibious warfare ships.

Subtitle D—Air Force Programs

Sec. 131. C–17 aircraft program and assessment of intertheater airlift requirements.

Sec. 132. Prohibition on retirement of KC-135E aircraft.
Sec. 133. Prohibition on retirement of F–117 aircraft during fiscal year 2006.
Sec. 134. Prohibition on retirement of C–130E/H tactical airlift aircraft during fiscal year 2006.
Sec. 135. Procurement of C–130J/KC–130J aircraft after fiscal year 2005.
Sec. 136. Report on Air Force aircraft aeromedical evacuation programs.

Subtitle E—Joint and Multiservice Matters

Sec. 141. Requirement that tactical unmanned aerial vehicles use specified standard data link.
Sec. 142. Limitation on initiation of new unmanned aerial vehicle systems.
Sec. 143. Advanced SEAL Delivery System.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Annual Comptroller General report on Future Combat Systems program.
Sec. 212. Contract for the procurement of the Future Combat Systems (FCS).
Sec. 213. Limitations on systems development and demonstration of manned ground vehicles under Armored Systems Modernization program.
Sec. 214. Separate program elements required for significant systems development and demonstration projects for Armored Systems Modernization program.
Sec. 215. Initiation of program to design and develop next-generation nuclear attack submarine.
Sec. 216. Extension of requirements relating to management responsibility for naval mine countermeasures programs.
Sec. 217. Single set of requirements for Army and Marine Corps heavy lift rotorcraft program.
Sec. 218. Requirements for development of tactical radio communications systems.
Sec. 219. Limitation on systems development and demonstration of Personnel Recovery Vehicle.
Sec. 220. Limitation on VXX helicopter program.
Sec. 221. Report on testing of Internet Protocol version 6.

Subtitle C—Missile Defense Programs

Sec. 231. Report on capabilities and costs for operational boost/ascent-phase missile defense systems.
Sec. 232. One-year extension of Comptroller General assessments of ballistic missile defense programs.
Sec. 233. Fielding of ballistic missile defense capabilities.
Sec. 234. Plans for test and evaluation of operational capability of the ballistic missile defense system.

Subtitle D—High-Performance Defense Manufacturing Technology Research and Development

Sec. 241. Pilot program for identification and transition of advanced manufacturing processes and technologies.
Sec. 242. Transition of transformational manufacturing processes and technologies to defense manufacturing base.
Sec. 243. Manufacturing technology strategies.
Sec. 244. Report.
Sec. 245. Definitions.

Subtitle E—Other Matters

Sec. 251. Comptroller General report on program element structure for research, development, test, and evaluation projects.
Sec. 252. Research and development efforts for purposes of small business research.
Sec. 253. Revised requirements relating to submission of Joint Warfighting Science and Technology Plan.
Sec. 254. Report on efficiency of naval shipbuilding industry.
Sec. 255. Technology transition.
Sec. 256. Prevention, mitigation, and treatment of blast injuries.
Sec. 257. Modification of requirements for annual report on DARPA program to award cash prizes for advanced technology achievements.
Sec. 258. Designation of facilities and resources constituting the Major Range and Test Facility Base.
Sec. 259. Report on cooperation between Department of Defense and National Aeronautics and Space Administration on research, development, test, and evaluation activities.
Sec. 260. Delayed effective date for limitation on procurement of systems not GPS-equipped.
Sec. 261. Report on development and use of robotics and unmanned ground vehicle systems.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Other Department of Defense programs.

Subtitle B—Environmental Provisions

Sec. 311. Elimination and simplification of certain items required in the annual report on environmental quality programs and other environmental activities.
Sec. 312. Payment of certain private cleanup costs in connection with Defense Environmental Restoration Program.

Subtitle C—Workplace and Depot Issues

Sec. 321. Modification of authority of Army working-capital funded facilities to engage in cooperative activities with non-Army entities.
Sec. 322. Limitation on transition of funding for east coast shipyards from funding through Navy working capital fund to direct funding.
Sec. 323. Armament Retooling and Manufacturing Support Initiative matters.
Sec. 324. Sense of Congress regarding depot maintenance.

Subtitle D—Extension of Program Authorities

Sec. 331. Extension of authority to provide logistics support and services for weapons systems contractors.
Sec. 332. Extension of period for reimbursement for certain protective, safety, or health equipment purchased by or for members of the Armed Forces deployed in contingency operations.

Subtitle E—Outsourcing

Sec. 341. Public-private competition.
Sec. 342. Contracting for procurement of certain supplies and services.
Sec. 343. Performance of certain work by Federal Government employees.
Sec. 344. Extension of temporary authority for contractor performance of security-guard functions.

Subtitle F—Analysis, Strategies, and Reports

Sec. 351. Report on Department of Army programs for prepositioning of equipment and other materiel.
Sec. 352. Reports on budget models used for base operations support, sustainment, and facilities recapitalization.
Sec. 353. Army training strategy for brigade-based combat teams and functional supporting brigades.
Sec. 354. Report regarding effect on military readiness of undocumented immigrants trespassing upon operational ranges.
Sec. 355. Report regarding management of Army lodging.
Sec. 356. Comptroller General report on corrosion prevention and mitigation programs of the Department of Defense.
Sec. 357. Study on use of biodiesel and ethanol fuel.
Sec. 358. Report on effects of windmill farms on military readiness.
Sec. 359. Report on space-available travel for certain disabled veterans and gray-area retirees.
Sec. 360. Report on joint field training and experimentation on stability, security, transition, and reconstruction operations.
Sec. 361. Reports on budgeting relating to sustainment of key military equipment.
Sec. 362. Repeal of Air Force report on military installation encroachment issues.

Subtitle G—Other Matters

Sec. 371. Supervision and management of Defense Business Transformation Agency.
Sec. 372. Codification and revision of limitation on modification of major items of equipment scheduled for retirement or disposal.
Sec. 373. Limitation on purchase of investment items with operation and maintenance funds.
Sec. 374. Operation and use of general gift funds of the Department of Defense and Coast Guard.
Sec. 375. Inclusion of packet based telephony in Department of Defense telecommunications benefit.
Sec. 376. Limitation on financial management improvement and audit initiatives within Department of Defense.
Sec. 377. Provision of welfare of special category residents at Naval Station Guantanamo Bay, Cuba.
Sec. 378. Commemoration of success of the Armed Forces in Operation Enduring Freedom and Operation Iraqi Freedom.

Subtitle H—Utah Test and Training Range

Sec. 381. Definitions.
Sec. 382. Military operations and overflights, Utah Test and Training Range.
Sec. 383. Analysis of military readiness and operational impacts in planning process for Federal lands in Utah Test and Training Range.
Sec. 384. Designation and management of Cedar Mountain Wilderness, Utah.
Sec. 385. Relation to other lands.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.

Sec. 402. Revision in permanent active duty end strength minimum levels.
Sec. 403. Additional authority for increases of Army and Marine Corps active duty end strengths for fiscal years 2007 through 2009.

Subtitle B—Reserve Forces

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SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.

For purposes of this Act, the term "congressional defense committees" has the meaning given that term in section 101(a)(16) of title 10, United States Code.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

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Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Army as follows:

(1) For aircraft, $2,792,580,000.

(2) For missiles, $1,246,850,000.

(3) For weapons and tracked combat vehicles, $1,652,949,000.

(4) For ammunition, $1,738,872,000.

(5) For other procurement, $4,328,934,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Navy as follows:

(1) For aircraft, $9,803,126,000.

(2) For weapons, including missiles and torpedoes, $2,737,841,000.

(3) For shipbuilding and conversion, $8,880,623,000.

(4) For other procurement, $5,518,287,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Marine Corps in the amount of $1,396,705,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement of ammunition for the Navy and the Marine Corps in the amount of $867,470,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Air Force as follows:

(1) For aircraft, $12,862,333,000.

(2) For ammunition, $1,021,207,000.

(3) For missiles, $5,394,557,000.

(4) For other procurement, $14,024,689,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2006 for Defense-wide procurement in the amount of $2,646,988,000.

Subtitle B—Army Programs

SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR UTILITY HELICOPTERS.

(a) UH–60M BLACK HAWK HELICOPTERS.—Subject to subsection (c), the Secretary of the Army may enter into a multiyear contract for the procurement of UH–60M Black Hawk helicopters.

(b) MH–60S SEAHAWK HELICOPTERS.—Subject to subsection (c), the Secretary of the Army, acting as executive agent for the Department of the

Navy, may enter into a multiyear contract for the procurement of MH–60S Seahawk helicopters.

(c) Contract Requirements.—Any multiyear contract under this section shall be entered into in accordance with section 2306b of title 10, United States Code, and shall commence with the fiscal year 2007 program year.

SEC. 112. MULTIYEAR PROCUREMENT AUTHORITY FOR MODERNIZED TARGET ACQUISITION DESIGNATION SIGHT/PILOT NIGHT VISION SENSORS FOR AH–64 APACHE ATTACK HELICOPTERS.

(a) Authority.—The Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2006 program year, for procurement of modernized target acquisition designation sight/pilot night vision sensors for AH–64 Apache attack helicopters.

(b) Limitation on Term of Contract.—Notwithstanding subsection (k) of section 2306b of title 10, United States Code, a contract under this section may not be for a period in excess of four program years.

SEC. 113. MULTIYEAR PROCUREMENT AUTHORITY FOR CONVERSION OF AH–64A APACHE ATTACK HELICOPTERS TO THE AH–64D BLOCK II CONFIGURATION.

(a) Authority.—The Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2006 program year, for conversion of AH–64A Apache attack helicopters to the AH–64D Block II configuration.

(b) Limitation on Term of Contract.—Notwithstanding subsection (k) of section 2306b of title 10, United States Code, a contract under this section may not be for a period in excess of four program years.

SEC. 114. ACQUISITION STRATEGY FOR TACTICAL WHEELED VEHICLE PROGRAMS.

(a) Army.—If, in carrying out a program for modernization and recapitalization of the fleet of tactical wheeled vehicles of the Army, the Secretary of the Army determines to award a contract for procurement of a new vehicle class for the next-generation tactical wheeled vehicle, the Secretary shall award and execute the acquisition program under that contract as a joint service program with the Marine Corps.

(b) Marine Corps.—If, in carrying out a program for modernization and recapitalization of the fleet of tactical wheeled vehicles of the Marine Corps, the Secretary of the Navy determines to award a contract for procurement of a new vehicle class for the next-generation tactical wheeled vehicle, the Secretary shall award and execute the acquisition program under that contract as a joint service program with the Army.

(c) Applicability Only to New Vehicle Class.—Subsections (a) and (b) do not apply to a contract for modifications, upgrades, or product improvements to the existing fleet of tactical wheeled vehicles of the Army or Marine Corps, respectively.

SEC. 115. REPORT ON ARMY MODULAR FORCE INITIATIVE.

(a) Report.—The Secretary of the Army shall submit to the congressional defense committees a report on the complex of programs referred to as the Army Modular Force Initiative. The report shall be submitted not later than 30 days after the date of the submission to Congress of a request by the President for the enactment of emergency supplemental appropriations for the Department of Defense for fiscal year 2006.

(b) Matters to Be Included.—The report under subsection (a) shall include the following:

(1) A specification of each acquisition program of the Army that is considered by the Secretary of the Army to be part of the complex of programs constituting the Army Modular Force Initiative.

(2) For each program specified under paragraph (1), the acquisition objective of the program, the funding profile of the program, and the requirement for the program.

(3) The requirements of each such program that, under current funding plans of the Department of Defense for fiscal years after fiscal year 2006, would not be funded.

(4) A detailed accounting of the amounts for the Army Modular Force Initiative in the request for supplemental appropriations referred to in subsection (a).

Subtitle C—Navy Programs

SEC. 121. VIRGINIA-CLASS SUBMARINE PROGRAM.

(a) Limitation of Costs.—Except as provided in subsection (b), the total amount obligated or expended for procurement of the five Virginia-class submarines designated as SSN–779, SSN–780, SSN–781, SSN–782, and SSN–783 may not exceed the following amounts:

(1) For the SSN–779 submarine, $2,330,000,000.

(2) For the SSN–780 submarine, $2,470,000,000.

(3) For the SSN–781 submarine, $2,550,000,000.

(4) For the SSN–782 submarine, $2,670,000,000.

(5) For the SSN–783 submarine, $2,720,000,000.

(b) Adjustment of Limitation Amounts.—The Secretary of the Navy may adjust the amount set forth in subsection (a) for any Virginia-class submarine specified in that subsection by the following:

(1) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2005.

(2) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2005.

(3) The amounts of outfitting costs and post-delivery costs incurred for that submarine.

(4) The amounts of increases or decreases in costs of that submarine that are attributable to insertion of new technology into that submarine, as compared to the technology built into the lead vessel of the Virginia class.

(c) Limitation on Technology Insertion Cost Adjustment.—The Secretary of the Navy may use the authority under paragraph (4) of subsection (b) to adjust the amount set forth in subsection (a) for any Virginia-class submarine with respect to insertion of new technology into that submarine only if—

(1) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology would lower the life-cycle cost of the submarine; or

(2) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology is required to meet an emerging threat and the Secretary of Defense certifies to those committees that such threat poses grave harm to national security.

(d) Notice to Congress of Program Changes.—The Secretary of the Navy shall submit to the congressional defense committees each year, at the same time that the budget is submitted under section 1105(a) of title 31, United States Code, for the next fiscal year, written notice of any change in any of the amounts set forth in subsection (a) during the preceding fiscal year that the Secretary has determined to be associated with a cost referred to in subsection (b).

SEC. 122. LHA REPLACEMENT (LHA(R)) AMPHIBIOUS ASSAULT SHIP PROGRAM.

(a) Limitation on Procurement Funds.—Of the funds available to the Department of the Navy for Shipbuilding and Conversion, Navy, for fiscal year 2006 for procurement for the LHA Replacement (LHA(R)) amphibious assault ship program, not more than 70 percent may be obligated or expended until the Secretary of the Navy submits to the congressional defense committees the Secretary's certification in writing that—

(1) a detailed operational requirements document for the program has been approved within the Department of Defense by an appropriate approval authority; and

(2) there exists a stable design for the LHA(R) class of vessels.

(b) Stable Design.—For purposes of this section, the design of a class of vessels shall be considered to be stable when no substantial change to the design is anticipated.

SEC. 123. COST LIMITATION FOR NEXT-GENERATION DESTROYER PROGRAM.

(a) Limitation of Costs.—Except as provided in subsection (b), the total amount obligated or expended for procurement of the fifth vessel in the next-generation destroyer program may not exceed $2,300,000,000.

(b) Adjustment of Limitation Amount.—The Secretary of the Navy may adjust the amount set forth in subsection (a) for the vessel referred to in that subsection by the following:

(1) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2005.

(2) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2005.

(3) The amounts of outfitting costs and post-delivery costs incurred for that vessel.

(4) The amounts of increases or decreases in costs of that vessel that are attributable to insertion of new technology into that vessel, as compared to the technology built into the lead vessel of the next-generation destroyer program class.

(c) Limitation on Technology Insertion Cost Adjustment.—The Secretary of the Navy may use the authority under paragraph (4) of subsection (b) to adjust the amount set forth in subsection (a) for the vessel referred to in that subsection with respect to insertion of new technology into that vessel only if—

(1) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology would lower the life-cycle cost of the vessel; or

(2) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology is required to meet an emerging threat and the Secretary of Defense certifies to those committees that such threat poses grave harm to national security.

(d) Written Notice of Change in Amount.—

(1) Requirement.—The Secretary of the Navy shall submit to the congressional defense committees each year, at the same time that the budget is submitted under section 1105(a) of title 31, United States Code, for the next fiscal year, written notice of any change in the amount set forth in subsection (a) during the preceding fiscal year that the Secretary has determined to be associated with a cost referred to in subsection (b).

(2) Effective date.—The requirement in paragraph (1) shall become effective with the budget request for the year of procurement of the vessel referred to in subsection (a), such year being the fiscal year in which the Secretary of the Navy intends to award a contract for detail design and construction.

(e) Next-Generation Destroyer Program.—In this section, the term "next-generation destroyer program" means the program to acquire and deploy a new class of destroyers as the follow-on to the Arleigh Burke class of destroyers.

SEC. 124. LITTORAL COMBAT SHIP (LCS) PROGRAM.

(a) Limitation of Costs.—Except as provided in subsection (b), the total amount obligated or expended for procurement of the fifth and sixth vessels in the Littoral Combat Ship (LCS) class of vessels, excluding amounts for elements designated by the Secretary of the Navy as a mission package, may not exceed $220,000,000 per vessel.

(b) ADJUSTMENT OF LIMITATION AMOUNT.—The Secretary of the Navy may adjust the amount set forth in subsection (a) for either vessel referred to in that subsection by the following:

(1) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2005.

(2) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2005.

(3) The amounts of outfitting costs and post-delivery costs incurred for that vessel.

(4) The amounts of increases or decreases in costs of that vessel that are attributable to insertion of new technology into that vessel, as compared to the technology built into the first and second vessels, respectively, of the Littoral Combat Ship (LCS) class of vessels.

(c) LIMITATION ON TECHNOLOGY INSERTION COST ADJUSTMENT.—The Secretary of the Navy may use the authority under paragraph (4) of subsection (b) to adjust the amount set forth in subsection (a) for any vessel referred to in that subsection with respect to insertion of new technology into that vessel only if—

(1) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology would lower the life-cycle cost of the vessel; or

(2) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology is required to meet an emerging threat and the Secretary of Defense certifies to those committees that such threat poses grave harm to national security.

(d) ANNUAL REPORT ON COST GROWTH.—

(1) REQUIREMENT.—The Secretary of the Navy shall submit to the congressional defense committees each year, at the same time that the budget is submitted under section 1105(a) of title 31, United States Code, for the next fiscal year, written notice of any change in the amount set forth in subsection (a) during the preceding fiscal year that the Secretary has determined to be associated with a cost referred to in subsection (b).

(2) EFFECTIVE DATE.—The requirement in paragraph (1) shall become effective with the budget request for the year of procurement of the fifth and sixth vessels in the Littoral Combat Ship (LCS) class of vessels, such year being the fiscal year in which the Secretary of the Navy intends to award a contract for detail design and construction of those vessels.

(e) ANNUAL REPORT ON MISSION PACKAGES.—The Secretary of the Navy shall submit to the congressional defense committees each year, at the same time as the President's budget for the next fiscal year is submitted under section 1105(a) of title 31, United States Code, a report that provides current information regarding the content of any element of the Littoral Combat Ship (LCS) class of vessels that is designated as a "mission package", the estimated cost of any such element, and the total number of such elements anticipated.

(f) LIMITATION ON SHIPS AND MISSION MODULES.—No funds available to the Navy may be used for the procurement of Littoral Combat Ships, or elements for such Littoral Combat Ships referred to in subsection (e), after procurement of the first four vessels in the Littoral Combat Ship (LCS) class until the Secretary of the Navy submits to the congressional defense committees the Secretary's certification in writing that there exist stable designs for the Littoral Combat Ship class of vessels.

(g) STABLE DESIGN.—For purposes of this section, the designs of a class of vessels shall be considered to be stable when no substantial change to those designs is anticipated.

SEC. 125. PROHIBITION ON ACQUISITION OF NEXT-GENERATION DESTROYER THROUGH A SINGLE SHIPYARD.

(a) PROHIBITION.—The Secretary of the Navy may not acquire vessels under the next-generation destroyer program through a winner-take-all acquisition strategy.

(b) PROHIBITION ON USE OF FUNDS.—The Secretary of the Navy may not obligate or expend any funds to prepare for, conduct, or implement a strategy for the acquisition of vessels under the next-generation destroyer program through a winner-take-all acquisition strategy.

(c) WINNER-TAKE-ALL ACQUISITION STRATEGY DEFINED.—In this section, the term "winner-take-all acquisition strategy", with respect to the acquisition of vessels under the next-generation destroyer program, means the acquisition (including design and construction) of such vessels through a single shipyard.

(d) NEXT-GENERATION DESTROYER PROGRAM.—In this section, the term "next-generation destroyer program" means the program to acquire and deploy a new class of destroyers as the follow-on to the Arleigh Burke class of destroyers.

SEC. 126. AIRCRAFT CARRIER FORCE STRUCTURE.

(a) REQUIREMENT FOR 12 OPERATIONAL AIRCRAFT CARRIERS WITHIN THE NAVY.—Section 5062 of title 10, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) The naval combat forces of the Navy shall include not less than 12 operational aircraft carriers. For purposes of this subsection, an operational aircraft carrier includes an aircraft carrier that is temporarily unavailable for worldwide deployment due to routine or scheduled maintenance or repair.".

(b) FUNDING FOR REPAIR AND MAINTENANCE OF U.S.S. JOHN F. KENNEDY.—Of the amounts available for operation and maintenance for the Navy pursuant to this Act and any other Act for fiscal year 2006, not more than $288,000,000 shall be available for repair and maintenance to extend the life of the U.S.S. John F. Kennedy (CVN–67).

SEC. 127. REFUELING AND COMPLEX OVERHAUL OF THE U.S.S. CARL VINSON.

(a) AMOUNT AUTHORIZED FROM FY06 SCN ACCOUNT.—Of the amount authorized to be appropriated by section 102(a)(3) for fiscal year 2006 for shipbuilding and conversion, Navy, $1,493,563,000 is available for work on the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson (CVN–70) under the contract authorized by Public Law 109–104.

(b) CONTRACT AUTHORITY.—The amount specified in subsection (a) includes the amount of $89,000,000 made available by Public Law 109–104 for fiscal year 2006 for a period of such fiscal year preceding the enactment of this Act.

SEC. 128. CVN–78 AIRCRAFT CARRIER.

(a) AUTHORITY TO USE MULTIPLE YEARS OF FUNDING.—The Secretary of the Navy is authorized to enter into a contract for detail design and construction of the aircraft carrier designated CVN–78 that provides that, subject to subsection (b), funds for payments under the contract may be provided from amounts appropriated for Shipbuilding and Conversion, Navy, for fiscal years 2007, 2008, and 2009.

(b) CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.—A contract described in subsection (a) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2006 is subject to the availability of appropriations for that purpose for that fiscal year.

SEC. 129. LHA REPLACEMENT (LHA(R)) SHIP.

(a) AMOUNT AUTHORIZED FROM SCN ACCOUNT FOR FISCAL YEAR 2006.—Of the amount authorized to be appropriated by section 102(a)(3) for fiscal year 2006 for shipbuilding and conversion, Navy, $200,447,000 shall be available for design, advance procurement, advance construction, detail design, and construction with respect to the LHA Replacement (LHA(R)) ship.

(b) AMOUNTS AUTHORIZED FROM SCN ACCOUNT FOR FISCAL YEARS 2007 AND 2008.—Amounts authorized to be appropriated for fiscal years 2007 and 2008 for shipbuilding and conversion, Navy, shall be available for construction with respect to the LHA Replacement ship.

(c) CONTRACT AUTHORITY.—

(1) DESIGN, ADVANCE PROCUREMENT, AND ADVANCE CONSTRUCTION.—The Secretary of the Navy may enter into a contract during fiscal year 2006 for design, advance procurement, and advance construction with respect to the LHA Replacement ship.

(2) DETAIL DESIGN AND CONSTRUCTION.—The Secretary may enter into a contract during fiscal year 2006 for the detail design and construction of the LHA Replacement ship.

(d) CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.—A contract entered into under subsection (c) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2006 is subject to the availability of appropriations for that purpose for such fiscal year.

(e) FUNDING AS INCREMENT OF FULL FUNDING.—The amounts available under subsections (a) and (b) for the LHA Replacement ship are the first increments of funding for the full funding of the LHA Replacement (LHA(R)) ship program.

SEC. 130. REPORT ON ALTERNATIVE PROPULSION METHODS FOR SURFACE COMBATANTS AND AMPHIBIOUS WARFARE SHIPS.

(a) ANALYSIS OF ALTERNATIVES.—The Secretary of the Navy shall conduct an analysis of alternative propulsion methods for surface combatant vessels and amphibious warfare ships of the Navy.

(b) REPORT.—The Secretary shall submit to the congressional defense committees a report on the analysis of alternative propulsion systems carried out under subsection (a). The report shall be submitted not later than November 1, 2006.

(c) MATTERS TO BE INCLUDED.—The report under subsection (b) shall include the following:

(1) The key assumptions used in carrying out the analysis under subsection (a).

(2) The methodology and techniques used in conducting the analysis.

(3) A description of current and future technology relating to propulsion that has been incorporated in recently-designed surface combatant vessels and amphibious warfare ships or that is expected to be available for those types of vessels within the next 10-to-20 years.

(4) A description of each propulsion alternative for surface combatant vessels and amphibious warfare ships that was considered under the study and an analysis and evaluation of each such alternative from an operational and cost-effectiveness standpoint.

(5) A comparison of the life-cycle costs of each propulsion alternative.

(6) For each nuclear propulsion alternative, an analysis of when that nuclear propulsion alternative becomes cost effective as the price of a barrel of crude oil increases for each type of surface combatant vessel and each type of amphibious warfare ship.

(7) The conclusions and recommendations of the study, including those conclusions and recommendations that could impact the design of future ships or lead to modifications of existing ships.

(8) The Secretary's intended actions, if any, for implementation of the conclusions and recommendations of the study.

(d) LIFE-CYCLE COSTS.—For purposes of this section, the term "life-cycle costs" includes those elements of cost that would be considered for a life-cycle cost analysis for a major defense acquisition program.

Subtitle D—Air Force Programs

SEC. 131. C–17 AIRCRAFT PROGRAM AND ASSESSMENT OF INTERTHEATER AIRLIFT REQUIREMENTS.

(a) MULTIYEAR PROCUREMENT AUTHORIZED.—Subject to subsection (b), the Secretary of the Air Force may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2006 program year, for the procurement of up to 42 additional C–17 aircraft.

(b) CERTIFICATION REQUIRED.—The Secretary of the Air Force may not exercise the authority in subsection (a) until the Secretary of Defense submits to the congressional defense committees a certification that the additional airlift capacity to be provided by the C–17 aircraft to be procured under that authority is consistent with the assessment of the intertheater airlift capabilities required to support the national defense strategy carried out pursuant to subsection (c) and submitted to the congressional committees pursuant to subsection (d).

(c) ASSESSMENT OF INTERTHEATER AIRLIFT REQUIREMENTS.—

(1) REQUIREMENT.—The Secretary of Defense shall carry out an assessment of the intertheater airlift capabilities required to support the national defense strategy. The assessment shall include development of recommendations for future airlift force structure requirements, together with an explanation for each such recommendation. The Secretary shall submit the assessment pursuant to subsection (d).

(2) ADDITIONAL INFORMATION.—In the report on the results of the assessment required by paragraph (1), the Secretary shall explain how the recommendations for future airlift force structure requirements in that report take into account the following:

(A) The increased airlift demands associated with the Army modular brigade combat teams.

(B) The objective to be able to deliver—

(i) a brigade combat team anywhere in the world within four to seven days;

(ii) a division anywhere in the world within 10 days; and

(iii) multiple divisions anywhere in the world within 20 days.

(C) The increased airlift demands associated with the expanded scope of operational activities of the Special Operations forces.

(D) The realignment of the overseas basing structure in accordance with the Integrated Presence and Basing Strategy announced by the Secretary of Defense on March 20, 2003.

(E) Adjustments in the force structure to meet homeland defense requirements.

(F) The potential for simultaneous homeland defense activities and major combat operations.

(G) Potential changes in requirements for intratheater airlift or sealift capabilities.

(H) The capability of the Civil Reserve Air Fleet to provide adequate augmentation in meeting global mobility requirements.

(d) SUBMISSION OF ASSESSMENT OF INTERTHEATER AIRLIFT REQUIREMENTS.—

(1) INCLUSION IN QUADRENNIAL DEFENSE REVIEW.—Subject to paragraph (2), the assessment of the intertheater airlift capabilities required to support the national defense strategy required by subsection (c)(1) shall be carried out as part of the quadrennial defense review under section 118 of title 10, United States Code, in 2005 and in accordance with the provisions of subsection (d)(9) of that section, and the report under subsection (c)(1) on that assessment shall be included in the report on that quadrennial defense review submitted to the Committees on Armed Services of the Senate and House of Representatives with the budget of the President for fiscal year 2007 (as submitted under section 1105(a) of title 31, United States Code).

(2) ALTERNATIVE SUBMISSION.—If the Secretary of Defense determines that, because of the date required by law for the submission of the report on the quadrennial defense review referred to in paragraph (1), the assessment of the intertheater airlift capabilities required to support the national defense strategy required by subsection (c)(1) cannot be carried out as part of the quadrennial defense review referred to in paragraph (1), the Secretary may submit the report of such assessment not later than 45 days after the date of the submission of that review pursuant to section 118(d) of title 10, United States Code. In that case, the Secretary shall submit the report of such assessment to the congressional defense committees.

(e) MAINTENANCE OF C–17 AIRCRAFT PRODUCTION LINE.—If the Secretary of Defense is unable to make the certification specified in subsection (b), the Secretary of the Air Force should procure sufficient C–17 aircraft to maintain the C–17 aircraft production line at not less than the minimum sustaining rate until sufficient flight test data regarding improved C–5 aircraft mission capability rates as a result of the Reliability Enhancement and Re-engining Program and Avionics Modernization Program have been obtained to determine the validity of assumptions concerning the C–5 aircraft used in the Mobility Capabilities Study.

SEC. 132. PROHIBITION ON RETIREMENT OF KC–135E AIRCRAFT.

The Secretary of the Air Force may not retire any KC–135E aircraft of the Air Force in fiscal year 2006.

SEC. 133. PROHIBITION ON RETIREMENT OF F–117 AIRCRAFT DURING FISCAL YEAR 2006.

The Secretary of the Air Force may not retire any F–117 Nighthawk attack aircraft during fiscal year 2006.

SEC. 134. PROHIBITION ON RETIREMENT OF C–130E/H TACTICAL AIRLIFT AIRCRAFT DURING FISCAL YEAR 2006.

The Secretary of the Air Force may not retire any C–130E/H tactical airlift aircraft during fiscal year 2006.

SEC. 135. PROCUREMENT OF C–130J/KC–130J AIRCRAFT AFTER FISCAL YEAR 2005.

Any C–130J/KC–130J aircraft procured after fiscal year 2005 (including C–130J/KC–130J aircraft procured through a multiyear contract continuing in force from a fiscal year before fiscal year 2006) shall be procured through a contract under part 15 of the Federal Acquisition Regulation (FAR), relating to acquisition of items by negotiated contract (48 C.F.R. 15.000 et seq.), rather than through a contract under part 12 of the Federal Acquisition Regulation, relating to acquisition of commercial items (48 C.F.R. 12.000 et seq.).

SEC. 136. REPORT ON AIR FORCE AIRCRAFT AEROMEDICAL EVACUATION PROGRAMS.

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to the congressional defense committees a report on aircraft aeromedical evacuation programs of the Air Force. The report shall contain a comprehensive evaluation and overall assessment of (1) the current aeromedical evacuation program, carried out through the use of designated aircraft, compared to (2) the former aeromedical evacuation program, carried out through the use of dedicated aircraft.

(b) MATTERS TO BE INCLUDED.—The report shall include the following:

(1) A description of challenges and capability gaps of the current aircraft aeromedical evacuation program compared to the challenges and capability gaps of the former program.

(2) A description of possible means by which to best mitigate or resolve the challenges and capability gaps described under paragraph (1) with respect to the current program.

(3) Specification of medical equipment or upgrades needed to enhance the current program.

(4) Specification of aircraft equipment or upgrades needed to enhance the current program.

(5) A description of the advantages and disadvantages of the current program compared to the advantages and disadvantages of the former program.

(6) A cost comparison analysis of the current program and the former program.

(7) A description of the manner in which customer feedback is obtained and applied to the current program.

Subtitle E—Joint and Multiservice Matters

SEC. 141. REQUIREMENT THAT TACTICAL UNMANNED AERIAL VEHICLES USE SPECIFIED STANDARD DATA LINK.

(a) REQUIREMENT.—The Secretary of Defense shall take such steps as necessary to ensure that (except as specified in subsection (c)) all tactical unmanned aerial vehicles (UAVs) of the Army, Navy, Marine Corps, and Air Force are equipped and configured so that—

(1) the data link used by those vehicles is the Department of Defense standard tactical unmanned aerial vehicle data link known as the Tactical Common Data Link (TCDL), until such time as the Tactical Common Data Link standard is replaced by an updated standard for use by those vehicles; and

(2) those vehicles use data formats consistent with the architectural standard for tactical unmanned aerial vehicles known as STANAG 4586, developed to facilitate multinational interoperability among NATO member nations.

(b) FUNDING LIMITATION.—After December 1, 2006, no funds available to the Department of Defense may be used to enter into a contract for procurement of a new tactical unmanned aerial vehicle system with data links other than as required by subsection (a)(1).

(c) WAIVER AUTHORITY.—The Under Secretary of Defense for Acquisition, Technology, and Logistics may waive the applicability of subsection (a) to any tactical unmanned aerial vehicle if the Under Secretary determines, and certifies to the congressional defense committees, that it would be technologically infeasible or uneconomically acceptable to integrate a tactical data link specified in that subsection into that tactical unmanned aerial vehicle.

(d) REPORT.—Not later than February 1, 2006, the Secretary of each military department shall submit to Congress a report on the status of implementation of standard data links for unmanned aerial vehicles under the jurisdiction of the Secretary in accordance with subsection (a).

SEC. 142. LIMITATION ON INITIATION OF NEW UNMANNED AERIAL VEHICLE SYSTEMS.

(a) LIMITATION.—Funds available to the Department of Defense may not be used to procure an unmanned aerial vehicle (UAV) system, including any air vehicle, data link, ground station, sensor, or other associated equipment for any such system, or to modify any such system to include any form of armament, unless such procurement or modification is authorized in writing in advance by the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(b) EXCEPTION FOR EXISTING SYSTEMS.—The limitation in subsection (a) does not apply with respect to an unmanned aerial vehicle (UAV) system for which funds are under contract as of the date of the enactment of this Act or for which funds have been appropriated for procurement before the date of the enactment of this Act.

SEC. 143. ADVANCED SEAL DELIVERY SYSTEM.

(a) LIMITATION.—Of the amounts authorized to be appropriated for fiscal year 2006 for operation and maintenance, Defense-wide, that are available for the United States Special Operations Command, $10,100,000 may not be obligated or expended until the Secretary of Defense submits to the congressional defense committees each of the following:

(1) The Secretary's certification that the Secretary has revalidated the requirement for the Advanced SEAL Delivery System.

(2) A report on the Advanced SEAL Delivery System program that, at a minimum, includes—

(A) the conclusions of the quadrennial defense review concerning the program;

(B) the number of boats required for the program and the manner of their expected employment;

(C) an updated cost estimate for the program; and

(D) a timeline for addressing the technological challenges faced by the program by March 1, 2006.

(b) REPORT ON ONGOING CRITICAL SYSTEMS REVIEW.—Not later than January 1, 2007, the Secretary shall submit to the congressional defense committees a report providing the conclusions of the ongoing critical systems review with respect to the Advanced SEAL Delivery System program.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Annual Comptroller General report on Future Combat Systems program.
Sec. 212. Contract for the procurement of the Future Combat Systems (FCS).
Sec. 213. Limitations on systems development and demonstration of manned ground vehicles under Armored Systems Modernization program.
Sec. 214. Separate program elements required for significant systems development and demonstration projects for Armored Systems Modernization program.
Sec. 215. Initiation of program to design and develop next-generation nuclear attack submarine.
Sec. 216. Extension of requirements relating to management responsibility for naval mine countermeasures programs.
Sec. 217. Single set of requirements for Army and Marine Corps heavy lift rotorcraft program.
Sec. 218. Requirements for development of tactical radio communications systems.
Sec. 219. Limitation on systems development and demonstration of Personnel Recovery Vehicle.
Sec. 220. Limitation on VXX helicopter program.
Sec. 221. Report on testing of Internet Protocol version 6.

Subtitle C—Missile Defense Programs

Sec. 231. Report on capabilities and costs for operational boost/ascent-phase missile defense systems.
Sec. 232. One-year extension of Comptroller General assessments of ballistic missile defense programs.
Sec. 233. Fielding of ballistic missile defense capabilities.
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Subtitle D—High-Performance Defense Manufacturing Technology Research and Development

Sec. 241. Pilot program for identification and transition of advanced manufacturing processes and technologies.
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Sec. 243. Manufacturing technology strategies.
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Subtitle E—Other Matters

Sec. 251. Comptroller General report on program element structure for research, development, test, and evaluation projects.
Sec. 252. Research and development efforts for purposes of small business research.
Sec. 253. Revised requirements relating to submission of Joint Warfighting Science and Technology Plan.
Sec. 254. Report on efficiency of naval shipbuilding industry.
Sec. 255. Technology transition.
Sec. 256. Prevention, mitigation, and treatment of blast injuries.
Sec. 257. Modification of requirements for annual report on DARPA program to award cash prizes for advanced technology achievements.
Sec. 258. Designation of facilities and resources constituting the Major Range and Test Facility Base.
Sec. 259. Report on cooperation between Department of Defense and National Aeronautics and Space Administration on research, development, test, and evaluation activities.
Sec. 260. Delayed effective date for limitation on procurement of systems not GPS-equipped.
Sec. 261. Report on development and use of robotics and unmanned ground vehicle systems.

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $10,036,004,000.

(2) For the Navy, $18,581,441,000.

(3) For the Air Force, $22,305,012,000.

(4) For Defense-wide activities, $19,277,402,000, of which $168,458,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR DEFENSE SCIENCE AND TECHNOLOGY.

(a) FISCAL YEAR 2006.—Of the amounts authorized to be appropriated by section 201, $11,363,021,000 shall be available for the Defense Science and Technology Program, including basic research, applied research, and advanced technology development projects.

(b) BASIC RESEARCH, APPLIED RESEARCH, AND ADVANCED TECHNOLOGY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research, applied research, and advanced technology development" means work funded in program elements for defense research and development under Department of Defense budget activities 1, 2, and 3.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. ANNUAL COMPTROLLER GENERAL REPORT ON FUTURE COMBAT SYSTEMS PROGRAM.

(a) ANNUAL GAO REVIEW.—The Comptroller General shall conduct an annual review of the Future Combat Systems program and shall, not later than March 15 of each year, submit to Congress a report on the results of the most recent review. With each such report, the Comptroller General shall submit a certification as to whether the Comptroller General has had access to sufficient information to enable the Comptroller General to make informed judgments on the matters covered by the report.

(b) MATTERS TO BE INCLUDED.—Each report on the Future Combat Systems program under subsection (a) shall include the following with respect to research and development under the program:

(1) The extent to which systems development and demonstration under the program is meeting established goals, including the goals established for performance, key performance parameters, technology readiness levels, cost, and schedule.

(2) The budget for the current fiscal year, and the projected budget for the next fiscal year, for all Department of Defense programs directly supporting the Future Combat Systems program and an evaluation of the contribution each such program makes to meeting the goals established for performance, key performance parameters, and technology readiness levels of the Future Combat Systems program.

(3) The plan for such systems development and demonstration (leading to production) for the fiscal year that begins in the year in which the report is submitted.

(4) The Comptroller General's conclusion regarding whether such systems development and demonstration (leading to production) is likely to be completed at a total cost not in excess of the amount specified (or to be specified) for such purpose in the Selected Acquisition Report for the Future Combat Systems program under section 2432 of title 10, United States Code, for the first quarter of the fiscal year during which the report of the Comptroller General is submitted.

(c) TERMINATION.—No report is required under this section after systems development and demonstration under the Future Combat Systems program is completed.

SEC. 212. CONTRACT FOR THE PROCUREMENT OF THE FUTURE COMBAT SYSTEMS (FCS).

The Secretary of the Army shall procure the Future Combat Systems (FCS) through a contract under part 15 of the Federal Acquisition Regulation (FAR), relating to acquisition of items by negotiated contract (48 C.F.R. 15.000 et seq.), rather than through a transaction under section 2371 of title 10, United States Code.

SEC. 213. LIMITATIONS ON SYSTEMS DEVELOPMENT AND DEMONSTRATION OF MANNED GROUND VEHICLES UNDER ARMORED SYSTEMS MODERNIZATION PROGRAM.

(a) LIMITATIONS.—Of the amounts appropriated or otherwise made available pursuant to the authorization of appropriations in section 201 for the Armored Systems Modernization program, not more than 70 percent may be obligated for systems development and demonstration of manned ground vehicle variants under that program until each of the following occurs:

(1) The Secretary of Defense certifies to the congressional defense committees that the threshold requirements for manned ground vehicle variants with respect to lethality and survivability have been met and demonstrated, in accordance with applicable regulations, in a relevant environment to be at least equal to the lethality and survivability of the manned ground vehicles to be replaced by those variants.

(2) The Secretary of Defense submits to the congressional defense committees the results of an independent analysis carried out with respect to the transportability requirement for the manned ground vehicle variants under the Future Combat Systems program for the purpose of determining whether—

(A) the requirement can be supported by the future-years defense plan and the projected extended planning period inter-theater and intra-theater airlift force structure budget;

(B) the requirement is justified by any likely deployment scenario envisioned by current operational plans; and

(C) the projected unit procurement cost warrants the investment required to deploy those variants.

(3) The Under Secretary of Defense for Acquisition, Technology, and Logistics submits to the congressional defense committees the results of an independent cost estimate, prepared by the cost analysis improvement group of the Office of the Secretary of Defense, with respect to the Future Combat Systems program.

(4) The Secretary of the Army submits to the congressional defense committees a report containing—

(A) the organizational design, quantities, and fielding plan for each of the current force Brigade Combat Teams and the Future Combat Systems Brigade Combat Teams; and

(B) the Future Combat Systems Manned Ground Vehicle research, development, test, and evaluation and procurement plan and budgets through the future-years defense plan, including unit procurement cost for each Future Combat Systems Manned Ground Vehicle variant in constant and current-year dollars.

(5) The Secretary of Defense submits to the congressional defense committees a report describing and evaluating the requirements and budgets for the technology insertion program for integrating Future Combat Systems capabilities into current force programs through the future-years defense plan for the purpose of determining—

(A) the balance in programs and resources between the Future Combat Systems Brigade Combat Teams and the current force Brigade Combat Teams;

(B) the feasibility of accelerating technology insertion into the current force Brigade Combat Teams;

(C) the level of research, development, test, and evaluation and procurement funding to support planned technology insertions into the current force Brigade Combat Teams through the future-years defense plan; and

(D) the capabilities of a current force Brigade Combat Team equipped with planned technology insertions in 2010, in comparison to a Future Combat Systems Manned Ground Vehicle Brigade Combat Team in 2014.

(b) EXCEPTION FOR NON-LINE-OF-SIGHT CANNON SYSTEM.—This section does not apply with respect to the obligation of funds for systems development and demonstration of the non-line-of-sight cannon system.

SEC. 214. SEPARATE PROGRAM ELEMENTS REQUIRED FOR SIGNIFICANT SYSTEMS DEVELOPMENT AND DEMONSTRATION PROJECTS FOR ARMORED SYSTEMS MODERNIZATION PROGRAM.

(a) PROGRAM ELEMENTS SPECIFIED.—Effective for the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code, for fiscal year 2008 and each fiscal year thereafter, the Secretary of Defense shall ensure that a separate, dedicated program element is assigned to each of the following systems development and demonstration projects of the Armored Systems Modernization program:

(1) Manned Ground Vehicles.

(2) Systems of Systems Engineering and Program Management.

(3) Future Combat Systems Reconnaissance Platforms and Sensors.

(4) Future Combat Systems Unmanned Ground Vehicles.

(5) Unattended Sensors.

(6) Sustainment.

(b) EARLY COMMENCEMENT OF DISPLAY IN BUDGET JUSTIFICATION MATERIALS.—As part of the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2007, as submitted with the budget of the President under such section 1105(a), the Secretary of the Army shall set forth the budget justification material for the systems development and demonstration projects of the Armored Systems Modernization program identified in subsection (a) as if the projects were already separate program elements.

(c) TECHNOLOGY INSERTION TO CURRENT FORCE.—

(1) REPORT ON ESTABLISHMENT OF ADDITIONAL PROGRAM ELEMENT.—Not later than June 1, 2006, the Secretary of the Army shall submit a report to the congressional defense committees describing the manner in which the costs of integrating Future Combat Systems capabilities into current force programs could be assigned to a separate, dedicated program element and any management issues that would be raised as a result of establishing such a program element.

(2) DISPLAY IN BUDGET JUSTIFICATION MATERIALS.—As part of the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2007 and each fiscal year thereafter, as submitted with the budget of the President under such section 1105(a), the Secretary of the Army shall set forth the budget justification material for technology insertion to the current force under the Armored Systems Modernization program.

SEC. 215. INITIATION OF PROGRAM TO DESIGN AND DEVELOP NEXT-GENERATION NUCLEAR ATTACK SUBMARINE.

(a) PROGRAM REQUIRED.—The Secretary of the Navy shall initiate a program to design and develop the next-generation of nuclear attack submarines.

(b) OBJECTIVE.—The objective of the program required by subsection (a) is to develop a nuclear attack submarine that meets or exceeds the warfighting capability of a submarine of the current Virginia class at a cost dramatically lower than the cost of a submarine of the Virginia class. The Secretary may meet such objective by modifying the Virginia class of nuclear submarines to incorporate new technology.

(c) REPORT.—

(1) IN GENERAL.—The Secretary of the Navy shall include, with the defense budget justification materials submitted in support of the President's budget for fiscal year 2007 submitted to Congress under section 1105 of title 31, United States Code, a report on the program required by subsection (a).

(2) CONTENTS.—The report shall include—

(A) an outline of the management approach to be used in carrying out the program;

(B) the goals for the program; and

(C) a schedule for the program.

SEC. 216. EXTENSION OF REQUIREMENTS RELATING TO MANAGEMENT RESPONSIBILITY FOR NAVAL MINE COUNTERMEASURES PROGRAMS.

(a) IN GENERAL.—Section 216 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1317), as most recently amended by section 212 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2480), is amended—

(1) in subsection (a), by striking "2008" and inserting "2011";

(2) in subsection (b)(1), by inserting after "Secretary of Defense" the following: ", and the Secretary of Defense has forwarded to the congressional defense committees,";

(3) in subsection (b)(2), by inserting before the semicolon at the end the following: "and, by so certifying, ensures that the budget meets the requirements of section 2437 of title 10, United States Code"; and

(4) by striking subsection (c) and inserting the following new subsection (c):

"(c) NOTIFICATION OF CERTAIN PROPOSED CHANGES.—

"(1) IN GENERAL.—With respect to a fiscal year, the Secretary may not carry out any change to the naval mine countermeasures master plan or the budget resources for mine countermeasures with respect to that fiscal year until after the Under Secretary of Defense for Acquisition, Technology, and Logistics submits to the congressional defense committees a notification of the proposed change. Such notification shall describe the nature of the proposed change and the effect of the proposed change on the naval mine countermeasures program or related programs with respect to that fiscal year.

"(2) EXCEPTION.—Paragraph (1) does not apply to a change if both—

"(A) the amount of the change is below the applicable reprogramming threshold; and

"(B) the effect of the change does not affect the validity of the decision to certify.".

(b) NOTICE AND CERTIFICATION BEFORE DECOMMISSIONG OF MHC–51 VESSELS.—The Secretary of the Navy may not decommission any vessel of the MHC–51 mine countermeasures class before the end of the service life of that vessel until—

(1) the Secretary submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on existing capabilities to assume the MHC–51 mission, together with the Secretary's certification that the capabilities of the vessels of the MHC–51 mine countermeasures class are no longer required; and

(2) a period of 30 days has elapsed after the date of receipt of that report and certification by those committees.

SEC. 217. SINGLE SET OF REQUIREMENTS FOR ARMY AND MARINE CORPS HEAVY LIFT ROTORCRAFT PROGRAM.

(a) JOINT REQUIREMENT.—The Secretary of the Army and the Secretary of the Navy shall develop a single set of requirements for the Joint Heavy Lift program for the Army and the Marine Corps.

(b) APPROVAL BY JROC REQUIRED.—The Secretary of Defense may not authorize entry into Systems Development and Demonstration for the next-generation heavy lift rotorcraft until the single joint requirement required by subsection (a) has been approved by the Joint Requirements Oversight Council.

(c) EXCEPTION.—This section does not apply to the CH–53X Heavy Lift Replacement Program.

SEC. 218. REQUIREMENTS FOR DEVELOPMENT OF TACTICAL RADIO COMMUNICATIONS SYSTEMS.

(a) INTERIM TACTICAL RADIO COMMUNICATIONS.—The Secretary of Defense shall—

(1) assess the immediate requirements of the military departments for tactical radio communications systems;

(2) ensure that the military departments rapidly acquire tactical radio communications systems utilizing existing technology or mature systems readily available in the commercial marketplace; and

(3) develop a plan and roadmap for the development, procurement, deployment, and sustainment of interim and future tactical radio communications systems.

(b) JOINT TACTICAL RADIO SYSTEM.—The Secretary of Defense shall apply Department of Defense Instruction 5000.2 to the Joint Tactical Radio System in a manner that does not permit the Milestone B entrance requirements to be waived unless the Secretary certifies that the Department is unable to meet critical national security objectives.

(c) CERTIFICATION OF BUDGETS.—

(1) BUDGETING THROUGH JOINT PROGRAM OFFICE.—The Secretary of Defense shall require

that the Secretary of each military department, and the head of each Defense Agency with programs developing components of or research related to the Joint Tactical Radio System transmit such proposed budgets for these activities, including all waveform development activities, for a fiscal year to the head of the single joint program office designated under section 213 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1416) for review and certification under paragraph (2) before submitting such proposed budget to the Under Secretary of Defense (Comptroller).

(2) ACTIONS OF HEAD OF JOINT PROGRAM OFFICE.—The head of the single joint program office designated under section 213 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1416) shall review each proposed budget transmitted under paragraph (1) and shall, not later than January 31 of the year preceding the fiscal year for which such budgets are proposed, submit to the Secretary of Defense a report containing comments with respect to all such proposed budgets, together with the certification as to whether such proposed budgets are adequate and whether such proposed budgets provide balanced support for the plan required under subsection (a)(3).

(3) ACTIONS OF SECRETARY OF DEFENSE.—The Secretary of Defense shall, not later than March 31 of the year preceding the fiscal year for which such budgets are proposed, submit to Congress a report on those proposed budgets which the head of the single joint program office has not certified under paragraph (2) to be adequate, including a discussion of the actions that the Secretary proposes to take to address the inadequacy of the proposed budgets.

(d) REPORT ON IMPLEMENTATION REQUIRED.—Not later than May 1, 2006, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of this section.

SEC. 219. LIMITATION ON SYSTEMS DEVELOPMENT AND DEMONSTRATION OF PERSONNEL RECOVERY VEHICLE.

Not more than 40 percent of the amounts made available pursuant to the authorization of appropriations in section 201 for systems development and demonstration of the Personnel Recovery Vehicle may be obligated until 30 days after the date on which the Secretary of Defense submits to the congressional defense committees each of the following:

(1) The Secretary's certification that the requirements for the Personnel Recovery Vehicle have been validated by the Joint Requirements Oversight Council and that the acquisition schedule has been validated by the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(2) The Secretary's certification that all technologies required to meet the requirements (as validated under paragraph (1)) for the Personnel Recovery Vehicle are mature and will have been demonstrated in a relevant environment before inclusion in production aircraft.

(3) The Secretary's assessment of whether another aircraft, or modification of an aircraft, in the inventory of the Department of Defense can meet the requirements and provide a more cost effective solution (as validated under paragraph (1)) for the Personnel Recovery Vehicle Program.

(4) In the event that the Department chooses to award a contract for the Personnel Recovery Vehicle Program for an aircraft not in the Department of Defense inventory, the Secretary's explanation of the reasons why the chosen system would be more effective or less expensive in terms of total life-cycle costs.

(5) A statement setting forth the independent cost estimate and manpower estimate (as required by section 2434 of title 10, United States Code) for the Personnel Recovery Vehicle.

SEC. 220. LIMITATION ON VXX HELICOPTER PROGRAM.

(a) LIMITATION.—Of the amounts appropriated or otherwise made available pursuant to the authorization of appropriations in section 201 for the VXX executive helicopter program, not more than 75 percent may be obligated for system development and demonstration of the VXX helicopter until the Secretary of the Navy submits to Congress an event-driven acquisition strategy for Increment Two of the program that includes the completion of at least one phase of operational testing on production representative test vehicles before the initiation of aircraft production. That acquisition strategy shall be developed by the Secretary working the with the Director of Operational Test and Evaluation of the Department of Defense.

(a) REPORT.—Not later than March 15, 2006, the Secretary of the Navy shall submit to the congressional defense committees a report setting forth in detail the acquisition strategy referred to in subsection (a). The report shall, at a minimum, include the following:

(1) A list of the critical technologies required for the production and operation of Increment Two aircraft for the VXX executive helicopter program.

(2) A schedule that accepts no more than moderate risk in either cost or schedule for the demonstration and test of each critical technology listed pursuant to paragraph (1).

(3) A description of the event-based decision points and associated decision criteria that will occur before the initiation of production of Increment two aircraft.

(4) A description of a proposed operational evaluation using production representative test vehicles to occur before the initiation of production of Increment Two aircraft.

(5) An evaluation of the acquisition strategy for Increment Two aircraft detailed in the report provided by the Director of Operational Test and Evaluation of the Department of Defense.

SEC. 221. REPORT ON TESTING OF INTERNET PROTOCOL VERSION 6.

(a) ADDITIONAL PLAN ELEMENT.—Subsection (b) of section 331 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1850) is amended by adding at the end the following new paragraph:

"(5) A certification by the Chairman of the Joint Chiefs of Staff that the conversion of Department of Defense networks to Internet Protocol version 6 will provide equivalent or better performance and capabilities than that which would be provided by any other combination of available technologies or protocols.".

(b) OFFICIAL RESPONSIBLE FOR OVERSIGHT OF TEST AND EVALUATION PLAN.—Such section is further amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) OFFICIAL RESPONSIBLE FOR OVERSIGHT OF TEST AND EVALUATION PLAN.—The Secretary of Defense shall designate the Director of Operational Test and Evaluation of the Department of Defense as the official responsible within the Department of Defense for oversight and direction of the test and evaluation plan under this section and for approval of the master test and evaluation plan under this section.".

(c) ANNUAL REPORT.—Subsection (e) of such section (as redesignated by subsection (b)(1)) is amended to read as follows:

"(e) REPORTS.—

"(1) Not later than June 30, 2006, the Secretary of Defense shall submit to the congressional defense committees a report containing the transition plan under subsection (a), updated to the time of the submission of the report.

"(2) For each of fiscal years 2006 through 2008, the Secretary of Defense shall, not later than the end of that fiscal year, submit to the congressional defense committees a report on the testing and evaluation carried out pursuant to subsection (c).".

Subtitle C—Missile Defense Programs

SEC. 231. REPORT ON CAPABILITIES AND COSTS FOR OPERATIONAL BOOST/ASCENT-PHASE MISSILE DEFENSE SYSTEMS.

(a) SECRETARY OF DEFENSE ASSESSMENT.—The Secretary of Defense shall conduct an assessment of the United States missile defense programs that are designed to provide capability against threat ballistic missiles in the boost/ascent phase of flight.

(b) PURPOSE.—The purpose of the assessment shall be to compare and contrast—

(1) capabilities of those programs (if operational) to defeat, while in the boost/ascent phase of flight, ballistic missiles launched from North Korea or a location in the Middle East against the continental United States, Alaska, or Hawaii; and

(2) asset requirements and costs for those programs to become operational with the capabilities referred to in paragraph (1).

(c) REPORT.—Not later than October 1, 2006, the Secretary shall submit to Congress a report providing the results of the assessment.

SEC. 232. ONE-YEAR EXTENSION OF COMPTROLLER GENERAL ASSESSMENTS OF BALLISTIC MISSILE DEFENSE PROGRAMS.

(a) EXTENSION.—Section 232(g) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 2431 note) is amended—

(1) in paragraph (1), by striking "through 2006" and inserting "through 2007"; and

(2) in paragraph (2), by striking "through 2007" and inserting "through 2008".

(b) MODIFICATION OF SUBMITTAL DATE.—Paragraph (2) of such section is further amended by striking "February 15" and inserting "March 15".

SEC. 233. FIELDING OF BALLISTIC MISSILE DEFENSE CAPABILITIES.

Upon approval by the Secretary of Defense, funds authorized to be appropriated for fiscal years 2006 and 2007 for research, development, test, and evaluation for the Missile Defense Agency may be used for the development and fielding of ballistic missile defense capabilities.

SEC. 234. PLANS FOR TEST AND EVALUATION OF OPERATIONAL CAPABILITY OF THE BALLISTIC MISSILE DEFENSE SYSTEM.

(a) TEST AND EVALUATION PLANS FOR BLOCKS.—

(1) PLANS REQUIRED.—With respect to block 06 and each subsequent block of the Ballistic Missile Defense System, the appropriate joint and service operational test and evaluation components of the Department of Defense concerned with the block shall prepare a plan, appropriate for the level of technological maturity of the block, to test, evaluate, and characterize the operational capability of the block.

(2) CONSULTATION AND REVIEW.—The preparation of each plan under this subsection shall be—

(A) carried out in coordination with the Missile Defense Agency; and

(B) subject to the review and approval of the Director of Operational Test and Evaluation.

(b) REPORTS ON TEST AND EVALUATION OF BLOCKS.—At the conclusion of the test and evaluation of block 06 and each subsequent block of the Ballistic Missile Defense System, the Director of Operational Test and Evaluation shall submit to the Secretary of Defense and the congressional defense committees a report providing—

(1) the assessment of the Director as to whether or not the test and evaluation was adequate to evaluate the operational capability of the block; and

(2) the characterization of the Director as to the operational effectiveness, suitability, and survivability of the block, as appropriate for the level of technological maturity of the block tested.

Subtitle D—High-Performance Defense Manufacturing Technology Research and Development

SEC. 241. PILOT PROGRAM FOR IDENTIFICATION AND TRANSITION OF ADVANCED MANUFACTURING PROCESSES AND TECHNOLOGIES.

(a) Pilot Program Required.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall conduct a pilot program under the authority of section 2521 of title 10, United States Code, to identify and transition advanced manufacturing processes and technologies the utilization of which would achieve significant productivity and efficiency gains in the defense manufacturing base.

(b) Consideration of Defense Priorities.—In carrying out subsection (a), the Under Secretary shall take into consideration the defense priorities established in the most current Joint Warfighting Science and Technology plan, as required under section 270 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 10 U.S.C. 2501 note).

(c) Identification for Transition.—In identifying manufacturing processes and technologies for transition to the defense manufacturing base under the pilot program, the Under Secretary shall select the most promising transformational technologies and manufacturing processes, in consultation with the Director of Defense Research and Engineering, the Joint Defense Manufacturing Technology Panel, and other such entities as may be appropriate, including the Director of the Small Business Innovation Research Program.

SEC. 242. TRANSITION OF TRANSFORMATIONAL MANUFACTURING PROCESSES AND TECHNOLOGIES TO DEFENSE MANUFACTURING BASE.

(a) Prototypes and Test Beds.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall undertake the development of prototypes and test beds to validate the manufacturing processes and technologies selected for transition under the pilot program under section 241.

(b) Diffusion of Enhancements.—The Under Secretary shall seek the cooperation of industry in adopting such manufacturing processes and technologies through the following:

(1) The Manufacturing Extension Partnership Program.

(2) The identification of incentives for industry to incorporate and utilize such manufacturing processes and technologies.

SEC. 243. MANUFACTURING TECHNOLOGY STRATEGIES.

(a) In General.—The Under Secretary of Defense for Acquisition, Technology, and Logistics may—

(1) identify an area of technology where the development of an industry-prepared roadmap for new manufacturing and technology processes applicable to defense manufacturing requirements would be beneficial to the Department of Defense; and

(2) establish a task force, and act in cooperation, with the private sector to map the strategy for the development of manufacturing processes and technologies needed to support technology development in the area identified under paragraph (1).

(b) Commencement of Roadmapping.—The Under Secretary shall commence any roadmapping identified pursuant to subsection (a)(1) not later than January 2007.

SEC. 244. REPORT.

(a) In General.—Not later than December 31, 2007, the Under Secretary of the Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report on the actions undertaken by the Under Secretary under this subtitle during fiscal year 2006.

(b) Elements.—The report under subsection (a) shall include—

(1) a comprehensive description of the actions undertaken under this subtitle during fiscal year 2006;

(2) an assessment of effectiveness of such actions in enhancing research and development on manufacturing technologies and processes, and the implementation of such within the defense manufacturing base; and

(3) such recommendations as the Under Secretary considers appropriate for additional actions to be undertaken in order to increase the effectiveness of the actions undertaken under this subtitle in enhancing manufacturing activities within the defense manufacturing base.

SEC. 245. DEFINITIONS.

In this subtitle:

(1) Defense manufacturing base.—The term "defense manufacturing base" includes any supplier of the Department of Defense, including a supplier of raw materials.

(2) Manufacturing extension partnership program.—The term "Manufacturing Extension Partnership Program" means the Manufacturing Extension Partnership Program of the Department of Commerce.

(3) Small business innovation research program.—The term "Small Business Innovation Research Program" has the meaning given that term in section 2500(11) of title 10, United States Code.

Subtitle E—Other Matters

SEC. 251. COMPTROLLER GENERAL REPORT ON PROGRAM ELEMENT STRUCTURE FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION PROJECTS.

(a) Report Required.—The Comptroller General shall prepare a report containing assessments of—

(1) the current program element structure and content used to account for projects carried out, or proposed to be carried out, using amounts for research, development, test, and evaluation activities; and

(2) the effectiveness of such program elements, and related budget justification materials, in providing necessary information for budget transparency and oversight by the congressional defense committees.

(b) Recommendations.—The report required by subsection (a) shall also include such recommendations as the Comptroller General considers to be appropriate regarding program element size and content, budget justification material content, and appropriate reprogramming authorities within and between program elements, particularly in connection with highly complex research and development programs that employ the system-of-systems concept.

(c) Submission.— The report required by subsection (a) shall be submitted to the congressional defense committees not later than February 1, 2007.

SEC. 252. RESEARCH AND DEVELOPMENT EFFORTS FOR PURPOSES OF SMALL BUSINESS RESEARCH.

(a) In General.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsections:

"(x) Research and Development Focus.—

"(1) Revision and update of criteria and procedures of identification.—In carrying out subsection (g), the Secretary of Defense shall, not less often than once every 4 years, revise and update the criteria and procedures utilized to identify areas of the research and development efforts of the Department of Defense which are suitable for the provision of funds under the Small Business Innovation Research Program and the Small Business Technology Transfer Program.

"(2) Utilization of plans.—The criteria and procedures described in paragraph (1) shall be developed through the use of the most current versions of the following plans:

"(A) The Joint Warfighting Science and Technology Plan required under section 270 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 10 U.S.C. 2501 note).

"(B) The Defense Technology Area Plan of the Department of Defense.

"(C) The Basic Research Plan of the Department of Defense.

"(3) Input in identification of areas of effort.—The criteria and procedures described in paragraph (1) shall include input in the identification of areas of research and development efforts described in that paragraph from Department of Defense program managers (PMs) and program executive officers (PEOs).

"(y) Commercialization Pilot Program.—

"(1) In general.—The Secretary of Defense and the Secretary of each military department is authorized to create and administer a 'Commercialization Pilot Program' to accelerate the transition of technologies, products, and services developed under the Small Business Innovation Research Program to Phase III, including the acquisition process.

"(2) Identification of research programs for accelerated transition to acquisition process.—In carrying out the Commercialization Pilot Program, the Secretary of Defense and the Secretary of each military department shall identify research programs of the Small Business Innovation Research Program that have the potential for rapid transitioning to Phase III and into the acquisition process.

"(3) Limitation.—No research program may be identified under paragraph (2) unless the Secretary of the military department concerned certifies in writing that the successful transition of the program to Phase III and into the acquisition process is expected to meet high priority military requirements of such military department.

"(4) Funding.—For payment of expenses incurred to administer the Commercialization Pilot Program under this subsection, the Secretary of Defense and each Secretary of a military department is authorized to use not more than an amount equal to 1 percent of the funds available to the Department of Defense or the military department pursuant to the Small Business Innovation Research Program. Such funds—

"(A) shall not be subject to the limitations on the use of funds in subsection (f)(2); and

"(B) shall not be used to make Phase III awards.

"(5) Evaluative report.—At the end of each fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Armed Services and the Committee on Small Business of the House of Representatives an evaluative report regarding activities under the Commercialization Pilot Program. The report shall include—

"(A) an accounting of the funds used in the Commercialization Pilot Program;

"(B) a detailed description of the Commercialization Pilot Program, including incentives and activities undertaken by acquisition program managers, program executive officers, and prime contractors; and

"(C) a detailed compilation of results achieved by the Commercialization Pilot Program, including the number of small business concerns assisted and the number of projects commercialized.

"(6) SUNSET.—The pilot program under this subsection shall terminate at the end of fiscal year 2009.".

(b) IMPLEMENTATION OF EXECUTIVE ORDER 13329.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by subsection (a), is further amended—

(1) in subsection (b)—

(A) in paragraph (6), by striking "and" at the end;

(B) in paragraph (7), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(8) to provide for and fully implement the tenets of Executive Order 13329 (Encouraging Innovation in Manufacturing).";

(2) in subsection (g)—

(A) in paragraph (9), by striking "and" at the end;

(B) in paragraph (10), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(11) provide for and fully implement the tenets of Executive Order 13329 (Encouraging Innovation in Manufacturing)."; and

(3) in subsection (o)—

(A) in paragraph (14), by striking "and" at the end;

(B) in paragraph (15), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(16) provide for and fully implement the tenets of Executive Order 13329 (Encouraging Innovation in Manufacturing).".

(c) TESTING AND EVALUATION AUTHORITY.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) the term 'commercial applications' shall not be construed to exclude testing and evaluation of products, services, or technologies for use in technical or weapons systems, and further, awards for testing and evaluation of products, services, or technologies for use in technical or weapons systems may be made in either the second or the third phase of the Small Business Innovation Research Program and of the Small Business Technology Transfer Program, as defined in this subsection.".

SEC. 253. REVISED REQUIREMENTS RELATING TO SUBMISSION OF JOINT WARFIGHTING SCIENCE AND TECHNOLOGY PLAN.

(a) BIENNIAL SUBMITTAL.—Section 270 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 10 U.S.C. 2501 note) is amended—

*(1) by striking "**ANNUAL**" in the section heading and inserting "**BIENNIAL**"; and*

(2) by striking "(a) ANNUAL PLAN REQUIRED.—On March 1 of each year" and inserting "Not later than March 1 of each even-numbered year".

(b) REPEAL OF REQUIREMENT FOR INCLUSION OF TECHNOLOGY AREA REVIEW AND ASSESSMENT SUMMARIES WITH JWSTP.—Subsection (b) of such section is repealed.

(c) REQUIREMENT FOR SEPARATE REPORTS ON TECHNOLOGY AREA REVIEW AND ASSESSMENT SUMMARIES.—Whenever the Secretary of Defense provides for the conduct of a study referred to as a Technology Area Review and Assessment, the Secretary shall, not later than March 1 of the year following the year in which that study is conducted, submit to the congressional defense committees a report containing a summary of each such Technology Area Review and Assessment conducted during that year.

SEC. 254. REPORT ON EFFICIENCY OF NAVAL SHIPBUILDING INDUSTRY.

(a) ASSESSMENT OF EFFICIENCY OF NAVAL SHIPBUILDING INDUSTRY.—

(1) ASSESSMENT REQUIRED.—The Secretary of the Navy shall conduct an assessment of the United States naval shipbuilding industry to determine how worldwide shipbuilding industry best practices for innovation, design, and production technologies, processes, and infrastructure could be adopted to improve efficiency in the following areas:

(A) Program design, engineering, and production engineering.

(B) Organization and operating systems.

(C) Steelwork production.

(D) Ship construction and outfitting.

(2) CONTENTS OF ASSESSMENT.—The assessment under paragraph (1) shall include the following:

(A) An identification of any best practice of the worldwide shipbuilding industry that the United States naval shipbuilding industry has not adopted, the adoption of which would lower construction costs.

(B) The estimated cost of adopting any best practice identified under subparagraph (A) and any estimated return on an investment made by a shipyard to adopt such a best practice.

(C) Any recommendation of the Secretary to increase the efficiency of the United States naval shipbuilding industry.

(3) RELATION TO INDEPENDENT NAVY SHIP CONSTRUCTION ASSESSMENT.—The assessment under paragraph (1) shall occur subsequent to, and take into consideration the results of, the study of the cost effectiveness of the ship construction program of the Navy required by section 1014 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2041).

(b) REPORT.—Not later than April 1, 2006, the Secretary of the Navy shall submit to the congressional defense committees a report containing the Secretary's findings and conclusions based on the assessment under subsection (a).

SEC. 255. TECHNOLOGY TRANSITION.

(a) CLARIFICATION OF DUTIES OF TECHNOLOGY TRANSITION COUNCIL.—Paragraph (2) of section 2359a(g) of title 10, United States Code, is amended to read as follows:

"(2) The duty of the Council shall be to support the Under Secretary of Defense for Acquisition, Technology, and Logistics in developing policies to facilitate the rapid transition of technologies from science and technology programs into acquisition programs of the Department of Defense.".

(b) REPORT ON TECHNOLOGY TRANSITION.—

(1) REPORT REQUIRED.—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report concerning the challenges associated with technology transition from the science and technology programs of the Department of Defense to the acquisition programs of the Department of Defense. The Secretary shall include in the report a strategy to address those challenges. The Secretary shall prepare the report working through the Technology Transition Council of the Department of Defense established under section 2359a(g) of title 10, United States Code.

(2) MATTERS TO BE INCLUDED.—The report shall include the following:

(A) A description of any internal organizational barriers within the Department to technology transition between the technology development, acquisition, and operations components of the Department.

(B) An assessment of the effect of Department acquisition regulations on technology transition.

(C) An assessment of the effects of the requirements validation process and the planning, programming, budgeting, and execution processes of the Department on technology transition.

(D) A description of other challenges associated with technology transition in the Department that are identified by the Secretary.

(E) A Department-wide strategy for pursuing technology transition.

(F) Such recommendations as the Secretary considers appropriate to eliminate internal barriers within the Department to technology transition.

(3) SUBMITTAL DATE.—The report under paragraph (1) shall be submitted not later than nine months after the date of the enactment of this Act.

SEC. 256. PREVENTION, MITIGATION, AND TREATMENT OF BLAST INJURIES.

(a) DESIGNATION OF EXECUTIVE AGENT.—The Secretary of Defense shall designate an executive agent to be responsible for coordinating and managing the medical research efforts and programs of the Department of Defense relating to the prevention, mitigation, and treatment of blast injuries.

(b) GENERAL RESPONSIBILITIES.—The executive agent designated under subsection (a) shall be responsible for—

(1) planning for the medical research and development projects, diagnostic and field treatment programs, and patient tracking and monitoring activities within the Department that relate to combat blast injuries;

(2) efficient execution of such projects, programs, and activities;

(3) enabling the sharing of blast injury health hazards and survivability data collected through such projects, programs, and activities with the programs of the Department of Defense;

(4) working with the Director, Defense Research and Engineering and the Secretaries of the military departments to ensure resources are adequate to also meet non-medical requirements related to blast injury prevention, mitigation, and treatment; and

(5) ensuring that a joint combat trauma registry is established and maintained for the purposes of collection and analysis of contemporary combat casualties, including casualties with traumatic brain injury.

(c) MEDICAL RESEARCH EFFORTS.—

(1) IN GENERAL.—The executive agent designated under subsection (a) shall review and assess the adequacy of medical research efforts of the Department of Defense as of the date of the enactment of this Act relating to the following:

(A) The characterization of blast effects leading to injury, including the injury potential of blasts in various environments.

(B) Medical technologies and protocols to more accurately detect and diagnose blast injuries, including improved discrimination between traumatic brain injuries and mental health disorders.

(C) Enhanced treatment of blast injuries in the field.

(D) Integrated treatment approaches for members of the Armed Forces who have a combination of traumatic brain injuries and mental health disorders or other injuries.

(E) Such other blast injury matters as the executive agent considers appropriate.

(2) REQUIREMENTS FOR RESEARCH EFFORTS.—Based on the assessment under paragraph (1), the executive agent shall establish requirements for medical research efforts described in that paragraph in order to enhance and accelerate those research efforts.

(3) OVERSIGHT OF RESEARCH EFFORTS.—The executive agent shall establish, coordinate, and oversee Department-wide medical research efforts relating to the prevention, mitigation, and

treatment of blast injuries, as necessary, to fulfill requirements established under paragraph (2).

(d) OTHER RELATED RESEARCH EFFORTS.—The Director, Defense Research and Engineering, in coordination with the executive agent designated under subsection (a) and the Director of the Joint IED Defeat Task Force, shall—

(1) review and assess the adequacy of current research efforts of the Department on the prevention and mitigation of blast injuries;

(2) based on subsection (c)(1), establish requirements for further research; and

(3) address any deficiencies identified in paragraphs (1) and (2) by establishing, coordinating, and overseeing Department-wide research and development initiatives on the prevention and mitigation of blast injuries, including explosive detection and defeat and personnel and vehicle blast protection.

(e) STUDIES.—The executive agent designated under subsection (a) shall conduct studies on the prevention, mitigation, and treatment of blast injuries, including—

(1) studies to improve the clinical evaluation and treatment approach for blast injuries, with an emphasis on traumatic brain injuries and other consequences of blast injury, including acoustic and eye injuries and injuries resulting from over-pressure wave;

(2) studies on the incidence of traumatic brain injuries attributable to blast injury in soldiers returning from combat;

(3) studies to develop protocols for medical tracking of members of the Armed Forces for up to five years following blast injuries; and

(4) studies to refine and improve educational interventions for blast injury survivors and their families.

(f) TRAINING.—The executive agent designated under subsection (a), in coordination with the Director of the Joint IED Defeat Task Force, shall develop training protocols for medical and non-medical personnel on the prevention, mitigation, and treatment of blast injuries. Those protocols shall be intended to improve field and clinical training on early identification of blast injury consequences, both seen and unseen, including traumatic brain injuries, acoustic injuries, and internal injuries.

(g) INFORMATION SHARING.—The executive agent designated under subsection (a) shall make available the results of relevant medical research and development projects and studies to—

(1) Department of Defense programs focused on—

(A) promoting the exchange of blast health hazards data with blast characterization data and blast modeling and simulation tools; and

(B) encouraging the incorporation of blast hazards data into design and operational features of blast detection, mitigation, and defeat capabilities, such as comprehensive armor systems which provide blast, ballistic, and fire protection for the head, neck, ears, eyes, torso, and extremities; and

(2) traumatic brain injury treatment programs to enhance the evaluation and care of members of the Armed Forces with traumatic brain injuries in medical facilities in the United States and in deployed medical facilities, including those outside the Department of Defense.

(h) REPORTS ON BLAST INJURY MATTERS.—

(1) REPORTS REQUIRED.—Not later than 270 days after the date of the enactment of this Act, and annually thereafter through 2008, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the efforts and programs of the Department of Defense relating to the prevention, mitigation, and treatment of blast injuries.

(2) ELEMENTS.—Each report under paragraph (1) shall include the following:

(A) A description of the activities undertaken under this section during the two years preceding the report to improve the prevention, mitigation, and treatment of blast injuries.

(B) A consolidated budget presentation for Department of Defense biomedical research efforts and studies related to blast injury for the two fiscal years following the year of the report.

(C) A description of any gaps in the capabilities of the Department and any plans to address such gaps within biomedical research related to blast injury, blast injury diagnostic and treatment programs, and blast injury tracking and monitoring activities.

(D) A description of collaboration, if any, with other departments and agencies of the Federal Government, and with other countries, during the two years preceding the report in efforts for the prevention, mitigation, and treatment of blast injuries.

(E) A description of any efforts during the two years preceding the report to disseminate findings on the diagnosis and treatment of blast injuries through civilian and military research and medical communities.

(F) A description of the status of efforts during the two years preceding the report to incorporate blast injury effects data into appropriate programs of the Department of Defense and into the development of comprehensive force protection systems that are effective in confronting blast, ballistic, and fire threats.

(i) DEADLINE FOR DESIGNATION OF EXECUTIVE AGENT.—The Secretary shall make the designation required by subsection (a) not later than 90 days after the date of the enactment of this Act.

(j) BLAST INJURIES DEFINED.—In this section, the term "blast injuries" means injuries that occur as the result of the detonation of high explosives, including vehicle-borne and person-borne explosive devices, rocket-propelled grenades, and improvised explosive devices.

(k) EXECUTIVE AGENT DEFINED.—In this section, the term "executive agent" has the meaning provided such term in Department of Defense Directive 5101.1.

SEC. 257. MODIFICATION OF REQUIREMENTS FOR ANNUAL REPORT ON DARPA PROGRAM TO AWARD CASH PRIZES FOR ADVANCED TECHNOLOGY ACHIEVEMENTS.

Subsection (e) of section 2374a of title 10, United States Code, is amended to read as follows:

"(e) ANNUAL REPORT.—(1) Not later than March 1 each year, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the activities undertaken by the Director of the Defense Advanced Research Projects Agency during the preceding fiscal year under the authority of this section.

"(2) The report for a fiscal year under this subsection shall include the following:

"(A) The results of consultations between the Director and officials of the military departments regarding the areas of research, technology development, or prototype development for which prizes would be awarded under the program under this section.

"(B) A description of the proposed goals of the competitions established under the program, including the areas of research, technology development, or prototype development to be promoted by such competitions and the relationship of such areas to the military missions of the Department.

"(C) The total amount of cash prizes awarded under the program, including a description of the manner in which the amounts of cash prizes awarded and claimed were allocated among the accounts of the Defense Advanced Research Projects Agency for recording as obligations and expenditures.

"(D) The methods used for the solicitation and evaluation of submissions under the program, together with an assessment of the effectiveness of such methods.

"(E) A description of the resources, including personnel and funding, used in the execution of the program, together with a detailed description of the activities for which such resources were used.

"(F) A description of any plans to transition the technologies or prototypes developed as a result of the program into acquisition programs of the Department.".

SEC. 258. DESIGNATION OF FACILITIES AND RESOURCES CONSTITUTING THE MAJOR RANGE AND TEST FACILITY BASE.

(a) DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.—Section 196(h) of title 10, United States Code, is amended by striking "Director of Operational Test and Evaluation" and inserting "Secretary of Defense".

(b) INSTITUTIONAL FUNDING OF TEST AND EVALUATION ACTIVITIES.—Section 232(b)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 116 Stat. 2490) is amended by striking "Director of Operational Test and Evaluation" and inserting "Secretary of Defense".

SEC. 259. REPORT ON COOPERATION BETWEEN DEPARTMENT OF DEFENSE AND NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ON RESEARCH, DEVELOPMENT, TEST, AND EVALUATION ACTIVITIES.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall jointly submit to Congress a report setting forth the recommendations of the Secretary and the Administrator regarding cooperative activities between the Department of Defense and the National Aeronautics and Space Administration related to research, development, test, and evaluation on areas of mutual interest to the Department and the Administration.

(b) AREAS COVERED.—The areas of mutual interest to the Department of Defense and the National Aeronautics and Space Administration referred to in subsection (a) may include the following:

(1) Aeronautics research.

(2) Facilities, personnel, and support infrastructure.

(3) Propulsion and power technologies.

(4) Space access and operations, including responsive launch and small satellite development.

SEC. 260. DELAYED EFFECTIVE DATE FOR LIMITATION ON PROCUREMENT OF SYSTEMS NOT GPS-EQUIPPED.

(a) DELAYED EFFECTIVE DATE.—Section 152(b) of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2281 note) is amended by striking "After September 30, 2005" and inserting "After September 30, 2007".

(b) RATIFICATION OF ACTIONS.—The amendment made by subsection (a) shall be deemed to have taken effect at the close of September 30, 2005, and any obligation or expenditure of funds by the Department of Defense during the period beginning on October 1, 2005, and ending on the date of the enactment of this Act to modify or procure a Department of Defense aircraft, ship, armored vehicle, or indirect-fire weapon system that is not equipped with a Global Positioning System receiver is hereby ratified with respect to the provision of law specified in subsection (a).

SEC. 261. REPORT ON DEVELOPMENT AND USE OF ROBOTICS AND UNMANNED GROUND VEHICLE SYSTEMS.

(a) REPORT REQUIRED.—Not later than nine months after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to

the congressional defense committees a report on the development and utilization of robotics and unmanned ground vehicle systems by the Department of Defense.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of the utilization of robotics and unmanned ground vehicle systems in current military operations.

(2) A description of the manner in which the development of robotics and unmanned ground vehicle systems capabilities supports current major acquisition programs of the Department of Defense.

(3) A description, including budget estimates, of all Department programs and activities on robotics and unmanned ground vehicle systems for fiscal years 2004 through 2012, including the Joint Robotics Program and other programs and activities relating to research, development, test and evaluation, procurement, and operation and maintenance.

(4) A description of the long-term research and development strategy of the Department on technology for the development and integration of new robotics and unmanned ground vehicle systems capabilities in support of Department missions.

(5) A description of any planned demonstration or experimentation activities of the Department that will support the development and deployment of robotics and unmanned ground vehicle systems by the Department.

(6) A statement of the Department organizations currently participating in the development of new robotics or unmanned ground vehicle systems capabilities, including the specific missions of each such organization in such efforts.

(7) A description of the activities of the Department to collaborate with industry, academia, and other government and nongovernmental organizations in the development of new capabilities in robotics and unmanned ground vehicle systems.

(8) An assessment of the short-term and long-term ability of the industrial base of the United States to support the production of robotics and unmanned ground vehicle systems to meet Department requirements.

(9) An assessment of the progress being made to achieve the goal established by section 220(a)(2) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A-38) that, by 2015, one-third of operational ground combat vehicles be unmanned.

(10) An assessment of international research, technology, and military capabilities in robotics and unmanned ground vehicle systems.

(11) A description of the role and placement of the Joint Robotics Program in the Department.

(12) A description of the mechanisms of the Department for coordinating pre-systems development and demonstration funding for robotics and unmanned ground vehicle systems.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Other Department of Defense programs.

Subtitle B—Environmental Provisions

Sec. 311. Elimination and simplification of certain items required in the annual report on environmental quality programs and other environmental activities.
Sec. 312. Payment of certain private cleanup costs in connection with Defense Environmental Restoration Program.

Subtitle C—Workplace and Depot Issues

Sec. 321. Modification of authority of Army working-capital funded facilities to engage in cooperative activities with non-Army entities.
Sec. 322. Limitation on transition of funding for east coast shipyards from funding through Navy working capital fund to direct funding.
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Subtitle D—Extension of Program Authorities

Sec. 331. Extension of authority to provide logistics support and services for weapons systems contractors.
Sec. 332. Extension of period for reimbursement for certain protective, safety, or health equipment purchased by or for members of the Armed Forces deployed in contingency operations.

Subtitle E—Outsourcing

Sec. 341. Public-private competition.
Sec. 342. Contracting for procurement of certain supplies and services.
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Subtitle F—Analysis, Strategies, and Reports

Sec. 351. Report on Department of Army programs for prepositioning of equipment and other materiel.
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Sec. 357. Study on use of biodiesel and ethanol fuel.
Sec. 358. Report on effects of windmill farms on military readiness.
Sec. 359. Report on space-available travel for certain disabled veterans and gray-area retirees.
Sec. 360. Report on joint field training and experimentation on stability, security, transition, and reconstruction operations.
Sec. 361. Reports on budgeting relating to sustainment of key military equipment.
Sec. 362. Repeal of Air Force report on military installation encroachment issues.

Subtitle G—Other Matters

Sec. 371. Supervision and management of Defense Business Transformation Agency.
Sec. 372. Codification and revision of limitation on modification of major items of equipment scheduled for retirement or disposal.
Sec. 373. Limitation on purchase of investment items with operation and maintenance funds.
Sec. 374. Operation and use of general gift funds of the Department of Defense and Coast Guard.
Sec. 375. Inclusion of packet based telephony in Department of Defense telecommunications benefit.
Sec. 376. Limitation on financial management improvement and audit initiatives within Department of Defense.
Sec. 377. Provision of welfare of special category residents at Naval Station Guantanamo Bay, Cuba.
Sec. 378. Commemoration of success of the Armed Forces in Operation Enduring Freedom and Operation Iraqi Freedom.

Subtitle H—Utah Test and Training Range

Sec. 381. Definitions.
Sec. 382. Military operations and overflights, Utah Test and Training Range.
Sec. 383. Analysis of military readiness and operational impacts in planning process for Federal lands in Utah Test and Training Range.
Sec. 384. Designation and management of Cedar Mountain Wilderness, Utah.
Sec. 385. Relation to other lands.

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $24,686,295,000.

(2) For the Navy, $30,538,089,000.

(3) For the Marine Corps, $3,809,526,000.

(4) For the Air Force, $31,117,136,000.

(5) For Defense-wide activities, $18,550,169,000.

(6) For the Army Reserve, $1,992,542,000.

(7) For the Navy Reserve, $1,237,295,000.

(8) For the Marine Corps Reserve, $198,034,000.

(9) For the Air Force Reserve, $2,487,786,000.

(10) For the Army National Guard, $4,478,319,000.

(11) For the Air National Guard, $4,701,991,000.

(12) For the United States Court of Appeals for the Armed Forces, $11,236,000.

(13) For Environmental Restoration, Army, $407,865,000.

(14) For Environmental Restoration, Navy, $305,275,000.

(15) For Environmental Restoration, Air Force, $406,461,000.

(16) For Environmental Restoration, Defense-wide, $28,167,000.

(17) For Environmental Restoration, Formerly Used Defense Sites, $261,921,000.

(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, $61,546,000.

(19) For Cooperative Threat Reduction programs, $415,459,000.

(20) For the Overseas Contingency Operations Transfer Fund, $20,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $316,340,000.

(2) For the National Defense Sealift Fund, $1,657,717,000.

(3) For the Defense Working Capital Fund, Defense Commissary, $1,155,000,000.

SEC. 303. OTHER DEPARTMENT OF DEFENSE PROGRAMS.

(a) DEFENSE HEALTH PROGRAM.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for the Defense Health Program, in the amount of $19,892,594,000, of which—

(1) $19,348,119,000 is for Operation and Maintenance;

(2) $169,156,000 is for Research, Development, Test, and Evaluation; and

(3) $375,319,000 is for Procurement.

(b) CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for Chemical Agents and Munitions Destruction, Defense, in the amount of $1,425,827,000, of which—

(A) $1,241,514,000 is for Operation and Maintenance;

(B) $67,786,000 is for Research, Development, Test, and Evaluation; and

(C) $116,527,000 is for Procurement.

(2) USE.—Amounts authorized to be appropriated under paragraph (1) are authorized for—

(A) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(B) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

(c) DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide, in the amount of $901,741,000.

(d) DEFENSE INSPECTOR GENERAL.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for the Office of the Inspector General of the Department of Defense, in the amount of $209,687,000, of which—

(1) $208,687,000 is for Operation and Maintenance; and

(2) $1,000,000 is for Procurement.

Subtitle B—Environmental Provisions

SEC. 311. ELIMINATION AND SIMPLIFICATION OF CERTAIN ITEMS REQUIRED IN THE ANNUAL REPORT ON ENVIRONMENTAL QUALITY PROGRAMS AND OTHER ENVIRONMENTAL ACTIVITIES.

Section 2706(b)(2) of title 10, United States Code, is amended—

(1) by striking subparagraphs (D) and (E);

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) A summary of fines and penalties imposed or assessed against the Department of Defense and the military departments under Federal, State, or local environmental laws during the fiscal year in which the report is submitted and the four preceding fiscal years, which summary shall include—

"(i) a trend analysis of such fines and penalties for military installations inside and outside the United States; and

"(ii) a list of such fines or penalties that exceeded $1,000,000 and the provisions of law under which such fines or penalties were imposed or assessed."; and

(3) by redesignating subparagraph (F) as subparagraph (E) and, in such subparagraph, by striking "and amounts for conferences" and all that follows through "such activities".

SEC. 312. PAYMENT OF CERTAIN PRIVATE CLEANUP COSTS IN CONNECTION WITH DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.

(a) ACTIVITIES AT FORMER DEFENSE PROPERTY SUBJECT TO COVENANT FOR ADDITIONAL REMEDIAL ACTION.—Section 2701(d) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "any owner of covenant property," after "any Indian tribe,"; and

(B) by inserting "owner," after ", Indian tribe,";

(2) in paragraph (3), by adding at the end the following new sentence: "An agreement under such paragraph with respect to a site also may not change the cleanup standards selected for the site pursuant to law.";

(3) in paragraph (4), by adding at the end the following new subparagraph:

"(C) The term 'owner of covenant property' means an owner of property subject to a covenant provided by the United States in accordance with the requirements of paragraphs (3) and (4) of section 120(h) of CERCLA (42 U.S.C. 9620(h)), so long as the covenant property is the site at which the services procured under paragraph (1) are to be performed."; and

(4) by adding at the end the following new paragraph:

"(5) SAVINGS CLAUSE.—Nothing in this subsection affects the applicability of section 120 of CERCLA (42 U.S.C. 6920) to the Department of Defense or the obligations and responsibilities of the Department of Defense under subsection (h) of such section.".

(b) SOURCE OF FUNDS FOR FORMER BRAC PROPERTY SUBJECT TO COVENANT FOR ADDITIONAL REMEDIAL ACTION.—Section 2703 of such title is amended—

(1) in subsection (g)(1), by striking "The sole source" and inserting "Except as provided in subsection (h), the sole source"; and

(2) by adding at the end the following new subsection:

"(h) SOLE SOURCE OF FUNDS FOR ENVIRONMENTAL REMEDIATION AT CERTAIN BASE REALIGNMENT AND CLOSURE SITES.—In the case of property disposed of pursuant to a base closure law and subject to a covenant that was required to be provided by paragraphs (3) and (4) of section 120(h) of CERCLA (42 U.S.C. 9620(h)), the sole source of funds for services procured under subsection 2701(d)(1) of this title shall be the applicable Department of Defense base closure account. The limitation in this subsection shall expire upon the closure of the applicable base closure account.".

Subtitle C—Workplace and Depot Issues

SEC. 321. MODIFICATION OF AUTHORITY OF ARMY WORKING-CAPITAL FUNDED FACILITIES TO ENGAGE IN COOPERATIVE ACTIVITIES WITH NON-ARMY ENTITIES.

(a) APPLICABILITY OF SUNSET.—Subsection (j) of section 4544 of title 10, United States Code, is amended by striking "September 30, 2009," and all that follows through the end and inserting "September 30, 2009.".

(b) CREDITING OF PROCEEDS OF SALE OF ARTICLES AND SERVICES.—Such section is further amended—

(1) in subsection (d), by striking "subsection (e)" and inserting "subsection (f)";

(2) by redesignating subsections (e), (f), (g), (h), (i), and (j) as subsections (f), (g), (h), (i), (j), and (k) respectively;

(3) by inserting after subsection (d) the following new subsection (e):

"(e) PROCEEDS CREDITED TO WORKING CAPITAL FUND.—The proceeds received from the sale of an article or service pursuant to a contract or other cooperative arrangement under this section shall be credited to the working capital fund that incurs the cost of manufacturing the article or performing the service."; and

(4) in subsection (g), as redesignated by paragraph (2), by striking "subsection (e)" and inserting "subsection (f)".

SEC. 322. LIMITATION ON TRANSITION OF FUNDING FOR EAST COAST SHIPYARDS FROM FUNDING THROUGH NAVY WORKING CAPITAL FUND TO DIRECT FUNDING.

(a) LIMITATION.—The Secretary of the Navy may not convert funding for the shipyards of the Navy on the east coast of the United States from funding through the working capital fund of the Navy to funding on a direct basis (also known as "mission funding") before October 1, 2006.

(b) REPORT ON DIRECT FUNDING FOR PUGET SOUND NAVAL SHIPYARD.—

(1) REPORT REQUIRED.—Not later than March 1, 2006, the Secretary shall submit to the congressional defense committees a report that contains the assessment of the Secretary on the effects on Puget Sound Naval Shipyard, Washington, of the conversion of that shipyard from funding through the working capital fund of the Navy to funding on a direct basis.

(2) MATTERS TO BE INCLUDED.—The report under paragraph (1) shall address the effect of the conversion of Puget Sound Naval Shipyard to direct funding on each of the following:

(A) The cost visibility of specific work performed.

(B) The total cost of consolidated ship maintenance operations on an ongoing basis.

(C) The ability to distinguish between depot and intermediate work of consolidated ship maintenance activities.

(D) The costs associated with buyout expenses for the transfer of the shipyards of the Navy on the east coast of the United States from funding through the working capital fund of the Navy to funding on a direct basis.

(E) The flexibility of the shipyard to continue routine ship maintenance operations during a potential funding gap at the beginning of a fiscal year or when expected maintenance costs exceed annual appropriations.

(F) Operational and financial flexibility and responsiveness of funding on a direct basis compared to funding through the working capital fund of the Navy.

(G) Long-term funding for the capital improvement programs of the shipyard.

(H) Compliance with section 2460 of title 10, United States Code, which defines the work that is considered to be depot-level maintenance and repair versus work that is considered to be a major modification of a weapons system.

(I) Compliance with section 2466 of title 10, United Status Code, which limits the amount of depot-level maintenance and repair workload of the Department of Navy that is performed by non-Federal Government personnel in any fiscal year to not more than 50 percent of the total depot workload reported to the Department in that fiscal year.

(J) Compliance with sections 1115 and 1116 of title 31, United States Code, which require agencies to set annual performance goals, measure performance toward the achievement of those goals, and publicly report on progress.

(K) Compliance with chapter 35 of title 31, United States Code, which requires audited financial statements to include the ability to properly charge and account for reimbursable workload.

(3) GOVERNMENT ACCOUNTABILITY OFFICE REVIEW.—Not later than 60 days after the date on which the report required under paragraph (1) is submitted, the Comptroller General shall submit to the congressional defense committees a review of the report, which shall include the Comptroller General's assessment of whether the report adequately addresses each of the matters specified under paragraph (2).

(c) REPORT ON PROPOSED CONGRESSIONAL BUDGET EXHIBITS FOR NAVY MISSION-FUNDED SHIPYARDS.—

(1) REPORT REQUIRED.—Not later than March 1, 2006, the Secretary shall submit to the congressional defense committees a report that proposes congressional budget exhibits for use in connection with the funding of Navy shipyards on a direct basis.

(2) MATTERS TO BE INCLUDED.—The report under paragraph (1) shall comprehensively address the following:

(A) The establishment of annual categories, metrics, and measurements to objectively compare the performance of each shipyard over time with respect to the following:

(i) Schedule adherence.

(ii) Quality of work.

(iii) Cost management.

(iv) Administrative efficiency.

(v) Number of hulls for which repairs are completed during the fiscal year.

(vi) Number of hulls that are in the process of being repaired at the end of the fiscal year.

(B) Capital replenishment for each shipyard.

(C) Workload indicators to determine whether each shipyard is effectively utilized.

(D) Annual budget management reports to enable effective monitoring of each shipyard with respect to the following:

(i) Obligation authority from Department of the Navy accounts, including operation and maintenance funds for the Atlantic Fleet, the Pacific Fleet, and the Naval Sea Systems Command and procurement funds for the Navy shipbuilding and conversion account and the other procurement accounts.

(ii) Obligation authority provided by reimbursement from non-Department of the Navy sources, including other Department of Defense accounts, foreign military sales accounts, other Federal Government agency accounts, and non-Federal Government sources.

(iii) Costs and expenses of military personnel, civilian personnel, materials, contracts, travel, supplies, overhead, and other costs.

(iv) Capital expenditures.

(v) Military construction.

(vi) Base operating support.

(vii) Facilities sustainment, restoration, and modernization.

(viii) Personnel and labor management, including military end strengths, civilian end strengths, military mandays, and civilian mandays.

(3) CONGRESSIONAL BUDGET OFFICE REVIEW.—Not later than 60 days after the date on which the report required under paragraph (1) is submitted, the Director of the Congressional Budget Office shall submit to the congressional defense committees a review of the report, which shall include the Director's assessment of whether the report comprehensively addresses each of the matters specified in subparagraphs (A) through (D) of paragraph (2).

SEC. 323. ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE MATTERS.

(a) INCLUSION OF ADDITIONAL FACILITIES WITHIN ARMS INITIATIVE.—Section 4551(2) of title 10, United States Code, is amended by inserting ", or a Government-owned, contractor-operated depot for the storage, maintenance, renovation, or demilitarization of ammunition," after "manufacturing facility".

(b) ADDITIONAL CONSIDERATION FOR USE OF FACILITIES.—Section 4554(b)(2) of such title is amended by adding at the end the following new subparagraph:

"(D) The demilitarization and storage of conventional ammunition.".

(c) ADDITIONAL POLICY OBJECTIVES WITH RESPECT TO AMMUNITION FACILITIES AND CAPACITY.—Section 4552 of such title is amended in paragraphs (1) and (8) by inserting ", storage, maintenance, renovation, and demilitarization" after "manufacturing".

(d) BROADENING OF PURPOSE OF ARMS INITIATIVE WITH RESPECT TO WORK FORCE SKILLS.—Section 4533(b)(3) of such title is amended by striking "in manufacturing processes that are".

SEC. 324. SENSE OF CONGRESS REGARDING DEPOT MAINTENANCE.

(a) FINDINGS.—Congress finds the following:

(1) The Depot Maintenance Strategy and Master Plan of the Air Force reflects the essential requirements for the Air Force to maintain a ready and controlled source of organic technical competence, thereby ensuring an effective and timely response to national defense contingencies and emergency requirements.

(2) Since the publication of the Depot Maintenance Strategy and Master Plan of the Air Force in 2002, the Air Force has made great progress toward modernizing all three of its depots, in order to maintain the status of those depots as "world class" maintenance repair and overhaul operations.

(3) One of the central components of the Depot Maintenance Strategy and Master Plan of the Air Force is the commitment of the Air Force to allocate $150,000,000 each fiscal year for six years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, of the Nation's three Air Force depots.

(4) The funds expended to date have ensured that transformation projects, such as the initial implementation of "Lean" and "Six Sigma" production techniques, have achieved great success in reducing the time necessary to perform depot maintenance on aircraft.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Air Force should be commended for the implementation of its Depot Maintenance Strategy and Master Plan and, in particular, meeting the capital investment strategy pursuant to the Plan; and

(2) the Air Force should remain committed to the depot maintenance process improvement initiatives and the investments and recapitalization projects pursuant to the Depot Maintenance Strategy and Master Plan.

Subtitle D—Extension of Program Authorities

SEC. 331. EXTENSION OF AUTHORITY TO PROVIDE LOGISTICS SUPPORT AND SERVICES FOR WEAPONS SYSTEMS CONTRACTORS.

Section 365(g)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2521; 10 U.S.C. 2302 note) is amended by striking "September 30, 2007" and inserting "September 30, 2010".

SEC. 332. EXTENSION OF PERIOD FOR REIMBURSEMENT FOR CERTAIN PROTECTIVE, SAFETY, OR HEALTH EQUIPMENT PURCHASED BY OR FOR MEMBERS OF THE ARMED FORCES DEPLOYED IN CONTINGENCY OPERATIONS.

(a) EXTENSION.—Section 351(a)(3) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1857) is amended by striking "July 31, 2004" and inserting "April 1, 2006".

(b) FUNDING.—Amounts for reimbursements made under section 351 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 after the date of the enactment of this Act shall be derived from supplemental appropriations for the Department of Defense for fiscal year 2006 for military operations in Iraq and Afghanistan and the Global War on Terrorism, contingent upon such appropriations being enacted.

Subtitle E—Outsourcing

SEC. 341. PUBLIC-PRIVATE COMPETITION.

(a) PUBLIC-PRIVATE COMPETITION REQUIRED PRIOR TO CONVERSION OF CERTAIN DEPARTMENT OF DEFENSE FUNCTIONS.—Subsection (a) of section 2461 of title 10, United States Code, is amended to read as follows:

"(a) PUBLIC-PRIVATE COMPETITION.—(1) A function of the Department of Defense performed by 10 or more Department of Defense civilian employees may not be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition that—

"(A) formally compares the cost of performance of the function by Department of Defense civilian employees with the cost of performance by a contractor;

"(B) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A–76, as implemented on May 29, 2003;

"(C) includes the issuance of a solicitation;

"(D) determines whether the submitted offers meet the needs of the Department of Defense with respect to factors other than cost, including quality and reliability;

"(E) examines the cost of performance of the function by Department of Defense civilian employees and the cost of performance of the function by one or more contractors to demonstrate whether converting to performance by a contractor will result in savings to the Government over the life of the contract, including—

"(i) the estimated cost to the Government (based on offers received) for performance of the function by a contractor;

"(ii) the estimated cost to the Government for performance of the function by Department of Defense civilian employees; and

"(iii) an estimate of all other costs and expenditures that the Government would incur because of the award of such a contract;

"(F) requires continued performance of the function by Department of Defense civilian employees unless the difference in the cost of performance of the function by a contractor compared to the cost of performance of the function by Department of Defense civilian employees would, over all performance periods required by the solicitation, be equal to or exceed the lesser of—

"(i) 10 percent of the personnel-related costs for performance of that function in the agency tender; or

"(ii) $10,000,000; and

"(G) examines the effect of performance of the function by a contractor on the military mission associated with the performance of the function.

"(2) A function that is performed by the Department of Defense and is reengineered, reorganized, modernized, upgraded, expanded, or changed to become more efficient, but still essentially provides the same service, shall not be considered a new requirement.

"(3) In no case may a function being performed by Department of Defense personnel be—

"(A) modified, reorganized, divided, or in any way changed for the purpose of exempting the conversion of the function from the requirements of this section; or

"(B) converted to performance by a contractor to circumvent a civilian personnel ceiling.".

(b) CONGRESSIONAL NOTIFICATION.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) by striking "to analyze" and all that follows through "private sector" and inserting "a public-private competition under subsection (a)";

(B) in subparagraph (A), by striking "to be analyzed for possible change" and inserting "for which such public-private competition is to be conducted";

(C) in subparagraph (C), by inserting "Department of Defense" before "civilian employee";

(D) in subparagraph (D), by striking "the analysis" both places it appears and inserting "the public-private competition"; and

(E) in subparagraph (E)—

(i) by striking "commercial or industrial type" before "function"; and

(ii) by striking "persons who are not civilian employees of the Department of Defense" and inserting "a contractor";

(2) by striking paragraphs (2) and (3) and inserting the following new paragraph (2):

"(2) The report required under paragraph (1) shall include an examination the potential economic effect of performance of the function by a contractor on—

"(A) Department of Defense civilian employees who would be affected by such a conversion in performance; and

"(B) the local community and the Government, if more than 50 Department of Defense civilian employees perform the function.";

(3) by redesignating paragraph (4) as paragraph (3); and

(4) in paragraph (3), as so redesignated—

(A) in subparagraph (A)—

(i) by striking "where a commercial" and all that follows through "performance" and inserting "where a public-private competition is conducted"; and

(ii) by striking "the analysis" both places it appears and inserting "the public private competition"; and

(B) in subparagraph (B), by striking "the commercial" and all that follows through "to which objected" and inserting "the function for which the public-private competition was conducted for which the objection was submitted".

(c) CONSOLIDATION AND RESTATEMENT OF REPORTING PROVISIONS.—

(1) CONSOLIDATION AND RESTATEMENT.—Section 2462 of such title is amended to read as follows:

"§2462. Reports on public-private competition

"(a) REPORT ON PUBLIC-PRIVATE COMPETITION RESULTS.—(1) Upon the completion of a public-private competition under section 2461 of this title, the Secretary of Defense shall submit to Congress a report containing the results of the public-private competition required by subsection (a) of such section.

"(2) Each report under this subsection shall include the following:

"(A) The date on which the public-private competition was commenced.

"(B) The number of Department of Defense civilian employees who were performing the function when the public-private competition was commenced and the number of such employees whose employment was or will be terminated or otherwise affected by converting to performance of the function by a contractor or by implementation of the most efficient organization of the function.

"(C) The Secretary's certification that the Government's calculation of the cost of performance of the function by Department of Defense civilian employees is based on an estimate of the most cost effective manner for performance of the function by Department of Defense civilian employees that meets the needs of the Department with respect to factors other than cost, including quality and reliability.

"(D) The Secretary's certification that the public-private competition did not include any predetermined personnel constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees.

"(E) The Secretary's certification that the entire public-private competition is available for examination.

"(F) In the case of a function performed at a Center of Industrial and Technical Excellence designated under section 2474(a) of this title or an Army ammunition plant, a description of the effect that the manner of performance of the function, and administration of the resulting contract if any, will have on the overhead costs of the center or ammunition plant, as the case may be.

"(G) A schedule for implementing the results of the public-private competition.

"(3)(A) No decision made on the basis of a public-private competition under section 2461 of this title may be implemented until after the submission of a report under paragraph (1).

"(B) Notwithstanding subparagraph (A), in the case of function performed at a Center of Industrial and Technical Excellence designated under section 2474(a) of this title or an Army ammunition plant, the conversion of the function to performance by a contractor may not begin until at least 60 days after the submission of a report under paragraph (1).

"(b) ANNUAL REPORT.—Not later than June 30 of each year, the Secretary of Defense shall submit to Congress a written report, which shall include the following:

"(1) An estimate of the percentage of functions (other than functions that are inherently governmental) that Department of Defense civilian employees will perform and an estimate of the percentage of such functions that contractors will perform during the fiscal year during which the report is submitted.

"(2) The results of public-private competitions conducted under section 2461 of this title that were completed during the preceding fiscal year, including each of the following:

"(A) The number of such competitions completed during such fiscal year and the number of Department of Defense civilian employees performing functions for which such a competition was conducted.

"(B) The percentage of such competitions that resulted in the continued performance of a function by Department of Defense civilian employees.

"(C) The percentage of such competitions that resulted in the conversion of a function to performance by a contractor.

"(D) The percentage of the Department of Defense civilian employees identified pursuant to subparagraph (A) whose positions will be converted to performance by contractors or eliminated as a result of implementing the results of such competitions.

"(3) The results of monitoring the performance of Department functions under section 2461a of this title, including for each function subject to monitoring, each of the following:

"(A) The cost of the public-private competition conducted under section 2461 of this title.

"(B) The cost of performing the function before such competition compared to the costs incurred after implementing the conversion, reorganization, or reengineering actions recommended pursuant to the competition.

"(C) The actual savings derived from the implementation of the recommendations made pursuant to such competition, if any, compared to the anticipated savings that were to result from the conversion, reorganization, or reengineering actions.".

(2) WAIVER FOR SMALL FUNCTIONS AND CONFORMING AMENDMENTS.—Section 2461 of such title, as amended by subsections (a) and (b), is further amended—

(A) by striking subsections (c), (d), (f) and (g); and

(B) by redesignating subsections (e) and (h) as subsections (c) and (d) respectively.

(3) CORRECTION OF TERMINOLOGY.—The heading for subsection (c) of such section, as redesignated by paragraph (2), is amended by striking "WAIVER" and inserting "EXEMPTION".

(d) PERFORMANCE MONITORING.—Section 2461a of such title is amended—

(1) by striking subsections (a), (c), and (d);

(2) by redesignating subsections (b) and (e) as subsections (a) and (b) respectively;

(3) in subsection (a), as so redesignated—

(A) in paragraph (1)—

(i) by striking "establish a system for monitoring" and inserting "monitor"; and

(ii) by striking "a workforce review" and inserting "a public-private competition conducted under section 2461 of this title";

(B) in paragraph (2), by striking all and inserting the following:

"(2) In carrying out paragraph (1), the Secretary shall—

"(A) compare the cost of performing the function before the public-private competition to the cost of performing the function after the implementation of the results of the public-private competition; and

"(B) identify any actual savings of the Department of Defense after the implementation of the results of the public-private competition and compare such savings to the estimated savings identified pursuant to section 2461(a)(1)(E) of this title for that public-private competition;"; and

(C) in paragraph (3), by inserting "pursuant to such a public-private competition" after "reengineering of the function"; and

(4) in subsection (b), as so redesignated, by striking "workforce reviews" and inserting "public-private competitions conducted under section 2461 of this title".

(e) INAPPLICABILITY TO BEST-VALUE SOURCE SELECTION PILOT PROGRAM.—Subsection (a)(1)(E) of section 2461 of title 10, United States Code, as amended by subsection (a), shall not apply with respect to the pilot program for best-value source selection for performance of information technology services authorized by section 336 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1444; 10 U.S.C. 2461 note).

(f) REPEAL OF REDUNDANT PROVISION.—Section 2463 of such title is repealed.

(g) CLERICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 2461.—Section 2461(c) of such title, as redesignated by subsection (c), is amended by striking "Subsections (a) through (c) and subsection (g)" and inserting "This section".

(2) HEADINGS.—

(A) 2461.—The heading for section 2461 of such title is amended to read as follows:

"§2461. Public-private competition required before conversion to contractor performance".

(B) 2461(b).—The heading for subsection (b) of such section is amended to read as follows:

"(b) CONGRESSIONAL NOTIFICATION.—".

(C) 2461a.—The heading for section 2461a of such title is amended to read as follows:

"§2461a. Development and implementation of system for monitoring cost saving resulting from public-private competitions".

(3) PUBLIC LAW 108–375.—Section 327 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 10 U.S.C. 2461 note) is repealed.

(4) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 146 of title 10, United States Code, is amended by striking the items relating to sections 2461 through 2463 and inserting the following new items:

"2461. Public-private competition required before conversion to contractor performance.
"2461a. Development and implementation of system for monitoring cost saving resulting from public-private competitions.
"2462. Reports on public-private competition.".

SEC. 342. CONTRACTING FOR PROCUREMENT OF CERTAIN SUPPLIES AND SERVICES.

Section 8014(a)(3) of the Department of Defense Appropriations Act, 2005 (Public law 108-287; 118 Stat. 972) is amended—

(1) in subparagraph (A), by inserting ", payment that could be used in lieu of such a plan, health savings account, or medical savings account" after "health insurance plan"; and

(2) in subparagraph (B), by striking "that requires" and all that follows through the end and inserting "that does not comply with the requirements of any Federal law governing the

provision of health care benefits by Government contractors that would be applicable if the contractor performed the activity or function under the contract.".

SEC. 343. PERFORMANCE OF CERTAIN WORK BY FEDERAL GOVERNMENT EMPLOYEES.

(a) GUIDELINES.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe guidelines and procedures for ensuring that consideration is given to using Federal Government employees for work that is currently performed or would otherwise be performed under Department of Defense contracts.

(2) CRITERIA.—The guidelines and procedures prescribed under paragraph (1) shall provide for special consideration to be given to contracts that—

(A) have been performed by Federal Government employees at any time on or after October 1, 1980;

(B) are associated with the performance of inherently governmental functions;

(C) were not awarded on a competitive basis; or

(D) have been determined by a contracting officer to be poorly performed due to excessive costs or inferior quality.

(b) USE OF FLEXIBLE HIRING AUTHORITY.—The Secretary shall include the use of the flexible hiring authority available through the National Security Personnel System in order to facilitate performance by Federal Government employees of new requirements and work that is performed under Department of Defense contracts.

(c) DEFINITIONS.—In this section:

(1) The term "National Security Personnel System" means the human resources management system established under the authority of section 9902 of title 5, United States Code.

(2) The term "inherently governmental function" has the meaning given that term in section 5 of the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 112 Stat. 2384; 31 U.S.C. 501 note).

SEC. 344. EXTENSION OF TEMPORARY AUTHORITY FOR CONTRACTOR PERFORMANCE OF SECURITY-GUARD FUNCTIONS.

Section 332(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2513) is amended—

(1) by striking "2006" each place it appears and inserting "2007"; and

(2) in paragraph (1), by striking ", except that" and all that follows through the end and inserting a period.

Subtitle F—Analysis, Strategies, and Reports

SEC. 351. REPORT ON DEPARTMENT OF ARMY PROGRAMS FOR PREPOSITIONING OF EQUIPMENT AND OTHER MATERIEL.

(a) SECRETARY OF ARMY ASSESSMENT.—The Secretary of the Army shall conduct an assessment of the programs of the Department of Army for the prepositioning of equipment and other materiel stocks. The assessment shall focus on how such programs are configured to support the evolving goals of the Department of Army and shall include an identification of each of the following:

(1) The key operational capabilities currently available in both the afloat and ashore prepositioned stocks of the Army, organized by geographic region, including inventory levels in brigade sets, operational projects, and sustainment programs.

(2) Any significant shortfalls that exist in such stocks, particularly in combat and support equipment, spare parts, and munitions, and how the Army would mitigate those shortfalls in the event of a new conflict.

(3) The maintenance condition of prepositioned equipment and supplies, especially the key "pacing" items in brigade sets, including the percentage currently maintained at the Technical Manual -10/20 standard required by the Army.

(4) The percentage of required cyclic maintenance performed on all stocks for each of fiscal years 2003, 2004, and 2005, and the quality control procedures used to ensure that such maintenance was completed according to Army standards.

(5) Whether the oversight mechanisms and internal management reports of the Army with respect to such stocks are adequate and ensure an accurate portrayal of the readiness of such stocks.

(6) The funding allocated and expended for prepositioning programs for each fiscal year beginning with fiscal year 2000, organized by region, and an assessment of whether the funding levels for such programs have been adequate to maintain program readiness.

(7) The facilities used to store and maintain brigade sets, organized by region, and whether those facilities provide adequate (or excess) capacity for the current and future mission.

(8) The current funding for the war reserve, the sufficiency of the war reserve inventory, and the effect of the war reserve on the ability of the Army to conduct operations.

(b) REPORT.—Not later than March 1, 2006, the Secretary shall submit to Congress a report on the assessment under subsection (a). The report shall include each of the matters specified in paragraphs (1) through (8) of that subsection.

(c) COMPTROLLER GENERAL REVIEW.—Not later than 120 days after the date of the receipt of the report under subsection (b), the Comptroller General shall submit to Congress a review of the assessment conducted by the Secretary of the Army under subsection (a). The review under this subsection shall include the following:

(1) The Comptroller General's assessment of whether the assessment by the Secretary of the Army under subsection (a) comprehensively addresses each of the matters specified in paragraphs (1) through (8) of that subsection.

(2) The extent to which any shortfall or other issue reported by the Secretary of the Army or identified by the Comptroller General has been addressed and an assessment of any plan to address any remaining such shortfalls in the future.

SEC. 352. REPORTS ON BUDGET MODELS USED FOR BASE OPERATIONS SUPPORT, SUSTAINMENT, AND FACILITIES RECAPITALIZATION.

(a) REPORTS REQUIRED.—Not later than March 30 of each of the calendar years 2006 through 2010, the Secretary of Defense shall submit to the congressional defense committees a report describing the models used to prepare the budget requests for base operations support, sustainment, and facilities recapitalization submitted to Congress by the President under section 1105(a) of title 31, United States Code, for the next fiscal year.

(b) CONTENT OF REPORTS.—The report for a fiscal year under subsection (a) shall include the following:

(1) An explanation of the methodology used to develop each model and, if there have been any changes to the methodology since the previous report, an explanation of the changes and the reasons therefor.

(2) A description of the items contained in each model.

(3) An explanation of whether the models are being applied to each military department and Defense Agency under common definitions of base operations support, sustainment, and facilities recapitalization and, if common definitions are not being used, an explanation of the differences and the reasons therefor.

(4) A description of the requested funding levels for base operations support, sustainment, and facilities recapitalization for the fiscal year covered by the report and the funding goals established for base operations support, sustainment, and facilities recapitalization for at least the four succeeding fiscal years.

(5) If the requested funding levels for base operations support, sustainment, and facilities recapitalization for the fiscal year covered by the report deviate from the goals for that fiscal year contained in the preceding report, or the funding goals established for succeeding fiscal years deviate from the goals for those fiscal years contained in the preceding report, a justification for the funding levels and goals and an explanation of the reasons for the changes from the preceding report.

SEC. 353. ARMY TRAINING STRATEGY FOR BRIGADE-BASED COMBAT TEAMS AND FUNCTIONAL SUPPORTING BRIGADES.

(a) TRAINING STRATEGY.—

(1) STRATEGY REQUIRED.—The Secretary of the Army shall develop and implement a strategy for the training of brigade-based combat teams and functional supporting brigades in order to ensure the readiness of such teams and brigades.

(2) ELEMENTS.—The training strategy under paragraph (1) shall include the following:

(A) A statement of the purpose of training for brigade-based combat teams and functional supporting brigades.

(B) Performance goals for both active-component and reserve-component brigade-based combat teams and functional supporting brigades, including goals for live, virtual, and constructive training.

(C) Metrics to quantify training performance against the performance goals specified under subparagraph (B).

(D) A process to report the status of collective training to Army leadership for monitoring the training performance of brigade-based combat teams and functional supporting brigades.

(E) A model to quantify, and to forecast, operation and maintenance funding required for each fiscal year to attain the performance goals specified under subparagraph (B).

(3) TIMING OF IMPLEMENTATION.—The Secretary of the Army shall develop and implement the training strategy under paragraph (1) as soon as practicable.

(b) REPORT.—

(1) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a report on the training strategy developed under subsection (a).

(2) ELEMENTS.—The report under paragraph (1) shall include the following:

(A) A discussion of the training strategy developed under subsection (a), including a description of the performance goals and metrics developed under that subsection.

(B) A discussion and description of the training ranges and other essential elements required to support the training strategy.

(C) A list of the funding requirements, shown by fiscal year and set forth in a format consistent with the future-years defense program to accompany the budget of the President under section 221 of title 10, United States Code, necessary to meet the requirements of the training ranges and other essential elements described under subparagraph (B).

(D) A schedule for the implementation of the training strategy.

(c) COMPTROLLER GENERAL REVIEW OF IMPLEMENTATION.—

(1) IN GENERAL.—The Comptroller General shall monitor the implementation of the training strategy developed under subsection (a).

(2) REPORT.—Not later than 180 days after the date on which the Secretary of the Army submits the report under subsection (b), the Comptroller General shall submit to the congressional

defense committees a report containing the assessment of the Comptroller General of the current progress of the Army in implementing the training strategy.

SEC. 354. REPORT REGARDING EFFECT ON MILITARY READINESS OF UNDOCUMENTED IMMIGRANTS TRESPASSING UPON OPERATIONAL RANGES.

(a) Report Containing Assessment and Response Plan.—Not later than April 15, 2006, the Secretary of Defense shall submit to Congress a report containing—

(1) an assessment of the impact on military readiness caused by undocumented immigrants whose entry into the United States involves trespassing upon operational ranges of the Department of Defense; and

(2) a plan for the implementation of measures to prevent such trespass.

(b) Preparation and Elements of Assessment.—The assessment required by subsection (a)(1) shall be prepared by the Secretary of Defense. The assessment shall include the following:

(1) A listing of the operational ranges adversely affected by the trespass of undocumented immigrants upon operational ranges.

(2) A description of the types of range activities affected by such trespass.

(3) A determination of the amount of time lost for range activities, and the increased costs incurred, as a result of such trespass.

(4) An evaluation of the nature and extent of such trespass and means of travel.

(5) An evaluation of the factors that contribute to the use by undocumented immigrants of operational ranges as a means to enter the United States.

(6) A description of measures currently in place to prevent such trespass, including the use of barriers to vehicles and persons, military patrols, border patrols, and sensors.

(c) Preparation and Elements of Plan.—The plan required by subsection (a)(2) shall be prepared jointly by the Secretary of Defense and the Secretary of Homeland Security. The plan shall include the following:

(1) The types of measures to be implemented to improve prevention of trespass of undocumented immigrants upon operational ranges, including the specific physical methods, such as barriers and increased patrols or monitoring, to be implemented and any legal or other policy changes recommended by the Secretaries.

(2) The costs of, and timeline for, implementation of the plan.

(d) Implementation Reports.—Not later than September 15, 2006, March 15, 2007, September 15, 2007, and March 15, 2008, the Secretary of Defense shall submit to Congress a report detailing the progress made by the Department of Defense, during the period covered by the report, in implementing measures recommended in the plan required by subsection (a)(2) to prevent undocumented immigrants from trespassing upon operational ranges. Each report shall include the number and types of mitigation measures implemented and the success of such measures in preventing such trespass.

(e) Definitions.—In this section, the terms "operational range" and "range activities" have the meaning given those terms in section 101(e) of title 10, United States Code.

SEC. 355. REPORT REGARDING MANAGEMENT OF ARMY LODGING.

(a) Report on Merits and Impacts of Privatization.—The Secretary of the Army shall submit to Congress a report containing the results of a study evaluating the merits of privatization of Army lodging. The study should consider at a minimum the following:

(1) The potential overall costs and benefits of privatization of Army lodging.

(2) Whether current lodging agreements with the Army and Air Force Exchange Service to provide hospitality telecommunication services would be impacted by privatization and whether the proposed change will have an impact on funds contributed to morale, welfare, and recreation accounts.

(3) Whether privatization of Army lodging will result in significant cost increases to members of the Armed Forces or other eligible patrons or the loss of such lodging if it is determined that management of such lodging is not a profitable marketing venture.

(4) Whether privatization of Army lodging will provide ancillary support facilities and services that might impact the Army and Air Force Exchange Service and to what extent such facilities and services may impact the funds contributed to morale, welfare, and recreation accounts.

(5) The number of Army lodging personnel who would be impacted by privatization and the total personnel-related costs that could occur as a result of privatization.

(b) Army and Air Force Exchange Service Participation in Privatization.—The Army and Air Force Exchange Service shall submit to Congress a report commenting on the feasibility of its participation in privatization of Army lodging. The report should include at a minimum the following:

(1) The potential overall costs and benefits of an Army and Air Force Exchange Service partnership in Army lodging.

(2) Whether the Army and Air Force Exchange Service can adequately participate as a partner in the management of Army lodging, including whether such participation could enhance the quality of lodging and improve access to such lodging when provided through a nonprofit organization versus a partnership with a for-profit corporation.

(3) Whether there are certain benefits, including cost benefits, to having the Army and Air Force Exchange Service become the partner with the Army that would not exist were the Army to partner with a private sector entity.

(4) The number of Army lodging personnel who would be impacted by an Army and Air Force Exchange Service partnership and the total personnel related costs that could occur as a result of such partnership.

(c) Limitation Pending Submission of Report.—Until the Secretary of the Army submits the report required by subsection (a) to Congress, the Secretary may not solicit or consider any request for qualifications that would privatize Army lodging beyond the level of privatization identified for inclusion in Group A of the Privatization of Army Lodging Initiative.

SEC. 356. COMPTROLLER GENERAL REPORT ON CORROSION PREVENTION AND MITIGATION PROGRAMS OF THE DEPARTMENT OF DEFENSE.

(a) Report Required.—Not later than April 1, 2007, the Comptroller General shall submit to the congressional defense committees a report on the effectiveness of the corrosion prevention and mitigation programs of the Department of Defense.

(b) Elements.—The report required by subsection (a) shall include the following:

(1) An assessment of the document of the Department of Defense entitled "Long-Term Strategy to Reduce Corrosion and the Effects of Corrosion on the Military Equipment and Infrastructure of the Department of Defense" and dated November 2004.

(2) An assessment of the adequacy for purposes of the strategy set forth in that document of the funding requested in the budgets of the President for fiscal years 2006 and 2007, as submitted to Congress pursuant to section 1105(a) of title 31, United States Code, and the associated Future-Years Defense Program under section 221 of title 10, United States Code.

(3) An assessment of the adequacy and effectiveness of the organizational structure of the Department of Defense in implementing that strategy.

(4) An assessment of the progress made as of the date of the report in establishing throughout the Department common metrics, definitions, and procedures on corrosion prevention and mitigation.

(5) An assessment of the progress made as of the date of the report in establishing a baseline estimate of the scope of the corrosion problems of the Department.

(6) An assessment of the extent to which the strategy of the Department on corrosion prevention and mitigation has been revised to incorporate the recommendations contained in the report of the Defense Science Board on corrosion control issued in October 2004.

(7) An assessment of the implementation of the corrosion prevention and mitigation programs of the Department during fiscal year 2006.

(8) Such recommendations as the Comptroller General considers appropriate for addressing any shortfalls or areas of potential improvement identified in the review for purposes of the report.

SEC. 357. STUDY ON USE OF BIODIESEL AND ETHANOL FUEL.

(a) In General.—The Secretary of Defense shall conduct a study on the use of biodiesel and ethanol fuel by the Armed Forces and the Defense Agencies and any measures that can be taken to increase such use.

(b) Elements.—The study shall include—

(1) an evaluation of the historical utilization of biodiesel and ethanol fuel by the Armed Forces and the Defense Agencies, including the quantity of biodiesel and ethanol fuel acquired by the Department of Defense for the Armed Forces and the Defense Agencies during the 5-year period ending on the date of the report under subsection (c);

(2) a review and assessment of potential requirements for increased use of biodiesel and ethanol fuel within the Department of Defense and any research and development efforts required to meet those increased requirements;

(3) based on the review under paragraph (2), a forecast of the requirements of the Armed Forces and the Defense Agencies for biodiesel and ethanol fuels for each of fiscal years 2007 through 2012;

(4) an assessment of the current and future commercial availability of biodiesel and ethanol fuel, including facilities for the production, storage, transportation, distribution, and commercial sale of such fuel;

(5) an assessment of the utilization by the Department of Defense of the commercial infrastructure for ethanol fuel as described in paragraph (4);

(6) a review of the actions of the Department of Defense to coordinate with State, local, and private entities to support the expansion and use of alternative fuel refueling stations that are accessible to the public; and

(7) an assessment of the fueling infrastructure on military installations in the United States, including storage and distribution facilities, that could be adapted or converted for the delivery of biodiesel and ethanol fuel, including—

(A) an assessment of cost of the adaptation or conversion of such infrastructure to the delivery of biodiesel and ethanol fuel; and

(B) an assessment of the feasibility and advisability of that adaptation or conversion.

(c) Report.—Not later than 270 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the study conducted under this section.

(d) Definitions.—In this section:

(1) The term "ethanol fuel" means fuel that is 85 percent ethyl alcohol.

(2) The term "biodiesel" means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545).

SEC. 358. REPORT ON EFFECTS OF WINDMILL FARMS ON MILITARY READINESS.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the effects of windmill farms on military readiness, including an assessment of the effects on the operations of military radar installations of the proximity of windmill farms to such installations and of technologies that could mitigate any adverse effects on military operations identified.

SEC. 359. REPORT ON SPACE-AVAILABLE TRAVEL FOR CERTAIN DISABLED VETERANS AND GRAY-AREA RETIREES.

(a) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the feasibility of providing transportation on Department of Defense aircraft on a space-available basis for—

(1) veterans with a service-connected disability rating of 50 percent or higher;

(2) members and former members of a reserve component under 60 years of age who, but for age, would be eligible for retired pay under chapter 1223 of title 10, United States Code; and

(3) dependents of persons described in paragraph (1) or (2).

(b) CONSULTATION.—The Secretary of Defense shall prepare the report in consultation with the Secretary of Veterans Affairs.

SEC. 360. REPORT ON JOINT FIELD TRAINING AND EXPERIMENTATION ON STABILITY, SECURITY, TRANSITION, AND RECONSTRUCTION OPERATIONS.

Not later than February 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report on joint field training and experimentation conducted to address matters relating to stability, security, transition, and reconstruction operations during fiscal years 2005 and 2006. The report shall include—

(1) a description of each such joint field training and experimentation event, including a description of the participation of other Federal departments and agencies and of the participation of allied and coalition partners;

(2) the findings of the Secretary as a result of such joint field training and experimentation; and

(3) such recommendations as the Secretary considers appropriate in light of such joint field training and experimentation, including recommendations with respect to legislative or administrative action and recommendations for any funding required to implement such action.

SEC. 361. REPORTS ON BUDGETING RELATING TO SUSTAINMENT OF KEY MILITARY EQUIPMENT.

(a) REPORTS REQUIRED.—In each of 2006, 2007, and 2008, at or about the time that the budget of the President is submitted to Congress that year under section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to Congress a report on the budgeting of the Department of Defense for the sustainment of key military equipment.

(b) REPORT ELEMENTS.—The report required by subsection (a) for a year shall set forth the following:

(1) A description of the current strategies of the Department of Defense for sustaining key military equipment, and for any modernization that will be required of such equipment.

(2) A description of the amounts required for the Department for the fiscal year beginning in such year in order to fully fund the strategies described in paragraph (1).

(3) A description of the amounts requested for the Department for such fiscal year in order to fully fund such strategies.

(4) A description of the risks, if any, of failing to fund such strategies in the amounts required to fully fund such strategies (as specified in paragraph (2)).

(5) A description of the actions being taken by the Department of Defense to mitigate the risks described in paragraph (4).

(c) KEY MILITARY EQUIPMENT DEFINED.—In this section, the term "key military equipment"—

(1) means—

(A) major weapons systems that are essential to accomplishing the national defense strategy; and

(B) other military equipment, such as major command, control, communications, computer, intelligence, surveillance, and reconnaissance (C4ISR) equipment, and systems designed to prevent fratricide, that is critical to the readiness of military units; and

(2) includes equipment reviewed in the report of the Comptroller General of the United States numbered GAO–06–141.

SEC. 362. REPEAL OF AIR FORCE REPORT ON MILITARY INSTALLATION ENCROACHMENT ISSUES.

Section 315 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1843) is repealed.

Subtitle G—Other Matters

SEC. 371. SUPERVISION AND MANAGEMENT OF DEFENSE BUSINESS TRANSFORMATION AGENCY.

Section 192 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) SPECIAL RULE FOR DEFENSE BUSINESS TRANSFORMATION AGENCY.—(1) The Defense Business Transformation Agency shall be supervised by the vice chairman of the Defense Business System Management Committee.

"(2) Notwithstanding the results of any periodic review under subsection (c) with regard to the Defense Business Transformation Agency, the Secretary of Defense shall designate that the Agency be managed cooperatively by the Deputy Under Secretary of Defense for Business Transformation and the Deputy Under Secretary of Defense for Financial Management.".

SEC. 372. CODIFICATION AND REVISION OF LIMITATION ON MODIFICATION OF MAJOR ITEMS OF EQUIPMENT SCHEDULED FOR RETIREMENT OR DISPOSAL.

(a) IN GENERAL.—Chapter 134 of title 10, United States Code, is amended by inserting after section 2244 the following new section:

"§2244a. Equipment scheduled for retirement or disposal: limitation on expenditures for modifications

"(a) PROHIBITION.—Except as otherwise provided in this section, the Secretary of a military department may not carry out a modification of an aircraft, weapon, vessel, or other item of equipment that the Secretary plans to retire or otherwise dispose of within five years after the date on which the modification, if carried out, would be completed.

"(b) EXCEPTIONS.—

"(1) EXCEPTION FOR BELOW-THRESHOLD MODIFICATIONS.—The prohibition in subsection (a) does not apply to a modification for which the cost is less than $100,000.

"(2) EXCEPTION FOR TRANSFER OF REUSABLE ITEMS OF VALUE.—The prohibition in subsection (a) does not apply to a modification in a case in which—

"(A) the reusable items of value, as determined by the Secretary, installed on the item of equipment as part of such modification will, upon the retirement or disposal of the item to be modified, be removed from such item of equipment, refurbished, and installed on another item of equipment; and

"(B) the cost of such modification (including the cost of the removal and refurbishment of reusable items of value under subparagraph (A)) is less than $1,000,000.

"(3) EXCEPTION FOR SAFETY MODIFICATIONS.—The prohibition in subsection (a) does not apply to a safety modification.

"(c) WAIVER AUTHORITY.—The Secretary concerned may waive the prohibition in subsection (a) in the case of any modification otherwise subject to that subsection if the Secretary determines that carrying out the modification is in the national security interest of the United States. Whenever the Secretary issues such a waiver, the Secretary shall notify the congressional defense committees in writing.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2244 the following new item:

"2244a. Equipment scheduled for retirement or disposal: limitation on expenditures for modifications.".

(c) CONFORMING REPEAL.—Section 8053 of the Department of Defense Appropriations Act, 1998 (Public Law 105–56; 10 U.S.C. 2241 note) is repealed.

SEC. 373. LIMITATION ON PURCHASE OF INVESTMENT ITEMS WITH OPERATION AND MAINTENANCE FUNDS.

(a) LIMITATION ON USE OF OPERATION AND MAINTENANCE FUNDS.—Chapter 134 of title 10, United States Code, is amended by inserting after section 2245 the following new section:

"§2245a. Use of operation and maintenance funds for purchase of investment items: limitation

"Funds appropriated to the Department of Defense for operation and maintenance may not be used to purchase any item (including any item to be acquired as a replacement for an item) that has an investment item unit cost that is greater than $250,000.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2245 the following new item:

"2245a. Use of operation and maintenance funds for purchase of investment items: limitation.".

SEC. 374. OPERATION AND USE OF GENERAL GIFT FUNDS OF THE DEPARTMENT OF DEFENSE AND COAST GUARD.

Section 2601 of title 10, United States Code, is amended to read as follows:

"§2601. General gift funds

"(a) GENERAL AUTHORITY TO ACCEPT GIFTS.—Subject to subsection (d)(2), the Secretary concerned may accept, hold, administer, and spend any gift, devise, or bequest of real property, personal property, or money made on the condition that the gift, devise, or bequest be used for the benefit, or in connection with, the establishment, operation, or maintenance, of a school, hospital, library, museum, cemetery, or other institution or organization under the jurisdiction of the Secretary.

"(b) ADDITIONAL AUTHORITY TO ACCEPT GIFTS TO BENEFIT CERTAIN MEMBERS, DEPENDENTS, AND CIVILIAN EMPLOYEES.—(1) Subject to subsection (d)(2), the Secretary concerned may accept, hold, administer, and spend any gift, devise, or bequest of real property, personal property, money, or services made on the condition that the gift, devise, or bequest be used for the benefit of—

"(A) members of the armed forces, including members performing full-time National Guard duty under section 502(f) of title 32, who incur a wound, injury, or illness while in the line of duty;

"(B) civilian employees of the Department of Defense who incur a wound, injury, or illness while in the line of duty;

"(C) dependents of such members or employees; and

"(D) survivors of such members or employees who are killed.

"(2) The Secretary concerned may not accept a gift of services from a foreign government or international organization under this subsection. A gift of real property, personal property, or money from a foreign government or international organization may be accepted under this subsection only if the gift is not designated for a specific individual.

"(3) The Secretary of Defense shall prescribe regulations specifying the conditions that may be attached to a gift, devise, or bequest accepted under this subsection.

"(4) The authority to accept gifts, devises, or bequests under this subsection expires on December 31, 2007.

"(c) GIFT FUNDS.—Gifts and bequests of money, and the proceeds of the sale of property, received under subsection (a) or (b) shall be deposited in the Treasury in the following accounts:

"(1) The Department of the Army General Gift Fund, in the case of deposits made by the Secretary of the Army.

"(2) The Department of the Navy General Gift Fund, in the case of deposits made by the Secretary of the Navy.

"(3) The Department of the Air Force General Gift Fund, in the case of deposits made by the Secretary of the Air Force.

"(4) The Coast Guard General Gift Fund, in the case of deposits made by the Secretary of Homeland Security.

"(5) The Department of Defense General Gift Fund, in the case of deposits made by the Secretary of Defense.

"(d) USE OF GIFTS; PROHIBITIONS.—(1) Except as provided in paragraph (2), property and money accepted under subsection (a) or (b) may be used by the Secretary concerned, and services accepted under subsection (b) may be performed, without further specific authorization in law.

"(2) Property and money may not be accepted under subsection (a) and property, money, and services may not be accepted under subsection (b)—

"(A) if the use of the property or money or the performance of the services in connection with any program, project, or activity would result in the violation of any prohibition or limitation otherwise applicable to such program, project, or activity;

"(B) if the conditions attached to the property, money, or services are inconsistent with applicable law or regulations;

"(C) if the Secretary concerned determines that the use of the property or money or the performance of the services would reflect unfavorably on the ability of the Department of Defense or the Coast Guard, any employee of the Department or Coast Guard, or any member of the armed forces to carry out any responsibility or duty in a fair and objective manner; or

"(D) if the Secretary concerned determines that the use of the property or money or the performance of the services would compromise the integrity or appearance of integrity of any program of the Department of Defense or Coast Guard, or any individual involved in such a program.

"(3) The Secretary concerned may disburse funds deposited in a gift fund referred to in subsection (c) for the purposes specified in subsections (a) and (b), subject to the terms of the gift, devise, or bequest.

"(e) PAYMENT OF EXPENSES.—The Secretary concerned may pay all necessary expenses in connection with the conveyance or transfer of a gift, devise, or bequest accepted under this section.

"(f) TREATMENT OF GIFTS.—For the purposes of Federal income, estate, and gift taxes, any property or money accepted under subsection (a) and any property, money, or services accepted under subsection (b) shall be considered as a gift, devise, or bequest to or for the use of the United States.

"(g) MANAGEMENT OF FUNDS.—In the case of each gift fund referred to in subsection (c), the Secretary of the Treasury, upon the request of the Secretary concerned, may retain money, securities, and the proceeds of the sale of securities in the gift fund and may invest money and reinvest the proceeds of the sale of securities in the gift fund in securities of the United States or in securities guaranteed as to principal and interest by the United States. The interest and profits accruing from those securities shall be deposited to the credit of the gift fund and may be disbursed as provided in subsection (d).

"(h) COMPTROLLER GENERAL REVIEW.—The Comptroller General shall make periodic audits of gifts, devises, and bequests accepted under subsection (a) or (b) at such intervals as the Comptroller General determines to be warranted. The Comptroller General shall submit to Congress a report on the results of each such audit.

"(i) DEFINITIONS.—In this section:

"(1) The term 'Secretary concerned' includes the Secretary of Defense.

"(2) The term 'services' includes activities that benefit the morale, welfare, or recreation of members of the armed forces and their dependents or are related or incidental to the conveyance of a gift, devise, or bequest of real property or personal property under subsection (a) or (b).".

SEC. 375. INCLUSION OF PACKET BASED TELEPHONY IN DEPARTMENT OF DEFENSE TELECOMMUNICATIONS BENEFIT.

(a) INCLUSION IN BENEFIT.—Subsection (a) of section 344 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1448) is amended by inserting "packet based telephony service," after "prepaid phone cards,".

(b) INCLUSION OF INTERNET TELEPHONY IN DEPLOYMENT OF ADDITIONAL TELEPHONE EQUIPMENT.—Subsection (e) of such section is amended—

(1) by inserting "or Internet service" after "additional telephones";

(2) by inserting "or packet based telephony" after "to facilitate telephone"; and

(3) by inserting "or Internet access" after "installation of telephones".

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in the heading for subsection (a), by striking "PREPAID PHONE CARDS" and inserting "BENEFIT"; and

(2) in the heading for subsection (e), by inserting "OR INTERNET ACCESS" after "TELEPHONE EQUIPMENT".

SEC. 376. LIMITATION ON FINANCIAL MANAGEMENT IMPROVEMENT AND AUDIT INITIATIVES WITHIN DEPARTMENT OF DEFENSE.

(a) LIMITATION.—During fiscal year 2006, the Secretary of Defense may not obligate or expend any funds for the purpose of any financial management improvement activity relating to the preparation, processing, or auditing of financial statements until the Secretary submits to the congressional defense committees each of the following:

(1) A comprehensive and integrated financial management improvement plan that—

(A) describes specific actions to be taken to correct financial management deficiencies that impair the ability of the Department of Defense to prepare timely, reliable, and complete financial management information; and

(B) systematically ties such actions to process and control improvements and business systems modernization efforts described in the business enterprise architecture and transition plan required by section 2222 of title 10, United States Code.

(2) A written determination that each financial management improvement activity to be undertaken is—

(A) consistent with the financial management improvement plan submitted pursuant to paragraph (1); and

(B) likely to improve internal controls or otherwise result in sustained improvements in the ability of the Department to produce timely, reliable, and complete financial management information.

(b) EXCEPTION.—The limitation under subsection (a) shall not apply to an activity directed exclusively at assessing the adequacy of internal controls and remediating any inadequacy identified pursuant to such an assessment.

SEC. 377. PROVISION OF WELFARE OF SPECIAL CATEGORY RESIDENTS AT NAVAL STATION GUANTANAMO BAY, CUBA.

(a) IN GENERAL.—The Secretary of the Navy may provide for the general welfare, including subsistence, housing, and health care, of any person at Naval Station Guantanamo Bay, Cuba, who is designated by the Secretary, not later than 90 days after the date of the enactment of this Act, as a "special category resident".

(b) PROHIBITION ON CONSTRUCTION OF NEW FACILITIES.—The authorization under subsection (a) shall not be construed as an authorization for the construction a new housing facility or medical treatment facility.

(c) PRIOR USE OF FUNDS.—Any obligation or expenditure of funds for the general welfare of any person described in subsection (a) before the date of the enactment of this Act is deemed to be not subject to the provisions of chapter 13 of title 31, United States Code.

SEC. 378. COMMEMORATION OF SUCCESS OF THE ARMED FORCES IN OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM.

(a) CELEBRATION HONORING MILITARY EFFORTS IN OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM.—The President may—

(1) designate a day of celebration to honor the soldiers, sailors, airmen, and Marines of the Armed Forces who have served in Operation Enduring Freedom or Operation Iraqi Freedom and have returned to the United States; and

(2) issue a proclamation calling on the people of the United States to observe that day with appropriate ceremonies and activities.

(b) PARTICIPATION OF ARMED FORCES IN CELEBRATION.—

(1) PARTICIPATION AUTHORIZED.—Members and units of the Armed Forces may participate in activities associated with a day of celebration designated under subsection (a) that are held in Washington, District of Columbia.

(2) AVAILABILITY OF FUNDS.—Subject to paragraph (4), amounts authorized to be appropriated for the Department of Defense for fiscal year 2006 may be used to cover costs associated with the participation of members and units of the Armed Forces in the activities described in paragraph (1).

(3) ACCEPTANCE OF PRIVATE CONTRIBUTIONS.—(A) Notwithstanding any other provision of law, the Secretary of Defense may accept cash contributions from private individuals and entities for the purposes of covering the costs of the participation of members and units of the Armed

Forces in the activities described in paragraph (1). Amounts so accepted shall be deposited in an account established for purposes of this paragraph.

(B) Amounts accepted under subparagraph (A) may be used for the purposes described in that subparagraph until expended.

(4) LIMITATION.—The total amount of funds described in paragraph (2) that are available for the purpose set forth in that paragraph may not exceed the amount equal to—

(A) $20,000,000 minus

(B) the amount of any cash contributions accepted by the Secretary under paragraph (3).

(c) AWARD OF RECOGNITION ITEMS.—

(1) AUTHORITY TO AWARD.—Under regulations prescribed by the Secretary of Defense, appropriate recognition items may be awarded to any individual who served honorably as a member of the Armed Forces in Operation Enduring Freedom or Operation Iraqi Freedom during the Global War on Terrorism. The purpose of the award of such items is to recognize the contribution of such individuals to the success of the United States in those operations.

(2) RECOGNITION ITEMS DEFINED.—In this subsection, the term "recognition items" means recognition items authorized for presentation under section 2261 of title 10, United States Code (as added by section 589 of this Act).

Subtitle H—Utah Test and Training Range

SEC. 381. DEFINITIONS.

In this subtitle:

(1) The term "covered wilderness" means the wilderness area designated by this subtitle and wilderness study areas located near lands withdrawn for military use and beneath special use airspace critical to the support of military test and training missions at the Utah Test and Training Range, including the Deep Creek, Fish Springs, Swasey Mountain, Howell Peak, Notch Peak, King Top, Wah Wah Mountain, and Conger Mountain units designated by the Department of the Interior.

(2) The term "Utah Test and Training Range" means those portions of the military operating area of the Utah Test and Training Area located solely in the State of Utah. The term includes the Dugway Proving Ground.

(3) The term "Wilderness Act" means Public Law 88-577, approved September 3, 1964 (16 U.S.C. 1131 et seq.).

SEC. 382. MILITARY OPERATIONS AND OVERFLIGHTS, UTAH TEST AND TRAINING RANGE.

(a) FINDINGS.—The Congress finds the following:

(1) The testing and development of military weapons systems and the training of military forces are critical to ensuring the national security of the United States.

(2) The Utah Test and Training Range in the State of Utah is a unique and irreplaceable national asset at the core of the test and training mission of the Department of Defense.

(3) The Cedar Mountain Wilderness Area designated by section 384, as well as several wilderness study areas, are located near lands withdrawn for military use or are beneath special use airspace critical to the support of military test and training missions at the Utah Test and Training Range.

(4) The Utah Test and Training Range and special use airspace withdrawn for military uses create unique management circumstances for the covered wilderness in this subtitle, and it is not the intent of Congress that passage of this subtitle shall be construed as establishing a precedent with respect to any future national conservation area or wilderness designation.

(5) Continued access to the special use airspace and lands that comprise the Utah Test and Training Range, under the terms and conditions described in this subtitle, is a national security priority and is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources of such lands.

(b) OVERFLIGHTS.—Nothing in this subtitle or the Wilderness Act shall preclude low-level overflights and operations of military aircraft, helicopters, missiles, or unmanned aerial vehicles over the covered wilderness, including military overflights and operations that can be seen or heard within the covered wilderness.

(c) SPECIAL USE AIRSPACE AND TRAINING ROUTES.—Nothing in this subtitle or the Wilderness Act shall preclude the designation of new units of special use airspace, the expansion of existing units of special use airspace, or the use or establishment of military training routes over the covered wilderness.

(d) COMMUNICATIONS AND TRACKING SYSTEMS.—Nothing in this subtitle shall prevent any required maintenance of existing communications, instrumentation, or electronic tracking systems (or infrastructure supporting such systems) or prevent the installation of new communication, instrumentation, or other equipment necessary for effective testing and training to meet military requirements in wilderness study areas located beneath special use airspace comprising the Utah Test and Training Range, including the Deep Creek, Fish Springs, Swasey Mountain, Howell Peak, Notch Peak, King Top, Wah Wah Mountain, and Conger Mountain units designated by the Department of Interior, so long as the Secretary of the Interior, after consultation with the Secretary of the Air Force, determines that the installation and maintenance of such systems, when considered both individually and collectively, comply with section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(e) EMERGENCY ACCESS AND RESPONSE.—Nothing in this subtitle or the Wilderness Act shall preclude the continuation of the memorandum of understanding in existence as of the date of the enactment of this Act between the Department of the Interior and the Department of the Air Force with respect to emergency access and response.

(f) PROHIBITION ON GROUND MILITARY OPERATIONS.—Except as provided in subsections (d) and (e), nothing in this section shall be construed to permit a military operation to be conducted on the ground in covered wilderness in the Utah Test and Training Range unless such ground operation is otherwise permissible under Federal law and consistent with the Wilderness Act.

SEC. 383. ANALYSIS OF MILITARY READINESS AND OPERATIONAL IMPACTS IN PLANNING PROCESS FOR FEDERAL LANDS IN UTAH TEST AND TRAINING RANGE.

The Secretary of the Interior shall develop, maintain, and revise land use plans pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S. C. 1712) for Federal lands located in the Utah Test and Training Range in consultation with the Secretary of Defense. As part of the required consultation in connection with a proposed revision of a land use plan, the Secretary of Defense shall prepare and transmit to the Secretary of the Interior an analysis of the military readiness and operational impacts of the proposed revision within six months of a request from the Secretary of the Interior.

SEC. 384. DESIGNATION AND MANAGEMENT OF CEDAR MOUNTAIN WILDERNESS, UTAH.

(a) DESIGNATION.—Certain Federal lands in Tooele County, Utah, as generally depicted on the map entitled "Cedar Mountain Wilderness" and dated March 7, 2004, are hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System to be known as the Cedar Mountain Wilderness Area.

(b) WITHDRAWAL.—Subject to valid existing rights, the Federal lands in the Cedar Mountain Wilderness Area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the United States mining laws, and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments to such laws.

(c) MAP AND DESCRIPTION.—

(1) TRANSMITTAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of the Interior shall transmit a map and legal description of the Cedar Mountain Wilderness Area to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) LEGAL EFFECT.—The map and legal description shall have the same force and effect as if included in this Act, except that the Secretary of the Interior may correct clerical and typographical errors in the map and legal description.

(3) AVAILABILITY.—The map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management and the office of the State Director of the Bureau of Land Management in the State of Utah.

(d) ADMINISTRATION.—Subject to valid existing rights and this subtitle, the Cedar Mountain Wilderness Area shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of the enactment of this Act.

(e) LAND ACQUISITION.—Any lands or interest in lands within the boundaries of the Cedar Mountain Wilderness Area acquired by the United States after the date of the enactment of this Act shall be added to and administered as part of the Cedar Mountain Wilderness Area.

(f) FISH AND WILDLIFE MANAGEMENT.—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this subtitle shall be construed as affecting the jurisdiction of the State of Utah with respect to fish and wildlife on the Federal lands located in that State.

(g) GRAZING.—Within the Cedar Mountain Wilderness Area, the grazing of livestock, where established before the date of the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary of the Interior considers necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in the Wilderness Act, section 101(f) of Public Law 101-628 (104 Stat. 4473), and appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the 101st Congress (H. Rept. 101-405).

(h) BUFFER ZONES.—Congress does not intend for the designation of the Cedar Mountain Wilderness Area to lead to the creation of protective perimeters or buffer zones around the wilderness area. The fact that nonwilderness activities or uses can be seen or heard within the wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(i) RELEASE FROM WILDERNESS STUDY AREA STATUS.—The lands identified as the Browns Spring Cherrystem on the map entitled "Proposed Browns Spring Cherrystem" and dated May 11, 2004, are released from their status as a wilderness study area, and shall no longer be subject to the requirements of section 603(c) of

the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)) pertaining to the management of wilderness study areas in a manner that does not impair the suitability of those areas for preservation of wilderness.

SEC. 385. RELATION TO OTHER LANDS.

Nothing in this subtitle shall be construed to affect any Federal lands located outside of the covered wilderness or the management of such lands.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Revision in permanent active duty end strength minimum levels.
Sec. 403. Additional authority for increases of Army and Marine Corps active duty end strengths for fiscal years 2007 through 2009.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for reserves on active duty in support of the reserves.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Fiscal year 2006 limitation on number of non-dual status technicians.
Sec. 415. Maximum number of reserve personnel authorized to be on active duty for operational support.

Subtitle C—Authorization of Appropriations

Sec. 421. Military personnel.
Sec. 422. Armed Forces Retirement Home.

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

(a) IN GENERAL.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 2006, as follows:

(1) The Army, 512,400.

(2) The Navy, 352,700.

(3) The Marine Corps, 179,000.

(4) The Air Force, 357,400.

(b) LIMITATION.—

(1) ARMY.—The authorized strength for the Army provided in paragraph (1) of subsection (a) for active duty personnel for fiscal year 2006 is subject to the condition that costs of active duty personnel of the Army for that fiscal year in excess of 482,400 shall be paid out of funds authorized to be appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriation.

(2) MARINE CORPS.—The authorized strength for the Marine Corps provided in paragraph (3) of subsection (a) for active duty personnel for fiscal year 2006 is subject to the condition that costs of active duty personnel of the Marine Corps for that fiscal year in excess of 175,000 shall be paid out of funds authorized to be appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriation.

SEC. 402. REVISION IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.

Section 691(b) of title 10, United States Code, is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) For the Army, 502,400.

"(2) For the Navy, 352,700.

"(3) For the Marine Corps, 179,000.

"(4) For the Air Force, 357,400.".

SEC. 403. ADDITIONAL AUTHORITY FOR INCREASES OF ARMY AND MARINE CORPS ACTIVE DUTY END STRENGTHS FOR FISCAL YEARS 2007 THROUGH 2009.

Effective October 1, 2006, the text of section 403 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1863) is amended to read as follows:

"(a) AUTHORITY.—

"(1) ARMY.—For each of fiscal years 2007, 2008, and 2009, the Secretary of Defense may, as the Secretary determines necessary for the purposes specified in paragraph (3), establish the active-duty end strength for the Army at a number greater than the number otherwise authorized by law up to the number equal to the fiscal-year 2006 baseline plus 20,000.

"(2) MARINE CORPS.—For each of fiscal years 2007, 2008, and 2009, the Secretary of Defense may, as the Secretary determines necessary for the purposes specified in paragraph (3), establish the active-duty end strength for the Marine Corps at a number greater than the number otherwise authorized by law up to the number equal to the fiscal-year 2006 baseline plus 5,000.

"(3) PURPOSE OF INCREASES.—The purposes for which increases may be made in Army and Marine Corps active duty end strengths under paragraphs (1) and (2) are—

"(A) to support operational missions; and

"(B) to achieve transformational reorganization objectives, including objectives for increased numbers of combat brigades and battalions, increased unit manning, force stabilization and shaping, and rebalancing of the active and reserve component forces.

"(4) FISCAL-YEAR 2006 BASELINE.—In this subsection, the term 'fiscal-year 2006 baseline', with respect to the Army and Marine Corps, means the active-duty end strength authorized for those services in section 401 of the National Defense Authorization Act for Fiscal Year 2006.

"(5) ACTIVE-DUTY END STRENGTH.—In this subsection, the term 'active-duty end strength' means the strength for active-duty personnel of one the Armed Forces as of the last day of a fiscal year.

"(b) RELATIONSHIP TO PRESIDENTIAL WAIVER AUTHORITY.—Nothing in this section shall be construed to limit the President's authority under section 123a of title 10, United States Code, to waive any statutory end strength in a time of war or national emergency.

"(c) RELATIONSHIP TO OTHER VARIANCE AUTHORITY.—The authority under subsection (a) is in addition to the authority to vary authorized end strengths that is provided in subsections (e) and (f) of section 115 of title 10, United States Code.

"(d) BUDGET TREATMENT.—

"(1) FISCAL YEAR 2007 BUDGET.—The budget for the Department of Defense for fiscal year 2007 as submitted to Congress shall comply, with respect to funding, with subsections (c) and (d) of section 691 of title 10, United States Code.

"(2) OTHER INCREASES.—If the Secretary of Defense plans to increase the Army or Marine Corps active duty end strength for a fiscal year under subsection (a), then the budget for the Department of Defense for that fiscal year as submitted to Congress shall include the amounts necessary for funding that active duty end strength in excess of the fiscal year 2006 active duty end strength authorized for that service under section 401 of the National Defense Authorization Act for Fiscal Year 2006.".

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2006, as follows:

(1) The Army National Guard of the United States, 350,000.

(2) The Army Reserve, 205,000.

(3) The Navy Reserve, 73,100.

(4) The Marine Corps Reserve, 39,600.

(5) The Air National Guard of the United States, 106,800.

(6) The Air Force Reserve, 74,000.

(7) The Coast Guard Reserve, 10,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2006, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 27,396.

(2) The Army Reserve, 15,270.

(3) The Navy Reserve, 13,392.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 13,123.

(6) The Air Force Reserve, 2,290.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 2006 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army Reserve, 7,649.

(2) For the Army National Guard of the United States, 25,563.

(3) For the Air Force Reserve, 9,852.

(4) For the Air National Guard of the United States, 22,971.

SEC. 414. FISCAL YEAR 2006 LIMITATION ON NUMBER OF NON-DUAL STATUS TECHNICIANS.

(a) LIMITATIONS.—

(1) NATIONAL GUARD.—Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2006, may not exceed the following:

(A) For the Army National Guard of the United States, 1,600.

(B) For the Air National Guard of the United States, 350.

(2) ARMY RESERVE.—The number of non-dual status technicians employed by the Army Reserve as of September 30, 2006, may not exceed 695.

(3) AIR FORCE RESERVE.—The number of non-dual status technicians employed by the Air Force Reserve as of September 30, 2006, may not exceed 90.

(b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term "non-dual status technician" has the meaning given that term in section 10217(a) of title 10, United States Code.

SEC. 415. MAXIMUM NUMBER OF RESERVE PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY FOR OPERATIONAL SUPPORT.

During fiscal year 2006, the maximum number of members of the reserve components of the Armed Forces who may be serving at any time on full-time operational support duty under section 115(b) of title 10, United States Code, is the following:

(1) The Army National Guard of the United States, 17,000.

(2) The Army Reserve, 13,000.

(3) The Naval Reserve, 6,200.

(4) The Marine Corps Reserve, 3,000.

(5) The Air National Guard of the United States, 16,000.

(6) The Air Force Reserve, 14,000.

Subtitle C—Authorization of Appropriations

SEC. 421. MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2006 a total of $108,942,746,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2006.

SEC. 422. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2006 from the Armed Forces Retirement Home Trust Fund the sum of $58,281,000 for the operation of the Armed Forces Retirement Home.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 501. Temporary increase in percentage limits on reduction of time-in-grade requirements for retirement in grade upon voluntary retirement.
Sec. 502. Two-year renewal of temporary authority to reduce minimum length of commissioned service required for voluntary retirement as an officer.
Sec. 503. Exclusion from active-duty general and flag officer distribution and strength limitations of officers on leave pending separation or retirement or between senior positions.
Sec. 504. Consolidation of grade limitations on officer assignment and insignia practice known as frocking.
Sec. 505. Clarification of deadline for receipt by promotion selection boards of certain communications from eligible officers.
Sec. 506. Furnishing to promotion selection boards of adverse information on officers eligible for promotion to certain senior grades.
Sec. 507. Applicability of officer distribution and strength limitations to officers serving in intelligence community positions.
Sec. 508. Grades of the Judge Advocates General.
Sec. 509. Authority to retain permanent professors at the Naval Academy beyond 30 years of active commissioned service.
Sec. 510. Authority for designation of a general/flag officer position on the Joint Staff to be held by reserve component general or flag officer on active duty.

Subtitle B—Reserve Component Management

Sec. 511. Separation at age 64 for reserve component senior officers.
Sec. 512. Modification of strength-in-grade limitations applicable to Reserve flag officers in active status.
Sec. 513. Military technicians (dual status) mandatory separation.
Sec. 514. Military retirement credit for certain service by National Guard members performed while in a State duty status immediately after the terrorist attacks of September 11, 2001.
Sec. 515. Redesignation of the Naval Reserve as the Navy Reserve.
Sec. 516. Clarification of certain authorities relating to the Commission on the National Guard and Reserves.
Sec. 517. Report on employment matters for members of the reserve components.
Sec. 518. Defense Science Board study on deployment of members of the National Guard and Reserves in the Global War on Terrorism.
Sec. 519. Sense of Congress on certain matters relating to the National Guard and Reserves.
Sec. 520. Pilot program on enhanced quality of life for members of the Army Reserve and their families.

Subtitle C—Education and Training

PART I—DEPARTMENT OF DEFENSE SCHOOLS GENERALLY

Sec. 521. Authority for National Defense University award of degree of Master of Science in Joint Campaign Planning and Strategy.
Sec. 522. Authority for certain professional military education schools to receive faculty research grants for certain purposes.

PART II—UNITED STATES NAVAL POSTGRADUATE SCHOOL

Sec. 523. Revision to mission of the Naval Postgraduate School.
Sec. 524. Modification of eligibility for position of President of the Naval Postgraduate School.
Sec. 525. Increased enrollment for eligible defense industry employees in the defense product development program at Naval Postgraduate School.
Sec. 526. Instruction for enlisted personnel by the Naval Postgraduate School.

PART III—RESERVE OFFICERS' TRAINING CORPS

Sec. 531. Repeal of limitation on amount of financial assistance under ROTC scholarship programs.
Sec. 532. Increase in annual limit on number of ROTC scholarships under Army Reserve and National Guard program.
Sec. 533. Procedures for suspending financial assistance and subsistence allowance for Senior ROTC cadets and midshipmen on the basis of health-related conditions.
Sec. 534. Eligibility of United States nationals for appointment to the Senior Reserve Officers' Training Corps.
Sec. 535. Promotion of foreign language skills among members of the Reserve Officers' Training Corps.
Sec. 536. Designation of Ike Skelton Early Commissioning Program Scholarships.

PART IV—OTHER MATTERS

Sec. 537. Enhancement of educational loan repayment authorities.
Sec. 538. Payment of expenses of members of the Armed Forces to obtain professional credentials.
Sec. 539. Use of Reserve Montgomery GI Bill benefits and benefits for mobilized members of the Selected Reserve and National Guard for payments for licensing or certification tests.
Sec. 540. Modification of educational assistance for reserves supporting contingency and other operations.

Subtitle D—General Service Requirements

Sec. 541. Ground combat and other exclusion policies.
Sec. 542. Uniform citizenship or residency requirements for enlistment in the Armed Forces.
Sec. 543. Increase in maximum age for enlistment.
Sec. 544. Increase in maximum term of original enlistment in regular component.
Sec. 545. National Call to Service program.
Sec. 546. Reports on information provided to potential recruits and to new entrants into the Armed Forces on "stop loss" authorities and initial period of military service obligation.

Subtitle E—Military Justice and Legal Assistance Matters

Sec. 551. Offense of stalking under the Uniform Code of Military Justice.
Sec. 552. Rape, sexual assault, and other sexual misconduct under Uniform Code of Military Justice.
Sec. 553. Extension of statute of limitations for murder, rape, and child abuse offenses under the Uniform Code of Military Justice.
Sec. 554. Reports by officers and senior enlisted members of conviction of criminal law.
Sec. 555. Clarification of authority of military legal assistance counsel to provide military legal assistance without regard to licensing requirements.
Sec. 556. Use of teleconferencing in administrative sessions of courts-martial.
Sec. 557. Sense of Congress on applicability of Uniform Code of Military Justice to Reserves on inactive-duty training overseas.

Subtitle F—Matters Relating to Casualties

Sec. 561. Authority for members on active duty with disabilities to participate in Paralympic Games.
Sec. 562. Policy and procedures on casualty assistance to survivors of military decedents.
Sec. 563. Policy and procedures on assistance to severely wounded or injured service members.
Sec. 564. Designation by members of the Armed Forces of persons authorized to direct the disposition of member remains.

Subtitle G—Assistance to Local Educational Agencies for Defense Dependents Education

Sec. 571. Expansion of authorized enrollment in Department of Defense dependents schools overseas.
Sec. 572. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 573. Impact aid for children with severe disabilities.
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Subtitle H—Decorations and Awards

Sec. 576. Eligibility for Operation Enduring Freedom campaign medal.

Subtitle I—Consumer Protection Matters

Sec. 577. Requirement for regulations on policies and procedures on personal commercial solicitations on Department of Defense installations.

Sec. 578. Consumer education for members of the Armed Forces and their spouses on insurance and other financial services.

Sec. 579. Report on predatory lending practices directed at members of the Armed Forces and their dependents.

Subtitle J—Reports and Sense of Congress Statements

Sec. 581. Report on need for a personnel plan for linguists in the Armed Forces.

Sec. 582. Sense of Congress that colleges and universities give equal access to military recruiters and ROTC in accordance with the Solomon Amendment and requirement for report to Congress.

Sec. 583. Sense of Congress concerning study of options for providing homeland defense education.

Sec. 584. Sense of Congress recognizing the diversity of the members of the Armed Forces serving in Operation Iraqi Freedom and Operation Enduring Freedom and honoring their sacrifices and the sacrifices of their families.

Subtitle K—Other Matters

Sec. 589. Expansion and enhancement of authority to present recognition items for recruitment and retention purposes.

Sec. 590. Extension of date of submittal of report of Veterans' Disability Benefits Commission.

Sec. 591. Recruitment and enlistment of home-schooled students in the Armed Forces.

Sec. 592. Modification of requirement for certain intermediaries under certain authorities relating to adoptions.

Sec. 593. Adoption leave for members of the Armed Forces adopting children.

Sec. 594. Addition of information to be covered in mandatory preseparation counseling.

Sec. 595. Report on Transition Assistance Programs.

Sec. 596. Improvement to Department of Defense capacity to respond to sexual assault affecting members of the Armed Forces.

Sec. 597. Authority for appointment of Coast Guard flag officer as Chief of Staff to the President.

Sec. 598. Prayer at military service academy activities.

Sec. 599. Modification of authority to make military· working dogs available for adoption.

Subtitle A—Officer Personnel Policy

SEC. 501. TEMPORARY INCREASE IN PERCENTAGE LIMITS ON REDUCTION OF TIME-IN-GRADE REQUIREMENTS FOR RETIREMENT IN GRADE UPON VOLUNTARY RETIREMENT.

Section 1370(a)(2) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Notwithstanding subparagraph (E), during the period ending on December 31, 2007, the number of lieutenant colonels and colonels of the Air Force, and the number of commanders and captains of the Navy, for whom a reduction is made under this section during any fiscal year in the period of service-in-grade otherwise required under this paragraph may not exceed four percent of the authorized active-duty strength for that fiscal year for officers of that armed force in that grade.".

SEC. 502. TWO-YEAR RENEWAL OF TEMPORARY AUTHORITY TO REDUCE MINIMUM LENGTH OF COMMISSIONED SERVICE REQUIRED FOR VOLUNTARY RETIREMENT AS AN OFFICER.

(a) Army.—Section 3911(b) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) in paragraph (1), as so designated, by striking "during the period beginning on October 1, 1990, and ending on December 31, 2001" and inserting "during the period specified in paragraph (2),"; and

(3) by adding at the end the following new paragraph:

"(2) The period specified in this paragraph is the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on December 31, 2008.".

(b) Navy and Marine Corps.—Section 6323(a)(2) of such title is amended—

(1) by inserting "(A)" after "(2)";

(2) in subparagraph (A), as so designated, by striking "during the period beginning on October 1, 1990, and ending on December 31, 2001" and inserting "during the period specified in subparagraph (B),"; and

(3) by adding at the end the following new subparagraph:

"(B) The period specified in this subparagraph is the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on December 31, 2008.".

(c) Air Force.—Section 8911(b) of such title is amended—

(1) by inserting "(1)" after "(b)";

(2) in paragraph (1), as so designated, by striking "during the period beginning on October 1, 1990, and ending on December 31, 2001" and inserting "during the period specified in paragraph (2),"; and

(3) by adding at the end the following new paragraph:

"(2) The period specified in this paragraph is the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on December 31, 2008.".

SEC. 503. EXCLUSION FROM ACTIVE-DUTY GENERAL AND FLAG OFFICER DISTRIBUTION AND STRENGTH LIMITATIONS OF OFFICERS ON LEAVE PENDING SEPARATION OR RETIREMENT OR BETWEEN SENIOR POSITIONS.

(a) Distribution Limitations.—Section 525 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) In determining the total number of general officers or flag officers of an armed force on active duty for purposes of this section, the following officers shall not be counted:

"(1) An officer of that armed force in the grade of brigadier general or above or, in the case of the Navy, in the grade of rear admiral (lower half) or above, who is on leave pending the retirement, separation, or release of that officer from active duty, but only during the 60-day period beginning on the date of the commencement of such leave of such officer.

"(2) An officer of that armed force who has been relieved from a position designated under section 601(a) of this title and is under orders to assume another such position, but only during the 60-day period beginning on the date on which those orders are published.".

(b) Active-Duty Strength Limitations.—

(1) In general.—Section 526 of such title is amended by adding at the end the following new subsection:

"(e) Exclusion of Certain Officers Pending Separation or Retirement or Between Senior Positions.—The limitations of this section do not apply to a general or flag officer who is covered by an exclusion under section 525(e) of this title.".

(2) Conforming amendment.—The heading of subsection (d) of such section is amended by striking "Certain Officers" and inserting "Certain Reserve Officers".

(c) Prohibition of Frocking to Grades Above Major General and Rear Admiral.—Section 777(a) of such title is amended by inserting "in a grade below the grade of major general or, in the case of the Navy, rear admiral," after "An officer" in the first sentence.

SEC. 504. CONSOLIDATION OF GRADE LIMITATIONS ON OFFICER ASSIGNMENT AND INSIGNIA PRACTICE KNOWN AS FROCKING.

Section 777(d) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "brigadier generals and Navy rear admirals (lower half)" and inserting "colonels, Navy captains, brigadier generals, and rear admirals (lower half)"; and

(B) by striking "the grade of" and all that follows through "30" and inserting "the next higher grade may not exceed 85";

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

SEC. 505. CLARIFICATION OF DEADLINE FOR RECEIPT BY PROMOTION SELECTION BOARDS OF CERTAIN COMMUNICATIONS FROM ELIGIBLE OFFICERS.

(a) Officers on Active-Duty List.—Section 614(b) of title 10, United States Code, is amended in the first sentence by inserting " the day before" after "not later than".

(b) Officers on Reserve Active-Status List.—Section 14106 of such title is amended in the second sentence by inserting "the day before" after "not later than".

(c) Effective Date.—The amendments made by this section shall take effect on March 1, 2006, and shall apply with respect to selection boards convened on or after that date.

SEC. 506. FURNISHING TO PROMOTION SELECTION BOARDS OF ADVERSE INFORMATION ON OFFICERS ELIGIBLE FOR PROMOTION TO CERTAIN SENIOR GRADES.

(a) Officers on Active-Duty List.—

(1) In general.—Section 615(a) of title 10, United States Code, is amended—

(A) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3) In the case of an eligible officer considered for promotion to a grade above colonel or, in the case of the Navy, captain, any credible information of an adverse nature, including any substantiated adverse finding or conclusion from an officially documented investigation or inquiry, shall be furnished to the selection board in accordance with standards and procedures set out in the regulations prescribed by the Secretary of Defense pursuant to paragraph (1).".

(2) Conforming amendments.—Such section is further amended—

(A) in paragraph (4), as redesignated by paragraph (1)(A) of this subsection, by striking "paragraph (2)" and inserting "paragraphs (2) and (3)";

(B) in paragraph (5), as so redesignated, by striking "and (3)" and inserting ", (3), and (4)";

(C) in paragraph (6), as so redesignated—

(i) in the matter preceding subparagraph (A), by inserting ", or in paragraph (3)," after "paragraph (2)"; and

(ii) in subparagraph (B), by inserting "or (3), as applicable" after "paragraph (2)"; and

(D) in subparagraph (A) of paragraph (7), as so redesignated, by inserting "or (3)" after "paragraph (2)(B)".

(b) RESERVE OFFICERS.—

(1) IN GENERAL.—Section 14107(a) of title 10, United States Code, is amended—

(A) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3) In the case of an eligible officer considered for promotion to a grade above colonel or, in the case of the Navy, captain, any credible information of an adverse nature, including any substantiated adverse finding or conclusion from an officially documented investigation or inquiry, shall be furnished to the selection board in accordance with standards and procedures set out in the regulations prescribed by the Secretary of Defense pursuant to paragraph (1).".

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in paragraph (4), as redesignated by paragraph (1)(A) of this subsection, by striking "paragraph (2)" and inserting "paragraphs (2) and (3)";

(B) in paragraph (5), as so redesignated, by striking "and (3)" and inserting ", (3), and (4)";

(C) in paragraph (6), as so redesignated—

(i) in the matter preceding subparagraph (A), by inserting ", or in paragraph (3)," after "paragraph (2)"; and

(ii) in subparagraph (B), by inserting "or (3), as applicable" after "paragraph (2)"; and

(D) in subparagraph (A) of paragraph (7), as so redesignated, by inserting "or (3)" after "paragraph (2)(B)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2006, and shall apply with respect to promotion selection boards convened on or after that date.

SEC. 507. APPLICABILITY OF OFFICER DISTRIBUTION AND STRENGTH LIMITATIONS TO OFFICERS SERVING IN INTELLIGENCE COMMUNITY POSITIONS.

(a) IN GENERAL.—Section 528 of title 10, United States Code, is amended to read as follows:

"§528. Exclusion: officers serving in certain intelligence positions

"(a) EXCLUSION OF OFFICER SERVING IN CERTAIN CIA POSITIONS.—When either of the individuals serving in a position specified in subsection (b) is an officer of the armed forces, one of those officers, while serving in that position, shall be excluded from the limitations in sections 525 and 526 of this title.

"(b) COVERED POSITIONS.—The positions referred to in this subsection are the following:

"(1) Director of the Central Intelligence Agency.

"(2) Deputy Director of the Central Intelligence Agency.

"(c) ASSOCIATE DIRECTOR OF CIA FOR MILITARY SUPPORT.—An officer of the armed forces serving in the position of Associate Director of the Central Intelligence Agency for Military Support, while serving in that position, shall be excluded from the limitations in sections 525 and 526 of this title.

"(d) OFFICERS SERVING IN OFFICE OF DNI.—A general or flag officer of the armed forces assigned to a position in the Office of the Director of National Intelligence designated by agreement between the Secretary of Defense and the Director of National Intelligence, while serving in that position, shall be excluded from the limitations in sections 525 and 526 of this title, except that not more than five such officers may be so excluded at any time.".

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 32 of such title is amended to read as follows:

"528. Exclusion: officers serving in certain intelligence positions.".

SEC. 508. GRADES OF THE JUDGE ADVOCATES GENERAL.

(a) JUDGE ADVOCATE GENERAL OF THE ARMY.—Section 3037(a) of title 10, United States Code, is amended by striking the last sentence and inserting the following new sentences: "The Judge Advocate General, while so serving, shall hold a grade not lower than major general. An officer appointed as Assistant Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general.".

(b) JUDGE ADVOCATE GENERAL OF THE NAVY.—Section 5148(b) of such title is amended by striking the last sentence and inserting the following new sentence: "The Judge Advocate General, while so serving, shall hold a grade not lower than rear admiral or major general, as appropriate.".

(c) JUDGE ADVOCATE GENERAL OF THE AIR FORCE.—Section 8037(a) of such title is amended by striking the last sentence and inserting the following new sentence: "The Judge Advocate General, while so serving, shall hold a grade not lower than major general.".

SEC. 509. AUTHORITY TO RETAIN PERMANENT PROFESSORS AT THE NAVAL ACADEMY BEYOND 30 YEARS OF ACTIVE COMMISSIONED SERVICE.

(a) WAIVER OF MANDATORY RETIREMENT FOR YEARS OF SERVICE.—

(1) LIEUTENANT COLONELS AND COMMANDERS.—Section 633 of title 10, United States Code, is amended—

(A) by striking "Except an" and all that follows through "except as provided" and inserting "(a) 28 YEARS OF ACTIVE COMMISSIONED SERVICE.—Except as provided in subsection (b) and as provided"; and

(B) by adding at the end the following:

"(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

"(1) An officer of the Navy or Marine Corps who is an officer designated for limited duty to whom section 5596(e) or 6383 of this title applies.

"(2) An officer of the Navy or Marine Corps who is a permanent professor at the United States Naval Academy.".

(2) COLONELS AND NAVY CAPTAINS.—Section 634 of such title is amended—

(A) by striking "Except an" and all that follows through "except as provided" and inserting "(a) 30 YEARS OF ACTIVE COMMISSIONED SERVICE.—Except as provided in subsection (b) and as provided"; and

(B) by adding at the end the following:

"(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

"(1) An officer of the Navy who is designated for limited duty to whom section 6383(a)(4) of this title applies.

"(2) An officer of the Navy or Marine Corps who is a permanent professor at the United States Naval Academy.".

(b) AUTHORITY FOR RETENTION OF PERMANENT PROFESSORS BEYOND 30 YEARS.—

(1) AUTHORITY.—Chapter 603 of such title is amended by inserting after section 6969 the following new section:

"§6970. Permanent professors: retirement for years of service; authority for deferral

"(a) RETIREMENT FOR YEARS OF SERVICE.—(1) Except as provided in subsection (b), an officer of the Navy or Marine Corps serving as a permanent professor at the Naval Academy in the grade of commander or lieutenant colonel who is not on a list of officers recommended for promotion to the grade of captain or colonel, as the case may be, shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 28 years of active commissioned service.

"(2) Except as provided in subsection (b), an officer of the Navy or Marine Corps serving as a permanent professor at the Naval Academy in the grade of captain or colonel who is not on a list of officers recommended for promotion to the grade of rear admiral (lower half) or brigadier general, as the case may be, shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 30 years of active commissioned service.

"(b) CONTINUATION ON ACTIVE DUTY.—(1) An officer subject to retirement under subsection (a) may have his retirement deferred and be continued on active duty by the Secretary of the Navy.

"(2) Subject to section 1252 of this title, the Secretary of the Navy shall determine the period of any continuation on active duty under this section.

"(c) ELIGIBILITY FOR PROMOTION.—A permanent professor at the Naval Academy in the grade of commander or lieutenant colonel who is continued on active duty as a permanent professor under subsection (b) remains eligible for consideration for promotion to the grade of captain or colonel, as the case may be.

"(d) RETIRED GRADE AND RETIRED PAY.—Each officer retired under this section—

"(1) unless otherwise entitled to a higher grade, shall be retired in the grade determined under section 1370 of this title; and

"(2) is entitled to retired pay computed under section 6333 of this title.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 6969 the following new item:

"6970. Permanent professors: retirement for years of service; authority for deferral.".

(c) MANDATORY RETIREMENT AT AGE 64.—

(1) REORGANIZATION AND STANDARDIZATION.—Chapter 63 of such title is amended by inserting after section 1251 the following new section:

"§1252. Age 64: permanent professors at academies

"(a) MANDATORY RETIREMENT FOR AGE.—Unless retired or separated earlier, each regular commissioned officer of the Army, Navy, Air Force, or Marine Corps covered by subsection (b) shall be retired on the first day of the month following the month in which the officer becomes 64 years of age.

"(b) COVERED OFFICERS.—This section applies to the following officers:

"(1) An officer who is a permanent professor or the director of admissions of the United States Military Academy.

"(2) An officer who is a permanent professor at the United States Naval Academy.

"(3) An officer who is a permanent professor or the registrar of the United States Air Force Academy.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1251 the following new item:

"1252. Age 64: permanent professors at academies.".

(3) CONFORMING AMENDMENT.—Section 1251(a) of such title is amended—

(A) in the first sentence, by inserting ", a permanent professor at the United States Naval Academy," after "Air Force Academy"; and

(B) by striking the second sentence.

(d) CONFORMING AMENDMENTS RELATING TO COMPUTATION OF RETIRED PAY.—

(1) AGE 64 RETIREMENT.—Chapter 71 of such title is amended—

(A) in the table in section 1401(a), by inserting at the bottom of the column under the heading "For sections", in the entry for Formula Number 5, the following: "1252"; and

(B) in the table in section 1406(b)(1), by inserting at the bottom of the first column the following: "1252".

(2) YEARS-OF-SERVICE RETIREMENT.—Section 6333(a) of such title is amended—

(A) in the matter preceding the table, by inserting "6970 or" after "section"; and

(B) in the table, by inserting "6970" immediately below "6325(b)" in the column under the heading "For sections", in the entry for Formula B.

SEC. 510. AUTHORITY FOR DESIGNATION OF A GENERAL/FLAG OFFICER POSITION ON THE JOINT STAFF TO BE HELD BY RESERVE COMPONENT GENERAL OR FLAG OFFICER ON ACTIVE DUTY.

Section 526(b)(2)(A) of title 10, United States Code, is amended by inserting ", and a general and flag officer position on the Joint Staff," after "combatant commands".

Subtitle B—Reserve Component Management

SEC. 511. SEPARATION AT AGE 64 FOR RESERVE COMPONENT SENIOR OFFICERS.

Section 14512(a) of title 10, United States Code, is amended—

(1) by inserting "(1)" before "Unless retired,";

(2) by striking "who is Chief" and all that follows through "of a State," and inserting "who is specified in paragraph (2)"; and

(3) by adding at the end the following new paragraph:

"(2) Paragraph (1) applies to a reserve officer of the Army or Air Force who is any of the following:

"(A) The Chief of the National Guard Bureau.

"(B) The Chief of the Army Reserve, Chief of the Air Force Reserve, Director of the Army National Guard, or Director of the Air National Guard.

"(C) An adjutant general.

"(D) If a reserve officer of the Army, the commanding general of the troops of a State.".

SEC. 512. MODIFICATION OF STRENGTH-IN-GRADE LIMITATIONS APPLICABLE TO RESERVE FLAG OFFICERS IN ACTIVE STATUS.

(a) LINE OFFICERS.—The table in paragraph (1) of section 12004(c) of title 10, United States Code, is amended by striking "28" in the item relating to Line officers and inserting "33".

(b) MEDICAL DEPARTMENT STAFF CORPS OFFICERS.—Such table is further amended by striking "9" in the item relating to Medical Department staff corps officers and inserting "5".

(c) SUPPLY CORPS OFFICERS.—Paragraph (2)(A) of such section is amended by striking "seven" and inserting "six".

(d) CONFORMING AMENDMENT.—Paragraph (1) of such section is further amended in the matter preceding the table by striking "39" and inserting "40".

SEC. 513. MILITARY TECHNICIANS (DUAL STATUS) MANDATORY SEPARATION.

(a) DEFERRAL OF SEPARATION.—Section 10216 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) DEFERRAL OF MANDATORY SEPARATION.—The Secretary of the Army shall implement personnel policies so as to allow a military technician (dual status) who continues to meet the requirements of this section for dual status to continue to serve beyond a mandatory removal date for officers, and any applicable maximum years of service limitation, until the military technician (dual status) reaches age 60 and attains eligibility for an unreduced annuity (as defined in section 10218(c) of this title).".

(b) EFFECTIVE DATE.—The Secretary of the Army shall implement subsection (f) of section 10216 of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act.

SEC. 514. MILITARY RETIREMENT CREDIT FOR CERTAIN SERVICE BY NATIONAL GUARD MEMBERS PERFORMED WHILE IN A STATE DUTY STATUS IMMEDIATELY AFTER THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001.

(a) RETIREMENT CREDIT.—Service of a member of the Ready Reserve of the Army National Guard or Air National Guard described in subsection (b) shall be deemed to be service creditable under section 12732(a)(2)(A)(i) of title 10, United States Code.

(b) COVERED SERVICE.—Service referred to in subsection (a) is full-time State active duty service that a member of the National Guard performed on or after September 11, 2001, and before October 1, 2002, in any of the counties specified in subsection (c) to support a Federal declaration of emergency following the terrorist attacks on the United States of September 11, 2001.

(c) COVERED COUNTIES.—The counties referred to in subsection (b) are the following:

(1) In the State of New York: Bronx, Kings, New York (boroughs of Brooklyn and Manhattan), Queens, Richmond, Delaware, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, and Westchester.

(2) In the State of Virginia: Arlington.

(d) APPLICABILITY.—Subsection (a) shall take effect as of September 11, 2001.

SEC. 515. REDESIGNATION OF THE NAVAL RESERVE AS THE NAVY RESERVE.

(a) REDESIGNATION OF RESERVE COMPONENT.—

(1) REDESIGNATION.—The reserve component of the Armed Forces known as the Naval Reserve is redesignated as the Navy Reserve.

(2) CONFORMING REPEAL.—Section 517 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1884; 10 U.S.C. 10101 note) is repealed.

(b) CONFORMING AMENDMENTS TO TITLE 10, UNITED STATES CODE.—

(1) TEXT AMENDMENTS.—Title 10, United States Code, is amended by striking "Naval Reserve" each place it appears in the following provisions and inserting "Navy Reserve":

(A) Section 513(a).
(B) Section 516.
(C) Section 526(b)(2)(C)(i).
(D) Section 971(a).
(E) Section 5001(a)(1).
(F) Section 5143.
(G) Section 5596(c).
(H) Section 6323(f).
(I) Section 6327.
(J) Section 6330(b).
(K) Section 6331(a)(2).
(L) Section 6336.
(M) Section 6389.
(N) Section 6911(c)(1).
(O) Section 6913(a).
(P) Section 6915.
(Q) Section 6954(b)(3).
(R) Section 6956(a)(2).
(S) Section 6959.
(T) Section 7225.
(U) Section 7226.
(V) Section 7605(1).
(W) Section 7852.
(X) Section 7853.
(Y) Section 7854.
(Z) Section 10101(3).
(AA) Section 10108.
(BB) Section 10172.
(CC) Section 10301(a)(7).
(DD) Section 10303.
(EE) Section 12004(e)(2).
(FF) Section 12005.
(GG) Section 12010.
(HH) Section 12011(a)(2).
(II) Section 12012(a).
(JJ) Section 12103.
(KK) Section 12205.
(LL) Section 12207(b)(2).
(MM) Section 12732.
(NN) Section 12774(b) (other than the first place it appears).
(OO) Section 14002(b).
(PP) Section 14101(a)(1).
(QQ) Section 14107(d).
(RR) Section 14302(a)(1)(A).
(SS) Section 14313(b).
(TT) Section 14501(a).
(UU) Section 14512(b).
(VV) Section 14705(a).
(WW) Section 16201(d)(1)(B)(ii).

(2) SUBSECTION CAPTION AMENDMENTS.—Such title is further amended in sections 971(a) and 5143(a) by striking "NAVAL RESERVE" and inserting "NAVY RESERVE".

(3) SECTION HEADING AMENDMENTS.—Such title is further amended as follows:

(A) The heading of section 5143 is amended to read as follows:

"§ 5143. Office of Navy Reserve: appointment of Chief".

(B) The heading of section 6327 is amended to read as follows:

"§ 6327. Officers and enlisted members of the Navy Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay".

(C) The heading of section 6389 is amended to read as follows:

"§ 6389. Navy Reserve and Marine Corps Reserve; officers: elimination from active status; computation of total commissioned service".

(D) The heading of section 7225 is amended to read as follows:

"§ 7225. Navy Reserve flag".

(E) The heading of section 7226 is amended to read as follows:

"§ 7226. Navy Reserve yacht pennant".

(F) The heading of section 10108 is amended to read as follows:

"§ 10108. Navy Reserve: administration".

(G) The heading of section 10172 is amended to read as follows:

"§ 10172. Navy Reserve Force".

(H) The heading of section 10303 is amended to read as follows:

"§ 10303. Navy Reserve Policy Board".

(I) The heading of section 12010 is amended to read as follows:

"§ 12010. Computations for Navy Reserve and Marine Corps Reserve: rule when fraction occurs in final result".

(J) The heading of section 14306 is amended to read as follows:

"§ 14306. Establishment of promotion zones: Navy Reserve and Marine Corps Reserve running mate system".

(4) TABLES OF SECTIONS AMENDMENTS.—Such title is further amended as follows:

(A) The item relating to section 5143 in the table of sections at the beginning of chapter 513 is amended to read as follows:

"5143. Office of Navy Reserve: appointment of Chief.".

(B) The item relating to section 6327 in the table of sections at the beginning of chapter 571 is amended to read as follows:

"6327. Officers and enlisted members of the Navy Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay.".

(C) The item relating to section 6389 in the table of sections at the beginning of chapter 573 is amended to read as follows:

"6389. Navy Reserve and Marine Corps Reserve; officers: elimination from active status; computation of total commissioned service.".

(D) The items relating to sections 7225 and 7226 in the table of sections at the beginning of chapter 631 are amended to read as follows:

"7225. Navy Reserve flag.
"7226. Navy Reserve yacht pennant.".

(E) The item relating to section 10108 in the table of sections at the beginning of chapter 1003 is amended to read as follows:

"10108. Navy Reserve: administration.".

(F) The item relating to section 10172 in the table of sections at the beginning of chapter 1006 is amended to read as follows:

"10172. Navy Reserve Force.".

(G) The item relating to section 10303 in the table of sections at the beginning of chapter 1009 is amended to read as follows:

"10303. Navy Reserve Policy Board.".

(H) The item relating to section 12010 in the table of sections at the beginning of chapter 1201 is amended to read as follows:

"12010. Computations for Navy Reserve and Marine Corps Reserve: rule when fraction occurs in final result.".

(I) The item relating to section 14306 in the table of sections at the beginning of chapter 1405 is amended to read as follows:

"14306. Establishment of promotion zones: Navy Reserve and Marine Corps Reserve running mate system.".

(c) CONFORMING AMENDMENT TO TITLE 14, UNITED STATES CODE.—Section 705 of title 14, United States Code, is amended by striking "Naval Reserve" each place it appears and inserting "Navy Reserve".

(d) CONFORMING AMENDMENTS TO TITLE 37, UNITED STATES CODE.—

(1) TEXT AMENDMENTS.—Title 37, United States Code, is amended by striking "Naval Reserve" each place it appears in the following provisions and inserting "Navy Reserve":

(A) Section 101(24)(C).
(B) Section 201(d).
(C) Section 205(a)(2)(I).
(D) Section 301c(d).
(E) Section 319(a).
(F) Section 905.

(2) SUBSECTION CAPTION AMENDMENT.—Section 301c(d) of such title is further amended by striking "NAVAL RESERVE" and inserting "NAVY RESERVE".

(e) CONFORMING AMENDMENTS TO TITLE 38, UNITED STATES CODE.—Title 38, United States Code, is amended by striking "Naval Reserve" each place it appears in the following provisions and inserting "Navy Reserve":

(1) Section 101(27)(B).
(2) Section 3002(6)(C).
(3) Section 3202(1)(C)(iii).
(4) Section 3452(a)(3)(C).

(f) CONFORMING AMENDMENTS TO OTHER CODIFIED TITLES.—

(1) TITLE 5, UNITED STATES CODE.—Section 2108(1)(B) of title 5, United States Code, is amended by striking "Naval Reserve" and inserting "Navy Reserve".

(2) TITLE 18, UNITED STATES CODE.—Section 2387(b) of title 18, United States Code, is amended by striking "Naval Reserve" and inserting "Navy Reserve".

(3) TITLE 46, UNITED STATES CODE.—Title 46, United States Code, is amended as follows:

(A) Sections 8103(g) and 8302(g) are amended by striking "Naval Reserve" each place it appears and inserting "Navy Reserve".

(B) The heading of section 8103 is amended to read as follows:

"§8103. Citizenship and Navy Reserve requirements".

(C) The table of sections at the beginning of chapter 81 is amended by striking the item relating to section 8103 and inserting the following new item:

"8103. Citizenship and Navy Reserve requirements.".

(g) CONFORMING AMENDMENTS TO OTHER LAWS.—

(1) Section 2301(4)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671(4)(C)) is amended by striking "Naval Reserve" and inserting "Navy Reserve".

(2) The Merchant Marine Act, 1936 is amended—

(A) by striking "Naval Reserve" each place it appears in sections 301(b) (46 U.S.C. App. 1131(b)), 1303 (46 U.S.C. App. 1295b), and 1304 (46 U.S.C. App. 1295c) and inserting "Navy Reserve"; and

(B) by striking "NAVAL RESERVE" in sections 1303(c) and 1304(h) and inserting "NAVY RESERVE":

(3) The Military Selective Service Act is amended—

(A) in section 6(a)(1) (50 U.S.C. App. 456(a)(1)), by striking "United States Naval Reserves" and inserting "members of the United States Navy Reserve"; and

(B) in section 16(i) (50 U.S.C. App. 466(i)), by striking "Naval Reserve" and inserting "Navy Reserve".

(h) OTHER REFERENCES.—Any reference in any law, regulation, document, record, or other paper of the United States to the Naval Reserve, other than a reference to the Naval Reserve regarding the United States Naval Reserve Retired List, shall be considered to be a reference to the Navy Reserve.

SEC. 516. CLARIFICATION OF CERTAIN AUTHORITIES RELATING TO THE COMMISSION ON THE NATIONAL GUARD AND RESERVES.

(a) NATURE OF COMMISSION.—Subsection (a) of section 513 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1880) is amended by inserting "in the legislative branch" after "There is established".

(b) PAY OF MEMBERS.—Subsection (e)(1) of such section is amended by striking "except that" and all that follows through the end and inserting "except that—

"(A) in applying the first sentence of subsection (a) of section 957 of such Act to the Commission, 'may' shall be substituted for 'shall'; and

"(B) in applying subsections (a), (c)(2), and (e) of section 957 of such Act to the Commission, 'level IV of the Executive Schedule' shall be substituted for 'level V of the Executive Schedule'.".

(c) TECHNICAL AMENDMENT.—Subsection (c)(2)(C) of such section is amended by striking "section 404(a)(4)" and inserting "section 416(a)(4)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 28, 2004, as if included in the enactment of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005.

SEC. 517. REPORT ON EMPLOYMENT MATTERS FOR MEMBERS OF THE RESERVE COMPONENTS.

(a) REQUIREMENT FOR REPORT.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on problems faced by members of the reserve components with respect to employment as a result of being ordered to perform full-time National Guard duty or being ordered to active duty.

(b) SPECIFIC MATTERS.—In preparing the report under subsection (a), the Comptroller General shall include the following:

(1) TYPE OF EMPLOYERS.—An estimate of the number of employers of members of the reserve components who are private-sector employers and the number who are public-sector employers.

(2) SIZE OF EMPLOYERS.—An estimate of the number of employers of members of the reserve components who employ fewer than 50 full-time employees.

(3) SELF-EMPLOYED.—An estimate of the number of members of the reserve components who are self-employed.

(4) NATURE OF BUSINESS.—A description of the nature of the business of employers of members of the reserve components.

(5) REEMPLOYMENT DIFFICULTIES.—A description of difficulties faced by members of the reserve components in gaining reemployment after having performed full-time National Guard duty or active duty, including difficulties faced by members who are disabled as a result of their service.

SEC. 518. DEFENSE SCIENCE BOARD STUDY ON DEPLOYMENT OF MEMBERS OF THE NATIONAL GUARD AND RESERVES IN THE GLOBAL WAR ON TERRORISM.

(a) STUDY REQUIRED.—The Defense Science Board shall conduct a study on the length and frequency of the deployment of members of the National Guard and the Reserves as a result of the global war on terrorism.

(b) ELEMENTS.—The study required by subsection (a) shall include the following:

(1) An identification of the current range of lengths and frequencies of deployments of members of the National Guard and the Reserves.

(2) An assessment of the consequences for force structure, morale, and mission capability of deployments of members of the National Guard and the Reserves in the course of the global war on terrorism that are lengthy, frequent, or both.

(3) An identification of the optimal length and frequency of deployments of members of the National Guard and the Reserves during the global war on terrorism.

(4) An identification of mechanisms to reduce the length, frequency, or both of deployments of members of the National Guard and the Reserves during the global war on terrorism.

(c) REPORT.—Not later than May 1, 2006, the Defense Science Board shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the study required by subsection (a). The report shall include the results of the study and such recommendations as the Defense Science Board considers appropriate in light of the study.

SEC. 519. SENSE OF CONGRESS ON CERTAIN MATTERS RELATING TO THE NATIONAL GUARD AND RESERVES.

It is the sense of Congress—

(1) to recognize the important and integral role played by members of the Active Guard and Reserve and military technicians (dual status) in the efforts of the Armed Forces; and

(2) to urge the Secretary of Defense to promptly resolve issues relating to appropriate authority for payment of reenlistment bonuses stemming from reenlistment contracts entered into between January 14, 2005, and April 17, 2005, involving members of the Army National Guard and military technicians (dual status).

SEC. 520. PILOT PROGRAM ON ENHANCED QUALITY OF LIFE FOR MEMBERS OF THE ARMY RESERVE AND THEIR FAMILIES.

(a) PILOT PROGRAM REQUIRED.—

(1) IN GENERAL.—The Secretary of the Army shall carry out a pilot program to assess the feasibility and advisability of using a coalition of military and civilian community personnel in order to enhance the quality of life for members of the Army Reserve and their families.

(2) LOCATIONS.—The Secretary shall carry out the pilot program in areas of the United States

in which members of the Army Reserve and their families are concentrated. The Secretary shall select one area in two States for purposes of the pilot program.

(b) Participating Personnel.—A coalition of personnel under the pilot program shall include—

(1) military personnel; and

(2) appropriate members of the civilian community, such as clinicians and teachers, who volunteer for participation in the coalition.

(c) Report.—Not later than April 1, 2007, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the pilot program carried out under this section. The report shall include—

(1) a description of the pilot program;

(2) an assessment of the benefits of using a coalition of military and civilian community personnel in order to enhance the quality of life for members of the Army Reserve and their families; and

(3) such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the pilot program.

Subtitle C—Education and Training

PART I—DEPARTMENT OF DEFENSE SCHOOLS GENERALLY

SEC. 521. AUTHORITY FOR NATIONAL DEFENSE UNIVERSITY AWARD OF DEGREE OF MASTER OF SCIENCE IN JOINT CAMPAIGN PLANNING AND STRATEGY.

(a) Joint Forces Staff College Program.—Section 2163 of title 10, United States Code, is amended to read as follows:

"§2163. National Defense University: master of science degrees

"(a) Authority to Award Specified Degrees.—The President of the National Defense University, upon the recommendation of the faculty of the respective college or other school within the University, may confer the master of science degrees specified in subsection (b).

"(b) Authorized Degrees.—The following degrees may be awarded under subsection (a):

"(1) Master of Science in National Security Strategy.—The degree of master of science in national security strategy, to graduates of the University who fulfill the requirements of the program of the National War College.

"(2) Master of Science in National Resource Strategy.—The degree of master of science in national resource strategy, to graduates of the University who fulfill the requirements of the program of the Industrial College of the Armed Forces.

"(3) Master of Science in Joint Campaign Planning and Strategy.—The degree of master of science in joint campaign planning and strategy, to graduates of the University who fulfill the requirements of the program of the Joint Advanced Warfighting School at the Joint Forces Staff College.

"(c) Regulations.—The authority provided by this section shall be exercised under regulations prescribed by the Secretary of Defense.".

(b) Clerical Amendment.—The item relating to section 2163 in the table of sections at the beginning of chapter 108 of such title is amended to read as follows:

"2163. National Defense University: master of science degrees.".

(c) Effective Date.—Paragraph (3) of section 2163(b) of title 10, United States Code, as amended by subsection (a), shall take effect for degrees awarded after May 2005.

SEC. 522. AUTHORITY FOR CERTAIN PROFESSIONAL MILITARY EDUCATION SCHOOLS TO RECEIVE FACULTY RESEARCH GRANTS FOR CERTAIN PURPOSES.

(a) National Defense University.—Section 2165 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) Acceptance of Faculty Research Grants.—(1) The Secretary of Defense may authorize the President of the National Defense University to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of one of the institutions comprising the University for a scientific, literary, or educational purpose.

"(2) A qualifying research grant under this subsection is a grant that is awarded on a competitive basis by an entity referred to in paragraph (3) for a research project with a scientific, literary, or educational purpose.

"(3) A grant may be accepted under this subsection only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

"(4) The Secretary shall establish an account for administering funds received as research grants under this subsection. The President of the University shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

"(5) Subject to such limitations as may be provided in appropriations Acts, appropriations available for the National Defense University may be used to pay expenses incurred by the University in applying for, and otherwise pursuing, the award of qualifying research grants.

"(6) The Secretary shall prescribe regulations for the administration of this subsection.".

(b) Army War College.—

(1) In general.—Chapter 407 of such title is amended by adding at the end the following new section:

"§4417. United States Army War College: acceptance of grants for faculty research for scientific, literary, and educational purposes

"(a) Acceptance of Research Grants.—The Secretary of the Army may authorize the Commandant of the United States Army War College to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the College for a scientific, literary, or educational purpose.

"(b) Qualifying Grants.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

"(c) Entities From Which Grants May Be Accepted.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

"(d) Administration of Grant Funds.—The Secretary shall establish an account for administering funds received as research grants under this section. The Commandant shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

"(e) Related Expenses.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Army War College may be used to pay expenses incurred by the College in applying for, and otherwise pursuing, the award of qualifying research grants.

"(f) Regulations.—The Secretary shall prescribe regulations for the administration of this section.".

(2) Clerical amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4417. United States Army War College: acceptance of grants for faculty research for scientific, literary, and educational purposes.".

(c) United States Naval Postgraduate School.—

(1) In general.—Chapter 605 of such title is amended by adding at the end the following new section:

"§7050. Grants for faculty research for scientific, literary, and educational purposes: acceptance; authorized grantees

"(a) Acceptance of Research Grants.—The Secretary of the Navy may authorize the President of the Naval Postgraduate School to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the School for a scientific, literary, or educational purpose.

"(b) Qualifying Grants.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

"(c) Entities From Which Grants May Be Accepted.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

"(d) Administration of Grant Funds.—The Secretary shall establish an account for administering funds received as research grants under this section. The President of the Naval Postgraduate School shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

"(e) Related Expenses.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Naval Postgraduate School may be used to pay expenses incurred by the School in applying for, and otherwise pursuing, the award of qualifying research grants.

"(f) Regulations.—The Secretary shall prescribe regulations for the administration of this section.".

(2) Clerical amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7050. Grants for faculty research for scientific, literary, and educational purposes: acceptance, authorized grantees.".

(d) Naval War College and Marine Corps University.—

(1) In general.—Chapter 609 of such title is amended by adding at the end the following new sections:

"§7103. Naval War College: acceptance of grants for faculty research for scientific, literary, and educational purposes

"(a) Acceptance of Research Grants.—The Secretary of the Navy may authorize the President of the Naval War College to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the College for a scientific, literary, or educational purpose.

"(b) Qualifying Grants.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

"(c) Entities From Which Grants May Be Accepted.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

"(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The President of the Naval War College shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

"(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Naval War College may be used to pay expenses incurred by the College in applying for, and otherwise pursuing, the award of qualifying research grants.

"(f) REGULATIONS.—The Secretary shall prescribe regulations for the administration of this section.

"§7104. Marine Corps University: acceptance of grants for faculty research for scientific, literary, and educational purposes

"(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Navy may authorize the President of the Marine Corps University to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of one of the institutions comprising the University for a scientific, literary, or educational purpose.

"(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

"(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

"(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The President of the Marine Corps University shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

"(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Marine Corps University may be used to pay expenses incurred by the University in applying for, and otherwise pursuing, the award of qualifying research grants.

"(f) REGULATIONS.—The Secretary shall prescribe regulations for the administration of this section.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"7103. Naval War College: acceptance of grants for faculty research for scientific, literary, and educational purposes.
"7104. Marine Corps University: acceptance of grants for faculty research for scientific, literary, and educational purposes.".

(e) UNITED STATES AIR FORCE INSTITUTE OF TECHNOLOGY.—Section 9314 of such title is amended by adding at the end the following new subsection:

"(d) ACCEPTANCE OF RESEARCH GRANTS.—(1) The Secretary of the Air Force may authorize the Commandant of the United States Air Force Institute of Technology to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Institute for a scientific, literary, or educational purpose.

"(2) A qualifying research grant under this subsection is a grant that is awarded on a competitive basis by an entity referred to in paragraph (3) for a research project with a scientific, literary, or educational purpose.

"(3) A grant may be accepted under this subsection only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

"(4) The Secretary shall establish an account for administering funds received as research grants under this section. The Commandant of the Institute shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

"(5) Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Institute may be used to pay expenses incurred by the Institute in applying for, and otherwise pursuing, the award of qualifying research grants.

"(6) The Secretary shall prescribe regulations for the administration of this subsection.".

(f) AIR WAR COLLEGE.—

(1) IN GENERAL.—Chapter 907 of such title is amended by adding at the end the following new section:

"§9417. Air War College: acceptance of grants for faculty research for scientific, literary, and educational purposes

"(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Air Force may authorize the Commandant of the Air War College to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the College for a scientific, literary, or educational purpose.

"(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

"(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

"(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The Commandant shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

"(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Air War College may be used to pay expenses incurred by the College in applying for, and otherwise pursuing, the award of qualifying research grants.

"(f) REGULATIONS.—The Secretary shall prescribe regulations for the administration of this section.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9417. Air War College: acceptance of grants for faculty research for scientific, literary, and educational purposes.".

PART II—UNITED STATES NAVAL POSTGRADUATE SCHOOL

SEC. 523. REVISION TO MISSION OF THE NAVAL POSTGRADUATE SCHOOL.

(a) INCLUSION OF PROFESSIONAL EDUCATION AND RESEARCH OPPORTUNITIES.—The text of section 7041 of title 10, United States Code, is amended to read as follows:

" There is a United States Naval Postgraduate School, the primary function of which is to provide advanced instruction and professional and technical education and research opportunities for commissioned officers of the naval service in—

"(1) their practical and theoretical duties;

"(2) the science, physics, and systems engineering of current and future naval warfare doctrine, operations, and systems; and

"(3) the integration of naval operations and systems into joint, combined, and multinational operations.".

(b) CONFORMING AMENDMENT.—Section 7042(b)(1) of such title is amended by striking "and technical education of students" and inserting "and professional and technical education of students and the provision of research opportunities for students".

SEC. 524. MODIFICATION OF ELIGIBILITY FOR POSITION OF PRESIDENT OF THE NAVAL POSTGRADUATE SCHOOL.

Subsection (a) of section 7042 of title 10, United States Code, is amended to read as follows:

"(a)(1) The President of the Naval Postgraduate School shall be one of the following:

"(A) An officer of the Navy in a grade not below the grade of captain who is detailed to such position.

"(B) A civilian individual having qualifications appropriate to the position of President of the Naval Postgraduate School who is assigned to such position.

"(2) The President of the Naval Postgraduate School shall be detailed or assigned to such position by the Secretary of the Navy, upon the recommendation of the Chief of Naval Operations.

"(3) An individual assigned to the position of President of the Naval Postgraduate School under paragraph (1)(B) shall serve in that position for a term of not more than five years and may be reassigned to that position for an additional term of up to five years.

"(4) The qualifications appropriate for selection for detail or assignment to the position of President of the Naval Postgraduate School include the following:

"(A) A doctorate degree in a field of study relevant to the mission and function of the Naval Postgraduate School, in the case of a civilian, or a doctorate or master's degree in such a field of study, in the case of an officer of the Navy.

"(B) A comprehensive understanding of the Navy, the Department of Defense, and joint and combined operations.

"(C) Leadership experience at the senior level in a large and diverse organization.

"(D) Demonstrated ability to foster and encourage a program of research in order to sustain academic excellence.

"(E) Other qualifications, as determined by the Secretary of the Navy.".

SEC. 525. INCREASED ENROLLMENT FOR ELIGIBLE DEFENSE INDUSTRY EMPLOYEES IN THE DEFENSE PRODUCT DEVELOPMENT PROGRAM AT NAVAL POSTGRADUATE SCHOOL.

Section 7049(a) of title 10, United States Code, is amended—

(1) by inserting "and systems engineering" after "curriculum related to defense product development"; and

(2) by striking "10" and inserting "25".

SEC. 526. INSTRUCTION FOR ENLISTED PERSONNEL BY THE NAVAL POSTGRADUATE SCHOOL.

(a) EXPANDED ELIGIBILITY FOR INSTRUCTION.—Section 7045 of title 10, United States Code, is amended—

(1) in subsection (a)(2)—

(A) by redesignating subparagraph (C) as subparagraph (D);

(B) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) The Secretary may permit an eligible enlisted member of the Navy or Marine Corps to receive instruction from the Postgraduate School in certificate programs and courses required for the performance of the member's duties."; and

(C) in subparagraph (D), as so redesignated, by striking "(A) and (B)" and inserting "(A), (B), and (C)"; and

(2) in subsection (b)(2), by striking "(a)(2)(C)" and inserting "(a)(2)(D)".

(b) LIMITATION ON DEGREE AWARDS.—Such section is further amended by adding at the end the following new subsection:

"(d) The Secretary may not award a baccalaureate, masters, or doctorate degree to an enlisted member based upon instruction received at the Postgraduate School under subsection (a)(2)(C).".

(c) REPORT ON RATIONALE AND PLANS OF THE NAVY TO PROVIDE ENLISTED MEMBERS AN OPPORTUNITY TO OBTAIN GRADUATE DEGREES.—The Secretary of the Navy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the plans, if any, of the Secretary, and the rationale for those plans, for a program to provide enlisted members of the Navy with opportunities to pursue graduate degree programs either through Navy schools or paid for by the Navy in return for an additional service obligation. The report shall include the following:

(1) The underlying philosophy and objectives supporting a decision to provide opportunities for graduate degrees to enlisted members of the Navy.

(2) An overall description of how the award of a graduate degree to an enlisted member would fit in an integrated, progressive, coordinated, and systematic way into the goals and requirements of the Navy for enlisted career development and for professional education, together with a discussion of a wider requirement, if any, for programs for the award of associate and baccalaureate degrees to enlisted members, particularly in the career fields under consideration for the pilot program referred to in subsection (d).

(3) A discussion of the scope and details of the plan to ensure that Navy enlisted members have the requisite academic baccalaureate degrees as a prerequisite for undertaking graduate-level work.

(4) Identification of the specific enlisted career fields for which the Secretary has determined that a graduate degree should be a requirement, as well as the rationale for that determination.

(5) A description of the concept of the Secretary for the process and mechanism of providing graduate degrees to enlisted members, including, at a minimum, the Secretary's plan for whether the degree programs would be provided through civilian or military degree-granting institutions and whether through in-resident or distance learning or some combination thereof.

(6) A description of the plan to ensure proper and effective utilization of enlisted members following the award of a graduate degree.

(d) PLAN FOR PILOT PROGRAM.—In addition to the report under subsection (c), the Secretary of the Navy may submit a plan for a pilot program to make available opportunities to pursue graduate degree programs to a limited number of Navy enlisted members in a specific, limited set of critical career fields. Such a plan shall include, as a minimum, the following:

(1) The specific objectives of the pilot program.

(2) An identification of the specific enlisted career fields from which candidates for the program would be drawn, the numbers and prerequisite qualifications of initial candidates, and the process for selecting the enlisted members who would initially participate.

(3) The process and mechanism for providing the degrees, described in the same manner as specified under subsection (c)(5), and a general description of course content.

(4) An analysis of the cost effectiveness of using Navy, other service, or civilian degree granting institutions in the program.

(5) The plan for post-graduation utilization of the enlisted members who obtain graduate degrees under the program.

(6) The criteria and plan for assessing whether the objectives of the program are met.

PART III—RESERVE OFFICERS' TRAINING CORPS

SEC. 531. REPEAL OF LIMITATION ON AMOUNT OF FINANCIAL ASSISTANCE UNDER ROTC SCHOLARSHIP PROGRAMS.

(a) GENERAL ROTC PROGRAM.—Section 2107(c) of title 10, United States Code, is amended—

(1) by striking paragraph (4); and

(2) in paragraph (5)(B), by striking ", (3), or (4)" and inserting "or (3)".

(b) ARMY RESERVE AND ARMY NATIONAL GUARD PROGRAM.—Section 2107a(c) of such title is amended by striking paragraph (3).

(c) EFFECTIVE DATE.—Paragraph (4) of section 2107(c) of title 10, United States Code, and paragraph (3) of section 2107a(c) of such title, as in effect on the day before the date of the enactment of this Act, shall continue to apply in the case of any individual selected before the date of the enactment of this Act for appointment as a cadet or midshipman under section 2107 or 2107a of such title.

SEC. 532. INCREASE IN ANNUAL LIMIT ON NUMBER OF ROTC SCHOLARSHIPS UNDER ARMY RESERVE AND NATIONAL GUARD PROGRAM .

Section 2107a(h) of title 10, United States Code, is amended by striking "208" and inserting "416".

SEC. 533. PROCEDURES FOR SUSPENDING FINANCIAL ASSISTANCE AND SUBSISTENCE ALLOWANCE FOR SENIOR ROTC CADETS AND MIDSHIPMEN ON THE BASIS OF HEALTH-RELATED CONDITIONS.

(a) REQUIREMENTS.—Section 2107 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j)(1) Payment of financial assistance under this section for, and payment of a monthly subsistence allowance under section 209 of title 37 to, a cadet or midshipman appointed under this section may be suspended on the basis of health-related incapacity of the cadet or midshipman only in accordance with regulations prescribed under paragraph (2).

"(2) The Secretary of Defense shall prescribe in regulations the policies and procedures for suspending payments under paragraph (1). The regulations shall apply uniformly to all of the military departments. The regulations shall include the following matters:

"(A) The standards of health-related fitness that are to be applied.

"(B) Requirements for—

"(i) the health-related condition and prognosis of a cadet or midshipman to be determined, in relation to the applicable standards prescribed under subparagraph (A), by a health care professional on the basis of a medical examination of the cadet or midshipman; and

"(ii) the Secretary concerned to take into consideration the determinations made under clause (i) with respect to such condition in deciding whether to suspend payment in the case of such cadet or midshipman on the basis of that condition.

"(C) A requirement for the Secretary concerned to transmit to a cadet or midshipman proposed for suspension under this subsection a notification of the proposed suspension together with the determinations made under subparagraph (B)(i) in the case of the proposed suspension.

"(D) A procedure for a cadet or midshipman proposed for suspension under this subsection to submit a written response to the proposal for suspension, including any supporting information.

"(E) Requirements for—

"(i) one or more health-care professionals to review, in the case of such a response of a cadet or midshipman, each health-related condition and prognosis addressed in the response, taking into consideration the matters submitted in such response; and

"(ii) the Secretary concerned to take into consideration the determinations made under clause (i) with respect to such condition in making a final decision regarding whether to suspend payment in the case of such cadet or midshipman on the basis of that condition, and the conditions under which such suspension may be lifted.".

(b) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Defense shall prescribe the regulations required under subsection (j) of section 2107 of title 10, United States Code (as added by subsection (a)), not later than May 1, 2006.

SEC. 534. ELIGIBILITY OF UNITED STATES NATIONALS FOR APPOINTMENT TO THE SENIOR RESERVE OFFICERS' TRAINING CORPS.

(a) IN GENERAL.—Section 2107(b)(1) of title 10, United States Code, is amended by inserting "or national" after "citizen".

(b) ARMY RESERVE OFFICERS TRAINING PROGRAMS.—Section 2107a(b)(1)(A) of such title is amended by inserting "or national" after "citizen".

(c) ELIGIBILITY FOR APPOINTMENT AS COMMISSIONED OFFICERS.—Section 532(f) of such title is amended by inserting ", or for a United States national otherwise eligible for appointment as a cadet or midshipman under section 2107(a) of this title or as a cadet under section 2107a of this title," after "for permanent residence".

SEC. 535. PROMOTION OF FOREIGN LANGUAGE SKILLS AMONG MEMBERS OF THE RESERVE OFFICERS' TRAINING CORPS.

(a) IN GENERAL.—The Secretary of Defense shall support the acquisition of foreign language skills among cadets and midshipmen in the Reserve Officers' Training Corps, including through the development and implementation of—

(1) incentives for cadets and midshipmen to participate in study of a foreign language, including special emphasis for Arabic, Chinese, and other "strategic languages", as defined by the Secretary of Defense in consultation with other relevant agencies; and

(2) a recruiting strategy to target foreign language speakers, including members of heritage communities, to participate in the Reserve Officers' Training Corps.

(b) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Armed Services the Senate and the Committee on Armed Services of the House of Representatives a report on the actions taken to carry out this section.

SEC. 536. DESIGNATION OF IKE SKELTON EARLY COMMISSIONING PROGRAM SCHOLARSHIPS.

Section 2107a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j) Financial assistance provided under this section to a cadet appointed at a military junior college is designated as, and shall be known as, an 'Ike Skelton Early Commissioning Program Scholarship'.".

PART IV—OTHER MATTERS

SEC. 537. ENHANCEMENT OF EDUCATIONAL LOAN REPAYMENT AUTHORITIES.

(a) ADDITIONAL LOANS ELIGIBLE FOR REPAYMENT.—Paragraph (1) of section 2171(a) of title 10, United States Code, is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) any loan incurred for educational purposes made by a lender that is—

"(i) an agency or instrumentality of a State;

"(ii) a financial or credit institution (including an insurance company) that is subject to examination and supervision by an agency of the United States or any State;

"(iii) a pension fund approved by the Secretary for purposes of this section; or

"(iv) a non-profit private entity designated by a State, regulated by such State, and approved by the Secretary for purposes of this section.".

(b) ELIGIBILITY OF OFFICERS.—Paragraph (2) of such section is amended by striking "an enlisted member in a military specialty" and inserting "a member in an officer program or military specialty".

SEC. 538. PAYMENT OF EXPENSES OF MEMBERS OF THE ARMED FORCES TO OBTAIN PROFESSIONAL CREDENTIALS.

(a) IN GENERAL.—Chapter 101 of title 10, United States Code, is amended by adding at the end the following new section:

"§2015. Payment of expenses to obtain professional credentials

"(a) AUTHORITY.—The Secretary of Defense and the Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy, may pay for—

"(1) expenses for members of the armed forces to obtain professional credentials, including expenses for professional accreditation, State-imposed and professional licenses, and professional certification; and

"(2) examinations to obtain such credentials.

"(b) LIMITATION.—The authority under subsection (a) may not be used to pay the expenses of a member to obtain professional credentials that are a prerequisite for appointment in the armed forces.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2015. Payment of expenses to obtain professional credentials.".

SEC. 539. USE OF RESERVE MONTGOMERY GI BILL BENEFITS AND BENEFITS FOR MOBILIZED MEMBERS OF THE SELECTED RESERVE AND NATIONAL GUARD FOR PAYMENTS FOR LICENSING OR CERTIFICATION TESTS.

(a) CHAPTER 1606.—Section 16131 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a licensing or certification test described in section 3452(b) of title 38 is the lesser of $2,000 or the fee charged for the test.

"(2) The number of months of entitlement charged in the case of any individual for such licensing or certification test is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance which, but for paragraph (1), such individual would otherwise be paid under subsection (b).

"(3) In no event shall payment of educational assistance under this subsection for such a test exceed the amount of the individual's available entitlement under this chapter.".

(b) CHAPTER 1607.—Section 16162 of such title is amended by adding at the end the following new subsection:

"(e) AVAILABILITY OF ASSISTANCE FOR LICENSING AND CERTIFICATION TESTS.—The provisions of section 16131(j) of this title shall apply to the provision of educational assistance under this chapter, except that, in applying such section under this chapter, the reference to subsection (b) in paragraph (2) of such section is deemed to be a reference to subsection (c) of this section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to a licensing or certification test administered on or after the date of the enactment of this Act.

SEC. 540. MODIFICATION OF EDUCATIONAL ASSISTANCE FOR RESERVES SUPPORTING CONTINGENCY AND OTHER OPERATIONS.

(a) OFFICIAL RECEIVING ELECTIONS OF BENEFITS.—Section 16163(e) of title 10, United States Code, is amended by striking "Secretary concerned" and inserting "Secretary of Veterans Affairs".

(b) EXCEPTION TO IMMEDIATE TERMINATION OF ASSISTANCE.—Section 16165 of such title is amended—

(1) by striking "Educational assistance" and inserting "(a) IN GENERAL.—Except as provided in subsection (b), educational assistance"; and

(2) by adding at the end the following new subsection:

"(b) EXCEPTION.—Under regulations prescribed by the Secretary of Defense, educational assistance may be provided under this chapter to a member of the Selected Reserve of the Ready Reserve who incurs a break in service in the Selected Reserve of not more than 90 days if the member continues to serve in the Ready Reserve during and after such break in service.".

Subtitle D—General Service Requirements

SEC. 541. GROUND COMBAT AND OTHER EXCLUSION POLICIES.

(a) IN GENERAL.—

(1) Chapter 37 of title 10, United States Code, is amended by inserting after section 651 the following new section:

"§652. Notice to Congress of proposed changes in units, assignments, etc. to which female members may be assigned

"(a) RULE FOR GROUND COMBAT PERSONNEL POLICY.—(1) If the Secretary of Defense proposes to make any change described in paragraph (2)(A) or (2)(B) to the ground combat exclusion policy or proposes to make a change described in paragraph (2)(C), the Secretary shall, before any such change is implemented, submit to Congress a report providing notice of the proposed change. Such a change may then be implemented only after the end of a period of 30 days of continuous session of Congress (excluding any day on which either House of Congress is not in session) following the date on which the report is received.

"(2) A change referred to in paragraph (1) is a change that—

"(A) closes to female members of the armed forces any category of unit or position that at that time is open to service by such members;

"(B) opens to service by female members of the armed forces any category of unit or position that at that time is closed to service by such members; or

"(C) opens or closes to the assignment of female members of the armed forces any military career designator as described in paragraph (6).

"(3) The Secretary shall include in any report under paragraph (1)—

"(A) a detailed description of, and justification for, the proposed change; and

"(B) a detailed analysis of legal implication of the proposed change with respect to the constitutionality of the application of the Military Selective Service Act (50 App. U.S.C. 451 et seq.) to males only.

"(4) In this subsection, the term 'ground combat exclusion policy' means the military personnel policies of the Department of Defense and the military departments, as in effect on October 1, 1994, by which female members of the armed forces are restricted from assignment to units and positions below brigade level whose primary mission is to engage in direct combat on the ground.

"(5) For purposes of this subsection, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die.

"(6) For purposes of this subsection, a military career designator is one that is related to military operations on the ground as of May 18, 2005, and applies—

"(A) for enlisted members and warrant officers, to military occupational specialties, specialty codes, enlisted designators, enlisted classification codes, additional skill identifiers, and special qualification identifiers; and

"(B) for officers (other than warrant officers), to officer areas of concentration, occupational specialties, specialty codes, designators, additional skill identifiers, and special qualification identifiers.

"(b) OTHER PERSONNEL POLICY CHANGES.—(1) Except in a case covered by section 6035 of this title or by subsection (a), whenever the Secretary of Defense proposes to make a change to military personnel policies described in paragraph (2), the Secretary shall, not less than 30 days before such change is implemented, submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives notice, in writing, of the proposed change.

"(2) Paragraph (1) applies to a proposed military personnel policy change, other than a policy change covered by subsection (a), that would make available to female members of the armed forces assignment to any of the following that, as of the date of the proposed change, is closed to such assignment:

"(A) Any type of unit not covered by subsection (a).

"(B) Any class of combat vessel.

"(C) Any type of combat platform.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 651 the following new item:

"652. Notice to Congress of proposed changes in units, assignments, etc. to which female members may be assigned.".

(b) REPORT ON IMPLEMENTATION OF DEPARTMENT OF DEFENSE POLICIES WITH REGARD TO THE ASSIGNMENT OF WOMEN.—Not later than March 31, 2006, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report of the Secretary's review of the current and future implementation of the policy regarding the assignment of women as articulated in the Secretary of Defense memorandum, dated January 13, 1994, and entitled, "Direct Ground Combat Definition and Assignment Rule". In conducting that review, the Secretary shall closely examine Army unit modularization efforts, and associated personnel assignment policies, to ensure their compliance with the Department of Defense policy articulated in the January 1994 memorandum.

(c) CONFORMING REPEAL.—Section 542 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 113 note) is repealed.

SEC. 542. UNIFORM CITIZENSHIP OR RESIDENCY REQUIREMENTS FOR ENLISTMENT IN THE ARMED FORCES.

(a) UNIFORM REQUIREMENTS.—Section 504 of title 10, United States Code, is amended—

(1) by inserting "(a) INSANITY, DESERTION, FELONS, ETC.—" before "No person"; and

(2) by adding at the end the following new subsection:

"(b) CITIZENSHIP OR RESIDENCY.—(1) A person may be enlisted in any armed force only if the person is one of the following:

"(A) A national of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(B) An alien who is lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

"(C) A person described in section 341 of one of the following compacts:

"(i) The Compact of Free Association between the Federated States of Micronesia and the United States (section 201(a) of Public Law 108–188 (117 Stat. 2784; 48 U.S.C. 1921 note)).

"(ii) The Compact of Free Association between the Republic of the Marshall Islands and the United States (section 201(b) of Public Law 108–188 (117 Stat. 2823; 48 U.S.C. 1921 note)).

"(iii) The Compact of Free Association between Palau and the United States (section 201 of Public Law 99–658 (100 Stat. 3678; 48 U.S.C. 1931 note)).

"(2) Notwithstanding paragraph (1), the Secretary concerned may authorize the enlistment of a person not described in paragraph (1) if the Secretary determines that such enlistment is vital to the national interest.".

(b) REPEAL OF SUPERSEDED LIMITATIONS FOR THE ARMY AND AIR FORCE.—

(1) REPEAL.—Sections 3253 and 8253 of such title are repealed.

(2) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 333 of such title is amended by striking the item relating to section 3253. The table of sections at the beginning of chapter 833 of such title is amended by striking the item relating to section 8253.

SEC. 543. INCREASE IN MAXIMUM AGE FOR ENLISTMENT.

Section 505(a) of title 10, United States Code, is amended by striking "thirty-five years of age" and inserting "forty-two years of age".

SEC. 544. INCREASE IN MAXIMUM TERM OF ORIGINAL ENLISTMENT IN REGULAR COMPONENT.

Section 505(c) of title 10, United States Code, is amended by striking "six years" and inserting "eight years".

SEC. 545. NATIONAL CALL TO SERVICE PROGRAM.

(a) LIMITATION TO DOMESTIC NATIONAL SERVICE PROGRAMS.—Subsection (c)(3)(D) of section 510 of title 10, United States Code, is amended by striking "in the Peace Corps, Americorps, or another national service program" and inserting "in Americorps or another domestic national service program".

(b) EXTENSION OF QUALIFYING SERVICE FOR INITIAL MILITARY SERVICE UNDER PROGRAM.—Subsection (d) of such title section is amended by inserting before the period at the end the following: "and shall include military occupational specialties for enlistments for officer training and subsequent service as an officer, in cases in which the reason for the enlistment and entry into an agreement under subsection (b) is to enter an officer training program".

(c) ADMINISTRATION OF EDUCATION INCENTIVES BY SECRETARY OF VETERANS AFFAIRS.—Paragraph (2) of subsection (h) of such section is amended to read as follows:

"(2)(A) Educational assistance under paragraphs (3) or (4) of subsection (e) shall be provided through the Department of Veterans Affairs under an agreement to be entered into by the Secretary of Defense and the Secretary of Veterans Affairs. The agreements shall include administrative procedures to ensure the prompt and timely transfer of funds from the Secretary concerned to the Secretary of Veterans Affairs for the making of payments under this section.

"(B) Except as otherwise provided in this section, the provisions of sections 503, 511, 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692) shall be applicable to the provision of educational assistance under this chapter. The term 'eligible veteran' and the term 'person', as used in those provisions, shall be deemed for the purpose of the application of those provisions to this section to refer to a person eligible for educational assistance under paragraph (3) or (4) of subsection (e).".

SEC. 546. REPORTS ON INFORMATION PROVIDED TO POTENTIAL RECRUITS AND TO NEW ENTRANTS INTO THE ARMED FORCES ON "STOP LOSS" AUTHORITIES AND INITIAL PERIOD OF MILITARY SERVICE OBLIGATION.

(a) REPORT ON INFORMATION PROVIDED TO POTENTIAL RECRUITS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the actions being taken to ensure that each individual being recruited for service in the Armed Forces is provided, before making a formal enlistment in the Armed Forces, precise and detailed information on the period or periods of service to which such individual may be obligated by reason of enlistment in the Armed Forces, including any revisions to Department of Defense Form 4/1.

(2) ELEMENTS.—The report under paragraph (1) shall include—

(A) a description of how the Department informs enlistees in the Armed Forces on—

(i) the so-called "stop loss" authority and the manner in which exercise of such authority could affect the duration of an individual's service on active duty in the Armed Forces;

(ii) the authority for the call or order to active duty of members of the Individual Ready Reserve and the manner in which such a call or order to active duty could affect an individual following the completion of the individual's expected period of service on active duty or in the Individual Ready Reserve; and

(iii) any other authorities applicable to the call or order to active duty of the Reserves, or of the retention of members of the Armed Forces on active duty, that could affect the period of service of an individual on active duty or in the Armed Forces; and

(B) such other information as the Secretary considers appropriate.

(b) REPORT ON INFORMATION PROVIDED TO NEW ENTRANTS AND OTHER SERVICE MEMBERS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the actions being taken to ensure that each individual covered by section 651(a) of title 10, United States Code, is provided, upon commencing that person's initial period of service as a member of the Armed Forces and at other points during a military career, precise information regarding the date on which the initial service obligation of that person under such section ends.

(2) ELEMENTS OF REPORT.—The report under subsection (a) shall include the following:

(A) A description of how the Department notifies members of the Armed Forces of—

(i) the completion date of their military service obligation upon entry in the Armed Forces;

(ii) the expiration of their military service obligation; and

(iii) before the expiration of a member's military service obligation, the opportunity, if the member is qualified and serving in the Individual Ready Reserve, to continue voluntarily in the Ready Reserve or to transfer to an active component.

(B) A description of the policy and procedures of the Department of Defense regarding the involuntary recall or mobilization of members serving in the Individual Ready Reserve beyond the date of expiration of their military service obligation.

(C) Such other information as the Secretary considers appropriate.

Subtitle E—Military Justice and Legal Assistance Matters

SEC. 551. OFFENSE OF STALKING UNDER THE UNIFORM CODE OF MILITARY JUSTICE.

(a) ESTABLISHMENT OF OFFENSE.—

(1) NEW PUNITIVE ARTICLE.—Subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 920 (article 120) the following new section:

"§920a. Art. 120a. Stalking

"(a) Any person subject to this section—

"(1) who wrongfully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear death or bodily harm, including sexual assault, to himself or herself or a member of his or her immediate family;

"(2) who has knowledge, or should have knowledge, that the specific person will be placed in reasonable fear of death or bodily harm, including sexual assault, to himself or herself or a member of his or her immediate family; and

"(3) whose acts induce reasonable fear in the specific person of death or bodily harm, including sexual assault, to himself or herself or to a member of his or her immediate family;

is guilty of stalking and shall be punished as a court-martial may direct.

"(b) In this section:

"(1) The term 'course of conduct' means—

"(A) a repeated maintenance of visual or physical proximity to a specific person; or

"(B) a repeated conveyance of verbal threat, written threats, or threats implied by conduct, or a combination of such threats, directed at or toward a specific person.

"(2) The term 'repeated', with respect to conduct, means two or more occasions of such conduct.

"(3) The term 'immediate family', in the case of a specific person, means a spouse, parent, child, or sibling of the person, or any other family member, relative, or intimate partner of the person who regularly resides in the household of the person or who within the six months preceding the commencement of the course of conduct regularly resided in the household of the person.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 920 the following new item:

"920a. 120a. Stalking.".

(b) APPLICABILITY.—Section 920a of title 10, United States Code (article 120a of the Uniform Code of Military Justice), as added by subsection (a), applies to offenses committed after the date that is 180 days after the date of the enactment of this Act.

SEC. 552. RAPE, SEXUAL ASSAULT, AND OTHER SEXUAL MISCONDUCT UNDER UNIFORM CODE OF MILITARY JUSTICE.

(a) REVISION TO UCMJ.—

(1) IN GENERAL.—Section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice), is amended to read as follows:

"§920. Art. 120. Rape, sexual assault, and other sexual misconduct

"(a) RAPE.—Any person subject to this chapter who causes another person of any age to engage in a sexual act by—

"(1) using force against that other person;

"(2) causing grievous bodily harm to any person;

"(3) threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm, or kidnaping;

"(4) rendering another person unconscious; or

"(5) administering to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby substantially impairs the ability of that other person to appraise or control conduct;

is guilty of rape and shall be punished as a court-martial may direct.

"(b) RAPE OF A CHILD.—Any person subject to this chapter who—

"(1) engages in a sexual act with a child who has not attained the age of 12 years; or

"(2) engages in a sexual act under the circumstances described in subsection (a) with a child who has attained the age of 12 years;

is guilty of rape of a child and shall be punished as a court-martial may direct.

"(c) AGGRAVATED SEXUAL ASSAULT.—Any person subject to this chapter who—

"(1) causes another person of any age to engage in a sexual act by—

"(A) threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm, or kidnapping); or

"(B) causing bodily harm; or

"(2) engages in a sexual act with another person of any age if that other person is substantially incapacitated or substantially incapable of—

"(A) appraising the nature of the sexual act;

"(B) declining participation in the sexual act; or

"(C) communicating unwillingness to engage in the sexual act;

is guilty of aggravated sexual assault and shall be punished as a court-martial may direct.

"(d) AGGRAVATED SEXUAL ASSAULT OF A CHILD.—Any person subject to this chapter who engages in a sexual act with a child who has attained the age of 12 years is guilty of aggravated sexual assault of a child and shall be punished as a court-martial may direct.

"(e) AGGRAVATED SEXUAL CONTACT.—Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (a) (rape) had the sexual contact been a sexual act, is guilty of aggravated sexual contact and shall be punished as a court-martial may direct.

"(f) AGGRAVATED SEXUAL ABUSE OF A CHILD.—Any person subject to this chapter who engages in a lewd act with a child is guilty of aggravated sexual abuse of a child and shall be punished as a court-martial may direct.

"(g) AGGRAVATED SEXUAL CONTACT WITH A CHILD.—Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (b) (rape of a child) had the sexual contact been a sexual act, is guilty of aggravated sexual contact with a child and shall be punished as a court-martial may direct.

"(h) ABUSIVE SEXUAL CONTACT.—Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (c) (aggravated sexual assault) had the sexual contact been a sexual act, is guilty of abusive sexual contact and shall be punished as a court-martial may direct.

"(i) ABUSIVE SEXUAL CONTACT WITH A CHILD.—Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (d) (aggravated sexual assault of a child) had the sexual contact been a sexual act, is guilty of abusive sexual contact with a child and shall be punished as a court-martial may direct.

"(j) INDECENT LIBERTY WITH A CHILD.—Any person subject to this chapter who engages in indecent liberty in the physical presence of a child—

"(1) with the intent to arouse, appeal to, or gratify the sexual desire of any person; or

"(2) with the intent to abuse, humiliate, or degrade any person;

is guilty of indecent liberty with a child and shall be punished as a court-martial may direct.

"(k) INDECENT ACT.—Any person subject to this chapter who engages in indecent conduct is guilty of an indecent act and shall be punished as a court-martial may direct.

"(l) FORCIBLE PANDERING.—Any person subject to this chapter who compels another person to engage in an act of prostitution with another person to be directed to said person is guilty of forcible pandering and shall be punished as a court-martial may direct.

"(m) WRONGFUL SEXUAL CONTACT.—Any person subject to this chapter who, without legal justification or lawful authorization, engages in sexual contact with another person without that other person's permission is guilty of wrongful sexual contact and shall be punished as a court-martial may direct.

"(n) INDECENT EXPOSURE.—Any person subject to this chapter who intentionally exposes, in an indecent manner, in any place where the conduct involved may reasonably be expected to be viewed by people other than members of the actor's family or household, the genitalia, anus, buttocks, or female areola or nipple is guilty of indecent exposure and shall by punished as a court-martial may direct.

"(o) AGE OF CHILD.—

"(1) TWELVE YEARS.—In a prosecution under subsection (b) (rape of a child), subsection (g) (aggravated sexual contact with a child), or subsection (j) (indecent liberty with a child), it need not be proven that the accused knew that the other person engaging in the sexual act, contact, or liberty had not attained the age of 12 years. It is not an affirmative defense that the accused reasonably believed that the child had attained the age of 12 years.

"(2) SIXTEEN YEARS.—In a prosecution under subsection (d) (aggravated sexual assault of a child), subsection (f) (aggravated sexual abuse of a child), subsection (i) (abusive sexual contact with a child), or subsection (j) (indecent liberty with a child), it need not be proven that the accused knew that the other person engaging in the sexual act, contact, or liberty had not attained the age of 16 years. Unlike in paragraph (1), however, it is an affirmative defense that the accused reasonably believed that the child had attained the age of 16 years.

"(p) PROOF OF THREAT.—In a prosecution under this section, in proving that the accused made a threat, it need not be proven that the accused actually intended to carry out the threat.

"(q) MARRIAGE.—

"(1) IN GENERAL.—In a prosecution under paragraph (2) of subsection (c) (aggravated sexual assault), or under subsection (d) (aggravated sexual assault of a child), subsection (f) (aggravated sexual abuse of a child), subsection (i) (abusive sexual contact with a child), subsection (j) (indecent liberty with a child), subsection (m) (wrongful sexual contact), or subsection (n) (indecent exposure), it is an affirmative defense that the accused and the other person when they engaged in the sexual act, sexual contact, or sexual conduct are married to each other.

"(2) DEFINITION.—For purposes of this subsection, a marriage is a relationship, recognized by the laws of a competent State or foreign jurisdiction, between the accused and the other person as spouses. A marriage exists until it is dissolved in accordance with the laws of a competent State or foreign jurisdiction.

"(3) EXCEPTION.—Paragraph (1) shall not apply if the accused's intent at the time of the sexual conduct is to abuse, humiliate, or degrade any person.

"(r) CONSENT AND MISTAKE OF FACT AS TO CONSENT.—Lack of permission is an element of the offense in subsection (m) (wrongful sexual contact). Consent and mistake of fact as to consent are not an issue, or an affirmative defense, in a prosecution under any other subsection, except they are an affirmative defense for the sexual conduct in issue in a prosecution under subsection (a) (rape), subsection (c) (aggravated sexual assault), subsection (e) (aggravated sexual contact), and subsection (h) (abusive sexual contact).

"(s) OTHER AFFIRMATIVE DEFENSES NOT PRECLUDED.—The enumeration in this section of some affirmative defenses shall not be construed as excluding the existence of others.

"(t) DEFINITIONS.—In this section:

"(1) SEXUAL ACT.—The term 'sexual act' means—

"(A) contact between the penis and the vulva, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; or

"(B) the penetration, however slight, of the genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

"(2) SEXUAL CONTACT.—The term 'sexual contact' means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another person, or intentionally causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, or degrade any person or to arouse or gratify the sexual desire of any person.

"(3) GRIEVOUS BODILY HARM.—The term 'grievous bodily harm' means serious bodily injury. It includes fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other severe bodily injuries. It does not include minor injuries such as a black eye or a bloody nose. It is the same level of injury as in section 928 (article 128) of this chapter, and a lesser degree of injury than in section 2246(4) of title 18.

"(4) DANGEROUS WEAPON OR OBJECT.—The term 'dangerous weapon or object' means—

"(A) any firearm, loaded or not, and whether operable or not;

"(B) any other weapon, device, instrument, material, or substance, whether animate or inanimate, that in the manner it is used, or is intended to be used, is known to be capable of producing death or grievous bodily harm; or

"(C) any object fashioned or utilized in such a manner as to lead the victim under the circumstances to reasonably believe it to be capable of producing death or grievous bodily harm.

"(5) FORCE.—The term 'force' means action to compel submission of another or to overcome or prevent another's resistance by—

"(A) the use or display of a dangerous weapon or object;

"(B) the suggestion of possession of a dangerous weapon or object that is used in a manner to cause another to believe it is a dangerous weapon or object; or

"(C) physical violence, strength, power, or restraint applied to another person, sufficient that the other person could not avoid or escape the sexual conduct.

"(6) THREATENING OR PLACING THAT OTHER PERSON IN FEAR.—The term 'threatening or placing that other person in fear' under paragraph (3) of subsection (a) (rape), or under subsection (e) (aggravated sexual contact), means a communication or action that is of sufficient consequence to cause a reasonable fear that non-compliance will result in the victim or another person being subjected to death, grievous bodily harm, or kidnapping.

"(7) THREATENING OR PLACING THAT OTHER PERSON IN FEAR.—

"(A) IN GENERAL.—The term 'threatening or placing that other person in fear' under paragraph (1)(A) of subsection (c) (aggravated sexual assault), or under subsection (h) (abusive sexual contact), means a communication or action that is of sufficient consequence to cause a reasonable fear that non-compliance will result in the victim or another being subjected to a lesser degree of harm than death, grievous bodily harm, or kidnapping.

"(B) INCLUSIONS.—Such lesser degree of harm includes—

"(i) physical injury to another person or to another person's property; or

"(ii) a threat—

"(I) to accuse any person of a crime;

"(II) to expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or

"(III) through the use or abuse of military position, rank, or authority, to affect or threaten to affect, either positively or negatively, the military career of some person.

"(8) BODILY HARM.—The term 'bodily harm' means any offensive touching of another, however slight.

"(9) CHILD.—The term 'child' means any person who has not attained the age of 16 years.

"(10) LEWD ACT.—The term 'lewd act' means—

"(A) the intentional touching, not through the clothing, of the genitalia of another person, with an intent to abuse, humiliate, or degrade any person, or to arouse or gratify the sexual desire of any person; or

"(B) intentionally causing another person to touch, not through the clothing, the genitalia of any person with an intent to abuse, humiliate or degrade any person, or to arouse or gratify the sexual desire of any person.

"(11) INDECENT LIBERTY.—The term 'indecent liberty' means indecent conduct, but physical contact is not required. It includes one who with the requisite intent exposes one's genitalia, anus, buttocks, or female areola or nipple to a child. An indecent liberty may consist of communication of indecent language as long as the communication is made in the physical presence of the child. If words designed to excite sexual desire are spoken to a child, or a child is exposed to or involved in sexual conduct, it is an indecent liberty; the child's consent is not relevant.

"(12) INDECENT CONDUCT.—The term 'indecent conduct' means that form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations. Indecent conduct includes observing, or making a videotape, photograph, motion picture, print, negative, slide, or other mechanically, electronically, or chemically reproduced visual material, without another person's consent, and contrary to that other person's reasonable expectation of privacy, of—

"(A) that other person's genitalia, anus, or buttocks, or (if that other person is female) that person's areola or nipple; or

"(B) that other person while that other person is engaged in a sexual act, sodomy (under section 925 (article 125)), or sexual contact.

"(13) ACT OF PROSTITUTION.—The term 'act of prostitution' means a sexual act, sexual contact, or lewd act for the purpose of receiving money or other compensation.

"(14) CONSENT.—The term 'consent' means words or overt acts indicating a freely given agreement to the sexual conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the accused's use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating relationship by itself or the manner of dress of the person involved with the accused in the sexual conduct at issue shall not constitute consent. A person cannot consent to sexual activity if—

"(A) under 16 years of age; or

"(B) substantially incapable of—

"(i) appraising the nature of the sexual conduct at issue due to—

"(I) mental impairment or unconsciousness resulting from consumption of alcohol, drugs, a similar substance, or otherwise; or

"(II) mental disease or defect which renders the person unable to understand the nature of the sexual conduct at issue;

"(ii) physically declining participation in the sexual conduct at issue; or

"(iii) physically communicating unwillingness to engage in the sexual conduct at issue.

"(15) MISTAKE OF FACT AS TO CONSENT.—The term 'mistake of fact as to consent' means the accused held, as a result of ignorance or mistake, an incorrect belief that the other person engaging in the sexual conduct consented. The ignorance or mistake must have existed in the mind of the accused and must have been reasonable under all the circumstances. To be reasonable the ignorance or mistake must have been based on information, or lack of it, which would indicate to a reasonable person that the other person consented. Additionally, the ignorance or mistake cannot be based on the negligent failure to discover the true facts. Negligence is the absence of due care. Due care is what a reasonably careful person would do under the same or similar circumstances. The accused's state of intoxication, if any, at the time of the offense is not relevant to mistake of fact. A mistaken belief that the other person consented must be that which a reasonably careful, ordinary, prudent, sober adult would have had under the circumstances at the time of the offense.

"(16) AFFIRMATIVE DEFENSE.—The term 'affirmative defense' means any special defense which, although not denying that the accused committed the objective acts constituting the offense charged, denies, wholly, or partially, criminal responsibility for those acts. The accused has the burden of proving the affirmative defense by a preponderance of evidence. After the defense meets this burden, the prosecution shall have the burden of proving beyond a reasonable doubt that the affirmative defense did not exist.".

(2) CLERICAL AMENDMENT.—The item relating to section 920 (article 120) in the table of sections at the beginning of subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended to read as follows:

"920. 120. Rape, sexual assault, and other sexual misconduct.".

(b) INTERIM MAXIMUM PUNISHMENTS.—Until the President otherwise provides pursuant to section 856 of title 10, United States Code (article 56 of the Uniform Code of Military Justice), the punishment which a court-martial may direct for an offense under section 920 of such title (article 120 of the Uniform Code of Military Justice), as amended by subsection (a), may not exceed the following limits:

(1) SUBSECTIONS (a) AND (b).—For an offense under subsection (a) (rape) or subsection (b) (rape of a child), death or such other punishment as a court-martial may direct.

(2) SUBSECTION (c).—For an offense under subsection (c) (aggravated sexual assault), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 30 years.

(3) SUBSECTIONS (d) AND (e).—For an offense under subsection (d) (aggravated sexual assault of a child) or subsection (e) (aggravated sexual contact), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 20 years.

(4) SUBSECTIONS (f) AND (g).—For an offense under subsection (f) (aggravated sexual abuse of a child) or subsection (g) (aggravated sexual contact with a child), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 15 years.

(5) SUBSECTIONS (h) THROUGH (j).—For an offense under subsection (h) (abusive sexual contact), subsection (i) (abusive sexual contact with a child), or subsection (j) (indecent liberty with a child), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 7 years.

(6) SUBSECTIONS (k) AND (l).—For an offense under subsection (k) (indecent act) or subsection (l) (forcible pandering), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

(7) SUBSECTIONS (m) AND (n).—For an offense under subsection (m) (wrongful sexual contact) or subsection (n) (indecent exposure), dishonorable discharge, forfeiture of all pay and allowances, and confinement for one year.

(c) APPLICABILITY.—Section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice), as amended by subsection (a), shall apply with respect to offenses committed on or after the effective date specified in subsection (f).

(d) AGGRAVATING FACTORS FOR OFFENSE OF MURDER.—Section 918 of title 10, United States Code (article 118 of the Uniform Code of Military Justice), is amended in paragraph (4) by striking "rape," and inserting "rape, rape of a child, aggravated sexual assault, aggravated sexual assault of a child, aggravated sexual contact, aggravated sexual abuse of a child, aggravated sexual contact with a child,".

(e) STATUTE OF LIMITATIONS.—Section 843(a) of title 10, United States Code (article 843(a) of the Uniform Code of Military Justice), as amended by section 553(a), is amended by striking "or rape," and inserting ", rape, or rape of a child,".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2007.

SEC. 553. EXTENSION OF STATUTE OF LIMITATIONS FOR MURDER, RAPE, AND CHILD ABUSE OFFENSES UNDER THE UNIFORM CODE OF MILITARY JUSTICE.

(a) NO LIMITATION FOR MURDER OR RAPE.—Subsection (a) of section 843 of title 10, United States Code (article 43 of the Uniform Code of Military Justice), is amended by striking "or with any offense punishable by death" and inserting "with murder or rape, or with any other offense punishable by death".

(b) SPECIAL RULES FOR CHILD ABUSE OFFENSES.—Subsection (b)(2) of such section (article) is amended—

(1) in subparagraph (A), by striking "before the child attains the age of 25 years" and inserting "during the life of the child or within

five years after the date on which the offense was committed, whichever provides a longer period.";

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "sexual or physical";

(B) in clause (i), by striking "Rape or carnal knowledge" and inserting "Any offense"; and

(C) in clause (v), by striking "Indecent assault," and inserting "Kidnaping; indecent assault;"; and

(3) by adding at the end the following new subparagraph:

"(C) In subparagraph (A), the term 'child abuse offense' includes an act that involves abuse of a person who has not attained the age of 18 years and would constitute an offense under chapter 110 or 117, or under section 1591, of title 18.".

SEC. 554. REPORTS BY OFFICERS AND SENIOR ENLISTED MEMBERS OF CONVICTION OF CRIMINAL LAW.

(a) Requirement for Reports.—

(1) In general.—The Secretary of Defense shall prescribe in regulations a requirement that each covered member of the Armed Forces shall submit to an authority in the military department concerned designated pursuant to such regulations a timely report of any conviction of such member by any law enforcement authority of the United States for a violation of a criminal law of the United States, whether or not the member is on active duty at the time of the conduct that provides the basis for the conviction. The regulations shall apply uniformly throughout the military departments.

(2) Covered members.—In this section, the term "covered member of the Armed Forces" means a member of the Army, Navy, Air Force, or Marine Corps who is on the active-duty list or the reserve active-status list and who is—

(A) an officer; or

(B) an enlisted member in a pay grade above pay grade E–6.

(b) Law Enforcement Authority of the United States.—For purposes of this section, a law enforcement authority of the United States includes—

(1) a military or other Federal law enforcement authority;

(2) a State or local law enforcement authority; and

(3) such other law enforcement authorities within the United States as the Secretary shall specify in the regulations prescribed pursuant to subsection (a).

(c) Criminal Law of the United States.—

(1) In general.—Except as provided in paragraph (2), for purposes of this section, a criminal law of the United States includes—

(A) any military or other Federal criminal law;

(B) any State, county, municipal, or local criminal law or ordinance; and

(C) such other criminal laws and ordinances of jurisdictions within the United States as the Secretary shall specify in the regulations prescribed pursuant to subsection (a).

(2) Exception.—For purposes of this section, a criminal law of the United States shall not include a law or ordinance specifying a minor traffic offense (as determined by the Secretary for purposes of such regulations).

(d) Timeliness of Reports.—The regulations prescribed pursuant to subsection (a) shall establish requirements for the timeliness of reports under this section.

(e) Forwarding of Information.—The regulations prescribed pursuant to subsection (a) shall provide that, in the event a military department receives information that a covered member of the Armed Forces under the jurisdiction of another military department has become subject to a conviction for which a report is required by this section, the Secretary of the military department receiving such information shall, in accordance with such procedures as the Secretary of Defense shall establish in such regulations, forward such information to the authority in the military department having jurisdiction over such member designated pursuant to such regulations.

(f) Convictions.—In this section, the term "conviction" includes any plea of guilty or nolo contendere.

(g) Deadline for Regulations.—The regulations required by subsection (a), including the requirement in subsection (e), shall go into effect not later than the end of the 180-day period beginning on the date of the enactment of this Act.

(h) Applicability of Requirement.—The requirement under the regulations required by subsection (a) that a covered member of the Armed Forces submit notice of a conviction shall apply only to a conviction that becomes final after the date of the enactment of this Act.

SEC. 555. CLARIFICATION OF AUTHORITY OF MILITARY LEGAL ASSISTANCE COUNSEL TO PROVIDE MILITARY LEGAL ASSISTANCE WITHOUT REGARD TO LICENSING REQUIREMENTS.

Section 1044 of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d)(1) Notwithstanding any law regarding the licensure of attorneys, a judge advocate or civilian attorney who is authorized to provide military legal assistance is authorized to provide that assistance in any jurisdiction, subject to such regulations as may be prescribed by the Secretary concerned.

"(2) Military legal assistance may be provided only by a judge advocate or a civilian attorney who is a member of the bar of a Federal court or of the highest court of a State.

"(3) In this subsection, the term 'military legal assistance' includes—

"(A) legal assistance provided under this section; and

"(B) legal assistance contemplated by sections 1044a, 1044b, 1044c, and 1044d of this title.".

SEC. 556. USE OF TELECONFERENCING IN ADMINISTRATIVE SESSIONS OF COURTS-MARTIAL.

Section 839 of title 10, United States Code (article 39 of the Uniform Code of Military Justice), is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by designating the matter following paragraph (4) of subsection (a) as subsection (b); and

(3) in subsection (b), as so redesignated—

(A) by striking "These proceedings shall be conducted" and inserting "Proceedings under subsection (a) shall be conducted"; and

(B) by adding at the end the following new sentence: "If authorized by regulations of the Secretary concerned, and if at least one defense counsel is physically in the presence of the accused, the presence required by this subsection may otherwise be established by audiovisual technology (such as videoteleconferencing technology).".

SEC. 557. SENSE OF CONGRESS ON APPLICABILITY OF UNIFORM CODE OF MILITARY JUSTICE TO RESERVES ON INACTIVE-DUTY TRAINING OVERSEAS.

It is the sense of Congress that—

(1) there should be no ambiguity about the applicability of the Uniform Code of Military Justice to members of the reserve components of the Armed Forces while such members are serving overseas under inactive-duty training orders for any period of time under such orders; and

(2) the Secretary of Defense should—

(A) take action, not later than February 1, 2006, to clarify jurisdictional issues relating to such applicability under section 802 of title 10, United States Code (article 2 of the Uniform Code of Military Justice); and

(B) if necessary, submit to Congress a proposal for legislative action to ensure the applicability of the Uniform Code of Military Justice to such members.

Subtitle F—Matters Relating to Casualties

SEC. 561. AUTHORITY FOR MEMBERS ON ACTIVE DUTY WITH DISABILITIES TO PARTICIPATE IN PARALYMPIC GAMES.

Section 717(a) of title 10, United States Code, is amended by striking "participate in—" and all that follows through "(2) any other" and inserting "participate in any of the following sports competitions:

"(1) The Pan-American Games and the Olympic Games, and qualifying events and preparatory competition for those games.

"(2) The Paralympic Games, if eligible to participate in those games, and qualifying events and preparatory competition for those games.

"(3) Any other".

SEC. 562. POLICY AND PROCEDURES ON CASUALTY ASSISTANCE TO SURVIVORS OF MILITARY DECEDENTS.

(a) Comprehensive Policy on Casualty Assistance.—

(1) Policy required.—Not later than August 1, 2006, the Secretary of Defense shall prescribe a comprehensive policy for the Department of Defense on the provision of casualty assistance to survivors and next of kin of members of the Armed Forces who die during military service (in this section referred to as "military decedents").

(2) Consultation.—The Secretary shall develop the policy under paragraph (1) in consultation with the Secretaries of the military departments, the Secretary of Veterans Affairs, and the Secretary of Homeland Security with respect to the Coast Guard

(3) Incorporation of past experience and practice.—The policy developed under paragraph (1) shall be based on—

(A) the experience and best practices of the military departments;

(B) the recommendations of nongovernment organizations with demonstrated expertise in responding to the needs of survivors of military decedents; and

(C) such other matters as the Secretary of Defense considers appropriate.

(4) Procedures.—The policy shall include procedures to be followed by the military departments in the provision of casualty assistance to survivors and next of kin of military decedents. The procedures shall be uniform across the military departments except to the extent necessary to reflect the traditional practices or customs of a particular military department.

(b) Elements of Policy.—The comprehensive policy developed under subsection (a) shall address the following matters:

(1) The initial notification of primary and secondary next of kin of the deaths of military decedents and any subsequent notifications of next of kin warranted by circumstances.

(2) The transportation and disposition of remains of military decedents, including notification of survivors of the performance of autopsies.

(3) The qualifications, assignment, training, duties, supervision, and accountability for the performance of casualty assistance responsibilities.

(4) The relief or transfer of casualty assistance officers, including notification to survivors and next of kin of the reassignment of such officers to other duties.

(5) Centralized, short-term and long-term case-management procedures for casualty assistance by each military department, including

rapid access by survivors of military decedents and casualty assistance officers to expert case managers and counselors.

(6) The provision, through a computer accessible Internet website and other means and at no cost to survivors of military decedents, of personalized, integrated information on the benefits and financial assistance available to such survivors from the Federal Government.

(7) The provision, at no cost to survivors of military decedents, of legal assistance by military attorneys on matters arising from the deaths of such decedents, including tax matters, on an expedited, prioritized basis.

(8) The provision of financial counseling to survivors of military decedents, particularly with respect to appropriate disposition of death gratuity and insurance proceeds received by surviving spouses, minor dependent children, and their representatives.

(9) The provision of information to survivors and next of kin of military decedents on mechanisms for registering complaints about, or requests for, additional assistance related to casualty assistance.

(10) Liaison with the Department of Veterans Affairs and the Social Security Administration in order to ensure prompt and accurate resolution of issues relating to benefits administered by those agencies for survivors of military decedents.

(11) Data collection regarding the incidence and quality of casualty assistance provided to survivors of military decedents, including surveys of such survivors and military and civilian members assigned casualty assistance duties.

(c) ADOPTION BY MILITARY DEPARTMENTS.—Not later than November 1, 2006, the Secretary of each military department shall prescribe regulations, or modify current regulations, on the policies and procedures of such military department on the provision of casualty assistance to survivors and next of kin of military decedents in order to conform such policies and procedures to the policy developed under subsection (a).

(d) REPORT ON IMPROVEMENT OF CASUALTY ASSISTANCE PROGRAMS.—Not later than December 1, 2006, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report that includes—

(1) the assessment of the Secretary of the adequacy and sufficiency of the current casualty assistance programs of the military departments;

(2) a plan for a system for the uniform provision to survivors of military decedents of personalized, accurate, and integrated information on the benefits and financial assistance available to such survivors through the casualty assistance programs of the military departments under subsection (c); and

(3) such recommendations for other legislative or administrative action as the Secretary considers appropriate to enhance and improve such programs to achieve their intended purposes.

(e) GAO REPORT.—

(1) REPORT REQUIRED.—Not later than July 1, 2006, the Comptroller General shall submit to the committees specified in subsection (d) a report on the evaluation by the Comptroller General of the casualty assistance programs of the Department of Defense and of such other departments and agencies of the Federal Government as provide casualty assistance to survivors and next of kin of military decedents.

(2) ASSESSMENT.—The report shall include the assessment of the Comptroller General of the adequacy of the current policies and procedures of, and funding for, the casualty assistance programs covered by the report to achieve their intended purposes.

SEC. 563. POLICY AND PROCEDURES ON ASSISTANCE TO SEVERELY WOUNDED OR INJURED SERVICE MEMBERS.

(a) COMPREHENSIVE POLICY.—

(1) POLICY REQUIRED.—Not later than June 1, 2006, the Secretary of Defense shall prescribe a comprehensive policy for the Department of Defense on the provision of assistance to members of the Armed Forces who incur severe wounds or injuries in the line of duty (in this section referred to as "severely wounded or injured servicemembers").

(2) CONSULTATION.—The Secretary shall develop the policy required by paragraph (1) in consultation with the Secretaries of the military departments, the Secretary of Veterans Affairs, and the Secretary of Labor.

(3) INCORPORATION OF PAST EXPERIENCE AND PRACTICE.—The policy required by paragraph (1) shall be based on—

(A) the experience and best practices of the military departments, including the Army Wounded Warrior Program, the Marine Corps Marine for Life Injured Support Program, the Air Force Palace HART program, and the Navy Wounded Marines and Sailors Initiative;

(B) the recommendations of nongovernment organizations with demonstrated expertise in responding to the needs of severely wounded or injured servicemembers; and

(C) such other matters as the Secretary of Defense considers appropriate.

(4) PROCEDURES AND STANDARDS.—The policy shall include guidelines to be followed by the military departments in the provision of assistance to severely wounded or injured servicemembers. The procedures and standards shall be uniform across the military departments except to the extent necessary to reflect the traditional practices or customs of a particular military department. The procedures and standards shall establish a minimum level of support and shall specify the duration of programs.

(b) ELEMENTS OF POLICY.—The comprehensive policy developed under subsection (a) shall address the following matters:

(1) Coordination with the Severely Injured Joint Support Operations Center of the Department of Defense.

(2) Promotion of a seamless transition to civilian life for severely wounded or injured servicemembers who are or are likely to be separated on account of their wound or injury.

(3) Identification and resolution of special problems or issues related to the transition to civilian life of severely wounded or injured servicemembers who are members of the reserve components.

(4) The qualifications, assignment, training, duties, supervision, and accountability for the performance of responsibilities for the personnel providing assistance to severely wounded or injured servicemembers.

(5) Centralized, short-term and long-term case-management procedures for assistance to severely wounded or injured servicemembers by each military department, including rapid access for severely wounded or injured servicemembers to case managers and counselors.

(6) The provision, through a computer accessible Internet website and other means and at no cost to severely wounded or injured servicemembers, of personalized, integrated information on the benefits and financial assistance available to such members from the Federal Government.

(7) The provision of information to severely wounded or injured servicemembers on mechanisms for registering complaints about, or requests for, additional assistance.

(8) Participation of family members.

(9) Liaison with the Department of Veterans Affairs and the Department of Labor in order to ensure prompt and accurate resolution of issues relating to benefits administered by those agencies for severely wounded or injured servicemembers.

(10) Data collection regarding the incidence and quality of assistance provided to severely wounded or injured servicemembers, including surveys of such servicemembers and military and civilian personnel whose assigned duties include assistance to severely wounded or injured servicemembers.

(c) ADOPTION BY MILITARY DEPARTMENTS.—Not later than September 1, 2006, the Secretary of each military department shall prescribe regulations, or modify current regulations, on the policies and procedures of such military department on the provision of assistance to severely wounded or injured servicemembers in order to conform such policies and procedures to the policy prescribed under subsection (a).

SEC. 564. DESIGNATION BY MEMBERS OF THE ARMED FORCES OF PERSONS AUTHORIZED TO DIRECT THE DISPOSITION OF MEMBER REMAINS.

(a) IN GENERAL.—Not later than June 1, 2006, the Secretary of Defense shall complete, and the Secretaries of the military departments shall implement, Department of Defense Instruction 1300.18, including interim policy guidance, regarding the requirement to have service members designate a person authorized to direct disposition of their remains should they become a casualty.

(b) REPORT.—Not later than July 1, 2006, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the actions taken by the Secretary, and by the Secretaries of the military departments, to carry out the requirement in subsection (a).

Subtitle G—Assistance to Local Educational Agencies for Defense Dependents Education

SEC. 571. EXPANSION OF AUTHORIZED ENROLLMENT IN DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS OVERSEAS.

The Defense Dependents' Education Act of 1978 (20 U.S.C. 931 et seq.) is amended by inserting after section 1404 the following new section:

"ENROLLMENT OF CERTAIN ADDITIONAL CHILDREN ON TUITION-FREE BASIS

"SEC. 1404A. (a) ENROLLMENT AUTHORIZED.—Under regulations to be prescribed by the Secretary of Defense, the Secretary may authorize the enrollment in schools of the defense dependents' education system on a tuition-free basis of the children of full-time, locally-hired employees of the Department of Defense in an overseas area if such employees are citizens or nationals of the United States.

"(b) FUNDING.—The Secretary may use funds available for the defense dependents' education system to provide for the education of children enrolled in the defense dependents' education system under subsection (a).".

SEC. 572. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) ASSISTANCE TO SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPENDENT STUDENTS.—

(1) ASSISTANCE AUTHORIZED.—The Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, without such assistance, the local educational agency will be unable (as determined by the Secretary of Defense in consultation with the Secretary of Education) to provide the students in the schools of the local educational agency with a level of education that is equivalent to the minimum level of education available in the schools of the other local educational agencies in the same State.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency is eligible for assistance under this subsection for a fiscal year if at least 20 percent (as rounded to the nearest whole percent) of the students in average daily

attendance in the schools of the local educational agency during the preceding school year were military dependent students counted under section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)).

(b) ASSISTANCE TO SCHOOLS WITH ENROLLMENT CHANGES DUE TO BASE CLOSURES, FORCE STRUCTURE CHANGES, OR FORCE RELOCATIONS.—

(1) ASSISTANCE AUTHORIZED.—To assist communities in making adjustments resulting from changes in the size or location of the Armed Forces, the Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, during the period between the end of the school year preceding the fiscal year for which the assistance is authorized and the beginning of the school year immediately preceding that school year, the local educational agency had (as determined by the Secretary of Defense in consultation with the Secretary of Education) an overall increase or reduction of—

(A) not less than five percent in the average daily attendance of military dependent students in the schools of the local educational agency; or

(B) not less than 250 military dependent students in average daily attendance in the schools of the local educational agency.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency is eligible for assistance under this subsection for a fiscal year if—

(A) the local educational agency is eligible for assistance under subsection (a) for the same fiscal year, or would have been eligible for such assistance if not for the reduction in military dependent students in schools of the local educational agency; and

(B) the overall increase or reduction in military dependent students in schools of the local educational agency is the result of one or more of the following:

(i) The global rebasing plan of the Department of Defense.

(ii) The official creation or activation of one or more new military units.

(iii) The realignment of forces as a result of the base closure process.

(iv) A change in the number of housing units on a military installation.

(3) CALCULATION OF AMOUNT OF ASSISTANCE.—

(A) PRO RATA DISTRIBUTION.—The amount of the assistance provided under this subsection to a local educational agency that is eligible for such assistance for a fiscal year shall be equal to the product obtained by multiplying—

(i) the per-student rate determined under subparagraph (B) for that fiscal year; by

(ii) the net of the overall increases and reductions in the number of military dependent students in schools of the local educational agency, as determined under paragraph (1).

(B) PER-STUDENT RATE.—For purposes of subparagraph (A)(i), the per-student rate for a fiscal year shall be equal to the dollar amount obtained by dividing—

(i) the total amount of funds made available for that fiscal year to provide assistance under this subsection; by

(ii) the sum of the overall increases and reductions in the number of military dependent students in schools of all eligible local educational agencies for that fiscal year under this subsection.

(C) MAXIMUM AMOUNT OF ASSISTANCE.—A local educational agency may not receive more than $1,000,000 in assistance under this subsection for any fiscal year.

(4) DURATION.—Assistance may not be provided under this subsection after September 30, 2010.

(c) NOTIFICATION.—Not later than June 30, 2006, and June 30 of each fiscal year thereafter for which funds are made available to carry out this section, the Secretary of Defense shall notify each local educational agency that is eligible for assistance under this section for that fiscal year of—

(1) the eligibility of the local educational agency for the assistance, including whether the agency is eligible for assistance under either subsection (a) or (b) or both subsections; and

(2) the amount of the assistance for which the local educational agency is eligible.

(d) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse assistance made available under this section for a fiscal year not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (c) for that fiscal year.

(e) FINDING FOR FISCAL YEAR 2006.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities—

(1) $30,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (a); and

(2) $10,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (b).

(f) DEFINITIONS.—In this section:

(1) The term "base closure process" means the 2005 base closure and realignment process authorized by Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or any base closure and realignment process conducted after the date of the enactment of this Act under section 2687 of title 10, United States Code, or any other similar law enacted after that date.

(2) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

(3) The term "military dependent students" refers to—

(A) elementary and secondary school students who are dependents of members of the Armed Forces; and

(B) elementary and secondary school students who are dependents of civilian employees of the Department of Defense.

(4) The term "State" means each of the 50 States and the District of Columbia.

(g) REPEAL OF FORMER AUTHORITY.—Section 386 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note) is repealed.

SEC. 573. IMPACT AID FOR CHILDREN WITH SEVERE DISABILITIES.

Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $5,000,000 shall be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–77; 20 U.S.C. 7703a).

SEC. 574. CONTINUATION OF IMPACT AID ASSISTANCE ON BEHALF OF DEPENDENTS OF CERTAIN MEMBERS DESPITE CHANGE IN STATUS OF MEMBER.

(a) SPECIAL RULE.—For purposes of computing the amount of a payment for an eligible local educational agency under subsection (a) of section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703) for school year 2005–2006, the Secretary of Education shall continue to count as a child enrolled in a school of such agency under such subsection any child who—

(1) would be counted under paragraph (1)(B) of such subsection to determine the number of children who were in average daily attendance in the school; but

(2) due to the deployment of both parents or legal guardians of the child, the deployment of a parent or legal guardian having sole custody of the child, or the death of a military parent or legal guardian while on active duty (so long as the child resides on Federal property (as defined in section 8013(5) of such Act (20 U.S.C. 7713(5))), is not eligible to be so counted.

(b) TERMINATION.—The special rule provided under subsection (a) applies only so long as the children covered by such subsection remain in average daily attendance at a school in the same local educational agency they attended before their change in eligibility status.

Subtitle H—Decorations and Awards

SEC. 576. ELIGIBILITY FOR OPERATION ENDURING FREEDOM CAMPAIGN MEDAL.

For purposes of eligibility for the campaign medal for Operation Enduring Freedom established pursuant to Public Law 108-234 (10 U.S.C. 1121 note), the beginning date of Operation Enduring Freedom is September 11, 2001.

Subtitle I—Consumer Protection Matters

SEC. 577. REQUIREMENT FOR REGULATIONS ON POLICIES AND PROCEDURES ON PERSONAL COMMERCIAL SOLICITATIONS ON DEPARTMENT OF DEFENSE INSTALLATIONS.

(a) REQUIREMENT.—As soon as practicable after the date of the enactment of this Act, and not later than March 31, 2006, the Secretary of Defense shall prescribe regulations, or modify existing regulations, on the policies and procedures relating to personal commercial solicitations, including the sale of life insurance and securities, on Department of Defense installations.

(b) REPEAL OF SUPERSEDED LIMITATIONS.—The following provisions of law are repealed:

(1) Section 586 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1493).

(2) Section 8133 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1002).

SEC. 578. CONSUMER EDUCATION FOR MEMBERS OF THE ARMED FORCES AND THEIR SPOUSES ON INSURANCE AND OTHER FINANCIAL SERVICES.

(a) EDUCATION AND COUNSELING REQUIREMENTS.—

(1) IN GENERAL.—Chapter 50 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 992. Consumer education: financial services

"(a) REQUIREMENT FOR CONSUMER EDUCATION PROGRAM FOR MEMBERS.—(1) The Secretary concerned shall carry out a program to provide comprehensive education to members of the armed forces under the jurisdiction of the Secretary on—

"(A) financial services that are available under law to members;

"(B) financial services that are routinely offered by private sector sources to members;

"(C) practices relating to the marketing of private sector financial services to members;

"(D) such other matters relating to financial services available to members, and the marketing of financial services to members, as the Secretary considers appropriate; and

"(E) such other financial practices as the Secretary considers appropriate.

"(2) Training under this subsection shall be provided to members as—

"(A) a component of members initial entry orientation training; and

"(B) a component of periodically recurring required training that is provided for the members at military installations.

"(3) The training provided at a military installation under paragraph (2)(B) shall include information on any financial services marketing practices that are particularly prevalent at that military installation and in the vicinity.

"(b) COUNSELING FOR MEMBERS AND SPOUSES.—(1) The Secretary concerned shall, upon request, provide counseling on financial services to each member of the armed forces, and such member's spouse, under the jurisdiction of the Secretary.

"(2)(A) In the case of a military installation at which at least 2,000 members of the armed forces on active duty are assigned, the Secretary concerned—

"(i) shall provide counseling on financial services under this subsection through a full-time financial services counselor at such installation; and

"(ii) may provide such counseling at such installation by any means elected by the Secretary from among the following:

"(I) Through members of the armed forces in pay grade E–7 or above, or civilians, who provide such counseling as part of their other duties for the armed forces or the Department of Defense.

"(II) By contract, including contract for services by telephone and by the Internet.

"(III) Through qualified representatives of nonprofit organizations and agencies under formal agreements with the Department of Defense to provide such counseling.

"(B) In the case of any military installation not described in subparagraph (A), the Secretary concerned shall provide counseling on financial services under this subsection at such installation by any of the means set forth in subparagraph (A)(ii), as elected by the Secretary concerned.

"(3) Each financial services counselor under paragraph (2)(A)(i), and any other individual providing counseling on financial services under paragraph (2), shall be an individual who, by reason of education, training, or experience, is qualified to provide helpful counseling to members of the armed forces and their spouses on financial services and marketing practices described in subsection (a)(1). Such individual may be a member of the armed forces or an employee of the Federal Government.

"(4) The Secretary concerned shall take such action as is necessary to ensure that each financial services counselor under paragraph (2)(A)(i), and any other individual providing counseling on financial services under paragraphs (2), is free from conflicts of interest relevant to the performance of duty under this section, and, in the performance of that duty, is dedicated to furnishing members of the armed forces and their spouses with helpful information and counseling on financial services and related marketing practices.

"(c) LIFE INSURANCE.—In counseling a member of the armed forces, or spouse of a member of the armed forces, under this section regarding life insurance offered by a private sector source, a financial services counselor under subsection (b)(2)(A)(i), or another individual providing counseling on financial services under subsection (b)(2), shall furnish the member or spouse, as the case may be, with information on the availability of Servicemembers' Group Life Insurance under subchapter III of chapter 19 of title 38, including information on the amounts of coverage available and the procedures for electing coverage and the amount of coverage.

"(d) FINANCIAL SERVICES DEFINED.—In this section, the term 'financial services' includes the following:

"(1) Life insurance, casualty insurance, and other insurance.

"(2) Investments in securities or financial instruments.

"(3) Banking, credit, loans, deferred payment plans, and mortgages.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"992. Consumer education: financial services.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act.

SEC. 579. REPORT ON PREDATORY LENDING PRACTICES DIRECTED AT MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on predatory lending practices directed at members of the Armed Forces and their families. The report shall be prepared in consultation with the Secretary of the Treasury, the Chairman of the Federal Reserve, the Chairman of the Federal Deposit Insurance Corporation, and representatives of military charity organizations and consumer organizations.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) A description of the prevalence of predatory lending practices directed at members of the Armed Forces and their families.

(2) An assessment of the effects of predatory lending practices on members of the Armed Forces and their families.

(3) A description of the strategy of the Department of Defense, and of any current or planned programs of the Department, to educate members of the Armed Forces and their families regarding predatory lending practices.

(4) A description of the strategy of the Department of Defense, and of any current or planned programs of the Department, to reduce or eliminate—

(A) the prevalence of predatory lending practices directed at members of the Armed Forces and their families; and

(B) the negative effect of such practices on members of the Armed Forces and their families.

(5) Recommendations for additional legislative and administrative action to reduce or eliminate predatory lending practices directed at members of the Armed Forces and their families.

(c) DEFINITIONS.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Committee on Armed Services and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Armed Services and the Committee on Financial Services of the House of Representatives.

(2) The term "predatory lending practice" means an unfair or abusive loan or credit sale transaction or collection practice.

Subtitle J—Reports and Sense of Congress Statements

SEC. 581. REPORT ON NEED FOR A PERSONNEL PLAN FOR LINGUISTS IN THE ARMED FORCES.

(a) NEED ASSESSMENT.—The Secretary of Defense shall review the career tracks of members of the Armed Forces who are linguists in an effort to improve the management of linguists (in enlisted grades or officer grades, or both) and to assist them in reaching their full linguistic and analytical potential over a 20-year career. As part of such review, the Secretary shall assess the need for a comprehensive plan to better manage the careers of military linguists (in enlisted grades or officer grades, or both) and to ensure that such linguists have an opportunity to progress in grade and are provided opportunities to enhance their language and cultural skills. As part of the review, the Secretary shall consider personnel management methods such as enhanced bonuses, immersion opportunities, specialized career fields, establishment of a dedicated career path for linguists, and career monitoring to ensure career progress for linguists serving in duty assignments that are not linguist related.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the review and assessment conducted under subsection (a). The report shall include the findings, results, and conclusions of the Secretary's review and assessment of the careers of officer and enlisted linguists in the Armed Forces and the need for a comprehensive plan to ensure effective career management of linguists.

SEC. 582. SENSE OF CONGRESS THAT COLLEGES AND UNIVERSITIES GIVE EQUAL ACCESS TO MILITARY RECRUITERS AND ROTC IN ACCORDANCE WITH THE SOLOMON AMENDMENT AND REQUIREMENT FOR REPORT TO CONGRESS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) any college or university that discriminates against ROTC programs or military recruiters should be denied certain Federal taxpayer support, especially funding for many military and defense programs; and

(2) universities and colleges that receive Federal funds should provide military recruiters access to college campuses and to college students equal in quality and scope to that provided all other employers.

(b) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the colleges and universities that are denying equal access to military recruiters and ROTC programs.

SEC. 583. SENSE OF CONGRESS CONCERNING STUDY OF OPTIONS FOR PROVIDING HOMELAND DEFENSE EDUCATION.

It is the sense of Congress that—

(1) the Secretary of Defense, in consultation with the Secretary of Homeland Security, should study the options among public and private educational institutions and facilities (including an option of using the National Defense University) for providing strategic-level homeland defense education and related research opportunities to civilian and military leaders from all agencies of government in order to contribute to the development of a common understanding of core homeland defense principles and of effective interagency homeland defense strategies, policies, doctrines, and processes; and

(2) the results of such consultation and study should be reported to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, together with such recommendations as the Secretary considers appropriate, including a request for any implementing legislation that would contribute to the development of strategic-level homeland defense education.

SEC. 584. SENSE OF CONGRESS RECOGNIZING THE DIVERSITY OF THE MEMBERS OF THE ARMED FORCES SERVING IN OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM AND HONORING THEIR SACRIFICES AND THE SACRIFICES OF THEIR FAMILIES.

(a) FINDINGS.—Congress finds the following:

(1) Thousands of members of the United States Armed Forces who come from a variety of ethnic and racial backgrounds have served, and are serving, in Operation Iraqi Freedom and Operation Enduring Freedom to defend the cause of freedom, democracy, and liberty. Many have been killed, wounded, or seriously injured.

(2) Diversity is an essential part of the strength of the Armed Forces, in which members having different ethnic and racial backgrounds share the goal of defending the cause of freedom, democracy, and liberty.

(3) The Armed Forces are representative of the diverse culture and backgrounds that make the United States a great nation.

(b) Sense of Congress.—It is the sense of Congress that the United States should—

(1) recognize and celebrate the diversity of the members of the Armed Forces; and

(2) recognize and honor the sacrifices being made by the members of the Armed Forces and their families in the global war on terrorism.

Subtitle K—Other Matters

SEC. 589. EXPANSION AND ENHANCEMENT OF AUTHORITY TO PRESENT RECOGNITION ITEMS FOR RECRUITMENT AND RETENTION PURPOSES.

(a) In General.—

(1) Authority.—Subchapter II of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§2261. Presentation of recognition items for recruitment and retention purposes

"(a) Expenditures for Recognition Items.—Under regulations prescribed by the Secretary of Defense, appropriated funds may be expended—

"(1) to procure recognition items of nominal or modest value for recruitment or retention purposes; and

"(2) to present such items—

"(A) to members of the armed forces; and

"(B) to members of the families of members of the armed forces, and other individuals, recognized as providing support that substantially facilitates service in the armed forces.

"(b) Provision of Meals and Refreshments.—For purposes of section 520c of this title and any regulation prescribed to implement that section, functions conducted for the purpose of presenting recognition items described in subsection (a) shall be treated as recruiting functions, and recipients of such items shall be treated as persons who are the objects of recruiting efforts.

"(c) Recognition Items of Nominal or Modest Value.—In this section, the term 'recognition item of nominal or modest value' means a commemorative coin, medal, trophy, badge, flag, poster, painting, or other similar item that is valued at less than $50 per item and is designed to recognize or commemorate service in the armed forces.

"(d) Termination of Authority.—The authority under this section shall expire December 31, 2007.".

(2) Clerical amendment.—The table of sections at the beginning of subchapter II of chapter 134 of such title is amended by adding at the end the following new item:

"2261. Presentation of recognition items for recruitment and retention purposes.".

(b) Repeal of Superseded Authorities.—

(1) Army reserve.—Section 18506 of title 10, United States Code, is repealed. The table of sections at the beginning of chapter 1805 of such title is amended by striking the item relating to such section.

(2) National guard.—Section 717 of title 32, United States Code, is repealed. The table of sections at the beginning of chapter 7 of such title is amended by striking the item relating to such section.

SEC. 590. EXTENSION OF DATE OF SUBMITTAL OF REPORT OF VETERANS' DISABILITY BENEFITS COMMISSION.

Section 1503 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1678; 38 U.S.C. 1101 note) is amended by striking "Not later than 15 months after the date on which the commission first meets," and inserting "Not later than October 1, 2007,".

SEC. 591. RECRUITMENT AND ENLISTMENT OF HOME-SCHOOLED STUDENTS IN THE ARMED FORCES.

(a) Policy on Recruitment and Enlistment.—

(1) Policy required.—The Secretary of Defense shall prescribe a policy on the recruitment and enlistment of home-schooled students in the Armed Forces.

(2) Uniformity across the armed forces.—The Secretary shall ensure that the policy prescribed under paragraph (1) applies, to the extent practicable, uniformly across the Armed Forces.

(b) Elements.—The policy under subsection (a) shall include the following:

(1) An identification of a graduate of home schooling for purposes of recruitment and enlistment in the Armed Forces that is in accordance with the requirements described in subsection (c).

(2) A communication plan to ensure that the policy described in subsection (c) is understood by recruiting officials of all the Armed Forces, to include field recruiters at the lowest level of command.

(3) An exemption of graduates of home schooling from the requirement for a secondary school diploma or an equivalent (GED) as a precondition for enlistment in the Armed Forces.

(c) Home School Graduates.—In prescribing the policy under subsection (a), the Secretary of Defense shall prescribe a single set of criteria to be used by the Armed Forces in determining whether an individual is a graduate of home schooling. The Secretary concerned shall ensure compliance with education credential coding requirements.

(d) Secretary Concerned Defined.—In this section, the term "Secretary concerned" has the meaning given such term in section 101(a)(9) of title 10, United States Code.

SEC. 592. MODIFICATION OF REQUIREMENT FOR CERTAIN INTERMEDIARIES UNDER CERTAIN AUTHORITIES RELATING TO ADOPTIONS.

(a) Reimbursement for Adoption Expenses.—Section 1052(g)(1) of title 10, United States Code, is amended by inserting "or other source authorized to place children for adoption under State or local law" after "qualified adoption agency".

(b) Treatment as Children for Medical and Dental Care Purposes.—Section 1072(6)(D)(i) of such title is amended by inserting ", or by any other source authorized by State or local law to provide adoption placement," after "(recognized by the Secretary of Defense)".

SEC. 593. ADOPTION LEAVE FOR MEMBERS OF THE ARMED FORCES ADOPTING CHILDREN.

(a) Leave Authorized.—Section 701 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) Under regulations prescribed by the Secretary of Defense, a member of the armed forces adopting a child in a qualifying child adoption is allowed up to 21 days of leave in a calendar year to be used in connection with the adoption.

"(2) For the purpose of this subsection, an adoption of a child by a member is a qualifying child adoption if the member is eligible for reimbursement of qualified adoption expenses for such adoption under section 1052 of this title.

"(3) In the event that two members of the armed forces who are married to each other adopt a child in a qualifying child adoption, only one such member shall be allowed leave under this subsection.

"(4) Leave under paragraph (1) is in addition to other leave provided under other provisions of this section.".

(b) Effective Date.—Subsection (i) of section 701 of title 10, United States Code (as added by subsection (a)), shall take effect on January 1, 2006, and shall apply only with respect to adoptions completed on or after that date.

SEC. 594. ADDITION OF INFORMATION TO BE COVERED IN MANDATORY PRESEPARATION COUNSELING.

Section 1142(b) of title 10, United States Code, is amended—

(1) in paragraph (4), by striking "(4) Information concerning" and inserting the following:

"(4) Provision of information on civilian occupations and related assistance programs, including information concerning—

"(A) certification and licensure requirements that are applicable to civilian occupations;

"(B) civilian occupations that correspond to military occupational specialties; and

"(C)"; and

(2) by adding at the end the following:

"(11) Information concerning the availability of mental health services and the treatment of post-traumatic stress disorder, anxiety disorders, depression, suicidal ideations, or other mental health conditions associated with service in the armed forces.

"(12) Information concerning the priority of service for veterans in the receipt of employment, training, and placement services provided under qualified job training programs of the Department of Labor.

"(13) Information concerning veterans small business ownership and entrepreneurship programs of the Small Business Administration and the National Veterans Business Development Corporation.

"(14) Information concerning employment and reemployment rights and obligations under chapter 43 of title 38.

"(15) Information concerning veterans preference in federal employment and federal procurement opportunities.

"(16) Contact information for housing counseling assistance.

"(17) A description, developed in consultation with the Secretary of Veterans Affairs, of health care and other benefits to which the member may be entitled under the laws administered by the Secretary of Veterans Affairs.".

SEC. 595. REPORT ON TRANSITION ASSISTANCE PROGRAMS.

(a) Report Required.—Not later than May 1, 2006, the Secretary of Defense shall submit to Congress a report on the actions taken, including those actions taken pursuant to the recommendations in the May 2005 report of the Comptroller General submitted to Congress pursuant to section 598 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1939), to ensure that the Transition Assistance Programs for members of the Armed Forces separating from the Armed Forces (including members of the regular components of the Armed Forces and members of the reserve components of the Armed Forces) function effectively to provide such members with timely and comprehensive transition assistance when separating from the Armed Forces. The report under this section shall be prepared in consultation with the Secretary of Labor and the Secretary of Veterans Affairs.

(b) Focus on Particular Members.—The report required by subsection (a) shall include particular attention to the actions taken with respect to the Transition Assistance Programs to assist the following members of the Armed Forces:

(1) Members deployed to Operation Iraqi Freedom.

(2) Members deployed to Operation Enduring Freedom.

(3) Members deployed to or in support of other contingency operations.

(4) Members of the National Guard activated under the provisions of title 32, United States Code, in support of relief efforts for Hurricane Katrina and Hurricane Rita.

SEC. 596. IMPROVEMENT TO DEPARTMENT OF DEFENSE CAPACITY TO RESPOND TO SEXUAL ASSAULT AFFECTING MEMBERS OF THE ARMED FORCES.

(a) PLAN FOR SYSTEM TO TRACK CASES IN WHICH CARE OR PROSECUTION HINDERED BY LACK OF AVAILABILITY.—

(1) PLAN REQUIRED.—The Secretary of Defense shall develop and implement a system to track cases under the jurisdiction of the Department of Defense in which care to a victim of rape or sexual assault, or the investigation or prosecution of an alleged perpetrator of rape or sexual assault, is hindered by the lack of availability of a rape kit or other needed supplies or by the lack of timely access to appropriate laboratory testing resources.

(2) SUBMITTAL TO CONGRESSIONAL COMMITTEES.—The Secretary shall submit the plan developed under paragraph (1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than 120 days after the date of the enactment of this Act.

(b) ACCESSIBILITY PLAN FOR DEPLOYED UNITS.—

(1) PLAN REQUIRED.—The Secretary of Defense shall develop and implement a plan for ensuring accessibility and availability of supplies, trained personnel, and transportation resources for responding to sexual assaults occurring in deployed units. The plan shall include the following:

(A) A plan for the training of personnel who are considered to be "first responders" to sexual assaults (including criminal investigators, medical personnel responsible for rape kit evidence collection, and victims advocates), such training to include current techniques on the processing of evidence, including rape kits, and on conducting investigations.

(B) A plan for ensuring the availability at military hospitals of supplies needed for the treatment of victims of sexual assault who present at a military hospital, including rape kits, equipment for processing rape kits, and supplies for testing and treatment for sexually transmitted infections and diseases, including HIV, and for testing for pregnancy.

(2) SUBMITTAL TO CONGRESSIONAL COMMITTEES.—The Secretary shall submit the plan developed under paragraph (1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than 120 days after the date of the enactment of this Act.

(c) ADDITIONAL MATTERS FOR ANNUAL REPORT ON SEXUAL ASSAULTS.—Section 577(f)(2) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1927; 10 U.S.C. 113 note) is amended—

(1) by redesignating subparagraph (D) as subparagraph (G); and

(2) by inserting after subparagraph (C) the following new subparagraphs:

"(D) A description of the implementation during the year covered by the report of the tracking system implemented pursuant to section 596(a) of the National Defense Authorization Act for Fiscal Year 2006, including information collected on cases during that year in which care to a victim of rape or sexual assault was hindered by the lack of availability of a rape kit or other needed supplies or by the lack of timely access to appropriate laboratory testing resources.

"(E) A description of the implementation during the year covered by the report of the accessibility plan implemented pursuant to section 596(b) of the National Defense Authorization Act for Fiscal Year 2006, including a description of the steps taken during that year to provide that trained personnel, appropriate supplies, and transportation resources are accessible to deployed units in order to provide an appropriate and timely response in any case of reported sexual assault in a deployed unit.

"(F) A description of the required supply inventory, location, accessibility, and availability of supplies, trained personnel, and transportation resources needed, and in fact in place, in order to be able to provide an appropriate and timely response in any case of reported sexual assault in a deployed unit.".

SEC. 597. AUTHORITY FOR APPOINTMENT OF COAST GUARD FLAG OFFICER AS CHIEF OF STAFF TO THE PRESIDENT.

(a) AUTHORITY.—Chapter 3 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 54. Chief of staff to President: appointment

"The President, by and with the advice and consent of the Senate, may appoint a flag officer of the Coast Guard as the Chief of Staff to the President.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"54. Chief of Staff to President: appointment.".

SEC. 598. PRAYER AT MILITARY SERVICE ACADEMY ACTIVITIES.

(a) IN GENERAL.—The superintendent of a service academy may have in effect such policy as the superintendent considers appropriate with respect to the offering of a voluntary, nondenominational prayer at an otherwise authorized activity of the academy, subject to the United States Constitution and such limitations as the Secretary of Defense may prescribe.

(b) SERVICE ACADEMIES.—For purposes of this section, the term "service academy" means any of the following:

(1) The United States Military Academy.

(2) The United States Naval Academy.

(3) The United States Air Force Academy.

SEC. 599. MODIFICATION OF AUTHORITY TO MAKE MILITARY WORKING DOGS AVAILABLE FOR ADOPTION.

(a) ADMINISTRATION OF AUTHORITY BY SECRETARIES OF MILITARY DEPARTMENTS.—Subsection (a) of section 2583 of title 10, United States Code, is amended—

(1) by striking "Secretary of Defense may" and inserting "Secretary of the military department concerned may"; and

(2) by striking "the Department of Defense" and inserting "such military department".

(b) AUTHORITY TO MAKE DOGS AVAILABLE FOR ADOPTION BEFORE END OF USEFUL WORKING LIFE.—Such subsection is further amended by striking "at the end" and all that follows and inserting ", unless the dog has been determined to be unsuitable for adoption under subsection (b), under circumstances as follows:

"(1) At the end of the dog's useful working life.

"(2) Before the end of the dog's useful working life, if such Secretary, in such Secretary's discretion, determines that unusual or extraordinary circumstances justify making the dog available for adoption before that time.

"(3) When the dog is otherwise excess to the needs of such military department.".

(c) CLARIFICATION OF REPORTING REQUIREMENT.—Subsection (f) of such section is amended by inserting "of Defense" after "Secretary".

(d) CONFORMING AND CLERICAL AMENDMENTS.—The heading of such section, and the item relating to such section in the table of sections at the beginning of chapter 153 of such title, are each amended by striking the last six words.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Increase in basic pay for fiscal year 2006.
Sec. 602. Additional pay for permanent military professors at United States Naval Academy with over 36 years of service.
Sec. 603. Basic pay rates for reserve component members selected to attend military service academy preparatory schools.
Sec. 604. Clarification of restriction on compensation for correspondence courses.
Sec. 605. Enhanced authority for agency contributions for members of the Armed Forces participating in the Thrift Savings Plan.
Sec. 606. Pilot program on contributions to Thrift Savings Plan for initial enlistees in the Army.
Sec. 607. Prohibition against requiring certain injured members to pay for meals provided by military treatment facilities.
Sec. 608. Permanent authority for supplemental subsistence allowance for low-income members with dependents.
Sec. 609. Increase in basic allowance for housing and extension of temporary lodging expenses authority for areas subject to major disaster declaration or for installations experiencing sudden increase in personnel levels.
Sec. 610. Basic allowance for housing for reserve component members.
Sec. 611. Permanent increase in length of time dependents of certain deceased members may continue to occupy military family housing or receive basic allowance for housing.
Sec. 612. Overseas cost of living allowance.
Sec. 613. Allowance to cover portion of monthly deduction from basic pay for Servicemembers' Group Life Insurance coverage for members serving in Operation Enduring Freedom or Operation Iraqi Freedom.
Sec. 614. Income replacement payments for Reserves experiencing extended and frequent mobilization for active duty service.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 621. Extension or resumption of certain bonus and special pay authorities for reserve forces.
Sec. 622. Extension of certain bonus and special pay authorities for certain health care professionals.
Sec. 623. Extension of special pay and bonus authorities for nuclear officers.
Sec. 624. Extension of other bonus and special pay authorities.
Sec. 625. Eligibility of oral and maxillofacial surgeons for incentive special pay.
Sec. 626. Eligibility of dental officers for additional special pay.
Sec. 627. Increase in maximum monthly rate authorized for hardship duty pay.
Sec. 628. Flexible payment of assignment incentive pay.
Sec. 629. Active-duty reenlistment bonus.
Sec. 630. Reenlistment bonus for members of the Selected Reserve.
Sec. 631. Consolidation and modification of bonuses for affiliation or enlistment in the Selected Reserve.
Sec. 632. Expansion and enhancement of special pay for enlisted members of the Selected Reserve assigned to certain high priority units.
Sec. 633. Eligibility requirements for prior service enlistment bonus.
Sec. 634. Increase and enhancement of affiliation bonus for officers of the Selected Reserve.

Sec. 635. Increase in authorized maximum amount of enlistment bonus.
Sec. 636. Discretion of Secretary of Defense to authorize retroactive hostile fire and imminent danger pay.
Sec. 637. Increase in maximum bonus amount for nuclear-qualified officers extending period of active duty.
Sec. 638. Increase in maximum amount of nuclear career annual incentive bonus for nuclear-qualified officers trained while serving as enlisted members.
Sec. 639. Uniform payment of foreign language proficiency pay to eligible reserve component members and regular component members.
Sec. 640. Retention bonus for members qualified in certain critical skills or assigned to high priority units.
Sec. 641. Incentive bonus for transfer between Armed Forces.
Sec. 642. Availability of special pay for members during rehabilitation from wounds, injuries, and illnesses incurred in a combat operation or combat zone.
Sec. 643. Pay and benefits to facilitate voluntary separation of targeted members of the Armed Forces.
Sec. 644. Ratification of payment of critical-skills accession bonus for persons enrolled in Senior Reserve Officers' Training Corps obtaining nursing degrees.
Sec. 645. Temporary authority to pay bonus to encourage members of the Army to refer other persons for enlistment in the Army.

Subtitle C—Travel and Transportation Allowances

Sec. 651. Authorized absences of members for which lodging expenses at temporary duty location may be paid.
Sec. 652. Extended period for selection of home for travel and transportation allowances for dependents of deceased members.
Sec. 653. Transportation of family members in connection with the repatriation of members held captive.
Sec. 654. Increased weight allowances for shipment of household goods of senior noncommissioned officers.
Sec. 655. Permanent authority to provide travel and transportation allowances for family members to visit hospitalized members of the Armed Forces injured in combat operation or combat zone.

Subtitle D—Retired Pay and Survivor Benefits

Sec. 661. Monthly disbursement to States of State income tax withheld from retired or retainer pay.
Sec. 662. Denial of certain burial-related benefits for individuals who committed a capital offense.
Sec. 663. Concurrent receipt of veterans' disability compensation and military retired pay.
Sec. 664. Additional amounts of death gratuity for survivors of certain members of the Armed Forces dying on active duty.
Sec. 665. Child support for certain minor children of retirement-eligible members convicted of domestic violence resulting in death of child's other parent.
Sec. 666. Comptroller General report on actuarial soundness of the Survivor Benefit Plan.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

Sec. 671. Increase in authorized level of supplies and services procurement from overseas exchange stores.
Sec. 672. Requirements for private operation of commissary store functions.
Sec. 673. Provision of and payment for overseas transportation services for commissary and exchange supplies and products.
Sec. 674. Compensatory time off for certain nonappropriated fund employees.
Sec. 675. Rest and recuperation leave programs.

Subtitle F—Other Matters

Sec. 681. Temporary Army authority to provide additional recruitment incentives.
Sec. 682. Clarification of leave accrual for members assigned to a deployable ship or mobile unit or other duty.
Sec. 683. Expansion of authority to remit or cancel indebtedness of members of the Armed Forces incurred on active duty.
Sec. 684. Loan repayment program for chaplains in the Selected Reserve.
Sec. 685. Inclusion of Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff among senior enlisted members of the Armed Forces.
Sec. 686. Special and incentive pays considered for saved pay upon appointment of members as officers.
Sec. 687. Repayment of unearned portion of bonuses, special pays, and educational benefits.
Sec. 688. Rights of members of the Armed Forces and their dependents under Housing and Urban Development Act of 1968.
Sec. 689. Extension of eligibility for SSI for certain individuals in families that include members of the Reserve and National Guard.
Sec. 690. Information for members of the Armed Forces and their dependents on rights and protections of the Servicemembers Civil Relief Act.

Subtitle A—Pay and Allowances

SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2006.

(a) Waiver of Section 1009 Adjustment.—The adjustment to become effective during fiscal year 2006 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) Increase in Basic Pay.—Effective on January 1, 2006, the rates of monthly basic pay for members of the uniformed services are increased by 3.1 percent.

SEC. 602. ADDITIONAL PAY FOR PERMANENT MILITARY PROFESSORS AT UNITED STATES NAVAL ACADEMY WITH OVER 36 YEARS OF SERVICE.

Section 203(b) of title 37, United States Code, is amended by inserting after "Military Academy" the following: ", the United States Naval Academy,".

SEC. 603. BASIC PAY RATES FOR RESERVE COMPONENT MEMBERS SELECTED TO ATTEND MILITARY SERVICE ACADEMY PREPARATORY SCHOOLS.

Section 203(e)(2) of title 37, United States Code, is amended—

(1) by striking "on active duty for a period of more than 30 days shall continue to receive" and inserting "shall receive"; and

(2) by inserting before the period at the end the following: "or at the rate provided for cadets and midshipmen under subsection (c), whichever is greater".

SEC. 604. CLARIFICATION OF RESTRICTION ON COMPENSATION FOR CORRESPONDENCE COURSES.

Section 206(d)(1) of title 37, United States Code, is amended by inserting after "reserve component" the following: "or by a member of the National Guard while not in Federal service".

SEC. 605. ENHANCED AUTHORITY FOR AGENCY CONTRIBUTIONS FOR MEMBERS OF THE ARMED FORCES PARTICIPATING IN THE THRIFT SAVINGS PLAN.

(a) Authority to Make Contributions for Certain First-Time Enlistees.—Subsection (d) of section 211 of title 37, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting "(i)" after "(A)";

(B) by redesignating subparagraph (B) as clause (ii) of subparagraph (A) and, in such clause, by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new subparagraph (B):

"(B) is enlisting in the armed forces for the first time and the period of the member's enlistment is not less than two years.";

(2) in paragraph (2), by striking "paragraph (1)" the first place it appears and inserting "paragraph (1)(A)";

(3) by designating the second sentence of paragraph (2) as paragraph (4) and, in such paragraph, by striking "this paragraph" and inserting "this subsection"; and

(4) by inserting before such paragraph (4) the following new paragraph:

"(3) In the case of a member described by paragraph (1)(B), the Secretary shall make contributions to the Fund for the benefit of the member for each pay period of the enlistment of the member described in that paragraph for which the member makes a contribution to the Fund under section 8440e of title 5 (other than under subsection (d)(2) thereof).".

(b) Clerical Amendment.—Such subsection is further amended by inserting "And First-Time Enlistees" after "Specialties".

SEC. 606. PILOT PROGRAM ON CONTRIBUTIONS TO THRIFT SAVINGS PLAN FOR INITIAL ENLISTEES IN THE ARMY.

(a) Pilot Program Required.—During fiscal year 2006, the Secretary of the Army shall use the authority provided by section 211(d)(1)(B) of title 10, United States Code, as amended by section 605, to carry out within the Army a pilot program in order to assess the extent to which contributions by the Secretary to the Thrift Savings Fund on behalf of members of the Army described in subsection (b) would—

(1) assist the Army in recruiting efforts; and

(2) assist such members in establishing habits of financial responsibility during their initial enlistment in the Armed Forces.

(b) Covered Members.—To be eligible to participate in the pilot program under subsection (a), a member of the Army must be serving under an initial enlistment for a period of not less than two years.

(c) Contributions to Thrift Savings Fund.—

(1) In general.—The Secretary of the Army may make contributions to the Thrift Savings Fund on behalf of any participant in the pilot program under subsection (a) for any pay period during the period of the pilot program.

(2) Limitations.—The amount of any contributions made with respect to a member under paragraph (1) shall be subject to the provisions of section 8432(c) of title 5, United States Code.

(d) Report.—

(1) In general.—Not later than February 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report on the pilot program under subsection (a).

(2) ELEMENTS.—The report shall include the following:

(A) A description of the pilot program, including the number of members of the Army who participated in the pilot program and the contributions made by the Army to the Thrift Savings Fund on behalf of such members during the period of the pilot program.

(B) An assessment, based on the pilot program and taking into account the views of officers and senior enlisted personnel of the Army, and of field recruiters, of the extent to which contributions by the military departments to the Thrift Savings Fund on behalf of members of the Armed Forces similar to the participants in the pilot program—

(i) would enhance the recruiting efforts of the Armed Forces; and

(ii) would assist such members in establishing habits of financial responsibility during their initial enlistment in the Armed Forces.

SEC. 607. PROHIBITION AGAINST REQUIRING CERTAIN INJURED MEMBERS TO PAY FOR MEALS PROVIDED BY MILITARY TREATMENT FACILITIES.

(a) TEMPORARY PROHIBITION.—Section 402 of title 37, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) NO PAYMENT FOR MEALS RECEIVED AT MILITARY TREATMENT FACILITIES.—(1) A member of the armed forces who is undergoing medical recuperation or therapy, or is otherwise in the status of continuous care, including outpatient care, at a military treatment facility for an injury, illness, or disease described in paragraph (2) shall not be required to pay any charge for meals provided to the member by the military treatment facility during any month covered by paragraph (3) in which the member is entitled to a basic allowance for subsistence under this section.

"(2) Paragraph (1) applies with respect to an injury, illness, or disease incurred or aggravated by a member while the member was serving on active duty—

"(A) in support of Operation Iraqi Freedom or Operation Enduring Freedom; or

"(B) in any other operation designated by the Secretary of Defense as a combat operation or in an area designated by the Secretary as a combat zone.

"(3) This subsection shall apply to months beginning during the period beginning on October 1, 2005, and ending on December 31, 2006.".

(b) REPEAL OF TEMPORARY AUTHORITY.—Section 1023 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is repealed.

SEC. 608. PERMANENT AUTHORITY FOR SUPPLEMENTAL SUBSISTENCE ALLOWANCE FOR LOW-INCOME MEMBERS WITH DEPENDENTS.

(a) REPEAL OF TERMINATION PROVISION.—Section 402a of title 37, United States Code, is amended by striking subsection (i).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Subsection (f) of such section is amended—

(1) in the first sentence, by striking "Secretary of Transportation" and inserting "Secretary of Homeland Security, with respect to the Coast Guard"; and

(2) by striking the second sentence.

SEC. 609. INCREASE IN BASIC ALLOWANCE FOR HOUSING AND EXTENSION OF TEMPORARY LODGING EXPENSES AUTHORITY FOR AREAS SUBJECT TO MAJOR DISASTER DECLARATION OR FOR INSTALLATIONS EXPERIENCING SUDDEN INCREASE IN PERSONNEL LEVELS.

(a) TEMPORARY BASIC ALLOWANCE FOR HOUSING INCREASE AUTHORIZED.—Section 403(b) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(7)(A) Under the authority of this paragraph, the Secretary of Defense may prescribe a temporary increase in the rates of basic allowance for housing otherwise prescribed for a military housing area or a portion of a military housing area if the military housing area or portion thereof—

"(i) is located in an area covered by a declaration by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) that a major disaster exists; or

"(ii) contains one or more military installations that are experiencing a sudden increase in the number of members of the armed forces assigned to the installation.

"(B) The Secretary of Defense shall base the amount of the increase to be made in the rates of basic allowance for housing for an area on a determination by the Secretary of the amount by which the costs of adequate housing for civilians have increased in the area by reason of the disaster or the influx of military personnel, except that the increase may not exceed the amount equal to 20 percent of the rate of basic allowance for housing otherwise prescribed for the area.

"(C) A member may be paid a basic allowance for housing at a rate increased under this paragraph only if the member certifies to the Secretary concerned that the member has incurred increased housing costs in the area by reason of the disaster or the influx of military personnel.

"(D) Subject to subparagraph (E), an increase in the rates of basic allowance for housing in an area under this paragraph shall remain in effect until the effective date of the first adjustment in rates of basic allowance for housing made for the area pursuant to a redetermination of housing costs in the area under this subsection that occurs after the date of the increase under this paragraph.

"(E) An increase in the rates of basic allowance for housing for an area may not be prescribed under this paragraph or continue after December 31, 2008.".

(b) TEMPORARY EXTENSION OF TEMPORARY LODGING EXPENSES AUTHORITY.—Section 404a(c) of such title is amended by adding at the end the following new paragraph:

"(3) Whenever the conditions described in clause (i) or (ii) of subparagraph (A) of section 403(b)(7) of this title exist for a military housing area or portion thereof, the Secretary concerned may increase the period for which subsistence expenses are to be paid or reimbursed under this section in the case of a change of permanent station described in subparagraph (A) or (C) of subsection (a)(2) in the same military housing area or portion thereof to a maximum of 20 days.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to months beginning on or after September 1, 2005.

SEC. 610. BASIC ALLOWANCE FOR HOUSING FOR RESERVE COMPONENT MEMBERS.

(a) EQUAL TREATMENT OF RESERVE MEMBERS.—Subsection (g) of section 403 of title 37, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The rate of basic allowance for housing to be paid to the following members of a reserve component shall be equal to the rate in effect for similarly situated members of a regular component of the uniformed services:

"(A) A member who is called or ordered to active duty for a period of more than 30 days.

"(B) A member who is called or ordered to active duty for a period of 30 days or less in support of a contingency operation."; and

(3) in paragraph (4), as so redesignated, by striking "less than 140 days" and inserting "30 days or less".

(b) CONFORMING AMENDMENT REGARDING MEMBERS WITHOUT DEPENDENTS.—Paragraph (1) of such subsection is amended by inserting "or for a period of more than 30 days" after "in support of a contingency operation" both places it appears.

SEC. 611. PERMANENT INCREASE IN LENGTH OF TIME DEPENDENTS OF CERTAIN DECEASED MEMBERS MAY CONTINUE TO OCCUPY MILITARY FAMILY HOUSING OR RECEIVE BASIC ALLOWANCE FOR HOUSING.

Effective immediately after the termination, pursuant to subsection (b) of section 1022 of Public Law 109–13 (119 Stat. 251) and section 124 of Public Law 109–77 (119 Stat. 2041), of the amendments made by subsection (a) of such section 1022, section 403(l) of title 37, United States Code, is amended by striking "180 days" each place it appears and inserting "365 days".

SEC. 612. OVERSEAS COST OF LIVING ALLOWANCE.

(a) PAYMENT OF ALLOWANCE BASED ON OVERSEAS LOCATION OF DEPENDENTS.—Section 405 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(e) PAYMENT OF ALLOWANCE BASED ON OVERSEAS LOCATION OF DEPENDENTS.—In the case of a member assigned to duty inside the continental United States whose dependents continue to reside outside the continental United States, the Secretary concerned may pay the member a per diem under this section based on the location of the dependents and provide reimbursement under subsection (d) for an unusual or extraordinary expense incurred by the dependents if the Secretary determines that such payment or reimbursement is in the best interest of the member or the member's dependents and in the best interest of the United States.".

(b) CLARIFICATION OF EXPENSES ELIGIBLE FOR LUMP-SUM REIMBURSEMENT.—Subsection (d) of such section is amended—

(1) in the subsection heading, by striking "NONRECURRING" and inserting "UNUSUAL OR EXTRAORDINARY";

(2) by inserting "or (e)" after "subsection (a)" each place it appears; and

(3) in paragraph (1)—

(A) by striking "a nonrecurring" and inserting "an unusual or extraordinary" in the matter preceding subparagraph (A); and

(B) in subparagraph (A), by inserting "or the location of the member's dependents" before the semicolon.

SEC. 613. ALLOWANCE TO COVER PORTION OF MONTHLY DEDUCTION FROM BASIC PAY FOR SERVICEMEMBERS' GROUP LIFE INSURANCE COVERAGE FOR MEMBERS SERVING IN OPERATION ENDURING FREEDOM OR OPERATION IRAQI FREEDOM.

(a) ALLOWANCE TO COVER SGLI DEDUCTIONS.—Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 437. Allowance to cover portion of monthly premium for Servicemembers' Group Life Insurance: members serving in Operation Enduring Freedom or Operation Iraqi Freedom

"(a) REQUIRED REIMBURSEMENT FOR PREMIUM DEDUCTION.—(1) In the case of a member of the armed forces who has insurance coverage for the member under the Servicemembers' Group Life Insurance program under subchapter III of chapter 19 of title 38 and who serves in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom at any time during a month, the Secretary concerned shall pay the member an allowance under this section for that month in an amount equal to the amount of the deduction made under subsection (a)(1) of section 1969 of such title for the first $150,000 of Servicemembers' Group Life Insurance coverage held by the member under section 1967 of such title.

"(2) If a member described in paragraph (1) elected to be insured in an amount less than the coverage amount specified in paragraph (1) or in effect pursuant to subsection (b), the amount of the allowance under this section for a month shall be equal to the amount of the deduction made for that month under subsection (a)(1) of section 1969 of title 38 from the basic pay of the member for the amount of Servicemembers' Group Life Insurance coverage actually held by the member under section 1967 of such title.

"(b) AUTHORITY TO INCREASE MAXIMUM REIMBURSEMENT AMOUNT.—For purposes of subsection (a), the Secretary of Defense is authorized to increase the coverage amount specified in paragraph (1) of such subsection to permit the reimbursement of all or an additional amount of the deduction made under section 1969(a)(1) of title 38 for levels of coverage in excess of $150,000 for members under the Servicemembers' Group Life Insurance program.

"(c) NOTICE OF AVAILABILITY OF ALLOWANCE.—To the maximum extent practicable, in advance of the deployment of a member to a theater of operations referred to in subsection (a), the Secretary concerned shall give the member information regarding the following:

"(1) The availability of the allowance under this section for members insured under the Servicemembers' Group Life Insurance program.

"(2) The ability of members who elected not to be insured under Servicemembers' Group Life Insurance, or elected less than the coverage amount specified in subsection (a)(1) or in effect pursuant to subsection (b), to obtain insurance, or to obtain additional coverage, as the case may be, under the authority provided in section 1967(c) of title 38.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 37, United States Code, is amended by adding at the end the following new item:

"437. Allowance to cover portion of monthly premium for Servicemembers' Group Life Insurance: members serving in Operation Enduring Freedom or Operation Iraqi Freedom.".

(c) EFFECTIVE DATE; NOTIFICATION.—Section 437 of title 37, United States Code, as added by subsection (a), shall apply with respect to service by members of the Armed Forces in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom for months beginning on or after the date of the enactment of this Act. In the case of members who are serving in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom as of such date, the Secretary of Defense shall provide such members, as soon as practicable, the information specified in subsection (c) of that section.

SEC. 614. INCOME REPLACEMENT PAYMENTS FOR RESERVES EXPERIENCING EXTENDED AND FREQUENT MOBILIZATION FOR ACTIVE DUTY SERVICE.

(a) IN GENERAL.—Chapter 17 of title 37, United States Code, is amended by adding at the end the following new section:

"§910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service

"(a) PAYMENT REQUIRED.—The Secretary concerned shall pay to an eligible member of a reserve component of the armed forces an amount equal to the monthly active-duty income differential of the member, as determined by the Secretary. The payments shall be made on a monthly basis.

"(b) ELIGIBILITY.—Subject to subsection (c), a reserve component member is entitled to a payment under this section for any full month of active duty of the member, while on active duty under an involuntary mobilization order, following the date on which the member—

"(1) completes 18 continuous months of service on active duty under such an order;

"(2) completes 24 months on active duty during the previous 60 months under such an order; or

"(3) is involuntarily mobilized for service on active duty for a period of 180 days or more within six months or less following the member's separation from a previous period of involuntary active duty for a period of 180 days or more.

"(c) MINIMUM AND MAXIMUM PAYMENT AMOUNTS.—(1) A payment under this section shall be made to a member for a month only if the amount of the monthly active-duty income differential for the month is greater than $50.

"(2) Notwithstanding the amount determined under subsection (d) for a member for a month, the monthly payment to a member under this section may not exceed $3,000.

"(d) MONTHLY ACTIVE-DUTY INCOME DIFFERENTIAL.—For purposes of this section, the monthly active-duty income differential of a member is the difference between—

"(1) the average monthly civilian income of the member; and

"(2) the member's total monthly military compensation.

"(e) DEFINITIONS.—In this section:

"(1) The term 'average monthly civilian income', with respect to a member of a reserve component, means the amount, determined by the Secretary concerned, of the earned income of the member for either the 12 months preceding the member's mobilization or the 12 months covered by the member's most recent Federal income tax filing, divided by 12.

"(2) The term 'total monthly military compensation' means the amount, computed on a monthly basis, of the sum of—

"(A) the amount of the regular military compensation (RMC) of the member; and

"(B) any amount of special pay or incentive pay and any allowance (other than an allowance included in regular military compensation) that is paid to the member on a monthly basis.

"(f) REGULATIONS.—This section shall be administered under regulations to be prescribed by the Secretary of Defense.

"(g) TERMINATION OF AUTHORITY.—No payment shall be made under this section after December 31, 2008.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service.".

(c) EFFECTIVE DATE.—Section 910 of title 37, United States Code, as added by subsection (a), may apply only with respect to months beginning after the end of the 180-day period beginning on the date of the enactment of this Act.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 621. EXTENSION OR RESUMPTION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(g) of title 37, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(b) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(c) READY RESERVE ENLISTMENT BONUS FOR PERSONS WITHOUT PRIOR SERVICE.—Section 308g(h) of such title is amended by striking "an enlistment after September 30, 1992" and inserting "an enlistment—

"(1) during the period beginning on October 1, 1992, and ending on September 30, 2005; or

"(2) after December 31, 2006.".

(d) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS FOR PERSONS WITH PRIOR SERVICE.—Section 308h(g) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(e) SELECTED RESERVE ENLISTMENT BONUS FOR PERSONS WITH PRIOR SERVICE.—Section 308i(f) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

SEC. 622. EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR CERTAIN HEALTH CARE PROFESSIONALS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(b) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of such title is amended by striking "January 1, 2006" and inserting "January 1, 2007".

(c) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(d) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(e) SPECIAL PAY FOR SELECTED RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(f) ACCESSION BONUS FOR DENTAL OFFICERS.—Section 302h(a)(1) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(g) ACCESSION BONUS FOR PHARMACY OFFICERS.—Section 302j(a) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

SEC. 623. EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.

(a) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(b) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(c) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

SEC. 624. EXTENSION OF OTHER BONUS AND SPECIAL PAY AUTHORITIES.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(b) ASSIGNMENT INCENTIVE PAY.—Section 307a(f) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(c) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(d) ENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 309(e) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(e) RETENTION BONUS FOR MEMBERS WITH CRITICAL MILITARY SKILLS.—Section 323(i) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(f) ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.—Section 324(g) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

SEC. 625. ELIGIBILITY OF ORAL AND MAXILLOFACIAL SURGEONS FOR INCENTIVE SPECIAL PAY.

(a) ELIGIBILITY.—Subsection (a) of section 302b of title 37, United States Code, is amended—

(1) in the subsection heading, by striking "AND BOARD CERTIFICATION" and inserting "BOARD CERTIFICATION, AND INCENTIVE"; and

(2) by adding at the end the following new paragraph:

"(6) An officer described in paragraph (1) who is an oral or maxillofacial surgeon may be paid incentive special pay at the same rates, and subject to the same terms and conditions, as incentive special pay available for medical officers under section 302(b) of this title.".

(b) CONFORMING AMENDMENTS.—Such section is further amended in subsections (b) and (d) by striking "subsection (a)(4)" each place it appears and inserting "paragraph (4) or (6) of subsection (a)".

SEC. 626. ELIGIBILITY OF DENTAL OFFICERS FOR ADDITIONAL SPECIAL PAY.

Section 302b(a)(4) of title 37, United States Code, is amended in the first sentence—

(1) by inserting "also" before "is entitled"; and

(2) by inserting "initial" before "residency".

SEC. 627. INCREASE IN MAXIMUM MONTHLY RATE AUTHORIZED FOR HARDSHIP DUTY PAY.

Section 305(a) of title 37, United States Code, is amended by striking "$300" and inserting "$750".

SEC. 628. FLEXIBLE PAYMENT OF ASSIGNMENT INCENTIVE PAY.

(a) AUTHORITY TO PROVIDE LUMP SUM OR INSTALLMENT PAYMENTS.—Section 307a of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "monthly"; and

(B) by adding at the end the following new sentence: "Incentive pay payable under this section may be paid on a monthly basis, in a lump sum, or in installments."; and

(2) in subsection (b)—

(A) by inserting "(1)" before "The Secretary concerned";

(B) in paragraph (1), as so designated, by striking "incentive pay" in the first sentence and inserting "the payment of incentive pay on a monthly basis"; and

(C) by adding at the end the following new paragraph:

"(2) The Secretary concerned shall require a member performing service in an assignment designated under subsection (a) to enter into a written agreement with the Secretary in order to qualify for the payment of incentive pay on a lump sum or installment basis under this section. The written agreement shall specify the period for which the incentive pay will be paid to the member and, subject to subsection (c), the amount of the lump sum, or each installment, of the incentive pay.".

(b) MAXIMUM RATE OR AMOUNT.—Subsection (c) of such section is amended to read as follows:

"(c) MAXIMUM RATE OR AMOUNT.—(1) The maximum monthly rate of incentive pay payable to a member on a monthly basis under this section is $3,000.

"(2) The amount of the lump sum payment of incentive pay payable to a member on a lump sum basis under this section may not exceed an amount equal to the product of—

"(A) the maximum monthly rate authorized under paragraph (1) at the time of the written agreement of the member under subsection (b)(2); and

"(B) the number of months in the period for which incentive pay will be paid pursuant to the agreement.

"(3) The amount of each installment payment of incentive pay payable to a member on an installment basis under this section shall be the amount equal to—

"(A) the product of (i) a monthly rate specified in the written agreement of the member under subsection (b)(2) (which monthly rate may not exceed the maximum monthly rate authorized under paragraph (1) at the time of the written agreement), and (ii) the number of months in the period for which incentive pay will be paid; divided by

"(B) the number of installments over such period.

"(4) If a member extends an assignment specified in an agreement with the Secretary under subsection (b), incentive pay for the period of the extension may be paid under this section on a monthly basis, in a lump sum, or in installments in accordance with this section.".

(c) REPAYMENT.—Such section is further amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c), as amended by subsection (b) of this section, the following new subsection (d):

"(d) REPAYMENT OF INCENTIVE PAY.—(1) A member who, pursuant to an agreement under subsection (b)(2), receives a lump sum or installment payment of incentive pay under this section and who fails to complete the total period of service or other conditions specified in the agreement voluntarily or because of misconduct, shall refund to the United States an amount equal to the percentage of incentive pay paid which is equal to the unexpired portion of the service divided by the total period of service. The Secretary concerned may waive repayment of an amount of incentive pay under this section, in whole or in part, if the Secretary determines that conditions and circumstances warrant.

"(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of the agreement does not discharge the member signing the agreement from a debt arising under paragraph (1).".

SEC. 629. ACTIVE-DUTY REENLISTMENT BONUS.

(a) ELIGIBILITY OF SENIOR ENLISTED MEMBERS.—Subsection (a) of section 308 of title 37, United States Code, is amended—

(1) in paragraph (1)(A), by striking "16 years of active duty" and inserting "20 years of active duty"; and

(2) in paragraph (3), by striking "18 years" and inserting "24 years".

(b) INCREASE IN AUTHORIZED MAXIMUM AMOUNT OF BONUS.—Paragraph (2)(B) of such subsection is amended by striking "$60,000" and inserting "$90,000".

(c) REPEAL OF REFERENCE TO OBSOLETE SPECIAL PAY.—Paragraph (1) of such subsection is amended—

(1) by inserting "and" at the end of subparagraph (B);

(2) by striking subparagraph (C); and

(3) by redesignating subparagraph (D) as subparagraph (C).

(d) REPEAL OF OBSOLETE SPECIAL PAY.—

(1) REPEAL.—Section 312a of title 37, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 312a.

SEC. 630. REENLISTMENT BONUS FOR MEMBERS OF THE SELECTED RESERVE.

(a) ELIGIBILITY OF SENIOR ENLISTED MEMBERS.—Subsection (a)(1) of section 308b of title 37, United States Code, is amended by striking "16 years of total military service" and inserting "20 years of total military service".

(b) COMPUTATION OF BONUS AMOUNT.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

"(3) Any portion of a term of reenlistment or extension of enlistment of a member that, when added to the total years of service of the member at the time of discharge or release, exceeds 21 years may not be used in computing the total bonus amount under paragraph (1).".

SEC. 631. CONSOLIDATION AND MODIFICATION OF BONUSES FOR AFFILIATION OR ENLISTMENT IN THE SELECTED RESERVE.

(a) CONSOLIDATION AND MODIFICATION OF BONUSES.—Section 308c of title 37, United States Code, is amended to read as follows:

"§ 308c. Special pay: bonus for affiliation or enlistment in the Selected Reserve

"(a) AFFILIATION BONUS AUTHORIZED.—The Secretary concerned may pay an affiliation bonus to an enlisted member of an armed force who—

"(1) has completed fewer than 20 years of military service; and

"(2) executes a written agreement to serve in the Selected Reserve of the Ready Reserve of an armed force for a period of not less than three years in a skill, unit, or pay grade designated under subsection (b) after being discharged or released from active duty under honorable conditions.

"(b) DESIGNATION OF SKILLS, UNITS, AND PAY GRADES.—The Secretary concerned shall designate the skills, units, and pay grades for which an affiliation bonus may be paid under subsection (a). Any skill, unit, or pay grade so designated shall be a skill, unit, or pay grade for which there is a critical need for personnel in the Selected Reserve of the Ready Reserve of an armed force, as determined by the Secretary concerned. The Secretary concerned shall establish other requirements to ensure that members accepted for affiliation meet required performance and discipline standards.

"(c) ACCESSION BONUS AUTHORIZED.—The Secretary concerned may pay an accession bonus to a person who—

"(1) has not previously served in the armed forces; and

"(2) executes a written agreement to serve as an enlisted member in the Selected Reserve of the Ready Reserve of an armed force for a period of not less than three years upon acceptance of the agreement by the Secretary concerned.

"(d) LIMITATION ON AMOUNT OF BONUS.—The amount of a bonus under subsection (a) or (c) may not exceed $20,000.

"(e) PAYMENT METHOD.—Upon acceptance of a written agreement by the Secretary concerned, the total amount of the bonus payable under the agreement becomes fixed. The agreement shall specify whether the bonus shall be paid by the Secretary concerned in a lump sum or in installments.

"(f) CONTINUED ENTITLEMENT TO BONUS PAYMENTS.—A member entitled to a bonus under this section who is called or ordered to active *duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.*

"(g) REPAYMENT.—(1) A person who enters into an agreement under subsection (a) or (c) and receives all or part of the bonus under the agreement, but who does not commence to serve in the Selected Reserve or does not satisfactorily participate in the Selected Reserve for the total period of service specified in the agreement, shall repay to the United States the amount of the bonus so paid, except as otherwise prescribed under paragraph (2).

"(2) The Secretary concerned shall prescribe in regulations whether repayment of an amount otherwise required under paragraph (1) shall be made in whole or in part, the method for computing the amount of such repayment, and any conditions under which an exception to required repayment would apply.

"(3) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement entered into under subsection (a) or (c) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).

"(h) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary of Defense and by the Secretary of Homeland Security for the Coast Guard when it is not operating as a service in the Navy.

"(i) TERMINATION OF BONUS AUTHORITY.—No bonus may be paid under this section with respect to any agreement entered into under subsection (a) or (c) after December 31, 2006.".

(b) REPEAL OF SUPERSEDED AFFILIATION BONUS AUTHORITY.—Section 308e of such title is repealed.

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 5 of such title is amended—

(1) by striking the item relating to section 308c and inserting the following new item:

"308c. Special pay: bonus for affiliation or enlistment in the Selected Reserve".

; and

(2) by striking the item relating to section 308e.

SEC. 632. EXPANSION AND ENHANCEMENT OF SPECIAL PAY FOR ENLISTED MEMBERS OF THE SELECTED RESERVE ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.

(a) ELIGIBILITY FOR PAY.—Subsection (a) of section 308d of title 37, United States Code, is amended by striking "an enlisted member" and inserting "a member".

(b) AMOUNT OF PAY.—Such subsection is further amended by striking "$10" and inserting "$50".

(c) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CONFORMING AMENDMENT.—The heading of such section is amended to read as follows:

"§308d. Special pay: members of the Selected Reserve assigned to certain high priority units".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 308d and inserting the following new item:

"308d. Special pay: members of the Selected Reserve assigned to certain high priority units.".

SEC. 633. ELIGIBILITY REQUIREMENTS FOR PRIOR SERVICE ENLISTMENT BONUS.

Section 308i(a)(2) of title 37, United States Code, is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) The person has not more than 16 years of total military service and received an honorable discharge at the conclusion of all prior periods of service."; and

(2) by striking subparagraph (D).

SEC. 634. INCREASE AND ENHANCEMENT OF AFFILIATION BONUS FOR OFFICERS OF THE SELECTED RESERVE.

(a) REPEAL OF PROHIBITION ON ELIGIBILITY FOR PRIOR RESERVE SERVICE.—Subsection (a)(2) of section 308j of title 37, United States Code, is amended—

(1) in subparagraph (A), by adding "and" at the end;

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) INCREASE IN MAXIMUM AMOUNT.—Subsection (d) of such section is amended by striking "$6,000" and inserting "$10,000".

(c) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CONFORMING AMENDMENT.—The heading of such section is amended to read as follows:

"§308j. Special pay: affiliation bonus for officers in the Selected Reserve".

'(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 308j and inserting the following new item:

"308j. Special pay: affiliation bonus for officers in the Selected Reserve.".

SEC. 635. INCREASE IN AUTHORIZED MAXIMUM AMOUNT OF ENLISTMENT BONUS.

Section 309(a) of title 37, United States Code, is amended by striking "$20,000" and inserting "$40,000".

SEC. 636. DISCRETION OF SECRETARY OF DEFENSE TO AUTHORIZE RETROACTIVE HOSTILE FIRE AND IMMINENT DANGER PAY.

Section 310(c) of title 37, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph (1):

"(1) In the case of an area described in subparagraph (B) or (D) of subsection (a)(2), the Secretary of Defense shall be responsible for designating the period during which duty in the area will qualify members for special pay under this section. The effective date designated for the commencement of such a period may be a date occurring before, on, or after the actual date on which the Secretary makes the designation. If the commencement date for such a period is a date occurring before the date on which the Secretary makes the designation, the payment of special pay under this section for the period between the commencement date and the date on which the Secretary makes the designation shall be subject to the availability of appropriated funds for that purpose.".

SEC. 637. INCREASE IN MAXIMUM BONUS AMOUNT FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE DUTY.

Section 312(a) of title 37, United States Code, is amended by striking "$25,000" and inserting "$30,000".

SEC. 638. INCREASE IN MAXIMUM AMOUNT OF NUCLEAR CAREER ANNUAL INCENTIVE BONUS FOR NUCLEAR-QUALIFIED OFFICERS TRAINED WHILE SERVING AS ENLISTED MEMBERS.

Section 312c(b)(1) of title 37, United States Code, is amended by striking "$10,000" and inserting "$14,000".

SEC. 639. UNIFORM PAYMENT OF FOREIGN LANGUAGE PROFICIENCY PAY TO ELIGIBLE RESERVE COMPONENT MEMBERS AND REGULAR COMPONENT MEMBERS.

(a) AVAILABILITY OF BONUS IN LIEU OF MONTHLY SPECIAL PAY.—Subsection (a) of section 316 of title 37, United States Code, is amended—

(1) by striking "SPECIAL PAY" and inserting "BONUS";

(2) by striking "monthly special pay" and inserting "a bonus"; and

(3) by striking "is entitled to basic pay under section 204 of this title and who".

(b) PAYMENT OF BONUS.—Such section is further amended—

(1) by striking subsections (b), (d), (e), and (g);

(2) by redesignating subsections (f) and (h) as subsections (d) and (f), respectively; and

(3) by inserting after subsection (a) the following new subsection (b):

"(b) BONUS AMOUNT; TIME FOR PAYMENT.—A bonus under subsection (a) may not exceed $12,000 per one-year certification period under subsection (c). The Secretary concerned may pay the bonus in a single lump sum at the beginning of the certification period or in installments during the certification period. The bonus is in addition to any other pay or allowance payable to a member under any other provision of law.".

(c) REPAYMENT.—Such section is further amended by inserting after subsection (d), as redesignated by subsection (b)(2) of this section, the following new subsection (e):

"(e) REPAYMENT.—(1) A member who receives a bonus under this section, but who does not satisfy an eligibility requirement specified in paragraph (1), (2), (3), or (4) of subsection (a) for the entire certification period, shall repay to the United States the amount of the bonus so paid, except as otherwise prescribed under paragraph (2).

"(2) The Secretary concerned shall prescribe in regulations whether repayment of an amount otherwise required under paragraph (1) shall be made in whole or in part, the method for computing the amount of such repayment, and any conditions under which an exception to required repayment would apply.

"(3) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered less than five years after the date on which the member received the bonus does not discharge the member from a debt arising under paragraph (1).".

(d) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (c)—

(A) by striking "special pay or" both places it appears; and

(B) by striking "or (b)";

(2) in subsection (d), as redesignated by subsection (b)(2) of this section—

(A) in paragraph (1)—

(i) by striking "monthly special pay or" in the matter preceding subparagraph (A); and

(ii) in subparagraph (C), by striking "for receipt" and all that follows through the period at the end and inserting "under subsection (a).";

(B) in paragraph (2), by striking "For purposes" and all that follows through "the Secretary concerned" and inserting "The Secretary concerned";

(C) in paragraph (3)—

(i) by striking "special pay or" both places it appears; and

(ii) by striking "subsection (h)" and inserting "subsection (f)"; and

(D) in paragraph (4), by striking "subsection (g)" and inserting "section 303a(e) of this title".

(e) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

"§ 316. Special pay: bonus for members with foreign language proficiency".

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 316 and inserting the following new item:

"316. Special pay: bonus for members with foreign language proficiency.".

SEC. 640. RETENTION BONUS FOR MEMBERS QUALIFIED IN CERTAIN CRITICAL SKILLS OR ASSIGNED TO HIGH PRIORITY UNITS.

(a) AVAILABILITY OF BONUS FOR RESERVE COMPONENT MEMBERS.—Section 323 of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "who is serving on active duty and" and inserting "who is serving on active duty in a regular component or in an active status in a reserve component and who";

(B) in paragraph (1), by inserting "or to remain in an active status in a reserve component for at least one year" before the semicolon; and

(C) in paragraph (3), by inserting "or to remain in an active status in a reserve component for a period of at least one year" before the period; and

(2) in subsection (e)(1), by inserting "or service in an active status in a reserve component" after "active duty" each place it appears.

(b) ADDITIONAL CRITERIA FOR BONUS.—Such section is further amended—

(1) in subsection (a), by striking "designated critical military skill" and inserting "critical military skill designated under subsection (b) or accepts an assignment to a high priority unit designated under such subsection";

(2) in subsection (b)—

(A) by striking "DESIGNATION OF CRITICAL SKILLS.—" and inserting "ELIGIBILITY CRITERIA.—(1)"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may designate a unit as a high priority unit regarding which a retention bonus will be provided to a member of the armed forces who agrees to accept an assignment to the unit under subsection (a)."; and

(3) in subsection (h)(1), by striking "members qualified in the critical military skills for which the bonuses were offered" and inserting "members of the armed forces who were offered a bonus under this section".

(c) MAXIMUM AMOUNT OF BONUS FOR RESERVE COMPONENT MEMBERS.—Subsection (d)(1) of such section is amended by inserting after "$200,000" the following: "(or $100,000 in the case of a reserve component member)".

(d) EXTENDED ELIGIBILITY PERIOD FOR CERTAIN MEMBERS.—Subsection (e) of such section is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) The limitations in paragraph (1) do not apply with respect to an officer who, during the period of active duty or service in an active status in a reserve component for which the bonus is being offered, is assigned duties as a health care professional.

"(3) The limitations in paragraph (1) do not apply with respect to a member who, during the period of active duty or service in an active status in a reserve component for which the bonus is being offered—

"(A) is qualified in a skill designated as critical under subsection (b)(1) related to special operations forces; or

"(B) is qualified for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.".

(e) REPAYMENT REQUIREMENTS.—Subsection (g)(1) of such section is amended by striking "If" and all that follows through "under this section," and inserting "If a member paid a bonus under this section fails, during the period of service covered by the member's agreement, reenlistment, or voluntary extension of enlistment under subsection (a), to remain qualified in the critical military skill or to satisfy the other eligibility criteria for which the bonus was paid,".

(f) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 323 of such title is amended to read as follows:

"§ 323. Special pay: retention incentives for members qualified in critical military skills or assigned to high priority units".

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 323 and inserting the following new item:

"323. Special pay: retention incentives for members qualified in critical military skills or assigned to high priority units.".

SEC. 641. INCENTIVE BONUS FOR TRANSFER BETWEEN ARMED FORCES.

(a) IN GENERAL.—Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 327. Incentive bonus: transfer between armed forces

"(a) INCENTIVE BONUS AUTHORIZED.—A bonus under this section may be paid to an eligible member of a regular component or reserve component of an armed force who executes a written agreement—

"(1) to transfer from such regular component or reserve component to a regular component or reserve component of another armed force; and

"(2) to serve pursuant to such agreement for a period of not less than three years in the component to which transferred.

"(b) ELIGIBLE MEMBERS.—A member is eligible to enter into an agreement under subsection (a) if, as of the date of the agreement, the member—

"(1) has not failed to satisfactorily complete any term of enlistment in the armed forces;

"(2) is eligible for reenlistment in the armed forces or, in the case of an officer, is eligible to continue in service in a regular or reserve component of the armed forces; and

"(3) has fulfilled such requirements for transfer to the component of the armed force to which the member will transfer as the Secretary having jurisdiction over such armed force shall establish.

"(c) LIMITATION.—A member may enter into an agreement under subsection (a) to transfer to a regular component or reserve component of another armed force only if the Secretary having jurisdiction over such armed force determines that there is shortage of trained and qualified personnel in such component.

"(d) AMOUNT AND PAYMENT OF BONUS.—(1) A bonus under this section may not exceed $2,500.

"(2) A bonus under this section shall be paid by the Secretary having jurisdiction of the armed force to which the member to be paid the bonus is transferring.

"(3) A bonus under this section shall, at the election of the Secretary paying the bonus—

"(A) be disbursed to the member in one lump sum when the transfer for which the bonus is paid is approved by the chief personnel officer of the armed force to which the member is transferring; or

"(B) be paid to the member in annual installments in such amounts as may be determined by the Secretary paying the bonus.

"(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—A bonus paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

"(f) REPAYMENT.—(1) A member who is paid a bonus under an agreement under this section and who, voluntarily or because of misconduct, fails to serve for the period covered by such agreement shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid such member as the period which such member failed to serve bears to the total period for which the bonus was paid.

"(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under paragraph (1).

"(g) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department under this subsection shall be subject to the approval of the Secretary of Defense.

"(h) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2006.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by adding at the end the following new item:

"327. Incentive bonus: transfer between armed forces.".

SEC. 642. AVAILABILITY OF SPECIAL PAY FOR MEMBERS DURING REHABILITATION FROM WOUNDS, INJURIES, AND ILLNESSES INCURRED IN A COMBAT OPERATION OR COMBAT ZONE.

(a) SPECIAL PAY AUTHORIZED.—Chapter 5 of title 37, United States Code, is amended by inserting after section 327, as added by section 641, the following new section:

"§ 328. Combat-related injury rehabilitation pay

"(a) SPECIAL PAY AUTHORIZED.—The Secretary concerned may pay monthly special pay under this section to a member of the armed forces who, while in the line of duty, incurs a wound, injury, or illness in a combat operation or combat zone designated by the Secretary of Defense and is evacuated from the theater of the combat operation or from the combat zone for medical treatment.

"(b) COMMENCEMENT OF PAYMENT.—Subject to subsection (c), the special pay authorized by subsection (a) may be paid to a member described in such subsection for any month beginning after the date on which the member was evacuated from the theater of the combat operation or the combat zone in which the member incurred the combat-related injury.

"(c) TERMINATION OF PAYMENTS.—The payment of special pay to a member under subsection (a) shall terminate at the end of the first month during which any of the following occurs:

"(1) The member is paid a benefit under the traumatic injury protection rider of the Servicemembers' Group Life Insurance Program issued under section 1980A of title 38.

"(2) The member receives notification of the eligibility of the member for a benefit under such traumatic injury protection rider and a period of 30 days expires after the date of such notification.

"(3) The member is no longer hospitalized in a military treatment facility or a facility under the auspices of the military health care system.

"(d) AMOUNT OF SPECIAL PAY.—The monthly amount of special pay paid to a member under this section shall be equal to $430, less any payment received by the member for the same month under section 310(b) of this title.

"(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—Special pay paid to a member under this section is in addition to any other pay and allowances to which the member is entitled or authorized to receive.".

(b) CONTINUATION OF HOSTILE FIRE AND IMMINENT DANGER PAY DURING HOSPITALIZATION.—Section 310(b) of such title is amended—

(1) by striking "A member covered by subsection (a)(2)(C)" and all that follows through "the injury or wound" and inserting "(1) A member described in paragraph (2)";

(2) by striking "so hospitalized" and inserting "hospitalized as described in such paragraph"; and

(3) by adding at the end the following new paragraph:

"(2) Paragraph (1) applies with respect to a member who—

"(A) is injured or wounded under the circumstances described in subsection (a)(2)(C) and is hospitalized for the treatment of the injury or wound; or

"(B) while in the line of duty, incurs a wound, injury, or illness in a combat operation or combat zone designated by the Secretary of Defense and is hospitalized outside of the theater of the combat operation or the combat zone for the treatment of the wound, injury, or illness.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by inserting after the item relating to section 327, as added by section 641, the following new item:

"328. Combat-related injury rehabilitation pay.".

(d) EFFECTIVE DATE.—The Secretary of a military department may provide special pay under section 328 of title 37, United States Code, as added by subsection (a), for months beginning on or after the date of the enactment of this Act. A member of the Armed Forces who incurred a wound, injury, or illness under the circumstances described in subsection (a) of such section before the date of the enactment of this Act may receive such pay for such wound, injury, or illness for months beginning on or after that date so long as the member continues to satisfy the eligibility criteria specified in such section.

SEC. 643. PAY AND BENEFITS TO FACILITATE VOLUNTARY SEPARATION OF TARGETED MEMBERS OF THE ARMED FORCES.

(a) PAY AND BENEFITS AUTHORIZED.—

(1) IN GENERAL.—Chapter 59 of title 10, United States Code, is amended by inserting after section 1175 the following new section:

"§1175a. Voluntary separation pay and benefits

"(a) IN GENERAL.—Under regulations approved by the Secretary of Defense, the Secretary concerned may provide voluntary separation pay and benefits in accordance with this section to eligible members of the armed forces who are voluntarily separated from active duty in the armed forces.

"(b) ELIGIBLE MEMBERS.—(1) Except as provided in paragraph (2), a member of the armed forces is eligible for voluntary separation pay and benefits under this section if the member—

"(A) has served on active duty for more than 6 years but not more than 20 years;

"(B) has served at least 5 years of continuous active duty immediately preceding the date of the member's separation from active duty;

"(C) has not been approved for payment of a voluntary separation incentive under section 1175 of this title;

"(D) meets such other requirements as the Secretary concerned may prescribe, which may include requirements relating to—

"(i) years of service, skill, rating, military specialty, or competitive category;

"(ii) grade or rank;

"(iii) remaining period of obligated service; or

"(iv) any combination of these factors; and

"(E) requests separation from active duty.

"(2) The following members are not eligible for voluntary separation pay and benefits under this section:

"(A) Members discharged with disability severance pay under section 1212 of this title.

"(B) Members transferred to the temporary disability retired list under section 1202 or 1205 of this title.

"(C) Members being evaluated for disability retirement under chapter 61 of this title.

"(D) Members who have been previously discharged with voluntary separation pay.

"(E) Members who are subject to pending disciplinary action or who are subject to administrative separation or mandatory discharge under any other provision of law or regulations.

"(3) The Secretary concerned shall determine each year the number of members to be separated, and provided separation pay and benefits, under this section during the fiscal year beginning in such year.

"(c) SEPARATION.—Each eligible member of the armed forces whose request for separation from active duty under subsection (b)(1)(E) is approved shall be separated from active duty.

"(d) ADDITIONAL SERVICE IN READY RESERVE.—Of the number of members of the armed forces to be separated from active duty in a fiscal year, as determined under subsection (b)(3), the Secretary concerned shall determine a number of such members, in such skill and grade combinations as the Secretary concerned shall designate, who shall serve in the Ready Reserve, after separation from active duty, for a period of not less than three years, as a condition of the receipt of voluntary separation pay and benefits under this section.

"(e) SEPARATION PAY AND BENEFITS.—(1) A member of the armed forces who is separated from active duty under subsection (c) shall be paid voluntary separation pay in accordance with subsection (g) in an amount determined by the Secretary concerned pursuant to subsection (f).

"(2) A member who is not entitled to retired or retainer pay upon separation shall be entitled to the benefits and services provided under—

"(A) chapter 58 of this title during the 180-day period beginning on the date the member is separated (notwithstanding any termination date for such benefits and services otherwise applicable under the provisions of such chapter); and

"(B) sections 404 and 406 of title 37.

"(f) COMPUTATION OF VOLUNTARY SEPARATION PAY.—The Secretary concerned shall specify the amount of voluntary separation pay that an individual or defined group of members of the armed forces may be paid under subsection (e)(1). No member may receive as voluntary separation pay an amount greater than two times the full amount of separation pay for a member of the same pay grade and years of service who is involuntarily separated under section 1174 of this title.

"(g) PAYMENT OF VOLUNTARY SEPARATION PAY.—(1) Voluntary separation pay under this section may be paid in a single lump sum.

"(2) In the case of a member of the armed forces who, at the time of separation under subsection (c), has completed at least 15 years, but less than 20 years, of active service, voluntary separation pay may be paid, at the election of the Secretary concerned, in—

"(A) a single lump sum;

"(B) installments over a period not to exceed 10 years; or

"(C) a combination of lump sum and such installments.

"(h) COORDINATION WITH RETIRED OR RETAINER PAY AND DISABILITY COMPENSATION.—(1) A member who is paid voluntary separation pay under this section and who later qualities for retired or retainer pay under this title or title 14 shall have deducted from each payment of such retired or retainer pay an amount, in such schedule of monthly installments as the Secretary concerned shall specify, until the total amount deducted from such retired or retainer pay is equal to the total amount of voluntary separation pay so paid.

"(2)(A) Except as provided in subparagraphs (B) and (C), a member who is paid voluntary separation pay under this section shall not be deprived, by reason of the member's receipt of such pay, of any disability compensation to which the member is entitled under the laws administered by the Secretary of Veterans Affairs, but there shall be deducted from such disability compensation an amount, in such schedule of monthly installments as the Secretary concerned shall specify, until the total amount deducted from such disability compensation is equal to the total amount of voluntary separation pay so paid, less the amount of Federal income tax withheld from such pay (such withholding being at the flat withholding rate for Federal income tax withholding, as in effect pursuant to regulations prescribed under chapter 24 of the Internal Revenue Code of 1986).

"(B) No deduction shall be made from the disability compensation paid to an eligible disabled uniformed services retiree under section 1413, or to an eligible combat-related disabled uniformed services retiree under section 1413a of this title, who is paid voluntary separation pay under this section.

"(C) No deduction may be made from the disability compensation paid to a member for the amount of voluntary separation pay received by the member because of an earlier discharge or release from a period of active duty if the disability which is the basis for that disability compensation was incurred or aggravated during a later period of active duty.

"(3) The requirement under this subsection to repay voluntary separation pay following retirement from the armed forces does not apply to a member who was eligible to retire at the time the member applied and was accepted for voluntary separation pay and benefits under this section.

"(4) The Secretary concerned may waive the requirement to repay voluntary separation pay under paragraphs (1) and (2) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

"(i) RETIREMENT DEFINED.—In this section, the term 'retirement' includes a transfer to the Fleet Reserve or Fleet Marine Corps Reserve.

"(j) REPAYMENT FOR MEMBERS WHO RETURN TO ACTIVE DUTY.—(1) Except as provided in paragraphs (2) and (3), a member of the armed forces who, after having received all or part of voluntary separation pay under this section, returns to active duty shall have deducted from each payment of basic pay, in such schedule of monthly installments as the Secretary concerned shall specify, until the total amount deducted from such basic pay equals the total amount of voluntary separation pay received.

"(2) Members who are involuntarily recalled to active duty or full-time National Guard duty in accordance with section 12301(a), 12301(b), 12301(g), 12302, 12303, or 12304 of this title or section 502(f)(1) of title 32 shall not be subject to this subsection.

"(3) Members who are recalled or perform active duty or full-time National Guard duty in accordance with section 101(d)(1), 101(d)(2), 101(d)(5), 12301(d) (insofar as the period served is less than 180 consecutive days with the consent of the member), 12319, or 12503 of title 10, or section 114, 115, or 502(f)(2) of title 32 (insofar as the period served is less than 180 consecutive days with consent of the member), shall not be subject to this subsection.

"(4) The Secretary of Defense may waive, in whole or in part, repayment required under paragraph (1) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States. The authority in this paragraph may be delegated only to the Undersecretary of Defense for Personnel and Readiness and the Principal Deputy Undersecretary of Defense for Personnel and Readiness.

"(k) TERMINATION OF AUTHORITY.—(1) The authority to separate a member of the armed forces from active duty under subsection (c) shall terminate on December 31, 2008.

"(2) A member who separates by the date specified in paragraph (1) may continue to be provided voluntary separation pay and benefits under this section until the member has received the entire amount of pay and benefits to which the member is entitled under this section.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 59 of such title is amended by inserting after the item relating to section 1175 the following new item:

"1175a. Voluntary separation pay and benefits.".

(b) LIMITATION ON APPLICABILITY.—During the period beginning on the date of the enactment of this Act and ending on December 31, 2008, the members of the Armed Forces who are eligible for separation, and for the provision of voluntary separation pay and benefits, under section 1175a of title 10, United States Code (as added by subsection (a)), shall be limited to officers of the Armed Forces who meet the eligibility requirements of section 1175a(b) of title 10, United States Code (as so added), but have not completed more than 12 years of active service as of the date of separation from active duty.

SEC. 644. RATIFICATION OF PAYMENT OF CRITICAL-SKILLS ACCESSION BONUS FOR PERSONS ENROLLED IN SENIOR RESERVE OFFICERS' TRAINING CORPS OBTAINING NURSING DEGREES.

(a) ACCESSION BONUS AUTHORIZED.—In the case of an agreement executed under section 324 of title 37, United States Code, from October 5, 2004, through December 31, 2005, between the Secretary of the Army and a person who completed the second year of an accredited baccalaureate degree program in nursing to serve in the Army Nurse Corps, the payment of an accession bonus to the person under such section is authorized even though the person did not possess a skill designated as critical and, at the time of the agreement, was enrolled in the Senior Reserve Officers' Training Corps program of the Army for advanced training under chapter 103 of title 10, United States Code, including a person receiving financial assistance under section 2107 of such title.

(b) LIMITATION ON AMOUNT OF BONUS.—The amount of the accession bonus referred to in subsection (a) may not exceed $5,000.

SEC. 645. TEMPORARY AUTHORITY TO PAY BONUS TO ENCOURAGE MEMBERS OF THE ARMY TO REFER OTHER PERSONS FOR ENLISTMENT IN THE ARMY.

(a) AUTHORITY TO PAY BONUS.—The Secretary of the Army may pay a bonus under this section to a member of the Army, whether in the regular component of the Army or in the Army National Guard or Army Reserve, who refers to an Army recruiter a person who has not previously served in an Armed Force and who, after such referral, enlists in the regular component of the Army or in the Army National Guard or Army Reserve.

(b) REFERRAL.—For purposes of this section, a referral for which a bonus may be paid under subsection (a) occurs—

(1) when a member of the Army contacts an Army recruiter on behalf of a person interested in enlisting in the Army; or

(2) when a person interested in enlisting in the Army contacts the Army recruiter and informs the recruiter of the role of the member in initially recruiting the person.

(c) CERTAIN REFERRALS INELIGIBLE.—

(1) REFERRAL OF IMMEDIATE FAMILY.—A member of the Army may not be paid a bonus under subsection (a) for the referral of an immediate family member.

(2) MEMBERS IN RECRUITING ROLES.—A member of the Army serving in a recruiting or retention assignment, or assigned to other duties regarding which eligibility for a bonus under subsection (a) could (as determined by the Secretary) be perceived as creating a conflict of interest, may not be paid a bonus under subsection (a).

(d) AMOUNT OF BONUS.—The amount of the bonus paid for a referral under subsection (a) may not exceed $1,000. The bonus shall be paid in a lump sum.

(e) TIME OF PAYMENT.—A bonus may not be paid under subsection (a) with respect to a person who enlists in the Army until the person completes basic training and individual advanced training.

(f) RELATION TO PROHIBITION ON BOUNTIES.—The referral bonus authorized by this section is not a bounty for purposes of section 514(a) of title 10, United States Code.

(g) DURATION OF AUTHORITY.—A bonus may not be paid under subsection (a) with respect to any referral that occurs after December 31, 2007.

Subtitle C—Travel and Transportation Allowances

SEC. 651. AUTHORIZED ABSENCES OF MEMBERS FOR WHICH LODGING EXPENSES AT TEMPORARY DUTY LOCATION MAY BE PAID.

(a) ABSENCES COVERED BY ALLOWANCE.—Section 404b of title 37, United States Code, is amended—

(1) in subsection (a), by striking "while the member is in an authorized leave status" and inserting "during an authorized absence of the member from the temporary duty location";

(2) in subsection (b)—

(A) in paragraph (1), by striking "taking the authorized leave" and inserting "the authorized absence"; and

(B) in paragraph (3), by striking "immediately after completing the authorized leave" and inserting "before the end of the authorized absence";

(3) in subsection (c), by striking "while the member was in an authorized leave status" and inserting "during the authorized absence of the member"; and

(4) by adding at the end the following new subsection:

"(d) AUTHORIZED ABSENCE DEFINED.—In this section, the term 'authorized absence', with respect to a member, means that the member is in an authorized leave status or that the absence of the member is otherwise authorized under regulations prescribed by the Secretary concerned.".

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

"§404b. Travel and transportation allowances: payment of lodging expenses at temporary duty location during authorized absence of member".

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 7 of such title is amended by striking the item relating to section 404b and inserting the following new item:

"404b. Travel and transportation allowances: payment of lodging expenses at temporary duty location during authorized absence of member.".

SEC. 652. EXTENDED PERIOD FOR SELECTION OF HOME FOR TRAVEL AND TRANSPORTATION ALLOWANCES FOR DEPENDENTS OF DECEASED MEMBERS.

(a) DEATH OF MEMBERS ENTITLED TO BASIC PAY.—Subsection (f) section 406 of title 37, United States Code, is amended—

(1) by inserting "(1)" after "(f)";

(2) by striking "he" and inserting "the member"; and

(3) by adding at the end the following new paragraph:

"(2) The Secretary concerned shall give the dependents of a member described in paragraph (1) a period of not less than three years, beginning on the date of the death of the member, during which to select a home for the purposes of the travel and transportation allowances authorized by this section.".

(b) CERTAIN OTHER DECEASED MEMBERS.—Subsection (g)(3) of such section is amended in the first sentence—

(1) by striking "he exercises it" and inserting "the member exercises the right or entitlement";

(2) by striking "his surviving dependents or, if" and inserting "the surviving dependents at any time before the end of the three-year period beginning on the date on which the member accrued that right or entitlement. If"; and

(3) by striking "his baggage and household effects" and inserting "the baggage and household effects of the deceased member".

SEC. 653. TRANSPORTATION OF FAMILY MEMBERS IN CONNECTION WITH THE REPATRIATION OF MEMBERS HELD CAPTIVE.

(a) ALLOWANCES AUTHORIZED.—Chapter 7 of title 37, United States Code, is amended by inserting after section 411i the following new section:

"§411j. Travel and transportation allowances: transportation of family members incident to the repatriation of members held captive

"(a) ALLOWANCE FOR FAMILY MEMBERS AND CERTAIN OTHERS.—(1) Under uniform regulations prescribed by the Secretaries concerned, travel and transportation described in subsection (d) may be provided for not more than three family members of a member described in subsection (b).

"(2) In addition to the family members authorized to be provided travel and transportation under paragraph (1), the Secretary concerned may provide travel and transportation described in subsection (d) to an attendant to accompany a family member described in that paragraph if the Secretary determines that—

"(A) the family member to be accompanied is unable to travel unattended because of age, physical condition, or other reason determined by the Secretary; and

"(B) no other family member who is eligible for travel and transportation under paragraph (1) is able to serve as an attendant for the family member.

"(3) If no family member of a member described in subsection (b) is able to travel to the repatriation site of the member, travel and transportation described in subsection (d) may be provided to not more than 2 persons related to and selected by the member.

"(4) In circumstances determined to be appropriate by the Secretary concerned, the Secretary may waive the limitation on the number of family members of a member provided travel and transportation allowances under this section.

"(b) COVERED MEMBERS.—A member described in this subsection is a member of the uniformed services who—

"(1) is serving on active duty;

"(2) was held captive, as determined by the Secretary concerned; and

"(3) is repatriated to a site inside or outside the United States.

"(c) ELIGIBLE FAMILY MEMBERS.—In this section, the term 'family member' has the meaning given the term in section 411h(b) of this title.

"(d) TRAVEL AND TRANSPORTATION AUTHORIZED.—(1) The transportation authorized by subsection (a) is round-trip transportation between the home of the family member (or home of the attendant or person provided transportation under paragraph (2) or (3) of subsection (a), as the case may be) and the location of the repatriation site at which the member is located.

"(2) In addition to the transportation authorized by subsection (a), the Secretary concerned may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established for such allowances and expenses under section 404(d) of this title.

"(3) The transportation authorized by subsection (a) may be provided by any of the means described in section 411h(d)(1) of this title.

"(4) An allowance under this subsection may be paid in advance.

"(5) Reimbursement payable under this subsection may not exceed the cost of Government-procured round-trip air travel.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of such title is amended by inserting after the item relating to section 411i the following new item:

"411j. Travel and transportation allowances: transportation of family members incident to the repatriation of members held captive.".

SEC. 654. INCREASED WEIGHT ALLOWANCES FOR SHIPMENT OF HOUSEHOLD GOODS OF SENIOR NONCOMMISSIONED OFFICERS.

(a) INCREASE.—The table in section 406(b)(1)(C) of title 37, United States Code, is amended by striking the items relating to pay grades E-7 through E-9 and inserting the following new items:

"E-9	*13,000*	*15,000*
E-8	*12,000*	*14,000*
E-7	*11,000*	*13,000".*

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2006, and apply with respect to an order in connection with a change of temporary or permanent station issued on or after that date.

SEC. 655. PERMANENT AUTHORITY TO PROVIDE TRAVEL AND TRANSPORTATION ALLOWANCES FOR FAMILY MEMBERS TO VISIT HOSPITALIZED MEMBERS OF THE ARMED FORCES INJURED IN COMBAT OPERATION OR COMBAT ZONE.

(a) AUTHORITY TO CONTINUE ALLOWANCE.—Section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109-13; 119 Stat. 254), is amended by striking subsections (d) and (e).

(b) CONFORMING AMENDMENT.—Subsection (a)(2)(B)(ii) of section 411h of title 37, United States Code, as added by section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, is amended by striking "under section 1967(e)(1)(A) of title 38".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of the following:

(1) The date of the enactment of this Act.

(2) The date specified in section 106(3) of Public Law 109–77 (119 Stat. 2039).

Subtitle D—Retired Pay and Survivor Benefits

SEC. 661. MONTHLY DISBURSEMENT TO STATES OF STATE INCOME TAX WITHHELD FROM RETIRED OR RETAINER PAY.

Section 1045(a) of title 10, United States Code, is amended in the third sentence—

(1) by striking "quarter" the first place it appears and inserting "month"; and

(2) by striking "during the month following that calendar quarter" and inserting "during the following calendar month".

SEC. 662. DENIAL OF CERTAIN BURIAL-RELATED BENEFITS FOR INDIVIDUALS WHO COMMITTED A CAPITAL OFFENSE.

(a) PROHIBITION OF INTERMENT IN NATIONAL CEMETERIES.—Section 2411 of title 38, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "for which the person was sentenced to death or life imprisonment" and inserting "and whose conviction is final (other than a person whose sentence was commuted by the President)"; and

(B) in paragraph (2), by striking "for which the person was sentenced to death or life imprisonment without parole" and inserting "and whose conviction is final (other than a person whose sentence was commuted by the Governor of a State)"; and

(2) in subsection (d)—

(A) in paragraph (1), by striking "the death penalty or life imprisonment may be imposed" and inserting "a sentence of imprisonment for life or the death penalty may be imposed"; and

(B) in paragraph (2), by striking "the death penalty or life imprisonment without parole may be imposed" and inserting "a sentence of imprisonment for life or the death penalty may be imposed".

(b) PROHIBITION OF CERTAIN DEPARTMENT OF DEFENSE BENEFITS.—

(1) ADDITIONAL CIRCUMSTANCES FOR PROHIBITION OF PERFORMANCE OF MILITARY HONORS.—Subsection (a) of section 985 of title 10, United States Code, is amended—

(A) by inserting "(under section 1491 of this title or any other authority)" after "military honors"; and

(B) by striking "a person who" and all that follows and inserting the following: "any of the following persons:

"(1) A person described in section 2411(b) of title 38.

"(2) A person who is a veteran (as defined in section 1491(h) of this title) or who died while on active duty or a member of a reserve component, when the circumstances surrounding the person's death or other circumstances as specified by the Secretary of Defense are such that to provide military honors at the funeral or burial of the person would bring discredit upon the person's service (or former service).".

(2) ADDITIONAL CIRCUMSTANCES FOR PROHIBITION OF INTERMENT IN MILITARY CEMETERY.—Subsection (b) of such section is amended by striking "convicted of a capital offense under Federal law" and inserting "who is ineligible for interment in a national cemetery under the control of the National Cemetery Administration by reason of section 2411(b) of title 38".

(3) CONFORMING AMENDMENT.—Subsection (c) such section is amended to read as follows:

"(c) DEFINITION.—In this section, the term 'burial' includes inurnment.".

(4) PROHIBITION OF FUNERAL HONORS.—Section 1491(a) of title 10, United States Code, is amended by inserting before the period at the end the following: ", except when military honors are prohibited under section 985(a) of this title".

(c) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 985 of such title is amended to read as follows:

"§985. Persons convicted of capital crimes; certain other persons: denial of specified burial-related benefits".

(2) TABLE OF SECTIONS.—The item relating to section 985 in the table of sections at the beginning of chapter 49 of such title is amended to read as follows:

"985. Persons convicted of capital crimes; certain other persons: denial of specified burial-related benefits.".

(d) RULEMAKING.—

(1) DEPARTMENT OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs shall prescribe regulations to ensure that a person is not interred in any cemetery in the National Cemetery System unless a good faith effort has been made to determine whether such person is ineligible for such interment or honors by reason of being a person described in section 2411(b) of title 38, United States Code, or is otherwise ineligible for such interment under Federal law.

(2) DEPARTMENT OF DEFENSE.—The Secretary of Defense shall prescribe regulations to ensure that a person is not interred in any military cemetery under the authority of the Secretary of a military department or provided funeral honors under section 1491 of title 10, United States Code, unless a good faith effort has been made to determine whether such person is ineligible for such interment or honors by reason of being a person described in section 2411(b) of title 38, United States Code, or is otherwise ineligible for such interment or honors under Federal law.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to funerals and burials that occur on or after the date of the enactment of this Act.

SEC. 663. CONCURRENT RECEIPT OF VETERANS' DISABILITY COMPENSATION AND MILITARY RETIRED PAY.

Section 1414(a)(1) of title 10, United States Code, is amended by inserting before the period at the end the following: ", and in the case of a qualified retiree receiving veterans' disability compensation at the rate payable for a 100 percent disability by reason of a determination of individual unemployability, payment of retired pay to such veteran is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on September 30, 2009".

SEC. 664. ADDITIONAL AMOUNTS OF DEATH GRATUITY FOR SURVIVORS OF CERTAIN MEMBERS OF THE ARMED FORCES DYING ON ACTIVE DUTY.

(a) INCREASED AMOUNT OF DEATH GRATUITY.—

(1) INCREASED AMOUNT.—Subsection (a) of section 1478 of title 10, United States Code, is amended by striking "$12,000" and inserting "$100,000".

(2) AMENDMENTS.—Such section is further amended—

(A) in the first sentence of subsection (a), by striking "(as" and all that follows in that sentence and inserting a period; and

(B) by striking subsection (c).

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as of October 7, 2001, and shall apply to deaths occurring on or after the date of the enactment of this Act and, subject to subsection (c), to deaths occurring during the period beginning on October 7,

2001, and ending on the day before the date of the enactment of this Act.

(b) Retroactive Payment of Additional Death Gratuity for Certain Members not Previously Covered.—Such section is further amended by adding at the end the following new subsection:

"(d)(1) In the case of a person described in paragraph (2), a death gratuity shall be payable, subject to section 664(c) of the National Defense Authorization Act for Fiscal Year 2006, for the death of such person that is in addition to the death gratuity payable in the case of such death under subsection (a).

"(2) This subsection applies in the case of a person who died during the period beginning on October 7, 2001, and ending on May 11, 2005, while a member of the armed forces on active duty and whose death did not establish eligibility for an additional death gratuity under the prior subsection (e) of this section (as added by section 1013(b) of Public Law 109–13; 119 Stat. 247), because the person was not described in paragraph (2) of that prior subsection.

"(3) The amount of additional death gratuity payable under this subsection shall be $150,000.

"(4) A payment pursuant to this subsection shall be paid in the same manner as provided under paragraph (4) of the prior subsection (e) of this section (as added by section 1013(b) of Public Law 109–13; 119 Stat. 247), for payments pursuant to paragraph (3)(A) of that prior subsection.".

(c) Funding.—Amounts for payments after the date of the enactment of this Act by reason of the amendments made by subsection (a) with respect to deaths before the date of the date of the enactment of this Act, and amounts for payments under subsection (d) of section 1478 of title 10, United States Code, as added by subsection (b), shall be derived from supplemental appropriations for the Department of Defense for fiscal year 2006 for military operations in Iraq and Afghanistan and the Global War on Terrorism, contingent upon such appropriations being enacted.

(d) Coordination of Amendments.—If the date of the enactment of this Act occurs before the date specified in section 106(3) of Public Law 109–77—

(1) effective as of such date of enactment, the amendments made to section 1478 of title 10, United States Code, by section 1013 of Public Law 109–13 are repealed; and

(2) effective immediately before the execution of the amendments made by this section, the provisions of section 1478 of title 10, United States Code, as in effect on the day before the date of the enactment of Public Law 109–13, are revived.

SEC. 665. CHILD SUPPORT FOR CERTAIN MINOR CHILDREN. OF RETIREMENT-ELIGIBLE MEMBERS CONVICTED OF DOMESTIC VIOLENCE RESULTING IN DEATH OF CHILD'S OTHER PARENT.

(a) Authority for Court-Ordered Payments.—Section 1408(h) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)"; and

(B) by adding at the end of such paragraph the following:

"(B) If, in the case of a member or former member of the armed forces referred to in paragraph (2)(A), a court order provides for the payment as child support of an amount from the disposable retired pay of that member or former member (as certified under paragraph (4)) to an eligible dependent child of the member or former member, the Secretary concerned, beginning upon effective service of such court order, shall pay that amount in accordance with this subsection to such dependent child.";

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting ", or a dependent child," after "former spouse";

(B) in subparagraph (B)—

(i) by inserting "in the case of eligibility of a spouse or former spouse under paragraph (1)(A)," after "(B)"; and

(ii) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) in the case of eligibility of a dependent child under paragraph (1)(B), the other parent of the child died as a result of the misconduct that resulted in the termination of retired pay.";

(3) in paragraph (4), by inserting ", or an eligible dependent child," after "former spouse";

(4) in paragraph (5), by inserting ", or the dependent child," after "former spouse"; and

(5) in paragraph (6), by inserting ", or to a dependent child," after "former spouse".

(b) Effective Date.—A court order authorized by the amendments made by this section may not provide for a payment attributable to any period before the date of the enactment of this Act, or the date of the court order, whichever is later.

SEC. 666. COMPTROLLER GENERAL REPORT ON ACTUARIAL SOUNDNESS OF THE SURVIVOR BENEFIT PLAN.

(a) Report.—Not later than July 31, 2006, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the actuarial soundness of the Survivor Benefit Plan program under subchapter II of chapter 73 of title 10, United States Code.

(b) Elements.—The report required by subsection (a) shall include the following:

(1) An assessment of the implications for the actuarial soundness of the Survivor Benefit Plan program of recent improvements to that program, including the implications of such improvements for the actuarial soundness of that program with respect to various categories of participants in the program and with respect to the program as a whole.

(2) An assessment of the implications for Government contributions and payments to the Survivor Benefit Plan program of the improvements to that program covered by paragraph (1), including the implications of such improvements on such contributions and payments with respect to various categories of participants in the program and with respect to the program as a whole.

(3) An assessment of the implications for the actuarial soundness of the Survivor Benefit Plan program, and for Government contributions and payments to that program, of—

(A) enactment of a law permitting participants in that program to designate an insurable interest beneficiary if a previously designated beneficiary dies; and

(B) enactment of a law repealing the provisions of sections 1450(c) and 1451(c)(2) of title 10, United States Code, that require the reduction of an annuity paid to a beneficiary under that program by the amount of dependency and indemnity compensation paid to the same beneficiary under section 1311(a) of title 38, United States Code.

(c) Government Contributions.—In making the assessments under paragraphs (2) and (3) of subsection (b), the Comptroller General, in considering the Government contributions to the Survivor Benefit Plan program, shall consider both the Government's normal cost contributions under the program and the Government's payments to amortize unfunded liability under the program.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

SEC. 671. INCREASE IN AUTHORIZED LEVEL OF SUPPLIES AND SERVICES PROCUREMENT FROM OVERSEAS EXCHANGE STORES.

Section 2424(b) of title 10, United States Code, is amended by striking "$50,000" and inserting "$100,000".

SEC. 672. REQUIREMENTS FOR PRIVATE OPERATION OF COMMISSARY STORE FUNCTIONS.

Section 2485(a)(2) of title 10, United States Code, is amended by adding at the end the following new sentence: "Until December 31, 2008, the Defense Commissary Agency is not required to conduct any cost-comparison study under the policies and procedures of Office of Management and Budget Circular A–76 relating to the possible contracting out of commissary store functions.".

SEC. 673. PROVISION OF AND PAYMENT FOR OVERSEAS TRANSPORTATION SERVICES FOR COMMISSARY AND EXCHANGE SUPPLIES AND PRODUCTS.

Section 2643 of title 10, United States Code, is amended—

(1) by inserting "(a) Transportation Options.—" before "The Secretary";

(2) in the first sentence, by striking "by sea without relying on the Military Sealift Command" and inserting "to destinations outside the continental United States without relying on the Air Mobility Command, the Military Sealift Command,";

(3) in the second sentence, by striking "transportation contracts" and inserting "contracts for sea-borne transportation"; and

(4) by adding at the end the following new subsection:

"(b) Payment of Transportation Costs.—Section 2483(b)(5) of this title, regarding the use of appropriated funds to cover the expenses of operating commissary stores, shall apply to the transportation of commissary supplies and products. Appropriated funds for the Department of Defense shall also be used to cover the expenses of transporting exchange supplies and products to destinations outside the continental United States.".

SEC. 674. COMPENSATORY TIME OFF FOR CERTAIN NONAPPROPRIATED FUND EMPLOYEES.

Section 5543 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) The appropriate Secretary may, on request of an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c), grant such employee compensatory time off from duty instead of overtime pay for overtime work.

"(2) For purposes of this subsection, the term 'appropriate Secretary' means—

"(A) with respect to an employee of a nonappropriated fund instrumentality of the Department of Defense, the Secretary of Defense; and

"(B) with respect to an employee of a nonappropriated fund instrumentality of the Coast Guard, the Secretary of the Executive department in which it is operating.".

SEC. 675. REST AND RECUPERATION LEAVE PROGRAMS.

(a) Availability of Funds for Reimbursement of Expenses.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities, $7,000,000 may be available for the reimbursement of expenses of the Armed Forces Recreation Centers related to the utilization of the facilities of the Armed Forces Recreation Centers under official Rest and Recuperation Leave Programs authorized by the military departments or combatant commanders.

(b) UTILIZATION OF REIMBURSEMENTS.—Amounts received by the Armed Forces Recreation Centers under subsection (a) as reimbursement for expenses may be utilized by such Centers for facility maintenance and repair, utility expenses, correction of health and safety deficiencies, and routine ground maintenance.

(c) REGULATIONS.—The utilization of facilities of the Armed Forces Recreation Centers under Rest and Recuperation Leave Programs, and reimbursement for expenses related to such utilization of such facilities, shall be subject to regulations prescribed by the Secretary of Defense.

Subtitle F—Other Matters

SEC. 681. TEMPORARY ARMY AUTHORITY TO PROVIDE ADDITIONAL RECRUITMENT INCENTIVES.

(a) AUTHORITY TO DEVELOP AND PROVIDE RECRUITMENT INCENTIVES.—The Secretary of the Army may develop and provide incentives not otherwise authorized by law to encourage individuals to accept commissions as officers or to enlist in the Army.

(b) RELATION TO OTHER PERSONNEL AUTHORITIES.—A recruitment incentive developed under subsection (a) may be provided—

(1) without regard to the lack of specific authority for the incentive under title 10 or 37, United States Code; and

(2) notwithstanding any provision of such titles, or any rule or regulation prescribed under such provision, relating to methods of—

(A) determining requirements for, and the compensation of, members of the Army who are assigned duty as military recruiters; or

(B) providing incentives to individuals to accept commissions or enlist in the Army, including the provision of group or individual bonuses, pay, or other incentives.

(c) WAIVER OF OTHERWISE APPLICABLE LAWS.—A provision of title 10 or 37, United States Code, may not be waived with respect to, or otherwise determined to be inapplicable to, the provision of a recruitment incentive developed under subsection (a) without the approval of the Secretary of Defense.

(d) NOTICE AND WAIT REQUIREMENT.—A recruitment incentive developed under subsection (a) may not be provided to individuals until—

(1) the Secretary of the Army submits to Congress, the appropriate elements of the Department of Defense, and the Comptroller General a plan that includes—

(A) a description of the incentive, including the purpose of the incentive and the potential recruits to be addressed by the incentive;

(B) a description of the provisions of titles 10 and 37, United States Code, from which the incentive would require a waiver and the rationale to support the waiver;

(C) a statement of the anticipated outcomes as a result of providing the incentive; and

(D) the method to be used to evaluate the effectiveness of the incentive; and

(2) a 45-day period beginning on the date on which the plan was received by Congress expires.

(e) LIMITATION ON NUMBER OF INCENTIVES.—Not more than four recruitment incentives may be provided under the authority of this section.

(f) LIMITATION ON NUMBER OF INDIVIDUALS RECEIVING INCENTIVES.—The number of individuals who receive one or more of the recruitment incentives provided under subsection (a) during a fiscal year may not exceed the number of individuals equal to 20 percent of the accession mission of the Army for that fiscal year.

(g) DURATION OF DEVELOPED INCENTIVE.—A recruitment incentive developed under subsection (a) may be provided for not longer than a three-year period beginning on the date on which the incentive is first provided, except that the Secretary of the Army may extend the period if the Secretary determines that additional time is needed to fully evaluate the effectiveness of the incentive.

(h) REPORTING REQUIREMENTS.—

(1) SECRETARY OF THE ARMY REPORT.—The Secretary of the Army shall submit to Congress an annual report on the recruitment incentives provided under subsection (a) during the preceding year, including—

(A) a description of the incentives provided under subsection (a) during that fiscal year; and

(B) an assessment of the impact of the incentives on the recruitment of individuals as officers or enlisted members.

(2) COMPTROLLER GENERAL REPORT.—As soon as practicable after receipt of each plan under subsection (d), the Comptroller General shall submit to Congress a report evaluating the expected outcomes of the recruitment incentive covered by the plan in terms of cost effectiveness and mission achievement.

(i) TERMINATION OF AUTHORITY TO PROVIDE INCENTIVES.—Notwithstanding subsection (g), the authority to provide recruitment incentives under this section expires on December 31, 2009.

SEC. 682. CLARIFICATION OF LEAVE ACCRUAL FOR MEMBERS ASSIGNED TO A DEPLOYABLE SHIP OR MOBILE UNIT OR OTHER DUTY.

Subparagraph (B) of section 701(f)(1) of title 10, United States Code, is amended to read as follows:

'"(B) This subsection applies to a member who—

"(i) serves on active duty for a continuous period of at least 120 days in an area in which the member is entitled to special pay under section 310(a) of title 37;

"(ii) is assigned to a deployable ship or mobile unit or to other duty designated for the purpose of this section; or

"(iii) on or after August 29, 2005, performs duty designated by the Secretary of Defense as qualifying duty for purposes of this subsection.".

SEC. 683. EXPANSION OF AUTHORITY TO REMIT OR CANCEL INDEBTEDNESS OF MEMBERS OF THE ARMED FORCES INCURRED ON ACTIVE DUTY.

(a) INDEBTEDNESS OF MEMBERS OF THE ARMY.—

(1) AUTHORITY.—Section 4837 of title 10, United States Code, is amended to read as follows:

"§ 4837. Settlement of accounts: remission or cancellation of indebtedness of members

"(a) IN GENERAL.—If the Secretary considers it to be in the best interest of the United States, the Secretary may have remitted or cancelled any part of the indebtedness of a member of the Army on active duty, or a member of a reserve component of the Army in an active status, to the United States or any instrumentality of the United States incurred while the member was serving on active duty.

"(b) PERIOD OF EXERCISE OF AUTHORITY.—The Secretary may exercise the authority in subsection (a) with respect to a member—

"(1) while the member is on active duty or in active status, as the case may be;

"(2) if discharged from the armed forces under honorable conditions, during the one-year period beginning on the date of such discharge; or

"(3) if released from active status in a reserve component, during the one-year period beginning on the date of such release.

"(c) RETROACTIVE APPLICABILITY TO CERTAIN DEBTS.—The authority in subsection (a) may be exercised with respect to any debt covered by that subsection that is incurred on or after October 7, 2001.

"(d) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense.".

(2) CLERICAL AMENDMENT.—The item relating to that section in the table of sections at the beginning of chapter 453 of such title is amended by striking the penultimate word.

(3) TERMINATION.—The amendments made by this subsection shall terminate on December 31, 2007. Effective on that date, section 4873 of title 10, United States Code, as in effect on the day before the date of the enactment of this Act shall be revived.

(b) INDEBTEDNESS OF MEMBERS OF THE NAVY.—

(1) AUTHORITY.—Section 6161 of title 10, United States Code, is amended to read as follows:

"§ 6161. Settlement of accounts: remission or cancellation of indebtedness of members

"(a) IN GENERAL.—If the Secretary of the Navy considers it to be in the best interest of the United States, the Secretary may have remitted or cancelled any part of the indebtedness of a member of the Navy on active duty, or a member of a reserve component of the Navy in an active status, to the United States or any instrumentality of the United States incurred while the member was serving on active duty.

"(b) PERIOD OF EXERCISE OF AUTHORITY.—The Secretary of the Navy may exercise the authority in subsection (a) with respect to a member—

"(1) while the member is on active duty or in active status, as the case may be;

"(2) if discharged from the armed forces under honorable conditions, during the one-year period beginning on the date of such discharge; or

"(3) if released from active status in a reserve component, during the one-year period beginning on the date of such release.

"(c) RETROACTIVE APPLICABILITY TO CERTAIN DEBTS.—The authority in subsection (a) may be exercised with respect to any debt covered by that subsection that is incurred on or after October 7, 2001.

"(d) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense.".

(2) CLERICAL AMENDMENT.—The item relating to that section in the table of sections at the beginning of chapter 561 of such title is amended by striking the penultimate word.

(3) TERMINATION.—The amendments made by this subsection shall terminate on December 31, 2007. Effective on that date, section 6161 of title 10, United States Code, as in effect on the day before the date of the enactment of this Act shall be revived.

(c) INDEBTEDNESS OF MEMBERS OF THE AIR FORCE.—

(1) AUTHORITY.—Section 9837 of title 10, United States Code, is amended to read as follows:

"§ 9837. Settlement of accounts: remission or cancellation of indebtedness of members

"(a) IN GENERAL.—If the Secretary considers it to be in the best interest of the United States, the Secretary may have remitted or cancelled any part of the indebtedness of a member of the Air Force on active duty, or a member of a reserve component of the Air Force in an active status, to the United States or any instrumentality of the United States incurred while the member was serving on active duty.

"(b) PERIOD OF EXERCISE OF AUTHORITY.—The Secretary may exercise the authority in subsection (a) with respect to a member—

"(1) while the member is on active duty or in active status, as the case may be;

"(2) if discharged from the armed forces under honorable conditions, during the one-year period beginning on the date of such discharge; or

"(3) if released from active status in a reserve component, during the one-year period beginning on the date of such release.

"(c) RETROACTIVE APPLICABILITY TO CERTAIN DEBTS.—The authority in subsection (a) may be exercised with respect to any debt covered by that subsection that is incurred on or after October 7, 2001.

"(d) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense.".

(2) CLERICAL AMENDMENT.—The item relating to that section in the table of sections at the beginning of chapter 953 of such title is amended by striking the penultimate word.

(3) TERMINATION.—The amendments made by this subsection shall terminate on December 31, 2007. Effective on that date, section 9873 of title 10, United States Code, as in effect on the day before the date of the enactment of this Act shall be revived.

SEC. 684. LOAN REPAYMENT PROGRAM FOR CHAPLAINS IN THE SELECTED RESERVE.

(a) LOAN REPAYMENT PROGRAM AUTHORIZED.—Chapter 1609 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 16303. Loan repayment program: chaplains serving in the Selected Reserve

"(a) AUTHORITY TO REPAY EDUCATION LOANS.—For purposes of maintaining adequate numbers of chaplains in the Selected Reserve, the Secretary concerned may repay a loan that was obtained by a person who—

"(1) satisfies the requirements for accessioning and commissioning of chaplains, as prescribed in regulations;

"(2) holds, or is fully qualified for, an appointment as a chaplain in a reserve component of an armed force; and

"(3) signs a written agreement with the Secretary concerned to serve not less than three years in the Selected Reserve.

"(b) EXCEPTION FOR CHAPLAIN CANDIDATE PROGRAM.—A person accessioned into the Chaplain Candidate Program is not eligible for the repayment of a loan under subsection (a).

"(c) LOAN REPAYMENT PROCESS; MAXIMUM AMOUNT.—(1) Subject to paragraph (2), the repayment of a loan under subsection (a) may consist of the payment of the principal, interest, and related expenses of the loan.

"(2) The amount of any repayment of a loan made under subsection (a) on behalf of a person may not exceed $20,000 for each three year period of obligated service that the person agrees to serve in an agreement described in subsection (a)(3). Of such amount, not more than an amount equal to 50 percent of such amount may be paid before the completion by the person of the first year of obligated service pursuant to the agreement. The balance of such amount shall be payable at such time or times as are prescribed in regulations.

"(d) EFFECT OF FAILURE TO COMPLETE OBLIGATION.—If a person on whose behalf a loan is repaid under subsection (a) fails to commence or complete the period of obligated service specified in the agreement described in subsection (a)(3), the Secretary concerned may require the person to pay the United States an amount equal to the amount of the loan repayments made on behalf of the person in connection with the agreement.

"(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1609 of such title is amended by adding at the end the following new item:

"16303. Loan repayment program: chaplains serving in the Selected Reserve.".

SEC. 685. INCLUSION OF SENIOR ENLISTED ADVISOR FOR THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AMONG SENIOR ENLISTED MEMBERS OF THE ARMED FORCES.

(a) BASIC PAY RATE.—

(1) EQUAL TREATMENT.—The rate of basic pay for an enlisted member in the grade E–9 while serving as Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff shall be the same as the rate of basic pay for an enlisted member in that grade while serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

(2) EFFECTIVE DATE.—Paragraph (1) shall apply beginning on the date on which an enlisted member of the Armed Forces is first appointed to serve as Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff.

(b) PAY DURING TERMINAL LEAVE OR WHILE HOSPITALIZED.—Section 210(c) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(6) The Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff.".

(c) PERSONAL MONEY ALLOWANCE.—Section 414(c) of such title is amended—

(1) by striking "or" after "Sergeant Major of the Marine Corps,"; and

(2) by inserting before the period at the end the following: ", or the Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff".

(d) RETIRED PAY BASE.—Section 1406(i)(3)(B) of title 10, United States Code, is amended by adding at the end the following new clause:

"(vi) Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff.".

SEC. 686. SPECIAL AND INCENTIVE PAYS CONSIDERED FOR SAVED PAY UPON APPOINTMENT OF MEMBERS AS OFFICERS.

(a) INCLUSION AND EXCLUSION OF CERTAIN PAY TYPES.—Subsection (d) of section 907 of title 37, United States Code, is amended to read as follows:

"(d)(1) In determining the amount of the pay and allowances of a grade formerly held by an officer, the following special and incentive pays may be considered only so long as the officer continues to perform the duty that creates the entitlement to, or eligibility for, that pay and would otherwise be eligible to receive that pay in the former grade:

"(A) Incentive pay for hazardous duty under section 301 of this title.

"(B) Submarine duty incentive pay under section 301c of this title.

"(C) Special pay for diving duty under section 304 of this title.

"(D) Hardship duty pay under section 305 of this title.

"(E) Career sea pay under section 305a of this title.

"(F) Special pay for service as a member of a Weapons of Mass Destruction Civil Support Team under section 305b of this title.

"(G) Assignment incentive pay under section 307a of this title.

"(H) Special pay for duty subject to hostile fire or imminent danger under section 310 of this title.

"(I) Special pay or bonus for an extension of duty at a designated overseas location under section 314 of this title.

"(J) Foreign language proficiency pay under section 316 of this title.

"(K) Critical skill retention bonus under section 323 of this title.

"(2) The following special and incentive pays are dependent on a member being in an enlisted status and may not be considered in determining the amount of the pay and allowances of a grade formerly held by an officer:

"(A) Special duty assignment pay under section 307 of this title.

"(B) Reenlistment bonus under section 308 of this title.

"(C) Enlistment bonus under section 309 of this title.

"(D) Career enlisted flyer incentive pay under section 320 of this title.".

(b) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) in subsections (a) and (b)—

(A) by striking "he" each place it appears and inserting "the officer"; and

(B) by striking "his appointment" each place it appears and inserting "the appointment"; and

(2) in subsection (c)(2), by striking "he" and inserting "the officer".

(c) EFFECTIVE DATE.—Subsection (d) of section 907 of title 37, United States Code, as amended by subsection (a), shall apply with respect to any acceptance by an enlisted member of the Armed Forces of an appointment as an officer made on or after the date of the enactment of this Act.

SEC. 687. REPAYMENT OF UNEARNED PORTION OF BONUSES, SPECIAL PAYS, AND EDUCATIONAL BENEFITS.

(a) REPAYMENT OF UNEARNED PORTION OF BONUSES AND OTHER BENEFITS.—

(1) UNIFORM REPAYMENT PROVISION.—Section 303a of title 37, United States Code, is amended by adding at the end the following new subsection:

"(e) REPAYMENT OF UNEARNED PORTION OF BONUSES AND OTHER BENEFITS WHEN CONDITIONS OF PAYMENT NOT MET.—(1) A member of the uniformed services who receives a bonus or similar benefit and whose receipt of the bonus or similar benefit is subject to the condition that the member continue to satisfy certain eligibility requirements shall repay to the United States an amount equal to the unearned portion of the bonus or similar benefit if the member fails to satisfy the requirements, except in certain circumstances authorized by the Secretary concerned.

"(2) The Secretary concerned may establish, by regulations, procedures for determining the amount of the repayment required under this subsection and the circumstances under which an exception to the required repayment may be granted. The Secretary concerned may specify in the regulations the conditions under which an installment payment of a bonus or similar benefit to be paid to a member of the uniformed services will not be made if the member no longer satisfies the eligibility requirements for the bonus or similar benefit. For the military departments, this subsection shall be administered under regulations prescribed by the Secretary of Defense.

"(3) An obligation to repay the United States under this subsection is, for all purposes, a debt owed the United States. A discharge in bankruptcy under title 11 does not discharge a person from such debt if the discharge order is entered less than five years after—

"(A) the date of the termination of the agreement or contract on which the debt is based; or

"(B) in the absence of such an agreement or contract, the date of the termination of the service on which the debt is based.

"(4) In this subsection:

"(A) The term 'bonus or similar benefit' means a bonus, incentive pay, special pay, or similar payment, or an educational benefit or stipend, paid to a member of the uniformed services under a provision of law that refers to the repayment requirements of this subsection.

"(B) The term 'service', as used in paragraph (3)(B), refers to an obligation willingly undertaken by a member of the uniformed services, in *exchange for a bonus or similar benefit offered by the Secretary of Defense or the Secretary concerned—*

"(i) to remain on active duty or in an active status in a reserve component;

"(ii) to perform duty in a specified skill, with or without a specified qualification or credential;

"(iii) to perform duty at a specified location; or

"(iv) to perform duty for a specified period of time.".

(2) APPLICABILITY TO TITLE 11 CASES.—In the case of a provision of law amended by subsection (b), (c), or (d) of this section, paragraph (3) of subsection (a) of section 303a of title 37, United States Code, as added by this subsection, shall apply to any case commenced under title 11, United States Code, after March 30, 2006.

(b) CONFORMING AMENDMENTS TO TITLE 37.—

(1) AVIATION CAREER OFFICER RETENTION BONUS.—Subsection (g) of section 301b of title 37, United States Code, is amended to read as follows:

"(g) REPAYMENT.—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.".

(2) MEDICAL OFFICER MULTIYEAR RETENTION BONUS.—Subsection (c) of section 301d of such title is amended to read as follows:

"(c) REPAYMENT.—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.".

(3) DENTAL OFFICER MULTIYEAR RETENTION BONUS.—Subsection (d) of section 301e of such title is amended to read as follows:

"(d) REPAYMENT.—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.".

(4) MEDICAL OFFICER SPECIAL PAY.—Section 302 of such title is amended—

(A) in subsection (c)(2), by striking the second sentence and inserting the following new sentence: "If such entitlement is terminated, the officer concerned shall be subject to the repayment provisions of section 303a(e) of this title."; and

(B) by striking subsection (f) and inserting the following new subsection:

"(f) REPAYMENT.—An officer who does not complete the period for which the payment was made under subsection (a)(4) or subsection (b)(1) shall be subject to the repayment provisions of section 303a(e) of this title.".

(5) OPTOMETRIST RETENTION SPECIAL PAY.—Paragraph (4) of section 302a(b) of such title is amended to read as follows:

"(4) The Secretary concerned may terminate at any time the eligibility of an officer to receive retention special pay under paragraph (1). An officer who does not complete the period for which the payment was made under paragraph (1) shall be subject to the repayment provisions of section 303a(e) of this title.".

(6) DENTAL OFFICER SPECIAL PAY.—Section 302b of such title is amended—

(A) in subsection (b)(2), by striking the second sentence and inserting the following new sentence: "If such entitlement is terminated, the officer concerned shall be subject to the repayment provisions of section 303a(e) of this title.";

(B) by striking subsection (e) and inserting the following new subsection (e):

"(e) REPAYMENT.—An officer who does not complete the period of active duty specified in the agreement referred to in subsection (b) shall be subject to the repayment provisions of section 303a(e) of this title.";

(C) by striking subsection (f); and

(D) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(7) ACCESSION BONUS FOR REGISTERED NURSES.—Subsection (d) of section 302d of such title is amended to read as follows:

"(d) REPAYMENT.—An officer who does not become and remain licensed as a registered nurse during the period for which the payment is made, or who does not complete the period of active duty specified in the agreement entered into under subsection (a), shall be subject to the repayment provisions of section 303a(e) of this title.".

(8) NURSE ANESTHETIST SPECIAL PAY.—Section 302e of such title is amended—

(A) in subsection (c), by striking the last sentence and inserting the following new sentence: "If such entitlement is terminated, the officer concerned shall be subject to the repayment provisions of section 303a(e) of this title."; and

(B) by striking subsection (e) and inserting the following new subsection:

"(e) REPAYMENT.—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.".

(9) RESERVE, RECALLED, OR RETAINED HEALTH CARE OFFICERS SPECIAL PAY.—Section 302f(c) of such title is amended by striking "refund" and inserting "repay in the manner provided in section 303a(e) of this title".

(10) SELECTED RESERVE HEALTH CARE PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES SPECIAL PAY.—Section 302g of such title is amended—

(A) by striking subsections (d) and (e);

(B) by inserting after subsection (c) the following new subsection (d):

"(d) REPAYMENT.—An officer who does not complete the period of service in the Selected Reserve specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title."; and

(C) by redesignating subsection (f), as amended by section 622(e), as subsection (e).

(11) ACCESSION BONUS FOR DENTAL OFFICERS.—Subsection (d) of section 302h of such title is amended to read as follows:

"(d) REPAYMENT.—A person who, after signing an agreement under subsection (a), is not commissioned as an officer of the armed forces, does not become licensed as a dentist, or does not complete the period of active duty specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.".

(12) ACCESSION BONUS FOR PHARMACY OFFICERS.—Subsection (e) of section 302j of such title is amended to read as follows:

"(e) REPAYMENT.—A person who, after signing an agreement under subsection (a), is not commissioned as an officer of the armed forces, does not become and remain certified or licensed as a pharmacist, or does not complete the period of active duty specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.".

(13) ASSIGNMENT INCENTIVE PAY.—Subsection (d) of section 307a of such title, as added by section 628(c), is amended to read as follows:

"(d) REPAYMENT.—A member who enters into an agreement under this section and receives incentive pay under the agreement in a lump sum or installments, but who fails to complete the period of service covered by the payment, whether voluntarily or because of misconduct, shall be subject to the repayment provisions of section 303a(e) of this title.".

(14) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Subsection (d) of section 308 of such title is amended to read as follows:

"(d) A member who does not complete the term of enlistment for which a bonus was paid to the member under this section, or a member who is not technically qualified in the skill for which a bonus was paid to the member under this section, shall be subject to the repayment provisions of section 303a(e) of this title.".

(15) REENLISTMENT BONUS FOR SELECTED RESERVE.—Subsection (d) of section 308b of such title is amended to read as follows:

"(d) REPAYMENT.—A member who does not complete the term of enlistment in the element of the Selected Reserve for which the bonus was paid to the member under this section shall be subject to the repayment provisions of section 303a(e) of this title.".

(16) SELECTED RESERVE AFFILIATION OR ENLISTMENT BONUS.—Section 308c of such title, as amended by section 631, is further amended by striking subsection (g) and inserting the following new subsection:

"(g) REPAYMENT.—A person who enters into an agreement under subsection (a) or (c) and receives all or part of the bonus under the agreement, but who does not commence to serve in the Selected Reserve or does not satisfactorily participate in the Selected Reserve for the total period of service specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.".

(17) READY RESERVE ENLISTMENT BONUS.—Section 308g of such title is amended—

(A) by striking subsection (d) and inserting the following new subsection:

"(d) A person who does not serve satisfactorily in the element of the Ready Reserve in the combat or combat support skill for the period for which the bonus was paid under this section shall be subject to the repayment provisions of section 303a(e) of this title.";

(B) by striking subsections (e) and (f); and

(C) by redesignating subsections (g) and (h), as amended by section 621(c), as subsections (e) and (f), respectively.

(18) READY RESERVE REENLISTMENT, ENLISTMENT, AND VOLUNTARY EXTENSION OF ENLISTMENT BONUS.—Section 308h of such title is amended—

(A) by striking subsection (c) and inserting the following new subsection:

"(c) REPAYMENT.—A person who does not complete the period of enlistment or extension of enlistment for which the bonus was paid under this section shall be subject to the repayment provisions of section 303a(e) of this title.";

(B) by striking subsections (d) and (e); and

(C) by redesignating subsections (f) and (g), as amended by section 621(d), as subsections (d) and (e), respectively.

(19) PRIOR SERVICE ENLISTMENT BONUS.—Subsection (d) of section 308i of such title is amended to read as follows:

"(d) REPAYMENT.—A person who receives a bonus payment under this section and who, during the period for which the bonus was paid, does not serve satisfactorily in the element of the Selected Reserve with respect to which the bonus was paid shall be subject to the repayment provisions of section 303a(e) of this title.".

(20) ENLISTMENT BONUS.—Subsection (b) of section 309 of such title is amended to read as follows:

"(b) REPAYMENT.—A member who does not complete the term of enlistment for which a bonus was paid to the member under this section, or a member who is not technically qualified in the skill for which a bonus was paid to the member under this section, shall be subject to the repayment provisions of section 303a(e) of this title.".

(21) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING ACTIVE DUTY.—Subsection (b) of section 312 of such title is amended to read as follows:

"(b) An officer who does not complete the period of active duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants that the officer agreed to

serve, and for which a payment was made under subsection (a) or subsection (d)(1), shall be subject to the repayment provisions of section 303a(e) of this title.".

(22) NUCLEAR CAREER ACCESSION BONUS.—Paragraph (2) of section 312b(a) of such title is amended to read as follows:

"(2) An officer who does not commence or complete satisfactorily the nuclear power training specified in the agreement under paragraph (1) shall be subject to the repayment provisions of section 303a(e) of this title.".

(23) ENLISTED MEMBERS EXTENDING DUTY AT DESIGNATED LOCATIONS OVERSEAS.—Subsection (d) of section 314 of such title is amended to read as follows:

"(d) REPAYMENT.—A member who, having entered into a written agreement to extend a tour of duty for a period under subsection (a), receives a bonus payment under subsection (b)(2) for a 12-month period covered by the agreement and ceases during that 12-month period to perform the agreed tour of duty shall be subject to the repayment provisions of section 303a(e) of this title.".

(24) ENGINEERING AND SCIENTIFIC CAREER CONTINUATION PAY.—Subsection (c) of section 315 of such title is amended to read as follows:

"(c) An officer who, having entered into a written agreement under subsection (b) and having received all or part of a bonus under this section, does not complete the period of active duty as specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.".

(25) FOREIGN LANGUAGE PROFICIENCY PAY.—Subsection (e) of section 316 of such title, as added by section 639(c), is amended to read as follows:

"(e) REPAYMENT.—A member who receives a bonus under this section, but who does not satisfy an eligibility requirement specified in paragraph (1), (2), (3), or (4) of subsection (a) for the entire certification period, shall be subject to the repayment provisions of section 303a(e) of this title.".

(26) CRITICAL ACQUISITION POSITIONS.—Subsection (f) of section 317 of such title is amended to read as follows:

"(f) REPAYMENT.—An officer who, having entered into a written agreement under subsection (a) and having received all or part of a bonus under this section, does not complete the period of active duty as specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.".

(27) SPECIAL WARFARE OFFICERS EXTENDING PERIOD OF ACTIVE DUTY.—Subsection (h) of section 318 of such title is amended to read as follows:

"(h) REPAYMENT.—An officer who, having entered into a written agreement under subsection (b) and having received all or part of a bonus under this section, does not complete the period of active duty in special warfare service as specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.".

(28) SURFACE WARFARE OFFICERS EXTENDING PERIOD OF ACTIVE DUTY.—Subsection (f) of section 319 of such title is amended to read as follows:

"(f) REPAYMENT.—An officer who, having entered into a written agreement under subsection (b) and having received all or part of a bonus under this section, does not complete the period of active duty as a department head on a surface vessel as specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.".

(29) JUDGE ADVOCATE CONTINUATION PAY.—Subsection (f) of section 321 of such title is amended to read as follows:

"(f) REPAYMENT.—An officer who has entered into a written agreement under subsection (b) and has received all or part of the amount payable under the agreement but who does not complete the total period of active duty specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.".

(30) 15-YEAR CAREER STATUS BONUS.—Subsection (f) of section 322 of such title is amended to read as follows:

"(f) REPAYMENT.—If a person paid a bonus under this section does not complete a period of active duty beginning on the date on which the election of the person under paragraph (1) of subsection (a) is received and ending on the date on which the person completes 20 years of active duty service as described in paragraph (2) of such subsection, the person shall be subject to the repayment provisions of section 303a(e) of this title.".

(31) CRITICAL MILITARY SKILLS RETENTION BONUS.—Subsection (g) of section 323 of such title, as amended by section 640(e), is amended to read as follows:

"(g) REPAYMENT.—A member paid a bonus under this section who fails, during the period of service covered by the member's agreement, reenlistment, or voluntary extension of enlistment under subsection (a), to remain qualified in the critical military skill or to satisfy the other eligibility criteria for which the bonus was paid 'shall be subject to the repayment provisions of section 303a(e) of this title.".

(32) ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.—Subsection (f) of section 324 of such title is amended to read as follows:

"(f) REPAYMENT.—An individual who, having received all or part of the bonus under an agreement referred to in subsection (a), is not thereafter commissioned as an officer or does not commence or complete the total period of active duty service specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.".

(33) SAVINGS PLAN FOR EDUCATION EXPENSES AND OTHER CONTINGENCIES.—Subsection (g) of section 325 of such title is amended to read as follows:

"(g) REPAYMENT.—If a person does not complete the qualifying service for which the person is obligated under a commitment for which a benefit has been paid under this section, the person shall be subject to the repayment provisions of section 303a(e) of this title.".

(34) INCENTIVE BONUS FOR CONVERSION TO MILITARY OCCUPATIONAL SPECIALTY.—Subsection (e) of section 326 of such title is amended to read as follows:

"(e) REPAYMENT.—A member who does not convert to and complete the period of service in the military occupational specialty specified in the agreement executed under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.".

(35) TRANSFER BETWEEN ARMED FORCES INCENTIVE BONUS.—Section 327 of such title, as added by section 641, is amended by striking subsection (f) and inserting the following new subsection:

"(f) REPAYMENT.—A member who is paid a bonus under an agreement under this section and who, voluntarily or because of misconduct, fails to serve for the period covered by such agreement shall be subject to the repayment provisions of section 303a(e) of this title.".

(c) CONFORMING AMENDMENTS TO TITLE 10.—

(1) ENLISTMENT INCENTIVES FOR PURSUIT OF SKILLS TO FACILITATE NATIONAL SERVICE.—Subsection (i) of section 510 of title 10, United States Code, is amended to read as follows:

"(i) REPAYMENT.—If a National Call to Service participant who has entered into an agreement under subsection (b) and received or benefitted from an incentive under paragraph (1) or (2) of subsection (e) fails to complete the total period of service specified in the agreement, the National Call to Service participant shall be subject to the repayment provisions of section 303a(e) of title 37.".

(2) ADVANCED EDUCATION ASSISTANCE.—Section 2005 of such title is amended—

(A) in subsection (a), by striking paragraph (3) and inserting the following new paragraph:

"(3) that if such person does not complete the period of active duty specified in the agreement, or does not fulfill any term or condition prescribed pursuant to paragraph (4), such person shall be subject to the repayment provisions of section 303a(e) of title 37; and";

(B) by striking subsections (c), (d), (f), (g) and (h);

(C) by redesignating subsection (e) as subsection (d); and

(D) by inserting after subsection (b), the following new subsection:

"(c) As a condition of the Secretary concerned providing financial assistance under section 2107 or 2107a of this title to any person, the Secretary concerned shall require that the person enter into the agreement described in subsection (a). In addition to the requirements of paragraphs (1) through (4) of such subsection, the agreement shall specify that, if the person does not complete the education requirements specified in the agreement or does not fulfill any term or condition prescribed pursuant to paragraph (4) of such subsection, the person shall be subject to the repayment provisions of section 303a(e) of title 37 without the Secretary first ordering such person to active duty as provided for under subsection (a)(2) and sections 2107(f) and 2107a(f) of this title.".

(3) TUITION FOR OFF-DUTY TRAINING OR EDUCATION.—Section 2007 of such title is amended by adding at the end the following new subsection:

"(f) If an officer who enters into an agreement under subsection (b) does not complete the period of active duty specified in the agreement, the officer shall be subject to the repayment provisions of section 303a(e) of title 37.".

(4) FAILURE TO COMPLETE ADVANCED TRAINING OR TO ACCEPT COMMISSION.—Section 2105 of such title is amended by adding at the end the following new sentence: "If the member does not complete the period of active duty prescribed by the Secretary concerned, the member shall be subject to the repayment provisions of section 303a(e) of title 37".

(5) HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM FOR ACTIVE SERVICE.—Section 2123(e)(1)(C) of such title is amended by striking "equal to" and all that follows through the period at the end and inserting "pursuant to the repayment provisions of section 303a(e) of title 37.".

(6) FINANCIAL ASSISTANCE FOR NURSE OFFICER CANDIDATES.—Subsection (d) of section 2130a of such title is amended to read as follows:

"(d) REPAYMENT.—A person who does not complete a nursing degree program in which the person is enrolled in accordance with the agreement entered into under subsection (a), or having completed the nursing degree program, does not become an officer in the Nurse Corps of the Army or the Navy or an officer designated as a nurse officer of the Air Force or commissioned corps of the Public Health Service or does not complete the period of obligated active service required under the agreement, shall be subject to the repayment provisions of section 303a(e) of title 37.".

(7) EDUCATION LOAN REPAYMENT PROGRAM.—Subsection (g) of section 2173 of such title is amended—

(A) by inserting "(1)" before "A commissioned officer"; and

(B) by adding at the end the following new paragraph:

"(2) An officer who does not complete the period of active duty specified in the agreement entered into under subsection (b)(3), or the alternative obligation imposed under paragraph (1), shall be subject to the repayment provisions of section 303a(e) of title 37.''.

(8) SCHOLARSHIP PROGRAM FOR DEGREE PROGRAM FOR DEGREE OR CERTIFICATION IN INFORMATION ASSURANCE.—Section 2200a of such title is amended—

(A) by striking subsection (e) and inserting the following new subsection:

''(e) REPAYMENT FOR PERIOD OF UNSERVED OBLIGATED SERVICE.—(1) A member of an armed force who does not complete the period of active duty specified in the service agreement under section (b) shall be subject to the repayment provisions of section 303a(e) of title 37.

''(2) A civilian employee of the Department of Defense who voluntarily terminates service before the end of the period of obligated service required under an agreement entered into under subsection (b) shall be subject to the repayment provisions of section 303a(e) of title 37 in the same manner and to the same extent as if the civilian employee were a member of the armed forces.''.

(B) by striking subsection (f); and

(C) by redesignating subsection (g) as subsection (f).

(9) ARMY CADET AGREEMENT TO SERVE AS OFFICER.—Section 4348 of such title is amended by adding at the end the following new subsection:

''(f) A cadet or former cadet who does not fulfill the terms of the agreement as specified under section (a), or the alternative obligation imposed under subsection (b), shall be subject to the repayment provisions of section 303a(e) of title 37.''.

(10) MIDSHIPMEN AGREEMENT FOR LENGTH OF SERVICE.—Section 6959 of such title is amended by adding at the end the following new subsection:

''(f) A midshipman or former midshipman who does not fulfill the terms of the agreement as specified under section (a), or the alternative obligation imposed under subsection (b), shall be subject to the repayment provisions of section 303a(e) of title 37.''.

(11) AIR FORCE CADET AGREEMENT TO SERVE AS OFFICER.—Section 9348 of such title is amended by adding at the end the following new subsection:

''(f) A cadet or former cadet who does not fulfill the terms of the agreement as specified under section (a), or the alternative obligation imposed under subsection (b), shall be subject to the repayment provisions of section 303a(e) of title 37.''.

(12) EDUCATIONAL ASSISTANCE FOR MEMBERS OF SELECTED RESERVE.—Section 16135 of such title is amended to read as follows:

''§16135. Failure to participate satisfactorily; penalties

''(a) PENALTIES.—At the option of the Secretary concerned, a member of the Selected Reserve of an armed force who does not participate satisfactorily in required training as a member of the Selected Reserve during a term of enlistment or other period of obligated service that created entitlement of the member to educational assistance under this chapter, and during which the member has received such assistance, may—

''(1) be ordered to active duty for a period of two years or the period of obligated service the person has remaining under section 16132 of this title, whichever is less; or

''(2) be subject to the repayment provisions under section 303a(e) of title 37.

''(b) EFFECT OF REPAYMENT.—Any repayment under section 303a(e) of title 37 shall not affect the period of obligation of a member to serve as a Reserve in the Selected Reserve.''.

(13) HEALTH PROFESSIONS STIPEND PROGRAM PENALTIES AND LIMITATIONS.—Subparagraph (B) of section 16203(a)(1) of such title is amended to read as follows:

''(B) to comply with the repayment provisions of section 303a(e) of title 37.''.

(14) LOAN REPAYMENT PROGRAM FOR CHAPLAINS SERVING IN SELECTED RESERVE.—Section 16303 of such title, as added by section 684, is amended by striking subsection (d) and inserting the following new subsection:

''(d) EFFECT OF FAILURE TO COMPLETE OBLIGATION.—A person on whose behalf a loan is repaid under subsection (a) who fails to commence or complete the period of obligated service specified in the agreement described in subsection (a)(3) shall be subject to the repayment provisions of section 303a(e) of title 37.''.

(15) COLLEGE TUITION ASSISTANCE PROGRAM FOR MARINE CORPS PLATOON LEADERS CLASS.—Subsection (f) of section 16401 of such title is amended—

(A) in paragraph (1), by striking ''may be required to repay the full amount of financial assistance'' and inserting ''shall be subject to the repayment provisions of section 303a(e) of title 37''; and

(B) in paragraph (2), by inserting before ''The Secretary of the Navy'' the following new sentence: ''Any requirement to repay any portion of financial assistance received under this section shall be administered under the regulations issued under section 303a(e) of title 37.''.

(d) CONFORMING AMENDMENT TO TITLE 14.—Section 182 of title 14, United States Code, is amended by adding at the end the following new subsection:

''(g) A cadet or former cadet who does not fulfill the terms of the obligation to serve as specified under section (b), or the alternative obligation imposed under subsection (c), shall be subject to the repayment provisions of section 303a(e) of title 37.''.

(e) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 303a of title 37, United States Code, is amended to read as follows:

''§303a. Special pay: general provisions''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 303a and inserting the following new item:

''303a. Special pay: general provisions.''.

(f) CONTINUED APPLICATION OF CURRENT LAW TO EXISTING BONUSES.—In the case of any bonus, incentive pay, special pay, or similar payment, such as education assistance or a stipend, which the United States became obligated to pay before April 1, 2006, under a provision of law amended by subsection (b), (c), or (d) of this section, such provision of law, as in effect on the day before the date of the enactment of this Act, shall continue to apply to the payment, or any repayment, of the bonus, incentive pay, special pay, or similar payment under such provision of law.

SEC. 688. RIGHTS OF MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS UNDER HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

(a) WRITTEN NOTICE OF RIGHTS.—Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended—

(1) in subclause (II), by striking ''and'' at the end;

(2) in subclause (III), by striking the period and inserting ''; and''; and

(3) by adding at the end the following new subclause:

''(IV) notify the homeowner by a statement or notice, written in plain English by the Secretary of Housing and Urban Development, in consultation with the Secretary of Defense and the Secretary of the Treasury, explaining the mortgage and foreclosure rights of servicemembers, and the dependents of such servicemembers, under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.), including the toll-free military one source number to call if servicemembers, or the dependents of such servicemembers, require further assistance.''.

(b) NO EFFECT ON OTHER LAWS.—Nothing in this section shall relieve any person of any obligation imposed by any other Federal, State, or local law.

(c) DISCLOSURE FORM.—Not later than 150 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue a final disclosure form to fulfill the requirement of subclause (IV) of section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968, as added by subsection (a).

(d) EFFECTIVE DATE.—The amendments made under subsection (a) shall take effect 150 days after the date of the enactment of this Act.

SEC. 689. EXTENSION OF ELIGIBILITY FOR SSI FOR CERTAIN INDIVIDUALS IN FAMILIES THAT INCLUDE MEMBERS OF THE RESERVE AND NATIONAL GUARD.

Section 1631(j)(1)(B) of the Social Security Act (42 U.S.C. 1383(j)(1)(B)) is amended by inserting ''(or 24 consecutive months, in the case of such an individual whose ineligibility for benefits under or pursuant to both such sections is a result of being called to active duty pursuant to section 12301(d) or 12302 of title 10, United States Code, or section 502(f) of title 32, United States Code)'' after ''for a period of 12 consecutive months''.

SEC. 690. INFORMATION FOR MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS ON RIGHTS AND PROTECTIONS OF THE SERVICEMEMBERS CIVIL RELIEF ACT.

(a) OUTREACH TO MEMBERS.—The Secretary concerned shall provide to each member of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to members and their dependents under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.).

(b) TIME OF PROVISION.—The information required to be provided under subsection (a) to a member shall be provided at the following times:

(1) During the initial orientation training of the member.

(2) In the case of a member of a reserve component, during the initial orientation training of the member and when the member is mobilized or otherwise individually called or ordered to active duty for a period of more than one year.

(3) At such other times as the Secretary concerned considers appropriate.

(c) OUTREACH TO DEPENDENTS.—The Secretary concerned may provide to the adult dependents of members under the jurisdiction of the Secretary pertinent information on the rights and protections available to members and their dependents under the Servicemembers Civil Relief Act.

(d) DEFINITIONS.—In this section, the terms ''dependent'' and ''Secretary concerned'' have the meanings given such terms in section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511).

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Improvements to Health Benefits for Reserves

Sec. 701. Enhancement of TRICARE Reserve Select program.
Sec. 702. Expanded eligibility of members of the Selected Reserve under the TRICARE program.

Subtitle B—TRICARE Program Improvements

Sec. 711. Additional information required by surveys on TRICARE Standard.
Sec. 712. Availability of chiropractic health care services.

Sec. 713. Surviving-dependent eligibility under TRICARE dental plan for surviving spouses who were on active duty at time of death of military spouse.
Sec. 714. Exceptional eligibility for TRICARE Prime Remote.
Sec. 715. Increased period of continued TRICARE Prime coverage of children of members of the uniformed services who die while serving on active duty for a period of more than 30 days.
Sec. 716. TRICARE Standard in TRICARE Regional Offices.
Sec. 717. Qualifications for individuals serving as TRICARE Regional Directors.

Subtitle C—Mental Health-Related Provisions

Sec. 721. Program for mental health awareness for dependents and pilot project on post traumatic stress disorder.
Sec. 722. Pilot projects on early diagnosis and treatment of post traumatic stress disorder and other mental health conditions.
Sec. 723. Department of Defense task force on mental health.

Subtitle D—Studies and Reports

Sec. 731. Study relating to predeployment and postdeployment medical exams of certain members of the Armed Forces.
Sec. 732. Requirements for physical examinations and medical and dental readiness for members of the Selected Reserve not on active duty.
Sec. 733. Report on delivery of health care benefits through the military health care system.
Sec. 734. Comptroller General studies and report on differential payments to children's hospitals for health care for children dependents and maximum allowable charge for obstetrical care services under TRICARE.
Sec. 735. Report on the Department of Defense AHLTA global electronic health record system.
Sec. 736. Comptroller General study and report on Vaccine Healthcare Centers.
Sec. 737. Report on adverse health events associated with use of anti-malarial drugs.
Sec. 738. Report on Reserve dental insurance program.
Sec. 739. Demonstration project study on Medicare Advantage regional preferred provider organization option for TRICARE-medicare dual-eligible beneficiaries.
Sec. 740. Pilot projects on pediatric early literacy among children of members of the Armed Forces.

Subtitle E—Other Matters

Sec. 741. Authority to relocate patient safety center; renaming MedTeams Program.
Sec. 742. Modification of health care quality information and technology enhancement reporting requirement.
Sec. 743. Correction to eligibility of certain Reserve officers for military health care pending active duty following commissioning.
Sec. 744. Prohibition on conversions of military medical and dental positions to civilian medical positions until submission of certification.
Sec. 745. Clarification of inclusion of dental care in medical readiness tracking and health surveillance program.
Sec. 746. Cooperative outreach to members and former members of the naval service exposed to environmental factors related to sarcoidosis.
Sec. 747. Repeal of requirement for Comptroller General reviews of certain Department of Defense-Department of Veterans Affairs projects on sharing of health care resources.
Sec. 748. Pandemic avian flu preparedness.
Sec. 749. Follow up assistance for members of the Armed Forces after preseparation physical examinations.
Sec. 750. Policy on role of military medical and behavioral science personnel in interrogation of detainees.

Subtitle A—Improvements to Health Benefits for Reserves

SEC. 701. ENHANCEMENT OF TRICARE RESERVE SELECT PROGRAM.

(a) EXTENSION OF COVERAGE FOR MEMBERS RECALLED TO ACTIVE DUTY.—Section 1076d of title 10, United States Code, is amended—

(1) in subsection (b), by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph (3):

"(3) In the case of a member recalled to active duty before the period of coverage for which the member is eligible under subsection (a) terminates, the period of coverage of the member—

"(A) resumes after the member completes the subsequent active duty service (subject to any additional entitlement to care and benefits under section 1145(a) of this title that is based on the same subsequent active duty service); and

"(B) increases by any additional period of coverage for which the member is eligible under subsection (a) based on the subsequent active duty service.";

(2) in subsection (b)(2), by striking "Unless earlier terminated under paragraph (3)" and inserting "Subject to paragraph (3) and unless earlier terminated under paragraph (4)"; and

(3) in subsection (f), by adding at the end the following new paragraph:

"(3) The term 'member recalled to active duty' means, with respect to a member who is eligible for coverage under this section based on a period of active duty service, a member who is called or ordered to active duty for an additional period of active duty subsequent to the period of active duty on which that eligibility is based.".

(b) SPECIAL RULE FOR MOBILIZED MEMBERS OF INDIVIDUAL READY RESERVE FINDING NO POSITION IN SELECTED RESERVE.—Section 1076d of such title is amended by adding at the end of subsection (b) (as amended by this section) the following new paragraph:

"(5) In the case of a member of the Individual Ready Reserve who is unable to find a position in the Selected Reserve and who meets the requirements for eligibility for health benefits under TRICARE Standard under subsection (a) except for membership in the Selected Reserve, the period of coverage under this section may begin not later than one year after coverage would otherwise begin under this section had the member been a member of the Selected Reserve, if the member finds a position in the Selected Reserve during that one-year period.".

(c) ELIGIBILITY OF FAMILY MEMBERS FOR 6 MONTHS FOLLOWING DEATH OF MEMBER.—Section 1076d(c) of such title is amended by adding at the end the following: "If a member of a reserve component dies while in a period of coverage under this section, the eligibility of the members of the immediate family of such member for TRICARE Standard coverage shall continue for six months beyond the date of death of the member.".

(d) EXTENSION OF TIME FOR ENTERING INTO AGREEMENT.—Section 1076d(a)(2) of such title is amended by striking "on or before the date of the release" and inserting "not later than 90 days after release".

(e) REVISION OF TRICARE STANDARD DEFINITION.—Subsection (f)(2) of section 1076d of such title is amended to read as follows:

"(2) The term 'TRICARE Standard' means—

"(A) medical care to which a dependent described in section 1076(a)(2) of this title is entitled; and

"(B) health benefits contracted for under the authority of section 1079(a) of this title and subject to the same rates and conditions as apply to persons covered under that section.".

(f) REVISION OF SECTION HEADING.—

(1) AMENDMENT.—The heading for section 1076d of such title is amended to read as follows:

"§ 1076d. TRICARE program: coverage for members of reserve components who commit to continued service in the Selected Reserve after release from active duty in support of a contingency operation".

(2) CLERICAL AMENDMENT.—The item relating to section 1076d in the table of sections relating to chapter 55 of such title is amended to read as follows:

"1076d. TRICARE program: coverage for members of reserve components who commit to continued service in the Selected Reserve after release from active duty in support of a contingency operation.".

SEC. 702. EXPANDED ELIGIBILITY OF MEMBERS OF THE SELECTED RESERVE UNDER THE TRICARE PROGRAM.

(a) EXPANDED ELIGIBILITY.—

(1) IN GENERAL.—Section 1076b of title 10, United States Code, is amended to read as follows:

"§ 1076b. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve

"(a) ELIGIBILITY.—Each member of the Selected Reserve of the Ready Reserve who is committed to serving in the Selected Reserve as described in subsection (c)(3) is eligible, subject to subsection (h), to enroll in TRICARE Standard and receive benefits under such enrollment for any period that the member—

"(1) is an eligible unemployment compensation recipient;

"(2) subject to subsection (i), is not eligible for health care benefits under an employer-sponsored health benefits plan; or

"(3) is not eligible under paragraph (1) or (2) and is not eligible under section 1076d of this title.

"(b) TYPES OF COVERAGE.—(1) A member eligible under subsection (a) may enroll for either of the following types of coverage:

"(A) Self alone coverage.

"(B) Self and family coverage.

"(2) An enrollment by a member for self and family covers the member and the dependents of the member who are described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

"(c) ENROLLMENT.—(1) The Secretary of Defense shall provide for at least one open enrollment period each year. During an open enrollment period or at such other time as the Secretary considers appropriate, a member eligible under subsection (a) may enroll in TRICARE Standard or change or terminate an enrollment in TRICARE Standard.

"(2) An enrollment in TRICARE Standard of a member eligible under subsection (a) shall be effective for one year only, and may be renewed by the member during the open enrollment period provided under paragraph (1) or at such other time as the Secretary considers appropriate.

"(3) A member eligible under subsection (a) may not enroll or renew an enrollment in TRICARE Standard under this section unless the member is committed to a period of obligated service in the Selected Reserve that extends through the enrollment period.

"(d) SCOPE OF CARE.—(1) A member and the dependents of a member enrolled in TRICARE Standard under this section shall be entitled to the same benefits under this chapter as a member of the uniformed services on active duty or a dependent of such a member, respectively, is entitled to under TRICARE Standard.

"(2) Section 1074(c) of this title shall apply with respect to a member enrolled in TRICARE Standard under this section.

"(e) PREMIUMS.—(1) The Secretary of Defense shall charge premiums for coverage pursuant to enrollments under this section. The Secretary shall prescribe for each of the TRICARE Standard program options a premium for self alone coverage and a premium for self and family coverage.

"(2) The monthly amount of the premium in effect for a month for a type of coverage under this section shall be as follows:

"(A) For members eligible under paragraph (1) or (2) of subsection (a), the amount equal to 50 percent of the total amount determined by the Secretary on an appropriate actuarial basis as being reasonable for the coverage.

"(B) For members eligible under paragraph (3) of subsection (a), the amount equal to 85 percent of the total amount determined by the Secretary on an appropriate actuarial basis as being reasonable for the coverage.

"(3) In determining the amount of a premium under paragraph (2), the Secretary shall use the same actuarial basis as used under section 1076d of this title for determining the amount of premiums under that section.

"(4) The premiums payable by a member under this subsection may be deducted and withheld from basic pay payable to the member under section 204 of title 37 or from compensation payable to the member under section 206 of such title. The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums by members.

"(5) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subsection (b) of such section for such fiscal year.

"(f) OTHER CHARGES.—A person who receives health care pursuant to an enrollment in TRICARE Standard under this section, including a member who receives such health care, shall be subject to the same deductibles, copayments, and other nonpremium charges for health care as apply under this chapter for health care provided under TRICARE Standard to dependents described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

"(g) TERMINATION OF ENROLLMENT.—(1) A member enrolled in TRICARE Standard under this section may terminate the enrollment only during an open enrollment period provided under subsection (c).

"(2) An enrollment of a member for self alone or for self and family under this section shall terminate on the first day of the first month beginning after the date on which the member ceases to be eligible under subsection (a).

"(3) The enrollment of a member under this section may be terminated on the basis of failure to pay the premium charged the member under this section.

"(h) RELATIONSHIP TO TRANSITION TRICARE COVERAGE UPON SEPARATION FROM ACTIVE DUTY.—A member is not eligible for TRICARE Standard under this section while entitled to transitional health care under subsection (a) of section 1145 of this title or while authorized to receive health care under subsection (c) of such section.

"(i) NONCOVERAGE BY OTHER HEALTH BENEFITS PLAN.—(1) For purposes of subsection (a)(2), a person shall be considered to be not eligible for health care benefits under an employer-sponsored health benefits plan only if the person—

"(A) is employed by an employer that does not offer a health benefits plan to anyone working for the employer;

"(B) is in a category of employees to which the person's employer does not offer a health benefits plan, if such category is designated by the employer based on hours, duties, employment agreement, or such other characteristic, other than membership in the Selected Reserve, as the regulations administering this section prescribe (such as part-time employees); or

"(C) is self-employed.

"(2) The Secretary of Defense may require a member to submit any certification that the Secretary considers appropriate to substantiate the member's assertion that the member is not eligible for health care benefits under an employer-sponsored health benefits plan.

"(j) ELIGIBLE UNEMPLOYMENT COMPENSATION RECIPIENT DEFINED.—In this section, the term 'eligible unemployment compensation recipient' means, with respect to any month, any individual who is determined eligible for any day of such month for unemployment compensation under State law (as defined in section 205(9) of the Federal-State Extended Unemployment Compensation Act of 1970), including Federal unemployment compensation laws administered through the State.

"(k) TRICARE STANDARD DEFINED.—In this section, the term 'TRICARE Standard' has the meaning provided by section 1076d(f) of this title.

"(l) REGULATIONS.—The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 55 of title 10, United States Code, is amended by striking the item relating to section 1076b and inserting the following:

"1076b. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve.".

(b) EFFECTIVE DATE.—The Secretary of Defense shall ensure that health care under TRICARE Standard is provided under section 1076b of title 10, United States Code, as amended by this section, beginning not later than October 1, 2006.

Subtitle B—TRICARE Program Improvements

SEC. 711. ADDITIONAL INFORMATION REQUIRED BY SURVEYS ON TRICARE STANDARD.

Section 723(a) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1532; 10 U.S.C. 1073 note) is amended by adding at the end the following new paragraph:

"(4) Surveys required by paragraph (1) shall include questions seeking to determine from health care providers the following:

"(A) Whether the provider is aware of the TRICARE program.

"(B) What percentage of the provider's current patient population uses any form of TRICARE.

"(C) Whether the provider accepts patients for whom payment is made under the medicare program for health care services.

"(D) If the provider accepts patients referred to in subparagraph (C), whether the provider would accept additional such patients who are not in the provider's current patient population.".

SEC. 712. AVAILABILITY OF CHIROPRACTIC HEALTH CARE SERVICES.

(a) AVAILABILITY OF CHIROPRACTIC HEALTH CARE SERVICES.—The Secretary of the Air Force shall ensure that chiropractic health care services are available at all medical treatment facilities listed in table 5 of the report to Congress dated August 16, 2001, titled "Chiropractic Health Care Implementation Plan". If the Secretary determines that it is not necessary or feasible to provide chiropractic health care services at any such facility, the Secretary shall provide such services at an alternative site for each such facility.

(b) IMPLEMENTATION AND REPORT.—Not later than September 30, 2006, the Secretary of the Air Force shall—

(1) implement subsection (a); and

(2) submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the availability of chiropractic health care services as required under subsection (a), including information on alternative sites at which such services have been made available.

SEC. 713. SURVIVING-DEPENDENT ELIGIBILITY UNDER TRICARE DENTAL PLAN FOR SURVIVING SPOUSES WHO WERE ON ACTIVE DUTY AT TIME OF DEATH OF MILITARY SPOUSE.

Section 1076a(k) of title 10, United States Code, is amended to read as follows:

"(k) ELIGIBLE DEPENDENT DEFINED.—(1) In this section, the term 'eligible dependent' means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

"(2) Such term includes any such dependent of a member who dies while on active duty for a period of more than 30 days or a member of the Ready Reserve if, on the date of the death of the member, the dependent—

"(A) is enrolled in a dental benefits plan established under subsection (a); or

"(B) if not enrolled in such a plan on such date—

"(i) is not enrolled by reason of a discontinuance of a former enrollment under subsection (f); or

"(ii) is not qualified for such enrollment because—

"(I) the dependent is a child under the minimum age for such enrollment; or

"(II) the dependent is a spouse who is a member of the armed forces on active duty for a period of more than 30 days.

"(3) Such term does not include a dependent by reason of paragraph (2) after the end of the three-year period beginning on the date of the member's death.".

SEC. 714. EXCEPTIONAL ELIGIBILITY FOR TRICARE PRIME REMOTE.

Section 1079(p) of title 10, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) The Secretary of Defense may provide for coverage of a dependent referred to in subsection (a) who is not described in paragraph (3) if the Secretary determines that exceptional circumstances warrant such coverage.".

SEC. 715. INCREASED PERIOD OF CONTINUED TRICARE PRIME COVERAGE OF CHILDREN OF MEMBERS OF THE UNIFORMED SERVICES WHO DIE WHILE SERVING ON ACTIVE DUTY FOR A PERIOD OF MORE THAN 30 DAYS.

(a) PERIOD OF ELIGIBILITY.—Section 1079(g) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(g)";

(2) by striking the second sentence; and

(3) by adding at the end the following new paragraph:

"(2) In addition to any continuation of eligibility for benefits under paragraph (1), when a member dies while on active duty for a period of more than 30 days, the member's dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for benefits under TRICARE Prime during the three-year period beginning on the date of the member's death, except that, in the case of such a dependent of the deceased who is described by subparagraph (D) or (I) of section 1072(2) of this title, the period of continued eligibility shall be the longer of the following periods beginning on such date:

"(A) Three years.

"(B) The period ending on the date on which such dependent attains 21 years of age.

"(C) In the case of such a dependent who, at 21 years of age, is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of such dependent's support, the period ending on the earlier of the following dates:

"(i) The date on which such dependent ceases to pursue such a course of study, as determined by the administering Secretary.

"(ii) The date on which such dependent attains 23 years of age.

"(3) For the purposes of paragraph (2)(C), a dependent shall be treated as being enrolled in a full-time course of study in an institution of higher education during any reasonable period of transition between the dependent's completion of a full-time course of study in a secondary school and the commencement of an enrollment in a full-time course of study in an institution of higher education, as determined by the administering Secretary.

"(4) The terms and conditions under which health benefits are provided under this chapter to a dependent of a deceased member under paragraph (2) shall be the same as those that would apply to the dependent under this chapter if the member were living and serving on active duty for a period of more than 30 days.

"(5) In this subsection, the term 'TRICARE Prime' means the managed care option of the TRICARE program.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on October 7, 2001, and shall apply with respect to deaths occurring on or after that date.

SEC. 716. TRICARE STANDARD IN TRICARE REGIONAL OFFICES.

(a) Responsibilities of TRICARE Regional Office.—The responsibilities of each TRICARE Regional Office shall include the monitoring, oversight, and improvement of the TRICARE Standard option in the TRICARE region concerned, including—

(1) identifying health care providers who will participate in the TRICARE program and provide the TRICARE Standard option under that program;

(2) communicating with beneficiaries who receive the TRICARE Standard option;

(3) outreach to community health care providers to encourage their participation in the TRICARE program; and

(4) publication of information that identifies health care providers in the TRICARE region concerned who provide the TRICARE Standard option.

(b) Annual Report.—The Secretary of Defense shall submit an annual report to the Committees on Armed Services of the Senate and the House of Representatives on the monitoring, oversight, and improvement of TRICARE Standard activities of each TRICARE Regional Office. The report shall include—

(1) a description of the activities of the TRICARE Regional Office to monitor, oversee, and improve the TRICARE Standard option;

(2) an assessment of the participation of eligible health care providers in TRICARE Standard in each TRICARE region; and

(3) a description of any problems or challenges that have been identified by both providers and beneficiaries with respect to use of the TRICARE Standard option and the actions undertaken to address such problems or challenges.

(c) Definition.—In this section, the term "TRICARE Standard" or "TRICARE standard option" means the Civilian Health and Medical Program of the Uniformed Services option under the TRICARE program.

SEC. 717. QUALIFICATIONS FOR INDIVIDUALS SERVING AS TRICARE REGIONAL DIRECTORS.

(a) Qualifications.—Effective as of the date of the enactment of this Act, no individual may be selected to serve in the position of Regional Director under the TRICARE program unless the individual—

(1) is—

(A) an officer of the Armed Forces in a general or flag officer grade;

(B) a civilian employee of the Department of Defense in the Senior Executive Service; or

(C) a civilian employee of the Federal Government in a department or agency other than the Department of Defense, or a civilian working in the private sector, who has experience in a position comparable to an officer described in subparagraph (A) or a civilian employee described in subparagraph (B); and

(2) has at least 10 years of experience, or equivalent expertise or training, in the military health care system, managed care, and health care policy and administration.

(b) TRICARE Program Defined.—In this section, the term "TRICARE program" has the meaning given such term in section 1072(7) of title 10, United States Code.

Subtitle C—Mental Health-Related Provisions

SEC. 721. PROGRAM FOR MENTAL HEALTH AWARENESS FOR DEPENDENTS AND PILOT PROJECT ON POST TRAUMATIC STRESS DISORDER.

(a) Program on Mental Health Awareness.—

(1) Requirement.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall develop a program to improve awareness of the availability of mental health services for, and warning signs about mental health problems in, dependents of members of the Armed Forces whose sponsor served or will serve in a combat theater during the previous or next 60 days.

(2) Matters covered.—The program developed under paragraph (1) shall be designed to—

(A) increase awareness of mental health services available to dependents of members of the Armed Forces on active duty;

(B) increase awareness of mental health services available to dependents of Reservists and National Guard members whose sponsors have been activated; and

(C) increase awareness of mental health issues that may arise in dependents referred to in subparagraphs (A) and (B) whose sponsor is deployed to a combat theater.

(3) Coordination.—The Secretary may permit the Department of Defense to coordinate the program developed under paragraph (1) with an accredited college, university, hospital-based, or community-based mental health center or engage mental health professionals to develop programs to help implement this section.

(4) Availability in other languages.—The Secretary shall evaluate whether the effectiveness of the program developed under paragraph (1) would be improved by providing materials in languages other than English and take action accordingly

(5) Report.—Not later than one year after implementation of the program developed under paragraph (1), the Secretary shall submit to Congress a report on the effectiveness of the program, including the extent to which the program is used by low-English-proficient individuals.

(b) Pilot Project on Post Traumatic Stress Disorder.—

(1) Requirement.—The Secretary of Defense shall carry out a pilot project to evaluate the efficacy of various approaches to improving the capability of the military and civilian health care systems to provide early diagnosis and treatment of post traumatic stress disorder (PTSD) and other mental health conditions.

(2) Internet-based diagnosis and treatment.—The pilot project shall be designed to evaluate—

(A) Internet-based automated tools available to military and civilian health care providers for the early diagnosis and treatment of post traumatic stress disorder, and for tracking patients who suffer from post traumatic stress disorder; and

(B) Internet-based tools available to family members of members of the Armed Forces in order to assist such family members in the identification of the emergence of post traumatic stress disorder.

(3) Report.—Not later than June 1, 2006, the Secretary shall submit to the congressional defense committees a report on the pilot project. The report shall include a description of the pilot project, including the location of the pilot project and the scope and objectives of the pilot project.

SEC. 722. PILOT PROJECTS ON EARLY DIAGNOSIS AND TREATMENT OF POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) Pilot Projects Required.—The Secretary of Defense may carry out pilot projects to evaluate the efficacy of various approaches to improving the capability of the military and civilian health care systems to provide early diagnosis and treatment of post traumatic stress disorder (PTSD) and other mental health conditions.

(b) Pilot Project Requirements.—

(1) Mobilization-demobilization facility.—

(A) In general.—A pilot project under subsection (a) may be carried out at a military medical facility at a large military installation at which the mobilization or demobilization of members of the Armed Forces occurs.

(B) Elements.—The pilot project under this paragraph shall be designed to evaluate and produce effective diagnostic and treatment approaches for use by primary care providers in the military health care system in order to improve the capability of such providers to diagnose and treat post traumatic stress disorder in a manner that avoids the referral of patients to specialty care by a psychiatrist or other mental health professional.

(2) National guard or reserve facility.—

(A) In general.—A pilot project under subsection (a) may be carried out at the location of a National Guard or Reserve unit or units that are located more than 40 miles from a military medical facility and whose personnel are served primarily by civilian community health resources.

(B) Elements.—The pilot project under this paragraph shall be designed—

(i) to evaluate approaches for providing evidence-based clinical information on post traumatic stress disorder to civilian primary care providers; and

(ii) to develop educational materials and other tools for use by members of the National Guard or Reserve who come into contact with other members of the National Guard or Reserve who may suffer from post traumatic stress disorder in order to encourage and facilitate early reporting and referral for treatment.

(c) REPORT.—Not later than September 1, 2006, the Secretary shall submit to the congressional defense committees a report on the progress toward identifying pilot projects to be carried out under this section. To the extent possible the report shall include a description of each such pilot project, including the location of the pilot projects under paragraphs (1) and (2) of subsection (b), and the scope and objectives of each such pilot project.

SEC. 723. DEPARTMENT OF DEFENSE TASK FORCE ON MENTAL HEALTH.

(a) REQUIREMENT TO ESTABLISH.—The Secretary of Defense shall establish within the Department of Defense a task force to examine matters relating to mental health and the Armed Forces.

(b) COMPOSITION.—

(1) MEMBERS.—The task force shall consist of not more than 14 members appointed by the Secretary of Defense from among individuals described in paragraph (2) who have demonstrated expertise in the area of mental health.

(2) RANGE OF MEMBERS.—The individuals appointed to the task force shall include—

(A) at least one member of each of the Army, Navy, Air Force, and Marine Corps;

(B) a number of persons from outside the Department of Defense equal to the total number of personnel from within the Department of Defense (whether members of the Armed Forces or civilian personnel) who are appointed to the task force;

(C) persons who have experience in—

(i) national mental health policy;

(ii) military personnel policy;

(iii) research in the field of mental health;

(iv) clinical care in mental health; or

(v) military chaplain or pastoral care; and

(D) at least one family member of a member of the Armed Forces who has experience working with military families.

(3) INDIVIDUALS APPOINTED WITHIN DEPARTMENT OF DEFENSE.—At least one of the individuals appointed to the task force from within the Department of Defense shall be the surgeon general of an Armed Force.

(4) INDIVIDUALS APPOINTED OUTSIDE DEPARTMENT OF DEFENSE.—(A) Individuals appointed to the task force from outside the Department of Defense may include officers or employees of other departments or agencies of the Federal Government, officers or employees of State and local governments, or individuals from the private sector.

(B) The individuals appointed to the task force from outside the Department of Defense shall include—

(i) an officer or employee of the Department of Veterans Affairs; and

(ii) an officer or employee of the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services.

(5) DEADLINE FOR APPOINTMENT.—All appointments of individuals to the task force shall be made not later than 90 days after the date of the enactment of this Act.

(6) CO-CHAIRS OF TASK FORCE.—There shall be two co-chairs of the task force. One of the co-chairs shall be designated by the Secretary of the Defense at the time of appointment from among the Department of Defense personnel appointed to the task force. The other co-chair shall be selected from among the members appointed from outside the Department of Defense by members so appointed.

(c) ASSESSMENT AND RECOMMENDATIONS ON MENTAL HEALTH SERVICES.—

(1) IN GENERAL.—Not later than 12 months after the date on which all members of the task force have been appointed, the task force shall submit to the Secretary a report containing an assessment of, and recommendations for improving, the efficacy of mental health services provided to members of the Armed Forces by the Department of Defense.

(2) UTILIZATION OF OTHER EFFORTS.—In preparing the report, the task force shall take into consideration completed and ongoing efforts by the Department of Defense and the Department of Veterans Affairs to improve the efficacy of mental health care provided to members of the Armed Forces by the Departments.

(3) ELEMENTS.—The assessment and recommendations (including recommendations for legislative or administrative action) shall include measures to improve the following:

(A) The awareness of the potential for mental health conditions among members of the Armed Forces.

(B) The access to and efficacy of existing programs in primary care and mental health care to prevent, identify, and treat mental health conditions among members of the Armed Forces, including programs for and with respect to forward-deployed troops.

(C) Identification and means to evaluate the effectiveness of pilot projects authorized by section 722 with the objective of improving early diagnosis and treatment of post traumatic stress disorder and other mental health conditions.

(D) The access to and programs for family members of members of the Armed Forces, including family members overseas.

(E) The reduction or elimination of barriers to care, including the stigma associated with seeking help for mental health related conditions, and the enhancement of confidentiality for members of the Armed Forces seeking care for such conditions.

(F) The awareness of mental health services available to dependents of members of the Armed Forces whose sponsors have been activated or deployed to a combat theater.

(G) The adequacy of outreach, education, and support programs on mental health matters for families of members of the Armed Forces.

(H) The early identification and treatment of mental health and substance abuse problems through the use of internal mass media communications (including radio and television) and other education tools to change attitudes within the Armed Forces regarding mental health and substance abuse treatment.

(I) The efficacy of programs and mechanisms for ensuring a seamless transition from care of members of the Armed Forces on active duty for mental health conditions through the Department of Defense to care for such conditions through the Department of Veterans Affairs after such members are discharged or released from military, naval, or air service.

(J) The availability of long-term follow-up and access to care for mental health conditions for members of the Individual Ready Reserve and the Selective Reserve and for discharged, separated, or retired members of the Armed Forces.

(K) Collaboration among organizations in the Department of Defense with responsibility for or jurisdiction over the provision of mental health services.

(L) Coordination between the Department of Defense and civilian communities, including local support organizations, with respect to mental health services.

(M) The scope and efficacy of curricula and training on mental health matters for commanders in the Armed Forces.

(N) The efficiency of pre- and post-deployment mental health screening, including mental health screenings for members of the Armed Forces who have experienced multiple deployments.

(O) The effectiveness of mental health programs provided in languages other than English.

(P) Such other matters as the task force considers appropriate.

(d) ADMINISTRATIVE MATTERS.—

(1) COMPENSATION.—Each member of the task force who is a member of the Armed Forces or a civilian officer or employee of the United States shall serve without compensation (other than compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be treated for purposes of section 3161 of title 5, United States Code, as having been appointed under subsection (b) of such section.

(2) OVERSIGHT.—The Under Secretary of Defense for Personnel and Readiness shall oversee the activities of the task force.

(3) ADMINISTRATIVE SUPPORT.—The Washington Headquarters Services of the Department of Defense shall provide the task force with personnel, facilities, and other administrative support as necessary for the performance of the duties of the task force.

(4) ACCESS TO FACILITIES.—The Under Secretary of Defense for Personnel and Readiness shall, in coordination with the Secretaries of the military departments, ensure appropriate access by the task force to military installations and facilities for purposes of the discharge of the duties of the task force.

(e) REPORT.—

(1) IN GENERAL.—The task force shall submit to the Secretary of Defense a report on its activities under this section. The report shall include—

(A) a description of the activities of the task force;

(B) the assessment and recommendations required by subsection (c); and

(C) such other matters relating to the activities of the task force that the task force considers appropriate.

(2) TRANSMITTAL TO CONGRESS.—Not later than 90 days after receipt of the report under paragraph (1), the Secretary shall transmit the report to the Committees on Armed Services and Veterans' Affairs of the Senate and the House of Representatives. The Secretary may include in the transmittal such comments on the report as the Secretary considers appropriate.

(f) PLAN REQUIRED.—Not later than 6 months after receipt of the report from the task force under subsection (e)(1), the Secretary of Defense shall develop a plan based on the recommendations of the task force and submit the plan to the congressional defense committees.

(g) TERMINATION.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to Congress under subsection (e)(2).

Subtitle D—Studies and Reports

SEC. 731. STUDY RELATING TO PREDEPLOYMENT AND POSTDEPLOYMENT MEDICAL EXAMS OF CERTAIN MEMBERS OF THE ARMED FORCES.

(a) STUDY.—The Secretary of Defense shall conduct a study of the effectiveness of self-administered surveys included in predeployment and postdeployment medical exams, including the mental health portion of the surveys, of members of the Armed Forces that are carried out as part of the medical tracking system required under section 1074f of title 10, United States Code.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the study conducted under subsection (a).

SEC. 732. REQUIREMENTS FOR PHYSICAL EXAMINATIONS AND MEDICAL AND DENTAL READINESS FOR MEMBERS OF THE SELECTED RESERVE NOT ON ACTIVE DUTY.

(a) IN GENERAL.—Subsection (a) of section 10206 of title 10, United States Code, is amended—

(1) by amending paragraph (1) to read as follows:

"(1) have a comprehensive medical readiness health and dental assessment on an annual basis, including routine annual preventive health care screening and periodic comprehensive physical examinations in accordance with regulations prescribed by the Secretary of Defense that reflect morbidity and mortality risks associated with the military service, age, and gender of the member; and" "; and

(2) in paragraph (2), by striking "annually to the Secretary concerned" and all that follows and inserting "to the Secretary concerned on an annual basis documentation of the medical and dental readiness of the member to perform military duties.".

*(b) CONFORMING AMENDMENT.—The heading of such section is amended by striking "***periodic***".*

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1007 of such title is amended in the item relating to section 10206 by striking "periodic".

SEC. 733. REPORT ON DELIVERY OF HEALTH CARE BENEFITS THROUGH THE MILITARY HEALTH CARE SYSTEM.

(a) REPORT REQUIRED.—Not later than February 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report on the delivery of health care benefits through the military health care system.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) An analysis of the organization and costs of delivering health care benefits to current and retired members of the Armed Forces and their families.

(2) An analysis of the costs of ensuring medical readiness throughout the Armed Forces in support of national security objectives.

(3) An assessment of the role of health benefits in the recruitment and retention of members of the Armed Forces, whether in the regular components or the reserve components of the Armed Forces.

(4) An assessment of the experience of the military departments during fiscal years 2003, 2004, and 2005 in recruitment and retention of military and civilian medical and dental personnel, whether in the regular components or the reserve components of the Armed Forces, in light of military and civilian medical manpower requirements.

(5) A description of requirements for graduate medical education for military medical care providers and options for meeting such requirements, including civilian medical training programs.

(c) RECOMMENDATIONS.—In addition to the matters specified in subsection (b), the report under subsection (a) shall also include such recommendations for legislative or administrative action as the Secretary considers necessary to improve efficiency and quality in the provision of health care benefits through the military health care system, including recommendations on—

(1) the organization and delivery of health care benefits;

(2) mechanisms required to measure costs more accurately;

(3) mechanisms required to measure quality of care, and access to care, more accurately;

(4) Department of Defense participation in the Medicare Advantage Program, formerly Medicare plus Choice;

(5) the use of flexible spending accounts and health savings accounts for military retirees under the age of 65;

(6) incentives for eligible beneficiaries of the military health care system to retain private employer-provided health care insurance;

(7) means of improving integrated systems of disease management, including chronic illness management;

(8) means of improving the safety and efficiency of pharmacy benefits management;

(9) the management of enrollment options for categories of eligible beneficiaries in the military health care system;

(10) reform of the provider payment system, including the potential for use of a pay-for-performance system in order to reward quality and efficiency in the TRICARE system;

(11) means of improving efficiency in the administration of the TRICARE program, to include the reduction of headquarters and redundant management layers, and maximizing efficiency in the claims processing system;

(12) other improvements in the efficiency of the military health care system; and

(13) any other matters the Secretary considers appropriate to improve the efficiency and quality of military health care benefits.

SEC. 734. COMPTROLLER GENERAL STUDIES AND REPORT ON DIFFERENTIAL PAYMENTS TO CHILDREN'S HOSPITALS FOR HEALTH CARE FOR CHILDREN DEPENDENTS AND MAXIMUM ALLOWABLE CHARGE FOR OBSTETRICAL CARE SERVICES UNDER TRICARE.

(a) STUDIES REQUIRED.—The Comptroller General of the United States shall conduct the following studies:

(1) A study of the effectiveness of the current system of differential payments to children's hospitals for health care services for dependent children of members of the uniformed services under the TRICARE program in achieving the objective of securing adequate health care services for such dependent children under that program.

(2) A study of the effectiveness of the TRICARE program in achieving the objective of adequate access to high quality obstetrical care services for family members of members of the uniformed services.

(b) ELEMENTS OF CHILDREN'S HOSPITALS STUDY.—The study required by subsection (a)(1) shall include the following:

(1) A description of the current participation of children's hospitals in the TRICARE program.

(2) An assessment of the current system of payments to children's hospitals under the TRICARE program, including differential payments to such hospitals for health care services described in subsection (a)(1), including an assessment of—

(A) the extent to which the calculation of such differential payments takes into account the complexity and extraordinary resources required for the provision of such health care services;

(B) the extent to which TRICARE payment rates, including the children's hospital differential, have kept pace with inflation in health care costs for children's hospitals since the establishment of the differential in 1988;

(C) the extent to which such differential payments provide appropriate compensation to such hospitals for the provision of such services; and

(D) any obstacles or challenges to the development of future modifications to the system of differential payments.

(3) An assessment of the adequacy of, including any barrier to, the access of dependent children described in subsection (a)(1) to specialized hospital services for their illnesses under the TRICARE program.

(c) ELEMENTS OF OBSTETRICAL CARE SERVICES STUDY.—The study required by subsection (a)(2) shall include the following:

(1) A description of the current participation of civilian providers of obstetrical care services in the TRICARE program.

(2) An assessment of the current system of payments for obstetrical care services, including an assessment of—

(A) the extent to which the calculation of such payments takes into account the complexity and resources required;

(B) the extent to which TRICARE payment rates have kept pace with inflation in health care costs;

(C) the extent to which such payments provide appropriate compensation to providers of such services; and

(D) obstacles or challenges to the development of future improvements to access to high quality obstetrical services, including referral patterns and inclusion of all necessary services within the maximum allowable charge.

(3) An assessment of the adequacy of the access of military family members to needed obstetrical care services.

(d) REPORT.—Not later than May 1, 2006, the Comptroller General shall submit to the Secretary of Defense and the congressional defense committees a report on the studies required by subsection (a), together with such recommendations, if any, as the Comptroller General considers appropriate for modifications of the current system of differential payments to children's hospitals and payments for obstetrical care services in order to achieve the objectives described in that subsection.

(e) TRANSMITTAL TO CONGRESS.—

(1) IN GENERAL.—Not later than November 1, 2006, the Secretary of Defense shall transmit to the congressional defense committees the report submitted by the Comptroller General to the Secretary under subsection (d).

(2) IMPLEMENTATION OF MODIFICATIONS.—If the report under paragraph (1) includes recommendations of the Comptroller General for modifications of the current system of differential payments to children's hospitals or of payments for obstetrical care services, the Secretary shall transmit with the report—

(A) a proposal for such legislative or administration action as may be required to implement such modifications; and

(B) an assessment and estimate of the costs associated with the implementation of such modifications.

(f) DEFINITIONS.—In this section:

(1) DIFFERENTIAL PAYMENTS TO CHILDREN'S HOSPITALS.—The term "differential payments to children's hospitals" means the additional amounts paid to children's hospitals under the TRICARE program for health care procedures for severely ill children in order to take into account the additional costs associated with such procedures for such children when compared with the costs associated with such procedures for adults and other children.

(2) PAYMENTS FOR OBSTETRICAL CARE.—The term "payments for obstetrical care services" means the maximum allowable payment rates established by the Department of Defense under the TRICARE program for routine obstetrical care, including prenatal care, laboratory tests in accordance with accepted obstetrical practices standards, specialty care if needed, delivery, and post-partum maternal care.

(3) TRICARE PROGRAM.—The term "TRICARE program" has the meaning given that term in section 1072(7) of title 10, United States Code.

SEC. 735. REPORT ON THE DEPARTMENT OF DEFENSE AHLTA GLOBAL ELECTRONIC HEALTH RECORD SYSTEM.

(a) REPORT REQUIRED.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the Department of Defense AHLTA global electronic health record system.

(b) REPORT ELEMENTS.—The report under subsection (a) shall include the following:

(1) A chronology and description of previous efforts undertaken to develop an electronic medical records system capable of maintaining a two-way exchange of data between the Department of Defense and the Department of Veterans Affairs.

(2) The plans as of the date of the report, including any projected commencement dates, for the implementation of the AHLTA global electronic health record system.

(3) A description of the software and hardware being considered as of the date of the report for use in the AHLTA global electronic health record system.

(4) A description of the management structure used in the development of the AHLTA global electronic health record system.

(5) A description of the accountability measures utilized during the development of the AHLTA global electronic health record system in order to evaluate progress made in the development of that system.

(6) The schedule for the remaining development of the AHLTA global electronic health record system.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services, Appropriations, Veterans' Affairs, and Health, Education, Labor, and Pensions of the Senate; and

(2) the Committees on Armed Services, Appropriations, Veterans' Affairs, and Energy and Commerce of the House of Representatives.

SEC. 736. COMPTROLLER GENERAL STUDY AND REPORT ON VACCINE HEALTHCARE CENTERS.

(a) STUDY REQUIRED.—The Comptroller General shall conduct a study of the Vaccine Healthcare Centers operated by the Department of Defense in support of medical needs arising from mandatory military vaccinations.

(b) ELEMENTS.—In conducting the study under subsection (a), the Comptroller General shall examine the following:

(1) The mission of each Center.

(2) The adequacy of resources available to support the mission of each Center and the source of those resources from within the Department of Defense.

(3) The extent of participation and support of the Centers by each of the Armed Forces.

(4) The effectiveness of the Centers in supporting the medical needs of members of the Armed Forces arising from mandatory military vaccinations.

(5) The effectiveness of the Centers in providing assistance to military and civilian healthcare providers based on outreach to and response to inquiries from providers.

(6) The extent to which the Centers are conducting evaluations to identify and treat potential and actual health effects from vaccines.

(7) The extent to which the Centers take advantage of and are linked to vaccine health resources outside the Department of Defense.

(8) The extent to which the Centers are involved in outreach to military and civilian healthcare providers relating to vaccine safety, efficiency, and acceptability.

(9) The extent to which similar activities conducted by the Centers are conducted in governmental or nongovernmental agencies outside the Department of Defense.

(c) RECOMMENDATIONS.—The Comptroller General shall submit to Congress a report containing findings and recommendations not later than May 30, 2006, including recommendations on ways to improve the ability of the Department of Defense to understand and support medical needs arising from mandatory military vaccinations and the extent to which the Department of Defense requires the Vaccine Healthcare Centers to continue in their current configuration.

SEC. 737. REPORT ON ADVERSE HEALTH EVENTS ASSOCIATED WITH USE OF ANTI-MALARIAL DRUGS.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study of adverse health events that may be associated with use of antimalarial drugs, including mefloquine.

(b) MATTERS COVERED.—The study required by subsection (a) shall include a comparison of adverse health (including mental health) events that may be associated with different anti-malarial drugs, including mefloquine.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the study required by subsection (a).

SEC. 738. REPORT ON RESERVE DENTAL INSURANCE PROGRAM.

(a) STUDY.—The Secretary of Defense shall conduct a study of the Reserve dental insurance program.

(b) ELEMENTS.—The study required by subsection (a) shall—

(1) identify the most effective mechanism or mechanisms for the payment of premiums under the Reserve dental insurance program for members of the reserve components of the Armed Forces and their dependents, including by deduction from reserve pay, by direct collection, or by other means (including appropriate mechanisms from other military benefits programs), to ensure uninterrupted availability of premium payments regardless of whether members are performing active duty with pay or inactive-duty training with pay;

(2) include such matters relating to the Reserve dental insurance program as the Secretary considers appropriate; and

(3) assess the effectiveness of mechanisms for informing the members of the reserve components of the Armed Forces of the availability of, and benefits under, the Reserve dental insurance program.

(c) REPORT.—Not later than February 1, 2007, the Secretary shall submit to the congressional defense committees a report on the study required by subsection (a). The report shall include the findings of the study and such recommendations for legislative or administrative action regarding the Reserve dental insurance program as the Secretary considers appropriate in light of the study.

(d) RESERVE DENTAL INSURANCE PROGRAM DEFINED.—In this section, the term "Reserve dental insurance program" includes—

(1) the dental insurance plan required under paragraph (1) of section 1076a(a) of title 10, United States Code; and

(2) any dental insurance plan established under paragraph (2) or (4) of section 1076a(a) of title 10, United States Code.

SEC. 739. DEMONSTRATION PROJECT STUDY ON MEDICARE ADVANTAGE REGIONAL PREFERRED PROVIDER ORGANIZATION OPTION FOR TRICARE-MEDICARE DUAL-ELIGIBLE BENEFICIARIES.

(a) STUDY ON DEMONSTRATION PROJECT.—

(1) REQUIREMENT.—The Secretary of Defense shall conduct a study to evaluate the feasibility and cost effectiveness of conducting a demonstration project under section 1092 of title 10, United States Code, to implement the provisions of section 1097(d) of such title. The purpose of such a demonstration project would be to evaluate whether applying the managed care methods under the Medicare Advantage program under part C of title XVIII of the Social Security Act would improve the quality of care, realize cost savings to the Department of Defense, and improve beneficiary satisfaction for Department of Defense beneficiaries who also are entitled to health care under medicare.

(2) ELEMENTS OF STUDY.—The study required by paragraph (1) shall include an analysis of the following:

(A) The impact of the Medicare Advantage Regional Preferred Provider Organization model on medical utilization, pharmacy usage, and Department of Defense health care costs.

(B) The full costs of the demonstration project.

(C) The implementation and use of quality improvement and chronic care improvement programs for Department of Defense beneficiaries.

(D) Beneficiary satisfaction.

(E) The near term and long term effect on all existing Department of Defense contracts for health care support, including TRICARE managed care contracts, claims processing contracts, and pharmacy contracts.

(F) A comparison of the costs and benefits of using existing Department of Defense contractors or new Department of Defense contractors who are qualified as the vehicle for conducting the demonstration.

(b) PLAN.—

(1) REQUIREMENT.—If the Secretary of Defense determines under subsection (a) that the demonstration project is feasible, cost effective, and in the best interests of the Department of Defense and eligible beneficiaries, the Secretary, in coordination with other administering Secretaries, shall develop a plan to carry out the demonstration project.

(2) ELEMENTS OF PLAN.—

(A) HEALTH CARE BENEFITS.—In the plan, the Secretary of Defense shall prescribe the minimum health care benefits to be provided under the plan to eligible beneficiaries enrolled in the plan. Those benefits shall include at least all health care services covered under part A and part B of medicare and TRICARE for Life.

(B) DEMONSTRATION SERVICE AREA.—In the plan, the Secretary shall provide for conducting the demonstration in at least two demonstration service areas.

(C) ELIGIBILITY.—In the plan, the Secretary shall provide that any eligible beneficiary who meets the eligibility requirements for participation in the Medicare Advantage Regional Preferred Provider Organization plan who resides in the demonstration service area is eligible to enroll in the demonstration on a voluntary basis.

(D) DURATION.—In the plan, the Secretary shall provide for conducting the demonstration for a period of time consistent with decisions made by the Department of Defense to exercise remaining option periods on the managed care support contract covering the area where the demonstration occurs.

(E) EVALUATION OF THE DEMONSTRATION PROJECT.—The plan shall include a plan to evaluate the costs and benefits of all elements of the demonstration project, including the elements described in subsection (a)(2) and, in addition, the financial mechanisms used in carrying out the demonstration project.

(c) DEFINITIONS.—In this section:

(1) ELIGIBLE BENEFICIARY.—The term "eligible beneficiary" means a person who is eligible for both TRICARE and medicare under section 1086(d)(2) of title 10, United States Code.

(2) MEDICARE.—The term "medicare" means title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(3) ADMINISTERING SECRETARIES.—The term "administering Secretaries" has the meaning provided by section 1072(3) of title 10, United States Code.

(d) REPORT.—Not later than April 1, 2006, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the study required under subsection (a), along with the plan under subsection (b) if applicable.

SEC. 740. PILOT PROJECTS ON PEDIATRIC EARLY LITERACY AMONG CHILDREN OF MEMBERS OF THE ARMED FORCES.

(a) Pilot Projects Authorized.—The Secretary of Defense may conduct pilot projects to assess the feasibility, advisability, and utility of encouraging pediatric early literacy among the children of members of the Armed Forces.

(b) Locations.—

(1) In general.—The pilot projects conducted under subsection (a) shall be conducted at not more than 20 military medical treatment facilities designated by the Secretary for purposes of this section.

(2) Co-location with certain installations.—In designating military medical treatment facilities under paragraph (1), the Secretary shall, to the extent practicable, designate facilities that are located on, or co-located with, military installations at which the mobilization or demobilization of members of the Armed Forces occurs.

(c) Activities.—Activities under the pilot projects conducted under subsection (a) shall the following:

(1) The provision of training to health care providers and other appropriate personnel on early literacy promotion.

(2) The purchase and distribution of children's books to members of the Armed Forces, their spouses, and their children.

(3) The modification of treatment facility and clinic waiting rooms to include a full selection of literature for children.

(4) The dissemination to members of the Armed Forces and their spouses of parent education materials on pediatric early literacy.

(5) Such other activities as the Secretary considers appropriate.

(d) Report.—

(1) In general.—Not later than March 1, 2007, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the pilot projects conducted under this section.

(2) Elements.—The report under paragraph (1) shall include—

(A) a description of the pilot projects conducted under this section, including the location of each pilot project and the activities conducted under each pilot project; and

(B) an assessment of the feasibility, advisability, and utility of encouraging pediatric early literacy among the children of members of the Armed Forces.

Subtitle E—Other Matters

SEC. 741. AUTHORITY TO RELOCATE PATIENT SAFETY CENTER; RENAMING MEDTEAMS PROGRAM.

(a) Repeal of Requirement to Locate the Department of Defense Patient Safety Center Within the Armed Forces Institute of Pathology.—Subsection (c)(3) of section 754 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106-398; 114 Stat. 1654-196) is amended by striking "within the Armed Forces Institute of Pathology".

(b) Renaming MedTeams Program.—Subsection (d) of such section is amended by striking "MedTeams" in the heading and inserting "Medical Team Training".

SEC. 742. MODIFICATION OF HEALTH CARE QUALITY INFORMATION AND TECHNOLOGY ENHANCEMENT REPORTING REQUIREMENT.

Section 723(e) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 697) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) Measures of the quality of health care furnished, including timeliness and accessibility of care.

"(2) Population health.

"(3) Patient safety.

"(4) Patient satisfaction.

"(5) The extent of use of evidence-based health care practices.

"(6) The effectiveness of biosurveillance in detecting an emerging epidemic.".

SEC. 743. CORRECTION TO ELIGIBILITY OF CERTAIN RESERVE OFFICERS FOR MILITARY HEALTH CARE PENDING ACTIVE DUTY FOLLOWING COMMISSIONING.

(a) Correction.—Clause (iii) of section 1074(a)(2)(B) of title 10, United States Code, is amended by inserting before the semicolon the following: "or the orders have been issued but the member has not entered active duty".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as of November 24, 2003, and as if included in the enactment of paragraph (2) of section 1074(a) of title 10, United States Code, by section 708 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1530).

SEC. 744. PROHIBITION ON CONVERSIONS OF MILITARY MEDICAL AND DENTAL POSITIONS TO CIVILIAN MEDICAL POSITIONS UNTIL SUBMISSION OF CERTIFICATION.

(a) Prohibition on Conversions.—

(1) Submission of certification.—A Secretary of a military department may not convert any military medical or dental position to a civilian medical or dental position until the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a certification that the conversions within that department will not increase cost or decrease quality of care or access to care. Such a certification may not be submitted before June 1, 2006.

(2) Report with certification.—A Secretary submitting such a certification shall include with the certification a written report that includes—

(A) the methodology used by the Secretary in making the determinations necessary for the certification, including the extent to which the Secretary took into consideration the findings of the Comptroller General in the report under subsection (b)(3);

(B) the results of a market survey in each affected area of the availability of civilian medical and dental care providers in such area in order to determine whether the civilian medical and dental care providers available in such area are adequate to fill the civilian positions created by the conversion of military medical and dental positions to civilian positions in such area; and

(C) any action taken by the Secretary in response to recommendations in the Comptroller General report under subsection (b)(3).

(b) Requirement for Study.—

(1) In general.—The Comptroller General shall conduct a study on the effect of conversions of military medical and dental positions to civilian medical or dental positions on the defense health program.

(2) Matters covered.—The study shall include the following:

(A) The number of military medical and dental positions, by grade and specialty, planned for conversion to civilian medical or dental positions.

(B) The number of military medical and dental positions, by grade and specialty, converted to civilian medical or dental positions since October 1, 2004.

(C) The ability of the military health care system to fill the civilian medical and dental positions required, by specialty.

(D) The degree to which access to health care is affected in both the direct and purchased care system, including an assessment of the effects of any increased shifts in patient load from the direct care to the purchased care system, or any delays in receipt of care in either the direct or purchased care system because of lack of direct care providers.

(E) The degree to which changes in military manpower requirements affect recruiting and retention of uniformed medical and dental personnel.

(F) The degree to which conversion of the military positions meets the joint medical and dental readiness requirements of the uniformed services, as determined jointly by all the uniformed services.

(G) The effect of the conversions of military medical positions to civilian medical and dental positions on the defense health program, including costs associated with the conversions, with a comparison of the estimated costs versus the actual costs incurred by the number of conversions since October 1, 2004.

(H) The effectiveness of the conversions in enhancing medical and dental readiness, health care efficiency, productivity, quality, and customer satisfaction.

(3) Report on study.—Not later than May 1, 2006, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study under this section.

(c) Definitions.—In this section:

(1) The term "military medical or dental position" means a position for the performance of health care functions within the Armed Forces held by a member of the Armed Forces.

(2) The term "civilian medical or dental position" means a position for the performance of health care functions within the Department of Defense held by an employee of the Department or of a contractor of the Department.

(3) The term "affected area" means an area in which military medical or dental positions were converted to civilian medical or dental positions before October 1, 2004, or in which such conversions are scheduled to occur in the future.

(4) The term "uniformed services" has the meaning given that term in section 1072(1) of title 10, United States Code.

SEC. 745. CLARIFICATION OF INCLUSION OF DENTAL CARE IN MEDICAL READINESS TRACKING AND HEALTH SURVEILLANCE PROGRAM.

(a) Inclusion of Dental Care.—Subtitle D of title VII of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C. 1074 note) is amended by adding at the end the following new section:

"SEC. 740. INCLUSION OF DENTAL CARE.

"For purposes of the plan, this subtitle, and the amendments made by this subtitle, references to medical readiness, health status, and health care shall be considered to include dental readiness, dental status, and dental care.".

(b) Clerical Amendment.—The table of sections at the beginning of title VII of such Act and in section 2(b) of such Act are each amended by inserting after the item relating to section 739 the following:

"Sec. 740. Inclusion of dental care.".

SEC. 746. COOPERATIVE OUTREACH TO MEMBERS AND FORMER MEMBERS OF THE NAVAL SERVICE EXPOSED TO ENVIRONMENTAL FACTORS RELATED TO SARCOIDOSIS.

(a) Outreach Program Required.—The Secretary of the Navy, in coordination with the Secretary of Veterans Affairs, shall conduct an outreach program intended to contact as many members and former members of the naval service as possible who, in connection with service aboard Navy ships, may have been exposed to aerosolized particles resulting from the removal of nonskid coating used on those ships.

(b) Purposes of Outreach Program.—The purposes of the outreach program are as follows:

(1) To develop additional data for use in subsequent studies aimed at determining a causative link between sarcoidosis and military service.

(2) To inform members and former members identified in subsection (a) of the findings of Navy studies identifying an association between service aboard certain naval ships and sarcoidosis.

(3) To provide information to assist members and former members identified in subsection (a) in getting medical evaluations to help clarify linkages between their disease and their service aboard Navy ships.

(4) To provide the Department of Veterans Affairs with data and information for the effective evaluation of veterans who may seek care for sarcoidosis.

(c) IMPLEMENTATION AND REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary of the Navy shall begin the outreach program. Not later than one year after beginning the program, the Secretary shall provide to the Committees on Armed Services of the Senate and the House of Representatives and the Committees on Veterans Affairs of the Senate and House of Representatives a report on the results of the outreach program.

SEC. 747. REPEAL OF REQUIREMENT FOR COMPTROLLER GENERAL REVIEWS OF CERTAIN DEPARTMENT OF DEFENSE-DEPARTMENT OF VETERANS AFFAIRS PROJECTS ON SHARING OF HEALTH CARE RESOURCES.

(a) JOINT INCENTIVES PROGRAM.—Section 8111(d) of title 38, United States Code, is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(b) HEALTH CARE RESOURCES SHARING AND COORDINATION PROJECT.—Section 722 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2595; 38 U.S.C. 8111 note) is amended—

(1) by striking subsection (h);

(2) by redesignating subsection (i) as subsection (h); and

(3) in paragraph (2) of subsection (h), as so redesignated, by striking "based on recommendations" and all that follows and inserting "as determined by the Secretaries based on information available to the Secretaries to warrant such action.".

SEC. 748. PANDEMIC AVIAN FLU PREPAREDNESS.

(a) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the efforts within the Department of Defense to prepare for pandemic influenza, including pandemic avian influenza. The Secretary shall address the following, with respect to military personnel, dependents of military personnel on military installations, and civilian personnel within the Department of Defense:

(1) The procurement of vaccines, antivirals, and other medicines, and medical supplies, including personal protective equipment, particularly those that must be imported.

(2) Protocols for the allocation and distribution of vaccines and medicines among high priority personnel.

(3) Public health protection and containment measures that may be implemented on military bases and other facilities, including risk communication, quarantine, travel restrictions, and other isolation precautions.

(4) Communication with Department of Defense-affiliated health providers about pandemic preparedness and response.

(5) Surge capacity for the provision of medical care during pandemics.

(6) The availability and delivery of food and basic supplies and services.

(7) Surveillance efforts domestically and internationally, including those using the Global Emerging Infections Systems (GEIS), and how such efforts are integrated with other ongoing surveillance systems.

(8) The integration of pandemic and response planning in the Department of Defense with the planning of other Federal departments, including the Department of Health and Human Services, the Department of Homeland Security, the Department of Veterans Affairs, the Department of State, and USAID.

(9) Collaboration (as appropriate) with international entities engaged in pandemic preparedness and response.

(10) Acceleration of medical research and development related to pandemic influenza.

(b) SUBMISSION OF REPORT.—The report required under subsection (a) shall be submitted not later than 120 days after the date of the enactment of this Act.

SEC. 749. FOLLOW UP ASSISTANCE FOR MEMBERS OF THE ARMED FORCES AFTER PRESEPARATION PHYSICAL EXAMINATIONS.

Section 1145(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, ensure that appropriate actions are taken to assist a member of the armed forces who, as a result of a medical examination under paragraph (4), receives an indication for a referral for follow up treatment from the health care provider who performs the examination.

"(B) Assistance provided to a member under paragraph (1) shall include the following:

"(i) Information regarding, and any appropriate referral for, the care, treatment, and other services that the Secretary of Veterans Affairs may provide to such member under any other provision of law, including—

"(I) clinical services, including counseling and treatment for post-traumatic stress disorder and other mental health conditions; and

"(II) any other care, treatment, and services.

"(ii) Information on the private sector sources of treatment that are available to the member in the member's community.

"(iii) Assistance to enroll in the health care system of the Department of Veterans Affairs for health care benefits for which the member is eligible under laws administered by the Secretary of Veterans Affairs.".

SEC. 750. POLICY ON ROLE OF MILITARY MEDICAL AND BEHAVIORAL SCIENCE PERSONNEL IN INTERROGATION OF DETAINEES.

(a) POLICY REQUIRED.—The Secretary of Defense shall establish the policy of the Department of Defense on the role of military medical and behavioral science personnel in the interrogation of persons detained by the Armed Forces. The policy shall apply uniformly throughout the Armed Forces.

(b) REPORT.—Not later than March 1, 2006, the Secretary shall submit to the congressional defense committees a report on the policy established under subsection (a). The report shall set forth the policy, and shall include such additional matters on the policy as the Secretary considers appropriate.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Provisions Relating to Major Defense Acquisition Programs

Sec. 801. Requirement for certification before major defense acquisition program may proceed to Milestone B.
Sec. 802. Requirements applicable to major defense acquisition programs exceeding baseline costs.
Sec. 803. Requirement for determination by Secretary of Defense and notification to Congress before procurement of major weapon systems as commercial items.
Sec. 804. Reports on significant increases in program acquisition unit costs or procurement unit costs of major defense acquisition programs.
Sec. 805. Report on use of lead system integrators in the acquisition of major systems.
Sec. 806. Congressional notification of cancellation of major automated information systems.

Subtitle B—Acquisition Policy and Management

Sec. 811. Internal controls for procurements on behalf of the Department of Defense.
Sec. 812. Management structure for the procurement of contract services.
Sec. 813. Report on service surcharges for purchases made for military departments through other Department of Defense agencies.
Sec. 814. Review of defense acquisition structures and capabilities.
Sec. 815. Modification of requirements applicable to contracts authorized by law for certain military materiel.
Sec. 816. Guidance on use of tiered evaluations of offers for contracts and task orders under contracts.
Sec. 817. Joint policy on contingency contracting.
Sec. 818. Acquisition strategy for commercial satellite communication services.
Sec. 819. Authorization of evaluation factor for defense contractors employing or subcontracting with members of the Selected Reserve of the reserve components of the Armed Forces.

Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

Sec. 821. Participation by Department of Defense in acquisition workforce training fund.
Sec. 822. Increase in cost accounting standard threshold.
Sec. 823. Modification of authority to carry out certain prototype projects.
Sec. 824. Increased limit applicable to assistance provided under certain procurement technical assistance programs.

Subtitle D—United States Defense Industrial Base Provisions

Sec. 831. Clarification of exception from Buy American requirements for procurement of perishable food for establishments outside the United States.
Sec. 832. Training for defense acquisition workforce on the requirements of the Berry Amendment.
Sec. 833. Amendments to domestic source requirements relating to clothing materials and components covered.

Subtitle E—Other Matters

Sec. 841. Review and report on Department of Defense efforts to identify contract fraud, waste, and abuse.
Sec. 842. Extension of contract goal for small disadvantaged businesses and certain institutions of higher education.
Sec. 843. Extension of deadline for report of advisory panel on laws and regulations on acquisition practices.
Sec. 844. Exclusion of certain security expenses from consideration for purpose of small business size standards.

Sec. 845. Disaster relief for small business concerns damaged by drought.
Sec. 846. Extension of limited acquisition authority for the commander of the United States Joint Forces Command.
Sec. 847. Civilian Board of Contract Appeals.
Sec. 848. Statement of policy and report relating to contracting with employers of persons with disabilities.
Sec. 849. Study on Department of Defense contracting with small business concerns owned and controlled by service-disabled veterans.

Subtitle A—Provisions Relating to Major Defense Acquisition Programs

SEC. 801. REQUIREMENT FOR CERTIFICATION BEFORE MAJOR DEFENSE ACQUISITION PROGRAM MAY PROCEED TO MILESTONE B.

(a) CERTIFICATION REQUIREMENT.—Chapter 139 of title 10, United States Code, is amended by inserting after section 2366 the following new section:

"§2366a. Major defense acquisition programs: certification required before Milestone B or Key Decision Point B approval

"(a) CERTIFICATION.—A major defense acquisition program may not receive Milestone B approval, or Key Decision Point B approval in the case of a space program, until the milestone decision authority certifies that—

"(1) the technology in the program has been demonstrated in a relevant environment;

"(2) the program demonstrates a high likelihood of accomplishing its intended mission;

"(3) the program is affordable when considering the per unit cost and the total acquisition cost in the context of the total resources available during the period covered by the future-years defense program submitted during the fiscal year in which the certification is made;

"(4) the Department of Defense has completed an analysis of alternatives with respect to the program;

"(5) the program is affordable when considering the ability of the Department of Defense to accomplish the program's mission using alternative systems;

"(6) the Joint Requirements Oversight Council has accomplished its duties with respect to the program pursuant to section 181(b) of this title, including an analysis of the operational requirements for the program; and

"(7) the program complies with all relevant policies, regulations, and directives of the Department of Defense.

"(b) SUBMISSION TO CONGRESS.—The certification required under subsection (a) with respect to a major defense acquisition program shall be submitted to the congressional defense committees with the first Selected Acquisition Report submitted under section 2432 of this title after completion of the certification.

"(c) WAIVER FOR NATIONAL SECURITY.—The milestone decision authority may waive the applicability to a major defense acquisition program of one or more components (as specified in paragraph (1), (2), (3), (4), (5), or (6) of subsection (a)) of the certification requirement if the milestone decision authority determines that, but for such a waiver, the Department would be unable to meet critical national security objectives. Whenever the milestone decision authority makes such a determination and authorizes such a waiver, the waiver, the determination, and the reasons for the determination shall be submitted in writing to the congressional defense committees within 30 days after the waiver is authorized.

"(d) NONDELEGATION.—The milestone decision authority may not delegate the certification requirement under subsection (a) or the authority to waive any component of such requirement under subsection (c).

"(e) DEFINITIONS.—In this section:

"(1) The term 'major defense acquisition program' means a Department of Defense acquisition program that is a major defense acquisition program for purposes of section 2430 of this title.

"(2) The term 'milestone decision authority', with respect to a major defense acquisition program, means the individual within the Department of Defense designated with overall responsibility for the program.

"(3) The term 'Milestone B approval' has the meaning provided that term in section 2366(e)(7) of this title.

"(4) The term 'Key Decision Point B' means the official program initiation of a National Security Space program of the Department of Defense, which triggers a formal review to determine maturity of technology and the program's readiness to begin the preliminary system design.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2366 the following new item:

"2366a. Major defense acquisition programs: certification required before Milestone B approval or Key Decision Point B approval.".

SEC. 802. REQUIREMENTS APPLICABLE TO MAJOR DEFENSE ACQUISITION PROGRAMS EXCEEDING BASELINE COSTS.

(a) SPECIFICATION OF SIGNIFICANT COST GROWTH THRESHOLD AND CRITICAL COST GROWTH THRESHOLD.—Subsection (a) of section 2433 of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(4) The term 'significant cost growth threshold' means the following:

"(A) In the case of a major defense acquisition program, a percentage increase in the program acquisition unit cost for the program of—

"(i) at least 15 percent over the program acquisition unit cost for the program as shown in the current Baseline Estimate for the program; or

"(ii) at least 30 percent over the program acquisition unit cost for the program as shown in the original Baseline Estimate for the program.

"(B) In the case of a major defense acquisition program that is a procurement program, a percentage increase in the procurement unit cost for the program of—

"(i) at least 15 percent over the procurement unit cost for the program as shown in the current Baseline Estimate for the program; or

"(ii) at least 30 percent over the procurement unit cost for the program as shown in the original Baseline Estimate for the program.

"(5) The term 'critical cost growth threshold' means the following:

"(A) In the case of a major defense acquisition program, a percentage increase in the program acquisition unit cost for the program of—

"(i) at least 25 percent over the program acquisition unit cost for the program as shown in the current Baseline Estimate for the program; or

"(ii) at least 50 percent over the program acquisition unit cost for the program as shown in the original Baseline Estimate for the program.

"(B) In the case of a major defense acquisition program that is a procurement program, a percentage increase in the procurement unit cost for the program of—

"(i) at least 25 percent over the procurement unit cost for the program as shown in the current Baseline Estimate for the program; or

"(ii) at least 50 percent over the procurement unit cost for the program as shown in the original Baseline Estimate for the program.".

(b) INCORPORATION OF THRESHOLDS INTO UNIT COST REPORT AND RELATED REQUIREMENTS.—

(1) UNIT COST REPORT REQUIREMENTS.—Subsection (c) of such section is amended by striking "cause to believe—" and all that follows through "reflected in the Baseline Estimate;" and inserting "cause to believe that the program acquisition unit cost for the program or the procurement unit cost for the program, as applicable, has increased by a percentage equal to or greater than the significant cost growth threshold for the program;".

(2) DETERMINATIONS OF SERVICE ACQUISITION EXECUTIVES.—Subsection (d) of such section is amended—

(A) in paragraph (1), by striking "by at least 15 percent, or by at least 25 percent, over the program acquisition unit cost for the program as shown in the Baseline Estimate" and inserting "by a percentage equal to or greater than the significant cost growth threshold, or the critical cost growth threshold, for the program";

(B) in paragraph (2), by striking "by at least 15 percent, or by at least 25 percent, over the procurement unit cost for the program as reflected in the Baseline Estimate" and inserting "by a percentage equal to or greater than the significant cost growth threshold, or the critical cost growth threshold, for the program"; and

(C) in paragraph (3)—

(i) by striking "by at least 15 percent, or by at least 25 percent, as determined under paragraph (1)" and inserting "by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold"; and

(ii) by striking "by at least 15 percent, or by at least 25 percent, as determined under paragraph (2)" and inserting "by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold".

(3) SERVICE ACQUISITION REPORTS.—Subsection (e) of such section is amended—

(A) in paragraph (1)(A), by striking "by at least 15 percent" and inserting "by a percentage equal to or greater than the significant cost growth threshold for the program";

(B) in paragraph (2)—

(i) by striking "percentage increase in the" and

(ii) by striking "exceeds 25 percent" and inserting "increases by a percentage equal to or greater than the critical cost growth threshold for the program"; and

(C) in paragraph (3)—

(i) by striking "of at least 15 percent" both places it appears and inserting "by a percentage equal to or greater than the significant cost growth threshold"; and

(ii) by striking "of at least 25 percent" both places it appears and inserting "by a percentage equal to or greater than the critical cost growth threshold".

(c) ADDITIONAL REQUIREMENTS RELATING TO CERTAIN UNIT COST INCREASES.—Paragraph (2) of subsection (e) of such section is further amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking "the Secretary of Defense" and all that follows through "a written certification, stating that—" and inserting "the Secretary of Defense shall—

"(A) carry out an assessment of—

"(i) the projected cost of completing the program if current requirements are not modified;

"(ii) the projected cost of completing the program based on reasonable modification of such requirements; and

"(iii) the rough order of magnitude of the costs of any reasonable alternative system or capability;

"(B) submit to Congress, before the end of the 60-day period beginning on the day the Selected Acquisition Report containing the information described in subsection (g) is required to be submitted under section 2432(f) of this title, a written certification (with a supporting explanation) stating that—".

(d) Original Baseline Estimate.—

(1) In general.—Section 2435 of title 10, United States Code, is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection (d):

"(d) Original Baseline Estimate.—(1) In this chapter, the term 'original Baseline Estimate', with respect to a major defense acquisition program, means the baseline description established with respect to the program under subsection (a), without adjustment or revision (except as provided in paragraph (2)).

"(2) An adjustment or revision of the original baseline description of a major defense acquisition program may be treated as the original Baseline Estimate for the program for purposes of this chapter only if the percentage increase in the program acquisition unit cost or procurement unit cost under such adjustment or revision exceeds the critical cost growth threshold for the program under section 2433 of this title, as determined by the Secretary of the military department concerned under subsection (d) of such section.

"(3) In the event of an adjustment or revision of the original baseline description of a major defense acquisition program, the Secretary of Defense shall include in the next Selected Acquisition Report to be submitted under section 2432 of this title after such adjustment or revision a notification to the congressional defense committees of such adjustment or revision, together with the reasons for such adjustment or revision.".

(2) Conforming amendment.—Section 2433(a) of such title, as amended by subsection (a) of this section, is further amended by adding at the end the following new paragraph:

"(6) The term 'original Baseline Estimate' has the same meaning as provided in section 2435(d) of this title.".

(e) Effective Date.—

(1) In general.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to any major defense acquisition program for which an original Baseline Estimate is first established before, on, or after that date.

(2) Applicability to current major defense acquisition programs.—In the case of a major defense acquisition program for which the program acquisition unit cost or procurement unit cost, as applicable, exceeds the original Baseline Estimate for the program by more than 50 percent on the date of the enactment of this Act—

(A) the current Baseline Estimate for the program as of such date of enactment is deemed to be the original Baseline Estimate for the program for purposes of section 2433 of title 10, United States Code (as amended by this section); and

(B) each Selected Acquisition Report submitted on the program after the date of the enactment of this Act shall reflect each of the following:

(i) The original Baseline Estimate, as first established for the program, without adjustment or revision.

(ii) The Baseline Estimate for the program that is deemed to be the original Baseline Estimate for the program under subparagraph (A).

(iii) The current original Baseline Estimate for the program as adjusted or revised, if at all, in accordance with subsection (d)(2) of section 2435 of title 10, United States Code (as added by subsection (d) of this section).

SEC. 803. REQUIREMENT FOR DETERMINATION BY SECRETARY OF DEFENSE AND NOTIFICATION TO CONGRESS BEFORE PROCUREMENT OF MAJOR WEAPON SYSTEMS AS COMMERCIAL ITEMS.

(a) Requirement for Determination and Notification.—

(1) In general.—Chapter 140 of title 10, United States Code, is amended by adding at the end the following new section:

"§2379. Requirement for determination by Secretary of Defense and notification to Congress before procurement of major weapon systems as commercial items

"(a) Requirement for Determination and Notification.—A major weapon system of the Department of Defense may be treated as a commercial item, or purchased under procedures established for the procurement of commercial items, only if—

"(1) the Secretary of Defense determines that—

"(A) the major weapon system is a commercial item, as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)); and

"(B) such treatment is necessary to meet national security objectives; and

"(2) the congressional defense committees are notified at least 30 days before such treatment or purchase occurs.

"(b) Treatment of Subsystems and Components as Commercial Items.—A subsystem or component of a major weapon system shall be treated as a commercial item and purchased under procedures established for the procurement of commercial items if such subsystem or component otherwise meets the requirements (other than requirements under subsection (a)) for treatment as a commercial item.

"(c) Delegation.—The authority of the Secretary of Defense to make a determination under subsection (a) may be delegated only to the Deputy Secretary of Defense, without further redelegation.

"(d) Major Weapon System Defined.—In this section, the term 'major weapon system' means a weapon system acquired pursuant to a major defense acquisition program (as that term is defined in section 2430 of this title).".

(2) Clerical amendment.—The table of sections at the beginning of chapter 140 of such title is amended by adding at the end the following new item:

"2379. Requirement for determination by Secretary of Defense and notification to Congress before procurement of major weapon systems as commercial items.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to contracts entered into on or after such date.

SEC. 804. REPORTS ON SIGNIFICANT INCREASES IN PROGRAM ACQUISITION UNIT COSTS OR PROCUREMENT UNIT COSTS OF MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) Initial Report Required.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the acquisition status of each major defense acquisition program whose program acquisition unit cost or procurement unit cost, as of the date of the enactment of this Act, has exceeded by more than 50 percent the original baseline projection for such unit cost. The report shall include the information specified in subsection (b).

(b) Information.—The information specified in this subsection with respect to a major defense acquisition program is the following:

(1) An assessment of the costs to be incurred to complete the program if the program is not modified.

(2) An explanation of why the costs of the program have increased.

(3) A justification for the continuation of the program notwithstanding the increase in costs.

(c) Major Defense Acquisition Program Defined.—In this section, the term "major defense acquisition program" has the meaning given that term in section 2430 of title 10, United States Code.

SEC. 805. REPORT ON USE OF LEAD SYSTEM INTEGRATORS IN THE ACQUISITION OF MAJOR SYSTEMS.

(a) Report Required.—Not later than September 30, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the use of lead system integrators for the acquisition by the Department of Defense of major systems.

(b) Contents.—The report required by subsection (a) shall include a detailed description of the actions taken, or to be taken (including a specific timetable), and the current regulations and guidelines regarding—

(1) the definition of the respective rights of the Department of Defense, lead system integrators, and other contractors that participate in the development or production of any individual element of a major weapon system (including subcontractors under lead system integrators) in intellectual property that is developed by the other participating contractors in a manner that ensures that—

(A) the Department of Defense obtains appropriate rights in technical data developed by the other participating contractors in accordance with the requirements of section 2320 of title 10, United States Code; and

(B) lead system integrators obtain access to technical data developed by the other participating contractors only to the extent necessary to execute their contractual obligations as lead systems integrators;

(2) the prevention or mitigation of organizational conflicts of interest on the part of lead system integrators;

(3) minimization of the performance by lead system integrators of functions closely associated with inherently governmental functions;

(4) the appropriate use of competitive procedures in the award of subcontracts by lead system integrators with system responsibility;

(5) the prevention of organizational conflicts of interest arising out of any financial interest of lead system integrators without system responsibility in the development or production of individual elements of a major weapon system; and

(6) the prevention of pass-through charges by lead system integrators with system responsibility on systems or subsystems developed or produced under subcontracts where such lead system integrators do not provide significant value added with regard to such systems or subsystems.

(c) Definitions.—In this section:

(1) The term "lead system integrator" includes lead system integrators with system responsibility and lead system integrators without system responsibility.

(2) The term "lead system integrator with system responsibility" means a prime contractor for the development or production of a major system if the prime contractor is not expected at the time of award, as determined by the Secretary of Defense for purposes of this section, to perform a substantial portion of the work on the system and the major subsystems.

(3) The term "lead system integrator without system responsibility" means a contractor under a contract for the procurement of services whose primary purpose is to perform acquisition functions closely associated with inherently governmental functions with regard to the development or production of a major system.

(4) The term "major system" has the meaning given such term in section 2302d of title 10, United States Code.

(5) The term "pass-through charge" means a charge for overhead or profit on work performed

by a lower-tier contractor (other than charges for the direct costs of managing lower-tier contracts and overhead and profit based on such direct costs) that does not, as determined by the Secretary for purposes of this section, promote significant value added with regard to such work.

(6) The term "functions closely associated with inherently governmental functions" has the meaning given such term in section 2383(b)(3) of title 10, United States Code.

SEC. 806. CONGRESSIONAL NOTIFICATION OF CANCELLATION OF MAJOR AUTOMATED INFORMATION SYSTEMS.

(a) REPORT REQUIRED.—The Secretary of Defense shall notify the congressional defense committees not less than 60 days before cancelling a major automated information system program that has been fielded or approved to be fielded, or making a change that will significantly reduce the scope of such a program, of the proposed cancellation or change.

(b) CONTENT.—Each notification submitted under subsection (a) with respect to a proposed cancellation or change shall include—

(1) the specific justification for the proposed cancellation or change;

(2) a description of the impact of the proposed cancellation or change on the ability of the Department to achieve the objectives of the program proposed for cancellation or change;

(3) a description of the steps that the Department plans to take to achieve those objectives; and

(4) other information relevant to the change in acquisition strategy.

(c) DEFINITIONS.—In this section:

(1) The term "major automated information system" has the meaning given that term in Department of Defense directive 5000.1.

(2) The term "approved to be fielded" means having received Milestone C approval.

Subtitle B—Acquisition Policy and Management

SEC. 811. INTERNAL CONTROLS FOR PROCUREMENTS ON BEHALF OF THE DEPARTMENT OF DEFENSE.

(a) INSPECTOR GENERAL REVIEWS AND DETERMINATIONS.—

(1) IN GENERAL.—For each covered non-defense agency, the Inspector General of the Department of Defense and the Inspector General of such non-defense agency shall, not later than March 15, 2006, jointly—

(A) review—

(i) the procurement policies, procedures, and internal controls of such non-defense agency that are applicable to the procurement of property and services on behalf of the Department by such non-defense agency; and

(ii) the administration of those policies, procedures, and internal controls; and

(B) determine in writing whether—

(i) such non-defense agency is compliant with defense procurement requirements;

(ii) such non-defense agency is not compliant with defense procurement requirements, but has a program or initiative to significantly improve compliance with defense procurement requirements; or

(iii) neither of the conclusions stated in clauses (i) and (ii) is correct in the case of such non-defense agency.

(2) ACTIONS FOLLOWING CERTAIN DETERMINATIONS.—If the Inspectors General determine under paragraph (1) that the conclusion stated in clause (ii) or (iii) of subparagraph (B) of that paragraph is correct in the case of a covered non-defense agency, such Inspectors General shall, not later than June 15, 2007, jointly—

(A) conduct a second review, as described in subparagraph (A) of that paragraph, regarding such non-defense agency's procurement of property or services on behalf of the Department of Defense in fiscal year 2006; and

(B) determine in writing whether such non-defense agency is or is not compliant with defense procurement requirements.

(b) COMPLIANCE WITH DEFENSE PROCUREMENT REQUIREMENTS.—For the purposes of this section, a covered non-defense agency is compliant with defense procurement requirements if such non-defense agency's procurement policies, procedures, and internal controls applicable to the procurement of products and services on behalf of the Department of Defense, and the manner in which they are administered, are adequate to ensure such non-defense agency's compliance with the requirements of laws and regulations that apply to procurements of property and services made directly by the Department of Defense.

(c) MEMORANDA OF UNDERSTANDING BETWEEN INSPECTORS GENERAL.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Inspector General of the Department of Defense and the Inspector General of each covered non-defense agency shall enter into a memorandum of understanding with each other to carry out the reviews and make the determinations required by this section.

(2) SCOPE OF MEMORANDA.—The Inspector General of the Department of Defense and the Inspector General of a covered non-defense agency may by mutual agreement conduct separate reviews of the procurement of property and services on behalf of the Department of Defense that are conducted by separate business units, or under separate governmentwide acquisition contracts, of such non-defense agency. In any case where such separate reviews are conducted, the Inspectors General shall make separate determinations under paragraph (1) or (2) of subsection (a), as applicable, with respect to each such separate review.

(d) LIMITATIONS ON PROCUREMENTS ON BEHALF OF DEPARTMENT OF DEFENSE.—

(1) LIMITATION DURING REVIEW PERIOD.—After March 15, 2006, and before June 16, 2007, no official of the Department of Defense may, except as provided in subsection (e) or (f), order, purchase, or otherwise procure property or services in an amount in excess of $100,000 through a covered non-defense agency for which a determination described in paragraph (1)(B)(iii) of subsection (a) has been made under that subsection.

(2) LIMITATION AFTER REVIEW PERIOD.—After June 15, 2007, no official of the Department of Defense may, except as provided in subsection (e) or (f), order, purchase, or otherwise procure property or services in an amount in excess of $100,000 through a covered non-defense agency that, having been subject to review under this section, has not been determined under this section as being compliant with defense procurement requirements.

(3) LIMITATION FOLLOWING FAILURE TO REACH MOU.—Commencing on the date that is 60 days after the date of the enactment of this Act, if a memorandum of understanding between the Inspector General of the Department of Defense and the Inspector General of a covered non-defense agency cannot be attained causing the review required by this section to not be performed, no official of the Department of Defense, except as provided in subsection (e) or (f), may order, purchase or otherwise procure property or services in an amount in excess of $100,000 through such non-defense agency.

(e) EXCEPTION FROM APPLICABILITY OF LIMITATIONS.—

(1) EXCEPTION.—No limitation applies under subsection (d) with respect to the procurement of property and services on behalf of the Department of Defense by a covered non-defense agency during any period that there is in effect a determination of the Under Secretary of Defense for Acquisition, Technology, and Logistics, made in writing, that it is necessary in the interest of the Department of Defense to continue to procure property and services through such non-defense agency.

(2) APPLICABILITY OF DETERMINATION.—A written determination with respect to a covered non-defense agency under paragraph (1) is in effect for the period, not in excess of one year, that the Under Secretary shall specify in the written determination. The Under Secretary may extend from time to time, for up to one year at a time, the period for which the written determination remains in effect.

(f) TERMINATION OF APPLICABILITY OF LIMITATIONS.—Subsection (d) shall cease to apply to a covered non-defense agency on the date on which the Inspector General of the Department of Defense and the Inspector General of such non-defense agency jointly—

(1) determine that such non-defense agency is compliant with defense procurement requirements; and

(2) notify the Secretary of Defense of that determination.

(g) IDENTIFICATION OF PROCUREMENTS MADE DURING A PARTICULAR FISCAL YEAR.—For the purposes of subsection (a), a procurement shall be treated as being made during a particular fiscal year to the extent that funds are obligated by the Department of Defense for that procurement in that fiscal year.

(h) DEFINITIONS.—In this section:

(1) The term "covered non-defense agency" means each of the following:

(A) The Department of the Treasury.

(B) The Department of the Interior.

(C) The National Aeronautics and Space Administration.

(2) The term "governmentwide acquisition contract", with respect to a covered non-defense agency, means a task or delivery order contract that—

(A) is entered into by the non-defense agency; and

(B) may be used as the contract under which property or services are procured for 1 or more other departments or agencies of the Federal Government.

SEC. 812. MANAGEMENT STRUCTURE FOR THE PROCUREMENT OF CONTRACT SERVICES.

(a) MANAGEMENT STRUCTURE.—

(1) IN GENERAL.—Section 2330 of title 10, United States Code, is amended to read as follows:

"§2330. Procurement of contract services: management structure

"(a) REQUIREMENT FOR MANAGEMENT STRUCTURE.—The Secretary of Defense shall establish and implement a management structure for the procurement of contract services for the Department of Defense. The management structure shall provide, at a minimum, for the following:

"(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall—

"(A) develop and maintain (in consultation with the service acquisition executives) policies, procedures, and best practices guidelines addressing the procurement of contract services, including policies, procedures, and best practices guidelines for—

"(i) acquisition planning;

"(ii) solicitation and contract award;

"(iii) requirements development and management;

"(iv) contract tracking and oversight;

"(v) performance evaluation; and

"(vi) risk management;

"(B) work with the service acquisition executives and other appropriate officials of the Department of Defense—

"(i) to identify the critical skills and competencies needed to carry out the procurement

of contract services on behalf of the Department of Defense;

"(ii) to develop a comprehensive strategy for recruiting, training, and deploying employees to meet the requirements for such skills and competencies; and

"(iii) to ensure that the military departments and Defense Agencies have staff and administrative support that are adequate to effectively perform their duties under this section;

"(C) establish contract services acquisition categories, based on dollar thresholds, for the purpose of establishing the level of review, decision authority, and applicable procedures in such categories; and

"(D) oversee the implementation of the requirements of this section and the policies, procedures, and best practices guidelines established pursuant to subparagraph (A).

"(2) The service acquisition executive of each military department shall be the senior official responsible for the management of acquisition of contract services for or on behalf of the military department.

"(3) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall be the senior official responsible for the management of acquisition of contract services for or on behalf of the Defense Agencies and other components of the Department of Defense outside the military departments.

"(b) DUTIES AND RESPONSIBILITIES OF SENIOR OFFICIALS RESPONSIBLE FOR THE MANAGEMENT OF ACQUISITION OF CONTRACT SERVICES.—(1) Except as provided in paragraph (2), the senior officials responsible for the management of acquisition of contract services shall assign responsibility for the review and approval of procurements in each contract services acquisition category established under subsection (a)(1)(C) to specific Department of Defense officials, subject to the direction, supervision, and oversight of such senior officials.

"(2) With respect to the acquisition of contract services by a component or command of the Department of Defense the primary mission of which is the acquisition of products and services, such acquisition shall be conducted in accordance with policies, procedures, and best practices guidelines developed and maintained by the Under Secretary of Defense for Acquisition, Technology, and Logistics pursuant to subsection (a)(1), subject to oversight by the senior officials referred to in paragraph (1).

"(3) In carrying out paragraph (1), each senior official responsible for the management of acquisition of contract services shall—

"(A) implement the requirements of this section and the policies, procedures, and best practices guidelines developed by the Under Secretary of Defense for Acquisition, Technology, and Logistics pursuant to subsection (a)(1)(A);

"(B) authorize the procurement of contract services through contracts entered into by agencies outside the Department of Defense in appropriate circumstances, in accordance with the requirements of section 854 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (10 U.S.C. 2304 note), section 814 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (31 U.S.C. 1535 note), and the regulations implementing such sections;

"(C) dedicate full-time commodity managers to coordinate the procurement of key categories of services;

"(D) ensure that contract services are procured by means of procurement actions that are in the best interests of the Department of Defense and are entered into and managed in compliance with applicable laws, regulations, directives, and requirements;

"(E) ensure that competitive procedures and performance-based contracting are used to the maximum extent practicable for the procurement of contract services; and

"(F) monitor data collection under section 2330a of this title, and periodically conduct spending analyses, to ensure that funds expended for the procurement of contract services are being expended in the most rational and economical manner practicable.

"(c) DEFINITIONS.—In this section:

"(1) The term 'procurement action' includes the following actions:

"(A) Entry into a contract or any other form of agreement.

"(B) Issuance of a task order, delivery order, or military interdepartmental purchase request.

"(2) The term 'contract services' includes all services acquired from private sector entities by or for the Department of Defense, other than services relating to research and development or military construction.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking the item relating to section 2330 and inserting the following new item:

"2330. Procurement of contract services: management structure.".

(b) PHASED IMPLEMENTATION.—The requirements of section 2330 of title 10, United States Code (as added by subsection (a)), shall be implemented as follows:

'(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall—

(A) establish an initial set of contract services acquisition categories, based on dollar thresholds, by not later than June 1, 2006; and

(B) issue an initial set of policies, procedures, and best practices guidelines in accordance with section 2330(a)(1)(A) by not later than October 1, 2006.

(2) The contract services acquisition categories established by the Under Secretary shall include—

(A) one or more categories for acquisitions with an estimated value of $250,000,000 or more;

(B) one or more categories for acquisitions with an estimated value of at least $10,000,000 but less than $250,000,000; and

(C) one or more categories for acquisitions with an estimated value greater than the simplified acquisition threshold but less than $10,000,000.

(3) The senior officials responsible for the management of acquisition of contract services shall assign responsibility to specific individuals in the Department of Defense for the review and approval of procurements in the contract services acquisition categories established by the Under Secretary, as follows:

(A) Not later than October 1, 2006, for all categories established pursuant to paragraph (2)(A).

(B) Not later than October 1, 2007, for all categories established pursuant to paragraph (2)(B).

(C) Not later than October 1, 2009, for all categories established pursuant to paragraph (2)(C).

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a final report on the implementation of section 2330 of title 10, United States Code, as added by this section.

SEC. 813. REPORT ON SERVICE SURCHARGES FOR PURCHASES MADE FOR MILITARY DEPARTMENTS THROUGH OTHER DEPARTMENT OF DEFENSE AGENCIES.

(a) REPORTS BY MILITARY DEPARTMENTS.—For each of fiscal years 2005 and 2006, the Secretary of each military department shall, not later than 180 days after the last day of that fiscal year, submit to the Under Secretary of Defense for Acquisition, Technology, and Logistics a report on the service charges imposed on such military department for purchases in amounts greater than the simplified acquisition threshold that were made for that military department during such fiscal year through a contract entered into by an agency of the Department of Defense other than that military department. The report shall specify the amounts of the service charges and identify the services provided in exchange for such charges.

(b) ANALYSIS OF MILITARY DEPARTMENT REPORT.—Not later than 90 days after receiving a report of the Secretary of a military department for a fiscal year under subsection (a), the Under Secretary of Defense for Acquisition, Technology, and Logistics shall review the service charges delineated in such report for the acquisitions covered by the report and the services provided in exchange for such charges and shall compare those charges with the costs of alternative means for making such acquisitions. The analysis shall include the Under Secretary's determinations of whether the imposition and amounts of the service charges were reasonable.

(c) REPORTS TO CONGRESS.—Not later than October 1, 2006 (for reports for fiscal year 2005 under subsection (a)), and not later than October 1, 2007 (for reports for fiscal year 2006 under subsection (a)), the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report on the reports submitted by the Secretaries of the military departments under subsection (a), together with the Under Secretary's determinations under subsection (b) with regard to the matters set forth in those reports.

(d) SIMPLIFIED ACQUISITION THRESHOLD DEFINED.—In this section, the term "simplified acquisition threshold" has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

SEC. 814. REVIEW OF DEFENSE ACQUISITION STRUCTURES AND CAPABILITIES.

(a) REVIEW BY DEFENSE ACQUISITION UNIVERSITY.—The Defense Acquisition University, acting under the direction and authority of the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall conduct a review of the acquisition structures and capabilities of the Department of Defense, including the acquisition structures and capabilities of the following:

(1) Each military department.

(2) Each defense agency.

(3) Any other element of the Department of Defense that has an acquisition function.

(b) ELEMENTS OF REVIEW.—

(1) IN GENERAL.—In reviewing the acquisition structures and capabilities of an organization under subsection (a), the Defense Acquisition University shall—

(A) determine the current structure of the organization;

(B) review the evolution of the current structure of the organization, including the reasons for each reorganization of the structure;

(C) identify the capabilities needed by the organization to fulfill its function and assess the capacity of the organization, as currently structured, to provide such capabilities;

(D) identify any gaps, shortfalls, or inadequacies relating to acquisitions in the current structures and capabilities of the organization;

(E) identify any recruiting, retention, training, or professional development steps that may be needed to address any such gaps, shortfalls, or inadequacies; and

(F) make such recommendations as the review team determines to be appropriate.

(2) EMPHASIS IN REVIEW.—In conducting the review of acquisition structures and capabilities under subsection (a), the University shall place special emphasis on consideration of—

(A) structures, capabilities, and processes for joint acquisition, including actions that may be needed to improve such structures, capabilities, and processes; and

(B) actions that may be needed to improve acquisition outcomes.

(c) FUNDING.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall provide the Defense Acquisition University the funds required to conduct the review under subsection (a).

(d) REPORT ON REVIEW.—

(1) IN GENERAL.—Not later than 180 days after the completion of the review required by subsection (a), the University shall submit to the Under Secretary of Defense for Acquisition, Technology, and Logistics a report on the review.

(2) ANNEX.—The report shall include a separate annex on the acquisition structures and capabilities on each organization covered by the review. The annex—

(A) shall address the matters specified under subsection (b) with respect to such organization; and

(B) may include such recommendations with respect to such organization as the University considers appropriate.

(3) TRANSMITTAL OF FINAL REPORT.—Not later than 90 days after the receipt of the report under paragraph (1), the Under Secretary shall transmit to the congressional defense committees a copy of the report, together with the comments of the Under Secretary on the report.

(e) DEFENSE ACQUISITION UNIVERSITY DEFINED.—In this section, the term "Defense Acquisition University" means the Defense Acquisition University established pursuant to section 1746 of title 10, United States Code.

SEC. 815. MODIFICATION OF REQUIREMENTS APPLICABLE TO CONTRACTS AUTHORIZED BY LAW FOR CERTAIN MILITARY MATERIEL.

(a) INCLUSION OF COMBAT VEHICLES UNDER REQUIREMENTS.—Section 2401 of title 10, United States Code, is amended—

(1) by striking "vessel or aircraft" each place it appears and inserting "vessel, aircraft, or combat vehicle";

(2) in subsection (c), by striking "aircraft or naval vessel" each place it appears and inserting "aircraft, naval vessel, or combat vehicle";

(3) in subsection (e), by striking "aircraft or naval vessels" each place it appears and inserting "aircraft, naval vessels, or combat vehicles"; and

(4) in subsection (f)—

(A) by striking "aircraft and naval vessels" and inserting "aircraft, naval vessels, and combat vehicles"; and

(B) by striking "such aircraft and vessels" and inserting "such aircraft, vessels, and combat vehicles".

(b) ADDITIONAL INFORMATION FOR CONGRESS.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) the Secretary has certified to those committees—

"(i) that entering into the proposed contract as a means of obtaining the vessel, aircraft, or combat vehicle is the most cost-effective means of obtaining such vessel, aircraft, or combat vehicle; and

"(ii) that the Secretary has determined that the lease complies with all applicable laws, Office of Management and Budget circulars, and Department of Defense regulations."; and

(2) by adding at the end the following new paragraphs:

"(3) Upon receipt of a notice under paragraph (1)(C), a committee identified in paragraph (1)(B) may request the Inspector General of the Department of Defense or the Comptroller General of the United States to conduct a review of the proposed contract to determine whether or not such contract meets the requirements of this section.

"(4) If a review is requested under paragraph (3), the Inspector General of the Department of Defense or the Comptroller General of the United States, as the case may be, shall submit to the Secretary and the congressional defense committees a report on such review before the expiration of the period specified in paragraph (1)(C).".

(c) APPLICABILITY OF ACQUISITION REGULATIONS.—Such section is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f)(1) If a lease or charter covered by this section is a capital lease or a lease-purchase—

"(A) the lease or charter shall be treated as an acquisition and shall be subject to all applicable statutory and regulatory requirements for the acquisition of aircraft, naval vessels, or combat vehicles; and

"(B) funds appropriated to the Department of Defense for operation and maintenance may not be obligated or expended for the lease or charter.

"(2) In this subsection, the terms 'capital lease' and 'lease-purchase' have the meanings given those terms in Appendix B to Office of Management and Budget Circular A–11, as in effect on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006.".

(d) CONFORMING AND CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

"§2401. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles".

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 141 of such title is amended by striking the item relating to section 2401 and inserting the following new item:

"2401. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles.".

SEC. 816. GUIDANCE ON USE OF TIERED EVALUATIONS OF OFFERS FOR CONTRACTS AND TASK ORDERS UNDER CONTRACTS.

(a) GUIDANCE REQUIRED.—The Secretary of Defense shall prescribe guidance for the military departments and the Defense Agencies on the use of tiered evaluations of offers for contracts and for task or delivery orders under contracts.

(b) ELEMENTS.—The guidance prescribed under subsection (a) shall include a prohibition on the initiation by a contracting officer of a tiered evaluation of an offer for a contract or for a task or delivery order under a contract unless the contracting officer—

(1) has conducted market research in accordance with part 10 of the Federal Acquisition Regulation in order to determine whether or not a sufficient number of qualified small businesses are available to justify limiting competition for the award of such contract or task or delivery order under applicable law and regulations;

(2) is unable, after conducting market research under paragraph (1), to make the determination described in that paragraph; and

(3) includes in the contract file a written explanation of why such contracting officer was unable to make such determination.

SEC. 817. JOINT POLICY ON CONTINGENCY CONTRACTING.

(a) JOINT POLICY.—

(1) REQUIREMENT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall develop a joint policy for contingency contracting during combat operations and post-conflict operations.

(2) MATTERS COVERED.—The joint policy for contingency contracting required by paragraph (1) shall, at a minimum, provide for—

(A) the designation of a senior commissioned officer in each military department with the responsibility for administering the policy;

(B) the assignment of a senior commissioned officer with appropriate acquisition experience and qualifications to act as head of contingency contracting during combat operations, post-conflict operations, and contingency operations, who shall report directly to the commander of the combatant command in whose area of responsibility the operations occur;

(C) an organizational approach to contingency contracting that is designed to ensure that each military department is prepared to conduct contingency contracting during combat operations and post-conflict operations;

(D) a requirement to provide training (including training under a program to be created by the Defense Acquisition University) to contingency contracting personnel in—

(i) the use of law, regulations, policies, and directives related to contingency contracting operations;

(ii) the appropriate use of rapid acquisition methods, including the use of exceptions to competition requirements under section 2304 of title 10, United States Code, sealed bidding, letter contracts, indefinite delivery indefinite quantity task orders, set asides under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), undefinitized contract actions, and other tools available to expedite the delivery of goods and services during combat operations or post-conflict operations;

(iii) the appropriate use of rapid acquisition authority, commanders' emergency response program funds, and other tools unique to contingency contracting; and

(iv) instruction on the necessity for the prompt transition from the use of rapid acquisition authority to the use of full and open competition and other methods of contracting that maximize transparency in the acquisition process;

(E) appropriate steps to ensure that training is maintained for such personnel even when they are not deployed in a contingency operation; and

(F) such steps as may be needed to ensure jointness and cross-service coordination in the area of contingency contracting.

(b) REPORTS.—

(1) INTERIM REPORT.—

(A) REQUIREMENT.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives an interim report on contingency contracting.

(B) MATTERS COVERED.—The report shall include discussions of the following:

(i) Progress in the development of the joint policy under subsection (a).

(ii) The ability of the Armed Forces to support contingency contracting.

(iii) The ability of commanders of combatant commands to request contingency contracting support and the ability of the military departments and the acquisition support agencies to respond to such requests and provide such support, including the availability of rapid acquisition personnel for such support.

(iv) The ability of the current civilian and military acquisition workforce to deploy to combat theaters of operations and to conduct contracting activities during combat and during post-conflict, reconstruction, or other contingency operations.

(v) The effect of different periods of deployment on continuity in the acquisition process.

(2) FINAL REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the committees listed in paragraph (1)(A) a final report on contingency contracting, containing a discussion of the implementation of the joint policy developed under subsection (a), including updated discussions of the matters covered in the interim report.

(c) DEFINITIONS.—In this section:

(1) CONTINGENCY CONTRACTING PERSONNEL.—The term "contingency contracting personnel" means members of the Armed Forces and civilian employees of the Department of Defense who are members of the defense acquisition workforce and, as part of their duties, are assigned to provide support to contingency operations (whether deployed or not).

(2) CONTINGENCY CONTRACTING.—The term "contingency contracting" means all stages of the process of acquiring property or services by the Department of Defense during a contingency operation.

(3) CONTINGENCY OPERATION.—The term "contingency operation" has the meaning provided in section 101(13) of title 10, United States Code.

(4) ACQUISITION SUPPORT AGENCIES.—The term "acquisition support agencies" means Defense Agencies and Department of Defense Field Activities that carry out and provide support for acquisition-related activities.

SEC. 818. ACQUISITION STRATEGY FOR COMMERCIAL SATELLITE COMMUNICATION SERVICES.

(a) REQUIREMENT FOR SPEND ANALYSIS.—The Secretary of Defense shall, as a part of the effort of the Department of Defense to develop a revised strategy for acquiring commercial satellite communication services, perform a complete spend analysis of the acquisitions by the Department of commercial satellite communication services for the period from fiscal year 2000 through fiscal year 2005. That analysis shall, at a minimum, include a determination of the following:

(1) Total acquisition costs in aggregate, by fiscal year, for items and services purchased.

(2) Total quantity of items and services purchased.

(3) Quantity and cost of items and services purchased by each entity from each supplier and who used the items and services purchased.

(4) Purchasing patterns that may lead to recommendations in which the Department of Defense may centralize operations, consolidate requirements, or leverage purchasing power.

(b) REPORT ON ACQUISITION STRATEGY.—

(1) IN GENERAL.—Not later than five months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the acquisition strategy of the Department of Defense for commercial satellite communications services.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A description of the spend analysis required by subsection (a), including the results of the analysis.

(B) The proposed strategy of the Department for acquiring commercial satellite communication services, which—

(i) shall be based in appropriate part on the results of the analysis required by subsection (a); and

(ii) shall take into account various methods of aggregating purchases and leveraging the purchasing power of the Department, including through the use of multiyear contracting for commercial satellite communication services.

(C) A proposal for such legislative action as the Secretary considers necessary to acquire appropriate types and amounts of commercial satellite communications services using methods of aggregating purchases and leveraging the purchasing power of the Department (including the use of multiyear contracting), or if the use of such methods is determined inadvisable, a statement of the rationale for such determination.

(D) A proposal for such other legislative action that the Secretary considers necessary to implement the strategy of the Department for acquiring commercial satellite communication services.

SEC. 819. AUTHORIZATION OF EVALUATION FACTOR FOR DEFENSE CONTRACTORS EMPLOYING OR SUBCONTRACTING WITH MEMBERS OF THE SELECTED RESERVE OF THE RESERVE COMPONENTS OF THE ARMED FORCES.

(a) DEFENSE CONTRACTS.—In awarding any contract for the procurement of goods or services to an entity, the Secretary of Defense is authorized to use as an evaluation factor whether the entity intends to carry out the contract using employees or individual subcontractors who are members of the Selected Reserve of the reserve components of the Armed Forces.

(b) DOCUMENTATION OF SELECTED RESERVE-RELATED EVALUATION FACTOR.—Any entity claiming intent to carry out a contract using employees or individual subcontractors who are members of the Selected Reserve of the reserve components of the Armed Forces shall submit proof of the use of such employees or subcontractors for the Department of Defense to consider in carrying out subsection (a) with respect to that contract.

(c) REGULATIONS.—The Federal Acquisition Regulation shall be revised as necessary to implement this section.

Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

SEC. 821. PARTICIPATION BY DEPARTMENT OF DEFENSE IN ACQUISITION WORKFORCE TRAINING FUND.

(a) REQUIRED CONTRIBUTIONS TO ACQUISITION WORKFORCE TRAINING FUND BY DEPARTMENT OF DEFENSE.—Section 37(h)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 433(h)(3)) is amended—

(1) in subparagraph (A), by striking "other than the Department of Defense" and inserting ", except as provided in subparagraph (D)" ; and

(2) by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (E), (F), (G), and (H), respectively, and inserting after subparagraph (C) the following new subparagraph (D):

"(D) The Administrator of General Services shall transfer to the Secretary of Defense fees collected from the Department of Defense pursuant to subparagraph (B), to be used by the Defense Acquisition University for purposes of acquisition workforce training.".

(b) CONFORMING AMENDMENTS.—

(1) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Section 37(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 433(a)) is amended by striking "This section" and inserting "Except as provided in subsection (h)(3), this section".

(2) PUBLIC LAW 108–136.—Section 1412 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1664) is amended by striking subsection (c).

(c) DEFENSE ACQUISITION UNIVERSITY FUNDING.—Amounts transferred under section 37(h)(3)(D) of the Office of Federal Procurement Policy Act (as amended by subsection (a)) for use by the Defense Acquisition University shall be in addition to other amounts authorized for the University.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fees collected under contracts described in section 37(h)(3)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 433(h)(3)(B)) after the date of the enactment of this Act.

SEC. 822. INCREASE IN COST ACCOUNTING STANDARD THRESHOLD.

Section 26(f)(2)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(A)) is amended by striking "$500,000" and inserting "the amount set forth in section 2306a(a)(1)(A)(i) of title 10, United States Code, as such amount is adjusted in accordance with applicable requirements of law".

SEC. 823. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.

Section 845 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amended—

(1) in subsection (a)—

(A) by striking "The Director" and inserting "(1) Subject to paragraph (2), the Director"; and

(B) by adding at the end the following new paragraphs:

"(2) The authority of this section—

"(A) may be exercised for a prototype project that is expected to cost the Department of Defense in excess of $20,000,000 but not in excess of $100,000,000 only upon a written determination by the senior procurement executive for the agency (as designated for the purpose of section 16(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(c)) that—

"(i) the requirements of subsection (d) will be met; and

"(ii) the use of the authority of this section is essential to promoting the success of the prototype project; and

"(B) may be exercised for a prototype project that is expected to cost the Department of Defense in excess of $100,000,000 only if—

"(i) the Under Secretary of Defense for Acquisition, Technology, and Logistics determines in writing that—

"(I) the requirements of subsection (d) will be met; and

"(II) the use of the authority of this section is essential to meet critical national security objectives; and

"(ii) the congressional defense committees are notified in writing at least 30 days before such authority is exercised.

"(3) The authority of a senior procurement executive under paragraph (2)(A), and the authority of the Under Secretary of Defense for Acquisition, Technology, and Logistics under paragraph (2)(B), may not be delegated.";

(2) by redesignating subsection (h) as subsection (i); and

(3) by inserting after subsection (g) the following new subsection (h):

"(h) APPLICABILITY OF PROCUREMENT ETHICS REQUIREMENTS.—An agreement entered into under the authority of this section shall be treated as a Federal agency procurement for the purposes of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423).".

SEC. 824. INCREASED LIMIT APPLICABLE TO ASSISTANCE PROVIDED UNDER CERTAIN PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS.

Section 2414(a)(2) of title 10, United States Code, is amended by striking "$150,000" and inserting "$300,000".

Subtitle D—United States Defense Industrial Base Provisions

SEC. 831. CLARIFICATION OF EXCEPTION FROM BUY AMERICAN REQUIREMENTS FOR PROCUREMENT OF PERISHABLE FOOD FOR ESTABLISHMENTS OUTSIDE THE UNITED STATES.

Section 2533a(d)(3) of title 10, United States Code, is amended by inserting ", or for," after "perishable foods by".

SEC. 832. TRAINING FOR DEFENSE ACQUISITION WORKFORCE ON THE REQUIREMENTS OF THE BERRY AMENDMENT.

(a) TRAINING DURING FISCAL YEAR 2006.—The Secretary of Defense shall ensure that each member of the defense acquisition workforce who participates personally and substantially in the acquisition of textiles on a regular basis receives training during fiscal year 2006 on the requirements of section 2533a of title 10, United States Code (commonly referred to as the "Berry Amendment"), and the regulations implementing that section.

(b) INCLUSION OF INFORMATION IN NEW TRAINING PROGRAMS.—The Secretary shall ensure that any training program developed or implemented after the date of the enactment of this Act for members of the defense acquisition workforce who participate personally and substantially in the acquisition of textiles on a regular basis includes comprehensive information on the requirements described in subsection (a).

SEC. 833. AMENDMENTS TO DOMESTIC SOURCE REQUIREMENTS RELATING TO CLOTHING MATERIALS AND COMPONENTS COVERED.

(a) NOTICE.—Section 2533a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(k) NOTIFICATION REQUIRED WITHIN 7 DAYS AFTER CONTRACT AWARD IF CERTAIN EXCEPTIONS APPLIED.—In the case of any contract for the procurement of an item described in subparagraph (B), (C), (D), or (E) of subsection (b)(1), if the Secretary of Defense or of the military department concerned applies an exception set forth in subsection (c) or (e) with respect to that contract, the Secretary shall, not later than 7 days after the award of the contract, post a notification that the exception has been applied on the Internet site maintained by the General Services Administration known as FedBizOps.gov (or any successor site).".

(b) CLOTHING MATERIALS AND COMPONENTS COVERED.—Subsection (b) of section 2533a of title 10, United States Code, is amended in paragraph (1)(B) by inserting before the semicolon the following: "and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing (and the materials and components thereof)".

Subtitle E—Other Matters

SEC. 841. REVIEW AND REPORT ON DEPARTMENT OF DEFENSE EFFORTS TO IDENTIFY CONTRACT FRAUD, WASTE, AND ABUSE.

(a) REVIEW BY COMPTROLLER GENERAL.—The Comptroller General shall conduct a review of efforts by the Department of Defense to identify and assess the areas of vulnerability of Department of Defense contracts to fraud, waste, and abuse.

(b) MATTERS COVERED.—

(1) IN GENERAL.—In conducting the review, the Comptroller General shall summarize the ongoing efforts of the Department of Defense, including the reviews described in paragraph (2), and make recommendations about areas not addressed or items that need further investigation.

(2) DEPARTMENT OF DEFENSE REVIEWS.—The reviews by the Department of Defense referred to in paragraph (1) are the following:

(A) A report by a task force of the Defense Science Board dated March 2005 and titled "Management Oversight in Acquisition Organizations".

(B) An audit by the Inspector General of the Department of Defense titled "Service Acquisition Executives Management Oversight and Procurement Authority".

(C) A task force to address contract fraud, waste, and abuse designated by the Deputy Secretary of Defense.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the review, including the Comptroller General's findings and recommendations.

SEC. 842. EXTENSION OF CONTRACT GOAL FOR SMALL DISADVANTAGED BUSINESSES AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION.

Section 2323(k) of title 10, United States Code, is amended by striking "2006" both places it appears and inserting "2009".

SEC. 843. EXTENSION OF DEADLINE FOR REPORT OF ADVISORY PANEL ON LAWS AND REGULATIONS ON ACQUISITION PRACTICES.

Section 1423(d) of the Services Acquisition Reform Act of 2003 (title XIV of Public Law 108–136; 117 Stat. 1669; 41 U.S.C. 405 note) is amended by striking "one year" and inserting "18 months".

SEC. 844. EXCLUSION OF CERTAIN SECURITY EXPENSES FROM CONSIDERATION FOR PURPOSE OF SMALL BUSINESS SIZE STANDARDS.

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)), is amended by adding at the end the following:

"(4) EXCLUSION OF CERTAIN SECURITY EXPENSES FROM CONSIDERATION FOR PURPOSE OF SMALL BUSINESS SIZE STANDARDS.—

"(A) DETERMINATION REQUIRED.—Not later than 30 days after the date of enactment of this paragraph, the Administrator shall review the application of size standards established pursuant to paragraph (2) to small business concerns that are performing contracts in qualified areas and determine whether it would be fair and appropriate to exclude from consideration in the average annual gross receipts of such small business concerns any payments made to such small business concerns by Federal agencies to reimburse such small business concerns for the cost of subcontracts entered for the sole purpose of providing security services in a qualified area.

"(B) ACTION REQUIRED.—Not later than 60 days after the date of enactment of this paragraph, the Administrator shall either—

"(i) initiate an adjustment to the size standards, as described in subparagraph (A), if the Administrator determines that such an adjustment would be fair and appropriate; or

"(ii) provide a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives explaining in detail the basis for the determination by the Administrator that such an adjustment would not be fair and appropriate.

"(C) QUALIFIED AREAS.—In this paragraph, the term 'qualified area' means—

"(i) Iraq,

"(ii) Afghanistan, and

"(iii) any foreign country which included a combat zone, as that term is defined in section 112(c)(2) of the Internal Revenue Code of 1986, at the time of performance of the relevant Federal contract or subcontract.".

SEC. 845. DISASTER RELIEF FOR SMALL BUSINESS CONCERNS DAMAGED BY DROUGHT.

(a) DROUGHT DISASTER AUTHORITY.—

(1) DEFINITION OF DISASTER.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(A) by inserting "(1)" after "(k)"; and

(B) by adding at the end the following:

"(2) For purposes of section 7(b)(2), the term 'disaster' includes—

"(A) drought; and

"(B) below average water levels in the Great Lakes, or on any body of water in the United States that supports commerce by small business concerns.".

(2) DROUGHT DISASTER RELIEF AUTHORITY.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended—

(A) by inserting "(including drought), with respect to both farm-related and nonfarm-related small business concerns," before "if the Administration"; and

(B) in subparagraph (B), by striking "the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961)" and inserting the following: "section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), in which case, assistance under this paragraph may be provided to farm-related and nonfarm-related small business concerns, subject to the other applicable requirements of this paragraph".

(b) LIMITATION ON LOANS.—From funds otherwise appropriated for loans under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), not more than $9,000,000 may be used during each of fiscal years 2005 through 2008, to provide drought disaster loans to nonfarm-related small business concerns in accordance with this section and the amendments made by this section.

(c) PROMPT RESPONSE TO DISASTER REQUESTS.—Section 7(b)(2)(D) of the Small Business Act (15 U.S.C. 636(b)(2)(D)) is amended by striking "Upon receipt of such certification, the Administration may" and inserting "Not later than 30 days after the date of receipt of such certification by a Governor of a State, the Administration shall respond in writing to that Governor on its determination and the reasons therefore, and may".

(d) RULEMAKING.—Not later than 45 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final rules to carry out this section and the amendments made by this section.

SEC. 846. EXTENSION OF LIMITED ACQUISITION AUTHORITY FOR THE COMMANDER OF THE UNITED STATES JOINT FORCES COMMAND.

(a) EXTENSION OF AUTHORITY.—Subsection (f) of section 167a of title 10, United States Code, is amended—

(1) by striking "through 2006" and inserting "through 2008"; and

(2) by striking "September 30, 2006" and inserting "September 30, 2008".

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the implementation of section 167a of title 10, United States Code.

SEC. 847. CIVILIAN BOARD OF CONTRACT APPEALS.

(a) IN GENERAL.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"SEC. 42. CIVILIAN BOARD OF CONTRACT APPEALS.

"(a) BOARD ESTABLISHED.—There is established in the General Services Administration a board of contract appeals to be known as the Civilian Board of Contract Appeals (in this section referred to as the 'Civilian Board').

"(b) MEMBERSHIP.—

"(1) APPOINTMENT.—(A) The Civilian Board shall consist of members appointed by the Administrator of General Services (in consultation

with the Administrator for Federal Procurement Policy) from a register of applicants maintained by the Administrator of General Services, in accordance with rules issued by the Administrator of General Services (in consultation with the Administrator for Federal Procurement Policy) for establishing and maintaining a register of eligible applicants and selecting Civilian Board members. The Administrator of General Services shall appoint a member without regard to political affiliation and solely on the basis of the professional qualifications required to perform the duties and responsibilities of a Civilian Board member.

"(B) The members of the Civilian Board shall be selected and appointed to serve in the same manner as administrative law judges appointed pursuant to section 3105 of title 5, United States Code, with an additional requirement that such members shall have had not fewer than five years of experience in public contract law.

"(C) Notwithstanding subparagraph (B) and subject to paragraph (2), the following persons shall serve as Civilian Board members: any full-time member of any agency board of contract appeals other than the Armed Services Board of Contract Appeals, the Postal Service Board of Contract Appeals, and the board of contract appeals of the Tennessee Valley Authority serving as such on the day before the effective date of this section.

"(2) Removal.—Members of the Civilian Board shall be subject to removal in the same manner as administrative law judges, as provided in section 7521 of title 5, United States Code.

"(3) Compensation.—Compensation for members of the Civilian Board shall be determined under section 5372a of title 5, United States Code.

"(c) Functions.—

"(1) In general.—The Civilian Board shall have jurisdiction as provided by section 8(d) of the Contract Disputes Act of 1978 (41 U.S.C. 607(b)).

"(2) Additional jurisdiction.—The Civilian Board may, with the concurrence of the Federal agency or agencies affected—

"(A) assume jurisdiction over any additional category of laws or disputes over which an agency board of contract appeals established pursuant to section 8 of the Contract Disputes Act exercised jurisdiction before the effective date of this section; and

"(B) assume any other functions performed by such a board before such effective date on behalf of such agencies.".

(b) Transfers.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions vested by law in the agency boards of contract appeals established pursuant to section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) (as in effect on the day before the effective date described in subsection (g)) other than the Armed Services Board of Contract Appeals, the board of contract appeals of the Tennessee Valley Authority, and the Postal Service Board of Contract Appeals shall be transferred to the Civilian Board of Contract Appeals for appropriate allocation by the Chairman of that Board.

(c) Termination of Boards of Contract Appeals.—

(1) Termination.—Effective on the effective date described in subsection (g), the agency boards of contract appeals established pursuant to section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) (as in effect on the day before such effective date), other than the Armed Services Board of Contract Appeals, the board of contract appeals of the Tennessee Valley Authority, and the Postal Service Board of Contract Appeals, shall terminate.

(2) Savings provision.—(A) This section and the amendments made by this section shall not affect any proceedings pending on the effective date described in subsection (g) before any agency board of contract appeals terminated by paragraph (1).

(B) In the case of any such proceedings pending before an agency board of contract appeals other than the Armed Services Board of Contract Appeals or the board of contract appeals of the Tennessee Valley Authority, the proceedings shall be continued by the Civilian Board of Contract Appeals, and orders which were issued in any such proceeding by the agency board shall continue in effect until modified, terminated, superseded, or revoked by the Civilian Board of Contract Appeals, by a court of competent jurisdiction, or by operation of law.

(d) Amendments to Contracts Disputes Act.—

(1) Amendments to definitions.—Section 2 of the Contract Disputes Act of 1978 (41 U.S.C. 601) is amended—

(A) in paragraph (2), by striking ", the United States Postal Service, and the Postal Rate Commission";

(B) by redesignating paragraph (7) as paragraph (9);

(C) by amending paragraph (6) to read as follows:

"(6) the terms 'agency board' or 'agency board of contract appeals' mean—

"(A) the Armed Services Board of Contract Appeals established under section 8(a)(1) of this Act;

"(B) the Civilian Board of Contract Appeals established under section 42 of the Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.);

"(C) the board of contract appeals of the Tennessee Valley Authority; or

"(D) the Postal Service Board of Contract Appeals established under section 8(c) of this Act;"; and

(D) by inserting after paragraph (6) the following new paragraphs:

"(7) the term 'Armed Services Board' means the Armed Services Board of Contract Appeals established under section 8(a)(1) of this Act;

"(8) the term 'Civilian Board' means the Civilian Board of Contract Appeals established under section 42 of the Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.); and".

(2) Amendments relating to jurisdiction.—Section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) is amended—

(A) in subsection (d)—

(i) by striking the first sentence and inserting the following: "The Armed Services Board shall have jurisdiction to decide any appeal from a decision of a contracting officer of the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, or the National Aeronautics and Space Administration relative to a contract made by that department or agency. The Civilian Board shall have jurisdiction to decide any appeal from a decision of a contracting officer of any executive agency (other than the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the National Aeronautics and Space Administration, the United States Postal Service, the Postal Rate Commission, or the Tennessee Valley Authority) relative to a contract made by that agency. Each other agency board shall have jurisdiction to decide any appeal from a decision of a contracting officer relative to a contract made by its agency."; and

(ii) in the second sentence, by striking "Claims Court" and inserting "Court of Federal Claims";

(B) by striking subsection (c) and inserting the following:

"(c) There is established an agency board of contract appeals to be known as the 'Postal Service Board of Contract Appeals'. Such board shall have jurisdiction to decide any appeal from a decision of a contracting officer of the United States Postal Service or the Postal Rate Commission relative to a contract made by either agency. Such board shall consist of judges appointed by the Postmaster General who shall meet the qualifications of and serve in the same manner as members of the Civilian Board of Contract Appeals. This Act shall apply to contract disputes before the Postal Service Board of Contract Appeals in the same manner as they apply to contract disputes before the Civilian Board.".

(3) Conforming amendments.—Section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) is further amended—

(A) in subsection (a)(1)—

(i) by striking "Except as provided in paragraph (2) an agency board of contract appeals" and inserting "An Armed Services Board of Contract Appeals"; and

(ii) by striking "an executive agency when the agency head" and inserting "the Department of Defense when the Secretary of Defense"; and

(B) in subsection (b)(1)—

(i) by striking "Except as provided in paragraph (2), the members of agency boards" and inserting "The members of the Armed Services Board of Contract Appeals";

(ii) in the second sentence, by striking "agency boards" and inserting "such Board";

(iii) in the third sentence, by striking "each board" and inserting "such Board" and by striking "the agency head" and inserting "the Secretary of Defense"; and

(iv) in the fourth sentence, by striking "an agency board" and inserting "such Board".

(4) Repeal of obsolete provisions.—Section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) is further amended by striking subsections (h) and (i).

(e) References.—Any reference to an agency board of contract appeals other than the Armed Services Board of Contract Appeals, the board of contract appeals of the Tennessee Valley Authority, or the Postal Service Board of Contract Appeals in any provision of law or in any rule, regulation, or other paper of the United States shall be treated as referring to the Civilian Board of Contract Appeals established under section 42 of the Office of Federal Procurement Policy Act.

(f) Conforming and Clerical Amendments.—(1) Section 5372a(a)(1) of title 5, United States Code, is amended by inserting after "of 1978" the following: "or a member of the Civilian Board of Contract Appeals appointed under section 42 of the Office of Federal Procurement Policy Act".

(2) The table of contents for the Office of Federal Procurement Policy Act (contained in section 1(b)) is amended by adding at the end the following new item:

"42. Civilian Board of Contract Appeals.".

(g) Effective Date.—Section 42 of the Office of Federal Procurement Policy Act, as added by this section, and the amendments and repeals made by this section, shall take effect 1 year after the date of the enactment of this Act.

SEC. 848. STATEMENT OF POLICY AND REPORT RELATING TO CONTRACTING WITH EMPLOYERS OF PERSONS WITH DISABILITIES.

(a) Extensions of Inapplicability of Certain Acts.—Section 853 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2021) is amended in subsections (a)(2)(A) and (b)(2)(A) by striking "2005" and inserting "2006".

(b) STATEMENT OF POLICY.—The Secretary of Defense, the Secretary of Education, and the Chairman of the Committee for Purchase From People Who Are Blind or Severely Disabled shall jointly issue a statement of policy related to the implementation of the Randolph-Sheppard Act (20 U.S.C. 107 et seq.) and the Javits-Wagner-O'Day Act (41 U.S.C. 48) within the Department of Defense and the Department of Education. The joint statement of policy shall specifically address the application of those Acts to both operation and management of all or any part of a military mess hall, military troop dining facility, or any similar dining facility operated for the purpose of providing meals to members of the Armed Forces, and shall take into account and address, to the extent practicable, the positions acceptable to persons representing programs implemented under each Act.

(c) REPORT.—Not later than April 1, 2006, the Secretary of Defense, the Secretary of Education, and the Chairman of the Committee for Purchase From People Who Are Blind or Severely Disabled shall submit to the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Health, Education, Labor and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives a report describing the joint statement of policy issued under subsection (b), with such findings and recommendations as the Secretaries consider appropriate.

SEC. 849. STUDY ON DEPARTMENT OF DEFENSE CONTRACTING WITH SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study on Department of Defense procurement contracts with small business concerns owned and controlled by service-disabled veterans.

(b) ELEMENTS OF STUDY.—The study required by subsection (a) shall include the following determinations:

(1) Any steps taken by the Department of Defense to meet the Government-wide goal of participation by small business concerns owned and controlled by service-disabled veterans in at least 3 percent of the total value of all prime contract and subcontract awards, as required under section 15(g) of the Small Business Act (15 U.S.C. 644(g))

(2) If the Department of Defense has failed to meet such goal, an explanation of the reasons for such failure.

(3) Any steps taken within the Department of Defense to make contracting officers aware of the 3 percent goal and to ensure that procurement officers are working actively to achieve such goal.

(4) An estimate of the number of appropriately qualified small business concerns owned and controlled by service-disabled veterans which submitted responsive offers on contracts with the Department of Defense during the preceding fiscal year.

(5) Any outreach efforts made by the Department to enter into contracts with small business concerns owned and controlled by service-disabled veterans.

(6) Any additional outreach efforts the Department should make.

(7) The appropriate role of prime contractors in achieving goals established for small business concerns owned and controlled by service-disabled veterans under section 36 of the Small Business Act (15 U.S.C. 657f).

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the findings of the study conducted under this section.

(d) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.—In this section, the term "small business concern owned and controlled by service-disabled veterans" has the meaning given that term in section 3(q) of the Small Business Act (15 U.S.C. 632(q)).

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

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Subtitle B—Space Activities

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Subtitle A—General Department of Defense Management Matters

SEC. 901. PARITY IN PAY LEVELS AMONG UNDER SECRETARY POSITIONS.

(a) POSITIONS OF UNDER SECRETARIES OF MILITARY DEPARTMENTS RAISED TO LEVEL III OF THE EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after "Under Secretary of Defense for Intelligence" the following:

"Under Secretary of the Air Force.

"Under Secretary of the Army.

"Under Secretary of the Navy.".

(b) CONFORMING AMENDMENT.—Section 5315 of such title is amended by striking the following:

"Under Secretary of the Air Force.

"Under Secretary of the Army.

"Under Secretary of the Navy.".

SEC. 902. EXPANSION OF ELIGIBILITY FOR LEADERSHIP OF DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.

(a) DIRECTOR OF CENTER.—Paragraph (1) of section 196(b) of title 10, United States Code, is amended by striking "commissioned officers" and all that follows through the end of the sentence and inserting "individuals who have substantial experience in the field of test and evaluation.".

(b) DEPUTY DIRECTOR OF CENTER.—Paragraph (2) of such section is amended by striking "senior civilian officers and employees of the Department of Defense" and inserting "individuals".

SEC. 903. STANDARDIZATION OF AUTHORITY FOR ACCEPTANCE OF GIFTS AND DONATIONS FOR DEPARTMENT OF DEFENSE REGIONAL CENTERS FOR SECURITY STUDIES.

(a) AUTHORITY TO ACCEPT.—

(1) IN GENERAL.—Section 2611 of title 10, United States Code, is amended to read as follows:

"§2611. Regional centers for security studies: acceptance of gifts and donations

"(a) AUTHORITY TO ACCEPT GIFTS AND DONATIONS.—(1) Subject to subsection (c), the Secretary of Defense may, on behalf of any Department of Defense regional center for security studies, any combination of such centers, or such centers generally, accept from any source specified in subsection (b) any gift or donation for purposes of defraying the costs or enhancing the operation of such a center, combination of centers, or centers generally, as the case may be.

"(2) For purposes of this section, the Department of Defense regional centers for security studies are the following:

"(A) The George C. Marshall European Center for Security Studies.

"(B) The Asia-Pacific Center for Security Studies.

"(C) The Center for Hemispheric Defense Studies.

"(D) The Africa Center for Strategic Studies.

"(E) The Near East South Asia Center for Strategic Studies.

"(b) SOURCES.—The sources from which gifts and donations may be accepted under subsection (a) are the following:

"(1) The government of a State or a political subdivision of a State.

"(2) The government of a foreign country.

"(3) A foundation or other charitable organization, including a foundation or charitable organization this is organized or operates under the laws of a foreign country.

"(4) Any source in the private sector of the United States or a foreign country.

"(c) LIMITATION.—The Secretary may not accept a gift or donation under subsection (a) if acceptance of the gift or donation would compromise or appear to compromise—

"(1) the ability of the Department of Defense, any employee of the Department, or any member of the armed forces to carry out the responsibility or duty of the Department in a fair and objective manner; or

"(2) the integrity of any program of the Department, or of any person involved in such a program.

"(d) CRITERIA FOR ACCEPTANCE.—The Secretary shall prescribe written guidance setting forth the criteria to be used in determining whether the acceptance of a gift or donation would have a result described in subsection (c).

"(e) CREDITING OF FUNDS.—Funds accepted by the Secretary under section (a) shall be credited to appropriations available to the Department of Defense for the regional center, combination of centers, or centers generally for which accepted. Funds so credited shall be merged with the appropriations to which credited and shall be available for the regional center, combination of centers, or centers generally, as the case may be, for the same purposes as the appropriations with which merged. Any funds accepted under this section shall remain available until expended.

"(f) Gift or Donation Defined.—In this section, the term 'gift or donation' means any gift or donation of funds, materials (including research materials), real or personal property, or services (including lecture services and faculty services).".

(2) Clerical amendment.—The item relating to section 2611 in the table of sections at the beginning of chapter 155 of such title is amended to read as follows:

"2611. Regional centers for security studies: acceptance of gifts and donations.".

(b) Annual Report on Gift Acceptance.—Section 184(b)(4) of title 10, United States Code, is amended by striking "under any of the" and all that follows and inserting "under section 2611 of this title.".

(c) Conforming Amendments.—

(1) Section 1306 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2892) is amended —

(A) by striking subsection (a);

(B) by redesignating subsection (b) as subsection (a);

(C) by striking "(1)" the first place it appears;

(D) by redesignating paragraph (2) as subsection (b);

(E) by inserting "Source of Funds.—" before "Costs for"; and

(F) by striking "paragraph (1)" and insertion "subsection (a)".

(2) Section 1065 of the National Defense Authorization Act for Fiscal Year 1997 (10 U.S.C. 113 note) is amended—

(A) by striking subsection (a); and

(B) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

SEC. 904. DIRECTORS OF SMALL BUSINESS PROGRAMS IN DEPARTMENT OF DEFENSE AND MILITARY DEPARTMENTS.

(a) Redesignation of Existing Positions and Offices.—

(1) Positions redesignated.—The following positions within the Department of Defense are redesignated as follows:

(A) The Director of Small and Disadvantaged Business Utilization of the Department of Defense is redesignated as the Director of Small Business Programs of the Department of Defense.

(B) The Director of Small and Disadvantaged Business Utilization of the Department of the Army is redesignated as the Director of Small Business Programs of the Department of the Army.

(C) The Director of Small and Disadvantaged Business Utilization of the Department of the Navy is redesignated as the Director of Small Business Programs of the Department of the Navy.

(D) The Director of Small and Disadvantaged Business Utilization of the Department of the Air Force is redesignated as the Director of Small Business Programs of the Department of the Air Force.

(2) Offices redesignated.—The following offices within the Department of Defense are redesignated as follows:

(A) The Office of Small and Disadvantaged Business Utilization of the Department of Defense is redesignated as the Office of Small Business Programs of the Department of Defense.

(B) The Office of Small and Disadvantaged Business Utilization of the Department of the Army is redesignated as the Office of Small Business Programs of the Department of the Army.

(C) The Office of Small and Disadvantaged Business Utilization of the Department of the Navy is redesignated as the Office of Small Business Programs of the Department of the Navy.

(D) The Office of Small and Disadvantaged Business Utilization of the Department of the Air Force is redesignated as the Office of Small Business Programs of the Department of the Air Force.

(3) References.—Any reference in any law, regulation, document, paper, or other record of the United States to a position or office redesignated by paragraph (1) or (2) shall be deemed to be a reference to the position or office as so redesignated.

(b) Department of Defense.—

(1) OSD position and office.—Chapter 4 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 144. Director of Small Business Programs

"(a) Director.—There is a Director of Small Business Programs in the Department of Defense. The Director is appointed by the Secretary of Defense.

"(b) Office of Small Business Programs.—The Office of Small Business Programs of the Department of Defense is the office that is established within the Office of the Secretary of Defense under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

"(c) Duties and Powers.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of Defense, and shall exercise such powers regarding those programs, as the Secretary of Defense may prescribe.

"(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.".

(2) Clerical amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"144. Director of Small Business Programs.".

(c) Department of the Army.—

(1) Position and office.—Chapter 303 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 3024. Director of Small Business Programs

"(a) Director.—There is a Director of Small Business Programs in the Department of the Army. The Director is appointed by the Secretary of the Army.

"(b) Office of Small Business Programs.—The Office of Small Business Programs of the Department of the Army is the office that is established within the Department of the Army under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

"(c) Duties and Powers.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of the Army, and shall exercise such powers regarding those programs, as the Secretary of the Army may prescribe.

"(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.".

(2) Clerical amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3024. Director of Small Business Programs.".

(d) Department of the Navy.—

(1) Position and office.—Chapter 503 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 5028. Director of Small Business Programs

"(a) Director.—There is a Director of Small Business Programs in the Department of the Navy. The Director is appointed by the Secretary of the Navy.

"(b) Office of Small Business Programs.—The Office of Small Business Programs of the Department of the Navy is the office that is established within the Department of the Navy under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

"(c) Duties and Powers.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of the Navy, and shall exercise such powers regarding those programs, as the Secretary of the Navy may prescribe.

"(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.".

(2) Clerical amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5028. Director of Small Business Programs.".

(e) Department of the Air Force.—

(1) Position and office.—Chapter 803 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 8024. Director of Small Business Programs

"(a) Director.—There is a Director of Small Business Programs in the Department of the Air Force. The Director is appointed by the Secretary of the Air Force.

"(b) Office of Small Business Programs.—The Office of Small Business Programs of the Department of the Air Force is the office that is established within the Department of the Air Force under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

"(c) Duties and Powers.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of the Air Force, and shall exercise such powers regarding those programs, as the Secretary of the Air Force may prescribe.

"(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.".

(2) Clerical amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"8024. Director of Small Business Programs.".

SEC. 905. PLAN TO DEFEND THE HOMELAND AGAINST CRUISE MISSILES AND OTHER LOW-ALTITUDE AIRCRAFT.

(a) Plan Required.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a plan for the defense of the United States homeland against cruise missiles, unmanned aerial vehicles, and other low-altitude aircraft that may be launched in an attack against the United States homeland.

(b) Focus of Plan.—In developing the plan, the Secretary shall focus on the role of Department of Defense components in the defense of the homeland against an attack described in subsection (a), but shall also address the role, if any, of other departments and agencies of the United States Government in that defense.

(c) Elements of Plan.—The plan shall include the following:

(1) The identification of an official or office within the Department of Defense to be responsible for coordinating the implementation of the plan described in subsection (a) from both an operational and acquisition perspective.

(2) Identification of (A) the capabilities required by the Department of Defense in order to fulfill the mission of the Department to defend the homeland against attack by cruise missiles, unmanned aerial vehicles, and other low-altitude aircraft, and (B) any current shortfall in those capabilities.

(3) Identification of each element of the Department of Defense that will be responsible under the plan for acquisition in order to achieve one or more of the capabilities identified pursuant to paragraph (2).

(4) A schedule for implementing the plan.

(5) A statement of the funding required to implement the Department of Defense portion of the plan.

(6) An identification of the roles and missions, if any, of other departments and agencies of the United States Government in contributing to the defense of the homeland against attack described in paragraph (2).

(d) Scope of Plan.—The plan shall be coordinated with plans of the Department of Defense for defending the United States homeland against attack by short-range to medium-range ballistic missiles.

SEC. 906. PROVISION OF AUDIOVISUAL SUPPORT SERVICES BY WHITE HOUSE COMMUNICATIONS AGENCY ON NONREIMBURSABLE BASIS.

(a) Provision on Nonreimbursable Basis.—Section 912 of the National Defense Authorization Act for Fiscal Year 1997 (10 U.S.C. 111 note) is amended—

(1) in subsection (a)—

(A) in the subsection heading, by inserting "AND AUDIOVISUAL SUPPORT SERVICES" after "TELECOMMUNICATIONS SUPPORT"; and

(B) by inserting "and audiovisual support services" after "provision of telecommunications support"; and

(2) in subsection (b), by inserting "and audiovisual" after "other than telecommunications".

(b) Repeal of Obsolete Provisions.—Such section is further amended by striking subsections (d), (e), and (f).

SEC. 907. REPORT ON ESTABLISHMENT OF A DEPUTY SECRETARY OF DEFENSE FOR MANAGEMENT.

(a) Study Required.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall, as determined by the Secretary, select one or two Federally Funded Research and Development Centers to conduct a study of the feasibility and advisability of establishing a Deputy Secretary of Defense for Management. The Secretary shall provide for each Center conducting a study under this section to submit a report on such study to the Secretary and to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than December 1, 2006.

(b) Content of Study.—Each study under this section shall address—

(1) the extent to which the establishment of a Deputy Secretary of Defense for Management would—

(A) improve the management of the Department of Defense;

(B) expedite the process of management reform in the Department; and

(C) enhance the implementation of business systems modernization in the Department;

(2) the appropriate relationship of the Deputy Secretary of Defense for Management to other Department of Defense officials;

(3) the appropriate term of service for a Deputy Secretary of Defense for Management; and

(4) the experience of any other Federal agencies that have instituted similar management positions.

(c) Deputy Secretary for Management Position Described.—For the purposes of this section, a Deputy Secretary of Defense for Management is an official who—

(1) serves as the Chief Management Officer of the Department of Defense;

(2) is the principal advisor to the Secretary of Defense on matters relating to the management of the Department of Defense, including defense business activities, to ensure Department-wide capability to carry out the strategic plan of the Department of Defense in support of national security objectives; and

(3) takes precedence in the Department of Defense immediately after the Deputy Secretary of Defense.

SEC. 908. RESPONSIBILITY OF THE JOINT CHIEFS OF STAFF AS MILITARY ADVISERS TO THE HOMELAND SECURITY COUNCIL.

(a) Responsibility as Military Advisers.—

(1) In general.—Subsection (b) of section 151 of title 10, United States Code, is amended—

(A) in paragraph (1), by inserting "the Homeland Security Council," after "the National Security Council,"; and

(B) in paragraph (2), by inserting "the Homeland Security Council," after "the National Security Council,".

(2) Consultation by chairman.—Subsection (c)(2) of such section is amended by inserting "the Homeland Security Council," after "the National Security Council," both places it appears.

(3) Advice and opinions of members other than chairman.—Subsection (d) of such section is amended—

(A) in paragraph (1), by inserting "the Homeland Security Council," after "the National Security Council," both places it appears; and

(B) in paragraph (2), by inserting "the Homeland Security Council," after "the National Security Council,".

(4) Advice on request.—Subsection (e) of such section is amended by inserting "the Homeland Security Council," after "the National Security Council," both places it appears.

(b) Attendance at Meeting of Homeland Security Council.—Section 903 of the Homeland Security Act of 2002 (6 U.S.C. 493) is amended—

(1) by inserting "(a) Members—" before "The members"; and

(2) by adding at the end the following new subsection:

"(b) Attendance of Chairman of Joint Chiefs of Staff at Meetings.— The Chairman of the Joint Chiefs of Staff (or, in the absence of the Chairman, the Vice Chairman of the Joint Chiefs of Staff) may, in the role of the Chairman of the Joint Chiefs of Staff as principal military adviser to the Council and subject to the direction of the President, attend and participate in meetings of the Council.".

SEC. 909. IMPROVEMENT IN HEALTH CARE SERVICES FOR RESIDENTS OF ARMED FORCES RETIREMENT HOME.

(a) Availability of Physicians and Dentists; Medical Care Transportation.—Section 1513 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 413) is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b), (c), and (d)";

(2) in the third sentence of subsection (b), by striking "The" and inserting "Except as provided in subsection (d), the"; and

(3) by adding at the end the following new subsections:

"(c) Availability of Physicians and Dentists.—(1) In providing for the health care needs of residents at a facility of the Retirement Home under subsection (b), the Retirement Home shall have a physician and a dentist—

"(A) available at the facility during the daily business hours of the facility; and

"(B) available on an on-call basis at other times.

"(2) The physicians and dentists required by this subsection shall have the skills and experience suited to residents of the facility served by the physicians and dentists.

"(3) To ensure the availability of health care services for residents of a facility of the Retirement Home, the Chief Operating Officer, in consultation with the Medical Director, shall establish uniform standards, appropriate to the medical needs of the residents, for access to health care services during and after the daily business hours of the facility.

"(d) Transportation to Medical Care Outside Retirement Home Facilities.—(1) With respect to each facility of the Retirement Home, the Retirement Home shall provide daily scheduled transportation to nearby medical facilities used by residents of the facility. The Retirement Home may provide, based on a determination of medical need, unscheduled transportation for a resident of the facility to any medical facility located not more than 30 miles from the facility for the provision of necessary and urgent medical care for the resident.

"(2) The Retirement Home may not collect a fee from a resident for transportation provided under this subsection.".

(b) Comptroller General Assessment.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing—

(1) an assessment of the regulatory oversight and monitoring of health care and nursing home care services provided by the Armed Forces Retirement Home; and

(2) such recommendations as the Comptroller General considers appropriate in light of the results of the assessment.

Subtitle B—Space Activities

SEC. 911. SPACE SITUATIONAL AWARENESS STRATEGY AND SPACE CONTROL MISSION REVIEW.

(a) Findings.—The Congress finds that—

(1) the Department of Defense has the responsibility, within the executive branch, for developing the strategy and the systems of the United States for ensuring freedom to operate United States space assets affecting national security; and

(2) the foundation of any credible strategy for ensuring freedom to operate United States space assets is a comprehensive system for space situational awareness.

(b) Space Situational Awareness Strategy.—

(1) Requirement.—The Secretary of Defense shall develop a strategy, to be known as the "Space Situational Awareness Strategy", for ensuring freedom to operate United States space assets affecting national security. The Secretary shall submit the Space Situational Awareness Strategy to Congress not later than April 15, 2006. The Secretary shall submit to Congress an updated, current version of the strategy not later than April 15 of every odd-numbered year thereafter.

(2) Time periods.—The Space Situational Awareness Strategy shall cover—

(A) the 20-year period from 2006 through 2025; and

(B) three separate successive periods, the first beginning with 2006, designed to align with the next three periods for the Future-Years Defense Plan.

(3) Matters to be included.—The Space Situational Awareness Strategy shall include the following for each period specified in paragraph (2):

(A) A threat assessment describing the perceived threats to United States space assets affecting national security.

(B) A list of the desired effects and required space situational awareness capabilities required for national security.

(C) Details for a coherent and comprehensive strategy for the United States for space situational awareness, together with a description of the systems architecture to implement that strategy in light of the threat assessment and the desired effects and required capabilities identified under subparagraphs (A) and (B).

(D) The space situational awareness capabilities roadmap required by subsection (c).

(c) Space Situational Awareness Capabilities Roadmap.—The Space Situational Awareness Strategy shall include a roadmap, to be known as the "space situational awareness capabilities roadmap", which shall include the following:

(1) A description of each of the individual program concepts that will make up the systems architecture described pursuant to subsection (b)(3)(C).

(2) For each such program concept, a description of the specific capabilities to be achieved and the threats to be abated.

(d) Space Situational Awareness Implementation Plan.—

(1) Requirement.—The Secretary of the Air Force shall develop a plan, to be known as the "space situational awareness implementation plan", for the development of the systems architecture described pursuant to subsection (b)(3)(C).

(2) Matters to be included.—The space situational awareness implementation plan shall include a description of the following:

(A) The capabilities of all systems deployed as of mid-2005 or planned for modernization or acquisition from 2006 to 2015.

(B) Recommended solutions for inadequacies in the architecture to address threats and the desired effects and required capabilities identified under subparagraphs (A) and (B) of subsection (b)(3).

(e) Space Control Mission Review and Assessment.—

(1) Requirement.—The Secretary of Defense shall provide for a review and assessment of the requirements of the Department of Defense for the space control mission. The review and assessment shall be conducted by an entity of the Department of Defense outside of the Department of the Air Force.

(2) Matters to be included.—The review and assessment under paragraph (1) shall consider the following:

(A) Whether current activities of the Department of Defense match current requirements of the Department for the current space control mission.

(B) Whether there exists proper allocation of appropriate resources to fulfill the current space control mission.

(C) The plans of the Department of Defense for the future space control mission.

(3) Report.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the results of the review and assessment under paragraph (1). The report shall include the following:

(A) The findings and conclusions of the entity conducting the review and assessment on (A) requirements of the Department of Defense for the space control mission, and (B) the efforts of the Department to meet those requirements.

(B) Recommendations regarding the best means by which the Department may meet those requirements.

(4) Space control mission defined.—In this subsection, the term "space control mission" means the mission of the Department of Defense involving the following:

(A) Space situational awareness.

(B) Defensive counterspace operations.

(C) Offensive counterspace operations.

SEC. 912. MILITARY SATELLITE COMMUNICATIONS.

(a) Findings.—Congress finds the following:

(1) Military requirements for satellite communications exceed the capability of on-orbit assets as of mid-2005.

(2) To meet future military requirements for satellite communications, the Secretary of the Air Force has initiated a highly complex and revolutionary program called the Transformational Satellite Communications System (TSAT).

(3) If the program referred to in paragraph (2) experiences setbacks that prolong the development and deployment of the capability to be provided by that program, the Secretary of the Air Force must be prepared to implement contingency programs to achieve interim improvements in the capabilities of satellite communications to meet military requirements through upgrades to current systems.

(b) Development of Options.—In order to prepare for the contingency referred to in subsection (a)(3), the Director of the National Security Space Office of the Department of Defense shall provide for an assessment, to be conducted by an entity outside the Department of Defense, to develop and compare options for the individual acquisition of additional Advanced Extremely High Frequency space vehicles, in conjunction with modifications to future acquisitions under the Wideband Gapfiller System program, that will accomplish the following:

(1) Minimize nonrecurring costs.

(2) Improve communications-on-the-move capabilities.

(3) Increase net centricity for communications.

(4) Increase satellite throughput.

(5) Increase user connectivity.

(6) Improve airborne communications support.

(7) Minimize effects of a break in production.

(8) Minimize risk associated with gaps in functional availability of on-orbit assets.

(c) Analysis of Alternatives Report.—Not later than April 15, 2006, the Director of the National Security Space Office shall submit to Congress a report providing an analysis of alternatives with respect to the options developed pursuant to subsection (b). The analysis of alternatives shall be prepared taking into consideration the findings and recommendations of the independent assessment conducted under subsection (b).

SEC. 913. OPERATIONALLY RESPONSIVE SPACE.

(a) Joint Operationally Responsive Space Payload Technology Organization.—

(1) In general.—The Secretary of Defense shall establish or designate an organization in the Department of Defense to coordinate joint operationally responsive space payload technology.

(2) Master plan.—The organization established or designated under paragraph (1) shall produce an annual master plan for coordination of operationally responsive space payload technology and shall coordinate resources provided to stimulate technical development of small satellite payloads. The annual master plan shall describe focus areas for development of operationally responsive space payload technology, including—

(A) miniaturization technology for satellite payloads;

(B) increased sensor acuity;

(C) concept of operations exploration;

(D) increased processor capability; and

(E) such additional matters as the head of that organization determines appropriate.

(3) Requests for proposals.—The Secretary of Defense, acting through the Director of the Office of Force Transformation, shall award contracts, from amounts available for that purpose for any fiscal year, for technology projects that support the focus areas set out in the master plan for development of operationally responsive space payload technology.

(4) Assessment factors.—In assessing any proposal submitted for a contract under paragraph (3), the Secretary shall consider —

(A) how the proposal correlates to the goals articulated in the master plan under paragraph (2) and to the National Security Space Architecture; and

(B) the probability, for the project for which the proposal is submitted, of eventual transition either to a laboratory of one of the military departments for continued development or to a joint program office for operational deployment.

(b) Report on Joint Program Office for TACSAT.—Not later than February 28, 2006, the Secretary of Defense shall submit to the congressional defense committees a report providing a plan for the creation of a joint program office for the Tactical Satellite program and for transition of that program out of the Office of Force Transformation and to the administration of the joint program office. The report shall be prepared in conjunction with the Department of Defense executive agent for space.

(c) Joint Report on Certain Space and Missile Defense Activities.—Not later than February 28, 2006, the Department of Defense executive agent for space and the Director of the Missile Defense Agency shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a joint report on the value of each of the following:

(1) Increased use of the Rocket Systems Launch Program for the respective missions of the Department of the Air Force and the Missile Defense Agency.

(2) An agreement between the Director of the Missile Defense Agency and the Secretary of the Air Force for eventual transition of operational control of small satellite demonstrations from the Missile Defense Agency to the Department of the Air Force.

(3) A partnership between the Missile Defense Agency and the Department of the Air Force in the development of common high-altitude and near-space assets for the respective missions of the Missile Defense Agency and the Department of the Air Force.

SEC. 914. REPORT ON USE OF SPACE RADAR FOR TOPOGRAPHICAL MAPPING FOR SCIENTIFIC AND CIVIL PURPOSES.

(a) Report Required.—Not later than October 1, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the feasibility and advisability of using systems developed within the Space Radar program of the Department of Defense for purposes of providing coastal zone and other topographical mapping information, and related information, to the scientific community and other elements of the private sector for scientific and civil purposes.

(b) Report Elements.—The report required by subsection (a) shall include the following:

(1) A description and evaluation of any use of Space Radar systems for scientific or civil purposes that is identified by the Secretary for purposes of the report.

(2) A description and evaluation of any addition or modification to Space Radar systems that is identified by the Secretary for purposes of the report that would increase the utility of those systems to the scientific community or other elements of the private sector for scientific or civil purposes, including the use of additional frequencies, the development or enhancement of ground systems, and the enhancement of operations.

(3) A description and evaluation of the effects, if any, on the primary missions of the Space Radar, and on the development of the Space Radar, of the use of systems developed within the Space Radar program for scientific or civil purposes.

(4) A description of the costs of any addition or modification identified pursuant to paragraph (2).

(5) A description of the process for developing and validating requirements for the Space Radar, including the involvement of the Civil Applications Committee or other organizations outside the Department of Defense.

(6) A description and evaluation of the processes that would be used to modify Space Radar systems in order to meet the needs of the scientific community, or other elements of the private sector with respect to the use of those systems for scientific or civil purposes, and for meeting the costs of such modifications.

SEC. 915. SENSE OF CONGRESS REGARDING NATIONAL SECURITY ASPECT OF UNITED STATES PREEMINENCE IN HUMAN SPACEFLIGHT.

(a) FINDINGS.—The Congress finds that the following:

(1) Preeminence by the United States in human spaceflight allows the United States to project leadership around the world and forms an important component of United States national security.

(2) Continued development of human spaceflight in low-Earth orbit, on the Moon, and beyond adds to the overall national strategic posture.

(3) Human spaceflight enables continued stewardship of the region between the Earth and the Moon—an area that is critical and of growing national and international security relevance.

(4) Human spaceflight provides unprecedented opportunities for the United States to lead peaceful and productive international relationships with the world community in support of United States security and geo-political objectives.

(5) An increasing number of nations are pursuing human spaceflight and space-related capabilities, including China and India.

(6) Past investments in human spaceflight capabilities represent a national resource that can be built upon and leveraged for a broad range of purposes, including national and economic security.

(7) The industrial base and capabilities represented by the Space Transportation System (popularly referred to as the "space shuttle") provide a critical launch capability for the Nation.

(b) SENSE OF CONGRESS.—It is the sense of Congress that it is in the national security interest of the United States to maintain preeminence in human spaceflight.

Subtitle C—Chemical Demilitarization Program

SEC. 921. CLARIFICATION OF COOPERATIVE AGREEMENT AUTHORITY UNDER CHEMICAL DEMILITARIZATION PROGRAM.

(a) AGREEMENTS WITH FEDERALLY RECOGNIZED INDIAN TRIBAL ORGANIZATIONS.—Section 1412(c)(4) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(c)(4)), is amended—

(1) by inserting "(A)" after "(4)";

(2) in the first sentence—

(A) by inserting "and to tribal organizations" after "to State and local governments"; and

(B) by inserting "and tribal organizations" after "assist those governments"

(3) by designating the text beginning "Additionally, the Secretary " as subparagraph (B);

(4) in the first sentence of subparagraph (B), as designated by paragraph (3), by inserting ", and with tribal organizations," after "with State and local governments"; and

(5) by adding at the end the following:

"(C) In this paragraph, the term 'tribal organization' has the meaning given that term in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a)—

(1) take effect as of December 5, 1991; and

(2) apply with respect to any cooperative agreement entered into on or after that date.

SEC. 922. CHEMICAL DEMILITARIZATION FACILITIES.

(a) AUTHORITY TO USE RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS TO CONSTRUCT FACILITIES.—The Secretary of Defense may, using amounts authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide and available for chemical weapons demilitarization activities under the Assembled Chemical Weapons Alternatives program, carry out construction projects, or portions of construction projects, for facilities necessary to support chemical demilitarization operations at each of the following:

(1) Pueblo Army Depot, Colorado.

(2) Blue Grass Army Depot, Kentucky.

(b) SCOPE OF AUTHORITY.—The authority in subsection (a) to carry out a construction project for facilities includes authority to carry out planning and design and the acquisition of land for the construction or improvement of such facilities.

(c) LIMITATION ON AMOUNT OF FUNDS.—The amount of funds that may be utilized under the authority in subsection (a) may not exceed $51,000,000.

(d) DURATION OF AUTHORITY.—A construction project, or portion of a construction project, may not be commenced under the authority in subsection (a) after September 30, 2006.

(e) NOTICE AND WAIT.—The Secretary may not carry out a construction project, or portion of a construction project, under the authority in subsection (a) until the end of the 21-day period beginning on the date on which the Secretary submits to the congressional defense committees notice of the Secretary's intent to carry out such project and confirms his intent to seek funding for these projects beginning in fiscal year 2007 through the military construction appropriations accounts.

Subtitle D—Intelligence-Related Matters

SEC. 931. DEPARTMENT OF DEFENSE STRATEGY FOR OPEN-SOURCE INTELLIGENCE.

(a) FINDINGS.—Congress makes the following findings:

(1) Open-source intelligence (OSINT) is intelligence that is produced from publicly available information and is collected, exploited, and disseminated in a timely manner to an appropriate audience for the purpose of addressing a specific intelligence requirement.

(2) With the Information Revolution, the amount, significance, and accessibility of open-source information has expanded significantly, but the intelligence community has not expanded its exploitation efforts and systems to produce open-source intelligence.

(3) The production of open-source intelligence is a valuable intelligence discipline that must be integrated into intelligence tasking, collection, processing, exploitation, and dissemination to ensure that United States policymakers are fully and completely informed.

(4) The dissemination and use of validated open-source intelligence inherently enables information sharing since open-source intelligence is produced without the use of sensitive sources and methods. Open-source intelligence products can be shared with the American public and foreign allies because of the unclassified nature of open-source intelligence.

(5) The National Commission on Terrorist Attacks Upon the United States (popularly referred to as the "9/11 Commission"), in its final report released on July 22, 2004, identified shortfalls in the ability of the United States to use all-source intelligence, a large component of which is open-source intelligence.

(6) In the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), Congress calls for coordination of the collection, analysis, production, and dissemination of open-source intelligence.

(7) The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, in its report to the President released on March 31, 2005, found that "the need for exploiting open-source material is greater now than ever before," but that "the Intelligence Community's open source programs have not expanded commensurate with either the increase in available information or with the growing importance of open source data to today's problems".

(b) DEPARTMENT OF DEFENSE STRATEGY FOR OPEN-SOURCE INTELLIGENCE.—

(1) DEVELOPMENT OF STRATEGY.—The Secretary of Defense shall develop a strategy for the purpose of integrating open-source intelligence into the Defense intelligence process. The strategy shall be known as the "Defense Strategy for Open-Source Intelligence". The strategy shall be incorporated within the larger Defense intelligence strategy.

(2) SUBMISSION.—The Secretary shall submit to Congress a report setting forth the strategy developed under paragraph (1). The report shall be submitted not later than 180 days after the date of the enactment of this Act.

(c) MATTERS TO BE INCLUDED.—The strategy under subsection (b) shall include the following

(1) A plan for providing funds over the period of the future-years defense program for the development of a robust open-source intelligence capability for the Department of Defense, with particular emphasis on exploitation and dissemination.

(2) A description of how management of the collection of open-source intelligence is currently conducted within the Department of Defense and how that management can be improved.

(3) A description of the tools, systems, centers, organizational entities, and procedures to be used within the Department of Defense to perform open-source intelligence tasking, collection, processing, exploitation, and dissemination.

(4) A description of proven tradecraft for effective exploitation of open-source intelligence, to include consideration of operational security.

(5) A detailed description on how open-source intelligence will be fused with all other intelligence sources across the Department of Defense.

(6) A description of—

(A) a training plan for Department of Defense intelligence personnel with respect to open-source intelligence; and

(B) open-source intelligence guidance for Department of Defense intelligence personnel.

(7) A plan to incorporate the function of oversight of open-source intelligence—

(A) into the Office of the Undersecretary of Defense for Intelligence; and

(B) into service intelligence organizations.

(8) A plan to incorporate and identify an open-source intelligence specialty into personnel systems of the Department of Defense, including military personnel systems.

(9) A plan for the use of intelligence personnel of the reserve components to augment and support the open-source intelligence mission.

(10) A plan for the use of the Open-Source Information System for the purpose of exploitation and dissemination of open-source intelligence.

SEC. 932. COMPREHENSIVE INVENTORY OF DEPARTMENT OF DEFENSE INTELLIGENCE AND INTELLIGENCE-RELATED PROGRAMS AND PROJECTS.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional

committees specified in subsection (b) a report providing a comprehensive inventory of Department of Defense intelligence and intelligence-related programs and projects. The Secretary shall prepare the inventory in consultation with the Director of National Intelligence, as appropriate.

(b) COMMITTEES.—The congressional committees referred to in subsection (a) are the following:

(1) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

(2) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 933. OPERATIONAL FILES OF THE DEFENSE INTELLIGENCE AGENCY.

(a) PROTECTION OF OPERATIONAL FILES OF DEFENSE INTELLIGENCE AGENCY.—

(1) PROTECTION OF FILES.—Title VII of the National Security Act of 1947 (50 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"OPERATIONAL FILES OF THE DEFENSE INTELLIGENCE AGENCY

"SEC. 705. (a) EXEMPTION OF OPERATIONAL FILES.—The Director of the Defense Intelligence Agency, in coordination with the Director of National Intelligence, may exempt operational files of the Defense Intelligence Agency from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

"(b) OPERATIONAL FILES DEFINED.—(1) In this section, the term 'operational files' means—

"(A) files of the Directorate of Human Intelligence of the Defense Intelligence Agency (and any successor organization of that directorate) that document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services; and

"(B) files of the Directorate of Technology of the Defense Intelligence Agency (and any successor organization of that directorate) that document the means by which foreign intelligence or counterintelligence is collected through technical systems.

"(2) Files that are the sole repository of disseminated intelligence are not operational files.

"(c) SEARCH AND REVIEW FOR INFORMATION.—Notwithstanding subsection (a), exempted operational files shall continue to be subject to search and review for information concerning:

"(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code.

"(2) Any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code.

"(3) The specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive Order, or Presidential directive, in the conduct of an intelligence activity:

"(A) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

"(B) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

"(C) The Intelligence Oversight Board.

"(D) The Department of Justice.

"(E) The Office of General Counsel of the Department of Defense or of the Defense Intelligence Agency.

"(F) The Office of Inspector General of the Department of Defense or of the Defense Intelligence Agency.

"(G) The Office of the Director of the Defense Intelligence Agency.

"(d) INFORMATION DERIVED OR DISSEMINATED FROM EXEMPTED OPERATIONAL FILES.—(1) Files that are not exempted under subsection (a) that contain information derived or disseminated from exempted operational files shall be subject to search and review.

"(2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) shall not affect the exemption under subsection (a) of the originating operational files from search, review, publication, or disclosure.

"(3) The declassification of some of the information contained in an exempted operational file shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

"(4) Records from exempted operational files that have been disseminated to and referenced in files that are not exempted under subsection (a) and that have been returned to exempted operational files for sole retention shall be subject to search and review.

"(e) ALLEGATION; IMPROPER WITHHOLDING OF RECORDS; JUDICIAL REVIEW.—(1) Except as provided in paragraph (2), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that the Defense Intelligence Agency has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

"(2) Judicial review shall not be available in the manner provided under paragraph (1) as follows:

"(A) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign relations which is filed with, or produced for, the court by the Defense Intelligence Agency, such information shall be examined ex parte, in camera by the court.

"(B) The court shall determine, to the fullest extent practicable, issues of fact based on sworn written submissions of the parties.

"(C) When a complainant alleges that requested records were improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

"(D)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Defense Intelligence Agency shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in subsection (b).

"(ii) The court may not order the Defense Intelligence Agency to review the content of any exempted operational file or files in order to make the demonstration required under clause (i), unless the complainant disputes the Defense Intelligence Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

"(E) In proceedings under subparagraphs (C) and (D), the parties shall not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admission may be made pursuant to rules 26 and 36.

"(F) If the court finds under this subsection that the Defense Intelligence Agency has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order the Defense Intelligence Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this section (other than subsection (f)).

"(G) If at any time following the filing of a complaint pursuant to this paragraph the Defense Intelligence Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

"(H) Any information filed with, or produced for the court pursuant to subparagraphs (A) and (D) shall be coordinated with the Director of National Intelligence before submission to the court.

"(f) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—(1) Not less than once every 10 years, the Director of the Defense Intelligence Agency and the Director of National Intelligence shall review the exemptions in force under subsection (a) to determine whether such exemptions may be removed from a category of exempted files or any portion thereof. The Director of National Intelligence must approve any determinations to remove such exemptions.

"(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

"(3) A complainant that alleges that the Defense Intelligence Agency has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

"(A) Whether the Defense Intelligence Agency has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.

"(B) Whether the Defense Intelligence Agency, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

"(g) TERMINATION.—This section shall cease to be effective on December 31, 2007.".

(2) CLERICAL AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is amended by inserting after the item relating to section 704 the following new item:

"Sec. 705. Operational files of the Defense Intelligence Agency.".

(b) SEARCH AND REVIEW OF CERTAIN OTHER OPERATIONAL FILES.—The National Security Act of 1947 is further amended—

(1) in section 702(a)(3)(C) (50 U.S.C. 432(a)(3)(C)), by adding at the end the following new clause:

"(vi) The Office of the Inspector General of the National Geospatial-Intelligence Agency.";

(2) in section 703(a)(3)(C) (50 U.S.C. 432a(a)(3)(C)), by adding at the end the following new clause:

"(vii) The Office of the Inspector General of the NRO."; and

(3) in section 704(c)(3) (50 U.S.C. 432b(c)(3)), by adding at the end the following new subparagraph:

"(H) The Office of the Inspector General of the National Security Agency.".

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Sec. 1001. Transfer authority.
Sec. 1002. Authorization of emergency supplemental appropriations for fiscal years 2005 and 2006.
Sec. 1003. Increase in fiscal year 2005 general transfer authority.
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Subtitle B—Naval Vessels and Shipyards

Sec. 1011. Conveyance, Navy drydock, Seattle, Washington.
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Subtitle C—Counter-Drug Activities

Sec. 1021. Resumption of reporting requirement regarding Department of Defense expenditures to support foreign counter-drug activities.
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Subtitle D—Matters Related to Homeland Security

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Sec. 1033. Department of Defense chemical, biological, radiological, nuclear, and high-yield explosives response teams.
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Subtitle E—Reports and Studies

Sec. 1041. Review of Defense Base Act insurance.
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Subtitle F—Other Matters

Sec. 1051. Commission on the Implementation of the New Strategic Posture of the United States.
Sec. 1052. Reestablishment of EMP Commission.
Sec. 1053. Modernization of authority relating to security of defense property and facilities.
Sec. 1054. Revision of Department of Defense counterintelligence polygraph program.
Sec. 1055. Preservation of records pertaining to radioactive fallout from nuclear weapons testing.
Sec. 1056. Technical and clerical amendments.
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Sec. 1058. Support for youth organizations.
Sec. 1059. Special immigrant status for persons serving as translators with United States Armed Forces.
Sec. 1060. Expansion of emergency services under reciprocal agreements.
Sec. 1061. Renewal of moratorium on return of veterans memorial objects to foreign nations without specific authorization in law.
Sec. 1062. Sense of Congress on national security interest of maintaining aeronautics research and development.
Sec. 1063. Airport certification.

Subtitle G—Military Mail Matters

Sec. 1071. Safe delivery of mail in military mail system.

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) Authority To Transfer Authorizations.—

(1) Authority.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2006 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) Limitation.—The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $3,500,000,000.

(b) Limitations.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) Effect on Authorization Amounts.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) Notice to Congress.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEARS 2005 AND 2006.

(a) Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005.—Amounts authorized to be appropriated to the Department of Defense and the Department of Energy for fiscal year 2005 in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased by a supplemental appropriation or decreased by a rescission, or both, or are increased by a transfer of funds, pursuant to title I and chapter 2 of title IV of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13).

(b) First Emergency Supplemental To Meet Needs Arising From Hurricane Katrina.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2005 in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorized amount are increased by a supplemental appropriation, or by a transfer of funds, pursuant to the Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109–61).

(c) Second Emergency Supplemental To Meet Needs Arising From Hurricane Katrina.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2005 in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorized amount are increased by a supplemental appropriation, or by a transfer of funds, pursuant to the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109–62).

(d) Supplemental Appropriations for Avian Flu Preparedness.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2006 in this Act are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorized amount are increased by a supplemental appropriation, or by a transfer of funds, arising from the proposal of the President relating to avian flu preparedness that was submitted to Congress on November 1, 2006.

(e) Amounts Reallocated for Hurricane-Related Disaster Relief.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2006 in this Act are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorized amount are increased by a reallocation of funds from the Disaster Relief Fund of the Federal Emergency Management Agency arising from the proposal of the Director of the Office of Management and Budget on the reallocation of amounts for hurricane-related disaster relief that was submitted to the President on October 28, 2005, and transmitted to the Speaker of the House of Representatives on that date.

(f) Amounts for Humanitarian Assistance for Earthquake Victims in Pakistan.—There is authorized to be appropriated as emergency supplemental appropriations for the Department of Defense for fiscal year 2006, $40,000,000 for the use of the Department of Defense for overseas, humanitarian, disaster, and civic aid for the purpose of providing humanitarian assistance to the victims of the earthquake that devastated northern Pakistan on October 8, 2005.

(g) Reports on Use of Certain Funds.—

(1) Report on Use of Emergency Supplemental Funds.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the obligation and expenditure, as of that date, of any funds appropriated to the Department of Defense for fiscal year 2005 pursuant to the Acts referred to in subsections (a), (b), and (c) as authorized by such subsections. The report shall set forth—

(A) the amounts so obligated and expended; and

(B) the purposes for which such amounts were so obligated and expended.

(2) REPORT ON EXPENDITURE OF REIMBURSABLE FUNDS.—The Secretary shall include in the report required by paragraph (1) a statement of any expenditure by the Department of Defense of funds that were reimbursable by the Federal Emergency Management Agency, or any other department or agency of the Federal Government, from funds appropriated in an Act referred to in subsection (a), (b), or (c) to such department or agency.

(3) REPORT ON USE OF CERTAIN OTHER FUNDS.—Not later than May 15, 2006, and quarterly thereafter through November 15, 2006, the Secretary shall submit to the congressional defense committees a report on the obligation and expenditure, during the previous fiscal year quarter, of any funds appropriated to the Department of Defense as specified in subsection (d) and any funds reallocated to the Department as specified in subsection (e). Each report shall, for the fiscal year quarter covered by such report, set forth—

(A) the amounts so obligated and expended; and

(B) the purposes for which such amounts were so obligated and expended.

(h) Report on Assistance for Earthquake Victims in Pakistan.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report describing Department of Defense efforts to provide relief to victims of the earthquake that devastated northern Pakistan on October 8, 2005, and assessing the need for further reconstruction and relief assistance.

SEC. 1003. INCREASE IN FISCAL YEAR 2005 GENERAL TRANSFER AUTHORITY.

Section 1001(a)(2) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2034) is amended by striking "$3,500,000,000" and inserting "$6,185,000,000".

SEC. 1004. REPORTS ON FEASIBILITY AND DESIRABILITY OF CAPITAL BUDGETING FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) Capital Budgeting Defined.—For the purposes of this section, the term "capital budgeting" means a budget process that—

(1) identifies large capital outlays that are expected to be made in future years, together with identification of the proposed means to finance those outlays and the expected benefits of those outlays;

(2) separately identifies revenues and outlays for capital assets from revenues and outlays for an operating budget;

(3) allows for the issue of long-term debt to finance capital investments; and

(4) provides the budget authority for acquiring a capital asset over several fiscal years (rather than in a single fiscal year at the beginning of such acquisition).

(b) Reports Required.—Not later than July 1, 2006, the Secretary of Defense and the Secretary of each military department shall each submit to Congress a report analyzing the feasibility and desirability of using a capital budgeting system for the financing of major defense acquisition programs. Each such report shall address the following matters:

(1) The potential long-term effect on the defense industrial base of the United States of continuing with the current full up-front funding system for major defense acquisition programs.

(2) Whether use of a capital budgeting system could create a more effective decisionmaking process for long-term investments in major defense acquisition programs.

(3) The manner in which a capital budgeting system for major defense acquisition programs would affect the budget planning and formulation process of the military departments.

(4) The types of financial mechanisms that would be needed to provide funds for such a capital budgeting system.

SEC. 1005. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2006.

(a) Fiscal Year 2006 Limitation.—The total amount contributed by the Secretary of Defense in fiscal year 2006 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) Total Amount.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 2005, of funds appropriated for fiscal years before fiscal year 2006 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) Authorized Amounts.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), $763,000 for the Civil Budget.

(2) Of the amount provided in section 301(1), $289,447,000 for the Military Budget.

(d) Definitions.—For purposes of this section:

(1) Common-funded budgets of NATO.—The term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) Fiscal year 1998 baseline limitation.—The term "fiscal year 1998 baseline limitation" means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

Subtitle B—Naval Vessels and Shipyards

SEC. 1011. CONVEYANCE, NAVY DRYDOCK, SEATTLE, WASHINGTON.

(a) Conveyance Authorized.—The Secretary of the Navy is authorized to convey the yard floating drydock YFD–70, located in Seattle, Washington, to Todd Pacific Shipyards Corporation, that company being the current user of the drydock.

(b) Condition of Conveyance.—The Secretary shall require as a condition of the conveyance under subsection (a) that the drydock remain at the facilities of Todd Pacific Shipyards Corporation until at least September 30, 2010.

(c) Consideration.—As consideration for the conveyance of the drydock under subsection (a), the purchaser shall provide compensation to the United States the value of which, as determined by the Secretary, is equal to the fair market value of the drydock, as determined by the Secretary.

(d) Transfer at No Cost to United States.—The provisions of section 7306(c) of title 10, United States Code, shall apply to the conveyance under this section.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 1012. CONVEYANCE, NAVY DRYDOCK, JACKSONVILLE, FLORIDA.

(a) Conveyance Authorized.—The Secretary of the Navy is authorized to convey the medium auxiliary floating drydock SUSTAIN (AFDM–7), located in Duval County, Florida, to Atlantic Marine Property Holding Company, that company being the current user of the drydock.

(b) Condition of Conveyance.—The Secretary shall require as a condition of the conveyance under subsection (a) that the drydock remain at the facilities of Atlantic Marine Property Holding Company until at least September 30, 2010.

(c) Consideration.—As consideration for the conveyance of the drydock under subsection (a), the purchaser shall provide compensation to the United States the value of which, as determined by the Secretary, is equal to the fair market value of the drydock, as determined by the Secretary.

(d) Transfer at No Cost to United States.—The provisions of section 7306(c) of title 10, United States Code, shall apply to the conveyance under this section.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 1013. CONVEYANCE, NAVY DRYDOCK, PORT ARTHUR, TEXAS.

(a) Conveyance Authorized.—The Secretary of the Navy is authorized to convey to the port authority of the city of Port Arthur, Texas, the inactive medium auxiliary floating drydock designated as AFDM–2, currently administered through the National Defense Reserve Fleet.

(b) Condition of Conveyance.—The Secretary shall require as a condition of the conveyance under subsection (a) that the drydock remain at the facilities of the port authority named in subsection (a).

(c) Consideration.—As consideration for the conveyance of the drydock under subsection (a), the purchaser shall provide compensation to the United States the value of which, as determined by the Secretary, is equal to the fair market value of the drydock, as determined by the Secretary.

(d) Transfer at No Cost to United States.—The provisions of section 7306(c) of title 10, United States Code, shall apply to the conveyance under this section.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 1014. TRANSFER OF BATTLESHIPS U.S.S. WISCONSIN AND U.S.S. IOWA.

(a) Transfer of Battleship Wisconsin.—The Secretary of the Navy is authorized—

(1) to strike the battleship U.S.S. WISCONSIN (BB–64) from the Naval Vessel Register; and

(2) to transfer that vessel, by gift or otherwise, in accordance with section 7306 of title 10, United States Code, except that the Secretary shall require, as a condition of transfer, that the transferee locate the vessel in the Commonwealth of Virginia.

(b) Transfer of Battleship Iowa.—The Secretary of the Navy is authorized—

(1) to strike the battleship U.S.S. IOWA (BB–61) from the Naval Vessel Register; and

(2) to transfer that vessel, by gift or otherwise, in accordance with section 7306 of title 10, United States Code, except that the Secretary shall require, as a condition of transfer, that the

transferee locate the vessel in the State of California.

(c) Inapplicability of Notice-and-Wait Requirement.—Section 7306(d) of title 10, United States Code, does not apply to the transfer authorized by subsection (a) or the transfer authorized by subsection (b).

(d) Authority for Reversion in Event of National Emergency.—The Secretary of the Navy shall require that the terms of the transfer of a vessel under this section include a requirement that, in the event the President declares a national emergency pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.), the transferee of the vessel shall, upon request of the Secretary of Defense, return the vessel to the United States and that, in such a case, unless the transferee is otherwise notified by the Secretary, title to the vessel shall revert immediately to the United States.

(e) Repeal of Superseded Requirements and Authorities.—

(1) Section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 421) is repealed.

(2) Section 1011 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2118) is repealed.

SEC. 1015. TRANSFER OF EX-U.S.S. FORREST SHERMAN.

(a) Transfer.—The Secretary of the Navy may transfer the decommissioned destroyer ex-U.S.S. Forrest Sherman (DD–931) to the USS Forrest Sherman DD–931 Foundation, Inc., a nonprofit organization under the laws of the State of Maryland, subject to the submission of a donation application for that vessel that is satisfactory to the Secretary.

(b) Applicable Law.—The transfer under this section is subject to subsections (b) and (c) of section 7306 of title 10, United States Code. Subsection (d) of that section is hereby waived with respect to such transfer.

(c) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the transfer under subsection (a) as the Secretary considers appropriate.

(d) Expiration of Authority.—The authority granted by subsection (a) shall expire at the end of the five-year period beginning on the date of the enactment of this Act.

SEC. 1016. REPORT ON LEASING OF VESSELS TO MEET NATIONAL DEFENSE SEALIFT REQUIREMENTS.

(a) Report Requirement.—The Secretary of Defense shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate by no later than March 1, 2006, a report on leasing (including chartering) of vessels by the Department of Defense to meet national defense sealift requirements, including leasing under sections 2401 and 2401a of title 10, United States Code.

(b) Matters To Be Included.—The report under subsection (a) shall include the following:

(1) A description of—

(A) the portion of national defense sealift requirements that, during the 3-year period preceding the date of the enactment of this Act, was met through leasing of vessels;

(B) the portion of such requirements that was met during that period through use of vessels owned by the United States; and

(C) for each of the portions described under subparagraph (A) and (B), a description of the number of each type of vessel used to meet such requirements, including roll-on/roll-off vessels, dry bulk carriers, oilers, and other vessel types.

(2) With respect to vessels that were leased in the 3-year period preceding the date of the enactment of this Act—

(A) a listing of such vessels;

(B) identification of the country in which each vessel was constructed or reconstructed;

(C) identification of the country under the laws of which each vessel is documented;

(D) with respect to periods during which each vessel was operated under lease to the Department of Defense, identification of the routes on which each vessel operated and the ports at which each vessel called;

(E) the terms of the lease for each vessel that govern—

(i) amounts required to be paid by the United States;

(ii) the length of the lease term;

(iii) maintenance, repair, and alteration, including provisions regarding—

(I) alterations required under the lease; and

(II) qualified maintenance or repair of the vessel in a foreign shipyard or foreign ship repair facility; and

(iv) where alterations or qualified maintenance or repair may be performed; and

(F) a description of qualified maintenance or repair that was performed on each vessel in the 3-year period preceding the date of the enactment of this Act, including—

(i) the amounts paid by the lessor for such work; and

(ii) identification of whether such work was performed in the United States or in a foreign country.

(3) Estimation of any increase in total costs that would have been incurred by the United States if qualified maintenance or repair that was performed on leased vessels in the 3-year period preceding the date of the enactment of this Act were required to be performed in the United States.

(4) Other impacts to the economy of the United States if qualified maintenance or repair that was performed on leased vessels in the 3-year period preceding the date of the enactment of this Act were required to be performed in the United States.

(c) Qualified Maintenance or Repair Defined.—In this section the term "qualified maintenance or repair"—

(1) except as provided in paragraph (2), means—

(A) any inspection of a vessel that is—

(i) required under chapter 33 of title 46, United States Code; and

(ii) performed in a period in which the vessel is under lease by the Department of Defense;

(B) any maintenance or repair of a vessel that is determined, in the course of an inspection referred to in subparagraph (A), to be necessary to comply with the laws of the United States; and

(C) any routine maintenance or repair; and

(2) does not include any emergency work that is necessary to enable a vessel to return to a port in the United States.

SEC. 1017. ESTABLISHMENT OF THE USS OKLAHOMA MEMORIAL AND OTHER MEMORIALS AT PEARL HARBOR.

(a) Establishment of the USS Oklahoma Memorial.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Navy, in consultation with the Secretary of the Interior, shall identify an appropriate site on Ford Island, Hawaii, for a memorial for the U.S.S. Oklahoma (BB–37). The Secretary of the Interior shall establish the memorial at the identified site by authorizing the USS Oklahoma Memorial Foundation to construct a memorial. The Secretary shall certify that—

(1) the USS Oklahoma Memorial Foundation has sufficient funding to complete construction of the memorial; and

(2) the memorial meets the requirements of subsection (c).

(b) Administration of the Memorial.—Once established, the Secretary of the Interior shall administer the USS Oklahoma Memorial as a part of the USS Arizona Memorial, a unit of the National Park System, in accordance with the laws and regulations applicable to land administered by the National Park Service and any agreement between the Secretary of the Interior and the Secretary of the Navy. The Secretary of the Navy shall retain administrative jurisdiction over the land where the USS Oklahoma Memorial is established.

(c) Requirements for Pearl Harbor Memorials.—The site selection, design, and construction of the USS Oklahoma Memorial and any memorials established after the date of the enactment of this Act that are associated with the attack at Pearl Harbor on December 7, 1941, shall be consistent with the requirements in the document titled "Pearl Harbor Naval Complex Design Guidelines and Evaluation Criteria for Memorials", dated April 2005.

(d) Establishment and Operation of Transportation System.—The Secretary of the Interior may establish and operate a transportation system over roads linking the USS Arizona Memorial Visitor Center with one or more of the existing and future historic sites and historic visitor attractions within the Pearl Harbor Naval Complex, including Ford Island. Transportation on this system may be provided with or without charge, directly or through a contract or concessioner, and without regard to whether service is provided to sites or attractions that are under the jurisdiction of or administered by the National Park Service.

SEC. 1018. AUTHORITY TO USE NATIONAL DEFENSE SEALIFT FUND TO PURCHASE CERTAIN MARITIME PREPOSITIONING SHIPS CURRENTLY UNDER CHARTER TO THE NAVY.

(a) Fiscal Year 2006 Limitation.—The authority provided by subsection (c)(1) of section 2218 of title 10, United States Code, may not be used for the purchase of more than six vessels described in subsection (c) using funds appropriated to the National Defense Sealift Fund for fiscal year 2006.

(b) Authority.—The Secretary of Defense may purchase any vessel described in subsection (c) through the use of the authority in subsection (c)(1) of section 2218 of title 10, United States Code, without regard to the limitation in subsection (f)(1) of that section.

(c) Covered Vessels.—Subsections (a) and (b) apply with respect to any vessel that as of the date of the enactment of this Act—

(1) is chartered by the Department of Defense under a 25-year lease; and

(2) is used by the Navy as a maritime prepositioning ship.

(d) Technical Amendments To Update Statute.—Section 2218(f)(1) of title 10, United States Code, is amended—

(1) by striking "Not more than a total of five vessels built in foreign ship yards may be" and inserting "A vessel built in a foreign ship yard may not be"; and

(2) by inserting before the period at the end the following: ", unless specifically authorized by law".

Subtitle C—Counter-Drug Activities

SEC. 1021. RESUMPTION OF REPORTING REQUIREMENT REGARDING DEPARTMENT OF DEFENSE EXPENDITURES TO SUPPORT FOREIGN COUNTER-DRUG ACTIVITIES.

(a) Additional Report Required.—Section 1022 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–255), as amended by section 1022 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1215), is further amended by striking "January 1, 2001, and April 15, 2002," and inserting "April 15, 2006,".

(b) Additional Information Required.—Such section is further amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) A description of each base of operation or training facility established, constructed, or operated using the assistance, including any minor construction projects carried out using such assistance, and the amount of assistance expended on base of operations and training facilities.".

SEC. 1022. CLARIFICATION OF AUTHORITY FOR JOINT TASK FORCES TO SUPPORT LAW ENFORCEMENT AGENCIES CONDUCTING COUNTER-TERRORISM ACTIVITIES.

Section 1022 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1594) is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsections:

"(b) Availability of Funds.—During fiscal years 2006 and 2007, funds available to a joint task force to support counter-drug activities may also be used to provide the counter-terrorism support authorized by subsection (a).

"(c) Report Required.—Not later than December 31, 2006, the Secretary of Defense shall submit to Congress a report evaluating the effect on counter-drug and counter-terrorism activities and objectives of using counter-drug funds of a joint task force to provide counter-terrorism support authorized by subsection (a).".

SEC. 1023. SENSE OF CONGRESS REGARDING DRUG TRAFFICKING DETERRENCE.

(a) Findings.—Congress finds the following:

(1) According to the Department of State, drug trafficking organizations shipped approximately nine tons of cocaine to the United States through the Dominican Republic in 2004, and are increasingly using small, high-speed watercraft.

(2) Drug traffickers use the Caribbean corridor to smuggle narcotics to the United States via Puerto Rico and the Dominican Republic. This route is ideal for drug trafficking because of its geographic expanse, numerous law enforcement jurisdictions, and fragmented investigative efforts.

(3) The tethered aerostat system in Lajas, Puerto Rico, contributes to deterring and detecting smugglers moving illicit drugs into Puerto Rico. The aerostat's range and operational capabilities allow it to provide surveillance coverage of the eastern Caribbean corridor and the strategic waterway between Puerto Rico and the Dominican Republic, known as the Mona Passage.

(4) Including maritime radar on the Lajas aerostat will expand its ability to detect suspicious vessels in the eastern Caribbean corridor.

(b) Sense of Congress.—Given the findings contained in subsection (a), it is the sense of Congress that—

(1) Congress and the Department of Defense should fund the Counter-Drug Tethered Aerostat program; and

(2) the Department of Defense should install maritime radar on the Lajas, Puerto Rico, aerostat.

Subtitle D—Matters Related to Homeland Security

SEC. 1031. RESPONSIBILITIES OF ASSISTANT SECRETARY OF DEFENSE FOR HOMELAND DEFENSE RELATING TO NUCLEAR, CHEMICAL, AND BIOLOGICAL EMERGENCY RESPONSE.

Subsection (a) of section 1413 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2313) is amended to read as follows:

"(a) Department of Defense.—The Assistant Secretary of Defense for Homeland Defense is responsible for the coordination of Department of Defense assistance to Federal, State, and local officials in responding to threats involving nuclear, radiological, biological, chemical weapons, or high-yield explosives or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of nuclear, radiological, biological, chemical weapons, and high-yield explosives and related materials and technologies.".

SEC. 1032. TESTING OF PREPAREDNESS FOR EMERGENCIES INVOLVING NUCLEAR, RADIOLOGICAL, CHEMICAL, BIOLOGICAL, AND HIGH-YIELD EXPLOSIVES WEAPONS.

(a) Secretary of Homeland Security Functions.—Subsection (a) of section 1415 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2315) is amended—

(1) in the subsection heading, by striking "Chemical Or" and inserting "Nuclear, Radiological, Chemical, Or";

(2) in paragraph (1)—

(A) by striking "Secretary of Defense" and inserting "Secretary of Homeland Security"; and

(B) by striking "biological weapons and related materials and emergencies involving" and inserting "nuclear, radiological, biological, and";

(3) in paragraph (2), by striking "during each of fiscal years 1997 through 2013" and inserting "in accordance with sections 102(c) and 430(c)(1) of the Homeland Security Act of 2002 (6 U.S.C. 112(c), 238(c)(1))"; and

(4) in paragraph (3)—

(A) by inserting "the Secretary of Defense," before "the Director of the Federal Bureau of Investigation"; and

(B) by striking "the Director of the Federal Emergency Management Agency,".

(b) Repeal of Secretary of Energy Functions.—Such section is further amended by striking subsection (b).

(c) Conforming Amendments.—Subsection (c) of such section—

(1) is redesignated as subsection (b); and

(2) is amended—

(A) in the first sentence, by striking "The official responsible for carrying out a program developed under subsection (a) or (b) shall revise the program" and inserting "The Secretary of Homeland Security shall revise the program developed under subsection (a)"; and

(B) in the second sentence, by striking "the official" and inserting "the Secretary".

(d) Repeal of Obsolete Provisions.—Such section is further amended by striking subsections (d) and (e).

SEC. 1033. DEPARTMENT OF DEFENSE CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, AND HIGH-YIELD EXPLOSIVES RESPONSE TEAMS.

Section 1414 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2314) is amended as follows:

(1) The heading of such section is amended to read as follows:

"SEC. 1414. CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, AND HIGH-YIELD EXPLOSIVES RESPONSE TEAM.".

(2) Subsection (a) of such section is amended by striking "or related materials" and inserting "radiological, nuclear, and high-yield explosives".

(3) Subsection (b) of such section is amended—

(A) in the subsection heading, by striking "Plan" and inserting "Plans";

(B) in the first sentence, by striking "Not later than" and all that follows through "response plans and" and inserting "The Secretary of Homeland Security shall incorporate into the National Response Plan prepared pursuant to section 502(6) of the Homeland Security Act of 2002 (6 U.S.C. 312(6)), other existing Federal emergency response plans, and"; and

(C) in the second sentence—

(i) by striking "Director" and inserting "Secretary of Homeland Security"; and

(ii) by striking "consultation" and inserting "coordination".

SEC. 1034. REPEAL OF DEPARTMENT OF DEFENSE EMERGENCY RESPONSE ASSISTANCE PROGRAM.

Section 1412 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2312) is repealed.

SEC. 1035. REPORT ON USE OF DEPARTMENT OF DEFENSE AERIAL RECONNAISSANCE ASSETS TO SUPPORT HOMELAND SECURITY BORDER SECURITY MISSIONS.

(a) Report Required.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of a study regarding the use of aerial reconnaissance equipment of the Department of Defense in missions in which the Armed Forces support the Department of Homeland Security in performing its international border security mission. The Secretary of Defense shall conduct the study and prepare the report in coordination with the Secretary of Homeland Security.

(b) Elements of Report.—The report required by subsection (a) shall include the following:

(1) A description of the current use of aerial reconnaissance equipment of the Department of Defense to conduct aerial reconnaissance over the international land and maritime borders of the United States in missions in which the Armed Forces support the Department of Homeland Security in performing its international border security mission.

(2) A statement of the costs of such missions and the source of funds for such missions.

(3) The conclusions derived from a study of how the Department of Defense leverages dual-use aerial reconnaissance assets and technology, such as unmanned aerial vehicles and tethered aerostat radars, for both homeland defense and homeland security purposes.

Subtitle E—Reports and Studies

SEC. 1041. REVIEW OF DEFENSE BASE ACT INSURANCE.

(a) Review Required.—The Secretary of Defense shall review current and future needs, options, and risks associated with Defense Base Act insurance. The review shall be conducted in coordination with the Director of the Office of Management and Budget and appropriate officials of the Department of Labor, the Department of State, and the United States Agency for International Development.

(b) Matters To Be Addressed.—The review under subsection (a) shall address the following matters:

(1) Cost-effective options for acquiring Defense Base Act insurance.

(2) Methods for coordinating data collection efforts among agencies and contractors on numbers of employees, costs of insurance, and other information relevant to decisions on Defense Base Act insurance.

(3) Improved communication and coordination within and among agencies on the implementation of Defense Base Act insurance.

(4) Actions to be taken to address difficulties in the administration of Defense Base Act insurance, including on matters relating to cost, data, enforcement, and claims processing.

(c) Report Required.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the results of the review under subsection (a). The report shall set forth the findings of the Secretary as a result of *the review and such recommendations, including recommendations for legislative or administrative action, as the Secretary considers appropriate in light of the review.*

(d) DEFENSE BASE ACT INSURANCE DEFINED.—In this section, the term "Defense Base Act insurance" means workers' compensation insurance provided to contractor employees pursuant to the Defense Base Act (42 U.S.C. 1651 et seq.).

SEC. 1042. REPORT ON DEPARTMENT OF DEFENSE RESPONSE TO FINDINGS AND RECOMMENDATIONS OF DEFENSE SCIENCE BOARD TASK FORCE ON HIGH PERFORMANCE MICROCHIP SUPPLY.

(a) REPORT REQUIRED.—Not later than July 1, 2006, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of the recommendations of the Defense Science Board Task Force on High Performance Microchip Supply.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) An analysis of each finding of the Task Force.

(2) A detailed description of the response of the Department of Defense to each recommendation of the Task Force, including—

(A) for each recommendation that is being implemented or that the Secretary plans to implement—

(i) a summary of actions that have been taken to implement the recommendation; and

(ii) a schedule, with specific milestones, for completing the implementation of the recommendation; and

(B) for each recommendation that the Secretary does not plan to implement—

(i) the reasons for the decision not to implement the recommendation; and

(ii) a summary of alternative actions the Secretary plans to take to address the purposes underlying the recommendation.

(3) A summary of any additional actions the Secretary plans to take to address concerns raised by the Task Force.

Subtitle F—Other Matters

SEC. 1051. COMMISSION ON THE IMPLEMENTATION OF THE NEW STRATEGIC POSTURE OF THE UNITED STATES.

(a) ESTABLISHMENT OF COMMISSION.—

(1) ESTABLISHMENT.—There is hereby established a commission to be known as the "Commission on the Implementation of the New Strategic Posture of the United States". The Secretary of Defense shall enter into a contract with a federally funded research and development center to provide for the organization, management, and support of the Commission. Such contract shall be entered into in consultation with the Secretary of Energy. The selection of the federally funded research and development center shall be made in consultation with the chairman and ranking minority member of the Committee on Armed Services of the Senate and the chairman and ranking minority member of the Committee on Armed Services of the House of Representatives.

(2) COMPOSITION.—

(A) MEMBERSHIP.—The Commission shall be composed of 12 members who shall be appointed by the Secretary of Defense. In selecting individuals for appointment to the Commission, the Secretary of Defense shall consult with the chairman and ranking minority member of the Committee on Armed Services of the Senate and the chairman and ranking minority member of the Committee on Armed Services of the House of Representatives.

(B) QUALIFICATIONS.—Members of the Commission shall be appointed from among private United States citizens with knowledge and expertise in the political, military, operational, and technical aspects of nuclear strategy.

(3) CHAIRMAN OF THE COMMISSION.—The Secretary of Defense shall designate one of the members of the Commission to serve as chairman of the Commission.

(4) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(5) SECURITY CLEARANCES.—All members of the Commission shall hold appropriate security clearances.

(b) DUTIES OF COMMISSION.—

(1) REVIEW OF IMPLEMENTATION OF NUCLEAR POSTURE REVIEW.—The Commission shall examine programmatic requirements to achieve the goals set forth in the report of the Secretary of Defense submitted to Congress on December 31, 2001, providing the results of the Nuclear Posture Review conducted pursuant to section 1041 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654, 1654A–262) and results of periodic assessments of the Nuclear Posture Review. Matters examined by the Commission shall include the following:

(A) The process of establishing requirements for strategic forces and how that process accommodates employment of nonnuclear strike platforms and munitions in a strategic role.

(B) How strategic intelligence, reconnaissance, and surveillance requirements differ from nuclear intelligence, reconnaissance, and surveillance requirements.

(C) The ability of a limited number of strategic platforms to carry out a growing range of nonnuclear strategic strike missions.

(D) The limits of tactical systems to perform nonnuclear global strategic missions in a prompt manner.

(E) An assessment of the ability of the current nuclear stockpile to address the evolving strategic threat environment through 2008.

(2) RECOMMENDATIONS.—The Commission shall include in its report recommendations with respect to the following:

(A) Changes to the requirements process to employ nonnuclear strike platforms and munitions in a strategic role.

(B) Changes to the nuclear stockpile and infrastructure required to preserve a nuclear capability commensurate with the changes to the strategic threat environment through 2008.

(C) Actions the Secretary of Defense and the Secretary of Energy can take to preserve flexibility of the defense nuclear complex while reducing the cost of a Cold War strategic infrastructure.

(D) Identify shortfalls in the strategic modernization programs of the United States that would undermine the ability of the United States to develop new nonnuclear strategic strike capabilities.

(3) COOPERATION FROM GOVERNMENT.—

(A) COOPERATION.—In carrying out its duties, the Commission shall receive the full and timely cooperation of the Secretary of Defense, the Secretary of Energy, and any other United States Government official in providing the Commission with analyses, briefings, and other information necessary for the fulfillment of its responsibilities.

(B) LIAISON WITH DOE & DOD.—The Secretary of Energy and the Secretary of Defense shall each designate at least one officer or employee of the Department of Energy and the Department of Defense, respectively, to serve as a liaison officer between the department and the Commission.

(c) REPORTS.—

(1) COMMISSION REPORT.—Not later than June 30, 2007, the Commission shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and House of Representatives a report on the Commission's findings and conclusions.

(2) SECRETARY OF DEFENSE RESPONSE.—

(A) IN GENERAL.—The Secretary of Defense may submit to the Commission a response to the report of the Commission under paragraph (1). If the Secretary elects to submit to the Commission a response to the report of the Commission, the Secretary shall also submit such response to the committees specified in paragraph (1).

(B) MATTERS TO BE INCLUDED.—The response, if any, of the Secretary to the report of the Commission shall include—

(i) comments on the findings and conclusions of the Commission; and

(ii) an explanation of what actions, if any, the Secretary intends to take to implement the recommendations of the Commission and, with respect to each such recommendation, the Secretary's reasons for implementing, or not implementing, the recommendation.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, up to three employees of such department or agency to the Commission to assist it in carrying out its duties.

(e) FUNDING.—Funds for activities of the Commission shall be provided from amounts appropriated for the Department of Defense.

(f) TERMINATION OF COMMISSION.—The Commission shall terminate on July 30, 2007.

(g) IMPLEMENTATION.—

(1) FFRDC CONTRACT.—The Secretary of Defense shall enter into the contract required under subsection (a)(1) not later that 60 days after the date of the enactment of this Act.

(2) FIRST MEETING.—The Commission shall convene its first meeting not later than 30 days after the date as of which all members of the Commission have been appointed.

SEC. 1052. REESTABLISHMENT OF EMP COMMISSION.

(a) REESTABLISHMENT.—The commission established pursuant to title XIV of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–345), known as the Commission to Assess the Threat to the United States from Electromagnetic Pulse Attack, is hereby reestablished.

(b) MEMBERSHIP.—The Commission as reestablished shall have the same membership as the Commission had as of the date of the submission of the report of the Commission pursuant to section 1403(a) of such Act, as in effect before the date of the enactment of this Act. Service on the Commission is voluntary, and Commissioners may elect to terminate their service on the Commission.

(c) COMMISSION CHARTER DEFINED.—In this section, the term "Commission charter" means title XIV of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–345 et seq.).

(d) ESTABLISHMENT AND PURPOSE.—Section 1401 of the Commission charter (114 Stat. 1654A–345) is amended—

(1) by striking subsections (e) and (g);

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(3) by inserting after subsection (a) the following new subsection (b):

"(b) PURPOSE.—The purpose of the Commission is to monitor, investigate, make recommendations, and report to Congress on the evolving threat to the United States from electromagnetic pulse (hereinafter in this title referred to as 'EMP') attack resulting from the detonation of a nuclear weapon or weapons at high altitude.";

(4) in subsection (c), as redesignated by paragraph (2), by striking the second and third sentences and inserting "In the event of a vacancy in the membership of the Commission, the Secretary of Defense shall appoint a new member."; and

(5) in subsection (d), as redesignated by paragraph (2), by striking "pulse (hereafter" and all that follows and inserting "pulse effects referred to in subsection (b).".

(e) DUTIES OF COMMISSION.—Section 1402 of the Commission charter (114 Stat. 1654A–346) is amended to read as follows:

"SEC. 1402. DUTIES OF COMMISSION.

"The Commission shall assess the following:

"(1) The vulnerability of electric-dependent military systems and other electric-dependent systems in the United States to an EMP attack, giving special attention to the progress, or lack of progress, by the Department of Defense, other Government departments and agencies of the United States, and entities of the private sector in taking steps to protect such systems from such an attack.

"(2) The report of the Secretary of Defense submitted to Congress under section 1403(b) of this Act as in effect before the enactment of the National Defense Authorization Act for Fiscal Year 2006.".

(f) REPORT.—Section 1403 of the Commission charter (114 Stat. 1654A–345) is amended to read as follows:

"SEC. 1403. REPORTS.

"(a) FINAL REPORT.—Not later than June 30, 2007, the Commission shall submit to Congress a report providing the Commission's assessment of the matters specified in section 1402. That report shall include recommendations for any steps the Commission believes should be taken by the United States to better protect systems referred to in section 1402(1) from an EMP attack.

"(b) INTERIM REPORTS.—Before the submission of its report under subsection (a), the Commission may submit to Congress interim reports at such times as the Commission considers appropriate.".

(g) CLERICAL AMENDMENT.—The heading for subsection (c) of section 1405 of the Commission charter (114 Stat. 1654A–347) is amended by striking "COMMISSION" and inserting "PANELS".

(h) COMMISSION PERSONNEL MATTERS.—Section 1406(c)(2) of the Commission charter (114 Stat. 1654A–347) is amended by striking "for grade GS–15 of the General Schedule" and inserting "for senior level and scientific or professional positions".

(i) FUNDING.—Section 1408 of the Commission charter (114 Stat. 1654A–348) is amended—

(1) by inserting "for any fiscal year" after "activities of the Commission"; and

(2) by striking "for fiscal year 2001" and inserting "for that fiscal year".

(j) TERMINATION.—Section 1049 of of the Commission charter (114 Stat. 1654A–348) is amended by striking "60 days" and inserting "30 days".

SEC. 1053. MODERNIZATION OF AUTHORITY RELATING TO SECURITY OF DEFENSE PROPERTY AND FACILITIES.

Section 21 of the Internal Security Act of 1950 (50 U.S.C. 797) is amended to read as follows:

"PENALTY FOR VIOLATION OF SECURITY REGULATIONS AND ORDERS

"SEC. 21. (a) MISDEMEANOR VIOLATION OF DEFENSE PROPERTY SECURITY REGULATIONS.—

"(1) MISDEMEANOR.—Whoever willfully violates any defense property security regulation shall be fined under title 18, United States Code, or imprisoned not more than one year, or both.

"(2) DEFENSE PROPERTY SECURITY REGULATION DESCRIBED.—For purposes of paragraph (1), a defense property security regulation is a property security regulation that, pursuant to lawful authority—

"(A) shall be or has been promulgated or approved by the Secretary of Defense (or by a military commander designated by the Secretary of Defense or by a military officer, or a civilian officer or employee of the Department of Defense, holding a senior Department of Defense director position designated by the Secretary of Defense) for the protection or security of Department of Defense property; or

"(B) shall be or has been promulgated or approved by the Administrator of the National Aeronautics and Space Administration for the protection or security of NASA property.

"(3) PROPERTY SECURITY REGULATION DESCRIBED.—For purposes of paragraph (2), a property security regulation, with respect to any property, is a regulation—

"(A) relating to fire hazards, fire protection, lighting, machinery, guard service, disrepair, disuse, or other unsatisfactory conditions on such property, or the ingress thereto or egress or removal of persons therefrom; or

"(B) otherwise providing for safeguarding such property against destruction, loss, or injury by accident or by enemy action, sabotage, or other subversive actions.

"(4) DEFINITIONS.—In this subsection:

"(A) DEPARTMENT OF DEFENSE PROPERTY.—The term 'Department of Defense property' means covered property subject to the jurisdiction, administration, or in the custody of the Department of Defense, any Department or agency of which that Department consists, or any officer or employee of that Department or agency.

"(B) NASA PROPERTY.—The term 'NASA property' means covered property subject to the jurisdiction, administration, or in the custody of the National Aeronautics and Space Administration or any officer or employee thereof.

"(C) COVERED PROPERTY.—The term 'covered property' means aircraft, airports, airport facilities, vessels, harbors, ports, piers, water-front facilities, bases, forts, posts, laboratories, stations, vehicles, equipment, explosives, or other property or places.

"(D) REGULATION AS INCLUDING ORDER.—The term 'regulation' includes an order.

"(b) POSTING.—Any regulation or order covered by subsection (a) shall be posted in conspicuous and appropriate places.".

SEC. 1054. REVISION OF DEPARTMENT OF DEFENSE COUNTERINTELLIGENCE POLYGRAPH PROGRAM.

(a) IN GENERAL.—Section 1564a of title 10, United States Code, is amended to read as follows:

"§ 1564a. Counterintelligence polygraph program

"(a) AUTHORITY FOR PROGRAM.—The Secretary of Defense may carry out a program for the administration of counterintelligence polygraph examinations to persons described in subsection (b). The program shall be conducted in accordance with the standards specified in subsection (e).

"(b) PERSONS COVERED.—Except as provided in subsection (d), the following persons, if their duties are described in subsection (c), are subject to this section:

"(1) Military and civilian personnel of the Department of Defense.

"(2) Personnel of defense contractors.

"(3) A person assigned or detailed to the Department of Defense.

"(4) An applicant for a position in the Department of Defense.

"(c) COVERED TYPES OF DUTIES.—The Secretary of Defense may provide, under standards established by the Secretary, that a person described in subsection (b) is subject to this section if that person's duties involve—

"(1) access to information that—

"(A) has been classified at the level of top secret; or

"(B) is designated as being within a special access program under section 4.4(a) of Executive Order No. 12958 (or a successor Executive order); or

"(2) assistance in an intelligence or military mission in a case in which the unauthorized disclosure or manipulation of information, as determined under standards established by the Secretary of Defense, could reasonably be expected to—

"(A) jeopardize human life or safety;

"(B) result in the loss of unique or uniquely productive intelligence sources or methods vital to United States security; or

"(C) compromise technologies, operational plans, or security procedures vital to the strategic advantage of the United States and its allies.

"(d) EXCEPTIONS FROM COVERAGE FOR CERTAIN INTELLIGENCE AGENCIES AND FUNCTIONS.—This section does not apply to the following persons:

"(1) A person assigned or detailed to the Central Intelligence Agency or to an expert or consultant under a contract with the Central Intelligence Agency.

"(2) A person who is—

"(A) employed by or assigned or detailed to the National Security Agency;

"(B) an expert or consultant under contract to the National Security Agency;

"(C) an employee of a contractor of the National Security Agency; or

"(D) a person applying for a position in the National Security Agency.

"(3) A person assigned to a space where sensitive cryptographic information is produced, processed, or stored.

"(4) A person employed by, or assigned or detailed to, an office within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs or a contractor of such an office.

"(e) STANDARDS.—(1) Polygraph examinations conducted under this section shall comply with all applicable laws and regulations.

"(2) Such examinations may be authorized for any of the following purposes:

"(A) To assist in determining the initial eligibility for duties described in subsection (c) of, and aperiodically thereafter, on a random basis, to assist in determining the continued eligibility of, persons described in subsections (b) and (c).

"(B) With the consent of, or upon the request of, the examinee, to—

"(i) resolve serious credible derogatory information developed in connection with a personnel security investigation; or

"(ii) exculpate him- or herself of allegations or evidence arising in the course of a counterintelligence or personnel security investigation.

"(C) To assist, in a limited number of cases when operational exigencies require the immediate use of a person's services before the completion of a personnel security investigation, in determining the interim eligibility for duties described in subsection (c) of the person.

"(3) Polygraph examinations conducted under this section shall provide adequate safeguards, prescribed by the Secretary of Defense, for the protection of the rights and privacy of persons subject to this section under subsection (b) who are considered for or administered polygraph examinations under this section. Such safeguards shall include the following:

"(A) The examinee shall receive timely notification of the examination and its intended purpose and may only be given the examination with the consent of the examinee.

"(B) The examinee shall be advised of the examinee's right to consult with legal counsel.

"(C) All questions asked concerning the matter at issue, other than technical questions necessary to the polygraph technique, must have a relevance to the subject of the inquiry.

"(f) OVERSIGHT.—(1) The Secretary shall establish a process to monitor responsible and effective application of polygraph examinations within the Department of Defense.

"(2) The Secretary shall make information on the use of polygraphs within the Department of Defense available to the congressional defense committees.

"(g) Polygraph Research Program.—The Secretary shall carry out a continuing research program to support the polygraph examination activities of the Department of Defense. The program shall include the following:

"(1) An on-going evaluation of the validity of polygraph techniques used by the Department.

"(2) Research on polygraph countermeasures and anti-countermeasures.

"(3) Developmental research on polygraph techniques, instrumentation, and analytic methods.".

(b) Effective Date; Implementation.—The amendment made by subsection (a) shall apply with respect to polygraph examinations administered beginning on the date of the enactment of this Act.

SEC. 1055. PRESERVATION OF RECORDS PERTAINING TO RADIOACTIVE FALLOUT FROM NUCLEAR WEAPONS TESTING.

(a) Prohibition of Destruction of Certain Records.—The Secretary of Defense may not destroy any official record in the custody or control of the Department of Defense that contains information relating to radioactive fallout from nuclear weapons testing.

(b) Preservation and Publication of Information.—The Secretary of Defense shall identify, preserve, and make available any unclassified information contained in official records referred to in subsection (a).

SEC. 1056. TECHNICAL AND CLERICAL AMENDMENTS.

(a) Amendments Relating to Definition of Base Closure Laws.—

(1) Section 2694a(i) of title 10, United States Code, is amended by striking paragraph (2).

(2) Paragraph (1) of section 1333(i) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2701 note) is amended to read as follows:

"(1) Base closure law.—The term 'base closure law' has the meaning given such term in section 101(a)(17) of title 10, United States Code.".

(3) Subsection (b) of section 2814 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103-337; 10 U.S.C. 2687 note) is amended to read as follows:

"(b) Base Closure Law Defined.—In this section, the term 'base closure law' has the meaning given such term in section 101(a)(17) of title 10, United States Code.".

(4) Subsection (c) of section 3341 of title 5, United States Code, is amended to read as follows:

"(c) For purposes of this section, the term 'base closure law' has the meaning given such term in section 101(a)(17) of title 10.".

(5) Chapter 5 of title 40, United States Code, is amended—

(A) in section 554(a)(1), by striking "means" and all that follows and inserting "has the meaning given that term in section 101(a)(17) of title 10."; and

(B) in section 572(b)(1)(B), by striking "section 2667(h)(2) of title 10" and inserting "section 101(a)(17) of title 10".

(6) The Act of November 13, 2000, entitled "An Act to amend the Organic Act of Guam, and for other purposes" (Public Law 106-504; 114 Stat. 2309) is amended by striking paragraph (2) of section 1(c) and inserting the following new paragraph (2):

"(2) The term 'base closure law' has the meaning given such term in section 101(a)(17) of title 10, United States Code.".

(b) Definition of State for Purposes of Section 2694a.—Subsection (i) of section 2694a of title 10, United States Code, as amended by subsection (a)(1), is further amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(2) in paragraph (3), as so redesignated, by striking "and the territories and possessions of the United States" and inserting "Guam, the Virgin Islands, and American Samoa".

(c) Other Miscellaneous Corrections to Title 10, United States Code.—Title 10, United States Code, is amended as follows:

(1) Section 101(e)(4)(B)(ii) is amended by striking the comma after "bulk explosives".

(2) Section 127b(d)(1) is amended by striking "polices" in the second sentence and inserting "policies".

(3) Section 1732 is amended—

(A) in subsection (c)—

(i) by striking "(b)(2)(A) and (b)(2)(B)" in paragraphs (1) and (2) and inserting "(b)(1)(A) and (b)(1)(B)"; and

(ii) by striking paragraph (3); and

(B) in subsection (d)(2), by striking "(b)(2)(A)(ii)" and inserting "(b)(1)(A)(ii)".

(4) Section 2410n(b) is amended by striking "compeititon" in the second sentence and inserting "competition".

(5) Section 2507(d) is amended by striking "section (a)" and inserting "subsection (a)".

(6) Section 2665(a) is amended by striking "under section 2664 of this title".

(7). Section 2703(b) is amended by striking "For purposes of the preceding sentence, the terms 'unexploded ordnance', 'discarded military munitions', and" and inserting "In this subsection, the terms 'discarded military munitions' and".

(8) Section 2773a(a) is amended by inserting "by" after "incorrect payment made" in the first sentence.

(9) Section 2801(d) is amended by striking "sections 2830 and 2835" and inserting "sections 2830, 2835, and 2836 of this chapter".

(10) Section 2881a(f) is amended by striking "Notwithstanding section 2885 of this title, the" and inserting "The".

(11) Section 3084 is amended by striking the semicolon in the section heading and inserting a colon.

(d) Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005.—Section 1105(h) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2075) is amended by striking "(21 U.S.C." and inserting "(20 U.S.C.".

(e) Bob Stump National Defense Authorization Act for Fiscal Year 2003.—The Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314) is amended as follows:

(1) Section 314 (116 Stat. 2508) is amended—

(A) in subsection (d), by striking "(40 U.S.C." and inserting "(42 U.S.C."; and

(B) in subsection (e)(2), by striking "(40 U.S.C." and inserting "(42 U.S.C.".

(2) Section 635(a) (116 Stat. 2574) is amended by inserting "the first place it appears" after "by striking 'a claim' ".

(f) National Defense Authorization Act for Fiscal Year 1994.—Section 1605(a)(4) of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended by striking "Logisitics" in the first sentence and inserting "Logistics".

(g) Title 38, United States Code.—Section 8111(b)(1) of title 38, United States Code, is amended by inserting "of 1993" after "the Government Performance and Results Act".

SEC. 1057. DELETION OF OBSOLETE DEFINITIONS IN TITLES 10 AND 32, UNITED STATES CODE.

(a) Deleting Obsolete Definition of "Territory" in Title 10.—Title 10, United States Code, is amended as follows:

(1) Section 101(a) is amended by striking paragraph (2).

(2) The following sections are amended by striking the terms "Territory or", "or Territory", "a Territorial Department,", "or a Territory", "Territory and", "its Territories,", and "and Territories" each place they appear: sections 101(a)(3), 332, 822, 1072, 1103, 2671, 3037, 5148, 8037, 8074, 12204, and 12642.

(3) The following sections are amended by striking the terms "Territory," and "Territories," each place they appear: sections 849, 858, 888, 2668, 2669, 7545, and 9773.

(4) Section 808 is amended by striking "Territory, Commonwealth, or possession," and inserting "Commonwealth, possession,".

(5) The following sections are amended by striking "Territories, Commonwealths, or possessions" each place it appears and inserting "Commonwealths or possessions": sections 847, 2734, 4778, 5986, 7652, 7653, and 12406.

(6) The following sections are amended by striking "Territories, Commonwealths, and possessions" each place it appears and inserting "Commonwealths and possessions": sections 846, 3062, 3074, 4747, 4778, 8062, and 9778.

(7) Section 312 is amended by striking "States and Territories, and Puerto Rico" and inserting "States, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands".

(8) Section 335 is amended by striking "the unincorporated territories of".

(9) Sections 4301 and 9301 are amended by striking "State or Territory, Puerto Rico, or the District of Columbia" each place it appears and inserting "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands".

(10) Sections 4685 and 9685 are amended by striking "State or Territory concerned" each place it appears and inserting "State concerned or Guam or the Virgin Islands" and by striking "State and Territorial" each place it appears and inserting "State, Guam, and the Virgin Islands".

(11) Section 7851 is amended by striking "States, the Territories, and the District of Columbia" and inserting "States, the District of Columbia, Guam, and the Virgin Islands".

(12) Section 7854 is amended by striking "any State, any Territory, or the District of Columbia" and inserting "any State, the District of Columbia, Guam, or the Virgin Islands".

(b) Deleting Obsolete Definition of "Territory" in Title 32.—Title 32, United States Code, is amended as follows:

(1) Paragraph (1) of section 101 is amended to read as follows:

"(1) For purposes of other laws relating to the militia, the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States, the term 'Territory' includes Guam and the Virgin Islands.".

(2) Sections 103, 104(c), 314, 315, 708(d), and 711 are amended by striking "State and Territory, Puerto Rico, and the District of Columbia" and "State or Territory, Puerto Rico, and the District of Columbia" each place they appear and inserting "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands".

(3) Sections 104(d), 107, 109, 503, 703, 704, 710, and 712 are amended by striking "State or Territory, Puerto Rico, or the District of Columbia" and "State or Territory, Puerto Rico, the Virgin Islands or the District of Columbia" each place they appear and inserting "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands".

(4) Sections 104(a), 505, 702(a), and 708(a) are amended by striking "State or Territory and Puerto Rico", "State or Territory or Puerto Rico", and "State or Territory, Puerto Rico" each place they appear and inserting "State, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands".

(5) Section 324 is amended by striking "State or Territory of whose National Guard he is a member, or by the laws of Puerto Rico, or the District of Columbia, if he is a member of its National Guard" and inserting "State of whose National Guard he is a member, or by the laws of the Commonwealth of Puerto Rico, or the District of Columbia, Guam, or the Virgin Islands, whose National Guard he is a member".

(6) Section 325 is amended by striking "State or Territory, or of Puerto Rico" and "State or Territory or Puerto Rico" each place they appear and inserting "State, or of the Commonwealth of Puerto Rico, Guam, or the Virgin Islands".

(7) Sections 326, 327, and 501 are amended by striking "States and Territories, Puerto Rico, and the District of Columbia" each place it appears and inserting "States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands".

SEC. 1058. SUPPORT FOR YOUTH ORGANIZATIONS.

(a) YOUTH ORGANIZATION DEFINED.—In this section, the term "youth organization" means—

(1) the Boy Scouts of America;

(2) the Girl Scouts of the United States of America;

(3) the Boys Clubs of America;

(4) the Girls Clubs of America;

(5) the Young Men's Christian Association;

(6) the Young Women's Christian Association;

(7) the Civil Air Patrol;

(8) the United States Olympic Committee;

(9) the Special Olympics;

(10) Campfire USA;

(11) the Young Marines;

(12) the Naval Sea Cadets Corps;

(13) 4-H Clubs;

(14) the Police Athletic League;

(15) Big Brothers—Big Sisters of America;

(16) National Guard Challenge Program; and

(17) any other organization designated by the President as an organization that is primarily intended to—

(A) serve individuals under the age of 21 years;

(B) provide training in citizenship, leadership, physical fitness, service to community, and teamwork; and

(C) promote the development of character and ethical and moral values.

(b) SUPPORT FOR YOUTH ORGANIZATIONS.—

(1) CONTINUATION OF SUPPORT.—No Federal law (including any rule, regulation, directive, instruction, or order) shall be construed to limit any Federal agency from providing any form of support for a youth organization (including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America) that would result in that Federal agency providing less support to that youth organization (or any similar organization chartered under the chapter of title 36, United States Code, relating to that youth organization) than was provided during the preceding fiscal year to that youth organization. This paragraph shall be subject to the availability of appropriations.

(2) YOUTH ORGANIZATIONS THAT CEASE TO EXIST.—Paragraph (1) shall not apply to any youth organization that ceases to exist.

(3) WAIVERS.—The head of a Federal agency may waive the application of paragraph (1) to a youth organization with respect to each conviction or investigation described under subparagraph (A) or (B) for a period of not more than two fiscal years if—

(A) any senior officer (including any member of the board of directors) of the youth organization is convicted of a criminal offense relating to the official duties of that officer or the youth organization is convicted of a criminal offense; or

(B) the youth organization is the subject of a criminal investigation relating to fraudulent use or waste of Federal funds.

(4) TYPES OF SUPPORT.—Support described in paragraph (1) includes—

(A) authorizing a youth organization to hold meetings, camping events, or other activities on Federal property;

(B) hosting any official event of a youth organization;

(C) loaning equipment for the use of a youth organization; and

(D) providing personnel services and logistical support for a youth organization.

(c) CONTINUATION OF DEPARTMENT OF DEFENSE OF SUPPORT FOR SCOUT JAMBOREES.—Section 2554 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) The Secretary of Defense shall provide at least the same level of support under this section for a national or world Boy Scout Jamboree as was provided under this section for the preceding national or world Boy Scout Jamboree.

"(2) The Secretary of Defense may waive paragraph (1), if the Secretary—

"(A) determines that providing the support subject to paragraph (1) would be detrimental to the national security of the United States; and

"(B) submits to Congress a report containing such determination in a timely manner, and before the waiver takes effect.".

(d) EQUAL ACCESS FOR YOUTH ORGANIZATIONS.—Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) is amended—

(1) in the first sentence of subsection (b), by inserting "or (e)" after "subsection (a)"; and

(2) by adding at the end the following new subsection:

"(e) EQUAL ACCESS.—

"(1) DEFINITION.—In this subsection, the term 'youth organization' means an organization described under part B of subtitle II of title 36, United States Code, that is intended to serve individuals under the age of 21 years.

"(2) IN GENERAL.—No State or unit of general local government that has a designated open forum, limited public forum, or nonpublic forum and that is a recipient of assistance under this title shall deny equal access or a fair opportunity to meet to, or discriminate against, any youth organization, including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America, that wishes to conduct a meeting or otherwise participate in that designated open forum, limited public forum, or nonpublic forum.".

SEC. 1059. SPECIAL IMMIGRANT STATUS FOR PERSONS SERVING AS TRANSLATORS WITH UNITED STATES ARMED FORCES.

(a) IN GENERAL.—For purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), subject to subsection (c)(1), the Secretary of Homeland Security may provide an alien described in subsection (b) with the status of a special immigrant under section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)), if the alien—

(1) files with the Secretary of Homeland Security a petition under section 204 of such Act (8 U.S.C. 1154) for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4)); and

(2) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility, the grounds for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)) shall not apply.

(b) ALIENS DESCRIBED.—

(1) PRINCIPAL ALIENS.—An alien is described in this subsection if the alien—

(A) is a national of Iraq or Afghanistan;

(B) worked directly with United States Armed Forces as a translator for a period of at least 12 months;

(C) obtained a favorable written recommendation from a general or flag officer in the chain of command of the United States Armed Forces unit that was supported by the alien; and

(D) before filing the petition described in subsection (a)(1), cleared a background check and screening, as determined by a general or flag officer in the chain of command of the United States Armed Forces unit that was supported by the alien.

(2) SPOUSES AND CHILDREN.—An alien is described in this subsection if the alien is the spouse or child of a principal alien described in paragraph (1), and is following or accompanying to join the principal alien.

(c) NUMERICAL LIMITATIONS.—

(1) IN GENERAL.—The total number of principal aliens who may be provided special immigrant status under this section during any fiscal year shall not exceed 50.

(2) COUNTING AGAINST SPECIAL IMMIGRANT CAP.—For purposes of the application of sections 201 through 203 of the Immigration and Nationality Act (8 U.S.C. 1151–1153) in any fiscal year, aliens eligible to be provided status under this section shall be treated as special immigrants described in section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)) who are not described in subparagraph (A), (B), (C), or (K) of such section.

(d) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—The definitions in subsections (a) and (b) of section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) shall apply in the administration of this section.

SEC. 1060. EXPANSION OF EMERGENCY SERVICES UNDER RECIPROCAL AGREEMENTS.

Subsection (b) of the first section of the Act of May 27, 1955 (42 U.S.C. 1856(b)), is amended by striking "and fire fighting" and inserting ", fire fighting, and emergency services, including basic medical support, basic and advanced life support, hazardous material containment and confinement, and special rescue events involving vehicular and water mishaps, and trench, building, and confined space extractions".

SEC. 1061. RENEWAL OF MORATORIUM ON RETURN OF VETERANS MEMORIAL OBJECTS TO FOREIGN NATIONS WITHOUT SPECIFIC AUTHORIZATION IN LAW.

Section 1051(c) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 10 U.S.C. 2572 note) is amended—

(1) by striking "the date of the enactment of this Act" and inserting "October 5, 1999,"; and

(2) by inserting before the period at the end the following: ", and during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on September 30, 2010".

SEC. 1062. SENSE OF CONGRESS ON NATIONAL SECURITY INTEREST OF MAINTAINING AERONAUTICS RESEARCH AND DEVELOPMENT.

(a) FINDINGS.—Congress makes the following findings:

(1) The advances made possible by Government-funded research in emerging aeronautics technologies have enabled longstanding military air superiority for the United States in recent decades.

(2) Military aircraft incorporate advanced technologies developed at research centers of the National Aeronautics and Space Administration.

(3) The vehicle systems program of the National Aeronautics and Space Administration has provided major technology advances that have been used in every major civil and military aircraft developed over the last 50 years.

(4) It is important for the cooperative research efforts of the National Aeronautics and Space Administration and the Department of Defense that funding of research on military aviation technologies be robust.

(5) Recent National Aeronautics and Space Administration and independent studies have

demonstrated the competitiveness, scientific merit, and necessity of existing aeronautics programs.

(6) The economic and military security of the United States is enhanced by the continued development of improved aeronautics technologies.

(7) A national effort is needed to ensure that the National Aeronautics and Space Administration can help meet future aviation needs.

(b) SENSE OF CONGRESS.—It is the sense of Congress that it is in the national security interest of the United States to maintain a strong aeronautics research and development program within the Department of Defense and the National Aeronautics and Space Administration.

SEC. 1063. AIRPORT CERTIFICATION.

For the airport referred to in paragraph (1) to be eligible to receive approval of an airport layout plan by the Federal Aviation Administration, such airport shall ensure and provide documentation that—

*(1) the governing body of an airport built after the date of enactment of this Act at site number 04506.3*A and under number 17–0027 of the National Plan of Integrated Airport Systems is composed of a majority of local residents who live in the county in which such airport is located; and*

(2) the airport complies with sections 303, 303A, and 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253–253b) as implemented by the Federal Acquisition Regulation issued pursuant to section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) regarding land procurement and developer selection.

Subtitle G—Military Mail Matters

SEC. 1071. SAFE DELIVERY OF MAIL IN MILITARY MAIL SYSTEM.

(a) PLAN FOR SAFE DELIVERY OF MILITARY MAIL.—

(1) PLAN REQUIRED.—The Secretary of Defense shall develop and implement a plan to ensure that the mail within the military mail system is safe for delivery. The plan shall provide for the screening of all mail within the military mail system in order to detect the presence of biological, chemical, or radiological weapons, agents, or pathogens or explosive devices before mail within the military mail system is delivered to its intended recipients.

(2) FUNDING.—The budget justification materials submitted to Congress with the budget of the President for fiscal year 2007 and each fiscal year thereafter shall include a description of the amounts required in such fiscal year to carry out the plan.

(b) REPORT ON SAFETY OF MAIL FOR DELIVERY.—

(1) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the safety of mail within the military mail system for delivery.

(2) ELEMENTS.—The report shall include the following:

(A) An assessment of any existing deficiencies in the military mail system in ensuring that mail within the military mail system is safe for delivery.

(B) The plan required by subsection (a).

(C) An estimate of the time and resources required to implement the plan.

(D) A description of the delegation within the Department of Defense of responsibility for ensuring that mail within the military mail system is safe for delivery, including responsibility for the development, implementation, and oversight of improvements to the military mail system to ensure that mail within the military mail system is safe for delivery.

(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

(c) MAIL WITHIN THE MILITARY MAIL SYSTEM DEFINED.—

(1) IN GENERAL.—In this section, the term "mail within the military mail system" means—

(A) any mail that is posted through the Military Post Offices (including Army Post Offices (APOs) and Fleet Post Offices (FPOs)), Department of Defense mail centers, military Air Mail Terminals, and military Fleet Mail Centers; and

(B) any mail or package posted in the United States that is addressed to an unspecified member of the Armed Forces.

(2) INCLUSIONS AND EXCEPTION.—The term includes any official mail posted by the Department of Defense. The term does not include any mail posted as otherwise described in paragraph (1) that has been screened for safety for delivery by the United States Postal Service before such posting.

TITLE XI—CIVILIAN PERSONNEL MATTERS

Subtitle A—Extensions of Authorities
Sec. 1101. Extension of eligibility to continue Federal employee health benefits.
Sec. 1102. Extension of Department of Defense voluntary reduction in force authority.
Sec. 1103. Extension of authority to make lump sum severance payments.
Sec. 1104. Permanent extension of Science, Mathematics, and Research for Transformation (SMART) Defense Education Program.
Sec. 1105. Authority to waive annual limitation on total compensation paid to Federal civilian employees.
Subtitle B—Veterans Preference Matters
Sec. 1111. Veterans' preference status for certain veterans who served on active duty during the period beginning on September 11, 2001, and ending as of the close of Operation Iraqi Freedom.
Sec. 1112. Veterans' preference eligibility for military reservists.
Subtitle C—Other Matters
Sec. 1121. Transportation of family members in connection with the repatriation of Federal employees held captive.
Sec. 1122. Strategic human capital plan for civilian employees of the Department of Defense.
Sec. 1123. Independent study on features of successful personnel management systems of highly technical and scientific workforces.
Sec. 1124. Support by Department of Defense of pilot project for Civilian Linguist Reserve Corps.
Sec. 1125. Increase in authorized number of positions in Defense Intelligence Senior Executive Service.

Subtitle A—Extensions of Authorities

SEC. 1101. EXTENSION OF ELIGIBILITY TO CONTINUE FEDERAL EMPLOYEE HEALTH BENEFITS.

Section 8905a(d)(4)(B) of title 5, United States Code, is amended—

(1) in clause (i), by striking "October 1, 2006" and inserting "October 1, 2010"; and

(2) in clause (ii)—

(A) by striking "February 1, 2007" and inserting "February 1, 2011"; and

(B) by striking "October 1, 2006" and inserting "October 1, 2010".

SEC. 1102. EXTENSION OF DEPARTMENT OF DEFENSE VOLUNTARY REDUCTION IN FORCE AUTHORITY.

Section 3502(f)(5) of title 5, United States Code, is amended by striking "September 30, 2005" and inserting "September 30, 2010".

SEC. 1103. EXTENSION OF AUTHORITY TO MAKE LUMP SUM SEVERANCE PAYMENTS.

Section 5595(i)(4) of title 5, United States Code, is amended by striking "October 1, 2006" and inserting "October 1, 2010".

SEC. 1104. PERMANENT EXTENSION OF SCIENCE, MATHEMATICS, AND RESEARCH FOR TRANSFORMATION (SMART) DEFENSE EDUCATION PROGRAM.

(a) PERMANENT EXTENSION.—Section 1105 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2074; 10 U.S.C. 2192 note) is amended—

(1) by striking "pilot" each place it appears in the section and subsection headings and the text;

(2) in subsection (a)—

(A) by striking "(1)"; and

(B) by striking paragraph (2);

(3) in subsection (b)—

(A) by striking "(b)" and all that follows through "a scholarship" and inserting "(b) FINANCIAL ASSISTANCE.—(1) Under the program under this section, the Secretary of Defense may award a scholarship or fellowship";

(B) in paragraph (1)(B)—

(i) by striking "undergraduate" and inserting "associates degree, undergraduate degree,"; and

(ii) by inserting "accredited" before "institution of higher education";

(C) in paragraph (2)—

(i) by inserting "or fellowship" after "scholarship";

(ii) by inserting "equipment expenses," after "laboratory expenses,"; and

(iii) by striking the second sentence; and

(D) by adding at the end the following new paragraph:

"(3) Financial assistance provided under a scholarship or fellowship awarded under this section may be paid directly to the recipient of such scholarship or fellowship or to an administering entity for disbursement of the funds."; and

(4) in subsection (c)—

(A) in the heading, by inserting "FINANCIAL" before "ASSISTANCE"

(B) in paragraph (2)—

(i) by striking "a scholarship" and inserting "financial assistance";

(ii) by striking "the financial assistance provided under the scholarship" and inserting "such financial assistance"; and

(iii) by striking the second sentence and inserting the following: "Except as provided in subsection (d), the period of service required of a recipient may not be less than the total period of pursuit of a degree that is covered by such financial assistance.".

(b) EMPLOYMENT OF PROGRAM PARTICIPANTS.—Such section is further amended—

(1) by striking subsection (g);

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(3) by inserting after subsection (c) the following new subsection (d):

"(d) EMPLOYMENT OF PROGRAM PARTICIPANTS.—(1) The Secretary of Defense may—

"(A) appoint or retain a person participating in the program under this section in a position on an interim basis during the period of such person's pursuit of a degree under the program and for a period not to exceed 2 years after completion of the degree, but only if, in the case of the period after completion of the degree—

"(i) there is no readily available appropriate permanent position for such person; and

"(ii) there is an active and ongoing effort to identify and assign such person to an appropriate permanent position as soon as practicable; and

"(B) if there is no appropriate permanent position available after the end of the periods described in subparagraph (A), separate such person from employment with the Department without regard to any other provision of law, in which event the service agreement of such person under subsection (c) shall terminate.

"(2) The period of service of a person covered by paragraph (1) in a position on an interim basis under that paragraph shall, after completion of the degree, be treated as a period of service for purposes of satisfying the obligated service requirements of the person under the service agreement of the person under subsection (c).".

(c) REFUND FOR PERIOD OF UNSERVED OBLIGATED SERVICE.—Paragraph (1) of subsection (e) of such section, as redesignated by subsection (c)(1) of this section, is amended to read as follows:

"(1)(A) A participant in the program under this section who is not an employee of the Department of Defense and who voluntarily fails to complete the educational program for which financial assistance has been provided under this section, or fails to maintain satisfactory academic progress as determined in accordance with regulations prescribed by the Secretary of Defense, shall refund to the United States an appropriate amount, as determined by the Secretary.

"(B) A participant in the program under this section who is an employee of the Department of Defense and who—

"(i) voluntarily fails to complete the educational program for which financial assistance has been provided, or fails to maintain satisfactory academic progress as determined in accordance with regulations prescribed by the Secretary; or

"(ii) before completion of the period of obligated service required of such participant—

"(I) voluntarily terminates such participant's employment with the Department; or

"(II) is removed from such participant's employment with the Department on the basis of misconduct,

shall refund the United States an appropriate amount, as determined by the Secretary.".

(d) CODIFICATION.—

(1) AMENDMENT TO TITLE 10.—Chapter 111 of title 10, United States Code, is amended—

(A) by inserting after section 2192 the following:

"§2192a. Science, Mathematics, and Research for Transformation (SMART) Defense Education Program";

and

(B) by transferring and inserting the text of section 1105 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2074; 10 U.S.C. 2192 note), as amended by subsections (a), (b), and (c), so as to appear below the section heading for section 2192a, as added by subparagraph (A).

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2192 the following new item:

"2192a. Science, Mathematics, and Research for Transformation (SMART) Defense Education Program.".

(e) CONFORMING AMENDMENTS.—

(1) Section 1105 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2074; 10 U.S.C. 2192 note) is repealed.

(2) Section 3304(a)(3)(B)(ii) of title 5, United States Code, is amended—

(A) by striking "Scholarship Pilot Program" and inserting "Defense Education Program"; and

(B) by striking "section 1105" and all that follows through the period and inserting "section 2192a of title 10, United States Code.".

(f) EFFECT ON CURRENT PARTICIPANTS IN SMART PILOT PROGRAM.—Participation in the Science, Mathematics, and Research for Transformation (SMART) Defense Scholarship Pilot Program under section 1105 of Public Law 108-375 by an individual who has entered into an agreement under that pilot program before the date of the enactment of this Act shall be governed by the terms of such agreement without regard to the amendments made by this section.

SEC. 1105. AUTHORITY TO WAIVE ANNUAL LIMITATION ON TOTAL COMPENSATION PAID TO FEDERAL CIVILIAN EMPLOYEES.

(a) WAIVER AUTHORITY.—During 2006 and notwithstanding section 5547 of title 5, United States Code, the head of an executive agency may waive, subject to subsection (b), the limitation established in that section for total compensation (including limitations on the aggregate of basic pay and premium pay payable in a calendar year) of an employee who performs work while in an overseas location that is in the area of responsibility of the commander of the United States Central Command, in direct support of or directly related to a military operation (including a contingency operation as defined in section 101(13) of title 10, United States Code).

(b) $200,000 MAXIMUM TOTAL COMPENSATION.—The total compensation of an employee whose pay is covered by a waiver under subsection (a) may not exceed $200,000 in a calendar year.

(c) ADDITIONAL PAY NOT CONSIDERED BASIC PAY.—To the extent that a waiver under subsection (a) results in payment of additional premium pay of a type that is normally creditable as basic pay for retirement or any other purpose, such additional pay—

(1) shall not be considered to be basic pay for any purpose; and

(2) shall not be used in computing a lump sum payment for accumulated and accrued annual leave under section 5551 of title 5, United States Code.

Subtitle B—Veterans Preference Matters

SEC. 1111. VETERANS' PREFERENCE STATUS FOR CERTAIN VETERANS WHO SERVED ON ACTIVE DUTY DURING THE PERIOD BEGINNING ON SEPTEMBER 11, 2001, AND ENDING AS OF THE CLOSE OF OPERATION IRAQI FREEDOM.

(a) DEFINITION OF VETERAN.—Section 2108(1) of title 5, United States Code, is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by adding "or" after the semicolon; and

(3) by inserting after subparagraph (C) the following:

"(D) served on active duty as defined by section 101(21) of title 38 at any time in the armed forces for a period of more than 180 consecutive days any part of which occurred during the period beginning on September 11, 2001, and ending on the date prescribed by Presidential proclamation or by law as the last date of Operation Iraqi Freedom;".

(b) CONFORMING AMENDMENT.—Section 2108(3)(B) of such title is amended by striking "paragraph (1)(B) or (C)" and inserting "paragraph (1)(B), (C), or (D)".

SEC. 1112. VETERANS' PREFERENCE ELIGIBILITY FOR MILITARY RESERVISTS.

(a) VETERANS' PREFERENCE ELIGIBILITY.—Section 2108(1) of title 5, United States Code, is amended by striking "separated from" and inserting "discharged or released from active duty in".

(b) SAVINGS PROVISION.—Nothing in the amendment made by subsection (a) may be construed to affect a determination made before the date of enactment of this Act that an individual is a preference eligible (as defined in section 2108(3) of title 5, United States Code).

Subtitle C—Other Matters

SEC. 1121. TRANSPORTATION OF FAMILY MEMBERS IN CONNECTION WITH THE REPATRIATION OF FEDERAL EMPLOYEES HELD CAPTIVE.

(a) ALLOWANCES AUTHORIZED.—Chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

"§5760. Travel and transportation allowances: transportation of family members incident to the repatriation of employees held captive

"(a) ALLOWANCE FOR FAMILY MEMBERS AND CERTAIN OTHERS.—(1) Under uniform regulations prescribed by the heads of agencies, travel and transportation described in subsection (d) may be provided for not more than 3 family members of an employee described in subsection (b).

"(2) In addition to the family members authorized to be provided travel and transportation under paragraph (1), the head of an agency may provide travel and transportation described in subsection (d) to an attendant to accompany a family member described in subsection (b) if the head of an agency determines—

"(A) the family member to be accompanied is unable to travel unattended because of age, physical condition, or other reason determined by the head of the agency; and

"(B) no other family member who is eligible for travel and transportation under subsection (a) is able to serve as an attendant for the family member.

"(3) If no family member of an employee described in subsection (b) is able to travel to the repatriation site of the employee, travel and transportation described in subsection (d) may be provided to not more than 2 persons related to and selected by the employee.

"(b) COVERED EMPLOYEES.—An employee described in this subsection is an employee (as defined in section 2105 of this title) who—

"(1) was held captive, as determined by the head of an agency concerned; and

"(2) is repatriated to a site inside or outside the United States.

"(c) ELIGIBLE FAMILY MEMBERS.—In this section, the term 'family member' has the meaning given the term in section 411h(b) of title 37.

"(d) TRAVEL AND TRANSPORTATION AUTHORIZED.—(1) The transportation authorized by subsection (a) is round-trip transportation between the home of the family member (or home of the attendant or person provided transportation under paragraph (2) or (3) of subsection (a), as the case may be) and the location of the repatriation site at which the employee is located.

"(2) In addition to the transportation authorized by subsection (a), the head of an agency may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established for such allowances and expenses under section 404(d) of title 37.

"(3) The transportation authorized by subsection (a) may be provided by any of the means described in section 411h(d)(1) of title 37.

"(4) An allowance under this subsection may be paid in advance.

"(5) Reimbursement payable under this subsection may not exceed the cost of government-procured round-trip air travel.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 57 of such title is amended by adding at the end the following new item:

"5760. Travel and transportation allowances: transportation of family members incident to the repatriation of employees held captive.".

SEC. 1122. STRATEGIC HUMAN CAPITAL PLAN FOR CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) PLAN REQUIRED.—(1) Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall develop and submit to the Committees on Armed Services of the Senate and House of Representatives a strategic plan to shape and improve the civilian employee workforce of the Department of Defense.

(2) The plan shall be known as the "strategic human capital plan".

(b) CONTENTS.—The strategic human capital plan required by subsection (a) shall include—

(1) an assessment of—

(A) the critical skills and competencies that will be needed in the future civilian employee workforce of the Department of Defense to support national security requirements and effectively manage the Department over the next decade;

(B) the skills and competencies of the existing civilian employee workforce of the Department and projected trends in that workforce based on expected losses due to retirement and other attrition; and

(C) gaps in the existing or projected civilian employee workforce of the Department that should be addressed to ensure that the Department has continued access to the critical skills and competencies described in subparagraph (A); and

(2) a plan of action for developing and reshaping the civilian employee workforce of the Department to address the gaps in critical skills and competencies identified under paragraph (1)(C), including—

(A) specific recruiting and retention goals, including the program objectives of the Department to be achieved through such goals; and

(B) specific strategies for development, training, deploying, compensating, and motivating the civilian employee workforce of the Department, including the program objectives of the Department to be achieved through such strategies.

(c) ANNUAL UPDATES.—Not later than March 1 of each year from 2007 through 2010, the Secretary shall update the strategic human capital plan required by subsection (a), as previously updated under this subsection.

(d) ANNUAL REPORTS.—Not later than March 1 of each year from 2007 through 2010, the Secretary shall submit to the appropriate committees of Congress—

(1) the update of the strategic human capital plan prepared in such year under subsection (c); and

(2) the assessment of the Secretary, using results-oriented performance measures, of the progress of the Department of Defense in implementing the strategic human capital plan.

(e) COMPTROLLER GENERAL REVIEW.—Not later than 90 days after the Secretary submits under subsection (a) the strategic human capital plan required by that subsection, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the plan.

SEC. 1123. INDEPENDENT STUDY ON FEATURES OF SUCCESSFUL PERSONNEL MANAGEMENT SYSTEMS OF HIGHLY TECHNICAL AND SCIENTIFIC WORKFORCES.

(a) INDEPENDENT STUDY.—The Secretary of Defense shall commission an independent study to identify the features of successful personnel management systems of the highly technical and scientific workforces of the Department of Defense laboratories and similar scientific facilities and institutions.

(b) ELEMENTS.—The study required by subsection (a) shall include the following:

(1) An examination of the personnel management authorities under statute or regulation currently being used, or available for use, at Department of Defense demonstration laboratories to assist in the management of the workforce of such laboratories.

(2) A list of personnel management authorities and practices critical to successful mission execution, obtained through interviews with selected, premier government and private sector laboratory directors.

(3) A comparative assessment of the effectiveness of the Department of Defense technical workforce management authorities and practices with that of other similar entities.

(4) Such recommendations as are considered appropriate for the effective use of available personnel management authorities to ensure the successful personnel management of the highly technical and scientific workforce of the Department of Defense.

SEC. 1124. SUPPORT BY DEPARTMENT OF DEFENSE OF PILOT PROJECT FOR CIVILIAN LINGUIST RESERVE CORPS.

Subject to the availability of appropriated funds, the Secretary of Defense may support implementation of the Civilian Linguist Reserve Corps pilot project authorized by section 613 of the Intelligence Authorization Act for Fiscal Year 2005 (Public Law 108–487; 118 Stat. 3959; 50 U.S.C. 403-1b note).

SEC. 1125. INCREASE IN AUTHORIZED NUMBER OF POSITIONS IN DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE.

Section 1606(a) of title 10, United States Code, is amended by striking "544" and inserting "594".

TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

Subtitle A—Assistance and Training

Sec. 1201. Extension of humanitarian and civic assistance provided to host nations in conjunction with military operations.
Sec. 1202. Commanders' Emergency Response Program.
Sec. 1203. Modification of geographic restriction under bilateral and regional cooperation programs for payment of certain expenses of defense personnel of developing countries.
Sec. 1204. Authority for Department of Defense to enter into acquisition and cross-servicing agreements with regional organizations of which the United States is not a member.
Sec. 1205. Two-year extension of authority for payment of certain administrative services and support for coalition liaison officers.
Sec. 1206. Authority to build the capacity of foreign military forces.
Sec. 1207. Security and stabilization assistance.
Sec. 1208. Reimbursement of certain coalition nations for support provided to United States military operations.
Sec. 1209. Authority to transfer defense articles and provide defense services to the military and security forces of Iraq and Afghanistan.

Subtitle B—Nonproliferation Matters and Countries of Concern

Sec. 1211. Prohibition on procurements from Communist Chinese military companies.
Sec. 1212. Report on nonstrategic nuclear weapons.

Subtitle C—Reports and Sense of Congress Provisions

Sec. 1221. War-related reporting requirements.
Sec. 1222. Quarterly reports on war strategy in Iraq.
Sec. 1223. Report on records of civilian casualties in Afghanistan and Iraq.
Sec. 1224. Annual report on Department of Defense costs to carry out United Nations resolutions.
Sec. 1225. Report on claims related to the bombing of the LaBelle Discotheque.
Sec. 1226. Sense of Congress concerning cooperation with Russia on issues pertaining to missile defense.
Sec. 1227. United States policy on Iraq.

Subtitle D—Other Matters

Sec. 1231. Purchase of weapons overseas for force protection purposes in countries in which combat operations are ongoing.
Sec. 1232. Riot control agents.
Sec. 1233. Requirement for establishment of certain criteria applicable to Global Posture Review.
Sec. 1234. The United States-China Economic Security Review Commission.

Subtitle A—Assistance and Training

SEC. 1201. EXTENSION OF HUMANITARIAN AND CIVIC ASSISTANCE PROVIDED TO HOST NATIONS IN CONJUNCTION WITH MILITARY OPERATIONS.

(a) LIMITATION ON AMOUNT OF ASSISTANCE FOR CLEARANCE OF LANDMINES, ETC.—Subsection (c)(3) of section 401 of title 10, United States Code is amended by striking "$5,000,000" and inserting "$10,000,000".

(b) EXTENSION AND CLARIFICATION OF TYPES OF HEALTH CARE AUTHORIZED.—Subsection (e)(1) of such section is amended—

(1) by inserting "surgical," before "dental," both places it appears; and

(2) by inserting ", including education, training, and technical assistance related to the care provided" before the period at the end.

SEC. 1202. COMMANDERS' EMERGENCY RESPONSE PROGRAM.

(a) AUTHORITY FOR FISCAL YEARS 2006 AND 2007.—During each of fiscal years 2006 and 2007, from funds made available to the Department of Defense for operation and maintenance for such fiscal year, not to exceed $500,000,000 may be used by the Secretary of Defense in such fiscal year to provide funds—

(1) for the Commanders' Emergency Response Program; and

(2) for a similar program to assist the people of Afghanistan.

(b) QUARTERLY REPORTS.—Not later than 15 days after the end of each fiscal-year quarter of fiscal years 2006 and 2007, the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes of the programs under subsection (a).

(c) SUBMISSION OF GUIDANCE.—

(1) INITIAL SUBMISSION.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a copy of the guidance issued by the Secretary to the Armed Forces concerning the allocation of funds through the Commanders' Emergency Response Program and any similar program to assist the people of Afghanistan.

(2) MODIFICATIONS.—If the guidance in effect for the purpose stated in paragraph (1) is modified, the Secretary shall submit to the congressional defense committees a copy of the modification not later than 15 days after the date on which the Secretary makes the modification.

(d) WAIVER AUTHORITY.—For purposes of exercising the authority provided by this section or any other provision of law making funding available for the Commanders' Emergency Response Program or any similar program to assist the people of Afghanistan, the Secretary of Defense may waive any provision of law not contained in this section that would (but for the

waiver) prohibit, restrict, limit, or otherwise constrain the exercise of that authority.

(e) COMMANDERS' EMERGENCY RESPONSE PROGRAM DEFINED.—In this section, the term "Commanders' Emergency Response Program" means the program established by the Administrator of the Coalition Provisional Authority for the purpose of enabling United States military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people.

SEC. 1203. MODIFICATION OF GEOGRAPHIC RESTRICTION UNDER BILATERAL AND REGIONAL COOPERATION PROGRAMS FOR PAYMENT OF CERTAIN EXPENSES OF DEFENSE PERSONNEL OF DEVELOPING COUNTRIES.

Section 1051(b)(1) of title 10, United States Code, is amended—

(1) by inserting "to and" after "in connection with travel"; and

(2) by striking "in which the developing country is located" and inserting "in which the bilateral or regional conference, seminar, or similar meeting for which expenses are authorized is located".

SEC. 1204. AUTHORITY FOR DEPARTMENT OF DEFENSE TO ENTER INTO ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH REGIONAL ORGANIZATIONS OF WHICH THE UNITED STATES IS NOT A MEMBER.

Subchapter I of chapter 138 of title 10, United States Code, is amended by striking "of which the United States is a member" in sections 2341(1), 2342(a)(1)(C), and 2344(b)(4).

SEC. 1205. TWO-YEAR EXTENSION OF AUTHORITY FOR PAYMENT OF CERTAIN ADMINISTRATIVE SERVICES AND SUPPORT FOR COALITION LIAISON OFFICERS.

Section 1051a(e) of title 10, United States Code, is amended by striking "September 30, 2005" and inserting "September 30, 2007".

SEC. 1206. AUTHORITY TO BUILD THE CAPACITY OF FOREIGN MILITARY FORCES.

(a) AUTHORITY.—The President may direct the Secretary of Defense to conduct or support a program to build the capacity of a foreign country's national military forces in order for that country to—

(1) conduct counterterrorist operations; or

(2) participate in or support military and stability operations in which the United States Armed Forces are a participant.

(b) TYPES OF CAPACITY BUILDING.—

(1) AUTHORIZED ELEMENTS.—The program directed by the President under subsection (a) may include the provision of equipment, supplies, and training.

(2) REQUIRED ELEMENTS.—The program directed by the President under subsection (a) shall include elements that promote—

(A) observance of and respect for human rights and fundamental freedoms; and

(B) respect for legitimate civilian authority within that country.

(c) LIMITATIONS.—

(1) ANNUAL FUNDING LIMITATION.—The Secretary of Defense may use up to $200,000,000 of funds available for defense-wide operation and maintenance for any fiscal year to conduct or support activities directed by the President under subsection (a) in that fiscal year.

(2) ASSISTANCE OTHERWISE PROHIBITED BY LAW.—The President may not use the authority in subsection (a) to provide any type of assistance described in subsection (b) that is otherwise prohibited by any provision of law.

(3) LIMITATION ON ELIGIBLE COUNTRIES.—The President may not use the authority in subsection (a) to provide assistance described in subsection (b) to any foreign country that is otherwise prohibited from receiving such type of assistance under any other provision of law.

(d) FORMULATION AND EXECUTION OF PROGRAM.—The Secretary of Defense and the Secretary of State shall jointly formulate any program directed by the President under subsection (a). The Secretary of Defense shall coordinate with the Secretary of State in the implementation of any program directed by the President under subsection (a).

(e) CONGRESSIONAL NOTIFICATION.—

(1) PRESIDENTIAL DIRECTION.—At the time the President directs the Secretary of Defense to conduct or support a program authorized in subsection (a), the President shall provide a written copy of that direction to the Congress.

(2) ACTIVITIES IN A COUNTRY.—Not less than 15 days before initiating activities in any country as directed by the President under subsection (a), the Secretary of Defense, in coordination with the Secretary of State, shall submit to the congressional committees specified in paragraph (3) a notice of the following:

(A) The country whose capacity to engage in activities in subsection (a) will be built.

(B) The budget, implementation timeline with milestones, and completion date for completing the program directed by the President.

(C) The source and planned expenditure of funds to complete the program directed by the President.

(3) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees specified in this paragraph are the following:

(A) The Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

(B) The Committee on Armed Services, the Committee on International Relations, and the Committee on Appropriations of the House of Representatives.

(f) REPORT.—Not later than one year after the date of the enactment of this Act, the President shall transmit to the congressional committees specified in subsection (e)(3) a report examining the following issues:

(1) The strengths and weaknesses of the Foreign Assistance Act of 1961, the Arms Export Control Act, and any other provision of law related to the building of the capacity of foreign governments or the training and equipping of foreign military forces, including strengths and weaknesses for the purposes described in subsection (a).

(2) The changes, if any, that should be made to the Foreign Assistance Act of 1961, the Arms Export Control Act, and any other relevant provision of law that would improve the ability of the United States Government to build the capacity of foreign governments or train and equip foreign military forces, including for the purposes described in subsection (a).

(3) The organizational and procedural changes, if any, that should be made in the Department of State and the Department of Defense to improve their ability to conduct programs to build the capacity of foreign governments or train and equip foreign military forces, including for the purposes described in subsection (a).

(4) The resources and funding mechanisms required to assure adequate funding for such programs.

(g) TERMINATION OF PROGRAM.—The authority of the President under subsection (a) to direct the Secretary of Defense to conduct a program terminates at the close of September 30, 2007. Any program directed before that date may be completed, but only using funds available for fiscal year 2006 or fiscal year 2007.

SEC. 1207. SECURITY AND STABILIZATION ASSISTANCE.

(a) AUTHORITY.—The Secretary of Defense may provide services to, and transfer defense articles and funds to, the Secretary of State for the purposes of facilitating the provision by the Secretary of State of reconstruction, security, or stabilization assistance to a foreign country.

(b) LIMITATION.—The aggregate value of all services, defense articles, and funds provided or transferred to the Secretary of State under this section in any fiscal year may not exceed $100,000,000.

(c) AVAILABILITY OF FUNDS.—Any funds transferred to the Secretary of State under this section may remain available until expended.

(d) CONGRESSIONAL NOTIFICATION.—

(1) REQUIREMENT FOR NOTICE.—Whenever the Secretary of Defense exercises the authority under subsection (a), the Secretary shall, at the time the authority is exercised, notify the congressional committees specified in paragraph (3) of the exercise of that authority. Any such notification shall be prepared in coordination with the Secretary of State.

(2) CONTENT OF NOTIFICATION.—Any notification under paragraph (1) shall include a description of—

(A) the services, defense articles, or funds provided or transferred to the Secretary of State; and

(B) the purpose for which such services, defense articles, and funds will be used.

(3) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees specified in this paragraph are the following:

(A) The Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

(B) The Committee on Armed Services, the Committee on International Relations, and the Committee on Appropriations of the House of Representatives.

(e) APPLICABLE LAW.—Any services, defense articles, or funds provided or transferred to the Secretary of State under the authority of this section that the Secretary of State uses to provide reconstruction, security, or stabilization assistance to a foreign country shall be subject to the authorities and limitations in the Foreign Assistance Act of 1961, the Arms Export Control Act, or any law making appropriations to carry out such Acts.

(f) EXPIRATION.—The authority provided under subsection (a) may not be exercised after September 30, 2007.

SEC. 1208. REIMBURSEMENT OF CERTAIN COALITION NATIONS FOR SUPPORT PROVIDED TO UNITED STATES MILITARY OPERATIONS.

(a) AUTHORITY.—From funds made available for the Department of Defense by title XV for Defense-Wide Operation and Maintenance, the Secretary of Defense may reimburse any key cooperating nation for logistical and military support provided by that nation to or in connection with United States military operations in Iraq, Afghanistan, and the global war on terrorism.

(b) DETERMINATIONS.—Payments authorized under subsection (a) may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State and in consultation with the Director of the Office of Management and Budget, may determine, in the Secretary's discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided. Any such determination by the Secretary of Defense shall be final and conclusive upon the accounting officers of the United States. To the maximum extent practicable, the Secretary shall develop standards for determining the kinds of logistical and military support to the United States that shall be considered reimbursable under this section.

(c) LIMITATIONS.—

(1) TOTAL AMOUNT.—The total amount of payments made under the authority of this section during fiscal year 2006 may not exceed $1,500,000,000.

(2) PROHIBITION ON CONTRACTUAL OBLIGATIONS TO MAKE PAYMENTS.—The Secretary may

not enter into any contractual obligation to make a payment under the authority of this section.

(d) Congressional Notifications.—The Secretary of Defense—

(1) shall notify the congressional defense committees not less than 15 days before making any payment under the authority of this section; and

(2) shall submit to those committees quarterly reports on the use of the authority under this section.

SEC. 1209. AUTHORITY TO TRANSFER DEFENSE ARTICLES AND PROVIDE DEFENSE SERVICES TO THE MILITARY AND SECURITY FORCES OF IRAQ AND AFGHANISTAN.

(a) Authority.—The President is authorized to transfer defense articles from the stocks of the Department of Defense and to provide defense services in connection with the transfer of such defense articles to the military and security forces of Iraq and Afghanistan in order to support the efforts of those forces to restore and maintain peace and security in those countries.

(b) Limitation.—The aggregate value of all defense articles transferred and defense services provided to Iraq and Afghanistan under subsection (a) may not exceed $500,000,000.

(c) Applicable Law.—Any defense articles transferred or defense services provided to Iraq or Afghanistan under the authority of subsection (a) shall be subject to the authorities and limitations applicable to the transfer of excess defense articles under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), other than the authorities and limitations contained in subsections (b)(1)(B), (e), (f), and (g) of such section.

(d) Notification.—

(1) In general.—The President may not transfer defense articles or provide defense services under subsection (a) until 15 days after the date on which the President has provided notice of the proposed transfer of defense articles or provision of defense services to the appropriate congressional committees.

(2) Contents.—Such notification shall include—

(A) the information required by subparagraphs (A) through (D) of section 516(f)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(f)(2)(A) through (D));

(B) a description of the amount and type of each defense article to be transferred or defense service to be provided and the brigade-level unit from which the defense article is to be transferred or defense service is to be provided, if applicable; and

(C) an identification of the element of the military or security force that is the proposed recipient of each defense article to be transferred or defense service to be provided.

(e) Definitions.—In this section:

(1) Appropriate congressional committees.—The term "appropriate congressional committees" means—

(A) the Committee on Appropriations, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives; and

(B) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.

(2) Defense articles.—The term "defense articles" has the meaning given the term in section 644(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(d)).

(3) Defense services.—The term "defense services" has the meaning given the term in section 644(f) of such Act (22 U.S.C. 2403(f)).

(4) Military and security forces.—The term "military and security forces" has the meaning given the term in section 1202(e) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375).

(f) Expiration.—The authority provided under subsection (a) may not be exercised after September 30, 2006.

Subtitle B—Nonproliferation Matters and Countries of Concern

SEC. 1211. PROHIBITION ON PROCUREMENTS FROM COMMUNIST CHINESE MILITARY COMPANIES.

(a) Prohibition.—The Secretary of Defense may not procure goods or services described in subsection (b), through a contract or any subcontract (at any tier) under a contract, from any Communist Chinese military company.

(b) Goods and Services Covered.—For purposes of subsection (a), the goods and services described in this subsection are goods and services on the munitions list of the International Trafficking in Arms Regulations, other than goods or services procured—

(1) in connection with a visit by a vessel or an aircraft of the United States Armed Forces to the People's Republic of China;

(2) for testing purposes; or

(3) for purposes of gathering intelligence.

(c) Waiver Authorized.—The Secretary of Defense may waive the prohibition in subsection (a) if the Secretary determines such a waiver is necessary for national security purposes. The Secretary shall notify the congressional defense committees of each waiver made under this subsection.

(d) Definitions.—In this section:

(1) The term "Communist Chinese military company" has the meaning provided that term by section 1237(b)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S.C. 1701 note).

(2) The term "munitions list of the International Trafficking in Arms Regulations" means the United States Munitions List contained in part 121 of subchapter M of title 22 of the Code of Federal Regulations.

SEC. 1212. REPORT ON NONSTRATEGIC NUCLEAR WEAPONS.

(a) Review.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of State and the Secretary of Energy, conduct a review of United States and Russian nonstrategic nuclear weapons and determine whether it is in the national security interest of the United States—

(1) to reduce the number of United States and Russian nonstrategic nuclear weapons;

(2) to improve the security of United States and Russian nonstrategic nuclear weapons in storage and during transport;

(3) to identify and develop mechanisms and procedures to implement transparent reductions in nonstrategic nuclear weapons; and

(4) to identify and develop mechanisms and procedures to implement the transparent dismantlement of excess nonstrategic nuclear weapons.

(b) Report.—

(1) In general.—The Secretary of Defense shall submit to the congressional defense committees a joint report, prepared in consultation with the Secretary of State and the Secretary of Energy, on the results of the review required under subsection (a). The report shall include a plan to implement, not later than October 1, 2006, actions determined as a result of the review to be in the United States national security interest.

(2) Form.—The report required under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

Subtitle C—Reports and Sense of Congress Provisions

SEC. 1221. WAR-RELATED REPORTING REQUIREMENTS.

(a) Report Required for Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Noble Eagle.—The Secretary of Defense shall submit to the congressional defense committees, in accordance with this section, a report on procurement and equipment maintenance costs for each of Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Noble Eagle and on facility infrastructure costs associated with each of Operation Iraqi Freedom and Operation Enduring Freedom. The report shall include the following:

(1) Procurement.—A specification of costs of procurement funding requested since fiscal year 2003, together with end-item quantities requested and the purpose of the request (such as replacement for battle losses, improved capability, increase in force size, restructuring of forces), shown by service.

(2) Equipment maintenance.—A cost comparison of the requirements for equipment maintenance expenditures during peacetime and for such requirements during wartime, as shown by the requirements in each of Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Noble Eagle. The cost comparison shall include—

(A) a description of the effect of war operations on the backlog of maintenance requirements over the period of fiscal years 2003 to the time of the report; and

(B) an examination of the extent to which war operations have precluded maintenance from being performed because equipment was unavailable.

(3) Operation Iraqi Freedom and Operation Enduring Freedom infrastructure.—A specification of the number of United States military personnel that can be supported by the facility infrastructure in Iraq and Afghanistan and in the neighboring countries from where Operation Iraq Freedom and Operation Enduring Freedom are supported.

(b) Submission Requirements.—The report under subsection (a) shall be submitted not later than 180 days after the date of the enactment of this Act. The Secretary of Defense shall submit an updated report on procurement, equipment maintenance, and military construction costs, as specified in subsection (a), concurrently with any request made to Congress after the date of the enactment of this Act for war-related funding.

(c) Submission to GAO of Certain Reports on Costs.—The Secretary of Defense shall submit to the Comptroller General, not later than 15 days after the end of each reporting month, the Department of Defense Supplemental and Cost of War Execution reports. Based on these reports, the Comptroller General shall provide to Congress quarterly updates on the costs of Operation Iraqi Freedom and Operation Enduring Freedom.

SEC. 1222. QUARTERLY REPORTS ON WAR STRATEGY IN IRAQ.

(a) Quarterly Reports.—At the same time the Secretary of Defense submits to Congress each report on stability and security in Iraq that is submitted to Congress after the date of the enactment of this Act under the Joint Explanatory Statement of the Committee on Conference to accompany the conference report on the bill H.R. 1268 of the 109th Congress, the Secretary of Defense and appropriate personnel of the Central Intelligence Agency shall provide the appropriate committees of Congress a briefing on the strategy for the war in Iraq, including the intelligence and other measures of evaluation used in determining the progress made in the execution of that strategy.

(b) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Committee on Armed Services, the Select Committee on Intelligence, and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services, the Permanent Select Committee on Intelligence, and the Committee on Appropriations of the House of Representatives.

(c) TERMINATION OF REQUIREMENT.—This section shall cease to be in effect after 12 of the quarterly briefings specified in subsection (a) have been provided or December 31, 2008, whichever is later.

SEC. 1223. REPORT ON RECORDS OF CIVILIAN CASUALTIES IN AFGHANISTAN AND IRAQ.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on records of civilian casualties in Afghanistan and Iraq.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) Whether records of civilian casualties in Afghanistan and Iraq are kept by the United States Armed Forces and if such records are kept—

(A) how and from what sources the information for those records is collected;

(B) where those records are kept; and

(C) what officials or organizations are responsible for maintaining those records.

(2) Whether such records (if kept) contain—

(A) any information relating to the circumstances under which the casualties occurred and whether those casualties were fatalities or injuries;

(B) information as to whether any condolence payment, compensation, or assistance was provided to the victim or to the victim's family; and

(C) any other information relating to those casualties.

SEC. 1224. ANNUAL REPORT ON DEPARTMENT OF DEFENSE COSTS TO CARRY OUT UNITED NATIONS RESOLUTIONS.

(a) REQUIREMENT FOR ANNUAL REPORT.—

(1) DEPARTMENT OF DEFENSE COSTS.—Not later than April 30 of each year, the Secretary of Defense shall submit to the congressional committees specified in paragraph (2) a report on Department of Defense costs during the preceding fiscal year to carry out United Nations resolutions.

(2) SPECIFIED COMMITTEES.—The committees specified in this paragraph are—

(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on International Relations, and the Committee on Appropriations of the House of Representatives.

(b) MATTERS TO BE INCLUDED.— Each report under subsection (a) shall set forth the following:

(1) All direct and indirect costs (including incremental costs) incurred by the Department of Defense during the preceding fiscal year in implementing or supporting any resolution adopted by the United Nations Security Council, including any such resolution calling for—

(A) international sanctions;

(B) international peacekeeping operations;

(C) international peace enforcement operations;

(D) monitoring missions;

(E) observer missions; or

(F) humanitarian missions.

(2) An aggregate of all such Department of Defense costs by operation or mission and the total cost to United Nations members of each operation or mission.

(3) All direct and indirect costs (including incremental costs) incurred by the Department of Defense during the preceding fiscal year in training, equipping, and otherwise assisting, preparing, providing resources for, and transporting foreign defense or security forces for implementing or supporting any resolution adopted by the United Nations Security Council, including any such resolution specified in paragraph (1).

(4) All efforts made to seek credit against past United Nations expenditures.

(5) All efforts made to seek compensation from the United Nations for costs incurred by the Department of Defense in implementing and supporting United Nations activities.

(c) COORDINATION.—The report under subsection (a) each year shall be prepared in coordination with the Secretary of State.

(d) FORM OF REPORT.—Each report required by this section shall be submitted in unclassified form, but may include a classified annex.

SEC. 1225. REPORT ON CLAIMS RELATED TO THE BOMBING OF THE LABELLE DISCOTHEQUE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Government of Libya should be commended for the steps the Government has taken to renounce terrorism and to eliminate Libya's weapons of mass destruction and related programs; and

(2) an important priority for improving relations between the United States and Libya should be a good faith effort on the part of the Government of Libya to resolve the claims of members of the Armed Forces of the United States and other United States citizens who were injured in the bombing of the LaBelle Discotheque in Berlin, Germany that occurred in April 1986, and of family members of members of the Armed Forces of the United States who were killed in that bombing.

(b) REPORTS.—

(1) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report on the status of negotiations between the Government of Libya and United States claimants in connection with the bombing of the LaBelle Discotheque in Berlin, Germany that occurred in April 1986, regarding resolution of their claims. The report shall also include information on efforts by the Government of the United States to urge the Government of Libya to make a good faith effort to resolve such claims.

(2) UPDATE.—Not later than one year after enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees an update of the report required by paragraph (1).

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives.

SEC. 1226. SENSE OF CONGRESS CONCERNING COOPERATION WITH RUSSIA ON ISSUES PERTAINING TO MISSILE DEFENSE.

It is the sense of Congress that—

(1) cooperation between the United States and Russia with regard to missile defense is in the interest of the United States;

(2) there does not exist strong enough engagement between the United States and Russia with respect to missile defense cooperation;

(3) the United States should explore innovative and nontraditional means of cooperation with Russia on issues pertaining to missile defense; and

(4) as part of such an effort, the Secretary of Defense should consider the possibilities for United States-Russian cooperation with respect to missile defense through—

(A) the testing of specific elements of the detection and tracking equipment of the Missile Defense Agency of the United States Department of Defense through the use of Russian target missiles;

(B) the provision of early warning radar to the Missile Defense Agency by the use of Russian radar data; and

(C) the implementation of the Joint Data Exchange Center in Moscow to improve early warning capabilities.

SEC. 1227. UNITED STATES POLICY ON IRAQ.

(a) SHORT TITLE.—This section may be cited as the "United States Policy in Iraq Act".

(b) SENSE OF CONGRESS.—It is the sense of the Congress that, in order to succeed in Iraq—

(1) members of the United States Armed Forces who are serving or have served in Iraq and their families deserve the utmost respect and the heartfelt gratitude of the American people for their unwavering devotion to duty, service to the Nation, and selfless sacrifice under the most difficult circumstances; the United States Congress supports our troops and supports a successful conclusion to their mission.

(2) it is important to recognize that the Iraqi people have made enormous sacrifices and that the overwhelming majority of Iraqis want to live in peace and security; and that the Iraqi security forces in a growing number of incidences are fighting side-by-side with coalition forces, are increasing in numbers and improving in military capability.

(3) the terrorists seeking to prevent the emergence of a secure, stable, peaceful, and democratic Iraq are led by individuals seeking to restore dictatorship in Iraq or who want to advance al Qaeda's broad vision of violently extreme Islam in the Middle East.

(4) calendar year 2006 should be a period of significant transition to full Iraqi sovereignty, with Iraqi security forces taking the lead for the security of a free and sovereign Iraq, thereby creating the conditions for the phased redeployment of United States forces from Iraq;

(5) United States military forces should not stay in Iraq any longer than required and the professional military judgment of our senior military should be a key factor in future decisions;.

(6) the Administration should tell the leaders of all groups and political parties in Iraq that they need to make the compromises necessary to achieve the broad-based and sustainable political settlement that is essential for defeating the insurgency in Iraq, within the schedule they set for themselves; and

(7) the President has committed to continue to explain to Congress and the American people progress toward a successful completion of the mission in Iraq.

(c) REPORTS TO CONGRESS ON UNITED STATES POLICY AND MILITARY OPERATIONS IN IRAQ.—Not later than 90 days after the date of the enactment of this Act, and every three months thereafter until all United States combat brigades have redeployed from Iraq, the President shall submit to Congress a report on United States policy and military operations in Iraq. To the maximum extent practicable, the report required in (c) shall be unclassified, with a classified annex if necessary. Each report shall include to the extent practical, the following information:

(1) The current military mission and the diplomatic, political, economic, and military measures that are being or have been undertaken to successfully complete or support that mission, including:

(A) Efforts to convince Iraq's main communities to make the compromises necessary for a broad-based and sustainable political settlement.

(B) Engaging the international community and the region in efforts to stabilize Iraq and to forge a broad-based and sustainable political settlement.

(C) Strengthening the capacity of Iraq's government ministries.

(D) Accelerating the delivery of basic services.

(E) Securing the delivery of pledged economic assistance from the international community and additional pledges of assistance.

(F) Training Iraqi security forces and transferring additional security responsibilities to those forces and the government of Iraq.

(2) Whether the Iraqis have made the compromises necessary to achieve the broad-based and sustainable political settlement that is essential for defeating the insurgency in Iraq.

(3) Any specific conditions included in the April 2005 Multi-National Forces-Iraq campaign action plan (referred to in United States Government Accountability Office October 2005 report on Rebuilding Iraq: DOD Reports Should Link Economic, Governance, and Security Indicators to Conditions for Stabilizing Iraq), and any subsequent updates to that campaign plan, that must be met in order to provide for the transition of additional security responsibility to Iraqi security forces.

(4) To the extent that these conditions are not covered under paragraph (3), the following should also be addressed:

(A) The number of battalions of the Iraqi Armed Forces that must be able to operate independently or to take the lead in counterinsurgency operations and the defense of Iraq's territory.

(B) The number of Iraqi special police units that must be able to operate independently or to take the lead in maintaining law and order and fighting the insurgency.

(C) The number of regular police that must be trained and equipped to maintain law and order.

(D) The ability of Iraq's Federal ministries and provincial and local governments to independently sustain, direct, and coordinate Iraq's security forces.

(5) The criteria to be used to evaluate progress toward meeting such conditions.

(6) A plan for meeting such conditions, an assessment of the extent to which such conditions have been met, information regarding variables that could alter that plan, and the reasons for any subsequent changes to that plan.

Subtitle D—Other Matters

SEC. 1231. PURCHASE OF WEAPONS OVERSEAS FOR FORCE PROTECTION PURPOSES IN COUNTRIES IN WHICH COMBAT OPERATIONS ARE ONGOING.

(a) FORCE PROTECTION PURCHASES.—Chapter 3 of title 10, United States Code, is amended by inserting after section 127b the following new section:

"§ 127c. Purchase of weapons overseas: force protection

"(a) AUTHORITY.—When elements of the armed forces are engaged in ongoing military operations in a country, the Secretary of Defense may, for the purpose of protecting United States forces in that country, purchase weapons from any foreign person, foreign government, international organization, or other entity located in that country.

"(b) LIMITATION.—The total amount expended during any fiscal year for purchases under this section may not exceed $15,000,000.

"(c) SEMIANNUAL CONGRESSIONAL REPORT.—In any case in which the authority provided in subsection (a) is used during the period of the first six months of a fiscal year, or during the period of the second six months of a fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and Committee on Armed Services of the House of Representatives a report on the use of that authority during that six-month period. Each such report shall be submitted not later than 30 days after the end of the six-month period during which the authority is used. Each such report shall include the following:

"(1) The number and type of weapons purchased under subsection (a) during that six-month period covered by the report, together with the amount spent for those weapons and the Secretary's estimate of the fair market value of those weapons.

"(2) A description of the dispositions (if any) during that six-month period of weapons purchased under subsection (a).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 127b the following new item:

"127c. Purchase of weapons overseas: force protection.".

SEC. 1232. RIOT CONTROL AGENTS.

(a) RESTATEMENT OF POLICY.—It is the policy of the United States that riot control agents are not chemical weapons and that the President may authorize their use as legitimate, legal, and non-lethal alternatives to the use of force that, as provided in Executive Order 11850 (40 Fed. Reg. 16187) and consistent with the resolution of ratification of the Chemical Weapons Convention, may be employed by members of the Armed Forces in war in defensive military modes to save lives, including the illustrative purposes cited in Executive Order 11850.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the use of riot control agents by members of the Armed Forces.

(2) CONTENT.—The report required by paragraph (1) shall include—

(A) a description of all regulations, doctrines, training materials, and any other information related to the use of riot control agents by members of the Armed Forces;

(B) a description of how the material described in subparagraph (A) is consistent with United States policy on the use of riot control agents;

(C) a description of the availability of riot control agents, and the means to use them, to members of the Armed Forces, including members of the Armed Forces deployed in Iraq and Afghanistan;

(D) a description of the frequency and circumstances of the use of riot control agents by members of the Armed Forces since January 1, 1992, and a summary of views held by commanders of United States combatant commands as to the utility of the use of riot control agents by members of the Armed Forces when compared with alternatives;

(E) a general description of steps taken or planned to be taken by the Department of Defense to clarify the circumstances under which riot control agents may be used by members of the Armed Forces; and

(F) a brief explanation of the continuing validity of Executive Order 11850 under United States law.

(3) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) DEFINITIONS.—In this section:

(1) CHEMICAL WEAPONS CONVENTION.—The term "Chemical Weapons Convention" means the Convention on the Prohibitions of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, with annexes, done at Paris, January 13, 1993, and entered into force April 29, 1997 (T. Doc. 103-21).

(2) RESOLUTION OF RATIFICATION OF THE CHEMICAL WEAPONS CONVENTION.—The term "resolution of ratification of the Chemical Weapons Convention" means S. Res. 75, 105th Congress, agreed to April 24, 1997, advising and consenting to the ratification of the Chemical Weapons Convention.

SEC. 1233. REQUIREMENT FOR ESTABLISHMENT OF CERTAIN CRITERIA APPLICABLE TO GLOBAL POSTURE REVIEW.

(a) CRITERIA.—As part of the Integrated Global Presence and Basing Strategy (IGPBS) developed by the Department of Defense that is referred to as the "Global Posture Review", the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall develop criteria for assessing, with respect to each type of facility specified in subsection (c) that is to be located in a foreign country, the following factors:

(1) The effect of any new basing arrangements on the strategic mobility requirements of the Department of Defense.

(2) The ability of units deployed to overseas locations in areas in which United States Armed Forces have not traditionally been deployed to meet mobility response times required by operational planners.

(3) The cost of deploying units to areas referred to in paragraph (2) on a rotational basis (rather than on a permanent basing basis).

(4) The strategic benefit of rotational deployments through countries with which the United States is developing a close or new security relationship.

(5) Whether the relative speed and complexity of conducting negotiations with a particular country is a discriminator in the decision to deploy forces within the country.

(6) The appropriate and available funding mechanisms for the establishment, operation, and sustainment of specific Main Operating Bases, Forward Operating Bases, or Cooperative Security Locations.

(7) The effect on military quality of life of the unaccompanied deployment of units to new facilities in overseas locations.

(8) Other criteria as Secretary of Defense determines appropriate.

(b) ANALYSIS OF ALTERNATIVES TO BASING OR OPERATING LOCATIONS.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall develop a mechanism for analyzing alternatives to any particular overseas basing or operating location. Such a mechanism shall incorporate the factors specified in each of paragraphs (1) through (5) of subsection (a).

(c) MINIMAL INFRASTRUCTURE REQUIREMENTS FOR OVERSEAS INSTALLATIONS.— The Secretary of Defense shall develop a description of minimal infrastructure requirements for each of the following types of facilities:

(1) Facilities categorized as Main Operating Bases.

(2) Facilities categorized as Forward Operating Bases.

(3) Facilities categorized as Cooperative Security Locations.

(d) NOTIFICATION REQUIRED.—Not later than 30 days after an agreement is entered into between the United States and a foreign country to support the deployment of elements of the United States Armed Forces in that country, the Secretary of Defense shall submit to the congressional defense committees a written notification of such agreement. The notification under this subsection shall include the terms of the agreement, any costs to the United States resulting from the agreement, and a timeline to carry out the terms of the agreement.

(e) ANNUAL BUDGET ELEMENT.—The Secretary of Defense shall submit to Congress, as an element of the annual budget request of the Secretary, information regarding the funding sources for the establishment, operation, and sustainment of individual Main Operating Bases, Forward Operating Bases, or Cooperative Security Locations.

(f) REPORT.—Not later than March 30, 2006, the Secretary of Defense shall submit to Congress a report on the matters specified in subsections (a) through (c).

SEC. 1234. THE UNITED STATES-CHINA ECONOMIC SECURITY REVIEW COMMISSION.

(a) FINDINGS.—Congress finds the following:

(1) The 2004 Report to Congress of the United States-China Economic and Security Review Commission states that—

(A) China's State-Owned Enterprises (SOEs) lack adequate disclosure standards, which creates the potential for United States investors to unwittingly contribute to enterprises that are involved in activities harmful to United States security interests;

(B) United States influence and vital long-term interests in Asia are being challenged by China's robust regional economic engagement and diplomacy;

(C) the assistance of China and North Korea to global ballistic missile proliferation is extensive and ongoing;

(D) China's transfers of technology and components for weapons of mass destruction (WMD) and their delivery systems to countries of concern, including countries that support acts of international terrorism, have helped create a new tier of countries with the capability to produce WMD and ballistic missiles;

(E) the removal of the European Union arms embargo against China that is currently under consideration in the European Union would accelerate weapons modernization and dramatically enhance Chinese military capabilities;

(F) China is developing a leading-edge military with the objective of intimidating Taiwan and deterring United States involvement in the Taiwan Strait, and China's qualitative and quantitative military advancements have already resulted in a dramatic shift in the cross-Strait military balance toward China; and

(G) China's growing energy needs are driving China into bilateral arrangements that undermine multilateral efforts to stabilize oil supplies and prices, and in some cases may involve dangerous weapons transfers.

(2) On March 14, 2005, the National People's Congress approved a law that would authorize the use of force if Taiwan formally declares independence.

(b) SENSE OF CONGRESS FOR COMPREHENSIVE STRATEGY.—It is the sense of Congress that the President should present to Congress quickly a comprehensive strategy to—

(1) address the emergence of China economically, diplomatically, and militarily;

(2) promote mutually beneficial trade relations with China; and

(3) encourage China's adherence to international norms in the areas of trade, international security, and human rights.

(c) CONTENTS OF STRATEGY.—The strategy referred to in subsection (b) should address the following:

(1) Actions to address China's policy of undervaluing its currency, including—

(A) encouraging China to continue to upwardly revalue the Chinese yuan against the United States dollar;

(B) allowing the yuan to float against a trade-weighted basket of currencies; and

(C) concurrently encouraging United States trading partners with similar interests to join in these efforts.

(2) Actions to make better use of the World Trade Organization (WTO) dispute settlement mechanism and applicable United States trade laws to redress China's trade practices, including—

(A) exchange rate manipulation;

(B) denial of trading and distribution rights;

(C) insufficient intellectual property rights protection;

(D) objectionable labor standards;

(E) subsidization of exports; and

(F) forced technology transfers as a condition of doing business.

(3) The United States Trade Representative should consult with United States trading partners regarding any trade dispute with China.

(4) Actions to encourage United States diplomatic efforts to identify and pursue initiatives to revitalize United States engagement in East Asia. The initiatives should have a regional focus and complement bilateral efforts. The Asia-Pacific Economic Cooperation forum (APEC) offers a ready mechanism for pursuit of such initiatives.

(5) Actions by the administration to work with China to prevent proliferation of prohibited technologies and to secure China's agreement to renew efforts to curtail commercial export by North Korea of ballistic missiles.

(6) Actions by the Secretary of State and the Secretary of Energy to consult with the International Atomic Energy Agency with the objective of upgrading the current loose experience-sharing arrangement whereby China engages in some limited exchanges with the organization to a more structured arrangement.

(7) Actions by the administration to develop a coordinated, comprehensive national policy and strategy designed to maintain United States scientific and technological leadership and competitiveness, in light of the rise of China and the challenges of globalization.

(8) Actions to review laws and regulations governing the Committee on Foreign Investment in the United States (CFIUS), including exploring whether the definition of national security should include the potential impact on national economic security as a criterion to be reviewed, and whether the chairmanship of CFIUS should be transferred from the Secretary of the Treasury to a more appropriate executive branch agency.

(9) Actions by the President and the Secretary of State and Secretary of Defense to press strongly their counterparts in the European Union and its member states to maintain and strengthen the embargo on selling arms to China.

(10) Actions by the administration to discourage foreign defense contractors from selling sensitive military-use technology or weapons systems to China.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.
Sec. 1303. Permanent waiver of restrictions on use of funds for threat reduction in states of the former Soviet Union.
Sec. 1304. Report on elimination of impediments to threat-reduction and nonproliferation programs in the former Soviet Union.
Sec. 1305. Repeal of requirement for annual Comptroller General assessment of annual Department of Defense report on activities and assistance under Cooperative Threat Reduction programs.

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2006 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2006 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $415,549,000 authorized to be appropriated to the Department of Defense for fiscal year 2006 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $78,900,000.

(2) For nuclear weapons storage security in Russia, $74,100,000.

(3) For nuclear weapons transportation security in Russia, $30,000,000.

(4) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $40,600,000.

(5) For biological weapons proliferation prevention in the former Soviet Union, $60,849,000.

(6) For chemical weapons destruction in Russia, $108,500,000.

(7) For defense and military contacts, $8,000,000.

(8) For activities designated as Other Assessments/Administrative Support, $14,600,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2006 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (8) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2006 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2006 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (6) through (8) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

SEC. 1303. PERMANENT WAIVER OF RESTRICTIONS ON USE OF FUNDS FOR THREAT REDUCTION IN STATES OF THE FORMER SOVIET UNION.

Section 1306 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 22 U.S.C. 5952 note) is amended—

(1) by striking subsections (c) and (d); and

(2) by redesignating subsection (e) as subsection (c).

SEC. 1304. REPORT ON ELIMINATION OF IMPEDIMENTS TO THREAT-REDUCTION AND NONPROLIFERATION PROGRAMS IN THE FORMER SOVIET UNION.

Not later than November 1, 2006, the President shall submit to Congress a report on impediments to the effective conduct of Cooperative Threat Reduction programs and related threat reduction and nonproliferation programs and activities in the states of the former Soviet Union. The report shall—

(1) identify the impediments to the rapid, efficient, and effective conduct of programs and activities of the Department of Defense, the Department of State, and the Department of Energy, including issues relating to access to sites, liability, and taxation; and

(2) describe the plans of the United States to overcome or ameliorate such impediments, including an identification and discussion of new models and approaches that might be used to develop new relationships with entities in the states of the former Soviet Union capable of assisting in removing or ameliorating those impediments, and any congressional action that may be necessary for that purpose.

SEC. 1305. REPEAL OF REQUIREMENT FOR ANNUAL COMPTROLLER GENERAL ASSESSMENT OF ANNUAL DEPARTMENT OF DEFENSE REPORT ON ACTIVITIES AND ASSISTANCE UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.

Section 1308 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A-341) is amended by striking subsection (e).

TITLE XIV—MATTERS RELATING TO DETAINEES

Sec. 1401. Short title
Sec. 1402. Uniform standards for the interrogation of persons under the detention of the Department of Defense
Sec. 1403. Prohibition on cruel, inhuman, or degrading treatment or punishment of persons under custody or control of the United States Government
Sec. 1404. Protection of United States Government personnel engaged in authorized interrogations
Sec. 1405. Procedures for status review of detainees outside the United States
Sec. 1406. Training of Iraqi security forces regarding treatment of detainees

SEC. 1401. SHORT TITLE.

This title may be cited as the "Detainee Treatment Act of 2005".

SEC. 1402. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(b) APPLICABILITY.—Subsection (a) shall not apply with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(c) CONSTRUCTION.—Nothing in this section shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

SEC. 1403. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) CONSTRUCTION.—Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) LIMITATION ON SUPERSEDURE.—The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this section, the term "cruel, inhuman, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

SEC. 1404. PROTECTION OF UNITED STATES GOVERNMENT PERSONNEL ENGAGED IN AUTHORIZED INTERROGATIONS.

(a) PROTECTION OF UNITED STATES GOVERNMENT PERSONNEL.—In any civil action or criminal prosecution against an officer, employee, member of the Armed Forces, or other agent of the United States Government who is a United States person, arising out of the officer, employee, member of the Armed Forces, or other agent's engaging in specific operational practices, that involve detention and interrogation of aliens who the President or his designees have determined are believed to be engaged in or associated with international terrorist activity that poses a serious, continuing threat to the United States, its interests, or its allies, and that were officially authorized and determined to be lawful at the time that they were conducted, it shall be a defense that such officer, employee, member of the Armed Forces, or other agent did not know that the practices were unlawful and a person of ordinary sense and understanding would not know the practices were unlawful. Good faith reliance on advice of counsel should be an important factor, among others, to consider in assessing whether a person of ordinary sense and understanding would have known the practices to be unlawful. Nothing in this section shall be construed to limit or extinguish any defense or protection otherwise available to any person or entity from suit, civil or criminal liability, or damages, or to provide immunity from prosecution for any criminal offense by the proper authorities.

(b) COUNSEL.—The United States Government may provide or employ counsel, and pay counsel fees, court costs, bail, and other expenses incident to the representation of an officer, employee, member of the Armed Forces, or other agent described in subsection (a), with respect to any civil action or criminal prosecution arising out of practices described in that subsection, under the same conditions, and to the same extent, to which such services and payments are authorized under section 1037 of title 10, United States Code.

SEC. 1405. PROCEDURES FOR STATUS REVIEW OF DETAINEES OUTSIDE THE UNITED STATES.

(a) SUBMITTAL OF PROCEDURES FOR STATUS REVIEW OF DETAINEES AT GUANTANAMO BAY, CUBA, AND IN AFGHANISTAN AND IRAQ.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on the Judiciary of the Senate and the Committee on Armed Services and the Committee on the Judiciary of the House of Representatives a report setting forth—

(A) the procedures of the Combatant Status Review Tribunals and the Administrative Review Boards established by direction of the Secretary of Defense that are in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay or to provide an annual review to determine the need to continue to detain an alien who is a detainee; and

(B) the procedures in operation in Afghanistan and Iraq for a determination of the status of aliens detained in the custody or under the physical control of the Department of Defense in those countries.

(2) DESIGNATED CIVILIAN OFFICIAL.—The procedures submitted to Congress pursuant to paragraph (1)(A) shall ensure that the official of the Department of Defense who is designated by the President or Secretary of Defense to be the final review authority within the Department of Defense with respect to decisions of any such tribunal or board (referred to as the "Designated Civilian Official") shall be a civilian officer of the Department of Defense holding an office to which appointments are required by law to be made by the President, by and with the advice and consent of the Senate.

(3) CONSIDERATION OF NEW EVIDENCE.—The procedures submitted under paragraph (1)(A) shall provide for periodic review of any new evidence that may become available relating to the enemy combatant status of a detainee.

(b) CONSIDERATION OF STATEMENTS DERIVED WITH COERCION.—

(1) ASSESSMENT.—The procedures submitted to Congress pursuant to subsection (a)(1)(A) shall ensure that a Combatant Status Review Tribunal or Administrative Review Board, or any similar or successor administrative tribunal or board, in making a determination of status or disposition of any detainee under such procedures, shall, to the extent practicable, assess—

(A) whether any statement derived from or relating to such detainee was obtained as a result of coercion; and

(B) the probative value, if any, of any such statement.

(2) APPLICABILITY.—Paragraph (1) applies with respect to any proceeding beginning on or after the date of the enactment of this Act.

(c) REPORT ON MODIFICATION OF PROCEDURES.—The Secretary of Defense shall submit to the committees specified in subsection (a)(1) a report on any modification of the procedures submitted under subsection (a). Any such report shall be submitted not later than 60 days before the date on which such modification goes into effect.

(d) ANNUAL REPORT.—

(1) REPORT REQUIRED.—The Secretary of Defense shall submit to Congress an annual report on the annual review process for aliens in the custody of the Department of Defense outside the United States. Each such report shall be submitted in unclassified form, with a classified annex, if necessary. The report shall be submitted not later than December 31 each year.

(2) ELEMENTS OF REPORT.—Each such report shall include the following with respect to the year covered by the report:

(A) The number of detainees whose status was reviewed.

(B) The procedures used at each location.

(e) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

(1) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

"(e) Except as provided in section 1405 of the Detainee Treatment Act of 2005, no court, justice, or judge shall have jurisdiction to hear or consider—

"(1) an application for a writ of habeas corpus filed by or on behalf of an alien detained by the Department of Defense at Guantanamo Bay, Cuba; or

"(2) any other action against the United States or its agents relating to any aspect of the detention by the Department of Defense of an alien at Guantanamo Bay, Cuba, who—

"(A) is currently in military custody; or

"(B) has been determined by the United States Court of Appeals for the District of Columbia Circuit in accordance with the procedures set forth in section 1405(e) of the Detainee Treatment Act of 2005 to have been properly detained as an enemy combatant.".

(2) REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision of a Combatant Status Review Tribunal that an alien is properly detained as an enemy combatant.

(B) LIMITATION ON CLAIMS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the standards and procedures specified by the Secretary of Defense for Combatant Status Review Tribunals (including the requirement that the conclusion of the Tribunal be supported by a preponderance of the evidence and allowing a rebuttable presumption in favor the Government's evidence); and

(ii) to the extent the Constitution and laws of the United States are applicable, whether the use of such standards and procedures to make the determination is consistent with the Constitution and laws of the United States.

(D) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

(3) REVIEW OF FINAL DECISIONS OF MILITARY COMMISSIONS.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision rendered pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order).

(B) GRANT OF REVIEW.—Review under this paragraph—

(i) with respect to a capital case or a case in which the alien was sentenced to a term of imprisonment of 10 years or more, shall be as of right, or

(ii) with respect to any other case, shall be at the discretion of the United States Court of Appeals for the District of Columbia Circuit.

(C) LIMITATION ON APPEALS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to an appeal brought by or on behalf of an alien—

(i) who was, at the time of the proceedings pursuant to the military order referred to in subparagraph (A), detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a final decision has been rendered pursuant to such military order.

(D) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on an appeal of a final decision with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the final decision was consistent with the standards and procedures specified in the military order referred to in subparagraph (A); and

(ii) to the extent the Constitution and laws of the United States are applicable, whether the use of such standards and procedures to reach the final decision is consistent with the Constitution and laws of the United States.

(4) RESPONDENT.—The Secretary of Defense shall be the named respondent in any appeal to the United States Court of Appeals for the District of Columbia Circuit under this subsection.

(f) CONSTRUCTION.—Nothing in this section shall be construed to confer any constitutional right on an alien detained as an enemy combatant outside the United States.

(g) UNITED STATES DEFINED.—For purposes of this section, the term "United States", when used in a geographic sense, is as defined in section 101(a)(38) of the Immigration and Nationality Act and, in particular, does not include the United States Naval Station, Guantanamo Bay, Cuba.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall take effect on the date of the enactment of this Act.

(2) REVIEW OF COMBATANT STATUS TRIBUNAL AND MILITARY COMMISSION DECISIONS.—Paragraphs (2) and (3) of subsection (e) shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act.

SEC. 1406. TRAINING OF IRAQI SECURITY FORCES REGARDING TREATMENT OF DETAINEES.

(a) REQUIRED POLICIES.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe policies designed to ensure that all military and civilian Department of Defense personnel or contractor personnel of the Department of Defense responsible for the training of any unit of the Iraqi Security Forces provide training to such units regarding the international obligations and laws applicable to the humane treatment of detainees, including protections afforded under the Geneva Conventions and the Convention Against Torture.

(2) ACKNOWLEDGMENT OF TRAINING.—The Secretary shall ensure that, for all personnel of the Iraqi Security Forces who are provided training referred to in paragraph (1), there is documented acknowledgment that such training has been provided.

(3) DEADLINE FOR POLICIES TO BE PRESCRIBED.—The policies required by paragraph (1) shall be prescribed not later than 180 days after the date of the enactment of this Act.

(b) ARMY FIELD MANUAL.—

(1) TRANSLATION.—The Secretary of Defense shall provide for the unclassified portions of the United States Army Field Manual on Intelligence Interrogation to be translated into Arabic and any other language the Secretary determines appropriate for use by members of the Iraqi security forces.

(2) DISTRIBUTION.—The Secretary of Defense shall provide for such manual, as translated, to be distributed to all appropriate officials of the Iraqi Government, including, but not limited to, the Iraqi Minister of Defense, the Iraqi Minister of Interior, senior Iraqi military personnel, and appropriate members of the Iraqi Security Forces with a recommendation that the principles that underlay the manual be adopted by the Iraqis as the basis for their policies on interrogation of detainees.

(c) TRANSMITTAL TO CONGRESSIONAL COMMITTEES.—Not less than 30 days after the date on which policies are first prescribed under subsection (a), the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives copies of such regulations, policies, or orders, together with a report on steps taken to the date of the report to implement this section.

(d) ANNUAL REPORT.—Not less than one year after the date of the enactment of this Act, and annually thereafter, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of this section.

TITLE XV—AUTHORIZATION FOR INCREASED COSTS DUE TO OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM

Sec. 1501. Purpose.
Sec. 1502. Army procurement.
Sec. 1503. Navy and Marine Corps procurement.
Sec. 1504. Air Force procurement.
Sec. 1505. Defense-wide activities procurement.
Sec. 1506. Research, development, test and evaluation.
Sec. 1507. Operation and maintenance.
Sec. 1508. Defense Working Capital Fund.
Sec. 1509. Defense Health Program.
Sec. 1510. Military personnel.
Sec. 1511. Iraq Freedom Fund.
Sec. 1512. Treatment as additional authorizations.
Sec. 1513. Transfer authority.
Sec. 1514. Availability of funds.

SEC. 1501. PURPOSE.

The purpose of this title is to authorize emergency supplemental appropriations for the Department of Defense for fiscal year 2006 to provide funds for additional costs due to Operation Iraqi Freedom and Operation Enduring Freedom pursuant to section 402 of H.Con.Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 1502. ARMY PROCUREMENT.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement accounts of the Army in amounts as follows:

(1) For aircraft, $40,600,000.

(2) For ammunition, $109,500,000.

(3) For weapons and tracked combat vehicles, $485,499,000.

(4) For other procurement, $1,659,800,000.

(b) AVAILABILITY OF CERTAIN AMOUNTS FOR UP-ARMORED WHEELED VEHICLES.—

(1) AVAILABILITY.—Of the amount authorized to be appropriated by subsection (a)(4), $240,000,000 shall be available for the procurement of up-armored high mobility multipurpose wheeled vehicles (UAHs), including vehicles in the M1114, M1151, and M1152 configurations.

(2) ALLOCATION OF FUNDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Army shall allocate the manner in which amounts available under paragraph (1) shall be available for purposes specified in that paragraph.

(B) LIMITATION.—Amounts available under paragraph (1) may not be allocated under subparagraph (A) until the Secretary certifies to the congressional defense committees that the Army has a validated requirement for procurement for a purpose specified in paragraph (1) *based on a statement of urgent needs from a commander of a combatant command.*

(C) Reports.—Not later than 15 days after an allocation of funds is made under subparagraph (A), the Secretary shall submit to the congressional defense committees a report describing such allocation of funds.

(c) Availability of Certain Amounts for Tactical Wheeled Vehicle Armoring Programs.—

(1) Availability.—Of the amount authorized to be appropriated by subsection (a)(4), $150,000,000 shall be available for units deployed in Iraq and Afghanistan, as follows:

(A) Procurement of up-armored Light Tactical Wheeled Vehicles (LTVs) or add-on armor kits for Light Tactical Wheeled Vehicles.

(B) Procurement of add-on armor kits for Medium Tactical Wheeled Vehicles (MTVs), including Low Signature Armored Cabs for the family of Medium Tactical Wheeled Vehicles.

(C) Procurement of add-on armor kits for Heavy Tactical Wheeled Vehicles (HTVs).

(2) Allocation of funds.—To the extent the Secretary of the Army determines that such amount is not needed for the procurement of such armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan under paragraph (1), the Secretary shall use the amounts remaining for the procurement of such armored vehicles in accordance with other priorities of the Army.

SEC. 1503. NAVY AND MARINE CORPS PROCUREMENT.

(a) Navy.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement accounts for the Navy in amounts as follows:

(1) For aircraft procurement, $15,000,000.

(2) For weapons procurement, $56,700,000.

(b) Marine Corps.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement account for the Marine Corps in the amount of $644,400,000.

(c) Navy and Marine Corps Ammunition.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement account for ammunition for the Navy and the Marine Corps in the amount of $147,921,000.

(d) Availability of Certain Amounts.—

(1) Availability.—Of the amount authorized to be appropriated by subsection (b), $200,000,000 shall be available for the procurement of up-armored high mobility multipurpose wheeled vehicles (UAHs), including vehicles in the M1114, M1151, and M1152 configurations.

(2) Allocation of funds.—

(A) In general.—Subject to subparagraph (B), the Secretary of the Navy shall allocate the manner in which amounts available under paragraph (1) shall be available for the purposes specified in that paragraph.

(B) Limitation.—Amounts available under paragraph (1) may not be allocated under subparagraph (A) until the Secretary certifies to the congressional defense committees that the Marine Corps has a validated requirement for procurement for a purpose specified in paragraph (1) based on a statement of urgent needs from a commander of a combatant command.

(C) Reports.—Not later than 15 days after an allocation of funds is made under subparagraph (A), the Secretary shall submit to the congressional defense committees a report describing such allocation of funds.

SEC. 1504. AIR FORCE PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the aircraft procurement accounts for the Air Force in the amount of $214,000,000.

SEC. 1505. DEFENSE-WIDE ACTIVITIES PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement account for Defense-wide in the amount of $103,900,000.

SEC. 1506. RESEARCH, DEVELOPMENT, TEST AND EVALUATION.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Department of Defense for research, development, test and evaluation as follows:

(1) For the Army, $8,700,000.

(2) For Defense-wide activities, $75,000,000.

SEC. 1507. OPERATION AND MAINTENANCE.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Armed Forces for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $19,828,180,000.

(2) For the Navy, $1,658,000,000.

(3) For the Marine Corps, $1,588,250,000.

(4) For the Air Force, $2,404,190,000.

(5) For Defense-wide activities, $1,778,397,000.

(6) For the Army Reserve, $44,400,000.

(7) For the Naval Reserve, $9,400,000.

(8) For the Marine Corps Reserve, $4,000,000.

(9) For the Air Force Reserve, $7,000,000.

(10) For the Army National Guard, $196,300,000.

(11) For the Air National Guard, $13,400,000.

SEC. 1508. DEFENSE WORKING CAPITAL FUND.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the Defense Working Capital Fund in the amount of $1,700,000,000.

SEC. 1509. DEFENSE HEALTH PROGRAM.

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, the Defense Health Program, in the amount of $178,415,000 for operation and maintenance.

SEC. 1510. MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel accounts for fiscal year 2006 a total of $11,788,323,000.

SEC. 1511. IRAQ FREEDOM FUND.

(a) In General.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the Iraq Freedom Fund in the amount of $5,240,725,000.

(b) Limitation on Availability of Certain Amount.—Of the amount authorized to be appropriated by subsection (a), $1,000,000,000 shall be available only for support of activities of the Joint Improvised Explosive Device Task Force.

(c) Classified Programs.—Of the amount authorized to be appropriated by subsection (a), $2,500,000,000 shall be available only for classified programs.

(d) Transfer.—

(1) Transfer authorized.—Subject to paragraph (2), amounts authorized to be appropriated by subsection (a) may be transferred from the Iraq Freedom Fund to any accounts as follows:

(A) Operation and maintenance accounts of the Armed Forces.

(B) Military personnel accounts.

(C) Research, development, test, and evaluation accounts of the Department of Defense.

(D) Procurement accounts of the Department of Defense.

(E) Accounts providing funding for classified programs.

(F) The operating expenses account of the Coast Guard.

(2) Notice to congress.—A transfer may not be made under the authority in paragraph (1) until five days after the date on which the Secretary of Defense notifies the congressional defense committees in writing of the transfer.

(3) Treatment of transferred funds.—Amounts transferred to an account under the authority in paragraph (1) shall be merged with amounts in such account and shall be made available for the same purposes, and subject to the same conditions and limitations, as amounts in such account.

(4) Effect on authorization amounts.—A transfer of an amount to an account under the authority in paragraph (1) shall be deemed to increase the amount authorized for such account by an amount equal to the amount transferred.

SEC. 1512. TREATMENT AS ADDITIONAL AUTHORIZATIONS.

The amounts authorized to be appropriated by this title are in addition to amounts otherwise authorized to be appropriated by this Act.

SEC. 1513. TRANSFER AUTHORITY.

(a) Authority to Transfer Authorizations.—

(1) Authority.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this title for fiscal year 2006 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) Limitation.—The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $2,500,000,000. The transfer authority provided in this section is in addition to any other transfer authority available to the Secretary of Defense.

(b) Limitations.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred;

(2) may not be used to provide authority for an item that has been denied authorization by Congress; and

(3) may not be combined with the authority under section 1001.

(c) Effect on Authorization Amounts.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) Notice to Congress.—A transfer may be made under the authority of this section only after the Secretary of Defense—

(1) consults with the chairmen and ranking members of the congressional defense committees with respect to the proposed transfer; and

(2) after such consultation, notifies those committees in writing of the proposed transfer not less than five days before the transfer is made.

SEC. 1514. AVAILABILITY OF FUNDS.

Funds in this title shall be made available for obligation to the Army, Navy, Marine Corps, Air Force, and Defense-wide components by the end of the second quarter of fiscal year 2006.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 2006".

TITLE XXI—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
Sec. 2103. Improvements to military family housing units.
Sec. 2104. Authorization of appropriations, Army.
Sec. 2105. Modification of authority to carry out certain fiscal year 2004 project.

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or Location	Amount
Alabama	Anniston Army Depot	$3,150,000
	Fort Rucker	$9,700,000
	Redstone Arsenal	$25,100,000
Alaska	Fort Richardson	$4,700,000
	Fort Wainwright	$44,660,000
Arizona	Fort Huachuca	$5,100,000
	Yuma Proving Ground	$8,100,000
California	Concord Naval Weapons Station	$11,850,000
	Fort Irwin	$21,250,000
Colorado	Fort Carson	$72,822,000
Georgia	Fort Benning	$30,261,000
	Fort Gillem	$3,900,000
	Fort Gordon	$4,550,000
	Fort Stewart/Hunter Army Air Field	$57,980,000
Hawaii	Pohakuloa Training Area	$60,300,000
	Schofield Barracks	$53,900,000
Illinois	Rock Island Arsenal	$7,400,000
Indiana	Crane Army Ammunition Activity	$5,700,000
Kansas	Fort Riley	$33,900,000
Kentucky	Fort Campbell	$116,475,000
	Fort Knox	$4,600,000
Louisiana	Fort Polk	$28,887,000
Missouri	Fort Leonard Wood	$23,500,000
New Jersey	Picatinny Arsenal	$4,450,000
New York	Fort Drum	$73,350,000
	United States Military Academy, West Point	$7,500,000
North Carolina	Fort Bragg	$301,250,000
Ohio	Joint Systems Manufacturing Center, Lima	$11,600,000
Oklahoma	Fort Sill	$5,850,000
	McAlester Army Ammunition Plant	$5,400,000
Pennsylvania	Letterkenny Depot	$6,300,000
South Carolina	Fort Jackson	$1,600,000
Texas	Fort Bliss	$5,000,000
	Fort Hood	$64,488,000
	Fort Sam Houston	$7,000,000
Utah	Dugway Proving Ground	$25,000,000
Virginia	Fort A.P. Hill	$2,700,000
	Fort Belvoir	$18,000,000
	Fort Eustis	$3,100,000
	Fort Lee	$3,900,000
	Fort Myer	$15,200,000
Washington	Fort Lewis	$99,949,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or Location	Amount
Germany	Grafenwoehr	$84,081,000
Italy	Pisa	$5,254,000
Korea	Camp Humphreys	$105,162,000
	Yongpyong	$1,450,000

(c) UNSPECIFIED WORLDWIDE.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(3), the Secretary of the Army may acquire real property and carry out military construction projects for *unspecified installations or locations in the amount set forth in the following table:*

Army: Unspecified Worldwide

Location	Installation or Location	Amount
	Unspecified Worldwide	$50,000,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, in the number of units, and in the amounts set forth in the following table:

Army: Family Housing

State	Installation or Location	Units	Amount
Alaska	Fort Richardson	117	$49,000,000
	Fort Wainwright	180	$91,000,000
Arizona	Fort Huachuca	131	$31,000,000
	Yuma Proving Ground	35	$11,200,000
Oklahoma	Fort Sill	129	$24,000,000
Virginia	Fort Lee	96	$19,500,000
	Fort Monroe	21	$6,000,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $17,536,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $300,400,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $3,128,889,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $1,111,522,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $195,947,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2101(c), $50,000,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $24,141,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $170,021,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $549,636,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $803,993,000.

(7) For the construction of increment 3 of the Lewis and Clark Instructional Facility at Fort Leavenworth, Kansas, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), $42,642,000.

(8) For the construction of increment 2 of a barracks complex at Vilseck, Germany, authorized by section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1698), as amended by section 2105 of this Act, $13,600,000.

(9) For the construction of increment 2 of the Drum Road upgrade at Helemano Military Reservation, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2101), $41,000,000.

(10) For the construction of increment 2 of a vehicle maintenance facility at Schofield Barracks, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2101), $24,656,000.

(11) For the construction of increment 2 of a barracks complex, at Fort Campbell, Kentucky, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2101), $24,650,000.

(12) For the construction of increment 2 of trainee barracks, Basic Training Complex 1 at Fort Knox, Kentucky, authorized by section 2101(a) of the Military Construction Authorization Act of Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2101), $21,000,000.

(13) For the construction of increment 2 of a library and learning center at the United States Military Academy, West Point, New York, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2101), $25,470,000.

(14) For the construction of increment 2 of a barracks complex renewal project at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2101), $30,611,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

(2) $16,500,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex for Fort Drum, New York).

(3) $31,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex for the 2nd Brigade at Fort Bragg, North Carolina).

(4) $50,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex for the 3rd Brigade at Fort Bragg, North Carolina).

(5) $77,400,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex for divisional artillery at Fort Bragg, North Carolina).

(6) $13,000,000 (the balance of the amount authorized under section 2101(a) for construction of a defense access road for Fort Belvoir, Virginia).

(c) CONFORMING TECHNICAL AMENDMENT.—Section 2104(a)(8) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2103) is amended by striking "Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681)" and inserting "Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697)".

SEC. 2105. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2004 PROJECT.

(a) MODIFICATION OF OUTSIDE THE UNITED STATES PROJECT.—The table in section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1698) is amended—

(1) in the item relating to Vilseck, Germany, by striking "$31,000,000" in the amount column and inserting "$26,000,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$226,900,000".

(b) CONFORMING AMENDMENT.—Section 2104(b)(6) of that Act (117 Stat. 1700) is amended by striking "$18,900,000" and inserting "$13,900,000".

TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.

Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.
Sec. 2204. Authorization of appropriations, Navy.
Sec. 2205. Modification of authority to carry out certain fiscal year 2004 project.
Sec. 2206. Modifications of authority to carry out certain fiscal year 2005 projects.

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	*Installation or Location*	*Amount*
Arizona	*Marine Corps Air Station, Yuma*	*$3,637,000*
California	*Air-Ground Combat Center, Twentynine Palms*	*$24,000,000*
	Marine Corps Air Station, Camp Pendleton	*$1,400,000*
	Marine Corps Air Station, Miramar	*$5,070,000*
	Marine Corps Base, Camp Pendleton	*$90,437,000*
	Naval Air Station, Lemoore	*$8,480,000*
	Naval Air Warfare Center, China Lake	*$19,158,000*
	Naval Postgraduate School	*$6,500,000*
Connecticut	*Naval Submarine Base, New London*	*$4,610,000*
Florida	*Diving&Salvage Training Center, Panama City*	*$9,678,000*
	Naval Air Station, Jacksonville	*$88,603,000*
	Naval Air Station, Pensacola	*$8,710,000*
	Naval Station, Mayport	*$15,220,000*
	Whiting Field	*$4,670,000*
Georgia	*Naval Submarine Base, Kings Bay*	*$6,890,000*
	Marine Corps Logistics Base, Albany	*$5,840,000*
Hawaii	*Marine Corps Air Station, Kaneohe Bay*	*$5,700,000*
	Naval Base, Pearl Harbor	*$29,700,000*
Illinois	*Recruit Training Command, Great Lakes*	*$167,750,000*
Indiana	*Naval Warfare Center, Crane*	*$8,220,000*
Maine	*Portsmouth Naval Shipyard*	*$8,100,000*
Maryland	*Naval Air Warfare Center, Patuxent River*	*$5,800,000*
	Naval Surface Warfare Center, Indian Head	*$8,250,000*
	United States Naval Academy, Annapolis	*$51,720,000*
Mississippi	*Naval Air Station, Meridian*	*$10,450,000*
North Carolina	*Marine Corps Air Station, Cherry Point*	*$29,147,000*
	Marine Corps Air Station, New River	*$6,840,000*
	Marine Corps Base, Camp Lejeune	*$44,590,000*
Pennsylvania	*Naval Station Weapons Center, Philadelphia*	*$4,780,000*
Rhode Island	*Naval Station, Newport*	*$15,490,000*
South Carolina	*Marine Corps Air Station, Beaufort*	*$1,480,000*
Texas	*Naval Air Station, Kingsville*	*$16,040,000*
Virginia	*Marine Corps Air Field, Quantico*	*$19,698,000*
	Marine Corps Base, Quantico	*$18,429,000*
	Naval Air Station, Oceana	*$11,680,000*
	Naval Amphibious Base, Little Creek	*$36,034,000*
	Naval Station, Norfolk	*$32,245,000*
	Naval Support Activity, Norfolk Naval Shipyard	*$78,788,000*
	Naval Station Weapons Center, Dahlgren	*$9,960,000*
Washington	*Naval Station, Everett*	*$70,950,000*
	Naval Submarine Base, Bangor	*$60,160,000*
	Naval Air Station, Whidbey Island	*$4,010,000*

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	*Installation or Location*	*Amount*
Guam	*Naval Base, Guam*	*$55,473,000*
Japan	*Naval Station, Yokosuka*	*$83,010,000*

SEC. 2202. FAMILY HOUSING.

Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(4)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installation, in the number of units, and in the amount set forth in the following table:

Navy: Family Housing

Location	*Installation*	*Units*	*Amount*
Guam	*Naval Base, Guam*	*126*	*$43,495,000*

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(4)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $178,644,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,964,743,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $837,411,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $39,584,000.

(3) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $34,893,000.

(4) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $218,942,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $588,660,000.

(5) For the construction of increment 3 of the general purpose berthing pier at Naval Weapons Station, Earle, New Jersey, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), as amended by section 2205 of this Act, $54,432,000.

(6) For the construction of increment 3 of pier 11 replacement at Naval Station, Norfolk, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), $40,200,000.

(7) For the construction of increment 2 of the apron and hangar recapitalization at Naval Air Facility, El Centro, California, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105), $18,666,000.

(8) For the construction of increment 2 of the White Side complex, Marine Corps Air Facility, Quantico, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105), $34,730,000.

(9) For the construction of increment 2 of the limited area production and storage complex at Strategic Weapons Facility Pacific, Bangor, Washington, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105), as amended by section 2206 of this Act, $47,095,000.

(10) For the construction of increment 2 of the lab consolidation at Strategic Weapons Facility Pacific, Bangor, Washington authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105), as amended by section 2206 of this Act, $9,430,000.

(11) For the construction of increment 2 of the presidential helicopter programs support facility at Naval Air Warfare Center, Patuxent River, Maryland, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105), as amended by section 2206 of this Act, $40,700,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $37,721,000 (the balance of the amount authorized under section 2201(a) for a reclamation and conveyance project for Marine Corps Base, Camp Pendleton, California).

(3) $43,424,000 (the balance of the amount authorized under section 2201(a) for a helicopter hangar replacement at Naval Air Station, Jacksonville, Florida).

(4) $45,850,000 (the balance of the amount authorized under section 2201(a) for infrastructure upgrades to Recruit Training Command, Great Lakes, Illinois).

(5) $26,790,000 (the balance of the amount authorized under section 2201(a) for construction of a field house at United States Naval Academy, Annapolis, Maryland).

(6) $31,059,000 (the balance of the amount authorized under section 2201(a) for replacement of Ship Repair Pier 3 at Naval Support Activity, Norfolk Naval Shipyard, Virginia).

(7) $10,159,000 (the balance of the amount authorized under section 2201(a) for an addition to Hockmuth Hall, Marine Corps Base, Quantico, Virginia).

(8) $21,000,000 (the balance of the amount authorized under section 2201(a) for construction of bachelor quarters for Naval Station, Everett, Washington).

(9) $29,889,000 (the balance of the amount authorized under section 2201(b) for wharf upgrades at Naval Base, Guam).

(10) $69,100,000 (the balance of the amount authorized under section 2201(b) for wharf upgrades at Naval Station, Yokosuka, Japan).

SEC. 2205. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2004 PROJECT.

(a) MODIFICATION OF INSIDE THE UNITED STATES PROJECT.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1703) is amended—

(1) in the item relating to Naval Weapons Station, Earle, New Jersey, by striking "$123,720,000" in the amount column and inserting "$140,372,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$1,352,524,000".

(b) CONFORMING AMENDMENT.—Section 2204(b)(4) of that Act (117 Stat. 1706) is amended by striking "$96,980,000" and inserting "$113,632,000".

SEC. 2206. MODIFICATIONS OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2005 PROJECTS.

(a) MODIFICATION OF INSIDE THE UNITED STATES PROJECTS.—Section 2201 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105) is amended—

(1) in the table in subsection (a)—

(A) below the item relating to Naval Surface Warfare Center, Indian Head, Maryland, by inserting "Naval Air Warfare Center, Patuxent River" in the installation column and "$95,200,000" in the amount column;

(B) in the item relating to Marine Corps Air Facility, Quantico, Virginia, by striking "$73,838,000" in the amount column and inserting "$74,470,000";

(C) in the item relating to Strategic Weapons Facility Pacific, Bangor, Washington, by striking "$138,060,000" in the amount column and inserting "$147,760,000"; and

(D) by striking the amount identified as the total in the amount column and inserting "$1,057,587,000"; and

(2) by striking subsection (c).

(b) CONFORMING AMENDMENTS.—Section 2201 of that Act (118 Stat. 2107) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "$712,927,000" and inserting "$752,927,000"; and

(B) by striking paragraph (3); and

(2) in subsection (b)—

(A) in paragraph (4), by striking "$34,098,000" and inserting "$34,730,000"; and

(B) by striking paragraph (7) and inserting the following new paragraphs:

"(7) $9,700,000 (the balance of the amount authorized under section 2201(a) for naval laboratory consolidation, Strategic Weapons Facility Pacific, Bangor, Washington).

"(8) $55,200,000 (the balance of the amount authorized under section 2201(a) for construction of a presidential helicopter programs support facility at Naval Air Warfare Center, Patuxent River, Maryland).".

TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Authorization of appropriations, Air Force.

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or Location	Amount
Alabama	Maxwell Air Force Base	$14,900,000
Alaska	Clear Air Force Base	$20,000,000
	Elmendorf Air Force Base	$84,820,000
Arizona	Davis-Monthan Air Force Base	$8,600,000
	Luke Air Force Base	$13,000,000
Arkansas	Little Rock Air Force Base	$8,900,000
California	Beale Air Force Base	$14,200,000
	Edwards Air Force Base	$103,000,000
	Travis Air Force Base	$46,400,000
	Vandenberg Air Force Base	$16,845,000
Colorado	Buckley Air Force Base	$20,100,000
	Peterson Air Force Base	$25,500,000
	United States Air Force Academy	$13,000,000
Delaware	Dover Air Force Base	$19,000,000
District of Columbia	Bolling Air Force Base	$14,900,000
Florida	Cape Canaveral	$6,200,000
	Hurlburt Field	$2,540,000
	MacDill Air Force Base	$107,200,000
	Tyndall Air Force Base	$21,500,000
Georgia	Robins Air Force Base	$7,600,000
Hawaii	Hickham Air Force Base	$13,378,000
Idaho	Mountain Home Air Force Base	$9,835,000
Louisiana	Barksdale Air Force Base	$10,800,000
Massachusetts	Hanscom Air Force Base	$3,900,000
Mississippi	Columbus Air Force Base	$10,000,000
	Keesler Air Force Base	$47,500,000
Missouri	Whiteman Air Force Base	$5,721,000
Montana	Malmstrom Air Force Base	$13,500,000
Nebraska	Offutt Air Force Base	$63,080,000
Nevada	Indian Springs Auxiliary Field	$60,724,000
	Nellis Air Force Base	$24,370,000
New Jersey	McGuire Air Force Base	$13,185,000
New Mexico	Kirtland Air Force Base	$6,600,000
	Holloman Air Force Base	$15,000,000
North Dakota	Minot Air Force Base	$8,700,000
Ohio	Wright Patterson Air Force Base	$32,620,000
Oklahoma	Tinker Air Force Base	$31,960,000
	Vance Air Force Base	$14,000,000
South Carolina	Charleston Air Force Base	$2,583,000
	Shaw Air Force Base	$16,030,000
South Dakota	Ellsworth Air Force Base	$8,400,000
Texas	Goodfellow Air Force Base	$4,300,000
	Laughlin Air Force Base	$7,900,000
	Sheppard Air Force Base	$36,000,000
Utah	Hill Air Force Base	$33,900,000
Virginia	Langley Air Force Base	$44,365,000
Washington	Fairchild Air Force Base	$8,200,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or Location	Amount
Germany	Ramstein Air Base	$11,650,000
	Spangdahlem Air Base	$12,474,000
Guam	Andersen Air Base	$18,500,000
Italy	Aviano Air Base	$22,660,000
Korea	Kunsan Air Base	$47,900,000
	Osan Air Base	$37,719,000
Portugal	Lajes Field, Azores	$12,000,000
Turkey	Incirlik Air Base	$5,780,000
United Kingdom	Royal Air Force Lakenheath	$5,125,000
	Royal Air Force Mildenhall	$13,500,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, in the number of units, and in the amounts set forth in the following table:

Air Force: Family Housing

State or Country	Installation or Location	Units	Amount
Alaska	Eielson Air Force Base	392	$55,794,000
California	Edwards Air Force Base	226	$59,699,000
Florida	MacDill Air Force Base	109	$40,982,000

Air Force: Family Housing—Continued

State or Country	Installation or Location	Units	Amount
Idaho	Mountain Home Air Force Base	194	$56,467,000
Missouri	Whiteman Air Force Base	111	$26,917,000
Montana	Malmstrom Air Force Base	296	$68,971,000
North Carolina	Seymour Johnson Air Force Base	255	$48,868,000
North Dakota	Grand Forks Air Force Base	150	$43,353,000
	Minot Air Force Base	223	$44,548,000
South Carolina	Charleston Air Force Base	10	$15,935,000
South Dakota	Ellsworth Air Force Base	60	$14,383,000
Texas	Dyess Air Force Base	190	$43,016,000
Germany	Ramstein Air Base	101	$62,952,000
	Spangdahlem Air Base	79	$45,385,000
Turkey	Incirlik Air Base	100	$22,730,000
United Kingdom	Royal Air Force Lakenheath	107	$48,437,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $37,104,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $366,346,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $3,157,356,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $989,756,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $187,308,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $15,929,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $95,537,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $1,101,887,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $766,939,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $30,000,000 (the balance of the amount authorized under section 2301(a) for construction of a C–17 maintenance complex at Elmendorf Air Force Base, Alaska).

(3) $66,000,000 (the balance of the amount authorized under section 2301(a) for construction of a main base runway at Edwards Air Force Base, California).

(4) $29,000,000 (the balance of the amount authorized under section 2301(a) for construction of a joint intelligence center at MacDill Air Force Base, Florida).

TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2402. Energy conservation projects.
Sec. 2403. Authorization of appropriations, Defense Agencies.

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following tables:

Defense Education Activity

State	Installation or Location	Amount
Georgia	Fort Stewart/Hunter Army Air Field	$16,629,000
North Carolina	Fort Bragg	$18,075,000

Defense Intelligence Agency

State	Installation or Location	Amount
District of Columbia	Bolling Air Force Base	$7,900,000

Defense Logistics Agency

State	Installation or Location	Amount
Arizona	Yuma Proving Ground	$7,300,000
California	Defense Distribution Depot, Tracy	$33,635,000
	Miramar	$23,000,000
Kansas	McConnell Air Force Base	$15,800,000
New Mexico	Cannon Air Force Base	$13,200,000
North Carolina	Seymour Johnson Air Force Base	$18,500,000
Pennsylvania	Defense Distribution Depot, New Cumberland	$6,500,000
Virginia	Fort Belvoir	$4,500,000
	Naval Station, Norfolk	$6,700,000

National Security Agency

State	Installation or Location	Amount
Georgia	Augusta	$61,466,000
Hawaii	Kunia	$305,000,000
Maryland	Fort Meade	$41,200,000

Special Operations Command

State	Installation or Location	Amount
California	Naval Surface Warfare Center, Coronado	$28,350,000
Florida	Hurlburt Field	$6,500,000
	Eglin Air Force Base	$12,800,000
Georgia	Fort Stewart/Hunter Army Air Field	$10,000,000
Kentucky	Fort Campbell	$37,800,000
North Carolina	Fort Bragg	$18,069,000
Washington	Fort Lewis	$53,300,000

TRICARE Management Activity

State	Installation or Location	Amount
California	Beale Air Force Base	$18,000,000
	Naval Hospital, San Diego	$15,000,000
Colorado	Peterson Air Force Base	$1,820,000
Maryland	Fort Detrick	$55,200,000
	Uniformed Services University, Bethesda	$10,350,000
Mississippi	Keesler Air Force Base	$14,000,000
Nevada	Nellis Air Force Base	$1,700,000
South Carolina	Charleston	$35,000,000
Texas	Lackland Air Force Base	$11,000,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following tables:

Defense Education Activity

Country	Installation or Location	Amount
Germany	Landstuhl	$6,543,000
	Vilseck	$2,323,000
Guam	Agana	$40,578,000
Korea	Taegu	$8,231,000
Spain	Naval Station, Rota	$7,963,000

Defense Logistics Agency

Country	Installation or Location	Amount
Greece	Souda Bay	$7,089,000

Missile Defense Agency

Country	Installation or Location	Amount
Kwajalein	Kwajalein Atoll	$4,901,000

National Security Agency

Country	Installation or Location	Amount
United Kingdom	Menwith Hill	$86,354,000

TRICARE Management Activity

Country	Installation or Location	Amount
Bahrain		$4,750,000

SEC. 2402. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(5), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of $50,000,000.

SEC. 2403. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $2,817,039,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $626,609,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $123,104,000.

(3) For unspecified minor military construction projects under section 2805 of title 10, United States Code, $15,736,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $136,406,000.

(5) For energy conservation projects authorized by section 2402 of this Act, $50,000,000.

(6) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 1990 established by section 2906 of such Act, $254,827,000.

(7) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 2005 established by section 2906A of such Act, $1,504,466,000.

(8) For military family housing functions:

(A) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $46,391,000.

(B) For credit to the Department of Defense Family Housing Improvement Fund established

by section 2883(a)(1) of title 10, United States Code, $2,500,000.

(9) For the construction of increment 2 of the hospital replacement at Fort Belvoir, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108-375; 118 Stat. 2112), $57,000,000.

(b) Limitation on Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $12,500,000 (the balance of the amount authorized under section 2401(a) for construction of a regional security operations center, Augusta, Georgia).

(3) $256,034,000 (the balance of the amount authorized under section 2401(a) for replacement of a regional security operations center, Kunia, Hawaii).

(4) $13,151,000 (the balance of the amount authorized under section 2401(a) for construction of a classified material conversion facility, Fort Meade, Maryland).

(5) $44,657,000 (the balance of the amount authorized under section 2401(b) for construction of an operations building, Royal Air Force Menwith Hill Station, United Kingdom).

(c) Notice and Wait Requirement Applicable to Obligation of Funds for Base Closure and Realignment Activities.—Funds appropriated pursuant to the authorization of appropriations in subsection (a)(7) may not be obligated until—

(1) a period of 21 days has expired following the date on which the Secretary of Defense submits to the congressional defense committees a report describing the specific programs, projects, and activities for which the funds are to be obligated; or

(2) if over sooner, a period of 14 days has expired following the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of title 10, United States Code.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

Sec. 2501. Authorized NATO construction and land acquisition projects.
Sec. 2502. Authorization of appropriations, NATO.

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of $206,858,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), in the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $523,151,000; and

(B) for the Army Reserve, $152,569,000.

(2) For the Department of the Navy, for the Navy Reserve and Marine Corps Reserve, $46,864,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $316,117,000; and

(B) for the Air Force Reserve, $105,883,000.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.
Sec. 2702. Extension of authorizations of certain fiscal year 2003 projects.
Sec. 2703. Extension of authorizations of certain fiscal year 2002 projects.

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) Expiration of Authorizations After Three Years.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2008; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2009.

(b) Exception.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 2008; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2009 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2003 PROJECTS.

(a) Extension.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2700), authorizations set forth in the tables in subsection (b), as provided in section 2301, 2302, or 2401 of that Act, shall remain in effect until October 1, 2006, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2007, whichever is later.

(b) Tables.—The tables referred to in subsection (a) are as follows:

Air Force: Extension of 2003 Project Authorizations

Installation or Location	Project	Amount
Aviano Air Base, Italy	Area consolidation	$5,000,000
Eglin Air Force Base, Florida	Family housing (134 units)	$15,906,000
	Family housing office	$597,000
Keesler Air Force Base, Mississippi	Family housing (117 units)	$16,505,000
Randolph Air Force Base, Texas	Family housing (112 units)	$14,311,000
	Housing maintenance facility	$447,000

Defense Wide: Extension of 2003 Project Authorization

Installation or Location	Project	Amount
Stennis Space Center, Mississippi	SOF Training Range	$5,000,000

SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2002 PROJECTS.

(a) Extension and Renewal.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1301), authorizations set forth in the tables in subsection (b), as provided in section 2101 or 2302 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2116), shall remain in effect until October 1, 2006, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2007, whichever is later.

(b) Tables.—The tables referred to in subsection (a) are as follows:

Army: Extension of 2002 Project Authorization

Installation or Location	*Project*	*Amount*
Pohakuloa Training Area, Hawaii	*Land acquisition*	*$1,500,000*

Air Force: Extension of 2002 Project Authorization

Installation or Location	*Project*	*Amount*
Barksdale Air Force Base, Louisiana	*Family housing (56 units)*	*$7,300,000*

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

Sec. 2801. Modification of congressional notification requirements for certain military construction activities.

Sec. 2802. Increase in number of family housing units in Korea authorized for lease by the Army at maximum amount.

Sec. 2803. Improvement in availability and timeliness of Department of Defense information regarding military construction and family housing accounts and activities.

Sec. 2804. Modification of cost variation authority.

Sec. 2805. Inapplicability to child development centers of restriction on authority to acquire or construct ancillary supporting facilities.

Sec. 2806. Department of Defense Housing Funds.

Sec. 2807. Use of design-build selection procedures to accelerate design effort in connection with military construction projects.

Sec. 2808. Acquisition of associated utilities, equipment, and furnishings in reserve component facility exchange.

Sec. 2809. One-year extension of temporary, limited authority to use operation and maintenance funds for construction projects outside the United States.

Sec. 2810. Temporary program to use minor military construction authority for construction of child development centers.

Sec. 2811. General and flag officers quarters in the National Capital Region.

Subtitle B—Real Property and Facilities Administration

Sec. 2821. Consolidation of Department of Defense land acquisition authorities and limitations on use of such authorities.

Sec. 2822. Modification of authorities on agreements to limit encroachments and other constraints on military training, testing, and operations.

Sec. 2823. Modification of utility system conveyance authority and related reporting requirements.

Sec. 2824. Report on application of force protection and anti-terrorism standards to leased facilities.

Sec. 2825. Report on use of ground source heat pumps at Department of Defense facilities.

Subtitle C—Base Closure and Realignment

Sec. 2831. Additional reporting requirements regarding base closure process and use of Department of Defense base closure accounts.

Sec. 2832. Expanded availability of adjustment and diversification assistance for communities adversely affected by mission realignments in base closure process.

Sec. 2833. Treatment of Indian Tribal Governments as public entities for purposes of disposal of real property recommended for closure in July 1993 BRAC Commission report.

Sec. 2834. Termination of project authorizations for military installations approved for closure in 2005 round of base realignments and closures.

Sec. 2835. Required consultation with State and local entities on issues related to increase in number of military personnel at military installations.

Sec. 2836. Sense of Congress regarding infrastructure and installation requirements for transfer of units and personnel from closed and realigned military installations to receiving locations.

Sec. 2837. Defense access road program and military installations affected by defense base closure process or Integrated Global Presence and Basing Strategy.

Sec. 2838. Sense of Congress on reversionary interests involving real property at Navy homeports.

Subtitle D—Land Conveyances

PART 1—ARMY CONVEYANCES

Sec. 2841. Land conveyance, Camp Navajo, Arizona.

Sec. 2842. Land conveyance, Iowa Army Ammunition Plant, Middletown, Iowa.

Sec. 2843. Land conveyance, Helena, Montana.

Sec. 2844. Lease authority, Army Heritage and Education Center, Carlisle, Pennsylvania.

Sec. 2845. Land exchange, Fort Hood, Texas.

Sec. 2846. Modification of land conveyance, Engineer Proving Ground, Fort Belvoir, Virginia.

Sec. 2847. Land conveyance, Fort Belvoir, Virginia.

Sec. 2848. Land conveyance, Army Reserve Center, Bothell, Washington.

PART 2—NAVY CONVEYANCES

Sec. 2851. Land conveyance, Marine Corps Air Station, Miramar, San Diego, California.

Sec. 2852. Lease or license of United States Navy Museum facilities at Washington Navy Yard, District of Columbia.

PART 3—AIR FORCE CONVEYANCES

Sec. 2861. Purchase of build-to-lease family housing, Eielson Air Force Base, Alaska.

Sec. 2862. Land conveyance, Air Force property, Jacksonville, Arkansas.

Sec. 2863. Land conveyance, Air Force property, La Junta, Colorado.

Sec. 2864. Lease, National Imagery and Mapping Agency site, St. Louis, Missouri.

Subtitle E—Other Matters

Sec. 2871. Clarification of moratorium on certain improvements at Fort Buchanan, Puerto Rico.

Sec. 2872. Transfer of excess Department of Defense property on Santa Rosa and Okaloosa Island, Florida, to Gulf Islands National Seashore.

Sec. 2873. Authorized military uses of Papago Park Military Reservation, Phoenix, Arizona.

Sec. 2874. Assessment of water needs for Presidio of Monterey and Ord Military Community.

Sec. 2875. Redesignation of McEntire Air National Guard Station, South Carolina, as McEntire Joint National Guard Base.

Sec. 2876. Sense of Congress regarding community impact assistance related to construction of Navy landing field, North Carolina.

Sec. 2877. Sense of Congress on establishment of Bakers Creek Memorial.

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. MODIFICATION OF CONGRESSIONAL NOTIFICATION REQUIREMENTS FOR CERTAIN MILITARY CONSTRUCTION ACTIVITIES.

(a) CONTINGENCY CONSTRUCTION.—Section 2804(b) of title 10, United States Code, is amended—

(1) by striking "21-day period" and inserting "14-day period"; and

(2) by striking "14-day period" and inserting "seven-day period".

(b) ACQUISITION IN LIEU OF CONSTRUCTION.—Section 2813(c) of such title is amended—

(1) by striking "30-day period" and inserting "21-day period"; and

(2) by striking "21-day period" and inserting "14-day period".

SEC. 2802. INCREASE IN NUMBER OF FAMILY HOUSING UNITS IN KOREA AUTHORIZED FOR LEASE BY THE ARMY AT MAXIMUM AMOUNT.

Section 2828(e)(4) of title 10, United States Code, is amended by striking "2,400" and inserting "2,800".

SEC. 2803. IMPROVEMENT IN AVAILABILITY AND TIMELINESS OF DEPARTMENT OF DEFENSE INFORMATION REGARDING MILITARY CONSTRUCTION AND FAMILY HOUSING ACCOUNTS AND ACTIVITIES.

(a) MAINTENANCE OF INFORMATION ON INTERNET.—Section 2851 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) MAINTENANCE OF MILITARY CONSTRUCTION INFORMATION ON INTERNET; ACCESS.—(1) The Secretary of Defense shall maintain an Internet site that, when activated by a person authorized under paragraph (3), will permit the person to access and view on a separate page of the Internet site a document or other file containing the information required by paragraph (2) for the following:

"(A) Each military construction project or military family housing project that has been specifically authorized by Act of Congress.

"(B) Each project carried out with funds authorized for the operation and maintenance of military family housing.

"(C) Each project carried out with funds authorized for the improvement of military family housing units.

"(D) Each unspecified minor construction project carried out under the authority of section 2805(a) of this title.

"(E) Each military construction project or military family housing project regarding which a statutory requirement exists to notify Congress.

"(2) The information to be provided via the Internet site required by paragraph (1) for each project described in such paragraph shall include the following:

"(A) The solicitation date and award date (or anticipated dates) for each contract entered into (or to be entered into) by the United States in connection with the project.

"(B) The contract recipient, contract award amount, construction milestone schedule proposed by the contractor, and construction completion date stipulated in the awarded contract.

"(C) The most current Department of Defense Form 1391, Military Construction Project Data, for the project.

"(D) The progress of the project, including the percentage of construction currently completed and the current estimated construction completion date.

"(E) The current contract obligation of funds for the project, including any changes to the original contract award amount.

"(F) The estimated final cost of the project and, if the estimated final cost of the project exceeds the amount appropriated for the project and funds have been provided from another source to meet the increased cost, the source of the funds and the amount provided.

"(G) If funds appropriated for the project have been diverted for use in another project, the project to which the funds were diverted and the amount so diverted.

"(H) For accounts such as planning and design, unspecified minor construction, and family housing operation and maintenance, detailed information regarding expenditures and anticipated expenditures under these accounts and the purposes for which the expenditures are made.

"(3) Access to the Internet site required by paragraph (1) shall be restricted to the following persons:

"(A) Members of the congressional defense committees and their staff.

"(B) Staff of the congressional defense committees.

"(4) The information required to be provided for each project described in paragraph (1) shall be made available to the persons referred to in paragraph (3) not later than 90 days after the award of a contract or delivery order for the project. The Secretary of Defense shall update the required information as promptly as practicable, but not less frequently than once a month, to ensure that the information is available to such persons in a timely manner.".

(b) IMPLEMENTATION.—The Internet site required by subsection (c) of section 2851 of title 10, United States Code, as added by subsection (a), shall be available to the persons referred to in paragraph (3) of such subsection not later than July 15, 2006.

(c) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by inserting "SUPERVISION OF MILITARY DEPARTMENT PROJECTS.—" after "(a)"; and

(2) in subsection (b), by inserting "SUPERVISION OF DEFENSE AGENCY PROJECTS.—" after "(b)"

SEC. 2804. MODIFICATION OF COST VARIATION AUTHORITY.

(a) LIMITATION ON COST DECREASES RELATED TO MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING PROJECTS.—Section 2853 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "may be increased by not more than 25 percent" and inserting "may be increased or decreased by not more than 25 percent"; and

(B) by striking "if the Secretary concerned determines that such an increase in cost is required" and inserting "if the Secretary concerned determines that such revised cost is required";

(2) in subsection (c)—

(A) by striking "limitation on cost increase" and inserting "limitation on cost variations"; and

(B) by striking "the increase" both places it appears and inserting "the variation"; and

(3) in subsection (d), by striking "limitation on cost increases" and inserting "limitation on cost variations".

(b) ADDITIONAL INFORMATION REQUIRED FOR NOTIFICATION IN CONNECTION WITH WAIVER OF LIMITATIONS ON COST INCREASES.—Subsection (c)(2) of such section is further amended by inserting after "the reasons therefor" the following: ", including a description of the funds proposed to be used to finance any increased costs".

(c) TECHNICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

"§2853. Authorized cost and scope of work variations".

(2) TABLE OF SECTIONS.—The item relating to such section in the table of sections at the beginning of subchapter III of chapter 169 of such title is amended to read as follows:

"2853. Authorized cost and scope of work variations.".

SEC. 2805. INAPPLICABILITY TO CHILD DEVELOPMENT CENTERS OF RESTRICTION ON AUTHORITY TO ACQUIRE OR CONSTRUCT ANCILLARY SUPPORTING FACILITIES.

(a) EXCEPTION FOR CHILD DEVELOPMENT CENTERS.—Section 2881(b) of title 10, United States Code, is amended by inserting "(other than a child development center)" after "ancillary supporting facility".

(b) CHILD DEVELOPMENT CENTER DEFINED.—Section 2871 of such title is amended—

(1) in paragraph (1), by inserting "child development centers," after "day care centers,"; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) The term 'child development center' includes a facility, and the utilities to support such facility, the function of which is to support the daily care of children aged six weeks old through five years old for full-day, part-day, and hourly service.".

(c) RULE OF CONSTRUCTION.—Nothing in the amendment made by subsection (a) may be construed to alter any law and regulation applicable to the operation of a child development center, as defined in section 2871(2) of title 10, United States Code.

SEC. 2806. DEPARTMENT OF DEFENSE HOUSING FUNDS.

(a) REQUIREMENT TO FUND CERTAIN ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING SOLELY THROUGH DEFENSE HOUSING FUNDS.—Subsection (e) of section 2883 of title 10, United States Code, is amended—

(1) by striking "The Secretary" and inserting "(1) The Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) The Funds established under subsection (a) shall be the sole source of funds for activities carried out under this subchapter.".

(b) AUTHORITY TO TRANSFER FUNDS APPROPRIATED FOR THE IMPROVEMENT OF MILITARY FAMILY HOUSING TO DEFENSE HOUSING FUNDS.—Subsection (c)(1)(B) of such section is amended by striking "acquisition or construction" and inserting "acquisition, improvement, or construction".

(c) REPORTING REQUIREMENTS RELATED TO DEPARTMENT OF DEFENSE HOUSING FUNDS.—Section 2884 of such title is amended—

(1) in subsection (a)(2)(D), by inserting after "description of the source of such funds" the following: ", including a description of the specific construction, acquisition, or improvement projects from which funds were transferred to the Funds established under section 2883 of this title in order to finance the contract, conveyance, or lease"; and

(2) in subsection (b)(1)—

(A) by striking "a report" and inserting "a separate report";

(B) by striking "covering the Funds" and inserting "covering each of the Funds"; and

(C) by striking the period at the end and inserting the following: ", including a description of the specific construction, acquisition, or improvement projects from which funds were transferred and the privatization projects or contracts to which those funds were transferred. Each report shall also include, for each military department or defense agency, a description of all funds to be transferred to such Funds for the current fiscal year and the next fiscal year.".

SEC. 2807. USE OF DESIGN-BUILD SELECTION PROCEDURES TO ACCELERATE DESIGN EFFORT IN CONNECTION WITH MILITARY CONSTRUCTION PROJECTS.

(a) CLARIFICATION OF CONDITION ON CONTRACTS.—Paragraph (2) of subsection (f) of section 2305a of title 10, United States Code, is amended to read as follows:

"(2) Any military construction contract that provides for an accelerated design effort, as authorized by paragraph (1), shall include as a condition of the contract that the liability of the United States in a termination for convenience before funds are first made available for construction may not exceed an amount attributable to the final design of the project.".

(b) DURATION OF AUTHORITY; REPORT.—Paragraph (4) of such subsection is amended by striking "2007" each place it appears and inserting "2008".

SEC. 2808. ACQUISITION OF ASSOCIATED UTILITIES, EQUIPMENT, AND FURNISHINGS IN RESERVE COMPONENT FACILITY EXCHANGE.

(a) ACQUISITION AUTHORITY.—Section 18240 of title 10, United States Code, is amended—

(1) in subsection (a), by adding at the end the following new sentence: "The acquisition of a facility or an addition to an existing facility under this section may include the acquisition of utilities, equipment, and furnishings for the facility."; and

(2) in subsection (c), by inserting "including any utilities, equipment, and furnishings, to be" after "existing facility,".

(b) CONFORMING AMENDMENT.—Section 2809(c)(1) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2127) is amended by inserting "including any utilities, equipment, and furnishings," after "existing facility,".

SEC. 2809. ONE-YEAR EXTENSION OF TEMPORARY, LIMITED AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR CONSTRUCTION PROJECTS OUTSIDE THE UNITED STATES.

(a) CONDITIONAL EXTENSION.—Section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723), as amended by section 2810 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2128), is further amended—

(1) in subsection (a), by striking "fiscal year 2005" and inserting "fiscal years 2005 and 2006"; and

(2) in subsection (d)(2)—

(A) by striking "during fiscal year 2005" and inserting "during a fiscal year";

(B) by inserting "for that fiscal year" after "commence"; and

(C) by striking "for fiscal year 2004" and inserting "for the preceding fiscal year".

(b) LIMITATION ON USE OF AUTHORITY.—Subsection (c)(1) of such section 2808 is amended by striking "$200,000,000" and inserting "$100,000,000".

(c) QUARTERLY REPORTS.—Subsection (d) of such section 2808 is amended by striking paragraph (1) and inserting the following new paragraph:

"(1) Not later than 30 days after the end of each fiscal-year quarter during which appropriated funds available for operation and maintenance are obligated or expended to carry out construction projects outside the United States, the Secretary of Defense shall submit to the congressional committees specified in subsection (f) a report on the worldwide obligation and expenditure during that quarter of such appropriated funds for such construction projects.".

(d) EFFECT OF FAILURE TO SUBMIT QUARTERLY REPORTS OR PROJECT NOTIFICATIONS.—Such section 2808 is further amended by adding at the end the following new subsection:

"(g) EFFECT OF FAILURE TO SUBMIT QUARTERLY REPORTS OR PROJECT NOTIFICATIONS.—If the report for a fiscal-year quarter under subsection (d) or the notice of the obligation of the funds for a construction project required by subsection (b) is not submitted to the congressional committees specified in subsection (f) by the required date, appropriated funds available for operation and maintenance may not be obligated or expended after that date under the authority of this section to carry out construction projects outside the United States until the date on which the report or notice is finally submitted.".

SEC. 2810. TEMPORARY PROGRAM TO USE MINOR MILITARY CONSTRUCTION AUTHORITY FOR CONSTRUCTION OF CHILD DEVELOPMENT CENTERS.

(a) THRESHOLDS ON CONSTRUCTION AUTHORIZED.—The Secretary of Defense shall establish a program to carry out minor military construction projects under section 2805 of title 10, United States Code, to construct child development centers.

(b) INCREASED MAXIMUM AMOUNTS APPLICABLE TO MINOR CONSTRUCTION PROJECTS.—For the purpose of any military construction project carried out under the program authorized by this section, the amounts specified in section 2805 of title 10, United States Code, are modified as follows:

(1) The amount specified in the third sentence of subsection (a)(1) of such section is deemed to be $8,000,000.

(2) The amount specified in the second sentence of subsection (a)(1) and in subsection (c)(1)(A) of such section is deemed to be $7,000,000.

(3) The amount specified in subsections (b)(1) and (c)(1)(B) of such section is deemed to be $5,000,000.

(c) NOTIFICATION, REVIEW AND APPROVAL REQUIREMENTS.—The notification requirements under section 2805 of title 10, United States Code, shall remain in effect for construction projects carried out under the program authorized by this section. The Secretary shall establish procedures for the review and approval of requests from the Secretaries of military departments to carry out construction projects under the program.

(d) REPORT REQUIRED.—Not later than March 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report on the program authorized by this section. The report shall include a list and description of the construction projects carried out under the program, including the location and cost of each project.

(e) EXPIRATION OF AUTHORITY.—The authority to obligate funds to carry out a minor military construction project under the program authorized by this section expires on September 30, 2007.

(f) CONSTRUCTION OF AUTHORITY.—Nothing in this section may be construed to limit any other authority provided by law for a military construction project at a child development center.

(g) CHILD DEVELOPMENT CENTER DEFINED.—In this section, the term "child development center" includes a facility, and the utilities to support such facility, the function of which is to support the daily care of children aged six weeks old through five years old for full-day, part-day, and hourly service.

SEC. 2811. GENERAL AND FLAG OFFICERS QUARTERS IN THE NATIONAL CAPITAL REGION.

(a) SERVICE-BY-SERVICE REPORT ON NEED FOR QUARTERS IN NATIONAL CAPITAL REGION.—Not later than March 15, 2006, the Secretary of each of the military departments shall submit to the congressional defense committees a report containing an analysis of the anticipated needs of the Armed Forces under the jurisdiction of that Secretary for family housing units for general officers and flag officers in the National Capital Region. In conducting the analysis, the Secretary shall consider the necessity of providing housing for general officers and flag officers in secure locations in the National Capital Region, but shall not consider the number of existing Government-owned units in the National Capital Region.

(b) USE OF ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.—The Secretary of a military department shall include in the report prepared by the Secretary under subsection (a) an assessment of the viability and economic impact of incorporating the inventory of general officer and flag officer quarters of that military department in the National Capitol Region into transactions carried out using the alternative authority for the acquisition and improvement of military housing provided by subchapter IV of chapter 169 of title 10, United States Code. The assessment shall include an economic analysis of the potential costs to include general officer and flag officer quarters into existing and planned housing privatization transactions.

(c) DEFINITIONS.—In this section:

(1) The terms "general officer" and "flag officer" have the meanings given such terms in section 101(b) of title 10, United States Code.

(2) The term "National Capital Region" has the meaning given such term in section 2674(f) of such title.

Subtitle B—Real Property and Facilities Administration

SEC. 2821. CONSOLIDATION OF DEPARTMENT OF DEFENSE LAND ACQUISITION AUTHORITIES AND LIMITATIONS ON USE OF SUCH AUTHORITIES.

(a) LAND ACQUISITION AUTHORITY.—Chapter 159 of title 10, United States Code, is amended—

(1) in section 2663—

(A) by striking the section heading and inserting the following new section heading:

"§ 2663. Land acquisition authorities";

(B) in subsection (a)—

(i) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(ii) in subparagraph (C), as so redesignated, by striking "clause (2)" and inserting "subparagraph (B)"; and

(iii) by inserting "ACQUISITION OF LAND BY CONDEMNATION FOR CERTAIN MILITARY PURPOSES.—(1)" before "The Secretary";

(C) by redesignating subsection (b) as paragraph (2) and, in such paragraph, by striking "subsection (a)" and inserting "paragraph (1)";

(D) by redesignating subsection (c) as subsection (b) and, in such subsection, by inserting "ACQUISITION BY PURCHASE IN LIEU OF CONDEMNATION.—" before "The Secretary"; and

(E) by striking subsection (d);

(2) by transferring subsections (a), (b), and (d) of section 2672 to section 2663 and inserting such subsections in that order after subsection (b), as redesignated by paragraph (1)(D);

(3) in subsection (a), as transferred by paragraph (2), by striking "(a) ACQUISITION AUTHORITY" and inserting "(c) ACQUISITION OF LOW-COST INTERESTS IN LAND";

(4) in subsection (b), as transferred by paragraph (2)—

(A) by striking "(b) ACQUISITION OF MULTIPLE PARCELS.—This section" and inserting "(3) This subsection";

(B) by striking "subsection (a)(1)" and inserting "paragraph (1)"; and

(C) by striking "subsection (a)(2)" and inserting "paragraph (2)";

(5) in subsection (d), as transferred by paragraph (2)—

(A) by striking "(d) AVAILABILITY OF FUNDS.—Appropriations" and inserting "(4) Appropriations"; and

(B) by striking "this section" and inserting "this subsection";

(6) by transferring subsections (a), (c), and (b) of section 2672a to section 2663 and inserting such subsections in that order after subsection (c), as redesignated and amended by paragraphs (3), (4), and (5);

(7) in subsection (a), as transferred by paragraph (6)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(B) by striking "(a) The Secretary" and inserting "(d) ACQUISITION OF INTERESTS IN LAND WHEN NEED IS URGENT.—(1) The Secretary";

(8) in subsection (c), as transferred by paragraph (6)—

(A) by striking "(c)" and inserting "(2)"; and

(B) by striking "this section" and inserting "this subsection";

(9) in subsection (b), as transferred by paragraph (6)—

(A) by striking "(b)" and inserting "(3)";

(B) by striking "this section" in the first sentence and inserting "this subsection"; and

(C) by striking the second sentence;

(10) by transferring subsection (b) of section 2676 to section 2663 and inserting such subsection after subsection (d), as redesignated and amended by paragraphs (7), (8), and (9); and

(11) in subsection (b), as transferred by paragraph (10), by striking "(b) Authority" and inserting "(e) SURVEY AUTHORITY; ACQUISITION METHODS.—Authority".

(b) LIMITATIONS ON ACQUISITION AUTHORITY.—Section 2676 of such title, as amended by subsection (a)(10), is further amended—

(1) in subsection (a)—

(A) by inserting "AUTHORIZATION FOR ACQUISITION REQUIRED.—" before "No military department"; and

(B) by striking ", as amended";

(2) in subsection (c)—

(A) in paragraph (1), by inserting "COST LIMITATIONS.—" before "(1)"; and

(B) in paragraph (2)—

(i) by striking "A land" and inserting "Until subsection (d) is complied with, a land"; and

(ii) by striking "lesser," and all that follows through the period at the end and inserting "lesser.";

(3) in subsection (d), by inserting "Congressional Notification.—" before "The limitations"; and

(4) in subsection (e), by inserting "Payment of Judgements and Settlements.—" before "The Secretary".

(c) Transfer and Redesignation of Revised Limitation Section.—Section 2676 of such title, as amended by subsections (a)(10) and (b)—

(1) is inserted after section 2663 of such title, as amended by subsection (a); and

(2) is amended by striking the section heading and inserting the following new section heading:

"§2664. Limitations on real property acquisition".

(d) Inclusion of Limitation on Land Acquisition Commissions.—Subsection (c) of section 2661 of such title is transferred to section 2664 of such title, as redesignated by subsection (c)(2), is inserted after subsection (a) of such redesignated section, and is redesignated as subsection (b).

(e) Application of Real Property Management Authorities to Pentagon Reservation.—Section 2661 of such title is amended by adding at the end the following new subsection:

"(d) Treatment of Pentagon Reservation.—In this chapter, the terms 'Secretary concerned' and 'Secretary of a military department' include the Secretary of Defense with respect to the Pentagon Reservation.".

(f) Conforming Repeals.—Sections 2672 and 2672a of such title are repealed.

(g) Clerical Amendments.—The table of sections at the beginning of chapter 159 of such title is amended—

(1) by striking the items relating to sections 2663, 2672, 2672a, and 2676; and

(2) by inserting after the item relating to section 2662 the following new items:

"2663. Land acquisition authorities.
"2664. Limitations on real property acquisition.".

SEC. 2822. MODIFICATION OF AUTHORITIES ON AGREEMENTS TO LIMIT ENCROACHMENTS AND OTHER CONSTRAINTS ON MILITARY TRAINING, TESTING, AND OPERATIONS.

(a) Expansion of Agreements Authorized.—

(1) In General.—Subsection (a) of section 2684a of title 10, United States Code, is amended—

(A) by inserting "or entities" after "entity"; and

(B) by striking "in the vicinity of a military installation" and inserting "in the vicinity of, or ecologically related to, a military installation or military airspace".

(2) Conforming Amendments.—Subsection (d) of such section is amended—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting "or entities" after "eligible entity"; and

(ii) in subparagraph (A), by inserting "or entities" after "the entity"; and

(B) in paragraph (3), by inserting "or entities" after "the entity".

(b) Cost-Sharing of Acquisition Costs of Property and Interests.—Subsection (d) of such section is further amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "may provide" and inserting "shall provide"; and

(B) by striking subparagraph (B) and inserting the following new subparagraph (B):

"(B) the sharing by the United States and the entity or entities of the acquisition costs in accordance with paragraph (3).";

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3)(A) The Secretary concerned shall determine the appropriate portion of the acquisition costs to be borne by the United States in the sharing of acquisition costs of real property, or an interest in real property, under paragraph (1)(B).

"(B) The portion of acquisition costs borne by the United States in the sharing of acquisition costs of real property, or an interest in real property, under paragraph (1)(B) may not exceed an amount equal to the fair market value of any property or interest to be transferred to the United States upon the request of the Secretary concerned under paragraph (4).

"(C) The contribution of an entity or entities to the acquisition costs of real property, or an interest in real property, under paragraph (1)(B) may include, with the approval of the Secretary concerned, the following or any combination of the following:

"(i) The provision of funds, including funds received by such entity or entities from a Federal agency outside the Department of Defense or a State or local government in connection with a Federal, State, or local program.

"(ii) The provision of in-kind services, including services related to the acquisition or maintenance of such real property or interest in real property.

"(iii) The exchange or donation of real property or any interest in real property.".

(c) Reporting Requirement.—Such section is further amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) Annual Reports.—(1) Not later than March 1, 2007, and annually thereafter, the Secretary of Defense shall, in coordination with the Secretaries of the military departments and the Director of the Department of Defense Test Resource Management Center, submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the projects undertaken under agreements under this section.

"(2) Each report under paragraph (1) shall include the following the following:

"(A) A description of the status of the projects undertaken under agreements under this section.

"(B) An assessment of the effectiveness of such projects, and other actions taken pursuant to this section, as part of a long-term strategy to ensure the sustainability of military test and training ranges, military installations, and associated airspace.

"(C) An evaluation of the methodology and criteria used to select, and to establish priorities, for projects undertaken under agreements under this section.

"(D) A description of any sharing of costs by the United States and eligible entities under subsection (d) during the preceding year, including a description of each agreement under this section providing for the sharing of such costs and a statement of the eligible entity or entities with which the United States is sharing such costs.

"(E) Such recommendations as the Secretary of Defense considers appropriate for legislative or administrative action in order to improve the efficiency and effectiveness of actions taken pursuant to agreements under this section.".

SEC. 2823. MODIFICATION OF UTILITY SYSTEM CONVEYANCE AUTHORITY AND RELATED REPORTING REQUIREMENTS.

(a) Notice and Wait Requirement.—Subsection (a) of section 2688 of title 10, United States Code, is amended—

(1) by inserting "(1)" after "Conveyance Authority.—"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary concerned may not enter into a contract to convey a utility system, or part of a utility system, under this subsection until—

"(A) the Secretary submits to the congressional defense committees an economic analysis, based upon accepted life-cycle costing procedures approved by the Secretary of Defense, that demonstrates that—

"(i) the long-term economic benefit to the United States of the conveyance of the utility system, or part thereof, exceeds the long-term economic cost to the United States of the conveyance;

"(ii) the conveyance of the utility system, or part thereof, will reduce the long-term cost to the United States of utility services provided by the utility system; and

"(iii) the economic benefit analysis under clause (i) and the cost reduction analysis under clause (ii) incorporate margins of error in the estimates, based upon guidance approved by the Secretary of Defense that minimize any underestimation of the costs resulting from privatization of the utility system, or part thereof, or any overestimation of the costs resulting from continued Government ownership and management of the utility system, or part thereof; and

"(B) the end of the 21-day period beginning on the date on which the economic analysis prepared under subparagraph (A) with respect to the conveyance of the utility system, or part thereof, is received by the congressional defense committees or, if over earlier, the end of the 14-day period beginning on the date on which a copy of the economic analysis is provided in an electronic medium pursuant to section 480 of this title.".

(b) Consideration.—Subsection (c)(1) of such section is amended by striking "shall" and inserting "may".

(c) Duration of Utility Services Contracts in Connection With Conveyances.—Such section is further amended—

(1) by redesignating subsections (d) through (i) as subsections (e) through (j), respectively; and

(2) by redesignating paragraph (3) of subsection (c) as subsection (d) and, in such subsection (as so redesignated)—

(A) by striking "A contract" and inserting "Contracts for Utility Services.—(1) Except as provided in paragraph (2), a contract";

(B) by striking "paragraph (1)" and inserting "subsection (c)";

(C) by striking "50 years." and inserting "10 years."; and

(D) by adding at the end the following new paragraph:

"(2) The Secretary of Defense, or the designee of the Secretary, may authorize a contract for utility services described in paragraph (1) to have a term in excess of 10 years, but not to exceed 50 years, if the Secretary determines that a contract for a longer term will be cost effective. The economic analysis submitted to the congressional defense committees under subsection (a)(2) for the conveyance of the utility system, or part thereof, with regard to which the utility services contract will be entered into by the Secretary concerned shall include the determination required by this paragraph, an explanation of the need for the longer term contract, and a comparison of costs between a 10-year contract and the longer-term contract.".

(d) Conforming Amendments.—Such section is further amended—

(1) in subsection (f), as redesignated by subsection (c)(1), by striking the second sentence; and

(2) in subsection (h), as redesignated by subsection (c)(1), by striking "subsection (e)" and inserting "subsection (a)(2)".

(e) Temporary Limitation on Use of Conveyance Authority.—During each of fiscal years 2006 and 2007, the number of utility systems, or parts of utility systems, for which conveyance contracts may be entered into under section 2688 of title 10, United States Code, shall not exceed 25 percent of the total number of utility systems that, as of the date of the enactment of this Act, have been determined to be eligible for conveyance under such section, but have not yet been conveyed.

(f) Report on Use of Conveyance Authority.—Not later than April 1, 2006, the Secretary of Defense shall submit to the congressional defense committees a report describing the use of section 2688 of title 10, United States Code, to convey utility systems, or parts of utility systems. The report shall contain the following:

(1) A discussion of the methodology by which a military department conducts the economic analyses of proposed utility system conveyances under section 2688 of title 10, United States Code, including the economic analyses referred to in subsection (a)(2) of such section, and any guidance issued by the Department of Defense related to conducting such economic analyses.

(2) A list of the steps taken to ensure the reliability of completed economic analyses, including post-conveyance reviews of actual costs and savings to the United States versus the costs and savings anticipated in the economic analyses.

(3) A review of the costs and savings to the United States resulting from each utility system conveyance carried out under such section.

(4) A discussion of the feasibility of obtaining consideration equal to the fair market value of a conveyed utility system, as authorized by subsection (c) of such section, and any guidance issued by the Department of Defense related to implementing that requirement, and the effect of that requirement and guidance on the costs and savings to the United States resulting from procuring by contract the utility services provided by the utility system.

(5) A discussion of the effects that permanent conveyance of ownership in a utility system may have on the ability of the Secretary of a military department to renegotiate contracts for utility services provided by the utility system or to procure such services from another source.

(6) A comparison of the value of contracts to permanently convey ownership in a utility system versus contracts that include reversion of the utility system to Government ownership at the end of a specified contractual period, with regards to contract terms, short- and long-term costs to the Government, system condition at the end of a contract, liability and costs associated with termination before the end of a contract, and available courses of action to address problems and other issues raised during and after the contractual period.

(7) A discussion of the efforts and direction within the Department of Defense to oversee the implementation and use of the utility system conveyance authority under this section and to ensure the adequacy of utilities services for a military installation after conveyance of a utility system.

(8) A discussion of the effect of utility system conveyances on the operating budgets of military installations at which the conveyances were made.

(g) Temporary Suspension of Conveyance Authority.—If the report required by subsection (f) is not submitted to the congressional defense committees by the date specified in such subsection, the Secretary of a military department may not convey a utility system, including any part of a utility system, under subsection (a) of section 2688 of title 10, United States Code, or make a contribution under subsection (h) of such section toward the cost of construction, repair, or replacement of a utility system by another entity until the end of the 30-day period beginning on the date on which the report is finally submitted.

(h) Comptroller General Review.—Not later than August 1, 2006, the Comptroller General shall submit to the congressional defense committees a report evaluating the changes made by the Department of Defense since May 2005 to the utility systems conveyance program authorized by section 2688 of title 10, United States Code, and the effects of those changes and containing such recommendations for additional changes as the Comptroller General considers necessary.

SEC. 2824. REPORT ON APPLICATION OF FORCE PROTECTION AND ANTI-TERRORISM STANDARDS TO LEASED FACILITIES.

(a) Report Required.—Not later than September 30, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the application of Department of Defense Anti-Terrorism/Force Protection standards to all facilities leased by the Department of Defense or leased by the General Services Administration as an agent for the Department of Defense as of September 30, 2005.

(b) Information on Leased Facilities.—For the facilities identified in the report submitted under subsection (a), the Secretary of Defense shall include the following:

(1) A description of the function of each leased facility, including the location, size, terms of lease, and number of personnel housed within the facility.

(2) A description of the threat assessment and the joint security integrated vulnerability assessment for each leased facility.

(3) A description and cost estimate of any actions necessary to mitigate risk to an acceptable level in each leased facility.

(4) A description and cost estimate of the actions to be taken by the Secretary for each leased facility to ensure compliance with Department of Defense Anti-Terrorism/Force Protection standards.

(5) The total estimated cost of, and a proposed funding plan for, implementation of the force protection and anti-terrorism measures required to ensure the compliance of all leased facilities with Defense Anti-Terrorism/Force Protection standards.

(c) Information on Support Priorities.—The report submitted under subsection (a) shall also include a separate description of the procedures used by the Secretary of Defense to prioritize funding for the application of force protection and antiterrorism standards to leased facilities, including a description of any such procedures applicable to the entire Department of Defense.

(d) Applicability.—The reporting requirements under this section apply to any space or facility that houses 11 or more personnel in service to, or employed by, the Department of Defense.

SEC. 2825. REPORT ON USE OF GROUND SOURCE HEAT PUMPS AT DEPARTMENT OF DEFENSE FACILITIES.

(a) Report Required.—Not later than July 1, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the use of ground source heat pumps at Department of Defense facilities.

(b) Content.—The report required under subsection (a) shall include—

(1) a description of the types of Department of Defense facilities that use ground source heat pumps;

(2) an assessment of the applicability and cost-effectiveness of the use of ground source heat pumps at Department of Defense facilities in different geographic regions of the United States;

(3) a description of the relative applicability of ground source heat pumps for purposes of new construction at, and retrofitting of, Department of Defense facilities; and

(4) recommendations for facilitating and encouraging the increased use of ground source heat pumps at Department of Defense facilities.

Subtitle C—Base Closure and Realignment

SEC. 2831. ADDITIONAL REPORTING REQUIREMENTS REGARDING BASE CLOSURE PROCESS AND USE OF DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNTS.

(a) Information on Future Receipts and Expenditures.—

(1) 1990 account.—Section 2906(c)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(A) in subparagraph (A)—

(i) by striking "committees of the amount" and inserting "committees of—

"(i) the amount";

(ii) by striking "such fiscal year and of the amount" and inserting "such fiscal year;

"(ii) the amount"; and

(iii) by striking "such fiscal year." and inserting "such fiscal year;

"(iii) the amount and nature of anticipated deposits to be made into, and the anticipated expenditures to be made from, the Account during the first fiscal year commencing after the submission of the report; and

"(iv) the amount and nature of anticipated expenditures to be made pursuant to section 2905(a) during the first fiscal year commencing after the submission of the report."; and

(B) in subparagraph (B)—

(i) in clause (i), by inserting "and installation" after "subaccount"; and

(ii) by adding at the end the following new clause:

"(v) An estimate of the net revenues to be received from property disposals to be completed during the first fiscal year commencing after the submission of the report at military installations the date of approval of closure or realignment of which is before January 1, 2005.".

(2) 2005 account.—Section 2906A(c)(1) of such Act is amended—

(A) in subparagraph (A)—

(i) by striking "committees of the amount" and inserting "committees of—

"(i) the amount";

(ii) by striking "such fiscal year and of the amount" and inserting "such fiscal year;

"(ii) the amount"; and

(iii) by striking "such fiscal year." and inserting "such fiscal year;

"(iii) the amount and nature of anticipated deposits to be made into, and the anticipated expenditures to be made from, the Account during the first fiscal year commencing after the submission of the report; and

"(iv) the amount and nature of anticipated expenditures to be made pursuant to section 2905(a) during the first fiscal year commencing after the submission of the report."; and

(B) in subparagraph (B)—

(i) in clause (i), by inserting "and installation" after "subaccount"; and

(ii) by adding at the end the following new clause:

"(v) An estimate of the net revenues to be received from property disposals to be completed during the first fiscal year commencing after the submission of the report at military installations the date of approval of closure or realignment of which is after January 1, 2005.".

(b) Information on BRAC Process.—Section 2907 of such Act is amended—

(1) by striking "fiscal year 1993" and inserting "fiscal year 2007";

(2) by striking "and" at the end of paragraph (1);

(3) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(4) by adding at the end the following new paragraphs:

"(3) a description of the closure or realignment actions already carried out at each military installation since the date of the installation's approval for closure or realignment under this part and the current status of the closure or realignment of the installation, including whether—

"(A) a redevelopment authority has been recognized by the Secretary for the installation;

"(B) the screening of property at the installation for other Federal use has been completed; and

"(C) a redevelopment plan has been agreed to by the redevelopment authority for the installation;

"(4) a description of redevelopment plans for military installations approved for closure or realignment under this part, the quantity of property remaining to be disposed of at each installation as part of its closure or realignment, and the quantity of property already disposed of at each installation;

"(5) a list of the Federal agencies that have requested property during the screening process for each military installation approved for closure or realignment under this part, including the date of transfer or anticipated transfer of the property to such agencies, the acreage involved in such transfers, and an explanation for any delays in such transfers;

"(6) a list of known environmental remediation issues at each military installation approved for closure or realignment under this part, including the acreage affected by these issues, an estimate of the cost to complete such environmental remediation, and the plans (and timelines) to address such environmental remediation; and

"(7) an estimate of the date for the completion of all closure or realignment actions at each military installation approved for closure or realignment under this part.".

SEC. 2832. EXPANDED AVAILABILITY OF ADJUSTMENT AND DIVERSIFICATION ASSISTANCE FOR COMMUNITIES ADVERSELY AFFECTED BY MISSION REALIGNMENTS IN BASE CLOSURE PROCESS.

(a) ELIGIBILITY REQUIREMENTS.—Subsection (b)(3) of section 2391 of title 10, United States Code, is amended—

(1) by striking "significantly reduced operations of a defense facility" and inserting "realignment of a military installation";

(2) by striking "cancellation," and inserting "closure or realignment, cancellation or"; and

(3) by striking "community" and all that follows through the period at the end and inserting "community or its residents.".

(b) MILITARY INSTALLATION AND REALIGNMENT DEFINED.—Paragraph (1) of subsection (d) of such section is amended to read as follows:

"(1) The terms 'military installation' and 'realignment' have the meanings given those terms in section 2687(e) of this title.".

SEC. 2833. TREATMENT OF INDIAN TRIBAL GOVERNMENTS AS PUBLIC ENTITIES FOR PURPOSES OF DISPOSAL OF REAL PROPERTY RECOMMENDED FOR CLOSURE IN JULY 1993 BRAC COMMISSION REPORT.

Section 8013 of the Department of Defense Appropriations Act, 1994 (Public Law 103–139; 107 Stat. 1440), is amended by striking "the report to the President from the Defense Base Closure and Realignment Commission, July 1991" and inserting "the reports to the President from the Defense Base Closure and Realignment Commission, July 1991 and July 1993".

SEC. 2834. TERMINATION OF PROJECT AUTHORIZATIONS FOR MILITARY INSTALLATIONS APPROVED FOR CLOSURE IN 2005 ROUND OF BASE REALIGNMENTS AND CLOSURES.

(a) PROJECT TERMINATION.—An authorization for a military construction project, land acquisition, or family housing project contained in title XXI, XXII, XXIII, or XXIV of this Act or in an Act authorizing funds for a prior fiscal year for military construction projects, land acquisition, and family housing projects (and authorizations of appropriations therefor) shall terminate and no longer constitute authority under section 2676, 2802, 2821, or 2822 of title 10, United States Code, to carry out the military construction project, land acquisition, or family housing project if the project is located at a military installation that is approved for closure or adverse realignment or established as an enclave in 2005 under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(b) EXCEPTIONS.—Subsection (a) shall not apply to an authorization for a military construction project, land acquisition, or family housing project (and authorizations of appropriations therefor) if the Secretary of Defense determines that—

(1) the cost to the United States to carry out the project would be less than the cost to the United States of canceling the project;

(2) the project remains necessary to support functions at a military installation either before, during, or after the closure or realignment of the installation or the establishment of the installation as an enclave;

(3) in the case of an installation established as an enclave to which future missions may be designated, the project is necessary to support enclave functions or future missions after their designation; or

(4) the project is vital to the national security or to the protection of health, safety, or the quality of the environment.

(c) NOTICE AND WAIT REQUIREMENT.—When a decision is made to carry out a military construction project, land acquisition, or family housing project under subsection (b), the Secretary of Defense shall submit to the congressional defense committees a report explaining the decision, including the justification for the project and the current estimate of the cost of the project. The project may then be carried out only after the end of the 21-day period beginning on the date the report is received by such committees or, if earlier, the end of the 14-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of title 10, United States Code. In the case of a project described in subsection (b)(4), advance notification is not required, but the Secretary shall notify such committees within seven days after first obligating funds for the project.

SEC. 2835. REQUIRED CONSULTATION WITH STATE AND LOCAL ENTITIES ON ISSUES RELATED TO INCREASE IN NUMBER OF MILITARY PERSONNEL AT MILITARY INSTALLATIONS.

If the base closure and realignment decisions of the 2005 round of base closures and realignments under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or the Integrated Global Presence and Basing Strategy would result in an increase in the number of members of the Armed Forces assigned to a military installation, the Secretary of Defense, during the development of the plans to implement the decisions or strategy with respect to that installation, shall consult with appropriate State and local entities to ensure that matters affecting the local community, including requirements for transportation, utility infrastructure, housing, education, and family support activities, are considered.

SEC. 2836. SENSE OF CONGRESS REGARDING INFRASTRUCTURE AND INSTALLATION REQUIREMENTS FOR TRANSFER OF UNITS AND PERSONNEL FROM CLOSED AND REALIGNED MILITARY INSTALLATIONS TO RECEIVING LOCATIONS.

(a) FINDINGS.—Congress finds the following:

(1) The decisions of the 2005 round of base closures and realignments and the Integrated Global Presence and Basing Strategy will result in the permanent change of station and relocation of hundreds of thousands of members of the Armed Forces and their families over the next six years.

(2) Critical quality-of-life concerns for military families related to the infrastructure and installation requirements to support the restructuring of the Armed Forces include adequate housing and continued access to quality education facilities and child care, health care, and other services.

(3) By ensuring that facilities and infrastructure are maintained at closing installations pending the actual change of station and relocation of members of the Armed Forces and their families and that adequate permanent facilities and infrastructure await them at the receiving installations, disruptions to unit operational effectiveness will be minimized and the quality of life of military families will be protected.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should seek to ensure that the permanent facilities and infrastructure necessary to support the mission of the Armed Forces and the quality-of-life needs of members of the Armed Forces and their families are ready for use at receiving locations before units are transferred to such locations as a result of the 2005 round of base closures and realignments and the Integrated Global Presence and Basing Strategy.

SEC. 2837. DEFENSE ACCESS ROAD PROGRAM AND MILITARY INSTALLATIONS AFFECTED BY DEFENSE BASE CLOSURE PROCESS OR INTEGRATED GLOBAL PRESENCE AND BASING STRATEGY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that roads leading onto a military installation that is significantly impacted by an increase in the number of members of the Armed Forces assigned to the installation as a result of the 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or the Integrated Global Presence and Basing Strategy should be considered for designation as defense access roads for purposes of section 210 of title 23, United States Code.

(b) STUDY OF SURFACE TRANSPORTATION INFRASTRUCTURE OF AFFECTED INSTALLATIONS.—The Secretary of Defense shall conduct a study—

(1) to identify each military installation, if any, that will be significantly impacted by an increase in the number of members of the Armed Forces assigned to the installation as a result of the 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990 or the Integrated Global Presence and Basing Strategy; and

(2) to determine whether the existing surface transportation infrastructure at each installation identified under paragraph (1) is adequate to support the increased vehicular traffic associated with the increase in the number of defense personnel described in that paragraph.

(c) REPORT.—Not later than April 15, 2007, the Secretary shall submit to the congressional defense committees a report containing the results of the study conducted under subsection (b).

SEC. 2838. SENSE OF CONGRESS ON REVERSIONARY INTERESTS INVOLVING REAL PROPERTY AT NAVY HOMEPORTS.

It is the sense of Congress that, in implementing the decisions made with respect to Navy homeports as part of the 2005 round of defense base closures and realignments, the Secretary of the Navy should, when consistent with Federal policy supporting cost-free conveyances of Federal surplus property suitable for use to provide a public benefit, release or otherwise relinquish any entitlement to receive, pursuant to any agreement providing for such payment, compensation from any holder of a reversionary interest in real property used by the United States for improvements made to the property.

Subtitle D—Land Conveyances

PART 1—ARMY CONVEYANCES

SEC. 2841. LAND CONVEYANCE, CAMP NAVAJO, ARIZONA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Department of Veterans' Services of the State of Arizona (in this section referred to as the "Department") all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 80 acres at Camp Navajo, Arizona, for the purpose of permitting the Department to establish a State-run cemetery for veterans.

(b) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Department to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Department in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Department.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2842. LAND CONVEYANCE, IOWA ARMY AMMUNITION PLANT, MIDDLETOWN, IOWA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the City of Middletown, Iowa (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 1.0 acres located at the Iowa Army Ammunition Plant, Middletown, Iowa, for the purpose of economic development.

(b) CONSIDERATION.—As consideration for the conveyance of property under subsection (a), the City shall provide the United States, whether by cash payment, in-kind consideration, or a combination thereof, an amount that is not less than the fair market value of the conveyed property, as determined by the Secretary.

(c) PAYMENT OF COSTS OF CONVEYANCE.—

(1) AUTHORITY TO REQUIRE PAYMENT.—The Secretary may require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2843. LAND CONVEYANCE, HELENA, MONTANA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Helena Indian Alliance all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 3.0 acres located at Sheridan Hall United States Army Reserve Center, 501 Euclid Avenue, Helena, Montana, for the purposes of supporting Native American health care, mental health counseling, and the operation of an education training center.

(b) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purposes of the conveyance specified in such subsection, all right, title, and interest in and to the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Helena Indian Alliance to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Helena Indian Alliance in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Alliance.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2844. LEASE AUTHORITY, ARMY HERITAGE AND EDUCATION CENTER, CARLISLE, PENNSYLVANIA.

Section 2866 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1333) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

"(e) LEASE OF FACILITY.—(1) Under such terms and conditions as the Secretary considers appropriate, the Secretary may lease portions of the facility to the Military Heritage Foundation to be used by the Foundation, consistent with the agreement referred to in subsection (a), for—

"(A) generating revenue for activities of the facility through rental use by the public, commercial and nonprofit entities, State and local governments, and other Federal agencies; and

"(B) such administrative purposes as may be necessary for the support of the facility.

"(2) The annual amount of consideration paid to the Secretary by the Military Heritage Foundation for a lease under paragraph (1) may not exceed an amount equal to the actual cost, as determined by the Secretary, of the annual operations and maintenance of the facility.

"(3) Amounts paid under paragraph (2) may be used by the Secretary, in such amounts as provided in advance in appropriation Acts, to cover the costs of operation of the facility.".

SEC. 2845. LAND EXCHANGE, FORT HOOD, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to Central Texas College (in this section referred to as the "College") all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 40 acres at Fort Hood, Texas.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the College shall convey to the Secretary all right, title, and interest of the College in and to one or more parcels of real property acceptable to the Secretary and consisting of a total of approximately 158 acres. The fair market value of the real property received by the Secretary under this subsection shall be at least equal to the fair market value of the real property conveyed under subsection (a), as determined by the Secretary.

(c) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the College to cover costs to be incurred

by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the land exchange under this section, including survey costs, costs related to environmental documentation, and other administrative costs related to the exchange. If amounts are collected from the College in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the College.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the land exchange. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be exchanged under this section shall be determined by surveys satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the land exchange under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2846. MODIFICATION OF LAND CONVEYANCE, ENGINEER PROVING GROUND, FORT BELVOIR, VIRGINIA.

(a) CONSIDERATION.—Subsection (b)(4) of section 2836 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1314) is amended by striking ", jointly determined" and all that follows through "Ground" and inserting "equal to $3,880,000".

(b) REPLACEMENT OF FIRE STATION.—Subsection (d) of such section is amended—

(1) in paragraph (1)—

(A) by striking "Building 5089" and inserting "Building 191"; and

(B) by striking "paragraphs (2) and (3)" and inserting "paragraph (2)";

(2) in paragraph (2), by striking "Building 5089" and inserting "Building 191"; and

(3) by striking paragraph (3).

SEC. 2847. LAND CONVEYANCE, FORT BELVOIR, VIRGINIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Commonwealth of Virginia (in this section referred to as the "Commonwealth") all right, title, and interest of the United States in and to up to three parcels of real property at Fort Belvoir, Virginia, consisting of approximately 2.5 acres and located on the alignment of State Route 618 (also known as the Woodlawn Road) and both the east and west sides of the intersection of State Route 618 and U.S. Highway No. 1 (in this section referred to as the "Woodlawn Road parcels"), for the purpose of allowing the Commonwealth, the National Trust for Historic Preservation (in this section referred to as the "Trust"), and Fairfax County, Virginia, to enter into an agreement regarding the conveyance from the Trust of a parcel of real property located on the west side of Old Mill Road, consisting of approximately two acres and extending between the intersection of Old Mill Road and Pole Road and the intersection of Mount Vernon Highway and U.S. Highway No. 1.

(b) CONSIDERATION.—

(1) IN GENERAL.—As consideration for the conveyance of the Woodlawn Road parcels under subsection (a), the Secretary shall receive, whether by cash payment, in-kind consideration, or a combination thereof, an amount that is not less than the fair market value of the conveyed property, as determined by an appraisal of the property acceptable to the Secretary.

(2) DISPOSITION OF FUNDS.—Cash consideration received by the Secretary under paragraph (1) shall be deposited in the special account in the Treasury established under subsection (b) of section 572 of title 40, United States Code, and shall be available in accordance with paragraph (5)(B)(i) of such subsection.

(c) PAYMENT OF COSTS OF CONVEYANCE.—

(1) AUTHORITY TO REQUIRE PAYMENT.—The Secretary may require the Commonwealth to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance of the Woodlawn Road parcels under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Commonwealth in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Commonwealth.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the Woodlawn Road parcels shall be determined by surveys satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2848. LAND CONVEYANCE, ARMY RESERVE CENTER, BOTHELL, WASHINGTON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Snohomish County Fire Protection District #10 (in this section referred to as the "Fire District") all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately one acre at the Army Reserve Center in Bothell, Washington, and currently occupied, in part, by the Queensborough Firehouse, for the purpose of supporting the provision of fire and emergency medical aid services.

(b) IN-KIND CONSIDERATION.—As consideration for the conveyance under subsection (a), the Fire District shall provide in-kind consideration acceptable to the Secretary.

(c) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to all or any portion of the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Fire District to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Fire District in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Fire District.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART 2—NAVY CONVEYANCES

SEC. 2851. LAND CONVEYANCE, MARINE CORPS AIR STATION, MIRAMAR, SAN DIEGO, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (c), the Secretary of the Navy may convey to the County of San Diego, California (in this section referred to as the "County"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon and appurtenant easements thereto, consisting of approximately 230 acres along the eastern boundary of Marine Corps Air Station, Miramar, California, for the purpose of removing the property from the boundaries of the installation and permitting the County to preserve the entire property as a public passive park/recreational area known as the Stowe Trail.

(b) CONSIDERATION.—

(1) IN GENERAL.—As consideration for the conveyance under subsection (a), the County shall provide the United States consideration, whether by cash payment, in-kind consideration, or a combination thereof, in an amount that is not less than the fair market value of the conveyed real property, as determined by the Secretary.

(2) IN-KIND CONSIDERATION.—The in-kind consideration provided by the County under paragraph (1) shall include the acquisition, construction, provision, improvement, maintenance, repair, or restoration (including environmental restoration), or combination thereof, of any facilities or infrastructure relating to the security of Marine Corps Air Station, Miramar, that the Secretary considers acceptable as consideration under that paragraph.

(3) RELATION TO OTHER LAWS.—Sections 2662 and 2802 of title 10, United States Code, shall not apply to any new facilities or infrastructure received by the United States as in-kind consideration under paragraph (2).

(4) NOTICE TO CONGRESS.—The Secretary shall provide written notification to the congressional defense committees of the types and value of consideration provided the United States under paragraph (1).

(5) TREATMENT OF CASH CONSIDERATION RECEIVED.—Any cash payment received by the United States under paragraph (1) shall be deposited in the special account in the Treasury established under subsection (b) of section 572 of title 40, United States Code, and shall be available in accordance with paragraph (5)(B)(ii) of such subsection.

(c) Reversionary Interest.—If the Secretary determines at any time that the County is not using the property conveyed under subsection (a) in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) Release of Reversionary Interest.—The Secretary shall release, without consideration, the reversionary interest retained by the United States under subsection (c) if—

(1) Marine Corps Air Station, Miramar, is no longer being used for Department of Defense activities; or

(2) the Secretary determines that the reversionary interest is otherwise unnecessary to protect the interests of the United States.

(e) Payment of Costs of Conveyance.—

(1) Payment required.—The Secretary shall require the County to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a) and implement the receipt of in-kind consideration under subsection (b), including appraisal costs, survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance and receipt of in-kind consideration.

(2) Treatment of amounts received.—Section 2695(c) of title 10, United States Code, shall apply to any amounts received by the Secretary under paragraph (1). If amounts are received from the County in advance of the Secretary incurring the actual costs, and the amount received exceeds the costs actually incurred by the Secretary under this section, the Secretary shall refund the excess amount to the County.

(f) Description of Property.—The exact acreage and legal description of the real property to be conveyed by the Secretary under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(g) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2852. LEASE OR LICENSE OF UNITED STATES NAVY MUSEUM FACILITIES AT WASHINGTON NAVY YARD, DISTRICT OF COLUMBIA.

(a) Leases and Licenses Authorized.—The Secretary of the Navy may lease or license to the Naval Historical Foundation any portion of the facilities located at the Washington Naval Yard, District of Columbia, that house the United States Navy Museum for the purpose of permitting the Foundation to carry out the following activities:

(1) Generation of revenue for the United States Navy Museum through the rental of facilities to the public, commercial and non-profit entities, State and local governments, and other Federal agencies.

(2) Performance of administrative activities in support of the United States Navy Museum.

(b) Limitation.—Activities carried out at a facility subject to a lease or license under subsection (a) must be consistent with the operations of the United States Navy Museum.

(c) Consideration.—The amount of consideration paid in a year by the Naval Historical Foundation to the United States for the lease or license of facilities under subsection (a) may not exceed the actual cost, as determined by the Secretary, of the annual operation and maintenance of the facilities.

(d) Deposit and Use of Proceeds.—Consideration paid under subsection (c) shall be deposited into the appropriations account available for the operation and maintenance of the United States Navy Museum. The Secretary may use the amounts so deposited to cover costs associated with the operation and maintenance of the Museum and its exhibits.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with a lease or license under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART 3—AIR FORCE CONVEYANCES

SEC. 2861. PURCHASE OF BUILD-TO-LEASE FAMILY HOUSING, EIELSON AIR FORCE BASE, ALASKA.

(a) Conditional Authority to Purchase.—After the expiration of the contract for the lease of the military family housing project at Eielson Air Force Base, Alaska, that was constructed under the authority of former subsection (g) of section 2828 of title 10, United States Code (now section 2835 of such title), as added by section 801 of the Military Construction Authorization Act, 1984 (Public Law 98–115; 97 Stat. 782), the Secretary of the Air Force may purchase the entire interest of the lessor in the project if the Secretary determines that the purchase of the project is in the best economic interests of the Air Force.

(b) Consideration.—The consideration paid by the Secretary to purchase the interest of the lessor under subsection (a) may not exceed the fair market value of the military family housing project, as determined by the Secretary.

(c) Congressional Notification.—If a decision is made to purchase the interest of the lessor in the military family housing project under subsection (a), the Secretary shall submit a report to the congressional defense committees containing—

(1) notice of the decision;

(2) the economic analyses used by the Secretary to determine that purchase of the project is in the best economic interests of the Air Force, as required by subsection (a); and

(3) a schedule for, and an estimate of the costs and nature of, any renovations or repairs that will be necessary to ensure that all units in the project meet current adequate housing standards.

(d) Purchase Delay.—A contract to effectuate the purchase of the military family housing project under subsection (a) may be entered into by the Secretary only after—

(1) the contract for the lease of the project expires; and

(2) the report required by subsection (c) is submitted and a 30-day period beginning on the date the report is received by the congressional defense committees expires or, if earlier, a 21-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of title 10, United States Code, expires.

SEC. 2862. LAND CONVEYANCE, AIR FORCE PROPERTY, JACKSONVILLE, ARKANSAS.

(a) Conveyance Authorized.—The Secretary of the Air Force may convey to the City of Jacksonville, Arkansas (in this section referred to as the "City"), all right, title, and interest of the United States in and to real property consisting of approximately 45.024 acres around an existing short line railroad in Pulaski County, Arkansas, for the purpose of permitting the City to facilitate railroad access to an industrial park to further community economic development.

(b) Consideration.—As consideration for the conveyance under subsection (a), the City shall pay to the United States an amount equal to the fair market value of the conveyed real property, as established by the assessment of the property conducted under contract for the Corps of Engineers and dated September 15, 2003.

(c) Conditions of Conveyance.—The conveyance under subsection (a) shall be subject to the lease agreement dated October 29, 1982, as amended, between the Secretary and the Missouri Pacific Railroad Company (and its successors and assigns) and any other easement, lease, condition, or restriction of record, including streets, roads, highways, railroads, pipelines, and public utilities, insofar as the easement, lease, condition, or restriction is in existence on the date of the enactment of this Act and lawfully affects the conveyed property.

(d) Payment of Costs of Conveyance.—

(1) Payment required.—The Secretary shall require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) Treatment of amounts received.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(f) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2863. LAND CONVEYANCE, AIR FORCE PROPERTY, LA JUNTA, COLORADO.

(a) Conveyance Authorized.—The Secretary of the Air Force may convey, without consideration, to the City of La Junta, Colorado (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 8 acres located at the USA Bomb Plot in the La Junta Industrial Park for the purpose of training local law enforcement officers.

(b) Payment of Costs of Conveyance.—

(1) Payment required.—The Secretary shall require the City to cover costs to be incurred by the Secretary after the date of enactment of the Act, or to reimburse the Secretary for costs incurred by the Secretary after that date, to carry out the conveyance under subsection (a), including any survey costs, costs related to environmental assessments, studies, analyses, or other documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) Treatment of amounts received.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with

amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) Description of Property.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2864. LEASE, NATIONAL IMAGERY AND MAPPING AGENCY SITE, ST. LOUIS, MISSOURI.

(a) Lease Required.—Not later than February 28, 2006, the Secretary of the Air Force shall lease to the St. Louis County Port Authority of St. Louis County, Missouri (in this section referred to as the "Port District"), a parcel of real property, including improvements thereon, consisting of approximately 39 acres and known as the National Imagery and Mapping Agency site at 8900 South Broadway, St. Louis, Missouri, for the purpose of permitting the Port District to use the parcel for economic development purposes. The Secretary shall carry out this section in consultation with the Administrator of the General Services Administration.

(b) Rental Price.—The real property to be leased under subsection (a) shall be leased at a rate equal to not less than the fair market value of the property.

(c) Description of Property.—The exact acreage and legal description of the real property to be leased under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Air Force and the Port District.

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Subtitle E—Other Matters

SEC. 2871. CLARIFICATION OF MORATORIUM ON CERTAIN IMPROVEMENTS AT FORT BUCHANAN, PUERTO RICO.

(a) Clarification of and Exceptions to Moratorium.—Section 1507 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-355) is amended—

(1) in subsection (a), by striking "conversion, rehabilitation, extension, or improvement" and inserting "or extension"; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting ", repair, replace, or convert" after "maintain";

(B) in paragraph (2), by striking "authorized before the date of the enactment of this Act"; and

(C) by adding at the end the following new paragraphs:

"(3) The construction of facilities supporting Department of Defense education activities.

"(4) Any construction or extension required to support the installation of communications equipment.".

(b) Rule of Construction.—The amendments made by subsection (a) do not trigger the termination of the moratorium on certain improvements at Fort Buchanan, Puerto Rico, as provided by subsection (c) of such section.

SEC. 2872. TRANSFER OF EXCESS DEPARTMENT OF DEFENSE PROPERTY ON SANTA ROSA AND OKALOOSA ISLAND, FLORIDA, TO GULF ISLANDS NATIONAL SEASHORE.

(a) Findings.—Congress finds the following:

(1) Public Law 91-660 of the 91st Congress established the Gulf Islands National Seashore in the States of Florida and Mississippi.

(2) The original boundaries of the Gulf Islands National Seashore encompassed certain Federal land used by the Air Force and the Navy, and the use of such land was still required by the Armed Forces when the seashore was established.

(3) Senate Report 91-1514 of the 91th Congress addressed the relationship between these military lands and the Gulf Islands National Seashore as follows: "While the military use of these lands is presently required, they remain virtually free of adverse development and they are included in the boundaries of the seashore so that they can be wholly or partially transferred to the Department of the Interior when they become excess to the needs of the Air Force.".

(4) Although section 2(a) of Public Law 91-660 (16 U.S.C. 459h–1(a)) authorized the eventual transfer of Federal land within the boundaries of the Gulf Islands National Seashore from the Department of Defense to the Secretary of the Interior, an amendment mandating the transfer of excess Department of Defense land on Santa Rosa and Okaloosa Island, Florida, to the Secretary of the Interior is required to ensure that the purposes of the Gulf Islands National Seashore are fulfilled.

(b) Transfer Required.—Section 7 of Public Law 91–660 (16 U.S.C. 459h–6) is amended—

(1) by inserting "(a)" before "There are"; and

(2) by adding at the end the following new subsection:

"(b) If any of the Federal land on Santa Rosa or Okaloosa Island, Florida, under the jurisdiction of the Department of Defense is ever excess to the needs of the Armed Forces, the Secretary of Defense shall transfer the excess land to the administrative jurisdiction of the Secretary of the Interior, subject to the terms and conditions acceptable to the Secretary of the Interior and the Secretary of Defense. The Secretary of the Interior shall administer the transferred land as part of the seashore in accordance with the provisions of this Act.".

SEC. 2873. AUTHORIZED MILITARY USES OF PAPAGO PARK MILITARY RESERVATION, PHOENIX, ARIZONA.

The Act of April 7, 1930 (Chapter 107; 46 Stat. 142), is amended in the first designated paragraph, relating to the Papago Park Military Reservation, by striking "as a rifle range".

SEC. 2874. ASSESSMENT OF WATER NEEDS FOR PRESIDIO OF MONTEREY AND ORD MILITARY COMMUNITY.

Not later than April 7, 2006, the Secretary of Defense shall submit to Congress an interim assessment of the current and reasonable future needs of the Department of the Defense for water for the Presidio of Monterey and the Ord Military Community.

SEC. 2875. REDESIGNATION OF MCENTIRE AIR NATIONAL GUARD STATION, SOUTH CAROLINA, AS MCENTIRE JOINT NATIONAL GUARD BASE.

McEntire Air National Guard Station in Eastover, South Carolina, shall be known and designated as "McEntire Joint National Guard Base" in recognition of the use of the installation to house both Air National Guard and Army National Guard assets. Any reference to McEntire Air National Guard Station in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to McEntire Joint National Guard Base.

SEC. 2876. SENSE OF CONGRESS REGARDING COMMUNITY IMPACT ASSISTANCE RELATED TO CONSTRUCTION OF NAVY LANDING FIELD, NORTH CAROLINA.

It is the sense of Congress that—

(1) the planned construction of an outlying landing field in North Carolina is vital to the national security interests of the United States; and

(2) the Department of Defense should work with other Federal agencies to provide community impact assistance to those communities directly impacted by the location of the outlying landing field, including, to the extent appropriate—

(A) economic development assistance;

(B) impact aid program assistance;

(C) the provision by cooperative agreement with the Navy of fire, rescue, water, and sewer services;

(D) access by leasing arrangement to appropriate land for farming for farmers impacted by the location of the landing field;

(E) direct relocation assistance; and

(F) fair compensation to landowners for property purchased by the Navy.

SEC. 2877. SENSE OF CONGRESS ON ESTABLISHMENT OF BAKERS CREEK MEMORIAL.

(a) Findings.—Congress makes the following findings:

(1) In 1943 and 1944, the United States Armed Forces operated a rest and relaxation facility in Mackay, Queensland, Australia, for troops serving in the Pacific Theater during World War II.

(2) On June 14, 1943, a Boeing B-17C was transporting 6 crew members and 35 servicemen from Mackay to Port Moresby, New Guinea, to return the servicemen to duty after 10 days of rest and relaxation leave at an Army/Red Cross facility.

(3) The aircraft crashed shortly after take-off at Bakers Creek, Australia, killing all 6 crew members and 34 of the 35 servicemen being transported in what was at that point the worst crash in American air transport history, and what remains the worst air disaster in Australian history.

(4) Due to wartime censorship rules related to the movement of troops, the tragic crash and loss of life were not reported to the Australian or United States public.

(5) Many family members of those killed did not learn the circumstances of the troops deaths until they were contacted by the Bakers Creek Memorial Foundation beginning in 1992.

(6) As of May 2005, the Bakers Creek Memorial Foundation had contacted 36 of the 40 families that lost loved ones in the tragic crash, and was continuing efforts to locate the remaining four families to inform them of the true events of the crash at Bakers Creek.

(7) The Australian people marked the tragic crash at Bakers Creek with a memorial established in 1992, but no similar memorial has been established in the United States.

(b) Sense of Congress.—It is the sense of Congress that the Secretary of the Army may establish an appropriate marker, at a site to be chosen at the discretion of the Secretary, to commemorate the 40 members of the United States Armed Forces who lost their lives in the air crash at Bakers Creek, Australia, on June 14, 1943.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

Sec. 3101. National Nuclear Security Administration.
Sec. 3102. Defense environmental cleanup.
Sec. 3103. Other defense activities.
Sec. 3104. Defense nuclear waste disposal.

Subtitle B—Other Matters

Sec. 3111. Reliable Replacement Warhead program.
Sec. 3112. Rocky Flats Environmental Technology Site.
Sec. 3113. Report on compliance with Design Basis Threat issued by Department of Energy in 2005.

Sec. 3114. Reports associated with Waste Treatment and Immobilization Plant Project, Hanford Site, Richland, Washington.
Sec. 3115. Report on assistance for a comprehensive inventory of Russian nonstrategic nuclear weapons.
Sec. 3116. Report on international border security programs.
Sec. 3117. Savannah River National Laboratory.

Subtitle A—National Security Programs Authorizations

SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2006 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $9,196,456 to be allocated as follows:

(1) For weapons activities, $6,433,936,000.

(2) For defense nuclear nonproliferation activities, $1,631,151,000.

(3) For naval reactors, $789,500,000.

(4) For the Office of the Administrator for Nuclear Security, $341,869,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out new plant projects for the National Nuclear Security Administration as follows:

(1) For readiness in technical base and facilities, the following new plant projects:

Project 06–D–140, Readiness in Technical Base and Facilities Program, project engineering and design, various locations, $14,113,000.

Project 06–D–402, replacement of Fire Stations Number 1 and Number 2, Nevada Test Site, Nevada, $8,284,000.

Project 06–D–403, tritium facility modernization, Lawrence Livermore National Laboratory, Livermore, California, $2,600,000.

Project 06–D–404, remediation, restoration, and upgrade of Building B–3, Nevada Test Site, Nevada, $16,000,000.

(2) For facilities and infrastructure recapitalization, the following new plant projects:

Project 06–D–160, Facilities and Infrastructure Recapitalization Program, project engineering and design, various locations, $5,811,000.

Project 06–D–601, electrical distribution system upgrade, Pantex Plant, Amarillo, Texas, $4,000,000.

Project 06–D–602, gas main and distribution system upgrade, Pantex Plant, Amarillo, Texas, $3,700,000.

Project 06–D–603, Steam Plant Life Extension Project, Y–12 National Security Complex, Oak Ridge, Tennessee, $729,000.

(3) For defense nuclear nonproliferation, the following new plant project:

Project 06–D–180, Defense Nuclear Nonproliferation, project engineering and design, National Security Laboratory, Pacific Northwest National Laboratory, Richland, Washington, $13,000,000.

(4) For naval reactors, the following plant projects:

Project 06–D–901, Central Office Building 2, Bettis Atomic Power Laboratory, West Mifflin, Pennsylvania, $7,000,000.

Project 05–D–900, Materials Development Facility Building, Schenectady, New York, $9,900,000, of which $1,000,000 shall be available for project engineering and design.

SEC. 3102. DEFENSE ENVIRONMENTAL CLEANUP.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2006 for defense environmental cleanup activities in carrying out programs necessary for national security in the amount of $6,192,371,000.

(b) AUTHORIZATION OF NEW PLANT PROJECT.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out, for defense environmental cleanup activities, the following new plant project:

Project 06–D–401, sodium bearing waste treatment project, Idaho National Laboratory, Idaho Falls, Idaho, $54,270,000.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2006 for other defense activities in carrying out programs necessary for national security in the amount of $641,998,000.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2006 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $350,000,000.

Subtitle B—Other Matters

SEC. 3111. RELIABLE REPLACEMENT WARHEAD PROGRAM.

(a) PROGRAM REQUIRED.—The Atomic Energy Defense Act (division D of Public Law 107–314) is amended by inserting after section 4204 (50 U.S.C. 2524) the following new section:

"SEC. 4204a. RELIABLE REPLACEMENT WARHEAD PROGRAM.

"(a) PROGRAM REQUIRED.—The Secretary of Energy shall carry out a program, to be known as the Reliable Replacement Warhead program, which will have the following objectives:

"(1) To increase the reliability, safety, and security of the United States nuclear weapons stockpile.

"(2) To further reduce the likelihood of the resumption of underground nuclear weapons testing.

"(3) To remain consistent with basic design parameters by including, to the maximum extent feasible and consistent with the objective specified in paragraph (2), components that are well understood or are certifiable without the need to resume underground nuclear weapons testing.

"(4) To ensure that the nuclear weapons infrastructure can respond to unforeseen problems, to include the ability to produce replacement warheads that are safer to manufacture, more cost-effective to produce, and less costly to maintain than existing warheads.

"(5) To achieve reductions in the future size of the nuclear weapons stockpile based on increased reliability of the reliable replacement warheads.

"(6) To use the design, certification, and production expertise resident in the nuclear complex to develop reliable replacement components to fulfill current mission requirements of the existing stockpile.

"(7) To serve as a complement to, and potentially a more cost-effective and reliable long-term replacement for, the current Stockpile Life Extension Programs.

"(b) CONSULTATION.—The Secretary of Energy shall carry out the Reliable Replacement Warhead program in consultation with the Secretary of Defense.".

(b) REPORT.—Not later than March 1, 2007, the Secretary of Energy and the Secretary of Defense shall submit to the congressional defense committees a report on the feasibility and implementation of the Reliable Replacement Warhead program required by section 4204a of the Atomic Energy Defense Act, as added by subsection (a). The report shall—

(1) identify existing warheads recommended for replacement by 2035 with an assessment of the weapon performance and safety characteristics of the replacement warheads;

(2) discuss the relationship of the Reliable Replacement Warhead program within the Stockpile Stewardship Program and its impact on the current Stockpile Life Extension Programs;

(3) provide an assessment of the extent to which a successful Reliable Replacement Warhead program could lead to reductions in the nuclear weapons stockpile;

(4) discuss the criteria by which replacement warheads under the Reliable Replacement Warhead program will be designed to maximize the likelihood of not requiring nuclear testing, as well as the circumstances that could lead to a resumption of testing;

(5) provide a description of the infrastructure, including pit production capabilities, required to support the Reliable Replacement Warhead program;

(6) provide a detailed summary of how the funds made available pursuant to the authorizations of appropriations in this Act, and any funds made available in prior years, will be used; and

(7) provide an estimate of the comparative costs of a reliable replacement warhead and the stockpile life extension for the warheads identified in paragraph (1).

(c) INTERIM REPORT.—Not later than March 1, 2006, the Secretary of Energy and the Secretary of Defense shall submit to the congressional defense committees an interim report on the matters required to be covered by the report under subsection (b).

(d) CONSULTATION.—The Secretary of Energy and the Secretary of Defense shall prepare the reports required by subsections (b) and (c) in consultation with the Nuclear Weapons Council.

SEC. 3112. ROCKY FLATS ENVIRONMENTAL TECHNOLOGY SITE.

(a) DEFINITIONS.—In this section:

(1) ESSENTIAL MINERAL RIGHT.—The term "essential mineral right" means a right to mine sand and gravel at Rocky Flats, as depicted on the map.

(2) FAIR MARKET VALUE.—The term "fair market value" means the value of an essential mineral right, as determined by an appraisal performed by an independent, certified mineral appraiser under the Uniform Standards of Professional Appraisal Practice.

(3) MAP.—The term "map" means the map entitled "Rocky Flats National Wildlife Refuge", dated July 25, 2005, and available for inspection in appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

(4) NATURAL RESOURCE DAMAGE LIABILITY CLAIM.—The term "natural resource damage liability claim" means a natural resource damage liability claim under subsections (a)(4)(C) and (f) of section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) arising from hazardous substances releases at or from Rocky Flats that, as of the date of enactment of this Act, are identified in the administrative record for Rocky Flats required by the National Oil and Hazardous Substances Pollution Contingency Plan prepared under section 105 of that Act (42 U.S.C. 9605).

(5) ROCKY FLATS.—The term "Rocky Flats" means the Department of Energy facility in the State of Colorado known as the "Rocky Flats Environmental Technology Site".

(6) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(7) TRUSTEES.—The term "Trustees" means the Federal and State officials designated as trustees under section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)).

(b) PURCHASE OF ESSENTIAL MINERAL RIGHTS.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, such amounts authorized to be appropriated under subsection (c) shall be available to the Secretary to purchase essential mineral rights at Rocky Flats.

(2) CONDITIONS.—The Secretary shall not purchase an essential mineral right under paragraph (1) unless—

(A) the owner of the essential mineral right is a willing seller; and

(B) the Secretary purchases the essential mineral right for an amount that does not exceed fair market value.

(3) LIMITATION.—Only those funds authorized to be appropriated under subsection (c) shall be available for the Secretary to purchase essential mineral rights under paragraph (1).

(4) RELEASE FROM LIABILITY.—A natural resource damage liability claim under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) shall be considered to be satisfied by—

(A) the purchase by the Secretary of essential mineral rights under paragraph (1) for consideration in an amount equal to $10,000,000;

(B) the payment by the Secretary to the Trustees of $10,000,000; or

(C) the purchase by the Secretary of any portion of the mineral rights under paragraph (1) for—

(i) consideration in an amount less than $10,000,000; and

(ii) a payment by the Secretary to the Trustees of an amount equal to the difference between—

(I) $10,000,000; and

(II) the amount paid under clause (i).

(5) USE OF FUNDS.—

(A) IN GENERAL.—Any amounts received under paragraph (4) shall be used by the Trustees for the purposes described in section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(1)), including—

(i) the purchase of additional mineral rights at Rocky Flats; and

(ii) the development of habitat restoration projects at Rocky Flats.

(B) CONDITION.—Any expenditure of funds under this paragraph shall be made jointly by the Trustees.

(C) ADDITIONAL FUNDS.—The Trustees may use the funds received under paragraph (4) in conjunction with other private and public funds.

(6) EXEMPTION FROM NATIONAL ENVIRONMENTAL POLICY ACT.—Any purchases of mineral rights under this subsection shall be exempt from the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(7) ROCKY FLATS NATIONAL WILDLIFE REFUGE.—

(A) TRANSFER OF MANAGEMENT RESPONSIBILITIES.—The Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 107-107) is amended—

(i) in section 3175—

(I) by striking subsections (b) and (f); and

(II) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(ii) in section 3176(a)(1), by striking "section 3175(d)" and inserting "section 3175(c)".

(B) BOUNDARIES.—Section 3177 of such Act is amended by striking subsection (c) and inserting the following new subsection:

"(c) COMPOSITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the refuge shall consist of land within the boundaries of Rocky Flats, as depicted on the map—

"(A) entitled 'Rocky Flats National Wildlife Refuge';

"(B) dated July 25, 2005; and

"(C) available for inspection in the appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

"(2) EXCLUSIONS.—The refuge does not include—

"(A) any land retained by the Department of Energy for response actions under section 3175(c);

"(B) any land depicted on the map described in paragraph (1) that is subject to one or more essential mineral rights described in section 3112(a) of the National Defense Authorization Act for Fiscal Year 2006 over which the Secretary shall retain jurisdiction of the surface estate until the essential mineral rights—

"(i) are purchased under subsection (b) of such section; or

"(ii) are mined and reclaimed by the mineral rights holders in accordance with requirements established by the State of Colorado; and

"(C) the land depicted on the map described in paragraph (1) on which essential mineral rights are being actively mined as of the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 until—

"(i) the essential mineral rights are purchased; or

"(ii) the surface estate is reclaimed by the mineral rights holder in accordance with requirements established by the State of Colorado.

"(3) ACQUISITION OF ADDITIONAL LAND.—Notwithstanding paragraph (2), upon the purchase of the mineral rights or reclamation of the land depicted on the map described in paragraph (1), the Secretary shall—

"(A) transfer the land to the Secretary of the Interior for inclusion in the refuge; and

"(B) the Secretary of the Interior shall—

"(i) accept the transfer of the land; and

"(ii) manage the land as part of the refuge.".

(c) FUNDING.—Of the amounts authorized to be appropriated to the Secretary for the Rocky Flats Environmental Technology Site for fiscal year 2006, $10,000,000 may be made available to the Secretary for the purposes described in subsection (b).

SEC. 3113. REPORT ON COMPLIANCE WITH DESIGN BASIS THREAT ISSUED BY DEPARTMENT OF ENERGY IN 2005.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the congressional defense committees a report detailing plans for achieving compliance under the Design Basis Threat issued by the Department of Energy in November 2005 (in this section referred to as the "2005 Design Basis Threat").

(b) CONTENT.—The report required under subsection (a) shall include the following:

(1) A plan with associated annual funding requirements to achieve compliance under the 2005 Design Basis Threat by December 31, 2008, and sustain such compliance through the Future Years Nuclear Security Plan, of all Department of Energy and National Nuclear Security Administration sites that contain nuclear weapons or special nuclear material.

(2) A risk and cost analysis of the increase in security requirements from the Design Basis Threat issued by the Department of Energy in May 2003 to the 2005 Design Basis Threat.

(3) An evaluation of options for applying security technologies and innovative protective force deployment to increase the efficiency and effectiveness of efforts to protect against the threats postulated in the 2005 Design Basis Threat.

(c) FORM.—The report required under subsection (a) shall be submitted in classified form with an unclassified summary.

(d) COMPTROLLER GENERAL REVIEW.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report containing a review of the plan required by subsection (b)(1). In conducting the review, the Comptroller General shall employ probalistic risk assessment methodology to access the merits of incremental risk mitigation steps proposed by the Department of Energy.

SEC. 3114. REPORTS ASSOCIATED WITH WASTE TREATMENT AND IMMOBILIZATION PLANT PROJECT, HANFORD SITE, RICHLAND, WASHINGTON.

(a) SUBMISSION OF ARMY CORPS OF ENGINEERS REPORTS.—Not later than 10 days after the date on which the Secretary of Energy receives any report from the Army Corps of Engineers documenting any evaluation or validation of costs, schedule, and technical issues associated with the Waste Treatment and Immobilization Plant Project at the Department of Energy Hanford Site, the Secretary shall submit a copy of the report to the congressional defense committees.

(b) INCLUSION OF SPECIFIC REPORTS.—The requirement to submit reports under this section includes the anticipated reports from the Army Corps of Engineers—

(1) documenting the cost validation of the estimated cost to complete the project based on both constrained and unconstrained funding scenarios; and

(2) evaluating the baseline ground motion criteria.

SEC. 3115. REPORT ON ASSISTANCE FOR A COMPREHENSIVE INVENTORY OF RUSSIAN NONSTRATEGIC NUCLEAR WEAPONS.

(a) FINDINGS.—Congress finds that—

(1) there is an insufficient accounting for, and insufficient security of, the nonstrategic nuclear weapons of the Russian Federation; and

(2) because of the dangers posed by that insufficient accounting and security, it is in the national security interest of the United States to assist the Russian Federation in the conduct of a comprehensive inventory of its nonstrategic nuclear weapons.

(b) REPORT.—

(1) REPORT REQUIRED.—Not later than April 15, 2006, the Secretary of Energy shall submit to Congress a report containing—

(A) the Secretary's evaluation of past and current efforts by the United States to encourage or facilitate a proper accounting for and securing of the nonstrategic nuclear weapons of the Russian Federation; and

(B) the Secretary's recommendations regarding the actions by the United States that are most likely to lead to progress in improving the accounting for, and securing of, those weapons.

(2) CONSULTATION WITH SECRETARY OF DEFENSE.—The report under paragraph (1) shall be prepared in consultation with the Secretary of Defense.

(3) CLASSIFICATION OF REPORT.—The report under paragraph (1) shall be in unclassified form, but may be accompanied by a classified annex.

SEC. 3116. REPORT ON INTERNATIONAL BORDER SECURITY PROGRAMS.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the management by the Secretaries referred to in subsection (c) of border security programs in the countries of the former Soviet Union and other countries.

(b) CONTENT.—The report required under subsection (a) shall include—

(1) a description of the roles and responsibilities of each department and agency of the United States Government in international border security programs;

(2) a description of the interactions and coordination among departments and agencies of the United States Government that are conducting international border security programs;

(3) a description of the mechanisms and processes that exist to ensure coordination, avoid duplication, and provide a means to resolve conflicts or problems that might arise in the implementation of international border security programs;

(4) a discussion of whether there is existing interagency guidance that addresses the roles, interactions, and dispute resolution mechanisms for departments and agencies of the United States Government that are conducting international border security programs, and the adequacy of such guidance if it exists; and

(5) recommendations to improve the coordination and effectiveness of international border security programs.

(c) CONSULTATION.—The Secretary of Energy shall prepare the report required by subsection (a) in consultation with the Secretary of Defense, the Secretary of State, and, as appropriate, the Secretary of Homeland Security.

SEC. 3117. SAVANNAH RIVER NATIONAL LABORATORY.

The Savannah River National Laboratory shall be a participating laboratory in the Department of Energy laboratory directed research and development program.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 2006, $22,032,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Authorized uses of National Defense Stockpile funds.
Sec. 3302. Revisions to required receipt objectives for previously authorized disposals from National Defense Stockpile.
Sec. 3303. Authorization for disposal of tungsten ores and concentrates.
Sec. 3304. Disposal of ferromanganese.

SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 2006, the National Defense Stockpile Manager may obligate up to $52,132,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3302. REVISIONS TO REQUIRED RECEIPT OBJECTIVES FOR PREVIOUSLY AUTHORIZED DISPOSALS FROM NATIONAL DEFENSE STOCKPILE.

(a) DISPOSAL AUTHORITY.—Section 3303(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 98d note), as amended by section 3302 of the Ronald W. Reagan National Defense Authorization Act for Year 2005 (Public Law 108–375; 118 Stat. 2193), is amended—

(1) by striking "and" at the end of paragraph (4); and

(2) by striking paragraph (5) and inserting the following new paragraphs:

"(5) $900,000,000 by the end of fiscal year 2010; and

"(6) $1,000,000,000 by the end of fiscal year 2013.".

(b) ADDITIONAL DISPOSAL AUTHORITY.—Section 3402(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 50 U.S.C. 98d note), as amended by section 3302 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1788), is amended—

(1) by striking "and" at the end of paragraph (3); and

(2) by striking paragraph (4) and inserting the following new paragraphs:

"(4) $500,000,000 before the end of fiscal year 2010; and

"(5) $600,000,000 before the end of fiscal year 2013.".

SEC. 3303. AUTHORIZATION FOR DISPOSAL OF TUNGSTEN ORES AND CONCENTRATES.

(a) DISPOSAL AUTHORIZED.—The President may dispose of up to 8,000,000 pounds of contained tungsten in the form of tungsten ores and concentrates from the National Defense Stockpile in fiscal year 2006.

(b) CERTAIN SALES AUTHORIZED.—The tungsten ores and concentrates disposed under subsection (a) may be sold to entities with ore conversion or tungsten carbide manufacturing or processing capabilities in the United States.

SEC. 3304. DISPOSAL OF FERROMANGANESE.

(a) DISPOSAL AUTHORIZED.—The Secretary of Defense may dispose of up to 75,000 tons of ferromanganese from the National Defense Stockpile during fiscal year 2006.

(b) CONTINGENT AUTHORITY FOR ADDITIONAL DISPOSAL.—If the Secretary of Defense completes the disposal of the total quantity of ferromanganese authorized for disposal by subsection (a) before September 30, 2006, the Secretary of Defense may dispose of up to an additional 25,000 tons of ferromanganese from the National Defense Stockpile before that date.

(c) CERTIFICATION.—The Secretary of Defense may dispose of ferromanganese under the authority of subsection (b) only if the Secretary submits written certification to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, not later than 30 days before the commencement of disposal, that—

(1) the disposal of the additional ferromanganese from the National Defense Stockpile is in the interest of national defense;

(2) the disposal of the additional ferromanganese will not cause undue disruption to the usual markets of producers and processors of ferromanganese in the United States; and

(3) the disposal of the additional ferromanganese is consistent with the requirements and purpose of the National Defense Stockpile.

(d) DELEGATION OF RESPONSIBILITY.—The Secretary of Defense may delegate the responsibility of the Secretary under subsection (c) to an appropriate official within the Department of Defense.

(e) NATIONAL DEFENSE STOCKPILE DEFINED.—In this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNT.—There are hereby authorized to be appropriated to the Secretary of Energy $18,500,000 for fiscal year 2006 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves.

(b) PERIOD OF AVAILABILITY.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

TITLE XXXV—MARITIME ADMINISTRATION

Sec. 3501. Authorization of appropriations for fiscal year 2006.
Sec. 3502. Payments for State and regional maritime academies.
Sec. 3503. Maintenance and repair reimbursement pilot program.
Sec. 3504. Tank vessel construction assistance.
Sec. 3505. Improvements to the Maritime Administration vessel disposal program.
Sec. 3506. Assistance for small shipyards and maritime communities.
Sec. 3507. Transfer of authority for title XI non-fishing loan guarantee decisions to Maritime Administration.
Sec. 3508. Technical corrections.
Sec. 3509. United States Maritime Service.
Sec. 3510. Awards and medals.

SEC. 3501. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2006.

Funds are hereby authorized to be appropriated for fiscal year 2006, to be available without fiscal year limitation if so provided in appropriations Acts, for the use of the Department of Transportation for the Maritime Administration as follows:

(1) For expenses necessary for operations and training activities, $122,249,000.

(2) For administrative expenses related to loan guarantee commitments under the program authorized by title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), $4,126,000.

(3) For expenses to dispose of obsolete vessels in the National Defense Reserve Fleet, including provision of assistance under section 7 of Public Law 92–402, $21,000,000.

SEC. 3502. PAYMENTS FOR STATE AND REGIONAL MARITIME ACADEMIES.

(a) ANNUAL PAYMENT.—Section 1304(d)(1)(C)(ii) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(d)(1)(C)(ii)) is amended by striking "$200,000" and inserting "$300,000 for fiscal year 2006, $400,000 for fiscal year 2007, and $500,000 for fiscal year 2008 and each fiscal year thereafter".

(b) SCHOOL SHIP FUEL PAYMENT.—Section 1304(c)(2) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(c)(2)) is amended—

(1) by striking "The Secretary may pay to any State maritime academy" and inserting "(A) The Secretary shall, subject to the availability of appropriations, pay to each State maritime academy"; and

(2) by adding at the end the following:

"(B) The amount of the payment to a State maritime academy under this paragraph shall not exceed—

"(i) $100,000 for fiscal year 2006;

"(ii) $200,000 for fiscal year 2007; and

"(iii) $300,000 for fiscal year 2008 and each fiscal year thereafter.".

SEC. 3503. MAINTENANCE AND REPAIR REIMBURSEMENT PILOT PROGRAM.

Section 3517 of the Maritime Security Act of 2003 (46 U.S.C. 53101 note) is amended to read as follows:

"SEC. 3517. MAINTENANCE AND REPAIR REIMBURSEMENT PILOT PROGRAM.

"(a) AUTHORITY TO ENTER AGREEMENTS.—

"(1) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program under

which the Secretary shall enter into an agreement with 1 or more contractors under chapter 531 of title 46, United States Code, regarding maintenance and repair of 1 or more vessels that are subject to an operating agreement under that chapter.

"(2) Requirement of agreement.—The Secretary shall, subject to the availability of appropriations, require 1 or more persons to enter into an agreement under this section as a condition of awarding an operating agreement to the person under chapter 531 of title 46, United States Code, for 1 or more vessels that normally make port calls in the United States.

"(b) Terms of Agreement.—An agreement under this section—

"(1) shall require that except as provided in subsection (c), all qualified maintenance or repair on the vessel shall be performed in the United States;

"(2) shall require that the Secretary shall reimburse the contractor in accordance with subsection (d) for the costs of qualified maintenance or repair performed in the United States; and

"(3) shall apply to qualified maintenance or repair performed during the 5-year period beginning on the date the vessel begins operating under the operating agreement under chapter 531 of title 46, United States Code.

"(c) Exception to Requirement to Perform Work in the United States.—A contractor shall not be required to have qualified maintenance or repair work performed in the United States under this section if—

"(1) the Secretary determines that there is no facility capable of meeting all technical requirements of the qualified maintenance or repair in the United States located in the geographic area in which the vessel normally operates available to perform the work in the time required by the contractor to maintain its regularly scheduled service;

"(2) the Secretary determines that there are insufficient funds to pay reimbursement under subsection (d) with respect to the work; or

"(3) the Secretary fails to make the certification described in subsection (e)(2).

"(d) Reimbursement.—

"(1) In general.—The Secretary shall, subject to the availability of appropriations, reimburse a contractor for costs incurred by the contractor for qualified maintenance or repair performed in the United States under this section.

"(2) Amount.—The amount of reimbursement shall be equal to the difference between—

"(A) the fair and reasonable cost of obtaining the qualified maintenance or repair in the United States; and

"(B) the fair and reasonable cost of obtaining the qualified maintenance or repair outside the United States, in the country in which the contractor would otherwise undertake the qualified maintenance or repair.

"(3) Determination of fair and reasonable costs.—The Secretary shall determine fair and reasonable costs for purposes of paragraph (2).

"(e) Notification Requirements.—

"(1) Notification by contractor.—The Secretary is not required to pay reimbursement to a contractor under this section for qualified maintenance or repair, unless the contractor—

"(A) notifies the Secretary of the intent of the contractor to obtain the qualified maintenance or repair, by not later than 90 days before the date of the performance of the qualified maintenance or repair; and

"(B) includes in such notification—

"(i) a description of all qualified maintenance or repair that the contractor should reasonably expect may be performed;

"(ii) a description of the vessel's normal route and port calls in the United States;

"(iii) an estimate of the cost of obtaining the qualified maintenance or repair described under clause (i) in the United States; and

"(iv) an estimate of the cost of obtaining the qualified maintenance or repair described under clause (i) outside the United States, in the country in which the contractor otherwise would undertake the qualified maintenance or repair.

"(2) Certification by secretary.—

"(A) Not later than 30 days after the date of receipt of notification under paragraph (1), the Secretary shall certify to the contractor—

"(i) whether the cost estimates provided by the contractor are fair and reasonable;

"(ii) if the Secretary determines that such cost estimates are not fair and reasonable, the Secretary's estimate of fair and reasonable costs for such work;

"(iii) whether there are available to the Secretary sufficient funds to pay reimbursement under subsection (d) with respect to such work; and

"(iv) that the Secretary commits such funds to the contractor for such reimbursement, if such funds are available for that purpose.

"(B) If the contractor notification described in paragraph (1) does not include an estimate of the cost of obtaining qualified maintenance and repair in the United States, then not later than 30 days after the date of receipt of such notification, the Secretary shall—

"(i) certify to the contractor whether there is a facility capable of meeting all technical requirements of the qualified maintenance and repair in the United States located in the geographic area in which the vessel normally operates available to perform the qualified maintenance and repair described in the notification by the contractor under paragraph (1) in the time period required by the contractor to maintain its regularly scheduled service; and

"(ii) if there is such a facility, require the contractor to resubmit such notification with the required cost estimate for such facility.

"(f) Regulations.—

"(1) Requirement to issue notice of proposed rule making.—The Secretary shall—

"(A) by not later than 30 days after the effective date of this subsection, issue a notice of proposed rule making to implement this section;

"(B) in such notice, solicit the submission of comments by the public regarding rules to implement this section; and

"(C) provide a period of at least 30 days for the submission of such comments.

"(2) Interim rules.—Upon expiration of the period for submission of comments pursuant to paragraph (1)(C), the Secretary may prescribe interim rules necessary to carry out the Secretary's responsibilities under this section. For this purpose, the Secretary is excepted from compliance with the notice and comment requirements of section 553 of title 5, United States Code. At the time interim rules are issued, the Secretary shall solicit comments on the interim rules from the public and other interested persons. Such period for comment shall not be less than 90 days. All interim rules prescribed under the authority of this subsection that are not earlier superseded by final rules shall expire no later than 270 days after the effective date of this subsection.

"(g) Qualified Maintenance or Repair Defined.—In this section the term 'qualified maintenance or repair'—

"(1) except as provided in paragraph (2), means—

"(A) any inspection of a vessel that is—

"(i) required under chapter 33 of title 46, United States Code; and

"(ii) performed in the period in which the vessel is subject to an agreement under this section;

"(B) any maintenance or repair of a vessel that is determined, in the course of an inspection referred to in subparagraph (A), to be necessary; and

"(C) any additional maintenance or repair the contractor intends to undertake at the same time as the work described in subparagraph (B); and

"(2) does not include—

"(A) maintenance or repair not agreed to by the contractor to be undertaken at the same time as the work described in paragraph (1); or

"(B) any emergency work that is necessary to enable a vessel to return to a port in the United States.

"(h) Annual Report.—The Secretary shall submit to the Congress by not later than September 30 each year a report on the program under this section. The report shall include a listing of future inspection schedules for all vessels included in the Maritime Security Fleet under section 53102 of title 46, United States Code.

"(i) Authorization of Appropriations.—In addition to the other amounts authorized by this title, for reimbursement of costs of qualified maintenance or repair under this section there is authorized to be appropriated to the Secretary of Transportation $19,500,000 for each of fiscal years 2006 through 2011.".

SEC. 3504. TANK VESSEL CONSTRUCTION ASSISTANCE.

(a) Requirement to Enter Contracts.—Section 3543(a) of the National Defense Authorization Act for Fiscal Year 2004 (46 U.S.C. 53101 note) is amended by striking "may" and inserting "shall, to the extent of the availability of appropriations,".

(b) Amount of Assistance.—Section 3543(b) of the National Defense Authorization Act for Fiscal Year 2004 (46 U.S.C. 53101 note) is amended by striking "up to 75 percent of".

SEC. 3505. IMPROVEMENTS TO THE MARITIME ADMINISTRATION VESSEL DISPOSAL PROGRAM.

(a) Repeal of Limitation on Scrapping; Comprehensive Management Plan.—Section 3502 of the Floyd D. Spence National Defense Authorization Act of Fiscal Year 2001 (enacted into law by section 1 of Public Law 106–398; 16 U.S.C. 5405 note; 114 Stat. 1654A–490) is amended by striking subsections (c), (d), (e), and (f), and inserting the following:

"(c) Comprehensive Management Plan.—

"(1) Requirement to develop plan.—The Secretary of Transportation shall prepare, publish, and submit to the Congress by not later than 180 days after the date of the enactment of this Act a comprehensive plan for management of the vessel disposal program of the Maritime Administration in accordance with the recommendations made in the Government Accountability Office in report number GAO-05-264, dated March 2005.

"(2) Contents of plan.—The plan shall—

"(A) include a strategy and implementation plan for disposal of obsolete National Defense Reserve Fleet vessels (including vessels added to the fleet after the enactment of this paragraph) in a timely manner, maximizing the use of all available disposal methods, including dismantling, use for artificial reefs, donation, and Navy training exercises;

"(B) identify and describe the funding and other resources necessary to implement the plan, and specific milestones for disposal of vessels under the plan;

"(C) establish performance measures to track progress toward achieving the goals of the program, including the expeditious disposal of ships commencing upon the date of the enactment of this paragraph;

"(D) develop a formal decisionmaking framework for the program; and

"(E) identify external factors that could impede successful implementation of the plan, and describe steps to be taken to mitigate the effects of such factors.

"(d) Implementation of Management Plan.—

"(1) REQUIREMENT TO IMPLEMENT.—Subject to the availability of appropriations, the Secretary shall implement the vessel disposal program of the Maritime Administration in accordance with—

"(A) the management plan submitted under subsection (c); and

"(B) the requirements set forth in paragraph (2).

"(2) UTILIZATION OF DOMESTIC SOURCES.—In the procurement of services under the vessel disposal program of the Maritime Administration, the Secretary shall—

"(A) use full and open competition; and

"(B) utilize domestic sources to the maximum extent practicable.

"(e) FAILURE TO SUBMIT PLAN.—

"(1) PRIVATE MANAGEMENT CONTRACT FOR DISPOSAL OF MARITIME ADMINISTRATION VESSELS.—The Secretary of Transportation, subject to the availability of appropriations, shall promptly award a contract using full and open competition to expeditiously implement all aspects of disposal of obsolete National Defense Reserve Fleet vessels.

"(2) APPLICATION.—This subsection shall apply beginning 180 days after the date of the enactment of this subsection, unless the Secretary of Transportation has submitted to the Congress the comprehensive plan required under subsection (c).

"(f) REPORT.—No later than 1 year after the date of the enactment of this subsection, and every 6 months thereafter, the Secretary of Transportation, in coordination with the Secretary of the Navy, shall report to the Committee on Transportation and Infrastructure, the Committee on Resources, and the Committee on Armed Services of the House of Representatives, and to the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate, on the progress made in implementing the vessel disposal plan developed under subsection (c). In particular, the report shall address the performance measures required to be established under subsection (c)(2)(C).".

(b) TEMPORARY AUTHORITY TO TRANSFER OBSOLETE COMBATANT VESSELS TO NAVY FOR DISPOSAL.—The Secretary of Transportation shall, subject to the availability of appropriations and consistent with section 1535 of title 31, United States Code, popularly known as the Economy Act, transfer to the Secretary of the Navy during fiscal year 2006 for disposal by the Navy, no fewer than 4 combatant vessels in the nonretention fleet of the Maritime Administration that are acceptable to the Secretary of the Navy.

(c) TRANSFER OF TITLE OF OBSOLETE VESSELS TO BE DISPOSED OF AS ARTIFICIAL REEFS.—Paragraph (4) of section 4 of the Act entitled "An Act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce, and for related purposes" (Public Law 92–402; 16 U.S.C. 1220a) is amended to read as follows:

"(4) the transfer would be at no cost to the Government (except for any financial assistance provided under section 1220(c)(1) of this title) with the State taking delivery of such obsolete ships and titles in an 'as-is—where-is' condition at such place and time designated as may be determined by the Secretary of Transportation.".

SEC. 3506. ASSISTANCE FOR SMALL SHIPYARDS AND MARITIME COMMUNITIES.

(a) ESTABLISHMENT OF PROGRAM.—Subject to the availability of appropriations, the Administrator of the Maritime Administration shall establish a program to provide assistance to State and local governments—

(1) to provide assistance in the form of grants, loans, and loan guarantees to small shipyards for capital improvements; and

(2) for maritime training programs in communities whose economies are substantially related to the maritime industry.

(b) AWARDS.—In providing assistance under the program, the Administrator shall—

(1) take into account—

(A) the economic circumstances and conditions of maritime communities; and

(B) the local, State, and regional economy in which the communities are located; and

(2) strongly encourage State, local, and regional efforts to promote economic development and training that will enhance the economic viability of and quality of life in maritime communities.

(c) USE OF FUNDS.—Assistance provided under this section may be used—

(1) to make capital and related improvements in small shipyards located in or near maritime communities;

(2) to encourage, assist in, or provide training for residents of maritime communities that will enhance the economic viability of those communities; and

(3) for such other purposes as the Administrator determines to be consistent with and supplemental to such activities.

(d) PROHIBITED USES.—Grants awarded under this section may not be used to construct buildings or other physical facilities or to acquire land unless such use is specifically approved by the Administrator in support of subsection (c)(3).

(e) MATCHING REQUIREMENTS.—

(1) FEDERAL FUNDING.—Except as provided in paragraph (2), Federal funds for any eligible project under this section shall not exceed 75 percent of the total cost of such project.

(2) EXCEPTIONS.—

(A) SMALL PROJECTS.—Paragraph (1) shall not apply to grants under this section for stand alone projects costing not more than $25,000. The amount under this subparagraph shall be indexed to the consumer price index and modified each fiscal year after the annual publication of the consumer price index.

(B) REDUCTION IN MATCHING REQUIREMENT.—If the Administrator determines that a proposed project merits support and cannot be undertaken without a higher percentage of Federal financial assistance, the Administrator may award a grant for such project with a lesser matching requirement than is described in paragraph (1).

(f) APPLICATION.—

(1) IN GENERAL.—The Administrator shall determine who, as an eligible applicant, may submit an application, at such time, in such form, and containing such information and assurances as the Administrator may require.

(2) MINIMUM STANDARDS FOR PAYMENT OR REIMBURSEMENT.—Each application submitted under paragraph (1) shall include—

(A) a comprehensive description of—

(i) the need for the project;

(ii) the methodology for implementing the project; and

(iii) any existing programs or arrangements that can be used to supplement or leverage assistance under the program.

(3) PROCEDURAL SAFEGUARDS.—The Administrator, in consultation with the Office of the Inspector General, shall issue guidelines to establish appropriate accounting, reporting, and review procedures to ensure that—

(A) grant funds are used for the purposes for which they were made available;

(B) grantees have properly accounted for all expenditures of grant funds; and

(C) grant funds not used for such purposes and amounts not obligated or expended are returned.

(4) PROJECT APPROVAL REQUIRED.—The Administrator may not award a grant under this section unless the Administrator determines that—

(A) sufficient funding is available to meet the matching requirements of subsection (e);

(B) the project will be completed without unreasonable delay; and

(C) the recipient has authority to carry out the proposed project.

(g) AUDITS AND EXAMINATIONS.—All grantees under this section shall maintain such records as the Administrator may require and make such records available for review and audit by the Administrator.

(h) SMALL SHIPYARD DEFINED.—In this section, the term "small shipyard" means a shipyard that—

(1) is a small business concern (within the meaning of section 3 of the Small Business Act (15 U.S.C. 632); and

(2) does not have more than 600 employees.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Maritime Administration for each of fiscal years 2006 through 2010 to carry out this section—

(1) $5,000,000 for training grants; and

(2) $25,000,000 for capital and related improvement grants.

SEC. 3507. TRANSFER OF AUTHORITY FOR TITLE XI NON-FISHING LOAN GUARANTEE DECISIONS TO MARITIME ADMINISTRATION.

(a) IN GENERAL.—Title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), as amended by subsection (d) of this section, is amended—

(1) by striking "Secretary" each place it appears and inserting "Secretary or Administrator" in—

(A) section 1101(c), (f), and (g);

(B) section 1102;

(C) section 1103(a), (b), (c), (e), (g), and (h);

(D) section 1104A, except in—

(i) subsection (b)(7) and the undesignated paragraph that follows;

(ii) paragraphs (1), (2), (3)(B), and (4) of subsection (d);

(iii) subsection (e)(2)(F) the second place it appears;

(iv) subsection (j); and

(v) subsection (n)(1) the first place it appears;

(E) section 1104B;

(F) section 1105(a), (b), (c), and (e);

(G) section 1105(d) the first, second, third, fifth, and last places it appears; and

(H) sections 1108, 1109 (except the second place it appears in subsection (c)), and 1113 (as redesignated by subsection (d) of this section);

(2) by striking "Secretary" and inserting "Administrator" in—

(A) section 1103(i);

(B) section 1103(j) the first place it appears;

(C) section 1104A(b)(7) each place it appears but not in the undesignated paragraph that follows subsection (b)(7);

(D) section 1104A(d)(1)(A) each place it appears except the first;

(E) section 1104A(d)(3) each place it appears except in subparagraph (B);

(F) section 1104A(j)(1) the first, fifth, and seventh places it appears;

(G) section 1104A(n) each place it appears except the first;

(H) section 1110 each place it appears except the first and fourth places it appears in subsection (b);

(I) section 1111(a) and (b)(2) each place it appears;

(J) section 1111(b)(4) each place it appears except the first; and

(K) section 1112 each place it appears; and

(3) by striking "Secretary's" in sections 1108(g)(1) and 1109(d)(3) and inserting "Secretary's or Administrator's".

(b) ADDITIONAL AND CONFORMING TITLE XI CHANGES.—

(1) Section 1101 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271) is amended—

(A) by striking "title," and all that follows in subsection (n) and inserting "title."; and

(B) by adding at the end the following:

"(p) The term 'Administrator' means the Administrator of the Maritime Administration.".

(2) Section 1103(j) of such Act (46 U.S.C. App. 1273(j)) is amended by adding at the end the following:

"The Secretary of Defense shall determine whether a vessel satisfies paragraphs (1) and (2) by not later than 30 days after receipt of a request from the Administrator for such a determination.".

(3) Section 1104A(d) of such Act (46 U.S.C. App. 1274(d)) is amended—

(A) by striking "Secretary of Transportation" in paragraphs (1)(A) and (3)(B) and inserting "Administrator";

(B) by striking "the waiver" in paragraph (4)(B) and inserting "if deemed necessary by the Secretary or Administrator, the waiver";

(C) by striking "the increased" in paragraph (4)(B) and inserting "any significant increase in".

(4) Section 1104A(f) of such Act (46 U.S.C. App. 1273(f)) is amended—

(A) by striking "financial structures, or other risk factors identified by the Secretary or Administrator." in paragraph (2), as amended by subsection (a) of this section, and inserting "or financial structures.";

(B) by striking "financial structures, or other risk factors identified by the Secretary or Administrator." in paragraph (3), as amended by subsection (a) of this section, and inserting "or financial structures."; and

(C) by adding at the end the following:

"(5) A third party independent analysis conducted under paragraph (2) shall be performed by a private sector expert in assessing such risk factors who is selected by the Administrator.".

(5) Section 1104A(j)(2) of such Act (46 U.S.C. App. 1273(j)(2)) is amended by striking "The Secretary of Transportation" and inserting "The Administrator".

(6) Section 1104A(m) of such Act (46 U.S.C. App. 1273(m)) is amended by striking the last sentence and inserting "If the Secretary or Administrator has waived a requirement under section 1104A(d), the loan agreement shall include requirements for additional payments, collateral, or equity contributions to meet such waived requirement upon the occurrence of verifiable conditions indicating that the obligor's financial condition enables the obligor to meet the waived requirement.".

(7) Section 1104A(n)(1) of such Act (46 U.S.C. App. 1273(n)(1)) is amended by striking "The Secretary of Transportation" and inserting "The Administrator".

(8) Section 1111 of such Act (46 U.S.C. 1279(f)) is amended by striking "Secretary of Transportation" each place it appears and inserting "Administrator".

(c) CONFORMING CHANGES IN OTHER STATUTES.—

(1) Section 401(a) of the Ocean Shipping Reform Act of 1998 (46 U.S.C. App. 1273a(a)) is amended by striking "Secretary of Transportation" and inserting "Administrator of the Maritime Administration".

(2) Section 101 of Public Law 85–469 (46 U.S.C. 1280) is amended by inserting "or the Administrator of the Maritime Administration" after "Secretary".

(3) Section 3527 of the Maritime Security Act of 2003 (46 U.S.C. App. 1280b) is amended by striking "Secretary of Transportation" and inserting "Administrator of the Maritime Administration".

(4) Section 3528 of the Maritime Security Act of 2003 (46 U.S.C. App. 1271 note) is repealed.

(d) TECHNICAL CORRECTION OF SECTION NUMBERING.—Title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.) is amended by redesignating the second sections 1111 and 1112, as added by section 303 of the Sustainable Fisheries Act (Public Law 104–297; 110 Stat. 3616), as sections 1113 and 1114, respectively.

SEC. 3508. TECHNICAL CORRECTIONS.

(a) INTERMODAL CENTERS.—Section 9008(b)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users is amended by striking "section 5309(m)(1)(C)" and inserting "paragraphs (1)(C) and (2)(C) of section 5309(m)".

(b) INTERMODAL SURFACE FREIGHT TRANSFER FACILITY ELIGIBILITY.—Section 9008(b)(2) of that Act is amended by striking "section 181(9)(D)" and inserting "181(8)(D)".

SEC. 3509. UNITED STATES MARITIME SERVICE.

Section 1306(a) of the Maritime Education and Training Act of 1980 (46 U.S.C. App. 1295e(a)), is amended by inserting "and to perform functions to assist the United States merchant marine, as determined necessary by the Secretary," after "United States" the second place it appears

SEC. 3510. AWARDS AND MEDALS.

Section 5(c) of the Merchant Marine Decorations and Medals Act (46 U.S.C. App. 2004(c)) is amended by striking "provide at cost, or authorize for the manufacture and sale at reasonable prices by private persons—" and inserting "provide—".

And the Senate agree to the same.

From the Committee on Armed Services, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

Duncan Hunter,
Curt Weldon,
Joe Hefley,
Jim Saxton,
John M. McHugh,
Terry Everett,
Roscoe Bartlett,
Howard P. McKeon,
Mac Thornberry,
John N. Hostettler,
Jim Ryun,
Jim Gibbons,
Robin Hayes,
Ken Calvert,
Rob Simmons,
Thelma Drake,
Ike Skelton,
John Spratt,
Solomon P. Ortiz,
Lane Evans,
Gene Taylor,
Silvestre Reyes,
Vic Snyder,
Adam Smith,
Loretta Sanchez,
Ellen Tauscher,

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 11 of rule X:

Pete Hoekstra,
Jane Harman,

From the Committee on Education and the Workforce, for consideration of secs. 561–563, 571, and 815 of the House bill, and secs. 581–584 of the Senate amendment, and modifications committed to conference:

Michael N. Castle,
Joe Wilson,
Rush Holt,

From the Committee on Energy and Commerce, for consideration of secs. 314, 601, 1032, and 3201 of the House bill, and secs. 312, 1084, 2893, 3116, and 3201 of the Senate amendment, and modifications committed to conference:

Joe Barton,
Paul Gillmor,

From the Committee on Financial Services, for consideration of secs. 676 and 1073 of the Senate amendment, and modifications committed to conference:

Michael G. Oxley,
Robert W. Ney,

From the Committee on Government Reform, for consideration of secs. 322, 665, 811, 812, 820A, 822–825, 901, 1101–1106, 1108, title XIV, secs. 2832, 2841, and 2852 of the House bill, and secs. 652, 679, 801, 802, 809E, 809F, 809G, 809H, 811, 824, 831, 843–845, 857, 922, 1073, 1106, and 1109 of the Senate amendment, and modifications committed to conference:

Tom Davis,
Christopher Shays,

From the Committee on Homeland Security, for consideration of secs. 1032, 1033, and 1035 of the House bill, and sec. 907 of the Senate amendment, and modifications committed to conference:

John Linder,
Daniel E. Lungren,
Bennie G. Thompson,

From the Committee on International Relations, for consideration of secs. 814, 1021, 1203–1206, and 1301–1305 of the House bill, and secs. 803, 1033, 1203, 1205–1207, and 1301–1306 of the Senate amendment, and modifications committed to conference:

Henry Hyde,
James A. Leach,
Tom Lantos,

From the Committee on the Judiciary, for consideration of secs. 551, 673, 1021, 1043, and 1051 of the House bill, and secs. 553, 615, 617, 619, 1072, 1075, 1077, and 1092 of the Senate amendment, and modifications committed to conference:

F. James Sensenbrenner,
Steve Chabot,

From the Committee on Resources, for consideration of secs. 341–346, 601, and 2813 of the House bill, and secs. 1078, 2884, and 3116 of the Senate amendment, and modifications committed to conference:

Richard Pombo,
Henry E. Brown, Jr.,

From the Committee on Science, for consideration of sec. 223 of the House bill and secs. 814 and 3115 of the Senate amendment, and modifications committed to conference:

Sherwood Boehlert,
W. Todd Akin,
Bart Gordon,

From the Committee on Small Business, for consideration of sec. 223 of the House bill, and secs. 814, 849–852, 855, and 901 of the Senate amendment, and modifications committed to conference:

Donald A. Manzullo,
Sue W. Kelly,

From the Committee on Transportation and Infrastructure, for consideration of secs. 314, 508, 601, and 1032–1034 of the House bill, and secs. 312, 2890, 2893, and 3116 of the Senate amendment, and modifications committed to conference:

Don Young,
John J. Duncan, Jr.,
John T. Salazar,

From the Committee on Veterans Affairs, for consideration of secs. 641, 678, 714, and 1085 of the Senate amendment, and modifications committed to conference:

Steve Buyer,
Jeff Miller,
Shelley Berkley,

From the Committee on Ways and Means, for consideration of sec. 677 of the Senate amendment, and modifications committed to conference:

William Thomas,
Wally Herger,
Jim McDermott,
Managers on the Part of the House.

John W. Warner,
John McCain,
James M. Inhofe,
Pat Roberts,
Jeff Sessions,
Susan Collins,
John Ensign,
Jim Talent,
Saxby Chambliss,
Lindsey Graham,
Elizabeth Dole,
John Cornyn,
John Thune,
Carl Levin,
Ted Kennedy,
Robert C. Byrd,
Joseph Lieberman,
Jack Reed,
Daniel K. Akaka,
Bill Nelson,
Ben Nelson,
Mark Dayton,
Evan Bayh,
H.R. Clinton,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1815) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SUMMARY STATEMENT OF CONFERENCE ACTIONS

The Conferees recommend authorization of appropriations for fiscal year 2006 for the Department of Defense for procurement; research and development; test and evaluation; operation and maintenance; working capital funds; military construction and family housing; and for weapons and environmental restoration programs of the Department of Energy; that have a budget authority implication of $441.5 billion for the national defense function.

The Conferees recommend the merging authorization of appropriations for the Department of Defense of $50.0 billion for costs associated with ongoing contingency operations in Iraq and Afghanistan; $6.6 billion for costs associated with Hurricane Katrina; $130.0 million for costs associated with Avian Flu; and $40.0 million for costs associated with Pakistan Earthquake relief efforts.

Summary table of authorizations

The defense authorization act provides authorizations for appropriations, but does not generally provide budget authority. Budget authority is provided in the appropriations act.

In order to relate the conference recommendations to the budget resolution, matters in addition to the dollar authorizations contained in this bill must be taken into account. A number of programs in the national defense function are authorized in other legislation.

The following table summarizes authorizations included in the bill for fiscal year 2006 and, in addition, summarizes the implications of the conference action for the budget authority totals for national defense (budget function 050).

SUMMARY OF NATIONAL DEFENSE AUTHORIZATION FOR FY 2006

(Dollars in Thousands)

	Authorization	(Dollars in Thousands) House	Senate	Conference	Conference	Budget Authority Implication			
	Request	Authorized	Authorized	Change	Agreement	Request	House	Senate	Conference
DIVISION A									
Title I – PROCUREMENT									
Aircraft Procurement, Army	2,800,880	2,861,380	2,800,880	-8,300	2,792,580	2,800,880	2,861,380	2,800,880	2,792,580
Missile Procurement, Army	1,270,850	1,242,919	1,265,850	-24,000	1,246,850	1,270,850	1,242,919	1,265,850	1,246,850
Proc of Weapons and Tracked Cbt Veh, Army	1,660,149	1,601,978	1,692,549	-7,200	1,652,949	1,660,149	1,601,978	1,692,549	1,652,949
Procurement of Ammunition, Army	1,720,872	1,750,772	1,830,672	18,000	1,738,872	1,720,872	1,750,772	1,830,672	1,738,872
Other Procurement, Army	4,302,634	4,043,289	4,339,434	26,300	4,328,934	4,302,634	4,043,289	4,339,434	4,328,934
Aircraft Procurement, Navy	10,517,126	10,042,526	9,946,926	-714,000	9,803,126	10,517,126	10,042,526	9,946,926	9,803,126
Weapons Procurement, Navy	2,707,841	2,775,041	2,749,441	30,000	2,737,841	2,707,841	2,775,041	2,749,441	2,737,841
Procurement of Ammunition, Navy and MC	872,849	869,770	892,849	-5,379	867,470	872,849	869,770	892,849	867,470
Shipbuilding and Conversion, Navy	8,721,165	10,779,773	9,057,865	159,458	8,880,623	8,721,165	10,797,773	9,075,865	8,898,623
Other Procurement, Navy	5,487,818	5,634,318	5,596,218	30,469	5,518,287	5,487,818	5,634,318	5,596,218	5,518,287
Procurement, Marine Corps	1,377,705	1,407,605	1,387,705	19,000	1,396,705	1,377,705	1,407,605	1,387,705	1,396,705
Aircraft Procurement, Air Force	11,973,933	12,793,756	13,257,633	888,400	12,862,333	11,973,933	12,793,756	13,257,633	12,862,333
Procurement of Ammunition, Air Force	1,031,207	1,031,207	1,031,207	-10,000	1,021,207	1,031,207	1,031,207	1,031,207	1,021,207
Missile Procurement, Air Force	5,490,287	5,490,287	5,500,287	-95,730	5,394,557	5,490,287	5,490,287	5,500,287	5,394,557
Other Procurement, Air Force	14,002,689	14,068,789	14,027,889	22,000	14,024,689	14,002,689	14,068,789	14,027,889	14,024,689
Procurement, Defense-wide	2,677,832	2,715,446	2,784,832	-30,844	2,646,988	2,677,832	2,715,446	2,784,832	2,646,988
Defense Production Act Purchases						19,573	19,573	19,573	19,573
Total Procurement	**76,615,837**	**79,108,856**	**78,162,237**	**298,174**	**76,914,011**	**76,635,410**	**79,146,429**	**78,199,810**	**76,951,584**
Title II – RESEARCH, DEVELOPMENT, TEST & EVALUATION									
Research, Development, Test & Evaluation, Army	9,733,824	9,774,372	9,739,824	302,180	10,036,004	9,733,824	9,774,372	9,739,824	10,036,004
Research, Development, Test & Evaluation, Navy	18,037,991	18,022,140	18,410,431	543,450	18,581,441	18,037,991	18,022,140	18,410,431	18,581,441
Research, Development, Test & Evaluation, AF	22,612,351	22,418,212	22,653,568	-307,339	22,305,012	22,612,351	22,418,212	22,653,568	22,305,012
Research, Development, Test & Evaluation, Def	18,803,416	19,095,805	18,868,296	305,528	19,108,944	18,803,416	19,095,805	18,868,296	19,108,944
Operational Test & Evaluation, Defense	168,458	168,458	168,458		168,458	168,458	168,458	168,458	168,458
Total RDT&E	**69,356,040**	**69,478,987**	**69,840,577**	**843,819**	**70,199,859**	**69,356,040**	**69,478,987**	**69,840,577**	**70,199,859**

SUMMARY OF NATIONAL DEFENSE AUTHORIZATION FOR FY 2006

(Dollars in Thousands)

	Authorization Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement	Budget Authority Implication Request	House	Senate	Conference
Title III – OPERATION AND MAINTENANCE & OTHER PROGRAMS									
Operation and Maintenance									
Operation and Maintenance, Army	25,316,595	24,383,873	24,890,960	-630,300	24,686,295	25,316,595	24,383,873	24,890,960	24,686,295
Operation and Maintenance, Navy	30,759,889	30,312,736	30,497,489	-221,800	30,538,089	30,759,889	30,312,736	30,497,489	30,538,089
Operation and Maintenance, Marine Corps	3,804,926	3,631,277	3,842,026	4,600	3,809,526	3,804,926	3,631,277	3,842,026	3,809,526
Operation and Maintenance, Air Force	31,521,136	30,559,135	31,370,819	-404,000	31,117,136	31,521,136	30,559,135	31,370,819	31,117,136
Operation and Maintenance, Defense-wide	18,453,469	18,375,781	18,627,569	96,700	18,550,169	18,453,469	18,375,781	18,627,569	18,550,169
Operation and Maintenance, Army Reserve	1,987,382	1,998,282	1,989,542	5,160	1,992,542	1,987,382	1,998,282	1,989,542	1,992,542
Operation and Maintenance, Navy Reserve	1,245,695	1,245,695	1,245,695	-8,400	1,237,295	1,245,695	1,245,695	1,245,695	1,237,295
Operation and Maintenance, Marine Corps Reserve	199,934	207,434	199,934	-1,900	198,034	199,934	207,434	199,934	198,034
Operation and Maintenance, Air Force Reserve	2,501,686	2,501,686	2,559,686	-13,900	2,487,786	2,501,686	2,501,686	2,559,686	2,487,786
Operation and Maintenance, Army National Guard	4,509,719	4,521,119	4,528,019	-31,400	4,478,319	4,509,719	4,521,119	4,528,019	4,478,319
Operation and Maintenance, Air National Guard	4,724,091	4,727,091	4,772,991	-22,100	4,701,991	4,724,091	4,727,091	4,772,991	4,701,991
Transfer Accounts	1,369,689	1,369,689	1,409,689	40,000	1,409,689	1,369,689	1,369,689	1,409,689	1,409,689
Miscellaneous Appropriations	508,331	508,331	508,331		508,331	508,331	508,331	508,331	508,331
Subtotal Operation and Maintenance	**126,902,542**	**124,342,129**	**126,442,750**	**-1,187,340**	**125,715,202**	**126,902,542**	**124,342,129**	**126,442,750**	**125,715,202**
Other Programs									
Drug Interdiction and Counter-Drug Activities, Def	895,741	895,741	895,741	6,000	901,741	895,741	895,741	895,741	901,741
Defense Health Program	19,791,612	19,756,194	19,900,812	100,982	19,892,594	19,791,612	19,756,194	19,900,812	19,892,594
Office of the Inspector General	209,687	174,487	209,687		209,687	209,687	174,487	209,687	209,687
Chemical Agents and Munitions Destruction, Army	1,405,827	1,395,827	1,425,827	20,000	1,425,827	1,405,827	1,395,827	1,425,827	1,425,827
Subtotal Other Programs	**22,302,867**	**22,222,249**	**22,432,067**	**126,982**	**22,429,849**	**22,302,867**	**22,222,249**	**22,432,067**	**22,429,849**

SUMMARY OF NATIONAL DEFENSE AUTHORIZATION FOR FY 2006

(Dollars in Thousands)

	Authorization Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement	Budget Authority Implication Request	House	Senate	Conference
Revolving and Management Funds									
Def Working Capital Funds (A, N, AF, Def-wide)	316,340	316,340	316,340		316,340	316,340	316,340	316,340	316,340
Defense Working Capital Funds - DeCA	1,155,000	1,155,000	1,155,000		1,155,000	1,155,000	1,155,000	1,155,000	1,155,000
National Defense Sealift Fund	1,648,504	1,697,023	1,011,304	9,213	1,657,717	1,648,504	1,697,023	1,011,304	1,657,717
Subtotal Revolving and Mgt Funds	**3,119,844**	**3,168,363**	**2,482,644**	**9,213**	**3,129,057**	**3,119,844**	**3,168,363**	**2,482,644**	**3,129,057**
Total O&M & Other Programs	**152,325,253**	**149,732,741**	**151,357,461**	**-1,051,145**	**151,274,108**	**152,325,253**	**149,732,741**	**151,357,461**	**151,274,108**
MILITARY PERSONNEL	**108,942,746**	**108,824,292**	**109,179,601**		**108,942,746**	**108,942,746**	**108,824,292**	**109,179,601**	**108,942,746**
Title X – GENERAL PROVISIONS									
General Transfer Authority (non-additive)	[4,000,000]	[4,000,000]	[3,500,000]	[-500,000]	[3,500,000]				
Inflation Savings			-1,300,000					-1,300,000	
Subtotal General Provisions			**-1,300,000**					**-1,300,000**	
DIVISION B									
MILITARY CONSTRUCTION									
Military Construction, Army	1,479,841	1,601,771	1,605,913	295,419	1,775,260	1,479,841	1,601,771	1,605,913	1,775,260
Military Construction, Navy	1,029,249	1,109,177	1,101,266	127,892	1,157,141	1,029,249	1,109,177	1,101,266	1,157,141
Military Construction, Air Force	1,069,640	1,171,338	1,198,321	218,890	1,288,530	1,069,640	1,171,338	1,198,321	1,288,530
Military Construction, Defense-wide	1,042,730	976,664	1,042,730	-33,875	1,008,855	1,042,730	976,664	1,042,730	1,008,855
NATO Security Investment Program	206,858	206,858	206,858		206,858	206,858	206,858	206,858	206,858
Base Realignment and Closure Account IV	377,827	377,827	377,827	-123,000	254,827	377,827	377,827	377,827	254,827
Base Realignment and Closure Account 2005	1,880,466	1,570,466	1,504,466	-376,000	1,504,466	1,880,466	1,570,466	1,504,466	1,504,466

SUMMARY OF NATIONAL DEFENSE AUTHORIZATION FOR FY 2006

(Dollars in Thousands)

	Authorization Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement	Budget Authority Implication			
						Request	House	Senate	Conference
Military Construction, Army National Guard	327,012	410,624	449,600	196,139	523,151	327,012	410,624	449,600	523,151
Military Construction, Air National Guard	165,256	225,727	262,461	150,861	316,117	165,256	225,727	262,461	316,117
Military Construction, Army Reserve	106,077	138,425	121,077	46,492	152,569	106,077	138,425	121,077	152,569
Military Construction, Naval and MC Reserve	45,226	45,226	50,226	1,638	46,864	45,226	45,226	50,226	46,864
Military Construction, Air Force Reserve	79,260	110,847	79,260	26,623	105,883	79,260	110,847	79,260	105,883
Military Construction, Foreign Currency Fluctuations							65,000	65,000	
Subtotal Military Construction	**7,809,442**	**7,944,950**	**8,000,005**	**531,079**	**8,340,521**	**7,809,442**	**8,009,950**	**8,065,005**	**8,340,521**
FAMILY HOUSING									
Family Housing Construction, Army	549,636	549,636	549,636		549,636	549,636	549,636	549,636	549,636
Family Housing Support, Army	812,993	803,993	812,993	-9,000	803,993	812,993	803,993	812,993	803,993
Family Housing Construction, Navy and MC	218,942	218,942	222,139		218,942	218,942	218,942	222,139	218,942
Family Housing Support, Navy and Marine Corps	593,660	588,660	593,660	-5,000	588,660	593,660	588,660	593,660	588,660
Family Housing Construction, Air Force	1,251,108	1,236,220	1,251,108	-149,221	1,101,887	1,251,108	1,236,220	1,251,108	1,101,887
Family Housing Support, Air Force	766,939	755,319	658,453		766,939	766,939	755,319	658,453	766,939
Family Housing Construction, Defense-wide									
Family Housing Support, Defense-wide	46,391	46,391	46,391		46,391	46,391	46,391	46,391	46,391
DoD Family Housing Improvement Fund	2,500	2,500	2,500		2,500	2,500	2,500	2,500	2,500
Subtotal Family Housing	**4,242,169**	**4,201,661**	**4,136,880**	**-163,221**	**4,078,948**	**4,242,169**	**4,201,661**	**4,136,880**	**4,078,948**
Prior Year Rescissions			-92,354	-252,858	-252,858			-92,354	-252,858
Total Mil Con and Fam Housing	**12,051,611**	**12,146,611**	**12,044,531**	**115,000**	**12,166,611**	**12,051,611**	**12,211,611**	**12,109,531**	**12,166,611**

SUMMARY OF NATIONAL DEFENSE AUTHORIZATION FOR FY 2006

(Dollars in Thousands)

	Authorization Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement	Budget Authority Implication			
						Request	House	Senate	Conference
OTHER DoD MILITARY (Discretionary)									
Receipts from Travel and Purchase Card Refunds							45,000	45,000	45,000
Armed Forces Retirement Home Fund	58,281	58,281	58,281		58,281				
Disposal of DoD Real Property						15,000	15,000	15,000	15,000
Lease of DoD Real Property						12,000	12,000	12,000	12,000
Overseas Facility Investment Recovery						1,000			
Total Other DoD Military Disc	**58,281**	**58,281**	**58,281**		**58,281**	**28,000**	**72,000**	**72,000**	**72,000**
Prior Year Rescissions in Procurement and RTD&E									**-120,609**
Subfunction (051) Department of Defense Disc	**419,349,768**	**419,349,768**	**419,342,688**	**205,848**	**419,555,616**	**419,339,060**	**419,466,060**	**419,458,980**	**419,486,299**
OTHER DoD MILITARY (Mandatory)									
Concurrent Receipt Accrual Payments to the Military Retirement Fund						2,343,000	2,343,000	2,343,000	2,343,000
Offsetting Receipts and Other						-1,358,000	-1,165,000	-1,165,000	-1,165,000
Revolving, Trust, and Other DoD Mandatory						792,000	748,000	748,000	748,000
Sale of Certain Materials in the National Defense Stockpile Transaction Fund							-100,000	-100,000	-100,000
Reimbursement for Protective Equipment for Troops in Iraq and Afghanistan								7,000	
Retroactive Increase in Death Gratuity								250,000	
Retroactive Increase in Death Gratuity for Noncombatants								370,000	
Expanded Authority for Lease-Purchase Agreements								60,000	
Eliminate DIC Offset Against SBP								443,000	
Paid-Up SBP								245,000	
Concurrent Receipt for Disabled Veterans								495,000	
Reimbursement for Fire Protection Activities								6,000	
Early Retirement for Reservists								40,000	
Voluntary Separation and Involuntary Retirement								1,000	
Share-In-Savings Contracts								15,000	
Additional National Defense Stockpile Sales								-12,000	-12,000

SUMMARY OF NATIONAL DEFENSE AUTHORIZATION FOR FY 2006

(Dollars in Thousands)

	Authorization Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement	Budget Authority Implication			
						Request	House	Senate	Conference
National Defense Stockpile Tungsten Sales								-14,000	-14,000
Commeration of OIF/OEF								2,000	2,000
Dry-Dock Sales								-1,000	-2,000
Increasing Elegibility for TRICARE Reserve Select									1,000
Expansion of Authority to Exchange Property							12,000		
Revision of Authority to Dispose of Certain Materials							-12,000		
Total Other DoD Military Mandatory						**1,777,000**	**1,826,000**	**3,733,000**	**1,801,000**
Subfunction (051) DOD Mandatory						**1,777,000**	**1,826,000**	**3,733,000**	**1,801,000**
SUBFUNCTION (051) TOTAL DOD MIL	419,349,768	419,349,768	419,342,688	205,848	419,555,616	421,116,060	421,292,060	423,191,980	421,287,299
DIVISION C									
ATOMIC ENERGY DEFENSE ACTIVITIES (053)									
Energy Supply	12,000	12,000			12,000	12,000	12,000		12,000
Weapons Activities	6,630,133	6,455,744	6,590,319	-196,197	6,433,936	6,630,133	6,455,744	6,590,319	6,433,936
Defense Nuclear Nonproliferation	1,637,239	1,515,239	1,637,239	-6,088	1,631,151	1,637,239	1,515,239	1,637,239	1,631,151
Naval Reactors	786,000	786,000	786,000	3,500	789,500	786,000	786,000	786,000	789,500
Office of the Administrator	343,869	343,869	343,869	-2,000	341,869	343,869	343,869	343,869	341,869
Subtotal National Nuclear Security Admin	**9,397,241**	**9,100,852**	**9,357,427**	**-200,785**	**9,196,456**	**9,397,241**	**9,100,852**	**9,357,427**	**9,196,456**
Defense Site Acceleration Completion	5,183,713	5,480,102	5,335,849			5,183,713	5,480,102	5,335,849	
Defense Environmental Services	831,331	831,331	853,584			831,331	831,331	853,584	
Defense Environmental Cleanup				177,327	6,192,371				6,192,371
Other Defense Activities	635,998	635,998	563,423	6,000	641,998	635,998	635,998	563,423	641,998
Defense Nuclear Waste Disposal	351,447	351,447	301,447	-1,447	350,000	351,447	351,447	301,447	350,000
Subtotal Environ & Other Def Activities	**7,002,489**	**7,298,878**	**7,054,303**	**181,880**	**7,184,369**	**7,002,489**	**7,298,878**	**7,054,303**	**7,184,369**
Subtotal Department of Energy	**16,411,730**	**16,411,730**	**16,411,730**	**-18,905**	**16,392,825**	**16,411,730**	**16,411,730**	**16,411,730**	**16,392,825**

SUMMARY OF NATIONAL DEFENSE AUTHORIZATION FOR FY 2006

(Dollars in Thousands)

	Authorization Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement	Budget Authority Implication Request	House	Senate	Conference
OTHER ATOMIC ENERGY DEFENSE ACTIVITIES (Discretionary)									
Defense Nuclear Facilities Safety Board	22,032	22,032	22,032		22,032	22,032	22,032	22,032	22,032
Corps of Engineers - Civil Works						140,000	140,000	140,000	140,000
Total Other Atomic Energy Def Disc	**22,032**	**22,032**	**22,032**		**22,032**	**162,032**	**162,032**	**162,032**	**162,032**
Subfunction (053) Atomic Energy Def Disc	**16,433,762**	**16,433,762**	**16,433,762**	**-18,905**	**16,414,857**	**16,573,762**	**16,573,762**	**16,573,762**	**16,554,857**
OTHER ATOMIC ENERGY DEFENSE ACTIVITIES (Mandatory)									
Energy Employees Occupational Illness Compensation Program						916,000	453,000	453,000	453,000
Subfunction (053) Other Atomic Energy Def Mand						**916,000**	**453,000**	**453,000**	**453,000**
SUBFUNCTION (053) ATOMIC ENERGY	**16,433,762**	**16,433,762**	**16,433,762**	**-18,905**	**16,414,857**	**17,489,762**	**17,026,762**	**17,026,762**	**17,007,857**
DEFENSE RELATED ACTIVITIES (054)									
Department of Homeland Security						727,000	727,000	727,000	727,000
Department of Justice Salaries and Expenses						1,600,000	1,600,000	1,600,000	1,600,000
General Administration Salaries and Expenses						17,000	17,000	17,000	17,000
Department of Trans - MARAD Maritime Security Program						156,000	156,000	156,000	156,000
Intelligence Community Management Account						337,844	337,844	337,844	337,844
National Science Foundation - Antarctic Research Activities						68,000	68,000	68,000	68,000
Selective Service System - Salaries and Expenses						26,000	26,000	26,000	26,000
Subfunction (054) Defense Related Activities Disc						**2,931,844**	**2,931,844**	**2,931,844**	**2,931,844**

SUMMARY OF NATIONAL DEFENSE AUTHORIZATION FOR FY 2006

(Dollars in Thousands)

	Authorization	House	Senate	Conference	Conference	Budget Authority Implication			
	Request	Authorized	Authorized	Change	Agreement	Request	House	Senate	Conference
OTHER DEFENSE RELATED ACTIVITIES (Mandatory)									
CIA Retirement & Disability						244,600	244,600	244,600	244,600
Radiation Exposure Compensation Trust Fund						43,000	65,000	65,000	65,000
FBI Offsetting Receipts									
Subfunction (054) Defense Related Activities Mand						287,600	309,600	309,600	309,600
SUBFUNCTION (054) TOTAL DEFENSE-RELATED ACTIVITIES						3,219,444	3,241,444	3,241,444	3,241,444
Total National Def Funct (050) Disc	435,783,530	435,783,530	435,776,450	186,943	435,970,473	438,844,666	438,971,666	438,964,586	438,973,000
Total National Def Funct (050) Mand						2,980,600	2,588,600	4,495,600	2,563,600
TOTAL NATIONAL DEF FUNCT (050)	435,783,530	435,783,530	435,776,450	186,943	435,970,473	441,825,266	441,560,266	443,460,186	441,536,600
Title XV: OIF/OEF 2006 Emergency Supplemental		49,000,000	50,000,000		50,000,000		49,000,000	50,000,000	50,000,000
Hurricane Katrina Emergency Supplemental					6,604,500				6,604,500
Avian Flu Emergency Supplemental					130,000				130,000
Addtl Funding for Pakistan Earthquake Relief Efforts (S. Amdt)			40,000		40,000			40,000	40,000

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Procurement overview

The budget request for fiscal year 2006 included an authorization of $76,914.8 million in Procurement for the Department of Defense.

The House bill would authorize $79,108.9 million.

The Senate amendment would authorize $78,162.2 million.

The conferees recommend an authorization of $76,914.0 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

NATIONAL DEFENSE AUTHORIZATION FOR FISCAL YEAR 2006

(Dollars in Thousands)

Title I – PROCUREMENT	Authorization Request	House Authorization	Senate Authorization	Conference Change	Conference Authorization
Aircraft Procurement, Army	2,800,880	2,861,380	2,800,880	-8,300	2,792,580
Missile Procurement, Army	1,270,850	1,242,919	1,265,850	-24,000	1,246,850
Procurement of W&TCV, Army	1,660,149	1,601,978	1,692,549	-7,200	1,652,949
Procurement of Ammunition, Army	1,720,872	1,750,772	1,830,672	18,000	1,738,872
Other Procurement, Army	4,302,634	4,043,289	4,339,434	26,300	4,328,934
Aircraft Procurement, Navy	10,517,126	10,042,526	9,946,926	-714,000	9,803,126
Weapons Procurement, Navy	2,707,841	2,775,041	2,749,441	30,000	2,737,841
Procurement of Ammunition, Navy & Marine Corps	872,849	869,770	892,849	-5,379	867,470
Shipbuilding and Conversion, Navy	8,721,165	10,779,773	9,057,865	159,458	8,880,623
Other Procurement, Navy	5,487,818	5,634,318	5,596,218	30,469	5,518,287
Procurement, Marine Corps	1,377,705	1,407,605	1,387,705	19,000	1,396,705
Aircraft Procurement, Air Force	11,973,933	12,793,756	13,257,633	888,400	12,862,333
Procurement of Ammunition, Air Force	1,031,207	1,031,207	1,031,207	-10,000	1,021,207
Missile Procurement, Air Force	5,490,287	5,490,287	5,500,287	-95,730	5,394,557
Other Procurement, Air Force	14,002,689	14,068,789	14,027,889	22,000	14,024,689
Procurement, Defense-Wide	2,677,832	2,715,446	2,784,832	-30,844	2,646,988
National Guard and Reserve Equipment					
Defense Production Act Purchases					
TOTAL PROCUREMENT	76,615,837	79,108,856	78,162,237	298,174	76,914,011

Aircraft procurement, Army overview

The budget request for fiscal year 2006 included an authorization of $2,800.9 million in Aircraft Procurement, Army for the Department of Defense.

The House bill would authorize $2,861.4 million.

The Senate amendment would authorize $2,800.9 million.

The conferees recommend an authorization of $2,792.6 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Aircraft Procurement, Army										
	Aircraft										
	Fixed Wing										
1	UTILITY F/W CARGO AIRCRAFT		4,926		4,926		4,926				4,926
2	UTILITY F/W AIRCRAFT										
	Rotary Wing										
3	ARMED RECONNAISSANCE HELICOPTER		70,000		70,000		70,000				70,000
4	HELICOPTER, LIGHT UTILITY (LUH)		108,000		108,000		108,000				108,000
5	UH-60 BLACKHAWK (MYP)	41	562,160	46	635,660	41	562,160			41	562,160
	HH-60L - ARNG			[5]	[73,500]						
	Additional UH-60s (S. Amdt)						[20,300]				
	Medevac kits (S. Amdt)						[-20,300]				
5	LESS: ADVANCE PROCUREMENT (PY)		-56,510		-56,510		-56,510				-56,510
6	ADVANCE PROCUREMENT (CY)		79,052		79,052		79,052				79,052
7	HELICOPTER NEW TRAINING										
	Modification of Aircraft										
8	GUARDRAIL MODS (TIARA)										
9	ARL MODS (TIARA)										
10	AH-64 MODS		580,392		586,392		580,392		4,000		584,392
	Modem signal processing unit				[6,000]				[4,000]		
11	ADVANCE PROCUREMENT (CY)		19,000		19,000		19,000				19,000
12	CH-47 CARGO HELICOPTER MODS		675,065		675,065		675,065				675,065
12	LESS: ADVANCE PROCUREMENT (PY)		-23,722		-23,722		-23,722				-23,722
13	ADVANCE PROCUREMENT (CY)		24,689		24,689		24,689				24,689
14	UTILITY/CARGO AIRPLANE MODS		13,575		13,575		13,575				13,575
15	OH-58 MODS										
16	AIRCRAFT LONG RANGE MODS		779		779		779				779
17	LONGBOW		84,513		84,513		84,513				84,513
17	LESS: ADVANCE PROCUREMENT (PY)										

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
18	ADVANCE PROCUREMENT (CY)										
19	UH-60 MODS		33,294		33,294		33,294				33,294
19	LESS: ADVANCE PROCUREMENT (PY)										
20	ADVANCE PROCUREMENT (CY)										
21	KIOWA WARRIOR		24,478		24,478		24,478				24,478
22	AIRBORNE AVIONICS		106,124		83,124		106,124		-12,300		93,824
	JTRS program reduction				[-23,000]				[-12,300]		
23	GATM ROLLUP		31,542		31,542		31,542				31,542
24	AIRBORNE DIGITIZATION										
	Spares and Repair Parts										
25	SPARE PARTS (AIR)		3,948		3,948		3,948				3,948
	Support Equipment and Facilities										
	Ground Support Avionics										
26	AIRCRAFT SURVIVABILITY EQUIPMENT		11,200		11,200		11,200				11,200
27	ASE INFRARED CM		211,151		211,151		211,151				211,151
	Other Support										
28	AIRBORNE COMMAND & CONTROL		28,055		28,055		28,055				28,055
29	AVIONICS SUPPORT EQUIPMENT		3,418		3,418		3,418				3,418
30	COMMON GROUND EQUIPMENT		70,436		70,436		70,436				70,436
31	AIRCREW INTEGRATED SYSTEMS		29,352		33,352		29,352				29,352
	Aircraft wireless intercom				[4,000]						
32	AIR TRAFFIC CONTROL		62,399		62,399		62,399				62,399
33	INDUSTRIAL FACILITIES		41,222		41,222		41,222				41,222
34	LAUNCHER, 2.75 ROCKET		2,342		2,342		2,342				2,342
35	AIRBORNE COMMUNICATIONS										
	Total - Aircraft Procurement, Army		**2,800,880**		**2,861,380**		**2,800,880**		**-8,300**		**2,792,580**

Missile procurement, Army overview

The budget request for fiscal year 2006 included an authorization of $1,270.9 million in Missile Procurement, Army for the Department of Defense.

The House bill would authorize $1,242.9 million.

The Senate amendment would authorize $1,265.9 million.

The conferees recommend an authorization of $1,246.9 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2006 Request		House Authorized		Senate Authorized		Conference Change		Conference Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Missile Procurement, Army										
	Other Missiles										
	Surface-to-air Missile System										
1	PATRIOT SYSTEM SUMMARY	108	489,700	108	489,700	108	489,700			108	489,700
2	STINGER SYSTEM SUMMARY										
3	SURFACE-LAUNCHED AMRAAM SYSTEM SUM		19,315		19,315		19,315				19,315
	Air-to-surface Missile System										
4	HELLFIRE SYS SUMMARY		80,073		80,073		80,073				80,073
5	APKWS (ADVANCED PRECISION KILL WEAPON	600	34,055	600	6,124	465	29,055	-600	-24,000		10,055
	Program reduction				[-27,931]	[-135]	[-5,000]		[-24,000]		
5	LESS: ADVANCE PROCUREMENT (PY)		-6,124		-6,124		-6,124				-6,124
6	ADVANCE PROCUREMENT (CY)										
	Anti-tank/Assault Missile System										
7	JAVELIN (AAWS-M) SYSTEM SUMMARY	300	57,636	300	57,636	300	57,636			300	57,636
7	LESS: ADVANCE PROCUREMENT (PY)										
8	ADVANCE PROCUREMENT (CY)										
9	LINE OF SIGHT ANTI-TANK (LOSAT) SYSTEM S										
10	TOW 2 SYSTEM SUMMARY	800	44,002	800	44,002	800	44,002			800	44,002
10	LESS: ADVANCE PROCUREMENT (PY)		-16,795		-16,795		-16,795				-16,795
11	ADVANCE PROCUREMENT (CY)		18,900		18,900		18,900				18,900
12	GUIDED MLRS ROCKET (GMLRS)	1,026	124,814	1,026	124,814	1,026	124,814			1,026	124,814
13	MLRS REDUCED RANGE PRACTICE ROCKETS (	900	7,726	900	7,726	900	7,726			900	7,726
14	MLRS LAUNCHER SYSTEMS		20,787		20,787		20,787				20,787
15	HIGH MOBILITY ARTILLERY ROCKET SYSTEM	35	174,929	35	174,929	35	174,929			35	174,929
16	ARMY TACTICAL MSL SYS (ATACMS) - SYS SU	45	58,458	45	58,458	45	58,458			45	58,458
	Modification of Missiles										
	Modifications										
17	PATRIOT MODS		77,411		77,411		77,411				77,411

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
18	STINGER MODS										
19	JAVELIN MISSILE MODS		14,007		14,007		14,007				14,007
20	ITAS/TOW MODS		9,587		9,587		9,587				9,587
21	MLRS MODS		14,579		14,579		14,579				14,579
22	HIMARS MODIFICATIONS: (NON AAO)		8,001		8,001		8,001				8,001
23	HELLFIRE MODIFICATIONS										
	Spares and Repair Parts										
24	SPARES AND REPAIR PARTS		30,142		30,142		30,142				30,142
	Support Equipment and Facilities										
25	AIR DEFENSE TARGETS		6,156		6,156		6,156				6,156
26	ITEMS LESS THAN $5.0M (MISSILES)		10		10		10				10
27	PRODUCTION BASE SUPPORT		3,481		3,481		3,481				3,481
28	CLOSED ACCOUNT ADJUSTMENTS										
	Total - Missile Procurement Army		**1,270,850**		**1,242,919**		**1,265,850**	**-600**	**-24,000**		**1,246,850**

Procurement of weapons and tracked combat vehicles, Army overview

The budget request for fiscal year 2006 included an authorization of $1,660.1 million in Procurement of Weapons and Tracked Combat Vehicles, Army for the Department of Defense.

The House bill would authorize $1,602.0 million.

The Senate amendment would authorize $1,692.5 million.

The conferees recommend an authorization of $1,652.9 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement of Weapons and Tracked Combat Veh										
	Tracked Combat Vehicles										
1	ABRAMS TRNG DEV MOD		3,754		3,754		3,754				3,754
2	BRADLEY BASE SUSTAINMENT		37,908		37,908		37,908				37,908
2	LESS: ADVANCE PROCUREMENT (PY)										
3	BRADLEY FVS TRAINING DEVICES (MOD)		5,679		21,679		5,679		3,000		8,679
	Full-crew interactive skills trainer (AB-FIST) - ARNG				[16,000]				[3,000]		
4	ABRAMS TANK TRAINING DEVICES		3,709		3,709		3,709				3,709
5	STRYKER	240	878,449	240	893,449	240	878,449			240	878,449
	Tire production - second source qualification				[15,000]						
	Modification of Tracked Combat Vehicles										
6	CARRIER, MOD										
7	FIST VEHICLE (MOD)										
8	MOD OF IN-SVC EQUIP, FIST VEHICLE										
9	BFVS SERIES (MOD)		45,265		45,265		45,265				45,265
10	HOWITZER, MED SP FT 155MM M109A6 (MOD)		14,801		14,801		14,801				14,801
11	FAASV PIP TO FLEET		6,439		6,439		6,439				6,439
12	M1 ABRAMS TANK (MOD)		443,475		443,475		443,475				443,475
13	SYSTEM ENHANCEMENT PGM: SEP M1A2										
14	ABRAMS UPGRADE PROGRAM										
	Support Equipment and Facilities										
15	ITEMS LESS THAN $5.0M (TCV-WTCV)		407		407		407				407
16	PRODUCTION BASE SUPPORT (TCV-WTCV)		10,258		10,258		10,258				10,258
	Weapons and Other Combat Vehicles										
17	INTEGRATED AIR BURST WEAPON SYSTEM FA)		32,484		32,484		32,484		-10,200		22,284
	Buying ahead of need								[-10,200]		

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
18	ARMOR MACHINE GUN, 7.62MM M240 SERIES	1,197	14,148			1,197	14,148			1,197	14,148
	Transfer to Title XV			[-1,197]	[-14,148]						
19	MACHINE GUN, 5.56MM (SAW)		80		80		80				80
20	GRENADE LAUNCHER, AUTO, 40MM, MK19-3	352	8,715	352	8,715	352	8,715			352	8,715
21	MORTAR SYSTEMS		200		200		200				200
22	M16 RIFLE	14,500	8,000	14,500	8,000	14,500	8,000			14,500	8,000
23	M107, CAL. 50, SNIPER RIFLE	600	9,656			600	9,656			600	9,656
	Transfer to Title XV			[-600]	[-9,656]						
24	5.56 CARBINE M4	2,106	3,215			2,106	3,215			2,106	3,215
	Transfer to Title XV			[-2,106]	[-3,215]						
25	COMMON REMOTELY OPERATED WEAPONS ST										
26	HOWITZER LT WT 155MM (T)	23	46,786	23	46,786	23	79,186			23	46,786
	Additional M777 LW-155						[32,400]				
	Modification of Weapons and Other Combat Vehicl										
27	MARK-19 MODIFICATIONS		5,444		5,444		5,444				5,444
28	M4 CARBINE MODS		44,817				44,817				44,817
	Transfer to Title XV				[-44,817]						
29	SQUAD AUTOMATIC WEAPON (MOD)		3,095				3,095				3,095
	Transfer to Title XV				[-3,095]						
30	MEDIUM MACHINE GUNS (MODS)		7,089				7,089				7,089
	Transfer to Title XV				[-7,089]						
31	HOWITZER, TOWED, 155MM, M198 (MODS)										
32	M119 MODIFICATIONS		1,000		1,000		1,000				1,000
33	M16 RIFLE MODS		1,970				1,970				1,970
	Transfer to Title XV				[-1,970]						
34	MODIFICATIONS LESS THAN $5.0M (WOCV-WT(		5,146		5,146		5,146				5,146
	Support Equipment and Facilities										
35	ITEMS LESS THAN $5.0M (WOCV-WTCV)		488		488		488				488

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
36	PRODUCTION BASE SUPPORT (WOCV-WTCV)		6,494		6,494		6,494				6,494
37	INDUSTRIAL PREPAREDNESS		2,655		2,655		2,655				2,655
38	SMALL ARMS EQUIPMENT (SOLDIER ENH PRO(		5,181				5,181				5,181
	Transfer to Title XV				[-5,181]						
39	REF SMALL ARMS										
	Spares										
40	SPARES AND REPAIR PARTS (WTCV)		3,342		3,342		3,342				3,342
	Total - Procurement of WTCV, Army		1,660,149		1,601,978		1,692,549		-7,200		1,652,949

Procurement of ammunition, Army overview

The budget request for fiscal year 2006 included an authorization of $1,720.9 million in Procurement of Ammunition, Army for the Department of Defense.

The House bill would authorize $1,750.8 million.

The Senate amendment would authorize $1,830.7 million.

The conferees recommend an authorization of $1,738.9 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement of Ammunition, Army										
	Ammunition										
	Small/Medium Caliber Ammunition										
1	CTG, 5.56MM, ALL TYPES		142,363		142,363		142,363				142,363
2	CTG, 7.62MM, ALL TYPES		75,290		75,290		75,290				75,290
3	CTG, 9MM, ALL TYPES		4,018		4,018		4,018				4,018
4	CTG, .50 CAL, ALL TYPES		110,043		110,043		110,043				110,043
5	CTG, 25MM, ALL TYPES		30,965		30,965		30,965				30,965
6	CTG, 30MM, ALL TYPES		17,618		17,618		17,618				17,618
7	CTG, 40MM, ALL TYPES		142,594		142,594		142,594				142,594
	Mortar Ammunition										
8	60MM MORTAR, ALL TYPES		14,355		14,355		14,355				14,355
9	81MM MORTAR, ALL TYPES		85,250		85,250		85,250				85,250
10	CTG, MORTAR, 120MM, ALL TYPES		62,918		62,918		62,918				62,918
	Tank Ammunition										
11	CTG TANK 105MM: ALL TYPES		29,421		29,421		29,421				29,421
12	120MM TANK TRAINING, ALL TYPES		145,094		145,094		145,094				145,094
13	CTG, TANK, 120MM TACTICAL, ALL TYPES		52,724		52,724		58,224		1,000		53,724
	M1028 120mm tank cartridge						[5,500]		[1,000]		
	Artillery Ammunition										
14	CTG, ARTY, 75MM: ALL TYPES		2,246		2,246		2,246				2,246
15	CTG, ARTY, 105MM: ALL TYPES		41,873		41,873		41,873				41,873
16	CTG, ARTY, 155MM, ALL TYPES		124,565		124,565		124,565				124,565
17	PROJ 155MM EXTENDED RANGE XM982		25,098		25,098		25,098				25,098
18	MODULAR ARTILLERY CHARGE SYSTEM (MACS), ALL		67,966		67,966		67,966				67,966
	Artillery Fuzes										
19	ARTILLERY FUZES, ALL TYPES		22,926		22,926		22,926				22,926

Title I - Procurement

(Dollars in Thousands)

		FY 2006 Request		House Authorized		Senate Authorized		Conference Change		Conference Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Mines										
20	MINE, TRAINING, ALL TYPES		230		230		230				230
21	MINES (CONVENTIONAL), ALL TYPES		4,009		4,009		4,009				4,009
22	MINE, CLEARING CHARGE, ALL TYPES		4,646		4,646		4,646				4,646
23	ANTIPERSONNEL LANDMINE ALTERNATIVES		27,876		27,876		27,876				27,876
	Rockets										
24	SHOULDER FIRED ROCKETS, ALL TYPES		7,810		7,810		7,810				7,810
25	ROCKET, HYDRA 70, ALL TYPES		156,879		156,879		156,879				156,879
	Other Ammunition										
26	DEMOLITION MUNITIONS, ALL TYPES		29,719		34,619		34,619		3,000		32,719
	Rapid wall breaching kit				[3,000]		[3,000]		[3,000]		
	Modern demolition initiator						[1,900]				
	M19				[1,900]						
27	GRENADES, ALL TYPES		53,107		53,107		53,107				53,107
28	SIGNALS, ALL TYPES		26,648		26,648		26,648				26,648
29	SIMULATORS, ALL TYPES		10,415		10,415		10,415				10,415
	Miscellaneous										
30	AMMO COMPONENTS, ALL TYPES		8,796		8,796		8,796				8,796
31	NON-LETHAL AMMUNITION, ALL TYPES		18,784		18,784		18,784				18,784
32	CAD/PAD ALL TYPES		2,598		2,598		2,598				2,598
33	ITEMS LESS THAN $5 MILLION		5,503		5,503		5,503				5,503
34	AMMUNITION PECULIAR EQUIPMENT		12,765		20,765		20,765		6,600		19,365
	Ammunition peculiar equipment outloading modules						[8,000]		[3,600]		
	MCAAP outloading module				[8,000]				[3,000]		
35	FIRST DESTINATION TRANSPORTATION (AMM		9,101		9,101		9,101				9,101
36	CLOSEOUT LIABILITIES		100		100		100				100

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Ammunition Production Base Support										
	Production Base Support										
37	PROVISION OF INDUSTRIAL FACILITIES		33,532		43,532		115,932		5,400		38,932
	HMX/RDX nitrate explosive formulation capabilities						[10,000]				
	Insensitive munitions load assembly and pack						[10,000]				
	Small-caliber production facility modernization						[22,400]				
	Acid concentration and nitrocellulose production						[40,000]				
	Flexible LAP				[10,000]				[5,400]		
38	LAYAWAY OF INDUSTRIAL FACILITIES		348		5,348		348				348
	Lake City AAP				[5,000]						
39	MAINTENANCE OF INACTIVE FACILITIES		5,001		5,001		5,001				5,001
40	CONVENTIONAL MUNITIONS DEMILITARIZATI		102,933		104,933		111,933		2,000		104,933
	Missile recycling center energetics processing module						[10,000]		[2,000]		
	Missile recycling center (S. Amdt)						[-1,000]				
	Energetics processing module				[2,000]						
41	ARMS INITIATIVE		2,745		2,745		2,745				2,745
	Total - Procurement of Ammunition, Army		**1,720,872**		**1,750,772**		**1,830,672**		**18,000**		**1,738,872**

Other Procurement, Army overview

The budget request for fiscal year 2006 included an authorization of $4,302.6 million in Other Procurement, Army for the Department of Defense.

The House bill would authorize $4,043.3 million.

The Senate amendment would authorize $4,339.4 million.

The conferees recommend an authorization of $4,328.9 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Procurement, Army										
	Tactical and Support Vehicles										
	Tactical Vehicles										
1	TACTICAL TRAILERS/DOLLY SETS		15,867		15,867		15,867				15,867
2	SEMITRAILERS, FLATBED		6,049		6,049		6,049				6,049
3	SEMITRAILERS, TANKERS		6,287		6,287		6,287				6,287
4	HI MOB MULTI-PURP WHLD VEH (HMMWV)		224,222		224,222		224,222				224,222
5	TRUCK, DUMP, 20T (CCE)										
6	FAMILY OF MEDIUM TACTICAL VEH (FMTV)		449,601		449,601		449,601				449,601
7	FIRETRUCKS & ASSOCIATED FIREFIGHTING EQ		7,523		7,523		7,523				7,523
8	FAMILY OF HEAVY TACTICAL VEHICLES (FHT\		207,096		216,096		208,696		6,600		213,696
	Movement tracking system						[1,600]		[1,600]		
	HEMTT LET				[9,000]				[5,000]		
9	ARMORED SECURITY VEHICLES (ASV)										
10	MINE PROTECTION VEHICLE FAMILY										
11	TRUCK, TRACTOR, LINE HAUL, M915/M916		17,063		17,063		17,063				17,063
12	TRUCK, TRACTOR, YARD TYPE, M878 (C/S)										
13	HVY EXPANDED MOBILE TACTICAL TRUCK EX		40,710				40,710				40,710
	Transfer to Title XV				[-40,710]						
14	HMMWV RECAPITALIZATION PROGRAM		32,800				32,800				32,800
	Transfer to Title XV				[-32,800]						
15	MODIFICATION OF IN SVC EQUIP		11,659		11,659		11,659				11,659
16	ITEMS LESS THAN $5.0M (TAC VEH)		378		378		378				378
17	TOWING DEVICE-FIFTH WHEEL		1,950		1,950		1,950				1,950
	Non-tactical Vehicles										
18	HEAVY ARMORED SEDAN		2,900		2,900		2,900				2,900
19	PASSENGER CARRYING VEHICLES		270		270		270				270
20	NONTACTICAL VEHICLES, OTHER		430		430		430				430

Title I - Procurement

(Dollars in Thousands)

		FY 2006 Request		House Authorized		Senate Authorized		Conference Change		Conference Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Communications and Electronics Equipment										
	Comm-Joint Communications										
21	WIN - TACTICAL PROGRAM		122,433		122,433		122,433				122,433
22	JCSE EQUIPMENT (USREDCOM)		4,240		4,240		4,240				4,240
	Comm-Satellite Communications										
23	SECURED ENROUTE COM PACKAGE		7,582		7,582		7,582				7,582
24	DEFENSE SATELLITE COMMUNICATIONS SYST		55,023		55,023		55,023				55,023
25	SHF TERM		23,359		23,359		23,359				23,359
26	SAT TERM, EMUT (SPACE)		1,439		1,439		1,439				1,439
27	NAVSTAR GLOBAL POSITIONING SYSTEM (SPA		44,730		22,380		44,730				44,730
	Transfer to Title XV				[-22,350]						
28	SMART-T (SPACE)		14,607		14,607		14,607				14,607
29	SCAMP (SPACE)		600		600		600				600
30	GLOBAL BRDCST SVC - GBS		12,478		12,478		12,478				12,478
31	MOD OF IN-SVC EQUIP (TAC SAT)		7,699		7,699		7,699				7,699
	Comm-C3 System										
32	ARMY GLOBAL CMD & CONTROL SYS (AGCCS)		17,358		17,358		17,358				17,358
	Comm-Combat Communications										
33	ARMY DATA DISTRIBUTION SYSTEM (DATA R		34,837		34,837		34,837				34,837
34	JOINT TACTICAL RADIO SYSTEM										
35	RADIO TERMINAL SET, MIDS LVT(2)		3,240		3,240		3,240				3,240
36	SINCGARS FAMILY		55,511				55,511				55,511
	Transfer to Title XV				[-55,511]						
37	MULTI-PURPOSE INFORMATION OPERATIONS		8,602		8,602		8,602				8,602
38	JOINT TACTICAL AREA COMMAND SYSTEMS										
39	BRIDGE TO FUTURE NETWORKS		41,288		41,288		41,288				41,288
40	COMMS-ELEC EQUIP FIELDING		6,837		6,837		6,837				6,837
41	SOLDIER ENHANCEMENT PROGRAM COMM/EL		8,153		8,153		8,153				8,153

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
42	COMBAT SURVIVOR EVADER LOCATOR (CSEL)		15,729		4,200		15,729		1,500		17,229
	AN/ARS-6A				[4,200]				[1,500]		
	Program adjustment			[-1,349]	[-15,729]						
42a	Combat Survivor Radios				15,729						
43	RADIO, IMPROVED HIGH FREQUENCY FAMILY		28,041		28,041		28,041				28,041
44	MEDICAL COMM FOR CBT CASUALTY CARE (M		8,262		8,262		8,262				8,262
	Comm-Intelligence Communications										
45	CI AUTOMATION ARCHITECTURE		1,320		1,320		1,320				1,320
	Information Security										
47	INFORMATION SYSTEM SECURITY PROGRAM-I		69,734		69,734		69,734				69,734
	Comm-Long Haul Communications										
48	TERRESTRIAL TRANSMISSION		15,661		15,661		15,661				15,661
49	BASE SUPPORT COMMUNICATIONS		33,583		33,583		33,583				33,583
50	ARMY DISN ROUTER										
51	ELECTROMAG COMP PROG (EMCP)		479		479		479				479
52	WW TECH CON IMP PROG (WWTCIP)		2,704		2,704		2,704				2,704
	Comm-Base Communications										
53	INFORMATION SYSTEMS		12,883		12,883		12,883				12,883
54	DEFENSE MESSAGE SYSTEM (DMS)		6,433		6,433		6,433				6,433
55	INSTALLATION INFO INFRASTRUCTURE MOD P		294,384		294,384		294,384				294,384
56	LOCAL AREA NETWORK (LAN)										
57	PENTAGON INFORMATION MGT AND TELECON		28,618		28,618		28,618				28,618
	Elect Equip-Nat For Int Prog (NFIP)										
58	FOREIGN COUNTERINTELLIGENCE PROG (FCI)	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
59	GENERAL DEFENSE INTELL PROG (GDIP)	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
	Elect Equip-Tact Int Rel Act (TIARA)										
60	ALL SOURCE ANALYSIS SYS (ASAS) (TIARA)		21,204		21,204		21,204				21,204
61	JTT/CIBS-M (TIARA)		9,862		9,862		9,862				9,862

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
62	PROPHET GROUND (TIARA)		13,006		16,206		13,006		3,000		16,006
	Block 1 enhancement - 10th Mountain Division				[3,200]						
	Prophet ground vehicle block I enhancements								[3,000]		
63	TUAV		26,000		26,000		26,000				26,000
64	SMALL UAV: (SUAV)		20,000		20,000		20,000				20,000
65	ARMY COMMON GROUND STATION (CGS) (TIA										
66	DIGITAL TOPOGRAPHIC SPT SYS (DTSS) (TIARA		2,888		2,888		2,888				2,888
67	DRUG INTERDICTION PROGRAM (DIP) (TIARA)										
68	TACTICAL EXPLOITATION SYSTEM (TIARA)										
69	DCGS-A (JMIP)		43,543		43,543		43,543				43,543
70	JOINT TACTICAL GROUND STATION (JTAGS)		12,648		12,648		12,648				12,648
71	TROJAN (TIARA)		6,067		6,067		6,067				6,067
72	MOD OF IN-SVC EQUIP (INTEL SPT) (TIARA)		1,668		1,668		1,668				1,668
73	CI HUMINT INFO MANAGE SYS (CHIMS) (TIARA		730		730		730				730
74	ITEMS LESS THAN $5.0M (TIARA)		16,563		16,563		16,563				16,563
	Elect Equip-Electronic Warfare (EW)										
75	LIGHTWEIGHT COUNTER MORTAR RADAR										
76	WARLOCK										
77	COUNTERINTELLIGENCE/SECURITY COUNTER										
	Elect Equip-Tactical Surv. (TAC SURV)										
78	SENTINEL MODS		8,393		8,393		8,393				8,393
79	NIGHT VISION DEVICES		164,674				184,874				164,674
	Enhanced NVG procurement and fielding						[20,200]				
	Transfer to Title XV				[-164,674]						
80	LONG RANGE ADVANCED SCOUT SURVEILLAN		42,293		42,293		42,293				42,293
81	LTWT VIDEO RECON SYSTEM (LWVRS)										
82	NIGHT VISION, THERMAL WPN SIGHT		83,692		83,692		83,692				83,692
83	JLENS FAMILY										

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
84	ARTILLERY ACCURACY EQUIP										
85	MOD OF IN-SVC EQUIP (MMS)		334		334		334				334
86	MOD OF IN-SVC EQUIP (MVS)										
87	ENHANCED PORTABLE INDUCTIVE ARTILLERY		6,763		6,763		6,763				6,763
88	PROFILER		4,869		4,869		4,869				4,869
89	MOD OF IN-SVC EQUIP (FIREFINDER RADARS)		18,027		18,027		18,027				18,027
90	FORCE XXI BATTLE CMD BRIGADE & BELOW (I		146,085		146,085		146,085				146,085
91	LIGHTWEIGHT LASER DESIGNATOR/RANGEFIN		12,720		12,720		12,720				12,720
92	COMPUTER BALLISTICS: LHMBC XM32		1,415		1,415		1,415				1,415
93	MORTAR FIRE CONTROL SYSTEM		18,877		18,877		18,877				18,877
94	INTEGRATED MET SYS SENSORS (IMETS)-(TIAF		3,699		3,699		3,699				3,699
95	ENHANCED SENSOR & MONITORING SYSTEM		2,000		2,000		2,000				2,000
	Elect Equip-Tactical C2 Systems										
96	TACTICAL OPERATIONS CENTERS		58,339		58,339		58,339				58,339
97	AFATDS		29,537		29,537		29,537				29,537
98	MOD OF IN-SVC EQUIP, AFATDS		5,104		5,104		5,104				5,104
99	LIGHT WEIGHT TECHNICAL FIRE DIRECTION S'		2,978		2,978		2,978				2,978
100	BATTLE COMMAND SUSTAINMENT SUPPORT S		10,139		10,139		10,139				10,139
101	FAAD C2		26,108		26,108		26,108				26,108
102	AIR & MSL DEFENSE PLANNING & CONTROL SY		3,668		3,668		3,668				3,668
103	FORWARD ENTRY DEVICE / LIGHTWEIGHT FED		3,159		3,159		3,159				3,159
104	KNIGHT FAMILY										
105	LIFE CYCLE SOFTWARE SUPPORT (LCSS)		1,914		1,914		1,914				1,914
106	LOGTECH		62,256		62,256		62,256				62,256
107	TC AIMS II		31,356		31,356		31,356				31,356
108	ISYSCON EQUIPMENT										
109	JOINT NETWORK MANAGEMENT SYSTEM (JNM		11,885		11,885		11,885				11,885
110	TACTICAL INTERNET MANAGER		16,962		16,962		16,962				16,962

Title I - Procurement

(Dollars in Thousands)

		FY 2006 Request		House Authorized		Senate Authorized		Conference Change		Conference Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
111	MANEUVER CONTROL SYSTEM (MCS)		49,562		49,562		49,562				49,562
112	SINGLE ARMY LOGISTICS ENTERPRISE (SALE)		89,017		89,017		89,017		-14,000		75,017
	Reduce program growth								[-14,000]		
113	STANDARD INTEGRATED CMD POST SYSTEM										
114	MOUNTED BATTLE COMMAND ON THE MOVE (		870		870		870				870
	Elect Equip - Automation										
115	ARMY TRAINING MODERNIZATION		23,722		23,722		23,722				23,722
116	AUTOMATED DATA PROCESSING EQUIP		152,268		152,268		152,268				152,268
117	RESERVE COMPONENT AUTOMATION SYS (RC.		30,819		30,819		30,819				30,819
	Elect Equip-Audio Visual Sys (A/V)										
118	AFRTS		2,732		2,732		2,732				2,732
119	ITEMS LESS THAN $5.0M (A/V)		6,381		6,381		6,381				6,381
120	ITEMS LESS THAN $5M (SURVEYING EQUIPME		2,895		2,895		2,895				2,895
	Elect Equip-Support										
121	PRODUCTION BASE SUPPORT (C-E)		438		438		438				438
	Other Support Equipment										
	Chemical Defensive Equipment										
122	RECONNAISSANCE SYSTEM,FOX NBC (NBCRS)										
123	SMOKE & OBSCURANT FAMILY: SOF (NON AAC		2,904		2,904		2,904				2,904
	Bridging Equipment										
124	TACTICAL BRIDGING		26,611		26,611		26,611				26,611
125	TACTICAL BRIDGE, FLOAT-RIBBON		5,913		5,913		5,913				5,913
	Engineer (Non-construction) Equipment										
126	HANDHELD STANDOFF MINEFIELD DETECTION		7,084		7,084		7,084				7,084
127	KIT, STANDARD TELEOPERATING										
128	GRND STANDOFF MINE DETECTION SYSTEM (C		2,962		2,962		2,962				2,962
129	ROBOTIC COMBAT SUPPORT SYSTEM (RCSS)		1,617		1,617		1,617				1,617
130	EXPLOSIVE ORDNANCE DISPOSAL EQPMT (EOI		29,786		29,786		29,786				29,786

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
131	< $5M, COUNTERMINE EQUIPMENT		580		580		580				580
	Combat Service Support Equipment										
132	HEATERS AND ECU'S		3,420		3,420		3,420				3,420
133	LAUNDRIES, SHOWERS AND LATRINES		1,998		1,998		1,998				1,998
134	SOLDIER ENHANCEMENT		4,810		4,810		4,810				4,810
135	LIGHTWEIGHT MAINTENANCE ENCLOSURE (L										
136	LAND WARRIOR		35,700		35,700		35,700				35,700
137	MOUNTED WARRIOR		1,600		1,600		1,600				1,600
138	FORCE PROVIDER										
139	AUTHORIZED STOCKAGE LIST MOBILITY SYST										
140	FIELD FEEDING EQUIPMENT		26,553		26,553		26,553				26,553
141	CARGO AERIAL DELIVERY PROGRAM		39,644		39,644		39,644				39,644
142	ITEMS LESS THAN $5.0M (ENG SPT)		3,282		3,282		3,282				3,282
143	ITEMS LESS THAN $5.0M (CSS EQ)										
	Petroleum Equipment										
144	QUALITY SURVEILLANCE EQUIPMENT		730		730		730				730
145	DISTRIBUTION SYSTEMS, PETROLEUM & WAT		66,055		66,055		66,055				66,055
146	INLAND PETROLEUM DISTRIBUTION SYSTEM										
	Water Equipment										
147	WATER PURIFICATION SYSTEMS		8,888		8,888		8,888				8,888
	Medical Equipment										
148	COMBAT SUPPORT MEDICAL		10,686		15,686		10,686				10,686
	Cartilage infuser				[5,000]						
	Maintenance Equipment										
149	SHOP EQ CONTACT MAINTENANCE TRK MTD (		8,244		8,244		8,244				8,244
150	WELDING SHOP, TRAILER MTD		252		252		252				252
151	ITEMS LESS THAN $5.0M (MAINT EQ)		1,300		1,300		1,300				1,300

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Construction Equipment										
152	MISSION MODULES - ENGINEERING		3,785		3,785		3,785				3,785
153	LOADERS		1,217		1,217		1,217				1,217
154	TRACTOR, FULL TRACKED		966		966		966				966
155	CRANES										
156	CRUSHING/SCREENING PLANT, 150 TPH										
157	HIGH MOBILITY ENGINEER EXCAVATOR (HME		13,472		13,472		13,472				13,472
158	CONST EQUIP ESP		3,646		3,646		3,646				3,646
159	ITEMS LESS THAN $5.0M (CONST EQUIP)		4,285		4,285		4,285				4,285
	Rail Float Containerization Equipment										
160	LOGISTIC SUPPORT VESSEL (LSV)										
161	JOINT HIGH SPEED VEHICLE (JHSV)		15,000		15,000		15,000				15,000
162	HARBORMASTER COMMAND & CONTROL CEN		600		600		600				600
163	CAUSEWAY SYSTEMS		2,000		2,000		17,000		10,000		12,000
	Modular causeway system						[15,000]		[10,000]		
164	ITEMS LESS THAN $5.0M (FLOAT/RAIL)		4,988		4,988		4,988				4,988
	Generators										
165	GENERATORS AND ASSOCIATED EQUIP		43,067		48,567		43,067		5,500		48,567
	Deployable power generation distribution system				[5,500]				[5,500]		
	Material Handling Equipment										
166	ROUGH TERRAIN CONTAINER HANDLER (RTCH										
167	ALL TERRAIN LIFTING ARMY SYSTEM		361		361		361				361
168	MHE EXTENDED SERVICE PROGRAM (ESP)										
169	ITEMS LESS THAN $5.0M (MHE)										
	Training Equipment										
170	COMBAT TRAINING CENTERS (CTC) SUPPORT		60,811		60,811		60,811				60,811

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
171	TRAINING DEVICES, NONSYSTEM		184,528		214,328		184,528		13,700		198,228
	Bullet sensor live fire trainer				[5,600]						
	Future soldier trainer - ARNG				[13,700]						
	Laser marksmanship training systems - ARNG				[7,500]						
	Virtual training demonstration project				[3,000]						
	Future soldier trainer								[13,700]		
172	CLOSE COMBAT TACTICAL TRAINER		63,746		63,746		63,746				63,746
173	AVIATION COMBINED ARMS TACTICAL TRAINI		71,301		71,301		71,301				71,301
	Test Measure and Dig Equipment (TMD)										
174	CALIBRATION SETS EQUIPMENT										
175	INTEGRATED FAMILY OF TEST EQUIPMENT (IF		21,605		21,605		21,605				21,605
176	TEST EQUIPMENT MODERNIZATION (TEMOD)		471		471		471				471
	Other Support Equipment										
177	RAPID EQUIPPING SOLDIER SUPPORT EQ (REF)		50,000		50,000		50,000				50,000
178	PHYSICAL SECURITY SYSTEMS (OPA3)		66,614		66,614		66,614				66,614
179	BASE LEVEL COM'L EQUIPMENT		6,224		6,224		6,224				6,224
180	MODIFICATION OF IN-SVC EQUIPMENT (OPA-3)		9,379		9,379		9,379				9,379
181	PRODUCTION BASE SUPPORT (OTH)		2,638		2,638		2,638				2,638
182	SPECIAL EQUIPMENT FOR USER TESTING		9,316		9,316		9,316				9,316
183	CLASSIFIED PROGRAM (MA8975)		2,434		2,434		2,434				2,434
	Spares and Repair Parts										
	OPA2										
184	INITIAL SPARES - C&E		33,076		33,076		33,076				33,076
	OPA3										
185	INITIAL SPARES - OTHER SUPPORT EQUIP		732		732		732				732
999	CLASSIFIED PROGRAMS		9,978		9,978		9,978				9,978
	Total - Other Procurement, Army		4,302,634		4,043,289		4,339,434		26,300		4,328,934

Aircraft Procurement, Navy overview

The budget request for fiscal year 2006 included an authorization of $10,517.1 million in Aircraft Procurement, Navy for the Department of Defense.

The House bill would authorize $10,042.5 million.

The Senate amendment would authorize $9,946.9 million.

The conferees recommend an authorization of $9,803.1 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Aircraft Procurement, Navy										
	Combat Aircraft										
1	AV-8B (V/STOL)HARRIER (MYP)		1,707		1,707		1,707				1,707
2	EA-18G	4	318,386	4	318,386	4	318,386			4	318,386
2	LESS: ADVANCE PROCUREMENT (PY)		-8,211		-8,211		-8,211				-8,211
3	ADVANCE PROCUREMENT (CY)		26,486		26,486		26,486				26,486
4	F/A-18E/F (FIGHTER) HORNET (MYP)	38	2,819,314	38	2,822,514	38	2,819,314		3,200	38	2,822,514
	Shared reconnaissance pod (SHARP)				[3,200]				[3,200]		
4	LESS: ADVANCE PROCUREMENT (PY)		-83,084		-83,084		-83,084				-83,084
5	ADVANCE PROCUREMENT (CY)		86,105		86,105		86,105				86,105
6	V-22 (MEDIUM LIFT)	9	1,064,516	9	1,064,516	9	1,064,516			9	1,064,516
6	LESS: ADVANCE PROCUREMENT (PY)		-71,214		-71,214		-71,214				-71,214
7	ADVANCE PROCUREMENT (CY)		67,274		67,274		67,274				67,274
8	UH-1Y/AH-1Z	10	307,479	10	357,479	10	307,479		10,800	10	318,279
	Non-recurring engineering				[50,000]				[10,800]		
9	MH-60S (MYP)	26	571,274	26	571,274	26	571,274			26	571,274
9	LESS: ADVANCE PROCUREMENT (PY)		-107,905		-107,905		-107,905				-107,905
10	ADVANCE PROCUREMENT (CY)		125,698		125,698		125,698				125,698
11	MH-60R	12	504,690	12	504,690	12	504,690			12	504,690
11	LESS: ADVANCE PROCUREMENT (PY)		-69,269		-69,269		-69,269				-69,269
12	ADVANCE PROCUREMENT (CY)		119,078		119,078		119,078				119,078
13	E-2C (EARLY WARNING) HAWKEYE (MYP)	2	237,272	2	237,272	2	237,272			2	237,272
13	LESS: ADVANCE PROCUREMENT (PY)		-26,320		-26,320		-26,320				-26,320
14	ADVANCE PROCUREMENT (CY)		38,000		38,000		38,000				38,000
	Airlift Aircraft										
15	UC-35										
16	C-40A		10,312		10,312	1	88,212				10,312
	C-40A					[1]	[77,900]				

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
17	C-37										
	Trainer Aircraft										
18	T-48 (T-39 REPLACEMENT)										
19	T-45TS (TRAINER) GOSHAWK	6	239,240	9	297,840	6	239,240			6	239,240
	Additional aircraft			[3]	[58,600]						
20	JPATS		2,411	6	37,411		2,411		22,500		24,911
	Additional systems			[6]	[35,000]				[22,500]		
	Other Aircraft										
21	KC-130J	12	1,138,098	4	337,198	4	357,098	-8	-781,000	4	357,098
	Realign program			[-8]	[-800,900]	[-8]	[-781,000]	[-8]	[-781,000]		
21	LESS: ADVANCE PROCUREMENT (PY)		-45,355		-45,355		-45,355				-45,355
22	ADVANCE PROCUREMENT (CY)				46,000		46,000		46,000		46,000
	Realign program				[46,000]		[46,000]		[46,000]		
23	F-5	9	4,517	9	4,517	9	4,517			9	4,517
	Modification of Aircraft										
24	EA-6 SERIES		120,619		210,019		120,619				120,619
	Low band transmitter				[16,400]						
	ICAP !!!				[73,000]						
25	AV-8 SERIES		34,862		34,862		34,862				34,862
26	ADVERSARY		5,013		5,013		5,013				5,013
27	F-18 SERIES		422,444		422,444		462,444				422,444
	Litening AT targeting pod for F/A-18D						[40,000]				
28	H-46 SERIES		55,427		55,427		55,427				55,427
29	AH-1W SERIES		7,656		7,656		15,456		4,500		12,156
	Night targeting system upgrade						[7,800]		[4,500]		

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
30	H-53 SERIES		14,917		52,017		26,417		8,000		22,917
	H-53 EAPS barrier filters						[5,000]		[4,000]		
	H-53 crash attenuating crew chief seats				[6,500]		[6,500]		[4,000]		
	Integrated mechanical diagnostics system				[9,200]						
	T64 engine reliability improvement program				[21,400]						
31	SH-60 SERIES		12,360		12,360		19,960				12,360
	SH-60 armed helicopter kits						[7,600]				
32	H-1 SERIES		7,395		7,395		7,395				7,395
33	EP-3 SERIES		55,120		55,120		68,120				55,120
	USQ-146 electronic attack for EP-3						[13,000]				
34	P-3 SERIES		163,348		170,348		170,348		7,000		170,348
	Anti-surface warfare improvement program						[7,000]		[4,000]		
	High resolution digital recorders				[5,000]				[2,000]		
	CURTIS upgrade for BMUP aircraft				[2,000]				[1,000]		
35	S-3 SERIES		751		751		751				751
36	E-2 SERIES		13,654		13,654		13,654				13,654
37	TRAINER A/C SERIES		14,004		14,004		14,004				14,004
38	C-2A		29,575		29,575		29,575				29,575
39	C-130 SERIES		42,698		42,698		42,698				42,698
40	FEWSG		605		605		605				605
41	CARGO/TRANSPORT A/C SERIES		19,914		19,914		19,914				19,914
42	E-6 SERIES		11,219		11,219		11,219				11,219
43	EXECUTIVE HELICOPTERS SERIES		16,734		16,734		16,734				16,734
44	SPECIAL PROJECT AIRCRAFT		20,762		20,762		20,762				20,762
45	T-45 SERIES		49,980		49,980		49,980				49,980
46	POWER PLANT CHANGES		26,334		26,334		26,334				26,334
47	JPATS SERIES		719		719		719				719
48	AVIATION LIFE SUPPORT MODS		323		323		323				323

Title I - Procurement

(Dollars in Thousands)

		FY 2006 Request		House Authorized		Senate Authorized		Conference Change		Conference Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
49	COMMON ECM EQUIPMENT		51,376		51,376		51,376				51,376
50	COMMON AVIONICS CHANGES		214,202		214,202		214,202		-25,000		189,202
	Reduce growth in common avionics								[-25,000]		
51	COMMON DEFENSIVE WEAPON SYSTEM		13,752		13,752		13,752				13,752
52	ID SYSTEMS		7,741		7,741		7,741				7,741
53	V-22 (TILT/ROTOR ACFT) OSPREY		81,002		81,002		81,002				81,002
	Aircraft Spares and Repair Parts										
54	SPARES AND REPAIR PARTS		1,089,236		1,089,236		1,089,236		-10,000		1,079,236
	KC-130J reduction								[-10,000]		
	Aircraft Support Equipment and Facilities										
55	COMMON GROUND EQUIPMENT		499,469		499,469		499,469				499,469
56	AIRCRAFT INDUSTRIAL FACILITIES		9,508		9,508		9,508				9,508
57	WAR CONSUMABLES		10,437		10,437		10,437				10,437
58	OTHER PRODUCTION CHARGES		15,467		15,467		15,467				15,467
59	SPECIAL SUPPORT EQUIPMENT		106,376		106,376		106,376				106,376
60	FIRST DESTINATION TRANSPORTATION		1,628		1,628		1,628				1,628
61	CANCELLED ACCOUNT ADJUSTMENTS										
	Total - Aircraft Procurement, Navy		**10,517,126**		**10,042,526**		**9,946,926**		**-714,000**		**9,803,126**

Weapons Procurement, Navy overview

The budget request for fiscal year 2006 included an authorization of $2,707.8 million in Weapons Procurement, Navy for the Department of Defense.

The House bill would authorize $2,775.0 million.

The Senate amendment would authorize $2,749.4 million.

The conferees recommend an authorization of $2,737.8 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2006 Request		House Authorized		Senate Authorized		Conference Change		Conference Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Weapons Procurement, Navy										
	Ballistic Missiles										
1	TRIDENT II										
1	LESS: ADVANCE PROCUREMENT (PY)										
	Modification of Missiles										
2	TRIDENT II MODS		932,680		932,680		932,680				932,680
	Support Equipment and Facilities										
3	MISSILE INDUSTRIAL FACILITIES		3,413		3,413		3,413				3,413
	Other Missiles										
	Strategic Missiles										
4	TOMAHAWK	379	353,409	456	420,609	379	353,409			379	353,409
	Additional missiles			[77]	[67,200]						
	Tactical Missiles										
5	AMRAAM	101	81,507	101	81,507	101	81,507			101	81,507
6	SIDEWINDER	165	37,823	165	37,823	211	45,423			165	37,823
	AIM-9X captive air training missile					[46]	[7,600]				
7	JSOW	420	144,449	420	144,449	420	144,449			420	144,449
8	SLAM-ER										
9	STANDARD MISSILE	75	145,676	75	145,676	75	145,676			75	145,676
10	RAM	90	86,944	90	86,944	90	86,944			90	86,944
11	HELLFIRE										
12	AERIAL TARGETS		101,882		101,882		101,882				101,882
13	DRONES AND DECOYS										
14	OTHER MISSILE SUPPORT		10,336		10,336		10,336				10,336
	Modification of Missiles										
15	ESSM	116	99,833	116	99,833	116	99,833			116	99,833
16	STANDARD MISSILES MODS		53,531		53,531		53,531				53,531

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Support Equipment and Facilities										
17	WEAPONS INDUSTRIAL FACILITIES		4,112		4,112		24,112		20,000		24,112
	Allegany Ballistic Laboratory						[20,000]		[20,000]		
	Ordnance Support Equipment										
18	ORDNANCE SUPPORT EQUIPMENT		45,410		45,410		45,410				45,410
	Torpedoes and Related Equipment										
	Torpedoes and Related Equip.										
19	SSTD		3,994		3,994		3,994				3,994
20	ASW TARGETS		24,557		24,557		24,557				24,557
	Mod of Torpedoes and Related Equipment										
21	MK-46 TORPEDO MODS		76,591		76,591		76,591				76,591
22	MK-48 TORPEDO ADCAP MODS		61,309		61,309		61,309				61,309
23	QUICKSTRIKE MINE		3,018		3,018		3,018				3,018
	Support Equipment										
24	TORPEDO SUPPORT EQUIPMENT		29,234		29,234		29,234				29,234
25	ASW RANGE SUPPORT		13,039		13,039		13,039				13,039
	Destination Transportation										
26	FIRST DESTINATION TRANSPORTATION		3,188		3,188		3,188				3,188
	Other Weapons										
	Guns and Gun Mounts										
27	SMALL ARMS AND WEAPONS		22,515		22,515		22,515				22,515
	Modification of Guns and Gun Mounts										
28	CIWS MODS		195,648		195,648		195,648				195,648
29	COAST GUARD WEAPONS		5,375		5,375		5,375				5,375
30	GUN MOUNT MODS		84,142		84,142		98,142		10,000		94,142
	MK45 mod 4 gun mounts						[14,000]		[10,000]		
31	PIONEER		1,964		1,964		1,964				1,964
32	CRUISER MODERNIZATION WEAPONS		5,428		5,428		5,428				5,428

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
33	AIRBORNE MINE NEUTRALIZATION SYSTEMS		1,515		1,515		1,515				1,515
	Other										
34	CANCELLED ACCOUNT ADJUSTMENTS										
	Spares and Repair Parts										
35	SPARES AND REPAIR PARTS		75,319		75,319		75,319				75,319
	Total - Weapons Procurement, Navy		2,707,841		2,775,041		2,749,441		30,000		2,737,841

Procurement of Ammunition, Navy and Marine Corps overview

The budget request for fiscal year 2006 included an authorization of $872.8 million in Procurement of Ammunition, Navy and Marine Corps for the Department of Defense.

The House bill would authorize $869.8 million.

The Senate amendment would authorize $892.8 million.

The conferees recommend an authorization of $867.5 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement of Ammunition, Navy & Marine Corps										
	Proc Ammo, Navy										
	Navy Ammunition										
1	GENERAL PURPOSE BOMBS		135,355		135,355		135,355				135,355
2	JDAM	3,400	82,589	3,400	82,589	3,400	82,589			3,400	82,589
3	AIRBORNE ROCKETS, ALL TYPES		35,159		27,080		35,159		-8,079		27,080
	APKWS - program delay				[-8,079]				[-8,079]		
4	MACHINE GUN AMMUNITION		23,666		23,666		23,666				23,666
5	PRACTICE BOMBS		56,569		56,569		56,569				56,569
6	CARTRIDGES & CART ACTUATED DEVICES		32,586		32,586		32,586				32,586
7	AIRCRAFT ESCAPE ROCKETS		10,860		10,860		10,860				10,860
8	AIR EXPENDABLE COUNTERMEASURES		70,174		70,174		70,174				70,174
9	JATOS		4,566		4,566		4,566				4,566
10	5 INCH/54 GUN AMMUNITION		25,923		25,923		25,923				25,923
11	EXTENDED RANGE GUIDED MUNITIONS (ERGN										
12	76MM GUN AMMUNITION										
13	INTERMEDIATE CALIBER GUN AMMUNITION		1,252		1,252		1,252				1,252
14	OTHER SHIP GUN AMMUNITION		40,144		40,144		40,144				40,144
15	SMALL ARMS & LANDING PARTY AMMO		35,639		35,639		35,639				35,639
16	PYROTECHNIC AND DEMOLITION		13,910		13,910		13,910				13,910
17	JUDGMENT FUND										
18	AMMUNITION LESS THAN $5 MILLION		3,157		3,157		3,157				3,157
	Proc Ammo, MC										
	Marine Corps Ammunition										
19	5.56 MM, ALL TYPES		37,452		37,452		37,452				37,452
20	7.62 MM, ALL TYPES		13,731		13,731		13,731				13,731
21	LINEAR CHARGES, ALL TYPES		38,761		43,761		38,761		2,700		41,461
	MN79				[5,000]				[2,700]		

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
22	.50 CALIBER		34,882		34,882		34,882				34,882
23	40 MM, ALL TYPES		58,148		58,148		58,148				58,148
24	60MM, ALL TYPES		16,224		16,224		16,224				16,224
25	81MM, ALL TYPES		17,211		17,211		17,211				17,211
26	120MM, ALL TYPES		7,231		7,231		7,231				7,231
27	CTG 25MM, ALL TYPES		2,118		2,118		2,118				2,118
28	9 MM ALL TYPES										
29	GRENADES, ALL TYPES		5,315		5,315		5,315				5,315
30	ROCKETS, ALL TYPES										
31	ARTILLERY, ALL TYPES		31,810		31,810		46,810				31,810
	M795 155mm high explosive cartridge						[15,000]				
32	EXPEDITIONARY FIGHTING VEHICLE		5,738		5,738		5,738				5,738
33	DEMOLITION MUNITIONS, ALL TYPES		2,353		2,353		7,353				2,353
	Time fuze blasting igniter						[5,000]				
34	FUZE, ALL TYPES		3,648		3,648		3,648				3,648
35	NON LETHALS		1,127		1,127		1,127				1,127
36	AMMO MODERNIZATION		7,350		7,350		7,350				7,350
37	ITEMS LESS THAN $5 MILLION		18,201		18,201		18,201				18,201
	Total - Procurement of Ammunition, Navy & Marine Corp		**872,849**		**869,770**		**892,849**		**-5,379**		**867,470**

Shipbuilding and Conversion, Navy overview

The budget request for fiscal year 2006 included an authorization of $8,721.2 million in Shipbuilding and Conversion, Navy for the Department of Defense.

The House bill would authorize $10,779.8 million.

The Senate amendment would authorize $9,057.9 million.

The conferees recommend an authorization of $8,880.6 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Shipbuilding and Conversion, Navy										
	Other Warships										
1	ADVANCE PROCUREMENT (CY)		564,913		564,913		651,613		86,700		651,613
	CVN-21 (CVN-78) - avoid one year delay						[86,700]		[86,700]		
2	VIRGINIA CLASS SUBMARINE	1	2,398,118	1	2,398,118	1	2,398,118			1	2,398,118
2	LESS: ADVANCE PROCUREMENT (PY)		-760,420		-760,420		-760,420				-760,420
3	ADVANCE PROCUREMENT (CY)		763,786		763,786		763,786				763,786
4	SSGN CONVERSION		334,322		334,322		334,322				334,322
4	LESS: ADVANCE PROCUREMENT (PY)		-47,806		-47,806		-47,806				-47,806
5	ADVANCE PROCUREMENT (CY)										
6	CVN REFUELING OVERHAULS	1	2,572,341	1	2,572,341	1	2,572,341			1	2,572,341
6	LESS: ADVANCE PROCUREMENT (PY)		-1,078,778		-1,078,778		-1,078,778				-1,078,778
7	ADVANCE PROCUREMENT (CY)		20,000		20,000		20,000				20,000
8	SSN ERO										
9	ADVANCE PROCUREMENT (CY)		39,524		39,524		39,524				39,524
10	SSBN ERO	1	364,636	1	364,636	1	364,636			1	364,636
10	LESS: ADVANCE PROCUREMENT (PY)		-134,443		-134,443		-134,443				-134,443
11	ADVANCE PROCUREMENT (CY)		62,248		62,248		62,248				62,248
12	DD(X)		220,222		220,222		220,222				220,222
12	LESS: ADVANCE PROCUREMENT (PY)		-220,222		-220,222		-220,222				-220,222
13	ADVANCE PROCUREMENT (CY)		715,992				765,992		50,000		765,992
	DD(X) AP for follow ship at follow yard						[50,000]		[50,000]		
	Decrease in program funding				[-715,992]						
14	DDG-51		225,427	2	2,725,427		225,427				225,427
	Additional ships			[2]	[2,500,000]						
14	LESS: ADVANCE PROCUREMENT (PY)										
15	DDG MODERNIZATION PROGRAM						25,000		25,000		25,000
	DDG-51 modernization program						[25,000]		[25,000]		

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Amphibious Ships										
16	LHD-1 AMPHIBIOUS ASSAULT SHIP		197,769		197,769		197,769				197,769
17	LPD-17	1	1,344,741	1	1,344,741	1	1,344,741			1	1,344,741
17	LESS: ADVANCE PROCUREMENT (PY)										
18	ADVANCE PROCUREMENT (CY)										
19	ADVANCE PROCUREMENT (CY)		150,447		418,047		325,447		50,000		200,447
	LHA-R acceleration						[175,000]		[50,000]		
	Program increase				[267,600]						
	Auxiliaries, Craft and Prior Yr Program Costs										
20	LCU(X)				7,000				6,000		6,000
	Aft-ramp range retriever craft (ARC)				[7,000]				[6,000]		
21	OUTFITTING		426,987		426,987		426,987		-41,987		385,000
	Reduction in growth								[-41,987]		
22	SERVICE CRAFT		56,255		56,255		56,255		-16,255		40,000
	Reduction in growth								[-16,255]		
23	LCAC SLEP	6	110,583	6	110,583	6	110,583			6	110,583
24	MINE HUNTER										
25	COMPLETION OF PY SHIPBUILDING PROGRAM		394,523		394,523		394,523				394,523
26	POWER UNIT ASSEMBLY FACILITY										
	Total - Shipbuilding and Conversion, Navy		**8,721,165**		**10,779,773**		**9,057,865**		**159,458**		**8,880,623**

Other Procurement, Navy overview

The budget request for fiscal year 2006 included an authorization of $5,487.8 million in Other Procurement, Navy for the Department of Defense.

The House bill would authorize $5,634.3 million.

The Senate amendment would authorize $5,596.2 million.

The conferees recommend an authorization of $5,518.3 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Procurement, Navy										
	Ships Support Equipment										
	Ship Propulsion Equipment										
1	LM-2500 GAS TURBINE		8,644		8,644		8,644				8,644
2	ALLISON 501K GAS TURBINE		22,208		27,208		22,208				22,208
	Mine sweeper re-engining				[5,000]						
	Navigation Equipment										
3	OTHER NAVIGATION EQUIPMENT		30,747		45,747		30,747		1,996		32,743
	Integrated bridge system				[15,000]				[3,000]		
	Scalable ECDIS-N production rate reduction								[-1,004]		
	Underway Replenishment Equipment										
4	UNDERWAY REPLENISHMENT EQUIPMENT		918		918		918				918
	Periscopes										
5	SUB PERISCOPES & IMAGING EQUIP		76,613		76,613		76,613				76,613
	Other Shipboard Equipment										
6	DDG MOD		2,998		2,998		2,998				2,998
7	FIREFIGHTING EQUIPMENT		31,710		31,710		31,710				31,710
8	COMMAND AND CONTROL SWITCHBOARD		2,852		2,852		2,852				2,852
9	POLLUTION CONTROL EQUIPMENT		32,889		32,889		32,889				32,889
10	SUBMARINE SUPPORT EQUIPMENT		19,912		24,412		24,412		1,000		20,912
	High performance metal fiber brushes				[4,500]		[4,500]		[1,000]		
11	VIRGINIA CLASS SUPPORT EQUIPMENT		175,572		175,572		175,572		-23,300		152,272
	Funding ahead of need								[-23,300]		
12	SUBMARINE BATTERIES		26,575		26,575		26,575				26,575
13	STRATEGIC PLATFORM SUPPORT EQUIP		70,429		70,429		70,429				70,429
14	DSSP EQUIPMENT		12,718		12,718		12,718				12,718
15	CG MODERNIZATION		135,253		135,253		135,253				135,253
16	LCAC		19,953		19,953		19,953				19,953

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
17	MINESWEEPING EQUIPMENT		12,372		12,372		12,372				12,372
18	ITEMS LESS THAN $5 MILLION		134,019		147,819		147,719		17,200		151,219
	Advanced control monitoring system for shipboard systems						[4,000]		[4,000]		
	Canned lubrication pumps for LSD-41/49 class						[4,000]		[3,500]		
	Aircraft carrier elevator modifications				[5,700]		[5,700]		[5,700]		
	CVN propeller replacement				[5,600]				[4,000]		
	Ultrasonic maintenance tools				[2,500]						
19	CHEMICAL WARFARE DETECTORS		897		897		897				897
20	SUBMARINE LIFE SUPPORT SYSTEM		13,672		13,672		13,672				13,672
	Reactor Plant Equipment										
21	REACTOR POWER UNITS		373,865		373,865		373,865				373,865
22	REACTOR COMPONENTS		222,596		222,596		222,596				222,596
	Ocean Engineering										
23	DIVING AND SALVAGE EQUIPMENT		8,592		8,592		8,592				8,592
	Small Boats										
24	STANDARD BOATS		15,671	24	21,671		15,671		3,000		18,671
	Special Operations swimmer/diver training craft			[24]	[6,000]				[3,000]		
	Training Equipment										
25	OTHER SHIPS TRAINING EQUIPMENT		3,126		3,126		3,126				3,126
	Production Facilities and Equipment										
26	OPERATING FORCES IPE		25,657		25,657		25,657				25,657
	Other Ship Support										
27	NUCLEAR ALTERATIONS		135,252		135,252		135,252				135,252
28	LCS MODULES		36,811		36,811		45,411		7,600		44,411
	Spare MT-30 marine gas turbine engine for LCS						[8,600]		[7,600]		
	Drug Interdiction Support										
29	DRUG INTERDICTION SUPPORT										

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Communications and Electronics Equipment										
	Ship Radars										
30	RADAR SUPPORT										
31	TISS										
	Ship Sonars										
32	SPQ-9B RADAR		5,913		9,913		5,913		3,000		8,913
	AN/SPQ-9B radar transmitter upgrade				[4,000]				[3,000]		
33	AN/SQQ-89 SURF ASW COMBAT SYSTEM		25,520		25,520		25,520				25,520
34	SSN ACOUSTICS		226,914		230,914		231,914		2,000		228,914
	Submarine A-RCI installation						[5,000]		[2,000]		
	Rapid COTS insertion				[4,000]						
35	UNDERSEA WARFARE SUPPORT EQUIPMENT		13,962		13,962		18,962		2,000		15,962
	Surface sonar dome window						[5,000]		[2,000]		
36	SONAR SWITCHES AND TRANSDUCERS		12,263		12,263		12,263				12,263
	ASW Electronic Equipment										
37	SUBMARINE ACOUSTIC WARFARE SYSTEM		27,332		27,332		27,332				27,332
38	SSTD		22,898		22,898		22,898				22,898
39	FIXED SURVEILLANCE SYSTEM		65,334		69,034		65,334				65,334
	Increase program funding				[3,700]						
40	SURTASS		3,848	2	18,748		3,848				3,848
	Twin-line towed arrays			[2]	[14,900]						
41	TACTICAL SUPPORT CENTER		5,270		10,870		5,270				5,270
	P-3 TCDL				[5,600]						
	Electronic Warfare Equipment										
42	AN/SLQ-32		25,053		25,053		30,053				25,053
	Accelerate procurement of SLQ-32						[5,000]				
43	INFORMATION WARFARE SYSTEMS		3,787		3,787		3,787				3,787

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Reconnaissance Equipment										
44	SHIPBOARD IW EXPLOIT		62,721		62,721		62,721				62,721
	Submarine Surveillance Equipment										
45	SUBMARINE SUPPORT EQUIPMENT PROG		92,806		92,806		92,806				92,806
	Other Ship Electronic Equipment										
46	NAVY TACTICAL DATA SYSTEM										
47	COOPERATIVE ENGAGEMENT CAPABILITY		16,474		16,474		16,474				16,474
48	GCCS-M EQUIPMENT		91,511		91,511		91,511				91,511
49	NAVAL TACTICAL COMMAND SUPPORT SYSTE		59,226		59,226		59,226				59,226
50	ATDLS		14,102		14,102		14,102				14,102
51	MINESWEEPING SYSTEM REPLACEMENT		84,045		84,045		84,045				84,045
52	SHALLOW WATER MCM		2,277		2,277		2,277				2,277
53	NAVSTAR GPS RECEIVERS (SPACE)		14,715		14,715		14,715				14,715
54	ARMED FORCES RADIO AND TV		4,366		4,366		4,366				4,366
55	STRATEGIC PLATFORM SUPPORT EQUIP		3,285		3,285		3,285				3,285
	Training Equipment										
56	OTHER TRAINING EQUIPMENT		62,027		62,027		62,027		-20,027		42,000
	Fund at FY05 level due to budget constraints								[-20,027]		
	Aviation Electronic Equipment										
57	MATCALS		19,584		19,584		19,584				19,584
58	SHIPBOARD AIR TRAFFIC CONTROL		7,307		7,307		7,307				7,307
59	AUTOMATIC CARRIER LANDING SYSTEM		17,388		17,388		17,388				17,388
60	NATIONAL AIR SPACE SYSTEM		18,446		18,446		18,446				18,446
61	AIR STATION SUPPORT EQUIPMENT		3,870		3,870		3,870				3,870
62	MICROWAVE LANDING SYSTEM		7,733		7,733		7,733				7,733
63	FACSFAC		3,609		3,609		3,609				3,609
64	ID SYSTEMS		24,915		24,915		24,915				24,915
65	TAC A/C MISSION PLANNING SYS(TAMPS)		7,857		7,857		7,857				7,857

Title I - Procurement
(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Shore Electronic Equipment										
66	DEPLOYABLE JOINT COMMAND AND CONT		27,901		27,901		27,901				27,901
67	DIMHRS										
68	COMMON IMAGERY GROUND SURFACE SYSTE		20,422		20,422		20,422				20,422
69	RADIAC		9,783		9,783		9,783				9,783
70	GPETE		6,944		6,944		6,944				6,944
71	INTEG COMBAT SYSTEM TEST FACILITY		4,381		4,381		4,381				4,381
72	EMI CONTROL INSTRUMENTATION		5,995		5,995		5,995				5,995
73	ITEMS LESS THAN $5 MILLION		19,721		19,721		19,721				19,721
	Shipboard Communications										
74	SHIPBOARD TACTICAL COMMUNICATIONS		2,597		2,597		2,597				2,597
75	PORTABLE RADIOS		10,058		10,058		10,058				10,058
76	SHIP COMMUNICATIONS AUTOMATION		253,960		253,960		253,960		-15,000		238,960
	Reduction in growth due to budget constraints								[-15,000]		
77	COMMUNICATIONS ITEMS UNDER $5M		15,248		15,248		15,248				15,248
	Submarine Communications										
78	SUBMARINE BROADCAST SUPPORT		2,162		4,662		2,162				2,162
	Fixed submarine broadcast system LF awase upgrade				[2,500]						
79	SUBMARINE COMMUNICATION EQUIPMENT		127,409		127,409		127,409				127,409
	Satellite Communications										
80	SATELLITE COMMUNICATIONS SYSTEMS		71,754		71,754		71,754				71,754
	Shore Communications										
81	JCS COMMUNICATIONS EQUIPMENT		2,950		2,950		2,950				2,950
82	ELECTRICAL POWER SYSTEMS		1,274		1,274		1,274				1,274
83	NSIPS										
84	JEDMICS										
85	NAVAL SHORE COMMUNICATIONS		59,208		59,208		59,208				59,208

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Cryptographic Equipment										
86	INFO SYSTEMS SECURITY PROGRAM (ISSP)		96,201		96,201		96,201				96,201
	Cryptologic Equipment										
87	CRYPTOLOGIC COMMUNICATIONS EQUIP		22,281		22,281		22,281				22,281
	Other Electronic Support										
88	COAST GUARD EQUIPMENT		31,377		31,377		31,377				31,377
	Drug Interdiction Support										
89	OTHER DRUG INTERDICTION SUPPORT										
	Aviation Support Equipment										
	Sonobuoys										
90	SONOBUOYS - ALL TYPES		58,422		58,422		58,422				58,422
	Aircraft Support Equipment										
91	WEAPONS RANGE SUPPORT EQUIPMENT		46,622		56,622		58,622		3,000		49,622
	Multi-spectral threat emitter system (MTES)						[6,000]		[3,000]		
	Joint threat emitter				[10,000]		[6,000]				
92	EXPEDITIONARY AIRFIELDS		7,860		7,860		7,860				7,860
93	AIRCRAFT REARMING EQUIPMENT		11,984		11,984		11,984				11,984
94	AIRCRAFT LAUNCH & RECOVERY EQUIPMENT		27,042		27,042		27,042				27,042
95	METEOROLOGICAL EQUIPMENT		25,129		25,129		25,129				25,129
96	OTHER PHOTOGRAPHIC EQUIPMENT		1,434		1,434		1,434				1,434
97	AVIATION LIFE SUPPORT		26,946		26,946		26,946				26,946
98	AIRBORNE MINE COUNTERMEASURES		38,036		38,036		38,036				38,036
99	LAMPS MK III SHIPBOARD EQUIPMENT		18,152		18,152		18,152				18,152
100	OTHER AVIATION SUPPORT EQUIPMENT		6,458		6,458		6,458				6,458
	Ordnance Support Equipment										
	Ship Gun System Equipment										
101	NAVAL FIRES CONTROL SYSTEM		6,057		6,057		11,057				6,057
	Maritime domain awareness						[5,000]				

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
102	GUN FIRE CONTROL EQUIPMENT		11,077		11,077		11,077				11,077
	Ship Missile System Equipment										
103	NATO SEASPARROW		38,442		38,442		38,442				38,442
104	RAM GMLS		17,488		29,488		35,488		12,000		29,488
	Phalanx SeaRAM for testing on Navy ships				[12,000]		[18,000]		[12,000]		
105	SHIP SELF DEFENSE SYSTEM		33,428		33,428		33,428				33,428
106	AEGIS SUPPORT EQUIPMENT		98,881		101,781		98,881		2,900		101,781
	Fiber switch system				[2,900]				[2,900]		
107	SURFACE TOMAHAWK SUPPORT EQUIPMENT										
108	TOMAHAWK SUPPORT EQUIPMENT		75,075		75,075		75,075				75,075
109	SUBMARINE TOMAHAWK SUPPORT EQUIP										
110	VERTICAL LAUNCH SYSTEMS		8,645		8,645		8,645				8,645
	FBM Support Equipment										
111	STRATEGIC MISSILE SYSTEMS EQUIP		108,106		108,106		108,106				108,106
	ASW Support Equipment										
112	SSN COMBAT CONTROL SYSTEMS		138,180		138,180		138,180				138,180
113	SUBMARINE ASW SUPPORT EQUIPMENT		4,836		4,836		4,836				4,836
114	SURFACE ASW SUPPORT EQUIPMENT		4,603		4,603		4,603				4,603
115	ASW RANGE SUPPORT EQUIPMENT		7,232		7,232		7,232				7,232
	Other Ordnance Support Equipment										
116	EXPLOSIVE ORDNANCE DISPOSAL EQUIP		28,403		28,403		28,403				28,403
117	ITEMS LESS THAN $5 MILLION		3,978		3,978		3,978				3,978
	Other Expendable Ordnance										
118	ANTI-SHIP MISSILE DECOY SYSTEM		40,436		40,436		49,436		6,000		46,436
	NULKA decoys to minimum sustain rate						[9,000]		[6,000]		
119	SURFACE TRAINING DEVICE MODS		10,618		10,618		10,618				10,618
120	SUBMARINE TRAINING DEVICE MODS		31,760		31,760		35,760		4,000		35,760
	Submarine mobile electronic perf spt systems						[4,000]		[4,000]		

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Civil Engineering Support Equipment										
121	PASSENGER CARRYING VEHICLES		1,796		1,796		1,796				1,796
122	GENERAL PURPOSE TRUCKS		2,049		2,049		2,049				2,049
123	CONSTRUCTION & MAINTENANCE EQUIP		31,033		31,033		31,033				31,033
124	FIRE FIGHTING EQUIPMENT		14,320		14,320		14,320				14,320
125	TACTICAL VEHICLES		44,383		44,383		44,383				44,383
126	AMPHIBIOUS EQUIPMENT		149,702		149,702		149,702				149,702
127	POLLUTION CONTROL EQUIPMENT		11,736		11,736		11,736				11,736
128	ITEMS UNDER $5 MILLION		26,459		26,459		26,459				26,459
129	PHYSICAL SECURITY VEHICLES		1,200		1,200		1,200				1,200
	Supply Support Equipment										
130	MATERIALS HANDLING EQUIPMENT		12,946		23,946		12,946		5,000		17,946
	Six-ton loaders				[11,000]				[5,000]		
131	OTHER SUPPLY SUPPORT EQUIPMENT		15,872		23,872		15,872		2,000		17,872
	Serial number tracking system				[8,000]				[2,000]		
132	FIRST DESTINATION TRANSPORTATION		5,785		5,785		5,785				5,785
133	SPECIAL PURPOSE SUPPLY SYSTEMS		73,383		73,383		73,383				73,383
	Personnel and Command Support Equipment										
	Training Devices										
134	TRAINING SUPPORT EQUIPMENT		15,984		23,984		15,984		3,000		18,984
	Laser marksmanship training system - Naval Reserve				[8,000]				[3,000]		
	Command Support Equipment										
135	COMMAND SUPPORT EQUIPMENT		60,768		69,868		76,368		9,100		69,868
	Man overboard indicator systems				[9,100]		[9,100]		[9,100]		
	Electronic military personnel records system						[6,500]				
136	EDUCATION SUPPORT EQUIPMENT		426		426		426				426
137	MEDICAL SUPPORT EQUIPMENT		8,772		8,772		11,772		1,000		9,772
	Navy medical automated info tech insertion						[3,000]		[1,000]		

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
138	INTELLIGENCE SUPPORT EQUIPMENT	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
139	OPERATING FORCES SUPPORT EQUIPMENT		7,925		12,425		7,925		3,000		10,925
	Envelop protective covers				[4,500]				[3,000]		
140	C4ISR EQUIPMENT		31,773		31,773		31,773				31,773
141	ENVIRONMENTAL SUPPORT EQUIPMENT		17,755		17,755		17,755				17,755
142	PHYSICAL SECURITY EQUIPMENT		238,276		240,276		238,276				238,276
	Transportable anti-intrusion pontoon barrier system				[2,000]						
143	CLASSIFIED PROGRAMS	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
144	SPECIAL PROGRAM	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
	Other										
146	SPARES AND REPAIR PARTS		268,741		268,741		268,741				268,741
	Spares and Repair Parts										
999	CLASSIFIED PROGRAMS		10,899		10,899		10,899				10,899
	Total - Other Procurement, Navy		**5,487,818**		**5,634,318**		**5,596,218**		**30,469**		**5,518,287**

Procurement, Marine Corps overview

The budget request for fiscal year 2006 included an authorization of $1,377.7 million in Procurement, Marine Corps for the Department of Defense.

The House bill would authorize $1,407.6 million.

The Senate amendment would authorize $1,387.7 million.

The conferees recommend an authorization of $1,396.7 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement, Marine Corps										
	Weapons and Combat Vehicles										
	Tracked Combat Vehicles										
1	AAV7A1 PIP		26,134		26,134		26,134				26,134
2	EXPEDITIONARY FIGHTING VEHICLE		30,359		30,359		30,359				30,359
3	LAV PIP		59,699		59,699		59,699				59,699
4	HIMARS										
5	IMPROVED RECOVERY VEHICLE (IRV)										
6	MODIFICATION KITS (ARMOR AND FIRE SUPPO										
7	M1A1 FIREPOWER ENHANCEMENTS		33,454		33,454		33,454				33,454
	Artillery and Other Weapons										
8	EXPEDITIONARY FIRE SUPPORT SYSTEM		5,965		5,965		5,965				5,965
9	155MM LIGHTWEIGHT TOWED HOWITZER	77	178,364	77	178,364	77	178,364			77	178,364
10	MODIFICATION KITS (INFANTRY WEAPONS)						2,000		1,000		1,000
	Mk19 grenade machine gun modification kits						[2,000]		[1,000]		
11	MARINE ENHANCEMENT PROGRAM										
12	HIGH MOBILITY ARTILLERY ROCKET SYSTEM	15	176,795	15	176,795	15	176,795			15	176,795
13	WEAPONS AND COMBAT VEHICLES UNDER $5		7,743		7,743		7,743				7,743
	Weapons										
14	MODULAR WEAPON SYSTEM		23,604		23,604		23,604				23,604
	Other Support										
15	MODIFICATION KITS		10,638		10,638		10,638				10,638
16	WEAPONS ENHANCEMENT PROGRAM		5,357		5,357		5,357				5,357
17	OPERATIONS OTHER THAN WAR										
	Guided Missiles and Equipment										
	Guided Missiles										
18	EXPEDITIONARY AIR DEFENSE SYSTEM (LAAD		1,997		1,997		1,997				1,997
19	JAVELIN										

Title I - Procurement
(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
20	PEDESTAL MOUNTED STINGER (PMS) (MYP)										
21	HIMARS ROCKETS										
22	COMPLEMENTARY LOW ALTITUDE WEAPON S'		442		442		442				442
23	PREDATOR (SRAW)										
	Other Support										
24	MODIFICATION KITS										
	Communications and Electronics Equipment										
	Command and Control Systems										
25	UNIT OPERATIONS CENTER		952		952		5,752		4,800		5,752
	USMC Hitchhiker baseline COC						[4,800]		[4,800]		
	Repair and Test Equipment										
26	REPAIR AND TEST EQUIPMENT		25,749		25,749		25,749				25,749
27	AUTO TEST SYSTEMS										
28	GENERAL PURPOSE TOOLS & TEST SYSTEMS										
29	CALIBRATION FACILITIES										
	Other Support (Tel)										
30	COMBAT SUPPORT SYSTEM		23,757		23,757		23,757				23,757
31	MODIFICATION KITS		23,611		23,611		23,611				23,611
	Command and Control System (Non-tel)										
32	GLOBAL COMBAT SUPPORT SYSTEM										
33	ITEMS UNDER $5 MILLION (COMM & ELEC)		2,043		2,043		2,043				2,043
34	AIR OPERATIONS C2 SYSTEMS		13,058		13,058		13,058				13,058
35	MAGTF CSSE & SE										
36	MULTIPLE ROLE RADAR SYSTEM										
37	JOINT TACTICAL RADIO SYSTEMS		14,837		14,837		14,837				14,837
	Repair and Equipment (Non-tel)										
38	RADAR SYSTEMS		12,167		12,167		12,167				12,167
39	RADAR SET AN/TPS-59										

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
40	TRANSITION SWITCH MODULE										
	Intell/Comm Equipment (Non-tel)										
41	TACTICAL REMOTE SENSOR SYSTEM										
42	FIRE SUPPORT SYSTEM		33,460		33,460		33,460				33,460
43	SMALL UNIT REMOTE SCOUTING SYSTEM (SUF										
44	INTELLIGENCE SUPPORT EQUIPMENT		65,973		76,673		65,973		3,000		68,973
	Tactical remote sensor system (TRSS)				[8,900]				[3,000]		
	Topographic production capability components (TPCC)				[1,800]						
45	MOD KITS (INTEL)										
	Repair and Test Equipment (Non-tel)										
46	VISUAL INFORMATION SYSTEMS (VIS)										
	Other Comm/Elec Equipment (Non-tel)										
47	COMPLIMENTARY LOW ALTITUDE WEAPONS S										
48	NIGHT VISION EQUIPMENT		20,795	715	30,795		20,795		6,000		26,795
	Close quarters battle sight			[715]	[10,000]				[6,000]		
	Other Support (Non-tel)										
49	COMMON COMPUTER RESOURCES		48,589		48,589		48,589				48,589
50	COMMAND POST SYSTEMS		17,255		17,255		17,255				17,255
51	RADIO SYSTEMS		28,972		28,972		28,972				28,972
52	COMM SWITCHING & CONTROL SYSTEMS		54,324		54,324		54,324				54,324
53	COMM & ELEC INFRASTRUCTURE SUPPORT		17,805		17,805		20,005		2,200		20,005
	Continuity of operations program						[2,200]		[2,200]		
54	MOD KITS MAGTF C41										
	Support Vehicles										
	Administrative Vehicles										
55	COMMERCIAL PASSENGER VEHICLES		775		775		775				775
56	COMMERCIAL CARGO VEHICLES		11,776		11,776		11,776				11,776

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Tactical Vehicles										
57	5/4T TRUCK HMMWV (MYP)		97,988		97,988		97,988				97,988
58	MOTOR TRANSPORT MODIFICATIONS										
59	MEDIUM TACTICAL VEHICLE REPLACEMENT										
60	LIGHTWEIGHT PRIME MOVER		3,445		3,445		3,445				3,445
61	LOGISTICS VEHICLE SYSTEM REP		28,366		28,366		28,366				28,366
62	FAMILY OF TACTICAL TRAILERS		6,906		6,906		6,906				6,906
	Other Support										
63	ITEMS LESS THAN $5 MILLION		3,748		3,748		3,748				3,748
	Engineer and Other Equipment										
64	ENVIRONMENTAL CONTROL EQUIP ASSORT		3,450		3,450		3,450				3,450
65	ASSAULT BREACHER VEHICLE										
66	BULK LIQUID EQUIPMENT		21,887		21,887		21,887				21,887
67	TACTICAL FUEL SYSTEMS		5,338		5,338		5,338				5,338
68	DEMOLITION SUPPORT SYSTEMS										
69	POWER EQUIPMENT ASSORTED		12,153		12,153		12,153				12,153
70	AMPHIBIOUS SUPPORT EQUIPMENT		16,105		16,105		16,105				16,105
71	EOD SYSTEMS		71,185		71,185		71,185				71,185
	Materials Handling Equipment										
72	AMPHIBIOUS RAID EQUIPMENT										
73	PHYSICAL SECURITY EQUIPMENT		5,064		5,064		5,064				5,064
74	GARRISON MOBILE ENGINEER EQUIPMENT (GM		10,914		10,914		10,914				10,914
75	MATERIAL HANDLING EQUIP		21,132		21,132		21,132				21,132
76	FIRST DESTINATION TRANSPORTATION		3,421		3,421		3,421				3,421
	General Property										
77	FAMILY OF INCIDENT RESPONSE										

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
78	FIELD MEDICAL EQUIPMENT		2,459		7,659		3,459		1,000		3,459
	Combat casualty care equipment upgrade				[5,200]						
	Rapid IV pumps (S. Amdt)						[1,000]		[1,000]		
79	FAMILY OF EOD EQUIPMENT										
80	TRAINING DEVICES		17,722		17,722		17,722				17,722
81	CONTAINER FAMILY		3,721		3,721		3,721				3,721
82	FAMILY OF CONSTRUCTION EQUIPMENT		19,745		23,745		19,745		1,000		20,745
	Mobile helipad system				[4,000]				[1,000]		
83	FAMILY OF INTERNALLY TRANSPORTABLE VE		3,786		3,786		3,786				3,786
84	BRIDGE BOATS										
85	RAPID DEPLOYABLE KITCHEN		5,405		5,405		5,405				5,405
	Other Support										
86	MODIFICATION KITS										
87	ITEMS LESS THAN $5 MILLION		10,412		10,412		10,412				10,412
88	CANCELLED ACCOUNT ADJUSTMENT (M)										
	Spares and Repair Parts										
89	SPARES AND REPAIR PARTS		26,904		26,904		26,904				26,904
	Total - Procurement, Marine Corps		**1,377,705**		**1,407,605**		**1,387,705**		**19,000**		**1,396,705**

Aircraft procurement, Air Force overview

The budget request for fiscal year 2006 included an authorization of $11,973.9 million in Aircraft Procurement, Air Force for the Department of Defense.

The House bill would authorize $12,793.8 million.

The Senate amendment would authorize $13,257.6 million.

The conferees recommend an authorization of $12,862.3 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Aircraft Procurement, Air Force										
	Combat Aircraft										
	Tactical Forces										
1	JOINT STRIKE FIGHTER ADVANCE PROCUREM		152,377				152,377				152,377
	Decrease program funding				[-152,377]						
2	F-22 RAPTOR	24	3,680,902	24	3,680,902	24	3,680,902			24	3,680,902
2	LESS: ADVANCE PROCUREMENT (PY)		-494,280		-494,280		-494,280				-494,280
3	ADVANCE PROCUREMENT (CY)		576,877		576,877		576,877				576,877
4	F-15E		108,316		173,316		173,316		65,000		173,316
	Program increase				[65,000]		[65,000]		[65,000]		
4	LESS: ADVANCE PROCUREMENT (PY)		-108,316		-108,316		-108,316				-108,316
5	ADVANCE PROCUREMENT (CY)										
	Airlift Aircraft										
	Tactical Airlift										
6	C-17A (MYP)	15	3,260,816	15	3,260,816	15	3,260,816			15	3,260,816
6	LESS: ADVANCE PROCUREMENT (PY)		-469,957		-469,957		-469,957				-469,957
7	ADVANCE PROCUREMENT (CY)		445,423		445,423		445,423				445,423
8	C-17 ICS										
	Other Airlift										
9	C-40										
9a	C-37B (S. Amdt)					1	45,000	1	45,000	1	45,000
10	C-130J		235,770	9	880,770	9	880,770	9	645,000	9	880,770
	Realign program					[9]	[645,000]	[9]	[645,000]		
	Additional aircraft			[9]	[645,000]						
10	LESS: ADVANCE PROCUREMENT (PY)		-136,787		-136,787		-136,787				-136,787
11	ADVANCE PROCUREMENT (CY)				90,000		90,000		90,000		90,000
	Realign program						[90,000]		[90,000]		
	Increase program funding				[90,000]						
11a	Aircraft for performance of aeromedical evacuations						200,000				

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Trainer Aircraft										
	UPT Trainers										
12	INTRO TO FLIGHT/AIRMANSHIP PRG										
	Operational Trainers										
13	JPATS	54	333,307	54	333,307	54	333,307			54	333,307
	Other Aircraft										
	Helicopters										
14	V22 OSPREY	2	244,659	2	244,659	2	244,659			2	244,659
14	LESS: ADVANCE PROCUREMENT (PY)		-10,866		-10,866		-10,866				-10,866
15	ADVANCE PROCUREMENT (CY)		10,525		10,525		10,525				10,525
	Mission Support Aircraft										
16	CIVIL AIR PATROL A/C		571		571		571				571
	Other Aircraft										
17	TARGET DRONES		82,907		82,907		82,907				82,907
18	GLOBAL HAWK	5	398,423	4	368,523	5	398,423			5	398,423
	Program reduction			[-1]	[-29,900]						
18	LESS: ADVANCE PROCUREMENT (PY)		-70,764		-70,764		-70,764				-70,764
19	ADVANCE PROCUREMENT (CY)		69,993		69,993		69,993				69,993
20	PREDATOR UAV	9	125,566	15	210,566	9	125,566			9	125,566
	Additional vehicles			[6]	[85,000]						
	Modification of In-service Aircraft										
	Strategic Aircraft										
21	B-2A		59,134		59,134		59,134				59,134
22	B-1B		27,875		27,875		45,875		14,000		41,875
	B-1B digital communications improvements						[18,000]		[14,000]		
23	B-52		145,025		145,025		145,025				145,025
24	F-117		17,221		17,221		17,221				17,221

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Tactical Aircraft										
25	A-10		52,159		52,159		52,159				52,159
26	F-15		151,518		151,518		151,518				151,518
27	F-16		380,960		380,960		380,960				380,960
28	F-22 RAPTOR		53,992		53,992		53,992				53,992
29	T/AT-37										
	Airlift Aircraft										
30	C-5		71,137		71,137		91,137		15,000		86,137
	C-5 avionics modernization program						[20,000]		[15,000]		
31	ADVANCE PROCUREMENT (CY)		20,000		20,000		20,000				20,000
32	C-9										
33	C-17A		260,826		260,826		260,826				260,826
34	C-21		3,924		3,924		3,924				3,924
35	C-32A		194		194		194				194
36	C-37A		382		382		382				382
37	C-141										
	Trainer Aircraft										
38	GLIDER MODS		3,174		3,174		3,174				3,174
39	T-6		6,143		6,143		6,143				6,143
40	T-1		181		181		181				181
41	T-38		202,694		202,694		202,694				202,694
42	T-41 AIRCRAFT										
43	T-43		2,014		2,014		2,014				2,014
	Other Aircraft										
44	KC-10A (ATCA)		21,937		21,937		21,937				21,937
45	C-12		6,295		6,295		6,295				6,295
46	C-20 MODS		488		488		488				488
47	VC-25A MOD		978		978		978				978

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
48	C-40		194		194		194				194
49	C-130		185,651		249,551		235,351		15,000		200,651
	C-130E/H avionics modernization programs						[12,000]				
	C-130E/H center wing box replacement						[37,700]				
	APN-241 - C-130 fleet AFR				[19,700]				[15,000]		
	LAIRCM - HC/C-130 fleet - AFR				[32,000]						
	Senior Scout shelter - C-130 - ANG				[7,000]						
	Senior Scout satellite antenna - C-130 - ANG				[5,200]						
50	C-130J MODS		5,988		5,988		5,988				5,988
51	C-135		88,748		88,748		98,748		2,000		90,748
	KC-135 global air traffic management (GATM) acceleration						[10,000]		[2,000]		
52	COMPASS CALL MODS		27,421		27,421		27,421				27,421
53	C-29A MODS		3,816		3,816		3,816				3,816
54	DARP		85,470		85,470		85,470				85,470
55	E-3		49,292		51,992		49,292		1,000		50,292
	Rotary coupler improvement program				[2,700]				[1,000]		
56	E-4		85,342		85,342		85,342				85,342
57	E-8		15,506		15,506		59,906				15,506
	E-8C Joint STARS re-engining						[44,400]				
58	H-1		32,418		32,418		32,418				32,418
59	H-60		50,497		53,497		50,497		2,700		53,197
	AN/ARS-6 V12 - ANG				[3,000]						
	AN/ARS-6 V12								[2,700]		
60	OTHER AIRCRAFT		70,953		70,953		70,953		-24,000		46,953
	JTRS delays								[-24,000]		
61	PREDATOR MODS		30,286		30,286		30,286				30,286
62	CV-22 MODS		102		102		102				102

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Modifications										
63	CLASSIFIED PROJECTS										
	Aircraft Spares and Repair Parts										
64	AIRCRAFT INITIAL SPARES + REPAIR PARTS		204,038		204,038		204,038				204,038
	Aircraft Support Equipment and Facilities										
	Common Support Equip										
65	COMMON SUPPORT EQUIPMENT		124,420		124,420		124,420				124,420
	Post Production Support										
66	B-1		13,466		13,466		13,466				13,466
67	B-2A		7,304		7,304		7,304				7,304
68	B-2A		22,111		22,111		22,111				22,111
69	B-52		21,162		21,162		21,162				21,162
70	C-130		20,502		20,502		20,502				20,502
71	F-15 POST PRODUCTION SUPPORT		13,170		13,170		13,170				13,170
72	F-16 POST PRODUCTION SUPPORT		17,833		17,833		17,833				17,833
	Industrial Preparedness										
73	INDUSTRIAL PREPAREDNESS		22,360		22,360		22,360				22,360
	War Consumables										
74	WAR CONSUMABLES		24,058		29,358		24,058				24,058
	F-16 BRU-57				[5,300]						
	Other Production Charges										
75	OTHER PRODUCTION CHARGES		644,155	24	679,555		740,755	12	17,700	12	661,855
	Litening AT targeting pod for A/OA-10, F-16, and B-52						[96,600]				
	A-10 litening advanced targeting pod			[24]	[35,400]			[12]	[17,700]		
76	DEPOT MODERNIZATION		115,525		115,525		115,525				115,525
	Classified Pgms										
77	CLASSIFIED PROGRAMS										

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Production Charges SOF										
78	OTHER PRODUCTION CHARGES - SOF										
	DARP										
79	DARP		68,432		75,232		68,432				68,432
	U-2 Dragonlady				[6,800]						
	Total - Aircraft Procurement, Air Force		11,973,933		12,793,756		13,257,633	22	888,400		12,862,333

Procurement of ammunition, Air Force overview

The budget request for fiscal year 2006 included an authorization of $1,031.2 million for Procurement of Ammunition, Air Force in the Department of Defense.

The House bill would authorize $1,031.2 million.

The Senate amendment would authorize $1,031.2 million.

The conferees recommend an authorization of $1,021.2 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement of Ammunition, Air Force										
	Procurement of Ammo, Air Force										
	Rockets										
1	SMALL ARMS										
	Rockets										
2	ROCKETS		36,302		36,302		36,302				36,302
	Cartridges										
3	CARTRIDGES		160,530		160,530		160,530		-10,000		150,530
	30MM TP PGU-15/B, B116 unit cost savings								[-10,000]		
	Bombs										
4	PRACTICE BOMBS		14,278		14,278		14,278				14,278
5	GENERAL PURPOSE BOMBS		240,231		240,231		240,231				240,231
6	SENSOR FUZED WEAPON	302	120,379	302	120,379	302	120,379			302	120,379
7	JOINT DIRECT ATTACK MUNITION	8,000	223,285	8,000	223,285	8,000	223,285			8,000	223,285
8	WIND CORRECTED MUNITIONS DISPE										
	Flare, IR MJU-7B										
9	CAD/PAD		21,212		21,212		21,212				21,212
10	EXPLOSIVE ORDINANCE DISPOSAL (		2,958		2,958		2,958				2,958
11	SPARES AND REPAIR PARTS		4,354		4,354		4,354				4,354
12	INITIAL SPARES										
13	SPARES										
14	MODIFICATIONS		892		892		892				892
15	ITEMS LESS THAN $5,000,000		3,948		3,948		3,948				3,948
	Fuzes										
16	FLARES		143,620		143,620		143,620				143,620
17	FUZES		53,176		53,176		53,176				53,176

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Weapons										
	Small Arms										
18	SMALL ARMS		6,042		6,042		6,042				6,042
	Total - Procurement of Ammunition, Air Force		**1,031,207**		**1,031,207**		**1,031,207**		**-10,000**		**1,021,207**

Missile procurement, Air Force overview

The budget request for fiscal year 2006 included an authorization of $5,490.3 million in Missile Procurement, Air Force for the Department of Defense.

The House bill would authorize $5,490.3 million.

The Senate amendment would authorize $5,500.3 million.

The conferees recommend an authorization of $5,394.6 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Missile Procurement, Air Force										
	Ballistic Missiles										
	Missile Replacement Equipment-Ballistic										
1	ADVANCED CRUISE MISSILE		2,027		2,027		2,027				2,027
2	MISSILE REPLACEMENT EQ-BALLIST		41,635		41,635		41,635				41,635
	Other Missiles										
	Tactical										
3	JASSM	300	150,238	300	150,238	300	150,238		-50,230		100,008
	Sustain minimum production capability								[-50,230]		
4	JOINT STANDOFF WEAPON		971		971		971				971
5	SIDEWINDER (AIM-9X)	196	44,963	196	44,963	196	44,963			196	44,963
6	AMRAAM	166	120,668	166	120,668	166	120,668			166	120,668
7	PREDATOR HELLFIRE MISSILE	378	38,135	378	38,135	378	38,135			378	38,135
8	SMALL DIAMETER BOMB	512	59,052	512	59,052	512	59,052			512	59,052
	Industrial Facilities										
9	INDUSTRIAL FACILITIES		1,225		1,225		1,225				1,225
10	POLLUTION PREVENTION ACTIVITY		895		895		895				895
	Modification of In-service Missiles										
	Class IV										
11	ADVANCED CRUISE MISSILE		3,251		3,251		3,251				3,251
12	MM III MODIFICATIONS		672,633		672,633		682,633		8,500		681,133
	Minuteman III propulsion replacement program						[10,000]		[8,500]		
13	AGM-65D MAVERICK		233		233		233				233
14	AGM-88C HARM		38		38		38				38
15	AIR LAUNCH CRUISE MISSILE		24,764		24,764		24,764				24,764
	Spares and Repair Parts										
	Missiles and Repair Parts										
16	MISSILE SPARES + REPAIR PARTS		85,094		85,094		85,094				85,094

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Support										
	Space Programs										
17	ADVANCED EHF	1	607,271	1	607,271	1	607,271			1	607,271
17	LESS: ADVANCE PROCUREMENT (PY)		-78,293		-78,293		-78,293				-78,293
18	ADVANCE PROCUREMENT (CY)										
19	WIDEBAND GAPFILLER SATELLITES(		22,300		22,300		22,300				22,300
20	ADVANCE PROCUREMENT (CY)		50,217		50,217		50,217				50,217
21	SPACEBORNE EQUIP (COMSEC)		9,575		9,575		9,575				9,575
22	GLOBAL POSITIONING (SPACE)	3	305,732	3	305,732	3	305,732			3	305,732
22	LESS: ADVANCE PROCUREMENT (PY)		-29,646		-29,646		-29,646				-29,646
23	ADVANCE PROCUREMENT (CY)		42,000		42,000		42,000				42,000
24	DEF METEOROLOGICAL SAT PROG(SP		67,175		67,175		67,175				67,175
25	DEFENSE SUPPORT PROGRAM(SPACE)		42,713		42,713		42,713				42,713
26	DEFENSE SATELLITE COMM SYSTEM(										
27	TITAN SPACE BOOSTERS(SPACE)		66,180		66,180		66,180				66,180
28	EVOLVED EXPENDABLE LAUNCH VEH(	5	838,347	5	838,347	5	838,347		-54,000		784,347
	Launch delay								[-54,000]		
29	MEDIUM LAUNCH VEHICLE(SPACE)		111,166		111,166		111,166				111,166
	Special Programs										
30	DEFENSE SPACE RECONN PROGRAM		320,606		320,606		320,606				320,606
31	SPECIAL PROGRAMS	[ ]	[ ]		[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
32	SPECIAL ACTIVITIES	[ ]	[ ]		[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
33	CLASSIFIED PROGRAMS	[ ]	[ ]		[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
34	SPECIAL UPDATE PROGRAMS		26,250		26,250		26,250				26,250
999	CLASSIFIED PROGRAMS		1,842,872		1,842,872		1,842,872				1,842,872
	Total - Missile Procurement, Air Force		5,490,287		5,490,287		5,500,287		-95,730		5,394,557

Other procurement, Air Force overview

The budget request for fiscal year 2006 included an authorization of $14,002.7 million in Other Procurement, Air Force for the Department of Defense.

The House bill would authorize $14,068.8 million.

The Senate amendment would authorize $14,027.9 million.

The conferees recommend an authorization of $14,024.7 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Procurement, Air Force										
	Vehicular Equipment										
	Passenger Carrying Vehicles										
1	ARMORED VEHICLE		503		503		503				503
2	PASSENGER CARRYING VEHICLES		14,399		14,399		14,399				14,399
	Cargo and Utility Vehicles										
3	TRUCK, STAKE/PLATFORM										
4	TRUCK, CARGO-UTILITY, 3/4T, 4X										
5	TRUCK, CARGO-UTILITY, 3/4T, 4X										
6	TRUCK, MAINT/UTILITY/DELIVERY										
7	TRUCK, CARRYALL										
8	MEDIUM TACTICAL VEHICLE		13,058		13,058		13,058				13,058
9	HIGH MOBILITY VEHICLE (MYP)		3,257		3,257		3,257				3,257
10	TRUCK, TRACTOR, OVER 5T										
11	CAP VEHICLES		821		821		821				821
12	ITEMS LESS THAN $5.0 MILLION (CARGO + UTII										
	Special Purpose Vehicles										
13	TRUCK TANK 1200 GAL										
14	TRUCK, TANK FUEL R-11										
15	HMMWV, ARMORED		2,190		2,190		2,190				2,190
16	TRUCK, REFUSE										
17	HMWWV,UP-ARMORED		11,058		11,058		11,058				11,058
18	TRACTOR A/C TOW MB-4										
19	TRACTOR, TOW, FLIGHTLINE										
20	TRUCK HYDRANT FUEL										
21	ITEMS LESS THAN $5.0M (SPECIAL PURPOSE)										
	Fire Fighting Equipment										
22	FIRE FIGHTING/CRASH RESCUE VEH		21,414		21,414		21,414				21,414

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
23	ITEMS LESS THAN $5.0M (FIRE FIGHTING EQUII										
	Materials Handling Equipment										
24	TRUCK F/L 6000 LB										
25	TRUCK, F/L 10,000 LB										
26	HALVERSEN LOADER		16,311		16,311		24,511		7,000		23,311
	Halverson loader						[8,200]		[7,000]		
27	ITEMS LESS THAN $5.0M										
	Base Maintenance Support										
28	LOADER, SCOOP										
29	LOADER- SCOOP- W/BACKHOE										
30	TRUCK, DUMP 5CY										
31	RUNWAY SNOW REMOVAL & CLEANING		22,026		22,026		22,026				22,026
32	CRANE 7-50 TON										
33	MODIFICATIONS										
34	ITEMS LESS THAN $5.0M (VEH)		10,546		10,546		10,546				10,546
	Cancelled Account Adjustment										
35	CANCELLED ACCOUNT ADJUSTMENTS										
	Electronics and Telecommunications										
	Comm Security Equipment (COMSEC)										
36	COMSEC EQUIPMENT		58,176		58,176		58,176				58,176
37	MODIFICATIONS (COMSEC)		2,399		2,399		2,399				2,399
	Intelligence Programs										
38	INTELLIGENCE TRAINING EQUIP		4,744		4,744		4,744				4,744
39	INTELLIGENCE COMM EQUIPMENT		1,523		1,523		14,023				1,523
	Jumbo digital transit cased system (J-DTS)						[12,500]				
	Electronics Programs										
40	TRAFFIC CONTROL/LANDING		16,795		51,395		16,795				16,795
	Mobile approach control system - ANG				[34,600]						

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
41	NATIONAL AIRSPACE SYSTEM		51,919		59,419		51,919		5,000		56,919
	DASR/DAAS				[7,500]				[5,000]		
42	THEATER AIR CONTROL SYS IMPROV		76,752		76,752		76,752				76,752
43	WEATHER OBSERVATION FORECAST		35,723		35,723		35,723				35,723
44	STRATEGIC COMMAND AND CONTROL		44,690		44,690		44,690				44,690
45	CHEYENNE MOUNTAIN COMPLEX		23,009		23,009		23,009				23,009
46	TAC SIGINT SPT										
47	DRUG INTERDICTION SPT		416		416		416				416
	Special Comm-Electronics Projects										
48	GENERAL INFORMATION TECHNOLOGY		110,997		121,497		110,997		5,000		115,997
	Science and engineering lab data integration				[5,000]				[5,000]		
	Automatic asset following system				[3,200]						
	Cluster computer initiative				[2,300]						
49	AF GLOBAL COMMAND & CONTROL SYS		11,891		11,891		11,891				11,891
50	MOBILITY COMMAND AND CONTROL		9,488		9,488		9,488				9,488
51	AIR FORCE PHYSICAL SECURITY SYS		35,910		38,910		35,910		1,000		36,910
	Force protection surveillance system				[3,000]				[1,000]		
52	COMBAT TRAINING RANGES		36,096		38,596		40,596		1,000		37,096
	Joint threat emitters				[2,500]		[4,500]		[1,000]		
53	MINIMUM ESSENTIAL EMERGENCY COM		20,545		20,545		20,545				20,545
54	C3 COUNTERMEASURES		4,517		4,517		4,517				4,517
55	GCSS-AF FOS		12,738		12,738		12,738				12,738
56	THEATER BATTLE MGT C2 SYSTEM		41,709		41,709		41,709				41,709
57	AIR OPERATIONS CENTER (AOC)		21,816		21,816		21,816				21,816
	Air Force Communications										
58	BASE INFO INFRASTRUCTURE		374,926		374,926		374,926				374,926
59	USCENTCOM		31,059		31,059		31,059				31,059
60	AUTOMATED TELECOMMUNICATIONS										

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	DISA Programs										
61	SPACE BASED IR SENSOR PGM SPACE		3,689		3,689		3,689				3,689
62	NAVSTAR GPS SPACE		9,096		9,096		9,096				9,096
63	NUDET DETECTION SYS SPACE		9,396		9,396		9,396				9,396
64	AF SATELLITE CONTROL NETWORK		51,778		51,778		51,778				51,778
65	SPACELIFT RANGE SYSTEM SPACE		114,189		114,189		114,189				114,189
66	MILSATCOM SPACE		28,720		28,720		28,720				28,720
67	SPACE MODS SPACE		25,063		25,063		25,063				25,063
	Organization and Base										
68	TACTICAL C-E EQUIPMENT		131,120		131,120		131,120				131,120
69	COMBAT SURVIVOR EVADER LOCATER		24,726				24,726				24,726
	Program adjustment			[-2,046]	[-24,726]						
69a	Combat Survivor Radios				24,726						
70	RADIO EQUIPMENT		7,458		7,458		7,458				7,458
71	TV EQUIPMENT (AFRTV)		5,871		5,871		5,871				5,871
72	CCTV/AUDIOVISUAL EQUIPMENT		3,193		3,193		3,193				3,193
73	BASE COMM INFRASTRUCTURE		107,007		107,007		107,007				107,007
74	ITEMS LESS THAN $5.0M		3,662		3,662		3,662				3,662
	Modifications										
75	COMM ELECT MODS		24,714		24,714		24,714				24,714
	Other Base Maintenance and Support Equip										
	Test Equipment										
76	BASE/ALC CALIBRATION PACKAGE										
77	PRIMARY STANDARDS LABORATORY										
78	ITEMS LESS THAN $5.0M (TEST EQUIPMENT)										
	Personal Safety and Rescue Equipment										
79	NIGHT VISION GOGGLES		11,965		11,965		11,965				11,965
80	ITEMS LESS THAN $5.0M (SAFETY + RESCUE)										

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Depot Plant and Material Handling Equip										
81	MECHANIZED MATERIAL HANDLING EQUIPME		14,617		22,617		14,617		3,000		17,617
	Point of Maintenance Initiative				[8,000]				[3,000]		
82	ITEMS LESS THAN $5.0M (DEPOT PLANT)										
	Electrical Equipment										
83	FLOODLIGHTS SET TYPE NF2D										
84	ITEMS LESS THAN $5.0M (ELECTRICAL EQUIP)										
	Base Support Equipment										
85	BASE PROCURED EQUIPMENT		23,188		23,188		23,188				23,188
86	MEDICAL/DENTAL EQUIPMENT		14,695		14,695		14,695				14,695
87	ENVIRONMENTAL PROJECTS										
88	AIR BASE OPERABILITY		5,463		5,463		5,463				5,463
89	PHOTOGRAPHIC EQUIPMENT										
90	PRODUCTIVITY CAPITAL INVESTMENT		5,324		5,324		5,324				5,324
91	MOBILITY EQUIPMENT		23,370		23,370		23,370				23,370
92	AIR CONDITIONERS										
93	ITEMS LESS THAN $5.0M		28,693		28,693		28,693				28,693
94	PRODUCTION ACTIVITIES	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
	Special Support Projects										
95	TECH SURV COUNTERMEASURES EQMT										
96	DARP RC135		21,507		21,507		21,507				21,507
97	DARP, MRIGS		147,952		147,952		147,952				147,952
98	SELECTED ACTIVITIES	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
99	SPECIAL UPDATE PROGRAM		270,788		270,788		270,788				270,788
100	DEFENSE SPACE RECONNAISSANCE PROGRAM		14,631		14,631		14,631				14,631
101	MODIFICATIONS										
102	FIRST DESTINATION TRANSPORTATION										

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Spares and Repair Parts										
103	SPARES AND REPAIR PARTS		30,340		30,340		30,340				30,340
104	REPLENISHMENT SPARES										
999	CLASSIFIED PROGRAMS		11,697,053		11,697,053		11,697,053				11,697,053
	Total - Other Procurement, Air Force		**14,002,689**		**14,068,789**		**14,027,889**		**22,000**		**14,024,689**

Procurement, Defense-wide overview

The budget request for fiscal year 2006 included an authorization of $2,677.8 million in Procurement, Defense-wide for the Department of Defense.

The House bill would authorize $2,715.4 million.

The Senate amendment would authorize $2,784.8 million.

The conferees recommend an authorization of $2,647.0 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2006 Request		House Authorized		Senate Authorized		Conference			
								Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement, Defense-Wide										
	Major Equipment										
	Major Equipment, OSD/WHS										
1	MAJOR EQUIPMENT, OSD		98,045		87,659		98,045				98,045
	MANPADS defense program				[-10,386]						
	Major Equipment, NSA										
2	CONSOLIDATED CRYPTOLOGIC PROGRAM	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
3	INFORMATION SYSTEMS SECURITY PROGRAM		7,790		7,790		7,790				7,790
4	DEFENSE AIRBORNE RECONNAISSANCE PGM	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
5	DEFENSE COUNTERDRUG PROGRAM	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
	Major Equipment, WHS										
6	WHS MOTOR VEHICLES										
7	MAJOR EQUIPMENT, WHS		26,307		26,307		26,307				26,307
	Major Equipment, DISA										
8	DRUG INTERDICTION										
9	INFORMATION SYSTEMS SECURITY		27,072		27,072		27,072				27,072
10	DEFENSE MESSAGE SYSTEM		8,912		8,912		8,912				8,912
11	GLOBAL COMMAND AND CONTROL SYSTEM		5,498		5,498		5,498				5,498
12	GLOBAL COMBAT SUPPORT SYSTEM		2,686		2,686		2,686				2,686
13	TELEPORT PROGRAM		98,320		98,320		98,320				98,320
14	GLOBAL INFORMATION GRID										
15	ITEMS LESS THAN $5 MILLION		33,491		33,491		33,491				33,491
16	DEFENSE INFORMATION SYSTEMS NETWORK		25,568		25,568		25,568				25,568
	Major Equipment, DIA										
17	INTELLIGENCE AND COMMUNICATIONS	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
18	DEFENSE HUMINT INTELLIGENCE PROGRAM	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
	Major Equipment, DLA										
19	MAJOR EQUIPMENT		8,328		8,328		8,328				8,328

Title I - Procurement

(Dollars in Thousands)

		FY 2006 Request		House Authorized		Senate Authorized		Conference Change		Conference Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Major Equipment, DCAA										
20	ITEMS LESS THAN $5 MILLION		1,497		1,497		1,497				1,497
	Major Equipment, TJS										
21	MAJOR EQUIPMENT, TJS		42,473		42,473		42,473				42,473
	Major Equipment, DHRA										
22	PERSONNEL ADMINISTRATION		7,496		7,496		7,496				7,496
	National Geospatial Intelligence Agency										
23	MAJOR EQUIPMENT. NGA	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
	Defense Threat Reduction Agency										
24	VEHICLES		200		200		200				200
25	OTHER MAJOR EQUIPMENT		16,319		16,319		16,319				16,319
	Defense Security Cooperation Agency										
26	OTHER MAJOR EQUIPMENT		780		780		780				780
	Major Equipment, AFIS										
27	MAJOR EQUIPMENT, AFIS		6,521		6,521		6,521				6,521
	Major Equipment, DODDE										
28	AUTOMATION/EDUCATIONAL SUPPORT & LOG		1,500		1,500		1,500				1,500
	Major Equipment, DCMA										
29	MAJOR EQUIPMENT		12,068		12,068		12,068				12,068
	Major Equipment, DTSA										
30	MAJOR EQUIPMENT		407		407		407				407
	Major Equipment, CIFA										
31	TSCM EQUIPMENT	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
	Major Equipment, NDU										
32	NATIONAL DEFENSE UNIVERSITY										
	Special Operations Command										
	Aviation Programs										

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
33	ROTARY WING UPGRADES AND SUSTAINMENT		129,748		129,748		137,448		7,000		136,748
	MH-47 IR suppressors						[7,700]		[7,000]		
34	SOF TRAINING SYSTEMS		13,897		13,897		13,897				13,897
35	MC-130H AIR REFUELING SYSTEM		18,268		18,268		18,268				18,268
36	MH-47 SERVICE LIFE EXTENSION PROGRAM		83,737		83,737		83,737				83,737
37	MH-60 SOF MODERNIZATION PROGRAM		29,629		29,629		29,629				29,629
38	MC-130H, COMBAT TALON II		66,288		66,288		66,288				66,288
39	CV-22 SOF MOD	2	117,923	2	117,923	2	117,923			2	117,923
40	AC-130U GUNSHIP ACQUISITION										
41	C-130 MODIFICATIONS		67,270		67,270		67,270				67,270
42	AIRCRAFT SUPPORT		1,045		1,045		1,045				1,045
	Shipbuilding										
43	ASDS ADVANCE PROCUREMENT		71,694		71,694		71,694		-71,694		
	Fence, pending milestone C						[71,694]				
	Program adjustment								[-71,694]		
44	ADVANCED SEAL DELIVERY SYSTEM (ASDS)		12,350		12,350		12,350		-2,350		10,000
	Program adjustment								[-2,350]		
45	MK8 MOD1 SEAL DELIVERY VEHICLE		2,151		2,151		2,151				2,151
	Ammunition Programs										
46	SOF ORDNANCE REPLENISHMENT		38,126		38,126		38,126				38,126
47	SOF ORDNANCE ACQUISITION		11,158		11,158		22,158		8,000		19,158
	Time delayed firing devices/sympathetic detonators						[11,000]		[8,000]		
	Other Procurement Programs										
48	COMMUNICATIONS EQUIPMENT AND ELECTR		69,898		69,898		99,898				69,898
	Multi-band inter/intra team radio						[13,500]				
	Multi-band multi-mission radio						[16,500]				

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
49	SOF INTELLIGENCE SYSTEMS		27,642		45,642		39,642		1,000		28,642
	Joint threat warning system - air			[16]	[10,000]		[12,000]		[1,000]		
	SOF Intelligence Systems - SOTVS				[8,000]						
50	SMALL ARMS AND WEAPONS		119,372		119,372		122,672				119,372
	Rucksack portable UAV						[3,300]				
51	CLASSIFIED PROGRAMS	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
52	MARITIME EQUIPMENT MODIFICATIONS		2,275		2,275		2,275				2,275
53	SPECIAL APPLICATIONS FOR CONTINGENCIES		16,511		16,511		16,511				16,511
54	SOF COMBATANT CRAFT SYSTEMS		17,732		17,732		17,732				17,732
55	SPARES AND REPAIR PARTS		5,114		5,114		5,114				5,114
56	SPECIAL PROGRAM	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
57	TACTICAL VEHICLES		4,541		4,541		4,541				4,541
58	USSOCOM REQUIREMENTS - TITLE IX										
59	CLASSIFIED PROGRAM GDIP	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]	[ ]
60	SOF MARITIME EQUIPMENT		1,088		1,088		1,088				1,088
61	DRUG INTERDICTION										
62	MISCELLANEOUS EQUIPMENT		22,271		22,271		22,271				22,271
63	SPECIAL OPERATIONS MISSION PLANNING EN\										
64	SOF OPERATIONAL ENHANCEMENTS		233,824		243,824		250,624		1,000		234,824
	Miscellaneous programs						[16,800]				
	Special weapons observation recce direct action sys				[10,000]				[1,000]		
65	PSYOP EQUIPMENT		46,649		46,649		46,649				46,649
	Chemical/Biological Defense										
	CBDP										
66	INSTALLATION FORCE PROTECTION		198,045		198,045		208,245		10,200		208,245
	Military mail screening equipment						[10,200]		[10,200]		
67	INDIVIDUAL PROTECTION		97,183		97,183		97,183				97,183
68	DECONTAMINATION		2,950		2,950		2,950				2,950

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
69	JOINT BIOLOGICAL DEFENSE PROGRAM		62,341		62,341		62,341				62,341
70	COLLECTIVE PROTECTION		31,841		31,841		31,841				31,841
71	CONTAMINATION AVOIDANCE		258,299		278,299		274,299		16,000		274,299
	M22 automatic chemical agent detection alarm				[20,000]		[16,000]		[16,000]		
999	CLASSIFIED PROGRAMS		365,694		365,694		365,694				365,694
	Total - Procurement, Defense-Wide		**2,677,832**		**2,715,446**		**2,784,832**		**-30,844**		**2,646,988**

Title I - Procurement

(Dollars in Thousands)

		FY 2006		House		Senate		Conference			
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	National Guard & Reserve Equipment										
	Reserve Equipment										
	ARMY RESERVE										
1	MISCELLANEOUS EQUIPMENT										
	NAVY RESERVE										
2	MISCELLANEOUS EQUIPMENT										
	MARINE CORPS RESERVE										
3	MISCELLANEOUS EQUIPMENT										
	AIR FORCE RESERVE										
4	MISCELLANEOUS EQUIPMENT										
	National Guard Equipment										
	ARMY NATIONAL GUARD										
5	MISCELLANEOUS EQUIPMENT										
	AIR NATIONAL GUARD										
6	MISCELLANEOUS EQUIPMENT										
	Total - National Guard & Reserve Equipment										
	Defense Production Act Purchases										
1	DEFENSE PRODUCTION ACT PURCHASES										
	Total - Defense Production Act Purchases										
	TOTAL PROCUREMENT		**76,615,837**		**79,108,856**		**78,162,237**		**298,174**		**76,914,011**

ITEMS OF SPECIAL INTEREST

Joint Combat Pistol program

The conferees are aware the U.S. Special Operations Command (SOCOM) has a requirement for a new .45 caliber pistol, the Joint Combat Pistol (JCP) program. The conferees understand that the SOCOM requirement is under review through the Joint Capabilities Integration and Development System process, and that the Army and the Marine Corps have expressed interest in the JCP program. The conferees note that SOCOM has issued a draft request for proposals (RFP) for the procurement of these new pistols and that this draft RFP contains an addendum for a potentially large quantity procurement. The conferees are not only concerned with the potential procurement of pistols in excess of the SOCOM requirement but also concerned with the proliferation of service programs to acquire a new combat pistol. The conferees expect the Department of Defense to acquire the JCP and any other new pistol in accordance with Department acquisition regulations and full and open competition. The conferees direct the Secretary of Defense to provide a report to the congressional defense committees, no later than April 1, 2006, on the acquisition strategy for pistols. The report would include an analysis of alternatives for the JCP program and details on the Joint Combat Pistol, Close Quarter Battle, Personal Defense Weapon, and any other Department acquisition program relating to military pistols. The report would also include an evaluation of the costs of utilizing the current inventory of serviceable M1911A1 pistols still in storage and the potential option of refurbishing unserviceable M1911A1 pistols.

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Authorization of Appropriations

Authorization of appropriations (secs. 101–104)

The House bill contained provisions (secs. 101–104) that would authorize the recommended fiscal year 2006 funding levels for procurement Army, Navy, Marine Corps, Air Force, and Defense-wide activities.

The Senate amendment contained similar provisions (secs. 101–104).

The conference agreement includes these provisions.

Subtitle B—Army Programs

Multiyear procurement authority for utility helicopters (sec. 111)

The House bill contained a provision (sec. 111) that would authorize the Secretary of the Army to enter into a multiyear procurement contract, beginning with fiscal year 2007, for procurement of up to 461 helicopters in the UH–60M configuration and, acting as the executive agent for the Department of the Navy, in the MH–60S configuration.

The Senate amendment contained a similar provision (sec. 113).

The House recedes with an amendment that would authorize the Secretary to enter into a multiyear contract, beginning with fiscal year 2007, for the procurement of UH–60M Black Hawk utility helicopters and, acting as the executive agent for the Department of the Navy, enter into a multiyear contract for the procurement of MH–60S Sea Hawk utility helicopters. The conferees understand that the Department of the Army and the Department of the Navy intend to procure 461 H-60 helicopters.

Multiyear procurement authority for Modernized Target Acquisition Designation Sight/Pilot Night Vision Sensors for AH–64 Apache attack helicopters (sec. 112)

The House bill contained a provision (sec. 112) that would authorize the Secretary of the Army to enter into a multiyear procurement contract, beginning with fiscal year 2006, for procurement of the Apache Modernized Target Acquisition Designation Sight/Pilot Night Vision Sensor (MTADS/PNVS).

The Senate amendment contained a similar provision (sec. 112).

The Senate recedes with an amendment that would authorize the Secretary to enter into a multiyear procurement contract, beginning with fiscal year 2006, for procurement of the Apache MTADS/PNVS, with a 4 year limitation on the length of the contract.

Multiyear procurement authority for conversion of AH–64A Apache attack helicopters to the AH-64D Block II configuration (sec. 113)

The House bill contained a provision (sec. 113) that would authorize the Secretary of the Army to enter into a multiyear procurement contract, beginning with fiscal year 2006, for procurement of the conversion of 96 Apache helicopters to the Block II configuration.

The Senate amendment contained a similar provision (sec. 111).

The Senate recedes with an amendment that would authorize the Secretary to enter into a multiyear procurement contract, beginning with fiscal year 2006, for procurement of the conversion of AH–64A Apaches to the AH-64D Block II configuration, with a 4 year limitation on the length of the contract. The conferees understand that the Department of the Army intends to convert at least 96 AH–64A Apache helicopters to the AH-64D Block II configuration.

Acquisition strategy for tactical wheeled vehicle programs (sec. 114)

The House bill contained a provision (sec. 114) that would require the Secretary of the Army and the Secretary of the Navy to enter into a joint service program for the procurement of a new vehicle class of tactical wheeled vehicles.

The Senate amendment contained no similar provision.

The Senate recedes.

The conferees support the Army's revised strategy for acquiring tactical wheeled vehicles and understand the Army intends to recapitalize, modernize, and eventually replace the Army's existing light, medium, and heavy tactical wheeled vehicles with either a new next generation vehicle class or more capable current force tactical wheeled vehicles. The conferees are aware that, in some areas, the Army and Marine Corps are cooperating in the development of tactical wheeled vehicle replacements. However, the conferees also understand that the Marine Corps has its own program to replace an aging fleet of battlefield resupply vehicles, the Logistics Vehicle System-Replacement program, even though it appears that the Army's Palletized Load System could be an adequate replacement for Marine Corps resupply vehicles. The conferees believe that the Army and Marine Corps can do more to coordinate tactical wheeled vehicle requirements and execute a joint service program to acquire tactical wheeled vehicles. The conferees encourage the Army-Marine Corps Board to review the current requirements for Army and Marine Corps tactical wheeled vehicles with the intent to converge tactical wheeled vehicle requirements and acquisition.

Report on Army modular force initiative (sec. 115)

The House bill contained a provision (sec. 115) that would place a $3.0 billion limitation on the obligation or expenditure of funds available for the acquisition programs for the Army modular force initiative until the Secretary of the Army submits a report to the congressional defense committees that outlines the full scope and funding levels of the programs considered part of the modular force initiative, and a detailed accounting of the use of funds provided for the modular force initiative in the 2005 emergency supplemental request.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would remove the funding limitation as contained in the House provision and directs the Secretary of the Army to submit a report to the congressional defense committees no later than 30 days after the date of the submission of the fiscal year 2006 request for emergency supplemental appropriations for the Department of Defense to the Congress.

The conferees have strongly supported and will continue to support the Army's modular force initiative. However, the conferees are concerned with modularity costs and the Army's ability to support current year and outyear funding for the modular force initiative. In March 2005, the Army's cost estimates for its modular force initiative was $48.0 billion. However, in a September 2005 report, the Government Accountability Office (GAO) found that the Army's cost estimate for the modularity initiative did not include $27.5 billion in personnel and construction costs, bringing potential known costs to $75.5 billion. Minimal information has been provided to the congressional defense committees on defined requirements and budget detail primarily because the Army modular force initiative has been funded through the use of emergency supplemental requests for the Department of Defense. The conferees require a greater level of detail to understand the Army's modular force initiative, and direct the Secretary of the Army to submit a report that would specify each program in the modular force initiative and the requirements, acquisition objective, funding profile, and unfunded requirements for each program specified as part of the Army's modular force initiative. The conferees expect the Army to provide the requested information aggregated by Army component.

Subtitle C—Navy Programs

Virginia-class submarine program (sec. 121)

The House bill contained a provision (sec. 121) that would limit the total procurement end costs for five *Virginia*-class submarines (SSN-779, SSN-780, SSN-781, SSN-782, and SSN–783) to the cost estimates submitted for those vessels with the fiscal year 2006 budget request. The provision would allow the Secretary of the Navy to adjust the limitation amounts for economic inflation and for changes in federal, state, or local laws enacted after September 30, 2005. The provision would also require the Secretary to notify Congress of any adjustments made to the limitation amounts annually, with the submission of the budget request for the following fiscal year.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would raise the amounts of the limitation for the same five *Virginia*-class submarines to the contract ceiling prices for those five submarines. In addition to the two reasons for which the House bill would allow the Secretary to submit adjustments to the cost limitations, the Senate amendment would allow the Secretary to make adjustments for the amounts of outfitting and post-delivery costs, and the amounts of increases or decreases in costs of those submarines that are attributable to the insertion of new technology. The amendment would, however, limit those technologies that could be used for cost adjustment to those that would either lower life cycle costs or meet an emerging threat.

The conferees direct the Secretary to submit a report to the congressional defense committees, upon submission of the budget request for fiscal year 2007, including a list of items and activities, and their estimated costs, that would be required during the outfitting and post-delivery of each of the five submarines covered by this provision.

LHA replacement (LHA(R)) amphibious assault ship program (sec. 122)

The House bill contained a provision (sec. 122) that would limit the total amount obligated or expended for procurement of each ship of the LHA replacement (LHA(R)) amphibious assault ship program to $2.0 billion. The provision would allow the Secretary of the Navy to adjust the amount for certain reasons, and report on those adjustments annually with the submission of the budget request. The provision would also prohibit the obligation or expenditure of any funds for procurement of the LHA(R) until the Secretary of Defense certifies to the congressional defense committees that: (1) a detailed Operational Requirements Document had been approved by the Joint Requirements Oversight Council; and (2) a stable design exists for the LHA(R) class of vessels.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would prohibit expenditure of more than 70 percent of the funds available in Shipbuilding and Conversion, Navy, for the LHA(R) program, until the Secretary of the Navy certifies in writing to the congressional defense committees that there is an approved operational requirement and a stable design for the LHA(R) class of vessels.

Cost limitation for next-generation destroyer program (sec. 123)

The House bill contained a provision (sec. 123) that would limit the amount of procurement funds obligated or expended for each future major surface combatant, destroyer type, to $1.7 billion. The provision would allow the Secretary of the Navy to adjust this amount for economic inflation and for changes in federal, state, or local laws enacted after September 30, 2005. The provision would also require the Secretary to notify Congress of any adjustments made to this limitation annually, with the submission of the annual budget request. The provision would authorize $700.0 million in the Research, Development, Test, and Evaluation, Navy account for technology development and demonstration for this ship. The provision would also require the Secretary to ensure that the acquisition plan for this ship would: (1) use technologies from the DD(X) and CG(X) programs, as well as any other technology the Secretary considers appropriate; (2) require the ship to have an overall capability not less than that of the flight IIA version of the *Arleigh Burke* (DDG–51) class destroyer; and (3) posture the program to be ready for lead ship procurement not later than fiscal year 2011.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would limit the cost of the fifth vessel in the next-generation destroyer program to $2.3 billion. In addition to the two reasons the House bill would allow the Secretary to submit adjustments to the cost limitation, the Senate amendment would allow the Secretary to make adjustments for the amount of outfitting and post-delivery costs, and the amounts of increases or decreases in costs of the vessel that are attributable to the insertion of new technology. The amendment would, however, limit those technologies that could be used for cost adjustment to those that would either lower life cycle costs or meet an emerging threat. The amendment would require the Secretary to start reporting any adjustment to the cost limitation with the submission of the budget request for the year in which a contract for detail design and construction of the fifth vessel of the next-generation destroyer is expected to be awarded.

The conferees direct the Secretary to submit a report to the congressional defense committees, which would accompany the first report of cost limitation adjustment, that includes a list of items and activities, and their estimated costs, that would be required during the outfitting and post-delivery for this vessel.

Littoral combat ship (LCS) program (sec. 124)

The House bill contained a provision (sec. 124) that would limit the amounts obligated or expended for each ship of the Littoral Combat Ship (LCS) class, to include the amounts for mission modules, to $400.0 million. The provision would allow the Secretary of the Navy to adjust this amount for economic inflation and for changes in federal, state, or local laws enacted after September 30, 2005. The provision would also require the Secretary of the Navy to notify Congress of any adjustments made to this limitation annually, with the submission of the annual budget request. The provision would further prevent the Navy from requiring any LCS vessels or LCS mission modules until the Secretary of Defense submits the results of an operational evaluation of the first four LCS vessels, conducted by the Director of Operational Test and Evaluation, and a certification that there is a stable design for LCS to the congressional defense committees.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would limit the cost of the fifth and sixth vessels of the LCS-class to $220.0 million, excluding amounts for elements designated by the Secretary of the Navy as a mission package. In addition to the two reasons the House bill would allow the Secretary of the Navy to submit adjustments to the cost limitation, the Senate amendment would include the amount of outfitting the post-delivery costs, and the amounts of increases or decreases in cost of the vessels that are attributable to the insertion of new technology. The amendment would, however, limit those technologies that could be used for cost adjustment to those that would either lower life cycle costs or meet an emerging threat. The amendment would require the Secretary to start reporting any adjustment to the cost limitation with the submission of the budget request for the year in which a contract for detail design and construction of the fifth vessel of the next-generation destroyer is expected to be awarded. The amendment would also require the Secretary of the Navy to report, with the submission of the annual budget request, those elements that are designated as mission packages for the LCS-class of vessels, and their estimated cost. The amendment would limit the use of funds for any LCS vessels or mission packages, after the first four vessels, until the Secretary of the Navy submits a certification to the congressional defense committees that the LCS design is stable.

The conferees direct the Secretary of the Navy to submit a report to the congressional defense committees, which would accompany the first report of cost limitation adjustment, that includes a list of items and activities, and their estimated costs, that would be required during the outfitting and post-delivery for these vessels.

Prohibition on acquisition of next-generation destroyer through a single shipyard (sec. 125)

The Senate amendment contained a provision (sec. 121) that would prohibit the acquisition of the next-generation destroyer (DD(X)) through a winner-take-all acquisition strategy. The provision would also prohibit the obligation or expenditure of funds for the purpose of pursuing a winner-take-all acquisition strategy. The provision would define a winner-take-all acquisition strategy as one leading to the acquisition, including both design and construction, of the next-generation of destroyers through a single shipyard.

The House bill contained no similar provision.

The House recedes with an amendment that would not specify the DD(X) as the next-generation destroyer, but instead define the next-generation destroyer program as that which will acquire and deploy a new class of destroyers as the follow-on to the Arleigh Burke-class of destroyers.

Aircraft carrier force structure (sec. 126)

The House bill contained a provision (sec. 128) that would amend section 5062 of title 10, United States Code, by inserting a new subsection that would require the naval combat forces of the Navy to have no less than 12 operational aircraft carriers, and would clarify that an operational aircraft carrier could be one which is temporarily unavailable for worldwide deployment due to routine or scheduled maintenance or repair. The provision would also require the Secretary of Defense to take all necessary actions to ensure that the U.S.S. *John F. Kennedy* (CV–67) is maintained in a fully mission capable status, and would authorize $60.0 million in the Operations and Maintenance, Navy account for the operation and routine maintenance of the U.S.S. *John F. Kennedy*.

The Senate amendment contained a provision (sec. 321) that would authorize $288.0 million in the Operations and Maintenance, Navy account from this Act and any other Act for fiscal years 2005 and 2006, only for the repair and maintenance to extend the life of the U.S.S. *John F. Kennedy*. The provision would prohibit the Secretary of the Navy from reducing the number of active aircraft carriers of the Navy below 12 until the later of: (1) 180 days after submission of the 2005 Quadrennial Defense Review, as required by section 118 of title 10, United States Code; or (2) the date on which the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, certifies to the congressional defense committees that agreements have been entered into to provide port facilities for the permanent forward deployment of such number of aircraft carriers as is necessary in the Pacific Command Area of Responsibility.

The Senate recedes with an amendment that would amend section 5062 of title 10, United States Code, by inserting a new subsection that would require the naval combat forces of the Navy to include no less than 12 operational aircraft carriers, and would specify that an operational aircraft carrier includes an aircraft carrier that is temporarily unavailable for worldwide deployment due to routine or scheduled maintenance or repair. The amendment would also authorize up to $288.0 million in the Operations and Maintenance, Navy account for repair and maintenance to extend the life of the U.S.S. *John F. Kennedy*.

Refueling and complex overhaul of the U.S.S. Carl Vinson (sec. 127)

The House bill contained a provision (sec. 126) that would authorize approximately $1.5 billion from the Shipbuilding and Conversion, Navy account as the first increment of the nuclear refueling and complex overhaul (RCOH) of the U.S.S. *Carl Vinson*. The provision would authorize the Secretary of the Navy to enter into a contract during fiscal year 2006 for this RCOH, but would also require as a condition of this contract that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2006 is subject to the availability of appropriations.

The Senate amendment contained a similar provision (sec. 124).

The Senate recedes with an amendment that would authorize $1.5 billion for the RCOH, but would acknowledge the fact that the contract has already been entered into, using the authority of Public Law 109–104, enacted on November 19, 2005. The amendment would also clarify that the $89.0 million made available by Public Law 109–104 is part of the $1.5 billion authorized for fiscal year 2006.

CVN–78 aircraft carrier (sec. 128)

The Senate amendment contained a provision (sec. 122) that would authorize the Secretary of the Navy to fund the detail design and construction of the aircraft carrier designated CVN–78 using split funding in the Shipbuilding and Conversion, Navy account in fiscal years 2007, 2008, 2009, and 2010. The provision would direct that the contract for this ship provide that any obligation of the United States to make a payment for a fiscal year after 2006 would be subject to the availability of appropriations.

The House bill contained no similar provision.

The House recedes with an amendment that would reduce the number of years the funding could be split to fiscal years 2007, 2008, and 2009.

LHA replacement (LHA(R)) ship (sec. 129)

The Senate amendment contained a provision (sec. 123) that would authorize $325.4 million in the Shipbuilding and Conversion, Navy, account in fiscal year 2006 for design, advance procurement, advance construction, detail design, and construction for the lead ship of the LHA(R) class of vessels. The provision would also approve incremental funding for the lead ship in fiscal years 2007 and 2008. The provision would also authorize the Secretary of the Navy to enter into a contract for design, advance procurement, and advance construction for the lead LHA(R) in fiscal year 2006, and to enter another contract for the detail design and construction for the lead LHA(R) in fiscal year 2006. The provision would provide that any obligation of the United States to make a payment under these contracts for a fiscal year after 2006 would be subject to the availability of appropriations for that purpose for that fiscal year.

The House bill contained no similar provision.

The House recedes with an amendment that would lower the authorized amount of funds in Shipbuilding and Conversion, Navy, to $200.5 million for LHA(R) in fiscal year 2006.

Report on alternative propulsion methods for surface combatants and amphibious warfare ships (sec. 130)

The House bill contained a provision (sec. 127) that would require the Secretary of the Navy to submit a report to the congressional defense committees not later than the submission of the fiscal year 2007 budget request. The report would include the results of a 2005 study, directed by the Chief of Naval Operations, on alternative propulsion methods for Navy surface combatant vessels. The provision would require that the report include the study objectives, methodology, description of alternatives, conclusions, and the Secretary's intended actions based on the conclusion of the study.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would extend the date for the submission of the report until November 1, 2006. The amendment would also require the contents of the report to examine the life cycle costs of the various alternatives, including nuclear power alternatives, in the report.

The conferees expect the Navy to brief the congressional defense committees on the organization and study plan for the preparation of this report by April 1, 2006.

Subtitle D—Air Force Programs

C–17 aircraft program and assessment of intertheater airlift requirements (sec. 131)

The House bill contained a provision (sec. 131) that would authorize the Secretary of the Air Force to enter into a multiyear contract, beginning with fiscal year 2006, for the procurement of up to 42 additional C–17 aircraft.

The Senate amendment contained a provision (sec. 131) that would authorize a similar multiyear contract authority, but would require the Secretary of Defense to certify to the congressional defense committees that the requirement for up to 42 additional C–17 aircraft is consistent with the Quadrennial Defense Review (QDR) before procuring additional C–17 aircraft under that multiyear authority. The Senate amendment would further require the Secretary of Defense to carry out an assessment of the intertheater airlift capabilities required to support the national defense strategy as part of the QDR. In the assessment, the Secretary of Defense would be required to explain how the future airlift force structure requirements in the QDR take into account: (1) the increased airlift demands associated with the Army modular brigade combat teams; (2) the objective to deliver a brigade combat team anywhere in the world within 4 to 7 days, a division within 10 days, and multiple divisions within 20 days; (3) the increased airlift demands associated with the expanded scope of operational activities of the Special Operations Forces; (4) the realignment of the overseas basing structure in accordance with the Integrated Presence and Basing Strategy; (5) adjustments in the force structure to meet homeland defense requirements; (6) the potential for simultaneous homeland defense activities and major combat operations; and (7) potential changes in requirements for intratheater airlift or sealift capabilities. The Senate amendment would also encourage the Secretary of the Air Force to procure sufficient C–17 aircraft to maintain the C–17 production at not less than the minimum sustaining rate in the event the Secretary of Defense is unable to make the multiyear certification, until sufficient flight test data has been obtained to validate the improved C–5 mission capability rates used in the Mobility Capabilities Study as a result of the C-5 Reliability Enhancement and Reengining Program and Avionics Modernization Program.

The House recedes with an amendment that would require the Secretary of Defense to provide an additional explanation on how the future airlift force structure requirements in the QDR take into account the capability of the Civil Reserve Air Fleet to provide adequate augmentation in meeting global mobility requirements. The House amendment would further allow the intratheater airlift assessments to be submitted to the Committees on Armed Services of the Senate and the House of Representatives up to 45 days after submission of the QDR, if the Department is unable to submit them with the budget request.

Prohibition on retirement of KC–135E aircraft (sec. 132)

The Senate amendment contained a provision (sec. 132) that would prohibit the Secretary of the Air Force from retiring any KC–135E aircraft of the Air Force in fiscal year 2006.

The House bill contained no similar provision.

The House recedes.

Prohibition on retirement of F–117 aircraft during fiscal year 2006 (sec. 133)

The Senate amendment contained a provision (sec. 134) that would prohibit the Secretary of the Air Force from retiring any F-117 Nighthawk stealth attack aircraft of the Air Force in fiscal year 2006.

The House bill contained no similar provision.

The House recedes.

Prohibition on retirement of C–130E/H tactical airlift aircraft during fiscal year 2006 (sec. 134)

The Senate amendment contained a provision (sec. 135) that would prohibit the Secretary of the Air Force from retiring any C-130E/H tactical airlift aircraft of the Air Force in fiscal year 2006.

The House bill contained no similar provision.

The House recedes.

Procurement of C–130J/KC–130J aircraft after fiscal year 2005 (sec. 135)

The Senate amendment contained a provision (sec. 136) that would require any C–130J/KC–130J procured after fiscal year 2005, including any C–130J/KC–130J aircraft procured through a multiyear contract continuing in force from a fiscal year before fiscal year 2006, to be procured through a contract under part 15 of the Federal Acquisition Regulation, relating to items by negotiated contract, rather than through a contract under part 12 of the Federal Acquisition Regulation, relating to acquisition of commercial items.

The House bill contained no similar provision.

The House recedes.

Report on Air Force aircraft aeromedical evacuation programs (sec. 136)

The Senate amendment contained a provision (sec. 137) that would require the Secretary of the Air Force to procure up to two aircraft dedicated to the aeromedical evacuation mission and capable of providing nonstop aeromedical evacuations across the Atlantic Ocean. The provision would also authorize $200.0 million in aircraft procurement funds for the procurement and equipping of these aircraft.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary to submit to the congressional defense committees a report on aeromedical evacuation programs of the Air Force not later than 90 days after the date of the enactment of this Act. The report should provide a comprehensive evaluation and overall assessment of the current aeromedical evacuation program, carried out through the use of designated aircraft, compared to the former aeromedical evacuation program, carried out through the use of dedicated aircraft. The report would include: (1) a description of challenges and capability gaps of the current aircraft aeromedical evacuation program compared to the challenges and capability gaps of the former program; (2) a description of possible means by which to best mitigate or resolve the challenges and capability gaps with respect to the current program; (3) a specification of medical equipment or upgrades needed to enhance the current program; (4) a specification of aircraft equipment or upgrades needed to enhance the current program; (5) a description of the advantages and disadvantages of the current program compared to the advantages and disadvantages of the former program; (6) a cost comparison analysis of the current program compared to the former program; and (7) a description of the manner in which customer feedback is obtained and applied to the current program.

The conferees agree that transitioning from a dedicated aircraft aeromedical evacuation (AE) program to a designated aircraft AE program is not without challenges, some of which are annotated in the Senate report accompanying S. 1042 (S. Rept. 109–69) of the National Defense Authorization Act for Fiscal Year 2006. Therefore, the conferees encourage the Secretary to address in the report all challenges and capability gaps related to the designated aircraft AE program and to outline explicitly the manner in which those challenges and capability gaps will be resolved. Furthermore, if the Secretary determines from the results of the report that dedicated AE aircraft are needed to augment the current AE program, the conferees encourage the Air Force to consider basing those aircraft at locations that have previous expertise in performing the dedicated aircraft AE mission.

Subtitle E—Joint and Multiservice Matters

Requirement that tactical unmanned aerial vehicles use specified standard data link (sec. 141)

The House bill contained a provision (sec. 141) that would direct the Secretary of Defense to ensure that all service tactical unmanned aerial vehicles (UAV) be equipped with the standard tactical UAV data link known as the Tactical Common Data Link (TCDL) and configured to data formats consistent with the architectural standard for tactical UAVs, known as STANAG 4586. The provision would not allow the Department of Defense to expend funds on tactical UAVs that do not include the TCDL or STANAG 4586 standards. Finally, the provision would direct the secretary of each military department to submit a report to Congress providing the Secretary's certification as to whether or not all tactical UAVs are in compliance with the standard data link.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would clarify the House provision by providing the Undersecretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)) with the authority to waive the standards directed in this provision, if the USD(AT&L) determines and certifies to the congressional defense committees that it would not be technologically feasible or economically acceptable to integrate a tactical data link into a specific tactical UAV.

The conferees understand that there is a class of UAVs, such as the Marine Corps Dragon Eye UAV and the Army Raven UAV, that are not large enough to carry the equipment required to integrate the TCDL standard. The conferees believe that the TCDL standard should be applied to all UAVs to the maximum extent possible.

Limitation on initiation of new unmanned aerial vehicle systems (sec. 142)

The House bill contained a provision (sec. 142) that would preclude procurement of new unmanned aerial vehicle (UAV) systems by the military services without the written approval of the Under Secretary of Defense for Acquisition, Technology and Logistics (USD(AT&L)).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would exempt UAV programs under contract as of the date of enactment of this Act or for which funds have been appropriated for procurement before the date of enactment of this Act from the requirement to have written approval from the USD(AT&L).

Advanced SEAL Delivery System (sec. 143)

The Senate amendment contained a provision (sec. 151) that would direct no amount of the $71.7 million authorized to be appropriated for advanced procurement of the Advanced SEAL Delivery System (ASDS) in fiscal year 2006 be expended until after a favorable Milestone C decision.

The House bill contained no similar provision.

The House recedes with a clarifying amendment that would restructure the program. On 22 November 2005, the U.S. Special Operations Command (SOCOM) announced and briefed the conferee's staff on a decision to restructure the ASDS program. The restructuring would focus on improving the reliability of the first boat, which was delivered to the Navy in June 2003. The ASDS Reliability Action Panel, comprised of government and industry technical experts, recommended restructuring the program.

The conferees commend the decision by SOCOM to focus on developing an operationally reliable first boat. The conferees have expressed their concern about technical challenges, contractor performance, and cost growth that have occurred in the ASDS program for several years, and have urged SOCOM, the Department of the Navy, and the Secretary of Defense to take a stronger management role with regard to the program.

The original program budget request has been reduced by $32.0 million. The restructuring reallocates an additional $21.0 million to research and development, an additional $10.1 million to operations and maintenance, and a reduction of $63.0 million in procurement. The conferees agree to authorize the restructured program, with some modifications. Although the restructured budget request included $11.0 million to fabricate and test one set of universal pylons for use on the *Virginia*-Class and *Ohio*-Class SSGN submarines, the conferees believe this is premature as the command expects the critical system review of the boat to take at least 1 year.

In addition, the conferees are not confident that the command will be able to conduct the additional field testing for the first boat now planned for fiscal year 2006. Therefore, the conferees direct that no amount of the $10.1 million increase in operation and maintenance funds authorized to be appropriated be obligated or expended until the Secretary revalidates to the congressional defense committees the requirement for the ASDS.

The conferees further direct the Secretary to submit a report on the conclusions of the Quadrennial Defense Review concerning the ASDS; the number of boats required and the manner of their employment; an updated cost estimate for the ASDS program; and a timeline for addressing the technological challenges faced by the program by March 1, 2006. Furthermore, the conferees direct that the Secretary report the conclusions of the ongoing critical systems review being conducted by the command to the congressional defense committees by January 1, 2007.

LEGISLATIVE PROVISIONS NOT ADOPTED

Authorization of two additional Arleigh Burke-class destroyers

The House bill contained a provision (sec. 125) that would authorize $2.5 billion in Shipbuilding and Conversion, Navy, for the construction of two additional *Arleigh Burke*-class destroyers, which would be constructed under a single, competitively awarded contract.

The Senate amendment contained no similar provision.

The House recedes.

The outcome is reflected in the tables of this report in Shipbuilding and Conversion, Navy, line 14.

C–37B aircraft

The Senate amendment contained a provision (sec. 138) that would authorize an increase of $45.0 million for the procurement of one C–37B aircraft for the Air Force.

The House bill contained no similar provision.

The Senate recedes.

The conference outcome is reflected in the tables of this report in Aircraft Procurement, Air Force, line number 36.

Contingent transfer of additional funds for CVN–21 carrier replacement program

The House bill contained a provision (sec. 129) that would direct the transfer of $86.7 million from Operations and Maintenance, Defense-wide, to Shipbuilding and Conversion, Navy, for the purpose of accelerating the CVN–21 aircraft carrier replacement program. The provision would direct this transfer only if the Director, Program Analysis and Evaluation, of the Department of Defense, certifies that this addition of $86.7 million would allow the construction of CVN–21 to begin in fiscal year 2007, and would be limited to those amounts appropriated for fiscal year 2006.

The Senate amendment contained no similar provision.

The House recedes.

Contract requirement for Objective Individual Combat Weapon—increment one

The House bill contained a provision (sec. 116) that would require the Secretary of the Army to ensure that the contractor for the Objective Individual Combat Weapon—increment one (OICW–1) is selected through a full and open competition.

The Senate amendment contained no similar provision.

The House recedes.

The conferees understand that the Army has terminated the existing competition and requests for proposal (RFP) for the OICW–1 program until further review by the Joint

Requirements Oversight Council (JROC). The conferees are aware the JROC expects to convene to complete the Joint Capabilities Integration and Development System process for the OICW-1 capability development document sometime in fiscal year 2006 to be followed by an RFP that reflects OICW-1 requirements. The conferees expect that any new competition for the OICW program be conducted in a fair and open manner. Upon completion of the review by the JROC, the conferees direct the Secretary of the Army to submit a detailed report, to the congressional defense committees, that would outline the path forward for the OICW program. The report should include: (1) the planned acquisition strategy in meeting any new requirements as set forth by the JROC; (2) the cost and schedule impacts, if any, to the OICW—Increment two and three programs based on validated JROC requirements; and (3) the results of analysis of alternatives used in the JROC and Army's decision-making process.

Rapid intravenous infusion pumps

The Senate amendment contained a provision (sec. 125) that would authorize $1.0 million for the procurement of rapid intravenous pumps for the Marine Corps.

The House bill contained no similar provision.

The Senate recedes.

The conference outcome is reflected in the tables elsewhere in this report in Procurement, Marine Corps, line number 78.

Second source for production and supply of tires for the Stryker combat vehicle

The Senate amendment contained a provision (sec. 116) that would require the Secretary of the Army to conduct a study on the feasibility and costs and benefits for the second source for the production and supply of tires for the Stryker combat vehicle.

The House bill contained no similar provision, but did contain funding in Procurement of Weapons and Tracked Combat Vehicles, Army, to qualify a second source for the production and supply of tires for the Stryker combat vehicle.

The Senate recedes.

The conferees recognize that tires are currently the highest sustainment demand item for the Stryker. The majority of tire failures are being caused by wear-out from high operational tempo; from increased pressure due to the weight associated with the addition of Slat add-on armor for protection against rocket propelled grenades; and damage from improvised explosive devices attacks. The conferees direct the Secretary of the Army to submit a report to the congressional defense committees, no later than 90 days after the enactment of this Act, that would evaluate Stryker tire availability and the need, if any, to qualify a second source for the tires of the Stryker vehicle.

UH-60 Black Hawk helicopter procurement in response to attrition

The Senate amendment contained a provision (sec. 105) that would authorize $40.6 million for the procurement of two additional helicopters that were attrited in fiscal year 2006.

The House bill contained no similar provision.

The Senate recedes.

The conference outcome is reflected in the tables of this report in Aircraft Procurement, Army, title XV.

Use of Tanker Replacement Transfer Fund for modernization of aerial refueling tankers

The Senate amendment contained a provision (sec. 132) that would allow funds in the Tanker Replacement Transfer Fund to be used for the modernization of existing aerial refueling tankers, in addition to using the funds for a tanker acquisition program, if the modernization of those aircraft is consistent with the results of the analysis of alternatives for meeting the aerial refueling requirements of the Air Force.

The House bill contained no similar provision.

The Senate recedes.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Research, Development, Test, and Evaluation overview

The budget request for fiscal year 2006 included an authorization of $69,356.0 million in Research and Development for the Department of Defense.

The House bill would authorize $69,469.0 million.

The Senate amendment would authorize $69,840.6 million.

The conferees recommend an authorization of $70,199.9 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

NATIONAL DEFENSE AUTHORIZATION FOR FISCAL YEAR 2006

(Dollars in Thousands)

Title II -- RESEARCH, DEVELOPMENT, TEST & EVALUATION	Authorization Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Research, Development, Test & Evaluation, Army	9,733,824	9,774,372	9,739,824	302,180	10,036,004
Research, Development, Test & Evaluation, Navy	18,037,991	18,022,140	18,410,431	543,450	18,581,441
Research, Development, Test & Evaluation, Air Force	22,612,351	22,418,212	22,653,568	-307,339	22,305,012
Research, Development, Test & Evaluation, Defense-wide	18,803,416	19,095,805	18,868,296	305,528	19,108,944
Operational Test & Evaluation	168,458	168,458	168,458	0	168,458
TOTAL RDT&E	69,356,040	69,478,987	69,840,577	843,819	70,199,859

Army

Research, Development, Test, and Evaluation, Army overview

The budget request for fiscal year 2006 included an authorization of $9,733.8 million in Research, Development, Test, and Evaluation, Army for the Department of Defense.

The House bill would authorize $9,777.4 million.

The Senate amendment would authorize $9,739.8 million.

The conferees recommend an authorization of $10,036.0 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
			RESEARCH, DEVELOPMENT, TEST & EVALUATION, ARMY					
2040	0601101A	1	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	20,542	20,542	20,542		20,542
2040	0601102A	2	DEFENSE RESEARCH SCIENCES	137,898	150,898	155,398	21,500	159,398
			Advanced ground vehicle reliability research			[1,000]	[1,000]	
			Functionally integrated reactive surface technologies (FIRST)			[2,000]	[2,000]	
			Integrated desert terrain analysis research		[5,000]	[3,000]	[3,000]	
			Brain imaging deception detection			[2,500]	[2,500]	
			Moldable fabric armor			[2,000]	[2,000]	
			Low temperature vehicle research			[2,000]	[2,000]	
			Document exploitation			[5,000]	[5,000]	
			Chemical mechanical planarization		[2,000]			
			Advanced carbon nanotechnology		[6,000]		[4,000]	
2040	0601103A	3	UNIVERSITY RESEARCH INITIATIVES	67,201	69,201	77,201	11,800	79,001
			Smart responsive nanocomposites		[2,000]		[1,800]	
			Program increase (S. Amdt)			[10,000]	[10,000]	
2040	0601104A	4	UNIVERSITY AND INDUSTRY RESEARCH CENTERS	81,953	86,453	88,453	11,000	92,953
			Integrated systems in sensing, imaging and communications			[2,000]	[2,000]	
			NOLES composite materials			[2,500]	[2,500]	
			Strategic defense systems manufacturing			[2,000]	[2,000]	
			Modeling and analysis of the response structures		[1,000]		[1,000]	
			Centers of excellence		[3,500]		[3,500]	
2040	0601105A	5	FORCE HEALTH PROTECTION					

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
2040	0602105A	6	MATERIALS TECHNOLOGY	17,559	26,559	22,559	10,000	27,559
			Mine detection and blast mitigation			[3,000]	[3,000]	
			Lightweight blast containment vessel			[2,000]	[2,000]	
			Advanced lightweight composite armor		[4,000]		[2,000]	
			Ballistic shields technology		[1,000]			
			Cutting tools for aerospace materials		[2,000]		[2,000]	
			Ceramic armor technology		[2,000]		[1,000]	
2040	0602120A	7	SENSORS AND ELECTRONIC SURVIVABILITY	32,147	37,147	37,147	3,000	35,147
			Army small airship			[3,000]	[3,000]	
			Advanced detection of explosives		[5,000]	[2,000]		
2040	0602122A	8	TRACTOR HIP	7,804	7,804	7,804		7,804
2040	0602211A	9	AVIATION TECHNOLOGY	34,295	44,295	34,295	5,000	39,295
			Center for rotorcraft innovation		[10,000]		[5,000]	
2040	0602270A	10	ELECTRONIC WARFARE TECHNOLOGY	19,129	28,129	23,129	12,500	31,629
			Real-time laser threat warning development			[4,000]	[4,000]	
			Silver Fox UAV		[5,000]		[4,500]	
			Xenon light source for non lethal deterrence from small UAVs		[2,000]		[2,000]	
			Unattended ground sensors		[2,000]		[2,000]	
2040	0602303A	11	MISSILE TECHNOLOGY	62,524	68,024	72,524	13,000	75,524
			Tech enhancement for area protection			[5,000]	[5,000]	
			Unmanned systems initiative			[5,000]	[5,000]	
			Missile recycling capability		[1,500]			
			MEMS and nanoscale devices		[4,000]		[3,000]	
2040	0602307A	12	ADVANCED WEAPONS TECHNOLOGY	21,139	31,139	21,139	10,000	31,139
			Applied weapons technology		[10,000]		[10,000]	

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
2040	0602308A	13	ADVANCED CONCEPTS AND SIMULATION	16,013	26,013	19,013	5,000	21,013
			Surveillance and targeting robotics platform (Red Owl)			[3,000]	[3,000]	
			Institute for creative technologies		[10,000]		[2,000]	
2040	0602601A	14	COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY	64,883	84,383	74,383	18,500	83,383
			Advanced electric drive		[3,500]	[3,500]	[3,500]	
			Defense transportation energy research			[3,000]	[3,000]	
			Unmanned vehicle control technologies			[3,000]	[3,000]	
			Hydrogen proton exchange membrane fuel cell		[10,000]		[4,000]	
			Light utility vehicle		[6,000]		[5,000]	
2040	0602618A	15	BALLISTICS TECHNOLOGY	49,163	49,163	51,163	2,000	51,163
			Gun barrel coatings			[2,000]	[2,000]	
2040	0602622A	16	CHEMICAL, SMOKE AND EQUIPMENT DEFEATING TECHNOLO	2,519	2,519	2,519		2,519
2040	0602623A	17	JOINT SERVICE SMALL ARMS PROGRAM	5,703	5,703	10,703	1,000	6,703
			Additional funding (S. Amdt)			[5,000]	[1,000]	
2040	0602624A	18	WEAPONS AND MUNITIONS TECHNOLOGY	37,824	61,224	46,824	16,000	53,824
			Active coatings technology		[7,400]	[3,500]	[3,500]	
			Ultra wideband sensors			[2,000]	[2,000]	
			Rarefaction wave gun			[2,500]	[2,500]	
			Strategic materials/strategic manufacturing initiative		[8,000]			
			Titanium extraction, mining and process engineering research		[8,000]		[7,000]	
			Warhead/grenade scientific based manufacturing technology (S. Amdt)			[1,000]	[1,000]	

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
2040	0602705A	19	ELECTRONICS AND ELECTRONIC DEVICES	39,554	80,454	51,554	26,300	65,854
			Flexible display initiative		[11,400]	[4,000]	[2,000]	
			Portable solid oxide fuel cell demonstrator			[2,000]	[2,000]	
			Hybrid advanced soldier power			[3,000]	[1,000]	
			Zinc air battery research			[3,000]	[2,000]	
			CO2 heating and cooling		[2,000]		[1,800]	
			E-beam reticle and litho inspection		[10,000]		[4,000]	
			JP-8 soldier fuel cell		[4,000]		[2,000]	
			Nanofluidic electronic bio sensor technology		[3,500]		[1,500]	
			Advanced battery technology initiative		[10,000]		[10,000]	
2040	0602709A	20	NIGHT VISION TECHNOLOGY	23,823	29,823	23,823	2,000	25,823
			UAV MINISENS		[6,000]		[2,000]	
2040	0602712A	21	COUNTERMINE SYSTEMS	19,293	27,293	19,293		19,293
			Explosive and narcotic detection devices		[8,000]			
2040	0602716A	22	HUMAN FACTORS ENGINEERING TECHNOLOGY	17,482	22,982	17,482	5,500	22,982
			MANPRINT		[5,500]		[5,500]	
2040	0602720A	23	ENVIRONMENTAL QUALITY TECHNOLOGY	16,417	16,417	16,417		16,417
2040	0602782A	24	COMMAND, CONTROL, COMMUNICATIONS TECHNOLOGY	21,787	21,787	23,787	2,000	23,787
			Ultra wideband chip set			[2,000]	[2,000]	
2040	0602783A	25	COMPUTER AND SOFTWARE TECHNOLOGY	3,590	3,590	3,590		3,590
2040	0602784A	26	MILITARY ENGINEERING TECHNOLOGY	47,046	47,046	47,046		47,046
2040	0602785A	27	MANPOWER/PERSONNEL/TRAINING TECHNOLOGY	15,207	15,207	15,207		15,207

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
2040	0602786A	28	WARFIGHTER TECHNOLOGY	21,707	37,307	24,207	6,500	28,207
			Biosecurity research for food safety			[2,500]	[2,500]	
			MRE-neutraceuticals		[3,500]			
			M5 high performance fibers for personnel armor systems		[5,000]			
			Soldier systems center		[4,600]		[1,500]	
			Antimicrobial-nano technology		[2,500]		[2,500]	
2040	0602787A	29	MEDICAL TECHNOLOGY	74,694	99,694	92,494	36,800	111,494
			Bio-foam sealant protein hydrogel			[2,600]	[2,600]	
			Non-linting silver dressing			[1,200]	[1,200]	
			Armor characterization for blast, ballistic and fire protection			[3,000]		
			Hemorrhage control dressing			[2,000]		
			Warfighter face and eye protection			[1,000]	[1,000]	
			Surgical safety system			[2,000]	[2,000]	
			Bio-defense gene knockout technology			[2,000]	[1,000]	
			Colorimetric biosensor			[3,000]	[3,000]	
			Post traumatic stress disorder research			[1,000]	[1,000]	
			Advanced amputee treatment		[10,000]		[10,000]	
			Peer-reviewed applied research initiative		[15,000]		[15,000]	
2040	0603001A	30	WARFIGHTER ADVANCED TECHNOLOGY	63,754	63,754	63,754		63,754

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(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
2040	0603002A	31	MEDICAL ADVANCED TECHNOLOGY	45,160	69,360	76,560	43,600	88,760
			Untethered health care program			[1,000]	[1,000]	
			Expanded diagnosis digital imaging			[2,000]	[2,000]	
			Wireless medical network			[1,400]	[1,400]	
			Tissue engineering development on elastin biomatrices			[3,000]	[3,000]	
			Acute care of blast effects and head injuries			[4,000]	[2,000]	
			Soldier treatment and regeneration			[2,000]	[2,000]	
			Recombinant activated factor VII			[3,000]	[1,000]	
			Composite face and eye protection			[1,000]		
			Fibrogen bandage development			[3,000]	[3,000]	
			Applied emergency hypothermia research			[2,000]	[2,000]	
			Human operator performance research			[3,000]	[3,000]	
			Surgical wound disinfection and biological agents			[2,000]	[2,000]	
			Alternative vaccine delivery methods			[3,000]	[3,000]	
			Peer-reviewed advanced technology development initiative		[15,000]		[15,000]	
			Lightweight patient monitor with defibrillator		[3,500]		[1,000]	
			Patient status monitor		[3,500]			
			Rugged textile electronic garments		[2,200]		[2,200]	
			Telemedicine and advanced technology research center (S. Amdt)			[1,000]		

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(Dollars in Thousands)

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2040	0603003A	32	AVIATION ADVANCED TECHNOLOGY	48,318	141,148	63,718	30,300	78,618
			Excalibur UAV			[7,900]	[7,900]	
			Rotorcraft system monitoring			[1,500]	[1,500]	
			Universal control - FADEC			[4,000]	[4,000]	
			Reconfigurable tooling systems		[2,000]	[2,000]	[2,000]	
			Light-weight heavy fuel turbine engines		[6,900]		[5,400]	
			Laser peening rotorcraft transmission gears		[1,200]		[1,000]	
			Helicopter nanocrystaline diamond rotor blades		[2,000]		[2,000]	
			Multilayered sacrificial filament laminates		[1,600]		[1,500]	
			Vectored thrust ducted propeller demonstrator		[9,500]		[5,000]	
			Joint heavy lift		[10,000]			
			Light-weight armored window technology		[1,500]			
			Reconnaissance platforms and sensors (transfer from RDA 93)		[58,130]			
2040	0603004A	33	WEAPONS AND MUNITIONS ADVANCED TECHNOLOGY	74,927	79,927	83,927	5,000	79,927
			Nanotechnology manufacturing			[3,000]	[3,000]	
			Mid-range munitions			[6,000]	[1,000]	
			Precision molded aspheric optics		[5,000]		[1,000]	

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(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
2040	0603005A	34	COMBAT VEHICLE AND AUTOMOTIVE ADVANCED TECHNOLC	142,866	161,361	171,866	32,900	175,766
			Abrams track improvement		[4,750]	[3,000]	[4,300]	
			Power electronic systems research			[2,000]		
			Hydraulic hybrid vehicle technology			[5,000]	[5,000]	
			Advanced thermal management controls			[4,000]	[4,000]	
			Solid oxide fuel cell materials and manufacturing			[3,000]	[3,000]	
			Fastening and joining research			[2,000]	[2,000]	
			Next generation non-tactical vehicle propulsion			[2,000]	[2,000]	
			Armored composite cab development program		[5,000]	[3,000]	[4,000]	
			Antiballistic windshield armor			[3,000]		
			Non-line of sight cannon			[2,000]	[2,000]	
			Composite material development		[2,000]		[2,000]	
			Detonation system technology pilot program		[1,700]			
			Logistical fuel processors		[4,100]		[3,700]	
			Soldier weapon detection and location Sensor		[945]		[900]	
2040	0603006A	35	COMMAND, CONTROL, COMMUNICATIONS ADVANCED TECH	12,066	14,066	12,066	1,800	13,866
			CECM		[2,000]		[1,800]	
2040	0603007A	36	MANPOWER, PERSONNEL AND TRAINING ADVANCED TECHN	6,783	6,783	9,783	3,000	9,783
			Coordinated training			[3,000]	[3,000]	
2040	0603008A	37	ELECTRONIC WARFARE ADVANCED TECHNOLOGY	45,322	60,422	45,322	12,000	57,322
			Advanced antenna technologies		[2,000]		[2,000]	
			Applied communications and information networking		[7,000]		[7,000]	
			Portable and mobile emergency broadband system		[6,100]		[3,000]	
2040	0603009A	38	TRACTOR HIKE	8,777	8,777	8,777		8,777

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(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
2040	0603015A	39	NEXT GENERATION TRAINING & SIMULATION SYSTEMS	19,982	23,982	26,982	7,500	27,482
			Desert research institute (CAVE)		[4,000]	[3,500]	[4,000]	
			ICT joint fires and effects trainer			[3,500]	[3,500]	
2040	0603020A	40	TRACTOR ROSE	4,956	4,956	4,956		4,956
2040	0603103A	41	EXPLOSIVES DEMILITARIZATION TECHNOLOGY	9,865	15,865	11,865	980	10,845
			Explosive demilitarization			[1,000]	[980]	
			Missile recycling center capability		[6,000]			
2040			Chemical munitions to fertilizer (S. Amdt)			[1,000]		
2040	0603105A	42	MILITARY HIV RESEARCH	6,842	6,842	6,842		6,842
2040	0603125A	43	COMBATING TERRORISM, TECHNOLOGY DEVELOPMENT	6,306	6,306	10,306	4,000	10,306
			Advanced mobile microgrid liquid fueler			[4,000]	[4,000]	
2040	0603238A	44	GLOBAL SURVEILLANCE/AIR DEFENSE/PRECISION STRIKE TE(	12,111	12,111	12,111		12,111
2040	0603270A	45	ELECTRONIC WARFARE TECHNOLOGY	16,801	16,801	16,801		16,801
2040	0603313A	46	MISSILE AND ROCKET ADVANCED TECHNOLOGY	70,066	75,066	82,066		70,066
			Stryker active protection system demonstration			[12,000]		
			UAV gunfire detection system		[5,000]			
2040	0603322A	47	TRACTOR CAGE	15,406	15,406	15,406		15,406
2040	0603606A	48	LANDMINE WARFARE AND BARRIER ADVANCED TECHNOLOC	25,327	25,327	25,327		25,327
2040	0603607A	49	JOINT SERVICE SMALL ARMS PROGRAM	6,581	6,581	6,581		6,581
2040	0603654A	50	LINE-OF-SIGHT TECHNOLOGY DEMONSTRATION					

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(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
2040	0603710A	51	NIGHT VISION ADVANCED TECHNOLOGY	51,761	102,661	51,761	24,500	76,261
			Cerberus sensor suite		[7,000]		[4,000]	
			HyLITE		[9,200]			
			Low altitude IED detection		[7,500]		[2,000]	
			Enhanced night vision goggle		[12,200]		[10,000]	
			Portable infrared target detection and location reporting system		[1,000]		[1,000]	
			Soldier mobility and rifle tracking system		[4,000]		[1,500]	
			Helo wire detection and obstacle avoidance		[4,000]		[4,000]	
			Unmanned aircraft operational awareness system		[1,000]			
			Personal miniature thermal vision		[5,000]		[2,000]	
2040	0603728A	52	ENVIRONMENTAL QUALITY TECHNOLOGY DEMONSTRATION:	12,606	24,106	12,606		12,606
			Army range transformation- start		[10,000]			
			Turboexpander		[1,500]			
2040	0603734A	53	MILITARY ENGINEERING ADVANCED TECHNOLOGY	7,301	14,301	10,301	6,600	13,901
			Advanced structures and composites			[3,000]	[3,000]	
			Gas engine air conditioning		[7,000]		[3,600]	
2040	0603772A	54	ADVANCED TACTICAL COMPUTER SCIENCE AND SENSOR TEC	42,475	52,875	42,475	6,100	48,575
			Bi-directional English-Arabic translation system		[2,900]		[2,600]	
			X-band interferometric radar		[2,500]		[1,000]	
			C4ISR IDESM		[5,000]		[2,500]	
2040	0603024A	55	UNIQUE ITEM IDENTIFICATION (UID)	1,500	1,500	1,500		1,500
2040	0603303A	55a	Reconnaissance Platforms and Sensors (Transfer from RDA 93)		47,203			
2040	0603304A	55b	Robotic Ground Systems (Transfer from RDA 93)		86,445			

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Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
2040	0603305A	56	ARMY MISSILE DEFENSE SYSTEMS INTEGRATION(NON SPACE	14,573	22,073	24,573	6,000	20,573
			Army command and control visualization system			[3,000]		
			Army MD interactive M&S management cap			[2,000]		
			Next generation interceptor materials		[5,000]	[5,000]	[5,000]	
			Technology transfer for improved medical imaging		[2,500]		[1,000]	
2040	0603308A	57	ARMY MISSILE DEFENSE SYSTEMS INTEGRATION (SPACE)	9,284	9,284	14,284	5,000	14,284
			Sensor and communications platform			[5,000]	[5,000]	
2040	0603327A	58	AIR AND MISSILE DEFENSE SYSTEMS ENGINEERING	83,063	95,063	87,063	9,000	92,063
			ASMD architecture analysis program		[5,000]	[2,000]	[2,000]	
			Single integrated space picture			[2,000]	[2,000]	
			GIDS-SIAP		[7,000]		[5,000]	
2040	0603619A	59	LANDMINE WARFARE AND BARRIER - ADV DEV					
2040	0603627A	60	SMOKE, OBSCURANT AND TARGET DEFEATING SYS-ADV DEV	5,733	5,733	5,733		5,733
2040	0603639A	61	TANK AND MEDIUM CALIBER AMMUNITION					
2040	0603645A	61a	Manned Ground Vehicles (Transfer from RDA 93)		100,000			
2040	0603653A	62	ADVANCED TANK ARMAMENT SYSTEM (ATAS)	26,712	41,712	26,712		26,712
			Common remote stabilized sensor system		[15,000]			
2040	0603747A	63	SOLDIER SUPPORT AND SURVIVABILITY	3,393	3,393	3,393		3,393
2040	0603766A	64	TACTICAL ELECTRONIC SURVEILLANCE SYSTEM - ADV DEV	18,907	18,907	18,907		18,907
2040	0603774A	65	NIGHT VISION SYSTEMS ADVANCED DEVELOPMENT	6,885	6,885	6,885		6,885
2040	0603779A	66	ENVIRONMENTAL QUALITY TECHNOLOGY	5,166	7,666	11,366	8,200	13,366
			Casting emissions reduction program			[6,200]	[6,200]	
			Aberdeen Proving Ground asbestos conversion facility		[2,500]		[2,000]	
2040	0603782A	67	WARFIGHTER INFORMATION NETWORK-TACTICAL	131,081	131,081	131,081		131,081
2040	0603790A	68	NATO RESEARCH AND DEVELOPMENT	4,902	4,902	4,902		4,902
2040	0603801A	69	AVIATION - ADV DEV	6,249	6,249	6,249		6,249

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2040	0603802A	70	WEAPONS AND MUNITIONS - ADV DEV					
2040	0603804A	71	LOGISTICS AND ENGINEER EQUIPMENT - ADV DEV	13,375	13,375	13,375		13,375
2040	0603805A	72	COMBAT SERVICE SUPPORT CONTROL SYSTEM EVALUATION	10,659	10,659	10,659		10,659
2040	0603807A	73	MEDICAL SYSTEMS - ADV DEV	10,134	15,134	14,634	2,000	12,134
			Extended shelf life red blood cells			[1,000]		
			IV fluid warming system			[1,000]		
			Lightweight portable oxygen			[2,500]		
			Leishmaniasis		[1,500]		[1,000]	
			Pseudofollicullitis Barbae		[1,000]		[1,000]	
			Glioblast 13 compound		[2,500]			
2040	0603827A	74	SOLDIER SYSTEMS - ADVANCED DEVELOPMENT	10,595	10,595	10,595		10,595
2040	0603850A	75	INTEGRATED BROADCAST SERVICE (JMIP)	2,762	2,762	2,762		2,762
2040	0603856A	76	SCAMP BLOCK II					
2040	0603869A	77	MEDIUM EXTENDED AIR DEFENSE SYSTEM (MEADS) CONCEP'					
2040	0604201A	78	AIRCRAFT AVIONICS	23,451	26,451	23,451		23,451
			Helo situational awareness		[3,000]			
2040	0604220A	79	ARMED, DEPLOYABLE OH-58D	13,964	13,964	13,964		13,964
2040	0604223A	80	COMANCHE					
2040	0604270A	81	ELECTRONIC WARFARE DEVELOPMENT	32,179	32,179	32,179		32,179
2040	0604280A	82	JOINT TACTICAL RADIO	156,665	156,665	117,265		156,665
			JTRS program execution			[-39,400]		
2040	0604321A	83	ALL SOURCE ANALYSIS SYSTEM	7,973	7,973	7,973		7,973
2040	0604328A	84	TRACTOR CAGE	16,099	16,099	16,099		16,099
2040	0604329A	85	COMMON MISSILE					
2040	0604601A	86	INFANTRY SUPPORT WEAPONS	34,627	42,627	34,627	4,000	38,627
			CROWS Light		[8,000]		[4,000]	

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2040	0604604A	87	MEDIUM TACTICAL VEHICLES	1,886	11,886	6,886	15,000	16,886
			Medium tactical vehicle suspension development		[10,000]		[10,000]	
2040			Medium tactical vehicle modifications (S. Amdt)			[5,000]	[5,000]	
2040	0604609A	88	SMOKE, OBSCURANT AND TARGET DEFEATING SYS-SDD					
2040	0604611A	89	JAVELIN					
2040	0604622A	90	FAMILY OF HEAVY TACTICAL VEHICLES	3,415	3,415	13,415	10,000	13,415
			Future tactical truck system advanced concept technology demo			[10,000]	[10,000]	
2040	0604633A	91	AIR TRAFFIC CONTROL	4,508	4,508	4,508		4,508
2040	0604642A	92	LIGHT TACTICAL WHEELED VEHICLES			5,000	5,000	5,000
			HMMWV bloc improvement program			[5,000]	[5,000]	
2040	0604645A	93	ARMORED SYSTEMS MODERNIZATION (ASM)-SDD	3,065,629		3,065,629	-100,000	2,965,629
			Transfer funding to other program elements		[-3,065,629]			
			Program overhead/excess management reserve				[-100,000]	
2040	0604645A	93a	FCS Common Operating Environment (Transfer from RDA 93)		2,322,200			
2040	0604646A	94	NON-LINE OF SIGHT LAUNCH SYSTEM	231,554	231,554	231,554		231,554
2041	0604647A	95	NON-LINE OF SIGHT CANNON	107,587	157,587	107,587	50,000	157,587
			Program increase		[50,000]		[50,000]	
2040	0604710A	96	NIGHT VISION SYSTEMS - SDD	26,449	32,449	26,449		26,449
			Unattended ground sensors		[6,000]			
2040	0604713A	97	COMBAT FEEDING, CLOTHING, AND EQUIPMENT	3,383	3,383	3,383		3,383
2040	0604715A	98	NON-SYSTEM TRAINING DEVICES - SDD	61,090	61,090	61,090		61,090
2040	0604716A	99	TERRAIN INFORMATION - SDD					
2040	0604726A	100	INTEGRATED METEOROLOGICAL SUPPORT SYSTEM					
2040	0604741A	101	AIR DEFENSE COMMAND, CONTROL AND INTELLIGENCE - SDI	29,012	29,012	29,012		29,012
2040	0604742A	102	CONSTRUCTIVE SIMULATION SYSTEMS DEVELOPMENT	40,572	40,572	40,572		40,572
2040	0604746A	103	AUTOMATIC TEST EQUIPMENT DEVELOPMENT	54	54	54		54
2040	0604760A	104	DISTRIBUTIVE INTERACTIVE SIMULATIONS (DIS) - SDD	22,057	22,057	22,057		22,057

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2040	0604766A	105	TACTICAL SURVEILLANCE SYSTEMS - SDD		2,504			
			Unattended sensors (transfer from RDA 93)		[2,504]			
2040	0604768A	106	ARMY TACTICAL MISSILE SYSTEM (ATACMS)					
2040	0604770A	107	JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM (JST					
2040	0604778A	108	POSITIONING SYSTEMS DEVELOPMENT (SPACE)					
2040	0604780A	109	COMBINED ARMS TACTICAL TRAINER (CATT) CORE	37,471	37,471	37,471		37,471
2040	0604783A	110	JOINT NETWORK MANAGEMENT SYSTEM	5,092	5,092	5,092		5,092
2040	0604801A	111	AVIATION - SDD					
2040	0604802A	112	WEAPONS AND MUNITIONS - SDD	87,034	87,034	87,034		87,034
2040	0604804A	113	LOGISTICS AND ENGINEER EQUIPMENT - SDD	13,353	14,353	13,353		13,353
			Personal water disinfection		[1,000]			
2040	0604805A	114	COMMAND, CONTROL, COMMUNICATIONS SYSTEMS - SDD	393,062	260,062	124,162	-168,000	225,062
			JTRS program execution			[-268,900]	[-168,000]	
			JTRS program reduction		[-133,000]			
2040	0604807A	115	MEDICAL MATERIEL/MEDICAL BIOLOGICAL DEFENSE EQUIPN	5,627	9,627	5,627	4,000	9,627
			Battlefield respirator and ventilator		[4,000]		[4,000]	
2040	0604808A	116	LANDMINE WARFARE/BARRIER - SDD	80,560	80,560	80,560		80,560
2040	0604814A	117	ARTILLERY MUNITIONS	113,368	123,368	113,368	2,000	115,368
			Excalibur XM982		[10,000]		[2,000]	
2040	0604817A	118	COMBAT IDENTIFICATION	2,973	2,973	2,973		2,973
2040	0604818A	119	ARMY TACTICAL COMMAND & CONTROL HARDWARE & SOFT	66,980	66,980	66,980		66,980
2040	0604819A	120	LOSAT					
2040	0604820A	121	RADAR DEVELOPMENT	5,080	5,080	5,080		5,080
2040	0604822A	122	GENERAL FUND ENTERPRISE BUSINESS SYSTEM (GFEBS)	71,119	71,119	71,119		71,119
2040	0604823A	123	FIREFINDER	46,061	46,061	46,061		46,061

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2040	0604827A	124	SOLDIER SYSTEMS - WARRIOR DEM/VAL	57,818	61,518	57,818	3,000	60,818
			Nomad C2 display		[3,700]		[3,000]	
2040	0604854A	125	ARTILLERY SYSTEMS	5,476	5,476	5,476		5,476
2040	0604865A	126	PATRIOT PAC-3 THEATER MISSILE DEFENSE ACQUISITION					
2040	0604869A	127	PATRIOT/MEADS COMBINED AGGREGATE PROGRAM (CAP)	288,785	288,785	289,785		288,785
			Patriot/MEADS protected sim and test link			[1,000]		
2040	0605013A	128	INFORMATION TECHNOLOGY DEVELOPMENT	63,662	63,662	63,662		63,662
2040	0604256A	129	THREAT SIMULATOR DEVELOPMENT	23,796	23,796	23,796		23,796
2040	0604258A	130	TARGET SYSTEMS DEVELOPMENT	10,855	10,855	13,855	1,500	12,355
			UAV ice protection			[3,000]	[1,500]	
2040	0604759A	131	MAJOR T&E INVESTMENT	64,498	64,498	64,498		64,498
2040	0605103A	132	RAND ARROYO CENTER	23,800	23,800	23,800		23,800
2040	0605301A	133	ARMY KWAJALEIN ATOLL	154,535	154,535	154,535		154,535
2040	0605326A	134	CONCEPTS EXPERIMENTATION PROGRAM	31,653	31,653	31,653	3,500	35,153
			Automated language translation				[3,500]	
2040	0605502A	135	SMALL BUSINESS INNOVATIVE RESEARCH					
2040	0605601A	136	ARMY TEST RANGES AND FACILITIES	369,943	369,943	369,943		369,943
2040	0605602A	137	ARMY TECHNICAL TEST INSTRUMENTATION AND TARGETS	62,687	69,687	62,687	2,000	64,687
			Mobile optical tracking system		[7,000]		[2,000]	
2040	0605604A	138	SURVIVABILITY/LETHALITY ANALYSIS	38,306	38,306	38,306		38,306
2040	0605605A	139	DOD HIGH ENERGY LASER TEST FACILITY	17,688	17,688	17,688		17,688
2040	0605606A	140	AIRCRAFT CERTIFICATION	2,748	2,748	2,748		2,748
2040	0605702A	141	METEOROLOGICAL SUPPORT TO RDT&E ACTIVITIES	8,829	8,829	8,829		8,829
2040	0605706A	142	MATERIEL SYSTEMS ANALYSIS	15,517	15,517	15,517		15,517
2040	0605709A	143	EXPLOITATION OF FOREIGN ITEMS	4,710	4,710	4,710		4,710
2040	0605712A	144	SUPPORT OF OPERATIONAL TESTING	75,993	75,993	75,993		75,993

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
2040	0605716A	145	ARMY EVALUATION CENTER	57,305	57,305	57,305		57,305
2040	0605718A	146	SIMULATION & MODELING FOR ACQ, RQTS, & TNG (SMART)	9,437	9,437	9,437		9,437
2040	0605801A	147	PROGRAMWIDE ACTIVITIES	54,269	54,269	54,269		54,269
2040	0605803A	148	TECHNICAL INFORMATION ACTIVITIES	32,237	32,237	38,237	6,000	38,237
			High performance computing research			[6,000]	[6,000]	
2040	0605805A	149	MUNITIONS STANDARDIZATION, EFFECTIVENESS AND SAFET	16,922	16,922	16,922		16,922
2040	0605857A	150	ENVIRONMENTAL QUALITY TECHNOLOGY MGMT SUPPORT	4,014	4,014	4,014		4,014
2040	0605898A	151	MANAGEMENT HQ - R&D	12,908	12,908	12,908		12,908
2040	0603778A	152	MLRS PRODUCT IMPROVEMENT PROGRAM	114,297	114,297	114,297		114,297
2040	0102419A	153	AEROSTAT JOINT PROJECT OFFICE	106,420	108,420	106,420	1,000	107,420
			MEMS demonstration		[2,000]		[1,000]	
2040	0203610A	154	DOMESTIC PREPAREDNESS AGAINST WMD					
2040	0203726A	155	ADV FIELD ARTILLERY TACTICAL DATA SYSTEM	16,064	21,064	16,064		16,064
			Fire support technology improvement program		[5,000]			
2040	0203735A	156	COMBAT VEHICLE IMPROVEMENT PROGRAMS	12,030	17,030	12,030	4,000	16,030
			Combat vehicle electronics		[5,000]		[4,000]	
2040	0203740A	157	MANEUVER CONTROL SYSTEM	44,903	44,903	44,903		44,903
2040	0203744A	158	AIRCRAFT MODIFICATIONS/PRODUCT IMPROVEMENT PROGR.	409,103	413,003	409,103		409,103
			Black Hawk nomad		[3,900]			
2040	0203752A	159	AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM	2,066	2,066	2,066		2,066
2040	0203758A	160	DIGITIZATION	12,343	12,343	12,343		12,343
2040	0203759A	161	FORCE XXI BATTLE COMMAND, BRIGADE AND BELOW (FBCB:	20,201	20,201	20,201		20,201
2040	0203801A	162	MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT PROGRAM	16,188	16,188	16,188		16,188
2040	0203802A	163	OTHER MISSILE PRODUCT IMPROVEMENT PROGRAMS	23,560	23,560	23,560		23,560
2040	0203806A	164	TRACTOR RUT					
2040	0203808A	165	TRACTOR CARD	6,797	6,797	6,797		6,797

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
2040	0208010A	166	JOINT TACTICAL COMMUNICATIONS PROGRAM (TRI-TAC)	24,906	24,906	24,906		24,906
2040	0208053A	167	JOINT TACTICAL GROUND SYSTEM	12,854	12,854	12,854		12,854
2040	0208058A	168	JOINT HIGH SPEED VESSEL (JHSV)	3,261	3,261	3,261		3,261
2040	0301359A	169	SPECIAL ARMY PROGRAM	[ ]	[ ]	[ ]	[ ]	[ ]
2040	0301555A	170	CLASSIFIED PROGRAMS	[ ]	[ ]	[ ]	[ ]	[ ]
2040	0301556A	171	SPECIAL PROGRAM	[ ]	[ ]	[ ]	[ ]	[ ]
2040	0303028A	172	SECURITY AND INTELLIGENCE ACTIVITIES	2,992	2,992	2,992		2,992
2040	0303140A	173	INFORMATION SYSTEMS SECURITY PROGRAM	22,903	22,903	23,903	1,000	23,903
			Retinal/iris multimodal biometrics			[1,000]	[1,000]	
2040	0303141A	174	GLOBAL COMBAT SUPPORT SYSTEM	79,752	79,752	79,752	-8,000	71,752
			Funding ahead of need				[-8,000]	
2040	0303142A	175	SATCOM GROUND ENVIRONMENT (SPACE)	58,659	58,659	58,659		58,659
2040	0303150A	176	WWMCCS/GLOBAL COMMAND AND CONTROL SYSTEM	13,647	13,647	13,647		13,647
2040	0303158A	177	JOINT COMMAND AND CONTROL PROGRAM (JC2)	1,696	1,696	1,696		1,696
2040	0305114A	178	TRAFFIC CONTROL, APPROACH AND LANDING SYSTEM					
2040	0305204A	179	TACTICAL UNMANNED AERIAL VEHICLES (JMIP)	139,610	139,610	139,610		139,610
2040	0305206A	180	AIRBORNE RECONNAISSANCE SYSTEMS (JMIP)	5,398	5,398	5,398		5,398
2040	0305208A	181	DISTRIBUTED COMMON GROUND/SURFACE SYSTEMS (JMIP)	91,587	73,287	91,587	-10,000	81,587
			Program reduction		[-18,300]		[-10,000]	
2040	0702239A	182	AVIONICS COMPONENT IMPROVEMENT PROGRAM	994	994	994		994

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(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
2040	0708045A	183	END ITEM INDUSTRIAL PREPAREDNESS ACTIVITIES	68,505	82,705	85,505	28,300	96,805
			Advanced modeling technology for titanium machining			[4,500]	[4,500]	
			Manufacturing systems demonstration			[4,000]	[4,000]	
			Super-pulse laser processing technology			[3,500]	[3,500]	
			Packaging and interconnection technology			[3,000]	[3,000]	
			Virtual parts engineering research			[2,000]	[2,000]	
			Smart machine platform		[4,500]		[4,000]	
			Affordable modular manufacturing process		[3,200]		[2,800]	
			Lean munitions		[4,500]		[4,500]	
			Powdered metal compaction initiative		[2,000]			
2040	1001018A	184	NATO JOINT STARS	569	569	569		569
2040	0607XXX	184a	Tactical Wheeled Vehicle Product Improvement Program		50,000		20,000	20,000
2040	XXXXXXX	999	CLASSIFIED PROGRAMS	3,966	3,966	3,966		3,966
			Total, RDT&E Army	**9,733,824**	**9,774,372**	**9,739,824**	**302,180**	**10,036,004**

Navy

Research, Development, Test, and Evaluation, Navy overview

The budget request for fiscal year 2006 included an authorization of $18,038.0 million in Research, Development, Test, and Evaluation, Navy for the Department of Defense.

The House bill would authorize $18,022.1 million.

The Senate amendment would authorize $18,410.4 million.

The conferees recommend an authorization of $18,581.4 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

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(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
			RESEARCH, DEVELOPMENT, TEST & EVALUATION, NAVY					
1319	0601103N	1	UNIVERSITY RESEARCH INITIATIVES	75,910	75,910	88,910	8,500	84,410
			Blast impact resistant composites			[1,000]		
			Remote sensing research			[2,500]	[2,500]	
			Neural engineering research			[2,000]		
			Multifunctional materials for naval structures			[2,500]	[1,000]	
			Program increase (S. Amdt)			[5,000]	[5,000]	
1319	0601152N	2	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	15,500	15,500	18,500	3,000	18,500
			Navy S&T outreach			[3,000]	[3,000]	
1319	0601153N	3	DEFENSE RESEARCH SCIENCES	356,885	352,885	356,885		356,885
			Ocean sciences		[-4,000]			
1319	0602114N	4	POWER PROJECTION APPLIED RESEARCH	94,148	107,148	99,148	11,000	105,148
			Free electron laser			[5,000]	[5,000]	
			Fire lidar		[2,000]		[2,000]	
			High performance frequency modulated fiber optic link		[5,000]		[2,000]	
			Retroreflecting optical communications for special operations		[6,000]		[2,000]	
1319	0602123N	5	FORCE PROTECTION APPLIED RESEARCH	101,650	111,650	112,950	19,300	120,950
			Nanomagnetic materials			[2,000]	[2,000]	
			Small watercraft propulsion demonstrator			[3,000]	[3,000]	
			High frequency acoustic signal processor			[2,000]	[2,000]	
			Polymeric aircraft components			[2,000]	[2,000]	
			Undersea perimeter security technology			[2,300]	[2,300]	
			Secure infrastructure technology		[6,000]		[6,000]	
			Thin film battery technology		[4,000]		[2,000]	

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1319	0602131M	6	MARINE CORPS LANDING FORCE TECHNOLOGY	37,590	37,590	38,590		37,590
			Combat headborne system research			[1,000]		
1319	0602233N	7	HUMAN SYSTEMS TECHNOLOGY					
1319	0602234N	8	MATERIALS, ELECTRONICS AND COMPUTER TECHNOLOGY					
1319	0602235N	9	COMMON PICTURE APPLIED RESEARCH	57,693	57,693	64,193	13,000	70,693
			Critical area protection systems			[2,000]	[1,000]	
			SensorNet			[12,000]	[12,000]	
			Space research			[-7,500]		
1319	0602236N	10	WARFIGHTER SUSTAINMENT APPLIED RESEARCH	82,856	93,556	86,856	6,500	89,356
			Multifunction composites for next Navy seaframes			[3,500]	[3,500]	
			Automated video threat recognition			[2,500]	[2,500]	
			Rapid detection of biowarfare agents in water			[3,000]	[3,000]	
			Seabasing research			[-5,000]	[-7,500]	
			Composite ceramic UUV		[2,500]			
			Marine mammal research program		[2,200]			
			Virtual clinical learning laboratory		[3,000]		[3,000]	
			Partnership simulation laboratory		[3,000]		[2,000]	
1319	0602271N	11	RF SYSTEMS APPLIED RESEARCH	47,302	52,102	50,802	3,500	50,802
			Gallium nitride RF power			[2,000]	[2,000]	
			Maritime identification and surveillance technology		[4,800]			
1319			High brightness electron source program (S. Amdt)			[1,500]	[1,500]	
1319	0602435N	12	OCEAN WARFIGHTING ENVIRONMENT APPLIED RESEARCH	49,793	62,293	52,293	2,500	52,293
			Integrated littoral sensor network			[2,500]	[2,500]	
			Integrated ocean observing system		[12,500]			
1319	0602651M	13	JOINT NON-LETHAL WEAPONS APPLIED RESEARCH	6,000	6,000	6,000		6,000

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(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1319	0602747N	14	UNDERSEA WARFARE APPLIED RESEARCH	71,362	72,362	71,362	1,000	72,362
			High power and energy storage system		[1,000]		[1,000]	
1319	0602782N	15	MINE AND EXPEDITIONARY WARFARE APPLIED RESEARCH	49,520	49,520	55,520	3,000	52,520
			UAV team coordination			[3,000]	[3,000]	
			Prototype IED detection and neutralization			[3,000]		
1319	0603114N	16	POWER PROJECTION ADVANCED TECHNOLOGY	82,538	113,238	92,538	21,000	103,538
			Information sharing for ISRTE			[3,000]	[3,000]	
			Excalibur UAV			[1,000]	[1,000]	
			DP-2 thrust vectoring system		[8,000]		[7,000]	
			High power free electron laser		[4,700]			
			Laser radar		[6,000]		[1,000]	
			Low cost terminal imaging seeker		[5,000]		[4,000]	
			Low power terascale UAV processing engine		[7,000]			
1319			Long wavelength array low frequency instruments (S. Amdt)			[6,000]	[5,000]	

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1319	0603123N	17	FORCE PROTECTION ADVANCED TECHNOLOGY	71,488	115,988	101,388	31,000	102,488
			Wireless sensor system			[2,000]	[2,000]	
			Mobile manufacturing repair cell			[5,000]	[5,000]	
			Wide bandgap semiconductor substrate materials			[8,000]	[8,000]	
			Small arms acoustic and infrared flash detection			[3,900]		
			High temperature superconducting generators		[5,000]	[5,000]	[5,000]	
			Ship service fuel cell			[6,000]	[6,000]	
			Advanced material systems for LCS		[8,000]			
			Seapower 21 autonomous technologies		[5,000]		[2,000]	
			Fast ship compact waterjet		[4,000]			
			4th generation permanent magnet motor		[2,000]		[2,000]	
			High temperature superconducting AC synchronous motor		[4,000]			
			Project M		[8,500]		[1,000]	
			Superconducting direct current homopolar motor		[5,000]			
			UAV imagery		[3,000]			
1319	0603235N	18	COMMON PICTURE ADVANCED TECHNOLOGY	60,589	66,589	64,589	7,400	67,989
			Improved shipboard combat information			[4,000]	[4,000]	
			Consolidated undersea situational awareness		[6,000]		[3,400]	
1319	0603236N	19	WARFIGHTER SUSTAINMENT ADVANCED TECHNOLOGY	68,540	77,540	75,540	16,000	84,540
			Full body protective apparel			[3,000]	[3,000]	
			Automated cargo and container handling systems			[4,000]	[4,000]	
			Virtual at-sea training initiative		[3,000]		[3,000]	
			SEAPRINT		[6,000]		[6,000]	

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1319	0603271N	20	RF SYSTEMS ADVANCED TECHNOLOGY	75,070	87,970	81,070	7,000	82,070
			Joint UAV electronic attack			[3,000]	[3,000]	
			APY-6 real time precision targeting radar			[3,000]	[3,000]	
			Polyimide macro electromechanical systems		[7,400]			
			Remote ocean surveillance system		[3,000]			
			Spectral beam combining fiber lasers		[2,500]		[1,000]	
1319	0603640M	21	USMC ADVANCED TECHNOLOGY DEMONSTRATION (ATD)	56,434	65,434	72,634	24,200	80,634
			Armored patrol vehicle			[3,000]	[3,000]	
			Laser integrated target engagement system			[5,200]	[5,200]	
			Expeditionary warfare water purification			[7,000]	[7,000]	
			Advanced combat headborne system			[1,000]		
			Advanced mine detection		[3,000]		[3,000]	
			Common remote operating weapon station (CROWS)		[2,000]		[2,000]	
			Mobile fire support system dragon fire II		[4,000]		[4,000]	
1319	0603651M	22	JOINT NON-LETHAL WEAPONS TECHNOLOGY DEVELOPMENT	2,394	2,394	2,394		2,394
1319	0603706N	23	MEDICAL DEVELOPMENT					
1319	0603727N	24	NAVY TECHNICAL INFORMATION PRESENTATION SYSTEM	187,943	187,943	197,843	8,000	195,943
			Modeling and simulation for urban operations			[9,900]	[8,000]	
1319	0603729N	25	WARFIGHTER PROTECTION ADVANCED TECHNOLOGY	16,068	22,368	16,068	4,000	20,068
			Naval special warfare performance and injury prevention program		[2,600]		[2,000]	
			Anti-oxidant micronutrient program		[3,700]		[2,000]	
1319	0603747N	26	UNDERSEA WARFARE ADVANCED TECHNOLOGY	27,603	27,603	27,603		27,603
1319	0603757N	27	JOINT WARFARE EXPERIMENTS					
1319	0603758N	28	NAVY WARFIGHTING EXPERIMENTS AND DEMONSTRATIONS	49,288	72,288	49,288	15,000	64,288
			Littoral support craft-experimental		[23,000]		[15,000]	
1319	0603782N	29	MINE AND EXPEDITIONARY WARFARE ADVANCED TECHNOL	31,897	31,897	31,897		31,897

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(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1319	0603207N	30	AIR/OCEAN TACTICAL APPLICATIONS	27,094	29,794	27,094	2,500	29,594
			3-D sonar for UUV		[2,700]		[2,500]	
1319	0603216N	31	AVIATION SURVIVABILITY	6,255	11,755	6,255	2,500	8,755
			Ceramic air deployed sensor		[2,500]		[2,500]	
			Reduced risk ordnance		[3,000]			
1319	0603237N	32	DEPLOYABLE JOINT COMMAND AND CONTROL	41,464	41,464	41,464		41,464
1319	0603254N	33	ASW SYSTEMS DEVELOPMENT	7,050	15,050	7,050	5,000	12,050
			Tactical E-field buoy development		[8,000]		[5,000]	
1319	0603261N	34	TACTICAL AIRBORNE RECONNAISSANCE	3,938	3,938	3,938		3,938
1319	0603382N	35	ADVANCED COMBAT SYSTEMS TECHNOLOGY	30,166	30,166	30,166		30,166
1319	0603502N	36	SURFACE AND SHALLOW WATER MINE COUNTERMEASURES	122,122	122,122	124,122	2,000	124,122
			Surface Navy integrated undersea tactical technology			[2,000]	[2,000]	
1319	0603506N	37	SURFACE SHIP TORPEDO DEFENSE	47,039	52,039	47,039	4,000	51,039
			AN/WSQ-11 ATT and tripwire		[5,000]		[4,000]	
1319	0603512N	38	CARRIER SYSTEMS DEVELOPMENT	167,823	175,823	167,823		167,823
			Aviation ship integration center		[8,000]			
1319	0603513N	39	SHIPBOARD SYSTEM COMPONENT DEVELOPMENT	22,150	27,050	31,650	12,900	35,050
			Amorphous metal permanent magnet generator		[1,500]	[1,500]	[1,500]	
			High temperature superconductor AC synchronous motor			[8,000]	[8,000]	
			Integrated fight through power		[3,400]		[3,400]	
1319	0603525N	40	PILOT FISH	141,369	141,369	141,369		141,369
1319	0603527N	41	RETRACT LARCH	82,717	82,717	82,717		82,717
1319	0603536N	42	RETRACT JUNIPER	54,887	54,887	54,887		54,887
1319	0603542N	43	RADIOLOGICAL CONTROL	1,845	1,845	1,845		1,845

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(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1319	0603553N	44	SURFACE ASW	17,343	33,043	21,843	9,500	26,843
			Improved surface vessel torpedo launcher			[4,500]	[4,500]	
			Medium N off-board distributed acoustic sensor		[3,700]		[2,000]	
			Receive-While-Transmit Sonar		[12,000]		[3,000]	
1319	0603559N	45	SSGN CONVERSION	24,020	24,020	44,020	20,000	44,020
			UUV integration with SSGN			[20,000]	[20,000]	
1319	0603561N	46	ADVANCED SUBMARINE SYSTEM DEVELOPMENT	162,953	186,953	122,953		162,953
			Undersea superiority system - undefined			[-40,000]		
			Large aperture bow and low cost conformal arrays		[5,000]			
			Twin-line thin line towed array		[19,000]			
1319	0603562N	47	SUBMARINE TACTICAL WARFARE SYSTEMS	7,125	7,125	7,125		7,125
1319	0603563N	48	SHIP CONCEPT ADVANCED DESIGN	11,899	16,899	11,899	2,000	13,899
			Security video distribution system		[5,000]		[2,000]	
1319	0603564N	49	SHIP PRELIMINARY DESIGN & FEASIBILITY STUDIES	27,021	31,021	27,021		27,021
			AGOR ocean class research ship preliminary design		[4,000]			
1319	0603570N	50	ADVANCED NUCLEAR POWER SYSTEMS	168,373	168,373	168,373		168,373
1319	0603573N	51	ADVANCED SURFACE MACHINERY SYSTEMS					
1319	0603576N	52	CHALK EAGLE	116,230	116,230	116,230		116,230
1319	0603581N	53	LITTORAL COMBAT SHIP (LCS)	576,454	588,454	576,454		576,454
			High strength composite material		[12,000]			
1319	0603582N	54	COMBAT SYSTEM INTEGRATION	76,975	76,975	76,975		76,975
1319	0603609N	55	CONVENTIONAL MUNITIONS	36,940	36,940	36,940		36,940
1319	0603611M	56	MARINE CORPS ASSAULT VEHICLES	253,675	253,675	262,175		253,675
			Regenerative filtration technology			[8,500]		
1319	0603612M	57	USMC MINE COUNTERMEASURES SYSTEMS - ADV DEV	3,265	3,265	3,265		3,265

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(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1319	0603635M	58	MARINE CORPS GROUND COMBAT/SUPPORT SYSTEM	500	8,000	32,900	15,000	15,500
			Follow-on to multipurpose assault weapon (FOTS)			[14,000]		
			Urban operations environment laboratory		[5,500]	[5,500]	[5,500]	
			Clearing facilities with novel technology			[2,900]	[1,500]	
			Non-lethal technology weaponization			[2,600]		
			Anti-sniper infrared targeting system			[7,400]	[6,000]	
			Marine expeditionary rifle squad (MERS)		[2,000]		[2,000]	
1319	0603654N	59	JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOPMENT	34,418	34,418	34,418		34,418
1319	0603658N	60	COOPERATIVE ENGAGEMENT	88,135	88,135	88,135		88,135
1319	0603713N	61	OCEAN ENGINEERING TECHNOLOGY DEVELOPMENT	24,620	24,620	24,620		24,620
1319	0603721N	62	ENVIRONMENTAL PROTECTION	21,977	21,977	26,977	3,000	24,977
			Marine mammal detection and mitigation			[5,000]	[3,000]	
1319	0603724N	63	NAVY ENERGY PROGRAM	1,595	1,595	1,595		1,595
1319	0603725N	64	FACILITIES IMPROVEMENT	4,158	4,158	4,158		4,158
1319	0603734N	65	CHALK CORAL	52,769	52,769	52,769		52,769
1319	0603739N	66	NAVY LOGISTIC PRODUCTIVITY	8,909	8,909	8,909		8,909
1319	0603746N	67	RETRACT MAPLE	308,708	308,708	308,708		308,708
1319	0603748N	68	LINK PLUMERIA	81,723	81,723	81,723		81,723
1319	0603751N	69	RETRACT ELM	57,036	57,036	57,036		57,036
1319	0603755N	70	SHIP SELF DEFENSE	9,592	9,592	9,592		9,592
1319	0603764N	71	LINK EVERGREEN	58,153	58,153	58,153		58,153
1319	0603787N	72	SPECIAL PROCESSES	47,908	47,908	47,908		47,908
1319	0603790N	73	NATO RESEARCH AND DEVELOPMENT	10,335	10,335	10,335		10,335

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1319	0603795N	74	LAND ATTACK TECHNOLOGY	14,195	80,195	14,195	50,000	64,195
			Affordable weapon system		[60,000]		[50,000]	
			Extended range guided munitions		[5,000]			
			76mm gun testing		[1,000]			
1319	0603851M	75	NONLETHAL WEAPONS	43,981	43,981	43,981		43,981
1319	0603857N	76	ALL SERVICE COMBAT IDENTIFICATION EVALUATION TEAM (	15,696	15,696	15,696		15,696
1319	0603860N	77	JOINT PRECISION APPROACH AND LANDING SYSTEMS	39,260	39,260	39,260		39,260
1319	0603879N	78	SINGLE INTEGRATED AIR PICTURE (SIAP) SYSTEM ENGINEER	36,721	36,721	36,721		36,721
1319	0603889N	79	COUNTERDRUG RDT&E PROJECTS					
1320	0604272N	80	TACTICAL AIR DIRECTIONAL INFRARED COUNTERMEASURES	9,956	9,956	9,956		9,956
1319	0604327N	81	HARD AND DEEPLY BURIED TARGET DEFEAT SYSTEM (HDBTI					
1319	0604707N	82	SPACE AND ELECTRONIC WARFARE (SEW) ARCHITECTURE/EN	44,469	44,469	44,469		44,469
1319	0604787N	83	JOINT WARFARE TRANSFORMATION PROGRAMS	23,385	23,385	23,385		23,385
1319	0604212N	84	OTHER HELO DEVELOPMENT	81,112	91,112	81,112		81,112
			Joint heavy lift		[10,000]			
1319	0604214N	85	AV-8B AIRCRAFT - ENG DEV	15,556	15,556	15,556		15,556
1319	0604215N	86	STANDARDS DEVELOPMENT	84,308	91,108	84,308	4,000	88,308
			Metrology		[6,800]		[4,000]	
1319	0604216N	87	MULTI-MISSION HELICOPTER UPGRADE DEVELOPMENT	48,144	48,144	48,144		48,144
1319	0604218N	88	AIR/OCEAN EQUIPMENT ENGINEERING	4,558	4,558	4,558		4,558
1319	0604221N	89	P-3 MODERNIZATION PROGRAM	7,401	7,401	7,401		7,401
1319	0604230N	90	WARFARE SUPPORT SYSTEM	2,275	2,275	2,275		2,275
1319	0604231N	91	TACTICAL COMMAND SYSTEM	51,177	58,177	53,177	9,000	60,177
			Logistics common operating picture			[2,000]	[2,000]	
			Air combat environment test and evaluation		[3,000]		[3,000]	
			Multi-wavelength aerosolized biologics sensor		[4,000]		[4,000]	

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1319	0604234N	92	ADVANCED HAWKEYE	629,682	629,682	629,682		629,682
1319	0604245N	93	H-1 UPGRADES	42,012	42,012	42,012		42,012
1319	0604261N	94	ACOUSTIC SEARCH SENSORS	29,522	29,522	32,522	3,000	32,522
			Automatic radar periscope detection and discrimination			[3,000]	[3,000]	
1319	0604262N	95	V-22A	206,376	206,376	206,376		206,376
1319	0604264N	96	AIR CREW SYSTEMS DEVELOPMENT	10,902	10,902	10,902		10,902
1319	0604269N	97	EA-18	409,097	409,097	409,097		409,097
1319	0604270N	98	ELECTRONIC WARFARE DEVELOPMENT	42,667	42,667	42,667		42,667
1319	0604273N	99	VHXX EXECUTIVE HELO DEVELOPMENT	935,932	935,932	935,932		935,932
1319	0604280N	100	JOINT TACTICAL RADIO SYSTEM - NAVY (JTRS-NAVY)	250,766	250,766	250,766	-30,000	220,766
			Program delay and restructure				[-30,000]	
1319	0604300N	101	SC-21 TOTAL SHIP SYSTEM ENGINEERING	1,114,791	699,991	1,124,791	10,000	1,124,791
			DD(X) IPS - permanent magnet motor			[10,000]	[10,000]	
			Program reduction		[-414,800]			
1319	0604307N	102	SURFACE COMBATANT COMBAT SYSTEM ENGINEERING	216,313	228,313	216,313		216,313
			Advanced radar technology integrated system testbed		[12,000]			
1319	0604311N	103	LPD-17 CLASS SYSTEMS INTEGRATION	11,443	11,443	11,443		11,443
1319	0604312N	104	TRI-SERVICE STANDOFF ATTACK MISSILE					
1319	0604329N	105	SMALL DIAMETER BOMB (SDB)	9,965	9,965	9,965		9,965
1319	0604366N	106	STANDARD MISSILE IMPROVEMENTS	145,634	145,634	145,634		145,634
1319	0604373N	107	AIRBORNE MCM	54,659	54,659	54,659		54,659
1319	0604503N	108	SSN-688 AND TRIDENT MODERNIZATION	95,499	110,999	106,499	11,000	106,499
			Affordable towed array construction		[6,000]	[6,000]	[3,000]	
			Common submarine radio room		[9,500]		[3,000]	
			Towed array handler (S. Amdt)			[5,000]	[5,000]	
1319	0604504N	109	AIR CONTROL	10,151	10,151	10,151		10,151

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1319	0604507N	110	ENHANCED MODULAR SIGNAL PROCESSOR	1,079	1,079	1,079		1,079
1319	0604512N	111	SHIPBOARD AVIATION SYSTEMS	33,029	39,529	33,029	6,500	39,529
			Aircraft carrier launch and recovery support equipment		[6,500]		[6,500]	
1319	0604518N	112	COMBAT INFORMATION CENTER CONVERSION	6,908	6,908	6,908		6,908
1319	0604558N	113	NEW DESIGN SSN	155,807	175,807	194,807	37,000	192,807
			VA-class multi mission module		[20,000]	[30,000]	[30,000]	
			VA-class large aperture bow array			[10,000]	[3,000]	
			Network centric capability tech insertion			[4,000]	[4,000]	
			VA-class large aperture bow array (S. Amdt)			[-5,000]		
1319	0604561N	114	SSN-21 DEVELOPMENTS	2,928	2,928	2,928		2,928
1319	0604562N	115	SUBMARINE TACTICAL WARFARE SYSTEM	40,690	40,690	47,690	7,000	47,690
			Submarine common open architecture tech insertion			[3,500]	[3,500]	
			Automated submarine command and control center			[3,500]	[3,500]	
1319	0604567N	116	SHIP CONTRACT DESIGN/ LIVE FIRE T&E	55,672	55,672	55,672		55,672
1319	0604574N	117	NAVY TACTICAL COMPUTER RESOURCES	2,220	2,220	2,220		2,220
1319	0604601N	118	MINE DEVELOPMENT	15,392	15,392	15,392		15,392
1319	0604603N	119	UNGUIDED CONVENTIONAL AIR-LAUNCHED WEAPONS					
1319	0604610N	120	LIGHTWEIGHT TORPEDO DEVELOPMENT	31,826	31,826	31,826		31,826
1319	0604618N	121	JOINT DIRECT ATTACK MUNITION					
1319	0604654N	122	JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOPMENT	8,880	8,880	8,880		8,880
1319	0604703N	123	PERSONNEL, TRAINING, SIMULATION, AND HUMAN FACTORS	3,097	3,097	3,097		3,097
1319	0604721N	124	BATTLE GROUP PASSIVE HORIZON EXTENSION SYSTEM	18,456	18,456	18,456		18,456
1319	0604727N	125	JOINT STANDOFF WEAPON SYSTEMS	13,517	13,517	13,517		13,517
1319	0604755N	126	SHIP SELF DEFENSE (DETECT & CONTROL)	45,931	45,931	50,971	4,000	49,931
			Autonomous unmanned surface vessel			[5,200]	[4,000]	
			Autonomous unmanned surface vessel (S. Amdt)			[-160]		
1319	0604756N	127	SHIP SELF DEFENSE (ENGAGE: HARD KILL)	46,026	46,026	46,026		46,026

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1319	0604757N	128	SHIP SELF DEFENSE (ENGAGE: SOFT KILL/EW)	24,012	24,012	33,012	4,000	28,012
			NULKA decoy development			[9,000]	[4,000]	
1319	0604761N	129	INTELLIGENCE ENGINEERING	5,002	5,002	5,002		5,002
1319	0604771N	130	MEDICAL DEVELOPMENT	7,202	27,902	19,702	16,500	23,702
			Hemostatic therapy trials			[3,000]	[3,000]	
			Advanced research on QuikClot		[2,700]	[2,000]		
			Hemoglobin-based oxygen carrier research		[8,000]	[4,000]	[4,000]	
			Non-invasive vectored vaccine research			[3,500]	[3,500]	
			Biomedical research imaging		[5,000]		[4,000]	
			Navy cancer vaccine research program		[5,000]		[2,000]	
1319	0604777N	131	NAVIGATION/ID SYSTEM	52,717	52,717	52,717		52,717
1319	0604784N	132	DISTRIBUTED SURVEILLANCE SYSTEM	54,256	80,256	54,256		54,256
			Submarine advanced deployable system		[26,000]			
1319	0604800N	133	JOINT STRIKE FIGHTER (JSF)	2,393,013	2,393,013	2,393,013		2,393,013
1319	0604910N	134	SMART CARD	715	715	715		715
1319	0605013M	135	INFORMATION TECHNOLOGY DEVELOPMENT	19,150	23,150	19,150	3,600	22,750
			Automated manifest system - tactical		[4,000]		[3,600]	
1319	0605013N	136	INFORMATION TECHNOLOGY DEVELOPMENT	60,859	60,859	60,859		60,859
1319	0605014N	137	DEFENSE INTEGRATED MILITARY HUMAN RESOURCES SYSTE					
1319	0605172N	138	MULTINATIONAL INFORMATION SHARING (MNIS)	33,557	33,557	33,557		33,557
1319	0605212N	139	CH-53X RDTE	271,941		271,941		271,941
			Program restructure		[-271,941]			
1319	0605500N	140	MULTI-MISSION MARITIME AIRCRAFT (MMA)	964,067	964,067	964,067		964,067
1319	0508713N	141	NAVY STANDARD INTEGRATED PERSONNEL SYSTEM (NSIPS)					
1319	0604256N	142	THREAT SIMULATOR DEVELOPMENT	23,918	23,918	23,918		23,918
1319	0604258N	143	TARGET SYSTEMS DEVELOPMENT	52,963	52,963	52,963		52,963

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1319	0604759N	144	MAJOR T&E INVESTMENT	39,682	39,682	39,682		39,682
1319	0605152N	145	STUDIES AND ANALYSIS SUPPORT - NAVY	9,629	9,629	9,629		9,629
1319	0605154N	146	CENTER FOR NAVAL ANALYSES	49,891	49,891	49,891		49,891
1319	0605155N	147	FLEET TACTICAL DEVELOPMENT	2,266	2,266	2,266		2,266
1319	0605502N	148	SMALL BUSINESS INNOVATIVE RESEARCH					
1319	0605804N	149	TECHNICAL INFORMATION SERVICES	714	714	714		714
1319	0605853N	150	MANAGEMENT, TECHNICAL & INTERNATIONAL SUPPORT	44,847	44,847	44,847		44,847
1319	0605856N	151	STRATEGIC TECHNICAL SUPPORT	3,451	3,451	3,451		3,451
1319	0605861N	152	RDT&E SCIENCE AND TECHNOLOGY MANAGEMENT	63,508	63,508	63,508		63,508
1319	0605862N	153	RDT&E INSTRUMENTATION MODERNIZATION	1,632	1,632	1,632		1,632
1319	0605863N	154	RDT&E SHIP AND AIRCRAFT SUPPORT	77,131	77,131	77,131		77,131
1319	0605864N	155	TEST AND EVALUATION SUPPORT	320,133	320,133	320,133		320,133
1319	0605865N	156	OPERATIONAL TEST AND EVALUATION CAPABILITY	13,101	13,101	13,101		13,101
1319	0605866N	157	NAVY SPACE AND ELECTRONIC WARFARE (SEW) SUPPORT	2,829	2,829	2,829		2,829
1319	0605867N	158	SEW SURVEILLANCE/RECONNAISSANCE SUPPORT	13,030	13,030	13,030		13,030
1319	0605873M	159	MARINE CORPS PROGRAM WIDE SUPPORT	28,224	28,224	28,224		28,224
1319	0804758N	160	SERVICE SUPPORT TO JFCOM, JNTC	10,000	10,000	10,000		10,000
1319	0909999N	161	FINANCING FOR CANCELLED ACCOUNT ADJUSTMENTS					
1319	0603660N	162	ADVANCED DEVELOPMENT PROJECTS	[ ]	[ ]	[ ]	[ ]	[ ]
1319	0603661N	163	RETRACT VIOLET	[ ]	[ ]	[ ]	[ ]	[ ]
1319	0101221N	164	STRATEGIC SUB & WEAPONS SYSTEM SUPPORT	90,022	94,022	90,022		90,022
			Common acoustic sensor initiative		[4,000]			
1319	0101224N	165	SSBN SECURITY TECHNOLOGY PROGRAM	44,063	46,763	44,063		44,063
			Common submarine radio room		[2,700]			
1319	0101226N	166	SUBMARINE ACOUSTIC WARFARE DEVELOPMENT	8,527	8,527	8,527		8,527
1319	0101402N	167	NAVY STRATEGIC COMMUNICATIONS	31,443	31,443	31,443		31,443

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1319	0203761N	168	RAPID TECHNOLOGY TRANSITION (RTT)	24,653	24,653	24,653		24,653
1319	0204136N	169	F/A-18 SQUADRONS	88,720	88,720	91,920		88,720
			Shared reconnaissance pod logistics support			[3,200]		
1319	0204152N	170	E-2 SQUADRONS	2,256	2,256	2,256		2,256
1319	0204163N	171	FLEET TELECOMMUNICATIONS (TACTICAL)	32,694	32,694	32,694		32,694
1319	0204229N	172	TOMAHAWK AND TOMAHAWK MISSION PLANNING CENTER (7	20,342	20,342	20,342		20,342
1319	0204311N	173	INTEGRATED SURVEILLANCE SYSTEM	23,453	29,453	23,453		23,453
			IUSS common processor		[6,000]			
1319	0204413N	174	AMPHIBIOUS TACTICAL SUPPORT UNITS (DISPLACEMENT CR/	4,768	4,768	4,768		4,768
1319	0204571N	175	CONSOLIDATED TRAINING SYSTEMS DEVELOPMENT	42,248	42,248	42,248		42,248
1319	0204574N	176	CRYPTOLOGIC DIRECT SUPPORT	1,422	1,422	1,422		1,422
1319	0204575N	177	ELECTRONIC WARFARE (EW) READINESS SUPPORT	13,987	13,987	13,987		13,987
1319	0205601N	178	HARM IMPROVEMENT	90,832	90,832	90,832		90,832
1319	0205604N	179	TACTICAL DATA LINKS	86,364	86,364	86,364		86,364
1319	0205620N	180	SURFACE ASW COMBAT SYSTEM INTEGRATION	4,519	14,519	4,519		4,519
			Acoustic window applications		[10,000]			
1319	0205632N	181	MK-48 ADCAP	21,619	21,619	21,619		21,619
1319	0205633N	182	AVIATION IMPROVEMENTS	81,546	81,546	81,546		81,546
1319	0205658N	183	NAVY SCIENCE ASSISTANCE PROGRAM	3,917	3,917	3,917		3,917
1319	0205675N	184	OPERATIONAL NUCLEAR POWER SYSTEMS	64,054	64,054	64,054		64,054
1319	0206313M	185	MARINE CORPS COMMUNICATIONS SYSTEMS	237,081	241,971	248,881	11,400	248,481
			G/ATOR development			[3,500]	[3,000]	
			USMC DCGS and net centric center			[4,800]	[1,000]	
			Critical infrastructure protection center			[3,500]	[3,500]	
			Reconnaissance, surveillance and targeting vehicle		[9,000]		[8,000]	
			Joint tactical radio system program reduction		[-4,110]		[-4,100]	

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1319	0206623M	186	MARINE CORPS GROUND COMBAT/SUPPORTING ARMS SYSTE	48,409	64,809	72,909	24,500	72,909
			Expeditionary fire support system		[3,500]	[11,000]	[11,000]	
			Multi-role intermediate support craft		[9,500]	[9,500]	[9,500]	
			Ultrasonic consolidation of embedded sensors		[3,400]	[4,000]	[4,000]	
1319	0206624M	187	MARINE CORPS COMBAT SERVICES SUPPORT	10,476	10,476	11,976	1,500	11,976
			Battlefield management system			[1,500]	[1,500]	
1319	0207161N	188	TACTICAL AIM MISSILES	9,384	9,384	9,384		9,384
1319	0207163N	189	ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM)	3,584	3,584	3,584		3,584
1319	0301303N	190	MARITIME INTELLIGENCE	[ ]	[ ]	[ ]	[ ]	[ ]
1319	0301323N	191	COLLECTION MANAGEMENT	[ ]	[ ]	[ ]	[ ]	[ ]
1319	0303217N	192	TECHNICAL RECONNAISSANCE AND SURVEILLANCE	[ ]	[ ]	[ ]	[ ]	[ ]
1319	0303109N	193	SATELLITE COMMUNICATIONS (SPACE)	541,980	551,180	541,980	5,000	546,980
			JIST-NET		[9,200]		[5,000]	
1319	0303140N	194	INFORMATION SYSTEMS SECURITY PROGRAM	28,660	28,660	28,660		28,660
1319	0303158N	195	JOINT COMMAND AND CONTROL PROGRAM (JC2)	5,000	5,000	5,000		5,000
1319	0304111N	196	SPECIAL ACTIVITIES	[ ]	[ ]	[ ]	[ ]	[ ]
1319	0305149N	197	COBRA JUDY	121,261	121,261	121,261		121,261
1319	0305160N	198	NAVY METEOROLOGICAL AND OCEAN SENSORS-SPACE (MET	9,122	9,122	9,122		9,122
1319	0305188N	199	JOINT C4ISR BATTLE CENTER (JBC)	55,326	55,326	55,326		55,326
1319	0305192N	200	JOINT MILITARY INTELLIGENCE PROGRAM - DEFENSE INTELI	4,290	4,290	4,290		4,290
1319	0305204N	201	TACTICAL UNMANNED AERIAL VEHICLES (JMIP)	99,349	109,849	138,349	24,950	124,299
			Additional six Firescout VTUAVs and sensors			[39,000]	[20,000]	
			Joint operational test bed system		[10,500]		[4,950]	
1319	0305205N	202	ENDURANCE UNMANNED AERIAL VEHICLES					
1319	0305206N	203	AIRBORNE RECONNAISSANCE SYSTEMS (JMIP)	27,918	32,918	27,918		27,918
			Passive collision avoidance and reconnaissance		[5,000]			

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(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1319	0305207N	204	MANNED RECONNAISSANCE SYSTEMS (JMIP)	21,322	21,322	21,322	52,000	73,322
			SOCOM ISR				[52,000]	
1319	0305208N	205	DISTRIBUTED COMMON GROUND/SURFACE SYSTEMS (JMIP)	12,354	12,354	15,554	3,200	15,554
			DCGS integration with AFATDS			[3,200]	[3,200]	
1319	0307207N	206	AERIAL COMMON SENSOR (ACS) (JMIP)	133,642	133,642	133,642		133,642
1319	0308601N	207	MODELING AND SIMULATION SUPPORT	6,812	6,812	6,812		6,812
1319	0702207N	208	DEPOT MAINTENANCE (NON-IF)	10,012	10,012	10,012		10,012
1319	0708011N	209	INDUSTRIAL PREPAREDNESS	57,753	61,753	57,753	2,000	59,753
			Gas turbine diagnostic system		[2,000]			
			M-65 bismalemide carbon fiber prepreg resin qualification		[2,000]		[2,000]	
1319	0708730N	210	MARITIME TECHNOLOGY (MARITECH)		100,000	10,000		
			National shipbuilding research program - ASE			[10,000]		
			Shipbuilding industrial base investment fund		[100,000]			
1319	XXXXXXX	999	CLASSIFIED PROGRAMS	1,125,515	1,137,515	1,125,515		1,125,515
			Program increase		[12,000]			
			Total, RDT&E Navy	**18,037,991**	**18,022,140**	**18,410,431**	**543,450**	**18,581,441**

Advanced submarine system development

The budget request included $163.0 million in PE 63561N for advanced submarine system development. Of this amount, $50.0 million is for the design of a future undersea superiority system.

The House bill would authorize the budget request.

The Senate amendment would authorize $123.0 million in PE 63561N, a decrease of $40.0 million since no specific plans on the use of these funds had been provided to the committee.

The conferees agree to authorize $163.0 million in PE 63561N, the budget request. The Navy has provided a detailed plan on the use of these funds. The objectives of this plan include: (1) reduce long-term costs in the construction of Virginia-class submarines; (2) perform ship concept studies; (3) perform independent studies of the submarine design and build base; and (4) identify submarine construction cost drivers and develop improved submarine cost models. The conferees would expect that the funds authorized for the undersea superiority system would be used in a manner consistent with the plan that was presented.

Air Force

Research, Development, Test, and Evaluation, Air Force overview

The budget request for fiscal year 2006 included an authorization of $22,612.4 million in Research Development, Test, and Evaluation, Air Force for the Department of Defense.

The House bill would authorize $22,418.2 million.

The Senate amendment would authorize $22,653.6 million.

The conferees recommend an authorization of $22,305.0 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
			RESEARCH, DEVELOPMENT, TEST & EVALUATION, AIR FORCE					
3600	0601102F	1	DEFENSE RESEARCH SCIENCES	223,894	229,394	230,394	6,500	230,394
			Hypersonics research			[4,000]	[4,000]	
			Nanophotonic components			[2,500]	[2,500]	
			Space education consortium		[5,500]			
3600	0601103F	2	UNIVERSITY RESEARCH INITIATIVES	105,029	105,029	117,529	12,500	117,529
			Secure and assured information sharing research			[2,500]	[2,500]	
			Program increase (S. Arndt)			[10,000]	[10,000]	
3600	0601108F	3	HIGH ENERGY LASER RESEARCH INITIATIVES	11,894	11,894	11,894		11,894
3600	0602102F	4	MATERIALS	74,156	79,156	81,156	7,900	82,056
			Blast resistant barriers			[4,000]	[2,400]	
			Complex structures for manned and unmanned aerial vehicles			[2,000]	[2,000]	
			Nanoparticle materials coatings research			[1,000]	[1,000]	
			High modulus polyacrylonitrile carbon fiber		[5,000]		[2,500]	
3600	0602201F	5	AEROSPACE VEHICLE TECHNOLOGIES	96,679	99,679	96,679	1,000	97,679
			Active feedback flow control		[3,000]		[1,000]	
3600	0602202F	6	HUMAN EFFECTIVENESS APPLIED RESEARCH	79,442	84,442	80,442	4,500	83,942
			Nanoparticle multi-agent detection			[1,000]	[1,000]	
			IMPRINT		[3,500]		[3,500]	
			Satellite threat evaluation environment		[1,500]			
3600	0602203F	7	AEROSPACE PROPULSION	107,523	124,023	119,523	15,500	123,023
			Hypersonics research and engine integration			[12,000]	[2,000]	
			Advanced engine starter/generator prototype		[3,500]		[2,000]	
			Engineering tool improvement program		[6,500]		[5,000]	
			Affordable lightweight power supply development		[2,500]		[2,500]	
			Aerospace propulsion vehicle center		[4,000]		[4,000]	

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
3600	0602204F	8	AEROSPACE SENSORS	93,263	96,263	93,263	2,000	95,263
			Compact optical receiver for loitering stand-off weapons		[3,000]		[2,000]	
3600	0602500F	9	MULTI-DISCIPLINARY SPACE TECHNOLOGY	81,339	87,339	81,339	2,000	83,339
			Upper stage engine technology		[6,000]		[2,000]	
3600	0602601F	10	SPACE TECHNOLOGY	84,540	93,540	95,540	13,500	98,040
			Deployable structures experiment			[3,000]	[3,000]	
			Integrated control for autonomous space systems (ICASS)			[3,000]	[3,000]	
			Nano-reinforced and multifunction space structures			[2,000]	[2,000]	
			Elastic memory composites		[4,000]		[2,500]	
			PMEMS		[5,000]			
			Field programmable gate array (S. Amdt)			[3,000]	[3,000]	
3600	0602602F	11	CONVENTIONAL MUNITIONS	58,058	58,058	58,058		58,058
3600	0602605F	12	DIRECTED ENERGY TECHNOLOGY	37,709	37,709	40,709	3,000	40,709
			Adaptive optics laser communications			[3,000]	[3,000]	
3600	0602702F	13	COMMAND CONTROL AND COMMUNICATIONS	93,316	97,216	93,316		93,316
			Joint battlespace infosphere		[3,900]			
3600	0602805F	14	DUAL USE SCIENCE AND TECHNOLOGY PROGRAM					
3600	0602890F	15	HIGH ENERGY LASER RESEARCH	45,678	45,678	45,678		45,678
3600	0603112F	16	ADVANCED MATERIALS FOR WEAPON SYSTEMS	36,714	55,514	47,714	11,000	47,714
			Laser eye protection			[5,000]	[1,000]	
			Metals affordability initiative		[14,000]	[2,000]	[7,000]	
			Lasers for defense applications		[4,800]			
			Aging military aircraft fleet support (S. Amdt)			[4,000]	[3,000]	
3600	0603203F	17	ADVANCED AEROSPACE SENSORS	35,157	35,157	35,157		35,157
3600	0603205F	18	FLIGHT VEHICLE TECHNOLOGY					

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
3600	0603211F	19	AEROSPACE TECHNOLOGY DEV/DEMO	25,133	29,133	25,133		25,133
			Fibrous 3D composites		[4,000]			
3600	0603216F	20	AEROSPACE PROPULSION AND POWER TECHNOLOGY	77,268	89,268	92,768	17,500	94,768
			More electric gas turbine			[3,000]	[3,000]	
			Versatile affordable advanced turbine engines			[2,500]	[2,500]	
			Supersonic cruise missile engine			[10,000]	[10,000]	
			Solid boost power technology		[2,000]		[2,000]	
			Supersonic cruise missile engine (H. Amdt)		[10,000]			
3600	0603231F	21	CREW SYSTEMS AND PERSONNEL PROTECTION TECHNOLOGY	29,775	33,275	29,775	3,500	33,275
			Warfighter pocket computer		[3,500]		[3,500]	
3600	0603270F	22	ELECTRONIC COMBAT TECHNOLOGY	23,923	23,923	23,923		23,923
3600	0603311F	23	BALLISTIC MISSILE TECHNOLOGY		10,000		10,000	10,000
			Guidance systems development		[6,000]		[6,000]	
			Range safety upgrade		[4,000]		[4,000]	
3600	0603333F	24	UNMANNED AIR VEHICLE DEV/DEMO					
3600	0603400F	25	JOINT UNMANNED COMBAT AIR SYSTEMS (J-UCAS) ADVANCE	77,800	77,800	77,800		77,800

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
3600	0603401F	26	ADVANCED SPACECRAFT TECHNOLOGY	60,915	72,915	88,915	24,500	85,415
			Radially segmented launch vehicle			[4,000]	[2,000]	
			AC coupled interconnect			[3,000]	[3,000]	
			Thin film amorphous solar arrays			[10,000]	[10,000]	
			Beta energy cells for defense and intelligence			[3,000]	[3,000]	
			Integrated spacecraft engineering tool			[3,000]	[1,000]	
			Ballistic missile technology			[5,000]		
			Free space optical communications node		[4,000]		[3,000]	
			Position intelligence networking technology (Pinpoint)		[4,000]		[2,500]	
			Satellite simulation toolkit		[3,000]			
			Streaker SLV		[1,000]			
3600	0603444F	27	MAUI SPACE SURVEILLANCE SYSTEM (MSSS)	5,848	10,848	10,848	5,000	10,848
			High accuracy network determination system		[5,000]	[5,000]	[5,000]	
3600	0603500F	28	MULTI-DISCIPLINARY ADVANCED DEVELOPMENT SPACE TEC	53,437	55,937	58,437		53,437
			Laser threat warning attack reporting		[2,500]	[5,000]		
3600	0603601F	29	CONVENTIONAL WEAPONS TECHNOLOGY	18,660	18,660	18,660		18,660
3600	0603605F	30	ADVANCED WEAPONS TECHNOLOGY	26,955	26,955	26,955		26,955
3600	0603723F	31	ENVIRONMENTAL ENGINEERING TECHNOLOGY					
3600	0603789F	32	C3I ADVANCED DEVELOPMENT	30,125	33,925	33,325	5,900	36,025
			Enable network centric warfare			[3,200]	[3,200]	
			Massively parallel optical inter-connects for battlefield info exchange		[3,800]		[2,700]	
3600	0603801F	33	SPECIAL PROGRAMS	280,135	280,135	280,135		280,135
3600	0603850F	34	INTEGRATED BROADCAST SERVICE					
3600	0603924F	35	HIGH ENERGY LASER ADVANCED TECHNOLOGY PROGRAM	5,801	5,801	5,801		5,801
3600	0207423F	36	ADVANCED COMMUNICATIONS SYSTEMS					
3600	0401840F	37	AMC COMMAND AND CONTROL SYSTEM					

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
3600	0804757F	38	JOINT NATIONAL TRAINING CENTER					
3600	0603260F	39	INTELLIGENCE ADVANCED DEVELOPMENT	4,580	4,580	4,580		4,580
3600	0603287F	40	PHYSICAL SECURITY EQUIPMENT	21,937	26,937	21,937		21,937
			X-Ray energy detection system		[5,000]			
3600	0603421F	41	NAVSTAR GLOBAL POSITIONING SYSTEM III	87,364	87,364	87,364		87,364
3600	0603430F	42	ADVANCED EHF MILSATCOM (SPACE)	665,257	665,257	765,257		665,257
			AEHF			[100,000]		
3600	0603432F	43	POLAR MILSATCOM (SPACE)	2,185	2,185	2,185		2,185
3600	0603434F	44	NATIONAL POLAR-ORBITING OPERATIONAL ENVIRONMENTA					
3600	0603438F	45	SPACE CONTROL TECHNOLOGY	14,205	14,205	14,205		14,205
3600	0603742F	46	COMBAT IDENTIFICATION TECHNOLOGY	51,893	51,893	51,893		51,893
3600	0603790F	47	NATO RESEARCH AND DEVELOPMENT	3,973	3,973	3,973		3,973
3600	0603791F	48	INTERNATIONAL SPACE COOPERATIVE R&D	574	574	574		574
3600	0603845F	49	TRANSFORMATIONAL SATCOM (TSAT)	835,769	435,769	635,769	-400,000	435,769
			Delay TSAT		[-400,000]	[-200,000]	[-400,000]	
3600	0603850F	50	INTEGRATED BROADCAST SERVICE	15,344	15,344	15,344		15,344
3600	0603851F	51	INTERCONTINENTAL BALLISTIC MISSILE	44,672	44,672	44,672		44,672
3600	0603854F	52	WIDEBAND GAPFILLER SYSTEM RDT&E (SPACE)	93,858	93,858	93,858		93,858
3600	0603858F	53	SPACE-BASED RADAR	225,839	100,000	150,839	-125,839	100,000
			Delay SBR		[-125,839]	[-75,000]	[-125,839]	
3600	0603859F	54	POLLUTION PREVENTION	2,735	2,735	2,735		2,735
3600	0603860F	55	JOINT PRECISION APPROACH AND LANDING SYSTEMS	11,211	11,211	11,211		11,211
3600	0604015F	56	NEXT GENERATION BOMBER	25,135	25,135	25,135		25,135
3600	0604327F	57	HARD AND DEEPLY BURIED TARGET DEFEAT SYSTEM (HDBTI		4,000		4,000	4,000
			Penetrator study		[4,000]		[4,000]	
3600	0604400F	58	JOINT UNMANNED COMBAT AIR SYSTEMS (J-UCAS) ADVANCE	272,300	272,300	272,300		272,300

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
3600	0604731F	59	UNMANNED COMBAT AIR VEHICLE (UCAV)					
3600	0604855F	60	OPERATIONALLY RESPONSIVE LAUNCH	23,480	38,980	33,480	13,500	36,980
			Tactical satellite demonstrations		[13,500]	[10,000]	[13,500]	
			Blue MAJIC		[2,000]			
3600	0604856F	61	COMMON AERO VEHICLE (CAV)	27,394	27,394	27,394		27,394
3600	0207423F	62	ADVANCED COMMUNICATIONS SYSTEMS	969	969	969		969
3601	0305178F	63	NATIONAL POLAR-ORBITING OPERATIONAL ENVIRONMENTAI	323,665	323,665	323,665		323,665
3600	0603840F	64	GLOBAL BROADCAST SERVICE (GBS)	18,283	18,283	18,283		18,283
3600	0604012F	65	JOINT HELMET MOUNTED CUEING SYSTEM (JHMCS)	2,912	2,912	2,912		2,912
3600	0604222F	66	NUCLEAR WEAPONS SUPPORT	15,154	15,154	14,154		15,154
			Robust nuclear earth penetrator			[-1,000]		
3600	0604226F	67	B-1B	132,496	132,496	140,496	5,000	137,496
			B-1B digital communications improvements			[8,000]	[5,000]	
3600	0604233F	68	SPECIALIZED UNDERGRADUATE FLIGHT TRAINING	8,593	8,593	8,593		8,593
3600	0604239F	69	F-22	76,203	76,203	76,203		76,203
3600	0604240F	70	B-2 ADVANCED TECHNOLOGY BOMBER	285,205	305,205	285,205	20,000	305,205
			B-2 development		[20,000]		[20,000]	
3600	0604261F	70a	Personnel Recovery System (Transfer from RDAF 137a)		113,825			
3600	0604270F	71	ELECTRONIC WARFARE DEVELOPMENT	82,587	82,587	82,587		82,587
3600	0604280F	72	JOINT TACTICAL RADIO	124,225	124,225	124,225	-25,000	99,225
			Systems development and demonstration				[-25,000]	
3600	0604287F	73	PHYSICAL SECURITY EQUIPMENT	11,153	11,153	11,153		11,153
3600	0604329F	74	SMALL DIAMETER BOMB (SDB)	85,988	85,988	85,988	-20,000	65,988
			Increment II contract award delay				[-20,000]	
3600	0604421F	75	COUNTERSPACE SYSTEMS	24,651	26,651	30,651	6,000	30,651
			Space control test capabilities		[2,000]	[6,000]	[6,000]	

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
3600	0604429F	76	AIRBORNE ELECTRONIC ATTACK	120,985	120,985	120,985		120,985
3600	0604441F	77	SPACE BASED INFRARED SYSTEM (SBIRS) HIGH EMD	756,630	756,630	756,630		756,630
3600	0604479F	78	MILSTAR LDR/MDR SATELLITE COMMUNICATIONS (SPACE)					
3600	0604600F	79	MUNITIONS DISPENSER DEVELOPMENT	21,738	21,738	21,738		21,738
3600	0604602F	80	ARMAMENT/ORDNANCE DEVELOPMENT	7,786	7,786	7,786		7,786
3600	0604604F	81	SUBMUNITIONS	5,475	5,475	5,475		5,475
3600	0604617F	82	AGILE COMBAT SUPPORT	10,173	13,973	10,173	2,500	12,673
			Biostatic protective clothing		[3,800]		[2,500]	
3600	0604618F	83	JOINT DIRECT ATTACK MUNITION					
3600	0604706F	84	LIFE SUPPORT SYSTEMS	7,315	12,315	7,315	2,700	10,015
			Integrated oxygen mask and goggle system		[5,000]		[2,700]	
3600	0604735F	85	COMBAT TRAINING RANGES	6,122	6,122	6,122		6,122
3600	0604740F	86	INTEGRATED COMMAND & CONTROL APPLICATIONS (IC2A)	161	3,161	161	3,000	3,161
			Distributed mission interoperability toolkit		[3,000]		[3,000]	
3600	0604750F	87	INTELLIGENCE EQUIPMENT	1,369	1,369	1,369		1,369
3600	0604754F	88	TACTICAL DATA LINK INFRASTRUCTURE					
3600	0604762F	89	COMMON LOW OBSERVABLES VERIFICATION SYSTEM (CLOVI	8,692	8,692	8,692		8,692
3600	0604800F	90	JOINT STRIKE FIGHTER (JSF)	2,474,763	2,474,763	2,474,763		2,474,763
3600	0604851F	91	INTERCONTINENTAL BALLISTIC MISSILE	32,415	32,415	32,415		32,415
3600	0604853F	92	EVOLVED EXPENDABLE LAUNCH VEHICLE PROGRAM (SPACE	26,093	26,093	26,093		26,093
3600	0605011F	93	RDT&E FOR AGING AIRCRAFT	24,384	24,384	24,384		24,384
3600	0605807F	94	TEST AND EVALUATION SUPPORT	50,000	50,000	50,000		50,000
3600	0207256F	95	UNMANNED COMBAT AIR VEHICLE JOINT PROGRAM OFFICE					
3600	0207434F	96	LINK-16 SUPPORT AND SUSTAINMENT	157,677	157,677	157,677		157,677
3600	0207443F	97	FAMILY OF INTEROPERABLE OPERATIONAL PICTURES (FIOP)	29,296	29,296	29,296		29,296
3600	0207450F	98	E-10 SQUADRONS	397,011	397,011	397,011		397,011

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
3600	0207701F	99	FULL COMBAT MISSION TRAINING	26,423	26,423	26,423		26,423
3600	0305176F	100	COMBAT SURVIVOR EVADER LOCATOR					
3600	0401318F	101	CV-22	39,532	41,532	39,532	2,000	41,532
			Nanocrystalline diamond coating		[2,000]		[2,000]	
3600		101a	KC-135 Tanker Replacement		99,210			
3600	0604256F	102	THREAT SIMULATOR DEVELOPMENT	32,546	32,546	32,546		32,546
3600	0604759F	103	MAJOR T&E INVESTMENT	55,339	55,339	60,339	1,000	56,339
			FPS-16 radar mobilization and upgrade			[5,000]	[1,000]	
3600	0605101F	104	RAND PROJECT AIR FORCE	28,354	28,354	28,354		28,354
3600	0605306F	105	RANCH HAND II EPIDEMIOLOGY STUDY	4,188	4,188	4,188		4,188
3600	0605502F	106	SMALL BUSINESS INNOVATION RESEARCH					
3600	0605712F	107	INITIAL OPERATIONAL TEST & EVALUATION	34,615	34,615	34,615		34,615
3600	0605807F	108	TEST AND EVALUATION SUPPORT	642,665	642,665	642,665		642,665
3600	0605860F	109	ROCKET SYSTEMS LAUNCH PROGRAM (SPACE)	13,773	18,273	28,773	13,500	27,273
			Ballistic missile range safety technology		[4,500]	[15,000]	[13,500]	
3600	0605864F	110	SPACE TEST PROGRAM (STP)	48,157	48,157	48,157		48,157
3600	0605976F	111	FACILITIES RESTORATION AND MODERNIZATION - TEST AND	60,561	60,561	60,561		60,561
3600	0605978F	112	FACILITIES SUSTAINMENT - TEST AND EVALUATION SUPPORT	26,238	28,238	26,238		26,238
			Low profile arresting gear		[2,000]			
3600	0305193F	113	INTELLIGENCE SUPPORT TO INFORMATION OPERATIONS (IO)					
3600	0804731F	114	GENERAL SKILL TRAINING	331	331	331		331
3600	0909900F	115	FINANCING FOR EXPIRED ACCOUNT ADJUSTMENTS					
3600	0909980F	116	JUDGMENT FUND REIMBURSEMENT					
3600	1001004F	117	INTERNATIONAL ACTIVITIES	3,739	3,739	3,739		3,739
3600	0605024F	118	ANTI-TAMPER TECHNOLOGY EXECUTIVE AGENCY	7,827	7,827	7,827		7,827
3600	0605798F	119	DEFENSE TECHNOLOGY ANALYSIS	[ ]	[ ]	[ ]	[ ]	[ ]

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
3600	0101113F	120	B-52 SQUADRONS	22,784	22,784	22,784		22,784
3600	0101120F	121	ADVANCED CRUISE MISSILE	1,989	1,989	1,989		1,989
3600	0101122F	122	AIR-LAUNCHED CRUISE MISSILE (ALCM)	2,250	2,250	2,250		2,250
3600	0101313F	123	STRAT WAR PLANNING SYSTEM - USSTRATCOM	29,134	29,134	29,134		29,134
3600	0101314F	124	NIGHT FIST - USSTRATCOM	5,013	5,013	5,013		5,013
3600	0101815F	125	ADVANCED STRATEGIC PROGRAMS	9,875	9,875	9,875		9,875
3600	0102326F	126	REGION/SECTOR OPERATION CONTROL CENTER MODERNIZA	18,237	18,237	18,237		18,237
3600	0203761F	127	WARFIGHTER RAPID ACQUISITION PROCESS (WRAP) RAPID TF	30,093	30,093	30,093		30,093
3600	0207028F	128	JOINT EXPEDITIONARY FORCE EXPERIMENT					
3600	0207131F	129	A-10 SQUADRONS	51,835	51,835	76,835	10,000	61,835
			A-10 propulsion upgrade			[25,000]	[10,000]	
3600	0207133F	130	F-16 SQUADRONS	155,666	163,666	155,666		155,666
			F-16 AN/APG-68(V)10 AFRC		[8,000]			
3600	0207134F	131	F-15E SQUADRONS	124,647	124,647	124,647		124,647
3600	0207136F	132	MANNED DESTRUCTIVE SUPPRESSION	9,394	9,394	9,394		9,394
3600	0207138F	133	F/A-22 SQUADRONS	403,517	403,517	403,517		403,517
3600	0207141F	134	F-117A SQUADRONS	13,600	13,600	13,600		13,600
3600	0207161F	135	TACTICAL AIM MISSILES	15,639	15,639	15,639		15,639
3600	0207163F	136	ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM)	33,262	33,262	33,262		33,262
3600	0207224F	137	COMBAT RESCUE AND RECOVERY	113,825		113,825	-42,000	71,825
			Transfer to RDAF 70a		[-113,825]			
			Contract award delays				[-42,000]	
3600	0207247F	138	AF TENCAP	10,829	10,829	10,829		10,829
3600	0207248F	139	SPECIAL EVALUATION PROGRAM	276,219	319,619	276,219		276,219
			Program increase		[43,400]			
3600	0207253F	140	COMPASS CALL	4,650	4,650	4,650		4,650

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
3600	0207268F	141	AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM	153,265	153,265	153,265		153,265
3600	0207277F	142	CSAF INNOVATION PROGRAM	1,737	1,737	1,737		1,737
3600	0207325F	143	JOINT AIR-TO-SURFACE STANDOFF MISSILE (JASSM)	66,997	66,997	66,997		66,997
3600	0207410F	144	AIR & SPACE OPERATIONS CENTER (AOC)	68,099	68,099	68,099		68,099
3600	0207412F	145	CONTROL AND REPORTING CENTER (CRC)	9,289	9,289	9,289		9,289
3600	0207417F	146	AIRBORNE WARNING AND CONTROL SYSTEM (AWACS)	121,565	121,565	121,565		121,565
3600	0207423F	147	ADVANCED COMMUNICATIONS SYSTEMS	28,938	28,938	28,938		28,938
3600	0207424F	148	EVALUATION AND ANALYSIS PROGRAM					
3600	0207433F	149	ADVANCED PROGRAM TECHNOLOGY	300,673	300,673	300,673		300,673
3600	0207438F	150	THEATER BATTLE MANAGEMENT (TBM) C4I	40,472	40,472	40,472		40,472
3600	0207445F	151	FIGHTER TACTICAL DATA LINK	122,160	122,160	122,160		122,160
3600	0207446F	152	BOMBER TACTICAL DATA LINK	144,863	144,863	144,863		144,863
3600	0207448F	153	C2ISR TACTICAL DATA LINK	14,838	14,838	14,838		14,838
3600	0207449F	154	COMMAND AND CONTROL (C2) CONSTELLATION	41,071	41,071	41,071		41,071
3600	0207581F	155	JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM (JST/	78,084	78,084	78,084	13,500	91,584
			E-8C Joint Stars re-engine initiative				[13,500]	
3600	0207590F	156	SEEK EAGLE	19,510	19,510	19,510		19,510
3600	0207591F	157	ADVANCED PROGRAM EVALUATION	290,589	290,589	290,589		290,589
3600	0207601F	158	USAF MODELING AND SIMULATION	30,541	30,541	30,541		30,541
3600	0207605F	159	WARGAMING AND SIMULATION CENTERS	6,369	6,369	6,369		6,369
3600	0207697F	160	DISTRIBUTED TRAINING AND EXERCISES	4,222	4,222	4,222		4,222
3600	0208006F	161	MISSION PLANNING SYSTEMS	138,475	138,475	138,475		138,475
3600	0208021F	162	INFORMATION WARFARE SUPPORT	15,204	15,204	15,204		15,204
3600	0301310F	163	NATIONAL AIR INTELLIGENCE CENTER	[ ]	[ ]	[ ]	[ ]	[ ]
3600	0301314F	164	COBRA BALL	[ ]	[ ]	[ ]	[ ]	[ ]

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
3600	0301315F	165	MISSILE AND SPACE TECHNICAL COLLECTION	[ ]	5,000	[ ]	[ ]	[ ]
			MASINT support to DCGS		[5,000]			
3600	0301324F	166	FOREST GREEN	[ ]	[ ]	[ ]	[ ]	[ ]
3600	0301386F	167	GDIP COLLECTION MANAGEMENT	[ ]	[ ]	[ ]	[ ]	[ ]
3600	0301398F	168	MANAGEMENT HQ - GDIP	[ ]	[ ]	[ ]	[ ]	[ ]
3600	0302015F	169	E-4B NATIONAL AIRBORNE OPERATIONS CENTER (NAOC)	18,909	18,909	18,909		18,909
3600	0303131F	170	MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS NETW	57,344	57,344	57,344		57,344
3600	0303140F	171	INFORMATION SYSTEMS SECURITY PROGRAM	109,292	109,292	112,292	3,000	112,292
			Homeland defense civil support threat studies			[1,000]	[1,000]	
			Infrastructure assurance and security research			[2,000]	[2,000]	
3600	0303141F	172	GLOBAL COMBAT SUPPORT SYSTEM	20,555	20,555	20,555		20,555
3600	0303150F	173	GLOBAL COMMAND AND CONTROL SYSTEM	3,541	14,541	3,541	11,000	14,541
			Command and control Service level management		[10,000]		[10,000]	
			Applied research in computing enterprise services		[1,000]		[1,000]	
3600	0303158F	174	JOINT COMMAND AND CONTROL PROGRAM (JC2)	5,200	5,200	5,200		5,200
3600	0303601F	175	MILSATCOM TERMINALS	273,974	273,974	273,974		273,974
3600	0304111F	176	SPECIAL ACTIVITIES	[ ]	[ ]	[ ]	[ ]	[ ]
3600	0304260F	177	AIRBORNE SIGINT ENTERPRISE (JMIP)	78,920	78,920	78,920		78,920
3600	0304311F	178	SELECTED ACTIVITIES	[ ]	[ ]	[ ]	[ ]	[ ]
3600	0305099F	179	GLOBAL AIR TRAFFIC MANAGEMENT (GATM)	7,139	7,139	7,139		7,139
3600	0305110F	180	SATELLITE CONTROL NETWORK (SPACE)	29,143	29,143	29,143		29,143
3600	0305111F	181	WEATHER SERVICE	28,675	28,675	28,675		28,675
3600	0305114F	182	AIR TRAFFIC CONTROL, APPROACH, AND LANDING SYSTEM (/					
3600	0305116F	183	AERIAL TARGETS	6,641	6,641	6,641		6,641
3600	0305124F	184	SPECIAL APPLICATIONS PROGRAM	[ ]	[ ]	[ ]	[ ]	[ ]
3600	0305128F	185	SECURITY AND INVESTIGATIVE ACTIVITIES	491	491	491		491

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
3600	0305142F	186	APPLIED TECHNOLOGY AND INTEGRATION	[ ]	[ ]	[ ]	[ ]	[ ]
3600	0305148F	187	AIR FORCE TACTICAL MEASUREMENT AND SIGNATURE INTEI					
3600	0305159F	188	DEFENSE RECONNAISSANCE SUPPORT ACTIVITIES (SPACE)	[ ]	[ ]	[ ]	[ ]	[ ]
3600	0305160F	189	DEFENSE METEOROLOGICAL SATELLITE PROGRAM (SPACE)	3,908	3,908	3,908		3,908
3600	0305164F	190	NAVSTAR GLOBAL POSITIONING SYSTEM (USER EQUIPMENT)	125,778	130,778	125,778		125,778
			Combat effectiveness tests		[5,000]			
3600	0305165F	191	NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE AND CONTR	188,301	188,301	188,301		188,301
3600	0305172F	192	COMBINED ADVANCED APPLICATIONS	[ ]	[ ]	[ ]	[ ]	[ ]
3600	0305174F	193	SPACE WARFARE CENTER	411	411	411		411
3600	0305182F	194	SPACELIFT RANGE SYSTEM (SPACE)	48,854	48,854	48,854		48,854
3600	0305193F	195	INTELLIGENCE SUPPORT TO INFORMATION OPERATIONS (IO)	3,618	3,618	3,618		3,618
3600	0305202F	196	DRAGON U-2 (JMIP)	10,158	10,158	10,158		10,158
3600	0305205F	197	ENDURANCE UNMANNED AERIAL VEHICLES					
3600	0305206F	198	AIRBORNE RECONNAISSANCE SYSTEMS (JMIP)	51,769	58,769	51,769		51,769
			Project Suter		[7,000]			
3600	0305207F	199	MANNED RECONNAISSANCE SYSTEMS (JMIP)	8,101	12,101	8,101		8,101
			EAN-105E development		[4,000]			
3600	0305208F	200	DISTRIBUTED COMMON GROUND/SURFACE SYSTEMS (JMIP)	40,402	32,402	40,402	-3,000	37,402
			Program reduction		[-8,000]		[-3,000]	
3600	0305219F	201	PREDATOR UAV (JMIP)	61,007	61,007	66,007		61,007
			Viper strike munitions for Predator UAV			[5,000]		
3600	0305220F	202	GLOBAL HAWK UAV (JMIP)	308,533	308,533	308,533		308,533
3600	0305221F	203	NETWORK-CENTRIC COLLABORATIVE TARGET (TIARA)	8,647	8,647	8,647		8,647
3600	0305887F	204	INTELLIGENCE SUPPORT TO INFORMATION WARFARE	978	978	978		978
3600	0305906F	205	NCMC - TW/AA SYSTEM	85,222	85,222	85,222		85,222

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
3600	0305910F	206	SPACETRACK (SPACE)	151,102	187,102	176,102	25,000	176,102
			S band upgrade		[6,000]	[10,000]	[10,000]	
			Space-based space surveillance		[30,000]	[15,000]	[15,000]	
3600	0305913F	207	NUDET DETECTION SYSTEM (SPACE)	32,783	32,783	32,783		32,783
3600	0305917F	208	SPACE ARCHITECT	12,878	12,878	12,878		12,878
3600	0307141F	209	NASS, IO TECHNOLOGY INTEGRATION & TOOL DEV	15,182	15,182	15,182		15,182
3600	0308699F	210	SHARED EARLY WARNING (SEW)	3,295	3,295	3,295		3,295
3600	0401115F	211	C-130 AIRLIFT SQUADRON	233,028	243,028	233,028	5,500	238,528
			C-130 weight and balance		[5,000]		[2,500]	
			C-130 AIRCAT		[5,000]		[3,000]	
3600	0401119F	212	C-5 AIRLIFT SQUADRONS (IF)	226,479	226,479	226,479		226,479
3600	0401130F	213	C-17 AIRCRAFT (IF)	165,762	165,762	165,762		165,762
3600	0401132F	214	C-130J PROGRAM	6,681	6,681	6,681		6,681
3600	0401133F	215	AEROMEDICAL EVACUATION	2,077	2,077	2,077		2,077
3600	0401134F	216	LARGE AIRCRAFT IR COUNTERMEASURES (LAIRCM)	55,743	55,743	55,743		55,743
3600	0401218F	217	KC-135S	1,498	1,498	1,498		1,498
3600	0401219F	218	KC-10S	13,472	13,472	13,472		13,472
3600	0401221F	219	KC-135 TANKER REPLACEMENT	99,210		99,210		99,210
			Transfer to RDAF 101a		[-99,210]			
3600	0408011F	220	SPECIAL TACTICS / COMBAT CONTROL	2,156	2,156	2,156		2,156
3600	0702207F	221	DEPOT MAINTENANCE (NON-IF)	1,408	1,408	1,408		1,408
3600	0702239F	222	AVIONICS COMPONENT IMPROVEMENT PROGRAM					
3600	0702806F	223	ACQUISITION AND MANAGEMENT SUPPORT	3,404	3,404	3,404		3,404
3600	0708011F	224	INDUSTRIAL PREPAREDNESS	36,934	46,934	40,934	12,500	49,434
			Nanomaterials manufacturing			[4,000]	[4,000]	
			RFID rapid adoption collaboration initiative		[10,000]		[8,500]	

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
3600	0708012F	225	LOGISTICS SUPPORT ACTIVITIES					
3600	0708026F	226	PRODUCTIVITY, RELIABILITY, AVAILABILITY, MAINTAIN. PRC					
3600	0708610F	227	LOGISTICS INFORMATION TECHNOLOGY (LOGIT)	44,503	44,503	44,503		44,503
3600	0708611F	228	SUPPORT SYSTEMS DEVELOPMENT	10,316	15,316	17,216	9,000	19,316
			Aging aircraft logistics management			[3,000]	[3,000]	
			Aircraft systems and support infrastructure			[1,000]	[1,000]	
			Semi-autonomous robot for aircraft maintenance			[2,900]	[1,500]	
			Heavy duty hybrid electric vehicle		[5,000]		[3,500]	
3600	0804757F	229	JOINT NATIONAL TRAINING CENTER	2,924	2,924	2,924		2,924
3600	0808716F	230	OTHER PERSONNEL ACTIVITIES	111	111	111		111
3600	0901202F	231	JOINT PERSONNEL RECOVERY AGENCY	978	978	978		978
3600	0901212F	232	SERVICE-WIDE SUPPORT (NOT OTHERWISE ACCOUNTED FOR)					
3600	0901218F	233	CIVILIAN COMPENSATION PROGRAM	7,445	7,445	7,445		7,445
3600	0901220F	234	PERSONNEL ADMINISTRATION	16,383	16,383			16,383
			Terminate personnel service delivery program			[-16,383]		
3600	0901538F	235	FINANCIAL MANAGEMENT INFORMATION SYSTEMS DEVELOF	17,531	17,531	17,531		17,531
3600	XXXXXXX	999	CLASSIFIED PROGRAMS	6,069,810	6,069,810	6,069,810		6,069,810
			Total, RDT&E Air Force	**22,612,351**	**22,418,212**	**22,653,568**	**-307,339**	**22,305,012**

Transformational satellite communications

The budget request included $835.8 million in PE 63845F for transformational military satellite communications (TSAT).

The House bill would authorize $435.8 million in PE 63845F, a decrease of $400.0 million.

The Senate amendment would authorize $635.8 million in PE 63845F, a decrease of $200.0 million.

The conferees agree to authorize $435.8 million in PE 63845F, a decrease of $400.0 million for the TSAT program.

The conferees would like to be clear that the reduction to the amount requested for the TSAT program should not be construed as a lack of support for the program, but rather a reflection of continuing concerns related to the TSAT acquisition approach. Several independent reviews of the TSAT program, some prompted by Congress, provide reason to believe the TSAT program can, with proper attention, avoid the pitfalls of so many prior military space programs including schedule delays, cost overruns, and poor management.

The October 20, 2005 report of the TSAT Program Review Group, chaired by Mr. Tom Young, complimented the TSAT program both for its comprehensive risk reduction program focused on critical technologies, and for efforts to assure that final requirements are executable and consistent with program resources. Of continuing concern to the group, however, was that the TSAT program office was inadequately staffed in terms of the number of experienced people, program cost estimates appeared to be unrealistic, and system requirements needed substantial additional refinement. Similarly, the Government Accountability Office, in its September 7, 2005, briefing to congressional staff on TSAT, found there to be "no fundamental discoveries or breakthroughs required for TSAT, but the level of difficulty in integrating these technologies is an unknown."

According to Air Force estimates, the $400.0 million reduction to the TSAT program recommended by the conferees will result in a delay to the systems design review and authority to proceed by 1 year. The conferees believe this schedule adjustment could help mitigate program risk by allowing time for the integration of critical technologies, refinement of requirements, and allow the TSAT program office time to get fully staffed. The conferees also emphasize the importance of risk reduction and system engineering efforts up front and strongly urge the Air Force to ensure adequate support for these efforts. With these changes, the TSAT program has the opportunity to be the first military space program in a decade to meet mission requirements within budget and on schedule.

The conferees assessed the need to direct the Department of Defense to acquire a fourth Advanced Extremely High Frequency (AEHF) space vehicle, and have decided to continue with the current planned program. The decision resulted from the conclusion that the planned constellation will provide protected communications until 2017. The launch of the first TSAT is expected in 2015 and provides a 2 year margin to mitigate against any additional unexpected delays to TSAT. However, the conferees direct the Secretary of Defense, as required in section 912, to prepare alternatives should the current margin disappear, and to identify when acquisition of an additional AEHF would have to be initiated to avoid a break in production.

Space Radar

The budget request included $225.8 million in PE 63858F for Space Radar.

The House bill would authorize $100.0 million in PE 63858F, a decrease of $125.8 million.

The Senate amendment would authorize $150.8 million in PE 63858F, a decrease of $75.0 million.

The conferees agree to authorize $100.0 million in PE 63858F, a decrease of $125.8 million.

The conferees direct that fiscal year 2006 program funds be invested in the demonstration of the following:

(1) ground exploitation capability;

(2) horizontal integration;

(3) continued radar technology maturation; and

(4) new technology breakthroughs that will lower the payload weight and cost.

The conferees recommend that the Air Force thoroughly plan a demonstration program maximizing the use of ground, airborne, and existing space assets before committing to the new development of a subscale spacecraft. The conferees direct the Secretary of the Air Force, in coordination with the Director of the National Geospatial Intelligence Agency and the Director of the National Reconnaissance Office, to develop and submit a report to the congressional defense committees and congressional intelligence committees by March 15, 2006. The report should cover fiscal years 2006 through 2010 and include a detailed space radar program plan that would incorporate the above direction and focus on: (1) risk reduction, modeling, and simulation; (2) ground and air demonstrations and tests; and (3) the use of all planned or existing space assets. The Space Radar program plan, as reported to Congress, should provide annual technical and cost milestones that if met will provide confidence in a technically feasible and affordable program plan for space radar.

The nation requires a radar capability, and its users will have little concern about which platform collects the data. The conferees believe that the future success and stability of the space radar program rests in the demonstration, development, and deployment of a national radar capability consisting of fully integrated space, air, and surface components. As such, the conferees direct the Secretary of Defense and the Director of National Intelligence to perform a detailed national utility study; develop a joint concept of operations for a future horizontally integrated radar capability highlighting the use of the suggested components; and submit a report to the congressional defense committees and congressional intelligence committees by November 1, 2006, on the utility study and the concept of operations.

Additional direction is contained in the classified annex to this report.

Penetrator study

The budget request included no funding in PE 64327F for the Hard and Deeply Buried Target Defeat system.

The House bill would authorize an increase of $4.0 million in PE 64327F for a penetrator study.

The Senate amendment contained no similar authorization.

The conferees agree to authorize $4.0 million in PE 64327F to conduct a sled test and a study on the physics of penetrating geologic media, to be completed by the end of fiscal year 2006.

E–8C joint surveillance and target attack radar system reengining

The budget request included $15.5 million in aircraft procurement for E–8C joint surveillance and target radar system (JointSTARS) modifications and $78.1 million for JointSTARS research and development, but included no funding for reengining of the JointSTARS aircraft fleet.

The House bill would authorize the budget request.

The Senate amendment would authorize the budget request for research and development, and an increase of $44.4 million in aircraft procurement to complete the non-recurring engineering (NRE) activities required to initiate a reengining program for the E–8C aircraft fleet.

The conferees agree to authorize the budget request in aircraft procurement, and an increase of $13.5 million in research and development, as included in the Air Force Chief of Staff's unfunded priority list for fiscal year 2006, to begin the NRE activities required to initiate a reengining program for the E–8C aircraft fleet. The conferees encourage the Secretary of the Air Force to complete funding of the NRE in the fiscal year 2007 budget request.

The conferees note that in January 2005 the Under Secretary of Defense for Acquisition, Technology, and Logistics announced the Department of Defense's intent to request quotes from industry on the costs to purchase or lease new engines and understand that the Department has completed evaluation of these quotes. If leasing new engines is the recommended alternative, the conferees expect the Secretary of the Air Force to propose an appropriate leasing arrangement that complies with the Office of Management and Budget guidance to implement this recommendation.

Defense-wide

Research, Development, Test, and Evaluation, Defense-wide overview

The budget request for fiscal year 2006 included an authorization of $18,803.4 million in Research, Development, Test, and Evaluation, Defense-wide for the Department of Defense.

The House bill would authorize $19,092.8 million.

The Senate amendment would authorize $18,868.3 million.

The conferees recommend an authorization of $19,108.9 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
			RESEARCH, DEVELOPMENT, TEST & EVALUATION, DEFENSE-WIDE					
0400	0601101E	1	DEFENSE RESEARCH SCIENCES	130,090	130,090	135,090	5,000	135,090
			Computer science and cybersecurity program (S. Amdt)			[5,000]	[5,000]	
0400	0601111D8Z	2	GOVERNMENT/INDUSTRY COSPONSORSHIP OF UNIVERSITY R			4,000	4,000	4,000
			Focus center research program			[4,000]	[4,000]	
0400	0601114D8Z	3	DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPET	9,164	9,164	9,164		9,164
0400	0601120D8Z	4	NATIONAL DEFENSE EDUCATION PROGRAM	10,282	10,282	20,282	10,000	20,282
			SMART national defense education program (S. Amdt)			[10,000]	[10,000]	
0400	0601384BP	5	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	72,533	82,533	74,383	10,850	83,383
			SPECTRA			[1,850]	[1,850]	
			Chemical/biological defense basic research initiative		[10,000]		[9,000]	
0400	0602000D8Z	6	INSENSITIVE MUNITIONS - EXPLORATORY DEVELOPMENT	5,176	5,176	5,176		5,176
0400	0602227D8Z	7	MEDICAL FREE ELECTRON LASER	9,845	19,845	9,845	10,000	19,845
			Medical free electron laser		[10,000]		[10,000]	
0400	0602228D8Z	8	HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU)	13,887	13,887	13,887		13,887
0400	0602234D8Z	9	LINCOLN LABORATORY RESEARCH PROGRAM	29,914	29,914	29,914		29,914
0400	0602301E	10	COMPUTING SYSTEMS AND COMMUNICATIONS TECHNOLOGY					
0400	0602302E	11	EMBEDDED SOFTWARE AND PERVASIVE COMPUTING					
0400	0602303E	12	INFORMATION & COMMUNICATIONS TECHNOLOGY	198,831	198,831	198,831		198,831
0400	0602304E	13	COGNITIVE COMPUTING SYSTEMS	200,799	200,799	200,799		200,799
0400	0602383E	14	BIOLOGICAL WARFARE DEFENSE	145,354	149,354	145,354	2,600	147,954
			Multivalent asymmetric protocols for biological defense		[4,000]		[2,600]	

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(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0400	0602384BP	15	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	187,787	207,787	200,987	17,000	204,787
			Portable chemical/biological detection sensor system			[2,000]	[2,000]	
			Automated MIST			[1,200]	[1,000]	
			Next generation chem/bio suit			[2,000]		
			Multi-purpose bio-defense immuno-arrays			[5,000]	[3,000]	
			Mustard gas antidote			[3,000]	[3,000]	
			Chemical/biological defense applied research initiative		[20,000]		[8,000]	
0400	0602702E	16	TACTICAL TECHNOLOGY	361,562	361,562	328,542		361,562
			Agile interceptor			[-3,000]		
			Guided projectiles			[-3,800]		
			Riverine crawler			[-3,420]		
			Program reduction			[-18,000]		
			Pre-conflict anticipation and shaping			[-4,800]		
0400	0602712E	17	MATERIALS AND ELECTRONICS TECHNOLOGY					
0400	0602715E	18	MATERIALS AND BIOLOGICAL TECHNOLOGY	294,188	294,188	294,188		294,188
0400	0602716BR	19	WMD DEFEAT TECHNOLOGY	206,487	206,487	207,487		206,487
			Human performance research			[1,000]		
0400	0602716E	20	ELECTRONICS TECHNOLOGY	241,736	243,136	241,736		241,736
			Scalable active memory processing engines		[1,400]			
0400	0602717BR	21	WMD DEFENSE TECHNOLOGIES	106,708	106,708	106,708		106,708
0400	0602787D8Z	22	MEDICAL TECHNOLOGY					
0400	1160401BB	23	SPECIAL OPERATIONS TECHNOLOGY DEVELOPMENT	13,595	23,595	13,595	9,000	22,595
			ANGLEFIRE for full spectrum close-in layered shield		[10,000]		[9,000]	
0400	1160407BB	24	SOF MEDICAL TECHNOLOGY DEVELOPMENT	2,215	2,215	2,215		2,215
0400	0603002D8Z	25	MEDICAL ADVANCED TECHNOLOGY					

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(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0400	0603121D8Z	26	SO/LIC ADVANCED DEVELOPMENT	34,529	34,529	34,529	2,000	36,529
			Laser photo-acoustic spectroscopy				[2,000]	
0400	0603122D8Z	27	COMBATING TERRORISM TECHNOLOGY SUPPORT	55,301	87,301	68,301	7,000	62,301
			Explosive effects			[8,000]		
			Bio-engineered agent assessment tool			[3,000]		
			Fuel cell power for continuity of operations			[2,000]	[2,000]	
			Program increase		[25,000]			
			Portable armor wall system		[3,000]		[3,000]	
			Large vehicle inspection using magnetic quadrupole resonance		[4,000]		[2,000]	
0400	0603160BR	28	COUNTERPROLIFERATION INITIATIVES - PROLIFERATION PRE	96,143	96,143	100,143	4,000	100,143
			Fiber radiation detectors			[3,000]	[3,000]	
			Radiation portal monitors			[1,000]	[1,000]	
0400	0603175C	29	BALLISTIC MISSILE DEFENSE TECHNOLOGY	136,241	131,241	113,241	-22,600	113,641
			Massively parallel optical interconnects			[2,000]	[2,000]	
			BMD technology			[-25,000]	[-25,000]	
			High altitude airship		[-16,800]		[-11,000]	
			Aluminum nitride wide bandgap devices		[4,000]		[3,600]	
			Conceptual study alternative boost phase defense		[7,800]		[7,800]	
0400	0603225D8Z	30	JOINT DOD-DOE MUNITIONS TECHNOLOGY DEVELOPMENT	25,102	25,102	25,102		25,102
0400	0603285E	31	ADVANCED AEROSPACE SYSTEMS					
0400	0603286E	32	ADVANCED AEROSPACE SYSTEMS	75,866	75,866	69,466	-6,400	69,466
			Long gun			[-6,400]	[-6,400]	
0400	0603287E	33	SPACE PROGRAMS AND TECHNOLOGY	223,811	223,811	223,811		223,811

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(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0400	0603384BP	34	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - ADVANCE	164,481	182,481	172,231	15,750	180,231
			Anthrax/plague oral vaccine research			[3,750]	[3,750]	
			Miniaturized chemical detectors		[3,000]	[4,000]	[4,000]	
			Chemical/biological defense development initiative		[15,000]		[8,000]	
0400	0603400D8Z	35	JOINT UNMANNED COMBAT AIR SYSTEMS (J-UCAS) ADVANCE					
0400	0603618D8Z	35a	MANPADS Defense Program (Transfer from RDDW 89)		6,000			
0400	0603648D8Z	36	JOINT CAPABILITY TECHNOLOGY DEMONSTRATIONS	35,000	35,000	35,000		35,000
0400	0603704D8Z	37	SPECIAL TECHNICAL SUPPORT					
0400	0603711BR	38	ARMS CONTROL TECHNOLOGY					
0400	0603712S	39	GENERIC LOGISTICS R&D TECHNOLOGY DEMONSTRATIONS	22,360	29,160	36,860	15,820	38,180
			E/CIT program--embedded passives R&D testbed		[4,800]	[3,000]	[4,320]	
			Diminishing manufacturing source (DMS)			[1,500]	[1,500]	
			Manufacturing supply chain			[3,000]	[3,000]	
			Vehicle fuel cell program			[7,000]	[7,000]	
			Connectory for rapid identification of advanced technology		[2,000]			
0400	0603713S	40	DISTRIBUTION PROCESS OWNER TECHNOLOGY DEVELOPMEN	10,000	10,000	10,000		10,000
0400	0603716D8Z	41	STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM	64,101	64,101	64,101		64,101
0400	0603727D8Z	42	JOINT WARFIGHTING PROGRAM	10,205	10,205	10,205		10,205
0400	0603739E	43	ADVANCED ELECTRONICS TECHNOLOGIES	214,378	214,378	206,378	2,000	216,378
			Small scale systems packaging			[2,000]	[2,000]	
			Combat optical fiber technology			[-3,000]		
			Networked microsystems			[-5,000]		
			Visible/short wave IR-photon counting			[-2,000]		

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0400	0603750D8Z	44	ADVANCED CONCEPT TECHNOLOGY DEMONSTRATIONS	163,649	173,649	188,349	7,600	171,249
			Crossed field radiation technology			[2,000]	[1,000]	
			Communications and control alert framework			[4,700]		
			Certification of flexible JP-8 pilot			[18,000]	[3,600]	
			Event management visualization and data analysis		[1,000]			
			SPIKE missile development and production		[9,000]		[3,000]	
0400	0603755D8Z	45	HIGH PERFORMANCE COMPUTING MODERNIZATION PROGRA	189,747	196,847	194,747	7,100	196,847
			Prevent and detect cyber-based threats			[1,500]		
			Simulation center upgrade		[7,100]	[3,500]	[7,100]	
0400	0603760E	46	COMMAND, CONTROL AND COMMUNICATIONS SYSTEMS	216,408	216,408	216,408		216,408
0400	0603762E	47	SENSOR AND GUIDANCE TECHNOLOGY					
0400	0603763E	48	MARINE TECHNOLOGY					
0400	0603764E	49	LAND WARFARE TECHNOLOGY	139,100	139,100	92,100		139,100
			Future Combat Systems research support			[-15,000]		
			Multi-modal missile			[-6,000]		
			Non-lethal weapons new start			[-6,000]		
			Program reduction			[-14,000]		
			Tactical urban operations			[-6,000]		
0400	0603765E	50	CLASSIFIED DARPA PROGRAMS	162,534	162,534	162,534		162,534
0400	0603766E	51	NETWORK-CENTRIC WARFARE TECHNOLOGY	136,899	136,899	133,899		136,899
			Multi-dimensional robot			[-3,000]		
0400	0603767E	52	SENSOR TECHNOLOGY	189,452	189,452	184,452		189,452
			Program reduction			[-5,000]		
0400	0603768E	53	GUIDANCE TECHNOLOGY	103,272	103,272	103,272		103,272
0400	0603769SE	54	DISTRIBUTED LEARNING ADVANCED TECHNOLOGY DEVELOF	14,689	14,689	14,689		14,689
0400	0603781D8Z	55	SOFTWARE ENGINEERING INSTITUTE	25,209	25,209	25,209		25,209
0400	0603805S	56	DUAL USE APPLICATION PROGRAMS					

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Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0400	0603826D8Z	57	QUICK REACTION SPECIAL PROJECTS	110,717	110,717	110,717		110,717
0400	0603832D8Z	58	JOINT WARGAMING SIMULATION MANAGEMENT OFFICE	34,928	34,928	34,928		34,928
0400	0603941D8Z	59	TEST & EVALUATION SCIENCE & TECHNOLOGY	28,614	28,614	28,614		28,614
0400	0603942D8Z	60	TECHNOLOGY LINK	3,435	3,435	3,435		3,435
0400	0605160D8Z	61	COUNTERPROLIFERATION SUPPORT					
0400	1160402BB	62	SPECIAL OPERATIONS ADVANCED TECHNOLOGY DEVELOPMI	104,315	87,815	98,115	-8,200	96,115
			Voice activated handheld translator			[2,300]	[2,300]	
			Special Operations portable power source			[5,000]	[5,000]	
			Mark V replacement			[1,500]	[1,500]	
			Advanced tactical laser reduction		[-20,000]	[-15,000]	[-20,000]	
			Surveillance augmentation vehicle-insertable on request		[3,500]		[3,000]	
0400	0603228D8Z	63	PHYSICAL SECURITY EQUIPMENT					
0400	0603527D8Z	64	RETRACT LARCH	6,683	6,683	6,683		6,683
0400	0603709D8Z	65	JOINT ROBOTICS PROGRAM	11,755	11,755	11,755		11,755
0400	0603714D8Z	66	ADVANCED SENSOR APPLICATIONS PROGRAM	18,275	18,275	18,275		18,275
0400	0603851D8Z	67	ENVIRONMENTAL SECURITY TECHNICAL CERTIFICATION PR(	30,632	30,632	30,632		30,632
0400	0603879C	68	ADVANCED CONCEPTS, EVALUATIONS AND SYSTEMS					
0400	0603881C	69	BALLISTIC MISSILE DEFENSE TERMINAL DEFENSE SEGMENT	1,143,610	1,168,610	1,143,610	55,000	1,198,610
			THAAD		[25,000]			
			Arrow ballistic missile defense system (non-add) (S. Amdt)			[80,000]		
			Arrow ballistic missile defense system co-production				[55,000]	

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Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0400	0603882C	70	BALLISTIC MISSILE DEFENSE MIDCOURSE DEFENSE SEGMENT	3,266,196	3,436,196	3,441,196	175,000	3,441,196
			GMD enhanced testing			[100,000]	[100,000]	
			Aegis SM-3 development and deployment			[75,000]	[75,000]	
			Test Resources		[50,000]			
			Additional flight test		[100,000]			
			Program reduction block 2008 interceptors 36-40		[-25,000]			
			Ballistic missile defense signal processor		[25,000]			
			Throttleable control system		[10,000]			
			Two color seeker		[10,000]			
0400	0603883C	71	BALLISTIC MISSILE DEFENSE BOOST DEFENSE SEGMENT	483,863	483,863	483,863		483,863
0400	0603884BP	72	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	100,796	125,796	105,096		100,796
			Miniaturized CO oxidation technology			[4,300]		
			Chemical/biological defense program development initiative		[25,000]			
0400	0603884C	73	BALLISTIC MISSILE DEFENSE SENSORS	529,829	529,829	539,829	10,000	539,829
			Airborne infrared surveillance system			[10,000]	[10,000]	
0400	0603886C	74	BALLISTIC MISSILE DEFENSE SYSTEM INTERCEPTOR	229,658	229,658	179,658	-50,000	179,658
			BMD system interceptors			[-50,000]	[-50,000]	
0400	0603888C	75	BALLISTIC MISSILE DEFENSE TEST & TARGETS	617,456	617,456	617,456		617,456
0400	0603889C	76	BALLISTIC MISSILE DEFENSE PRODUCTS	455,152	405,152	425,152	-30,000	425,152
			BMD products			[-30,000]	[-30,000]	
			Program reduction block 2008 C2BMC		[-30,000]			
			Program reduction Hercules block 2010		[-5,000]			
			Program reduction joint warfighter support block 2008		[-15,000]			
0400	0603890C	77	BALLISTIC MISSILE DEFENSE SYSTEMS CORE	447,006	407,006	417,006	-30,000	417,006
			BMD system core			[-30,000]	[-30,000]	
			Program reduction		[-40,000]			

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Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0400	0603891C	78	SPECIAL PROGRAMS - MDA	349,522	349,522	299,522	-50,000	299,522
			BMD special programs			[-50,000]	[-50,000]	
0400	0603920D8Z	79	HUMANITARIAN DEMINING	14,305	14,305	14,305		14,305
0400	0603923D8Z	80	COALITION WARFARE	5,777	5,777	5,777		5,777
0400	0604016D8Z	81	DEPARTMENT OF DEFENSE CORROSION PROGRAM	5,141	5,141	5,141		5,141
0400	0604400D8Z	82	JOINT UNMANNED COMBAT AIR SYSTEMS (J-UCAS) ADVANCE					
0400	0604648D8Z	83	JOINT CAPABILITY TECHNOLOGY DEMONSTRATIONS	3,000	3,000	3,000		3,000
0400	0604722D8Z	84	JOINT SERVICE EDUCATION AND TRAINING SYSTEMS DEVEL(					
0400	0605017D8Z	85	REDUCTION OF TOTAL OWNERSHIP COST	24,824	24,824	24,824		24,824
0400	0303191D8Z	86	JOINT ELECTROMAGNETIC TECHNOLOGY (JET) PROGRAM	3,566	3,566	3,566		3,566
0400	0604051D8Z	87	DEFENSE ACQUISITION CHALLENGE PROGRAM (DACP)	28,975	28,975	28,975		28,975
0400	0604384BP	88	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	280,908	280,908	282,708		280,908
			Military mail screening system development			[1,800]		
0400	0604618D8Z	89	MANPADS DEFENSE PROGRAM	13,349		13,349		13,349
			Program reduction		[-7,349]			
			Transfer to RDDW 35a		[-6,000]			
0400	0604709D8Z	90	JOINT ROBOTICS PROGRAM	13,745	13,745	13,745		13,745
0400	0604764K	91	ADVANCED IT SERVICES JOINT PROGRAM OFFICE (AITS-JPO)	9,325	9,325	9,325		9,325
0400	0604771D8Z	92	JOINT TACTICAL INFORMATION DISTRIBUTION SYSTEM (JTID	11,075	11,075	11,075		11,075
0400	0605013BL	93	INFORMATION TECHNOLOGY DEVELOPMENT	19,574	9,174	19,574		19,574
			Program reduction		[-10,400]			
0400	0605015BL	94	INFORMATION TECHNOLOGY DEVELOPMENT-STANDARD PRC	5,074	5,074	5,074		5,074
0400	0605016D8Z	95	FINANCIAL MANAGEMENT SYSTEM IMPROVEMENTS	75,987	36,987	75,987		75,987
			Program reduction		[-39,000]			

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Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0400	0605018SE	96	DEFENSE INTEGRATED MILITARY HUMAN RESOURCES SYSTE	20,322	10,322	20,322	25,000	45,322
			Program reduction		[-10,000]			
			DIMHRS				[25,000]	
0400	0605019D8Z	97	ACQUISITION DOMAIN	3,600	2,100	3,600		3,600
			Program reduction		[-1,500]			
0400	0605140D8Z	98	TRUSTED FOUNDRY	31,655	31,655	31,655		31,655
0400	0605648D8Z	99	DEFENSE ACQUISITION EXECUTIVE (DAE) PILOT PROGRAM	1,000	1,000	1,000		1,000
0400	0303129K	100	DEFENSE MESSAGE SYSTEM	13,367		13,367		13,367
			Program reduction		[-13,367]			
0400	0303140K	101	INFORMATION SYSTEMS SECURITY PROGRAM		3,000			
			Intelligence analyst education and training		[3,000]			
0400	0303141K	102	GLOBAL COMBAT SUPPORT SYSTEM	17,952	17,952	17,952		17,952
0400	0303158K	103	JOINT COMMAND AND CONTROL PROGRAM (JC2)	14,580	14,580	14,580		14,580
0400	0305840K	104	ELECTRONIC COMMERCE	6,698	6,698	6,698		6,698
0400	0305840S	105	ELECTRONIC COMMERCE					
0400	0901200D8Z	106	BMMP DOMAIN MANAGEMENT AND SYSTEMS INTEGRATION	11,802	7,302	11,802		11,802
			Program reduction		[-4,500]			
0400	0603704D8Z	107	SPECIAL TECHNICAL SUPPORT	19,916	19,916	19,916		19,916
0400	0603757D8Z	108	TRAINING TRANSFORMATION (T2)					
0400	0603835D8Z	109	TRANSFORMATION INITIATIVES PROGRAM	10,152	10,152	10,152	-10,152	
			Unjustified program				[-10,152]	
0400	0603858D8Z	110	UNEXPLODED ORDNANCE DETECTION AND CLEARANCE					
0400	0604140D8Z	111	CAPITAL ASSET MANAGEMENT SYSTEM-MILITARY EQUIPME	4,812	4,812	4,812		4,812
0400	0604774D8Z	112	DEFENSE READINESS REPORTING SYSTEM (DRRS)	13,475	13,475	13,475		13,475
0400	0604875D8Z	113	JOINT SYSTEMS ARCHITECTURE DEVELOPMENT	9,254	9,254	9,254		9,254

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0400	0604940D8Z	114	CENTRAL TEST AND EVALUATION INVESTMENT DEVELOPME	128,759	128,759	133,759	5,000	133,759
			UAV systems and operations validation			[5,000]	[5,000]	
0400	0604943D8Z	115	THERMAL VICAR	7,278	7,278	7,278		7,278
0400	0605104D8Z	116	TECHNICAL STUDIES, SUPPORT AND ANALYSIS	31,075	32,075	31,075	1,000	32,075
			National Defense University technology pilot program		[1,000]		[1,000]	
0400	0605110BR	117	CRITICAL TECHNOLOGY SUPPORT					
0400	0605110D8Z	118	USD(A&T)--CRITICAL TECHNOLOGY SUPPORT	1,999	1,999	1,999		1,999
0400	0605114D8Z	119	BLACK LIGHT					
0400	0605116D8Z	120	GENERAL SUPPORT TO C3I					
0400	0605117D8Z	121	FOREIGN MATERIAL ACQUISITION AND EXPLOITATION	36,895	36,895	36,895	20,000	56,895
			Classified adjustment				[20,000]	
0400	0605123D8Z	122	INTERAGENCY EXPORT LICENSE AUTOMATION					
0400	0605124D8Z	123	DEFENSE TRAVEL SYSTEM	20,441	20,441	20,441		20,441
0400	0605126J	124	JOINT THEATER AIR AND MISSILE DEFENSE ORGANIZATION	81,504	81,504	81,504		81,504
0400	0605128D8Z	125	CLASSIFIED PROGRAM USD(P)					
0400	0605130D8Z	126	FOREIGN COMPARATIVE TESTING	35,738	36,313	35,738		35,738
			Weather Scout UAV		[575]			
0400	0605161D8Z	127	NUCLEAR MATTERS	12,442	12,442	12,442		12,442
0400	0605170D8Z	128	SUPPORT TO NETWORKS AND INFORMATION INTEGRATION	10,706	10,706	10,706		10,706
0400	0605200D8Z	129	GENERAL SUPPORT TO USD (INTELLIGENCE)	5,282	5,282	5,282		5,282
0400	0605384BP	130	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	81,425	81,425	81,425		81,425
0400	0605502BR	131	SMALL BUSINESS INNOVATION RESEARCH					
0400	0605502C	132	SMALL BUSINESS INNOVATIVE RESEARCH - MDA					
0400	0605502D8Z	133	SMALL BUSINESS INNOVATIVE RESEARCH					
0400	0605502E	134	SMALL BUSINESS INNOVATIVE RESEARCH					

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0400	0605710D8Z	135	CLASSIFIED PROGRAMS - C3I			10,000	10,000	10,000
			Foreign supplier assessment center			[10,000]	[10,000]	
0400	0605790D8Z	136	SMALL BUSINESS INNOVATION RESEARCH/CHALLENGE ADMI	1,983	1,983	1,983		1,983
0400	0605798S	137	DEFENSE TECHNOLOGY ANALYSIS	5,393	5,393	5,393		5,393
0400	0605799D8Z	138	FORCE TRANSFORMATION DIRECTORATE	19,927	99,927	49,927	50,000	69,927
			Full spectrum effects platform, Project Sheriff		[10,000]	[10,000]	[5,000]	
			Common bus development		[20,000]	[20,000]	[20,000]	
			Small payloads		[50,000]		[25,000]	
0400	0605801K	139	DEFENSE TECHNICAL INFORMATION SERVICES (DTIC)					
0400	0605801KA	140	DEFENSE TECHNICAL INFORMATION CENTER (DTIC)	49,969	42,369	49,969		49,969
			Program reduction		[-7,600]			
0400	0605803SE	141	R&D IN SUPPORT OF DOD ENLISTMENT, TESTING AND EVALU	8,853	8,853	8,853		8,853
0400	0605804D8Z	142	DEVELOPMENT TEST AND EVALUATION	8,873	8,873	8,873		8,873
0400	0605898E	143	MANAGEMENT HQ - R&D	49,472	49,472	49,472		49,472
0400	0301555G	144	CLASSIFIED PROGRAMS	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0301556G	145	SPECIAL PROGRAM	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0303169D8Z	146	INFORMATION TECHNOLOGY RAPID ACQUISITION	5,580		5,580		5,580
			Program reduction		[-5,580]			
0400	0305193D8Z	147	INTELLIGENCE SUPPORT TO INFORMATION OPERATIONS (IO)	13,940	13,940	13,940		13,940
0400	0305193G	148	INTELLIGENCE SUPPORT TO INFORMATION OPERATIONS (IO) (JMIP)					
0400	0901585C	149	PENTAGON RESERVATION	17,386	17,386	17,386		17,386
0400	0901598C	150	MANAGEMENT HQ - MDA	99,327	99,327	99,327		99,327
0400	0901598D8W	151	IT SOFTWARE DEV INITIATIVES	1,694	1,694	1,694		1,694
0400	0604130V	152	DEFENSE INFORMATION SYSTEM FOR SECURITY (DISS)	16,850	16,850	16,850		16,850
0400	0605127T	153	PARTNERSHIP FOR PEACE (PFP) INFORMATION MANAGEMENT	5,660	5,660	5,660		5,660
0400	0607384BP	154	CHEMICAL AND BIOLOGICAL DEFENSE (OPERATIONAL SYSTE	10,093	10,093	10,093		10,093

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0400	0208043J	155	CLASSIFIED PROGRAMS	1,570	1,570	1,570		1,570
0400	0208045K	156	C41 INTEROPERABILITY	65,517	65,517	65,517		65,517
0400	0208052J	157	JOINT ANALYTICAL MODEL IMPROVEMENT PROGRAM					
0400	0301011G	158	CRYPTOLOGIC ACTIVITIES	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0301301L	159	GENERAL DEFENSE INTELLIGENCE PROGRAM	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0301318BB	160	HUMINT (CONTROLLED)	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0301398L	161	MANAGEMENT HQ - GDIP	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0301555BB	162	CLASSIFIED PROGRAMS	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0301556BB	163	SPECIAL PROGRAM	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0302016K	164	NATIONAL MILITARY COMMAND SYSTEM-WIDE SUPPORT	659	659	659		659
0400	0302019K	165	DEFENSE INFO INFRASTRUCTURE ENGINEERING AND INTEGR	5,466	5,466	5,466		5,466
0400	0303126K	166	LONG-HAUL COMMUNICATIONS - DCS	1,470	1,470	1,470		1,470
0400	0303131K	167	MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS NETW	7,438	7,438	7,438		7,438
0400	0303140D8Z	168	INFORMATION SYSTEMS SECURITY PROGRAM	12,546	12,546	12,546		12,546
0400	0303140G	169	INFORMATION SYSTEMS SECURITY PROGRAM	462,211	467,211	462,211	2,500	464,711
			Pacific Wind		[4,000]		[2,500]	
			Computer science and internet security degree program		[1,000]			
0400	0303148K	170	DISA MISSION SUPPORT OPERATIONS	3,426	3,426	3,426		3,426
0400	0303149J	171	C41 FOR THE WARRIOR	3,549	3,549	3,549		3,549
0400	0303149K	172	C41 FOR THE WARRIOR	6,311	6,311	6,311		6,311
0400	0303150K	173	GLOBAL COMMAND AND CONTROL SYSTEM	52,331	52,331	52,331		52,331
0400	0303153K	174	JOINT SPECTRUM CENTER	14,097	14,097	14,097		14,097
0400	0303165K	175	DEFENSE COLLABORATION TOOL SUITE (DCTS)					
0400	0303170K	176	NET-CENTRIC ENTERPRISE SERVICES (NCES)	79,018	79,018	79,018		79,018
0400	0303610K	177	TELEPORT PROGRAM	12,180	12,180	12,180		12,180
0400	0304210BB	178	SPECIAL APPLICATIONS FOR CONTINGENCIES	21,116	21,116	21,116		21,116

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0400	0304345BQ	179	NATIONAL IMAGERY AND MAPPING AGENCY	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0305102BQ	180	DEFENSE GEOSPACIAL - INTELLIGENCE PROGRAM	[ ]	19,000	[ ]	[ ]	[ ]
			GeoSAR		[4,000]			
			NGA-NAVAIR experimental activity- tactical sensors		[15,000]			
0400	0305125D8Z	181	CRITICAL INFRASTRUCTURE PROTECTION (CIP)	11,363	11,363	11,363		11,363
0400	0305127BZ	182	FOREIGN COUNTERINTELLIGENCE ACTIVITIES	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0305146BZ	183	DEFENSE JOINT COUNTERINTELLIGENCE PROGRAM (JMIP)	20,406	20,406	20,406		20,406
0400	0305146D8Z	184	DEFENSE JOINT COUNTERINTELLIGENCE PROGRAM (JMIP)					
0400	0305183L	185	DEFENSE HUMAN INTELLIGENCE (HUMINT) PROGRAM (DHIP)	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0305190D8Z	186	C3I INTELLIGENCE PROGRAMS					
0400	0305191D8Z	187	TECHNOLOGY DEVELOPMENT (JMIP)					
0400	0305193L	188	INTELLIGENCE SUPPORT TO INFORMATION OPERATIONS (IO)	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0305199D8Z	189	NET CENTRICITY	8,387	8,387	8,387		8,387
0400	0305202G	190	DRAGON U-2 (JMIP)	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0305206G	191	AIRBORNE RECONNAISSANCE SYSTEMS (JMIP)	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0305207G	192	MANNED RECONNAISSANCE SYSTEMS (JMIP)	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0305208BQ	193	DISTRIBUTED COMMON GROUND/SURFACE SYSTEMS (JMIP)	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0305208G	194	DISTRIBUTED COMMON GROUND/SURFACE SYSTEMS (JMIP)	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0305208L	195	DISTRIBUTED COMMON GROUND/SURFACE SYSTEMS (JMIP)	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0305883L	196	HARD AND DEEPLY BURIED TARGET (HDBT) INTEL SUPPORT	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0305884L	197	INTELLIGENCE PLANNING AND REVIEW ACTIVITIES	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0305885G	198	TACTICAL CRYPOLOGICAL ACTIVITIES	[ ]	14,000	[ ]	[ ]	[ ]
			Guardrail common sensor		[10,000]			
			Project Raincoat		[4,000]			
0400	0305889G	199	COUNTERDRUG INTELLIGENCE SUPPORT	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0307141G	200	NASS, IO TECHNOLOGY INTEGRATION AND TOOL DEV	[ ]	[ ]	[ ]	[ ]	[ ]

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0400	0307207G	201	AERIAL COMMON SENSOR (ACS) (JMIP)	[ ]	[ ]	[ ]	[ ]	[ ]
0400	0708011S	202	INDUSTRIAL PREPAREDNESS	18,219	23,819	24,719	3,500	21,719
			Advanced manufacturing technologies			[1,500]	[1,500]	
			Laser additive systems manufacturing for titanium and alloy parts			[5,000]		
			Copper-based casting technology		[5,600]		[2,000]	
0400	0708011D8Z	202a	Defense Manufacturing Technology		2,000			
0400	0708012S	203	LOGISTICS SUPPORT ACTIVITIES	2,900	2,900	2,900		2,900
0400	0902298J	204	MANAGEMENT HEADQUARTERS (JCS)	5,762	5,762	5,762		5,762
0400	1001018D8Z	205	NATO JOINT STARS	25,474	25,474	25,474		25,474
0400	1160279BB	206	SMALL BUSINESS INNOVATIVE RESEARCH/SMALL BUS TECH					
0400	1160403BB	207	SPECIAL OPERATIONS AVIATION SYSTEMS ADVANCED DEVE	104,330	104,330	104,330		104,330
0400	1160404BB	208	SPECIAL OPERATIONS TACTICAL SYSTEMS DEVELOPMENT	63,513	79,223	63,513	1,000	64,513
			Special Operations combat assault rifle		[8,500]			
			Multi-role, anti-armor, anti-personnel weapons system		[6,800]		[1,000]	
			Ballistic lightweight enabled helmet (ABLE) for armed forces		[410]			
0400	1160405BB	209	SPECIAL OPERATIONS INTELLIGENCE SYSTEMS DEVELOPME	33,167	33,167	35,667	2,500	35,667
			Wireless management and control system			[2,500]	[2,500]	
0400	1160408BB	210	SOF OPERATIONAL ENHANCEMENTS	66,313	66,313	73,713	1,500	67,813
			Maritime UAV sensor			[4,900]		
			Lightweight solar panels			[2,500]	[1,500]	
0400	1160421BB	211	SPECIAL OPERATIONS CV-22 DEVELOPMENT	29,954	29,954	29,954		29,954
0400	1160425BB	212	SPECIAL OPERATIONS AIRCRAFT DEFENSIVE SYSTEMS	38,824	38,824	38,824		38,824

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0400	1160426BB	213	OPERATIONS ADVANCED SEAL DELIVERY SYSTEM (ASDS) DE	2,040	2,040	2,040	21,160	23,200
			Program adjustment				[21,160]	
0400	XXXXXXX	999	CLASSIFIED PROGRAMS	3,441,033	3,449,033	3,441,033		3,441,033
			Program increase		[3,000]			
			Classified programs (MASINT)		[5,000]			
			Total, RDT&E Defense-Wide	**18,803,416**	**19,095,805**	**18,868,296**	**305,528**	**19,108,944**

Ballistic missile defense

The budget request included $7.8 billion for the Missile Defense Agency for ballistic missile defense.

The conferees agree to authorize $7.8 billion for ballistic missile defense.

The conferees note that while fully funding the budget request level for missile defense, funds were reallocated from longer-term efforts in order to enhance the testing, fielding, and improvement of the current generation of missile defense capabilities. The conferees believe the most important mission for the Missile Defense Agency (MDA) at this time is to successfully develop, field, and improve those initial capabilities selected for deployment by the President in December 2002, including: ground-based interceptors, sea-based interceptors, additional Patriot (PAC–3) units, and sensors based on land, sea, and in space. The conferees direct the Director of the Missile Defense Agency to provide a report to the congressional defense committees by January 30, 2006, indicating specifically how the increases noted below will be allocated.

Ground-based midcourse defense

The budget request included $2.3 billion in PE 63882C for the ground-based midcourse defense (GMD) segment.

The House bill would authorize an increase of $125.0 million in PE 63882C for the GMD segment.

The Senate amendment would authorize an increase in $100.0 million in PE 63882C for the GMD segment.

The conferees agree to authorize $2.4 billion in PE 63882C for the GMD segment, an increase of $100.0 million.

The conferees direct that this increase be used for implementing the recommendations of the Independent Review Team and the Mission Readiness Task Force to enhance the GMD testing program.

Aegis ballistic missile defense

The budget request included $836.0 million in PE 63882C for Aegis ballistic missile defense (BMD).

The House bill would authorize an increase of $45.0 million in PE 63882C for Aegis BMD.

The Senate amendment would authorize an increase of $75.0 million in PE 63882C for Aegis BMD.

The conferees agree to authorize $911.0 million in PE 63882C for Aegis BMD, an increase of $75.0 million.

The conferees direct this increase be used for the following activities: (1) enhanced development and production of the Aegis BMD signal processor; (2) purchase of additional test equipment necessary to accelerate SM-3 production rates; (3) accelerated integration of the two-color seeker for the SM–3 kill vehicle; (4) long-lead funding for additional SM–3 missiles; (5) development of the throttleable divert and attitude control system; and (6) accelerated implementation of the engage-on-remote and launch-on-remote upgrades.

Ballistic missile defense system interceptor

The budget request included $229.7 million in PE 63886C for the ballistic missile defense (BMD) system interceptor.

The House bill would authorize the budget request.

The Senate amendment would authorize a decrease of $50.0 million in PE 63886C for the BMD system interceptor.

The conferees agree to authorize $179.7 million in PE 63886C, a decrease of $50.0 million for the BMD system interceptor.

The conferees are aware that the Kinetic Energy Interceptor (KEI) program has been restructured by the MDA to serve as risk mitigation for the primary boost-phase missile defense system, the Airborne Laser (ABL). As such, the conferees believe the funding request for KEI to be excessive and recommend remaining funds be directed toward reducing high-risk technology challenges. By continuing to address these technology challenges, the KEI program can remain in a position to become the focus of MDA boost-phase efforts should the ABL program fail to perform as expected.

Tactical exploitation of innovative sensors

The budget request included no funding for a joint program between the Naval Air Systems Command (NAVAIR) and the National Geospatial-Intelligence Agency (NGA) to support experimentation with innovative sensors in a tactical environment. The NAVAIR and the NGA have decided that a partnership to accelerate development and fielding of transformational capabilities to both the NGA and the Navy Department would be beneficial.

The House bill would authorize an increase of $15.0 million in PE 35102BQ to support this program.

The Senate amendment would authorize the budget request.

The conferees agree to authorize the budget request.

However, the conferees view this program as a promising start for accelerating development and fielding on innovative sensors for supporting tactical operations. The conferees support this partnership as part of a broader effort to improve collection, tasking, processing, exploitation, and dissemination activities for enhancing support to such operations. Therefore, the conferees urge the NGA and the NAVAIR to continue this collaboration and expand their efforts to additional concept developments.

Test and Evaluation

Operational Test and Evaluation, Defense overview

The budget request for fiscal year 2006 included an authorization of $168.5 million in Operational Test and Evaluation, Defense for the Department of Defense.

The House bill would authorize $168.5 million.

The Senate amendment would authorize $168.5 million.

The conferees recommend an authorization of $168.5 million.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title II-RDT and E

(Dollars in Thousands)

Acct	Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
			OPERATIONAL TEST & EVALUATION, DEFENSE					
0460	0603941D8Z	1	TEST & EVALUATION SCIENCE & TECHNOLOGY					
0460	0604940D8Z	2	CENTRAL TEST AND EVALUATION INVESTMENT DEVELOPME					
0460	0605118D8Z	3	OPERATIONAL TEST AND EVALUATION	43,928	43,928	43,928		43,928
0460	0605131D8Z	4	LIVE FIRE TESTING	10,340	10,340	10,340		10,340
0460	0605804D8Z	5	DEVELOPMENT TEST AND EVALUATION	114,190	114,190	114,190		114,190
			Total, Operational Test & Evaluation, Defense	**168,458**	**168,458**	**168,458**		**168,458**
			TOTAL RDT&E	**69,356,040**	**69,478,987**	**69,840,577**	**843,819**	**70,199,859**

Items of Special Interest

Fuel Cell Vehicles

The conferees are aware that the Army's National Automotive Center has taken steps to develop and deploy fuel cell powered vehicles as a means to increase fuel efficiency, minimize thermal and noise signature, and provide mobile power on the battlefield. The conferees further understand that the Army is developing fuel cell powered vehicles to support special operations missions. The conferees direct the Army to provide the Committees on Armed Services of the Senate and of the House of Representatives with a progress report on the development and deployment of these vehicles no later than April 1, 2006.

Joint Service Combat Feeding Technology

The conferees note that the Joint Service Combat Feeding Technology Demonstration program matures and demonstrates advanced techniques for the preparation and processing of combat rations. The conferees note that this research effort supports the goals of Army transformation by working to develop combat feeding technology with the potential to reduce logistics burdens, while improving the quality of food service for deployed troops. The conferees urge the Department of Defense to continue to adequately support research efforts in this area.

Report on naval surface fire support

The conferees are concerned about whether sufficient capability for naval surface fire support exists to support joint operations. The conferees direct the Secretary of the Navy to submit a report to the congressional defense committees no later than April 1, 2006, on the Navy's capabilities to meet the joint force requirement for naval surface fire support. The conferees would expect the Secretary to take into account, in the preparation of this report, the views and recommendations of the Chief of Naval Operations and the Commandant of the Marine Corps, and direct the Secretary to include these written views and recommendations as attachments to the report. At a minimum, the report will include: (1) an analysis of the current capability to support expeditionary operations in the littorals with existing naval surface fire support; (2) a discussion of the alternatives available, including known research and development projects, to maintain or increase naval surface fire support capabilities within the future years defense program (FYDP), and within the 10 years following the FYDP; and (3)an estimate of the resources that would be required to accelerate promising near-term technologies that would enhance naval surface fire support.

Slow rotor concept

The conferees are aware of preliminary efforts to develop a heavy-lift, long-range, high-speed aircraft capable of operating from unimproved locations. The conferees encourage the Army to assess the value of slow rotor concepts, which could improve logistics and flexible basing options in support of combat operations.

Legislative Provisions Adopted

Subtitle A—Authorization of Appropriations

Authorization of appropriations (sec. 201)

The House bill contained a provision (sec. 201) that would authorize the recommended fiscal year 2006 funding levels for the Research, Development, Test, and Evaluation accounts for the Army, Navy, Marine Corps, Air Force, Defense-wide activities, and the Director of Operational Test and Evaluation.

The Senate amendment contained a similar provision (sec. 201).

The conference agreement includes this provision.

Amount for defense science and technology (sec. 202)

The House bill contained a provision (sec. 202) that would authorize $11,436.6 million for defense science and technology (S&T) programs.

The Senate amendment contained a similar provision (sec. 202) that would authorize $10,990.6 million for defense S&T programs.

The conferees agree to authorize $11,363.0 million for S&T programs, an increase of $840.9 million over the budget request.

The conferees are aware of recent studies on the role of basic science, and particularly defense basic research, in maintaining U.S. competitiveness and national security. The conferees have authorized an increase of over $75.0 million for defense basic research, including an increase of $10.0 million for the Science, Mathematics, and Research for Transformation scholarship program and $30.0 million for competitively-awarded university research programs within the military departments and computer science programs at DARPA.

Subtitle B—Program Requirements, Restrictions, and Limitations

Annual Comptroller General report on Future Combat Systems program (sec. 211)

The House bill contained a provision (sec. 211) that would establish an annual review of the Future Combat Systems program by the Comptroller General to be submitted to the congressional defense committees by March 15 of each year.

The Senate amendment contained no similar provision.

The Senate recedes.

Contract for the procurement of the Future Combat System (FCS) (sec. 212)

The Senate amendment contained a provision (sec. 211) that would direct the Secretary of the Army to procure the Future Combat System through a contract under part 15 of the Federal Acquisition Regulation, rather than through a transaction under section 2371 of title 10, United States Code.

The House bill contained no similar provision.

The House recedes.

Limitations on systems development and demonstration of manned ground vehicles under Armored Systems Modernization program (sec. 213)

The House bill contained a provision (sec. 213) that would require the Secretary of Defense to complete an independent analysis and to submit a report to the congressional defense committees by February 1, 2006, on the Future Combat Systems (FCS) key performance parameter transportability requirement for the manned ground vehicles (MGV). The House bill also contained a provision (sec. 215) that would prohibit the use of any funds for MGV systems development and demonstration (SDD) until the objective requirements for those vehicles with respect to lethality and survivability have been met and demonstrated in a relevant environment to be at least equal to the lethality and survivability for the MGV to be replaced by such ground vehicles.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would limit funds available for the MGV SDD until the following is provided to the congressional defense committees:

(1) The Secretary of Defense certifies that the threshold requirements for MGV variants with respect to lethality and survivability have been met and demonstrated, in accordance with applicable regulations, in a relevant environment to be at least equal to the lethality and survivability for the MGV to be replaced by those variants;

(2) the Secretary of Defense submits the results of an independent analysis carried out with respect to the transportability requirement for the MGV under the FCS program;

(3) the Under Secretary of Defense for Acquisition, Technology, and Logistics submits the results of an independent cost estimate, prepared by the cost analysis improvement group of the Office of the Secretary of Defense, with respect to the FCS program;

(4) the Secretary of the Army submits a report containing the organizational design, quantities, and fielding plans for each of the current force brigade combat teams and FCS brigade combat teams; the research, development, test, and evaluation and procurement plan; and budgets for each of the FCS MGV variants; and

(5) the Secretary of Defense submits a report describing and evaluating the requirements and budgets of the Army technology insertion program for integrating FCS capabilities into the current force.

With regard to the certification of the threshold requirements for the survivability and lethality of the FCS MGV, the conferees believe that the Secretary of Defense should be able to demonstrate those capabilities in accordance with applicable regulations, to include, but not limited to, using modeling and simulation. The conferees expect the Secretary of Defense to include the views of the Chief of Staff of the Army in the report on his certification to Congress.

Separate program elements required for significant systems development and demonstration projects for Armored Systems Modernization program (sec. 214)

The House bill contained a provision (sec. 214) that would specify the amount authorized for appropriation in section 201 for the Armored Systems Modernization program.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would (1) direct the Secretary of Defense to ensure that, beginning with the fiscal year 2008 budget submission, a separate, dedicated program element is assigned to each of the systems development and demonstration (SDD) projects of the Armored Systems Modernization; (2) direct the Secretary of the Army to submit, beginning with the fiscal year 2007 budget submission, budget justification material for the SDD projects of the Armored Systems Modernization program as if the projects were separate program elements; (3) direct the Secretary of the Army to submit to the congressional defense committees not later than June 1, 2006, a report describing the manner in which the costs of integrating Future Combat Systems (FCS) capabilities into the current force could be assigned to a separate program element; and (4) submit budget justification material for the insertion of FCS capabilities into the current force under the Armored Systems Modernization program.

Initiation of program to design and develop next-generation nuclear attack submarine (sec. 215)

The House bill contained a provision (sec. 217) that would require the Secretary of the Navy to carry out a program to design and develop a class of submarines that would serve as a successor to the *Virginia*-class. The objective of the provision would be to develop a submarine with capabilities meeting or exceeding those of the *Virginia*-class at a dramatically lower cost, with procurement commencing in fiscal year 2014. The provision would require the Secretary to submit a report on this program, with the submission of the budget request for fiscal year 2007, that would include: (1) an outline of the management approach to be used in executing the program; (2) the goals for the program; and (3) a schedule for the program.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary to initiate a cost-effective program to improve the capability of the next-generation nuclear attack submarine. The amendment states that the objective of the program may be met either by establishing a separate and independent design and development effort or by incorporating new technologies into the planned fleet of *Virginia*-class submarines. The amendment would also require the Secretary to recommend a schedule for the program, but would remove the requirement for the program to begin procurement in fiscal year 2014.

Extension of requirements relating to management responsibility for naval mine countermeasures programs (sec. 216)

The House bill contained a provision (sec. 218) that would amend section 216 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; Public Law 102–484), as most recently amended by section 212 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314). The provision would extend the requirement for the reporting on the naval mine countermeasures programs from 2008 until 2011, and make certain other changes to the management of, and reporting on, the program. The provision would also require the Secretary of Defense to submit a plan for the sustainment of the MHC–51-class mine countermeasures ship and supporting dedicated mine countermeasures systems until the Littoral Combat Ship (LCS) and next generation mine countermeasures systems are deployed.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would remove the requirement for sustainment of the MHC-51 mine countermeasures vessels until the LCS and next generation mine countermeasures systems are deployed. Instead, the amendment would prohibit the Secretary of the Navy from decommissioning any vessel of the MHC-51 mine countermeasures class before the end of its service life, until 30 days after submitting a report on existing capabilities to assume the MHC-51 mission, and certifying that the capabilities of the MHC–51 mine countermeasures class are no longer required.

Single set of requirements for the Army and Marine Corps heavy lift rotorcraft program (sec. 217)

The House bill contained a provision (sec. 219) that would prohibit a new program start for a heavy lift helicopter until the Secretary of the Army and the Secretary of the Navy develop a single, common Joint Heavy Lift (JHL) requirement approved by the Joint Requirements Oversight Council (JROC) and the Secretary of Defense.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would exclude the CH-53X Heavy Lift Replacement (HLR) program from the requirement for a single set of requirements for a heavy lift helicopter. The conferees agree that the Army and Marine Corps should jointly develop any next generation heavy lift helicopter and that the foundation of any such program must focus on a single, joint requirement validated by the JROC and approved by the Secretary of Defense. However, the conferees also understand that the Army's JHL concept is centered on a rotorcraft capable of lifting a Future Combat System platform, while the Marine Corps' HLR program is intended as a CH–53E replacement.

Requirements for development of tactical radio communications systems (sec. 218)

The House bill contained a provision (sec. 220) that would direct the Secretary of Defense to provide a comprehensive report on the immediate requirements for tactical radio communications and whether these requirements may be satisfied with the purchase of legacy radios. The provision would require that the Secretary ensure that Department of Defense (DOD) users rapidly acquire tactical radio communications utilizing existing technologies or mature systems readily available in the commercial marketplace; and apply DOD Instruction 5000.2 to the Joint Tactical Radio System (JTRS) in a manner that does not permit the Milestone B entrance requirements to be waived. The provision would also give the JTRS Joint Program Executive Officer (JPEO) the authority and control of execution year research and development funding for all the clusters and the waveform developments for JTRS.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary to submit the comprehensive report, as required by the House provision, and apply DOD Instruction 5000.2 to the JTRS program unless the Secretary certifies that the Department is unable to meet critical national security objectives. The amendment would also require the head of the JPEO to certify the JTRS program of each of the services and submit a report, no later than May 1, 2006, through the Secretary, to the congressional defense committees, on the adequacy of the proposed JTRS budget and the actions taken to address any inadequacies in the proposed JTRS budgets.

The conferees have supported the JTRS program in the past, although the conferees have questioned the JTRS program structure and the inability of the Department to deliver a software programmable radio. The conferees endorse the designation of a JPEO for the JTRS program, and believe that the JPEO should have the authority to successfully manage a program of this size and cost, once the JTRS program is reevaluated and restructured by the Secretary. In the interim, the conferees agree that the JTRS JPEO should review and certify the current and proposed service JTRS budgets to ensure the programs can meet the requirements of the combatant commanders. Although the conferees encourage the Department to procure legacy radios, the conferees also believe that interim radio communication capabilities should be evolutionary and be able to transition to the long-term system solution with maximum hardware and software reuse.

Limitation on systems development and demonstration of personnel recovery vehicle (sec. 219)

The House bill contained a provision (sec. 221) that would prevent the expenditure of funds for systems development and demonstration of the Personnel Recovery Vehicle (PRV) until 30 days after the Secretary of Defense submits to the congressional defense committees a certification that the requirements and schedule for the PRV have been validated by the Under Secretary of Defense for Acquisition, Technology, and Logistics. The provision would also require the Secretary to certify that all technologies required for the PRV are mature and demonstrated in a relevant environment, and that no other aircraft, or modification of an aircraft, in the Department of Defense can meet the requirements of the PRV. Finally, the provision would require the Secretary to provide a statement setting forth the independent cost estimate and manpower estimate for the PRV.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would allow the expenditure of no more than 40 percent of the funds made available for systems development and demonstration of the PRV pending the submission of a certification by the Secretary that the Joint Requirements and Oversight Council has validated the requirement for the PRV program and that the Under Secretary of Defense for Acquisition, Technology, and Logistics has validated the acquisition schedule. The amendment would also require the Secretary to provide an explanation of the reasons why the chosen PRV system would be more effective or less expensive in terms of total life-cycle costs in the event the Department chooses a PRV system not in the Department's inventory.

Limitation on VXX helicopter program (sec. 220)

The House bill contained a provision (sec. 227) that would limit the obligation of research, development, test, and evaluation funds, or procurement funds, for acquisition of pilot production helicopters for the VXX helicopter program until the Secretary of the Navy certifies to the congressional defense committees that the results of the tests conducted by the fleet of test article helicopters for the VXX program demonstrate that VXX helicopters in the VXX mission configuration can be produced without significant further design modification.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would withhold 25 percent of the amount authorized to be appropriated for the system development and demonstration of the VXX helicopter until the Secretary of the Navy submits to the congressional defense committees an event-driven acquisition strategy for increment two of the VXX program that includes the completion of at least one phase of operational testing on production representative test vehicles before the initiation of aircraft production. The provision would require that the acquisition strategy be developed by the Secretary of the Navy in coordination with the Director of Operational Test and Evaluation of the Department of Defense.

The conferees strongly support the VXX program, but believe that the current program schedule for concurrent development and production of both three test articles and pilot production helicopters includes too much risk. The conferees understand that existing EH-101 test vehicles are engaged in flight activities, including engine upgrade certification tests, pilot training, mission profile evaluation, and communications suite test and evaluation. The conferees also understand that increment one pilot-production aircraft will be utilized for specific communications, mission systems, and survivability testing; and the procurement and testing of pilot-production aircraft in 2006 will help reduce the risk in increment two. The conferees believe that it would be prudent for the Department of the Navy to develop an event-driven acquisition strategy that includes (1) a list of the critical technologies required for the production and operation of increment two aircraft for the VXX executive helicopter program; (2) a schedule that accepts no more than moderate risk in either cost or schedule for the demonstration and test of each critical technology listed in the event-driven acquisition strategy; (3) a description of the event-based decision points and associated decision criteria that will occur before the initiation of production of increment two aircraft; (4) a description of a proposed operational evaluation using production representative test vehicles to occur before the initiation of production of increment two aircraft; and (5) an evaluation of the acquisition strategy provided by the Director of Operational Test and Evaluation of the Department of Defense.

Report on testing of Internet Protocol version 6 (sec. 221)

The House bill contained a provision (sec. 216) that would mandate the testing of Internet Protocol version 6 (IPv6) by the Naval Research Laboratory.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Chairman of the Joint Chiefs of Staff to certify the adequacy of the IPv6 network. The amendment would also require the Director of Operational Test and Evaluation be responsible for the oversight of the test program. The amendment would further require the Department to submit annual reports to the congressional defense committees.

The conferees note that the recently released IPv6 Master Test Plan details a testing plan that consolidates and coordinates all planned IPv6 related testing activities across the Department to ensure that the highest priority testing requirements are addressed. The conferees direct the Department to ensure that this testing is done in an independent, systematic manner and includes rigorous, realistic, end-to-end testing of IPv6. The conferees note that the Naval Research Laboratory's Global Information Grid Evaluation Facility can perform a significant amount of this mandated testing in an effective and independent manner and should be utilized accordingly.

The conferees are also concerned that the Department has not adequately estimated the costs for the transition of Department systems to IPv6 and therefore has not budgeted for these costs. The conferees note that the Department did not include the overall cost estimates required by section 331 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375) in the IPv6 Transition Plan, although the plan did note that "the availability of 'new' dollars to support IPv6 transition is not expected". Therefore, the conferees direct the Director of the Congressional Budget Office to provide a realistic estimate by service and agency for the cost of completing the conversion of Department systems to IPv6, and report the results to the congressional defense committees no later than January 1, 2007.

Subtitle C—Missile Defense Programs

Report on capabilities and costs for operational boost/ascent-phase missile defense systems (sec. 231)

The House bill contained a provision (sec. 231) that would require the Secretary of Defense to conduct an assessment of the missile defense programs, which are designed to protect against boost/ascent-phase ballistic missile attacks, and to submit a report to the congressional defense committees by October 1, 2006.

The Senate amendment contained no similar provision.

The Senate recedes.

One-year extension of Comptroller General assessments of ballistic missile defense programs (sec. 232)

The Senate amendment contained a provision (sec. 221) that would extend until fiscal year 2007 the requirement for the Comptroller General to provide an assessment of ballistic missile defense programs.

The House bill contained no similar provision.

The House recedes.

Fielding of ballistic missile defense capabilities (sec. 233)

The Senate amendment contained a provision (sec. 222) that would authorize the use of funds, authorized to be appropriated for fiscal year 2006 or 2007 for research, development, test, and evaluation for the Missile Defense Agency, for the development and fielding of ballistic missile defense capabilities.

The House contained no similar provision.

The House recedes with a technical amendment.

Plans for test and evaluation of operational capability of the ballistic missile defense system (sec. 234)

The Senate amendment contained a provision (sec. 223) that would direct the appropriate operational test and evaluation components of the Department of Defense, in coordination with the Missile Defense Agency, to prepare a plan to test, evaluate, and characterize the operational capability of each block of the missile defense system.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Subtitle D—High-Performance Defense Manufacturing Technology Research and Development

High-performance defense manufacturing technology research and development (secs. 241-245)

The Senate amendment contained a set of provisions (secs. 231-235) that would direct the Department of Defense to undertake research and development on innovative manufacturing processes and disseminate those processes into the defense industrial base.

The House bill contained no similar provision.

The House recedes with an amendment that would establish a pilot program to develop innovative manufacturing processes and disseminate them into industry.

The conferees believe that rapidly developing technology coupled with an increasingly competitive global economic and security environment makes the importance of maintaining a robust domestic manufacturing base a continuing national security concern. The conferees note that the Defense Manufacturing Technology (ManTech) program is a transformational program intended to keep the defense manufacturing base on the cutting edge of innovative processes and technologies. The conferees believe that a reinvigorated ManTech program could lead to a stronger defense manufacturing base and enhance our national security.

Subtitle E—Other Matters

Comptroller General report on program element structure for research, development, test, and evaluation projects (sec. 251)

The House bill contained a provision (sec. 222) that would require the Department of Defense to assign a separate program element for each research, development, test, and evaluation (RDT&E) project with estimated expenditures and proposed appropriations of $100.0 million or more over the future years defense program.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would direct the Comptroller General to conduct a study of the current program element structure.

The conferees recognize the need for flexibility in planning and managing complex RDT&E programs and projects. The program element (PE) structure used to budget and allocate resources to RDT&E projects was created over 4 decades ago and has not been recently evaluated or updated. Congress has required incremental adjustments to the budget detail presented by the Department to ensure proper oversight, but has become increasingly frustrated with the incorrect application of directives in the classification of programs and projects by budget activity, the addition of large new projects under existing PEs, the resulting lack of transparency in planning and budgeting, and reduced visibility into sub-elements and projects.

The study should include an analysis of the current structure and content and an assessment of the effectiveness of program element and budget justification materials in providing necessary data for congressional oversight and budget transparency. These recommendations should balance the needs of Congress, other governmental organizations, and the public to ensure visibility into the Department's budgets and programs with the need for the Department to retain sufficient management flexibility. The report should include: (1) recommendations on program element size and content; (2) budget justification material content; (3) appropriate reprogramming authorities within and between program elements; and (4) recommendations regarding the structure of program elements as they relate to highly complex research and development programs, particularly those that employ the system of systems concept. The report should be submitted to the congressional defense committees no later than February 1, 2007, with potential implementation in the fiscal year 2009 budget submission.

Research and development efforts for purposes of small business research (sec. 252)

The House bill contained a provision (sec. 223) that would establish a pilot program to expand the role of small business concerns in defense acquisition.

The Senate amendment contained a similar provision (sec. 814) that would revise criteria and procedures for identification of Small Business Innovation Research (SBIR) topic areas and establish a Commercialization Pilot Program to accelerate transition of SBIR programs into the acquisition process.

The House recedes with an amendment that would modify the reporting requirement of this provision.

Revised requirements relating to submission of Joint Warfighting Science and Technology plan (sec. 253)

The House bill contained a provision (sec. 224) that would require submission of the

Joint Warfighting Science and Technology plan to Congress every 2 years, rather than annually, and would repeal the requirement for the plan to contain technology area review and assessment summaries.

The Senate amendment contained a similar provision (sec. 1041).

The Senate recedes with an amendment that would require submission of the technology area review and assessment upon completion.

Report on efficiency of naval shipbuilding industry (sec. 254)

The House bill contained a provision (sec. 225) that would require the Secretary of the Navy to establish a program, and to provide funds that are made available to: (1) qualified applicants to facilitate and develop innovative design and production technologies and processes for naval vessels and the development of modernized shipbuilding infrastructure; and (2) private shipyards to facilitate their acquisition of such technologies, processes, and infrastructure. The provision would outline the purpose of the program, how the development funding could be applied for, how the participating entities would be selected, and how the shipyards would incorporate the technologies or processes. The provision would also require the Secretary to conduct an assessment of certain shipbuilding phases at least annually. The provision would provide $100.0 million from the Research, Development, Test, and Evaluation, Navy, account in fiscal year 2006 to establish this program.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary to conduct an assessment of the U.S. naval shipbuilding industry to determine how worldwide shipbuilding industry best practices for innovation, design, and production technologies, processes, and infrastructure could be adopted. The amendment would require the assessment to identify those best practices that have not been adopted by the U.S. naval shipbuilding industry; estimate the costs to adopt and the return on investment by adopting these best practices; and any recommendations the Secretary may have to increase naval shipbuilding efficiencies. The amendment would require this assessment to occur subsequent to, and take into consideration the results of, the study of the cost effectiveness of the Navy shipbuilding program required by section 1014 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375). The amendment would require the Secretary to submit a report to the congressional defense committees by April 1, 2006, which would include the Secretary's findings and conclusions based on this assessment.

Technology transition (sec. 255)

The Senate amendment contained a provision (sec. 242) that would clarify the role of the Technology Transition Council.

The House bill contained no similar provision.

The House recedes with a clarifying amendment that would ensure that the required report includes an assessment of the Department Defense requirements, budgeting and planning process on technology transition and modify the deadline for submission of the report to not later than 9 months after the enactment of this Act.

Prevention, mitigation, and treatment of blast injuries (sec. 256)

The Senate amendment contained a provision (sec. 243) that would require the Secretary of Defense to designate an executive agent to coordinate and manage a comprehensive blast injury prevention, mitigation, and treatment program. The provision would require review and assessment of a coordinated, department-wide research effort to include: blast characterization; modeling and simulation of safe stand-off distances; explosive detect and defeat capabilities; and armor design and material testing for blast, ballistic, and fire protection. The provision would also require support for emerging military medical technologies, devices, and treatments specific to blast injuries including traumatic brain injury.

The House bill contained no similar provision.

The House recedes with an amendment that would revise the responsibilities of the executive agent required by this section. The amendment would also require the Director, Defense Research and Engineering to work in coordination with the executive agent and the Director, Joint Improvised Explosive Device Task Force on research for the prevention and mitigation of blast injuries.

The conferees intend to ensure a focused effort on providing the best treatment and protection for U.S. soldiers, sailors, airmen, marines, and National Guardsmen as they confront evolving threats in unpredictable environments. The Department of Defense acquisition system should incorporate emerging health hazards data produced by efforts under this section into the human systems integration assessments conducted for all acquisition programs.

Modification of requirements for annual report on DARPA program to award cash prizes for advanced technology achievements (sec. 257)

The Senate amendment contained a provision (sec. 244) that would clarify reporting requirements on utilization of authority granted by the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65) to run competitions and award prizes for achievements in research and technology development.

The House bill contained no similar provision.

The House recedes with technical amendments.

Designation of facilities and resources constituting the major range and test facility base (sec. 258)

The Senate amendment contained a provision (sec. 245) that would update the Bob Stump National Defense Authorization Act of Fiscal Year 2003 (Public Law 107–314) to reflect changes in the Test Resource Management Center oversight of major research and test facilities. The provision would designate the Secretary of Defense, rather than the Director, Operational Test and Evaluation, as the official in charge of major range and test facility designations.

The House bill contained no similar provision.

The House recedes.

Report on cooperation between Department of Defense and National Aeronautics and Space Administration on research, development, test, and evaluation activities (sec. 259)

The Senate amendment contained a provision (sec. 246) that would require a joint Department of Defense and National Aeronautics and Space Administration assessment of research, development, test, and evaluation cooperation.

The House bill contained no similar provision.

The House recedes with an amendment that would ensure that the assessment of space access and operations includes a focus on responsive space launch and small satellite development.

Delayed effective date for limitation on procurement of systems not GPS-equipped (sec. 260)

The Senate amendment contained a provision (sec. 247) that would delay the effective date by which the military services must complete equipping their forces with the global positioning system (GPS) from 2005 to 2007.

The House bill contained no similar provision.

The House recedes with a technical amendment.

The conferees recognize that the Department of Defense is still working toward compliance with section 152(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) with regard to equipping all aircraft, ships, armored vehicles, and indirect fire systems with GPS capability. The current program calls for Army compliance by the end of fiscal year 2007 and for Air Force compliance in fiscal year 2015. The conferees believe there may not be value added to modifying certain platforms currently planned for modification after 2007. Therefore, the conferees direct the Secretary of Defense to perform an assessment of all Department of Defense aircraft, ships, armored vehicles, and indirect fire system that will not be equipped with GPS capability by the end of fiscal year 2007 to determine whether the operational value of modifying each system with GPS is worth the cost of so doing. A report of the results of this assessment is due to the congressional defense committees by February 1, 2007.

Report on development and use of robotics and unmanned ground vehicle systems (sec. 261)

The Senate amendment contained a provision (sec. 248) that would require a report on the development and utilization of robotics and unmanned ground vehicle systems.

The House bill contained no similar provision.

The House recedes with an amendment to expand and clarify the requirements of the report.

The conferees note that the Joint Robotics Program (JRP) produces a Joint Robotics Program Master Plan that details JRP activities, progress, and budgets. The conferees intend for the report required by this provision to expand on the JRP effort to include a detailed description of all the relevant robotics and unmanned ground vehicle efforts undertaken by all of the elements of the Department of Defense, as well as other required elements indicated in the provision.

The conferees continue to support the goal established by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) that, by 2015, one-third of operational ground combat vehicles be unmanned. The conferees direct the Secretary of Defense to provide a cost estimate for research, development, testing, and procurement to achieve this goal along with the submission of a report to the congressional defense committees not later than 9 months after the enactment of this Act, as required by this provision.

LEGISLATIVE PROVISIONS NOT ADOPTED

Aging military aircraft fleet support

The Senate amendment contained a provision (sec. 214) that would authorize $4.0 million for technical personnel, facilities, and equipment to support the Department of Defense mission in maintaining the aging fleet of military aircraft.

The House contained no similar provision.

The Senate recedes.

The conference outcome is reflected in the tables of this report in Research, Development, Test, and Evaluation, Air Force, PE 63112F.

Arrow ballistic missile defense system

The Senate amendment contained a provision (sec. 224) that would authorize up to $80.0 million for coproduction of the Arrow ballistic missile defense system.

The House bill contained no similar provision.

The Senate recedes.

The conference outcome is reflected in the tables of this report in Research, Development, Test, and Evaluation, Defense-wide PE 63881C.

Defense basic research programs

The Senate amendment contained a provision (sec. 219) that would authorize $40.0 million for Department of Defense competitively awarded basic research and education programs.

The House contained no similar provision.

The Senate recedes.

The conference outcome is reflected in the tables of this report in Research, Development, Test, and Evaluation, Army PE 61103A, Navy PE 61103N, Air Force PE 61103F, Defense-wide PE 61101E, and Defense-wide PE 61120D8Z.

Field programmable gate array

The Senate amendment contained a provision (sec. 217) that would authorize $3.0 million for Air Force research on field programmable gate arrays, a type of microelectronic circuit designed to perform various functions without requiring physical changes to the chip.

The House bill contained no similar provision.

The Senate recedes.

The conference outcome is reflected in the tables of this report in Research, Development, Test, and Evaluation, Air Force PE 62601F.

Funding for development of distributed generation technologies

The Senate amendment contained a provision (sec. 204) that would authorize $1.0 million for Army research and evaluation of a process for converting propellants into fertilizer.

The House bill contained no similar provision.

The Senate recedes.

The conference outcome is reflected in the tables of this report in Research, Development, Test, and Evaluation, Army, PE 63103A.

Funding for research and technology transition for high-brightness electron source program

The Senate amendment contained a provision (sec. 203) that would authorize $1.5 million for Navy research and transition of the high-brightness electron source program to develop novel electronic materials for Navy applications.

The House bill contained no similar provision.

The Senate recedes.

The conference outcome is reflected in the tables of this report in Research, Development, Test, and Evaluation, Navy PE 62271N.

Funding for supersonic cruise missile engine qualification

The House bill contained a provision (sec. 228) that would authorize $10.0 million for Air Force engine qualification of the supersonic cruise missile.

The Senate amendment contained no similar provision.

The House recedes.

The conference outcome is reflected in the tables of this report in Research, Development, Test, and Evaluation, Air Force, PE 63216F.

Joint service small arms program

The Senate amendment contained a provision (sec. 216) that would authorize $5.0 million for Army applied research on gun recoil reduction as part of the joint service small arms program.

The House bill contained no similar provision.

The Senate recedes.

The conference outcome is reflected in the tables of this report in Research, Development, Test, and Evaluation, Army, PE 62623A.

Long wavelength array low frequency radio astronomy instruments

The Senate amendment contained a provision (sec. 218) that would authorize $6.0 million for Navy research on the long wavelength array low frequency radio astronomy instrument.

The House bill contained no similar provision.

The Senate recedes.

The conference outcome is reflected in the tables of this report in Research, Development, Test, and Evaluation, Navy PE 63114N.

Medium tactical vehicle modifications

The Senate amendment contained a provision (sec. 219B) that would authorize an additional $5.0 million for the development and prototyping of technologies including off-road active suspension, increased payload capacity, and reduced logistics footprint.

The House bill contained no similar provision.

The Senate recedes.

The conference outcome is reflected in the tables of this report in Research, Development, Test, and Evaluation, Army, PE 64604A.

Objective requirements for Non-Line-of-Sight Cannon system not to be diminished to meet weight requirements

The House bill contained a provision (sec. 212) that would require the Secretary of Defense to ensure that the objective requirements established for the Non-Line-of-Sight Cannon not be diminished in order to achieve the weight requirements in existence as of April 14, 2003.

The Senate amendment contained no similar provision.

The House recedes.

Project Sheriff

The Senate amendment contained a provision (sec. 219A) that would authorize $10.0 million for the Office of Force Transformation to continue development and testing of Project Sheriff on additional Army Stryker vehicles.

The House bill contained no similar provision.

The Senate recedes.

The conference outcome is reflected in the tables of this report in Research, Development, Test, and Evaluation, Defense-wide PE 65799D8Z.

Renewal of University National Oceanographic Laboratory System fleet

The House bill contained a provision (sec. 226) that would require the Secretary of the Navy to develop a plan for a program to construct ships for the University National Oceanographic Laboratory System (UNOLS) fleet.

The Senate amendment contained no similar provision.

The House recedes.

The conferees are concerned with the Navy's plans to fund the construction of academic research vessels in the basic research account in fiscal year 2007. While the *Ocean*-class research vessel provides the Navy with a robust understanding of its battlespace, diversion of fundamental science funds to design and construct such ships would adversely affect the goals of the innovative research account and is an inappropriate use for scarce Navy basic research funds. The conferees direct the Navy to fund design work for future ships in PE 63564N, the Ship Preliminary Design and Feasibility Studies program.

Released with the fiscal year 2006 budget request, the fiscal year 2007 budget projection included $25.0 million for UNOLS ship construction. The conferees direct the Navy to request ship construction funds in the Shipbuilding and Conversion, Navy (SCN) account. The committee expects that the Navy will continue to use the SCN account to provide for the recapitalization of *Ocean*-class research vessels in the future-years defense program.

Finally, the conferees direct the Navy to update its plan for renewal of the UNOLS fleet to reflect current fiscal realities, schedules, missions, and research priorities. The updated plan should be submitted to the congressional defense committees no later than 6 months after the date of enactment of this Act.

Required flight-intercept test of ballistic missile defense ground-based midcourse system

The House bill contained a provision (sec. 232) that would authorize $100.0 million above the budget request for the midcourse defense segment for one additional flight-intercept test of the ground-based midcourse defense system.

The Senate amendment contained no similar provision.

The House recedes.

The conference outcome is reflected in the tables of this report in Research, Development, Test, and Evaluation, Defense-wide, PE 63882C.

Telemedicine and advanced technology research center

The Senate amendment contained a provision (sec. 114) that would authorize $1.0 million for the Army to ensure that medical records of injured personnel are accurately kept and to enable reliable transfer of records from main triage facilities to local care centers.

The House bill contained no similar provision.

The Senate recedes.

The conference outcome is reflected in the tables of this report in Research, Development, Test, and Evaluation, Army PE 63002A.

Towed array handler

The Senate amendment contained a provision (sec. 115) that would authorize $5.0 million in PE 64503N for the design, development, and test of improvements to the towed array handler.

The House bill contained no similar provision.

The Senate recedes.

The outcome is reflected in the tables of this report in Research, Development, Test, and Evaluation, Navy PE 64503N.

Warhead/Grenade Scientific Based Manufacturing Technology

The Senate amendment contained a provision (sec. 215) that would authorize $1.0 million for Army investigation of technologies in metals forming and machining applications, which could be applied to manufacturing of medium caliber warheads, cartridge cases, and grenades for artillery rounds.

The House bill contained no similar provision.

The Senate recedes.

The conference outcome is reflected in the tables of this report in Research, Development, Test, and Evaluation, Army PE 62624A.

TITLE III—OPERATION AND MAINTENANCE

Operation and Maintenance overview

The budget request for fiscal year 2006 included an authorization of $126,902.5 million for Operation and Maintenance, $22,302.9 million for Other Programs, and $3,119.8 million for Working Capital Fund Accounts in the Department of Defense.

The House bill would authorize $124,342.1 million for Operation and Maintenance, $22,232.2 million for Other Programs, and $3,168.4 million for Working Capital Fund Accounts.

The Senate amendment would authorize $126,442.8 million for Operation and Maintenance, $22,432.1 million for Other Programs, and $2,482.6 million for Working Capital Fund Accounts.

The conferees agree to authorize $125,715.2 million for Operation and Maintenance, $22,429.8 million for Other Programs, and $3,129.1 million for Working Capital Fund Accounts.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

NATIONAL DEFENSE AUTHORIZATION FOR FISCAL YEAR 2006

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Title III – OPERATION AND MAINTENANCE & OTHER PROGRAMS					
OPERATION AND MAINTENANCE					
Operation and Maintenance, Army	25,316,595	24,383,873	24,890,960	-630,300	24,686,295
Operation and Maintenance, Navy	30,759,889	30,312,736	30,497,489	-221,800	30,538,089
Operation and Maintenance, MC	3,804,926	3,631,277	3,842,026	4,600	3,809,526
Operation and Maintenance, AF	31,521,136	30,559,135	31,370,819	-404,000	31,117,136
Operation and Maintenance, Defense-wide	18,453,469	18,375,781	18,627,569	96,700	18,550,169
Operation and Maintenance, Army Reserve	1,987,382	1,998,282	1,989,542	5,160	1,992,542
Operation and Maintenance, Navy Reserve	1,245,695	1,245,695	1,245,695	-8,400	1,237,295
Operation and Maintenance, Marine Corps Reserve	199,934	207,434	199,934	-1,900	198,034
Operation and Maintenance, Air Force Reserve	2,501,686	2,501,686	2,559,686	-13,900	2,487,786
Operation and Maintenance, Army National Guard	4,509,719	4,521,119	4,528,019	-31,400	4,478,319
Operation and Maintenance, Air National Guard	4,724,091	4,727,091	4,772,991	-22,100	4,701,991
Transfer Accounts	1,369,689	1,369,689	1,409,689	40,000	1,409,689
Miscellaneous Appropriations	508,331	508,331	508,331		508,331
SUBTOTAL OPERATION AND MAINTENANCE	**126,902,542**	**124,342,129**	**126,442,750**	**-1,187,340**	**125,715,202**

NATIONAL DEFENSE AUTHORIZATION FOR FISCAL YEAR 2006

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
OTHER PROGRAMS					
DEFENSE HEALTH PROGRAM					
Defense Health Program, O&M	19,247,137	19,204,219	19,351,337	100,982	19,348,119
Blast injury prevention, mitigation and treatment initiative			[20,000]	[18,000]	
Extension of TRICARE Prime for Survivors			[2,000]	[2,000]	
Physical exams for Reservists			[82,200]		
GAO estimate annual DHP unobligated funds		[-99,900]			
Perinatal information center		[982]		[982]	
Madigan Army Medical Center trauma program		[2,000]		[2,000]	
TRICARE Prime remote exceptional eligibility		[4,000]		[4,000]	
Modifications to TRICARE Reserve Select		[50,000]		[74,000]	
Defense Health Program, RDTE	169,156	176,656	174,156		169,156
Enhanced vision lenses			[5,000]		
Ex-rad radiation protection program		[7,500]			
Defense Health Program, Procurement	375,319	375,319	375,319		375,319
Subtotal Defense Health Program	**19,791,612**	**19,756,194**	**19,900,812**	**100,982**	**19,892,594**

NATIONAL DEFENSE AUTHORIZATION FOR FISCAL YEAR 2006

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES					
Drug Enforcement and Policy Support	895,741	895,741	895,741	6,000	901,741
PACOM operations support		[-4,000]			
Air Force tanker study		[-3,000]			
Naval Reserve support		[-4,000]			
International support		[-10,000]			
Southwest border fence		[7,000]		[6,000]	
Joint Task Force North		[6,000]			
Participating nation support		[2,000]			
Support to National Security Agency		[6,000]			
Subtotal Drug Interdiction and Counter-Drug Activities	**895,741**	**895,741**	**895,741**	**6,000**	**901,741**
OFFICE OF THE INSPECTOR GENERAL					
Office of the Inspector General, O&M	208,687	173,487	208,687		208,687
Mid-Range Financial Improvement Plan		[-35,200]			
Office of the Inspector General, RDTE					
Office of the Inspector General, Procurement	1,000	1,000	1,000		1,000
Subtotal Office of the Inspection General	**209,687**	**174,487**	**209,687**		**209,687**

NATIONAL DEFENSE AUTHORIZATION FOR FISCAL YEAR 2006

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
CHEMICAL AGENTS AND MUNITIONS DESTRUCTION					
Chemical Agents and Munitions Destruction, O&M	1,241,514	1,241,514	1,241,514		1,241,514
Chemical Agents and Munitions Destruction, RDTE	47,786	47,786	67,786	20,000	67,786
Assembled chemical weapons alternatives			[20,000]	[20,000]	
Chemical Agents and Munitions Destruction, Procurement	116,527	106,527	116,527		116,527
Program reduction		[-10,000]			
Subtotal Chemical Agents and Munitions Destruction	**1,405,827**	**1,395,827**	**1,425,827**	**20,000**	**1,425,827**
SUBTOTAL OTHER PROGRAMS	**22,302,867**	**22,222,249**	**22,432,067**	**126,982**	**22,429,849**
REVOLVING AND MANAGEMENT FUNDS					
Defense Working Capital Funds	316,340	316,340	316,340		316,340
Defense Working Capital Funds - DeCA	1,155,000	1,155,000	1,155,000		1,155,000
National Defense Sealift Fund	1,648,504	1,697,023	1,011,304	9,213	1,657,717
Lease buyout for only three MPS ships			[-637,200]	[-374,787]	
Additional T-AKE		[384,419]		[384,000]	
Program adjustment		[-335,900]			
SUBTOTAL REVOLVING AND MANAGEMENT FUNDS	**3,119,844**	**3,168,363**	**2,482,644**	**9,213**	**3,129,057**
TOTAL O&M AND OTHER PROGRAMS	**152,325,253**	**149,732,741**	**151,357,461**	**-1,051,145**	**151,274,108**

Title III - Operation and Maintenance

(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		Operation and Maintenance, Army					
		BUDGET ACTIVITY 01: OPERATING FORCES					
		LAND FORCES					
2020a	010	DIVISIONS	866,129	830,229	866,129	5,500	871,629
		Bio/chem resistant canteens		[1,000]		[1,000]	
		Advanced technology batteries		[2,500]		[2,500]	
		Fleece insulated liners for ECWCS		[2,000]		[2,000]	
		Repair parts - transfer to Title XV		[-42,400]			
		Tank sonic dry clean filter system		[1,000]			
2020a	020	CORPS COMBAT FORCES	430,353	417,853	430,353		430,353
		Repair parts - Transfer to Title XV		[-12,500]			
2020a	030	CORPS SUPPORT FORCES	351,673	353,673	351,673		351,673
		M Gators		[2,000]			
2020a	040	EAC SUPPORT FORCES	951,681	848,881	951,681	-103,000	848,681
		Rapid fielding initiative - Transfer to Title XV		[-102,800]			
		RFI sustainment peace time offset				[-103,000]	
2020a	050	LAND FORCES OPERATIONS SUPPORT	1,260,976	1,260,976	1,260,976		1,260,976

Title III - Operation and Maintenance

(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		LAND FORCES READINESS					
2020a	060	FORCE READINESS OPERATIONS SUPPORT	1,870,382	1,870,382	1,981,182	7,900	1,878,282
		Virtual combat convoy trainer			[7,700]		
		Battle command training capability			[3,900]	[3,900]	
		Home station range operations			[73,700]		
		Cognitive air defense simulators			[3,000]	[3,000]	
		Grenade range improvements			[1,000]	[1,000]	
		Range fiber optic LAN installation			[1,500]		
		Advanced combat helmet with modular integrated communications headset			[20,000]		
2020a	070	LAND FORCES SYSTEMS READINESS	615,063	577,863	623,063	2,000	617,063
		Corrosion prevention and control program			[8,000]	[2,000]	
		Unit of action experimentation - Transfer to Title XV		[-37,200]			
2020a	080	LAND FORCES DEPOT MAINTENANCE	1,229,926	970,126	1,229,926	-213,000	1,016,926
		Arsenal/Depot AIT Initiative		[10,000]			
		Depot maintenance - transfer to Title XV		[-269.800]			
		Depot maintenance peace time work load adjustment				[-213,000]	
		LAND FORCES READINESS SUPPORT					
2020a	090	BASE OPERATIONS SUPPORT	5,347,826	5,332,826	5,347,826		5,347,826
		Utilities privatization		[-15,000]			
2020a	100	FACILITIES SUSTAINMENT, RESTORATION, & MODERNIZATION	1,825,518	1,825,518	1,791,718		1,825,518
		Program under execution			[-33,800]		
2020a	110	MANAGEMENT AND OPERATIONAL HQ	220,288	220,288	220,288		220,288
2020a	120	UNIFIED COMMANDS	102,343	102,343	102,343		102,343
2020a	130	MISCELLANEOUS ACTIVITIES	230,202	230,202	230,202		230,202

Title III - Operation and Maintenance

(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
2020a	xx	Operating tempo - transfer to Title XV		-115,700			
		TOTAL, BA 01: OPERATING FORCES	**15,302,360**	**14,725,460**	**15,387,360**	**-300,600**	**15,001,760**
		BUDGET ACTIVITY 02: MOBILIZATION					
		MOBILITY OPERATIONS					
2020a	140	STRATEGIC MOBILITY	248,241	248,241	254,241	6,000	254,241
		Quadruple specialty containers			[6,000]	[6,000]	
2020a	150	ARMY PREPOSITIONING STOCKS	99,917	99,917	99,917		99,917
2020a	160	INDUSTRIAL PREPAREDNESS	8,833	8,833	8,833		8,833
		TOTAL, BA 02: MOBILIZATION	**356,991**	**356,991**	**362,991**	**6,000**	**362,991**
		BUDGET ACTIVITY 03: TRAINING AND RECRUITING					
		ACCESSION TRAINING					
2020a	170	OFFICER ACQUISITION	103,722	103,722	103,722		103,722
2020a	180	RECRUIT TRAINING	32,125	32,125	32,125		32,125
2020a	190	ONE STATION UNIT TRAINING	36,538	36,538	36,538		36,538
2020a	200	SENIOR RESERVE OFFICERS TRAINING CORPS	270,351	270,351	270,351		270,351
		BASIC SKILL/ ADVANCE TRAINING					
2020a	210	SPECIALIZED SKILL TRAINING	510,526	521,526	516,526	5,500	516,026
		Satellite communications for learning (SCOLA)		[6,000]	[6,000]	[3,000]	
		Defense Language Institute		[5,000]		[2,500]	

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
2020a	220	FLIGHT TRAINING	635,105	635,105	635,105		635,105
2020a	230	PROFESSIONAL DEVELOPMENT EDUCATION	114,854	115,854	114,854		114,854
		Leadership for leaders program		[1,000]			
2020a	240	TRAINING SUPPORT	668,981	673,981	668,981	3,000	671,981
		Live training instrumentation for air & missile defense units		[5,000]		[3,000]	
		RECRUITING/OTHER TRAINING					
2020a	250	RECRUITING AND ADVERTISING	481,868	481,868	481,868		481,868
2020a	260	EXAMINING	121,937	121,937	121,937		121,937
2020a	270	OFF-DUTY AND VOLUNTARY EDUCATION	262,410	262,410	262,410		262,410
2020a	280	CIVILIAN EDUCATION AND TRAINING	154,232	122,232	102,532	-32,000	122,232
		Army civilian intern program		[-32,000]	[-51,700]	[-32,000]	
2020a	290	JUNIOR ROTC	141,416	141,416	141,416		141,416
		TOTAL, BA 03: TRAINING AND RECRUITING	**3,534,065**	**3,519,065**	**3,488,365**	**-23,500**	**3,510,565**
		BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
		SECURITY PROGRAMS					
2020a	300	SECURITY PROGRAMS	919,796	919,796	924,796	2,000	921,796
		Unattended ground sensors			[5,000]	[2,000]	
		LOGISTICS OPERATIONS					
2020a	310	SERVICEWIDE TRANSPORTATION	581,060	646,060	581,060		581,060
		AAFES-second destination transportation		[65,000]			

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
2020a	320	CENTRAL SUPPLY ACTIVITIES	570,178	454,178	570,178		570,178
		Sustainment system technical support - transfer to Title XV		[-116,000]			
2020a	330	LOGISTIC SUPPORT ACTIVITIES	389,696	389,696	392,696	3,000	392,696
		Information assurance vulnerability alert cell			[3,000]	[3,000]	
2020a	340	AMMUNITION MANAGEMENT	354,162	354,162	354,162		354,162
		SERVICEWIDE SUPPORT					
2020a	350	ADMINISTRATION	606,588	606,588	609,588		606,588
		Aviation and missile life cycle management pilot program			[3,000]		
2020a	360	SERVICEWIDE COMMUNICATIONS	850,053	828,653	850,053	-11,000	839,053
		GFEBS		[-24,900]		[-11,000]	
		Army Knowledge Online disaster recovery system		[3,500]			
2020a	370	MANPOWER MANAGEMENT	238,344	238,344	238,344		238,344
2020a	380	OTHER PERSONNEL SUPPORT	189,720	189,720	189,720		189,720
2020a	390	OTHER SERVICE SUPPORT	850,059	850,059	850,059		850,059
2020a	400	ARMY CLAIMS ACTIVITIES	197,361	197,361	197,361		197,361
2020a	410	REAL ESTATE MANAGEMENT	45,451	45,451	45,451		45,451
		SUPPORT OF OTHER NATIONS					
2020a	420	SUPPORT OF NATO OPERATIONS	289,447	277,647	289,447		289,447
		NATO support - transfer to Title XV		[-11,800]			
2020a	430	MISC. SUPPORT OF OTHER NATIONS	41,264	41,264	41,264		41,264

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		JUDGMENT FUND					
2020a	440	JUDGMENT FUND					
		TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**6,123,179**	**6,038,979**	**6,134,179**	**-6,000**	**6,117,179**
		Military to civilian conversions			-90,000	-47,000	-47,000
		Audits of DOD financial statements			-70,000	-45,000	-45,000
		Civilian personnel under execution		-17,000	-17,000	-17,000	-17,000
		Working Capital Fund excess balances			-124,735		
		Working Capital Fund excess carryover			-94,700	-94,700	-94,700
		Defense Information System Network costs			-25,000	-25,000	-25,000
		Unobligated balances		-239,622		-87,500	-87,500
		Unobligated balances (S. Amdt)			-85,000		
		Diagnosis and treatment of post traumatic stress disorder (S. Amdt)			10,000	10,000	10,000
		Point of maintenance/arsenal/depot AIT initiative (S. Amdt)			10,000		
		Long arm high-intensity arc metal halide handheld searchlight (S. Amdt)			4,500		
		Total Operation and Maintenance, Army	**25,316,595**	**24,383,873**	**24,890,960**	**-630,300**	**24,686,295**
		Operation and Maintenance, Navy					
		BUDGET ACTIVITY 01: OPERATING FORCES					
		AIR OPERATIONS					
1804n	010	MISSION AND OTHER FLIGHT OPERATIONS	3,574,529	3,574,529	3,574,529		3,574,529
1804n	020	FLEET AIR TRAINING	857,918	857,918	857,918		857,918

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1804n	030	INTERMEDIATE MAINTENANCE	58,661	58,661	58,661		58,661
1804n	040	AIR OPERATIONS AND SAFETY SUPPORT	114,331	114,331	114,331		114,331
1804n	050	AIR SYSTEMS SUPPORT	473,514	473,514	473,514		473,514
1804n	060	AIRCRAFT DEPOT MAINTENANCE	961,921	961,921	961,921		961,921
1804n	070	AIRCRAFT DEPOT OPERATIONS SUPPORT	124,133	124,133	124,133	-15,000	109,133
		Unjustified growth in converged ERP				[-15,000]	
		SHIP OPERATIONS					
1804n	080	MISSION AND OTHER SHIP OPERATIONS	2,999,986	3,059,986	2,999,986		2,999,986
		USS Kennedy		[60,000]			
1804n	090	SHIP OPERATIONS SUPPORT & TRAINING	588,395	592,395	588,395	1,000	589,395
		Man overboard ID system		[4,000]		[1,000]	
1804n	100	SHIP DEPOT MAINTENANCE	3,967,408	3,973,408	3,970,108	1,800	3,969,208
		Stainless steel sanitary spaces		[4,000]			
		NULKA decoy cartridge		[2,000]	[2,700]	[1,800]	
1804n	110	SHIP DEPOT OPERATIONS SUPPORT	833,251	833,251	837,751	1,500	834,751
		Stainless steel sanitary spaces			[4,500]	[1,500]	
		COMBAT OPERATIONS/SUPPORT					
1804n	120	COMBAT COMMUNICATIONS	298,100	298,100	298,100		298,100
1804n	130	ELECTRONIC WARFARE	18,422	18,422	22,422		18,422
		Manufacturing technical assistance and production program			[4,000]		
1804n	140	SPACE SYSTEMS AND SURVEILLANCE	156,814	156,814	156,814		156,814
1804n	150	WARFARE TACTICS	367,830	367,830	367,830		367,830
1804n	160	OPERATIONAL METEOROLOGY AND OCEANOGRAPHY	259,807	259,807	259,807		259,807

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1804n	170	COMBAT SUPPORT FORCES	1,321,953	1,309,053	1,321,953	-13,000	1,308,953
		JFCOM joint training		[-12,900]		[-13,000]	
1804n	180	EQUIPMENT MAINTENANCE	172,958	172,958	172,958		172,958
1804n	190	DEPOT OPERATIONS SUPPORT	3,703	3,703	14,703	6,000	9,703
		Electric start system			[8,000]	[5,000]	
		Marine gas turbine photonic sensor			[3,000]	[1,000]	
		WEAPONS SUPPORT					
1804n	200	CRUISE MISSILE	181,294	181,294	181,294		181,294
1804n	210	FLEET BALLISTIC MISSILE	830,094	830,094	830,094		830,094
1804n	220	IN-SERVICE WEAPONS SYSTEMS SUPPORT	69,722	69,722	69,722		69,722
1804n	230	WEAPONS MAINTENANCE	473,584	473,584	489,584	16,000	489,584
		Mk 45 gun system overhauls			[16,000]	[16,000]	
		WORKING CAPITAL FUND SUPPORT					
1804n	240	NWCF SUPPORT					
		BASE SUPPORT					
1804n	250	SUSTAINMENT, RESTORATION AND MODERNIZATION	1,344,971	1,344,971	1,318,771		1,344,971
		Program under execution			[-26,200]		
1804n	260	BASE OPERATING SUPPORT	3,417,244	3,360,244	3,417,244	-25,000	3,392,244
		Utilities privatization		[-57,000]			
		Base operating support unjustified growth				[-25,000]	
1804n	xx	Operating Tempo - transfer to Title XV		-180,000			
		TOTAL, BA 01: OPERATING FORCES	**23,470,543**	**23,290,643**	**23,482,543**	**-26,700**	**23,443,843**

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		BUDGET ACTIVITY 02: MOBILIZATION					
		READY RESERVE AND PREPOSITIONING FORCES					
1804n	270	SHIP PREPOSITIONING AND SURGE	533,527	533,527	661,127	143,400	676,927
		Restore lease payments for ten MPS ships				[143,400]	
		ACTIVATIONS/INACTIVATIONS					
1804n	280	AIRCRAFT ACTIVATIONS/INACTIVATIONS	3,158	3,158	3,158		3,158
1804n	290	SHIP ACTIVATIONS/INACTIVATIONS	125,629	133,629	125,629		125,629
		Acceleration of disposal		[8,000]			
		MOBILIZATION PREPAREDNESS					
1804n	300	FLEET HOSPITAL PROGRAM	28,245	28,245	28,245		28,245
1804n	310	INDUSTRIAL READINESS	1,653	1,653	1,653		1,653
1804n	320	COAST GUARD SUPPORT	19,879	19,879	19,879		19,879
		TOTAL, BA 02: MOBILIZATION	712,091	720,091	839,691	143,400	855,491
		BUDGET ACTIVITY 03: TRAINING AND RECRUITING					
		ACCESSION TRAINING					
1804n	330	OFFICER ACQUISITION	123,975	123,975	123,975		123,975
1804n	340	RECRUIT TRAINING	10,153	10,153	10,153		10,153
1804n	350	RESERVE OFFICERS TRAINING CORPS	103,539	103,539	103,539		103,539

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Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		BASIC SKILLS AND ADVANCED TRAINING					
1804n	360	SPECIALIZED SKILL TRAINING	494,195	494,195	494,195		494,195
1804n	370	FLIGHT TRAINING	364,692	364,692	364,692		364,692
1804n	380	PROFESSIONAL DEVELOPMENT EDUCATION	134,935	134,935	134,935		134,935
1804n	390	TRAINING SUPPORT	243,596	243,596	243,596		243,596
		RECRUITING, AND OTHER TRAINING AND EDUCATION					
1804n	400	RECRUITING AND ADVERTISING	282,293	282,593	282,293	300	282,593
		Naval Sea Cadet Corps		[300]		[300]	
1804n	410	OFF-DUTY AND VOLUNTARY EDUCATION	155,646	155,646	155,646		155,646
1804n	420	CIVILIAN EDUCATION AND TRAINING	70,983	70,983	70,983		70,983
1804n	430	JUNIOR ROTC	42,875	42,875	42,875		42,875
		TOTAL, BA 03: TRAINING AND RECRUITING	**2,026,882**	**2,027,182**	**2,026,882**	**300**	**2,027,182**
		BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
		SERVICEWIDE SUPPORT					
1804n	440	ADMINISTRATION	739,521	723,521	739,521		739,521
		Mid-Range Financial Improvement Plan		[-16,000]			
1804n	450	EXTERNAL RELATIONS	3,517	3,517	3,517		3,517
1804n	460	CIVILIAN MANPOWER AND PERSONNEL MANAGEMENT	100,751	100,751	100,751		100,751
1804n	470	MILITARY MANPOWER AND PERSONNEL MANAGEMENT	212,813	212,813	212,813		212,813
1804n	480	OTHER PERSONNEL SUPPORT	250,278	250,278	250,278		250,278
1804n	490	SERVICEWIDE COMMUNICATIONS	773,261	773,261	773,261		773,261
1804n	500	MEDICAL ACTIVITIES					

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		LOGISTICS OPERATIONS AND TECHNICAL SUPPORT					
1804n	510	SERVICEWIDE TRANSPORTATION	188,257	188,257	188,257		188,257
1804n	520	ENVIRONMENTAL PROGRAMS		1,000			
		Ford Island environmental clean up		[1,000]			
1804n	530	PLANNING, ENGINEERING AND DESIGN	306,919	306,919	306,919		306,919
1804n	540	ACQUISITION AND PROGRAM MANAGEMENT	841,706	841,706	841,706		841,706
1804n	550	AIR SYSTEMS SUPPORT					
1804n	560	HULL, MECHANICAL AND ELECTRICAL SUPPORT	46,373	46,373	46,373		46,373
1804n	570	COMBAT/WEAPONS SYSTEMS	46,334	46,334	46,334		46,334
1804n	580	SPACE AND ELECTRONIC WARFARE SYSTEMS	75,132	75,132	75,132		75,132
		INVESTIGATIONS AND SECURITY PROGRAMS					
1804n	590	NAVAL INVESTIGATIVE SERVICE	374,329	374,329	374,329		374,329
		SUPPORT OF OTHER NATIONS					
1804n	640	INTERNATIONAL HEADQUARTERS AND AGENCIES	10,663	10,663	10,663		10,663
1804n	650	PRESIDENTIAL DRAWDOWN AUTHORITY					
		CANCELLED ACCOUNTS					
1804n	660	CANCELLED ACCOUNT ADJUSTMENTS					
1804n	670	JUDGMENT FUND					

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		OTHER PROGRAMS					
1804n	999	OTHER PROGRAMS	580,519	580,519	580,519		580,519
		TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**4,550,373**	**4,535,373**	**4,550,373**		**4,550,373**
		Military to civilian conversions			-90,000	-55,000	-55,000
		Audits of DOD financial statements			-65,000	-32,800	-32,800
		Defense Information System Network costs			-25,000	-25,000	-25,000
		Civilian personnel under execution		-172,000	-172,000	-172,000	-172,000
		Lease buy outs		103,000			
		Unobligated balances		-191,553		-54,000	-54,000
		Navy Human Resources Benefit Call Center (non-add) (S. Amdt)			[1,500]		
		Unobligated balances (S. Amdt)			-50,000		
		Total Operation and Maintenance, Navy	**30,759,889**	**30,312,736**	**30,497,489**	**-221,800**	**30,538,089**

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		Operation and Maintenance, Marine Corps					
		BUDGET ACTIVITY 01: OPERATING FORCES					
		EXPEDITIONARY FORCES					
1106n	010	OPERATIONAL FORCES	479,482	490,982	505,182	22,000	501,482
		Acclimate high performance undergarments			[2,500]	[2,500]	
		Ultra-light camouflage net system			[8,000]	[4,000]	
		Cold weather clothing and equipment		[6,000]	[8,000]	[8,000]	
		Combat casualty care equipment upgrade			[5,200]	[4,000]	
		Portable tent lighting			[2,000]		
		Hyper-realistic MOUT Training		[2,000]			
		Bio/chem resistant canteens		[1,000]		[1,000]	
		Advanced technology batteries		[2,500]		[2,500]	
1106n	020	FIELD LOGISTICS	416,501	416,501	425,801	5,500	422,001
		Corrosion prevention and control programs			[2,000]	[2,000]	
		Advanced vapor corrosion inhibitor delivery system			[2,500]	[1,500]	
		Corrosion assessment teams			[4,800]	[2,000]	
1106n	030	DEPOT MAINTENANCE	113,791	61,991	113,791		113,791
		Depot maintenance- transfer to Title XV		[-51,800]			
		USMC PREPOSITIONING					
1106n	040	MARITIME PREPOSITIONING	69,343	69,343	69,343		69,343
1106n	050	NORWAY PREPOSITIONING	5,081	5,081	5,081		5,081

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		BASE SUPPORT					
1106n	060	SUSTAINMENT, RESTORATION, & MODERNIZATION	483,005	483,005	483,005		483,005
1106n	070	BASE OPERATING SUPPORT	1,344,113	1,344,113	1,346,213	2,100	1,346,213
		Communications support for USMC NOC			[2,100]	[2,100]	
1106n	xx	Operating Tempo - transfer to Title XV		-95,900			
		TOTAL, BA 01: OPERATING FORCES	**2,911,316**	**2,775,116**	**2,948,416**	**29,600**	**2,940,916**
		BUDGET ACTIVITY 03: TRAINING AND RECRUITING					
		ACCESSION TRAINING					
1106n	080	RECRUIT TRAINING	10,885	10,885	10,885		10,885
1106n	090	OFFICER ACQUISITION	374	374	374		374
		BASIC SKILLS AND ADVANCED TRAINING					
1106n	100	SPECIALIZED SKILL TRAINING	40,259	40,259	40,259		40,259
1106n	110	FLIGHT TRAINING	178	178	178		178
1106n	120	PROFESSIONAL DEVELOPMENT EDUCATION	10,687	10,687	10,687		10,687
1106n	130	TRAINING SUPPORT	134,048	134,048	134,048		134,048
		RECRUITING AND OTHER TRAINING EDUCATION					
1106n	140	RECRUITING AND ADVERTISING	115,498	115,498	115,498		115,498
1106n	150	OFF-DUTY AND VOLUNTARY EDUCATION	51,221	51,221	51,221		51,221
1106n	160	JUNIOR ROTC	16,905	16,905	16,905		16,905

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		BASE SUPPORT					
1106n	170	SUSTAINMENT, RESTORATION AND MODERNIZATION	67,804	67,804	67,804		67,804
1106n	180	BASE OPERATING SUPPORT	120,369	120,369	120,369		120,369
		TOTAL, BA 03: TRAINING AND RECRUITING	**568,228**	**568,228**	**568,228**		**568,228**
		BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
		SERVICEWIDE SUPPORT					
1106n	190	SPECIAL SUPPORT	243,195	243,195	243,195		243,195
1106n	200	SERVICE-WIDE TRANSPORTATION	38,352	38,352	38,352		38,352
1106n	210	ADMINISTRATION	27,737	27,737	27,737		27,737
1106n	220	BASE SUPPORT					
		CANCELLED ACCOUNT					
1106n	230	CANCELLED ACCOUNT ADJUSTMENT					
		BASE SUPPORT					
1106n	240	SUSTAINMENT, RESTORATION, AND MODERNIZATION	3,151	3,151	3,151		3,151
1106n	250	BASE OPERATING SUPPORT	12,947	12,947	12,947		12,947
		TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**325,382**	**325,382**	**325,382**		**325,382**

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		Unobligated balances		-37,449		-5,000	-5,000
		Military to civilian conversions				-20,000	-20,000
		Total Operation and Maintenance, Marine Corps	**3,804,926**	**3,631,277**	**3,842,026**	**4,600**	**3,809,526**
		Operation and Maintenance, Air Force					
		BUDGET ACTIVITY 01: OPERATING FORCES					
		AIR OPERATIONS					
3400f	010	PRIMARY COMBAT FORCES	4,043,366	4,045,366	4,129,366	2,000	4,045,366
		B-1 deployable phase maintenance kit			[34,000]		
		B-52 deployable phase maintenance kit			[52,000]		
		Oxygen mask and visor		[2,000]		[2,000]	
3400f	020	PRIMARY COMBAT WEAPONS	287,173	287,173	283,673		287,173
		Robust nuclear earth penetrator			[-3,500]		
3400f	030	COMBAT ENHANCEMENT FORCES	607,049	607,049	607,049		607,049
3400f	040	AIR OPERATIONS TRAINING (OJT, MAINTAIN SKILLS)	1,401,092	1,359,892	1,401,092	-21,000	1,380,092
		Distributed missions operations		[-41,200]			
		Efficiencies in air operations training support				[-21,000]	
3400f	050	COMBAT COMMUNICATIONS	1,479,650	1,482,250	1,479,650		1,479,650
		Eagle Vision		[2,600]			
3400f	060	DEPOT MAINTENANCE	2,057,399	2,057,399	2,057,399		2,057,399
3400f	070	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	1,027,414	1,027,414	1,027,414		1,027,414

Title III - Operation and Maintenance

(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
3400f	080	BASE SUPPORT	2,286,473	2,203,873	2,286,473	-80,000	2,206,473
		Base services-gymnasiums		[-65,000]			
		Utilities privatization		[-17,600]			
		Unjustified base support cost growth				[-80,000]	
		COMBAT RELATED OPERATIONS					
3400f	090	GLOBAL C3I AND EARLY WARNING	1,201,149	1,201,149	1,201,149		1,201,149
3400f	100	NAVIGATION/WEATHER SUPPORT	242,433	242,433	242,433		242,433
3400f	110	OTHER COMBAT OPS SPT PROGRAMS	701,889	701,889	711,489		701,889
		Joint Protection Enterprise Network (JPEN)			[3,600]		
		Joint Task Force-North (JTF-N)			[6,000]		
3400f	120	JCS EXERCISES	29,130	29,130	29,130		29,130
3400f	130	MANAGEMENT/OPERATIONAL HQ	255,866	255,866	255,866		255,866
3400f	140	TACTICAL INTEL AND OTHER SPECIAL ACTIVITIES	340,755	340,755	346,955		340,755
		Mobile consolidated command center (MCCC)			[6,200]		
		SPACE OPERATIONS					
3400f	150	LAUNCH FACILITIES	349,313	349,313	349,313		349,313
3400f	160	LAUNCH VEHICLES	94,113	94,113	94,113		94,113
3400f	170	SPACE CONTROL SYSTEMS	253,670	253,670	253,670		253,670
3400f	180	SATELLITE SYSTEMS	73,610	73,610	73,610		73,610
3400f	190	OTHER SPACE OPERATIONS	277,926	277,926	277,926		277,926
3400f	200	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	180,604	180,604	180,604		180,604

Title III - Operation and Maintenance

(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
3400f	210	BASE SUPPORT	554,727	554,727	554,727		554,727
3400f	xx	Operating tempo - transfer to Title XV		-476,000			
		TOTAL, BA 01: OPERATING FORCES	**17,744,801**	**17,149,601**	**17,843,101**	**-99,000**	**17,645,801**
		BUDGET ACTIVITY 02: MOBILIZATION					
		MOBILITY OPERATIONS					
3400f	220	AIRLIFT OPERATIONS	2,660,080	2,660,080	2,660,080		2,660,080
3400f	230	AIRLIFT OPERATIONS C3I	51,326	51,326	51,326		51,326
3400f	240	MOBILIZATION PREPAREDNESS	176,764	176,764	176,764		176,764
3400f	250	DEPOT MAINTENANCE	393,248	393,248	489,848		393,248
		KC-135 depot maintenance			[59,000]		
		C-130 depot maintenance			[37,600]		
3400f	260	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	154,650	154,650	154,650		154,650
3400f	270	BASE SUPPORT	526,338	526,338	526,338		526,338
		TOTAL, BA 02: MOBILIZATION	**3,962,406**	**3,962,406**	**4,059,006**		**3,962,406**
		BUDGET ACTIVITY 03: TRAINING AND RECRUITING					
		ACCESSION TRAINING					
3400f	280	OFFICER ACQUISITION	79,026	79,026	79,026		79,026
3400f	290	RECRUIT TRAINING	6,411	6,411	6,411		6,411
3400f	300	RESERVE OFFICERS TRAINING CORPS (ROTC)	99,856	99,856	99,856		99,856
3400f	310	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	34,304	34,304	34,304		34,304

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
3400f	320	BASE SUPPORT	75,128	75,128	75,128		75,128
		BASIC SKILLS AND ADVANCED TRAINING					
3400f	330	SPECIALIZED SKILL TRAINING	360,192	360,192	360,192		360,192
3400f	340	FLIGHT TRAINING	809,154	809,154	809,154		809,154
3400f	350	PROFESSIONAL DEVELOPMENT EDUCATION	178,515	178,515	178,515		178,515
3400f	360	TRAINING SUPPORT	112,980	112,980	112,980		112,980
3400f	370	DEPOT MAINTENANCE	14,095	14,095	14,095		14,095
3400f	380	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	157,248	157,248	157,248		157,248
3400f	390	BASE SUPPORT	588,784	588,784	588,784		588,784
		RECRUITING, AND OTHER TRAINING AND EDUCATION					
3400f	400	RECRUITING AND ADVERTISING	136,567	136,567	136,567		136,567
3400f	410	EXAMINING	3,435	3,435	3,435		3,435
3400f	420	OFF-DUTY AND VOLUNTARY EDUCATION	187,656	187,656	187,656		187,656
3400f	430	CIVILIAN EDUCATION AND TRAINING	148,557	148,557	148,557		148,557
3400f	440	JUNIOR ROTC	57,573	57,573	57,573		57,573
		TOTAL, BA 03: TRAINING AND RECRUITING	**3,049,481**	**3,049,481**	**3,049,481**		**3,049,481**
		BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
		LOGISTICS OPERATIONS					
3400f	450	LOGISTICS OPERATIONS	881,829	881,829	881,829		881,829
3400f	460	TECHNICAL SUPPORT ACTIVITIES	651,796	651,796	651,796		651,796
3400f	470	SERVICEWIDE TRANSPORTATION	192,354	192,354	192,354		192,354

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
3400f	480	DEPOT MAINTENANCE	48,627	48,627	48,627		48,627
3400f	490	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	248,043	248,043	248,043		248,043
3400f	500	BASE SUPPORT	1,079,261	1,079,261	1,079,261		1,079,261
		SERVICEWIDE ACTIVITIES					
3400f	510	ADMINISTRATION	348,301	348,301	348,301		348,301
3400f	520	SERVICE-WIDE COMMUNICATIONS	533,574	399,174	533,574		533,574
		Base level communications structure		[-103,000]			
		Medical qualification tracking visualization and data analysis project		[600]			
		Combat information transport system		[-32,000]			
3400f	530	PERSONNEL PROGRAMS	244,970	244,970	219,353		244,970
		Terminate personnel service delivery program			[-25,617]		
3400f	540	RESCUE AND RECOVERY SERVICES					
3400f	550	ARMS CONTROL	48,071	48,071	48,071		48,071
3400f	560	OTHER SERVICEWIDE ACTIVITIES	709,368	709,368	709,368		709,368
3400f	570	OTHER PERSONNEL SUPPORT	42,852	42,852	42,852		42,852
3400f	580	CIVIL AIR PATROL	24,288	24,288	24,288		24,288
3400f	590	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	13,438	13,438	13,438		13,438
3400f	600	BASE SUPPORT	311,498	311,498	311,498		311,498
		SECURITY PROGRAMS					
3400f	610	SECURITY PROGRAMS	1,365,179	1,365,179	1,365,179		1,365,179

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		SUPPORT TO OTHER NATIONS					
3400f	620	INTERNATIONAL SUPPORT	20,999	20,999	20,999		20,999
		TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**6,764,448**	**6,630,048**	**6,738,831**		**6,764,448**
		Military to civilian conversions		-37,000	-90,000	-160,000	-160,000
		Homeland Defense Education Consortium			1,000	1,000	1,000
		Defense Information System Network costs			-25,000	-25,000	-25,000
		Working Capital Fund excess balances			-85,500		
		Audits of DOD financial statements			-65,000	-55,000	-55,000
		Unobligated balances		-195,401		-66,000	-66,000
		Unobligated balances (S. Amdt)			-55,100		
		Total Operation and Maintenance, Air Force	**31,521,136**	**30,559,135**	**31,370,819**	**-404,000**	**31,117,136**
		Operation and Maintenance, Defense-wide					
		BUDGET ACTIVITY 1: OPERATING FORCES					
		DEFENSEWIDE ACTIVITIES					
0100d	010	JOINT CHIEFS OF STAFF	580,883	571,983	580,883	-5,000	575,883
		Management headquarters training transformation		[-8,900]			
		TJS—CoCom Initiative Fund				[-5,000]	

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0100d	020	SPECIAL OPERATIONS COMMAND	2,205,693	2,206,693	2,205,693	10,100	2,215,793
		Bio/chem resistant canteens		[1,000]			
		Advanced seal delivery system				[10,100]	
		TOTAL, BUDGET ACTIVITY 1:	**2,786,576**	**2,778,676**	**2,786,576**	**5,100**	**2,791,676**
		BUDGET ACTIVITY 3: TRAINING AND RECRUITING					
		DEFENSEWIDE ACTIVITIES					
0100d	030	DEFENSE ACQUISITION UNIVERSITY	105,601	105,601	105,601		105,601
		RECRUITING AND OTHER TRAINING EDUCATION					
0100d	040	NATIONAL DEFENSE UNIVERSITY	67,158	69,558	67,158		67,158
		Joint Forces Staff College		[2,400]			
		TOTAL, BUDGET ACTIVITY 3:	**172,759**	**175,159**	**172,759**		**172,759**
		BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES					
		DEFENSEWIDE ACTIVITIES					
0100d	050	AMERICAN FORCES INFORMATION SERVICE	147,992	137,992	147,992		147,992
		Excessive growth		[-10,000]			
0100d	060	CIVIL MILITARY PROGRAMS	100,468	100,468	115,468	15,000	115,468
		Nation Guard Youth Challenge			[15,000]	[15,000]	
0100d	090	DEFENSE CONTRACT AUDIT AGENCY	379,947	379,947	379,947		379,947
0100d	100	DEFENSE FINANCE AND ACCOUNTING SERVICE	5,481	5,481	5,481		5,481

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0100d	120	DEFENSE LEGAL SERVICES	38,412	38,412	38,412		38,412
0100d	130	DEFENSE LOGISTICS AGENCY	305,835	323,835	305,835	12,000	317,835
		CTMA		[15,000]		[12,000]	
		Beryllium industrial base		[3,000]			
0100d	140	DEFENSE POW/MIA OFFICE	16,105	16,105	16,105		16,105
0100d	150	DEFENSE TECHNOLOGY SECURITY AGENCY	21,697	21,697	21,697		21,697
0100d	160	DEFENSE THREAT REDUCTION AGENCY	320,099	321,399	320,099		320,099
		Export control database		[1,300]			
0100d	170	DEPARTMENT OF DEFENSE EDUCATION AGENCY	1,769,628	1,779,128	1,899,628	60,000	1,829,628
		Counseling and assistance to military families			[30,000]		
		Child care			[40,000]		
		Family wounded and injured support programs		[8,500]			
		Internet safety education programs		[1,000]			
		Childcare services (S. Amdt)			[50,000]	[50,000]	
		Family assistance benefits (S. Amdt)			[10,000]	[10,000]	
0100d	180	DOD HUMAN RESOURCES ACTIVITY	402,798	390,698	451,798	300	403,098
		Increase DIMHRS funding			[49,000]	[7,000]	
		DLAMP		[-7,300]		[-1,900]	
		Defense business fellow program		[-4,800]		[-4,800]	
0100d	190	DEFENSE CONTRACT MANAGEMENT AGENCY	1,044,322	1,044,322	1,044,322		1,044,322
0100d	200	DEFENSE INFORMATION SERVICES AGENCY	1,045,125	1,045,125	1,045,125		1,045,125
0100d	210	DEFENSE SECURITY COOPERATION AGENCY	143,966	143,966	143,966		143,966
0100d	220	DEFENSE SECURITY SERVICE	282,468	282,468	282,468	-10,000	272,468
		DSS—PSI for industry unjustified growth				[-10,000]	
0100d	240	OFFICE OF ECONOMIC ADJUSTMENT	30,463	30,463	90,463	60,000	90,463
		Increase planning assistance to local communities			[60,000]	[60,000]	

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0100d	250	OFFICE OF THE SECRETARY OF DEFENSE	758,858	707,558	700,558	-58,300	700,558
		Information assurance scholarships			[3,000]	[3,000]	
		Capital cost sharing-eliminate subsidy		[-61,300]	[-61,300]	[-61,300]	
		Fort Carson conservation		[10,000]			
0100d	250a	READINESS AND ENVIRONMENTAL PROTECTION INITIATIVE	20,000	40,000	40,000	20,000	40,000
		Readiness environment protection initiative		[20,000]	[20,000]	[20,000]	
0100d	260	WASHINGTON HEADQUARTERS SERVICE	473,483	473,483	473,483	-10,900	462,583
		WHS—eGov program growth				[-6,500]	
		WHS—Child care center planning: budget justification error				[-4,400]	
		OTHER PROGRAMS					
0100d	999	OTHER PROGRAMS	8,186,987	8,186,987	8,186,987		8,186,987
		TOTAL, BUDGET ACTIVITY 4:	**15,494,134**	**15,469,534**	**15,709,834**	**88,100**	**15,582,234**
		Impact aid		50,000	30,000	30,000	30,000
		Impact aid for children with disabilities			5,000	5,000	5,000
		Special assistance to local education agencies		10,000	15,000	10,000	10,000
		Parents as Teachers			1,000	1,000	1,000
		Citizen soldier support program			2,000	2,000	2,000
		Military to civilian conversions			-15,000		
		Defense Information System Network costs			-20,000	-20,000	-20,000
		DISA Working Capital Fund excess balances			-42,700		
		OSD Defense business modernization program (BMPP) and domains		-12,600			
		DLA BMMP logistics modernization		-1,800			
		Joint advertising and market research		10,000			

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		Unobligated balances		-103,188		-26,000	-26,000
		Pediatric early literacy pilot program (non-add) (S. Amdt)			[2,000]	[2,000]	
		Civilian linguist reserve corps (S. Amdt)			3,100		
		Unobligated balances (S. Amdt)			-20,000		
		Rest and recuperation leave programs (non-add) (S. Amdt)			[7,000]	[7,000]	
		Civilian linguist reserve corps (SAC Amdt)				1500	1,500
		Total Operation and Maintenance, Defense-Wide	18,453,469	18,375,781	18,627,569	96,700	18,550,169
		Operation and Maintenance, Army Reserve					
		BUDGET ACTIVITY 01: OPERATING FORCES					
		LAND FORCES					
2080a	010	DIVISIONS	25,875	32,875	27,875	2,000	27,875
		Extended cold weather clothing system		[7,000]	[2,000]	[2,000]	
2080a	020	CORPS COMBAT FORCES	19,133	19,133	19,133		19,133
2080a	030	CORPS SUPPORT FORCES	248,116	248,116	248,116		248,116
2080a	040	EAC SUPPORT FORCES	129,191	129,191	129,191		129,191
2080a	050	LAND FORCES OPERATIONS SUPPORT	372,625	372,625	372,625		372,625
		LAND FORCES READINESS					
2080a	060	FORCE READINESS OPERATIONS SUPPORT	177,121	177,121	177,121		177,121
2080a	070	LAND FORCES SYSTEMS READINESS	81,562	81,562	81,562		81,562
2080a	080	LAND FORCES DEPOT MAINTENANCE	97,309	97,309	97,309		97,309

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		LAND FORCES READINESS SUPPORT					
2080a	090	BASE OPERATIONS SUPPORT	462,716	462,716	462,716		462,716
2080a	100	FACILITIES SUSTAINMENT, RESTORATION, & MODERNIZATION	204,370	204,370	204,370		204,370
2080a	110	MISCELLANEOUS ACTIVITIES	5,763	5,763	5,763		5,763
		TOTAL, BA 01: OPERATING FORCES	**1,823,781**	**1,830,781**	**1,825,781**	**2,000**	**1,825,781**
		BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
		SERVICEWIDE SUPPORT					
2080a	120	ADMINISTRATION	58,298	58,298	58,298		58,298
2080a	130	SERVICEWIDE COMMUNICATIONS	9,293	9,293	9,293		9,293
2080a	140	MANPOWER MANAGEMENT	7,577	7,577	7,577		7,577
2080a	150	RECRUITING AND ADVERTISING	88,433	89,333	88,433		88,433
		Citizen soldier support		[900]			
		TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**163,601**	**164,501**	**163,601**		**163,601**
		Authority to present recognition items to returning soldiers		3,000		3,000	3,000
		Pilot program on enhancing quality of life (S. Amdt)			160	160	160
		Total Operation and Maintenance, Army Reserve	**1,987,382**	**1,998,282**	**1,989,542**	**5,160**	**1,992,542**

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		Operation and Maintenance, Navy Reserve					
		BUDGET ACTIVITY 01: OPERATING FORCES					
		AIR OPERATIONS					
1806n	010	MISSION AND OTHER FLIGHT OPERATIONS	518,962	518,962	518,962		518,962
1806n	020	INTERMEDIATE MAINTENANCE	16,250	16,250	16,250		16,250
1806n	030	AIR OPERATIONS AND SAFETY SUPPORT	2,179	2,179	2,179		2,179
1806n	040	AIRCRAFT DEPOT MAINTENANCE	141,907	141,907	141,907		141,907
1806n	050	AIRCRAFT DEPOT OPERATIONS SUPPORT	374	374	374		374
		SHIP OPERATIONS					
1806n	060	MISSION AND OTHER SHIP OPERATIONS	61,711	61,711	61,711		61,711
1806n	070	SHIP OPERATIONS SUPPORT & TRAINING	537	537	537		537
1806n	080	SHIP DEPOT MAINTENANCE	71,895	71,895	71,895		71,895
1806n	090	SHIP DEPOT OPERATIONS SUPPORT	631	631	631		631
		COMBAT OPERATIONS SUPPORT					
1806n	100	COMBAT COMMUNICATIONS	7,613	7,613	7,613		7,613
1806n	110	COMBAT SUPPORT FORCES	217,255	217,255	217,255		217,255
		WEAPONS SUPPORT					
1806n	120	WEAPONS MAINTENANCE	5,070	5,070	5,070		5,070
		BASE SUPPORT					
1806n	130	SUSTAINMENT, RESTORATION AND MODERNIZATION	62,788	62,788	62,788		62,788

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1806n	140	BASE OPERATING SUPPORT	109,878	109,878	109,878		109,878
		TOTAL, BA 01: OPERATING FORCES	**1,217,050**	**1,217,050**	**1,217,050**		**1,217,050**
		BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
		SERVICEWIDE SUPPORT					
1806n	150	ADMINISTRATION	4,871	4,871	4,871		4,871
1806n	160	CIVILIAN MANPOWER AND PERSONNEL MANAGEMENT					
1806n	170	MILITARY MANPOWER AND PERSONNEL MANAGEMENT	9,037	9,037	9,037		9,037
1806n	180	SERVICEWIDE COMMUNICATIONS	3,907	3,907	3,907		3,907
1806n	190	COMBAT/WEAPONS SYSTEMS	5,385	5,385	5,385		5,385
1806n	200	OTHER SERVICE-WIDE SUPPORT	5,445	5,445	5,445		5,445
		CANCELLED ACCOUNTS					
1806n	210	CANCELLED ACCOUNT ADJUSTMENTS					
		OTHER PROGRAMS					
1806n	999	OTHER PROGRAMS					
		TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**28,645**	**28,645**	**28,645**		**28,645**
		Unobligated balances				-8,400	-8,400
		Total Operation and Maintenance, Navy Reserve	**1,245,695**	**1,245,695**	**1,245,695**	**-8,400**	**1,237,295**

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(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		Operation and Maintenance, Marine Corps Reserve					
		BUDGET ACTIVITY 01: OPERATING FORCES					
		EXPEDITIONARY FORCES					
1107n	010	OPERATING FORCES	45,812	53,312	45,812		45,812
		All purpose environmental clothing system		[7,500]			
1107n	020	DEPOT MAINTENANCE	13,964	13,964	13,964		13,964
1107n	030	TRAINING SUPPORT	26,079	26,079	26,079		26,079
		BASE SUPPORT					
1107n	040	SUSTAINMENT, RESTORATION AND MODERNIZATION	10,105	10,105	10,105		10,105
1107n	050	BASE OPERATING SUPPORT	70,729	70,729	70,729		70,729
		TOTAL, BA 01: OPERATING FORCES	**166,689**	**174,189**	**166,689**		**166,689**
		BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
		SERVICEWIDE ACTIVITIES					
1107n	060	SPECIAL SUPPORT	11,975	11,975	11,975		11,975
1107n	070	SERVICE-WIDE TRANSPORTATION	815	815	815		815
1107n	080	ADMINISTRATION	7,898	7,898	7,898		7,898
1107n	090	RECRUITING AND ADVERTISING	8,066	8,066	8,066		8,066

Title III - Operation and Maintenance

(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		BASE SUPPORT					
1107n	100	BASE OPERATING SUPPORT	4,491	4,491	4,491		4,491
		TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**33,245**	**33,245**	**33,245**		**33,245**
		Unobligated balances				-1,900	-1,900
		Total Operation and Maintenance, Marine Corps Reserve	**199,934**	**207,434**	**199,934**	**-1,900**	**198,034**
		Operation and Maintenance, Air Force Reserve					
		BUDGET ACTIVITY 01: OPERATING FORCES					
		AIR OPERATIONS					
3740f	010	PRIMARY COMBAT FORCES	1,585,504	1,585,504	1,585,504		1,585,504
3740f	020	MISSION SUPPORT OPERATIONS	85,545	85,545	85,545		85,545
3740f	030	DEPOT MAINTENANCE	377,817	377,817	435,817		377,817
		KC-135 depot maintenance			[53,700]		
		C-130 depot maintenance			[4,300]		
3740f	040	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	55,764	55,764	55,764		55,764
3740f	050	BASE SUPPORT	288,387	288,387	288,387		288,387
		TOTAL, BA 01: OPERATING FORCES	**2,393,017**	**2,393,017**	**2,451,017**		**2,393,017**

Title III - Operation and Maintenance

(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
		SERVICEWIDE ACTIVITIES					
3740f	060	ADMINISTRATION	64,017	64,017	64,017		64,017
3740f	070	RECRUITING AND ADVERTISING	15,854	15,854	15,854		15,854
3740f	080	MILITARY MANPOWER AND PERS MGMT (ARPC)	21,095	21,095	21,095		21,095
3740f	090	OTHER PERS SUPPORT (DISABILITY COMP)	7,052	7,052	7,052		7,052
3740f	100	AUDIOVISUAL	651	651	651		651
		TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**108,669**	**108,669**	**108,669**		**108,669**
		Unobligated balances				-13,900	-13,900
		Total Operation and Maintenance, Air Force Reserve	**2,501,686**	**2,501,686**	**2,559,686**	**-13,900**	**2,487,786**
		Operation and Maintenance, Army National Guard					
		BUDGET ACTIVITY 01: OPERATING FORCES					
		LAND FORCES					
2065a	010	DIVISIONS	600,818	604,318	600,818		600,818
		Advanced solar covers		[3,500]			
2065a	020	CORPS COMBAT FORCES	530,869	530,869	530,869		530,869
2065a	030	CORPS SUPPORT FORCES	322,856	322,856	322,856		322,856
2065a	040	EAC SUPPORT FORCES	606,026	606,026	606,026		606,026
2065a	050	LAND FORCES OPERATIONS SUPPORT	26,077	26,077	26,077		26,077

Title III - Operation and Maintenance

(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		LAND FORCES READINESS					
2065a	060	FORCE READINESS OPERATIONS SUPPORT	227,670	234,670	240,170	4,500	232,170
		Communicator automated emergency notification system			[2,500]	[2,500]	
		Extended cold weather clothing system		[7,000]	[2,000]	[2,000]	
		Virtual battlefield system one			[8,000]		
2065a	070	LAND FORCES SYSTEMS READINESS	126,496	126,496	126,496		126,496
2065a	080	LAND FORCES DEPOT MAINTENANCE	255,367	255,367	255,367		255,367
		LAND FORCES READINESS SUPPORT					
2065a	090	BASE OPERATIONS SUPPORT	610,219	610,219	610,219		610,219
2065a	100	FACILITIES SUSTAINMENT, RESTORATION, & MODERNIZATION	391,544	391,544	391,544		391,544
2065a	110	MANAGEMENT AND OPERATIONAL HQ	406,794	406,794	406,794		406,794
2065a	120	MISCELLANEOUS ACTIVITIES	65,363	65,363	65,363		65,363
		TOTAL, BA 01: OPERATING FORCES	**4,170,099**	**4,180,599**	**4,182,599**	**4,500**	**4,174,599**
		BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
		SERVICEWIDE SUPPORT					
2065a	130	ADMINISTRATION	111,552	111,552	111,552		111,552
2065a	140	SERVICEWIDE COMMUNICATIONS	52,814	52,814	52,814		52,814
2065a	150	MANPOWER MANAGEMENT	50,653	50,653	50,653		50,653

Title III - Operation and Maintenance

(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
2065a	160	RECRUITING AND ADVERTISING	124,601	125,501	124,601		124,601
		Citizen soldier support		[900]			
		TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**339,620**	**340,520**	**339,620**		**339,620**
		New National Guard CERFP teams			4,000		
		Sustainment of National Guard CERFP teams			1,800		
		Unobligated balances				-35,900	-35,900
		Total Operation and Maintenance, Army National Guard	**4,509,719**	**4,521,119**	**4,528,019**	**-31,400**	**4,478,319**
		Operation and Maintenance, Air National Guard					
		BUDGET ACTIVITY 01: OPERATING FORCES					
		AIR OPERATIONS					
3840f	010	AIRCRAFT OPERATIONS	2,938,127	2,938,127	2,938,127		2,938,127
3840f	020	MISSION SUPPORT OPERATIONS	497,447	500,447	497,447		497,447
		Senior scouts		[3,000]			
3840f	030	DEPOT MAINTENANCE	612,807	612,807	612,807		612,807
3840f	040	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	169,791	169,791	169,791		169,791
3840f	050	BASE SUPPORT	467,517	467,517	513,017		467,517
		KC-135 depot maintenance			[35,800]		
		C-130 depot maintenance			[9,700]		
		TOTAL, BA 01: OPERATING FORCES	**4,685,689**	**4,688,689**	**4,731,189**		**4,685,689**

Title III - Operation and Maintenance

(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
		SERVICEWIDE ACTIVITIES					
3840f	060	ADMINISTRATION	28,949	28,949	28,949		28,949
3840f	070	RECRUITING AND ADVERTISING	9,453	9,453	9,453		9,453
		TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**38,402**	**38,402**	**38,402**		**38,402**
		New National Guard CERFP teams			2,300		
		Sustainment of National Guard CERFP teams			1,100		
		Unobligated balances				-22,100	-22,100
		Total Operation and Maintenance, Air National Guard	**4,724,091**	**4,727,091**	**4,772,991**	**-22,100**	**4,701,991**
		TRANSFER ACCOUNTS					
0810a	010	ENVIRONMENTAL RESTORATION FUND, ARMY	407,865	407,865	407,865		407,865
0810n	020	ENVIRONMENTAL RESTORATION FUND, NAVY	305,275	305,275	305,275		305,275
0810f	030	ENVIRONMENTAL RESTORATION FUND, AIR FORCE	406,461	406,461	406,461		406,461
0810d	040	ENVIRONMENTAL RESTORATION FUND, DEFENSE	28,167	28,167	28,167		28,167
0811d	050	ENVIRONMENTAL RESTORATION USED SITES	221,921	221,921	261,921	40,000	261,921
		TOTAL, O&M, TRANSFER ACCOUNTS	**1,369,689**	**1,369,689**	**1,409,689**	**40,000**	**1,409,689**

Title III - Operation and Maintenance

(Dollars in Thousands)

Account	Line	Program Title	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		MISCELLANEOUS APPROPRIATIONS					
0104d	060	US COURT OF APPEALS FOR THE ARMED FORCES	11,236	11,236	11,236		11,236
0838d	070	SUPPORT OF INTERNATIONAL SPORTING COMPETITIONS					
0118d	080	OVERSEAS CONTINGENCY OPERATIONS TRANSFER FUND	20,000	20,000	20,000		20,000
4965d	090	EMERGENCY RESPONSE FUND, DEFENSE					
0833d	100	EMERGENCY RESPONSE FUND, DEFENSE					
0833d	110	EMERGENCY RESPONSE FUND, DEFENSE					
0833d	120	EMERGENCY RESPONSE FUND, DEFENSE					
0141d	130	IRAQ FREEDOM FUND, DEF					
0819d	140	OVERSEAS HUMANITARIAN, DISASTER AND CIVIC AID	61,546	61,546	61,546		61,546
1236d	150	KAHO'OLAWE					
0134d	160	FORMER SOVIET UNION (FSU) THREAT REDUCTION	415,549	415,549	415,549		415,549
		TOTAL, MISCELLANEOUS	**508,331**	**508,331**	**508,331**		**508,331**
		TOTAL OPERATION AND MAINTENANCE TITLE:	**126,902,542**	**124,342,129**	**126,442,750**	**-1,187,340**	**125,715,202**

ITEMS OF SPECIAL INTEREST

Unjustified base support cost growth

The budget request included $2,286.5 million for Air Force base support programs.

The House bill would authorize a decrease of $82.6 million from Air Force base support programs, including a $65.0 million decrease in base services related supplies and materials.

The Senate amendment would authorize the budget request.

The conferees agree to authorize a decrease of $80.0 million for Air Force base support programs.

The conferees acknowledge the need for force enablers such as mess attendants, gymnasiums, and libraries and are aware of the impact these services have on quality of life. However, the conferees believe that tripling funding in order to replace gym equipment such as cardio machines and food service items such as silverware and cooking utensils is unjustified.

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Authorization of Appropriations

Authorization of appropriations (secs. 301-303)

The House bill contained provisions (secs. 301-303) that would authorize fiscal year 2006 funding levels for all operation and maintenance accounts, working capital funds, and other Department of Defense programs, including the Defense Inspector General, the Chemical Demilitarization Program, and the Defense Health Program.

The Senate amendment contained similar provisions (secs. 301–303).

The conference agreement includes these provisions.

Subtitle B—Environmental Provisions

Elimination and simplification of certain items required in the annual report on environmental quality programs and other environmental activities (sec. 311)

The House bill contained a provision (sec. 311) that would eliminate and simplify certain items required to be included in the annual report on environmental quality programs and other environmental activities.

The Senate amendment contained a similar provision (sec. 311).

The House recedes with an amendment that would require the Department of Defense to provide in the report a list of environmental fines or penalties that exceed $1.0 million.

Payment of certain private cleanup costs in connection with Defense environmental restoration program (sec. 312)

The House bill contained a provision (sec. 314) that would amend section 2701 of title 10, United States Code, to authorize the Secretary of Defense to reimburse a private landowner for costs incurred assisting the Department of Defense in meeting its covenant responsibilities pursuant to section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (42 U.S.C. 9620(h)). This section would not affect, alter, or diminish the responsibility and legal obligation of the Department to conduct cleanup under section 120(h) of CERCLA.

The Senate amendment contained a similar provision (sec. 312).

The Senate recedes with an amendment that would clarify that in those instances where the property is disposed of pursuant to a base closure law, the sole source of funds for environmental restoration services under section 2701(d)(1), title 10, United States Code, would be the base closure account until the closure of the applicable base closure account. Other Department environmental remediation accounts would become the source of funding for such cleanups after the base closure account has been closed.

Subtitle C—Workplace and Depot Issues

Modification of authority of Army working-capital funded facilities to engage in cooperative activities with non-Army entities (sec. 321)

The House bill contained a provision (sec. 321) that would authorize Army industrial facilities to retain the working capital funds received from the sale of unique goods or services.

The Senate amendment contained a similar provision (sec. 330).

The House recedes with a technical amendment.

Limitation on transition of funding for east coast shipyards from funding through Navy Working Capital Fund to direct funding (sec. 322)

The Senate amendment contained a provision (sec. 322) that would prohibit the Secretary of the Navy from using direct funding for east coast Naval shipyards. The Navy would be required to continue funding these shipyards until the later of 6 months after providing a complete report to the congressional defense committees on the use of direct funding at the Puget Sound Naval Shipyard, or October 1, 2006.

The House bill contained no similar provision.

The House recedes with an amendment that would prohibit the Secretary from using direct funding for the east coast Naval Shipyards until October 1, 2006. The conferees direct the Secretary to provide an assessment of the conversion of the Puget Sound Naval Shipyard from funding through the working capital fund of the Navy to funding on a direct basis by March 1, 2006. The conferees also direct the Secretary to provide a report on proposed congressional budget exhibits for Navy mission-funded shipyards by March 1, 2006.

The conferees direct the Comptroller General and the Director of the Congressional Budget Office to review the reports required of the Navy and report back detailed findings no later than 60 days after receipt of the reports to the congressional defense committees.

Armament Retooling and Manufacturing Support Initiative matters (sec. 323)

The Senate amendment contained a provision (sec. 340) that would add government-owned, contractor-operated depots that store, maintain, renovate, or demilitarize ammunition, as eligible facilities for the purposes of participating in the Armament Retooling and Manufacturing Support Initiative. The provision would also make such facilities eligible for the initiative's loan guarantee program.

The House bill contained no similar provision.

The House recedes with an amendment that would include encouragement of the commercial use of government-owned, contractor-operated ammunition storage, maintenance, renovation, and demilitarization facilities as additional policy objectives under the Armament Retooling and Manufacturing Support Initiative. The amendment would also broaden the purpose of the initiative with respect to work force skills.

Sense of Congress regarding depot maintenance (sec. 324)

The Senate amendment contained a provision (sec. 331) that would make several findings regarding the effectiveness of the Air Force's Depot Maintenance Strategy and Master Plan and the importance of its efforts to modernize its depots. The provision also commends the Air Force for its implementation of the Depot Maintenance Strategy and Master Plan, particularly the commitment to invest $150.0 million per year for 6 years to modernize its depots. Finally, the provision encourages the Air Force to maintain that commitment throughout the 6-year period, which ends in 2009.

The House bill contained no similar provision.

The House recedes with an amendment that would delete reference to specific funding figures, and instead encourage the Air Force to remain committed to the process improvement initiatives and the investment and recapitalization projects contained in the Depot Maintenance Strategy and Master Plan.

Subtitle D—Extension of Program Authorities

Extension of authority to provide logistics support and services for weapon systems contractors (sec. 331)

The House bill contained a provision (sec. 331) that would extend, for an additional 3 years, a program by which the Defense Logistics Agency could provide logistics support and services to a contractor in support of its performance on a contract for the construction, modification, or maintenance of a weapons system. The Secretary of Defense has not finalized the required program regulations. The current authority expires on September 30, 2007. Moving the expiration date to 2010 would correspond to the originally envisioned 5-year pilot period.

The Senate amendment contained an identical provision (sec. 326).

The conference agreement includes this provision.

Extension of period for reimbursement for certain protective, safety, or health equipment purchased by or for members of the Armed Forces deployed in contingency operations (sec. 332)

The Senate amendment contained a provision (sec. 333) that would repeal the requirement in section 351 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) that the Secretary of Defense establish a program to reimburse members of the Armed Forces for personal protection equipment purchased by or for members when such equipment was not issued to the member, under rules to be promulgated by the Secretary, and replace it with a requirement to reimburse such members on the determination of their unit commander that such equipment was critical. The provision would also establish a fund for such reimbursements, specify equipment that would be covered, including vehicle armor, and extend the date for which eligible purchases could be made until September 30, 2006.

The House bill contained no similar provision.

The House recedes with an amendment that would extend the period during which equipment eligible for reimbursement could be purchased from July 31, 2004, until April 1, 2006.

The conferees urge the Department of Defense to expand the list of eligible items published on October 4, 2005, to include deltoid or side plate body armor, gloves, and knee or elbow pads, to the extent those items meet the requirements of this Act.

Subtitle E—Outsourcing

Public-private competition (sec. 341)

The House bill contained a provision (sec. 322) that would: (1) codify the existing prohibition on converting a function to private sector performance unless the conversion would result in savings of at least 10 percent or $10.0 million: (2) prohibit the Secretary of Defense from breaking up a function to avoid applicable thresholds for conducting a public-private competition; and (3) require the Secretary to conduct a competition, including an agency tender, a most efficient organization plan, and a formal cost comparison for any function performed by 10 or more civilian employees.

The Senate amendment contained a similar provision (sec. 809F).

The Senate recedes with an amendment that would: (1) incorporate the requirements of the House and Senate provisions into the text of section 2461 of title 10, United States Code; and (2) revise sections 2461, 2461a, 2462, and 2463 of title 10, United States Code to streamline and update the text of these provisions.

Contracting for procurement of certain supplies and services (sec. 342)

The Senate amendment contained a provision (sec. 809H) that would amend section 8014 of the Department of Defense Appropriations Act for Fiscal Year 2005 (Public Law 108-287) to clarify the treatment of health care costs in public-private competitions under such Act.

The House bill contained no similar provision.

The House recedes.

Performance of certain work by federal government employees (sec. 343)

The House bill contained a provision (sec. 323) that would establish a pilot program for public-private competition for work that is currently performed by contractors.

The Senate amendment contained a provision (sec. 809G) that would require the Secretary of Defense to prescribe guidelines and procedures to ensure that consideration is given to using federal government employees for work that is currently performed under Department of Defense contracts and new requirements.

The House recedes with an amendment that would require the Secretary to prescribe guidelines and procedures to ensure that consideration is given to using federal government employees for work that would otherwise be performed under Department of Defense contracts, but could be performed by federal government employees. The conferees expect these guidelines to provide for the assignment of work to federal government employees (and for hiring new federal government employees) in appropriate circumstances, without the requirement to perform public-private competition under Office of Management and Budget Circular A-76 or any other provision of law or regulation.

Extension of temporary authority for contractor performance of security guard functions (sec. 344)

The House bill contained a provision (sec. 332) that would extend by 2 years the authority for contractor performance of security guard functions under section 332 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314), and require the Secretary of Defense and the secretaries of the military departments to conduct new full and open competitions pursuant to section 2304 of title 10, United States Code, for security guard requirements under this section.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would provide for a 1-year extension of section 332 of the Bob Stump National Defense Authorization Act.

Subtitle F—Analysis, Strategies, and Reports

Report on Department of Army programs for prepositioning of equipment and other materiel (sec. 351)

The House bill contained a provision (sec. 355) that would require the Secretary of the Army to conduct an assessment of Department of the Army programs for the prepositioning of equipment and other materiel stocks. The assessment would focus on how those programs are configured to support the evolving goals of the Department of the Army and their ability to support wartime requirements. The Secretary would submit to Congress, not later than January 1, 2006, a report on this assessment. The provision would also require the Comptroller General to submit to Congress a review of the Secretary of the Army's assessment not later than 120 days after receipt of the Secretary of the Army's report.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would change the date of the Secretary 'of the Army's report to March 1, 2006, and make a clarification to the legislative text.

Reports on budget models used for base operations support, sustainment, and facilities recapitalization (sec. 352)

The House bill contained a provision (sec. 354) that would require a report during each of the next 5 fiscal years from the Secretary of Defense on the Department of Defense's models for base operations support, sustainment, and facilities recapitalization budgets.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Army training strategy for brigade-based combat teams and functional supporting brigades (sec. 353)

The Senate amendment contained a provision (sec. 327) that would direct the Secretary of the Army to develop and implement a training strategy, including performance goals and metrics, for the Army's new modular force. The provision would also require the Secretary to submit a report to the congressional defense committees within 1 year after the enactment of this Act on the elements necessary to implement this training strategy, including funding. The provision would also direct the Comptroller General to monitor the implementation of the strategy and to submit a report to the congressional defense committees within 18 months after the enactment of this Act. The report would contain an assessment of the Army's progress in implementing the training strategy.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary to develop and implement this training strategy as soon as practicable, and change the date of the Comptroller General's report to the congressional defense committees to 180 days after the Secretary's report is submitted.

Report regarding effect on military readiness of undocumented immigrants trespassing upon operational ranges (sec. 354)

The House bill contained a provision (sec. 356) that would require the Secretary of Defense and the Secretary of Homeland Security to submit a report to Congress by March 15, 2006, on a joint plan to eliminate incursions of undocumented immigrants into military training areas near international borders. The report would also include an assessment of the impact on military readiness caused by such incursions. This provision would also require the Secretary of Defense to submit to Congress semi-annual reports on mitigation measures implemented since the previous report.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the assessment of the impact of undocumented immigrant incursions into training areas on military readiness to be made only by the Secretary of Defense, not the Secretary of Defense and the Secretary of Homeland Security jointly. The amendment would also change the date the initial report is due to Congress to April 15, 2006.

Report regarding Management of Army Lodging (sec. 355)

The House bill contained a provision (sec. 358) that would require the Secretary of Defense to report to Congress on the results of a study evaluating the merits of allowing the Army and Air Force Exchange System (AAFES) to manage Army lodging. The Army would also be prohibited from soliciting qualifications that would privatize Army lodging beyond Group A until the Secretary's report was submitted to Congress.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require two reports, one by the Secretary of the Army evaluating the merits of privatization of Army lodging, and one by the Army and Air Force Exchange Service commenting on the feasibility of its participation in privatization of Army lodging. The amendment requires two additional elements in each report: the potential costs and benefits of each approach, and the number of Army lodging personnel that would be impacted and the total personnel-related costs which would occur as a result of either approach.

The conferees believe that AAFES should be allowed fair consideration in any competitive procurement of lodging management and services within the Department of Defense.

Comptroller General report on corrosion prevention and mitigation programs of the Department of Defense (sec. 356)

The Senate amendment contained a provision (sec. 1043) that would direct the Comptroller General to conduct a report on the effectiveness of the corrosion prevention and mitigation programs of the Department of Defense. The report would include assessments of the following: (1) the Department's November 2004 'Long-Term Strategy to Reduce Corrosion and the Effects of Corrosion on the Military Equipment and Infrastructure of the Department of Defense'; (2) the adequacy of the funding requested in the budget proposal for fiscal year 2006; (3) the adequacy and effectiveness of the Department's organizational structure in implementing that strategy; (4) the progress made to date in establishing common corrosion-related metrics, definitions, and procedures throughout the Department; (5) the progress made to date in establishing a baseline estimate of the scope of the Department's corrosion problem; (6) the extent to which the Department's strategy has been revised to incorporate the recommendations of the October 2004 Defense Science Board report on corrosion control; (7) the implementation of the Department's corrosion prevention and mitigation programs during fiscal year 2006; and (8) the Comptroller General's recommendations for addressing any shortfalls or areas of potential improvement identified in the course of preparing the report. The provision would require the Comptroller General to submit the report to the congressional defense committees not later than April 1, 2007.

The House bill contained no similar provision.

The House recedes with an amendment that would add a requirement for an assessment of the adequacy of the funding requested in the budget proposal for fiscal year 2007 to the report.

Study on use of biodiesel and ethanol fuel (sec. 357)

The House bill contained a provision (sec. 315) that would require a study by the Secretary of Defense on the use of biodiesel and ethanol fuel by the Armed Forces and the defense agencies and any measures that can be taken to increase such use. The study would include a review of potential future requirements for biodiesel and ethanol; an assessment of commercial availability of the fuels; a review of Department of Defense efforts to coordinate with nonfederal entities for the expansion and use of alternative fuel refueling stations; and an assessment of military fueling infrastructure that could be converted for use of biodiesel and ethanol fuel. The provision would also require a report on this study to the congressional defense committees not later than February 1, 2006.

The Senate amendment contained a similar provision (sec. 329), but did not address biodiesel.

The Senate recedes with an amendment that would change the date of the report to the Committees on Armed Services of the Senate and the House of Representatives to 270 days after the date of enactment of this Act. The amendment would also require an assessment of the cost and the feasibility of adapting defense fueling infrastructure to handle biodiesel and ethanol.

The conferees encourage the Secretary to make use of previously available reports and data, where feasible, to complete the assessment of commercial biodiesel and ethanol fuel availability and other appropriate elements of this study.

Report on effects of windmill farms on military readiness (sec. 358)

The Senate amendment contained a provision (sec. 346) that would make a congressional finding regarding a report from the Ministry of Defence of the United Kingdom on the effect of windmill farms on military readiness. The provision would also require the Secretary of Defense to submit to the Committees on Armed Services of the Senate and the House of Representatives, within 180 days, a report on the effects of windmill farms on military readiness and of technologies that could mitigate any adverse effects on military operations identified.

The House bill contained no similar provision.

The House recedes with an amendment that would strike the congressional finding and change the requirement for submission of the report to 120 days after the enactment of this Act.

Report on space-available travel for certain disabled veterans and gray-area retirees (sec. 359)

The House bill contained a provision (sec. 678) that would require the Secretary of Defense, in consultation with the Secretary of Veterans Affairs, to submit a report on the feasibility of providing transportation on military aircraft on a space-available basis for veterans with a service-connected disability rating of 50 percent or higher.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the report to also address the feasibility of authorizing space-available travel for gray-area retirees, i.e., members or former members of a reserve component under 60 years of age who, but for age, would be eligible for retired pay, and to the dependents of specified veterans and gray-area reservists.

Report on joint field training and experimentation on stability, security, transition, and reconstruction operations (sec. 360)

The Senate amendment contained a provision (sec. 212) that would direct the Secretary of Defense to execute a joint field experiment to address matters relating to stability and security operations in fiscal year 2006.

The House bill contained no similar provision.

The House recedes with an amendment that would recognize that the Department of Defense has developed and is already executing a program to improve its joint and interagency stability operations planning, exercises, and operational capabilities. As a result, a single field experiment in fiscal year 2006 does not appear to be required. The conferees urge the Department to more fully incorporate other federal departments and agencies, as well as allies and coalition partners. The amendment would require that the Department report on the progress and findings of the joint field training and experimentation conducted in fiscal years 2005 and 2006 not later than February 1, 2007.

Reports on budgeting relating to sustainment of key military equipment (sec. 361)

The Senate amendment contained a provision (sec. 1049) that would require the Secretary of Defense to submit to Congress each year, near the time of the submission of the President's budget request, a report on the Department of Defense funding for key military equipment. This report would contain a description of the Department's strategy and funding requirements necessary to sustain and modernize key military equipment. In those instances where the Department does not request full funding for the above strategy, the Department would identify the risks that would be taken and actions necessary to mitigate such risks.

The House bill contained no similar provision.

The House recedes with an amendment that would require this report only in 2006, 2007, and 2008.

Repeal of Air Force report on military installation encroachment issues (sec.362)

The House bill contained a provision (sec. 313) that would repeal a reporting requirement in section 315 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375).

The Senate amendment contained no similar provision.

The Senate recedes.

Subtitle G—Other Matters

Supervision and management of Defense Business Transformation Agency (sec. 371)

The Senate amendment contained a provision (sec. 339) that would require the Business Transformation Agency be cooperatively managed by the Deputy Under Secretary of Defense for Business Transformation and the Deputy Under Secretary of Defense for Financial Management.

The House bill contained no similar provision.

The House recedes.

Codification and revision of limitation on modification of major items of equipment scheduled for retirement or disposal (sec. 372)

The House bill contained a provision (sec. 351) that would prohibit annual expenditures greater than $1.0 million to modify an aircraft, weapon, ship, or other item of equipment that will be retired or otherwise disposed of within 5 years after completion of the modification. The secretary of a military department may waive this restriction if the waiver is necessary on the basis of national security, and he so notifies the congressional defense committees in writing. Safety modifications will not require waivers.

The Senate amendment contained a similar provision (sec. 842).

The Senate recedes with an amendment that would prohibit expenditures greater than $100,000 for equipment modifications or greater than $1.0 million if the equipment will be removed, refurbished, and installed on another platform prior to the disposal of an aircraft, weapon, ship, or other item of equipment, unless the requirement is waived.

Limitation on purchase of investment items with operation and maintenance funds (sec. 373)

The House bill contained a provision (sec. 352) that would prohibit the use of operation and maintenance funds for the purchase or replacement of an investment item which costs more than $250,000.

The Senate amendment contained no similar provision.

The Senate recedes.

Operation and use of general gift funds of the Department of Defense and Coast Guard (sec. 374)

The Senate amendment contained a provision (sec. 343) that would amend section 2601 of title 10, United States Code, to authorize the Secretary of Defense under certain conditions to accept gifts that are given for the benefit of members of the Armed Forces, civilian employees of the U.S. Government (or their dependents or survivors), who are wounded or killed while serving in Operation Iraqi Freedom, Operation Enduring Freedom, or any other military operation, activity, or geographic area designated by the Secretary of Defense. The provision would authorize periodic Comptroller General audits of gifts accepted under this authority. The authority would expire on December 31, 2007.

The House bill contained no similar provision.

The House recedes with an amendment that, in addition to gifts of real and personal property and money, would authorize the Secretary to accept gifts of services made on the condition that they be used for the benefit of members of the Armed Forces and civilian employees of the Department of Defense (and their dependents or survivors). Gifts from foreign governments or international organizations could only be accepted if they are not designated for a specific individual and could not include services. The amendment would authorize the establishment of a Department of Defense General Gift Fund.

The conferees, by adding authority to accept gifts to benefit certain members, dependents, and civilian employees, do not intend to limit the existing general gift authority.

Inclusion of packet based telephony in Department of Defense telecommunications benefits (sec. 375)

The Senate amendment contained a provision (sec. 345) that would include technology that allows the use of a broadband Internet connection for making telephone calls within the Department of Defense telecommunications benefit.

The House bill contained no similar provision.

The House recedes.

Limitation on financial management improvement and audit initiatives within the Department of Defense (sec. 376)

The Senate amendment contained a provision (sec. 328) that would prohibit the Secretary of Defense from obligating any funds for activities related to the Department of Defense financial management improvement effort until the Secretary submits to the congressional defense committees an integrated and comprehensive financial management plan and a determination that each activity proposed to be funded would likely result in real and sustainable improvements in the Department's financial management systems and controls.

The House bill contained no similar provision.

The House recedes with an amendment that would clarify that the Department may continue to fund activities directed exclusively at assessing the adequacy of internal controls and remediating any inadequacies identified pursuant to such assessments.

Provision of welfare of special category residents at Naval Station Guantanamo Bay, Cuba (sec. 377)

The Senate amendment contained a provision (sec. 334) that would authorize the Secretary of the Navy to provide for the general welfare, including subsistence, housing, and health care, of any person at Naval Station Guantanamo Bay, Cuba, who is designated by the Secretary as a "special category resident" within 90 days of the enactment of this Act. The provision would not authorize the construction of new housing or medical treatment facilities. The provisions of chapter 13 of title 31, United States Code, would not apply to the obligation or expenditure of funds for the general welfare of such persons prior to the date of enactment of this Act.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Commemoration of success of the Armed Forces in Operation Enduring Freedom and Operation Iraqi Freedom (sec. 378)

The Senate amendment contained a provision (sec. 344) that would authorize the President to designate a day of celebration to honor the soldiers, sailors, marines, and airmen of the Armed Forces who have served in Operation Enduring Freedom (OEF) or Operation Iraqi Freedom (OIF). It would also authorize the issuance of a proclamation calling on the people of the United States to observe that day with appropriate ceremonies and activities. The provision would authorize the use of appropriated funds up to $20.0 million and the acceptance of gifts to pay the costs of the day of celebration. It would also authorize the presentation of recognition items under section 2261 of title 10, United States Code, to individuals who served honorably as a member of the Armed Forces in OEF and OIF.

The House bill contained no similar provision.

The House recedes with an amendment that would make the provision effective through fiscal year 2006.

SUBTITLE H—UTAH TEST AND TRAINING RANGE

Definitions (sec. 381)

The House bill contained a provision (sec. 341) that would define certain terms relating to the Utah Test and Training Range.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Military operations and overflights, Utah Test and Training Range (sec. 382)

The House bill contained a provision (sec. 342) that would explain the importance of the Utah Test and Training Range and define the intent of the Utah Test and Training Range provisions.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Analysis of military readiness and operational impacts in planning process for federal lands in Utah Test and Training Range (sec. 383)

The House bill contained a provision (sec. 343) that would require the Secretary of the Interior, in consultation with the Secretary of Defense, to develop land use plans for federal lands in the Utah Test and Training Range. The provision would also prohibit the Secretary of the Interior from granting rights-of-way under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) upon certain federal lands.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would eliminate the limitation on the authority of the Secretary of the Interior to grant or issue authorizations for rights-of-way under the Federal Land Policy and Management Act of 1976 upon certain federal lands.

Designation and management of Cedar Mountain Wilderness, Utah (sec. 384)

The House bill contained a provision (sec. 344) that would designate certain federal land in Tooele County, Utah as wilderness and therefore a component of the National Wilderness Preservation System.

The Senate amendment contained no similar provision.

The Senate recedes.

Relation to other lands (sec. 385)

The House bill contained a provision (sec. 346) that would make clarifying and technical corrections.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

LEGISLATIVE PROVISIONS NOT ADOPTED

Child and family assistance benefits for members of the Armed Forces

The Senate amendment contained a provision (sec. 332) that would authorize an additional $60.0 million for Operation and Maintenance, Defense-wide activities, for child and family assistance benefits for members of the Armed Forces. Of the total amount authorized, $50.0 million would be available for child care services, and $10.0 million would be available for family assistance.

The House bill contained no similar provision.

The Senate recedes.

The increased amounts for child care and family assistance are reflected in the tables of this report in Operation and Maintenance, Defense-wide.

The conferees applaud the significant increases in child care services and family assistance provided by supplemental appropriations, and urge the Department of Defense to make the additional funding available immediately to the families of members on active duty who require such services.

Congressional notification requirements regarding placement of liquefied natural gas facilities, pipelines, and related structures on defense lands

The House bill contained a provision (sec. 357) that would require, that not less than 30 days before the Secretary of Defense or the secretary of a military department issues a final decision regarding the placement of any liquefied natural gas facility, pipeline, or related structure on or in the vicinity of a military installation, range, or other lands under the jurisdiction of the Department of Defense, the secretary concerned to submit to Congress a report detailing the justification for the decision, including the potential long-term effects on military readiness.

The Senate amendment contained no similar provision.

The House recedes. This matter was addressed in section 311(c) of the Energy Policy Act of 2005 (Public Law 109–58), and the provision is no longer required.

Grants for local workforce investment boards for services for certain spouses of members of the Armed Forces

The Senate amendment contained a provision (sec. 341) that would authorize the Secretary of Defense to make grants to local workforce investment boards established under section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2832) for the purpose of providing employment assistance to certain military spouses.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that the Department of Defense and the Department of Labor entered into a Memorandum of Understanding in 2003 that provides a framework for a broad range of continuing and new partnership efforts to help military spouses establish careers, despite having to transition among job markets due to frequent relocations. The conferees applaud this effort and encourage the Department of Labor and the Department of Defense to continue such collaboration in order to leverage their individual and combined resources to strengthen the quality of life for members of the Armed Forces and their families.

Identification of additional Bureau of Land Management land in Utah as trust land for Skull Valley Band of Goshutes

The House bill contained a provision (sec. 345) that would identify approximately 640 acres of Bureau of Land Management land in Utah to be administered in trust for the benefit of the Skull Valley Band of Goshutes.

The Senate amendment contained no similar amendment.

The House recedes.

Legal standing and bid protests by federal employees in actions under Office of Management and Budget Circular A–76

The House bill contained a provision (sec. 324) that would express the sense of Congress on equitable legal standing for civilian employees in public-private competitions.

The Senate amendment contained a provision (sec. 1109) that would provide legal standing for certain representatives of civilian employees in public-private competitions.

The conference report does not include either provision.

The conferees believe that to ensure public-private competitions are conducted as fairly, effectively, and efficiently as possible, both Department of Defense civilian employees (or their representatives) and contractors (or their representatives) should receive fair treatment throughout the competition regarding access to relevant information and legal standing to challenge the way a competition has been conducted.

The conferees note that this issue was specifically addressed in section 326 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375). The conferees believe that there is insufficient data on the implementation of section 326 to determine whether changes to that provision are needed, or would be appropriate.

Long Arm High-Intensity Arc Metal Halide Handheld Searchlight

The Senate amendment contained a provision (sec. 336) that would authorize $4.5 million for the Long Arm High-Intensity Arc Metal Halide Handheld Searchlight.

The House bill contained no similar provision.

The Senate recedes.

The conference outcome is reflected in the tables of this report in Operation and Maintenance, Army.

Navy human resources benefits call center

The Senate amendment contained a provision (sec. 304) that would authorize $1.5 million from Navy operation and maintenance funds for civilian manpower and personnel for a human resources benefit call center.

The House bill contained no similar provision.

The Senate recedes.

The conference outcome is reflected in the tables of this report in Operation and Maintenance, Navy.

The conferees note that the Navy currently is conducting a human resources benefit call center pilot program in Machias, Maine. Navy officials have stated that the pilot program is "very successful" in delivering high customer satisfaction. Because of this success, the Navy intends to transition this call center to a permanent program. This is largely due to the hard work and commitment to excellence of the personnel who work at the call center in Machias.

Pilot project on compatible use buffers on real property bordering Fort Carson, Colorado

The House bill contained a provision (sec. 312) that would require the Secretary of Defense to carry out a pilot project at Fort Carson, Colorado, to evaluate the effectiveness of conservation easements and leases entered into with willing entities to limit property development that would be incompatible with Fort Carson's mission. Conservation easements and leases are currently authorized under section 2684a of title 10, United States Code.

The Senate amendment contained no similar provision.

The House recedes.

The conferees have added $20.0 million to the Readiness and Environmental Protection Initiative to support the Department of Defense's highest priority buffer zone projects. The conferees expect the Secretary of Defense to enter into agreements with wiliing entities to prevent or limit the use of property in the vicinity of a military installation that would impede the mission of that military installation. The conferees believe that the Secretary of Defense, in coordination with the Secretary of the Army, should utilize available authority and funding to ensure that conservation easements and leases are entered into as quickly as possible at the high-priority sites identified as part of the Army's Compatible Use Buffer Program, including Fort Campbell; Fort Carson; Fort A. P. Hill; Fort Hood; Fort Sill; and Camp Ripley. With respect to Fort Carson, Colorado, the conferees understand that Fort Carson is one of the Army's highest priority sites for implementation of compatible use buffer zones.

Point of Maintenance/Arsenal/Depot AIT Initiative

The Senate amendment contained a provision (sec. 335) that would authorize $10.0 million for the Point of Maintenance/Arsenal/Depot AIT (AD–AIT) Initiative.

The House bill contained no similar provision.

The Senate recedes.

The conference outcome is reflected in the tables of this report in Operation and Maintenance, Army.

Provision of Department of Defense support for certain paralympic sporting events

The House bill contained a provision (sec. 353) that would amend section 2564 of title 10, United States Code, to exempt certain paralympic sporting events conducted in the United States, its territories, or commonwealths, from prescribed conditions for Department of Defense-provided security and safety assistance. These conditions would include determinations that such security and safety needs cannot reasonably be met by other sources and, if provided, would not adversely affect military preparedness of the Armed Forces. Additionally, requesting organizations must agree to provide reimbursement. Under the provision, up to $1.0 million could be expended in any fiscal year to provide support for qualifying paralympic sporting events.

The Senate amendment contained a similar provision (sec. 338) that would provide funding from the Support for International Sporting Competitions (SISC) Defense account, which was established by section 5802 of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208).

The conference agreement does not include these provisions.

The conferees support Department-provided security and safety assistance to qualifying sporting events and endorse participation by eligible military personnel and veterans in paralympic sporting events. A separate provision in this Act amends section 717 of title 10, United States Code, to specifically authorize members of the Armed Forces to train for, attend, and participate in the Paralympic Games. The conferees note that the quadrennial Paralympic Games are already exempted from certification and reimbursement requirements in connection with the use of the SISC account funds. However, the need for, and impact of, expansion of Department support for events of this type are not clear. The average annual number of events of this type, the anticipated size of events of this type, and the associated scope of assistance requested from the Department under this expanded authority could not be determined. Consequently, no assessment of the resulting increase to the personnel tempo of both active and reserve component forces could be made.

The conferees, therefore, direct the Secretary of Defense, in consultation with the U.S. Olympic Committee, to identify and submit a report to the congressional defense committees by August 31, 2006, detailing the effect of amending section 2564 of title 10, United States Code, to include the Paralympic Military Program and paralympic sporting events, at various participation levels, in the category of events that would qualify for Department support without having to meet the conditions in subsections (a) and (b) of that section.

This report shall include an analysis of: (1) the estimated number of events that would qualify for nonreimbursable assistance; (2) the impact of such increased Department support on the operational or personnel tempo of active duty, guard, and reserve forces; (3) the type and scope of assistance that is likely to be needed or requested outside the realm of security and safety; (4) the estimated annual cost to the Department for such assistance; (5) whether support for such events would constitute appropriate inactive duty training; (6) whether Department support for such events should be contingent on the participation of current or former military personnel as athletes; and (7) whether Department support for such events should be contingent on the size of the event based on a minimum level of participation.

Report on aircraft to perform High-Altitude Aviation Training Site

The Senate amendment contained a provision (sec. 337) that would require the Secretary of the Army to submit a report to the congressional defense committees that contains an evaluation on the type of aircraft available in the Army inventory that is most suited to perform the High-Altitude Aviation Training Site (HAATS) mission, and a determination of when such aircraft may be available for assignment to the HAATS.

The House bill contained no similar provision.

The Senate recedes.

The conferees are aware that the HAATS at Eagle, Colorado is the primary site for training military aviators on operations in all season weather conditions in hostile, high altitude, power limited environments. The training site currently uses UH–1 Huey and OH–58 Kiowa aircraft that are being phased out of the inventory within the future-years defense program. The conferees are aware that the Secretary of the Army has begun an evaluation of the Army inventory and aircraft availability to determine the most appropriate schedule for assigning suitable aircraft to HAATS. The conferees look forward to delivery of the report of this evaluation to the congressional defense committees no later than December 15, 2005.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Active Forces

End strengths for active forces (sec. 401)

The House bill contained a provision (sec. 401) that would authorize the following end strengths for active forces as of September 30, 2006: Army, 482,400; Navy, 352,700; Marine Corps, 175,000; and Air Force, 357,400.

The House bill also contained a provision (sec. 1521(a) and (c)) that would increase the end strengths authorized by section 401 for the Army by 30,000 and for the Marine Corps by 4,000, respectively, for fiscal year 2006.

The Senate amendment contained a similar provision (sec. 401) that would authorize an active-duty end strength for the Army of 522,400, and an active-duty end strength of the Marine Corps of 178,000, with end strengths for the other services identical to those in the House provision.

The Senate recedes with an amendment that would authorize an end strength as of September 30, 2006, of 512,400 for the Army and 179,000 for the Marine Corps, subject to the condition that costs for end strength in excess of 482,400 for the Army, and in excess of 175,000 for the Marine Corps, shall be paid out of funds authorized to be appropriated for fiscal year 2006 for a contingent emergency reserve fund or as an emergency supplemental appropriation.

The conferees recommend end strength levels for active forces for fiscal year 2006 as set forth in the following table:

Service	FY 2005 authorized	FY 2006		Change from	
		Request	Conferece rec-ommenda-tion	FY 2006 request	FY 2005 authorized
Army	502,400	482,400	512,400	30,000	10,000
Navy	365,900	352,700	352,700	0	−13,200
Marine Corps	178,000	175,000	179,000	4,000	1,000
Air Force	359,700	357,400	357,400	0	−2,300
DoD Total	1,406,000	1,367,500	1,401,500	34,000	−4,500

Revision in permanent active-duty end strength minimum levels (sec. 402)

The House bill contained a provision (sec. 402) that would establish the following new minimum active-duty end strengths: for the Army, 482,400; Navy, 352,700; Marine Corps, 175,000; and Air Force, 357,400.

The House bill also contained a provision (sec. 1521(b)) that would increase the minimum active-duty end strengths for the Army by 30,000 to 512,400, and for the Marine Corps by 4,000 to 179,000.

The Senate amendment contained a similar provision (sec. 402) that would establish minimum active-duty end strengths for the Army, 522,400, and for the Marine Corps, 178,000. Minimum end strengths for the Navy and Air Force would be identical to those in the House provision.

The House recedes with an amendment that would authorize the minimum active-duty end strength for the Army, 502,400, and for the Marine Corps, 179,000.

The conferees recommend minimum end strength levels for active forces as set forth in the following table:

Service	FY 2005 authorized	FY 2006	Change from
		Conferee rec-ommenda-tion	FY 2005
Army	502,400	502,400	0
Navy	365,900	352,700	−13,200
Marine Corps	178,000	179,000	1,000
Air Force	359,700	357,400	−2,300
DoD Total	1,406,000	1,391,500	−14,500

Additional authority for increases of Army and Marine Corps active-duty end strengths for fiscal years 2007 through 2009 (sec. 403)

The House bill contained a provision (sec. 1522) that would authorize additional increases of active-duty end strength for the Army equal to the number otherwise authorized by law for fiscal year 2006, plus up to 20,000 for each fiscal year 2007 through 2009. The House provision would also authorize increases of active-duty end strength for the Marine Corps of the number otherwise authorized by law for fiscal year 2006, plus up to 5,000 for each fiscal year 2007 through 2009.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

SUBTITLE B—RESERVE FORCES

End strengths for Selected Reserve (sec. 411)

The House bill contained a provision (sec. 411) that would authorize the following end strengths for Selected Reserve personnel, including the end strengths for reserves on active duty in support of the reserves as of September 30, 2006: the Army National Guard of the United States, 350,000; the Army Reserve, 205,000; the Naval Reserve, 73,100; the Marine Corps Reserve, 39,600; the Air National Guard of the United States, 106,800; the Air Force Reserve, 74,000; and the Coast Guard Reserve, 10,000.

The Senate amendment contained an identical provision (sec. 411).

The conference agreement includes this provision.

The conferees recommend end strength levels for the Selected Reserve for fiscal year 2006 as set forth in the following table:

Service	FY 2005 author ized	FY 2006		Change from	
		Request	Conferee rec ommen-dation	FR 2006 request	FY 2005 author ized
Army National Guard	350,000	350,000	350,000	0	0
Army Reserve	205,000	205,000	205,000	0	0
Naval Reserve	83,400	73,100	73,100	0	−10,300
Marine Corps Reserve	39,600	39,600	39,600	0	0
Air National Guard	106,800	106,800	106,800	0	0
Air Force Reserve	76,100	74,000	74,000	0	−2,100
DoD Total	860,900	848,500	848,500	0	−12,400
Coast Guard Reserve	10,000	10,000	10,000	0	0

End strengths for reserves on active duty in support of the reserves (sec. 412)

The House bill contained a provision (sec. 412) that would authorize the following end strengths for reserves on active duty in support of the reserves as of September 30, 2006: the Army National Guard of the United States, 27,345; the Army Reserve, 15,270; the Naval Reserve, 13,392; the Marine Corps Reserve, 2,261; the Air National Guard of the United States, 13,089; and the Air Force Reserve, 2,290.

The Senate amendment contained a similar provision (sec. 412) that would authorize end strengths of 27,396 for the Army National Guard of the United States, 13,123 for the Air National Guard of the United States, and identical end strengths for the other services.

The House recedes.

The conferees recommend end strength levels for reserves on active duty in support of the reserves as set forth in the following table:

Service	FY 2005 author-ized	FY 2006		Change from	
		Request	Conferee rec-ommen-dation	FY 2006 request	FY 2005 author-ized
Army National Guard	26,602	27,345	27,396	51	794
Army Reserve	14,970	15,270	15,270	0	300
Naval Reserve	14,152	13,392	13,392	0	−760
Marine Corps Reserve	2,261	2,261	2,261	0	0
Air National Guard	12,263	13,089	13,123	34	860
Air Force Reserve	1,900	2,290	2,290	0	390
DoD Total	72,148	73,647	73,732	85	1,584

In addition to the budget request, the end strengths recommended by the conferees would include an additional 51 reserves on active duty in support of the reserves for the Army National Guard and an additional 34 for the Air National Guard for the creation of five additional National Guard Chemical, Biological, Radiological, Nuclear and High Yield Explosive Enhanced Response Force Package (NG CERFP) teams.

The conferees would expect that the certification requirement for reserve component rapid assessment element teams under section 12310(c)(5) of title 10, United States Code, would be met by the Secretary of Defense before any of these teams would be used to respond to a weapons of mass destruction or terrorist emergency.

The conferees would also expect that the creation of any additional NG CERFP teams would be subject to specific congressional authorization and a corresponding adjustment to the end strengths of reserves on active duty in support of the reserves authorized by law.

End strengths for military technicians (dual status) (sec. 413)

The House bill contained a provision (sec. 413) that would authorize the following end strengths for military technicians (dual status) as of September 30, 2006: the Army National Guard of the United States, 25,563; the Army Reserve, 7,649; the Air National Guard of the United States, 22,971; and the Air Force Reserve, 9,853.

The Senate amendment contained a similar provision (sec. 413) that would authorize end strength of 9,852 for the Air Force Reserve and identical end strengths for the other services.

The House recedes.

The conferees recommend end strength levels for military technicians (dual status) as set forth in the following table:

Service	FY 2005 authorized	FY 2006		Change from	
		Request	Conferee recommendation	FY 2006 request	FY 2005 authorized
Army National Guard	25,076	25,563	25,563	0	487
Army Reserve	7,299	7,649	7,649	0	350
Air National Guard	22,956	22,971	22,971	0	15
Air Force Reserve	9,954	9,852	9,852	0	−102
DoD Total	65,285	66,035	66,035	0	750

Fiscal year 2006 limitation on number of non-dual status technicians (sec. 414)

The House bill contained a provision (sec. 414) that would establish the maximum end strengths for the reserve components of the Army and Air Force for non-dual status technicians as of September 30, 2006.

The Senate amendment contained an identical provision (sec. 414).

The conference agreement includes this provision.

Maximum number of reserve personnel authorized to be on active duty for operational support (sec. 415)

The House bill contained a provision (sec. 415) that would authorize the maximum number of reserve component personnel who may be on active duty or full-time National Guard duty under section 115(b) of title 10, United States Code, during fiscal year 2006 to provide operational support.

The Senate amendment contained no similar provision.

The Senate recedes.

The conferees recommend maximum levels by service for reserve component personnel on full-time, active duty who are providing operational support as set forth in the following table:

Service	FY 2005 authorized	FY 2006		Change from	
		Request	Conferee recommendation	FY 2006 request	FY 2005 authorized
Army National Guard	10,300	17,000	17,000	0	6,700
Army Reserve	5,000	13,000	13,000	0	8,000
Naval Reserve	6,200	6,200	6,200	0	0
Marine Corps Reserve	2,500	3,000	3,000	0	500
Air National Guard	10,100	16,000	16,000	0	5,900
Air Force Reserve	3,600	14,000	14,000	0	10,400
DoD Total	37,700	69,200	69,200	0	31,500

Subtitle C—Authorization of Appropriations

Military personnel (sec. 421)

The House bill contained a provision (sec. 421) that would authorize a total of $108,824.3 million to be appropriated to the Department of Defense in fiscal year 2006 for military personnel.

The Senate amendment contained a provision (sec. 421) that would authorize a total of $109,179.6 million to be appropriated to the Department of Defense in fiscal year 2006 for military personnel.

The Senate recedes with an amendment that would authorize $108,942.7 million to be appropriated to the Department of Defense in fiscal year 2006 for military personnel.

The conferees have agreed to the following changes from the budget request related to the military personnel accounts:

[Additions in millions]

Improved basic allowance for housing (BAH) for reservists	$ 26.0
Increased cap on reserve enlistment/affiliation bonus	30.0
Increased cap on active duty enlistment bonus	30.0
Expanded early commissioning program for the Army	2.4
Additional special pay for dental officers	4.0
Increased household goods weight limit for senior NCOs	4.0
Army recruit referral bonus	3.0
Income replacement authority for reservists	7.0
Critical skills retention bonus for nurses in SROTC	1.0
Unobligated balances, Air Force	−107.4
Total	0.0

The conferees note that in addition to the amounts shown above, $11,788.3 million was made available in title XV of this Act for the additional costs of military personnel involved in ongoing operations in Iraq and Afghanistan.

Armed Forces Retirement Home (sec. 422)

The House bill contained a provision (sec. 422) that would authorize $58.3 million to be appropriated for fiscal year 2006 from the Armed Forces Retirement Home Trust Fund for operation of the Armed Forces Retirement Home.

The Senate amendment contained an identical provision (sec 422).

The conference agreement includes this provision.

TITLE V—MILITARY PERSONNEL POLICY

ITEMS OF SPECIAL INTEREST

Department of Defense Policy on Transportation of Military Remains

The conferees are aware that, pursuant to Department of Defense policy, the remains of military personnel, when air transport is necessary, are transported with an assigned escort officer by commercial airlines from Dover Air Force Base to their hometowns. The remains of our military men and women should be transported with the utmost ceremony, honors, and respect, and the conferees believe that examination of this issue with an eye toward improvement is called for. The conferees direct the Secretary to establish a system that would ensure that upon arrival at the ultimate destination, the flag-draped coffin is removed and that appropriate military honors are rendered by a small honor guard. The conferees believe that use of military aircraft for transportation of deceased members may be a preferable means of transportation and direct the Secretary to submit a report, no later than February 1, 2006, discussing the feasibility of such a requirement. The conferees believe that for those who make our freedom possible, this final honor is reasonable and justified by their sacrifice.

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Officer Personnel Policy

Temporary increase in percentage limits on reduction of time-in-grade requirements for retirement in grade upon voluntary retirement (sec. 501)

The House bill contained a provision (sec. 501) that would increase through December 31, 2007, the percentage of lieutenant colonels (or commanders in the Navy) and colonels (or captains in the Navy) that the secretary of a military department, when authorized by the Secretary of Defense, may approve for retirement with less than 3 years time-in-grade from 2 percent to 4 percent of the officers authorized in that grade for that fiscal year.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would limit the applicability of the provision to the Air Force and the Navy.

Two-year renewal of temporary authority to reduce minimum length of commissioned service required for voluntary retirement as an officer (sec. 502)

The House bill contained a provision (sec. 502) that would authorize through December 31, 2007, reduction in the amount of time from 10 years to 8 years that an officer who has prior enlisted service must serve as a commissioned officer in order to retire as a commissioned officer.

The Senate amendment contained a similar provision (sec. 506) that would extend this authority through December 31, 2008.

The House recedes with a technical amendment.

Exclusion from active duty general and flag officer distribution and strength limitations of officers on leave pending separation or retirement or between senior positions (sec. 503)

The House bill contained a provision (sec. 504) that would permit general or flag officers who have been selected for promotion to lieutenant general or vice admiral or above to be promoted to the higher rank at the time these officers begin serving in their new positions. The provision would also prohibit frocking of officers under section 777 of title 10, United States Code, who have been selected for promotion to lieutenant general, vice admiral, or above. To facilitate these transitions, the provision would temporarily exclude from grade distribution and numerical limitations under sections 525 and 526 of title 10, United States Code, for no more than 30 days, the senior general and flag officers selected for these positions of importance and responsibility under section 601 of title 10, United States Code.

The Senate amendment contained a provision (sec. 501) that would exclude from consideration in determining the distribution limitations and total numbers of general or flag officers on active duty, officers in the grade of brigadier general or rear admiral (lower half) or above who are on leave pending separation, retirement, or release from active duty.

The House recedes with an amendment that would combine the authorizations included in both the House and Senate provisions, but extend to 60 days the temporary exclusion from grade distribution and numerical limitations under sections 525 and 526 for officers who have been relieved from a position designated under section 601 of title 10, United States Code, and are under orders to assume another such position.

Consolidation of grade limitations on officer assignment and insignia practice known as frocking (sec. 504)

The House bill contained a provision (sec. 505) that would establish a consolidated limit of 85 on the number of promotable colonels, Navy captains, brigadier generals, and rear admirals (lower half) who would be authorized to be frocked to higher grade under section 777 of title 10, United States Code.

The Senate amendment contained no similar provision.

The Senate recedes.

Clarification of deadline for receipt by promotion selection boards of certain communications from eligible officers (sec. 505)

The House bill contained a provision (sec. 509) that would amend sections 614(b) and 14106 of title 10, United States Code, to provide that officers eligible for consideration by a promotion selection board may send a written communication to the board that, to be considered, must arrive not later than 11:59 p.m. on the day before the board convenes.

The Senate amendment contained a similar provision (sec. 503) that would specify that the provision become effective on March 1, 2006, and shall apply to selection boards convened on or after that date.

The House recedes with a technical amendment.

.Furnishing to promotion selection boards of adverse information on officers eligible for promotion to certain senior grades (sec. 506)

The Senate amendment contained a provision (sec. 504) that would require that substantiated adverse information be provided to promotion selection boards considering active and reserve component officers for promotion to the grade of lieutenant colonel, or commander in the case of the Navy, or above.

The House bill contained no similar provision.

The House recedes with an amendment that would make this requirement applicable only to promotion selection boards considering officers for promotion to the grades of brigadier general or rear admiral (lower half) or above. It would also clarify that only credible information of an adverse nature, including any substantiated adverse finding or conclusion from an officially documented investigation or inquiry, shall be furnished to selection boards.

Applicabilty of officer distribution and strength limitations to officers serving in intelligence community positions (sec. 507)

The Senate amendment contained a provision (sec. 509) that would amend section 528 of title 10, United States Code, to exclude from the grade distribution and numerical limitations in sections 525 and 526 of title 10, United States Code, general or flag officers serving in certain intelligence positions. These would include military officers serving as either the Director or Deputy Director of the Central Intelligence Agency (CIA) and as the Associate Director of the CIA for Military Support. Additionally, the exclusion from section 525 and 526 limits would apply to no more than five general or flag officers of the Armed Forces serving in the Office of the Director of National Intelligence in positions designated by agreement between the Secretary of Defense and the Director of National Intelligence.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Grades of the judge advocates general (sec. 508)

The Senate amendment contained a provision (sec. 505) that would require that the judge advocates general of the Army, Navy, and Air Force be appointed in the grade of lieutenant general or vice admiral, as appropriate. The provision would also exempt these officers from the grade distribution requirements for general and flag officers in section 525(b) of title 10, United States Code.

The House bill contained no similar provision.

The House recedes with an amendment that would provide that the judge advocates general be appointed in a grade not less than major general or rear admiral, as appropriate, and would strike the exemption from the grade distribution requirements.

Authority to retain permanent professors at the Naval Academy beyond 30 years of active commissioned service (sec. 509)

The House bill contained a provision (sec. 507) that would authorize permanent professors of the Naval Academy to be retained beyond 30 years of active commissioned service until age 64. Navy and Marine Corps officers serving as permanent professors at the Naval Academy in the grade of commander or lieutenant colonel, who are not on a list of officers recommended for promotion, would be retired after 28 years of service unless their retirement is deferred and they are continued on active duty by the Secretary of the Navy. Such officers who are continued on active duty would remain eligible for promotion to the next higher grade. Navy and Marine Corps officers serving as permanent professors at the Naval Academy in the grade of captain or colonel, who are not on a list of officers recommended for promotion, would be retired after 30 years of service unless their retirement is deferred and they are continued on active duty by the Secretary of the Navy.

The Senate amendment contained a similar provision (sec. 561).

The Senate recedes with a technical amendment.

Authority for designation of a general/flag officer position on the Joint Staff to be held by reserve component general or flag officer on active duty (sec. 510)

The House bill contained a provision (sec. 506)) that would increase from 10 to 11 the number of reserve general or flag officer positions that the Chairman of the Joint Chiefs of Staff can designate to be held only by reserve component general and flag officers on active duty and authorize one of these positions to be designated on the Joint Staff.

The Senate amendment contained a similar provision (sec. 502).

The Senate recedes.

Subtitle B—Reserve Component Management

Separation at age 64 for reserve component senior officers (sec. 511)

The House bill contained a provision (sec. 503) that would extend from age 62 to 64 the age at which the chiefs of the Army Reserve and Air Force Reserve, and the directors of the Army National Guard and Air National Guard must retire.

The Senate amendment contained a similar provision (sec. 508).

The Senate recedes.

Modification of strength-in-grade limitations applicable to reserve flag officers in active status (sec. 512)

The Senate amendment contained a provision (sec. 507) that would amend section 12004 of title 10, United States Code, to reduce by four the number of required Navy Reserve flag officers in medical designators and by one the number of Navy Reserve flag officers in the Supply Corps and to increase by five the number of Navy Reserve line officers.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Military technicians (dual status) mandatory separation (sec. 513)

The House bill contained a provision (sec. 513) that would require the Secretary of the Army to implement personnel policies that would allow a military technician (dual status) who continues to meet the requirements for dual status to serve beyond a mandatory removal date for officers, and any applicable maximum years of service limitation, until the military technician (dual status) reaches age 60 and attains eligibility for an unreduced annuity.

The Senate amendment contained no similar provision.

The Senate recedes.

Military retirement credit for certain service by National Guard members performed while in a state duty status immediately after the terrorist attacks of September 11, 2001 (sec. 514)

The House bill contained a provision (sec. 514) that would authorize military retirement credit for certain members of the Ready Reserve of the Army National Guard or Air National Guard, who served in full-time state active duty status performed on or after September 11, 2001, and before October 1, 2002, in specified counties in New York and Virginia in support of the federal declaration of emergency following the terrorist attacks on the United States of September 11, 2001.

The Senate amendment contained no similar provision.

The Senate recedes.

The conferees agree that authorizing federal military retirement credit for full-time state active duty service performed on or after September 11, 2001, and before October 1, 2002, in the specified counties in New York and Virginia is an appropriate recognition of the unique circumstances and national impact of the terrorist attacks of September 11, 2001. This authorization of federal military retirement benefits for state active duty service is both specific and limited. This authorization does not extend to any other form of federal benefits.

Redesignation of the Naval Reserve as the Navy Reserve (sec. 515)

The Senate amendment contained a provision (sec. 906) that would redesignate the Naval Reserve as the Navy Reserve and set forth conforming amendments to the United States Code reflecting this redesignation.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Clarification of certain authorities relating to the Commission on the National Guard and Reserves (sec. 516)

The Senate amendment contained a provision (sec. 597) that would modify section 523 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375), which established the Commission on the National Guard and Reserves. The provision would clarify certain issues relating to the pay of members. The provision would also clarify that the commission is established in the legislative branch.

The House bill contained no similar provision.

The House recedes.

Report on employment matters for members of the reserve components (sec. 517)

The House bill contained a provision (sec. 579) that would require the Comptroller General to submit a report to Congress on difficulties faced by members of the reserve components with respect to employment as a result of being ordered to perform full-time National Guard duty or being ordered to active duty. In preparing the report, the Comptroller General would be required to include specific information on the following: the number of employers of members of the reserve components in the public and private sector, respectively; an estimate of the number of employers who employ fewer than 50 full-time employees; an estimate of the number of members of the reserve components who are self-employed; the nature of the business of employers of members of the reserve components; and a description of the difficulties faced by members of the reserve components in gaining reemployment after having performed full-time National Guard duty or active duty service, including difficulties faced by members who are disabled and who are veterans of the Vietnam era.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would clarify that the report should provide a description of the difficulties faced by members of the reserve components in gaining reemployment after having performed full-time National Guard duty or active duty service, including difficulties faced by members who are disabled.

Defense Science Board study on deployment of members of the National Guard and reserves in the global war on terrorism (sec. 518)

The Senate amendment contained a provision (sec. 540) that would require the Defense Science Board to conduct a study on the length and frequency of the deployment of members of the National Guard and reserves as a result of the global war on terrorism. The study would include an identification of the current range of lengths and frequencies of deployments; an assessment of the consequences for force structure, morale, and mission capability of deployments that are lengthy, frequent, or both; an identification of the optimal length and frequency of deployments; and identification of mechanisms to reduce the length, frequency, or both, of deployments of members of the National Guard and the reserves. The study, with recommendations the Defense Science Board considers appropriate, would be due to the congressional defense committees not later than May 1, 2006.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Sense of Congress on certain matters relating to the National Guard and Reserves (sec. 519)

The Senate amendment contained a provision (sec. 543) that would express the sense of the Senate that the importance and integral role played by active Guard and reserve members and military technicians (dual status) in the efforts of the Armed Forces is recognized. The provision would also urge the Secretary of Defense to promptly resolve questions relating to authority for payment of reenlistment bonuses stemming from reenlistment contracts entered into between January 14, 2005, and April 17, 2005, involving members of the Army National Guard and military technicians (dual status).

The House bill contained no similar provision.

The House recedes with an amendment that would change the provision from a sense of the Senate to a sense of Congress.

Pilot program on enhanced quality of life for members of the Army Reserve and their families (sec. 520)

The Senate amendment contained a provision (sec. 538) that would require the Secretary of the Army to conduct a pilot program in two States to assess the feasibility of utilizing a coalition of military and civilian community personnel in order to enhance the quality of life for members of the Army Reserve and their families.

The House bill contained no similar provision.

The House recedes with an amendment that would allow the Secretary to identify the locations of the program, and to require that personnel participating in the pilot program include military personnel and appropriate members of the civilian community.

The conferees intend that the principal objective of the pilot program shall be to enhance the mission readiness of members of the Army Reserve by assisting their families in addressing the many challenges presented by deployments, including separation, family relationships, and parenting.

Subtitle C—Education and Training

PART I—DEPARTMENT OF DEFENSE SCHOOLS GENERALLY

Authority for National Defense University award of degree of Master of Science in Joint Campaign Planning and Strategy (sec. 521)

The House bill contained a provision (sec. 524) that would authorize the President of the National Defense University to award the degree of master of science in joint campaign planning and strategy to graduates of the University who fulfill the requirements of the program of the Joint Advanced Warfighting School at the Joint Forces Staff College.

The Senate amendment contained an identical provision (sec. 596).

The conference agreement includes this provision.

Authority for certain professional military education schools to receive faculty research grants for certain purposes (sec. 522)

The Senate amendment contained a provision (sec. 925) that would grant authority to the Air Force for faculty at the Air Force Institute of Technology to accept research grants.

The House bill contained no similar provision.

The House recedes with an amendment that would expand the authority to receive research grants to the National Defense University, Army War College, Naval Postgraduate School, Naval War College, Marine Corps University, Air Force Institute of Technology, and Air War College.

PART II—UNITED STATES NAVAL POSTGRADUATE SCHOOL

Revision to mission of the Naval Postgraduate School (sec. 523)

The Senate amendment contained a provision (sec. 592(a)) that would modify and enhance the statutory mission of the Naval Postgraduate School.

The House bill contained no similar provision.

The House recedes with a clarifying amendment that would provide that the primary function of the Naval Postgraduate School is to provide advanced instruction and professional and technical education and research opportunities for commissioned officers of the naval service in their practical and theoretical duties; the science, physics and systems engineering of current and future naval warfare doctrine, operations and systems; and the integration of naval operations and systems into joint, combined, and multinational operations.

Modification of eligibility for position of president of the Naval Postgraduate School (sec. 524)

The Senate amendment contained a provision (sec. 599B) that would modify the eligibility requirements for the position of president of the Naval Postgraduate School to allow a military officer in the grade of rear admiral (lower half), or a civilian individual having qualifications appropriate to the position, to serve as president. An individual would be detailed or assigned to the position of president of the Naval Postgraduate School by the Secretary of the Navy, upon the recommendation of the Chief of Naval Operations. A civilian assigned as president would be limited to serve in that position for a term of not more than 5 years.

The House bill contained no similar provision.

The House recedes with an amendment that would specify that a civilian assigned as the president of the Naval Postgraduate School must hold a doctorate degree in a field of study relevant to the mission and function of the Naval Postgraduate School, while a officer of the Navy detailed as president must have a doctorate or master's degree in such a field. Other qualifications for detail or assignment as president would include: a comprehensive understanding of the Navy, the Department of Defense, and joint and combined operations; leadership experience at the senior level in a large and diverse organization; demonstrated ability to foster and encourage a program of research in order to sustain academic excellence; and other qualifications, as determined by the Secretary of the Navy. The House amendment would allow the reappointment of a civilian holding the position of president for up to an additional term of 5 years. The House amendment would also specify that military officers not below the grade of captain may be detailed as president, but would remove the requirement that such officers be eligible for command at sea.

Increased enrollment for eligible defense industry employees in the defense product development program at Naval Postgraduate School (sec. 525)

The House bill contained a provision (sec. 522) that would increase the number of defense industry civilian employees who may be admitted to the Naval Postgraduate School to receive instruction in a program leading to a master's degree in a curriculum related to defense product development from the current limit of 10 at any one time to 25. The House provision would also broaden the areas of study authorized for such students to include systems engineering, in addition to the current curriculum related to defense product development.

The Senate amendment contained no similar provision.

The Senate recedes.

Instruction for enlisted personnel by the Naval Postgraduate School (sec. 526)

The House bill contained a provision (sec. 526) that would require the Secretary of the Navy to submit a report to the Committees on Armed Services of the Senate and the House of Representatives on the plans of the Secretary to provide enlisted members of the Navy with opportunities to pursue graduate degree programs.

The Senate amendment contained a provision (sec. 592(b)) that would expand the eligibility of enlisted personnel to receive instruction from the Naval Postgraduate School by authorizing enlisted members of the Armed Forces to participate in certificate programs and courses required for the performance of their duties.

The House recedes with an amendment that would limit the authority of enlisted personnel to receive instruction from the Naval Postgraduate School in certificate programs and courses required for the performance of their duties to members of the Navy and Marine Corps. The amendment would clarify that the Naval Postgraduate School would not be authorized to grant baccalaureate, master's or doctorate degrees on the basis of participation in such instruction. The amendment would require the Secretary to submit a report to the Committees on Armed Services of the Senate and the House of Representatives on the Navy's plans, if any, to provide enlisted members of the Navy with opportunities to pursue graduate degree programs.

PART III—RESERVE OFFICERS' TRAINING CORPS

Repeal of limitation on amount of financial assistance under ROTC scholarship programs (sec. 531)

The House bill contained a provision (sec. 521) that would authorize the service secretaries to pay the costs of room and board for Reserve Officers' Training Corps (ROTC) cadets who are receiving scholarships when those costs exceed the cumulative cost of tuition, fees, books, and laboratory expenses. Current law allows ROTC scholarships to cover the cost of room and board, but limits the amount of room and board to the cost of tuition, fees, books, and laboratory expenses.

The Senate amendment contained a similar provision (sec. 532).

The Senate recedes.

Increase in annual limit on number of ROTC scholarships under Army Reserve and National Guard program (sec. 532)

The House bill contained a provision (sec. 527) that would increase from 208 to 416 the maximum number of Reserve Officers' Training Corps scholarships the Army may provide to cadets who would be authorized to perform their obligated service in the Army Reserve or Army National Guard.

The Senate amendment contained a similar provision (sec. 534).

The Senate recedes.

Procedures for suspending financial assistance and subsistence allowance for senior ROTC cadets and midshipmen on the basis of health-related conditions (sec. 533)

The Senate amendment contained a provision (sec. 533) that would require the Secretary of Defense to prescribe policies and procedures to be followed by the military departments prior to suspending financial assistance to senior Reserve Officers' Training Corps cadets and midshipmen on the basis of health-related conditions.

The House bill contained no similar provision.

The House recedes.

Eligibility of United States nationals for appointment to the Senior Reserve Officers' Training Corps (sec. 534)

The Senate amendment contained a provision (sec. 541) that would authorize U.S. nationals to be appointed as a cadet or midshipman in the Senior Reserve Officers' Training Corps, to be appointed as a cadet in the Army Reserve or Army National Guard of the United States, and to be eligible for appointment as a commissioned officer, under the same statutory authorities and criteria that apply to U.S. citizens.

The House bill contained no similar provision.

The House recedes.

Promotion of foreign language skills among members of the Reserve Officers' Training Corps (sec. 535)

The Senate amendment contained a provision (sec. 542) that would require the Secretary of Defense to support the acquisition of foreign language skills among cadets and midshipmen in the Reserve Officers' Training Corps through the development and implementation of incentives to study a foreign language, including special emphasis for Arabic, Chinese, and other strategic languages, as defined by the Secretary of Defense, and a recruiting strategy to target foreign language speakers, including members of heritage communities, to participate in the Reserve Officers' Training Corps. The provision would require the Secretary to submit a report to the congressional defense committees not later than 180 days after the date of enactment of this Act on actions taken to carry out this provision.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Designation of Ike Skelton Early Commissioning Program scholarships (sec. 536)

The Senate amendment contained a provision (sec. 577) that would designate scholarships awarded to cadets appointed at certain military junior colleges under section 2107a of title 10, United States Code, as Ike Skelton Early Commissioning Program scholarships.

The House bill contained no similar provision.

The House recedes.

PART IV—OTHER MATTERS

Enhancement of educational loan repayment authorities (sec. 537)

The Senate amendment contained a provision (sec. 1507) that would modify section 2171(a) of title 10, United States Code, to include additional types of loans incurred for educational purposes by service members that would be eligible for loan repayment by the Department of Defense. The provision would also make both officer and enlisted personnel eligible for loan repayment.

The House bill contained no similar provision.

The House recedes.

Payment of expenses of members of the Armed Forces to obtain professional credentials (sec. 538)

The House bill contained a provision (sec. 523) that would authorize the payment of expenses for service members to obtain an accreditation, license, certification, or other state or professionally-imposed credential, so long as it is not a prerequisite for appointment in the Armed Forces.

The Senate amendment contained a similar provision (sec. 651).

The Senate recedes with a technical amendment.

Use of Reserve Montgomery GI Bill benefits and benefits for mobilized members of the Selected Reserve and National Guard for payments for licensing or certification tests (sec. 539)

The House bill contained a provision (sec. 511) that would authorize the use of Reserve Montgomery GI Bill benefits and benefits for mobilized members of the Selected Reserve and National Guard for licensing or certification test fees in the amount of $2,000 or the fee charged for the test, whichever is less. The House provision would apply to tests administered on or after October 1, 2005.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would make the changes effective on the date of enactment of this Act.

Modification of educational assistance for reserves supporting contingency and other operations (sec. 540)

The House bill contained a provision (sec. 512) that would modify the authority for educational assistance benefits for reserves who have served on active duty in support of a contingency operation, or for members of the National Guard who served on full-time National Guard duty for the purpose of responding to a national emergency, for more than 90 days. The provision would clarify that the Secretary of Veterans Affairs prescribes the manner and form of election of benefits to comply with the requirement that individuals receive assistance under only one such program. The House provision would also authorize an exception to the immediate termination of assistance for members of the Selected Reserve who incur a break in service of not more than 90 days if the member continues to serve in the Ready Reserve. The House provision would further include a clarification that the educational assistance provided by the statute applies only to members who were called or ordered to active duty, or performed full-time National Guard duty, on or after September 11, 2001.

The Senate amendment contained a similar provision (sec. 535) that would clarify that the Secretary of Veterans Affairs prescribes the manner and form of election of benefits, and provides an exception to the immediate termination of assistance for members of the Selected Reserve who incur a break in service of not more than 90 days if the member continues to serve in the Ready Reserve.

The House recedes.

Subtitle D—General Service Requirements

Ground combat and other exclusion policies (sec. 541)

The House bill contained a provision (sec. 574) that would require that if the Secretary of Defense proposes to make any change to the ground combat exclusion policy that has been in effect since October 1, 1994, or proposes to open or close to the assignment of women any military career designator related to military operations on the ground in effect as of May 18, 2005, the Secretary must provide prior notice to Congress. Such a change would be implemented only after the end of a period of 60 days of continuous session of Congress. The provision would also require that the Secretary provide 30 days prior notice to Congress before implementing any other personnel policy change that would open to women assignments not involving ground combat that are, as of the date of the proposed change, closed to women. The provision would further require the Secretary to submit to the Committees on Armed Services of the Senate and the House of Representatives not later than March 31, 2006, a report of the Secretary's review of the current and future implementation of the policy regarding the assignment of women.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would provide that any proposed change to the ground combat exclusion policy would only be implemented after notice to Congress and the end of a period of 30 days of continuous session of Congress.

Uniform citizenship or residency requirements for enlistment in the Armed Forces (sec. 542)

The House bill contained a provision (sec. 531) that would clarify and uniformly apply existing practices of the military services regarding eligibility of individuals who are not citizens of the United States to enlist in the Armed Forces.

The Senate amendment contained a similar provision (sec. 521).

The House recedes with a technical amendment.

Increase in maximum age for enlistment (sec. 543)

The Senate amendment contained a provision (sec. 1504) that would modify section 505(a) of title 10, United States Code, to authorize the enlistment of persons who are not more than 42 years of age.

The House bill contained no similar provision.

The House recedes.

Increase in maximum term of original enlistment in regular component (sec. 544)

The House bill contained a provision (sec. 532) that would amend section 505(c) of title 10, United States Code, to increase the maximum duration of an enlistment in a regular component from 6 to 8 years.

The Senate amendment contained no similar provision.

The Senate recedes.

National Call to Service program (sec. 545)

The House bill contained a provision (sec. 534) that would amend section 510 of title 10, United States Code, to clarify that eligibility under the National Call to Service program would include military occupational specialties for enlistments for officer training and subsequent service as an officer, in cases in which the reason for the enlistment and entry into the National Call to Service program is to enter an officer training program.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would remove the Peace Corps from those national service programs through which National Call to Service participants may, after an initial period of active duty, complete their period of obligated service. The amendment would also amend section 510 to make certain technical corrections related to the eligibility of National Call to Service participants for educational benefits under titles 10 and 38, United States Code, and clarify that educational assistance earned through the National Call to Service program would be provided through the Department of Veterans Affairs under an agreement entered into by the Secretary of Defense and the Secretary of Veterans Affairs.

Reports on information provided to potential recruits and to new entrants into the Armed Forces on "stop loss" authorities and initial period of military service obligation (sec. 546)

The Senate amendment contained a provision (sec. 523) that would require the Secretary of Defense, not later than 90 days after the date of enactment of this Act, to submit a report on the actions being taken to ensure that each individual being recruited for service in the Armed Forces is provided detailed information on the periods of service to which such individuals may be obligated by reason of enlistment in the Armed Forces. The report would include a description of the stop loss authority and the manner in which the exercise of such authority could affect the duration of a member's service on active duty.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to simultaneously submit a report on the actions being taken to ensure that each individual covered by section 651(a) of title 10, United States Code, is provided, upon commencement of that person's initial period of military service, and at other points during a career, information regarding the date on which the initial service obligation of that person would end.

Subtitle E—Military Justice and Legal Assistance Matters

Offense of stalking under the Uniform Code of Military Justice (sec. 551)

The Senate amendment contained a provision (sec. 552) that would amend the Uniform Code of Military Justice (UCMJ) (chapter 47 of title 10, United States Code) to establish stalking as a separate offense under the UCMJ. "Stalking" is defined as a course of conduct directed at a specific person that would cause a reasonable person to fear death or bodily harm, including sexual assault, to himself or herself or a member of his or her immediate family. "Immediate family" includes a spouse, parent, child, or sibling of the person, or any other family member or relative of the person who regularly resides in the person's household or did so within the 6 months preceding the commencement of the course of conduct.

The House bill contained a similar provision (sec. 554).

The House recedes with an amendment that would include the person's "intimate partner" in the definition of "immediate family," would place the provision adjacent to the UCMJ article dealing with rape and carnal knowledge, and would provide for an effective date of 180 days after enactment of this Act. The delayed effective date will provide the necessary time for amendment of the Manual for Courts-Martial to encompass this new offense.

Rape, sexual assault, and other sexual misconduct under Uniform Code of Military Justice (sec. 552)

The House bill contained a provision (sec. 555) that would amend article 120 of the Uniform Code of Military Justice (UCMJ) (10 U.S.C. 920) to provide a series of graded offenses relating to rape, sexual assault, and other sexual misconduct, based upon the presence or absence of various aggravating factors. The provision would also set interim maximum punishments for the respective offenses, until such time as the President provides otherwise in the Manual for Courts-Martial.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would (1) clarify the availability of marriage as an affirmative defense, (2) strike language relating to preemption, (3) amend article 43 of the UCMJ (10 U.S.C. 843) to provide an unlimited statute of limitations for rape of a child, (4) make technical and conforming amendments, and (5) provide for an effective date of October 1, 2007.

Extension of statute of limitations for murder, rape, and child abuse offenses under the Uniform Code of Military Justice (sec. 553)

The House bill contained a provision (sec. 553) that would amend article 43 of the Uniform Code of Military Justice (10 U.S.C. 843) to (1) include all murders in the class of offenses that have an unlimited statute of limitations; (2) clarify that rape is also an offense with an unlimited statute of limitations; (3) extend the statute of limitations for certain child abuse offenses to the life of the child or 5 years from the date of the offense, whichever is later; and (4) add pornography involving a child and kidnaping of a child to the list of child abuse offenses.

The Senate amendment contained a similar provision (sec. 551).

The Senate recedes with an amendment that would clarify the applicability of the extension of the murder statute of limitations.

Reports by officers and senior enlisted members of conviction of criminal law (sec. 554)

The Senate amendment contained a provision (sec. 555) that would require the Secretary of Defense to prescribe regulations directing officers and senior enlisted personnel above the grade of E–6 to report to appropriate military authority their arrest, investigation, charging, detention, adjudication, or conviction for offenses other than minor traffic violations. The provision would also require development of procedures to ensure that information about criminal convictions is promptly forwarded by military authorities of one service to appropriate authorities in another service having jurisdiction over a military member.

The House bill contained no similar provision.

The House recedes with an amendment that would limit the obligation to report by officers and senior enlisted personnel to criminal convictions, including pleas of guilty or nolo contendere.

Clarification of authority of military legal assistance counsel to provide military legal assistance without regard to licensing requirements (sec. 555)

The Senate amendment contained a provision (sec. 553) that would amend section 1044 of title 10, United States Code, to provide that, notwithstanding any law regarding the licensure of attorneys, a judge advocate or civilian attorney who is authorized to provide military legal assistance is authorized to provide that assistance in any jurisdiction, subject to regulations prescribed by the Secretary concerned. Such assistance may be provided only by a judge advocate or a civilian attorney who is a member of the bar of a federal court or of the highest court of a State. "Legal assistance" is defined as legal assistance provided under sections 1044, 1044a, 1044b, 1044c, and 1044d of title 10, United States Code.

The House bill contained a similar provision (sec. 551).

The House recedes with a clarifying amendment.

Use of teleconferencing in administrative sessions of courts-martial (sec. 556)

The House bill contained a provision (sec. 552) that would amend article 39 of the Uniform Code of Military Justice (10 U.S.C. 839) to authorize the use of audiovisual technology to conduct administrative sessions of courts-martial, if authorized by regulations of the Secretary concerned and if the defense counsel is in the physical presence of the accused.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would clarify that only one defense counsel need be physically present with the accused for teleconferencing to be used. An accused may be represented by more than one counsel, particularly if the case is a serious one or the accused elects to employ civilian counsel. Not all counsel may be located in the same vicinity as the accused. The amendment would ensure that teleconferencing may be used in such situations.

Sense of Congress on applicability of Uniform Code of Military Justice to reserves on inactive duty training overseas (sec. 557)

The Senate amendment contained a provision (sec. 556) that would express the sense of the Senate that there should be no ambiguity about the applicability of the Uniform Code of Military Justice (UCMJ) to members of the reserve components of the Armed Forces while serving overseas under inactive duty training orders. The provision further expresses the sense of the Senate that the Secretary of Defense should take action, not later than February 1, 2006, to clarify any jurisdictional issues relating to such applicability under Article 2 of the UCMJ (10 U.S.C. 802), and, if necessary, to submit to Congress a legislative proposal to ensure the applicability of the UCMJ in such situations.

The House bill contained no similar provision.

The House recedes with an amendment that would make the provision an expression of the sense of Congress.

The conferees are concerned over the use of inactive duty training for reservists who are, it appears, performing operational missions overseas. The use of inactive duty training in this context may raise significant issues in such areas as pay, access to base facilities, status of forces agreements, and status under the international law of armed conflict. The conferees urge the Secretary to ensure that members of the reserves are not performing inactive duty training in situations in which active duty or active duty for training are more appropriate.

Subtitle F—Matters Relating to Casualties

Authority for members on active duty with disabilities to participate in Paralympic Games (sec. 561)

The House bill contained a provision (sec. 544) that would authorize the Secretary of Defense to permit eligible members of the Armed Forces to participate in the Paralympic Games and qualifying events and preparatory competition for these games.

The Senate amendment contained a similar provision (sec. 599A).

The Senate recedes.

Policy and procedures on casualty assistance to survivors of military decedents (sec. 562)

The House bill contained a provision (sec. 542) that would permanently codify the requirement to appoint a casualty assistance officer and establish a new requirement to formally appoint an assistance officer for seriously injured and ill service members and their families.

The Senate amendment contained a provision (sec. 591) that would require the Secretary of Defense to prescribe a comprehensive policy not later than January 1, 2006, on the provision of casualty assistance to survivors and next of kin of members of the Armed Forces who die during military service. The policy would address certain elements that shall be uniform across the military departments, except to the extent necessary to reflect the traditional practices or customs of a particular military department. The provision would also require the military departments, not later than March 1, 2006, to prescribe revised regulations and a report by the Secretary not later than May 1, 2006, assessing the adequacy and sufficiency of current casualty assistance programs of the military departments. It would also require the Comptroller General to submit an evaluation of the current casualty assistance programs of the Department not later than August 1, 2006.

The House recedes with an amendment that would revise and extend the dates on which the policies and reports on casualty assistance would be promulgated. The General Accountability Office (GAO) would be required to report by July 1, 2006, on the current policies and procedures of, and funding for, the Department's casualty assistance programs.

The conferees believe the GAO assessment will be valuable in formulating uniform policies under this provision.

Policy and procedures on assistance to severely wounded or injured service members (sec. 563)

The House bill contained a provision (sec. 543) that would require the Secretary of Defense to examine the programs of the military services that provide assistance to service members who incur severe wounds or injuries in the line of duty, including the Army Disabled Soldier Support Program and the Marine for Life Injured Support Program, and develop standards and guidelines as necessary to coordinate and standardize those programs with the activities of the Severely Injured Joint Support Operations Center of the Department of Defense.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense, not later than June 1, 2006, to prescribe a comprehensive policy, in consultation with the Secretary of Veterans Affairs and the Secretary of Labor, for the Department of Defense on the provision of assistance to members of the Armed Forces who incur severe wounds or injuries in the line of duty. The amendment would require that certain elements be addressed and that the policy include guidelines to be followed by military departments in the provision of assistance to severely wounded or injured service members and procedures and standards that are uniform across the military departments to the extent practicable. The services would be required to prescribe their respective regulations by September 1, 2006.

Designation by members of the Armed Forces of persons authorized to direct the disposition of member remains (sec. 564)

The House bill contained a provision (sec. 541) that would require that members of the Armed Forces, upon their enlistment or appointment, specify in writing the person authorized to direct the disposition of the member's remains under section 1482 of title 10, United States Code, in the event of the member's death while serving on active duty.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require that not later than June 1, 2006, the Department of Defense complete, and the services implement, revisions to Department of Defense Instruction 1300.18 relating to military personnel casualty matters, policies, and procedures. The revisions would require that members designate in writing a person authorized to direct disposition of their remains. Additionally, the provision would require that not later than July 1, 2006, the Secretary of Defense submit a report on the actions taken to carry out the provisions of the revised policy.

Subtitle G—Assistance to Local Educational Agencies for Defense Dependents Education

Expansion of authorized enrollment in Department of Defense Dependents Schools overseas (sec. 571)

The House bill contained a provision (sec. 561) that would require the Secretary of Defense to provide dependent children of full-time, locally hired Department of Defense employees who are U. S. citizens or nationals a space-required, tuition free education in Department of Defense Dependents Schools overseas.

The Senate amendment contained a similar provision (sec. 581).

The House recedes with an amendment that would remove the authorization for the Secretary to utilize funds for military construction in conjunction with the enrollment of additional children on a tuition-free basis in overseas schools.

Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees (sec. 572)

The House bill contained a provision (sec. 562(a)) that would authorize $50.0 million in Operation and Maintenance, Defense-wide activities, for assistance to eligible local educational agencies that provide education to military dependent children. The House bill also contained a provision (562(b)) that would authorize $10.0 million in Operation and Maintenance, Defense-wide activities, for eligible local educational agencies experiencing enrollment changes in military dependent children due to base closures, force structure changes, and force relocations.

The Senate amendment contained two similar provisions (secs. 582 and 583).

The Senate recedes with an amendment that would authorize $30.0 million for assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees. The amendment also would authorize $10.0 million in Operation and Maintenance, Defense-wide activities, to assist communities that experience enrollment changes in the number of military and Department of Defense dependent children due to global rebasing, creation or activation of new military units, realignment of forces as a result of the base closure process, or a change in the number of housing units on a military installation. The amendment establishes a limitation of $1.0 million on the amount that any eligible local educational agency may receive in any fiscal year, and extends the authority for assistance under this section for 5 years.

The conferees note that the Base Realignment and Closure (BRAC) round of 2005, in addition to impacting military installations around the country, will have significant impact on surrounding civilian communities including local school systems.

The quality of life for military families is significantly impacted by the quality of public education available to their children. In light of the anticipated increases in school-aged children in some cases resulting from Department of Defense initiated actions, the conferees believe that the Department should work closely with impacted States and local communities, as well as the Department of Education, to proactively address the influx, and the requirement for adequate facilities and resources to properly provide for the education needs of military children.

The conferees direct the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and the House of Representatives no later than 6 months after the enactment of this Act that examines Department of Defense installations that have gained or are expected to gain military students over the period of 2004 through 2011 as a result of BRAC, rebasing, force restructuring, or change in the number of military housing units, and addresses the following: (1) the number of students that have been or are expected to be gained at those installations; (2) a plan for how the Department will work collaboratively with other federal agencies as well as local and state education agencies to ensure that military children have access to sufficient educational resources and facilities when they arrive at one of the new, highly impacted installations listed above; and (3) a list of possible funding resources, including federal grants, available to local education agencies to assist in funding the necessary construction, expansion, and additional teachers that will be required to accommodate significant increases in students due to Department of Defense initiated actions.

Impact aid for children with severe disabilities (sec. 573)

The Senate amendment contained a provision (sec. 584) that would authorize $5.0 million in Operation and Maintenance, Defense-wide activities, for impact aid payments for children with disabilities under section 8003(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(d)), using the formula set forth in section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal year 2001 (Public Law 106–398).

The House bill contained no similar amendment.

The House recedes.

Continuation of impact aid assistance on behalf of dependents of certain members despite change in status of member (sec. 574)

The House bill contained a provision (sec. 563) that would adjust the process for computing the amount of funding provided by the Department of Education to certain local educational agencies heavily impacted by dependents of military personnel for the school year 2005–2006. The adjustment would require that children who attend the school, but no longer live on a military base because both parents are deployed or children who temporarily reside in military housing following the death of a military parent, continue to be counted as a child enrolled in school when computing average daily attendance for the purposes of determining the amount of assistance received.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Subtitle H—Decorations and Awards

Eligibility for Operation Enduring Freedom campaign medal (sec. 576)

The House bill contained a provision (sec. 567) that would establish September 11, 2001, as the beginning date for eligibility for the campaign medal for Operation Enduring Freedom, which was established pursuant to Public Law 108–234.

The Senate amendment contained no similar provision.

The Senate recedes.

Subtitle I—Consumer Protection Matters

Requirement for regulations on policies and procedures on personal commercial solicitations on Department of Defense installations (sec. 577)

The Senate amendment contained a provision (sec. 594) that would require the Department of Defense, not later than January 1, 2006, to prescribe regulations, or modify existing regulations, relating to commercial solicitation including the sale of life insurance and securities, on military installations. In order to facilitate this requirement, the Senate provision would repeal two previously enacted legislative provisions that could delay implementation and are no longer required.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Department to prescribe new regulations as soon as practicable after the date of enactment of this Act but no later than March 31, 2006.

Consumer education for members of the Armed Forces and their spouses on insurance and other financial services (sec. 578)

The Senate amendment contained a provision (sec. 598) that would require the services to carry out comprehensive programs of consumer education for members and their spouses on insurance and other financial services that are available to members and routinely offered by private sector sources. The provision would also require that training be provided during initial entry orientation of military members and periodically at military installations throughout subsequent military service. The provision would make counseling and training available to members' spouses upon request and set forth minimal qualifications for designated financial counselors. The provision would also set forth certain requirements for counseling and certification in connection with the purchase of life insurance policies and use of military allotments by junior enlisted personnel.

The House bill contained no similar provision.

The House recedes with an amendment that would delete the requirement in law for written certification by a commander before military members may request an allotment for the purpose of purchasing life insurance.

Report on predatory lending practices directed at members of the Armed Forces and their dependents (sec. 579)

The Senate amendment contained a provision (sec. 599) that would express the sense of the Senate that the Department of Defense should work with financial service regulators to protect the members of the Armed Forces from predatory lending practices and that legislation should be adopted that will strengthen disclosure, education, and other protections for military members and their families regarding predatory lending practices. The provision would also require the Secretary of Defense, in consultation with the Secretary of the Treasury; the Chairman of the Federal Reserve; the Chairman of the Federal Deposit Insurance Corporation; and representatives of military charity organizations and consumer organizations, to report on predatory lending practices directed at members of the Armed Forces and their families.

The House bill contained no similar provision.

The House recedes with an amendment that would require the report by the Secretary of Defense to be submitted within 180 days of enactment of this Act.

Subtitle J—Reports and Sense of Congress Statements

Report on need for a personnel plan for linguists in the Armed Forces (sec. 581)

The House bill contained a provision (sec. 573) that would require the Secretary of Defense to review the career paths available to officer and enlisted linguists to determine if a change in their career management would be beneficial. The amendment would also require the Secretary to report the findings, results, and conclusions of this review and assessment not later than 180 days after the date of enactment of this Act.

The Senate amendment contained no similar provision.

The Senate recedes.

Sense of Congress that colleges and universities give equal access to military recruiters and ROTC in accordance with the Solomon amendment and requirement for report to Congress (sec. 582)

The House bill contained a provision (sec. 580) that would express the sense of the Congress that any college or university that discriminates against Reserve Officers' Training Corps (ROTC) programs or military recruiters should be denied certain federal funding consistent with the provision of law known as the Solomon amendment, and that universities and colleges that receive federal funds should provide military recruiters access to college campuses and to college students equal in quality and scope to that provided all other employers. The amendment would also require the Secretary of Defense to submit a report on the colleges and universities that are denying equal access to military recruiters and ROTC programs 1 year after the date of enactment of this Act.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Sense of Congress concerning study of options for providing homeland defense education (sec. 583)

The House bill contained a provision (sec. 529) that would express a sense of Congress that the Secretary of Defense, in consultation with the Secretary of Homeland Security, should establish within the National Defense University an educational institution, to be known as the National College of Homeland Security, to have the mission of providing strategic-level homeland security and homeland defense education and related research to civilian and military leaders from all agencies of government in order to contribute to the development of a common understanding of homeland security principles and of effective interagency homeland security strategies, doctrines, and processes.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would express a sense of Congress that the Secretary of Defense, in consultation with the Secretary of Homeland Security, should study the options among public and private educational institutions and facilities, including an option of using the National Defense University, for providing strategic-level homeland defense education and related research to civilian and military leaders from all agencies of government in order to contribute to the development of a common understanding of homeland defense principles and of effective interagency homeland defense strategies, doctrines, and processes. The results of such consultation and study should be reported to the Committees on Armed Services of the Senate and the House of Representatives, together with such recommendations as the Secretary of Defense considers appropriate, including a request for implementing legislation that would contribute to the development of strategic-level homeland defense education.

Sense of Congress recognizing the diversity of the members of the Armed Forces serving in Operation Iraqi Freedom and Operation Enduring Freedom and honoring their sacrifices and the sacrifices of their families (sec. 584)

The House bill contained a provision (sec. 1048) that would recognize the diversity of those killed in Operation Iraqi Freedom and Operation Enduring Freedom and honoring their sacrifices and the sacrifices of their families.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would recognize the diversity of all those who served vice only those killed.

Subtitle K—Other Matters

Expansion and enhancement of authority to present recognition items for recruitment and retention purposes (sec. 589)

The House bill contained a provision (sec. 525) that would extend for 1 year the authority to award recognition items of nominal value provided in section 520 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375).

The Senate amendment contained a provision (sec. 593) that would expand the authority to award recognition items to all active and reserve components and extend it through December 31, 2007.

The House recedes with a clarifying amendment.

Extension of date of submittal of report of Veterans' Disability Benefits Commission (sec. 590)

The conferees agree to include a provision that would amend section 1503 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 38 U.S.C. 1101 note) to authorize an extension until October 1, 2007, of the date on which the Commission must submit its report to the President. The conferees believe that the extension is necessary to facilitate the participation by the Institute of Medicine and Center for Naval Analyses in conducting a comprehensive review of key issues within the Commission's charter.

Recruitment and enlistment of home-schooled students in the Armed Forces (sec. 591)

The Senate amendment contained a provision (sec. 522) that would require the Secretary of Defense to prescribe a uniform policy on the recruitment and enlistment of home-schooled students in the Armed Forces.

The House bill contained no similar provision.

The House recedes with an amendment that would require that the policy on the recruitment and enlistment of home-schooled students include a communication plan aimed at ensuring understanding throughout the recruiter force of policies applicable to home-schooled individuals.

Modification of requirement for certain intermediaries under certain authorities relating to adoption (sec. 592)

The Senate amendment contained a provision (sec. 655) that would amend section 1052 of title 10, United States Code, to authorize the reimbursement of expenses incurred in the legal adoption of a child, whether placed by a qualifying adoption agency or by another source authorized to place children for adoption under State or local law. The provision would also amend section 1072 of that title to include in the definition of "child" for medical and dental care purposes a child placed in the home of a member in anticipation of adoption, whether the child is placed by an agency or by another source authorized to place children by State or local law.

The House bill contained no similar provision.

The House recedes.

Adoption leave for members of the Armed Forces adopting children (sec. 593)

The House bill contained a provision (sec. 572) that would authorize up to 21 days of leave for a military member to be used in connection with an adoption that qualifies for adoption expenses authorized in section 1052 of title 10, United States Code.

The Senate amendment contained a provision (sec. 573) that would require the Secretary of Defense to promulgate a uniform policy for parental leave to be used by military members in connection with births or adoptions.

The Senate recedes with an amendment that would require that in the event that two members of the Armed Forces who are married to each other adopt a child in a qualifying adoption only one member shall be allowed to take adoption leave.

The conferees intend that regulations prescribed by the Secretary will establish a uniform policy on adoption leave for all the military departments.

Addition of information to be covered in mandatory preseparation counseling (sec. 594)

The House bill contained a provision (sec. 577) that would require that mandatory preseparation counseling provided to military members in accordance with section 1142(b) of title 10, United States Code, include information concerning the availability of mental health services and the treatment of Post-Traumatic Stress Syndrome and other mental health conditions.

The Senate amendment contained a provision (sec. 1602) that would authorize improved transitional assistance programs for veterans, including information in preseparation counseling on civilian occupations and related assistance programs, including the priority of service for veterans in the receipt of employment, training, and placement services provided by the Department of Labor.

The Senate recedes with an amendment that would include the additional matters in mandatory preseparation counseling.

Report on Transition Assistance Programs (sec. 595)

The Senate amendment contained a provision (sec. 1604) that would require the Secretary of Defense, in consultation with the Secretary of Labor and the Secretary of Veterans Affairs, to submit a report on actions taken to ensure that Transition Assistance Programs for military members separating from the Armed Forces (including members of the reserve components) function effectively to provide timely and comprehensive transition assistance.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Improvement to Department of Defense capacity to respond to sexual assault affecting members of the Armed Forces (sec. 596)

The House bill contained a provision (sec. 578) that would require the Secretary of Defense to conduct an inventory of supplies and resources, including rape kits, trained personnel and transportation resources, assigned or deployed to deal with sexual assault in deployed units. The provision would also require the Secretary to develop an action plan to enhance the availability of resources in response to sexual assaults in deployed units.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary to develop a system for tracking cases in which care for a victim of sexual assault or prosecution of an alleged perpetrator was hindered by the lack of a rape kit or other needed supplies and resources. The amendment would also require a report by the Secretary within 120 days of enactment of this Act for ensuring the availability of supplies and trained personnel and resources for responding to sexual assaults occurring in deployed units. The amendment would include additional elements related to the availability of resources for deployed units to the annual report on sexual assaults required by section 577 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375).

Authority for appointment of Coast Guard flag officer as Chief of Staff to the President (sec. 597)

The House bill contained a provision (sec. 508) that would amend title 14, United States Code, to authorize the President, by and with the advice and consent of the Senate, to appoint a flag officer of the U.S. Coast Guard to be the Chief of Staff to the President.

The Senate amendment contained no similar provision.

The Senate recedes.

Prayer at military service academy activities (sec. 598)

The Senate amendment contained a provision (sec. 1079) that would authorize the superintendent of a service academy to have in effect a policy with respect to the offering of a voluntary, nondenominational prayer at an authorized activity of the academy, subject to the U.S. Constitution and such limitations as the Secretary of Defense may prescribe.

The House bill contained no similar provision.

The House recedes.

Modification of authority to make military working dogs available for adoption (sec. 599)

The conferees agree to a provision that would amend section 2583 of title 10, United States Code, to authorize the service secretaries to make military working dogs available for adoption under unusual or extraordinary circumstances before the end of their useful working life. The conferees believe that additional flexibility is needed in responding to exceptional requests for adoption of military working dogs, particularly those arising from wartime conditions.

LEGISLATIVE PROVISIONS NOT ADOPTED

Administrative censures of members of the Armed Forces

The Senate amendment contained a provision (sec. 554) that would codify the authority of the Secretary of Defense and the service secretaries to issue administrative censures in writing to members of the Armed Forces. An administrative censure is a statement of adverse opinion or criticism with respect to the conduct or performance of duty by a military member. Such administrative censures are not subject to appeal and are final when issued.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force possess inherent authority, wholly apart from the provisions of the Uniform Code of Military Justice, to administratively censure members of the Armed Forces when facts and circumstances so require. While the conferees believe that codification of the authority to administratively censure is not required, it is important that senior civilian and military leaders who are responsible for ensuring accountability in the aftermath of failures and deficiencies in performance by military personnel understand the availability of this authority and use it when warranted.

CAPSTONE overseas field studies trips to People's Republic of China and Republic of China on Taiwan

The House bill contained a provision (sec. 528) that would require the Secretary of Defense to direct the National Defense University to ensure that field study visits to China and Taiwan are integral components of the CAPSTONE program carried out by the university.

The Senate amendment contained no similar provision.

The House recedes.

Cold War Victory Medal

The House bill contained a provision (sec. 565) that would require the Secretary of Defense to design and issue a Cold War Victory Medal, and prescribe the eligibility criteria.

The Senate amendment contained no similar provision.

The House recedes.

Commencement of receipt of non-regular service retired pay by members of the ready reserve on active federal status or active duty for significant periods

The Senate amendment contained a provision (sec. 539) that would amend section 12731 of title 10, United States Code, to provide that members of the ready reserve who have served on active duty after September 11, 2001, would be eligible to have their age for receipt of retired pay reduced by 3 months for each aggregate of 90 days of active duty performed in any fiscal year. Qualifying service for purposes of this provision would be service on active duty pursuant to a call or order to active duty in support of a contingency operation or under a call to service authorized by the President or Secretary of Defense under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President or supported by federal funds.

The House bill contained no similar provision.

The Senate recedes.

The conferees are grateful for the enormous contributions of reservists and National Guardsmen in prosecuting the global war on terrorism. The central role of the reserve components in Operations Noble Eagle, Enduring Freedom, and Iraqi Freedom have demonstrated the critical importance of transformation of the reserve components aimed at establishing a flexible continuum of service that will allow the nation's citizen-soldiers to continue to perform vital missions in the Armed Forces while successfully pursuing civilian careers. A key element in achieving success in this regard is a reserve retirement system that enhances mobilization readiness, supports recruiting and retention, and equitably rewards those who serve on active duty for extended periods, particularly volunteers.

The Commission on the National Guard and Reserves, established by section 513 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375) has been established and is currently at work. The conferees expect the commission, consistent with its charter, to closely examine issues relating to the eligibility age for receipt of retired pay and to recommend alternatives that recognize the role of the National Guard and reserve and that may create new incentives for ready reservists to volunteer for active service, thereby materially contributing to military readiness and enhanced mission capability.

Comptroller General study of military recruiting

The House bill contained a provision (sec. 576) that would require the Comptroller General to submit a report on certain matters relating to violations of law by military recruiters and the sufficiency of Department of Defense policies in this regard.

The Senate amendment contained no similar provision.

The House recedes.

Eligibility of certain persons for space-available travel on military aircraft

The House bill contained a provision (sec. 575) that would extend eligibility for space-available transportation to gray-area retirees, i.e., members or former members of a reserve component under 60 years of age who, but for age, would be eligible for retired pay, and to their dependents.

The Senate amendment contained no similar provision.

The House recedes.

The conferees note that a requirement is included elsewhere in this report for the Secretary of Defense to report on the feasibility of providing space-available travel eligibility to gray-area retirees and their dependents.

Establishment of Combat Medevac Badge

The House bill contained a provision (sec. 566) that would require the Secretaries of the Army, Navy, and Air Force to design and issue a Combat Medevac Badge and that would prescribe eligibility criteria.

The Senate amendment contained no similar provision.

The House recedes.

Extension of waiver authority of Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency

The House bill contained a provision (sec. 571) that would extend for two years the authority provided by the Higher Education Relief Opportunities for Students Act of 2003 (Public Law 108-76).

The Senate amendment contained a similar provision (sec. 653).

This provision is not included in the conference report because it is unnecessary. On September 30, 2005, legislation extending the waiver authority of the Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency was enacted as Public Law 109-78.

Federal assistance for state programs under the National Guard Youth Challenge program

The Senate amendment contained a provision (sec. 595) that would phase in over 3 years a change in the federal to state matching funds ratio required by section 509(d) of title 32, United States Code, for the National Guard Youth Challenge program.

The House bill contained no similar provision.

The Senate recedes.

Improved administration of transitional assistance programs

The Senate amendment contained a provision (sec. 1602) that would amend section 1142 of title 10, United States Code, to specify additional pre-separation information that must be provided to reserve component members who have been serving on active duty continuously for at least 180 days before such members are separated.

The House bill contained no similar provision.

The Senate recedes.

Members completing statutory initial military service obligation

The House bill contained a provision (sec. 533) that would require members at the commencement of their initial period of military service to be informed of the date on which their initial military service obligation ends. The provision would also require the secretaries of the military departments to notify members of the Individual Ready Reserve of the date on which their initial military service obligation ends and prohibit the involuntary mobilization, or a recall to active duty, commencing after the expiration of the military service obligation of members of the Individual Ready Reserve.

The Senate amendment contained no similar provision.

The House recedes.

The conferees note that the Department of Defense is required to report on policies relating to notification to service members of the extent of their military service obligation elsewhere in this report.

National Call to Service program

The Senate amendment contained a provision (sec. 576) that would remove the Peace Corps from those national service programs through which National Call to Service participants may, after an initial period of active duty, complete their period of obligated service. The provision would also amend section 510 of title 10, United States Code, to make certain technical corrections related to the eligibility of National Call to Service participants for educational benefits under titles 10 and 38, United States Code, and clarify that educational assistance earned through the National Call to Service program would be provided through the Department of Veterans Affairs under an agreement entered into by the Secretary of Defense and the Secretary of Veterans Affairs.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that the substance of this provision was included in a separate provision in this Act relating to the National Call to Service program.

Performance by reserve component personnel of operational test and evaluation and training relating to new equipment

The Senate amendment contained a provision (sec. 537) that would authorize the Secretary of the Army to carry out a pilot program through September 2010 to evaluate the feasibility and advisability of utilizing members of the reserve components of the Army, rather than contractor personnel, to perform test, evaluation, and new equipment training, and related activities. Up to $10.0 million in any fiscal year of funds available to the Army for multiyear purposes in appropriations for Research, Development, Test, and Evaluation, and for procurement, would be authorized to be transferred to a reserve component military personnel account in the amounts necessary to reimburse that account for the costs of military pay and allowances of reservists participating in this program.

The House bill contained no similar provision.

The Senate recedes.

Repeal of limitation on authority to redesignate the Naval Reserve as the Navy Reserve

The Senate amendment contained a provision (sec. 536) that would amend section 517(a) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375) to eliminate the requirement that implementation of the redesignation of the Naval Reserve as the Navy Reserve be delayed until after submission of conforming legislation.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that this provision is unnecessary because conforming legislation designating the Naval Reserve as the Navy Reserve is included elsewhere in this report.

Sense of the Senate on notice to Congress of recognition of members of the Armed Forces for extraordinary acts of bravery, heroism, and achievement

The Senate amendment contained a provision (sec. 575) that would express the sense of the Senate that certain committees and members of Congress should be informed when a member of the Armed Forces is awarded a medal or otherwise commended for an act of extraordinary heroism, bravery, achievement, or other distinction.

The House bill contained no similar provision.

The Senate recedes.

Short title

The Senate amendment contained a provision (sec. 1501) that would designate title XV of the Senate amendment as the "Military Recruiting Initiatives Act of 2005."

The House bill contained no similar provision.

The Senate recedes.

Short title

The Senate amendment contained a provision (sec. 1601) that would designate title XVI of the Senate amendment as the "Veterans' Enhanced Transition Services Act of 2005."

The House bill contained no similar provision.

The Senate recedes.

Standardization of grade of senior dental officer of the Air Force with that of senior dental officer of the Army

The House bill contained a provision (sec. 510) that would require that the officer serving as the senior dental officer in the Air Force, like the senior dental officer in the Army, be appointed in the grade of major general.

The Senate amendment contained no similar provision.

The House recedes.

Use of National Guard to provide military support to civilian law enforcement agencies for domestic counterterrorism activities

The House bill contained a provision (sec. 515) that would authorize the governor of a State to order personnel of that state's National Guard to active duty under title 32, United States Code, to provide military support to a civilian law enforcement agency, on a reimbursable basis, for domestic counterterrorism activities. The provision would define domestic counterterrorism as measures taken to prevent, deter, and respond to terrorism within a State.

The Senate amendment contained no similar provision.

The House recedes.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Pay and Allowances

Increase in basic pay for fiscal year 2006 (sec. 601)

The House bill contained a provision (sec. 601) that would increase basic pay for members of the Armed Forces by 3.1 percent effective January 1, 2006, and waiver of the adjustment required by section 1009 of title 37, United States Code.

The Senate amendment contained no similar provision in view of the requirement regarding annual pay adjustment set forth in section 1009(c)(2) of title 37, United States Code.

The Senate recedes.

Additional pay for permanent military professors at United States Naval Academy with over 36 years of service (sec. 602)

The House bill contained a provision (sec. 602) that would allow permanent military professors at the United States Naval Academy with over 36 years of service to receive the same $250-per-month increase that is already authorized for permanent professors at the other service academies.

The Senate amendment contained a similar provision (sec. 601).

The Senate recedes.

Basic pay rates for reserve component members selected to attend military service academy preparatory schools (sec. 603)

The House bill contained a provision (sec. 603) that would clarify that reserve component members who are attending military service academy preparatory schools shall be paid at the rate prescribed for the member's pay grade unless the standard rate of compensation provided to cadets and midshipmen is greater.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Clarification of restriction on compensation for correspondence courses (sec. 604)

The House bill contained a provision (sec. 604) that would clarify that members of the National Guard, as well as other members of the reserve components, are not authorized to be compensated for work associated with participation in a correspondence course sponsored by a uniformed service.

The Senate amendment contained no similar provision.

The Senate recedes.

Enhanced authority for agency contributions for members of the Armed Forces participating in the Thrift Savings Plan (sec. 605)

The Senate amendment contained a provision (sec. 602) that would authorize service secretaries to make matching contributions to the Thrift Savings Fund pursuant to an agreement with an enlisted member covering the duration of the member's initial enlistment.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Pilot program on contributions to Thrift Savings Plan for initial enlistees in the Army (sec. 606)

The Senate amendment contained a provision (sec. 652) that would require the Secretary of the Army to conduct a pilot program in order to assess the extent to which contributions by the Army to the Thrift Savings Plan on behalf of first term enlistees would assist in recruiting non-prior service enlistees and result in establishing habits of financial responsibility.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Prohibition against requiring certain injured members to pay for meals provided by military treatment facilities (sec. 607)

The House bill contained a provision (sec. 1524) that would amend section 402 of title 37, United States Code, to provide that members of the Armed Forces shall not be required to pay for meals at military treatment facilities who are undergoing medical recuperation or therapy, or are otherwise undergoing continuous care, including outpatient care, for an injury, illness, or disease incurred in support of Operation Iraqi Freedom, Operation Enduring Freedom, or any other operation or area designated by the Secretary of Defense.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would make the provision effective from October 1, 2005, and ending on December 31, 2006.

Permanent authority for supplemental subsistence allowance for low-income members with dependents (sec. 608)

The House bill contained a provision (sec. 605) that would make permanent the authority to pay the supplemental subsistence allowance for low-income members with dependents.

The Senate amendment contained a similar provision (sec. 603).

The Senate recedes.

Increase in basic allowance for housing and extension of temporary lodging expenses authority for areas subject to major disaster declaration or for installations experiencing sudden increase in personnel levels (sec. 609)

The Senate amendment contained a provision (sec. 672) that would authorize the Secretary of Defense to prescribe temporary increases in rates of basic allowance for housing (BAH) in areas for which major disasters have been declared under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. §5170). The amount of the temporary increase in BAH would be determined based on the amount by which the costs of adequate housing for civilians have increased in designated areas as a result of the disaster, but may not exceed an amount equal to 20 percent of the applicable rate of BAH.

The House bill contained no similar provision.

The House recedes with an amendment that would also authorize the Secretary to approve a temporary increase in BAH to members stationed in areas experiencing a sudden increase in the number of members of the Armed Forces assigned and would authorize temporary lodging expenses for these areas for up to 20 days. This authority would appropriately be exercised in areas in which a rapid influx of military personnel due to such factors as base realignment and closure, global re-basing, and other force structural changes cause sudden increases in the cost of housing in designated areas.

Basic allowance for housing for reserve component members (sec. 610)

The House bill contained a provision (sec. 606) that would eliminate the requirement to pay a reduced rate of basic allowance for housing (BAH) to reserve component members when mobilized to serve on active duty for periods greater than 30 days and less than 140 days. It would also clarify that full BAH would be paid to reserve component members when they are mobilized to serve on active duty for less than 30 days in connection with a contingency operation.

The Senate amendment contained an identical provision.

The conference agreement includes this provision.

Permanent increase in length of time dependents of certain deceased members may continue to occupy military family housing or receive basic allowance for housing (sec. 611)

The House bill contained a provision (sec. 1526) that would extend from 180 days to 365 days the period that dependents of members of the Armed Forces who die on active duty may continue to occupy military family housing without charge. The provision would also authorize payment of the basic allowance for housing (BAH) for survivors of military decedents for up to 365 days if the dependents are residing in a private sector residence. This provision would codify enhanced housing benefits for survivors that were authorized under section 1022 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13).

The Senate amendment contained a similar provision (sec. 605).

The House recedes with a technical amendment.

Overseas cost of living allowance (sec. 612)

The House bill contained a provision (sec. 607) that would authorize service secretaries to continue to pay the overseas cost of living allowance when a member's family continues to reside overseas, notwithstanding the reassignment of the sponsor to duty inside the continental United States, if the secretary concerned determines that it is in the best interest of the member or the member's dependents and in the best interest of the United States. The provision would also clarify the expenses eligible for lump-sum reimbursement under section 405(d) of title 37, United States Code.

The Senate amendment contained no similar provision.

The Senate recedes.

Allowance to cover portion of monthly deduction from basic pay for Servicemembers' Group Life Insurance coverage for members serving in Operation Enduring Freedom or Operation Iraqi Freedom (sec. 613)

The House bill contained a provision (sec. 1528) that would authorize an allowance to pay the full cost of life insurance coverage under Servicemembers' Group Life Insurance (SGLI) for members serving in the theater of operations for Operation Enduring Freedom (OEF) or Operation Iraqi Freedom (OIF). The allowance would be in an amount equal to the lesser of the deduction from the basic pay of members for the amount of SGLI coverage obtained or the amount of the deduction otherwise made for members who have maximum SGLI coverage. The provision would also require the services to provide information about the new allowance to service members preparing to deploy to OEF or OIF.

The Senate amendment contained a similar provision (sec. 641(b)(3)) that would authorize the amount of the government-provided insurance to cover the cost of $150,000 of coverage.

The Senate recedes with an amendment that would require, in the case of members who have insurance coverage under the SGLI and who serve in the theater of operations of OEF or OIF, payment of an allowance in an amount that would fund the first $150,000 of SGLI coverage. The Secretary of Defense would be authorized, but not required, by this provision, to pay for an additional $250,000 of coverage or any portion thereof.

Income replacement payments for reserves experiencing extended and frequent mobilization for active duty service (sec. 614)

The House bill contained a provision (sec. 608) that would require payment to involuntarily mobilized reserve members of an amount that would replace the differential between their regular military compensation, plus any special or incentive pays and allowances, and the average monthly income they received during the 12 months preceding the month during which they were mobilized. Reservists and National Guardsmen who have private sector income exceeding their active duty income would be eligible for the income replacement payment for any full month following the date that the member completes 18 continuous months of service on active duty, or 24 months on active duty during the previous 60 months, or for any month during mobilization that occurs within 6 months of the member's last active duty tour. Payments would be limited to a minimum of $50 and a maximum of $3,000 each month. The provision would be effective after December 2005.

The Senate amendment contained a similar provision (sec. 607) that would authorize income replacement payments under the same conditions as the House provision except that qualifying reservists and National Guardsmen would be eligible to receive income differential payments after they have completed 180 continuous days of service on active duty.

The Senate recedes with an amendment that would set an effective date of 180 days after the date of enactment of this Act, authorize the Secretary of Defense to issue regulations to administer income replacement payments, and provide for expiration of this authority after December 31, 2008.

Subtitle B—Bonuses and Special and Incentive Pays

Extension or resumption of certain bonus and special pay authorities for reserve forces (sec. 621)

The House bill contained a provision (sec. 611) that would extend or resume the authority for the Selected Reserve reenlistment bonus, special pay for enlisted members assigned to certain high priority units, the Ready Reserve enlistment bonus for persons without prior service, the Ready Reserve enlistment and reenlistment bonus for persons with prior service, and the Selected Reserve enlistment bonus for persons with prior service until December 31, 2006.

The Senate amendment contained a similar provision (sec. 611).

The Senate recedes with a technical amendment.

Extension of certain bonus and special pay authorities for certain health care professionals (sec. 622)

The House bill contained a provision (sec. 612) that would extend the authority to pay the nurse officer candidate accession bonus, the accession bonus for registered nurses, incentive special pay for nurse anesthetists, special pay for Selected Reserve health professionals in critically short wartime specialities, the accession bonus for dental officers, and the accession bonus for pharmacy officers until December 31, 2006. The provision would also extend the authority to repay education loans for certain Selected Reserve health professionals until January 1, 2007.

The Senate amendment contained a similar provision (sec. 612).

The Senate recedes.

Extension of special pay and bonus authorities for nuclear officers (sec. 623)

The House bill contained a provision (sec. 613) that would extend the authority for the special pay for nuclear-qualified officers extending a period of active service, the nuclear career accession bonus, and the nuclear career annual incentive bonus until December 31, 2006.

The Senate amendment contained a similar provision (sec. 613).

The Senate recedes.

Extension of other bonus and special pay authorities (sec. 624)

The House bill contained a provision (sec. 614) that would extend the authority for the aviation officer retention bonus, the reenlistment bonus for active members, the enlistment bonus for active members, the retention bonus for members with critical skills, and the accession bonus for new officers in critical skills until December 31, 2006. The provision would also extend the authority for assignment incentive pay until December 31, 2007.

The Senate amendment contained a similar provision (sec. 614).

The Senate recedes.

Eligibility of oral and maxillofacial surgeons for incentive special pay (sec. 625)

The Senate amendment contained a provision (sec. 624) that would authorize the Secretary of Defense to pay incentive special pay to oral and maxillofacial surgeons, who are members of the dental corps, on the same basis as incentive special pay is available to medical corps officers.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Eligibility of dental officers for additional special pay (sec. 626)

The House bill contained a provision (sec. 615) that would eliminate the restriction barring military dentists from being paid additional special pay while they are undergoing dental internship or residency training.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Increase in maximum monthly rate authorized for hardship duty pay (sec. 627)

The House bill contained a provision (sec. 616) that would increase the maximum monthly rate of hardship duty pay from $300 to $750.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Flexible payment of assignment incentive pay (sec. 628)

The House bill contained a provision (sec. 617) that would authorize assignment incentive pay to be paid on a monthly basis, in a lump sum, or in installments other than monthly.

The Senate amendment contained a provision (sec. 615) that would also require a written agreement when assignment incentive pay is paid in a lump sum or in installments.

The House recedes with an amendment that would authorize an increase in the maximum monthly rate of assignment incentive pay from the existing $1,500 to $3,000. The amendment would also clarify the circumstances under which repayment of assignment incentive pay must be made.

Active duty reenlistment bonus (sec. 629)

The House bill contained a provision (sec. 618) that would increase the maximum selective reenlistment bonus that may be paid to an active component member from $60,000 to $90,000. The provision would also extend the maximum years of service beyond which a reenlistment bonus may not be awarded from 16 years to 20 years, repeal an obsolete pay under section 312a of title 37, United States Code, and authorize service secretaries to waive eligibility criteria during war and national emergency.

The Senate amendment contained a provision (sec. 616) that would authorize payment of up to $75,000 to certain nuclear-qualified enlisted members of the naval service who have completed at least 10, but not more than 14, years of active duty.

The Senate recedes with an amendment that would delete the provision permitting waiver of all or a part of the eligibility requirements for the active duty reenlistment bonus in time of war or national emergency.

Reenlistment bonus for members of Selected Reserve (sec. 630)

The House bill contained a provision (sec. 619) that would extend the maximum years of service beyond which a reenlistment bonus may not be awarded from 16 years to 20 years, prohibit inclusion of portions of a term of reenlistment or extension of enlistment in excess of 24 years in computing the total bonus amount, and authorize the service secretaries to waive eligibility criteria established in law during war or national emergency.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would delete the provision permitting waiver of all or a part of the eligibility requirements for the Selected Reserve reenlistment bonus in time of war or national emergency.

Consolidation and modification of bonuses for affiliation or enlistment in Selected Reserve (sec. 631)

The House bill contained a provision (sec. 620) that would consolidate sections 308c and 308e of title 37, United States Code, setting the maximum amount that may be paid to members who affiliate with Selected Reserve units at $15,000 and that would specify new installment or lump-sum payment options. Under a revised section 308c, the section would authorize an accession bonus for enlistment of non-prior service individuals in the Selected Reserve with the same $15,000 maximum payment and installment or lump-sum options authorized for the affiliation bonus.

The Senate amendment contained similar provisions (secs. 617 and 1502(a)) that would consolidate the Selected Reserve enlistment and affiliation bonuses by amending section 308c and repealing section 308e of title 37, United States Code. The Senate provision would also authorize an increase in the maximum amount of the Selected Reserve enlistment and affiliation bonuses to $20,000.

The House recedes with an amendment that would require the service secretaries to designate the skills, units, and pay grades for which an affiliation bonus may be paid and prescribe conditions and circumstances under which repayment of the bonuses would be required.

Expansion and enhancement of special pay for enlisted members of the Selected Reserve assigned to certain high priority units (sec. 632)

The Senate amendment contained a provision (sec. 618) that would increase the amount of special pay that may be awarded to members of the Selected Reserve assigned to certain high priority units from $10 to $50 for each regular period of instruction or period of appropriate duty.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Eligibility requirements for prior service enlistment bonus (sec. 633)

The House bill contained a provision (sec. 621) that would eliminate the requirement that members with prior military service must first complete their military service obligation before being eligible to receive a bonus for enlisting in the Selected Reserve.

The Senate amendment contained a provision (sec. 1505) that would eliminate the condition that a member not previously have been paid a bonus (except under section 308i of title 37, United States Code) for enlistment, reenlistment, or extension of enlistment in a reserve component.

The Senate recedes with an amendment that would combine the two provisions to make the prior service enlistment bonus more flexible and widely used.

Increase and enhancement of affiliation bonus for officers of the Selected Reserve (sec. 634)

The Senate amendment contained a provision (sec. 1506) that would increase the maximum amount of the bonus for certain initial service of officers of the Selected Reserve from $6,000 to $10,000. Additionally, the provision would eliminate the condition for eligibility that officers have not previously served in the Selected Reserve.

The House bill contained no similar provision.

The House recedes.

Increase in authorized maximum amount of enlistment bonus (sec. 635)

The House bill contained a provision (sec. 622) that would increase the maximum amount of the active duty enlistment bonus from $20,000 to $30,000.

The Senate amendment contained a provision (sec. 1502(b)) that would increase the maximum amount to $40,000.

The House recedes.

Discretion of Secretary of Defense to authorize retroactive hostile fire and imminent danger pay (sec. 636)

The House bill contained a provision (sec. 623) that would authorize the Secretary of Defense to retroactively designate the period during which duty in a specific area would qualify members to receive special pay for duty subject to hostile fire or imminent danger.

The Senate amendment contained a similar provision (sec. 621).

The Senate recedes.

Increase in maximum bonus amount for nuclear-qualified officers extending period of active duty (sec. 637)

The House bill contained a provision (sec. 624) that would increase the maximum amount of the bonus from $25,000 to $30,000 payable to nuclear-qualified officers who extend their active duty service.

The Senate amendment contained no similar provision.

The Senate recedes.

Increase in maximum amount of nuclear career annual incentive bonus for nuclear-qualified officers trained while serving as enlisted members (sec. 638)

The House bill contained a provision (sec. 625) that would increase the maximum amount of the nuclear career annual incentive bonus from $10,000 to $14,000 for officers who previously, as enlisted members, received training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.

The Senate amendment contained no similar provision.

The Senate recedes.

Uniform payment of foreign language proficiency pay to eligible reserve component members and regular component members (sec. 639)

The House bill contained a provision (sec. 626) that would establish one authority for foreign language proficiency pay that specifies the same maximum amount and installment or lump sum payment options for both active component and reserve component members.

The Senate amendment contained a similar provision (sec. 622).

The Senate recedes with an amendment that would prescribe the conditions and circumstances under which repayment of foreign language proficiency pay would be required.

Retention bonus for members qualified in certain critical skills or assigned to high priority units (sec. 640)

The House bill contained a provision (sec. 627) that would authorize the retention bonus for members qualified in a critical military skill under section 323 of title 37, United States Code, to be paid to reserve component members and would authorize the Secretary of Defense to establish additional criteria for payment of the bonus. The provision would also eliminate the prohibition of payment for service beyond 25 years for members qualified in designated special operations and naval nuclear skills.

The Senate amendment contained a provision (sec. 619) that would add a new section to title 37, United States Code, that would authorize a retention bonus for members qualified in a critical military skill with a maximum bonus amount of $100,000 over the course of a career. Payment of the bonus would also be authorized for certain members of the Selected Reserve who volunteer for assignment to high priority units.

The Senate recedes with an amendment that would limit the maximum retention bonus amount for reserve component members to $100,000 and make it available to Selected Reserve members who volunteer for assignment to high priority units.

Incentive bonus for transfer between Armed Forces (sec. 641)

The Senate amendment contained a provision (sec. 623) that would authorize payment of an incentive bonus not to exceed $2,500 to military members of the active and reserve components who transfer from the regular or reserve component of one service to the regular or reserve component of another service.

The House bill contained no similar provision.

The House recedes.

Availability of special pay for members during rehabilitation from wounds, injuries, and illnesses incurred in a combat operation or combat zone (sec. 642)

The House bill contained a provision (sec. 1527) that would authorize the service secretaries to pay $430 per month to service members with combat-related injuries sustained in a combat operation or zone designated by the Secretary of Defense. The pay would begin the month immediately following medical evacuation. The pay would terminate at the end of the first month during which the member is either paid a benefit under the traumatic injury protection plan or the member is no longer hospitalized in a military treatment facility or under the auspices of the military health care system.

The Senate amendment contained a provision (sec. 620) that would extend eligibility for receipt of special pay for duty subject to hostile fire or imminent danger from 3 months to the duration of hospitalization for wounds or injuries incurred in combat.

The Senate recedes with an amendment that would expand eligibility of the monthly special pay of $430 to include members who incur wounds, injuries, or illnesses in the line of duty in a combat operation or combat zone designated by the Secretary and who is evacuated from the theater of the combat operation or from the combat zone for medical treatment. The special pay would be reduced by the amount of hostile fire or imminent danger pay received.

Pay and benefits to facilitate voluntary separation of targeted members of the Armed Forces (sec. 643)

The Senate amendment contained a provision (sec. 674) that would authorize payment of separation pay and benefits to eligible members who, under regulations approved by the Secretary of Defense, are voluntarily separated from active duty in the Armed Forces. Under this provision, no member could receive as voluntary separation pay an amount greater than three times the full amount of separation pay for a member of the same pay grade and years of service who is involuntarily separated under section 1174 of title 10, United States Code. The provision would be limited in its applicability until December 31, 2008, to officers who have served more than 6 years, but less than 12 years, as of the date of separation from active duty. The provision would also authorize the Secretary of Defense to approve the convening of selective early retirement boards for officers of the Navy and Air Force from October 1, 2005, through December 31, 2011.

The House bill contained no similar provision.

The House recedes with an amendment that would limit the maximum amount of voluntary separation pay under this provision to no greater than two times the full amount of separation pay for a member of the same pay grade and years of service who is involuntarily separated under section 1174 of title 10, United States Code.

Ratification of payment of critical-skills accession bonus for persons enrolled in Senior Reserve Officers' Training Corps obtaining nursing degrees (sec. 644)

The House bill contained a provision (sec. 628) that would authorize nursing students enrolled in Reserve Officers' Training Corps (ROTC) programs to receive a critical skills accession bonus of $5,000 or less under section 324 of title 10, United States Code, so long as they have completed the second year of an accredited baccalaureate degree program and they execute an agreement to serve on active duty as a commissioned officer in the Army Nurse Corps. The provision would also clarify that agreements paid under this subsection are retroactively authorized if executed on or after October 5, 2004.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would limit the applicability of the authorization for payment of the bonus from October 5, 2004, through December 31, 2005.

Temporary authority to pay bonus to encourage members of the Army to refer other persons for enlistment in the Army (sec. 645)

The House bill contained a provision (sec. 675) that would authorize the Secretary of the Army to conduct a pilot program through December 31, 2007, that would allow payment of up to $1,000 in a lump sum to a member of the Army who refers a person, who is not an immediate family member and who has not previously served in the Armed Forces, to an Army recruiter. The bonus would be paid if the referred person enlists in the Army or Army Reserve and successfully completes basic training and individual advanced training. The provision would limit to 1,000 the number of referral bonuses that could be offered under the pilot program during its first year.

The Senate amendment contained a similar provision (sec. 1503) that would also apply to members of the Army Reserve and Army National Guard.

The House recedes with an amendment that would delete the limit of 1,000 on the number of referral bonuses that may be paid during the first year in which they are offered.

Subtitle C—Travel and Transportation Allowances

Authorized absences of members for which lodging expenses at temporary duty location may be paid (sec. 651)

The House bill contained a provision (sec. 641) that would expand the circumstances under which members may continue to receive the lodging portion of their temporary duty per diem during absences from the temporary duty location to include absences approved by the member's unit commander in addition to authorized leave.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment that would require that the leave involved must be authorized under controlling service regulations.

Extended period for selection of home for travel and transportation allowances for dependents of deceased member (sec. 652)

The House bill contained a provision (sec. 642) that would increase the period of time allowed for surviving family members of service members who die while on active duty to select a residence for which they may receive travel and transportation allowances from 1 year to 3 years after the death of the member.

The Senate amendment contained no similar provision.

The Senate recedes.

Transportation of family members in connection with the repatriation of members held captive (sec. 653)

The House bill contained a provision (sec. 643) that would authorize the service secretaries to provide travel and transportation allowances for three family members of a military member on active duty who was held captive or was otherwise missing to the location where the member has been repatriated. The provision would also authorize waiver of the limitation on the number of family members of a member provided travel and transportation allowances in circumstances determined to be appropriate by the Secretary concerned.

The Senate amendment contained a similar provision (sec. 631(a)).

The House recedes with an amendment that would authorize waiver of the limitation on the number of family members who may be provided travel and transportation allowances in circumstances determined to be appropriate by the Secretary concerned.

The conferees note that authority for the transportation of family members in connection with the repatriation of federal civilian employees held captive is separately included in this Act.

Increased weight allowances for shipment of household goods of senior noncommissioned officers (sec. 654)

The House bill contained a provision (sec. 644) that would increase the authorized weight allowance for the shipments of household goods for members in enlisted grades of E-9, E-8, and E-7, with and without dependents.

The Senate amendment contained no similar provision.

The Senate recedes.

Permanent authority to provide travel and transportation allowances for family members to visit hospitalized members of the Armed Forces injured in combat operation or combat zone (sec. 655)

The House bill contained a provision (sec. 1525) that would authorize payment of travel and transportation allowances for dependent family members to visit service members hospitalized in the United States who have incurred injuries in a combat operation or area designated as a combat operation or combat zone by the Secretary of Defense.

The Senate amendment contained a similar provision (sec. 631(b)(2)).

The Senate recedes with an amendment that would clarify that eligibility for family members to travel under the authority of this provision is not conditioned on dependent status.

Subtitle D—Retired Pay and Survivor Benefits

Monthly disbursement to states of State income tax withheld from retired or retainer pay (sec. 661)

The House bill contained a provision (sec. 651) that would authorize payment to the states of monies voluntarily withheld from retired or retainer pay for tax purposes on a monthly, vice quarterly, basis.

The Senate amendment contained a similar provision (sec. 1007).

The Senate recedes.

Denial of certain burial-related benefits for individuals who committed a capital offense (sec. 662)

The House bill contained a provision (sec. 653) that would expand the reasons for denying military honors at the funeral or burial service of a member or former member by prohibiting such honors when the circumstances surrounding the death of the individual, or other circumstances involving the individual as specified by the Secretary of Defense, would bring discredit to the military department concerned.

The Senate amendment contained a provision (sec. 678) that would amend section 2411 of title 38, United States Code, to prohibit burial in a national cemetery of persons who were convicted of capital offenses under federal or state law as defined in section 2411. The provision would amend section 985 of title 10, United States Code, to prohibit rendering of funeral honors using the revised criteria in section 2411 for denial of burial. The provision would also prohibit rendering of funeral honors when the circumstances surrounding the person's death or other circumstances as specified by the Secretary are such that to provide military honors at the funeral or burial of the person would bring discredit upon the service.

The House recedes with a technical amendment.

Concurrent receipt of veterans disability compensation and military retired pay (sec. 663)

The House bill contained a provision (sec. 655) that would curtail the 10-year phased implementation of full concurrent receipt for military retirees receiving veterans disability compensation at the rate payable for 100 percent disability by reason of a determination of individual unemployability. The provision would authorize such retirees to receive full concurrent receipt of veterans disability compensation and military retired pay on October 1, 2009.

The Senate amendment contained a similar provision (sec. 645 (a)) that would authorize eligible disabled military retirees to receive full concurrent receipt effective on date of enactment of this Act.

The Senate recedes with a technical amendment.

Additional amounts of death gratuity for survivors of certain members of the Armed Forces dying on active duty (sec. 664)

The Senate amendment contained a provision (sec. 641) that would increase the amount of the death gratuity, effective retroactively to October 7, 2001, payable under sections 1475 through 1478 of title 10, United States Code, from $12,000 to $100,000 in all cases in which military members die on active duty. It would also modify section 1967 of title 38, United States Code, that would increase the maximum amount payable under the Servicemembers' Group Life Insurance (SGLI) program. The Senate amendment also contained a provision (sec. 645(c)) that would require that the additional payment of $150,000 authorized under section 1013(e)(2) of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13) be paid to survivors of all military personnel who died on or after October 7, 2001.

The House bill contained a provision (sec. 1523) that would authorize, effective October 1, 2005, an increased death gratuity of $100,000 to be paid to designated beneficiaries of military deaths resulting from wounds, injuries, and illnesses incurred as a result of combat-related circumstances.

The House recedes with an amendment that would delete modification of the SGLI program, and provide that amounts for payments of the increased death gratuity after the date of the enactment of this Act for deaths occurring before the date of the date of enactment of this Act be derived from supplemental appropriations for the Department of Defense for fiscal year 2006 for military operations in Iraq and Afghanistan and the global war on terrorism contingent upon such appropriations being enacted.

The conferees note that the Servicemembers' Group Life Insurance Enhancement Act of 2005 (Public Law 109–80), which was enacted on September 30, 2005, increased the maximum amount of coverage available under the SGLI program to $400,000 and modified the spousal notice provisions.

Child support for certain minor children of retirement-eligible members convicted of domestic violence resulting in death of child's other parent (sec. 665)

The House bill contained a provision (sec. 654) that would authorize the payment of child support from a member's disposable retired pay to a dependent child of the member when the member's retired pay eligibility has been terminated because of the member's abuse of a spouse that resulted in the death of the spouse. The dependent child would become eligible to receive child support after effective service of a court order providing for such payment.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Comptroller General report on actuarial soundness of the Survivor Benefit Plan (sec. 666)

The House bill contained a provision (sec. 656) that would allow veterans who elect insurable interest coverage under the Survivor Benefit Plan (SBP) to redesignate a beneficiary if their originally-named beneficiary predeceases them.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Comptroller General to submit a report by July 31, 2006, on the actuarial soundness of the SBP. The elements of the report would include an assessment of the implications for the actuarial soundness of the SBP program of recent SBP legislative changes and projected required levels of government contributions and payments to the SBP program; and an assessment of the implications of permitting SBP program participants to designate a new insurable interest beneficiary if a previously designated beneficiary predeceases them and also of repealing the required reduction of the monthly SBP annuity by dependency and indemnity compensation.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

Increase in authorized level of supplies and services procurement from overseas exchange stores (sec. 671)

The House bill contained a provision (sec. 661) that would authorize an increase from $50,000 to $100,000 of the dollar limit for purchases by defense entities from military exchanges for goods and services outside the United States.

The Senate amendment contained a similar provision (sec. 325).

The Senate recedes.

Requirements for private operation of commissary store functions (sec. 672)

The House bill contained a provision (sec. 662) that would establish a moratorium on studies to compare the cost effectiveness of commissary operations employing federal civilian employees and such operations employing private sector employees through December 31, 2010.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would establish the moratorium on such studies through December 31, 2008.

Provision of and payment for overseas transportation services for commissary and exchange supplies and products (sec. 673)

The House bill contained a provision (sec. 664) that would mandate that appropriated funds be used to pay for all expenses to ship exchange goods to overseas locations for sale to military personnel and their families.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment to add exchange products to the authority for overseas transportation.

Compensatory time off for certain nonappropriated fund employees (sec. 674)

The House bill contained a provision (sec. 665) that would authorize managers to grant nonappropriated fund employees compensatory time off instead of overtime pay for overtime work when requested by the employee.

The Senate amendment contained a similar provision (sec. 1102).

The Senate recedes.

Rest and Recuperation Leave Programs (sec. 675)

The Senate amendment contained a provision (sec. 342) that would authorize $7.0 million for Operation and Maintenance, Defense-wide activities for the reimbursement of expenses of the Armed Forces Recreation Centers related to utilization of the facilities under official Rest and Recuperation Leave Programs.

The House bill contained no similar provision.

The House recedes.

Subtitle F—Other Matters

Temporary Army authority to provide additional recruitment incentives (sec. 681)

The Senate amendment contained a provision (sec. 673) that would authorize the Secretary of Defense to develop and initiate incentives not otherwise authorized by law to encourage military service. The provision, among other conditions, would require the Secretary to submit plans describing proposed projects to Congress not later than 30 days before implementation. The authority to conduct projects under this provision would terminate not later than the end of the 3-year period beginning on the date on which implementation commences. The Secretary would be required to submit to Congress on an annual basis a report on the incentives provided under this authority during the preceding year.

The House bill contained no similar provision.

The House recedes with an amendment that would limit this authority to the Department of the Army and permit no more than four recruitment projects. Recruitment incentives under this authority would be offered for not longer than a 3-year period and required notice would be 45 days before implementation. This provision would be effective until December 31, 2009.

Clarification of leave accrual for members assigned to a deployable ship or mobile unit or other duty (sec. 682)

The House bill contained a provision (sec. 674) that would clarify that service members assigned to a deployable ship or mobile unit, or other designated units may be authorized to accumulate up to 120 days of leave.

The Senate amendment contained a similar provision (sec. 571) that would also authorize accrual of up to 120 days for members who, on or after August 29, 2005, perform duty designated by the Secretary of Defense as qualifying duty for purposes of this provision.

The House recedes.

Expansion of authority to remit or cancel indebtedness of members of the Armed Forces incurred on active duty (sec. 683)

The conferees agree to a provision that would amend sections 4837, 6161, and 9837 of title 10, United States Code, to expand the authority of the service secretaries to remit or cancel indebtedness of members of the Armed Forces incurred on active duty. The provision would authorize the service secretaries, under regulations prescribed by the Secretary of Defense, to forgive indebtedness of officers, as well as enlisted personnel, in cases in which the member is on active duty or in an active status or during the 1-year period beginning on the date a member is discharged or released from active status. The provision would authorize remission or cancellation of debts effective as of October 7, 2001, and expire on December 31, 2007.

Loan repayment program for chaplains in the Selected Reserve (sec. 684)

The Senate amendment contained a provision (sec. 675) that would authorize service secretaries, under regulations prescribed by the Secretary of Defense, to repay certain education loans incurred by chaplains in the Selected Reserve.

The House bill contained no similar provision.

The House recedes with a technical amendment that would permit service regulations to control the types of education loans that would be eligible for repayment under this provision.

Inclusion of Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff among senior enlisted members of the Armed Forces (sec. 685)

The House bill contained a provision (sec. 671) that would add the Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff to the list of senior enlisted positions designated to receive the highest level of pay for an enlisted member effective on the date on which an enlisted member is appointed to serve in that position.

The Senate amendment contained no similar provision.

The Senate recedes.

Special and incentive pays considered for saved pay upon appointment of members as officers (sec. 686)

The House bill contained a provision (sec. 672) that would update and add to the list of special and incentive pays and allowances that should be considered in determining the amount of pay and allowances of an enlisted grade formerly held by an officer who continues to perform the duties creating the eligibility for such pay and allowances and who may be entitled to saved pay treatment. The provision would clarify that the pay and allowances of an enlisted or warrant officer grade formerly held by an officer may continue to be paid to the officer only when the officer continues to perform the duty that creates the entitlement to, or the eligibility for, the pay or allowance.

The Senate amendment contained a similar provision (sec. 604).

The House recedes with a technical amendment.

Repayment of unearned portion of bonuses, special pays, and educational benefits (sec. 687)

The House bill contained a provision (sec. 673) that would consolidate policies and procedures for repayment of unearned portions of bonuses, special pays, and educational benefits into one section. The provision would also clarify that the services may establish procedures for all such programs for determining the amount of the repayment required and the circumstances under which an exception to the required repayment may be granted.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Rights of members of the Armed Forces and their dependents under Housing and Urban Development Act of 1968 (sec. 688)

The Senate amendment contained a provision (sec. 676) that would amend section 1701 of title 12, United States Code, to require that written notice be provided to homeowners explaining the mortgage and foreclosure rights of service members and their dependents under the Servicemembers' Civil Relief Act (50 U.S.C. 501 et seq.)

The House bill contained no similar provision.

The House recedes with a technical amendment.

Extension of eligibility for SSI for certain individuals in families that include members of the Reserve and National Guard (sec. 689)

The Senate amendment contained a provision (sec. 677) that would amend section 1631(j)(1)(B) of the Social Security Act (42 U.S.C. 1383(j)(1)(B)) by changing from 12 to 24 months the amount of time that the income of certain individuals in families that include members of the reserve and National Guard may exceed prescribed limits for eligibility for Supplemental Security Income (SSI) before re-application for SSI benefits would be required. This provision would only apply to members of reserve components who were called to active duty under sections 12301(d) or 12302 of title 10, United States Code, or section 502(f) of title 32, United States Code.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Information for members of the Armed Forces and their dependents on rights and protections of the Servicemembers Civil Relief Act (sec. 690)

The Senate amendment contained a provision (sec. 654) that would require the services to provide to military members and their families pertinent information on the rights and protections available under the Servicemembers Civil Relief Act (SCRA) (50 U.S.C. App. 501 et seq). This information should be provided during initial orientation training, when members of the reserve are mobilized or individually called or ordered to active duty for periods of more than 1 year, and at other appropriate times. The provision would authorize the services to provide adult dependents of military members information on their rights and protections under the SCRA.

The House bill contained no similar provision.

The House recedes with a technical amendment.

LEGISLATIVE PROVISIONS NOT ADOPTED

Comptroller General report regarding compensation and benefits for reserve component members

The House bill contained a provision (sec. 677) that would require the Comptroller General to prepare a report reviewing the terms and elements of reserve compensation, benefits, and personnel support programs, including the retirement system.

The Senate amendment contained no similar provision.

The House recedes.

Effective date for paid-up coverage under SBP

The Senate amendment contained a provision (sec. 644) that would amend section 1452(j) of title 10, United States Code, to change the effective date for paid-up coverage under the Survivor Benefit Plan from October 1, 2008, to October 1, 2005.

The House bill contained no similar provision.

The Senate recedes.

Increase in maximum rate of assignment incentive pay

The Senate amendment contained a provision (sec. 671) that would authorize and increase the maximum rate of monthly assignment incentive pay from $1,500 to $3,000.

The House bill contained no similar provision.

The Senate recedes because this authorization is included elsewhere in this report.

Provision of information technology services for accommodations provided by non-appropriated fund instrumentalities for wounded members of the Armed Forces and their families

The House bill contained a provision (sec. 663) that would authorize the secretary concerned to provide information technology equipment and Internet access to service members and their families residing in facilities operated by non-appropriated funds while the member receives medical treatment.

The Senate amendment contained no similar provision.

The House recedes.

Repeal of requirement of reduction of SBP survivor annuities by dependency and indemnity compensation

The Senate amendment contained a provision (sec. 643) that would amend sections 1450 and 1451 of title 10, United States Code, to repeal the requirement for reduction of annuities received under the Survivor Benefit Plan (SBP) by the amount of dependency and indemnity compensation paid to beneficiaries under section 1311(a) of title 38, United States Code.

The House bill contained no similar provision.

The Senate recedes.

The conferees believe that a comprehensive assessment of the SBP program is needed. In a separate provision in this report, the Comptroller General is directed to study the SBP including assessments of the implications for the actuarial soundness of recent SBP legislative changes and projected required levels of government contributions and payments to the SBP program, and an assessment of the implications of permitting SBP program participants to designate a new insurable interest beneficiary if a previously designated beneficiary predeceases them and of repealing the required reduction of the monthly SBP annuity by dependency and indemnity compensation.

Revision to eligibility for nonregular service retirement after establishing eligibility for regular retirement

The House bill contained a provision (sec. 652) that would allow service members who are qualified for active duty retirement to continue to serve in an active reserve status and remain eligible for a reserve retirement at age 60 without being required to be formally retired under the applicable active duty authority as required by current law.

The Senate amendment contained no similar provision.

The House recedes.

Special compensation for reserve component members who are also tobacco farmers adversely affected by terms of tobacco quota buyout

The House bill contained a provision (sec. 676) that would require the Secretary of Defense to reimburse members of the reserve component who received reduced compensation under the Fair and Equitable Tobacco Reform Act of 2004 (Public Law 108–357 (title VI)) (7 U.S.C. 518) as a result of their mobilization to serve on active duty. The provision would require the Secretary of Defense, in consultation with the Secretary of Agriculture, to pay members who were producers of quota tobacco for at least 2 of the 3 tobacco market years before 2002 an amount equal to 70 percent of the difference between the amount the member will receive under the Act and the amount the member would have likely received had the member remained a full-time producer of quota tobacco and had not been ordered to active duty.

The Senate amendment contained no similar provision.

The House recedes.

The conferees recognize that certain mobilized reservists, who are full-time tobacco farmers and tobacco quota holders, may have been precluded from qualifying under the Fair and Equitable Tobacco Reform Act of 2004 for benefits as a result of their active duty service. The conferees believe that every effort should be made to fairly compensate reserve and National Guard members whose military service adversely affected their standing under the tobacco reform program. The conferees urge the Secretary of Agriculture, in consultation with the Secretary of Defense, to take appropriate action to develop a means to assure equitable treatment of qualifying members of the reserve and National Guard.

TITLE VII—HEALTH CARE PROVISIONS

ITEMS OF SPECIAL INTEREST

Plan to expedite authorization for use of medical products in an avian or pandemic influenza emergency

The conferees note that the Project BioShield Act of 2004 (Public Law 108-276) provides a framework for authorizing the emergency use of medical products that are not approved by the Food and Drug Administration (FDA) or the Department of Health and Human Services (HHS). The conferees further note that avian and pandemic influenza are an emerging threat to military personnel, dependents of military personnel on military installations, and civilian personnel within the Department of Defense. Currently, no FDA approved vaccine for avian influenza is available.

Consequently, the conferees direct the Secretary of Defense, in coordination with the Secretary of Health and Human Services, to submit to the Committees on Armed Services of the Senate and the House of Representatives not later than May 1, 2006, a plan to expedite authorization for use of unapproved medical products in an avian or pandemic influenza emergency with respect to military personnel, dependents of military personnel on military installations, and civilian personnel within the Department of Defense.

The plan shall include the following: (1) identification of each element of the Department of Defense that will be responsible for carrying out the plan to expedite authorization for emergency use of medical products; (2) a statement of how and under what circumstances the Department of Defense and the Military Vaccine Agency in particular would collaborate with the Department of Health and Human Services regarding the preparation of the documents to support the filing of an Emergency Use Authorization for the H5N1 influenza vaccine or vaccines for other strains of avian or pandemic influenza; (3) a statement of how the Secretary of Health and Human Services is evaluating the "Criteria For Issuance Authorization" (detailed in Public Law 108–276 §564c; title 21 U.S.C. §360bbb-3c) in advance of a declared pandemic influenza emergency; (4) a statement of how and under what circumstances the Secretary of Health and Human Services would plan to expedite approval of diagnostic tools required for responding to a pandemic avian influenza emergency; (5) a statement of how the Secretary of Health and Human Services is monitoring and reviewing, the emergency use authorization, emerging technologies that can rapidly evaluate, analyze, identify, and treat novel and emerging viruses; and (6) a statement of how and under what circumstances the Department of Defense would execute the authorities provided under the Project BioShield Act of 2004 (Public Law 108–276; title 21 U.S.C. §360bbb-3) to expedite authorization for emergency use of medical products to respond to an avian or pandemic influenza emergency.

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Improvements to Health Benefits for Reserves

Enhancement of TRICARE Reserve Select Program (sec. 701)

The House bill contained a provision (sec. 703) that would authorize enhancements to the TRICARE Reserve Select Program for members of the Selected Reserve who have served on extended active duty since September 11, 2001, and who commit to continued service in the Selected Reserve, as authorized in section 701 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375). The provision would:

(1) allow an eligible member to accumulate earned coverage under TRICARE Reserve Select, if recalled to active duty before the period of health care coverage for which the member is eligible terminates, and complete each period of coverage consecutively;

(2) allow a member of the Selected Reserve who is enrolled in TRICARE Reserve Select and who is separated from service involuntarily, to include involuntary retirement, to complete a period of health care coverage under TRICARE Reserve Select after separation from service;

(3) authorize the Secretary of Defense to establish special circumstances under which members of the Individual Ready Reserve would qualify for enrollment in TRICARE Reserve Select;

(4) allow a member of the Individual Ready Reserve who is unable to find a position in the Selected Reserve and who is otherwise eligible for coverage under this section a period of 1 year in which to find a position in the Selected Reserve, during which the member's eligibility is retained, but coverage would not begin until the member becomes a member of the Selected Reserve;

(5) authorize 6 months of extended health care coverage for family members following the death of a reserve member; and

(6) allow a member 120 days after release from active duty to elect participation in TRICARE Reserve Select.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would allow eligible members of the Selected Reserve to consecutively complete earned periods of TRICARE coverage; allow a member of the Individual Ready Reserve to retain eligibility for coverage for 1 year while finding a position in the Selected Reserve; authorize 6 months of extended health care coverage for family members following the death of a reserve member; and allow 90 days after release from active duty for an eligible member of the Selected Reserve to elect participation in TRICARE Reserve Select.

Expanded eligibility of members of the Selected Reserve under the TRICARE program (sec. 702)

The Senate amendment contained a provision (sec. 705) that would expand eligibility for nearly all members of the Selected Reserve to enroll in TRICARE Standard while in a non-active duty status, whether or not the member had served on extended active duty in support of a contingency. The member would pay a premium equal to 28 percent of the annual premium established by the Secretary of Defense as the basis for such coverage.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize TRICARE Standard coverage for all members of the Selected Reserve, and their families, who commit to continued service in the Selected Reserve. The amendment would also set the level of government subsidy based on new categories of eligibility.

The amendment, combined with enhancements to TRICARE Reserve Select authorized elsewhere in this Act, would establish a multi-tier TRICARE benefit. The highest tier of TRICARE coverage would be for reserves who have served on extended periods of active duty in support of a contingency operation since September 11, 2001, and who commit to continued service in the Selected Reserve.

The amendment would expand eligibility for government-subsidized TRICARE coverage by creating two additional tiers of coverage. One new tier of coverage would authorize members of the Selected Reserve who are not eligible for coverage under TRICARE Reserve Select and who receive unemployment compensation or who do not have access to employer-provided insurance to obtain coverage under the Standard option of TRICARE while in a non-active duty status. The member would pay 50 percent of the annual premium established by the Secretary for such coverage. The coverage would be available as long as the member continues to serve in the Selected Reserve, and would include all benefits of the TRICARE Standard option, including access to military treatment facilities on a space-available basis.

The amendment would further authorize a third tier of coverage for members of the Selected Reserve in a non-active duty status who, though they have not served on extended active duty in support of a contingency and have access to employer-provided health care coverage, elect coverage under TRICARE Standard. In this instance, the member would pay 85 percent of the annual premium established by the Secretary and coverage would be available, as is true for all health care options available to reserves, only as long as the member continues as a drilling member of the Selected Reserve.

The amendment would require that the Secretary implement the new benefits for members of the Selected Reserve not later than October 1, 2006.

The conferees view expanded benefits for members of the Selected Reserve as an opportunity for members of the Selected Reserve and their families, who commit to continued service in the Selected Reserve, to have access to high quality health care coverage under TRICARE while they are in a non-active duty status. The amendment is not intended to replace employer-provided health insurance, or for the member to be made ineligible for or to be persuaded to opt out of employer-provided health insurance based on membership in the reserves.

Subtitle B—TRICARE Program Improvements

Additional information required by surveys on TRICARE Standard (sec. 711)

The House bill contained a provision (sec. 702) that would expand the scope of the survey of the TRICARE Standard health care program that is required by section 723 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136).

The Senate amendment contained a similar provision (sec. 715).

The Senate recedes.

Availability of chiropractic health care services (sec. 712)

The House bill contained a provision (sec.704) that would require the Secretary of Defense to conduct a study of the costs and feasibility of providing chiropractic health care services to the following categories of beneficiaries in the military health care system: active duty and their dependents, reserve component members and their dependents, and retirees and their dependents. The provision would also require the Secretary to develop a plan not later than March 31, 2006, to provide chiropractic health care services and benefits as a permanent part of the Defense Health Program (including TRICARE), and report to the congressional defense committees not later than March 31, 2006, on the study and plan.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Air Force to complete implementation of chiropractic services for active duty members at 11 sites, which had not opened in accordance with the Department of Defense Report on Chiropractic Health Care Implementation Plan (August 2001). The amendment would authorize the Secretary to identify alternate sites if any of the 11 identified in the Department of Defense report is no longer feasible.

The conferees applaud the efforts of the Army and the Navy to provide chiropractic services to active duty members in accordance with the August 2001 plan, and encourage the Army and Navy to complete implementation at all sites identified in the August 2001 plan as well.

Surviving-dependent eligibility under TRICARE dental plan for surviving spouses who were on active duty at time of death of military spouse (sec. 713)

The House bill contained a provision (sec. 705) that would expand eligibility for survivor benefits under the TRICARE dental plan to include the active duty spouse of a member who dies while on active duty for a period of more than 30 days.

The Senate amendment contained a similar provision (sec. 703).

The Senate recedes.

Exceptional eligibility for TRICARE Prime Remote (sec. 714)

The House bill contained a provision (sec. 706) that would authorize the Secretary of Defense to waive the requirement in section 1079(p) of title 10, United States Code, that a dependent eligible for coverage under the TRICARE Prime Remote program reside with the member, if the Secretary determines that exceptional circumstances exist that warrant such coverage.

The Senate amendment contained no similar provision.

The Senate recedes.

Increased period of continued TRICARE Prime coverage of children of members of the uniformed services who die while serving on active duty for a period of more than 30 days (sec. 715)

The Senate amendment contained a provision (sec. 704) that would authorize any dependent child of a deceased service member to continue to receive benefits under TRICARE Prime as if the service member parent were still alive, and without annual premiums, until the age of 21 or 23 if enrolled in an educational program.

The House bill contained no similar provision.

The House recedes.

TRICARE Standard in TRICARE regional offices (sec. 716)

The Senate amendment contained a provision (sec. 711) that would require the designation of a position in each TRICARE regional office for the purpose of assisting beneficiaries who use the Standard option under the TRICARE program.

The House bill contained no similar provision.

The House recedes with an amendment that would clarify that the TRICARE regional offices would be responsible for the monitoring, oversight, and improvement of the Standard option. The amendment would require an annual report to the Committees on Armed Services of the Senate and the House of Representatives on those activities, including actions taken by the Department of Defense to address challenges that have been identified by health care providers and beneficiaries with respect to use of the TRICARE Standard option.

Qualifications for individuals serving as TRICARE regional directors (sec. 717)

The Senate amendment contained a provision (sec. 718) that would require that, effective on the date of enactment of this Act, any individual serving in the position of TRICARE Regional Director must be either a general or flag officer, or Department of Defense civilian in the Senior Executive Service, and have at least 10 years of health care experience.

The House bill contained no similar provision.

The House recedes with an amendment that would require that the qualifications apply to persons selected for such positions as of the date of enactment of this Act, and clarify that a non-Department of Defense civilian who possesses the required experience may be selected to serve in the position of TRICARE Regional Office Director.

Subtitle C—Mental Health-Related Provisions

Program for mental health awareness for dependents and pilot project on Post-Traumatic Stress Disorder (sec. 721)

The House bill contained a provision (sec. 718) that would require the Secretary of Defense to develop a program to increase awareness of the availability of mental health services for dependents of members of the Armed Forces in both the active and reserve components whose sponsor has served or will serve in a combat theater of operations. The provision would require the Secretary to evaluate whether the effectiveness of the mental health awareness program would be improved by providing materials in languages other than English.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary to develop a pilot project on Post-Traumatic Stress Disorder (PTSD). The pilot project would be designed to evaluate Internet-based tools available to military and civilian health care providers for early diagnosis and treatment of PTSD, and Internet tools to assist family members in the identification of the emergence of PTSD. The amendment would require a report to the congressional defense committees not later than June 1, 2006, on the pilot project.

Pilot projects on early diagnosis and treatment of Post-Traumatic Stress Disorder and other mental health conditions (sec. 722)

The Senate amendment contained a provision (sec. 732) that would require the Secretary of Defense to carry out three pilot projects on early diagnosis and treatment of Post-Traumatic Stress Disorder and other mental health conditions.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize the Secretary to carry out two pilot projects under this section, which are related to clinical diagnosis and treatment of active and reserve members. Elsewhere in this Act, the Department of Defense Task Force on Mental Health is required to identify the projects in its report. A pilot project to facilitate Internet-based diagnosis and treatment of Post-Traumatic Stress Disorder and other mental health conditions is required elsewhere in this act.

Department of Defense task force on mental health (sec. 723)

The Senate amendment contained a provision (sec. 733) that would require the Secretary of Defense to establish a task force to examine mental health issues in the Armed Forces. The task force would consist of 14 members appointed by the Secretary, and would be required to develop a long-term plan to improve mental health services provided to members of the Armed Forces.

The House bill contained no similar provision.

The House recedes with an amendment that would require that persons appointed to the task force have expertise in national mental health policy and military personnel matters, and that such members would include at least one family member of a member of the Armed Forces who has experience working with military families. The amendment would also require the task force to identify pilot projects on early diagnosis and treatment of Post-Traumatic Stress Disorder and other mental health conditions authorized elsewhere in this Act, as well as to evaluate the efficacy of programs to ensure a seamless transition of care for members on active duty from the Department to the Department of Veterans Affairs. The amendment would require a report on the efficiency of pre- and post- deployment mental health screening, including mental health screenings for members of the Armed Forces who have experienced multiple deployments. The amendment would require the Secretary to develop a plan based on the recommendations of the task force, and submit the plan to the Committees on Armed Services of the Senate and House of Representatives not later than 6 months after receipt of the task force report.

Subtitle D—Studies and Reports

Study relating to predeployment and postdeployment medical exams of certain members of the Armed Forces (sec. 731)

The House bill contained a provision (sec. 719) that would require the Secretary of Defense to conduct a study of the effectiveness of self-administered surveys included in predeployment and postdepolyment medical exams of members of the Armed Forces.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require that the study on the effectiveness of the surveys include the mental health portion of the self-administered surveys, and would require the Secretary to submit a report on the results of their study to the Committees on Armed Services of the Senate and the House of Representatives no later than 120 days after the date of enactment of this Act.

Requirements for physical examinations and medical and dental readiness for members of the Selected Reserve not on active duty (sec. 732)

The Senate amendment contained a provision (sec. 531) that would require a comprehensive physical examination on an annual basis for members of the Selected Reserve.

The House bill contained no similar provision.

The House recedes with an amendment that would require a comprehensive medical readiness health and dental assessment on an annual basis and physical examinations as the Secretary of Defense deems appropriate, and would require an annual report to the Secretary concerned of the medical and dental readiness of the member to perform military duties.

Report on delivery of health care benefits through military health care system (sec. 733)

The Senate amendment contained a provision (sec. 712) that would require the Secretary of Defense to submit to the congressional defense committees a report on the delivery of health care benefits through the military health care system. The report would include recommendations for legislative or administration action, as the Secretary considers necessary, to improve the efficiency and quality of the military health care system.

The House bill contained no similar amendment.

The House recedes.

Comptroller General studies and report on differential payments to children's hospitals for health care for children dependents and maximum allowable charge for obstetrical care services under TRICARE (sec. 734)

The Senate amendment contained a provision (sec. 713) that would require the Comptroller General to conduct a study of the effectiveness of the Department of Defense system of differential payments to children's hospitals for health care services for the dependent children of military members. The Secretary of Defense would be required to report to the congressional defense committees not later than November 1, 2006, on any legislative proposals recommended by the Comptroller General and the costs associated with their implementation.

The House bill had no similar provision.

The House recedes with an amendment that would require an additional study by the Comptroller General of the participation of civilian providers of obstetrical services in the TRICARE program, and of the effectiveness of the payment system under TRICARE for obstetrical care services.

Report on the Department of Defense AHLTA global electronic health record system (sec. 735)

The Senate amendment contained a provision (sec. 719) that would require the Secretary of Defense to submit a report to Congress on the Department of Defense Composite Health Care System II.

The House bill contained no similar provision.

The House recedes with an amendment that would remove the requirement for the report to include a description of the amounts obligated and required for the system, and to incorporate the new name, AHLTA, of the Department of Defense electronic health record system.

The conferees applaud the Department for its development of an electronic health record system for the military health care system, and join in support of the Department's vision for a continuously updated digital medical record that would be completely transferable electronically to the Veterans' Health Administration. The conferees believe it is critical that the Department adhere to the schedule for full implementation of the AHLTA system in 800 military health clinics and 70 military hospitals throughout the world by December 2006.

Comptroller General study and report on Vaccine Healthcare centers (sec. 736)

The Senate amendment contained a provision (sec. 720) that would require the Secretary of Defense to maintain a joint military medical center of excellence focusing on the medical needs arising from mandatory military vaccinations. The centers would provide medical assistance to individuals receiving mandatory military vaccinations and related research and educational activities.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Comptroller General to conduct a study of the Vaccine Healthcare Centers operated by the Department of Defense, and to submit its findings and recommendations no later than May 30, 2006.

Report on adverse health events associated with use of anti-malarial drugs (sec. 737)

The Senate amendment contained a provision (sec. 731) that would require the Secretary of Defense to conduct a study of adverse health events that may be associated with the use of anti-malarial drugs, including mefloquine.

The House bill contained no similar provision.

The House recedes with an amendment to require that the study include a comparison of health and mental health events, which may be associated with different anti-malarial drugs. The conferees expect that in conducting the study the Secretary will consult with epidemiological and clinical researchers from other governmental organizations, as well as with researchers outside of the Federal Government.

Report on Reserve dental insurance program (sec. 738)

The Senate amendment contained a provision (sec. 1508) that would require the Secretary of Defense to study and report to the congressional defense committees by February 1, 2007, on the most effective mechanism or mechanisms for paying premiums for the Reserve dental insurance program, and to assess the effectiveness of mechanisms utilized to inform members of the reserve components of the availability and benefits of the program.

The House bill contained no similar provision.

The House recedes.

Demonstration project study on Medicare Advantage regional preferred provider organization option for TRICARE-medicare dual-eligible beneficiaries (sec. 739)

The conferees agree to a provision that would require the Secretary of Defense to conduct a study to evaluate the application of the managed care methods under the new Medicare Advantage program for TRICARE-medicare dual eligible beneficiaries. The provision would require the Secretary to develop a plan to carry out the project only if the Secretary determines that the project is feasible, cost effective, and in the best interests of TRICARE-medicare dual eligible beneficiaries and of the Department of Defense.

Pilot projects on pediatric early literacy among children of members of the Armed Forces (sec. 740)

The Senate amendment contained a provision (sec. 585) that would authorize the Secretary of Defense to conduct pilot projects at up to 20 military medical treatment facilities to assess the feasibility of encouraging pediatric literacy among children of members of the Armed Forces utilizing the "Reach Out and Read" model of pediatric early literacy.

The House bill contained no similar provision.

The House recedes with an amendment that would provide a general authority for such pilot projects.

The conferees expect that in the implementation of the pilot projects, the Secretary would consult with programs such as the Reach Out and Read National Center for advice and assistance in development of effective pediatric literacy projects in a military health care setting.

Subtitle E—Other Matters

Authority to relocate patient safety center; renaming MedTeams program (sec. 741)

The House bill contained a provision (sec. 711) that would eliminate the requirement that the Department of Defense Patient Safety Center be located within the Armed Forces Institute of Pathology. The provision would also remove the name of a trademarked product used in an ongoing medical program.

The Senate amendment contained a similar provision (sec. 717).

The Senate recedes.

Modification of health care quality information and technology enhancement reporting requirement (sec. 742)

The House bill contained a provision (sec. 712) that would modify the annual health care quality reporting requirement of the Department of Defense as required by section 723 of the National Defense Authority Act for Fiscal Year 2000 (Public Law 106-65) to better align the report with current standards in health care quality.

The Senate amendment contained a similar provision (sec. 716).

The Senate recedes with an amendment that would add a reporting requirement on measures of timeliness and accessibility of health care.

The conferees are concerned that military medical leaders at all levels must continue to emphasize accountability and vigilance concerning the quality of military health care services, including the prompt and just disposition of adverse events. Emphasis on cost should never rise to a higher level of priority than the quality of services provided.

The conferees are also concerned that the services provided by civilian networks and other contracted civilian providers be of equally high quality, and encourages the Department to examine health care staffing standards such as those promulgated by the Joint Commission on the Accreditation of Healthcare Organizations to ensure continued high quality standards by civilian providers of care.

Correction to eligibility of certain reserve officers for military health care pending active duty following commissioning (sec. 743)

The House bill contained a provision (sec. 713) that would ensure that Reserve Officers' Training Corps (ROTC) graduates have access to military health benefits while awaiting active duty orders.

The Senate amendment contained a similar provision (sec. 701).

The Senate recedes.

Prohibition on conversions of military medical and dental positions to civilian medical positions until submission of certification (sec. 744)

The House bill contained a provision (sec. 714) that would prohibit the secretary of a military department from converting any military medical position to a civilian medical position until the Secretary of Defense submits a certification to the Committees on Armed Services of the Senate and the House of Representatives that such conversions will not affect health care quality or access. The provision would also require the Comptroller General to conduct a study on the effect of such conversions on the Defense Health Program, and report those findings to Congress not later than March 1, 2006.

The Senate amendment contained a similar provision (sec. 572) that would prohibit the conversion of any medical or dental military position to a civilian position until 90 days after receipt by Congress of a certification by the Secretary of Defense that such conversions did not increase civilian health care costs; that the conversions were in support of joint medical and dental readiness requirements of the uniformed services; and that adequate numbers of civilian providers were available to fill civilian positions based on market surveys.

The Senate recedes with an amendment that would require the certification of both medical and dental military position conversions, and would require that the Secretary of Defense submit a report to Congress along with the required certification on actions taken in response to the recommendations of the Comptroller General study.

Clarification of inclusion of dental care in medical readiness tracking and health surveillance program (sec. 745)

The House bill contained a provision (sec. 715) that would clarify that dental readiness is included in the requirement for medical tracking and surveillance activities authorized in the Ronald W. Reagan National Defense Authorization Act for Fiscal year 2005 (Public Law 108-375).

The Senate amendment contained no similar provision.

The Senate recedes.

Cooperative outreach to members and former members of the naval service exposed to environmental factors related to sarcoidosis (sec. 746)

The House bill contained a provision (sec. 716) that would require the Secretary of the Navy, in coordination with the Secretary of Veterans Affairs, to conduct an outreach program to contact members and former members of the naval service who may have increased risk of sarcoidosis as a result of having been exposed to particles resulting from the removal of nonskid coating used on naval ships.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would clarify that the Secretary of the Navy shall attempt to reach as many members and former members of the naval service as possible who may have had such exposure.

Repeal of requirement for Comptroller General reviews of certain Department of Defense–Department of Veterans Affairs projects on sharing of health care resources (sec. 747)

The Senate amendment contained a provision (sec. 714) that would repeal certain reporting requirements for the Comptroller General on defense and veterans affairs health resources sharing projects.

The House bill contained no similar provision.

The House recedes.

Pandemic avian flu preparedness (sec. 748)

The Senate amendment contained a provision (sec. 722) that would require the Secretary of Defense to report to the congressional defense committees on efforts within the Department of Defense to prepare for pandemic influenza, including avian flu.

The House bill contained no similar provision.

The House recedes with an amendment that would expand the report requirements to include acceleration of medical research and development activities.

Follow up assistance for members of the Armed Forces after preseparation physical examinations (sec. 749)

The Senate amendment contained a provision (sec. 1603) that would require the Secretary of Defense, in consultation with the Secretary of Veterans Affairs, to assist a member of the Armed Forces in obtaining necessary follow-up health care services, which are required as a result of a preseparation physical examination. The provision would also require the Secretary to provide information on private sector sources of care and assistance to enroll in the health care system of the Department of Veterans Affairs.

The House bill contained no similar provision.

The House recedes with an amendment that would clarify that the follow-up services would be obtained from the Department of Veterans Affairs.

Policy on role of military medical and behavioral science personnel in interrogation of detainees (sec. 750)

The Senate amendment contained a provision (sec. 1071) that would require the Secretary of Defense to establish a policy on the role of military medical and behavioral science personnel in the interrogation of persons detained by the Armed Forces.

The House bill contained no similar provision.

The House recedes.

The conferees note that the Department of Defense has published Department of Defense Directive 3115.09, "DoD Intelligence Interrogations, Detainee Debriefings and Tactical Questioning" (November 3, 2005), which provides limited guidance on detainee medical issues and refers to standards and procedures set forth by the Assistant Secretary of Defense for Health Affairs (ASD(HA)). The conferees are concerned that the policy on "Medical Program Principles and Procedures for the Protection and Treatment of Detainees in the Custody of the Armed Forces of the United States," dated June 3, 2005, which was issued by the ASD (HA), does not fully address all medical issues, including the role of medical and behavioral personnel in interrogation, and the use and release of detainee medical information.

The conferees expect that in the development of the policy required by this section, the Secretary of Defense will consult with and consider the views of national and international medical and health care professional organizations that are examining the professional ethics that govern their members' work.

The conferees expect that any policy promulgated by the Secretary of Defense concerning the role of medical or behavioral science personnel in interrogation-related matters will reflect the same applicability to DoD civilians, DoD contractors and non-DoD civilians as required by Department of Defense Directive 3115.09.

LEGISLATIVE PROVISIONS NOT ADOPTED

Comptroller General report on expanded partnership between the Department of Defense and the Department of Veterans Affairs on the provision on health care services

The Senate amendment contained a provision (sec. 723) that would require the Comptroller General to provide a report to the appropriate committees of Congress that would contain an overview of the current health care systems of the Department of Defense and the Department of Veterans Affairs; a comparative analysis of the characteristics of each system; and an assessment of the advantages and disadvantages of an expanded partnership between the two Departments for the purpose of providing health care services to military retirees and their dependents.

The House bill contained no similar provision.

The Senate recedes.

Early identification and treatment of mental health and substance abuse disorders

The House bill contained a provision (sec. 717) that would authorize the Secretary of Defense to carry out activities to foster the early identification and treatment of mental health and substance abuse problems experienced by members of the Armed Forces, with emphasis on those who have served in a theater of combat operations in the preceding 12 months. The activities would focus on changing attitudes within the Armed Forces regarding mental health and substance abuse treatment, and would include informational messages directed to military members, their family members, commanders, and supervisory personnel.

The Senate amendment contained no similar provision.

The House recedes.

The Department of Defense Task Force on Mental Health authorized elsewhere in this Act is directed to assess the adequacy of early identification and treatment of mental health and substance abuse problems through the use of internal mass media communication, as well as to assess other tools intended to change attitudes within the Armed Forces regarding mental health and substance abuse treatment.

Limitation on deductible and copayment requirements for nursing home residents under the pharmacy benefits program

The Senate amendment contained a provision (sec. 702) that would limit the out-of-pocket pharmacy expenses for a beneficiary who is a resident of a nursing home and who is required, by state law, to use nursing home pharmacy services that are not part of the pharmacy network under TRICARE.

The House bill contained no similar provision.

The Senate recedes.

Mental health screening of members of the Armed Forces for Post-Traumatic Stress Disorder and other mental health conditions

The Senate amendment contained a provision (sec. 574) that would require the Secretary of Defense to perform mental health screenings on each member of the Armed Forces who is deployed in a combat operation or to a combat zone. Such screenings would occur prior to deployment, and at 30 and 120 days after the date of the member's return from the deployment.

The House bill contained no similar provision.

The Senate recedes.

A requirement to assess the efficacy of pre- and post- deployment mental health screening is included in the Department of Defense Task Force on Mental Health authorized elsewhere in this Act.

Services of mental health counselors

The House bill contained a provision (sec. 701) that would allow mental health counselors to be reimbursed for services provided to TRICARE beneficiaries without prior physician referral or supervision. The provision would also permit mental health counselors to enter into personal service contracts with the Department of Defense and require that such counselors meet the licensure or certification requirements for "health care professional" established by section 1094 of title 10, United States Code.

The Senate amendment contained a provision (sec. 721) that would authorize mental health counselors who are licensed by a State to provide services without physician referral or supervision in "medically underserved areas" pursuant to section 332 of the Public Health Service Act (42 U.S.C. 254e). The amendment would authorize personal services contracts, and also require the Secretary of Defense to establish rules concerning credentialing or certification of participating mental health counselors and payment rates.

The conference report does not include either provision.

The conferees recognize the valuable services that mental health counselors provide for valid mental health disorders under the TRICARE program. The Department of Defense estimates that, on an annual basis, 28,000 TRICARE beneficiaries have an average of seven visits to mental health counselors, in accordance with existing requirements for physician referral and supervision. The conferees encourage the Department to promote even greater utilization of licensed mental health counselors, where appropriate, as part of an integrated health care team, and to examine ways to make as efficient as possible the method of communication among primary care and mental health care providers involved in the treatment of valid mental health disorders in the TRICARE program.

The conferees direct the Department report to the Committees on Armed Services of the Senate and the House of Representatives within 120 days of the date of enactment of this Act on actions taken to improve the efficiency and effectiveness of procedures facilitate physician referral and supervision of licensed mental health counselors. The report shall include a description of "best practices" employed throughout the military health system to ensure access to services provided by mental health counselors under the TRICARE program. The conferees encourage the Department to monitor closely the progress within the mental health community toward achievement of a national standard for graduate education accreditation and national professional accreditation, to include uniform professional credentials for licensed mental health counselors. The report should also review the quality of care being provided under the program.

Study and report on civilian and military partnership project

The Senate amendment contained a provision (sec. 724) that would require the Secretary of Defense to conduct a study on the feasibility of conducting a military and civilian partnership project in which Department of Defense and civilian health care providers would provide services to military personnel and civilians at a military medical facility.

The House bill contains no similar provision.

The Senate recedes.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Provisions Relating to Major Defense Acquisition Programs

Requirement for certification before major defense acquisition program may proceed to Milestone B (sec. 801)

The House bill contained a provision (sec. 801) that would require the Secretary of Defense to certify that a major defense acquisition program meets certain criteria (including technological maturity requirements) before it receives Milestone B approval, or key Decision Point B approval in the case of a space program. The Secretary could waive the certification requirement for national security reasons.

The Senate amendment contained two similar provisions (sections 809 and 858). Section 809 would require the Department of Defense to complete an analysis of alternatives before commencing a major defense acquisition program. Section 858 would extend an existing requirement for annual reports on major defense acquisition programs that fail to meet technological maturity requirements.

The Senate recedes with an amendment that would: (1) incorporate the requirement for an analysis of alternatives into the House provision; (2) require certification or waiver by the milestone decision authority, rather than the Secretary; and (3) authorize waiver of the certification requirement only if, absent the waiver, the Department of Defense would be unable to meet critical national security objectives.

Requirements applicable to major defense acquisition programs exceeding baseline costs (sec. 802)

The House bill contained two provisions (secs. 802 and 803) that would modify the oversight requirements for major defense acquisition programs (MDAPs) in sections 2433 and 2435 of title 10, United States Code. Section 802 would require that the Secretary of Defense conduct an analysis of alternatives for any MDAP for which the program acquisition unit cost or the procurement unit cost rises by 15 percent over the baseline estimate. Section 803 would restrict the circumstances in which the Secretary may modify a baseline estimate.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would: (1) amend section 2435 to add a new term—"original Baseline Estimate"—and to restrict the circumstances in which an original baseline estimate may be modified; (2) add two new terms—"significant cost growth" and "critical cost growth"—to section 2433; (3) define significant cost growth and critical cost growth by reference to both the current baseline estimate for an MDAP and the original baseline estimate for the program; and (4) require additional analysis and explanation (but not a formal analysis of alternatives) for any MDAP that experiences critical cost growth.

Taken together, these changes would tighten requirements for flagging programs that are experiencing problematic cost growth and ensure more rigorous review and analysis of these programs. The conferees believe that the added discipline imposed by these provisions should encourage the Department of Defense both to establish more realistic and achievable cost and performance estimates at the outset of MDAPs and to more aggressively manage MDAPs to avoid undesirable cost growth on these programs.

Requirements for determination by Secretary of Defense and notification to Congress before procurement of major weapon systems as commercial items (sec. 803)

The Senate amendment contained a provision (sec. 804) that would prohibit the purchase of a major weapon system as a commercial item unless such purchase is specifically authorized by Congress.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense, prior to any major weapon system being purchased under procedures established for the procurement of commercial items, to: (1) determine that a weapon system meets the definition of a commercial item; (2) determine that it is necessary to meet national security objectives to purchase such weapon system as a commercial item; and (3) notify congressional defense committees at least 30 days prior to the purchase or the treatment of the major weapon system as a commercial item.

Reports on significant increases in program acquisition unit costs or procurement unit costs of major defense acquisition programs (sec. 804)

The Senate amendment contained a provision (sec. 807) that would require the Secretary of Defense to report to the congressional defense committees on the acquisition status of major defense acquisition programs whose costs have exceeded by more than 50 percent the original baseline projection of such costs.

The House bill contained no similar provision.

The House recedes with an amendment that would extend the time for the report.

Report on use of lead system integrators in the acquisition of major systems (sec. 805)

The Senate amendment contained a provision (sec. 809A) that would require the Secretary of Defense to report to the congressional defense committees on actions taken or to be taken by the Department of Defense regarding the use of lead system integrators for the acquisition of major systems.

The House bill contained no similar provision.

The House recedes with an amendment that would extend the time for the report, and would also make technical changes.

Congressional notification of cancellation of major automated information systems (sec. 806)

The Senate amendment contained a provision (sec. 809D) that would require the Secretary of Defense to report to the congressional defense committees no less than 60 days before any proposed change to the acquisition strategy of any major automated information system, as defined by Department of Defense regulations.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Subtitle B—Acquisition Policy and Management

Internal controls for procurements on behalf of the Department of Defense (sec. 811)

The Senate amendment contained a provision (sec. 801) that would require the Department of Defense Inspector General, in consultation with the Inspectors General of non-defense agencies, to determine whether the policies, procedures, and internal controls of non-defense agencies for purchases on behalf of the Department of Defense are adequate to ensure compliance with defense procurement requirements of law and regulation.

The House bill contained no similar provision.

The House recedes with an amendment that would clarify the language of the provision and limit the joint reviews to the Department of Interior, the Department of Treasury, and the National Aeronautics and Space Administration.

Management structure for the procurement of contract services (sec. 812)

The Senate amendment contained a provision (sec. 802) that would require the secretary of each military department to establish a Contract Support Acquisition Center to act as the executive agent for the acquisition of contract services for that military department. The Secretary of Defense would be required to establish an additional acquisition center within the Defense Logistics Agency to act as the executive agent for the acquisition of contract services by the defense agencies.

The House bill contained no similar provision.

The House recedes with an amendment that would rewrite section 2330 of title 10, United States Code, to strengthen the requirement for the Secretary to implement a management structure for the procurement of contract services for the Department of Defense.

Section 2330, as amended, would establish a senior official responsible for the management of the acquisition of contract services for each of the military departments and for the defense agencies and components outside the military departments. Under the amended section 2330, the Under Secretary of Defense for Acquisition, Technology, and Logistics would be responsible for developing and maintaining policies, procedures, and best practices guidelines for the acquisition of contract services, while the senior officials responsible for the acquisition of contract services would be responsible for the implementation of those policies, procedures, and guidelines by the military departments and defense agencies. Each senior official would be required to assign responsibility for the review and approval of procurements to specific individuals in the Department, subject to the direction, supervision, and oversight of the senior official. This provision would give the Department flexibility as to the number, qualifications, and location of officers and employees authorized to make day-to-day decisions regarding the acquisition of contract services while ensuring that, in making such decisions, these officers and employees are subject to the direction, supervision, and control of an acquisition chain of command.

The conference amendment would provide for phased implementation of the amended section 2330 to ensure that the Department has the time needed to fully implement the new requirements.

Report on service surcharges for purchases made for military departments through other Department of Defense agencies (sec. 813)

The Senate amendment contained a provision (sec. 805) that would require the Department of Defense to review and report on service charges imposed on one component of the Department for purchases made through another component of the Department.

The House bill contained no similar provision.

The House recedes with an amendment that would modify the timing of the reporting requirement.

Review of defense acquisition structures and capabilities (sec. 814)

The Senate amendment contained a provision (sec. 806) that would require the Defense Acquisition University, acting under the direction of the Under Secretary of Defense for Acquisition, Technology, and Logistics, to review and report on the capabilities and shortfalls of the acquisition organizations of the military departments and defense agencies.

The House bill contained no similar provision.

The House recedes with a clarifying amendment that would address the scope of the study.

Modification of requirements applicable to contracts authorized by law for certain military materiel (sec. 815)

The Senate amendment contained a provision (sec. 808) that would modify section 2401 of title 10, United States Code, with respect to requirements for authorization by law of certain contracts for leasing military equipment.

The House bill contained no similar provision.

The House recedes.

Guidance on use of tiered evaluations of offers for contracts and task orders under contracts (sec. 816)

The Senate amendment contained a provision (sec. 809C) that would require the Secretary of Defense to prescribe guidance on the use of tiered evaluations of offers for contracts and for task orders under contracts.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Joint policy on contingency contracting (sec. 817)

The House bill contained a provision (sec. 813) that would require the establishment of a contingency contracting corps.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, to develop a joint policy for contingency contracting during combat operations and post-conflict operations.

Acquisition strategy for commercial satellite communication services (sec. 818)

The Senate amendment contained a provision (sec. 809B) that would require the Secretary of Defense to submit a report to the congressional defense committees, not later than 6 months after the date of the enactment of this act, on the proposed strategy of the Department of Defense for acquiring commercial satellite communications services.

The House bill contained no similar provision.

The House recedes with a clarifying amendment that would further define the spend analysis as required under the Senate provision.

Authorization of evaluation factor for defense contractors employing or subcontracting with members of the selected reserve of the reserve components of the Armed Forces (sec. 819)

The House bill contained a provision (sec. 820A) that would require the Department of Defense for all contracts for the procurement of goods and services to establish a source selection evaluation factor which favors entities that employ members of the Selected Reserve of the reserve components of the Armed Forces.

The House Senate amendment contained no similar provision.

The Senate recedes with an amendment that would provide discretionary authority to the Secretary of Defense to use an evaluation factor related to the employment of members of the Selected Reserve.

Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

Participation by Department of Defense in acquisition workforce training fund (sec. 821)

The House bill contained a provision (sec. 822) that would enable the Department of Defense to contribute to, and benefit from, the acquisition workforce training fund.

The Senate amendment contained a similar provision (sec. 831).

The Senate recedes with an amendment that would ensure that the Federal Acquisition Institute and the Defense Acquisition University have appropriate flexibility in the use of the acquisition workforce training fund.

Increase in cost accounting standard threshold (sec. 822)

The House bill contained a provision (sec. 823) that would amend section 26(f)(2)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) to increase the cost accounting standard threshold to $550,000, which would correspond with the current Truth in Negotiations Act (Public Law 87–653) threshold.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Modification of authority to carry out certain prototype projects (sec. 823)

The Senate amendment contained a provision (sec. 844) that would prohibit the use of the authority of section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) for any prototype project that is expected to cost in excess of $100.0 million.

The House bill contained no similar provision.

The House recedes with an amendment that would allow the use of section 845 for a prototype project in excess of $20.0 million but less than $100.0 million only if the senior procurement executive for the agency determines that the use of the authority is essential to promoting the success of the prototype project, and in excess of $100.0 million only if the Under Secretary of Defense determines that the use of the authority is essential to meet critical national security objectives and notifies the congressional defense committees of the determination at least 30 days before the authority is exercised.

Increased limit applicable to assistance provided under certain Procurement Technical Assistance Programs (sec. 824)

The Senate amendment contained a provision (sec. 847) that would increase from $150,000 to $300,000 the maximum grant for a statewide program under the Procurement Technical Assistance Program authorized by section 2414 of title 10, United States Code.

The House bill contained no similar provision.

The House recedes.

Subtitle D—United States Defense Industrial Base Provisions

Clarification of exception from Buy American requirements for procurement of perishable food for establishments outside the United States (sec. 831)

The Senate amendment contained a provision (sec. 811) that would clarify that the exception from the requirements of section 2533a, title 10, United States Code, for procurement of perishable food for establishments outside the United States applies to procurements for an overseas defense facility, even if the procurements are not conducted by such a facility.

The House bill contained no similar provision.

The House recedes.

Training for defense acquisition workforce on the requirements of the Berry Amendment (sec. 832)

The Senate amendment contained a provision (sec. 834) that would require the training of appropriate members of the defense acquisition workforce in the requirements of the Berry Amendment (10 U.S.C. 2533a).

The House bill contained no similar provision.

The House recedes with a technical amendment.

Amendments to domestic source requirements relating to clothing materials and components covered (sec. 833)

The House bill contained a provision (sec. 824) that would amend section 2533a of title 10, United States Code (known as the "Berry amendment") to: (1) require the Secretary of Defense to notify the public when the Secretary exercises a waiver; and (2) clarify that the term "clothing" also includes "materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing".

The Senate amendment contained no similar provision.

The Senate recedes.

The conferees note that section 2533a (b)(1)(B) of title 10, United States Code, as modified by this section, does not cover small arm protective inserts ("SAPI plates") for body armor because these inserts are "added to, and not normally associated with, clothing".

Subtitle E—Other Matters

Review and report on Department of Defense efforts to identify contract fraud, waste, and abuse (sec. 841)

The Senate amendment contained a provision (sec. 823) that would establish a risk assessment team to assess the vulnerability of Department of Defense contracts to fraud, waste, and abuse and require the Secretary of Defense to develop an action plan to address areas of vulnerability identified by the risk assessment team.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Government Accountability Office to review ongoing efforts by the Department to identify and assess the areas of vulnerability to contract fraud, waste, and abuse.

Extension of contract goal for small disadvantaged businesses and certain institutions of higher education (sec. 842)

The Senate amendment contained a provision (sec. 841) that would extend section 2323 of title 10, United States Code, for 3 years. Section 2323 establishes a 5 percent goal for Department of Defense contracting with small disadvantaged businesses and certain institutions of higher education.

The House bill contained no similar provision.

The House recedes.

Extension of deadline for report of advisory panel on laws and regulations on acquisition practices (sec. 843)

The Senate amendment contained a provision (sec. 848) that would extend for an additional year the deadline for a final report by the acquisition panel established in section 1423(d) of the Services Acquisition Reform Act of 2003 (title XIV of the National Defense Authorization Act for Fiscal Year 2004; Public Law 108–136). The Senate provision would also require an interim report by the panel.

The House bill contained no similar provision.

The House recedes with an amendment that would extend by 6 months the deadline for a final report by the acquisition panel.

Exclusion of certain security expenses from consideration for purpose of small business size standards (sec. 844)

The Senate amendment contained a provision (sec. 849) that would require the Administrator of the Small Business Administration to review the application of size standards for small businesses performing contracts in Iraq, Afghanistan, and other combat zones and determine whether such standards should be adjusted to reflect additional security requirements.

The House bill contained no similar provision.

The House recedes.

Disaster relief for small business concerns damaged by drought (sec. 845)

The Senate amendment contained a provision (sec. 852) that would clarify the authority of the Small Business Administration (SBA) to provide emergency assistance, through disaster loans, to non-farm-related small businesses that have suffered substantial economic harm from drought. Currently, in cases of drought, the SBA takes the position that it is only authorized to provide disaster loans to businesses whose revenue is tied to farming and agriculture.

The House bill contained no similar provision.

The House recedes.

Extension of limited acquisition authority for the Commander of the United States Joint Forces Command (sec. 846)

The Senate amendment contained a provision (sec. 856) that would extend for 2 years limited acquisition authority of the Commander, U.S. Joint Forces Command, to acquire systems and to modify this authority for systems with operation and maintenance expenditures under $2.0 million.

The House bill contained no similar provision.

The House recedes with an amendment that would provide for a 2-year extension of authority.

Civilian Board of Contract Appeals (sec. 847)

The House bill contained a title (title XIV) that would establish civilian and defense boards of contract appeals and transfer personnel and functions to these boards from the existing boards of contract appeals.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would consolidate the existing boards of contract appeals for civilian agencies into a new Civilian Board of Contract Appeals. The provision would give the civilian board jurisdiction over contract appeals from non-defense agencies and ensure that the board could, with the concurrence of the heads of affected agencies, assume responsibility for any other functions previously performed by the boards of contract appeals for civilian agencies.

The conference agreement would make no change to the Armed Services Board of Contract Appeals (ASBCA), because the ASBCA already has consolidated jurisdiction for contract appeals from the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, and the National Aeronautics and Space Administration.

Statement of policy and report relating to contracting with employers of persons with disabilities (sec. 848)

The House bill contained a provision (sec. 815) that would extend for 1 year the requirements of section 853 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) regarding contracting with the blind and severely disabled. The House provision would also require the Secretary of Defense and the Secretary of Education to develop and jointly issue a statement of policy regarding the implementation of the relevant statutory requirements and to report the results to Congress.

The Senate amendment contained a similar provision (sec. 845) that would extend the requirements of section 853 for 1 year.

The Senate recedes with an amendment that would require that the policy and report be developed and issued jointly by the Secretary of Defense, the Secretary of Education, and the Committee for Purchase, which is responsible for administering programs for the blind and severely disabled under the Javitz-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

Study on Department of Defense contracting with small business concerns owned and controlled by service-disabled veterans (sec. 849)

The House bill contained a provision (sec. 816) that would require the Department of Defense to conduct a study on contracting with small businesses owned by service-disabled veterans.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment on the scope of the study.

LEGISLATIVE PROVISIONS NOT ADOPTED

Applicability of statutory executive compensation cap made prospective

The House bill contained a provision (sec. 811) that would address the applicability of the executive compensation cap in section 808 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85).

The Senate amendment contained no similar provision.

The House recedes.

Buy America requirement for procurements of goods containing components

The House bill contained a provision (sec. 818) that would preclude the Secretary of Defense from prospectively waiving the Buy American Act (41 U.S.C. 10 et seq.) based on a reciprocal defense procurement Memorandum of Understanding with a foreign country.

The Senate amendment contained no similar provision.

The House recedes.

Clarification of rapid acquisition authority to respond to combat emergencies

The Senate amendment contained a provision (sec. 843) that would amend section 806 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) to give the Department of Defense greater flexibility to address combat emergencies.

The House bill contained no similar provision. .

The Senate recedes.

The conferees note that the Senate provision adding a new category of statutes and regulations that are waivable to prevent combat fatalities was not necessary, because the Department may already waive any provision of law, policy, directive, or regulation addressing the solicitation and selection of sources pursuant to the authority in section 811 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) for the procurement of equipment urgently needed to eliminate a combat deficiency that has resulted in combat fatalities.

Conditional waiver of domestic source or content requirements for certain countries with reciprocal procurement agreements with the United States

The Senate amendment contained a provision (sec. 812) that would authorize the Secretary of Defense to annually determine whether a foreign country with a reciprocal defense procurement Memorandum of Understanding or agreement with the United States has qualitatively or quantitatively increased defense exports to China. If it is determined that no qualitative or quantitative increase has occurred in the previous year, the Secretary may on an annual basis waive the application of statutory domestic source requirements and domestic content requirements, provided that: (1) the application of the requirements would impede the reciprocal procurement of defense items under a Memorandum of Understanding between the United States and another country; and (2) the other country does not discriminate against items produced in the United States to a greater degree than the United States discriminates against items produced in that country

The House bill contained no similar provision.

The Senate recedes.

Consistency with United States obligations under trade agreements

The Senate amendment contained a provision (sec. 813) that would require that no provision of this Act, or any amendment made by this Act, shall apply if the Secretary of Defense, in consultation with the Secretary of Commerce, the U.S. Trade Representative, and the Secretary of State, determines that the application of the provision would be inconsistent with international trade agreements of the United States.

The House bill contained no similar provision.

The Senate recedes.

Contracting incentive for small power plants on former military bases

The Senate amendment contained a provision (sec. 857) that would extend the authorized period for contract for certain public utility services from 10 years to 20 years, provided that such services are procured from a small power plant located on a qualified HUBZone base closure area.

The House bill contained no similar provision.

The Senate recedes.

Contractors on the battlefield

The House bill contained a title (title XVI) that would establish certain requirements for contractors on the battlefield, including contractors accompanying the force and contractors not accompanying the force.

The Senate amendment contained no similar provision.

The House recedes.

The conferees note that subsequent to action on the House bill, the Secretary of Defense issued regulations addressing the issue of contractors on the battlefield. However, the regulations issued by the Secretary apply only to contractors accompanying the force.

The conferees believe that it is important for the Department of Defense to address issues raised by the presence on the battlefield of contractors not accompanying the force. This term includes contractors and subcontractors at any tier under a contract with any federal government agency, if the work to be performed is related to private security, reconstruction, humanitarian assistance, peacekeeping, or other activities in an area of responsibility of a commander of a combatant command in which there are ongoing combat operations or there is a significant risk that contractor employees could come under hostile fire.

Accordingly, the conferees direct the Secretary to revise all relevant policy, guidance, and instructions issued pursuant to section 1205 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) to address security issues raised by contractors not accompanying the force. The revised guidance should, at a minimum, address the following issues: (1) measures to ensure that security issues raised by contractors not accompanying the force are addressed in integrated planning by the combatant commanders; (2) measures to ensure visibility and accountability of employees of contractors not accompanying the force (including accounting for U.S. nationals, local nationals, and third-party nationals); (3) measures to ensure the communication of relevant threat information to contractors not accompanying the force; (4) measures addressing force protection and weapons issuance issues for contractors not accompanying the force (including accounting for the number and qualifications of all personnel carrying weapons); and (5) measures to ensure that the data gathered in the implementation of this guidance is kept and maintained in a central location for a reasonable period of time.

Domestic source restriction for lithium ion cells and batteries

The House bill contained a provision (sec. 819) that would add lithium ion cells and batteries to the list of items subject to domestic source requirements under section 2534 of title 10, United States Code.

The Senate amendment contained no similar provision.

The House recedes.

Ensuring transparency in federal contracting

The Senate amendment contained a provision (sec. 854) that would require publication of information on federal contractor penalties and violations and a report listing all federal sole source contracts related to Iraq reconstruction.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that in November 2003, the Government Accountability Office (GAO) provided the congressional defense committees a status briefing on the extent of competition for Iraq reconstruction contracts. GAO subsequently issued a June 1, 2004, report entitled "Rebuilding Iraq: Fiscal Year 2003 Contract Award Procedures and Management Challenges". The conferees direct GAO to update this work, not later than 270 days after the date of enactment of this Act, to address subsequent awards of contracts and task orders for Iraq reconstruction.

Fair access to multiple-award contracts

The Senate amendment contained a provision (sec. 851) that would address the issue of small business participation in task orders and delivery orders awarded under government-wide acquisition contracts and other multiple award contracts.

The House bill contained no similar provision.

The Senate recedes.

Increased flexibility for designation of critical acquisition positions in defense acquisition workforce

The House bill contained a provision (sec. 821) that would address the designation of critical acquisition positions under the Defense Acquisition Workforce Improvement Act (10 U.S.C. 1731 et seq.).

The Senate amendment contained no similar provision.

The House recedes.

The conferees note that this issue was addressed in section 812 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375).

Limitation and reinvestment authority relating to reduction of the defense acquisition and support workforce

The Senate amendment contained a provision (sec. 832) that would require a 15 percent increase in the defense acquisition and support workforce during fiscal years 2006 through 2008.

The House bill contained no similar provision.

The Senate recedes.

Modification and extension of pilot program on share-in-savings contracts

The Senate amendment contained a provision (sec. 809I) that would extend and modify the authority to conduct share-in-savings contracts at the Department of Defense.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that the Department has never used its authority to implement share-in-savings contracts for information technology solutions. The conferees direct the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and the House of Representatives regarding the utility of share-in-savings contracts and any steps that may be necessary and appropriate to make share-in-savings contracting a viable, effective, and desirable contacting method for use by the Department. The report shall be submitted by October 1, 2006.

Pilot program to expand public-private partnerships for research and development

The Senate amendment contained a provision (sec. 846) that would establish a 3-year pilot program giving specified Department of Defense organizations the ability to enter into public-private partnerships for research and development activities.

The House bill contained no similar provision.

The Senate recedes.

Prohibition on defense contractors requiring licenses or fees for use of military likenesses and designations

The House bill contained a provision (sec. 820) that would prohibit defense contractors from requiring licenses or fees for the use of military likenesses and designations.

The Senate amendment contained no similar provision.

The House recedes.

Prohibition on procurement from beneficiaries of foreign subsidies

The House bill contained a provision (sec. 817) that would prohibit the Secretary of Defense from entering into a contract with a foreign person (including a joint venture, cooperative organization, partnership, or contracting team with that foreign person), which has received a subsidy from the government of a foreign country that is a member of the World Trade Organization, if the United States has requested a consultation with that foreign country on the basis that the subsidy is prohibited under the Agreement on Subsidies and Countervailing Measures.

The Senate amendment contained no similar provision.

The House recedes.

Radio Frequency Identifier Technology

The Senate amendment contained a provision (sec. 853) that would require the Secretary of Defense to develop and implement a strategy to educate the small business community regarding radio frequency identifier technology requirements, compliance, standards, and opportunities. The provision would also require the Secretary to report to the congressional defense committees on the status of efforts to establish requirements for radio frequency identifier technology for Department of Defense contracting.

The House bill contained no similar provision.

The Senate recedes.

The conferees direct the Secretary to: (1) develop and implement a strategy to educate the small business community on radio frequency identifier technology requirements; and (2) report to the congressional defense committees not later than October 1, 2006, on the strategy and the extent to which it has been implemented.

Rapid acquisition authority to respond to defense intelligence community emergencies

The House bill contained a provision (sec. 825) that would provide the Secretary of Defense with rapid acquisition authority to procure intelligence capabilities that would enhance national security.

The Senate amendment contained no similar provision.

The House recedes.

Reports on certain defense contracts in Iraq and Afghanistan

The Senate amendment contained a provision (sec. 824) that would: (1) require quarterly reports from the Secretary of Defense on audit findings regarding costs incurred on contracts for security and reconstruction activities in Iraq and Afghanistan; and (2) establish requirements for withholding payments and releasing funds on such contracts.

The House bill contained no similar provision.

The Senate recedes.

The conferees direct the Government Accountability Office to report to the congressional defense committees not later than 270 days after the date of enactment of this Act on audit findings regarding costs incurred on contracts for security and reconstruction activities in Iraq and Afghanistan. The report should address costs found to be questioned or unsupported, funds withheld from contractors, and measures taken by the Department of Defense to settle disputes with contractors with regard to such costs.

Requirement for contracting operations to be included in interagency planning related to stabilization and reconstruction

The House bill contained a provision (sec. 814) that would require the Secretary of Defense to include contracting operations in all relevant interagency planning operations of the Department of Defense related to stabilization and reconstruction operations.

The Senate amendment contained no similar provision.

The House recedes.

Requirements for defense contractors relating to certain former Department of Defense officials

The Senate amendment contained a provision (sec. 821) that would require companies that receive defense contracts in excess of $10.0 million (other than contracts for the procurement of commercial items) to report to the Department of Defense on an annual basis on former Department officials who receive compensation from the contractor.

The House bill contained no similar provision.

The Senate recedes.

The conferees expect the General Accountability Office to address the need, if any, for a reporting requirement of this type in the context of the review of the Department's efforts to identify contract fraud, waste, and abuse, as required by section 841.

Review of certain contractor ethics matters

The Senate amendment contained a provision (sec. 822) that would require the Secretary of Defense to review certain contractor ethics matters.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that the advisory panel on acquisition laws, regulations, and practices established pursuant to the Services Acquisition Reform Act of 2003 (title XIV of Public Law 108–136) (the "SARA panel") is currently considering these issues. The conferees expect the Department of Defense to review all issues addressed by the SARA panel upon the conclusion of that panel's work.

Sense of Senate on applicability of competition exceptions to eligibility of National Guard for financial assistance for performance of additional duties

The Senate amendment contained a provision (sec. 809J) that would express the sense of the Senate on the circumstances in which the Secretary of Defense may provide financial assistance to the Army National Guard for the performance of certain duties without the use of competitive procedures.

The House bill contained no similar provision.

The Senate recedes.

The conferees agree that section 806 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375) already makes the competition requirement in section 113 of title 32, United States Code, subject to the exceptions in section 2304(c) of title 10, United States Code. Section 806 ensures that procedures other than competitive procedures are available for the selection of National Guard activities in the same circumstances and to the same extent as such procedures are available for the selection of any other entity.

Small business contracting in overseas procurements

The Senate amendment contained a provision (sec. 850) that would address the issue of small business participation in overseas procurement.

The House bill contained no similar provision.

The Senate recedes.

Technical amendments relating to defense acquisition workforce improvements

The Senate amendment contained a provision (sec. 833) that would make minor technical changes to the newly revised Defense Acquisition Workforce Improvement Act (DAWIA), chapter 87 of title 10, United States Code, enacted by section 812 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375).

The House bill contained an identical provision (sec. 1046) that would include various technical and clerical amendments.

The Senate recedes.

The changes recommended by the Senate provision will be included in the section of the bill on technical and clerical amendments.

Temporary Inapplicability of the Berry Amendment to Procurements of Speciality Metals that are used to Produce Force Protection Equipment

The Senate amendment contained a provision (sec. 809E) that would temporarily make the requirements of section 2533a inapplicable for 2 years, title 10, United States Code, to not apply for two years the requirements of section 2533a, title 10, United States Code, to procurements of specialty metals used to produce force protection equipment needed to prevent combat fatalities in Iraq and Afghanistan.

The House bill contained no similar provision.

The Senate recedes.

Termination of Program

The Senate amendment contained a provision (sec. 855) that would terminate the small business competitive demonstration program.

The House bill contained no similar provision.

The Senate recedes.

Use of commercially available online services for federal procurement of commercial items

The House bill contained a provision (sec. 812) that would require the use of commercially available online procurement services, including reverse auction services, to purchase commercial items to the maximum extent practicable.

The Senate amendment contained no similar provision.

The House recedes.

The conferees note that online procurement services, such as reverse auction services, are appropriate for the acquisition of some types of commercial items, but may not be suitable for others. For example, items that call for technical solutions, require modification, or will be acquired on a basis other than low-cost are unlikely to be suited to acquisition through reverse auction methods. There may be cases in which the use of commercially available online procurement services could limit access to federal agency contracts.

The conferees direct the Administrator for Federal Procurement Policy, in consultation with the Federal Acquisition Regulatory Council established pursuant to section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421), to review the use of online procurement services, such as reverse auction services, and identify: (1) types of commercial item procurements that are suitable for the use of such services; and (2) features that should be provided by online procurement services that are used by federal agencies.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

ITEMS OF SPECIAL INTEREST

The current state of military space

Despite the opportunities identified for the future of military space highlighted by the 2001 Space Commission, the conferees believe the Department of Defense response has been disappointing. The conferees see fundamental shortfalls and a lack of sufficient improvement in three areas that diminish U.S. preeminence in space and threaten national security. These areas include the development of a fully qualified and competent space cadre; improvements in the acquisition system that will restore confidence in the development of our space systems; and the creation of Operationally Responsive Space (ORS) systems.

The development of a qualified and competent space cadre has received growing attention, particularly in the Air Force. Initiatives such as National Security Space Institute and Space Education Consortium at Air Force Space Command as well as the Joint Space Studies Center at Air University are commendable efforts. The conferees are concerned, however, about the breadth and depth of the current plan for development of a space cadre, specifically in the area of education and training, in addressing the role of academia and industry in a space cadre. The conferees believe the accumulation of skills and competencies of government, academia, and industry represent a comprehensive view of the military space community for the United States. As such, the conferees recommend that the Department be more aggressive in developing programs and partnerships across the U.S. government, industry, and academia.

While the Department has taken positive steps to improve the current space acquisition system, it is not yet apparent what impact these initiatives might have on the performance of space acquisition. As a result, the conferees will maintain this issue at the forefront of congressional interests. Moreover, the conferees recommend that the Department engage those issues not yet fully addressed. Those include the requisite workforce size and skills, subcontractor management, and technical maturity of acquisition projects. Additionally, the conferees recommend that the Department develop an alternative and complementary business model for space acquisition and system deployment that will increase the production rate of space systems and lower costs.

The conferees believe ORS, the ability to assemble and launch a desired space-based capability on demand in a cost effective manner, has the potential to truly transform military space. The conferees believe that ORS will provide many new benefits to the military space community. The conferees also believe that ORS will stimulate the production of simpler, shorter living satellites, thus dramatically reducing current costs and shortening schedules. Additionally, low cost launch and "plug and play" satellite development will create the ability to refresh systems with new technology and fly constellations optimized for theater commanders. The conferees are disappointed in the progress achieved and are concerned about a lack of vision and initiative by the Department in this area. The conferees believe ORS will transform the battlefield and the way the warfighter thinks of space and, as such, strongly encourage the Air Force to embrace this concept and the Department to consider this in the development of the Quadrennial Defense Review.

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—General Department of Defense Management Matters

Parity in pay levels among Under Secretary Positions (sec. 901)

The House bill contained a provision (sec. 901) that would raise the positions of the under secretaries of the three military departments to Level III of the Executive Schedule, the same level as the positions of the under secretaries of defense.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Expansion of eligibility for leadership of Department of Defense Test Resource Management Center (sec. 902)

The Senate amendment contained a provision (sec. 241) that would eliminate the requirement that the director and the deputy director of the Defense Test Resource Management Center be selected by the Secretary of Defense from among current and former civilian and military employees of the Department of Defense.

The House bill contained a similar provision (sec. 902).

The House recedes.

Standardization of authority for acceptance of gifts and donations for Department of Defense regional centers for security studies (sec. 903)

The House bill contained a provision (sec. 903) that would streamline the management of Department of Defense regional centers for security studies, including providing uniform and consistent authorities under which those centers may accept gifts and donations.

The Senate amendment contained a provision (sec. 921) that would provide uniform authority for the Secretary of Defense to accept gifts and donations on behalf of each of the Department of Defense regional centers for security studies.

The House recedes with a clarifying amendment.

Directors of Small Business Programs in Department of Defense of military departments (sec. 904)

The Senate amendment contained a provision (sec. 901) that would change the title of the Department of Defense's "Office of Small and Disadvantaged Business Utilization" to the "Office of Small Business Programs" to more clearly represent the office's span of authority.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Plan to defend the homeland against cruise missiles and other low-altitude aircraft (sec. 905)

The Senate amendment contained a provision (sec. 902) that would direct the Secretary of Defense to develop a plan for the defense of the United States against cruise missiles, unmanned aerial vehicles, and other low-altitude aircraft. The provision would also establish an executive agent in the Department of Defense to manage the acquisition of capabilities necessary to defend the homeland against these threats.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary to prepare and submit the plan to Congress within 6 months of enactment of the act. Instead of requiring the Secretary to designate an executive agent, the amendment would require the Secretary to identify in the plan an official or office within the Department to be responsible for coordinating the implementation of the plan from both an operational and acquisition perspective.

Provision of audiovisual support services by White House Communications Agency on nonreimbursable bases (sec. 906)

The Senate amendment contained a provision (sec. 903) that would clarify the mission of the White House Communications Agency to include audiovisual support services for the President.

The House bill contained no similar provision.

The House recedes with a technical amendment that would change the date of enactment to conform with passage of this Act.

Report on establishment of a Deputy Secretary of Defense for Management (sec. 907)

The Senate amendment contained a provision (sec. 905) that would require the Secretary of Defense to select two Federally Funded Research and Development Centers to conduct independent studies of the feasibility and advisability of establishing a Deputy Secretary of Defense for Management. Each study under this section would be delivered to the Secretary and the congressional defense committees not later than March 15, 2006. Each study required by this section would address the extent to which the establishment of a Deputy Secretary of Defense for Management would improve the management of the Department of Defense; expedite the process of management reform in the Department; and enhance the implementation of business systems modernization in the Department.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Responsibility of the Joint Chiefs of Staff as military advisers to the Homeland Security Council (sec. 908)

The Senate amendment contained a provision (sec. 907) that would designate the Chairman of the Joint Chiefs of Staff as the principal military adviser to the Homeland Security Council.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Improvement in health care services for residents of Armed Forces Retirement Home (sec. 909)

The Senate amendment contained a provision (sec. 642) that would require certain management changes within the Armed Forces Retirement Home and expanded physician, dental, and transportation services.

The House bill contained no similar provision.

The House recedes with an amendment that would require that a physician and dentist be available at each facility of the retirement home during daily business hours, and that daily scheduled transportation to nearby medical facilities be available at no cost. The amendment would require the development of health care access standards by the Chief Operating Officer and would also require an assessment by the Comptroller General on monitoring and oversight of health care services for residents of the retirement home.

Subtitle B—Space Activities

Space Situational Awareness Strategy and space control mission review (sec. 911)

The House bill contained a provision (sec. 911) that would direct the Secretary of Defense to develop a formal strategy, systems architecture, and a capabilities roadmap for space situational awareness, and update the strategy every two years.

The Senate amendment contained a provision (sec. 911) that would require the Secretary to establish an independent panel to assess Department of Defense space control activities, including space situational awareness.

The Senate recedes with an amendment that would direct the Secretary to provide for an independent review and assessment of Department requirements for its space control mission.

Military satellite communications (sec. 912)

The House bill contained a provision (sec. 912) that would direct the National Security Space Office to conduct an independent assessment of options to evolve the capabilities of the Advanced Extremely High Frequency and Wideband Gapfiller Systems until the high-risk technologies proposed for the Transformational Satellite Communications System can be further developed and matured.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Operationally responsive space (sec. 913)

The House bill contained a provision (sec. 913) that would direct the Secretary of Defense to create or designate an organization to focus the development of payload technology for small satellites. This organization would develop an annual master plan describing focus areas for technology development, and distribute appropriated funds for projects within those focus areas.

The Senate amendment contained no similar provision.

The Senate recedes.

Report on use of Space Radar for topographical mapping for scientific and civil purposes (sec. 914)

The Senate amendment contained a provision (sec. 1045) that would direct the Secretary of Defense to submit a report to the congressional defense committees, not later than January 15, 2006, on the feasibility and advisability of utilizing the Space Radar for civil purposes.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Sense of Congress regarding national security aspect of United States preeminence in human spaceflight (sec. 915)

The Senate amendment contained a provision (sec. 1086) that would express the sense of the Senate that it is in the national security interest of the United States to maintain preeminence in human spaceflight.

The House bill contained no similar provision.

The House recedes with a clarifying amendment that would express the sense of Congress.

Subtitle C—Chemical Demilitarization Program

Clarification of cooperative agreement authority under chemical demilitarization program (sec. 921)

The House bill contained a provision (sec. 922) that would clarify that the authority conferred upon the Secretary of Defense by section 1521 c (4) of title 50, United States Code, applies to cooperative agreements with federally-recognized Indian tribal governments, as well as state and local governments.

The Senate amendment contained a similar provision (sec. 3114).

The House recedes with a technical amendment.

Chemical demilitarization facilities (sec. 922)

The Senate amendment contained a provision (sec. 213) that would provide the Secretary of Defense authority to use fiscal year 2006 research and development funds available for chemical weapons demilitarization activities under the Assembled Chemical Weapons Alternative (ACWA) program to carry out construction projects for facilities necessary to support chemical demilitarization operations at Pueblo Army Depot, Colorado, and Blue Grass Army Depot, Kentucky.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

The conferees note that this provision provides unusual flexibility to the Department of Defense. It was included in response to a late request from the Department in order to permit important chemical demilitarization activities to proceed without further delay. The provision permits a one-time authorization to use fiscal year 2006 research, development, test, and evaluation funds for military construction at the ACWA sites. The conferees expect the Department to request funding for these projects in the proper military construction accounts in the fiscal year 2007 and future years budget submissions. The conferees also expect the Department to submit the required 1391 forms for these military construction projects.

The conferees strongly urge the Department and the administration to take all steps necessary to ensure that the chemical demilitarization programs receive the management attention, priority, and resources required to ensure that the United States meets its obligations under the Chemical Weapons Convention to destroy its chemical weapons stockpile by April 2012, and that it does so safely and efficiently.

Subtitle D—Intelligence-Related Matters

Department of Defense strategy for open source intelligence (sec. 931)

The House bill contained a provision (sec. 931) that would direct the Secretary of Defense to create and submit to Congress a strategy for the use of open source intelligence by January 31, 2006. The strategy would have 10 components focusing on application of open source intelligence in the intelligence process, as well as associated management, training, and personnel issues.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would change the reporting date from January 31, 2006, to 180 days after enactment of this Act.

Comprehensive inventory of Department of Defense intelligence and intelligence-related programs and projects (sec. 932)

The House bill contained a provision (sec. 932) that would require the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and the House of Representatives, the Senate Select Committee on Intelligence, and the House Permanent Select Committee on Intelligence that would provide a comprehensive inventory of Department of Defense intelligence and intelligence-related programs and projects. The Secretary would be required to complete the inventory in consultation with the Director of National Intelligence, where appropriate. The report would not be intended to encompass military operations or military activities. This inventory would be designed to abide by existing procedures for the handling of special access programs referenced in section 119 of title 10, United States Code, and applicable Department directives. The Department would be required to complete the inventory not later than 180 days after enactment of this Act.

The Senate amendment contained no similar provision.

The Senate recedes.

Operational files of the Defense Intelligence Agency (sec. 933)

The Senate amendment contained a provision (sec. 922) that would authorize the Director of the Defense Intelligence Agency (DIA) to exempt specifically defined operational files of certain elements of the DIA from disclosure under the Freedom of Information Act (5 U.S.C. 552), similar to protections currently authorized to other intelligence agencies under Title VII of the National Security Act of 1947 (50 U.S.C. 431 et. seq.).

The House bill contained no similar provision.

The House recedes with an amendment that would terminate the authorization on December 31, 2007.

LEGISLATIVE PROVISIONS NOT ADOPTED

Advisory committee on Department of Defense requirements for space control

The Senate amendment contained a provision (sec. 911) that would require the Secretary of Defense to establish an advisory Committee on the current and future space control requirements of the United States, including the means of meeting those requirements.

The House bill contained no similar provision.

The Senate recedes.

American Forces Network

The Senate amendment contained a provision (sec. 904) that would express the sense of the Senate that the men and women of the American Forces Radio and Television Service and the American Forces Network should be commended for providing a vital service to the military community worldwide and that the programming mission, themes, and practices of the Department of Defense have fairly and responsively fulfilled their mission and contributed immeasurably to high morale and quality of life. The amendment would also authorize the Secretary of Defense to appoint an ombudsman of the American Forces Network.

The House bill contained no similar provision.

The Senate recedes.

Prohibition on implementation of certain orders and guidance on functions and duties of the General Counsel and the Judge Advocate General of the Air Force

The Senate amendment contained a provision (sec. 923) that would prohibit the obligation or expenditure of funds authorized by the National Defense Authorization Act for Fiscal Year 2006 to implement or enforce either the Secretary of the Air Force order of May 15, 2003, entitled "Functions and Duties of the General Counsel and the Judge Advocate General," or any internal operating instruction or memorandum issued by the General Counsel of the Department of the Air Force in reliance upon the May 15, 2003, order.

The House bill contained no similar provision.

The Senate recedes.

On July 14, 2005, the Acting Secretary of the Air Force issued a new order on the subject of the functions and duties of the General Counsel and the Judge Advocate General. This order by its terms supersedes the May 15, 2003, order, and does not contain the objectionable language contained in the earlier order. It appears that no final instruction or memorandum was ever issued by the General Counsel of the Department in reliance on the May 15, 2003, order.

The conferees will continue to monitor the situation in the Department to ensure that the Secretary of the Air Force, the Chief of Staff of the Air Force, and commanders continue to have access to independent legal advice from the Judge Advocate General and judge advocates in the field, as required by section 574 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law No. 108–375).

Redesignation of the Department of the Navy as the Department of the Navy and Marine Corps

The House bill contained a provision (sec. 904) that would redesignate the Department of the Navy as the Department of the Navy and Marine Corps and the Secretary of the Navy as the Secretary of the Navy and Marine Corps.

The Senate amendment contained no similar provision.

The House recedes.

Transfer to Secretary of the Army of responsibility for Assembled Chemical Weapons Alternatives program

The House bill contained a provision (sec. 921) that would transfer program management responsibility for the Assembled Chemical Weapons Alternatives program from the Under Secretary of Defense for Acquisition, Technology, and Logistics to the Secretary of the Army by January 1, 2006.

The Senate amendment contained no similar provision.

The House recedes.

United States Military Cancer Institute

The Senate amendment contained a provision (sec. 924) that would establish a United States Military Cancer Institute within the Uniform Services University of the Health Sciences. The Institute would be composed of clinical and basic scientists in the Department of Defense who have expertise in research, patient care, and education relating to the disease of cancer; and would carry out research studies on the epidemiological features of cancer.

The House bill contained no similar provision.

The Senate recedes.

The conferees acknowledge that the institute exists without authorization in statute, and that Department of Defense appropriations are provided to the institute for support of its cancer research activities.

TITLE X—GENERAL PROVISIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Financial Matters

Transfer authority (sec. 1001)

The House bill contained a provision (sec. 1001) that would provide $4.0 billion in transfer authority among accounts in division A of this Act for fiscal year 2006.

The Senate amendment contained a similar provision (sec. 1001).

The conferees agree to provide $3.5 billion in transfer authority.

Authorization of emergency supplemental appropriations for fiscal years 2005 and 2006 (sec. 1002)

The House bill contained a provision (sec. 1002) that would authorize emergency supplemental appropriations pursuant to title I and chapter 2 of title IV of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13).

The Senate amendment contained a similar provision (sec. 1005).

The Senate amendment also contained a provision (sec. 1008) that would authorize emergency appropriations contained in the two emergency supplemental appropriations to meet needs arising from Hurricane Katrina, the supplemental appropriations for avian flu preparedness, the amounts reallocated from hurricane-related disaster relief, and the amounts for humanitarian assistance for earthquake victims in Pakistan. The Senate amendment would require reports on the expenditure of these funds and on assistance given to the earthquake victims in Pakistan.

The conferees agree to the authorization of emergency supplemental appropriations contained in both the House and Senate provisions. The conferees also require reports on the expenditure of these funds and on assistance given to the earthquake victims in Pakistan.

Increase in fiscal year 2005 general transfer authority (sec. 1003)

The House bill contained a provision (sec. 1003) that would provide $6.185 billion in transfer authority among accounts in division A of this Act for fiscal year 2005.

The Senate amendment contained an identical provision (sec. 1006).

The conference agreement includes this provision.

Reports on feasibility and desirability of capital budgeting for major defense acquisition programs (sec. 1004)

The House bill contained a provision (sec. 1004) that would require the Secretary of Defense and the secretaries of the military departments to submit a report to the congressional defense committees on the feasibility and desirability of capital budgeting for major defense acquisition programs by July 1, 2006.

The Senate amendment contained no similar provision.

The Senate recedes.

United States contribution to NATO common-funded budgets in fiscal year 2006 (sec. 1005)

The Senate amendment contained a provision (sec. 1003) that would authorize the U.S.

contribution to North Atlantic Treaty Organization (NATO) common-funded budgets for fiscal year 2006, including the use of unexpended balances. The resolution of ratification for the Protocol to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic contained a provision (section 3(2)(c)(ii)) requiring a specific authorization for U.S. payments to the common-funded budgets of NATO for each fiscal year, beginning in fiscal year 1999, that payments exceed the fiscal year 1998 total.

The House bill contained no similar provision.

The House recedes.

Subtitle B—Naval Vessels and Shipyards

Conveyance, Navy drydock, Seattle, Washington (sec. 1011)

The House bill contained a provision (sec. 1011) that would authorize the Secretary of the Navy to sell the yard floating drydock YFD-70, located in Seattle, Washington, to Todd Pacific Shipyards Corporation, provided that the drydock remain at the facilities of Todd Pacific Shipyards Corporation until at least September 30, 2010. The provision would require the purchaser to pay to the United States an amount equal to the fair market value as determined by the Secretary, that the transfer would be at no cost to the United States, and include any additional terms and conditions the Secretary considers appropriate to protect the interests of the United States.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would authorize the Secretary to convey, instead of sell, the drydock, and that would require the purchaser to provide compensation, instead of payment, to the United States, equal to the fair market value of the drydock.

Conveyance, Navy drydock, Jacksonville, Florida (sec. 1012)

The House bill contained a provision (sec. 1012) that would authorize the Secretary of the Navy to sell the medium auxiliary floating drydock SUSTAIN (AFDM-7), located in Duval County, Florida, to the Atlantic Marine Property Holding Company, provided that the drydock remain at the facilities of the Atlantic Marine Holding Company until at least September 30, 2010. The provision would require the purchaser to pay to the United States an amount equal to the fair market value as determined by the Secretary, that the transfer be at no cost to the United States, and include any additional terms and conditions the Secretary considers appropriate to protect the interests of the United States.

The Senate amendment contained a similar provision (sec. 1022).

The House recedes with an amendment that would authorize the Secretary to convey, instead of sell, the drydock, and that would require the purchaser to provide compensation, instead of payment, to the United States, equal to the fair market value of the drydock.

Conveyance, Navy drydock, Port Arthur, Texas (sec. 1013)

The House bill contained a provision (sec. 1013) that would authorize the Secretary of the Navy to convey, without consideration, the inactive medium auxiliary floating drydock AFDM-2, currently administered through the National Defense Reserve Fleet, to the city of Port Arthur, Texas. This conveyance would be subject to the conditions that: (1) the drydock remain at the facilities of the port authority; (2) the conveyance would be at no cost to the United States; and (3) the Secretary could include any other terms and conditions the Secretary considers appropriate to protect the interests of the United States.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would allow the conveyance, but not without consideration. As consideration for the conveyance, the purchaser would be required to provide compensation to the United States the value of which, as determined by the Secretary, is equal to the fair market value of the drydock.

Transfer of battleships U.S.S. Wisconsin and U.S.S. Iowa (sec. 1014)

The House bill contained a provision (sec. 1014) that would waive section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106) and section 1011 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261) with respect to the battleship U.S.S. *Iowa* (BB-61). The provision would also direct the Secretary of the Navy to strike the U.S.S. *Iowa* from the Naval Vessel Register, and to transfer that vessel to the Port of Stockton, California, subject to the submission of a donation application which is satisfactory to the Secretary, and subject to subsections (b) and (c) of section 7306 of title 10, United States Code.

The Senate amendment contained a provision (sec. 1021) that would authorize the Secretary of the Navy to strike the battleships U.S.S. *Wisconsin* (BB-64) and U.S.S. IOWA (BB-1) from the Naval Vessel Register, subject to section 7306 of title 10, United States Code, and transfer those vessels by gift or otherwise. As a condition of the transfers, the provision would require the Secretary of the Navy to have the transferee locate the U.S.S. *Wisconsin* in the Commonwealth of Virginia and the U.S.S. *Iowa* in the State of California. The provision would also waive the requirement for notice-and-wait contained in section 7306(d) of title 10, United States Code. The provision would repeal section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106) and section 1011 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261).

The House recedes with an amendment that would direct the Secretary of the Navy to require that, as a term of the transfer of these battleships, the transferees shall, if the President declares a national emergency pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.), and upon request of the Secretary of Defense, return the respective vessel to the United States. In such a case, the amendment would require that the terms of the agreement require that the title to the vessel or vessels revert immediately to the United States, unless otherwise notified by the Secretary of Defense.

Transfer of ex-U.S.S. Forrest Sherman (sec. 1015)

The House bill contained a provision (sec. 1015) that would require the Secretary of the Navy to transfer the decommissioned destroyer ex-U.S.S. *Forrest Sherman* to the U.S.S. *Forrest Sherman* DD-931 Foundation, Inc., a non-profit organization under the laws of Maryland, subject to the submission of a donation application for that vessel that is satisfactory to the Secretary. The provision would require that the transferee maintain the vessel in a condition satisfactory to the Secretary, that the transfer would be at no cost to the United States, and would allow the Secretary to require additional terms and conditions he considers appropriate. The authorization under this provision would expire 5 years after the enactment of this Act.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would make this transfer discretionary to the Secretary, where he may transfer the ship, instead of being required to do so.

Report on leasing of vessels to meet national defense sealift requirements (sec. 1016)

The House bill contained a provision (sec. 1016) that would amend title 10, United States Code, to prohibit a secretary of a military department from entering a contract for a lease or charter of a vessel for a term of more than 24 months, including all options to renew or extend an existing contract, if the hull, or component of the hull and superstructure of the vessel is constructed in a foreign shipyard. The provision would allow the President to waive this prohibition, when the President determines this waiver to be in the national security interest.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would instead require that the Secretary of Defense submit a report, no later than March 1, 2006, on leasing of vessels to meet national defense sealift requirements to the Committees on Armed Services of the Senate and the House of Representatives. The amendment would include a listing of items that must be included in the report.

Establishment of the U.S.S. Oklahoma memorial and other memorials at Pearl Harbor (sec. 1017)

The House bill contained a provision (sec. 1017) that would require the Secretary of the Navy, in consultation with the Secretary of the Interior, to identify an appropriate site on Ford Island, Hawaii, for the location of a memorial to U.S.S. *Oklahoma* (BB-37), which was sunk during the attack on Pearl Harbor on December 7, 1941.

The Senate amendment contained a similar provision (sec. 1078).

The House recedes with an amendment that would require identification of an appropriate site for the memorial not later than 90 days after enactment of this Act. Additionally, it would require certification that the U.S.S. Oklahoma Memorial Foundation has sufficient funding to complete construction of the memorial and that the memorial and other future memorials at Pearl Harbor meet the requirements set forth in the "Pearl Harbor Naval Complex Design Guidelines and Evaluation Criteria for Memorials of April 2005." The amendment would also authorize the Secretary of the Interior to establish and operate a transportation system linking the U.S.S. Arizona Memorial Visitor Center with historic sites and visitor attractions within the Pearl Harbor Naval Complex, including Ford Island.

Authority to use National Defense Sealift Fund to purchase certain maritime prepositioning ships currently under charter to the Navy (sec. 1018)

The Senate amendment contained a provision (sec. 323) that would authorize the Secretary of Defense to obligate and expend any funds in the National Defense Sealift Fund (NDSF) to exercise purchase options on three Maritime Prepositioning Ship (MPS) vessels under charter to the Navy. The provision would be notwithstanding the provisions of section 2218(f)(1) of title 10, United States

Code, which limits the number of vessels built in foreign shipyards that are purchased with the NDSF to five vessels. The provision would also stipulate the vessels that could be purchased as those whose leases expired in fiscal year 2009.

The House bill contained no similar provision.

The House recedes with an amendment that would limit the authority provided by subsection (c)(1) of section 2218 of title 10, United States Code, to purchase no more than six MPS ships currently chartered by the Department of Defense under a 25 year lease. The provision would waive subsection (f)(1) of section 2218 of title 10, United States Code, in the case of the purchase of these six vessels. The provision would also amend section 2218(f)(1) of title 10, United States Code, to state that a vessel built in a foreign shipyard may not be purchased with funds in the NDSF unless specifically authorized by law.

Subtitle C—Counter-Drug Activities

Resumption of reporting requirement regarding Department of Defense expenditures to support foreign counterdrug activities (sec. 1021)

The House bill contained a provision (sec. 1022) that would require the resumption of a reporting requirement for the Secretary of Defense to submit a report detailing expenditures of funds by the Department of Defense during fiscal year 2005 in direct and indirect support of the counterdrug activities of foreign governments.

The Senate amendment contained no similar provision.

The Senate recedes.

Clarification of authority for joint task forces to support law enforcement agencies conducting counterterrorism activities (sec. 1022)

The House bill contained a provision (sec. 1023) that would clarify that a joint task force supporting law enforcement agencies conducting counterdrug activities may use funds available for that activity to also support counterterrorism activities by those law enforcement agencies. The fiscal authority provided here is a clarification of authority for joint task forces to support law enforcement agencies in both counterdrug and counterterrorism missions originally provided by Congress in the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136).

The Senate amendment contained a similar provision (sec. 1032) that would limit the use of funds authorized to be appropriated for counterdrug activities to also support counterterrorism activities to the borders and territorial waters of the United States.

The Senate recedes with an amendment that would make this funding available for fiscal years 2006 and 2007, and require the Secretary of Defense to report on the effect of the availability of such funding on counterdrug and counterterrorism activities and objectives. The conferees believe the Secretary should ensure that counterdrug funding is utilized to fund counterterrorist activities where there is overlap between counterdrug and counterterrorist objectives.

Sense of Congress regarding drug trafficking deterrence (sec. 1023)

The Senate amendment contained a provision (sec. 1081) that would express a sense of the Senate that the Department of Defense fully fund the Counterdrug Tethered Aerostat program and that the Department install a maritime radar on the Lajas, Puerto Rico aerostat.

The House bill contained no similar provision.

The House recedes with an amendment that would change "fully fund" to "should fund" and state that the Department "should" install a maritime radar on the Lajas, Puerto Rico aerostat vice install.

Subtitle D—Matters Related to Homeland Security

Responsibilities of Assistant Secretary of Defense for Homeland Defense relating to nuclear, chemical, and biological emergency response (sec. 1031)

The House bill contained a provision (sec. 1031) that would designate the Assistant Secretary of Defense for Homeland Defense as the Department of Defense official responsible for co-ordinating the Department's emergency response assistance to federal, state, and local government officials dealing with incidents involving chemical, biological, nuclear, radiological, and high yield explosives.

The Senate amendment contained no similar provision.

The Senate recedes.

Testing of preparedness for emergencies involving nuclear, radiological, chemical, biological, and high-yield explosives weapons (sec. 1032)

The House bill contained a provision (sec. 1032) that would designate the Secretary of Homeland Security as the federal official responsible for the preparedness testing of federal, state, and local agencies to respond to emergencies involving chemical, biological, nuclear, and radiological weapons.

The Senate amendment contained no similar provision.

The Senate recedes.

Department of Defense chemical, biological, radiological, nuclear, and high-yield explosives response teams (sec. 1033)

The House bill contained a provision (sec. 1033) that would designate the Secretary of Homeland Security, rather than the Director of the Federal Emergency Management Agency, as the federal official who would request Department of Defense assistance in a weapons of mass destruction emergency response.

The Senate amendment contained no similar provision.

The Senate recedes.

Repeal of Department of Defense emergency response assistance program (sec. 1034)

The House bill contained a provision (sec. 1034) that would repeal the requirement of the Secretary of Defense to carry out a program to train other federal, state, and local agency personnel regarding emergency response to threats or incidents involving weapons of mass destruction. The provision would further designate the Secretary of Homeland Security as the principal federal official responsible for such program.

The Senate amendment contained no similar provision.

The Senate recedes.

Report on use of Department of Defense aerial reconnaissance assets to support Homeland Security border security missions (sec. 1035)

The Senate amendment contained a provision (sec. 1031) that would authorize the Secretary of Defense to use Department of Defense personnel and equipment to conduct aerial reconnaissance within the U.S. Northern Command area of responsibility with unmanned aerial vehicles. The purpose of these operations would be to detect and monitor suspicious air, sea, and surface traffic; and to communicate information on such traffic to appropriate federal, state, and local law enforcement officials.

The House bill contained no similar provision.

The House recedes with a clarifying amendment that would require the Secretary of Defense to submit a report to the Committees of Armed Services of the Senate and the House of Representatives not later than 120 days after the enactment of this Act, in coordination with the Secretary of Homeland Security, containing the results of a study regarding the use of aerial reconnaissance equipment of the Department of Defense in missions in which the Armed Forces support the Department of Homeland Security in performing its international border security mission.

Subtitle E—Reports and Studies

Review of Defense Base Act insurance (sec. 1041)

The Senate amendment contained a provision (sec. 1042) that would require the Secretary of Defense to review current and future needs, options, and risks associated with Defense Base Act (DBA) (42 United States Code, sections 1651–1654) insurance.

The House bill contained no similar provision.

The House recedes.

The conferees note that the Department of Defense recently initiated a 1-year pilot program for a single insurer to provide DBA insurance for all Army Corps of Engineers contractors performing overseas. On November 22, 2005, the Army announced that it had entered a contract under which insurance rates would range from $5.00 to $8.50 per $100.00 of salary cost. This represents considerable savings over the DBA insurance rates between $10.00 and $21.00 per $100.00 of salary cost previously paid by the Department of Defense, as reported by the Government Accountability Office. The conferees believe that the pilot program is an important first step. The report required by this section can help build on that program to develop a DBA contracting mechanism that provides the greatest benefits to the federal government and its contractor employees overseas.

Report on Department of Defense response to findings and recommendations of Defense Science Board Task Force on High Performance Microchip Supply (sec. 1042)

The Senate amendment contained a provision (sec. 1044) that would require the Department of Defense to submit a plan to sustain U.S. leadership in semiconductor manufacturing and technology.

The House bill contained no similar provision.

The House recedes with an amendment that would modify requirements on preparation and submission of the report.

The conferees note that Department missions and strategies depend heavily on semiconductor microelectronics. These microelectronics range from extremely high performance military unique systems to commodity microelectronics that are used in standard commercial computers, radios, and other electronics equipment. Given the broad application and importance of ensuring an adequate supply of these components, the conferees urge the Secretary of Defense to consult with other federal departments and agencies, industry, and academic organizations in development of the report required by this provision.

Subtitle F—Other Matters

Commission on the Implementation of the New Strategic Posture of the United States (sec. 1051)

The House bill contained a provision (sec. 1041) that would establish a commission to assess and make recommendations about the implementation of the new strategic posture of the United States. The commission would examine programmatic requirements to achieve the goals set out in the December 31, 2001, Nuclear Posture Review (NPR) and periodic assessments of the NPR by looking at: the requirements process for strategic forces; how strategic intelligence and other requirements differ from nuclear intelligence and other requirements; the ability of strategic platforms to carry out non-nuclear strike missions; the limits of tactical systems to perform non-nuclear global strategic missions; and an assessment of the ability of the current nuclear stockpile to address the evolving strategic threat environment through 2025. In selecting individuals for appointment to the commission, the Secretary of Defense shall consult with the chairman and ranking minority member of the Committee on Armed Services of the Senate and the chairman and ranking minority member of the Committee on Armed Services of the House of Representatives.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would: (1) limit the time period for the commission's assessment of the ability of the current nuclear stockpile to address the evolving threat environment to 2008, rather than 2025 as contained in the House provision; (2) require the commission to submit its report by June 30, 2007, to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives containing the commission's recommendations; and (3) terminate the duties of the commission on July 30, 2007.

Reestablishment of EMP Commission (sec. 1052)

The House bill contained a provision (sec. 1042) that would reestablish and extend the life of the Commission to Assess the Threat to the United States from Electromagnetic Pulse (EMP) attack, originally created in the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would direct the commission to submit its final report by June 30, 2007, on the vulnerability of electric-dependent military and non-military systems in the United States to an EMP attack, giving special attention to the progress of U.S. government agencies and private sector entities in taking steps to protect such systems from attack. The commission is also directed to assess the Department of Defense plan for implementing the recommendations of the commission stemming from its 2004 report to Congress.

Modernization of authority relating to security of defense property and facilities (sec. 1053)

The House bill contained a provision (sec. 1043) that would amend section 21 of the Internal Security Act of 1950 (50 U.S.C. 797) to authorize the delegation of authority to issue security regulations at certain facilities to the civilian directors of those facilities. The provision would also make technical amendments to section 21 to reflect other changes in law made since the enactment of the Internal Security Act.

The Senate amendment contained a provision (sec. 1072) that would amend section 21 of the Internal Security Act of 1950 to authorize the delegation of authority to issue security regulations to civilian directors, and would also amend section 4 of that Act (50 U.S.C. 783) to prohibit persons who knowingly violate laws or regulations regarding the handling of classified information in a manner that could have a significant adverse impact on the national security of the United States from holding security clearances or obtaining access to classified information.

The Senate recedes.

Revision of Department of Defense counterintelligence polygraph program (sec. 1054)

The House bill contained a provision (sec. 1044) that would clarify and make permanent the standards by which the Department of Defense conducts its counterintelligence polygraph program. This provision would also expand the Department's counterintelligence polygraph authority to allow the Department to administer polygraph examinations to individuals whose duties involve assistance in intelligence or military missions where the misuse of information could jeopardize human life or safety; result in the loss of unique or uniquely productive intelligence sources or methods vital to U.S. national security; or compromise technologies, operational plans, and security procedures vital to the strategic advantage of the United States and its allies.

The Senate amendment contained no similar provision.

The Senate recedes.

Preservation of records pertaining to radioactive fallout from nuclear weapons testing (sec. 1055)

The House bill contained a provision (sec. 1050) that would prohibit the destruction of any document in the custody or control of the Department of Defense that is a historical record, or part of a historical record, relating to radioactive fallout from the testing of any nuclear device. The provision would further require the Secretary of Defense to identify, preserve, and publish information contained in such documents.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Technical and clerical amendments (sec. 1056)

The House bill contained a provision (sec. 1046) that would make technical and clerical amendments to various provisions of law.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would strike the portion of section 1046 dealing with the definition of "congressional defense committees," and would make minor technical corrections.

Deletion of obsolete definitions in titles 10 and 32, United States Code (sec. 1057)

The House bill contained a provision (sec. 1047) that would amend titles 10 and 32 of the United States Code to delete the obsolete term "Territory" [capitalized], which referred to Alaska and Hawaii prior to statehood, and to make conforming changes. The provision also changes references to "Puerto Rico" in those titles to "Commonwealth of Puerto Rico" to conform with current usage in other defense-related statutes.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Support for youth organizations (sec. 1058)

The House bill contained a provision (sec. 1049) that would require that no federal law shall be construed to limit the Department of Defense from providing any form of support to certain youth organizations, including the Boy Scouts of America, that would result in less support than was provided by the Department during each of the preceding 4 fiscal years.

The Senate amendment contained a similar provision (sec. 1073) that would authorize the head of a federal agency to waive the application of this provision under certain circumstances, and would amend section 5309 of title 42, United States Code, to require equal access for youth organizations, including the Boy Scouts of America, to designated open forums, limited public forums, or nonpublic forums of states or units of general local government.

The House recedes with a technical amendment.

Special immigrant status for persons serving as translators with United States Armed Forces (sec. 1059)

The House bill contained a provision (sec. 1051) that would authorize the Secretary of Homeland Security to provide special immigrant status to not more than 50 qualified Afghan or Iraqi nationals (and their spouses and children) per fiscal year. This status is limited to such nationals who have worked directly with the U.S. Armed Forces as translators for at least 12 months, have obtained a favorable recommendation from the first flag or general officer in the chain of command of the unit concerned, and have cleared a background check and screening.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would change the reference to "the first flag or general officer in the chain of command" to "a flag or general officer in the chain of command."

Expansion of emergency services under reciprocal agreements (sec. 1060)

The Senate amendment contained a provision (sec. 1084) that would amend section 1856(b) of title 42, United States Code, by expanding the list of services that could be provided by federal agencies to local governments on a reciprocal basis to include emergency services, including basic and advanced life support, hazardous material containment and confinement; and special rescue events involving vehicular and water mishaps; and trench, building, and confined space extractions.

The House bill contained no similar provision.

The House recedes with an amendment that would add "basic medical support" to the list of eligible services.

Renewal of moratorium on return of veterans memorial objects to foreign nations without specific authorization in law (sec. 1061)

The Senate amendment contained a provision (sec. 1085) that would amend section 1051(c) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65) to extend the effective date of the moratorium on return of veterans memorial objects to foreign nations through September 30, 2010.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Sense of Congress on national security interest of maintaining aeronautics research and development (sec. 1062)

The Senate amendment contained a provision (sec. 1088) that would express the sense of the Senate regarding the importance to the nation of a strong aeronautics research and development program at the National Aeronautics and Space Administration and at the Department of Defense.

The House bill contained no similar provision.

The House recedes with an amendment to express the sense of Congress on the national security interest of maintaining aeronautics research and development.

Airport certification (sec. 1063)

The conferees agree to a provision that would require specific conditions to be met by a certain airport designated in the provision in order to be eligible to receive approval of an airport layout plan from the Federal Aviation Administration.

Subtitle G—Military Mail Matters

Safe delivery of mail in military mail system (sec. 1071)

The Senate amendment contained a provision (sec. 1061) that would require the Secretary of Defense to promptly develop and implement a plan to ensure that the mail within the military mail system is safe for delivery, and to submit a report to Congress not later than 120 days after the date of enactment of this Act on the safety of mail within the military mail system.

The House bill contained no similar provision.

The House recedes with a technical amendment.

LEGISLATIVE PROVISIONS NOT ADOPTED

Assignment of members of the Armed Forces to assist Bureau of Border Security and Bureau of Citizenship and Immigration Services of the Department of Homeland Security

The House bill contained a provision (sec. 1035) that would authorize the Secretary of Defense to assign members of the Armed Forces to assist Bureau of Border Security and Bureau of Citizenship and Immigration Services of the Department of Homeland Security, in preventing the entry of terrorists, drug traffickers, and illegal aliens into the United States, and to aid in the inspection of cargo, vehicles, and aircraft at points of entry into the United States to prevent the entry of weapons of mass destruction.

The Senate amendment contained no similar provision.

The House recedes.

Coal-to-liquid fuel development plan

The Senate amendment contained a provision (sec. 1090) that would direct the Secretary of Energy to submit a plan on the development of a coal-to-liquid fuel program and would direct the Secretary of Defense to submit a plan to use fuels developed under this program.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that the Department of Defense and the Department of Energy are working together as part of the Department of Defense clean fuels program to develop clean, domestic sources of fuel for Department of Defense applications, particularly for use in turbine engines. The Department of Energy coal-to-liquid fuel program, conducted at the Department of Energy National Energy Technology Laboratory, will be one of the primary programs that will support near-term options to develop clean domestic fuel sources for turbine engines in use by the Department of Defense. The conferees support this collaboration and direct the Secretary of Defense and the Secretary of Energy to report on the progress of their efforts and to develop a plan for the future.

The Secretary of Energy, in coordination with the Secretary of Defense, shall prepare and submit to the Committees on Armed Services, Energy and Natural Resources, and Appropriations of the Senate, and to the Committees on Armed Services, Energy and Commerce, Science, and Appropriations of the House of Representatives, a development plan for the coal-to-liquid fuel program. The development plan shall be prepared taking into consideration: (1) technology needs and developmental barriers; (2) economic and national security effects; (3) environmental standards and carbon capture and storage opportunities; (4) financial incentives; (5) timelines and milestones; (6) diverse regions having coal reserves that would be suitable for liquefaction plants; (7) coal-to-liquid fuel testing to meet civilian and military engine standards and markets; and (8) any roles other federal agencies, state governments, and international entities could play in developing a coal-to-liquid fuel industry, not later than 90 days after the date of enactment of this Act.

The Secretary of Defense, in coordination with the Secretary of Energy, shall prepare and submit to the Committees on Armed Services, Energy and Natural Resources, and Appropriations of the Senate, and to the Committees on Armed Services, Energy and Commerce, Science, and Appropriations of the House of Representatives, a report on the potential use of the fuels by the Department of Defense, not later than 90 days after the date of enactment of this Act.

Delivery of mail addressed to any service member

The Senate amendment contained a provision (sec. 1062) that would require the Secretary of Defense to carry out a program under which mail and packages addressed to any service member shall be delivered to deployed members of the Armed Forces overseas.

The House bill contained no similar provision.

The Senate recedes.

Establishment of National Foreign Language Coordination Council

The Senate amendment contained a provision (sec. 1082) that would establish a National Foreign Language Coordination Council to develop and monitor the implementation of a national foreign language strategy. The strategy would include: (1) an identification of crucial priorities; (2) an identification and evaluation of federal foreign language programs and activities; (3) effective ways to increase public awareness of the need for foreign language skills; (4) recommendations for incentives for educational programs; and (5) coordination of cross-sector efforts. The council would prepare and transmit to the President and the relevant committees of Congress the strategy not later than 18 months after the date of enactment of this Act.

The House bill contained no similar provision.

The Senate recedes.

The conferees have been informed that the Department of State, in coordination with the Department of Defense, Director of National Intelligence, and the Department of Education, has spearheaded a National Security Initiative to develop a long-range strategy to improve our nation's foreign language capabilities. The Department of State, through the Office of the Under Secretary of State for Public Diplomacy, would coordinate the implementation of the strategy.

The conferees commend the interagency working group, which was responsible for developing the strategy, for considering the recommendations made at the National Language Conference held on August 17, 2004, by over 300 leaders and practitioners from federal, state, and local government agencies; academic institutions; business and industry; foreign language interest groups; and foreign nations. The conferees encourage the Department of Defense to engage federal, state, and local agencies and interested private sector organizations during the implementation of the initiative.

Extension of Department of Defense authority to support counterdrug activities

The House bill contained a provision (sec. 1021) that would extend the authorization from 2006 to 2011.

The Senate amendment contained no similar provision.

The House recedes.

Grant of federal charter to Korean War Veterans Association, Incorporated

The Senate amendment contained a provision (sec. 1077) that would modify title 36, United States Code, to grant a federal charter to the Korean War Veterans Association, Incorporated.

The House bill contained no similar provision.

The Senate recedes.

Incorporation of classified annex

The Senate amendment contained a provision (sec. 1002) that would incorporate an accompanying classified annex.

The House bill contained no similar provision.

The Senate recedes.

Policy of the United States on the Intercontinental Ballistic Missile force

The Senate amendment contained a provision (sec. 1076) that would state the policy of the United States to continue to deploy a force of 500 intercontinental ballistic missiles, provided that unanticipated strategic developments may compel the United States to make changes to this force structure in the future.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that:

(1) Consistent with warhead levels agreed to in the Moscow Treaty, the United States is modifying the capacity of the Minuteman III intercontinental ballistic missile (ICBM) from its prior capability to carry up to 3 independent reentry vehicles (RVs) to carry as few as a single RV, a process known as downloading.

(2) The 2001 Nuclear Posture Review (NPR) confirmed the need for 500 ICBMs.

(3) In a potential nuclear crisis, it is important that the nuclear weapons systems of the United States be configured so as to discourage other nations from making a first strike.

(4) The ICBM force is currently being considered as part of the deliberations of the Department of Defense for the Quadrennial Defense Review.

The conferees note that the policy of the United States, as set out in the 2001 NPR, is to deploy a force of 500 ICBMs. The conferees further note that unanticipated strategic developments may compel the United States to make changes to this force structure in the future.

Reduction in overall authorization due to inflation savings

The Senate amendment contained a provision (sec. 1004) that would reduce the amount authorized to be appropriated to the Department of Defense by $1.3 billion to reflect the reduced inflation estimates in the Congressional Budget Office's annual review of the budget.

The House bill contained no similar provision.

The Senate recedes.

Repeal of requirement for report to Congress regarding global strike capability

The House bill contained a provision (sec. 1045) that would repeal the requirement in section 1032 of the National Defense Authorization Act for fiscal year 2004 (Public Law 108-136) for the Secretary of Defense to submit a report on Global Strike for fiscal year 2006.

The Senate amendment contained no similar provision.

The House recedes.

The conferees, after reviewing the June 2005 Prompt Global Strike Plan submitted by the Secretary, concur with the need to explore a wide range of capabilities for responding rapidly to emerging threats to the United States and its strategic interests. The report noted a capability gap of particular concern: "for the near future, in the event of rapidly developing crisis, the Department of Defense will not have non-nuclear, long-range precision strike options for consideration by the national leadership." The conferees believe it is important to close this gap as soon as technically possible.

The conferees understand from the 2005 report that the evaluation of a wide range of current and future global strike capabilities is ongoing, and will be in the capabilities mix examined in the 2005 Quadrennial Defense Review. However, in the section of the 2005 report defining global strike assets, the Department appears to limit global strike to capability delivered by aircraft or naval platforms, neglecting land-based options. As such, the conferees are concerned that ample consideration is not being given to the full spectrum of options to provide a robust and cost-effective capability to strike time-urgent targets around the globe. The conferees, therefore, want to emphasize the importance of a complete evaluation, considering all air, sea, and land-based capabilities, not limited to intercontinental ballistic missiles, and including mobile, land-based boost glide capabilities. The conferees also direct the Department to include in their 2006 annual report on Prompt Global Strike a full discussion of how the Department plans to close the non-nuclear, long-range precision strike gap.

Report on alleged clandestine detention facilities for individuals captured in the global war on terrorism

The Senate amendment contained a provision (sec. 1047) that would require the Director of National Intelligence to provide the members of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a detailed report on the cost and operations on any clandestine prison or detention facility currently or formerly operated by the U.S. Government, regardless of location, where detainees in the global war on terrorism are or were held.

The House bill contained no similar provision.

The Senate recedes.

The conferees determined that the amendment was outside the jurisdiction of the Committees on Armed Services of the Senate and the House of Representatives.

Retention on reimbursement for provision of reciprocal fire protection services

The Senate amendment contained a provision (sec. 1083) that would amend section 1856d of title 42, United States Code, by adding a provision that would require that any funds received by the Department of Defense for fire protection provided pursuant to this statute would be credited to the appropriation fund or account from which the expenses for that fire protection were paid.

The House bill contained no similar provision.

The Senate recedes.

Sense of the Senate on Common Remotely Operated Weapons Station platform

The Senate amendment contained a provision (sec. 1091) that would require funding for the Common Remotely Operated Weapons Station (CROWS) platform in the request by the President for emergency supplemental appropriations for the Department of Defense for fiscal year 2006.

The House bill contained no similar provision

The Senate recedes.

The conferees have strongly supported and will continue to support the development and employment of remote weapon stations on combat vehicles such as the Stryker and on tactical wheeled vehicles such as the M1114 Up-Armored High Mobility Multipurpose Wheeled Vehicle and the Armored Security Vehicle. The conferees understand the benefits provided by remote weapon station platforms such as providing day and night target detection, recognition, and engagement at long distances, while allowing the soldier or marine to remain protected by the confines of an armored vehicle. In particular, the conferees agree with the findings in section 1091 regarding the benefits of remote weapon station platforms to include the CROWS platform.

The conferees agree to authorize an additional $4.0 million in PE 64601A for the continued development of a reduced weight and size configuration of the CROWS platform and an additional $2.0 million in PE 63640M for additional CROWS platforms systems for the U.S. Marine Corps.

Support for counterdrug activities through bases of operation and training facilities in Afghanistan

The Senate amendment contained a provision (sec. 1033) that would clarify section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510) to authorize the Secretary of Defense to permit the use of U.S. bases of operation or training facilities to facilitate the conduct of counterdrug activities in Afghanistan and counterdrug related Afghan criminal justice activities.

The House bill contained no similar provision.

The Senate recedes.

Technical amendments relating to certain provisions of environmental defense laws

The Senate amendment contained a provision (sec. 1051) that would make technical amendments to certain provisions of environmental defense laws.

The House bill contained a provision (sec. 1046) that would make technical and clerical amendments to various provisions of law.

The Senate recedes.

The provision that would make technical and clerical amendments to various provisions of law will be included under section 1056.

TITLE XI—CIVILIAN PERSONNEL MATTERS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Extensions of Authorities

Extension of eligibility to continue Federal employee health benefits (sec. 1101)

The House bill contained a provision (sec. 1101) that would authorize certain individuals to elect continued health benefits coverage for up to 18 months after an involuntary or voluntary separation due to a reduction in force.

The Senate amendment contained an identical provision (sec. 1104).

The conference agreement includes this provision.

Extension of Department of Defense voluntary reduction in force authority (sec. 1102)

The House bill contained a provision (sec. 1102) that would extend until September 30, 2010, authority to substitute the voluntary separation of an employee for the separation of another employee who would otherwise be separated due to a reduction in force.

The Senate amendment contained an identical provision (sec. 1101).

The conference agreement includes this provision.

Extension of authority to make lump sum severance payments (sec. 1103)

The House bill contained a provision (sec. 1103) that would extend until the end of fiscal year 2010 the authority of the Secretary of Defense or the secretaries of the military departments to pay an employee the total amount of severance pay in one lump sum.

The Senate amendment contained an identical provision (sec. 1103).

The conference agreement includes this provision.

Permanent extension of Science, Mathematics, and Research for Transformation (SMART) defense education program (sec. 1104)

The House bill contained a provision (sec. 1107) that would expand and make permanent the Science, Mathematics, and Research for Transformation (SMART) scholarship for service program, which was established under section 1105 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375).

The Senate amendment contained a similar provision (sec. 1105).

The House recedes with an amendment that would include support for students pursuing associates degrees in the program.

Authority to waive annual limitation on total compensation paid to Federal civilian employees (sec. 1105)

The House bill contained a provision (sec. 1105) that would authorize the head of a federal executive agency to waive the limitation on civilian compensation established in section 5547 of title 5, United States Code, for an employee who performs work in an overseas location within the U.S. Central Command area of responsibility, in direct support of a military contingency operation. The provision would require that the maximum total compensation allowed would not exceed $200,000, and the authority to waive the limitation on total annual compensation would be limited to fiscal year 2006.

The Senate amendment contained no similar provision.

The Senate recedes.

Subtitle B—Veterans Preference Matters

Veterans' preference status for certain veterans who served on active duty during the period beginning on September 11, 2001, and ending as of the close of Operation Iraqi Freedom (sec. 1111)

The House bill contained a provision (sec. 1108) that would authorize veterans' preference for civilian federal employment authorized in section 2108(1) of title 5, United States Code, for veterans who have served on active duty for a period of more than 180 consecutive days since September 11, 2001, and ending on the date proclaimed as the last date of Operation Iraqi Freedom.

The Senate amendment contained no similar provision.

The Senate recedes.

Veterans' preference eligibility for military reservists (sec. 1112)

The Senate amendment contained a provision (sec. 679) that would clarify that the veterans' preference eligibility for federal hiring authorized under section 2108(1) of title 5, United States Code, is available to military reservists who are discharged or released from active-duty service.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Subtitle C—Other Matters

Transportation of family members in connection with the repatriation of Federal employees held captive (sec. 1121)

The House bill contained a provision (sec. 1106) that would authorize the head of a federal agency to provide travel and transportation allowances for three family members of a federal civilian employee, who was held captive and is being repatriated to a site inside or outside the United States. The provision would also authorize waiver of the limitation on the number of family members of an employee who could receive such assistance, under circumstances determined to be appropriate by the head of the agency.

The Senate amendment contained a similar provision (sec. 631(b)(1)) that would authorize travel and per diem allowances for up to three family members of federal civilian employees who are repatriated after being held captive.

The House recedes to section 631(b)(1) of the Senate amendment with a technical amendment.

Strategic human capital plan for civilian employees of the Department of Defense (sec. 1122)

The Senate amendment contained a provision (sec. 1106) that would require the Secretary of Defense to develop a strategic plan for the civilian workforce of the Department of Defense. The plan would include a workforce gap analysis and a plan of action for developing and shaping the Department of Defense civilian workforce to address gaps in critical skills and competencies.

The House bill contained no similar provision.

The House recedes with an amendment that would extend the time period for development of the strategic human capital plan from 6 months to 1 year from the date of enactment of this Act, and to require annual updates to the plan and annual reports to the Committees on Armed Services of the Senate and the House of Representatives from 2007 through 2010. The amendment would remove the requirement in section 1106 that recruitment and retention goals for the civilian workforce not be subject to any limit or constraint on the size of the civilian workforce in the Department.

Independent study on features of successful personnel management systems of highly technical and scientific workforces (sec. 1123)

The Senate amendment contained a provision (sec. 1108) that would require the Comptroller General to conduct a study of defense laboratory personnel demonstration authorities and successful management practices utilized by laboratories and facilities with similar technical workforce recruitment and retention challenges.

The House bill contained no similar provision.

The House recedes with an amendment that would repeal the requirement that the Comptroller General conduct the study and, also amend the content of the study.

The conferees direct the Secretary of Defense to commission the National Defense University to conduct an independent study of successful management practices of highly technical workforces.

Support by Department of Defense of pilot project for Civilian Linguist Reserve Corps (sec. 1124)

The Senate amendment contained a provision (sec. 1046) that would establish a 3-year pilot project for a Civilian Linguist Reserve Corps within the Department of Defense, comprised of citizens fluent in foreign languages who would be available to provide translation services and related duties. The provision would also require the Secretary of Defense to submit a final report to Congress not later than 6 months after the completion of the pilot project on the lessons learned, best practices, and recommendations for full implementation of the Civilian Linguist Reserve Corps.

The House bill contained no similar provision.

The conferees understand that the Director of National Intelligence has entered into a contract with the Department of Defense for services to carry out the pilot project, as authorized under section 613 of the Intelligence Authorization Act of 2005 (Public Law 108–487).

The House recedes with an amendment that would authorize the Secretary of Defense to support the implementation of the Civilian Linguist Reserve Corps pilot project of the Director of National Intelligence, subject to the availability of appropriated funds, pursuant to section 613.

Increase in authorized number of Defense Intelligence Senior Executive Service employees (sec. 1125)

The Senate amendment contained a provision (sec. 1107) that would increase the authorization for the number of Defense Intelligence Senior Executive Service employees by 75 in fiscal year 2006 and by 75 more in fiscal year 2007. The House bill contained no similar provision.

The House recedes with an amendment that would limit the authorized increase to 50. The conferees believe any further increases must be accompanied by greater justification that addresses increases in intelligence flag and general officer positions, growth in Defense Intelligence Senior Leader positions, and the affect these increases would have on the GS–15 and military 06 inventories in the affected defense agencies.

LEGISLATIVE PROVISIONS NOT ADOPTED

Authority for heads of agencies to allow shorter length of required service by federal employees after completion of training

The House bill contained a provision (sec. 1104) that would provide the heads of executive agencies the authority to determine the appropriate length of service an employee must perform in return for training paid for by the U.S. government. The Senate amendment contained no similar provision. The House recedes.

TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Assistance and Training

Extension of humanitarian and civic assistance provided to host nations in conjunction with military operations (sec. 1201)

The House bill contained a provision (sec. 1201) that wouldincrease funding in support of activities to detect and clear landmines. It would also expand medical, dental, and veterinary care to include related education, training, and technical assistance. The Senate amendment contained a similar provision (sec. 1202). The Senate recedes.

Commanders' Emergency Response Program (sec. 1202)

The House bill contained a provision (sec. 1202) that would authorize the Secretary of Defense to use up to $500.0 million in fiscal year 2006 operations and maintenance funding for increased costs due to Operation Iraqi Freedom and Operation Enduring Freedom for the Commanders' Emergency Response Program (CERP). The CERP program provides commanders in Iraq and Afghanistan funds for use in small humanitarian and reconstruction projects in their areas of responsibility. The provision would require quarterly reports on the source and use of funds pursuant to this program. The provision would prohibit the use of CERP funds for training and equipping the Iraq and Afghanistan national armies, police, and security forces, and it would require the Secretary to issue guidance to the Commander, U.S. Central Command, on the use of CERP funds.

The Senate amendment contained a similar provision (sec. 1201), but provided 2-year authority for the CERP program. The provision did not include a prohibition on use of CERP funds for specified purposes, nor did it require the Secretary to issue CERP guidance.

The House recedes with an amendment that would provide the Secretary authority to waive any provision of law that would prohibit, restrict, limit, or otherwise constrain implementation of the CERP program in Iraq and Afghanistan. The amendment would also require the Secretary to submit to the congressional defense committees within 30 days of enactment the current guidance for CERP, and to submit to those committees any changes to the CERP guidance within 15 days of the issuance of such modified guidance.

It is the understanding of the conferees that the CERP program is currently being implemented pursuant to the guidance issued by the Comptroller on July 27, 2005. That guidance explicitly prohibits, among other things, the use of CERP funds for providing goods, services, or funds to national armies, National Guard forces, border security forces, civil defense forces, infrastructure protection forces, highway patrol units, police, special police, or intelligence or other security forces. The conferees expect this element of the current CERP guidance to remain in any subsequently issued CERP guidance. The Congress has appropriated significant funds for the specific purpose of training and equipping the Iraq and Afghanistan national armies, police, and security forces, and therefore CERP funds are specifically not intended to be used for that purpose.

It has come to the attention of the conferees that, as a result of the bidding process for larger CERP projects, some CERP projects have been carried out using foreign labor. Because one of the purposes of CERP is to employ Iraq and Afghanistan residents in local humanitarian and reconstruction projects, the conferees urge that, whenever possible, CERP projects be carried out using local citizens or residents of the country in which the projects are being carried out. The conferees recommend that the CERP guidance be modified to reflect this preference.

Modification of geographic restriction under bilateral and regional cooperation programs for payment of certain expenses of defense personnel of developing countries (sec. 1203)

The House bill contained a provision (sec. 1204) that would provide the Secretary of Defense flexibility to pay expenses for personnel from developing countries to attend a conference, seminar, or similar meeting, even if the conference, seminar, or similar meeting takes place in a location that is outside of the combatant commander's area of responsibility in which the developing country is located.

The Senate amendment contained a similar provision (sec. 1203).

The Senate recedes with a technical amendment.

Authority for Department of Defense to enter into acquisition and cross-servicing agreements with regional organizations of which the United States is not a member (sec. 1204)

The House bill contained a provision (sec. 1205) that would authorize the Department of Defense to enter into acquisition and cross-servicing agreements with regional organizations of which the United States is not a member.

The Senate amendment contained a similar provision (sec. 803).

The Senate recedes.

Two-year extension of authority for payment of certain administrative services and support for coalition liaison officers (sec. 1205)

The House bill contained a provision (sec. 1206) that would extend the authority to fund certain administrative services for coalition liaison officers until September 30, 2007.

The Senate bill contained a similar provision (sec. 1204).

The Senate recedes.

Authority to build the capacity of foreign military forces (sec. 1206)

The Senate amendment contained a provision (sec. 1206) that would provide the Secretary of Defense authority to transfer up to $750.0 million in a fiscal year in funds available to the Department of Defense to the Department of State for the purpose of building the capacity of partner nations' military or security forces to disrupt or destroy terrorist networks, close safe havens, or participate in or support U.S., coalition, or international military or stability operations. The House bill contained no similar provision. The House recedes with an amendment that would provide the President with authority to direct the Secretary of Defense to conduct or support a program to build the capacity of a foreign nation's military forces in order for that nation to conduct counterterrorist operations and to participate in or support military and stability operations in which the United States is a participant. The program could include the provision of equipment, supplies, and training, and shall promote observance of and respect for human rights and fundamental freedoms and respect for legitimate civilian authority. This authority could not be used to provide assistance that is otherwise prohibited by any provision of law, nor could it be used to provide assistance to any foreign nation that would otherwise be prohibited from receiving such assistance. The provision further requires the Secretary of Defense to jointly formulate with the Secretary of State any program conducted under this authority, and to coordinate with the Secretary of State in its implementation. The provision requires the Secretary of Defense to provide a notification to specified congressional committees before initiating any activities under this authority. This authority would expire on September 30, 2007.

The provision would also require a report from the President on the strengths and weaknesses of current laws governing and relating to the provision of this type of assistance; recommended changes, if any, to those laws; any organizational and procedural changes that should be made in the Department of Defense and the Department of State to improve their ability to conduct such programs; and the resources and funding mechanisms required to assure adequate funding for such programs.

The conferees note that under current law, foreign military training programs are conducted exclusively under the authority of the Secretary of State. The conferees believe it is important that any changes in statutory authorities for foreign military assistance do not have unintended consequences for the effective coordination of U.S. foreign policy writ large, nor should they detract from the Department of Defense's focus on its core responsibilities, particularly the warfighting tasks for which it is uniquely suited. The conferees view the provision under this section of limited new authorities for the President to direct the Secretary of Defense to conduct such programs as a 2-year pilot program. The conferees intend to review carefully how that authority is exercised so as to have a basis for determining whether and, if so, in what precise manner, to reauthorize this or provide other authority after the conclusion of the pilot program. An important factor in the conferees' future consideration of this matter will be the report that is to be provided under this section.

Security and stabilization assistance (sec. 1207)

The Senate amendment contained a provision (sec. 1207) that would provide the Secretary of Defense authority to use or transfer defense articles, services, training or other support, including support acquired by contract or otherwise, to provide immediate reconstruction, security or stabilization assistance to a foreign country for the purpose of restoring or maintaining peace and security in that country. The provision would permit the Secretary of Defense to transfer funds to the Department of State or any other federal agency for this purpose. The aggregate value of assistance provided or funds transferred under this authority could not exceed $200.0 million in a fiscal year. The House bill contained no similar provision. The House recedes with an amendment that would clarify that the Secretary of Defense may provide to the Secretary of State services, defense articles, and funding up to the amount of $100.0 million in a fiscal year to facilitate the provision by the Secretary of State of reconstruction, security, or stabilization assistance to a foreign country. The amendment would limit this authority to fiscal years 2006 and 2007. The amendment would require the Secretary of Defense, in coordination with the Secretary of State, to notify specified congressional committees of the use of this authority. Any services, defense articles, and funding transferred to the Secretary of State under this authority shall be subject to the Foreign Assistance Act, the Arms Export Control Act, and other laws under which the Secretary of State is authorized to provide such assistance.

The conferees commend the administration for the steps it is taking to improve U.S. capacity and interagency coordination in planning for, supporting, and conducting stability operations in post-conflict situations. The conferees support the steps the Secretary of Defense is taking to place greater emphasis on the stability operations mission in Department of Defense planning and guidance so that the mission is fully integrated across all Department activities.

In authorizing this provision, the conferees also express their support for the Department of State Office of the Coordinator for Reconstruction and Stabilization (S/CRS). The mission of S/CRS is to lead, coordinate and institutionalize U.S. government civilian capacity to prevent or prepare for post-conflict situations, and to help stabilize and reconstruct societies in transition from conflict or civil strife. The conferees commend the Department of Defense's active support of and cooperation with S/CRS, and urge the Department of Defense to continue to deepen its coordination with the Department of State on planning for and participating in post-conflict stability operations and reconstruction efforts.

The conferees view this provision as a temporary authority to provide additional resources, if needed, to the Department of State until S/CRS is fully stood up and adequately resourced. The conferees do not believe it is appropriate, and are not inclined, to provide long-term funding from the Department of Defense to the Department of State so that the Department of State can fulfill its statutory authorities. The conferees urge the administration to request the necessary resources for S/CRS in fiscal year 2007 and future years budget submissions for the Department of State.

Reimbursement of certain coalition nations for support provided to United States military operations (sec. 1208)

The House bill contained a provision (sec. 1531) that would authorize the Secretary of Defense to reimburse any key cooperating nation for logistical and military support provided by that nation to, or in connection with U.S. military operations in Iraq, Afghanistan, and the global war on terrorism. The total amount of payments made under the authority of this section during fiscal year 2006 may not exceed $1.5 billion. The Secretary may not enter into any contractual obligation to make payment under the authority of this provision without congressional notification. The Secretary shall notify congressional defense committees not less than 15 days before making any payment under the authority of this section.

The Senate amendment contained no similar provision.

The Senate recedes.

Authority to transfer defense articles and provide defense services to the military and security forces of Iraq and Afghanistan (sec. 1209)

The conferees included a provision that would provide the President authority during fiscal year 2006 to transfer defense articles from the stocks of the Department of Defense, and to provide defense services in connection with the transfer of such defense articles, to the military and security forces of Iraq and Afghanistan in order to support their efforts to restore and maintain peace and security in those countries. The provision would limit to $500,000,000 the aggregate value of defense articles to be transferred and defense services to be provided. This authority would be subject to certain authorities and limitations, as specified in this provision, that are applicable to the transfer of excess defense articles under the Foreign Assistance Act (22 U.S.C. 2321j). The provision would require the President to submit to specified congressional committees a notification 15 days prior to the exercise of this authority. The notification would include: (1) information that is required by specified provisions of the Foreign Assistance Act; (2) the amount and type of defense articles to be transferred and services to be provided, and the brigade-level units from which the defense articles are to be transferred or defense services provided; and (3) the element of the military or security force that is the proposed recipient of each defense article to be transferred or defense service to be provided.

The conferees note that this provision would require the President to make an assessment that the proposed transfer of defense articles or provision of defense services will not have an adverse impact on the military readiness of the United States. The conferees understand this to mean that the overall readiness of the U.S. Armed Forces would not be adversely impacted. The conferees understand that the readiness of a particular unit could be temporarily impacted following the transfer of defense articles under this provision, and would not expect that fact to prevent the President from exercising this authority.

The conferees further note that the authority provided by this provision would not permit the transfer of defense articles or the provision of defense services to nongovernmental or irregular forces such as private militias.

Subtitle B—Nonproliferation Matters and Countries of Concern

Prohibitions on procurements from Communist Chinese military companies (sec. 1211)

The House bill contained a provision (sec. 1213) that would prohibit the Secretary of Defense from purchasing goods or services from any foreign person connected to the Chinese military or security forces.

The Senate amendment contained no similar provision. The Senate recedes with an amendment that would: (1) limit the prohibition to goods and services that are on the U.S. Munitions List; (2) provide for an exception for goods and services procured in connection with a visit by a vessel or an aircraft of the U.S. Armed Forces, for testing, or for the purposes of gathering intelligence; and (3) authorize the Secretary of Defense to waive the prohibition for national security purposes.

Report on nonstrategic nuclear weapons (sec. 1212)

The Senate amendment contained a provision (sec. 1208) that would direct the Secretary of Defense, in consultation with the Secretary of State, to conduct a review of United States and Russian nonstrategic nuclear weapons and to submit a report of the results of that review within 6 months of enactment of this Act.

The House bill contained no similar provision.

The House recedes with an amendment that would add the Secretary of Energy to the reporting requirement.

Subtitle C—Reports and Sense of Congress Provisions

War-related reporting requirements (sec. 1221)

The House bill contained a provision (sec. 1223) that would direct the Secretary of Defense to submit to the congressional defense committees war-related reports on costs, reconstitution, and military construction for Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Noble Eagle. In addition, the Secretary shall submit to the Comptroller General, no later than 45 days after the end of each reporting month, the Department of Defense Supplemental and Cost of War Execution reports. Based on these reports, the Comptroller General shall provide Congress quarterly updates on war costs.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the report to differentiate costs by operation.

Quarterly reports on war strategy in Iraq (sec. 1222)

The Senate amendment contained a provision (sec. 1049a) that would require that at the same time the Secretary of Defense submits to Congress required reports on stability and security in Iraq, the Secretary and appropriate personnel from the Central Intelligence Agency (CIA) shall provide the appropriate committees of Congress a briefing on the strategy for the war in Iraq.

The House bill contained no similar provision.

The House recedes with an amendment that would include the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence in the briefings and that these briefings terminate after 12 of the quarterly briefings have been provided, or December 31, 2008, whichever is later. The conferees acknowledge that the portion of the briefing presented by the CIA will focus on the latest intelligence assessments regarding the war in Iraq.

Report on records of civilian casualties in Afghanistan and Iraq (sec. 1223)

The Senate amendment contained a provision (sec. 1048) that would require the Secretary of Defense to submit a report to appropriate committees of Congress with information on records of civilian casualties in Afghanistan and Iraq. The report shall be submitted not later than 90 days after the enactment of this Act. This provision does not require U.S. Armed Forces to collect any additional information on civilian casualties other than what is currently collected.

The House bill contained no similar provision.

The House recedes with amendment.

Annual report on Department of Defense costs to carry out United Nations resolutions (sec. 1224)

The Senate amendment contained a provision (sec. 1087) that would require an annual report on the costs incurred by the Department of Defense in implementing or supporting resolutions of the United Nations Security Council.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Report on claims related to the bombing of the LaBelle Discotheque (sec. 1225)

The Senate amendment contained a provision (sec. 1089) that would require a report on claims by U.S. citizens relating to the bombing of the LaBelle Discotheque in Berlin, Germany.

The House bill contained no similar provision.

The House recedes.

Sense of Congress concerning cooperation with Russia on issues pertaining to missile defense (sec. 1226)

The House bill contained a provision (sec. 1224) that would express the sense of Congress that cooperation between the United States and Russia with regard to missile defense is in the interest of the United States and that the United States should explore innovative and nontraditional means of cooperation with Russia in the area of missile defense.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would include implementation of the Moscow Joint Data Exchange Center as an additional possibility for cooperation with Russia with respect to missile defense.

United States policy on Iraq (sec. 1227)

The Senate amendment contained a provision (sec. 1211) that would express a sense of the Senate about the policy on Iraq that included, among other provisions, a recognition that the members of the U.S. armed forces who are serving or have served in Iraq and their families deserve the utmost respect and the heartfelt gratitude of the American people; that the Iraqi people have made enormous sacrifices; that calendar year 2006 should be a period of significant transition to Iraqi sovereignty, with the security forces taking the lead, thereby creating the conditions for the phased redeployment of U.S. forces from Iraq; and that the administration should tell the leaders of all groups and political parties in Iraq that they need to make the compromises necessary to achieve a broad-based and sustainable political settlement.

The provision would also direct that not later than 90 days after the date of the enactment of this Act, and every 3 months thereafter, the President shall submit to Congress a report on U.S. policy and military operations in Iraq. This report is in addition to the various reports, briefings, and updates the President and his other senior officials have provided on a routine basis. The provision contained a list of conditions that shall be addressed in the report.

The House bill contained no similar provision.

The House recedes with an amendment that would permit the President to submit a classified annex, recognizes the progress of the Iraqi Security Forces, and that the professional military judgment of our senior military should be a key factor in future decisions.

The conferees acknowledge that the President has delivered over 24 major speeches on Iraq and provided Congress and the American people with a National Strategy for Victory in Iraq on November 30, 2005.

Subtitle D—Other Matters

Purchase of weapons overseas for force protection purposes in countries in which combat operations are ongoing (sec. 1231)

The House bill contained a provision (sec. 1221) that would permit the Secretary of Defense to purchase weapons from any foreign person, foreign government, international organization, or other entity located in a country in which U.S. combat personnel are engaged in military operations for the purpose of protecting those personnel. The provision would limit the amount expended during any fiscal year for this purpose to $15.0 million. The provision would also require an annual report on the use of this authority.

The Senate amendment contained a similar provision (sec. 324) that would permit weapons purchased under this authority to be destroyed, and would require the Secretary of Defense to promptly notify the congressional defense committees of any use of this authority.

The Senate recedes with an amendment that would require a semiannual report on the use of this authority.

The conferees note that this provision does not provide the Secretary of Defense authority to transfer weapons purchased under this authority to military and security forces of a foreign country. The conferees further note that authority in this section is intended for use by the U.S. Armed Forces during ongoing military operations. On those occasions when the Secretary of Defense uses this authority during military operations in a country in which a wider internationally-led disarmament, demobilization, and reintegration (DDR) program, such as those that took place in Bosnia or Afghanistan, is taking place, the conferees believe that the Secretary of Defense should closely consult and coordinate with the Secretary of State to ensure that actions taken pursuant to the authority of this section complements, or is integrated with, such an internationally-led program or utilizes best practices for such DDR programs.

Riot control agents (sec. 1232)

The Senate amendment contained a provision (sec. 1080) that would restate current U.S. policy on riot control agents, and require a report on the use of riot control agents by members of the Armed Forces.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

The conferees note that the report required by this provision should include a description of the doctrinal publications and any other resources made available to members of the Armed Forces regarding the tactical employment of riot control agents. The report should also include a discussion of whether riot control agent inventories are sufficient in numbers and type to meet existing requirements.

Requirement for establishment of certain criteria applicable to Global Posture Review (sec. 1233)

The House bill contained a provision (sec. 1222) that would require the Secretary of Defense to develop criteria, as part of the Global Posture Review, for assessing the costs and benefits of deploying to particular overseas locations and for establishing new overseas facilities.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would clarify the reporting requirements. The amendment would also add a requirement for the Secretary to notify the congressional defense committees within 30 days after the United States enters into an agreement with a foreign country to support the deployment of elements of the U.S. Armed Forces in that country.

The conferees are concerned that the implementation of the Integrated Global Basing and Presence Strategy (IGPBS) may result in higher costs for the Department of Defense, new requirements for strategic mobility assets, and an increased deployment tempo for military units and personnel. The conferees intend for the Secretary to develop criteria and a mechanism for the analysis of alternatives to assess the impact of basing decisions on various aspects of military operations and to submit a report to Congress detailing these considerations by March 30, 2006. The conferees also expect the Secretary to include in the annual budget submission of the Department a clear account of all proposed expenditures associated with the implementation of the IGPBS.

The conferees note that certain factors to be assessed in the report required by this provision apply to agreements with host nations, while other factors depend on the specific nature of the overseas facility. The conferees expect the Secretary to develop criteria and to provide the most comprehensive assessment possible for each overseas facility subject to a new basing arrangement.

The United States-China Economic Security Review Commission (sec. 1234)

The Senate amendment contained a provision (sec. 1210) that would note certain findings of the 2004 Report to Congress of the United States-China Economic and Security Review Commission. The provision would also express the sense of Congress that the President should take immediate steps to establish a plan to address the emergence of China economically, diplomatically, and militarily; to promote mutually beneficial trade relations with China; and to encourage China's adherence to international norms in the areas of trade, international security, and human rights.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Legislative Provisions Not Adopted

Military educational exchanges between senior officers and officials of the United States and Taiwan

The House bill contained a provision (sec. 1203) that would require the Secretary of Defense to undertake a program of senior military officer and senior official exchanges with Taiwan designed to improve Taiwan's defenses against the People's Liberation Army of the People's Republic of China.

The Senate amendment contained no similar provision.

The House recedes.

Procurement sanctions against foreign persons that transfer certain defense articles and services to the People's Republic of China

The House bill contained a provision (sec. 1212) that would prohibit the Secretary of Defense from purchasing goods or services from any entity that knowingly transfers an item that is on the U.S. Munitions List to the People's Republic of China.

The Senate amendment contained no similar provision.

The House recedes.

Prohibition on engaging in certain transactions

The Senate amendment contained a provision (sec. 1205) that would increase the statutory limit on civil penalties under the International Emergency Economic Powers Act and codify certain application of U.S. sanctions laws.

The House bill contained no similar provision.

The Senate recedes.

Report on acquisition by Iran of nuclear weapons

The House bill contained a provision (sec. 1211) that would express the sense of Congress that preventing Iranian acquisition or development of weapons of mass destruction and their associated delivery systems remains the paramount goal of U.S. policy toward Iran. The provision would also require the Secretary of Defense and the Chairman of the Joint Chiefs of Staff to provide a report assessing the strategic implications of Iranian acquisition of nuclear weapons.

The Senate amendment contained no similar provision.

The House recedes.

Sense of Congress on support for Nuclear Non-Proliferation Treaty

The Senate amendment contained a provision (sec. 1209) that would express a sense of the Congress on support for the Nuclear Non-Proliferation Treaty (NPT).

The House bill contained no similar provision.

The Senate recedes.

The conferees reaffirm their support for the objectives of the NPT and for all appropriate measures to strengthen the NPT and to attain its objectives. The conferees call on all parties to the NPT:

(1) to support compliance with treaty obligations and to undertake effective enforcement measures against states that are in violation of their obligations under the Treaty;

(2) to agree to establish more effective controls on enrichment and reprocessing technologies that can be used to produce materials for nuclear weapons;

(3) to expand and support the International Atomic Energy Agency efforts to inspect and monitor compliance with safeguards and standards to which all states should adhere through existing authority and the additional protocols signed by the states party to the NPT;

(4) to demonstrate the international community's unified opposition to a nuclear weapons program in Iran by supporting efforts of the United States and the European Union to prevent the Government of Iran from acquiring a nuclear weapons capability and using all appropriate diplomatic means at their disposal to convince the Government of Iran to abandon its uranium enrichment program;

(5) to support strongly the ongoing U.S. diplomatic efforts in the context of the six-party talks that seek the verifiable and irreversible disarmament of North Korea's nuclear weapons programs and to use all appropriate diplomatic means to achieve this result;

(6) to pursue diplomacy designed to address the underlying regional security problems in Northeast Asia, South Asia, and the Middle East, which would facilitate non-proliferation and disarmament efforts in those regions;

(7) to accelerate, wherever practicable, programs to safeguard and eliminate nuclear weapons-usable material to the highest standards to prevent access by terrorists and governments;

(8) to halt the use of highly enriched uranium in civilian reactors;

(9) to strengthen national and international export controls and relevant security measures as required by United Nations Security Council Resolution 1540;

(10) to agree that no state may withdraw from the NPT and escape responsibility for prior violations of the Treaty or retain access to controlled materials and equipment acquired for "peaceful" purposes;

(11) to call for reduction in the world's stockpile of nuclear weapons consistent with obligations and commitments under the Treaty, for a moratorium on production of weapons grade fissile materials, and for progress on negotiation of a fissile material cut-off treaty; and (12) to strengthen and expand support for the Proliferation Security Initiative.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Legislative Provisions Adopted

Specification of Cooperative Threat Reduction programs and funds (sec. 1301)

The House bill contained a provision (sec. 1301) that would define the programs that are Cooperative Threat Reduction (CTR) programs, define the funds for CTR programs as those authorized to be appropriated in section 301 of this Act, and specify that CTR funds shall remain available for obligation for three fiscal years.

The Senate amendment contained an identical provision (sec. 1301).

The conference agreement includes this provision.

Funding allocations (sec. 1302)

The House bill contained a provision (sec. 1302) that would authorize $415.5 million for the Cooperative Threat Reduction (CTR) program. The provision would also authorize specific amounts for each CTR program element, require notification to Congress 30 days before the Secretary of Defense obligates and expends fiscal year 2006 funds for purposes other than those specifically authorized, and provide limited authority to obligate amounts for a CTR program element in excess of the amount specifically authorized for that purpose.

The Senate amendment contained a similar provision (sec. 1302).

The House recedes.

Permanent waiver of restrictions on use of funds for threat reduction in states of the former Soviet Union (sec. 1303)

The House bill contained a provision (sec. 1304) that would provide the President with the authority for calendar years 2005, 2006, and 2007 to waive a former Soviet Union state's eligibility requirements for receiving Cooperative Threat Reduction (CTR) funds, provided that the President certifies to Congress that a waiver is important to the national security interests of the United States, and submits a more detailed report that describes both the activity or activities that prevent eligibility and a strategy, plan, or policy for addressing eligibility shortfalls.

The Senate amendment contained a provision (sec. 1303) that would make permanent the President's authority to waive, on an annual basis, a former Soviet Union state's eligibility requirements for receiving CTR funds, provided that the President certifies to Congress that a waiver is important to the national security interests of the United States, and submits a more detailed report that describes both the activity or activities that prevent eligibility and a strategy, plan, or policy for addressing eligibility shortfalls.

The House recedes.

Report on elimination of impediments to threat-reduction and nonproliferation programs in the former Soviet Union (sec. 1304)

The House bill contained a provision (sec. 1305) that would require the President to submit to the Congress a report on impediments to the effective execution of threat reduction programs in the states of the former Soviet Union.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

The conferees note that despite the importance of programs and activities to assist in securing weapons of mass destruction and related materials in the states of the former Soviet Union, the effective conduct of such programs has been impeded by numerous legal and administrative disagreements regarding a variety of issues, including access to sites, liability, and taxation. However, in some cases it has been possible to resolve such disagreements through committed and high-level discussions between governments.

Repeal of requirement for annual Comptroller General assessment of annual Department of Defense report on activities and assistance under Cooperative Threat Reduction programs (sec. 1305)

The Senate amendment contained a provision (sec. 1305) that would repeal the requirement for the Comptroller General to provide to Congress an assessment of the annual Department of Defense report to Congress on the Cooperative Threat Reduction programs.

The House bill contained no similar provision.

The House recedes.

Legislative Provisions Not Adopted

Authority to obligate weapons of mass destruction proliferation prevention funds for nuclear weapons storage security

The House bill contained a provision (sec. 1303) that would authorize the Secretary of Defense to obligate fiscal year 2006 funds appropriated for the Cooperative Threat Reduction (CTR) weapons of mass destruction proliferation prevention initiative for nuclear storage security, provided that the Secretary provides 15 day advance written notification and justification to Congress.

The Senate amendment contained no similar provision.

The House recedes.

The conferees note that in a February 2005 joint statement, the President of the United States and the President of the Russian Federation declared their intent to expand and deepen cooperation on nuclear security with the goal of enhancing the security of nuclear facilities. If the United States and Russia reach agreement on additional projects in this area, it may be necessary for the Department of Defense to allocate additional CTR funds for the nuclear weapons storage security program. The Department may choose to obligate funds authorized for weapons of mass destruction proliferation prevention for nuclear weapons storage security, subject to the notification and justification process described in section 1302 of this Act.

Modification of authority to use Cooperative Threat Reduction funds outside the former Soviet Union

The Senate amendment contained a provision (sec. 1304) that would modify the authority of the Department of Defense to use Cooperative Threat Reduction funds outside the former Soviet Union by changing the existing requirement for a presidential determination and certification to a requirement for a determination and certification made by the Secretary of Defense, with the concurrence of the Secretary of State.

The House bill contained no similar provision.

The Senate recedes.

Removal of certain restrictions on provision of cooperative threat reduction assistance

The Senate amendment contained a provision (sec. 1306) that would repeal all of the existing eligibility and certification requirements that must be met or waived in order for states of the former Soviet Union to receive Cooperative Threat Reduction assistance.

The House bill contained no similar provision.

The Senate recedes.

TITLE XIV—MATTERS RELATING TO DETAINEES

Legislative Provision Adopted

Matters relating to detainees (secs. 1401–1406)

The Senate amendment contained three provisions (secs. 1074, 1075, and 1092) relating to detainees. The first provision (sec. 1074) would provide uniform standards for the interrogation of persons under the detention of the Department of Defense. The second provision (sec. 1075) would prohibit cruel, inhuman, or degrading treatment or punishment of persons under the custody or control of the U.S. Government. The third provision (sec. 1092) would provide procedures for the legal review of detainees held by the Department at Guantanamo Bay, Cuba.

The House bill contained no similar provisions.

The House recedes with an amendment that would establish a new title of the bill addressing matters relating to detainees.

Section 1401 would designate the title as the "Detainee Treatment Act of 2005."

Section 1402 contains the text of Senate section 1074 without change.

Section 1403 contains the text of Senate section 1075 without change.

Section 1404 is a new provision.

Subsection (a) would provide an affirmative defense in any civil action or criminal prosecution against an officer, employee, member of the armed forces, or other agent of the U.S. Government, who is a U.S. person, arising out of the person's engaging in specific operational practices involving detention or interrogation of aliens who the President or his designees have determined are believed to be engaged in or associated with international terrorist activity that poses a serious, continuing, threat to the U.S., its interests, or its allies. If the practices were officially authorized and determined to be lawful at the time they were conducted, it would be a defense that the person did not know that the practices were unlawful and that a person of ordinary sense and understanding would not know that they were unlawful. Good faith reliance on advice of counsel would be an important factor, among others, to consider in assessing whether a person of ordinary sense and understanding would have known the practices to be unlawful. Nothing in this section is to be construed to limit or extinguish any defense or protection otherwise available to any person or entity from suit or civil or criminal liability, or to provide immunity from prosecution for any criminal offense by the proper authorities.

Subsection (b) would authorize the United States Government to provide or employ counsel, pay counsel fees, court costs, bail, and other expenses incident to the representation of any such person with respect to any civil action or criminal prosecution arising out of practices described in subsection (a), whether brought inside or outside the U.S., under the same conditions and to the same extent to which such services and payments are authorized under section 1037 of title 10, United States Code.

Section 1405 would address the procedures for legal review of detainees held by the Department.

Subsection (a) would require the Secretary of Defense to submit the Department of Defense procedures for status review of detainees at Guantanamo Bay, Cuba, and in Afghanistan, and Iraq to the appropriate congressional committees. It would also require that the official designated by the President or Secretary of Defense to be the final review authority with respect to the determinations of the administrative tribunals (the "Designated Civilian Official") be a civilian officer of the Department of Defense who is appointed by the President with the advice and consent of the Senate. The conferees expect the Designated Civilian Official to accomplish final review of the decisions of the tribunals in an expeditious fashion.

Subsection (b) would require that a Combatant Status Review Tribunal and an Administrative Review Board (or similar or successor administrative tribunal or board) for detainees at Guantanamo Bay, Cuba determine whether any statement derived from or relating to a detainee was obtained as a result of coercion and if so, the probative value (if any) of any such statement.

Subsection (c) would require the Secretary of Defense to submit a report on any modification to the procedures submitted under subsection (a).

Subsection (d) would require the Secretary of Defense to submit to Congress an annual report on the annual review process for aliens in the custody of the Department of Defense outside the United States.

Subsection (e) would provide for judicial review of detainees held at Guantanamo Bay, Cuba.

Paragraph (1) would amend section 2241 of title 28, United States Code, to provide that, except as provided in this section, no court, justice, or judge shall have jurisdiction to hear or consider: (1) an application for a writ of habeas corpus filed by or on behalf of an alien detained by the Department at Guantanamo Bay, Cuba; or (2) any other action against the United States or its agents relating to any aspect of such detention by an alien who remains in military custody or for whom the U.S. Court of Appeals for the District of Columbia Circuit has determined that such detention was proper.

Paragraph (2) would provide for direct judicial review, in the U.S. Court of Appeals for the District of Columbia Circuit, of the validity of any final decision of a Combatant Status Review Tribunal that an alien detained by the Department of Defense at Guantanamo Bay, Cuba is properly detained as an enemy combatant.

Paragraph (3) would provide for direct judicial review, in the U.S. Court of Appeals for the District of Columbia Circuit, of the validity of any final decision pursuant to Military Commission Order No. 1 dated August 31, 2005, (or any successor military order) regarding an alien detained by the Department at Guantanamo Bay, Cuba.

Paragraph (4) would provide that the Secretary shall be the named respondent in any appeal under this provision.

Subsection (f) would provide that nothing in section 1705 shall be construed to confer any constitutional right on an alien detained as an enemy combatant outside the United States.

Subsection (g) would define the term "United States."

Subsection (h) would establish the effective date of the provision.

Section 1406 is a new provision that would require the Secretary to prescribe policies to ensure that all personnel of Iraqi military forces who are trained by Department personnel or contractors receive training regarding the international obligations and laws applicable to the humane detention of detainees, including protections afforded under the Geneva Conventions and the Convention against Torture. It would also require that the unclassified portions of the Army Field Manual on Intelligence Interrogation be translated into Arabic and other appropriate languages for use by the Iraqi security forces, and be distributed to appropriate officials of the Iraqi government. American military personnel are trained and encouraged to lead by example. The conferees intend that our personnel set the example for the new Iraqi democracy by demonstrating the commitment to the rule of law that is essential to armed forces in a democratic state. The conferees also urge that the translated version of the Field Manual be given broad distribution throughout the Iraqi security forces, including to field and company-grade officers and noncommissioned officers.

TITLE XV—AUTHORIZATION FOR INCREASED COSTS DUE TO OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM

Overview

The House bill contained a title (title XV) that would provide new authorizations of appropriations of $49.1 billion for ongoing operations in Iraq and Afghanistan. The title also contains reporting requirements and general provisions.

The Senate amendment contained a similar title (title XIV) that would authorize $50.0 billion for ongoing operations in Iraq and Afghanistan. The provision also contained reporting requirements and general provisions.

The conferees recommend a title that provides new authorization of appropriations of $50.0 billion for ongoing operations in Iraq and Afghanistan. The title also contains reporting requirements and general provisions.

Summary table of authorization

The following table summarizes authorizations included in the bill for ongoing operations in Iraq and Afghanistan for fiscal year 2006.

Title XV EMERGENCY AUTHORIZATION

(Dollars in Thousands)

Program Title	House Authorized	Senate Authorized	Conference Authorized
PROCUREMENT			
Aircraft Procurement, Army		70,300	40,600
Weapons and Tracked Combat Vehicles Procurement, Army	574,627	26,750	485,499
Procurement of Ammunition, Army	105,700		109,500
Other Procurement, Army	1,945,350	737,500	1,659,800
Aircraft Procurement, Navy		183,800	15,000
Weapons Procurement, Navy	36,800	165,500	56,700
Procurement of Ammunition, Navy & Marine Corps	144,721	104,500	147,921
Other Procurement, Navy	15,300	30,800	
Procurement, Marine Corps	445,400	429,600	644,400
Aircraft Procurement, Air Force		323,200	214,000
Other Procurement, Air Force		51,900	
Procurement, Defense-wide	103,900		103,900
Total Procurement	**3,371,798**	**2,123,850**	**3,477,320**
RESEARCH, DEVELOPMENT, TEST AND EVALUATION			
Research, Development, Test and Evaluation, Army			8,700
Research, Development, Test and Evaluation, Defense-Wide	75,000		75,000
Total RDT&E	**75,000**		**83,700**
OPERATION AND MAINTENANCE			
Operation and Maintenance, Army	20,305,001	22,139,775	19,828,180
Operation and Maintenance, Navy	1,838,000	1,944,300	1,658,000
Operation and Maintenance, Marine Corps	1,791,800	1,808,231	1,588,250
Operation and Maintenance, Air Force	3,195,352	2,635,555	2,404,190
Operation and Maintenance, Defense-wide	2,870,333	3,470,118	1,778,397
Operation and Maintenance, Army Reserve	26,400		44,400
Operation and Maintenance, Navy Reserve		2,400	9,400
Operation and Maintenance, Marine Corps Reserve			4,000
Operation and Maintenance, Air Force Reserve			7,000
Operation and Maintenance, Army National Guard	159,500		196,300
Operation and Maintenance, Air National Guard			13,400
Total Operation and Maintenance	**30,186,386**	**32,000,379**	**27,531,517**
OTHER PROGRAMS			
Defense Working Capital Funds	1,700,000		1,700,000
Defense Health Program	846,000	977,778	178,415
Total Other Programs	**2,546,000**	**977,778**	**1,878,415**

Title XV EMERGENCY AUTHORIZATION

(Dollars in Thousands)

Program Title	House Authorized	Senate Authorized	Conference Authorized
MILITARY PERSONNEL			
Military Personnel, Army	6,689,334	9,517,643	8,827,123
Military Personnel, Navy	300,000	350,000	276,000
Military Personnel, Marine Corps	662,600	811,771	662,600
Military Personnel, Air Force	1,011,022	916,559	977,800
Military Personnel, Army Reserve	137,200		137,200
Military Personnel, Army National Guard	67,000		72,300
Military Personnel, Air National Guard			5,300
Military Personnel, Benefits	522,854		830,000
Total Military Personnel	**9,390,010**	**11,595,973**	**11,788,323**
Iraq Freedom Fund (IFF)	1,000,000	3,302,020	5,240,725
Improvised Explosive Device (IED) Task Force /a		[500,000]	[1,000,000]
Transfer Authority /a	[3,000,000]	[2,500,000]	[2,500,000]
Classified Programs /a	2,500,000		[2,500,000]
Total	**49,069,193**	**50,000,000**	**50,000,000**

a/ Values in brackets are non-additive

Title XV EMERGENCY AUTHORIZATION

(Dollars in Thousands)

Program Title	House Authorized	Senate Authorized	Conference Authorized
PROCUREMENT			
Aircraft Procurement, Army			
UH-60 Black Hawk helicopter MEDEVAC Kits (10)		50,000	
UH-60 Black Hawk helicopter attrition (4)		20,300	40,600
Total Aircraft Procurement, Army		**70,300**	**40,600**
Weapons and Tracked Combat Vehicles Procurement, Army			
Gun trucks	2,450		2,450
Stryker - combat losses	30,000		30,000
Small arms and modifications			
M16 rifle mods (budget realignment)	2,000		
M16 rifle mods	55,300		55,300
M240 medium machine gun mods (budget realignment)	7,100		
M240 medium machine gun mods	9,372	9,200	9,372
M240 medium machine gun (7.62mm) (budget realignment)	14,100		
M240 medium machine gun (7.62mm)	107,944		107,944
M4 carbine mods (budget realignment)	44,800		
M4 carbine mods	29,595		29,595
M4 carbine (budget realignment)	3,200		
M4 carbine	168,237		168,237
M249 SAW mods (budget realignment)	3,100		
M249 SAW mods	5,728	5,800	5,800
M249 SAW machine gun (5.56mm)	54,111		54,111
M107, Cal. 50 sniper rifle (budget realignment)	9,700		
M107, Cal. 50 sniper rifle	9,274	9,300	9,274
Small arms equipment (soldier enhancement program) (bud	5,200		
small arms equipment (soldier enhancement program)	3,416	2,450	3,416
M2HB enhanced .50 caliber machine gun kits	10,000		10,000
Total Weapons and Tracked Combat Vehicles , Army	**574,627**	**26,750**	**485,499**
Procurement of Ammunition, Army			
First destination transportation	2,000		2,000
Ammunition production force protection	103,700		103,700
Modern demolition initiator			1,900
M19			1,900
Total Procurement of Ammunition, Army	**105,700**		**109,500**

Title XV EMERGENCY AUTHORIZATION

(Dollars in Thousands)

Program Title	House Authorized	Senate Authorized	Conference Authorized
Other Procurement, Army			
Up-armored M1151/M1152 HMMWVs or wheeled vehicle add-on armor		120,000	
AN/PAQ-4 aiming light - night vision equipment		32,100	
Target acquisition laser observation night devices		53,400	
Thermal weapon system - night vision equipment		31,600	31,600
Lightweight laser designation rangefinders		4,600	
UAHs, add-on armor, and M1151/M1152 vehicles (S. Amdt)		105,000	
Additional armored tactical wheeled vehicles and armor (S. Amdt)		360,800	150,000
Up-Armor HMMWVs: M1114, M1151, M1152	250,000		240,000
Add-on-armor plate for level III and ballistic glass	20,000		20,000
TWV recap modernization program			
HMMWV recap (budget realignment)	32,800		
HMMWV recap	208,000		208,000
FMTVs	50,000		50,000
HEMTT recap	60,400		60,400
HEMTT recap (budget realignment)	40,700		
M915A1 replacements	15,000		15,000
SINCGARS family (budget realignment)	55,500		
SINCGARS family	117,000		117,000
Defense advanced global positioning system receiver (DAGR) (	22,350		
Defense advanced global positioning system receiver (DAGR)	5,000		5,000
Mounted battle command on the move (MBCOTM)	30,000	30,000	30,000
Prophet/COBRA	145,000		145,000
IED jammers	35,000		35,000
Low cost ECM production	10,000		10,000
Night vision devices (budget realignment)	164,700		
Night vision devices	62,300		62,300
Force XXI battle command BDE and below (FBCB2)	183,000		116,900
Tactical common data link	72,000		72,000
Biometrics automated toolset (BAT)	14,700		14,700
Tactical operations centers	84,000		84,000
Construction equipment SLEP	25,000		25,000
Hemorrhage control	20,000		5,000
Chitosan hemorrhage control dressing			5,000
Self-contained reusable blood container			10,000
HMMWV and tactical truck crew trainers	25,000		25,000
Counter rocket, artillery and mortar (C-RAM)	182,900		107,900
Persistent threat detection system (PTDS), OIF operational loss	15,000		15,000
Total Other Procurement, Army	**1,945,350**	**737,500**	**1,659,800**
Aircraft Procurement, Navy			
UH-1Y attrition		74,000	
UH-1 government furnished equipment		10,800	
CH-53E night vision system FLIR kits		9,600	
Low band transmitters for EA-6B aircraft		16,400	
EA-6B improved capabilities III		73,000	
F/A -18 litenting pods			15,000
Total Aircraft Procurement, Navy		**183,800**	**15,000**

Title XV EMERGENCY AUTHORIZATION

(Dollars in Thousands)

Program Title	House Authorized	Senate Authorized	Conference Authorized
Weapons Procurement, Navy			
Hellfire missiles		122,000	50,000
Small arms		36,800	
Pioneer TUAV engines and avionics		6,700	6,700
EOD/naval coastal warfare small arms	36,800		
Total Weapons Procurement, Navy	**36,800**	**165,500**	**56,700**
Procurement of Ammunition, Navy & Marine Corps			
Dual mode laser guided training bombs		2,000	
Small arms and landing party ammunition		16,000	3,200
M762A1 electric time fuze		2,000	
Ammunition requirements for FSRG	20,221		20,221
155mm fuze-electronic time M762A1	10,000		10,000
Igniter-time blasting fuze M81	5,000		5,000
Detonator, non-electric MK154	10,000	10,000	10,000
66mm rocket-high explosive M72A7	11,000	11,000	11,000
155mm multi option fuze M782	6,000	6,000	6,000
120mm tank ammunition-M1028 canister	3,000	3,000	3,000
155mm high explosive projectile M795	15,000		15,000
.50 caliber cartridges	13,000	13,000	13,000
7.62mm cartridges	1,500	1,500	1,500
40mm M430 HEDP	30,000	30,000	30,000
120mm cartridges M830A1 HEAT-MP-T	10,000	10,000	10,000
C4 charges M58A4 HE	10,000		10,000
Total Procurement of Ammo, Navy & USMC	**144,721**	**104,500**	**147,921**
Other Procurement, Navy			
EOD equipment for naval coastal warfare units		7,000	
Amphibious equipment for naval coastal warfare units		8,300	
Expanded outfitting for maritime interdiction operations		4,300	
Visit, board, search and seizure trainer		11,200	
EOD/naval coastal warfare equipment allowance	7,000		
EOD/naval coastal warfare equipment allowance	8,300		
Total Other Procurement, Navy	**15,300**	**30,800**	
Procurement, Marine Corps			
Guided MLRS pods for HiMARS		54,400	54,500
TPS-59(V3) radar system array rebuild		7,500	
Hardened engineer vehicles		9,400	
Miniature transceiver (blue force tracker)	7,400		7,400
Light armored vehicle (LAV) - 48 vehicles to support FSRG	104,000		102,500
Weapons under $5 million	10,800		10,800
Night vision equipment	276,000		225,000
PSS-14 metal detectors and other items	1,300		1,300
Tactical radios (PRC-117 and PRC-150 radios)	25,000		25,000
JTRS legacy bridge - EPLRS	17,900	17,900	17,900
Advanced compact optical gunsights	3,000		
UAHs, add-on armor, and M1151/M1152 vehicles (S. Amdt)		340,400	200,000
Total Procurement, Marine Corps	**445,400**	**429,600**	**644,400**

Title XV EMERGENCY AUTHORIZATION

(Dollars in Thousands)

Program Title	House Authorized	Senate Authorized	Conference Authorized
Aircraft Procurement, Air Force			
C-5 aircraft missile warning system upgrade		7,700	
C-17 aircraft infrared measures		97,000	84,000
Additional Predators and related equipment (S. Amdt)		218,500	130,000
Total Aircraft Procurement, Air Force		**323,200**	**214,000**
Other Procurement, Air Force			
Mobile approach control system		51,900	
Total Other Procurement, Air Force		**51,900**	
Procurement, Defense-wide			
MH-47 infrared engine exhaust suppressor	7,700		7,700
High performance mobility FLIR (ground)	10,800		10,800
High performance mobility FLIR (maritime)	6,000		6,000
Multi-band inter/intra team radio	13,500		13,500
Multi-band multi mission radio	65,900		65,900
Total Procurement, Defense-wide	**103,900**		**103,900**
Total Procurement	**3,371,798**	**2,123,850**	**3,477,320**
RESEARCH, DEVELOPMENT, TEST AND EVALUATION			
Research, Development, Test and Evaluation, Army			
Surgical wound disinfection and biological agents			2,000
Advanced research on QuickClot			2,700
Excalibur XM982 life cycle improvements			4,000
Total RDTE, Army			**8,700**
Research, Development, Test and Evaluation, Defense-Wide			
Counter-terrorism technical working group	25,000		25,000
Quick reaction special projects	50,000		50,000
Total RDT&E, Defense-Wide	**75,000**		**75,000**
Total RDT&E	**75,000**		**83,700**

Title XV EMERGENCY AUTHORIZATION

(Dollars in Thousands)

Program Title	House Authorized	Senate Authorized	Conference Authorized
OPERATION AND MAINTENANCE			
Operation and Maintenance, Army			
Incremental wartime costs	18,000,630	21,000,735	15,100,630
Army active end strength increase	792,000	1,081,640	792,000
Body armor		57,400	57,400
Army linguistic support /a		[200,000]	200,000
Incremental ONE wartime costs	181,000		181,000
Base support - mobilization and demobilization costs related to	420,500		420,500
Operational tempo - ground miles (budget realignment)	115,700		
Repair parts - ground and air (budget realignment)	54,900		
Rapid fielding initiative sustainment (budget realignment)	102,800		
Unit of action experimentation and exercises (budget realignme	37,236		
Depot maintenance (budget realignment)	269,800		
Depot maintenance			1,200,000
Reset (Unit and Intermediate)			1,700,000
Second destination transportation	33,700		33,700
NATO support (budget realignment)	11,835		
Sustainment system technical support (budget realignment)	116,000		
Sustainment system technical support	52,000		52,000
Virtual convoy combat trainer	7,700		7,700
Recruiting and retention initiatives	81,000		81,000
Travel for family member of hospitalized soldier			2,250
Community based health care organizations	22,600		
Post deployment health care screening	5,600		
Total O&M, Army	**20,305,001**	**22,139,775**	**19,828,180**
Operation and Maintenance, Navy			
Incremental wartime costs	1,638,000	1,911,000	1,638,000
Expanded maritime interdiction ops training and outfitting		6,200	
Small caliber weapons and mounts repair and replacement		24,000	
Body armor		3,100	
Operational tempo - steaming days (budget realignment)	180,000		
Navy recruiting advertising	20,000		20,000
Total O&M, Navy	**1,838,000**	**1,944,300**	**1,658,000**
Operation and Maintenance, Marine Corps			
Incremental wartime costs	1,241,000	1,717,800	1,241,000
Marine Corps active end strength increase	48,000	31,431	12,000
Field medical equipment		19,000	19,000
M1A1 tank depot maintenance		40,000	
Operational tempo - ground miles (budget realignment)	95,900		
M1A1 depot maintenance (budget realignment)	51,800		
Reset costs - spare parts	250,000		250,000
Depot maintenance	40,000		40,000
Personnel clothing and equipment	65,100		25,500
Travel for family member of hospitalized marines			750
Total O&M, Marine Corps	**1,791,800**	**1,808,231**	**1,588,250**

Title XV EMERGENCY AUTHORIZATION

(Dollars in Thousands)

Program Title	House Authorized	Senate Authorized	Conference Authorized
Operation and Maintenance, Air Force			
Incremental wartime costs	2,211,990	2,580,655	1,841,990
Body armor		54,900	54,900
Incremental ONE wartime costs	270,062		270,000
Operational tempo - flying hour program (budget realignment)	476,000		
Depot purchased equipment maintenance	151,300		151,300
B-1 deployable phase maintenance kit	34,000		34,000
B-52 deployable phase maintenance kit	52,000		52,000
Total O&M, Air Force	**3,195,352**	**2,635,555**	**2,404,190**
Operation and Maintenance, Defense-wide			
Incremental wartime costs	2,870,333	3,348,721	850,000
Army active end strength increase		116,000	116,000
Marine Corps active end strength increase		5,397	5,397
DHRA -- Joint advertising market research and studies			10,000
Child care for military families			20,000
Counseling and assistance to military families			20,000
Payments to cooperating nations			750,000
Reimbursement for protective equipment for troops in Iraq and Afghanistan			7,000
Total O&M, Defense-wide	**2,870,333**	**3,470,118**	**1,778,397**
Operation and Maintenance, Army Reserve			
Recruiting and retention initiatives	13,900		13,900
Medical readiness screening			18,000
Army Reserve family support centers	12,500		12,500
Total O&M, Army Reserve	**26,400**		**44,400**
Operation and Maintenance, Navy Reserve			
Medical readiness screening			7,000
Body armor		2,400	2,400
Total O&M, Navy Reserve		**2,400**	**9,400**
Operation and Maintenance, Marine Corps Reserve			
Medical readiness screening			4,000
Total O&M, Marine Corps Reserve			**4,000**
Operation and Maintenance, Air Force Reserve			
Medical readiness screening			7,000
Total O&M, Air Force Reserve			**7,000**
Operation and Maintenance, Army National Guard			
Recruiting and retention initiatives	147,000		147,000
National Guard family support centers	12,500		12,500
Medical readiness screening			31,000
CERFP teams			5,800
Total O&M, Army National Guard	**159,500**		**196,300**

Title XV EMERGENCY AUTHORIZATION

(Dollars in Thousands)

Program Title	House Authorized	Senate Authorized	Conference Authorized
Operation and Maintenance, Air National Guard			
CERFP teams			3,400
Medical readiness screening			10,000
Total O&M, Air National Guard			**13,400**
Total Operation and Maintenance	**30,186,386**	**31,997,979**	**27,531,517**
OTHER PROGRAMS			
Defense Working Capital Funds			
Fuel price increase	1,700,000		1,700,000
Total Defense Working Capital Funds	**1,700,000**		**1,700,000**
Defense Health Program			
Incremental wartime costs	660,000	702,163	
Army active end strength increase	161,000	258,200	161,000
Marine Corps active end strength increase	23,000	17,415	17,415
Army rehabilitation for severely wounded and injured	2,000		
Total Defense Health Program	**846,000**	**977,778**	**178,415**
Total Other Programs	**2,546,000**	**977,778**	**1,878,415**
MILITARY PERSONNEL			
Military Personnel, Army			
Army incremental wartime costs	5,043,534	6,990,123	6,990,123
Army active end strength increase	1,580,000	2,527,520	1,580,000
Recruiting and retention initiatives	65,800		257,000
Total Military Personnel, Army	**6,689,334**	**9,517,643**	**8,827,123**
Military Personnel, Navy			
Navy incremental wartime costs	300,000	350,000	276,000
Total Military Personnel, Navy	**300,000**	**350,000**	**276,000**
Military Personnel, Marine Corps			
Marine Corps incremental wartime costs	435,600	641,200	435,600
Marine Corps active end strength increase	227,000	170,571	227,000
Total Military Personnel, Marine Corps	**662,600**	**811,771**	**662,600**
Military Personnel, Air Force			
Air Force incremental wartime costs	785,622	916,559	752,400
Incremental ONE wartime costs	225,400		225,400
Total Military Personnel, Air Force	**1,011,022**	**916,559**	**977,800**
Military Personnel, Army Reserve			
Recruiting and retention initiatives	68,000		68,000
Special training	47,000		47,000
Branch officer basic course	22,200		22,200
Total Military Personnel, Army Reserve	**137,200**		**137,200**

Title XV EMERGENCY AUTHORIZATION

(Dollars in Thousands)

Program Title	House Authorized	Senate Authorized	Conference Authorized
Military Personnel, Army National Guard			
Initial entry training	67,000		67,000
National Guard CERFP teams			5,300
Total Military Personnel, Army National Guard	**67,000**		**72,300**
Military Personnel, Air National Guard			
National Guard CERFP teams			5,300
Total Military Personnel, Air National Guard			**5,300**
Military Personnel, Benefits			
Hardship duty pay (budget realignment)	36,000		
Family separation allowance (budget realignment)	100,000		
Imminent danger pay (budget realignment)	85,854		
Death gratuity permanent increase	100,000		160,000
Servicemembers' Group Life Insurance permanent increase	118,000		
Servicemembers' Group Life Insurance monthly premium for O	39,000		39,000
Allowance for housing for dependents of deceased members pe	7,000		7,000
Travel for family of hospitalized service members in the US pe	3,000		
Prohibition on charges for meals during medical recuperation p	1,000		1,000
Traumatic injury protection	30,000		
Special pay during rehabilitation for combat injuries	3,000		3,000
Retroactive increase in death gratuity			250,000
Retroactive increase in death gratuity for noncombatants			370,000
Total Military Personnel, Benefits	**522,854**		**830,000**
Total Military Personnel	**9,390,010**	**11,595,973**	**11,788,323**
Iraq Freedom Fund (IFF)	**1,000,000**	**3,302,020**	**5,240,725**
Classified Programs /a	**2,500,000**		**[2,500,000]**
Improvised Explosive Device (IED) Task Force /a		**[500,000]**	**[1,000,000]**
Transfer Authority /a	**[3,000,000]**	**[2,500,000]**	**[2,500,000]**
Total	**49,069,193**	**50,000,000**	**50,000,000**

a/ Values in brackets are non-additive

Items of Special Interest

Advanced First Responder Network

The conferees are aware of the efforts to deploy the Advanced First Responder Network (AFRN) in Iraq which will begin to address: (1) the requirement of mission-critical public-safety communications capabilities and allow for coordination of security planning and execution; (2) rapid data collection and analysis of changing security threats; (3) rapid coordination and deployment of security assets to address threats; (4) effective planning to prevent and reduce future security threats; and (5) a more secure environment that will foster democracy and economic development. The AFRN infrastructure in Iraq has been designed to accommodate the entire country, and critical infrastructure such as pipelines. The conferees support this effort and, with funds available in this legislation and prior appropriations acts, encourage that reconstruction efforts to continue to place a high value on completion of an integrated security network with the deployment of AFRN and related advanced networks.

Legislative Provisions Adopted

Purpose (sec. 1501)

The House bill contained a provision (sec. 1501) that would establish a title as an authorization of appropriations for the Department of Defense for fiscal year 2006, in addition to amounts otherwise authorized in this Act, to provide funds for additional costs due to Operation Iraqi Freedom and Operation Enduring Freedom.

The Senate amendment contained a similar provision (sec. 1401).

The Senate recedes with an amendment that would conform this title in accordance with section 402 of H.Con.Res. 95 (109th Congress), the Concurrent Resolution on the Budget for Fiscal Year 2006.

Army Procurement (sec. 1502)

The House bill contained a provision (sec. 1502) that would authorize an additional $2,625.7 million in fiscal year 2006 for Army Procurement.

The Senate amendment contained provisions (secs. 1403 and 1405) that would authorize $834.6 million in fiscal year 2006 for Army Procurement, and provide the Secretary of the Army with the flexibility to procure up armored high mobility multipurpose wheeled vehicles and add on armor for tactical wheeled vehicles.

The House recedes with an amendment that would recommend an authorization of $2,295.4 million in fiscal year 2006 for Army Procurement. This provision would also provide the Secretary of the Army with the flexibility to procure up armored high mobility multipurpose wheeled vehicles and add on armor for tactical wheeled vehicles.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Navy and Marine Corps Procurement (sec. 1503)

The House bill contained a provision (sec. 1503) that would authorize an additional $642.2 million in fiscal year 2006 for Navy and Marine Corps Procurement.

The Senate amendment contained a provision (sec. 1404) that would authorize an additional $914.2 million in fiscal year 2006 for Navy and Marine Corps Procurement, and provide the Secretary of the Navy with the flexibility to procure up-armored high mobility multipurpose wheeled vehicles and add-on armor for tactical wheeled vehicles.

The House recedes with an amendment that would provide an additional authorization of $864.0 million in fiscal year 2006 for Navy and Marine Corps Procurement. The provision would also provide the Secretary of the Navy with the flexibility to procure up-armored high mobility multipurpose wheeled vehicles and add-on armor for tactical wheeled vehicles.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Air Force Procurement (sec. 1504)

The Senate amendment contained a provision (sec. 1407) that would authorize an additional $375.1 million in fiscal year 2006 for Air Force Procurement.

The House bill contained no similar provision.

The House recedes with an amendment that would provide an additional authorization of $214.0 million in fiscal year 2006 for Air Force Procurement.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Defense-wide activities procurement (sec. 1505)

The House bill contained a provision (sec. 1504) that would authorize an additional $103.9 million in fiscal year 2006 for Procurement, Defense-wide.

The Senate amendment contained no similar provision.

The Senate recedes.

The conferees recommend an authorization of $103.9 million in fiscal year 2006 for Procurement, Defense-wide.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Research, Development, Test, and Evaluation (sec. 1506)

The House bill contained a provision (sec. 1505) that would authorize an additional $75.0 million in fiscal year 2006 for Research, Development, Test, and Evaluation, Defense-wide Activities.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would provide an additional authorization of $75.0 million in fiscal year 2006 for Research, Development, Test, and Evaluation, Defense-wide Activities; and an additional authorization of $8.7 million for Research, Development, Test, and Evaluation, Army.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Operation and Maintenance (sec. 1507)

The House bill contained a provision (sec. 1506) that would authorize an additional $30,186.4 million in fiscal year 2006 for operation and maintenance programs.

The Senate amendment contained a similar provision (sec. 1409) that would authorize an additional $32,000.4 million in fiscal year 2006 for operation and maintenance programs.

The conferees recommend an additional authorization of $27,531.5 million in fiscal year 2006 for operation and maintenance programs.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Defense Working Capital Funds (sec. 1508)

The House bill contained a provision (sec. 1507) that would authorize an additional $1,700.0 million in fiscal year 2006 for the Defense Working Capital Fund.

The Senate amendment contained no similar provision.

The Senate recedes.

The conferees recommend an additional authorization of $1,700.0 million in fiscal year 2006 for the Defense Working Capital Fund.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Defense Health Program (sec. 1509)

The House bill contained a provision (sec. 1508) that would authorize an additional $846.0 million in fiscal year 2006 for Defense Health Program activities.

The Senate amendment contained a similar provision (sec 1410) that would authorize an additional $977.8 million in fiscal year 2006 for Defense Health Program activities.

The conferees recommend an additional authorization of $178.4 million in fiscal year 2006 for Defense Health Program activities.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Military Personnel (sec. 1510)

The House bill contained a provision (sec. 1509) that would authorize an additional $9,390.0 million in the fiscal year 2006 for military personnel accounts.

The Senate amendment contained a similar provision (sec. 1411) that would authorize an additional $11,596.0 million in the fiscal year 2006 for military personnel accounts.

The conferees recommend an additional authorization of $11,788.3 million in the fiscal year 2006 for military personnel accounts.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Iraq Freedom Fund (sec. 1511)

The House bill contained provisions (secs. 1510 and 1511) that would authorize an additional $3,500.0 million in fiscal year 2006 for costs of ongoing military operations in Iraq and Afghanistan. Section 1510 would authorize an additional $1.0 billion for the Iraq Freedom Fund. Section 1511 would authorize an additional $2.5 billion for classified programs.

The Senate amendment contained similar provisions (secs. 1406, 1408, and 1412) that would authorize an additional $3.3 billion for ongoing military operations in Iraq and Afghanistan. Of those funds, no less than $500.0 million would be made available for activities of the Joint Improvised Explosive Device (IED) Task Force.

The House recedes with an amendment that would provide an additional authorization of $5,240.7 billion in fiscal year 2006 for an Iraq Freedom Fund transfer account. Of those funds, no less than $2.5 billion shall be made available for classified programs, and no less than $1.0 billion shall be made available to the Joint IED Task Force.

Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Treatment as additional authorizations (sec. 1512)

The House bill contained a provision (sec. 1512) that would provide that the funds authorized in title XV of their bill for emergency contingency operations related to Operation Iraqi Freedom and Operation Enduring Freedom are in addition to the amounts otherwise authorized in this Act.

The Senate amendment contained no similar provision.

The Senate recedes.

Transfer authority (sec. 1513)

The House bill contained a provision (sec. 1513) that would provide fiscal year 2006 transfer authority of $3.0 billion to the Department of Defense for the authorizations contained in title XV of their bill.

The Senate amendment contained a similar provision (sec. 1413).

The House recedes with an amendment that would provide fiscal year 2006 transfer authority of $2.5 billion to the Department for the authorizations contained in this title.

Availability of funds (sec. 1514)

The House bill contained a provision (sec. 1514) that would require the funds provided in title XV be made available for obligation by the end of the second quarter of fiscal year 2006.

The Senate amendment contained no similar provision.

The Senate recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Designation of emergency authorization

The Senate amendment contained a provision (sec. 1402) that would authorize $50.0 billion in fiscal year 2006 to support emergency contingency operations related to the global war on terrorism.

The House bill contained no similar provision.

The Senate recedes.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Explanation of funding tables

Division B of this Act authorizes funding for military construction projects of the Department of Defense. It includes funding authorizations for the construction and operation of military family housing and military construction for the reserve components, the defense agencies, and the North Atlantic Treaty Organization Security Investment program. It also provides authorization for the base closure account that funds environmental cleanup and other activities associated with the implementation of base closure rounds.

The budget request for fiscal year 2006 included authorization of appropriations for military construction and housing programs totaling $12,051.6 million. Of this amount, the budget request included authorization of appropriations for $1,880.5 million to implement the results of the 2005 defense base closure and realignment round. The amount authorized for appropriation is included in the following table in a line designated Base Realignment and Closure V.

The House bill would authorize appropriations totaling $12,146.6 million for military construction and family housing programs.

The Senate amendment would authorize appropriations totaling $12,044.5 million for military construction and family housing programs.

The conferees agree to authorize appropriations of $12,419.5 million for the military construction and family housing accounts of the Department for fiscal year 2006. When the impact of $252.9 million in prior year rescissions enacted in the Military Construction, Quality of Life, and Veterans Appropriations Act, 2006 (Public Law 109–114) is included, the conference agreement is consistent with a budget authority level of $12,166.6 million for military construction and family housing programs.

The following tables provide the project-level authorizations for the military construction funding authorized in division B of this Act and summarize that funding by account.

ITEMS OF SPECIAL INTEREST

Unspecified minor construction accounts

The conferees direct that, within authorized amounts for unspecified minor construction for each service component, the Secretary concerned shall carry out the following projects:

Location	Installation	Project	Amount	
			Component	($ Thousands)
Arizona	Marana	Fire Station	Army NG	1,499
New Jersey	Atlantic City IAP	Construct Arm/Disarm Apron	Air NG	1,500
Oklahoma	McAlester AAP	Construct High Explosive Magazine	Army	1,100
Washington	Camp Murray	Homeland Security Education Center	Army NG	1,424

Summary of Military Construction Authorization of Appropriations for Fiscal Year 2006
(Dollars in Thousands)

Military Construction	Authorization Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement
Military Construction, Army	1,479,841	1,601,771	1,605,913	295,419	1,775,260
Military Construction, Navy	1,029,249	1,109,177	1,101,226	127,892	1,157,141
Military Construction, Air Force	1,069,640	1,175,238	1,198,321	218,890	1,288,530
Military Construction, Defense-Wide	1,042,730	976,664	1,042,730	(33,875)	1,008,855
NATO Security Investment Program	206,858	206,858	206,858	0	206,858
Base Realignment and Closure Account IV	377,827	377,827	377,827	(123,000)	254,827
Base Realignment and Closure V	1,880,466	1,570,466	1,504,466	(376,000)	1,504,466
Military Construction, Army National Guard	327,012	410,624	449,600	196,139	523,151
Military Construction, Air National Guard	165,256	225,727	262,501	150,861	316,117
Military Construction, Army Reserve	106,077	138,425	121,077	46,492	152,569
Military Construction, Navy and Marine Corps Reserve	45,226	45,226	50,226	1,638	46,864
Military Construction, Air Force Reserve	79,260	110,847	79,260	26,623	105,883
Total Military Construction	**7,809,442**	**7,944,950**	**8,000,005**	**531,079**	**8,340,521**
Family Housing					
Family Housing Construction, Army	549,636	549,636	549,636	0	549,636
Family Housing Support, Army	812,993	803,993	812,993	(9,000)	803,993
Family Housing Construction, Navy	218,942	218,942	222,139	0	218,942
Family Housing Support, Navy	593,660	588,660	593,660	(5,000)	588,660
Family Housing Construction, Air Force	1,251,108	1,236,220	1,142,622	(149,221)	1,101,887
Family Housing Support, Air Force	766,939	755,319	766,939	0	766,939
Family Housing Support, Defense-Wide	46,391	46,391	46,391	0	46,391
Family Housing Improvement Fund	2,500	2,500	2,500	0	2,500
Total Family Housing	**4,242,169**	**4,201,661**	**4,136,880**	**(163,221)**	**4,078,948**
Total Military Construction and Family Housing	**12,051,611**	**12,146,611**	**12,136,885**	**367,858**	**12,419,469**
Prior Year Rescissions			(92,354)	(252,858)	**(252,858)**
Total Authorization of Appropriations			**12,044,531**		**12,166,611**

Military Construction Authorizations for Fiscal Year 2006
(Dollars in Thousands)

Location	Service/Agency/ Program	Installation	Project Title	FY 2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Alabama	Army	Anniston Army Depot	Upgrade 33 THAAD Storage Igloos		3,150		3,150	3,150
Alabama	Army	Ft Rucker	System Test and Int. Lab/Flight Test Supp. Fac.		9,700		0	0
Alabama	Army	Ft Rucker	Army Aviation C4I Facility				9,700	9,700
Alabama	Army	Redstone Arsenal	Ammunition Handling Instruction Facility		4,700		0	0
Alabama	Army	Redstone Arsenal	School Age Services Facility				5,100	5,100
Alabama	Army	Redstone Arsenal	System Software Engineering Annex, Phase 1			20,000	20,000	20,000
Alabama	Air Force	Maxwell AFB	SOC Lodging Facility	14,900	14,900	14,900	0	14,900
Alabama	Army National Guard	Ft Payne	Add/Alter Readiness Center		4,145		4,145	4,145
Alabama	USMC Reserve	ARNGRC Mobile	Reserve Center	7,463	7,463	8,163	700	8,163
Alabama	Air National Guard	Montgomery Regional APT	Replace Composite Operation and Training Facility	9,100	9,100	9,100	0	9,100
Alaska	Army	Ft Richardson	Railhead Port Facility			4,700	4,700	4,700
Alaska	Army	Ft Wainwright	Barracks Complex	33,560	33,560	33,560	0	33,560
Alaska	Army	Ft Wainwright	Information Systems Facility			5,600	5,600	5,600
Alaska	Army	Ft Wainwright	Rotary Wing Landing Pad			5,500	5,500	5,500
Alaska	Air Force	Clear AFS	Dormitory (100 Room)	20,000	20,000	20,000	0	20,000
Alaska	Air Force	Elmendorf AFB	C-17 Maintenance Complex, Phase 1	54,000	54,000	54,000	0	54,000
Alaska	Air Force	Elmendorf AFB	C-17 Add/Alt Survival Equipment Shop	820	820	820	0	820
Alaska	Air Force	Elmendorf AFB	F-15E Flight Simulator Facility			&[8,000]	0	0
Alaska	Air National Guard	Eielson AFB	Mobility Warehouse			5,900	5,900	5,900
Alaska	Air Force Reserve	Elmendorf AFB	C-17 Convert Hangar for AFRC Group HQ	3,100	3,100	3,100	0	3,100
Arizona	Army	Ft Huachuca	Effluent Reuse System		5,100		5,100	5,100
Arizona	Army	Yuma PG	Upgrade Waste Water Treatment Plant			8,100	8,100	8,100
Arizona	Marine Corps	MCAS Yuma	Rotary Wing Fueling Apron	3,637	3,637	3,637	0	3,637
Arizona	Air Force	Davis-Monthan AFB	CSAR Squadron Complex	8,600	8,600	8,600	0	8,600
Arizona	Air Force	Luke AFB	Dormitory (144 Room)	13,000	13,000	13,000	0	13,000
Arizona	Air Force Reserve	Luke AFB	944th Civil Engineer Squadron Facility		5,900		5,900	5,900
Arizona	Air Force Reserve	Davis-Monthan AFB	Alter Rescue Squadron Operations Facility	1,500	1,500	1,500	0	1,500
Arizona	Army National Guard	Marana	Fire Station		1,499		0	0
Arizona	DLA	Yuma PG	Rotary Wing Hydrant System	7,300	7,300	7,300	0	7,300
Arkansas	Air Force	Little Rock AFB	Airmen Dining Facility		6,400		6,400	6,400
Arkansas	Air Force	Little Rock AFB	Parallel Taxiway AALZ	2,500	2,500	2,500	0	2,500
Arkansas	Army National Guard	Camp Robinson	Regional Training Institute Complex, Phase 1			5,608	5,608	5,608
California	Army	Ft Irwin	Land Acquisition, Phase 3	5,000	5,000	5,000	0	5,000
California	Army	Ft Irwin	Military Operations Urban Terrain, Phase 1	12,000	12,000	12,000	0	12,000

Military Construction Authorizations for Fiscal Year 2006
(Dollars in Thousands)

Location	Service/Agency/ Program	Installation	Project Title	FY 2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
California	Army	Ft Irwin	Replace Dining Facility		4,250		4,250	4,250
California	Army	NWS Concord	Upgrade Outload Facilities	3,250	3,250	3,250	0	3,250
California	Army	NWS Concord	Pier Security Upgrade	8,600	8,600	8,600	0	8,600
California	Navy	NAF El Centro	Apron & Hangar Recap, Increment 2	18,666	18,666	18,666	0	18,666
California	Navy	NAS Lemoore	Replace Air Traffic Control Tower	8,480	8,480	8,480	0	8,480
California	Navy	NAS North Island	Bachelor Enlisted Quarters - Shipboard Ashore	13,700	13,700	0	(13,700)	0
California	Navy	NAWC China Lake	Advanced Sensor Lab	19,158	19,158	19,158	0	19,158
California	Navy	Naval Postgraduate School	Glasgow Hall Addition		6,500		6,500	6,500
California	Marine Corps	29 Palms	MOUT Facility, Phase 1		21,000		21,000	21,000
California	Marine Corps	29 Palms	Improve Wastewater Treatment Facility		3,000		3,000	3,000
California	Marine Corps	MCAS Miramar	Provost Marshal Screening Facility		5,070		5,070	5,070
California	Marine Corps	MCAS Camp Pendleton	Flight Line Security Fence	1,400	1,400	1,400	0	1,400
California	Marine Corps	MCB Camp Pendleton	Bachelor Enlisted Quarters - Headquarters	19,620	19,620	21,620	0	19,620
California	Marine Corps	MCB Camp Pendleton	Reclamation/Conveyance, Phase 1	25,436	25,436	29,736	0	25,436
California	Marine Corps	MCB Camp Pendleton	Assault Breacher Vehicle Facility	5,160	5,160	5,660	0	5,160
California	Air Force	Beale AFB	Global Hawk Two Bay Maintenance Hangar	14,200	14,200	14,200	0	14,200
California	Air Force	Edwards AFB	Mainbase Runway, Phase 1	37,000	37,000	37,000	0	37,000
California	Air Force	Los Angeles AFB	Civil Engineering Administration Facility			^[2500]	0	0
California	Air Force	Travis AFB	C-17 Maintenance Training Facility	8,100	8,100	8,100	0	8,100
California	Air Force	Travis AFB	C-17 Add/Alt Composite Shop	3,200	3,200	3,200	0	3,200
California	Air Force	Travis AFB	C-17 Add/Alt Life Support	1,300	1,300	1,300	0	1,300
California	Air Force	Travis AFB	AMOG Global Reach Deployment Center	19,000	19,000	19,000	0	19,000
California	Air Force	Travis AFB	Aerospace Ground Equipment Facility			10,900	10,900	10,900
California	Air Force	Travis AFB	C-17 Wheel and Tire Shop		3,900		3,900	3,900
California	Air Force	Vandenberg AFB	Fitness Center	16,845	16,845	16,845	0	16,845
California	Army National Guard	ANGRC Roseville	Add/Alt Readiness Center (ADRS)	2,941	2,941	2,941	0	2,941
California	Army National Guard	Camp Luis Obispo	Dining Facility			8,599	8,599	8,599
California	Army National Guard	Camp Roberts	Urban Combat Course			1,500	1,500	1,500
California	Army Reserve	Ft Hunter Liggett	Urban Assault Course	1,500	1,500	1,500	0	1,500
California	Army Reserve	Ft Hunter Liggett	Shoot House/ After Action Review	1,700	1,700	1,700	0	1,700
California	Air National Guard	Fresno Yosemite IAP	ASA-Fresno Alert Crew Quarters Facility	3,000	3,000	3,000	0	3,000
California	DLA	Def Dist Depot Tracy	Replace General Purpose Warehouse	33,635	33,635	33,635	0	33,635
California	DLA	Miramar	Replace Storage and Distribution System	23,000	23,000	23,000	0	23,000
California	SOCOM	NSWC Coronado	SOF Applied Instruction Facility	4,000	4,000	4,000	0	4,000

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California	SOCOM	NSWC Coronado	SOF Applied Instruction Support Facility	11,000	11,000	11,000	0	11,000
California	SOCOM	NSWC Coronado	SOF Applied Instruction Facility	13,350	13,350	13,350	0	13,350
California	TMA	Beale AFB	Add/Alt Clinic	18,000	18,000	18,000	0	18,000
California	TMA	NAVHOSP San Diego	Patient Parking Facility	15,000	15,000	15,000	0	15,000
Colorado	Army	Ft Carson	Barracks Complex	25,522	25,522	25,522	0	25,522
Colorado	Army	Ft Carson	Shoot House (USASOC)	1,250	1,250	1,250	0	1,250
Colorado	Army	Ft Carson	Combined Arms Collective Training Facility	28,000	28,000	28,000	0	28,000
Colorado	Army	Ft Carson	Shoot House	1,250	1,250	1,250	0	1,250
Colorado	Army	Ft Carson	A/DACG Complex, Phase 1B	14,600	14,600	14,600	0	14,600
Colorado	Army	Ft Carson	Hot Refuel Pads, BAAF				2,200	2,200
Colorado	Army National Guard	Grand Junction	Field Maintenance Shop				5,100	5,100
Colorado	Air Force	Air Force Academy	Upgrade Academic Facility, Phase 4A	13,000	13,000	13,000	0	13,000
Colorado	Air Force	Buckley AFB	Leadership Development Facility	5,500	5,500	5,500	0	5,500
Colorado	Air Force	Buckley AFB	Add/Alt Communications Complex	10,600	10,600	10,600	0	10,600
Colorado	Air Force	Buckley AFB	Consolidated Services Facility	4,000	4,000	4,000	0	4,000
Colorado	Air Force	Peterson AFB	76th Space Control Facility		12,700		12,700	12,700
Colorado	Air Force	Peterson AFB	West Gate Force Protection Access	12,800	12,800	12,800	0	12,800
Colorado	Air National Guard	Greeley ANG Station	Space Warning Squadron Support Facility		6,400	6,400	6,400	6,400
Colorado	TMA	Peterson AFB	Life Skills Support Center	1,820	1,820	1,820	0	1,820
Connecticut	Navy	NSB New London	Crane Maintenance Facility			4,610	4,610	4,610
Delaware	Air Force	Dover AFB	C-17 Alter Facilities for Parts Storage	1,000	1,000	1,000	0	1,000
Delaware	Air Force	Dover AFB	Dormitory (144 Room)	13,000	13,000	13,000	0	13,000
Delaware	Air Force	Dover AFB	C-17 Flight Simulator Facility	5,000	5,000	5,000	0	5,000
Delaware	Army National Guard	New Castle	Army Aviation Support Facility			@[5,780]	0	0
Delaware	Air National Guard	New Castle Co Airport	Add/Alt Reserve Forces Medical Training Fac			1,500	1,500	1,500
Delaware	Air National Guard	New Castle Co Airport	New Security Forces Facility			1,400	1,400	1,400
Distr Columbia	Air Force	Bolling AFB	Force Protection Main Gate	4,500	4,500	4,500	0	4,500
Distr Columbia	Air Force	Bolling AFB	Construct Operations Facility	10,400	10,400	10,400	0	10,400
Distr Columbia	DIA	Bolling AFB	PEPCO Feeder Line	7,900	7,900	7,900	0	7,900
Florida	Navy	NAS Jacksonville	Helo Hangar Replacement, Increment 1	45,179	45,179	45,179	0	45,179
Florida	Navy	NAS Pensacola	Water Treatment Facility & Municipal Sewer	8,710	8,710	8,710	0	8,710
Florida	Navy	NDSTC Panama City	Joint Aquatic Combat Diver Training	9,678	9,678	9,678	0	9,678
Florida	Navy	NS Mayport	Consolidated Maintenance Facility		4,470		4,470	4,470
Florida	Navy	NS Mayport	Expand Flight Trainer	2,930	2,930	2,930	0	2,930

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Florida	Navy	NS Mayport	Bachelor Enlisted Quarters - Shipboard Ashore	7,820	7,820	7,820	0	7,820
Florida	Navy	Whiting Field	Control Tower Recapitalization, South Field			4,670	4,670	4,670
Florida	Air Force	Cape Canaveral	Satellite Processing Operations Support Facility			6,200	6,200	6,200
Florida	Air Force	Hurlburt Field	Weapons Instructor Course Facility	2,540	2,540	2,540	0	2,540
Florida	Air Force	MacDill AFB	Security Forces Facility	11,200	11,200	11,200	0	11,200
Florida	Air Force	MacDill AFB	CENTCOM Joint Intelligence Center	67,000	67,000	67,000	0	67,000
Florida	Air Force	Tyndall AFB	1st Air Force Operations Center, Phase 2		10,000		10,000	10,000
Florida	Air Force	Tyndall AFB	Dormitory (120 Room)	9,000	9,000	9,000	0	9,000
Florida	Air Force	Tyndall AFB	F/A-22 Add Fuels Maintenance	2,500	2,500	2,500	0	2,500
Florida	Army National Guard	Camp Blanding	Regional Training Institute Complex, Phase 2		20,049		20,049	20,049
Florida	Air Force Reserve	Homestead ARB	Visiting Quarters		6,900		6,900	6,900
Florida	Air Force Reserve	Patrick AFB	Alter Rescue Squadron Operations Facility	2,090	2,090	2,090	0	2,090
Florida	SOCOM	Hurlburt Field	AT/FP Main Gate/Soundside Access		6,500		6,500	6,500
Florida	SOCOM	Eglin AFB	SOF Mobility/Aerial Delivery Support Facility	12,800	12,800	12,800	0	12,800
Georgia	Army	Ft Benning	Squad Defense Range		2,050		2,050	2,050
Georgia	Army	Ft Benning	Shoot House (USASOC)	1,700	1,700	1,700	0	1,700
Georgia	Army	Ft Benning	Infantry Platoon Battle Course	4,300	4,300	4,300	0	4,300
Georgia	Army	Ft Benning	Shoot House	1,250	1,250	1,250	0	1,250
Georgia	Army	Ft Benning	Combined Arms Collective Training Facility	20,961	20,961	20,961	0	20,961
Georgia	Army	Ft Gillem	Forensic Lab Addition	3,900	3,900	3,900	0	3,900
Georgia	Army	Ft Gillem	Modified Record Fire Range			#[4,550]	0	0
Georgia	Army	Ft Gordon	Military Police Complex			4,550	4,550	4,550
Georgia	Army	Ft Stewart/Hunter AAF	Vehicle Maintenance Shop	17,814	17,814	17,814	0	17,814
Georgia	Army	Ft Stewart/Hunter AAF	Shoot House (USASOC)	1,250	1,250	1,250	0	1,250
Georgia	Army	Ft Stewart/Hunter AAF	Urban Assault Course	1,350	1,350	1,350	0	1,350
Georgia	Army	Ft Stewart/Hunter AAF	Barracks Complex	37,566	37,566	37,566	0	37,566
Georgia	Navy	NSB Kings Bay	Armored Fighting Vehicle Support Facility		3,890		3,890	3,890
Georgia	Navy	NSB Kings Bay	Improve Utility/Site/Security Emergency Generator	3,000	3,000	3,000	0	3,000
Georgia	Marine Corps	MCLB Albany	Combat Vehicle Maint & Preservation Facility		4,000	4,000	4,000	4,000
Georgia	Marine Corps	MCLB Albany	Satellite Fire Station		1,840		1,840	1,840
Georgia	Air Force	Robins AFB	51st Combat Comm Squadron Ops Facility		5,600		5,600	5,600
Georgia	Air Force	Robins AFB	Approach Lighting System	2,000	2,000	2,000	0	2,000
Georgia	Air National Guard	Savannah/HH IAP	Replace CRTC Operations, Med Training Complex	7,200	7,200	7,200	0	7,200
Georgia	NSA	Augusta	Regional Security Operations Center	61,466	61,466	61,466	(12,500)	48,966

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Georgia	SOCOM	Ft Stewart/Hunter AAF	SOF Equipment Maintenance Complex	10,000	10,000	10,000	0	10,000
Georgia	DODEA	Ft Stewart/Hunter AAF	RCI - New Elementary School	16,629	16,629	16,629	0	16,629
Hawaii	Army	Helemano Mil. Res.	Drum Road Upgrade, Phase 2	41,000	41,000	41,000	0	41,000
Hawaii	Army	Pohakuloa Training Area	Saddle Road			17,000	17,000	17,000
Hawaii	Army	Pohakuloa Training Area	Tactical Vehicle Wash Facility	9,300	9,300	9,300	0	9,300
Hawaii	Army	Pohakuloa Training Area	Battle Area Complex	34,000	34,000	34,000	0	34,000
Hawaii	Army	Schofield Barracks	Barracks Complex, Phase 1	48,000	48,000	48,000	0	48,000
Hawaii	Army	Schofield Barracks	Vehicle Maintenance Facility, Increment 2	24,656	24,656	24,656	0	24,656
Hawaii	Army	Schofield Barracks	Modified Urban Assault Course.	5,900	5,900	5,900	0	5,900
Hawaii	Navy	NB Pearl Harbor	Pacific Warfighting Center	29,700	29,700	29,700	0	29,700
Hawaii	Marine Corps	MCAS Kaneohe Bay	Camp Smith Fire Station	5,700	5,700	5,700	0	5,700
Hawaii	Air Force	Hickam AFB	Upgrade Electrical Distribution System, Phase 3		7,700	7,700	7,700	7,700
Hawaii	Air Force	Hickam AFB	DCGS Construct Intel Squadron Ops Fac	5,678	5,678	5,678	0	5,678
Hawaii	Air National Guard	Hickam AFB	F-15 Aircraft Rinse Facility	2,500	2,500	2,500	0	2,500
Hawaii	Air Force Reserve	Hickam AFB	Consolidated Training	6,450	6,450	6,450	0	6,450
Hawaii	MDA	Kunia	Replace Regional Security Operations Center	61,466	0	61,466	(12,500)	48,966
Idaho	Air Force	Mountain Home AFB	Base Ops/Radar Approach Control Facility	9,835	9,835	9,835	0	9,835
Idaho	Army National Guard	Gowen Field	Railhead Project, Phase 1		8,415	8,415	8,415	8,415
Illinois	Army	Rock Island Arsenal	Combined Fire/Police Station		7,400	7,400	7,400	7,400
Illinois	Navy	RTC Great Lakes	Upgrade RTC Infrastructure , Inc 1	32,730	32,730	32,730	0	32,730
Illinois	Navy	RTC Great Lakes	Recruit Training Command Barracks	38,720	38,720	38,720	0	38,720
Illinois	Navy	RTC Great Lakes	Drill Hall Replacement	16,610	16,610	16,610	0	16,610
Illinois	Navy	RTC Great Lakes	Recruit Training Command Barracks	33,840	33,840	33,840	0	33,840
Illinois	Air National Guard	Peoria Regional Airport	Replace Composite ASOC/ASOS Training Facility				9,600	9,600
Indiana	Army	Crane AAA	High Performance Magazines, Phase 1		5,700		5,700	5,700
Indiana	Navy	NWCF Crane	Special Weapons Engineering Facility			8,220	8,220	8,220
Indiana	Army National Guard	Camp Atterbury	Fire Station (ADRS)	2,454	2,454	2,454	0	2,454
Indiana	Air Force Reserve	Grissom ARB	Radar Approach Control Facility	7,000	7,000	7,000	0	7,000
Iowa	Army National Guard	Ft Dodge	Add/Alt Field Maintenance Shop		1,500	1,500	1,500	1,500
Kansas	Army	Ft Leavenworth	Lewis and Clark Instructional Facility, Increment 3	42,642	42,642	42,642	0	42,642
Kansas	Army	Ft Riley	Alert Holding Area			6,300	6,300	6,300
Kansas	Army	Ft Riley	Deployment Facility Ramp Expansion	5,500	5,500	5,500	0	5,500
Kansas	Army	Ft Riley	Deployment Support Facility			4,600	4,600	4,600
Kansas	Army	Ft Riley	Digital Multipurpose Training Range	17,500	17,500	17,500	0	17,500

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Kansas	Army National Guard	Pittsburg	Readiness Center		5,683		5,683	5,683
Kansas	Army Reserve	ARC New Century	OMS/AMSA/UNH Storage	6,376	6,376	6,376	0	6,376
Kansas	DLA	McConnell AFB	Hydrant Fuel System	15,800	15,800	15,800	0	15,800
Kentucky	Army	Ft Campbell	Airfield Support Facility		3,600		3,600	3,600
Kentucky	Army	Ft Campbell	Barracks Complex - 52nd Street	49,575	49,575	49,575	0	49,575
Kentucky	Army	Ft Campbell	Combined Arms Collective Training Facility, Ph 2	10,300	10,300	10,300	0	10,300
Kentucky	Army	Ft Campbell	Main Gate Access Control Point (Gate 4)			8,300	8,300	8,300
Kentucky	Army	Ft Campbell	Urban Assault Course	1,700	1,700	1,700	0	1,700
Kentucky	Army	Ft Campbell	Barracks Complex, Increment 2	24,650	24,650	24,650	0	24,650
Kentucky	Army	Ft Campbell	Barracks Complex - Glider Rd	43,000	43,000	43,000	0	43,000
Kentucky	Army	Ft Knox	Barracks Complex 1, Increment 2	21,000	21,000	21,000	0	21,000
Kentucky	Army	Ft Knox	Upgrade GMD Vehicle Maintenance Facility			[8,200]	0	0
Kentucky	Army	Ft Knox	Add/Alt Battalion Dining Facility			4,600	4,600	4,600
Kentucky	Army National Guard	London	Joint Support Operations Center (Counterdrug)				1,785	1,785
Kentucky	Army National Guard	W.H.Ford RTC	Training Complex, Phase 6	9,720	9,720	9,720	0	9,720
Kentucky	SOCOM	Ft Campbell	SOF Company Operations and Supply Facility	7,800	7,800	7,800	0	7,800
Kentucky	SOCOM	Ft Campbell	SOF Group Operations Complex	30,000	30,000	30,000	0	30,000
Louisiana	Army	Ft Polk	Combined Arms Collective Training Facility	28,887	28,887	28,887	0	28,887
Louisiana	Air Force	Barksdale AFB	Integrated Operations Center			10,800	10,800	10,800
Maine	Navy	Portsmouth Naval Shipyard	Acoustic Test and Calibration Facility		8,100	8,100	8,100	8,100
Maryland	Navy	NSWC Indian Head	Joint EOD Technical Support Center		13,460		8,250	8,250
Maryland	Navy	NAS Patuxent River	Presidential Helicopter Support Facility, Incr 2	40,700	40,700	55,700	0	40,700
Maryland	Navy	Naval Academy Annapolis	Wesley Brown Field House, Increment 1	24,930	24,930	24,930	0	24,930
Maryland	Navy	NAWC Patuxent River	MMA Aircraft Test Facility	5,800	5,800	5,800	0	5,800
Maryland	Army National Guard	Dundalk Armory	Organizational Maintenance Shop			4,912	4,912	4,912
Maryland	NSA	Ft Meade	South Campus Mail Facility	4,010	4,010	4,010	0	4,010
Maryland	NSA	Ft Meade	Classified Material Conversion, Increment 1	12,030	12,030	12,030	0	12,030
Maryland	NSA	Ft Meade	Friendship Annex Complex Generator Plant	12,009	12,009	12,009	0	12,009
Maryland	TMA	Ft Detrick	USAMRIID Sterilization Plant	21,200	21,200	21,200	0	21,200
Maryland	TMA	Ft Detrick	Joint Medical Logistics Center	34,000	34,000	34,000	0	34,000
Maryland	TMA	NNMC Bethesda	Academic Program Center/GSN Addition	10,350	10,350	10,350	0	10,350
Massachusetts	Air Force	Hanscom AFB	Fourth Cliff Erosion Control Stabilization, Ph 1	10,000	10,000	0	(10,000)	0
Massachusetts	Air Force	Hanscom AFB	Replace BCE Heavy Repair and Grounds Facility			3,900	3,900	3,900
Massachusetts	Army National Guard	ARNGRC Westfield	Fire Station	2,129	2,129	2,129	0	2,129

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Massachusetts	Army National Guard	Camp Curtis Guild	Organizational Maintenance Shop (ADRS)	17,136	17,136	17,136	0	17,136
Massachusetts	Army National Guard	ARNGRC Camp Edwards	Add/Alter Readiness Center (ADRS)	2,542	2,542	2,542	0	2,542
Massachusetts	Air National Guard	Barnes Municipal Airport	Weapons Maintenance/Load Crew Training Facility		7,100	7,100	7,100	7,100
Massachusetts	Air Force Reserve	Westover ARB	Munitions Storage and Maintenance	3,000	3,000	3,000	0	3,000
Michigan	Army National Guard	Camp Grayling	Multipurpose Machine Gun Range	1,901	1,901	1,901	0	1,901
Michigan	Army National Guard	Lansing	U.S. Property Office/Readiness Center, Phase 1			11,800	11,800	11,800
Michigan	Air National Guard	Alpena	CRTC Squadron Operations Center			9,500	9,500	9,500
Michigan	Air National Guard	W.K. Kellogg Airport	Replace Civil Engineering Complex		7,400		7,400	7,400
Minnesota	Air National Guard	Duluth IAP	Add/Alt Fire Station			6,500	6,500	6,500
Minnesota	Air National Guard	Minneapolis-St. Paul IAP	Composite Maintenance Complex		8,800		8,800	8,800
Minnesota	Air Force Reserve	Minneapolis-St.Paul IAP	Joint Use Small Arms Range		3,000		3,000	3,000
Mississippi	Navy	NAS Meridian	Jet Engine Test Cell			10,450	10,450	10,450
Mississippi	Air Force	Columbus AFB	Mission Support Group Complex			10,000	10,000	10,000
Mississippi	Air Force	Keesler AFB	Student Dormitory (300 Room)	30,100	30,100	30,100	0	30,100
Mississippi	Air Force	Keesler AFB	Technical Training Facility	17,400	17,400	17,400	0	17,400
Mississippi	Army National Guard	Camp Shelby	Modified Record Fire Range	3,000	3,000	3,000	0	3,000
Mississippi	Army National Guard	Camp Shelby	Combined Arms Area Wetlands Crossings, Ph 1	5,263	5,263	5,263	0	5,263
Mississippi	Air National Guard	Gulfport	Replace Munitions Training & Storage Complex		3,000	4,500	4,500	4,500
Mississippi	TMA	Keesler AFB	Add/Alt Surgery Suite	14,000	14,000	14,000	0	14,000
Missouri	Army	Ft Leonard Wood	Permanent Party Barracks			8,900	15,400	15,400
Missouri	Army	Ft Leonard Wood	Countermine Training Complex, Phase 2	8,100	8,100	8,100	0	8,100
Missouri	Air Force	Whiteman AFB	B-2 Conventional Munitions Storage		5,721	5,721	5,721	5,721
Missouri	Army National Guard	Springfield	Aviation Classification Repair Depot, Ph 1		8,234		8,234	8,234
Missouri	Army National Guard	Ft Leonard Wood	MK 19 Range	1,878	1,878	1,878	0	1,878
Montana	Air Force	Malmstrom AFB	Add/Alter Physical Fitness Center			13,500	13,500	13,500
Montana	Army National Guard	Townsend	Qualification Training Range		2,558		2,558	2,558
Montana	Army National Guard	Helena	Army Aviation Support Facility, Ph 2	5,942	5,942	5,942	0	5,942
Montana	Army National Guard	Helena	Add/Alter Readiness Center (ADRS)	1,324	1,324	1,324	0	1,324
Nebraska	Air Force	Offutt AFB	Repair Runway	19,870	19,870	19,870	0	19,870
Nebraska	Air Force	Offutt AFB	Construct HQ Air Force Weather Agency	30,410	30,410	30,410	0	30,410
Nebraska	Air Force	Offutt AFB	Construct Child Development Center			12,800	12,800	12,800
Nevada	Air Force	Indian Springs AAF	Predator Operations Facilities	23,314	23,314	23,314	0	23,314
Nevada	Air Force	Indian Springs AAF	Predator Training Facilities	8,820	8,820	8,820	0	8,820
Nevada	Air Force	Indian Springs AAF	Predator Maintenance and Logistics Complex	19,260	19,260	19,260	0	19,260

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Nevada	Air Force	Indian Springs AAF	Predator Munitions Complex	9,330	9,330	9,330	0	9,330
Nevada	Air Force	Nellis AFB	Airfield Rescue Stations		3,741	4,800	4,800	4,800
Nevada	Air Force	Nellis AFB	F/A-22 Add/Alt Weapons School	10,240	10,240	10,240	0	10,240
Nevada	Air Force	Nellis AFB	F/A-22 Add/Alt Low Observable Composite Facility	9,330	9,330	9,330	0	9,330
Nevada	Air National Guard	Reno-Tahoe IAP	Intelligence Facility			16,800	16,800	16,800
Nevada	TMA	Nellis AFB	Replace Bio Environmental Engineering Facility	1,700	1,700	1,700	0	1,700
New Hampshire	Army National Guard	Concord	Joint Forces Headquarters, Phase 2			10,498	10,498	10,498
New Jersey	Army	Picatinny Arsenal	Fire Station		4,450	4,450	4,450	4,450
New Jersey	Navy	NWS Earle	Pier Complex Replacement, Increment 3	54,432	54,432	62,992	0	54,432
New Jersey	Air Force	McGuire AFB	Electrical Distribution System	13,185	13,185	13,185	0	13,185
New Jersey	Army National Guard	NAES Lakehurst	Consolidated Logistics and Training Facility	26,685	26,685	26,685	0	26,685
New Jersey	Air National Guard	Atlantic City IAP	Arm/Disarm Apron		1,500		0	0
New Jersey	Army Reserve	Ft Dix	Combined Arms Collective Training Facility		12,271		12,271	12,271
New Jersey	Army Reserve	Ft Dix	Shoot House/AAR/Breach Facility	1,569	1,569	1,569	0	1,569
New Mexico	Air Force	Kirtland AFB	HC-130P Simulator Facility	6,600	6,600	6,600	0	6,600
New Mexico	Air Force	Holloman AFB	Fire/Crash Rescue Stations			15,000	15,000	15,000
New Mexico	DLA	Cannon AFB	Replace Fuel Storage and Loading Facility	13,200	13,200	13,200	0	13,200
New York	Army	Ft Drum	Airfield Vehicle Support Facility		9,700	9,700	9,700	9,700
New York	Army	Ft Drum	Physical Fitness Facility	6,800	6,800	6,800	0	6,800
New York	Army	Ft Drum	Barracks Complex 10300 Block, Increment 1	38,500	38,500	38,500	0	38,500
New York	Army	Ft Drum	Ammo Supply Plant Pallet Processing Fac	1,850	1,850	1,850	0	1,850
New York	Army	USMA West Point	Library and Learning Center, Increment 2	25,470	25,470	25,470	0	25,470
New York	Army	USMA West Point	Modified Record Fire Range	4,000	4,000	4,000	0	4,000
New York	Army	USMA West Point	Improve Cadet Barracks				3,500	3,500
New York	Army National Guard	ARNGRC Leeds	Add/Alt Readiness Center (ADRS)	3,065	3,065	3,065	0	3,065
New York	Army National Guard	ARNGRC Kingston	Add/Alt Readiness Center (ADRS)	6,039	6,039	6,039	0	6,039
New York	Army National Guard	ARNGRC Latham	Readiness Center (ADRS)	5,580	5,580	5,580	0	5,580
New York	Army National Guard	ARNGRC Rochester	Army Aviation Support Facility	19,944	19,944	19,944	0	19,944
New York	Navy Reserve	ARNGRC Albany	Joint Reserve Center	19,970	19,970	19,970	0	19,970
New York	Air National Guard	Hancock Field	Upgrade Squadron Operations Facility		5,600		5,600	5,600
New York	Air National Guard	Stewart IAP	Replace Fire Crash/Rescue Station	10,200	10,200	10,200	0	10,200
New York	Air National Guard	Griffiss	Northeast Air Defense Sector Spt Fac, Ph I				3,000	3,000
New York	Air Force Reserve	Niagara Falls IAP	Visiting Quarters	9,200	9,200	9,200	0	9,200
North Carolina	Army	Ft Bragg	Barracks - Addition to 3rd Brigade Complex		11,400		11,400	11,400

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North Carolina	Army	Ft Bragg	Urban Assault Course	2,100	2,100	2,100	0	2,100
North Carolina	Army	Ft Bragg	Barracks Complex 2nd Brigade, Increment 1	32,000	32,000	32,000	0	32,000
North Carolina	Army	Ft Bragg	Barracks Complex, Increment 2	30,611	30,611	30,611	0	30,611
North Carolina	Army	Ft Bragg	Barracks Complex - Division Artillery, Increment 1	35,600	35,600	35,600	0	35,600
North Carolina	Army	Ft Bragg	Courthouse	4,450	4,450	4,450	0	4,450
North Carolina	Army	Ft Bragg	Company Operations Facility	7,300	7,300	7,300	0	7,300
North Carolina	Army	Ft Bragg	Barracks Complex - 3rd Brigade, Increment 1	50,000	50,000	50,000	0	50,000
North Carolina	Navy	MCAS Cherry Point	V22 Rotor Blade Repair Facility	4,760	4,760	4,760	0	4,760
North Carolina	Navy	MCAS Cherry Point	V22 Gear Box Repair and Test Facility	15,390	15,390	15,390	0	15,390
North Carolina	Marine Corps	MCAS Cherry Point	Ordnance Field Maint and Ops Bldg		2,000		2,000	2,000
North Carolina	Marine Corps	MCAS Cherry Point	AICUZ Land Acquisition	1,890	1,890	1,890	0	1,890
North Carolina	Marine Corps	MCAS Cherry Point	High Explosives Magazines	5,107	5,107	5,107	0	5,107
North Carolina	Marine Corps	MCAS New River	Aircraft Fire and Rescue Facility		4,310	4,310	4,310	4,310
North Carolina	Marine Corps	MCAS New River	Main Gate Security Upgrades	2,530	2,530	2,530	0	2,530
North Carolina	Marine Corps	MCB Camp Lejeune	Mess Hall - Courthouse Bay	11,840	11,840	11,840	0	11,840
North Carolina	Marine Corps	MCB Camp Lejeune	Assault Breacher Vehicle Facility	4,040	4,040	4,040	0	4,040
North Carolina	Marine Corps	MCB Camp Lejeune	Multipurpose Machine Gun Range	5,370	5,370	6,370	0	5,370
North Carolina	Marine Corps	MCB Camp Lejeune	Bachelor Enlisted Quarters - Camp Johnson	20,340	20,340	22,340	0	20,340
North Carolina	Army National Guard	Lenoir	Field Maintenance Shop		5,858	5,858	5,858	5,858
North Carolina	Army National Guard	ANGRC Tarboro	Add/Alter Readiness Center (ADRS)	1,154	1,154	1,154	0	1,154
North Carolina	Air National Guard	Charlotte/Douglas IAP	Vehicle Maintenance Complex	3,400	3,400	3,400	0	3,400
North Carolina	DLA	Seymour Johnson AFB	Replace Hydrant Fuel System	18,500	18,500	18,500	0	18,500
North Carolina	SOCOM	Ft Bragg	SOF Replacement Baffled Firing Range				3,300	3,300
North Carolina	SOCOM	Ft Bragg	Resistance Training Complex (JSOC)	2,569	2,569	2,569	0	2,569
North Carolina	SOCOM	Ft Bragg	SOF Training Facility (SWCS)	8,500	8,500	8,500	0	8,500
North Carolina	SOCOM	Ft Bragg	SOF Headquarters Building	3,700	3,700	3,700	0	3,700
North Carolina	DODEA	Ft Bragg	RCI - New Elementary/Junior HS Addition	18,075	18,075	18,075	0	18,075
North Dakota	Air Force	Minot AFB	Security Forces Vehicle Alert Facility	8,700	8,700	8,700	0	8,700
North Dakota	Army National Guard	Bismarck	WMD Civil Support Team Facility			3,737	3,737	3,737
North Dakota	Army National Guard	Minot (State Land)	Field Maintenance Shop	10,950	10,950	10,950	0	10,950
North Dakota	Army National Guard	Camp Grafton	Harden Perimeter Upgrade		870		870	870
Ohio	Army	Lima Modification Center	Joint Systems Manufacturing Ctr Integrated Building		11,600		11,600	11,600
Ohio	Air Force	Wright-Patterson AFB	New Academic Building		12,950		12,950	12,950
Ohio	Air Force	Wright-Patterson AFB	Add/Alt Intelligence Production Complex	19,670	19,670	19,670	0	19,670

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Ohio	Army National Guard	ARC North Canton	Army Aviation Support Facility	7,923	7,923	7,923	0	7,923
Ohio	Army National Guard	Mansfield (State Land)	Fire Station (ADRS)	1,293	1,293	1,293	0	1,293
Ohio	Air National Guard	Camp Perry ANG Sta	Replace Troop Training Quarters			4,700	4,700	4,700
Ohio	Air Force Reserve	Youngstown ARS	Joint Services Lodging Facility, Phase 1		7,500		7,500	7,500
Ohio	Air Force Reserve	Wright-Patterson AFB	C-5 Alter Maintenance Shops	800	800	800	0	800
Ohio	Air Force Reserve	Wright-Patterson AFB	C-5 Alter Fuel Hydrant System	1,600	1,600	1,600	0	1,600
Ohio	Air Force Reserve	Wright-Patterson AFB	C-5 Alter Flight Simulator Facility	800	800	800	0	800
Ohio	Air Force Reserve	Wright-Patterson AFB	C-5 Squadron Operations Facility	5,750	5,750	5,750	0	5,750
Ohio	Air Force Reserve	Wright-Patterson AFB	C-5 Airfield Pavements, Phase 2	4,400	4,400	4,400	0	4,400
Ohio	Air Force Reserve	Wright-Patterson AFB	C-5 Scheduled Maintenance Hangar	15,300	15,300	15,300	0	15,300
Ohio	Air Force Reserve	Wright-Patterson AFB	C-5 Fuel Systems Maintenance Hangar	10,500	10,500	10,500	0	10,500
Oklahoma	Army	Ft Sill	Fire Station		3,150	3,150	3,150	3,150
Oklahoma	Army	Ft Sill	Railroad Equipment Facility	2,700	2,700	2,700	0	2,700
Oklahoma	Army	McAlester AAP	High Explosive Magazine Installation		1,100		0	0
Oklahoma	Army	McAlester AAP	Ammunition Container Facility	5,400	5,400	5,400	0	5,400
Oklahoma	Air Force	Tinker AFB	Upgrade Building 3001 Infrastructure, Phase 2	20,000	20,000	20,000	0	20,000
Oklahoma	Air Force	Tinker AFB	31st Combat Comm Squad Ops Complex	11,960	11,960	11,960	0	11,960
Oklahoma	Air Force	Vance AFB	Enhance Force Protection, Phase 1			14,000	14,000	14,000
Oregon	Army National Guard	Salem	WMD-CST Ready Building		2,735		2,735	2,735
Oregon	Navy Reserve	ARNG Lane County	Reserve Center with Land	6,132	6,132	9,732	0	6,132
Pennsylvania	Army	Letterkenny Army Depot	LTL Ammunition Shipping Facility		6,300	6,300	6,300	6,300
Pennsylvania	Navy	NSWC Philadelphia	Machinery Networks Development & Integration Fac		4,780		4,780	4,780
Pennsylvania	Army National Guard	ANGRC Erie	Readiness Center (SBCT)	11,008	11,008	11,008	0	11,008
Pennsylvania	Army National Guard	ANGRC Erie	Field Maintenance Shop (SBCT)	5,136	5,136	5,136	0	5,136
Pennsylvania	Army National Guard	Ft Indiantown Gap	Live Fire Shoot House (SBCT)	2,346	2,346	2,346	0	2,346
Pennsylvania	Army National Guard	Ft Indiantown Gap	Modified Record Fire Range Upgrade (SBCT)	2,683	2,683	2,683	0	2,683
Pennsylvania	Army National Guard	Ft Indiantown Gap	Unit Storage Site (SBCT)	2,961	2,961	2,961	0	2,961
Pennsylvania	Army National Guard	Ft Indiantown Gap	MK 19 40mm Machine Gun Qual Range (SBCT)	4,344	4,344	4,344	0	4,344
Pennsylvania	Army National Guard	Ft Indiantown Gap	Mission Support Training Facility	4,363	4,363	4,363	0	4,363
Pennsylvania	Army National Guard	Ft Indiantown Gap	Sniper Range (SBCT)	2,898	2,898	2,898	0	2,898
Pennsylvania	Army National Guard	Ft Indiantown Gap	UAV Training Facility	2,482	2,482	2,482	0	2,482
Pennsylvania	Army National Guard	Ft Indiantown Gap	Urban Assault Course (SBCT)	2,459	2,459	2,459	0	2,459
Pennsylvania	Army National Guard	Ft Indiantown Gap	Battalion Training Facility, Phase 1 (SBCT)	22,190	22,190	22,190	0	22,190
Pennsylvania	Army National Guard	Ft Indiantown Gap	Infantry Squad Battle Course (SBCT)	2,859	2,859	2,859	0	2,859

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Pennsylvania	Army National Guard	Ft Indiantown Gap	Combined Arms Collective Training Facility	16,706	16,706	16,706	0	16,706
Pennsylvania	Army National Guard	Ft Indiantown Gap	Multipurpose Machine Gun Range (SBCT)	4,202	4,202	4,202	0	4,202
Pennsylvania	Army National Guard	Philadelphia	Field Maintenance Shop (SBCT)	6,207	6,207	6,207	0	6,207
Pennsylvania	Army National Guard	Philadelphia	Readiness Center (SBCT)	11,925	11,925	11,925	0	11,925
Pennsylvania	Army Reserve	Johnstown	Airfield Runway Upgrade		17,780		17,780	17,780
Pennsylvania	Army Reserve	ARC Bellefonte	AR Center/OMS/UNH Storage	8,355	8,355	8,355	0	8,355
Pennsylvania	Army Reserve	Erie	AR Center/OMS/UNH Storage	9,367	9,367	9,367	0	9,367
Pennsylvania	Air National Guard	Harrisburg IAP	Expand Aircraft Parking Apron and Taxiway		5,000		5,000	5,000
Pennsylvania	DLA	Def Dep New Cumberland	Replace Physical Fitness Facility	6,500	6,500	6,500	0	6,500
Rhode Island	Navy	NS Newport	Replace Combat Training Pool		4,870		4,870	4,870
Rhode Island	Navy	NS Newport	Replace Vehicle Bridge			10,620	10,620	10,620
South Carolina	Army	Ft Jackson	Urban Assault Course		1,600		1,600	1,600
South Carolina	Navy	MCAS Beaufort	Main Gate Security Improvements				1,480	1,480
South Carolina	Air Force	Charleston AFB	Add/Alter Fitness Center	2,583	2,583	2,583	0	2,583
South Carolina	Air Force	Shaw AFB	Munitions Facility		6,300		6,300	6,300
South Carolina	Air Force	Shaw AFB	USCENTAF Communications Squadron Facility	9,730	9,730	9,730	0	9,730
South Carolina	Army National Guard	The Citadel	Readiness Center			10,298	10,298	10,298
South Carolina	Army Reserve	ARC Greenville	Add/Alt Reserve Center/Org Maint/Storage	15,524	15,524	15,524	0	15,524
South Carolina	USMC Reserve	Charleston	Marine Corps Reserve Center	6,424	6,424	7,124	0	6,424
South Carolina	TMA	Charleston	Consolidated Medical Clinic	35,000	35,000	35,000	0	35,000
South Dakota	Air Force	Ellsworth AFB	Maintenance Group Headquarters Facility			8,400	8,400	8,400
South Dakota	Air National Guard	Joe Foss Field	Upgrade Security Force Facility & Comm		5,500		5,500	5,500
Tennessee	Army National Guard	Nashville	Readiness Center, Phase 2			23,193	23,193	23,193
Tennessee	Air National Guard	Memphis IAP	C-5 Maintenance Hangar and Shops	39,000	39,000	39,000	0	39,000
Tennessee	Air National Guard	Memphis IAP	C-5 Fuel Cell Maintenance Hangar and Shop	23,000	23,000	23,000	0	23,000
Texas	Army	Ft Bliss	Vehicle Bridge		5,000		5,000	5,000
Texas	Army	Ft Hood	Fire Station (North Ft Hood)		4,650		4,650	4,650
Texas	Army	Ft Hood	Physical Fitness Center		6,800		6,800	6,800
Texas	Army	Ft Hood	Multipurpose Squad Qual Course-Scout Complex	8,000	8,000	8,000	0	8,000
Texas	Army	Ft Hood	Battalion Command and Control Facilities	6,600	6,600	6,600	0	6,600
Texas	Army	Ft Hood	Vehicle Maintenance Shop	21,645	21,645	21,645	0	21,645
Texas	Army	Ft Hood	Fire Station	4,100	4,100	4,100	0	4,100
Texas	Army	Ft Hood	Qualification Training Range	6,093	6,093	6,093	0	6,093
Texas	Army	Ft Hood	Central Shipping/Receiving Point				6,600	6,600

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Texas	Army	Ft Sam Houston	Renovate Barracks Wings/Battalion Cmd Area, Ph 1			7,000	7,000	7,000
Texas	Navy	NAS Kingsville	T-10 Jet Engine Test Cell		10,030		10,030	10,030
Texas	Navy	NAS Kingsville	Airfield Lighting (NALFOG)	6,010	6,010	6,010	0	6,010
Texas	Air Force	Goodfellow AFB	Chapel Center		4,300		4,300	4,300
Texas	Air Force	Laughlin AFB	Aircraft Maintenance Complex		7,900		7,900	7,900
Texas	Air Force	Sheppard AFB	T-6 Contractor Maint. & Base Supply Warehouse	3,000	3,000	3,000	0	3,000
Texas	Air Force	Sheppard AFB	Student Dormitory (300 Room)	33,000	33,000	33,000	0	33,000
Texas	Army Reserve	Ellington Field	Armed Forces Reserve Center/BPC Phase 1			15,000	15,000	15,000
Texas	Army Reserve	Grand Prairie	Army Reserve Center, Phase 2	5,685	5,685	5,685	0	5,685
Texas	Air Force Reserve	NAS Fort Worth JRB	Aircraft Generation Facility		1,750		1,750	1,750
Texas	TMA	Lackland AFB	Replace Military Working Dog Medical Facility	11,000	11,000	11,000	0	11,000
Utah	Army	Dugway PG	Michael Army Airfield Runway, Phase 2	25,000	25,000	25,000	0	25,000
Utah	Air Force	Hill AFB	Consolidate Missile Storage Facilities, Phase 1			9,800	9,800	9,800
Utah	Air Force	Hill AFB	Add/Alt Software Support Facility	19,500	19,500	19,500	0	19,500
Utah	Air Force	Hill AFB	Aircraft Battle Damage Repair Training/Storage	4,600	4,600	4,600	0	4,600
Utah	Army National Guard	Camp Williams	Add/Alt Readiness Center (ADRS)	3,279	3,279	3,279	0	3,279
Vermont	Army National Guard	Camp Ethan Allen	Modified Record Fire Range	3,000	3,000	3,000	0	3,000
Vermont	Army National Guard	Camp Johnson	Information Systems Facility			5,617	5,617	5,617
Virginia	Army	Ft A.P. Hill	Modified Record Fire Range	2,700	2,700	2,700	0	2,700
Virginia	Army	Ft Belvoir	Defense Access Road, Phase 1	5,000	5,000	5,000	0	5,000
Virginia	Army	Ft. Eustis	Deployment Staging Area			3,100	3,100	3,100
Virginia	Army	Ft Lee	49th Quartermaster Group Operations Storage		3,900		3,900	3,900
Virginia	Army	Ft Myer	Child Development Center	15,200	15,200	15,200	0	15,200
Virginia	Navy	NAB Little Creek	Replace Piers and Quaywall	36,034	36,034	36,034	0	36,034
Virginia	Navy	NAS Oceana	F/A 18 Facility Upgrades	11,680	11,680	11,680	0	11,680
Virginia	Navy	Norfolk Naval Shipyard	Pier 11 Replacement, Increment 3	40,200	40,200	40,200	0	40,200
Virginia	Navy	Norfolk Naval Shipyard	Ship Repair Pier 3 Replacement, Increment 1	47,729	47,729	47,729	0	47,729
Virginia	Navy	NS Norfolk	Aircraft Maintenance Hanger (MH-60S CV)	21,565	21,565	21,565	0	21,565
Virginia	Navy	NS Norfolk	H60 Trainer Building	10,680	10,680	10,680	0	10,680
Virginia	Navy	NSWC Dahlgren	Electromagnetic Research and Engineering Fac			9,960	9,960	9,960
Virginia	Marine Corps	MCAF Quantico	Aircraft Parking Apron (Green)	11,667	11,667	11,667	0	11,667
Virginia	Marine Corps	MCAF Quantico	Aircraft Parking Apron (White)	8,031	8,031	8,031	0	8,031
Virginia	Marine Corps	MCB Quantico	Religious & Family Services Center		4,270		4,270	4,270
Virginia	Marine Corps	MCB Quantico	White Side Complex, Increment 2	34,730	34,730	34,730	0	34,730

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Virginia	Marine Corps	MCB Quantico	Hockmuth Hall Addition, Increment 1	2,600	0	4,000	1,400	4,000
Virginia	Air Force	Langley AFB	Repair West Parking Apron/Taxiway		5,700		5,700	5,700
Virginia	Air Force	Langley AFB	F/A-22 Munitions Storage Complex	20,925	20,925	20,925	0	20,925
Virginia	Air Force	Langley AFB	Repair Primary Parking Apron/Taxiway	17,740	17,740	17,740	0	17,740
Virginia	Army National Guard	Winchester	Readiness Center		7,619	7,619	7,619	7,619
Virginia	Army National Guard	Ft Belvoir	Total Army School System Complex, Phase 1	13,596	13,596	13,596	0	13,596
Virginia	Army National Guard	Ft Pickett	MOUT Shoot House (SB)	1,552	1,552	1,552	0	1,552
Virginia	Navy Reserve	NAS Oceana	C-40 Hangar	2,259	2,259	2,259	0	2,259
Virginia	DLA	Ft Belvoir	Alter Air Intakes	4,500	4,500	4,500	0	4,500
Virginia	DLA	NS Norfolk	Replace Lube Oil Tanks	6,700	6,700	6,700	0	6,700
Virginia	TMA	Ft Belvoir	Hospital Replacement, Phase 2	57,000	57,000	57,000	0	57,000
Washington	Army	Ft Lewis	Barracks Complex-North Fort, Phase 5	49,949	49,949	49,949	0	49,949
Washington	Army	Ft Lewis	Barracks Complex	50,000	50,000	50,000	0	50,000
Washington	Navy	NS Everett	Bachelor Enlisted Quarters Homeport Ashore, Incr 1	49,950	49,950	49,950	0	49,950
Washington	Navy	NSWCCD DET, Bangor	Lab Consolidation, Phase 2		9,430		9,430	9,430
Washington	Navy	NSB Bangor	Enclose Motor Transfer Facility	2,860	2,860	2,860	0	2,860
Washington	Navy	NSB Bangor	Waterfront Security Enclave	41,520	41,520	41,520	0	41,520
Washington	Navy	NSB Bangor	Limited Area Production & Storage Cmplx, Incr 2	47,095	47,095	47,095	0	47,095
Washington	Navy	NSB Bangor	Mission Support for SSBN/SSN	15,780	15,780	15,780	0	15,780
Washington	Navy	NAS Whidbey Island	High Performance Magazines		4,010		4,010	4,010
Washington	Air Force	Fairchild AFB	Resistance Training Facility			8,200	8,200	8,200
Washington	Army National Guard	Camp Murray	Homeland Security Multi-Functional Ed Center		1,424		0	0
Washington	SOCOM	Ft Lewis	SOF Expand Compound	18,500	18,500	18,500	0	18,500
Washington	SOCOM	Ft Lewis	SOF Training Facility (SWCS)	4,800	4,800	4,800	0	4,800
Washington	SOCOM	Ft Lewis	SOF Aviation Battalion Complex	30,000	30,000	30,000	0	30,000
West Virginia	Army National Guard	Camp Dawson	Readiness Center			4,500	4,500	4,500
West Virginia	Air National Guard	Martinsburg ANG	C-5 Shop Upgrades			2,000	2,000	2,000
West Virginia	Air National Guard	Martinsburg ANG	C-5 Jet Fuel Storage/Hydration System/Apron	20,000	20,000	20,000	0	20,000
West Virginia	Air National Guard	Martinsburg ANG	C-5 Corrosion Control Hangar	23,000	23,000	23,000	0	23,000
West Virginia	Air National Guard	Martinsburg ANG	Upgrade and Extend Runway			17,000	17,000	17,000
West Virginia	Air National Guard	Yeager Airport	Upgrade Force Protection, Relocate Road			%[6500]	0	0
Wisconsin	Army National Guard	Camp Williams	Readiness Center	5,357	5,357	5,357	0	5,357
Wisconsin	Army Reserve	ARC Wausau	Army Res Center/Org Maint Shop/Storage	11,098	11,098	11,098	0	11,098
Wisconsin	Army Reserve	Ft McCoy	Public Safety Center	5,365	5,365	5,365	0	5,365

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Wisconsin	Army Reserve	Ft McCoy	NCO Academy, Phase 1	15,405	15,405	15,405	0	15,405
Wisconsin	Army Reserve	Ft McCoy	Modified Record Fire Range	3,038	3,038	3,038	0	3,038
Wisconsin	Army Reserve	Ft McCoy	Shoot House/AAR/Breach Facility	1,700	1,700	1,700	0	1,700
Wisconsin	Air National Guard	General Mitchell IAP	Upgrade Composite Maintenance Support Complex			7,000	7,000	7,000
Wyoming	Army National Guard	Casper	Add/Alt Readiness Center (ADRS)	2,802	2,802	2,802	0	2,802
Wyoming	Air National Guard	Cheyenne IAP	Composite Airlift Support Center	7,000	7,000	7,000	0	7,000
Overseas								
Bahrain	TMA	SWA	Add/Alt Medical Clinic	4,750	4,750	4,750	0	4,750
Germany	Army	Grafenwoehr	Brigade Complex-Forward Support	40,681	40,681	40,681	0	40,681
Germany	Army	Grafenwoehr	Shoot House	1,800	1,800	1,800	0	1,800
Germany	Army	Grafenwoehr	Urban Assault Course	1,600	1,600	1,600	0	1,600
Germany	Army	Grafenwoehr	Barracks Complex	40,000	40,000	40,000	0	40,000
Germany	Army	Vilseck	Barracks Complex, Phase 2	13,600	13,600	13,600	0	13,600
Germany	Air Force	Ramstein AB	Airfield Maintenance Compound	8,600	8,600	8,600	0	8,600
Germany	Air Force	Ramstein AB	Munitions Maintenance Facility	3,050	3,050	3,050	0	3,050
Germany	Air Force	Spangdahlem AB	Control Tower	7,100	7,100	7,100	0	7,100
Germany	Air Force	Spangdahlem AB	Large Vehicle Inspection Station	5,374	5,374	5,374	0	5,374
Germany	DODEA	Landstuhl	Add to Elem and Middle School Classroom	5,572	5,572	5,572	0	5,572
Germany	DODEA	Vilseck	Add and Renovate Vilseck Elementary School	2,323	2,323	2,323	0	2,323
Greece	DLA	Souda Bay	Replace Fuel Pipeline	7,089	7,089	7,089	0	7,089
Guam	Navy	NB Guam	Improve Alpha/Bravo Wharves, Incr 1	25,584	25,584	25,584	0	25,584
Guam	Air Force	Andersen AFB	Replace Military Working Dog Facility	3,500	3,500	3,500	0	3,500
Guam	Air Force	Andersen AFB	AEF FOL Munitions Storage Igloos	15,000	15,000	15,000	0	15,000
Guam	Army National Guard	Barrigada	WMD-CST Ready Building		4,852		4,852	4,852
Guam	DODEA	NAS Agana	Elementary/Middle School Replacement	40,578	40,578	40,578	0	40,578
Italy	Army	Pisa	Ammunition Storage Facility	5,254	5,254	5,254	0	5,254
Italy	Air Force	Aviano AB	Air Control Squadron Warehouse	7,800	7,800	7,800	0	7,800
Italy	Air Force	Aviano AB	Family Support Center	4,010	4,010	4,010	0	4,010
Italy	Air Force	Aviano AB	Consolidated Support Center Facility	10,850	10,850	10,850	0	10,850
Japan	Navy	Naval Station Yokosuka	Wharf Upgrades, Increment 1	39,019	0	0	(25,019)	14,000
Korea	Army	Camp Humphreys	Barracks Complex	40,525	40,525	35,525	(3,000)	37,525
Korea	Army	Camp Humphreys	Barracks Complex	45,637	45,637	38,637	(3,000)	42,637
Korea	Army	Camp Humphreys	Barracks Complex	28,000	28,000	25,000	(3,000)	25,000

Military Construction Authorizations for Fiscal Year 2006
(Dollars in Thousands)

Location	Service/Agency/ Program	Installation	Project Title	FY 2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Korea	Army	Yongpyong	Urban Assault Course	1,450	1,450	1,450	0	1,450
Korea	Air Force	Kunsan AB	Consolidated Personnel Process/Theater Facility	6,800	6,800	6,800	0	6,800
Korea	Air Force	Kunsan AB	Dormitory (382 Room)	44,100	44,100	37,388	(3,000)	41,100
Korea	Air Force	Osan AB	Dormitory (156 Room)	21,750	21,750	20,750	(3,000)	18,750
Korea	Air Force	Osan AB	Add/Alt Squadron Operation/AMU Facility	18,969	18,969	18,969	0	18,969
Korea	DODEA	Taegu	Replace/Add to Taegu Elem/High School	8,231	8,231	8,231	0	8,231
Kwajalein	MDA	Kwajalein Atoll	Emergency Services Facility, Meck Island	4,901	4,901	4,901	0	4,901
Portugal	Air Force	Lajes Field	Fire/Crash Rescue Station	12,000	12,000	12,000	0	12,000
Puerto Rico	Army Reserve	Camp Santiago	Modified Record Fire Range	2,000	2,000	2,000	0	2,000
Spain	DODEA	NS Rota	Elem and High School Multipurpose Building	7,963	7,963	7,963	0	7,963
Turkey	Air Force	Incirlik AB	Consolidated Communications Facility	5,780	5,780	5,780	0	5,780
United Kingdom	Air Force	RAF Lakenheath	Small Diameter Bomb Maintenance Facility	2,625	2,625	2,625	0	2,625
United Kingdom	Air Force	RAF Lakenheath	Small Diameter Bomb Storage Igloo and Addition	2,500	2,500	2,500	0	2,500
United Kingdom	Air Force	RAF Mildenhall	Base Engineer Complex	13,500	13,500	13,500	0	13,500
United Kingdom	NSA	RAF Menwith Hill Station	Operations/Tech Building, Increment 1	41,697	44,997	41,697	0	41,697
Worldwide	Army	Various Worldwide	Overhead Cover Systems				50,000	50,000
Unspecified								
Worldwide	Army	Unspecified Worldwide	Planning and Design	141,393	148,023	143,215	8,628	150,021
Worldwide	Army	Unspecified Worldwide	Planning and Design (Host Nation Support)	20,000	20,000	20,000	0	20,000
Worldwide	Army	Unspecified Worldwide	Unspecified Minor Construction	20,000	20,000	20,000	4,141	24,141
Worldwide	Army National Guard	Unspecified Worldwide	Planning and Design	46,148	54,319	53,582	18,807	64,955
Worldwide	Army National Guard	Unspecified Worldwide	Unspecified Minor Construction	7,646	7,646	9,146	7,667	15,313
Worldwide	Army Reserve	Unspecified Worldwide	Planning and Design	14,416	16,713	14,416	1,441	15,857
Worldwide	Army Reserve	Unspecified Worldwide	Unspecified Minor Construction	2,979	2,979	2,979	0	2,979
Worldwide	Navy	Unspecified Worldwide	Planning and Design	18,857	23,555	35,687	3,870	22,727
Worldwide	Navy	Unspecified Worldwide	Unspecified Minor Construction	0	0	1	0	0
Worldwide	Marine Corps	Unspecified Worldwide	Planning and Design	10,655	12,474	18,820	1,511	12,166
Worldwide	Navy Reserve	Unspecified Worldwide	Planning and Design	1,746	1,746	1,746	90	1,836
Worldwide	Navy Reserve	Unspecified Worldwide	Unspecified Minor Construction				750	750
Worldwide	USMC Reserve	Unspecified Worldwide	Planning and Design	1,232	1,232	1,232	98	1,330
Worldwide	Air Force	Unspecified Worldwide	Planning and Design	79,047	91,733	83,719	16,490	95,537

Military Construction Authorizations for Fiscal Year 2006
(Dollars in Thousands)

Location	Service/Agency/ Program	Installation	Project Title	FY 2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Worldwide	Air Force	Unspecified Worldwide	Unspecified Minor Construction	15,000	15,000	15,000	929	15,929
Worldwide	Air National Guard	Unspecified Worldwide	Planning and Design	12,856	23,027	18,261	13,779	26,635
Worldwide	Air National Guard	Unspecified Worldwide	Unspecified Minor Construction	5,000	5,000	6,500	1,882	6,882
Worldwide	Air Force Reserve	Unspecified Worldwide	Planning and Design	3,770	6,407	3,770	1,573	5,343
Worldwide	Air Force Reserve	Unspecified Worldwide	Unspecified Minor Construction	4,000	4,000	4,000	0	4,000
Worldwide	DODEA	Unspecified Worldwide	Planning and Design	1,096	1,096	1,096	0	1,096
Worldwide	JCS	Unspecified Worldwide	Unspecified Minor Construction	7,543	7,543	7,543	0	7,543
Worldwide	NGA	Unspecified Worldwide	Planning and Design	24,000	24,000	24,000	0	24,000
Worldwide	NSA	Unspecified Worldwide	Planning and Design	3,300	3,300	3,300	0	3,300
Worldwide	OSD	Unspecified Worldwide	Planning and Design	26,110	26,110	26,110	327	26,437
Worldwide	OSD	Unspecified Worldwide	Unspecified Minor Construction	3,000	3,000	3,000	0	3,000
Worldwide	SOCOM	Unspecified Worldwide	Planning and Design	15,575	16,175	15,575	998	16,573
Worldwide	SOCOM	Unspecified Worldwide	Unspecified Minor Construction	2,000	2,000	2,000	0	2,000
Worldwide	TMA	Unspecified Worldwide	Planning and Design	65,000	65,000	65,000	0	65,000
Worldwide	TMA	Unspecified Worldwide	Unspecified Minor Construction	3,193	3,193	3,193	0	3,193
Worldwide	ECIP	Unspecified Worldwide	Energy Conservation Improvement Program	60,000	50,000	60,000	(10,000)	50,000
Worldwide	NATO	Unspecified Worldwide	NATO Security Investment Program	206,858	206,858	206,858	0	206,858
Worldwide	OSD	Unspecified Worldwide	Contingency Construction	10,000	5,000	10,000	(10,000)	0
Worldwide	Army	BRAC, Army	Base Realignment and Closure	93,853	93,853	93,853	14,000	107,853
Worldwide	Navy	BRAC, Navy	Base Realignment and Closure	142,973	142,973	142,973	(142,973)	0
Worldwide	Air Force	BRAC, Air Force	Base Realignment and Closure	134,727	134,727	134,727	5,973	140,700
Worldwide	DLA	BRAC, Defense	Base Realignment and Closure	6,274	6,274	6,274	0	6,274
Worldwide	Base Closure V	Unspecified Worldwide	Base Realignment and Closure	1,880,466	1,570,466	1,504,466	(376,000)	1,504,466
Family Housing								
Alaska	Army	Ft Richardson	Replace Family Housing	49,000	49,000	49,000	0	49,000
Alaska	Army	Ft Wainwright	Replace Family Housing	42,000	42,000	42,000	0	42,000
Alaska	Army	Ft Wainwright	Replace Family Housing	49,000	49,000	49,000	0	49,000
Alaska	Air Force	Eielson AFB	Replace Family Housing	37,650	37,650	37,650	0	37,650
Alaska	Air Force	Eielson AFB	Purchase Build/Lease Housing	18,144	18,144	18,144	0	18,144
Arizona	Army	Ft Huachuca	Replace Family Housing	31,000	31,000	31,000	0	31,000

Military Construction Authorizations for Fiscal Year 2006
(Dollars in Thousands)

Location	Service/Agency/ Program	Installation	Project Title	FY 2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Arizona	Army	Yuma PG	Replace Family Housing	11,200	11,200	11,200	0	11,200
California	Air Force	Edwards AFB	Replace Family Housing	59,699	59,699	59,699	0	59,699
Distr Columbia	Air Force	Bolling AFB	Replace Family Housing	48,711	48,223	0	(48,711)	0
Florida	Air Force	MacDill AFB	Replace Family Housing, Phase 7	40,982	40,982	40,982	0	40,982
Idaho	Air Force	Mountain Home AFB	Replace Family Housing, Phase 7	56,467	56,467	56,467	0	56,467
Missouri	Air Force	Whiteman AFB	Replace Family Housing	26,917	26,917	26,917	0	26,917
Montana	Air Force	Malmstrom AFB	Replace Family Housing	68,971	68,971	68,971	0	68,971
North Carolina	Air Force	Seymour Johnson AFB	Replace Family Housing, Phase 9	48,868	48,868	48,868	0	48,868
North Dakota	Air Force	Grand Forks AFB	Replace Family Housing, Phase J	86,706	86,706	86,706	(43,353)	43,353
North Dakota	Air Force	Minot AFB	Replace Family Housing, Phase 12	44,548	44,548	44,548	0	44,548
Oklahoma	Army	Ft Sill	Replace Family Housing	24,000	24,000	24,000	0	24,000
South Carolina	Air Force	Charleston AFB	Replace Family Housing	15,935	15,935	15,935	0	15,935
South Dakota	Air Force	Ellsworth AFB	Replace Family Housing	14,383	14,383	14,383	0	14,383
Texas	Air Force	Dyess AFB	Replace Family Housing, Phase 6	43,016	43,016	43,016	0	43,016
Virginia	Army	Ft Lee	Replace Family Housing	19,500	19,500	19,500	0	19,500
Virginia	Army	Ft Monroe	Replace Family Housing	6,000	6,000	6,000	0	6,000
Overseas								
Germany	Air Force	Ramstein AB	Replace Family Housing	62,952	62,952	62,952	0	62,952
Germany	Air Force	Spangdahlem AB	Replace Family Housing	45,385	45,385	0	0	45,385
Guam	Navy	NB Guam	Replace North Tipalo, Phase 1	40,298	40,298	43,495	0	40,298
Turkey	Air Force	Incirlik AB	Replace Family Housing	22,730	22,730	22,730	0	22,730
United Kingdom	Air Force	RAF Lakenheath	Replace Family Housing	48,437	48,437	48,437	0	48,437
Unspecified								
Worldwide	Army	Unspecified Worldwide	Construction Improvements	300,400	300,400	300,400	0	300,400
Worldwide	Navy	Unspecified Worldwide	Construction Improvements	178,644	178,644	178,644	0	178,644
Worldwide	Air Force	Unspecified Worldwide	Construction Improvements	420,203	409,103	409,113	(53,857)	366,346
Worldwide	Defense Wide	Unspecified Worldwide	Family Housing Improvement Fund	2,500	2,500	2,500	0	2,500
Family Housing Operations								
Worldwide	Army	Unspecified Worldwide	Furnishings Account	39,465	39,465	39,465	0	39,465
Worldwide	Army	Unspecified Worldwide	Leasing Account	213,990	213,990	213,990	0	213,990
Worldwide	Army	Unspecified Worldwide	Maintenance of Real Property	309,123	300,123	309,123	(9,000)	300,123

Military Construction Authorizations for Fiscal Year 2006
(Dollars in Thousands)

Location	Service/Agency/ Program	Installation	Project Title	FY 2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Worldwide	Army	Unspecified Worldwide	Management Account	68,188	68,188	68,188	0	68,188
Worldwide	Army	Unspecified Worldwide	Miscellaneous Account	1,345	1,345	1,345	0	1,345
Worldwide	Army	Unspecified Worldwide	Planning and Design	17,536	17,536	17,536	0	17,536
Worldwide	Army	Unspecified Worldwide	Privatization Support Costs	20,304	20,304	20,304	0	20,304
Worldwide	Army	Unspecified Worldwide	Services Account	28,718	28,718	28,718	0	28,718
Worldwide	Army	Unspecified Worldwide	Utilities Account	131,860	131,860	131,860	0	131,860
Worldwide	Navy	Unspecified Worldwide	Furnishings Account	20,189	20,189	20,189	0	20,189
Worldwide	Navy	Unspecified Worldwide	Leasing Account	143,790	143,790	143,790	0	143,790
Worldwide	Navy	Unspecified Worldwide	Maintenance of Real Property	186,511	186,511	186,511	0	186,511
Worldwide	Navy	Unspecified Worldwide	Management Account	81,924	76,924	81,924	(5,000)	76,924
Worldwide	Navy	Unspecified Worldwide	Mortgage Insurance Premium	56	56	56	0	56
Worldwide	Navy	Unspecified Worldwide	Privatization Support Costs	17,928	17,928	17,928	0	17,928
Worldwide	Navy	Unspecified Worldwide	Services Account	45,421	45,421	45,421	0	45,421
Worldwide	Navy	Unspecified Worldwide	Utilities Account	97,841	97,841	97,841	0	97,841
Worldwide	Air Force	Unspecified Worldwide	Debt Account	1	1	1	0	1
Worldwide	Air Force	Unspecified Worldwide	Furnishings Account	41,932	41,932	41,932	0	41,932
Worldwide	Air Force	Unspecified Worldwide	Leasing Account	154,907	154,907	154,907	0	154,907
Worldwide	Air Force	Unspecified Worldwide	Maintenance (RMPA & RMPC)	310,479	310,479	310,479	0	310,479
Worldwide	Air Force	Unspecified Worldwide	Management Account	78,090	66,470	78,090	0	78,090
Worldwide	Air Force	Unspecified Worldwide	Miscellaneous Account	2,407	2,407	2,407	0	2,407
Worldwide	Air Force	Unspecified Worldwide	Planning and Design	40,404	37,104	37,104	(3,300)	37,104
Worldwide	Air Force	Unspecified Worldwide	Privatization Support Costs	36,437	36,437	36,437	0	36,437
Worldwide	Air Force	Unspecified Worldwide	Services Account	25,740	25,740	25,740	0	25,740
Worldwide	Air Force	Unspecified Worldwide	Utilities Account	116,946	116,946	116,946	0	116,946
Worldwide	DIA	Unspecified Worldwide	Furnishings Account	4,031	4,031	4,031	0	4,031
Worldwide	DIA	Unspecified Worldwide	Leasing Account	30,130	30,130	30,130	0	30,130
Worldwide	DLA	Unspecified Worldwide	Furnishings Account	40	40	40	0	40
Worldwide	DLA	Unspecified Worldwide	Maintenance of Real Property	404	404	404	0	404
Worldwide	DLA	Unspecified Worldwide	Management Account	299	299	299	0	299
Worldwide	DLA	Unspecified Worldwide	Services Account	80	80	80	0	80

Military Construction Authorizations for Fiscal Year 2006
(Dollars in Thousands)

Location	Service/Agency/ Program	Installation	Project Title	FY 2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Worldwide	DLA	Unspecified Worldwide	Utilities Account	427	427	427	0	427
							0	0
Worldwide	NSA	Unspecified Worldwide	Furnishings Account	25	25	25	0	25
Worldwide	NSA	Unspecified Worldwide	Leasing Account	9,814	9,814	9,814	0	9,814
Worldwide	NSA	Unspecified Worldwide	Maintenance of Real Property	1,134	1,134	1,134	0	1,134
Worldwide	NSA	Unspecified Worldwide	Utilities Account	7	7	7	0	7
			Total Authorization of Appropriations:	**12,051,611**	**12,146,611**	**12,136,885**	**367,858**	**12,419,469**
			Prior Year Rescissions:			(92,354)	(252,858)	(252,858)
			Total After Rescissions:	**12,051,611**	**12,146,611**	**12,044,531**		**12,166,611**

& - F-15E Flight Simulator Facility at Elmendorf AFB, AK was replaced by Rotary Wing Landing Pad at Ft Wainwright, AK during Senate floor consideration of S. 1042

^ - Authorization for a Civil Engineering Administration Facility at Los Angeles AFB, CA was removed during Senate floor consideration of S. 1042

@ - Authorization for an Army Aviation Support Facility at New Castle, DE was removed during Senate floor consideration of S. 1042

- Modified Record Fire Range Project at Ft Gillem, GA was replaced by Military Police Complex at Ft Gordon, GA during Senate floor consideration of S. 1042

% - Upgrade Force Protection, Relocate Road Project at Yeager Airport, WV was replaced by Readiness Center Project at Camp Dawson,WV and C-5 Shop Upgrades at Martinburg ANG, WV during Senate floor consideration of S.1042

* - Vehicle Maintenance Facility at Ft Knox, KY was replaced by Dining Facility at Ft Knox, KY during Senate floor consideration of S. 1042

Short title (sec. 2001)

The House bill contained a provision (sec. 2001) that would cite Division B of this Act as the Military Construction Authorization Act for Fiscal Year 2006.

The Senate amendment contained an identical provision (sec. 2001).

The conference agreement includes this provision.

TITLE XXI—ARMY

Overview

The House bill would authorize appropriations for the Army of $1,601.8 million for military construction and $1,353.6 million for family housing for fiscal year 2006.

The Senate amendment would authorize appropriations for the Army of $1,605.9 million for military construction and $1,362.6 million for family housing for fiscal year 2006.

The conferees agree to authorize appropriations for the Army of $1,775.3 million for military construction and $1,353.6 million for family housing for fiscal year 2006.

The conferees agree to a request by the Department of the Army to amend the scope of a project submitted in the budget request for fiscal years 2005 and 2006 to construct a barracks facility at Fort Knox, Kentucky. This change is included in the table at the beginning of Division B of this conference report entitled "Military Construction Authorization for Fiscal Year 2006".

The conferees also agree to a request by the Department of the Army to amend the scope of a project authorized for appropriation in the Military Construction Authorization Act for Fiscal Year 2005 (Public Law 108-375) for a general instruction facility at Fort Bliss, Texas.

ITEMS OF SPECIAL INTEREST

Army use of alternate authorities to acquire unaccompanied housing

The conferees note that the Department of the Army is carrying out programs to transform its force structure and global presence within the next five years. This transformation will result in the permanent relocation among Army installations of over 100,000 unaccompanied soldiers. The Department of the Army is currently in the process of developing an investment strategy to fund the construction of permanent facilities to support these transformation initiatives.

The conferees also note that Congress has granted authority to the Department of the Army to enter into agreements with eligible entities to provide for the acquisition or construction of military unaccompanied housing units on or near military installations. Similar authorities have been used to dramatically improve the quality of family housing for the nation's military personnel.

The conferees encourage the Secretary of the Army to consider the use of alternate authorities for the construction of unaccompanied housing in the development of plans for permanent facilities at installations planned for substantial increases in the number of unaccompanied personnel.

LEGISLATIVE PROVISIONS ADOPTED

Authorized Army construction and land acquisition project (sec. 2101)

The House bill contained a provision (sec. 2101) that would authorize Army military construction projects in fiscal year 2006.

The Senate amendment contained a similar provision (sec. 2101).

The conference agreement includes this provision.

The amounts authorized are listed in this provision on an installation-by-installation basis. A State list of projects contained in the table at the beginning of Division B of this conference report entitled "Military Construction Authorization for Fiscal Year 2006" provides the binding list of specific construction projects authorized at each location.

Family housing (sec. 2102)

The House bill contained a provision (sec. 2102) that would authorize new construction and planning and design of family housing units for the Army in fiscal year 2006.

The Senate amendment contained a similar provision (sec. 2102). The conference agreement includes this provision.

The amounts authorized are listed in this provision on an installation-by-installation basis. A State list of projects contained in the table at the beginning of Division B of this conference report entitled "Military Construction Authorization for Fiscal Year 2006" provides the binding list of specific construction projects authorized at each location.

Improvements to military family housing units (sec. 2103)

The House bill contained a provision (sec. 2103) that would authorize improvements to existing units of Army family housing in fiscal year 2006.

The Senate amendment contained an identical provision (sec. 2103).

The conference agreement includes this provision.

Authorization of appropriations, Army (sec. 2104)

The House bill contained a provision (sec. 2104) that would authorize specific appropriations for each line item contained in the Army's military construction budget in fiscal year 2006. This provision would also provide an overall limit on the amount the Army is authorized to spend on military construction projects in fiscal year 2006.

The Senate amendment contained a similar provision (sec. 2104).

The conference agreement includes this provision.

Modification of authority to carry out certain fiscal year 2004 projects (sec. 2105)

The House bill contained a provision (sec. 2105) that would amend the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108-136) to reduce the authorization level for construction at Vilseck, Germany to a level conforming to the requirement for appropriations.

The Senate amendment contained no similar provision.

The Senate recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Construction of battalion dining facilities, Fort Knox, Kentucky

The Senate amendment contained a provision (sec. 2105) that would authorize the Secretary of the Army to carry out a project to construct a battalion dining facility at Fort Knox, Kentucky at a cost of $4.6 million. As an offset, the provision would reduce the authorization of appropriations for the Army by $3.6 million by rescinding the authorization contained in the Senate report accompanying S. 1042 (S. Rept. 109-69) of the National Defense Authorization Act for Fiscal Year 2006 to carry out a project to upgrade Ground Mobility Division Vehicle Maintenance Facility at Fort Knox, Kentucky at a cost of $8.2 million.

The House bill contained no similar provision.

The Senate recedes with a conference agreement that includes the project to construct a battalion dining facility at Fort Knox, Kentucky in the State list of projects contained in the table at the beginning of Division B of this conference report entitled "Military Construction Authorization for Fiscal Year 2006."

TITLE XXII—NAVY

Overview

The House bill would authorize appropriations for the Navy of $1,109.2 million for military construction and $807.6 million for family housing for fiscal year 2006.

The Senate amendment would authorize appropriations for the Navy of $1,101.3 million for military construction and $815.8 million for family housing for fiscal year 2006.

The conferees agree to authorize appropriations for the Navy of $1,157.1 million for military construction and $807.6 million for family housing for fiscal year 2006.

The conferees agree to a request by the Department of the Navy to apply the authorization of appropriations totaling $8.7 million provided for a project to recapitalize the water treatment facility at Naval Air Station Pensacola, Florida towards an alternate agreement to obtain wastewater treatment services.

LEGISLATIVE PROVISIONS ADOPTED

Authorized Navy construction and land acquisition projects (sec. 2201)

The House bill contained a provision (sec. 2201) that would authorize Navy military construction projects in fiscal year 2006.

The Senate amendment contained a similar provision (sec. 2201).

The conference agreement includes this provision.

The amounts authorized are listed in this provision on an installation-by-installation basis. A State list of projects contained in the table at the beginning of Division B of this conference report entitled "Military Construction Authorization for Fiscal Year 2006" provides the binding list of specific construction projects authorized at each location.

Family housing (sec. 2202)

The House bill contained a provision (sec. 2202) that would authorize new construction and planning and design of family housing units for the Navy in fiscal year 2006.

The Senate amendment contained a similar provision (sec. 2202).

The conference agreement includes this provision.

The amounts authorized are listed in this provision on an installation-by-installation basis. A State list of projects contained in the table at the beginning of Division B of this conference report entitled "Military Construction Authorizations for Fiscal Year 2006" provides the binding list of specific construction projects authorized at each location.

Improvements to military family housing units (sec. 2203)

The House bill contained a provision (sec. 2203) that would authorize improvements to existing units of Navy family housing in fiscal year 2006.

The Senate amendment contained an identical provision (sec. 2203).

The conference agreement includes this provision.

Authorization of appropriations, Navy (sec. 2204)

The House bill contained a provision (sec. 2204) that would authorize specific appropriations for each line item contained in the Navy's military construction budget in fiscal year 2006. This provision would also provide an overall limit on the amount the Navy is authorized to spend on military construction projects in fiscal year 2006.

The Senate amendment contained a similar provision (sec. 2204).

The conference agreement includes this provision.

Modification of authority to carry out certain fiscal year 2004 project (sec. 2205)

The House bill contained a provision (sec. 2205) that would amend the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136) to increase the authorization level for a pier at Naval Weapons Station, Earle, New Jersey.

The Senate amendment contained an identical provision (sec. 2206).

The conference agreement includes this provision.

Modifications of authority to carry out certain fiscal year 2005 projects (sec. 2206)

The House bill contained a provision (sec. 2206) that would amend the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375) to provide full authorization of a naval laboratory consolidation project at Strategic Weapons Facility Pacific, Bangor, Washington. The provision would also increase the level authorized for a presidential helicopter program support facility at Marine Corps Air Field, Quantico, Virginia.

The Senate amendment contained a provision (sec. 2205) that would amend section 2201 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375) to increase project authorizations at an unspecified worldwide location and at Quantico, Virginia.

The Senate recedes with a technical amendment.

TITLE XXIII—AIR FORCE

Overview

The House bill would authorize appropriations for the Air Force of $1,175.2 million for military construction and $1,991.5 million for family housing for fiscal year 2006.

The Senate amendment would authorize appropriations for the Air Force of $1,198.3 million for military construction and $1,909.6 million for family housing for fiscal year 2006.

The conferees agree to authorize appropriations for the Air Force of $1,288.5 million for military construction and $1,868.8 million for family housing for fiscal year 2006.

LEGISLATIVE PROVISIONS ADOPTED

Authorized Air Force construction and land acquisition projects (sec. 2301)

The House bill contained a provision (sec. 2301) that would authorize Air Force military construction projects in fiscal year 2006.

The Senate amendment contained a similar provision (sec. 2301).

The conference agreement includes this provision.

The amounts authorized are listed in this provision on an installation-by-installation basis. A State list of projects contained in the table at the beginning of Division B of this conference report entitled "Military Construction Authorization for Fiscal Year 2006" provides the binding list of specific construction projects authorized at each location.

Family housing (sec. 2302)

The House bill contained a provision (sec. 2302) that would authorize new construction and planning and design of family housing units for the Air Force in fiscal year 2006.

The Senate amendment contained a similar provision (sec. 2302).

The conference agreement includes this provision.

The amounts authorized are listed in this provision on an installation-by-installation basis. A State list of projects contained in the table at the beginning of Division B of this conference report entitled "Military Construction Authorization for Fiscal Year 2006" provides the binding list of specific construction projects authorized at each location.

Improvements to military family housing units (sec. 2303)

The House bill contained a provision (sec. 2303) that would authorize improvements to existing units of Air Force family housing in fiscal year 2006.

The Senate amendment contained an identical provision (sec. 2303).

The conference agreement includes a similar provision.

Authorization of appropriations, Air Force (sec. 2304)

The House bill contained a provision (sec. 2304) that would authorize specific appropriations for each line item contained in the Air Force's military construction budget in fiscal year 2006. This provision would also provide an overall limit on the amount the Air Force is authorized to spend on military construction projects in fiscal year 2006.

The Senate amendment contained a similar provision (sec. 2304).

The conference agreement includes this provision.

TITLE XXIV—DEFENSE AGENCIES

Overview

The House bill would authorize appropriations for the defense agencies of $976.7 million for military construction and $48.9 million for family housing for fiscal year 2006. In addition, the House bill would authorize appropriations of $377.8 million for prior Base Realignment and Closure (BRAC) round activities and $1,570.5 million for the 2005 BRAC round activities for fiscal year 2006.

The Senate amendment would authorize appropriations for the defense agencies of $1,042.7 million for military construction and $48.9 million for family housing for fiscal year 2006. In addition, the Senate amendment would authorize appropriations of $377.8 million for prior BRAC round activities and $1,504.5 million for 2005 BRAC round activities for fiscal year 2006.

The conferees agree to authorize appropriations for the defense agencies of $1,008.9 million for military construction, $48.9 million for family housing, and $1,504.5 million for 2005 BRAC round activities for fiscal year 2006. In addition, the conferees authorize appropriations of $254.8 million for prior BRAC round activities, taking into account a greater amount of proceeds received by the Department of the Navy for land disposals compared to the amounts forecasted in the budget request for fiscal year 2006.

The conferees note that of the amount authorized to the National Security Agency (NSA) for Kunia, Hawaii in section 2401(a) of this Act, $98.7 million has been set aside for this requirement from prior year appropriations outside the military construction account, which is included in the amount specified in section 2403(b)(3) of this Act. The conferees agree to authorize the total requirement, and direct the Secretary of Defense to submit to the congressional defense committees a plan for the funding for this requirement within the justification documents accompanying the annual budget request for fiscal year 2007. The conferees direct the NSA to adhere to standard Department of Defense procedures for budgeting military construction projects in future budget requests.

The conference agreement includes authorization of certain requirements at a cost that will result in complete and useable facilities, while providing authorization of appropriations incrementally over more than one fiscal year. The conferees note that incremental funding of projects is acceptable when the total estimated cost of a military construction or family housing project exceeds $50.0 million.

LEGISLATIVE PROVISIONS ADOPTED

Authorized Defense Agencies construction and land acquisition projects (sec. 2401)

The House bill contained a provision (sec. 2401) that would authorize defense agencies military construction projects in fiscal year 2006.

The Senate amendment contained a similar provision (sec. 2401).

The conference agreement includes this provision.

The amounts authorized are listed in this provision on an installation-by-installation basis. A State list of projects contained in the table at the beginning of Division B of this conference report entitled "Military Construction Authorization for Fiscal Year 2006" provides the binding list of specific construction projects authorized at each location.

Energy conservation projects (sec. 2402)

The House bill contained a provision (sec. 2402) that would authorize the Secretary of Defense to carry out energy conservation projects.

The Senate amendment contained a similar provision (sec. 2402).

The Senate recedes.

Authorization of appropriations, Defense Agencies (sec. 2403)

The House bill contained a provision (sec. 2403) that would authorize specific appropriations for each line item contained in the defense agencies' military construction budget in fiscal year 2006. This provision would also provide an overall limit on the amount the defense agencies are authorized to spend on military construction projects in fiscal year 2006.

The Senate amendment contained a similar provision (sec. 2403).

The conference agreement includes this provision.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

Overview

The House bill and Senate amendment would each authorize appropriations of $206.9 million for the North Atlantic Treaty Organization (NATO) Security Investment program for fiscal year 2006.

The conferees agree to authorize appropriations of $206.9 million for the NATO Security Investment program for fiscal year 2006.

LEGISLATIVE PROVISIONS ADOPTED

Authorized NATO construction and land acquisition projects (sec. 2501)

The House bill contained a provision (sec. 2501) that would authorize the Secretary of Defense to make contributions to the North Atlantic Treaty Organization Security Investment program in an amount equal to the sum of the amount specifically authorized elsewhere in this conference report, and the amount of recoupment due to the United States for construction previously financed by the United States.

The Senate amendment contained an identical provision (sec. 2501).

The conference agreement includes this provision.

Authorization of appropriations, NATO (sec. 2502)

The House bill contained a provision (sec. 2502) that would authorize appropriations of $206.9 million for the U.S. contribution to the North Atlantic Treaty Organization Security Investment program.

The Senate amendment contained an identical provision (sec. 2502).

The conference agreement includes this provision.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Overview

The House bill would authorize appropriations of $930.8 million for military construction and land acquisition for fiscal year 2006 for the Guard and Reserve components.

The Senate amendment would authorize appropriations of $961.2 million for military construction and land acquisition for fiscal year 2006 for the Guard and Reserve components.

The conferees agree to authorize appropriations of $1,144.6 million for military construction and land acquisition for fiscal year 2006 for the Guard and Reserve components. This authorization would be distributed as follows:

Reserve Component	*$ (millions)*
Army National Guard	523.2
Air National Guard	316.1
Army Reserve	152.6
Naval and Marine Corps Reserve	46.9
Air Force Reserve	105.9
Total	1,144.7

Legislative Provisions Adopted

Authorized Guard and Reserve construction and land acquisition projects (sec. 2601)

The House bill contained a provision (sec. 2601) that would authorize appropriations for military construction for the Guard and reserve components in fiscal year 2006.

The Senate amendment contained a similar provision (sec. 2601).

The conference agreement includes this provision.

A State list of projects contained in the table at the beginning of Division B of this conference report entitled "Military Construction Authorization for Fiscal Year 2006" provides the binding list of specific construction projects authorized at each location.

Legislative Provisions Not Adopted

Construction of facilities, New Castle County Airport Air Guard Base, Delaware

The Senate amendment contained a provision (sec. 2603) that would authorize certain amounts appropriated for the Department of the Air Force for the Air National Guard in section 2601(3)(A) of this Act to be available for the construction of a security forces facility and a medical training facility at New Castle County Airport Air Guard Base, Delaware.

The House bill contained no similar provision.

The Senate recedes with a conference agreement that includes the projects to construct a security forces facility and a medical training facility at New Castle County Airport Air Guard Base, Delaware, in the State list of projects contained in the table at the beginning of Division B of this conference report entitled "Military Construction Authorization for Fiscal Year 2006".

Construction of maintenance hangar, New Castle County Airport Air Guard Base, Delaware

The Senate amendment contained a provision (sec. 2604) that would increase by $1.4 million the amount authorized to be appropriated for the Department of the Air Force for the Air National Guard in section 2601(3)(A) of this Act to be available to carry out the planning and design of a project to replace a C–130 aircraft maintenance hangar at Air National Guard New Castle County Airport, Delaware. The provision would also provide for an offset of the same amount.

The House bill contained no similar provision.

The Senate recedes with a conference agreement that includes funds to carry out the planning and design of a project to replace a C–130 aircraft maintenance hangar at Air National Guard New Castle County Airport, Delaware in the State list of projects contained in the table at the beginning of Division B of this conference report entitled "Military Construction Authorization for Fiscal Year 2006".

National Guard construction projects

The Senate amendment contained a provision (sec. 2605) that would increase by $4.5 million the amount authorized to be appropriated for the Department of the Army for the Army National Guard in section 2601(3)(A) of this Act to be available to carry out the construction of a readiness center at Camp Dawson, West Virginia. As an offset, this provision would decrease by $4.5 million the amount authorized to be appropriated by section 2601(3)(A) for the Department of the Air Force for the Air National Guard of the United States. The provision would also rescind from the Secretary of the Air Force project authorization of $6.5 million to construct a bridge/gate house/force protection entry project at Camp Yeager, West Virginia, and would authorize instead C–5 aircraft shop upgrades at Eastern West Virginia Regional Airport, Shepherd Field, Martinsburg, West Virginia at a cost of $2.0 million.

The House bill contained no similar provision.

The Senate recedes with a conference agreement that includes the projects to construct a readiness center at Camp Dawson, West Virginia, and C–5 aircraft shop upgrades at Eastern West Virginia Regional Airport, Shepherd Field, Martinsburg, West Virginia, in the State list of projects contained in the table at the beginning of Division B of this conference report entitled "Military Construction Authorization for Fiscal Year 2006".

Specific authorized Army National Guard construction projects

The Senate amendment contained a provision (sec. 2602) that would authorize certain amounts appropriated for the Department of the Army for the Army National Guard in section 2601(3)(A) of this Act to be available for the construction of an urban combat course at Camp Roberts, California and a field maintenance shop at Fort Dodge, Iowa.

The House bill contained no similar provision.

The Senate recedes with a conference agreement that includes the projects to construct an urban combat course at Camp Roberts, California and a field maintenance shop at Fort Dodge, Iowa, in the State list of projects contained in the table at the beginning of Division B of this conference report entitled "Military Construction Authorization for Fiscal Year 2006".

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

Legislative Provisions Adopted

Expiration of authorizations and amounts required to be specified by law (sec. 2701)

The House bill contained a provision (sec. 2701) that would provide that authorizations for military construction projects, repair of real property, land acquisition, family housing projects and facilities, contributions to the North Atlantic Treaty Organization Security Investment program, and National Guard and reserve projects will expire on October 1, 2008, or the date of enactment of an act authorizing funds for military construction for fiscal year 2009, whichever is later. This requirement would not apply to funds obligated prior to the expiration date.

The Senate amendment contained an identical provision (sec. 2701).

The conference agreement includes this provision.

Extension of authorizations of certain fiscal year 2003 projects (sec. 2702)

The House bill contained a provision (sec. 2702) that would provide for the extension of authorizations of certain fiscal year 2003 military construction project until October 1, 2006, or the date of enactment of an act authorizing funds for military construction for fiscal year 2007, whichever is later.

The Senate amendment contained a similar provision (sec. 2702).

The conference agreement includes this provision.

Extension of authorizations of certain fiscal year 2002 projects (sec. 2703)

The House bill contained a provision (sec. 2703) that would provide for the extension of authorizations of certain fiscal year 2002 military construction projects until October 1, 2006, or the date of enactment of an act authorizing funds for military construction for fiscal year 2007, whichever is later.

The Senate amendment contained a similar provision (sec. 2703).

The conference agreement includes this provision.

Legislative Provisions Not Adopted

Effective date

The House bill contained a provision (sec. 2704) that would provide that titles XXI, XXII, XXIII, XXIV, XXV, and XXVI of this Act shall take effect on October 1, 2005, or the date of enactment of this Act, whichever is later.

The Senate amendment contained an identical provision (sec. 2704).

Because the conference report was not adopted prior to October 1, 2005, this provision is no longer required and was not included in the conference agreement.

TITLE XXVIII—GENERAL PROVISIONS

Items of Special Interest

Joint urban operations training facilities

The conferees note that on November 10, 2005, the Under Secretary of Defense for Personnel and Readiness (OUSD (P&R)) submitted the report requested by the Senate Committee on Armed Services three years ago on Department of Defense requirements for military operations in urban terrain (MOUT) training facilities.

The Department reported that it had established a Joint Urban Training Working Group under Joint Forces Command to identify requirements and a Joint Urban Operations Training Review Group to prioritize budget requests for Joint Urban Operations facilities and capabilities.

The conferees commend the Department for establishing these new joint policy groups. However, the conferees are concerned that it has taken three years to do so and agree with the Department's report that "much more needs to be done." The conferees are disappointed that, despite the efforts of the Department to date, the Department has yet to establish a strategy for urban operations training, a requirements baseline, or to prioritize MOUT projects and capabilities across the Department in its budget requests.

The conferees further note that on December 8, 2005, the Government Accountability Office (GAO) released its assessment of this effort and stated that "Since 2002, the Department has made limited progress in developing an overall joint strategy for urban operations training and related facility and training requirements". The GAO review found that the Department still lacks an agreed strategy, and facility and training requirements for joint urban operations training, and that there are few opportunities today for truly joint training under joint headquarters, despite longstanding Department policy that forces train as they fight.

The conferees urge the Department, in particular (OUSD (P&R)) and Joint Forces Command, to develop as soon as possible a joint training strategy for urban operations that will allow the total force to make the best possible use of existing and planned MOUT facilities to improve joint and interagency capabilities in this critical area; to develop a requirements baseline for MOUT facilities based on that strategy; and to assess and prioritize the MOUT projects requested by the services or Special Operations Command in the fiscal year 2007 budget, and in future budget requests, against this baseline, in order to eliminate unnecessary duplication of facilities.

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Military Construction Program and Military Family Housing Changes

Modification of congressional notification requirements for certain military construction activities (sec. 2801)

The House bill contained a provision (sec. 2801) that would reduce by 7 days the wait periods for electronic notifications to Congress for certain acquisitions in lieu of construction and contingency construction projects.

The Senate amendment contained no similar provision.

The Senate recedes.

Increase in number of family housing units in Korea authorized for lease by the Army at maximum amount (sec. 2802)

The Senate amendment contained a provision (sec. 2807) that would increase from 2,400 to 2,800 the number of family housing units the Secretary of the Army may lease in Korea using the authority in section 2828 (e)(4) of title 10, United States Code.

The House bill contained no similar provision.

The House recedes.

Improvement in availability and timeliness of Department of Defense information regarding military construction and family housing accounts and activities (sec. 2803)

The House bill contained a provision (sec. 2802) that would require the Secretary of Defense to establish and make available to Congress an Internet-based system containing regularly updated information on the status of all defense agency and service military construction and family housing projects as well as operations, maintenance, and other support accounts authorized by the annual Military Construction Authorization Act.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

The conferees intend for this provision to facilitate the business transformation and financial management reform initiatives established by the Department of Defense to improve the transparency and real-time access to the Department's cost accounting and contract management information using state-of-the-art technology and web-based software programs. The conferees expect that increased oversight of construction contract information will result in a greater degree of diligence in the management of contract cost growth and a more efficient use of taxpayer dollars. The conferees encourage the Secretary to make the information required by this provision available on the Department's website.

Modification of cost variation authority (sec. 2804)

The Senate amendment contained a provision (sec. 2802) that would amend section 2853 of title 10, United States Code, to clarify that the cost of a military construction project or a project for the construction, improvement, or acquisition of a military family housing cannot be decreased or increased by more than 25 percent.

The House bill contained no similar provision.

The House recedes.

Inapplicability to child development centers of restriction on authority to acquire or construct ancillary supporting facilities (sec. 2805)

The Senate amendment contained a provision (sec. 2805) that would amend section 2881(b) of title 10, United States Code, to exempt child development centers from the restriction for ancillary facilities authorized to be constructed using the alternative authority for acquisition and improvements of military housing provided in subchapter IV of chapter 169, title 10, United States Code.

The House bill contained no similar provision.

The House recedes with a clarifying amendment that would prohibit a service secretary from entering into an agreement under the alternative authority for acquisition and improvements of military housing with a private entity to operate child development centers in competition with Department of Defense activities at the installation.

Department of Defense housing funds (sec. 2806)

The Senate amendment contained a provision (sec. 2803) that would amend section 2883 of title 10, United States Code, to require the Secretary of Defense to fund certain acquisitions and improvements of military housing solely through accounts established for that purpose.

The House bill contained no similar provision.

The House recedes.

Use of design-build selection procedures to accelerate design effort in connection with military construction projects (sec. 2807)

The conferees agree to a provision that would amend section 2305a(f) of title 10, United States Code, to clarify the conditions required for the Secretary of a military service to terminate a contract issued under this authority for the convenience of the government. The provision would also extend by one year the termination date for the temporary authority.

Acquisition of associated utilities, equipment, and furnishings in reserve component facility exchange (sec. 2808)

The Senate amendment contained a provision (sec. 2806) that would amend section 18240 of title 10, United States Code, to amend the definition of "facility" in section 18240 to include utilities, equipment, and furnishings required to be installed in a facility.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

One-year extension of temporary, limited authority to use operation and maintenance funds for construction projects outside the United States (sec. 2809)

The House bill contained a provision (sec. 2805) that would extend the authority provided by section 2808 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136) for 1 year and amend the reporting requirement for the authority.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would decrease the annual limitation on the use of this temporary authority to $100.0 million.

Temporary program to use minor military construction authority for construction of child development centers (sec. 2810)

The Senate amendment contained a provision (sec. 2804) that would direct the Secretary of Defense to carry out a temporary program for the construction of child development centers operated by the Department of Defense. This provision would increase thresholds in section 2805(a)(1) of title 10, United States Code, to facilitate the construction of child development centers.

The House bill contained no similar provision.

The House recedes with a technical amendment.

General and flag officers quarters in the National Capital Region (sec. 2811)

The House bill contained a provision (sec. 2804) that would prohibit the use of fiscal year 2006 funds for the operation, maintenance, or repair of housing units for general and flag officers in the National Capital Region until receipt of a report on the need for general and flag officer(GFO) housing in the National Capital Region (NCR).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would direct the secretary of each military service to submit a report by March 16, 2006, on the inventory and management of GFO housing in the NCR.

The conferees note that the report submitted by the Secretary of Defense to Congress on June 3, 2005, in response to section 2802 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) did not satisfy the intent of the conferees. The conferees intend for the secretary of each military department to submit a report containing an analytical assessment of requirements for general and flag officer housing in the National Capital Region, including unique force protection concerns, the potential to rely on the local commercial real estate market, and possible alternate methods for the acquisition, operations, and maintenance of GFO houses. These assessments should not rely upon the presumption that the existing inventory of government-owned housing units must be retained. The conferees expect that the reports will provide a basis for further deliberations to address GFO housing requirements over the long-term, while reducing costs associated with these units.

Subtitle B—Real Property and Facilities Administration

Consolidation of Department of Defense land acquisition authorities and limitations on use of such authorities (sec. 2821)

The House bill contained a provision (sec. 2811) that would consolidate provisions of chapter 159 of title 10, United States Code, which govern the acquisition of land by the Department of Defense, and make several technical corrections.

The Senate amendment contained a similar provision (sec. 2881)

The Senate recedes with a technical amendment.

Modification of authorities on agreements to limit encroachments and other constraints on military training, testing, and operations (sec. 2822)

The Senate amendment contained a provision (sec. 2822) that would modify section 2684a of title 10, United States Code, to clarify that agreements to limit encroachments and other constraints on military training, testing, and operations authorized under that section may include real property that is in the vicinity of, or ecologically related to, a military installation or the airspace of such installation. The provision would require that agreements authorized under that section between the Secretary of Defense, or the service secretaries, and eligible third party entities provide for equal sharing of the acquisition costs of the real property and real property interests between the Department of Defense and the partner entities. The Senate provision would allow the Secretary concerned to waive the requirement for equal sharing of the acquisition costs if the Secretary concerned determined that the agreement is essential to accomplish the mission of the installation and the Secretary concerned provided 21-days advance notice to Congress. The Senate provision would provide that the acquisition cost of any lesser interest in real property would not exceed 70 percent of the appraised value of the property. The Senate provision would also include an annual reporting requirement on implementation of projects undertaken pursuant to this authority.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary concerned to determine the appropriate portion of the acquisition costs to be borne by the United States. The conference amendment would also provide that the acquisition costs borne by the United States would not exceed the fair market value of the property interest that could be transferred to the United States upon the request of the Secretary concerned under the statute. The conference amendment would specify that the contribution of third-party entities to the acquisition costs would include, with the approval of the Secretary concerned, any combination of the following: the provision of funds (including funds received by such entity or entities from a federal, state, or local agency outside the Department in connection with a federal, state, or local program); the provision of in-kind services (including services related to the acquisition or maintenance of such real property or interest in real property); or the exchange or donation of real property or any interest in real property. The amendment would also require a report not later than March 1, 2007, and annually thereafter, on the projects undertaken pursuant to this authority.

Modification of utility system conveyance authority and related reporting requirements (sec. 2823)

The House bill contained a provision (sec. 2812) that would suspend the use of current authorities related to the privatization of utility systems until enactment of the National Defense Authorization Act for Fiscal Year 2007, or one year after receipt of a report on the program, whichever is later. The provision would require the Secretary of Defense to submit a report to Congress by March 15, 2006, on the Department of Defense's (DOD) methodology for conducting economic analyses of potential utility system conveyances and other matters.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary concerned to submit to Congress an economic analysis which demonstrates the economic benefit of the conveyance to the government, before entering into a contract for the conveyance of all or part of a utility system. The amendment would amend section 2688(c)(1) of Title 10, United States Code, to change the requirement for the Secretary concerned to receive fair market value for conveyed utility systems. The amendment would also limit the contract term for a contract to convey utility systems to 10 years, and would provide authorization for the Secretary concerned to exceed 10 years, but not to exceed 50 years, if the Secretary concerned determined the longer term to be cost effective as demonstrated in the economic analysis. The amendment would also limit in fiscal years 2006 and 2007 the number of contracts to be entered into under Section 2688 of Title 10, United States Code. The amendment would also amend reporting requirements contained in the provision in the House bill and would add a requirement for the Government Accountability Office to submit to the congressional defense committees by August 1, 2006 a report evaluating the changes made by the Department of Defense in the management of the utilities privatization program.

Report on application of force protection and anti-terrorism standards to leased facilities (sec. 2824)

The Senate amendment contained a provision (sec. 2882) that would require the Secretary of Defense to submit a report to the congressional defense committees no later than May 1, 2006, on the application of Department of Defense anti-terrorism/force protection standards to all facilities leased by the Department, or leased by the General Services Administration on the Department's behalf, that house more than 11 personnel in service to, or employed by the Department.

The House bill contained no similar provision.

The House recedes with an amendment that would change the date that the Secretary is required to submit the report to the congressional defense committees to September 30, 2006.

Report on use of ground source heat pumps at Department of Defense facilities (sec. 2825)

The Senate amendment contained a provision (sec. 2887) that would require the Secretary of Defense to conduct a study on the feasibility of the use of ground source heat pumps in current and future Department of Defense facilities.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

SUBTITLE C-BASE CLOSURE AND REALIGNMENT

Additional reporting requirements regarding base closure process and use of Department of Defense base closure accounts (sec. 2831)

The House bill contained a provision (sec. 2821) that would amend reporting requirements contained in the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510) to require additional information relating to base realignment and closure properties and proposed budgets as part of the annual budget justification documents.

The Senate amendment contained no similar provision.

The Senate recedes.

Expanded availability of adjustment and diversification assistance for communities adversely affected by mission realignments in base closure process (sec. 2832)

The House bill contained a provision (sec. 2823) that would amend section 2391 of title 10, United States Code, to eliminate limits on the Secretary of Defense's authority to aid communities adversely affected by base realignments and closures and other defense program changes.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Treatment of Indian Tribal Governments as public entities for purposes of disposal of real property recommended for closure in July 1993 BRAC Commission Report (sec. 2833)

The Senate amendment contained a provision (sec. 2888) that would amend section 8013 of the Department of Defense Appropriations Act, 1994 (Public Law 103-139) to provide that the governments of Indian tribes be treated as State and local governments for purposes of the disposition of real property recommended for closure in the report to the President from the 1993 Defense Base Closure and Realignment Commission.

The House bill contained no similar provision.

The House recedes.

Termination of project authorizations for military installations approved for closure in 2005 round of base realignments and closures (sec. 2834)

The House bill contained a provision (sec. 2822) that would cancel authority for any military construction project, land acquisition, or family housing project authorized in this or any prior military construction authorization act at a facility approved for closure in the 2005 Base Realignment and Closure round.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would add certain exceptions to the cancellation of authority, and require the Secretary of Defense to notify the congressional defense committees of a decision to carry out a project as an exception.

Required consultation with State and local entities on issues related to increase in number of military personnel at military installations (sec. 2835)

The Senate amendment contained a provision (sec. 2891) that would require the Secretary of Defense to consult with appropriate

State and local entities on matters affecting the local community related to transportation, utility infrastructure, housing, schools, and family support activities during the development of plans to implement a closure or realignment decisions, which would result in the addition of personnel to the installation.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Sense of Congress regarding infrastructure and installation requirements for transfer of units and personnel from closed and realigned military installations to receiving locations (sec. 2836)

The Senate amendment contained a provision (sec. 2894) that would express the sense of Congress that the Secretary of Defense should not transfer any unit from an installation impacted by a closure or realignment decision until adequate facilities and infrastructure necessary to support the unit's mission and quality of life requirements for military families are ready for use at the receiving location.

The House bill contained no similar provision.

The House recedes with an amendment that would clarify the findings to reflect the conference agreement.

Defense access road program and military installations affected by Defense Base Closure and Realignment process or Integrated Global Presence and Basing Strategy (sec. 2837)

The conferees agree to a provision that would express the sense of Congress that roads leading onto military installations that are significantly impacted by an increase in defense personnel as result of certain force structure realignments should be considered for designation under the Defense Access Road Program under section 210 of title 23, United States Code. The provision would also require the Secretary of Defense to conduct a study to identify each installation significantly impacted by an increase in personnel, and to determine whether the existing surface transportation infrastructure at each installation is adequate to support the increased vehicular traffic associated with the increase in defense personnel. The provision would also require the Secretary of Defense to submit to the congressional defense committees by April 15, 2007 a report on the study required by this provision.

Sense of Congress on reversionary interests involving real property at Navy homeports (sec. 2838)

The Senate amendment contained a provision (sec. 2892) that would express the sense of the Senate that for Navy homeports closed under the 2005 Defense Base Closure and Realignment round, the Secretary of the Navy should, consistent with the national interest and federal policy supporting cost-free conveyances of federal surplus property suitable for use as port facilities, release or otherwise relinquish any entitlement to receive compensation from any holder of a reversionary interest in real property used by the United States for improvements made to any military installation.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Subtitle D—Land Conveyances

PART I—ARMY CONVEYANCES

Land conveyance, Camp Navajo, Arizona (sec. 2841)

The conferees agree to a provision that would authorize the Secretary of the Army to convey, without consideration, to the Department of Veterans Affairs of the State of Arizona a parcel of property consisting of approximately 80 acres at Camp Navajo, Arizona for the purpose of permitting the Department of Veterans Affairs to establish a State-run cemetery for veterans.

Land conveyance, Iowa Army Ammunition Plant, Middletown, Iowa (sec. 2842)

The Senate amendment contained a provision (sec. 2843) that would authorize the Secretary of the Army to convey, for consideration, to the City of Middletown, Iowa a parcel of real property consisting of approximately 1 acre located at the Iowa Army Ammunition Plant for the purpose of economic development.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Land conveyance, Helena, Montana (sec. 2843)

The Senate amendment contained a provision (sec. 2841) that would authorize the Secretary of the Army to convey by quitclaim deed to the Helena Indian Alliance a parcel of property consisting of approximately 3 acres located at the Sheridan Hall Army Reserve Center, Helena, Montana for the purpose of supporting Native American health care, mental health counseling, and the operation of an educational training center.

The House bill contained no similar provision.

The House recedes with an amendment that would rescind the requirement for the Secretary to convey the property by quitclaim deed.

Lease authority, Army Heritage and Education Center, Carlisle, Pennsylvania (sec. 2844)

The House bill contained a provision (sec. 2861) that would authorize the Secretary of the Army to lease portions of the Army Heritage and Education Center, Carlisle, Pennsylvania to the Military Heritage Foundation for revenue-generating activities and other purposes. As consideration, the foundation would pay amounts not to exceed the costs of operation of the facility.

The Senate amendment contained no similar provision.

The Senate recedes.

Land exchange, Fort Hood, Texas (sec. 2845)

The conferees agree to a provision that would authorize the Secretary of the Army to convey, with consideration, to Central Texas College, a parcel of property consisting of approximately 40 acres at Fort Hood, Texas for the purpose of expanding the College's campus. In exchange, the Secretary would receive one or more parcels of real property of a value at least equal to that of the parcel conveyed to Central Texas College.

Modification of land conveyance, Engineer Proving Ground, Fort Belvoir, Virginia (sec. 2846)

The House bill contained a provision (sec. 2831) that would amend section 2836 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107) to change the type of facility received by the Army as part of an exchange related to construction of the Fairfax County Parkway Extension.

The Senate amendment contained no similar provision.

The Senate recedes.

Land conveyance, Fort Belvoir, Virginia (sec. 2847)

The conferees agree to a provision that would authorize the Secretary of the Army to convey, with consideration, to the Commonwealth of Virginia, up to three parcels of property consisting of approximately 2.5 acres at Fort Belvoir, Virginia for the purpose of allowing the Commonwealth, the National Trust for Historic Preservation, and Fairfax County, Virginia to enter into an agreement regarding the exchange of a separate parcel of real property currently controlled by the National Trust.

Land conveyance, Army Reserve Center, Bothell, Washington (sec. 2848)

The House bill contained a provision (sec. 2832) that would authorize the Secretary of the Army to convey, for consideration, to the Snohomish County Fire Protection District #10 approximately 1 acre at the Army Reserve Center in Bothell, Washington for the purpose of supporting the provision of fire and emergency medical aid services.

The Senate amendment contained a similar provision (sec. 2842).

The Senate recedes with a clarifying amendment.

The conferees encourage the Secretary of the Army to seek in-kind consideration consisting of an agreement for the Fire Protection District #10 to provide fire protection services for Army Reserve facilities.

PART II—NAVY CONVEYANCES

Land conveyance, Marine Corps Air Station, Miramar, San Diego, California (sec. 2851)

The House bill contained a provision (sec. 2841) that would authorize the Secretary of the Navy to convey approximately 230 acres along the eastern boundary of Marine Corps Air Station Miramar, California to the County of San Diego, California for the purpose of permitting the county to preserve the property as open space and reopen the tract known as the Stowe Trail to public use. In exchange, the Navy would receive in-kind consideration equal to not less than the fair market value of the conveyed property.

The Senate amendment contained a similar provision (sec. 2851).

The Senate recedes with an amendment that would clarify the purpose of the conveyance and the types of the in-kind consideration to be received by the Secretary.

Lease or license of United States Navy Museum facilities at Washington Navy Yard, District of Columbia (sec. 2852)

The Senate amendment contained a provision (sec. 2852) that would authorize the Secretary of the Navy to lease or license facilities housing the United States Navy Museum, District of Columbia to the Naval Historical Foundation for revenue-generating activities and other purposes. As consideration, the foundation would pay amounts not to exceed the costs of operation of the facility.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

PART III—AIR FORCE CONVEYANCES

Purchase of build-to-lease family housing, Eielson Air Force Base, Alaska (sec. 2861)

The House bill contained a provision (sec. 2851) that would authorize the Secretary of the Air Force to purchase the interest of the developer of a 300-unit military family housing project at Eielson Air Force Base, Alaska.

The Senate amendment contained a similiar provision (sec. 2861).

The conference agreement includes this provision with a technical amendment.

Land conveyance, Air Force property, Jacksonville, Arkansas (sec. 2862)

The House bill contained a provision (sec. 2852) that would authorize the Secretary of the Air Force to convey, for consideration, approximately 45 acres around an existing railroad in Jacksonville, Arkansas for the purpose of facilitating railroad access to an industrial park.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Land conveyance, Air Force property, La Junta, Colorado (sec. 2863)

The Senate amendment contained a provision (sec. 2862) that would authorize the Secretary of the Air Force to convey, without consideration, to the City of La Junta, Colorado a parcel of real property consisting of approximately 8 acres located at the USA Bomb Plot in the La Junta Industrial Park for the purpose of training local law enforcement officers.

The House bill contained no similar provision.

The House recedes.

Lease, National Imagery and Mapping Agency site, St. Louis, Missouri (sec. 2864)

The conferees agree to a provision that would direct the Secretary of the Air Force, in consultation with the Administrator of the General Services Administration, to lease not later than February 28, 2006 to the St. Louis County Port Authority of St. Louis County, Missouri a parcel of property consisting of approximately 39 acres at the National Imagery and Mapping Agency site, St. Louis, Missouri for the purpose of permitting the Port to use the parcel for economic development purposes. The provision would require the Secretary to agree to terms and conditions acceptable to the Secretary and to receive as consideration an amount not less than the fair market value of the lease.

The conferees intend for the Secretary of the Air Force to enter into the lease in furtherance of a permanent conveyance of the property.

Subtitle E—Other Matters

Clarification of moratorium on certain improvements at Fort Buchanan, Puerto Rico (sec. 2871)

The House bill contained a provision (sec. 2806) that would amend section 1507 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) to clarify the moratorium on construction activities at Fort Buchanan, Puerto Rico to permit the conversion, rehabilitation, improvement, and repair of facilities at the installation.

The Senate amendment contained a provision (sec. 2883) that would amend the same section to remove the restriction on construction of facilities for Reserve component or non-appropriated fund projects.

The Senate recedes with an amendment that would combine the two provisions, and add an exception to the moratorium for the construction of facilities supporting Department of Defense Education activities and the installation of communication equipment.

Transfer of excess Department of Defense property on Santa Rosa and Okaloosa Island, Florida, to Gulf Islands National Seashore (sec. 2872)

The conferees agree to a provision that would amend section 7 of An Act to Provide for the Establishment of the Gulf Islands National Seashore and Related Matters (Public Law 91–660) to direct the Secretary of Defense to transfer to the administrative jurisdiction of the Secretary of the Interior, subject to mutually agreed terms and conditions, any land on Santa Rosa and Okaloosa Island, Florida which is currently under the control of the Department of Defense and determined to be excess to military requirements.

Authorized military uses of Papago Park Military Reservation, Phoenix, Arizona (sec. 2873)

The House bill contained a provision (sec. 2813) that would amend the Act of April 7, 1930 (Public No. 02), which authorized the use of land at Papago Park Military Reservation, Arizona for a rifle range only, to reflect current usage of the land. The Senate amendment contained a similar provision (sec. 2884).

The Senate recedes.

Assessment of water needs for Presidio of Monterey and Ord military community (sec. 2874)

The House bill contained a provision (sec. 2863) that would require the Secretary of Defense to conduct an assessment of current and future needs of the Department of Defense for water for the Presidio of Monterey and the Ord military community by April 7, 2006, and to provide the results of that assessment to Congress.

The Senate amendment contained no similar provision.

The Senate recedes.

Redesignation of McEntire Air National Guard Station, South Carolina, as McEntire Joint National Guard Base (sec. 2875)

The House bill contained a provision (sec. 2862) that would redesignate McEntire Air National Guard Station, South Carolina as McEntire Joint National Guard Base in recognition of the use of the installation to house both Air National Guard and Army National Guard assets.

The Senate amendment contained no similar provision.

The Senate recedes.

Sense of Congress regarding community impact assistance related to construction of Navy landing field, North Carolina (sec. 2876)

The Senate amendment contained a provision (sec. 2889) that would express the sense of the Senate that the Department of Defense should work with other federal agencies to strive to provide assistance to the local community impacted by the location of a new outlying landing field.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Sense of Congress on establishment of Bakers Creek Memorial (sec. 2877)

The Senate amendment contained a provision (sec. 2886) that would express the sense of Congress that the Secretary of the Army may establish an appropriate marker, at a site to be chosen at the discretion of the Secretary, to commemorate the 40 members of the U.S. Armed Forces who lost their lives in the air crash at Bakers Creek, Australia, on June 14, 1943.

The House bill contained no similar provision.

The House recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Authority to lease non-excess property of Department of Defense field activities

The Senate amendment contained a provision (sec. 2821) that would amend sections 2667a of title 10, United States Code, to authorize the Secretary of Defense to lease non-excess property that is under the control of a Department of Defense field activity.

The House bill contained no similar provision.

The Senate recedes.

Designation of William B. Bryant Annex

The Senate amendment contained a provision (sec. 2890) that would designate the annex to the E. Barrett Prettyman Federal Building and U.S. Courthouse in Washington, D.C., as the "William B. Bryant Annex."

The House bill contained no similar provision.

The Senate recedes. This provision has already been enacted in S. 1285 of the 109th Congress, which was signed by the President on November 11, 2005, (Public Law 109–101).

Expanded authority to enter into lease-purchase agreements

The Senate amendment contained a provision (sec. 2823) that would amend section 2812 of title 10, United States Code, to clarify the authority for a secretary of a military service to enter into an agreement with State and local governments for the lease-purchase of facilities.

The House bill contained no similar provision.

The Senate recedes.

Expansion of authority to convey property at military installations to support military construction

The House bill contained a provision (sec. 2803) that would amend section 2869 of title 10, United States Code, to authorize the secretaries of the military departments to exchange surplus property for military construction projects, land, or housing.

The Senate amendment contained no similar provision.

The House recedes.

The Department of Defense's request to Congress for authorization to expand the types of proceeds received from the disposal of surplus property is consistent with Congressional intent to allow the Department of Defense to efficiently manage facility and infrastructure assets. While the conferees support additional flexibility in the manner in which it seeks value in the disposal of its assets, the conferees are concerned that the expanded authority could potentially result in adverse effects, such as reduced Department and congressional oversight of the military construction program, and decisions to carry out land disposals specifically to receive military construction projects, rather than with consideration to military requirements over the long-term. The conferees are also concerned that the expanded authority would impose complex requirements on the General Services Administration in the process of carrying out property disposals in exchange for military construction. As such, the conferees direct the Secretary of Defense to fully consider the potential effects of expanding the land exchange program, and, if warranted, to resubmit a legislative proposal in the future which addresses such concerns.

Identification of environmental conditions at military installations closed or realigned under 2005 round of defense base closure and realignment

The Senate amendment contained a provision (sec. 2893) that would require the Secretary of Defense, in consultation with the Administrator of the Environmental Protection Agency, other appropriate federal agencies, and state, tribal, and local government officials, to complete an identification not later than May 31, 2007, of the environmental conditions of the real property of each military installation approved for closure or realignment under the 2005 round of defense base closure and realignment in accordance with section 120(h)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (42 U.S.C. 9620(h)(4)). The Senate provision would also require the Secretary to coordinate with appropriate federal, state, tribal, and local government officials to expedite the environmental response at military installations approved for closure or realignment under the 2005 round of defense base closure and realignment. The provision would also require the Secretary to report the progress made in carrying out this section in the annual environmental report to Congress.

The House bill contained no similar provision.

The Senate recedes.

Increase in thresholds for unspecified minor military construction projects

The Senate amendment contained a provision (sec. 2801) that would amend section 2805(a)(1) of title 10, United States Code, by raising the threshold of the cost of a construction project authorized by this section from $1.5 million to $2.5 million. This provision would also raise the threshold of the cost of a construction project intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening from $3.0 million to $4.0 million.

The House bill contained no similar provision.

The Senate recedes.

One-year extension of Department of Defense laboratory revitalization program

The Senate amendment contained a provision (sec. 2885) that would extend by 1 year the authorization provided by section 2891 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108-375) for the Secretary of Defense to carry out a program for the revitalization of laboratories operated by the Department of Defense.

The House bill contained no similar provision.

The Senate recedes.

Sense of Congress regarding consideration of national defense industrial base interests during Base Closure and Realignment Commission review of Department of Defense base closure and realignment recommendations

The House bill contained a provision (sec. 2824) that would express the sense of Congress that national defense industrial base interests are part of military value and that the Base Closure and Realignment Commission should consider such interests when reviewing and analyzing the Secretary of Defense's closure and realignment recommendations.

The Senate amendment contained no similar provision.

The House recedes.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Overview

Title XXXI authorizes appropriations for atomic energy defense activities of the Department of Energy for fiscal year 2006, including: the purchase, construction, and acquisition of plant and capital equipment; research and development; nuclear weapons activities; defense nuclear nonproliferation; naval nuclear propulsion; environmental restoration and waste management; operating expenses; and other expenses necessary to carry out the purposes of the Department of Energy Organization Act (Public Law 95-91). The title would authorize appropriations in five categories: National Nuclear Security Administration (NNSA); defense environmental cleanup (formerly defense environmental management); other defense activities; defense nuclear waste disposal; and energy supply.

The budget request for atomic energy defense activities at the Department totaled $16.4 billion, a 1.4 percent decrease below the fiscal year 2005 appropriated level. Of the total amount requested, $9.4 billion would be for NNSA, of which $6.6 billion would be for weapons activities, $1.6 billion would be for defense nuclear nonproliferation activities, $786.0 million would be for naval reactors, and $343.9 million would be for the Office of the Administrator; $6.0 billion would be for defense environmental management, of which $5.2 billion would be for defense site acceleration completion, and $831.3 million would be for defense environmental services; $636.0 million would be for other defense activities; $351.4 million would be for defense nuclear waste disposal; and $12.0 million would be for energy supply.

The conferees agree to authorize $16.4 billion for atomic energy defense activities at the Department, a decrease of $18.9 million below the budget request. The conferees agree to authorize $9.2 billion for NNSA, a decrease of $200.8 million below the budget request. Of the amounts authorized for the NNSA, $6.4 billion would be for weapons activities, a decrease of $196.2 million; $1.6 billion would be for defense nuclear nonproliferation activities, a decrease of $6.1 million; $789.5 million would be for naval reactors, an increase of $3.5 million; and $341.9 million would be for the Office of the Administrator, a decrease of $2.0 million below the budget request. The conferees agree to authorize $6.2 billion for defense environmental cleanup (formerly defense environmental management), an increase of $177.3 million above the budget request. The conferees agree to authorize $642.0 million for other defense activities, an increase of $6.0 million above the budget request. The conferees agree to authorize $350.0 million for defense nuclear waste disposal, a decrease of $1.4 million below the budget request. The conferees agree to authorize $12.0 million for energy supply. the amount of the budget request.

The following table summarizes the budget request and the authorizations:

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
ATOMIC ENERGY DEFENSE ACTIVITIES (053)					
Department of Energy					
Energy Supply	12,000	12,000			12,000
National nuclear security administration:					
Weapons activities	6,630,133	6,455,744	6,590,319	-196,197	6,433,936
Defense nuclear nonproliferation	1,637,239	1,515,239	1,637,239	-6,088	1,631,151
Naval reactors	786,000	786,000	786,000	3,500	789,500
Office of the administrator	343,869	343,869	343,869	-2,000	341,869
Total, National nuclear security administration	**9,397,241**	**9,100,852**	**9,357,427**	**-200,785**	**9,196,456**
Environmental and other defense activities:					
Defense site acceleration completion	5,183,713	5,480,102	5,335,849		
Defense environmental services	831,331	831,331	853,584		
Defense environmental cleanup				177,327	6,192,371
Other defense activities	635,998	635,998	563,423	6,000	641,998
Defense nuclear waste disposal	351,447	351,447	301,447	-1,447	350,000
Total, Environmental & other defense activities	**7,002,489**	**7,298,878**	**7,054,303**	**181,880**	**7,184,369**
Total, Department of Energy	**16,411,730**	**16,411,730**	**16,411,730**	**-18,905**	**16,392,825**
OTHER ACTIVITIES (Discretionary)					
Defense Nuclear Facilities Safety Board	22,032	22,032	22,032		22,032
Corps of Engineers - Civil Works	140,000	140,000	140,000		140,000
Total, Other Activities Discretionary	**162,032**	**162,032**	**162,032**		**162,032**
Atomic Energy Defense Activities (053) Discretionary	**16,573,762**	**16,573,762**	**16,573,762**	**-18,905**	**16,554,857**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Energy Supply	12,000	12,000			12,000
Weapons Activities					
Directed stockpile work (DSW)					
Life Extension Program					
B61 Life Extension Program	50,810	50,810	50,810		50,810
W76 Life Extension Program	162,268	162,268	162,268	-12,500	149,768
W80 Life Extension Program	135,240	135,240	135,240	-35,000	100,240
Total, Life Extension Program	348,318	348,318	348,318		300,818
Stockpile systems					
B61 Stockpile systems	66,050	66,050	66,050		66,050
W62 Stockpile systems	8,967	8,967	8,967		8,967
W76 Stockpile systems	63,538	63,538	63,538		63,538
W78 Stockpile systems	32,632	32,632	32,632		32,632
W80 Stockpile systems	26,315	26,315	26,315		26,315
B83 Stockpile systems	26,391	26,391	26,391		26,391
W84 Stockpile systems	4,402	4,402	4,402		4,402
W87 Stockpile systems	50,678	50,678	50,678		50,678
W88 Stockpile systems	32,831	32,831	32,831		32,831
Total, Stockpile systems	311,804	311,804	311,804		311,804
Retired warheads stockpile systems	35,245	35,245	35,245		35,245

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Stockpile services					
Production support	267,246	267,246	267,246	-37,246	230,000
Research & development support	66,753	66,753	66,753	-5,500	61,253
Research & development certification and safety	211,727	211,727	211,727		211,727
Management, technology, and production	166,587	166,587	166,587		166,587
Reliable replacement warhead	9,351	9,351	9,351	15,649	25,000
Robust nuclear earth penetrator	4,000		4,000	-4,000	
Total, Stockpile services	725,664	721,664	725,664		694,567
Program decrease		-44,400			
Budget realignment				43,755	43,755
Total, Directed stockpile work	**1,421,031**	**1,372,631**	**1,421,031**	**-34,842**	**1,386,189**
Campaigns					
Science campaign					
Primary assessment technologies	45,179	45,179	45,179		45,179
Dynamic materials properties	80,894	80,894	80,894		80,894
Advanced radiography	49,520	49,520	49,520		49,520
Secondary assessment technologies	61,332	61,332	61,332		61,332
Test readiness	25,000	25,000	25,000	-5,000	20,000
Total, Science campaign	**261,925**	**261,925**	**261,925**	**-5,000**	**256,925**
Engineering campaign					
Enhanced surety	29,845	29,845	29,845		29,845
Weapon systems engineering assessment technology	24,040	24,040	24,040	-6,500	17,540
Nuclear survivability and effects	9,386	9,386	9,386		9,386
Enhanced surveillance	96,207	96,207	96,207		96,207

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Engineering campaign construction activities					
Operations and maintenance / other project costs	4,714	4,714	4,714		4,714
01-D-108 Microsystem and engineering science applications (MESA), SNL, Albuquerque, NM	65,564	65,564	65,564		65,564
Total, Engineering campaign construction activities	70,278	70,278	70,278		70,278
Total, Engineering campaign	**229,756**	**229,756**	**229,756**	**-6,500**	**223,256**
Inertial confinement fusion ignition and high yield campaign					
Operation and maintenance					
Ignition	75,615	75,615	75,615		75,615
Support of other stockpile programs	9,872	9,872	9,872		9,872
NIF diagnostics, cryogenics, and experiment support	43,008	43,008	43,008		43,008
Pulsed power inertial confinement fusion	10,111	10,111	10,111		10,111
University grants / Other ICF support	9,946	9,946	9,946	-2,246	7,700
Facility operations and target production	54,623	54,623	54,623	10,000	64,623
NIF demonstration program	112,330	112,330	112,330	-10,000	102,330
High-energy Petawatt laser development	3,000	3,000	3,000		3,000
Total, Operation and maintenance	318,505	318,505	318,505		316,259
96-D-111 National ignition facility (NIF), LLNL, Livermore, CA	141,913	141,913	141,913		141,913
Total, Inertial confinement fusion and high yield campaign	**460,418**	**460,418**	**460,418**	**-2,246**	**458,172**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Advanced simulation and computing campaign					
Program reduction				-55,000	-55,000
Operation and maintenance					
Advanced applications development	137,580	137,580	137,580		137,580
Verification and validation	50,015	50,015	50,015		50,015
Physics and material models	67,745	67,745	67,745		67,745
Problem solving environment (PSE)	39,464	39,464	39,464		39,464
Distance computing (DisCom)	15,852	15,852	15,852		15,852
Pathforward	7,442	7,442	7,442		7,442
Data and visualization sciences (D&VS)	58,959	58,959	58,959		58,959
Physical infrastructure & platforms	99,220	99,220	99,220		99,220
Computational systems	59,921	59,921	59,921		59,921
Simulation support	59,759	59,759	59,759		59,759
Advanced architectures	2,977	2,977	2,977		2,977
University partnerships	44,095	44,095	44,095		44,095
1 Program/3 labs	17,801	17,801	17,801		17,801
Total, Operation and maintenance	660,830	660,830	660,830		605,830
Total, Advanced simulation and computing	**660,830**	**660,830**	**660,830**	**-55,000**	**605,830**
Pit manufacturing and certification campaign					
W88 Pit manufacturing	120,926	120,926	120,926		120,926
W88 Pit certification	61,895	61,895	61,895		61,895
Pit Manufacturing capability	23,071	23,071	23,071		23,071
Modern pit facility	7,686	7,686	7,686	-7,686	
Pit campaign support activities at NTS	35,182	35,182	35,182		35,182
Pit manufacturing and certification campaign	**248,760**	**248,760**	**248,760**	**-7,686**	**241,074**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Readiness campaign					
Stockpile readiness	31,400	31,400	31,400		31,400
High explosive readiness / Assembly campaign	17,097	17,097	17,097		17,097
Nonnuclear readiness	28,630	28,630	28,630		28,630
Tritium readiness	62,694	62,694	62,694		62,694
Construction					
98-D-125 Tritium extraction facility, Savannah River Site, Aiken, SC	24,894	24,894	24,894		24,894
Advanced design and production technologies	54,040	54,040	54,040		54,040
Total, Readiness campaign	**218,755**	**218,755**	**218,755**		**218,755**
Budget realignment				140,595	140,595
Total, Campaigns	**2,080,444**	**2,080,444**	**2,080,444**	**64,163**	**2,144,607**
Readiness in technical base and facilities (RTBF)					
Operation and maintenance					
Operation of facilities			57,975	10,118	10,118
Kansas City Plant	98,548	104,148	98,548		98,548
LLNL	85,564	91,564	85,564		85,564
LANL	304,212	304,212	304,212		304,212
Nevada Test Site	67,057	67,057	67,057		67,057
Pantex Plant	96,763	106,763	96,763		96,763
Sandia National Laboratories	140,347	140,347	140,347		140,347
Savannah River Site	94,378	94,378	94,378		94,378
Y-12 National Security Complex	208,262	208,262	208,262		208,262
Institutional site support	65,652	65,652	65,652		65,652
Total, operation of facilities	**1,160,783**	**1,182,383**	**1,218,758**	**10,118**	**1,170,901**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Program readiness	105,738	105,738	105,738		105,738
Special projects	6,619	6,619	6,619	-6,619	
Material recycle and recovery	72,730	72,730	72,730		72,730
Containers	17,247	17,247	17,247		17,247
Storage	25,222	25,222	25,222		25,222
RTBF Operation and maintenance	**1,388,339**	**1,409,939**	**1,446,314**	**3,499**	**1,391,838**
RTBF Construction					
06-D-140 Project engineering design (PED) various locations	14,113	14,113	19,113		14,113
06-D-402 NTS replace fire stations 1 & 2 Nevada Test Site, NV	8,284	8,284	8,284		8,284
06-D-403 Tritium facility modernization Lawrence Livermore National Laboratory, Livermore, CA	2,600	2,600	2,600		2,600
06-D-404 Building B-3 remediation, restoration, and upgrade, Nevada Test Site, NV	16,000	16,000	16,000		16,000
05-D-140 Project engineering and design (PED) various locations	5,000	5,000	5,000	2,000	7,000
Pantex High Explosives Pressing Facility design		1,000		[1,000]	
LLNL size reduction station for radioactive waste		1,000		[1,000]	

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
05-D-401 Building 12-64 production bays upgrades Pantex Plant, Amarillo, TX	11,000	16,600	16,600		11,000
05-D-402 Berylium capabilty(BEC) project, Y-12 National Security Complex, Oak Ridge, TN	7,700	7,700	7,700		7,700
04-D-103 Project engineering and design, (PED) various locations	2,000	2,000	2,000		2,000
04-D-125 Chemistry and metallurgy research facility replacement, Los Alamos National Laboratory, Los Alamos, NM	55,000	55,000	55,000		55,000
04-D-128 TA-18 Criticality Experiments Facility Los Alamos National Laboratory, Los Alamos, NM	13,000	13,000	13,000		13,000
03-D-103 Project engineering and design (PED) various locations	29,000	29,000	29,000		29,000
01-D-103 Project engineering and design (PED) various locations	9,000	9,000	9,000		9,000
01-D-124 HEU materials facility, Y-12 plant, Oak Ridge, TN	70,350	70,350	70,350	11,000	81,350

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Y-12 HEU Chemical Project		1,700			
Y-12 Uranium metallurgy project (UPF support)		3,400			
Y-12 Uranium Processing Facility (06-05)		10,000			
Pantex Component Evaluation Facility design (05-03)		2,000			
LLNL Beryillium safety improvements--Contained Firing		2,100			
Total, Construction	**243,047**	**269,847**	**253,647**	**13,000**	**256,047**
Total, Readiness in technical base and facilities	**1,631,386**	**1,679,786**	**1,699,961**	**16,499**	**1,647,885**
Secure transportation asset					
Operations and equipment	143,766	143,766	147,766		143,766
Program direction	68,334	68,334	68,334		68,334
Total, Secure transportation asset	**212,100**	**212,100**	**216,100**		**212,100**
Nuclear weapons incident response					
Emergency response	101,682	101,682	101,682		101,682
Emergency management	6,615	6,615	6,615		6,615
Operations support	10,499	10,499	10,499		10,499
Total, Nuclear weapons incident response	**118,796**	**118,796**	**118,796**		**118,796**
Facilities and infrastructure recapitalization program (FIRP)					
Operation and maintenance	233,484	233,484	263,484	-132,636	100,848
Construction					
06-D-160 Project engineering and design (PED), various locations	5,811	5,811	5,811		5,811

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
06-D-601 Electrical distribution system upgrade, Pantex Plant, Amarillo, TX	4,000	4,000	4,000		4,000
06-D-602 Gas main and distribution system upgrade, Pantex Plant, Amarillo, TX	3,700	3,700	3,700		3,700
06-D-603 Steam plant life extension project (SLEP), Y-12 National Security Complex, Oak Ridge, TN	729	729	729		729
05-D-160 Facilities and infrastructure recapitalization program project engineering and design (PED), various locations	10,644	10,644	10,644		10,644
05-D-601 Compressed air upgrades project (CAUP), Y-12, National security complex, Oak Ridge, TN	9,741	9,741	9,741		9,741
05-D-602 Power grid infrastructure upgrade (PGIU), Los Alamos National Laboratory, Los Alamos, NM	8,500	8,500	8,500		8,500
05-D-603 New master substation (NMSU), TA I and IV, Sandia National Laboratory, Albuquerque, NM	6,900	6,900	6,900		6,900
Total, Construction	50,025	50,025	50,025		50,025
Total, Facilities and infrastructure recapitalization program	**283,509**	**283,509**	**313,509**	**-132,636**	**150,873**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Environmental projects and operations					
Environmental projects and operations program	156,504			-156,504	
Program direction	17,885			-17,885	
Total, Environmental projects and operations	**174,389**			**-174,389**	
Safeguards and security					
Operation and maintenance	699,478	699,478	731,478	65,008	764,486
Construction					
05-D-170 Project engineering and design (PED), various locations	41,000	41,000	41,000		41,000
Total, Construction	41,000	41,000	41,000		41,000
Offset for S&S work for others	-32,000	-32,000	-32,000		-32,000
Total, Safeguards and security	**708,478**	**708,478**	**740,478**	**65,008**	**773,486**
Total, Weapons Activities	**6,630,133**	**6,455,744**	**6,590,319**	**-196,197**	**6,433,936**
Defense Nuclear Nonproliferation					
Nonproliferation and verification R&D					
Operation and maintenance	267,218	267,218	353,218	41,782	309,000
Construction					
06-D-180, Project engineering and design (PED), National Security Laboratory, Pacific Northwest National Lab, Richland, WA	5,000	13,000	5,000	8,000	13,000
Total, Nonproliferation & verification R&D	**272,218**	**280,218**	**358,218**	**49,782**	**322,000**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Nonproliferation and international security				-5,173	-5,173
Nonproliferation policy	25,321	25,321	25,321		25,321
Export control	19,970	19,970	19,970		19,970
International safeguards	26,045	26,045	26,045		26,045
Treaties and agreements	2,000	2,000	2,000		2,000
International emergency management and cooperation	6,837	6,837	6,837		6,837
Total, Nonproliferation and international security	**80,173**	**80,173**	**80,173**	**-5,173**	**75,000**
International nuclear materials protection and cooperation					
Navy complex	6,500	6,500	6,500		6,500
Strategic rocket forces	47,500	47,500	47,500		47,500
Rosatom weapons complex	86,185	86,185	86,185		86,185
Civilian nuclear sites	47,320	57,320	47,320		47,320
Material consolidation and conversion	28,001	28,001	28,001		28,001
National programs and sustainability	30,000	40,000	30,000		30,000
Second line of defense	97,929	97,929	97,929		97,929
Nuclear weapons storage security			20,000	83,565	83,565
Total, International nuclear materials protection and cooperation	**343,435**	**363,435**	**363,435**	**83,565**	**427,000**
Global initiatives for proliferation prevention	37,890	37,890	37,890	2,110	40,000
HEU transparency implementation	20,483	20,483	20,483	-1,000	19,483

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Elimination of weapons-grade plutonium production program					
Seversk Pu production elimination	127,500	127,500	127,500		127,500
Zheleznogorsk Pu production elimination	2,500	77,500	82,500	44,185	46,685
Crosscutting and technical support activities	2,000	2,000	2,000		2,000
Total, EWGPP	**132,000**	**207,000**	**212,000**	**44,185**	**176,185**
Fissile materials disposition					
U S surplus materials disposition					
Operation and maintenance	226,500	226,500	226,500	-31,500	195,000
Construction					
99-D-141 Pit disassembly and conversion facility, Savannah River, SC	24,000	24,000	24,000		24,000
99-D-143 Mixed oxide fuel fabrication facility, Savannah River, SC	338,565	88,565	338,565	-118,565	220,000
Total, Construction	**362,565**	**112,565**	**362,565**	**-118,565**	**244,000**
US surplus material disposition, TOA	**589,065**	**339,065**	**589,065**	**-150,065**	**439,000**
Russian surplus materials disposition	64,000	64,000	64,000	-29,492	34,508
Thorium fuel project		5,000			
Reduction due to delay in program			-200,000		
Total, Fissile materials disposition	**653,065**	**408,065**	**453,065**	**-179,557**	**473,508**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Global threat reduction initiative					
Reduced enrichment for research and rest reactors	24,732	24,732	24,732		24,732
Russian research reactor fuel return	14,703	14,703	14,703		14,703
Kazakhstan spent fuel	8,000	8,000	8,000		8,000
Nuclear fuel return	8,712	8,712	8,712		8,712
US radiological threat reduction	12,750	12,750	12,750		12,750
International radiological threat reduction	24,078	24,078	24,078		24,078
Emerging threats	5,000	5,000	5,000		5,000
Program increase for activities outside the U.S.		20,000			
Program increase			14,000		
Total, Global threat reduction initiative	**97,975**	**117,975**	**111,975**		**97,975**
Total, Defense Nuclear Nonproliferation	**1,637,239**	**1,515,239**	**1,637,239**	**-6,088**	**1,631,151**
Naval Reactors					
Naval reactors development					
Operation and maintenance	738,800	738,800	738,800	-10,000	728,800
Construction					
Transfer to Nuclear Energy				13,500	13,500
06-D-901 Central office building 2, Bettis Atomic Power Laboratory, West Mifflin, PA	7,000	7,000	7,000		7,000

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
05-D-900 Materials development facility building, Schenectady, NY	9,900	9,900	9,900		9,900
Total, Construction	16,900	16,900	16,900		16,900
Total, Naval reactors development	**755,700**	**755,700**	**755,700**	**3,500**	**759,200**
Program direction	30,300	30,300	30,300		30,300
Total, Naval Reactors	**786,000**	**786,000**	**786,000**	**3,500**	**789,500**
Office of the Administrator					
Office of the administrator	350,765	350,765	350,765	-2,000	348,765
Use of prior year balances	-6,896	-6,896	-6,896		-6,896
Total, Office of the Administrator	**343,869**	**343,869**	**343,869**	**-2,000**	**341,869**
Defense Site Acceleration Completion					
(was Defense Facilities Closure Projects)					
2006 Accelerated completions					
Operation and maintenance	1,016,508	1,016,508	1,047,003		1,016,508
2012 Accelerated completions					
Operation and maintenance	1,293,046	1,293,046	1,334,773		1,293,046
Construction					
06-D-401 Sodium bearing waste treatment project, Idaho National Laboratory, Idaho Falls, ID	15,000	15,000	15,000	39,270	54,270
04-D-414 Project engineering and design (PED), various locations	9,200	9,200	9,200		9,200

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
01-D-416 Waste treatment and immobilization plant, Richland, WA	625,893	689,993	625,893	-99,893	526,000
Nuclear facility D&D (RL-0041)		13,000			
Total, Construction	**650,093**	**727,193**	**650,093**	**-60,623**	**589,470**
Total, 2012 Accelerated completions	**1,943,139**	**2,020,239**	**1,984,866**	**-60,623**	**1,882,516**
2035 Accelerated completions					
Operation and maintenance	1,826,642	1,826,642	1,906,556		1,826,642
Construction					
05-D-405 Salt waste processing facility, Savannah River Site, Aiken, SC	70,000	70,000	70,000	-69,500	500
04-D-408 Glass waste storage building #2, Savannah River, Aiken, SC	6,975	6,975	6,975		6,975
03-D-403 Immobilized HLW interim storage facility, Richland, WA	7,495	7,495	7,495	-7,495	
03-D-414 Project engineering and design (PED), Salt waste processing facility, Savannah River, Aiken, SC	4,342	4,342	4,342	31,000	35,342
Radioactive liquid tank waste stabilization disposition (ORP-0014)		44,900		34,553	34,553
Total, Construction	88,812	133,712	88,812		42,817
Total, 2035 Accelerated completions	**1,915,454**	**1,960,354**	**1,995,368**	**-11,442**	**1,904,012**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Safeguards and security	287,223	287,223	287,223		287,223
Technology development and deployment	21,389	21,389	21,389		21,389
Environmental projects and operations transfer from NNSA to EM		174,389		174,389	174,389
Total, Defense Site Acceleration Completion	**5,183,713**	**5,480,102**	**5,335,849**	**102,324**	**5,286,037**
Defense Environmental Services (was Defense Environmental Management Privatization)					
Community and regulatory support	62,032	62,032	66,400		62,032
Federal contribution to the uranium enrichment	451,000	451,000	451,000		451,000
Non-closure environmental activities					
Operation and maintenance	87,368	87,368	87,368		87,368
Program direction	230,931	230,931	248,816		230,931
Total, Defense Environmental Services	**831,331**	**831,331**	**853,584**		**831,331**
Budget realignment				75,003	75,003
Defense Environmental Cleanup				**177,327**	**6,192,371**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Other Defense Activities					
Office of security and safety performance assurance					
Nuclear safeguards and security	176,878	176,878	191,878	10,000	186,878
Security investigations	48,725	48,725	48,725	-2,000	46,725
Program direction	75,492	75,492	75,492	-2,000	73,492
Total, Security and safety performance assurance	**301,095**	**301,095**	**316,095**	**6,000**	**307,095**
Environment, safety and health					
Environment, safety and health (defense)	56,483	56,483	56,483	1,000	57,483
Program direction	20,546	20,546	20,546	-1,000	19,546
Total, Environment, safety and health	**77,029**	**77,029**	**77,029**		**77,029**
Office of Legacy Management					
Legacy management	31,421	31,421	31,421		31,421
Program direction	13,655	13,655	13,655		13,655
Total, Office of Legacy Management	**45,076**	**45,076**	**45,076**		**45,076**
Nuclear energy					
Infrastructure					
Idaho facilities management					
INL infrastructure O&M	17,762	17,762	17,762		17,762
Idaho sitewide safeguards and security	75,008	75,008	75,008		75,008
Total, Infrastructure	**92,770**	**92,770**	**92,770**		**92,770**
Program direction	31,103	31,103	31,103		31,103
Total, Nuclear energy	**123,873**	**123,873**	**123,873**		**123,873**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2006 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Defense related administrative support	87,575	87,575			87,575
Office of hearings and appeals	4,353	4,353	4,353		4,353
Subtotal, Other defense activities	**639,001**	**639,001**	**566,426**		**645,001**
Adjustments					
Less security charge for reimbursable work (NE)	-3,003	-3,003	-3,003		-3,003
Total, Adjustments	-3,003	-3,003	-3,003		-3,003
Total, Other Defense Activities	**635,998**	**635,998**	**563,423**	**6,000**	**641,998**
Defense Nuclear Waste Disposal					
Defense nuclear waste disposal	351,447	351,447	301,447	-1,447	350,000
Total, Department of Energy	**16,411,730**	**16,411,730**	**16,411,730**	**-18,905**	**16,392,825**
Other Activities (Discretionary)					
Defense Nuclear Facilities Safety Board	22,032	22,032	22,032		22,032
Corps of Engineers - Civil Works	140,000	140,000	140,000		140,000
Total, Other Activities Discretionary	**162,032**	**162,032**	**162,032**		**162,032**
Total, Atomic Energy Defense Activities (053) (Discretionary)	**16,573,762**	**16,573,762**	**16,573,762**	**-18,905**	**16,554,857**

Items of Special Interest

Disposition of weapons-usable plutonium at Savannah River, South Carolina

The conferees note that section 4306 of the Atomic Energy Defense Act (50 U.S.C. 2566) requires the Secretary of Energy to make impact assistance payments to the State of South Carolina, if the Department of Energy fails to achieve certain interim and long-term milestones in the conversion of plutonium stored at the Savannah River Site. The conferees remain supportive of this program and of the commitments made to the State of South Carolina. The conferees urge the Department to remain mindful of these impending payments and to request a budget for fiscal year 2007 and thereafter that would keep the mixed oxide fuel facility construction on a schedule to make the payment of impact assistance unnecessary.

Nanotechnology Enterprise Development Center

The conferees direct the Secretary of Energy to submit a report to the Committees on Armed Services of the Senate and the House of Representatives within 30 days after the date of enactment of this Act setting forth the contribution, if any, of the Nanotechnology Enterprise Development Center to the Stockpile Stewardship Program or to the programmatic activities of the National Nuclear Security Administration (NNSA). The report shall include a description of any contribution of the center to the national security of the United States and a justification for using atomic energy defense funds available to the NNSA for the establishment of the center.

National laboratory work on force protection technologies

The conferees note that the Department of Energy national laboratories have provided exceptional technical assistance to the Department of Defense in testing and fielding various types of equipment to improve force protection for U.S. military personnel engaged in combat operations. The conferees urge the Departments of Energy and Defense to continue to work together to utilize the expertise resident in the national laboratories to research, develop, and field those force protection technologies that can improve combat capabilities and reduce combat casualties. The conferees support the continued use by the Department of Energy of its existing authority to waive, where appropriate, certain overhead charges associated with national laboratory work conducted for the Department of Defense.

In the event that the Department of Energy makes the decision, under existing authorities, to waive any charges other than the federal administrative charge, the Secretary of Energy shall provide notification to the congressional defense committees within 30 days of issuing such a decision. The notification shall include a description of the force protection technologies work, the fees waived, and the impact, if any, to overhead rates for other programs at the national laboratory.

Legislative Provisions Adopted

Subtitle A—National Security Programs Authorizations

National Nuclear Security Administration (sec. 3101)

The House bill contained a provision (sec. 3101) that would authorize $9.1 billion for the National Nuclear Security Administration (NNSA), including funds for weapons activities, defense nuclear nonproliferation programs, naval reactor programs, and the Office of the Administrator.

The Senate amendment contained a similar provision (sec. 3101) that would authorize $9.4 billion.

The conferees agree to authorize $9.2 billion for the NNSA.

The budget request included $6.6 billion for weapons activities. The House bill would authorize $6.5 billion, a decrease of $174.4 million below the budget request. The Senate amendment would authorize $6.6 billion, a decrease of $39.8 million below the budget request. The conferees agree to authorize $6.4 billion, a decrease of $196.2 million below the budget request. Within weapons activities, the conferees agree to authorize $605.8 million for advanced simulation and computing, a decrease of $55.0 million below the budget request. The conferees note that this reduction is without prejudice. Within weapons activities, the conferees also agree to authorize $2.1 billion for campaigns, an increase of $64.2 million above the budget request. The conferees agree to authorize a budget realignment of $140.6 million within campaigns to allow funding adjustments across the program elements which make up campaigns.

The budget request included $174.4 million for environmental projects and operations within NNSA. The House bill and the Senate amendment would authorize no funds for these activities within the NNSA. The conferees believe that the defense environmental cleanup program exists to address the environmental legacy from Cold War missions at Department of Energy sites. The conferees agree to authorize no funds within NNSA for these activities but to authorize funds for these activities within defense environmental cleanup. elsewhere in this Act. The conferees agree that this action is consistent with the provisions of title 32 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65), which established the NNSA.

The budget request included $1.6 billion for defense nuclear nonproliferation. The conferees agree to authorize $1.6 billion, a decrease of $6.1 million below the budget request. The conferees agree to provide an additional $83.6 million in funding for international nuclear materials protection and cooperation to implement the agreements entered into by the Russian Federation and the United States at the Bratislava Summit to accelerate improvements to security at certain Russian nuclear weapons storage sites. The conferees agree to authorize $13.0 million for Project 06–D–180, National Security Laboratory at the Pacific Northwest National Laboratory, an increase of $8.0 million above the budget request. The additional funds are to be used to complete project engineering and design and to initiate construction on the research facility needed to replace facilities being vacated due to the environmental cleanup activities at the Hanford Site 300 Area.

Defense environmental cleanup (sec. 3102)

The House bill contained a provision (sec. 3102) that would authorize $6.3 billion for the Department of Energy for defense environmental management (EM) activities for fiscal year 2006, including funds for defense site acceleration completion and defense environmental services.

The Senate amendment contained a similar provision (sec. 3102) that would authorize $6.2 billion for defense environmental management.

The conferees agree to authorize $6.2 billion for defense environmental cleanup, an increase of $177.3 million above the budget request. Defense environmental cleanup comprises those activities formerly termed defense environmental management.

The conferees note that the statement of managers accompanying the Energy and Water Appropriations Act for Fiscal Year 2006 (Public Law 109–103) provides funding for defense environmental cleanup in a new budget structure, which provides funding by site rather than by the program elements contained in the President's budget request for fiscal year 2006. The conferees direct the Department to submit with the budget request for fiscal year 2007 a funding crosswalk between the budget structure as requested and as appropriated for fiscal year 2006. The conferees also direct the Department to prepare a 5–year funding plan for the environmental cleanup program.

Other defense activities (sec. 3103)

The House bill contained a provision (sec. 3103) that would authorize $636.0 million for the Department of Energy for other defense activities for fiscal year 2006, the amount of the budget request.

The Senate amendment contained a similar provision (sec. 3103) that would authorize $563.4 million for the Department for other defense activities, a decrease of $72.6 million below the budget request.

The conferees agree to authorize $642.0 million, an increase of $6.0 million above the budget request.

Defense nuclear waste disposal (sec. 3104)

The House bill contained a provision (sec. 3104) that would authorize $351.4 million for defense nuclear waste disposal.

The Senate amendment contained a similar provision (sec. 3104) that would authorize $301.4 million for defense nuclear waste disposal.

The conferees agree to include a provision that would authorize $350.0 million, a decrease of $1.4 million below the budget request.

Subtitle B—Other Matters

Reliable Replacement Warhead program (sec. 3111)

The House bill contained a provision (sec. 3111) that would authorize the Secretary of Energy to carry out a Reliable Replacement Warhead program. The provision would establish objectives for the program and require reports to Congress.

The Senate amendment contained no similar provision. In the Senate report accompanying S. 1042 (S. Rept. 109–69) of the National Defense Authorization Act for Fiscal Year 2006, the Senate authorized funds for the program and specified goals for the program.

The Senate recedes with a technical amendment that would add the Secretaries of Defense and Energy to the reporting requirement.

The conferees support the goal of continuing to ensure that the nuclear weapons stockpile remains safe, secure, and reliable. The conferees believe that the Reliable Replacement Warhead program is essential to the achievement of this goal and support its establishment with the objectives as defined in the provision, and as further described in the committee reports of the Committees on Armed Services of the Senate and the House of Representatives for fiscal year 2006.

Rocky Flats Environmental Technology Site (sec. 3112)

The Senate amendment contained a provision (sec. 3116) that would authorize up to $10.0 million for the purchase of certain mineral rights at the Department of Energy Rocky Flats Environmental Technology Site by the Secretary of Energy and for payment to extinguish all natural resource damage liability at the site.

The House bill contained no similar provision.

The House recedes with an amendment that would specify section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) as the provision of law applicable to natural resource damage liability.

Report on compliance with Design Basis Threat issued by Department of Energy in 2005 (sec. 3113)

The Senate amendment contained a provision (sec. 3111) that would require the Secretary of Energy to submit to the congressional defense committees a report describing plans for upgrading the security posture of the Department of Energy and the National Nuclear Security Administration in response to the design basis threat issued by the Secretary in October 2004.

The House bill contained no similar provision.

The House recedes with a clarifying amendment that would: (1) identify the design basis threat issued by the Department in November 2005 as the design basis threat to be analyzed in the report; (2) require a comparison of the security requirements contained in the design basis threat issued in May 2003 with those contained in the design basis threat issued in November 2005; and (3) require a review by the Government Accountability Office not later than 1 year after enactment of this Act of the Department's plan for complying with the design basis threat of November 2005.

Reports associated with Waste Treatment and Immobilization Plant Project, Hanford Site, Richland, Washington (sec. 3114)

The Senate amendment contained a provision (sec. 3112) that would require the Secretary of Energy to submit to the congressional defense committees an independent cost estimate prepared by the U.S. Army Corps of Engineers for the Waste Treatment and Immobilization Plant Project at the Department of Energy Hanford Site.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary to submit to the congressional defense committees reports received by the Department from the U.S. Army Corps of Engineers documenting any evaluation or validation of costs, schedule, and technical issues, including seismic issues, associated with the Waste Treatment and Immobilization Plant Project.

The conferees direct the Secretary to develop an independent cost estimate prior to concluding negotiations on the cost of any additions to work scope for contracts under the Waste Treatment and Immobilization Plant Project, if the Department contracting officer makes an affirmative determination that a change in scope has occurred. The conferees further direct the Secretary to notify the congressional defense committees 30 days prior to the restart of those construction activities that were suspended due to the revision of the seismic criteria for either the High-Level Waste facility or the Pretreatment facility of the Waste Treatment and Immobilization Plant Project.

Report on assistance for a comprehensive inventory of Russian nonstrategic nuclear weapons (sec. 3115)

The House bill contained a provision (sec. 3112) that would require the Secretary of Energy, in consultation with the Secretary of Defense, to provide a report containing an evaluation of efforts by the United States to encourage or facilitate a proper accounting for and securing of the nonstrategic nuclear weapons of the Russian Federation.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would change the due date for the reporting requirement to April 15, 2006.

Report on international border security programs (sec. 3116)

The Senate amendment contained a provision (sec. 3113) that would require the Secretary of Energy, in consultation with the Secretaries of Defense, State and, as appropriate, Homeland Security, to submit a report to the Committees on Armed Services of the Senate and the House of Representatives on the management of border security programs in the countries of the former Soviet Union and in other countries.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Savannah River National Laboratory (sec. 3117)

The Senate amendment contained a provision (sec. 3115) that would designate the Savannah River National Laboratory as a participating laboratory in the Department of Energy laboratory directed research and development program.

The House bill contained no similar provision.

The House recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Prohibition on use of funds for robust nuclear earth penetrator

The Senate amendment contained a provision (sec. 3117) that would prohibit the use of any funds authorized to be appropriated to the Department of Energy to be made available for the robust nuclear earth penetrator (RNEP).

The House bill contained no similar provision. The House authorized a related study effort for penetrators to hold at risk hard and deeply buried targets within the Department of Defense elsewhere in this Act.

The Senate recedes.

The conferees agree to authorize no funding for the RNEP study under the Department of Energy, but instead authorize a related study effort within the Department of Defense elsewhere in this Act. The conference outcome is reflected in the tables of this report.

Report on advanced technologies for nuclear power reactors in the United States

The Senate amendment contained a provision (sec. 3119) that would require the Secretary of Energy to submit to Congress a report containing a description and assessment of technologies under development that offer the potential to further enhance the safety and proliferation-resistance of nuclear power reactors.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that the Department of Energy leads the federal government's efforts to develop new nuclear energy generation technologies to meet energy goals, to develop advanced, proliferation-resistant nuclear fuel technologies that maximize energy from nuclear fuel, and to maintain and enhance the national nuclear technology infrastructure. The conferees support these objectives for the purpose of enhancing both the energy and economic security of the United States and seek to further efforts to better communicate the advancements being made towards these objectives to the general public.

The Secretary of Energy shall submit to Congress a report on advanced technologies for nuclear power reactors in the United States. The report shall include a description and assessment of the following: (1) technologies under development for advanced nuclear power reactors that offer the potential for further enhancements of the safety performance of nuclear power reactors, and (2) technologies under development for advanced nuclear power reactors that offer the potential for further enhancements of proliferation-resistant nuclear power reactors. The information in the report shall be presented in a manner and format that facilitates the dissemination of such information to, and the ready understanding of such information by, members of the general public, not later than six months after the date of enactment of this Act.

Sense of the Senate regarding interim reports on residual beryllium contamination at Department of Energy vendor facilities

The Senate amendment contained a provision (sec. 3118) that would state the sense of the Senate regarding interim reports on residual beryllium contamination at Department of Energy vendor facilities, and would urge the Director of the National Institute for Occupational Safety and Health (NIOSH) to provide to Congress interim reports on residual beryllium contamination at such facilities not later than 14 days after completing the internal review of such reports.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that section 3169 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 42 U.S.C. 7384 note) requires NIOSH to submit not later than December 31, 2006, an update to the October 2003 report of NIOSH on residual beryllium contamination at Department vendor facilities.

The conferees note that workers at Department vendor facilities who were potentially exposed to beryllium contamination should be informed at the earliest opportunity once the results of the site-specific study are available. The conferees note that NIOSH has completed its evaluation of residual beryllium contamination at some Department vendor facilities. The conferees direct the Secretary of Energy to request the Director of NIOSH: (1) to provide to Congress and the Department Office of Environment, Safety and Health interim reports on residual beryllium contamination at Department vendor facilities not later than 14 days after completing the internal review of such reports; and (2) to publish in the Federal Register summaries of the findings of such reports, including the dates of any significant residual beryllium contamination, at such time as the reports are provided to the Department Office of Environment, Safety and Health.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

LEGISLATIVE PROVISIONS ADOPTED

Defense Nuclear Facilities Safety Board (sec. 3201)

The House bill contained a provision (sec. 3201) that would authorize $22.0 million for the Defense Nuclear Facilities Safety Board, the amount of the budget request.

The Senate amendment contained an identical provision (sec. 3201). The conference agreement includes this provision.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

LEGISLATIVE PROVISIONS ADOPTED

Authorized uses of National Defense Stockpile funds (sec. 3301)

The House bill contained a provision (sec. 3301) that would authorize $52.1 million from the National Defense Stockpile Transaction Fund for the operation and maintenance of the National Defense Stockpile for fiscal year 2006. The provision would also permit the use of additional funds for extraordinary or emergency conditions 45 days after Congress receives notification.

The Senate amendment contained no similar provision.

The Senate recedes.

Revisions to required receipt objectives for previously authorized disposals from National Defense Stockpile (sec. 3302)

The Senate amendment contained a provision (sec. 3301) that would authorize increased sales of certain materials in the National Defense Stockpile through the end of fiscal year 2013.

The House bill contained similar provisions (secs. 3302–3303).

The House recedes.

Authorization for disposal of tungsten ores and concentrates (sec. 3303)

The Senate amendment contained a provision (sec. 3302) that would authorize the sale of up to 8.0 million pounds of tungsten from the National Defense Stockpile in fiscal year 2006.

The House bill contained no similar provision.

The House recedes.

Disposal of ferromanganese (sec. 3304)

The Senate amendment contained a provision (sec. 3303) that would authorize the disposal of up to 75,000 tons of ferromanganese from the National Defense Stockpile during fiscal year 2006. If that amount is disposed of before September 30, 2006, up to an additional 25,000 tons may be disposed of before that date. This additional disposal of ferromanganese may take place only if the Secretary of Defense submits written certification to the Committees on Armed Services of the Senate and the House of Representatives, not later than 30 days before the commencement of disposal, that: (1) the disposal of the additional ferromanganese is in the interest of national defense; (2) the disposal will not cause undue disruption to the usual markets of producers and processors of ferromanganese in the United States; and (3) the disposal is consistent with the requirements and purpose of the National Defense Stockpile.

The House bill contained no similar provision.

The House recedes.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

LEGISLATIVE PROVISIONS ADOPTED

Authorization of appropriations (sec. 3401)

The House bill contained a provision (sec. 3401) that would authorize $18.5 million for the operation and maintenance of the Naval Petroleum and Oil Shale Reserves.

The Senate amendment contained no similar provision.

The Senate recedes.

TITLE XXXV—MARITIME ADMINISTRATION

LEGISLATIVE PROVISIONS ADOPTED

Maritime administration (secs. 3501–3510)

The House bill contained provisions (sec. 3501-3505) that would authorize funds for fiscal year 2006, authorize payments for State and regional maritime academies, make modifications to the maintenance and repair pilot program, authorize improvements to the National Defense Tank Vessel Construction Assistance Program, and authorize improvements to the Maritime Administration (MARAD) vessel disposal program.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would: (1) authorize appropriations for fiscal year 2006 for operations and training, administrative expenses related to loan guarantee commitments under the title XI program, and for expenses to dispose of obsolete vessels in the National Defense Reserve Fleet; (2) authorize payments for State and regional maritime academies; (3) modify the maintenance and repair pilot program; (4) authorize improvements to the National Defense Tank Vessel Construction Assistance Program; (5) authorize improvements to the MARAD vessel disposal program; (6) authorize a new program to assist small shipyards and maritime communities; (7) transfer authority over the title XI non-fishing vessel loan guarantee decisions to the Maritime Administrator and make other improvements to the title XI program; (8) provide for a technical correction related to certain intermodal facilities; (9) provide for expanded use of the United States Maritime Service; and (10) provide certain awards and medals free of charge.

Section 3503 would direct the Secretary of Transportation to carry out the domestic maintenance and repair pilot program authorized in the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136) for at least one vessel under a Military Security Program (MSP) contract. The amendment would allow for reimbursement of the cost differential between performing qualified maintenance and repair work in the United States as opposed to performing it overseas. Qualified maintenance or repair work would include work identified before and during the Coast Guard-required vessel inspection and survey process, including, but not limited to, cutting out and replacing the hull structure; removal, repair, or replacement of machinery and equipment of all types; and repair of internal and external coatings. This section authorizes the Secretary to issue an interim rule, and the conferees urge the Secretary to work with the MSP contractors to establish a viable, sustainable program capable of accommodating more vessels, in addition to providing contractors' assistance in locating qualified maintenance and repair facilities in the U.S. in the geographic area in which a contracted vessel normally operates.

Section 3504 requires the Secretary of Transportation, to the extent of the availability of appropriations, to enter into a contract with a proposed purchaser and proposed shipbuilder for the construction of a product tank vessel under the National Defense Tank Vessel Construction Program. This section also eliminates the limitation that only allows the program to fund up to 75 percent of the actual construction costs of the vessel.

Section 3505 would repeal obsolete requirements of title 35 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398), and would require the development of a comprehensive management program consistent with recommendations made by the Government Accountability Office. The plan for implementation of this program is due to the Committees on Armed Services of the Senate and the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate 180 days from enactment of this Act. If this plan is not delivered within 180 days, the Secretary would be required to award a contract for the private management of the obsolete vessel disposal program after an open, competitive bid process. The amendment would authorize the title transfer of obsolete vessels for disposal as artificial reefs at a time deemed appropriate by the Secretary.

Section 3506 would authorize the MARAD to establish a loan, loan guarantee, and grant program to assist small shipyards to make capital improvements and improve maritime training programs for small communities largely served by the maritime industry. The conferees encourage the Secretary to administer the program established by this section in a manner that is consistent with procedural safeguards contained in section 1104A of the Merchant Marine Act, such as those providing for assessing economic soundness, monitoring, review of applications, and agreements with obligors under that section, and with other Federal laws and standards applicable to similar Federal programs as determined appropriate by the Secretary.

Section 3507 would make technical and substantive amendments to title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274), which authorizes the Maritime Guaranteed Loan Program. The conferees intend for the MARAD to retain adequate resources with sufficient expertise to perform all functions of this program without requiring assistance from the Department of Transportation or other agencies. The conferees also agree that the decision to subject loan guarantee applications to a third-party independent analysis should be based on risk factors enumerated in section 1104A(f) of the Merchant Marine Act, 1936, as amended by this Act. The conferees agree there should be no rule, regulation, or procedure governing the Maritime Guaranteed Loan Program that requires a third-party independent analysis for all applications without regard to these risk factors. When an independent analysis is required, the conferees would expect only experts in maritime finance or operations be funded to conduct the analysis.

From the Committee on Armed Services, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

DUNCAN HUNTER,
CURT WELDON,
JOEL HEFLEY,
JIM SAXTON,
JOHN M. MCHUGH,
TERRY EVERETT,
ROSCOE BARTLETT,
HOWARD P. MCKEON,
MAC THORNBERRY,
JOHN N. HOSTETTLER,
JIM RYUN,
JIM GIBBONS,
ROBIN HAYES,
KEN CALVERT,
ROB SIMMONS,
THELMA DRAKE,
IKE SKELTON,
JOHN SPRATT,
SOLOMON P. ORTIZ,
LANE EVANS,
GENE TAYLOR,
SILVESTRE REYES,
VIC SNYDER,
ADAM SMITH,
LORETTA SANCHEZ,

Ellen Tauscher,

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 11 of rule X:

Pete Hoekstra,
Jane Harman,

From the Committee on Education and the Workforce, for consideration of secs. 561–563, 571, and 815 of the House bill, and secs. 581-584 of the Senate amendment, and modifications committed to conference:

Michael N. Castle,
Joe Wilson,
Rush Holt,

From the Committee on Energy and Commerce, for consideration of secs. 314, 601, 1032, and 3201 of the House bill, and secs. 312, 1084, 2893, 3116, and 3201 of the Senate amendment, and modifications committed to conference:

Joe Barton,
Paul Gillmor,

From the Committee on Financial Services, for consideration of secs. 676 and 1073 of the Senate amendment, and modifications committed to conference:

Michael G. Oxley,
Robert W. Ney,

From the Committee on Government Reform, for consideration of secs. 322, 665, 811, 812, 820A, 822–825, 901, 1101–1106, 1108, title XIV, secs. 2832, 2841, and 2852 of the House bill, and secs. 652, 679, 801, 802, 809E, 809F, 809G, 809H, 811, 824, 831, 843–845, 857, 922, 1073, 1106, and 1109 of the Senate amendment, and modifications committed to conference:

Tom Davis,
Christopher Shays,

From the Committee on Homeland Security, for consideration of secs. 1032, 1033, and 1035 of the House bill, and sec. 907 of the Senate amendment, and modifications committed to conference:

John Linder,
Daniel E. Lungren,
Bennie G. Thompson,

From the Committee on International Relations, for consideration of secs. 814, 1021, 1203-1206, and 1301–1305 of the House bill, and secs. 803, 1033, 1203, 1205–1207, and 1301–1306 of the Senate amendment, and modifications committed to conference:

Henry Hyde,
James A. Leach,
Tom Lantos,

From the Committee on the Judiciary, for consideration of secs. 551, 673, 1021, 1043, and 1051 of the House bill, and secs. 553, 615, 617, 619, 1072, 1075, 1077, and 1092 of the Senate amendment, and modifications committed to conference:

F. James Sensenbrenner,
Steve Chabot,

From the Committee on Resources, for consideration of secs. 341–346, 601, and 2813 of the House bill, and secs. 1078, 2884, and 3116 of the Senate amendment, and modifications committed to conference:

Richard Pombo,
Henry E. Brown, Jr.,

From the Committee on Science, for consideration of sec. 223 of the House bill, and secs. 814 and 3115 of the Senate amendment, and modifications committed to conference:

Sherwood Boehlert,
W. Todd Akin,
Bart Gordon,

From the Committee on Small Business, for consideration of sec. 223 of the House bill, and secs. 814, 849–852, 855, and 901 of the Senate amendment, and modifications committed to conference:

Donald A. Manzullo,
Sue W. Kelly,

From the Committee on Transportation and Infrastructure, for consideration of secs. 314, 508, 601, and 1032–1034 of the House bill, and secs. 312, 2890, 2893, and 3116 of the Senate amendment, and modifications committed to conference:

Don Young,
John J. Duncan, Jr.,
John T. Salazar,

From the Committee on Veterans Affairs, for consideration of secs. 641, 678, 714, and 1085 of the Senate amendment, and modifications committed to conference:

Steve Buyer,
Jeff Miller,
Shelley Berkley,

From the Committee on Ways and Means, for consideration of sec. 677 of the Senate amendment, and modifications committed to conference:

William Thomas,
Wally Herger,
Jim McDermott,
Managers on the Part of the House.

John W. Warner,
John McCain,
James M. Inhofe,
Pat Roberts,
Jeff Sessions,
Susan Collins,
John Ensign,
Jim Talent,
Saxby Chambliss,
Lindsey Graham,
Elizabeth Dole,
John Cornyn,
John Thune,
Carl Levin,
Ted Kennedy,
Robert C. Byrd,
Joseph Lieberman,
Jack Reed,
Daniel K. Akaka,
Bill Nelson,
Ben Nelson,
Mark Dayton,
Evan Bayh,
H.R. Clinton,
Managers on the Part of the Senate.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF CONFERENCE REPORT ON H.R. 1815, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider a conference report to accompany H.R. 1815; that all points of order against the conference report and against its consideration be waived; that the conference report be considered as read; that the conference report be debatable for 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. KUCINICH. Reserving the right to object, Mr. Speaker, this report contains hundreds, if not over a thousand pages. Is that my understanding?

Mr. DREIER. Mr. Speaker, will the gentleman yield under his reservation?

Mr. KUCINICH. I yield to the gentleman from California.

Mr. DREIER. Let me just say that this is the conference report that has been out there, has been widely available, and has been written about and addressed by the media and Members.

I know that both the minority and the majority are very enthusiastic about the prospect of moving this extraordinarily important defense authorization conference report as expeditiously as possible, and I thank my friend for yielding.

Mr. KUCINICH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

VACATING ORDERING OF YEAS AND NAYS ON HOUSE RESOLUTION 632, WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. DREIER. Mr. Speaker, I ask unanimous consent that the House vacate the ordering of the yeas and nays on adoption of House Resolution 632 to the end that the Chair may put the question on the resolution de novo.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. KUCINICH. I object.

The SPEAKER pro tempore. Objection is heard.

Mr. DREIER. Mr. Speaker, I will propound the request again.

Mr. Speaker, I ask unanimous consent that the House vacate the ordering of the yeas and nays on adoption of House Resolution 632 to the end that the Chair may put the question on the resolution de novo.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 1815, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

Mr. HUNTER. Mr. Speaker, pursuant to the order of the House of today, I call up the conference report on the bill (H.R. 1815) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the conference report is considered read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume.

To my colleagues who have labored long and hard to get this Defense bill to the floor and to get the conference to the floor, I want to thank everyone. This is a very, very important bill. It does wonderful things for our men and women in uniform.

We have a 3.1 percent pay raise across the board. We have TRICARE expansion. We have an expansion of hazardous duty pay and an expansion of combat pay. We have a very substantial section devoted, some $76 billion, to modernization and some $70 billion to research development and testing. We have a very substantial military construction section that will accrue to the benefit of all of our people in uniform who are concerned about having adequate housing and a good place to work. And most important, Mr. Speaker, this bill moves lots of ammunition, lots of armor, lots of equipment to our people in the warfighting theaters in Iraq and Afghanistan, and it provides also for a $50 billion supplemental authorization to enable us to bridge the time between now and the next supplemental that we can see coming down the pike next year.

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This answers our call to duty, Mr. Speaker, which is to provide the tools to our men and women in uniform to win the war against terror. And let me just say at this point, Mr. Speaker, that we could not have done this, especially in such a short period of time, if we did not have such extraordinary members on the House Armed Services Committee, Democrat and Republican, of whom I am very proud; and a wonderful staff which has worked in some cases 16- and 18-hour days to bring this bill to fruition and to work this conference report with a very, very short time schedule.

I want to point out, first, my friend, the gentleman from Missouri (Mr. SKELTON), who is a wonderful friend and partner in this endeavor to serve our people in uniform. He has just done a great job working with me and working with his members. Our ranking members, our chairmen of the subcommittees all have done a wonderful job, as have all of our members right down through the entire ranks of the members of the Armed Services Committee.

So this is a good bill, Mr. Speaker. It provides the tools for our men and women to do the job. I also want to point out the fact that we have increased 10,000 Army and 1,000 Marine active-duty personnel in this bill. That is a very important point, Mr. Speaker, because we have cut the Army over the last 15 years from 18 divisions to only 10.

It is important to move additional personnel. Right now we have more people on the ground under the President's license to call up more people; but we think it is important to move the official end strengths, and we have done that in this bill.

So, Mr. Speaker, we have a great bill, and I want to thank all the Members who have participated.

Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first wanted to ask the chairman a question, because I am not sure I heard him a moment ago. Does the chairman confirm that this conference report is the report of the conferees as signed and intended to come to the floor as it was on 3 p.m. Friday?

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I want to assure my friend that the report that was just filed is the exact precise same report, without a comma changed, that was in fact signed by all members, Democrat and Republican.

Mr. SKELTON. Mr. Speaker, I thank the gentleman, and I rise in strong support of this conference report. Once again, I am proud to be part of the process that delivers our troops the support they need.

Let me take this moment to commend our chairman, Mr. HUNTER, for his work on this bill. This is important work, and I applaud all the members of the Armed Services Committee on both sides of the aisle.

Mr. Speaker, I submit for the RECORD at this point two letters, one signed by JOHN WARNER and CARL LEVIN and one signed by Erin Conaton on my behalf.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, December 18, 2005.

Hon. DUNCAN HUNTER,
Chairman, Armed Services Committee, Chairman, National Defense Authorization Act for Fiscal Year 2006 Conference, Washington, DC.

DEAR DUNCAN: On Friday, December 16, we joined you and Ike Skelton in conducting the final meeting of the conferees along with other Members of the Senate and House.

At the conclusion of the meeting the "base bill" was agreed upon and signatures of Republican and Democratic Committee Members were requested and affixed to the Conference Report with the expectation that the House, following the customary procedure, would be the first chamber to file. It was our further understanding that this would be done Friday evening.

We are returning to you the signatures of the Senate conferees on the condition that there are no changes made in the "base bill" and Conference Report and that the House obtain a Rule which precludes any further amendment.

You have shown strong leadership during this very brief and unusual conference period and we have confidence that you can achieve passage in the House of the "base bill". We believe it is in the interest of the Nation aud the men and women of the Armed Forces that our Conference Report as agreed to on December 16 becomes law.

Sincerely,

CARL LEVIN,
Ranking Member.
JOHN WARNER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, DC, December 18, 2005.

On Mr. Shelton's behalf, I am returning the signatures of the House Democratic conferees on the condition that there be no changes made in the "base bill" and Conference Report and that we obtain a Rule which precludes any further amendment. The signatures of the outside Democratic conferees remain attached to the conference report with the same understanding. Thank you very much.

Sincerely,

ERIN CONATA,
Minority Staff Director.

As most of you know, this conference report was ready to be filed Friday at 5 o'clock. The attempt to insert new and unrelated material into this defense authorization bill was wrong. It would have jeopardized the many good things in this package for the troops. I am very pleased that the Republican leadership reconsidered and I thank the Chairman for his efforts to restore the conference report to its original form.

This is a good bill. There are many things in this bill about which we all can be proud. I have long argued that we need more troops, and this bill raises end strength for the Army by 30,000 and for the Marine Corps by 4,000. It delivers our service members a well-earned 3.1% pay raise. We can never put a value on the service of those who pay the ultimate price in defense of our freedom, but this conference report increases the death gratuity for all active and activated service members to $100,000, retroactive to October 7, 2001. And for the first time ever, all reservists who agree to continue service in the Selected Reserves will have an opportunity, depending on their status, to buy into a government subsidized TRICARE Standard health care program for themselves and their families.

While much of our attention is focused on the current wars we're fighting, we must not lose sight of other security challenges that loom across the globe. With those in mind, I am also pleased to say that this bill requires the Navy to maintain 12 aircraft carriers. It also authorizes them to buy five more ships, but it does so in a way that will limit the rampant cost growth in the acquisition process.

Those are just a few examples of the good work in this bill. I commend all of the Chairmen and Ranking members of the Armed Services' subcommittees for the excellent work they have done on this conference report and throughout the year.

Finally, I'd like to address an issue to which much attention has been paid, and rightly so—the question of the treatment of detainees. These critical matters suffered the most from the lack of meaningful process and debate.

I am extremely pleased that Senator McCain's amendment involving the prohibition on torture and uniform standards for interrogating detainees has passed. This is a wonderful step to help us regain our rightful place on the summit of the moral high ground.

However, I am concerned that Senator McCain's language could be undercut by the Graham-Levin Amendment. This amendment was negotiated largely in a closed process by the White House and a select few Majority members. It addresses many aspects of the Combatant Status Review Tribunals and military commissions in Guantanamo Bay but there are serious questions about the procedures and they are currently being challenged in federal court. There are also questions about the Amendment's impact on our judicial system and law that's been in existence since the founding of our nation. I expect the courts will have a real challenge interpreting the Amendment's meaning. At the very least—the Graham-Levin Amendment should not apply retroactively or to any pending cases.

In summary, Mr. Speaker, this is not a perfect bill, but it does great things for our troops. I again congratulate Chairman Hunter and urge its adoption.

For the past two days, the future of the Defense Authorization bill has been held hostage for an unrelated and controversial piece of legislation that had no connection to defense. My colleagues and I expressed our deep concern with this, and I am truly pleased to see this bill in its original form come before the House tonight.

In a time of war, it is essential that we provide our men and women in uniform with the resources and equipment they need to succeed, and I am pleased that the leadership of this House finally relented and allowed us to do that. Legislation for our men and women in uniform should never be put in jeopardy for political reasons.

This legislation provides for the initiation and continuation of many important policies that will benefit our servicemen and women, as well as their families upon its final passage. This is a wonderful way to honor them during the holiday season for all they have done throughout the year.

I am extremely pleased with this bill, and commend all of my colleagues who have worked so hard for its passage.

This statement addresses the provisions regarding the treatment of detainees that were under consideration for inclusion in the FY 06 Defense Authorization Conference Report (referred to as the McCain amendment and Graham-Levin amendment provisions, and sections 1401–1406).

First, I am deeply troubled by the lack of open and meaningful process and debate in the House and Senate on these complex and critical matters that affect our troops and intelligence officers—and our national security. There are real differences of opinion on these matters—and they should have been given the fullest debate and vetting because of their implications. Yet, they have been negotiated largely behind closed doors by the White House and a select few majority Members of Congress.

With respect to the Graham-Levin amendment provisions (section 1405) and other detainee provisions (particularly section 1404), there are many unanswered questions and serious concerns about the impact of the provisions on our judicial system and law that has been in existence since the founding of our Nation—and the final negotiated Conference Report language lacks clarity—leaving much open to interpretation.

I expect the courts will have a real challenge interpreting the meaning of these provisions. I also fear that the provisions do not provide our troops and intelligence officers with the clear guidance and protection they need in combating the war on terror.

In addition, I am concerned about the potential for the provisions to significantly undercut the effectiveness of the McCain amendment (sections 1402 and 1403)—an amendment that would help us regain our standing and leadership on moral issues; obtain reliable intelligence, which is not obtained when torture is employed; and protect our troops and intelligence officers, by setting the standard of treatment by which we expect them to be similarly treated.

Although the main professed intent for the Graham-Levin amendment provisions and other detainee provisions (particularly section 1404) was to limit lawsuits and protect our troops and intelligence officers—I am very concerned about the potential for the provisions to do just the opposite.

Specific concerns with respect to the Graham-Levin amendment provisions include the following:

First, the provisions address many aspects of the Combatant Status Review Tribunals (CSRTs) and military commissions at Guantanamo Bay, Cuba—yet Congress has not authorized these procedures and their legality is currently being challenged in federal court. There are concerns that detainees are not given a hearing before a CSRT within a reasonable period of time; they do not have access to their attorneys or evidence; some have not been released from detention after being cleared of wrongdoing by a CSRT; and there has never been a military commission trial, despite the President's suggestion that, given the events of September 11th, it was necessary to establish these new commissions so people could be tried immediately.

Second, the original Graham-Levin amendment would have prohibited CSRTs from using evidence obtained with undue coercion. However, the final negotiated provisions for the Conference Report leave open the possibility that CSRTs and military commissions could consider coerced evidence. As Senator Levin has pointed out, this cuts against the centuries-old principle of Anglo-American law, enshrined in the 5th Amendment to the Constitution, that no person shall be compelled to be a witness against himself.

Third, it is not clear what recourse a detainee would have if there is a legitimate claim of torture, in part given the limitations on court jurisdiction. While the original Graham-Levin amendment would have eliminated federal court jurisdiction only for habeas corpus actions, the final negotiated Conference Report provisions eliminate "any other action against the United States or its agents relating to any aspect of the detention" at Guantanamo Bay. Further, it is true that the Graham-Levin amendment provisions allow for review of CSRT and military commission decisions by the United States Court of Appeals for the District of Columbia Circuit. However, there must first be a CSRT or military commission decision—and as noted above, there are serious concerns about the process surrounding these decisions. In addition, even after a CSRT or military commission decision, the Graham-Levin amendment provisions limit access to the Court of Appeals and the Court's scope of review—and do not ensure a sufficient factual record.

It is also important to note that we have tried and tested military regulations in place that are excellent, including Army Regulation 190–8. These regulations have effectively governed detention procedures in our past wars—and made it unnecessary to file habeas and other claims or set up tribunals and military commissions, such as those currently operating at Guantanamo Bay. Many have argued, the problem is really that existing military regulations have not been followed. We could have simply passed an Amendment that addresses this problem going forward and left the courts' jurisdiction alone with respect to existing claims. But this was not done and here's where we are.

At least, as Senator Levin has emphasized, the Graham-Levin amendment provisions do not apply to or alter pending habeas cases. The Senate voted to remove language from the original Graham amendment that would have applied the habeas-stripping provision to pending cases, affirming that it did not intend such application. Further, under the Supreme Court's ruling in *Lindh* v. *Murphy*, 521 U.S. 320 (1997), the fact that Congress chose not to explicitly apply the habeas-stripping provision to pending cases means that the courts retain jurisdiction to consider these appeals. Finally, the effective date language in the original Graham-Levin amendment, and Senate passed Defense Authorization Bill (S. 1042 section 1092), was retained in the final negotiated language for the Conference Report, thereby adopting the Senate position that the habeas-stripping provision does not strip the courts of jurisdiction in pending cases.

In closing, I emphasize that Congress must exercise diligent oversight on detainee matters going forward. Such matters must be subject to a more open and deliberative process—and handled more thoughtfully and responsibly in the future.

Mr. Speaker, I reserve the balance of my time.

Mr. HUNTER. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. WELDON), the distinguished chairman of the Air, Land Subcommittee.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise tonight to pay tribute to our distinguished chairman and the distinguished ranking member for such a fantastic job under very difficult circumstances to get this conference report to the floor. This was a very difficult piece of legislation, but the chairman persevered and we are very happy to have the legislation here tonight.

I know our soldiers all around the world are happy that this bill is going to be brought forward because there are so many positive things in it. I have the particular pleasure of serving as the chairman of the Air, Land Subcommittee; and I want to pay tribute to my good friend and ranking member, Mr. ABERCROMBIE from Hawaii, who is not here right now, for the excellent work that he did.

In supporting the global war on terrorism in our area, we have included a number of additional programs, including $450 million for up-armored Humvees, $260 million for other armored tactical vehicles, $450 million for small arms, $250 million for ammunition, $30 million for Stryker combat vehicle combat losses, $180 million for radios, $117 million for blue force tracking, $285 million for night vision devices, $35 million to counter improvised explosive devices, $108 million for countering rockets, artillery, and mortars, $50 million for Hellfire missiles, and $180 million for unmanned aerial vehicles.

Mr. Speaker, these are all critically important platforms for the troops in the ongoing battle against terrorism, as well as the theater of operation.

We have also reinstated the C-130J multiyear procurement. We have put some language on the future combat systems budget. We reduced it by $50 million to make sure we are giving the taxpayers the best possible oversight of the SCS program.

We have also attempted to put some more accountability in the DOD acquisition programs and significant language in other provisions that we think are going to provide the taxpayers and the warfighter with more accountability and more efficiency.

Mr. Speaker, I want to pay particular thanks to the leadership, both Mr. SKELTON and Mr. HUNTER, for including two very important commissions that we worked hard to achieve, the Nuclear Strategy Forum and the EMP Commission. I want to pay particular thanks to Mr. ROSCOE BARTLETT, Chairman BARTLETT, for his outstanding work on this issue. The EMP Commission now will have an ongoing process of evaluating our military platforms against the threat of an EMP.

Overall, Mr. Speaker, this process has been long. I think this is the latest we have ever gone with the Defense authorization bill, and the credit for all of this outstanding work goes to my distinguished chairman. He is a great American. The one thing about Mr. HUNTER and the one thing about Mr. SKELTON, everything that we do, they keep in mind the warfighter, the soldier. Each of them has made trip after trip into the theater, into Iraq, into Afghanistan, meeting the troops and making sure that we are in fact holding the Defense Department accountable to giving our troops the best possible equipment and technology.

I am happy to support this conference report. I would ask all of our colleagues to give an overwhelming vote of support for this. Again I want to thank the distinguished chairman and ranking member for their leadership.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ORTIZ).

Mr. ORTIZ. Mr. Speaker, I am pleased to speak today in support of the Readiness Subcommittee portions of the defense authorization bill. This bill represents a lot of hard work and bipartisan work on the part of the members of this committee. This bill provides nearly $126 billion to the Department of Defense for the operation and maintenance, the needs of our military, and over $12 billion for military construction. In addition, the authorization contains some important policy direction for the Department of Defense. One of the important provisions of the bill would protect the interest of civilian workers in the Department of Defense during public-private competition, another that extends the reimbursement of equipment purchased by soldiers with their own money, and still another will eliminate some of the restrictions that keep our wounded servicemembers from receiving gifts and support from Americans who want to help these soldiers.

I am pleased with these outcomes but I am very disappointed with how the conference on this bill was conducted. The majority leadership's delay on appointing conferees for this bill until after the conference report was completed is really shameful. This was not a conference. Only a few Members had a hand in the deliberations and other Members who have an interest in this bill were shut out of this process. I sincerely hope that this will not be the norm for conferencing future defense bills. Our national defense deserves a more careful, inclusive and deliberative approach.

The war in Iraq and the global war on terror are creating many challenges for the readiness of our Armed Forces. The services have many pressing needs in every area covered by the Readiness Subcommittee. It is impossible to fully address those needs, Mr. Speaker, but this report reflects a balance of many competing demands to ensure that our troops are equipped and ready to defend our Nation. I appreciate that the Members on both sides of the aisle were able to put this bill together and bring it to the floor this early in the morning.

Mr. HUNTER. Mr. Speaker, I yield for a unanimous consent request to the distinguished gentleman from Alabama (Mr. EVERETT), who has done such a great job as chairman of the Strategic Subcommittee.

Mr. EVERETT. Mr. Speaker, I want to thank the chairman for the job that he has done and the ranking member for the job he has done.

Mr. Speaker, I want to start by recognizing the gentleman from California, our Chairman, an old-time friend of mine and I think probably the most patient chairman I have ever served with in my years in Congress. His skill in leading this committee has been outstanding.

And we also have the contributions of the gentleman from Missouri. Someone I admire very much and who has good memories of the town I was born in and now live—Dothan, AL.

I rise in support of the conference report to accompany the fiscal year 2006 National Defense Authorization Act (H.R. 1815). This legislation supports the administration's objective while making significant improvements to the budget request. Moreover, our national security investment must continue the development of transformational capabilities of future systems, and this conference report meets that goal.

In the area of military space, the Department of Defense has embraced the benefits space provides to our warfighter. Unfortunately, the DOD has experienced significant acquisition problems on several high-priority programs. I look forward to working with the DOD to correct areas of concern and ensure their success for the future.

Within the atomic energy defense activities of the Department of Energy, the bill funds the National Nuclear Security Administration at $9.2 billion. The conference report includes legislation establishing the objectives of the Reliable Replacement Warhead program, a program that enjoys bipartisan support to ensure our nuclear stockpile remains reliable, safe and secure.

The Conferees have funded defense environmental cleanup activities at $6.2 billion.

Finally, Mr. Speaker, I would be remiss if I did not recognize my Ranking Member, the gentleman from Texas for his contribution, and the remainder of my subcommittee Members on both sides of the aisle, and their staff. I think we faced some of the most difficult policy decisions in the House Armed Services Committee and I want to express my appreciation for their hard work in protecting this Nation's security.

Mr. HUNTER. Mr. Speaker, I yield to the gentleman from Washington (Mr. DICKS) for a colloquy.

Mr. DICKS. I thank the gentleman for yielding.

Mr. Speaker, I would like to engage the chairman of the Armed Services Committee in a colloquy.

Mr. Chairman, I understand that the conference report does not include the language from the House bill precluding procurements from companies that benefit from illegal foreign subsidies. Is that correct?

Mr. HUNTER. That is correct. As the gentleman knows, I have long supported efforts to protect American businesses and workers from illegal trade practices. Unfortunately, the conferees were unable to come to an agreement that would allow us to include this important language in the final conference report.

Mr. DICKS. Mr. Speaker, for over 30 years various European governments have provided subsidies to the European civil aircraft industry. These subsidies helped the fledgling European aircraft industry get started in a highly competitive world market. Now $30 billion in subsidies later, Europe is the world's largest producer of commercial aircraft. Mr. Chairman, would you agree that the aircraft production industry is one of the areas that is of particular concern with respect to foreign subsidies?

Mr. HUNTER. Absolutely. Foreign governments should not be allowed to underwrite the risk of corporations involved in developing new airframes, especially when it is at the expense of the American worker. I want to assure my friend that the Armed Services Committee will continue its oversight on this issue, that we are going to revisit it next year.

Let me just leave the formal colloquy to say to my friend that my philosophy is that the American worker pays the taxes that fund these enormously expensive programs that manifest in this bill for $441 billion, that projects American power around the world in defense of the free world and provides an umbrella of freedom for hundreds of countries. It is only equitable and fair that the American taxpayer who pays for the defense of the free world should be able to involve themselves in making the very expensive equipment that we utilize. I can assure my friend that I will continue to work with him to make sure that when those great Americans in uniform come home from places like Iraq and Afghanistan they have some jobs in the American aircraft industry making the aircraft that support the projection of American Armed Forces.

I thank the gentleman for letting me edit my colloquy a little bit.

Mr. DICKS. And I thank Chairman HUNTER for sharing his views on this important matter and urge support for this conference report.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, I strongly support this national defense authorization bill. But while I support this conference report, I am one of many Members very disappointed with the process by which the defense bill has been brought to the floor. Last Thursday the House leadership approved the conferees to the defense authorization bill nearly 3 weeks after the Senate finished consideration of their version of the bill. This 3-week delay denied Members the opportunity to instruct conferees on issues of great importance to them in the defense bill. Members of the committee, particularly our senior members, should have been afforded greater opportunity to participate in informal panel meetings in order to discuss and debate many of the significant provisions that were in either the House or Senate bill. Instead, the decisions that were made on many of the highly contentious issues in the bill were made by less than a handful of Members. The national security of this country benefits from the input of many, not the narrow perspective of a few. A great democracy at war must do better. We, my colleagues, can do better. Democrat and Republican, we can do better. Veteran and nonveteran, we can do better. Senior Member and new Member, we can do better.

☐ 0015

This bill is a good one. It is a bill that should bring our country and this Congress together united in our support for our fine men and women in uniform, their families and our military retirees but the process the past few weeks has divided us, divided us so deeply that until a few hours ago we weren't even sure we would have a defense bill this year. Our troops deserve better.

I hope that beginning in February, the Republican leadership will make a concerted effort to abide by the processes that ensure active and open participation for all Members in future deliberations. Our troops at all times but particularly during a time of war deserve our best democratic deliberations and our united effort. Having made these comments, however, I am aware of the great commitment of Chairman DUNCAN Hunter and Ranking Member Ike Skelton to our troops and to the national security of our country. I thank Chairman HUNTER for his efforts in getting this bill on the floor tonight.

Mr. HUNTER. Mr. Speaker, if you are one of the 2.5 million people who wear the uniform of the United States, you can know that you have got some great people working for you on this Armed Services Committee. I want to thank the gentleman from Arkansas (Mr. SNYDER) who just spoke, and also thank and commend a very distinguished gentleman from New York (Mr. McHUGH), who works tirelessly to serve our people in uniform as well as they serve this country, the chairman of the Personnel Subcommittee.

Mr. McHUGH. I thank the distinguished chairman for his kind comments and for the opportunity to speak.

Mr. Speaker, I have a full statement that without objection I would like to enter into the RECORD in its entirety and just make a few brief comments if I might.

The hour is late. Fortunately it is not too late. I listened very carefully to the comments of the gentleman from Arkansas. I think we could all pick any part of any process by which any bill comes to the floor of this House and have objections. I understand his perspective but I was heartened to hear him say he strongly supports this bill, as he should. Because the bottom line, the most important question is, what is the quality of this legislation. The gentleman from Arkansas seems to think it is very good. I agree with him. I can in fact state without hesitation that in my 13 years of having the honor of serving on this committee, this is the best personnel provision package I have seen. If we look at the components of it, a 3.1 percent pay raise, the seventh year in row we have raised pay, reducing the gap between the private sector and our hardworking men and women in uniform, an increase in the hardship duty pay, a doubling in the assignment incentive pay. We require that the government pay for the servicemembers' group life insurance when people are deployed into theaters like Operation Iraqi Freedom and the OEF theater. We double the enlistment bonuses. We add by $30,000 to the reenlistment bonuses. On and on and on. We provide for an accelerated enhancement for concurrent receipt payments for 100 percent of disabled veterans. We provide a program for the first time that ensures that every member of the Guard and Reserve has access to some form of TRICARE, of the military health care program. Benefit after benefit. It is important that we have a broad range of military programs, the best equipment, the most modern technology, but at the end of the day as in the beginning of the day, the key to the success of the American military are the men and women that put that uniform on and today as we speak are serving so bravely. This is a terrific bill for them.

I want to thank the chairman for his great leadership and I certainly urge all the Members of the House to strongly support it. It is the right thing to do for some absolutely amazing people.

Mr. Speaker, I rise in strong support of the conference report on H.R. 1815, the National Defense Authorization Act for Fiscal Year 2006.

The military personnel provisions of H.R. 1815 address many problems and issues that the men and women in uniform have brought to us. Additionally, the conference report will help to relieve the tremendous pressure being placed on the military services—active, guard, and reserve. To those ends, H.R. 1815 contains these key initiatives:

A military pay raise of 3.1 percent. The raise is 0.5 percent above private sector raises and reduces the pay gap to 4.6 percent from 13.5 percent in fiscal year 1999 culminating seven years of enhanced pay raises.

We recommend continued growth in Army and Marine Corps end strength. Under the conference agreement, the Army would increase by 10,000 and the Marine Corps by 1,000, bringing the Army end strength to 512,400 and the Marine Corps to 179,000.

This bill also provides recruiting, retention and pay initiatives that would, for active component recruiting and retention:

Increase the maximum active duty *enlistment bonus* maximum from $20,000 to $40,000.

Increase the maximum active duty *reenlistment bonus* from $60,000 to $90,000.

Provide the Army with unprecedented flexibility to initiate new recruiting incentive programs following 45 days, notice to Congress.

Authorize the Army—active duty reserve, and National Guard—to pay $1,000 to servicemembers who refer recruit candidates for enlistment and those candidates complete technical training.

Increase the maximum enlistment age from 35 years of age to 42.

Authorize the payment of matching contributions to the Thrift Savings Plan for new recruits.

For the Reserve Components, the conference agreement would:

Authorize the same basic allowance for housing as active duty members when mobilized for periods greater than 30 days.

Authorize a critical skills retention bonus under the active duty program up to a maximum of $100,000 over the course of a career.

The conference report also provides for an expanded death gratuity of $100,000 for all military deaths—not just combat-related deaths—and two retroactive payments:

$100,000 for all military deaths that occurred on or after October 7, 2001; and

$150,000 to survivors of all military deaths, not just combat-related deaths, to compensate for the increase in Servicemembers' Group Life Insurance coverage from $250,000 to $400,000 that became effective for all military members on May 11, 2005.

For wounded servicemembers, the conference agreement would provide a special pay of $430 per month while the servicemember is in rehabilitation. In addition, family members would be provided greater travel and transportation allowances to visit wounded and injured servicemembers.

The conference agreement expands eligibility for TRICARE to all members of the reserve components, and their families, who continue service in the Selected Reserve. Under the agreement, there would be three eligibility categories:

Involuntarily mobilized reservists—as in current law: 1 year TRICARE eligibility for every 90 days of mobilized service.

Persons without employer provided health care, unemployed, self-employed, and

Any person not meeting the above criteria.

This conference agreement also provides enhancements to military justice that would:

Establish the offense of stalking, and

Clearly define the offense of rape, sexual assault and other sexual misconduct in title 10, United States Code, and pattern the elements of the offenses after the Federal statute.

All in all, the conference report on H.R. 1815 is a significant package of legislation directed at providing maximum assistance to the men and women who are fighting the Global War on Terrorism. I urge all my colleagues to vote "yes" on the conference report.

Mr. SKELTON. Mr. Speaker, I yield 1½ minutes to the gentleman from Georgia (Mr. MARSHALL).

Mr. MARSHALL. I rise today for the purpose of engaging the gentleman from California (Mr. HUNTER) in a colloquy.

Mr. HUNTER. I would be happy to join with my colleague from Georgia in a colloquy.

Mr. MARSHALL. Mr. Speaker, the portions of this bill governing the treatment of detainees can serve as a welcome clarification for the rest of the world that America condemns torture in the strongest terms. These changes should help the world to see that America respects freedom when it fights for freedom. I would appreciate the chairman's thoughts on this.

Mr. HUNTER. Will the gentleman yield?

Mr. MARSHALL. I yield to the gentleman from California.

Mr. HUNTER. I agree that the language contained in the conference report can both be flexible enough to allow our personnel to protect America's security interests and fair enough to protect our personnel without placing themselves in legal jeopardy when they employ the means any reasonable person would in a given interrogation.

If I might depart from the colloquy just for a bit to explain to my colleagues in the House, the Senate injected the straight Senate detainee language about humane treatment and the House injected and insisted on a section called personnel protections which gave defenses to uniform and nonuniformed personnel in detainee actions. It also provided for counsel to be employed or provided by the government. That was the essence of the provisions that were injected into the conference on the House side.

I thank the gentleman for letting me expand.

Mr. MARSHALL. Mr. Chairman, is it your understanding that the bill's language referencing the Senate's 1994 reservation to the United Nations' Convention Against Torture is intended to prohibit conduct that shocks the conscience, the standard adopted by the United States Supreme Court in Rochin v. California?

Mr. HUNTER. Will the gentleman yield?

Mr. MARSHALL. I yield to the gentleman from California.

Mr. HUNTER. That is my understanding.

Mr. MARSHALL. And, Mr. Chairman, is it also your understanding that the bill does not extend constitutional rights to noncitizens of the United States?

Mr. HUNTER. That is my understanding.

Mr. MARSHALL. I thank the gentleman for his clarification.

Mr. HUNTER. Mr. Speaker, I wanted to yield at this time to the gentleman who chairs the Projection Forces Subcommittee, the wonderful gentleman from Maryland (Mr. BARTLETT), who lives on the Monocacy River and spends so much of his time and has spent a lot of time this last year working on the issues of shipbuilding and power projection of maritime forces and he has done a wonderful job.

Mr. BARTLETT of Maryland. Mr. Speaker, I want to commend Chairman HUNTER and Ranking Member SKELTON for completing the impressive task of this conference report in such a short period of time. I also want to thank my subcommittee ranking member, Mr. TAYLOR, for his tireless efforts and dedication to the preparation of this report while simultaneously coordinating Hurricane Katrina relief efforts in Mississippi. The intense work involved in preparing the conference report has been accomplished only with the assistance of our able and hardworking staff and I really want to commend their efforts and the quality of the work they have so diligently done.

Mr. Speaker, this conference agreement provides the men and women in our Armed Forces the tools to effectively project our Nation's power and influence throughout the globe. Initiatives within this bill to build the Navy of the future, authorize advance procurement funding for the Navy's next generation platforms while continuing development and buildout of the Littoral Combat Ship and Virginia Class attack submarine fleet.

I am also pleased that this conference report takes steps to improve our U.S. shipbuilding industry to make it more efficient and commercially competitive in the future. Only by applying downward pressure on shipbuilding costs will we be able to afford a fleet of sufficient size to meet the national security needs and global commitments of tomorrow.

This agreement authorizes multiyear contract authority for additional C–17 aircraft if procurement is consistent with the results of the Quadrennial Defense Review. Furthermore, we encourage the Secretary of the Air Force to evaluate options for maintaining C–17 production capability until results of the C–5 modernization programs are available.

This conference agreement is an important milestone in making our country more secure. The National Defense

Authorization Act for Fiscal Year 2006 is critical in meeting the challenges and demands placed upon our Armed Services today, supplying a foundation on which to build well into the future. I urge my colleagues to join me in supporting our soldiers, sailors, airmen and Marines by voting for the Fiscal Year 2006 National Defense Authorization Act.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, let me first start by thanking my good friend Roscoe Bartlett for his tremendous help this year. The bill authorizes five ships, more than the administration asked for, unfortunately not as many as I would like to build, but very, very great help of the gentleman from Maryland on the part of adding an LHA(R) for the Marine Corps to the ship; getting the next generation destroyer, the DDX, started; and adding a Virginia Class submarine to the fleet.

Again at five ships, if you figure the typical 30-year life of a ship, we are cruising toward a 150-ship Navy. That is entirely too small, despite Navy projections that they think they can get the fleet up to about 313 by 2013. But again these are important steps in the right direction.

I want to commend the gentleman from Maryland for his help in making that happen. There are a lot of people who have a lot of things they want to say.

I want to yield what remains of my time to the gentleman from Georgia (Mr. MARSHALL).

Mr. MARSHALL. Mr. Speaker, I would simply add to what my friend from Mississippi has said and others have said that this bill is the culmination of months of work by the committee in a bipartisan way to give the men and women that we have in uniform, particularly those men and women in harm's way what we believe they need in order to carry on their duty on behalf of the United States. I think everybody on the committee agrees with me that everything that we can possibly do to support them we are going to do. I want to compliment the chairman, the ranking member, and other members of the committee for a job well done.

Mr. HUNTER. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. HOEKSTRA), the distinguished chairman of the Intelligence Committee.

Mr. HOEKSTRA. Mr. Speaker, I rise in support of the conference report, although I am concerned about provisions of the bill that have the potential to create a chilling effect that would harm the ability of the intelligence community to gather vital information to protect our country. I want to first thank Chairman HUNTER for his outstanding personal efforts to safeguard our Nation's intelligence capabilities and our intelligence personnel.

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I appreciate his close coordination with me and with the Intelligence Committee during the negotiations on this bill.

Let me be crystal clear: The United States does not engage in torture, and the United States abides by its treaty obligations with respect to cruel, inhuman, and degrading treatment. The principles of the conference report relating to cruel and inhuman and degrading treatment should not be controversial or even remarkable. As the President said earlier this week, we should make it clear to the world that we do not engage in torture.

But I want to record my substantial discomfort that this bill could be read more broadly than intended and have a detrimental effect on our national security. After the 9/11 attacks, we learned the hard way that excessive restrictions on our intelligence agencies such as the Deutch Doctrine and the "wall" between intelligence and law enforcement often had a chilling effect on operations that was far broader than intended and significantly hurt our intelligence gathering capabilities. I want to reinforce Chairman HUNTER's efforts to make very clear that this conference report does not create new criminal liabilities and does not create any private right of action with respect to interrogation practices. It also does not modify the substantive definition of cruel, inhuman, and degrading treatment that applies to the United States under its existing treaty obligations.

Despite those concerns I fully support this agreement because of the provisions of this bill. Mr. Speaker, I believe that Chairman HUNTER's efforts has significantly improved this legislation, clarified its intent; so I will vote for the conference report and I encourage my colleagues to do the same.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we have handled, the conference has handled, leadership has handled, and the staff, a record number of amendments in a record period of time. And while I have some problems with the process, I commend them for the end result. It is a good piece of work.

There are many good features to it. We retained intact the McCain language which prohibits the United States from engaging in torture of prisoners. There are a number of very fine personnel improvements here which our service personnel dearly deserve.

We have given the impetus to start up something called a caps reliable replacement warhead program but at the same time put it within reasonable and restrictive bounds, which I think is smart. And I could go on and on. There are some good features to this bill.

I am not criticizing anyone in particular when I say that I find fault with the process, but I have been on this committee for 23 years, all the time I have served here. And, unfortunately, given the time restraints, which were largely the result of the fact that the Senate put us on abbreviated schedule, they were late getting their bill done, we have had to do this with much too much haste.

Here is the bill right here that we are about to consider, and we only saw it really in final form on Friday afternoon. We were appointed at one hour, and at the very next hour we were meeting for our first and only formal meeting. I hope this will not become a precedent for the process in the future, and that is why I express this concern now. The bill itself I support.

I am also very concerned about what is happening to the defense appropriations bill, and I do not want to see it happen to our defense authorization bill. We do not want our bill to become a must-pass piece of legislation to which other bills, other wholly unrelated legislation, gets attached because ours is must-pass legislation, a moving vehicle. That could have happened to this very bill, and it is the reason we are standing here at 12:30 at night instead of dealing with it yesterday afternoon with much more leisure than we are giving to the bill right now because it was almost hijacked by something totally extraneous. And I would say to the chairman I am glad that this did not happen, glad that we have got a clean bill, and glad that we can vote on it without having these extraneous matters to consider and weigh.

Once again, congratulations on a job well done.

Mr. HUNTER. Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, in the last few minutes, I have gone through a few hundred pages of this bill, which I think it is instructive to know that $1 billion for a so-called Iraqi Freedom Fund is being authorized. We do not know what that is. There is $2.5 billion for classified ops in Iraq. We do not know what that is, certainly.

On the issue of alleged clandestine detention facilities for individuals captured in the global war on terrorism, here is what it says: "Conferees determined the amendment was outside the jurisdiction of the Committees on Armed Services of the Senate and the House of Representatives. So we still do not know whether or not this House has any authority to rein in the administration's rendition policies.

I would ask the gentleman from California a question. I have just read a couple hundred pages. I have not seen the whole bill. Could the gentleman tell me if there is a provision in this bill that permits drilling in the Arctic National Wildlife Refuge?

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. KUCINICH. I yield to the gentleman from California.

Mr. HUNTER. No. As the gentleman knows, the ANWR position is not in this bill.

Mr. KUCINICH. Mr. Speaker, could the gentleman explain what the Iraqi Freedom Fund is about?

Mr. HUNTER. Mr. Speaker, if the gentleman will continue to yield, the Iraqi Freedom Fund is a fund that includes money for body armor and lots of other equipment. It is a fund that we supply each year. It is a revolving fund that we keep money in so that the warfighting commanders can buy what they need immediately when they need it.

Mr. KUCINICH. Mr. Speaker, I appreciate the gentleman's explanation.

Could the gentleman clarify this report language on page 210 that says that the amendment was outside the jurisdiction of the Committees on Armed Services in the Senate and the House with respect to alleged clandestine detention facilities?

Mr. HUNTER. Mr. Speaker, if the gentleman would further yield, let me just say to the gentleman that is a classified portion that is within the jurisdiction of the Intelligence Committee.

Mr. KUCINICH. So it is not covered in this report is what he is saying?

Mr. HUNTER. That is correct.

Mr. KUCINICH. Mr. Speaker, I thank the gentleman for his explanation.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, in the combination of institutional incompetence and ideological extremism that has us contemplating this bill at this hour with further important legislation to go, all kinds of stuff gets put in and the regular process gets degraded.

I just want to call attention to one wholly irrelevant provision, irrelevant to the defense. The Boy Scouts of America have been found by States and cities to be violating their anti-discrimination policies with regard to both sexual orientation and religion, and some cities have said that they do not want anyone who fails to follow their State or city's policy getting free facilities. That I suppose can be debated or not as to whether it is right or wrong, but it does not seem to me that there is any argument for having it in the Armed Services authorization bill in a Congress run by supposed States rights conservatives, a provision that says to every city in America you will let the Boy Scouts use your facilities for free whether or not you think they violate the law against discrimination based on religion or sexual orientation.

Now, that is probably going to be found unconstitutional, but I find that to be way beyond the scope of this bill and an example of the degradation of the legislative process that it is in here.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, for all the meritorious provisions of this bill dealing with national defense, there is one that has nothing to do with national defense, and that is the provision on Peotone Airport, Illinois. The language would make it a requirement of Federal law that the governing body of South Suburban Airport in Will County, Peotone Airport, Illinois, be comprised of a majority of local residents of the county.

There was an effort to stick this language in our surface transportation, SAFETEA-LU, last summer. I vigorously objected. It has nothing to do with surface transportation. It has nothing to do with the substance of that bill. So now here it reappears. And this is a total contradiction to the often professed Republican stance that the Federal Government should not tell local governments how to run their business. It is an unprecedented change in the longstanding policy of the Department of Transportation and the FAA that State and local governments determine the structure of airport organization and management and the Federal Government regulates airport safety. This is objectionable.

Mr. Speaker, I rise in strong opposition to the provision on Peotone Airport, which was inserted into this conference report at the last minute. The amendment would make it a federal requirement that the governing body of the South Suburban (Peotone) airport in Will County, Illinois be comprised of a majority of local residents of the county.

Insertion of this provision in the Conference Report is but the latest example of the abuse of the conference process to enact a legislative provision, which couldn't be passed on its merits, as a separate bill. The provision was never considered by the Committee of jurisdiction, the Transportation and Infrastructure Committee. Last summer, there was an unsuccessful, last minute effort to add this provision to the Transportation bill, SAFETEA–LU. Now the provision appears again in a Conference Report that has nothing to do with aviation, or transportation. The provision was not in either of the defense bills that went to conference. It is now protected against points of order. Regrettably, this type of abuse of the process seems to happen every time a major conference report comes before the House.

In addition to the abuse of process, the provision is bad policy. It is an unprecedented change in the longstanding policy that state and local governments determine the structure of airport organization and management, while the federal government regulates airport safety. The FAA is a safety organization, and its highest priority is to ensure the safe and efficient operation of the airport and airway system, not to arbitrate disputes between local authorities. The State of Illinois should determine what body will govern and develop the Peotone airport and how that body should be structured.

Mr. Speaker, I deeply regret that the conference process has been abused to pass this undesirable provision.

At the appropriate place in the bill, insert the following:

SEC. 1063. AIRPORT CERTIFICATION.

For the airport referred to in paragraph (1) to be eligible to receive approval of an airport layout plan by the Federal Aviation Administration, such airport shall ensure and provide documentation that—

(1) the governing body of an airport built after the date of enactment of this Act at site number 04506.3*A and under number 17-0027 of the National Plan of Integrated Airport Systems is composed of a majority of local residents who live in the county in which such airport is located; and

(2) the airport complies with sections 303, 303A, and 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253–253b) as implemented by the Federal Acquisition Regulation issued pursuant to section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) regarding land procurement and developer selection.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank my friend for yielding me this time.

I rise in support of the conference report, and I express my appreciation that this report affirms the principle that a great power should not need to resort to inhuman tactics to pursue its objectives. The anti-torture language that is in this conference report is entirely appropriate.

I also appreciate the fact that it strikes the proper balance between an affirmation of our principles and an understanding that our intelligence agents must act with discretion and flexibility when dealing with the very difficult job that we have given them. This is an important affirmation that strengthens our country, that improves our intelligence, and makes us safer.

I commend the chairman, the ranking member for making sure the provision is in here. I would urge a "yes" vote on the conference report.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to oppose the Graham-Levin amendment language contained in this bill. This provision restricts the jurisdiction of the Federal courts to consider habeas corpus petitions from detainees at Guantanamo or complaints about their treatment. It also would require military tribunals to "weigh the value of the intelligence gained from an interrogation against a judgment on whether the statement was coerced."

In other words, even if the bill says they cannot torture, it also says they can use the information they obtain by torturing people if the military tribunal concludes the statement itself was not coerced.

These two provisions taken together, Mr. Speaker, make the anti-torture provision of this bill unenforceable. They cannot complain about it through habeas corpus. They cannot get into the Federal courts to complain about it, and the military tribunal can use the coerced evidence.

That is not right. This is un-American, and this language ought to have been stricken from the bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BOOZMAN). The Chair will remind Members to refrain from wearing communicative badges while under recognition.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the ranking member very much for his leadership and the chairman.

As we all know, all of us have constituents in the U.S. military. Texas has some of the largest numbers of military in the United States, living in Texas.

I rise to compliment some of the aspects of this bill, such as the increase in the death gratuity and the TRICARE increase for the military and their families. I see the impact on my constituents for improved health care. I also applaud the avian flu provision and as well the issue dealing with the Department of Energy that will not allowed the DOE to increase our nuclear warheads but will only allow the DOE to study the effectiveness of existing warheads.

Finally the conferees agreed that our that our values do not support torture practices, however, I am certainly disappointed that the habeas has been taken away from so called enemy combatants. And I might also add that here we go again with "Star Wars," and program doubtful in value.

But it is important that the Goode amendment was not included. We do not need to use the military at the border. We are a country of laws as we are a country of immigrants. And I might say as well that the 527 campaign reform legislation belongs somewhere else, not in the Defense bill.

Our soldiers need the funding resources. They need our help. They need an increase in compensation. They need better health care. And their families, tragically, when they die in the line of duty, the least we can do is to provide their dependents with a decent, livable opportunity to survive.

I hope that we will have a better process the next time, but I say on behalf of my constituents that I hope we will move this legislation forward.

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume.

Just one or two points, Mr. Speaker. Again in the detainee legislation, the House inserted protections for American uniform personnel and nonuniform personnel.

The other point that was mentioned by the gentleman from New York was on probative value of evidence that might have been obtained under coercion. We all know that we have an exclusionary rule in this country domestically, and that means, as in Davis v. Mississippi, which is one of the threshold cases, the fact that the person did have his fingerprints on the threshold of the grandmother that he murdered, was picked out of an unconstitutionally developed lineup; and therefore we said, as a matter of disciplining our process, we would let people go even though we knew they had committed the crime.

This is a different situation, Mr. Speaker. This is a situation where a person may have been interrogated and may have disclosed, for example, a cache of weapons with which he was going to use to destroy American soldiers on the battlefield, the idea that in our review when we determine whether we are going to free him and send him back, having seen some of the people that we freed at Guantanamo show back up on the battlefield intent on killing American soldiers, that we felt we could not go that far. We could still take the probative value, and if that interrogation developed that cache of weapons, we would look at the cache of weapons and say the person who maintained that was in fact a combatant and it is not fair to our soldiers to put him back where he can shoot at them again.

Mr. Speaker, let me just say one last thing before my great colleague winds up on his side. The gentleman from Missouri (Mr. SKELTON) is our champion on the Armed Services Committee for military education. That is an area in which he has more expertise than anybody else in this body. And I thought, as we move toward the conclusion of this bill, that it was only appropriate that as a gentleman who knows more history than the rest of us, and, in fact, I went over a book that we were going to get him and I found out he was already reading that book. I wanted to dedicate to him and to give to him a book from the committee signed by all the members of the committee, and the ones that have not come to the floor yet will have their opportunity. It is the "Battle of Vicksburg." And for a gentleman who knows every battle that was fought in America and knows it very well, I thought that this would be an interesting tribute to us for a gentleman who really guides us, Democrats and Republicans, in this very important area of military education.

□ 0045

So to the great gentleman from Missouri (Mr. SKELTON), I hope you have good reading, and let me know the high points.

Mr. SKELTON. Mr. Speaker, the chairman, Chairman HUNTER, flatters me. It is rather interesting, and it is important for me to point out that my late wife, Susie Skelton, went to All Saints High School, which is in the middle of the Vicksburg, Mississippi battlefield. And because of that, that has special meaning to our family and, Mr. Speaker, I am most appreciative.

This is an excellent bill. It includes language regarding detainees, pay raises, and medical help. I hope that this does not set a pattern on process. I realize that there was a time problem with the Senate passing the bill so late, and with the Thanksgiving recess coming up. But I hope that the panels will be able to meet fully, explore each of the issues, and as we are not able to do that as nearly as fully as we should, we had to rely on our wonderful staff, and they did an outstanding job.

Toward the last, Mr. Speaker, this was a rather torturous procedural effort. We jumped two major hurdles toward the end; and at the end of the day, the bill is an excellent one for those in uniform and for those who defend our country.

So with that I thank all of the members of the committee. Chairman HUNTER, thank you especially for your help, your leadership, and to each member on our committee for the tremendous work that they did. Hours and days went into this. And a special thanks, Mr. Chairman, for this book on Vicksburg.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I just wanted to thank the gentleman. I thought it would be appropriate for us also to thank this wonderful staff, this great bipartisan staff who put this product together. Let us thank them for what they did.

Mr. SKELTON. Mr. Speaker, I yield back the balance of my time.

Mr. HUNTER. How much time do we have left, Mr. Speaker?

The SPEAKER pro tempore (Mr. BOOZMAN). The gentleman's time has expired.

Mr. HUNTER. Mr. Speaker, I ask unanimous consent for 1 additional minute so the gentleman from Georgia could make a presentation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman is recognized for 1 minute.

Mr. MARSHALL. Mr. Speaker, I appreciate that very much. It was when Chairman HUNTER provided the book to Ike about Vicksburg that I thought that perhaps it was appropriate here publicly to say that there is probably no person on the Armed Services Committee today, nor perhaps no person in the history of the Armed Services Committee, who has done so much for military education. Ike Skelton has constantly talked about the need to provide education and training for our men and women in uniform, and he is known throughout the armed services for that great contribution that he has made.

A couple of years ago, he came up with the idea of commissioning a scholarship program for the graduates of 2-year military colleges to continue their education, with DOD paying for it if DOD thinks that it is appropriate to do so; scholarships for these graduates as newly commissioned officers to finish their college educations. This year, unbeknownst to Ike, that scholarship program was named the Ike Skelton Early Commissioning Program Scholarship.

Mr. Speaker, I would like to present Senator ISAKSON's, a Member of the other body, his bill originally signed by him naming that program the Ike Skelton Early Commissioning Program Scholarship.

Mr. SKELTON. Mr. Speaker, I ask unanimous consent to speak for an additional 1 minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. SKELTON. Mr. Speaker, I am indeed flattered, and I do thank the gentleman from Georgia for this unexpected tribute, and a special thanks to Senator ISAKSON, the fellow Georgian, for his efforts in this. I am indeed flattered, and I will do my best to merit the confidence both of the chairman for his presentation and the presentation Mr. MARSHALL made, and with deep appreciation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of this bill, but not without great reservation. Despite my concerns, I am pleased to see that the bill really provides good provisions for our troops and their families. Moving into the specifics of the bill, H.R. 1815 authorizes $441.5 billion for defense programs in FY 2006, slightly less than the President's request. The total is $20.9 billion (5%) more than the current regular authorized and appropriated level not counting $75.9 billion in FY 2005 emergency supplemental defense funds appropriated last month for operations in Iraq. Among other things, the bill increases the death gratuity for all active and activated service members to $100,000 retroactive to October 7, 2001. This authority is needed to pay the higher death gratuity to all service members, and more importantly pay it retroactively to those what do not qualify under the combat-related requirements since October 7, 2001. Furthermore, for the first time ever, all reservists who agree to continue service in the Selected Reserves will have an opportunity, depending on their status, to buy into a government subsidized TRICARE Standard health care program for themselves and their families. This authority is needed to allow expansion of the program to all drilling Selected Reservists, and enhances the current TRICARE Reserve Select program.

In addition, H.R. 1815 authorizes the President's request of an across-the-board 3.1% pay increase for military personnel. Further, the measure authorizes targeted increases for mid-grade and senior non-commissioned officers and mid-grade officers. The raises would reduce the pay gap between the military and private sector to 4.6%, from 5.1%. Even more important, the measure increases payments to survivors of deceased military personnel to $100,000, from $12,000, and eliminates the requirement that these families have to deduct those payments from the total they can receive from a similar program at the Veterans Affairs Department. The bill also report increases the bonuses for enlistment and reenlistment and raises the eligible enlistment age to 42. These authorities are needed by the Department and most will expire on December 31, 2005.

From a health care prospective, for the first time ever, all reservists who agree to continue service in the Selected Reserves will have an opportunity, depending on their status, to buy into a government subsidized TRICARE Standard health care program for themselves and their families. This authority is needed to allow expansion of the program to all drilling Selected Reservists, and enhances the current TRICARE Reserve Select program. H.R. 1815 also extends TRICARE coverage for children of service members killed in the line of duty until 21 years of age, or 23 years, if a full-time student.

Under the bill the Department of Defense is required to report back on its plans to respond to an international and/or domestic outbreak of avian flu. This is very important as our nation combats the potential outbreak of this flu. Lastly Requires the establishment of a Mental Health Task Force that will look at how the Department and the Services can better identify, treat, and support the mental health needs, including Post Traumatic Stress Disorder, for service members and their families. An effort to provide a comprehensive examination of the mental health programs and policies of the Department of Defense and other federal programs, this effort will not be initiated without a defense authorization bill.

Title 3 of the bill allows the Department of Defense to accept gifts on behalf of wounded service members, Department of Defense civilians or their families. Soldiers are currently restricted from accepting more than $20 in gifts. This makes it impossible for well meaning people to give gifts to wounded troops or their families without violating ethics laws. The provision will only partially fix the issue as people will not be able to give gifts directly to the soldier. The bill recognizes the diversity of members of the Armed Forces who serve and died in Operation Iraqi Freedom and Operation Enduring Freedom. Additionally, the bill authorizes $30 million for Department of Defense Impact Aid. These are funds provided to states that have military bases in communities and these bases are feeding of the economy of the community.

Before closing, let me take a few moments to express my concerns with the bill. In terms of "Star Wars" I would only say, here we go again providing for additional testing on unproven technology that will not ensure our safety. Finally I am disappointed that the bill provides limited judicial review of appeals from prisoners seeking determinations of enemy combatant status. This does nothing but closes the court doors which going against the principle of judicial review and due process.

Mr. WATT. Mr. Speaker, I support the extension of the Defense Department's 1207 program, which ensures that the Department's federal contracting process in no way supports or subsidizes the discrimination that has long existed in the contracting business. The extension of the program through September 2009 is needed to help achieve that goal.

Overwhelming evidence has shown that minorities historically have been excluded from both public and private construction projects, particularly from defense contracts. Since its adoption in 1986, the Department of Defense's 1207 program has helped level the playing field for minority contractors, but there is still much work yet to be done.

A 2004 North Carolina study by MGT America, an independent research and consulting firm, revealed that North Carolina continues to underutilize businesses owned by minorities or women in nearly all categories of transportation contracts. More specifically, African American and Hispanic businesses are underutilized in every business category of contracts awarded by the North Carolina Department of Transportation. In an earlier Charlotte study, Hispanic contractors reported that they are treated differently and experience more pressure to get the work done. Clearly, efforts to encourage minority participation in government contracting are still necessary.

The Department of Defense's 1207 program helps to counter discrimination without imposing an undue burden on white-owned businesses. Small businesses owned by white contractors are eligible to receive the benefits of the program if they are socially and economically disadvantaged.

I strongly support the reauthorization of the Department of Defense's 1207 program.

Mr. ABERCROMBIE. Mr. Speaker, I rise today to address the defense authorization bill conference report for fiscal year 2006. The bill includes language regarding U.S. policy concerning the war in Iraq, which reflects substantially House Joint Resolution 55 of which I am a prime cosponsor, with regard to phased redeployment of U.S. forces in Iraq during calendar year 2006. There is also language in this bill that clearly lays out how detainees in the custody of the U.S. Government will be treated. However, it does not address the question of the outsourcing torture or contracting with third parties for interrogation and detention not subject to the provisions of this bill. We will pay a heavy price in terms of world condemnation for this deliberate omission when such activities are revealed.

There are several measures to improve the oversight of major acquisition programs for the Department of Defense. Each year the nation gives the Pentagon hundreds of billions of dollars, and each year the Pentagon spends a good portion of that money buying things: ships, planes, tanks, helicopters, and other items. Unfortunately, in recent years almost every single high-profile defense acquisition program has experienced cost overruns, performance shortfalls, or testing problems. I believe that one reason for these problems is that Congress hasn't done everything it could to make sure that these important programs stay on track and that the companies building the systems deliver what they promise to deliver. At the end of the day, this is about getting our troops in the field what they need, when they need it. Making sure this happens is one of Congress' primary Constitutional duties.

I am pleased then that this year, the defense authorization bill puts measures in place that will improve Congress' visibility of several major programs that are facing challenges, including the Future Combat System, the Joint Tactical Radio System, and the new Presidential helicopter. In each case, both myself and my subcommittee chairman Congressman CURT WELDON, are committed to making sure that these programs deliver the capability our military needs at a price we can afford.

I am also encouraged that for the first time, this bill requires the Department of Defense and the military services to report back to us on options for moving to a capital budgeting approach for defense acquisition, which I have advocated. Today, the DOD is one of the few government entities in the United States that continues to cash-finance the purchase of multi-million dollar capital items such as ships and aircraft. As I've pointed out many times during committee discussions, this cash-financing and budgeting system is leading the Department to make poor decisions on major capital acquisition programs. In effect, the way we budget for new equipment is determining what we end up buying. That is a completely backwards system and one that needs to change. The conference report before us today will require the DOD and the Armed Services to take a serious look at using an alternative, modern, and more flexible capital budgeting approach that will help the DOD get our troops the equipment they need to do their jobs.

As I indicated earlier, this bill includes language in Section 1227 on U.S. Policy in Iraq that I think represents bipartisan agreement with House Joint Resolution 55, which I introduced with Congressman WALTER JONES this past June. Joint Resolution 55 called for the President to begin the withdrawal of U.S. troops from Iraq in 2006. Similarly, the bill before us today says that:

"Calendar Year 2006 should be a period of significant transition to full Iraqi sovereignty, with Iraqi forces taking the lead for the security of a free and sovereign Iraq, thereby creating the conditions for the phased redeployment of the United States forces from Iraq."

I think the bipartisan support in Congress for a phased redeployment and the President's eventual signature for this measure should signal a significant step toward getting US troops out of Iraq. I'm pleased that despite the recent White House overheated rhetoric about "total" or "complete" victory and casting aspersions on the patriotism of those opposed to this war that we may finally be at a point where we can all agree that in 2006 US troops will begin to come home from Iraq. If the President signs this bill it follows that support for this language requires beginning the drawdown of US forces in Iraq as soon as possible.

Again, as I indicated earlier, this bill contains language clarifying how individuals detained and held by the United States Government will be treated and interrogated. The language originally sponsored by Senator JOHN MCCAIN that prohibits "cruel, inhumane, or degrading" treatment of prisoners is retained in the conference report in its original form. However, while I'm pleased that this language is included in the bill—after the President threatened to veto this very same language—I am troubled by an issue that this bill does not address.

This issue is the issue of whether or not the United States condones, by default, the torture of prisoners by "outsourcing" interrogations to other nations. The technique of handing over prisoners in our custody to other countries is called "extraordinary rendition," and has been described in numerous press reports. In some cases, it may even be an appropriate way to deal with a prisoner wanted for crimes in their home country.

However, what happens to those prisoners when they leave U.S. custody is not addressed in this bill in any way. As a result, while the bill prohibits people in our direct custody and control from being tortured, it is silent—and thus, complicit—with regard to our handing over prisoners to other nations so that they can be tortured on our behalf.

So, while we have made some progress with regard to making it clear to our military and intelligence services how they are to treat prisoners in our custody, I am concerned that this bill doesn't go far enough. I intend to support this bill today based on what is in it, but I want to make it clear that Congress must, as soon as possible, deal with the issue of the outsourcing of torture. If Congress does not do so soon, there will likely be some kind of incident somewhere involving a prisoner in our care that is handed over to another country and is subsequently tortured, or even killed. When that happens, if Congress has remained silent on this issue the United States will suffer another needless defeat in the court of global public opinion. When that happens, millions around the world may conclude that Congress condones the outsourcing of torture simply because we have chosen not to act to stop it.

Mr. LANGEVIN. Mr. Speaker, as a member of the House Armed Services Committee, I rise in support of the conference report to H.R. 1815, and thank Chairman HUNTER and Ranking Member SKELTON for their hard work. Once again the committee has demonstrated its commitment to ensuring the security of our nation and the safety of our men and women in uniform.

I am extremely pleased that we were able to consider this measure without extraneous and controversial provisions that would have endangered its passage. Our troops and the civilian employees in the Department of Defense have performed valiantly and made enormous sacrifices to safeguard the United States, and H.R. 1815 recognizes their commitment by providing much-needed assistance to them and their families. The conference report includes a pay raise of 3.1% for military, increases certain enlistment and re-enlistment bonuses, and allows certain members of the reserves to buy into the TRICARE health care program for themselves and their families. The measure also increases the endstrength of the Army and the Marine Corps, which should help relieve some of the stress on troops who have experienced repeated deployments.

The legislation also contains $50 billion in supplemental funding to provide force protection equipment, such as up-armored Humvees and jammers for improvised explosive devices, to our troops in Iraq and Afghanistan, as well as to replace equipment that has been degraded by the high operations tempo. Though the military has accomplished a great deal with what they have, we have clear indications that we are wearing down our equipment, perhaps faster than we can replace it. The investment in this bill is an important step, but we must not forget that it will take billions more to completely reset and recapitalize our force.

This bill also contains important language to ensure that Department of Defense does not contract out existing government work without realizing actual cost savings. Earlier in the year, I drew the committee's attention to DOD's practice of reorganizing or reclassifying existing government work in order to circumvent required contracting rules without demonstrating savings. The language in this measure closes that loophole and goes much farther by establishing much clearer standards about how DOD can contract out work. I thank the chairman of the Readiness Subcommittee, Mr. HEFLEY, as well as the committee staff, for working with me and my office to address my original concern, and I will continue to work with the committee to monitor the implementation of this new language to ensure that all parties involved are treated fairly and that taxpayer dollars are used as effectively as possible.

Finally, H.R. 1815 demonstrates its interest in maintaining a strong Navy through a continued commitment to the next-generation destroyer, DD(X). It also includes language affirming the committee's support of the VIRGINIA-class submarine and directing the Navy to initiate a program to improve future submarine technology in a cost-effective manner. This provision should be welcome news to Electric Boat, a major employer in my district, which has announced as many 2,400 layoffs in 2006, primarily due to insufficient submarine design and construction work. To prevent our submarine force from shrinking to dangerously low levels, I will continue my efforts to integrate cutting-edge technology into VIRGINIA-class submarines and to increase procurement of these ships to two per year. Given other nations' investments in their navy and undersea capabilities, we cannot afford for the United State to lose its undersea dominance.

Again, I commend the Chairman HUNTER, Ranking Member SKELTON and my colleagues on the committee for a well-balanced bill, and I urge its adoption.

Mr. WELLER. Mr. Speaker, I rise today in strong support of the conference report for H.R. 1815, the Fiscal Year 2006 National Defense Authorization. This legislation is critically important to our troops and our efforts in the global war on terror. In addition, the conference report contains a provision that is extremely important to my constituents in Illinois's 11th Congressional district. The "Weller Amendment", which pertains to Chicago's South Suburban Airport, ensures that the airport is built with local control and through a transparent process.

The South Suburban Airport will be one of Illinois' largest infrastructure projects to be undertaken since the construction of Chicago O'Hare International airport. With the construction of the South Suburban Airport, an estimated 236,000 jobs will be created and it is projected to generate $5.1 billion in economic growth. In addition to the boost it will give the local economy, the South Suburban Airport will further reduce the congestion that currently plagues Chicago O'Hare.

The "Weller amendment" is necessary to protect the taxpayers of Will County who will have the ultimate responsibility for the infrastructure and development associated with the airport. Local responsibility, accountability and control is essential for the airport to be successful. For Will County, where the entire footprint of the airport is located, to have a majority control on how this airport should take shape and operate. It is just common sense.

The first section of my provision will ensure that Will County residents will receive a majority of the seats on the governing board of the airport. Since my days in the Illinois General Assembly, I have been a strong supporter of the Third Airport and have always maintained that local control is vital to the airport governance. It is the residents of Will County who will have to live with both the benefits and the consequences the new growth will bring to the county. They must have a majority of seats on the governing board to represent Will county taxpayer interests.

The second section of my provision applies to current law, requiring that all contractual dealings of the airport follow federal procurement laws. There must be transparency and open bidding in the contracting for this airport. There is no room for sweetheart deals or backdoor no bid contracts which is the practice of the Abraham Lincoln Airport Commission, which is composed of communities in Cook County who seek to control the Will County site. This point has also been reinforced by the recent opinion by Illinois Attorney General Lisa Madigan. In her opinion, issued last Friday evening, the process that the Abraham Lincoln Airport Commission used to pick two airport developers violated state procurement laws.

I also realize that some of my constituents, especially near the airport site, do not support the construction of a suburban third airport. With this understood, should an airport be built, I think they would agree that those that have to live with the airport should control the operation of the airport.

I would like to deeply thank Speaker HASTERT and Chairman HUNTER for their support of this amendment. I would also like to thank Will County Executive Larry Walsh, Will County Board Chairman Jim Moustis, Illinois State Senator Debbie Halvorson and all of the public officials in Will and Kankakee counties for their support.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, let me start by adding my thanks to the Armed Services Committee staff for their hard work and long hours in getting this conference report to the floor.

On the whole, I think this is a solid bill—a bill that does a lot of good for our servicemembers and their families.

It raises basic pay and hardship duty pay. It provides TRICARE coverage for Reservists. It increases the death gratuity for all activated servicemembers. It begins the much-needed reform of the DOD acquisition system.

And with the inclusion of the McCain language, this bill makes a strong statement to the world that the United States does NOT condone—and will not tolerate—the torture or abuse of detainees.

But I'm particularly happy to note that the final conference agreement includes two important revisions to the Uniform Code of Military Justice (UCMJ).

The first revision would update Article 120 of the UCMJ making it a modern, complete sexual assault statute that protects victims, empowers commanders and prosecutors, and improves good order and discipline of the armed forces.

It offers military prosecutors a clear definition of sexual assault and better tools for prosecuting sexual offenses, and it affords increased protection for victims by emphasizing acts of the perpetrator rather than the reaction of the victim during an assault.

The second revision to the UCMJ involves the addition of stalking as a specifically defined offense, bringing the UCMJ in line with federal laws and the laws of all 50 states.

The language in this bill will offer commanders and prosecutors a clear definition of stalking. It will raise awareness, strengthen law enforcement, and underscore the criminality of this conduct to all members of the military community.

Furthermore, it will give commanders a powerful tool to cut stalking off in its early stages—before a stalker's behavior escalates.

I have pushed for these changes for a long, long time, and I am thrilled to see both chambers finally agree on these major steps forward for the military justice system and for the men and women of our armed forces.

Ms. SCHAKOWSKY. Mr. Speaker, today we are being asked to vote on the Department of Defense Authorization conference report. Once again, the House is being required to vote on a bill in the dead of night, without the opportunity to read the language or consider its ramifications. I am especially concerned about two provisions in this bill—provisions that were not in the original House bill, were not the subject of Congressional hearings, and have not been carefully scrutinized. Yet, those two provisions—one that undermines the fundamental right of habeas corpus and the other that undermines the ban on torture—will have profound implications for our legal traditions and our reputation throughout the world.

The first provision, based on a Senate amendment, would limit U.S. courts' historic habeas corpus jurisdiction to review detentions. This would cut off access to the courts by persons held at Guantánamo Bay.

Habeas corpus is one of the most fundamental precepts of American Constitutional tradition. The court-stripping provision included in this legislation would do grievous harm to the rule that the government cannot just lock up people without showing cause to a court. It is not a change that we should enact without careful consideration by the appropriate committees in the House and Senate.

In a letter to Members of Congress commenting on the Senate amendment, Leslie H. Jackson, head of the POW organization, American Ex-Prisoners of War, said "As we limit the rights of human beings, even those of the enemy, we become more like the enemy. That makes us weaker and imperils our troops. I am proud to be an American and proud of my service to my country. This Amendment, well intentioned as it may be, will diminish us." William D. Rogers, former Under Secretary of State during the Ford Administration, also expressed serious concerns about the possible impacts of this amendment. He warns, "To proclaim democratic government to the rest of the world as the supreme form of government at the very moment we eliminate the most important avenue of relief from arbitrary governmental decision will not serve our interests in the larger world."

Second, this legislation also includes a provision that would undermine a ban on torture by allowing testimony obtained by torture to be used to hold and to punish detainees. Both the House and the Senate have voted overwhelmingly in past weeks that our nation should prohibit the use of torture. We have agreed that the use of torture is antithetical to a moral nation and that it harms our reputation as the exemplar of democracy and freedom throughout the world. We have also heard from intelligence experts that information obtained in interrogations that use techniques like "waterboarding" or simulated drowning, often produce unreliable information. Yet, while this legislation condemns the use of torture on one hand, on the other hand it countenances the use of information obtained through torture to eliminate legal rights.

I urge my colleagues to reject these provisions in order to protect our time-tested judicial review process and to keep our commitment to end the use of torture.

Mr. UDALL of Colorado. Mr. Speaker, this conference report has flaws, and I dislike the way it was developed. But I think it deserves to be approved, and want to highlight a few reasons why.

First, the conference report includes the original McCain amendment related to treatment of detainees, with additional language agreed to by the conferees and the Administration that provides our military and intelligence personnel with criminal and civil defenses modeled on those already provided to military personnel under the Uniformed Code of Military Justice in specific circumstances.

I strongly supported the McCain amendment because, while it's said actions speak louder than words, reputations depend on both—and, fairly or not, for people around the world the actions of a few Americans at Abu Ghraib have left a stain on America's reputation and have made it harder for our troops to win the war against Islamic terrorists. Erasing that stain and protecting our soldiers from abuse will take both respectable actions and credible words—and enactment of this part of the conference report will give credibility to our words.

I also am glad to note that the conference report includes the language adopted by the Senate saying that says 2006 should be a period of significant transition to full Iraqi sovereignty, with Iraqi security forces taking the lead for the security of a free and sovereign Iraq, thereby creating the conditions for a phased redeployment of U.S. forces from Iraq, and requiring quarterly reports until all combat brigades have been redeployed from Iraq.

With my colleagues Representatives OSBORN, TAUSCHER, and SCHWARZ, I urged that this be retained in the conference report as a step toward the greater unity among Members of Congress and the Administration that I think will be needed for a successful outcome in Iraq. So, its inclusion is another reason I support the conference report.

There are also many broad provisions in the bill that benefit our troops. An important one increases the end strength for the Army and Marine Corps by 30,000 and 4,000 respectively, thereby helping to ease the strain on our troops. I'm also glad that the bill includes provisions to increase recruiting and retention incentives, increase the death gratuity to $100,000, and provide a 3.1% pay raise for members of the armed forces. The bill also provides better force protection for our troops, including nearly doubled funding for up-armored Humvees.

Also critical is the report's provision authorizing reservists who agree to continue service to buy into a government-subsidized TRICARE healthcare program for themselves and their families. Along with many of my colleagues in the House, I have fought for some time to expand TRICARE for the Guard and Reserve, so I take great pleasure in knowing that the report includes this provision that will improve healthcare access for our men and women in the Selected Reserve. As long as our Nation continues to use our reserve components in the same capacities as active duty troops, they deserve similar benefits for similar service. The needs of our Reservists will continue to grow as we continue to call them to service in the war in Iraq and Afghanistan.

Also important—especially at this time of budget tightening—is the report's focus on reining in costs of major procurement programs, particularly the Future Combat Systems and other programs that have relied on immature technology. Similarly, provisions included to reform the acquisition system will strengthen current law governing cost overruns.

I am also pleased that the report fully authorizes Cooperative Threat Reduction funding as well as additional funding for a Department of Energy nonproliferation program to implement agreements between the U.S. and Russia. One of the biggest dangers we face is the threat of nuclear weapons and other weapons of mass destruction in the hands of terrorists, yet the CTR program is currently funded at a lower level than it was before September 11th. So I am glad that report conferees recognized the importance of increasing CTR funding.

On a less positive note, I am concerned that the report authorizes nearly $50 billion in a "bridge fund"—over and above the $440 billion in the regular bill—for FY06 supplemental appropriations for the wars in Iraq and Afghanistan and the global war on terror. While inclusion in the report does mean that the authorizing process has been followed to an extent, still, the additional money in this bridge fund should be included in the regular budget request, since there is nothing unexpected about the need for these funds. The "emergency" label that these funds bear hides the fact that they do increase the size of the budget deficit. I don't believe this is a responsible way for us to pay for our military operations.

And I have concerns about the provision related to the ability of detainees at Guantanamo Bay to seek judicial review of their situations. My understanding is that this could have the effect of allowing use of evidence obtained by coercive interrogations. At least one lawyer who represents detainees at Guantanamo has described the combination of the McCain amendment and this provision as one step forward and two steps back. I think we must carefully monitor implementation of this provision and be prepared to consider revisions in the near future.

Further, Mr. Speaker, as a new Member of the Armed Services Committee, I want to express my appreciation to Chairman HUNTER and for working with me on a number of provisions in the report that are important to me and my state of Colorado.

In particular, I am pleased that the report includes favorable language on the Pueblo Chemical Depot, a former chemical weapons site located in southeastern Colorado. Coloradans were alarmed last year when the demilitarization project was put on hold, so they want to see that the Defense Department is committed to using the neutralization technology to destroy the 2,600 tons of mustard agent stored at Pueblo—not transporting the weapons to a different site for destruction. The Colorado delegation has worked hard to put the project back on the right track, so I am grateful for language in the bill directing the Secretary of the Army to continue to implement fully the neutralization technology at Pueblo.

And, finally, the conference report includes provisions dealing with a matter of particular interest to Coloradans—the future of Rocky Flats.

Located at the edge of the Denver metropolitan area, Rocky Flats formerly was part of the complex of sites where nuclear weapons were made. After that use ended, the Department of Energy and its contractors worked to have the site cleaned up and closed. That monumental task is now complete, and when the regulatory certification of cleanup and closure is issued, and most of the site will be transferred to the Interior Department for management as a national wildlife refuge pursuant to the Rocky Flats Wildlife Refuge Act.

That Act, which I sponsored with Senator WAYNE ALLARD, includes some provisions related to the non-Federal minerals—primarily sand and gravel—at Rocky Flats. The purpose of those provisions is to make clear that while these mineral rights are to be respected as private property, their future development could have adverse effects on the land, wildlife habitat, and other values of the future wildlife refuge. I think the best way to avoid that is for the Federal Government to acquire the minerals. This conference report will facilitate acquisition of part of those mineral rights, and while I think its terms leave room for improvement its enactment will enable valuable progress to be made.

In conclusion, Mr. Speaker, I think the conference report deserves enactment and I urge its approval.

Mr. MENENDEZ. Mr. Speaker, I rise in strong support of the extension of the Defense Department's Section 1207 Small and Disadvantaged Business Utilization (SADBU) program through September 2009. I am very pleased to see this program extended in this bill because it has proven to be extremely effective in fighting discrimination in the defense contracting process, and has been tremendously successful in ensuring that African Americans, Latinos, Asians, and Native Americans are able to compete more effectively for government contracts.

The goal of the SADBU program is to provide opportunities for all Americans to take part in the defense contracting process. Since its inception in 1987, the SADBU program has helped to level the playing field for small and disadvantaged businesses. However, there is still a lot that needs to be done. Years of Congressional hearings have shown that minorities have historically been unfairly excluded from both public and private construction contracts in general, and from federal defense contracts in particular. And a recent study by MGT of America revealed that minority-owned and women-owned businesses in New Jersey still faced significant challenges in obtaining state contracts. Many business owners and representatives stated that their opportunities to perform work as subcontractors on state contracts decreased after the suspension of the state's minority and women business enterprise program. If the federal SADBU program were to end, a lot of the progress we have made to this point would likely be erased. That's why this extension is so important.

Mr. Speaker, the 1207 program helps to correct the problems of discrimination without imposing an undue burden on other businesses. It is not a quota. It is not a set-aside. It is not a guarantee of contracts or dollars. It is simply about fairness, and the ability of minority-owned businesses to compete more effectively for federal defense contracts. All of us benefit when recipients of federal opportunities reflect America's diversity, and I'm proud to support the reauthorization of the 1207 program.

Mr. THORNBERRY. Mr. Speaker, I will vote in favor of this bill, but I do not support all of the provisions in it. I am especially concerned about the McCain language related to treatment of detainees in the War on Terrorism and about the consequences of that language on our ability to prevent attacks against Americans.

A recent editorial in the December 14, 2005 issue of USA Today expresses my views very well, and I include it at this point in the RECORD:

[From USA Today, Dec. 15, 2005]

MISGUIDED MORALITY

(By Andrew C. McCarthy and Clifford D. May)

No one favors torture. Torture is already illegal under both U.S. and international law. Nonetheless, the United States is fighting a war against ruthless enemies who obey no rules. We cannot afford to treat all of them with kid gloves all the time.

On the battlefield, we can—and do—kill our enemies. Those we don't kill but only capture should be treated humanely, despite the fact that they do not return the favor when they seize Americans. But those who have information that could save lives must be interrogated effectively. That does not imply torture. It does imply measures that the McCain amendment would ban.

Contrary to what you might have heard, "ticking time-bomb" scenarios are not uncommon. Consider the situation faced by Army Lt. Col. Allen West: Fighting near Tikrit, he captured a suspect who refused to divulge information about a planned ambush.

West fired his revolver to frighten the suspect. The trick worked. The terrorist talked. American lives were saved. And West was accused of torture, charged with assault and drummed out of the military. Next time, will an officer in the same situation decide to let Americans be killed—believing that's what Americans back home demand?

Even more common than the ticking time bomb is the scenario in which a "high-value" suspect is captured, for example a senior al-Qaeda commander who might not know about an imminent attack but who does have information on terrorist recruiting, training and communications.

In this circumstance, torture is not only unneeded but also unhelpful. But the use of "stress and duress" techniques, including rewards for cooperation and punishments for defiance, can, over time, induce a subject to reveal what he knows.

Good policy requires clarity and accountability. Though torture is to be avoided, vague terms such as "cruel" and "degrading" inevitably would be stretched to coddle terrorists unduly. Congress should instead set clear standards, consulting intelligence experts and medical professionals to flesh out which techniques should always be prohibited (for example, those likely to cause death or permanent disability), and which are permissible—and most likely to yield reliable lifesaving information.

Accountability means not leaving serious judgments to junior personnel. Harsh interrogation methods, such as covert operations under current federal law, should require approval by a highranking administration official.

Obviously, distinctions must be made between terrorist leaders and low-level operatives. Even so, those arguing that it is better to sacrifice the lives of U.S. troops—or even an American city—rather than cause a terrorist temporary discomfort are making a terrible mistake. They urge a self-destructive policy and a misguided morality.

Ms. MCCOLLUM of Minnesota. Mr. Speaker, I rise to express my support for H.R. 1815, the Department of Defense Authorization Act for Fiscal Year 2006.

Mr. Speaker, torture can never be tolerated. As a country that has historically stood for the promotion and strengthening of human rights, our government must not be allowed to blur the line, bend the rules or otherwise distort the truth on acts that are clearly degrading, inhumane and cruel. Senator JOHN MCCAIN's amendment to the Fiscal Year 2006 Defense Authorization, and subsequently Appropriations, bills, was overwhelming supported in the Senate, and had bipartisan support in the House. Regardless of who we are fighting, and regardless of how the war is going, as Americans, we must never allow ourselves to again be accused of torture. Torture destroys the lives of those who are its victims as well as the lives, moral authority and strength of those who commit such devastating acts or support them.

As a cosponsor of the Interrogation Procedures Act of 2005, H.R. 3985, which is identical to Senator MCCAIN's amendment, I am pleased that conferees were able to come to a good agreement in regard to Senator MCCAIN's amendment. This amendment deserved the utmost support and respect, and I believe that in the end, the conferees were able to incorporate a clear, unambiguous statement on the unacceptability of torture by the U.S. government and military.

As media reports of alleged torture and extraordinary rendition become increasingly common, and as reports continue of "secret" CIA prisons operated throughout Eastern Europe, I am extremely pleased that the Administration has finally, publicly supported the MCCAIN ban on torture. I was appalled earlier this month, and in November, to hear of Vice President CHENEY's lobbying of Members of Congress to have this provision stripped, arguing that the provision would restrict the "flexibility" of the intelligence and military communities to wage an "effective" war against terror.

With this conference report, the United States has made a clear, unambiguous, and strong statement condemning torture and outlawing its use by any U.S. military personnel or on any U.S. facility in the world. This is to be greatly commended and I thank my colleagues for their support of this provision.

Mrs. MALONEY. Mr. Speaker, I rise today in support of the conference report to the "National Defense Authorization Act for Fiscal Year 2006."

I am thrilled that this legislation includes provisions to provide retirement credit to the members of the National Guard serving on State duty who responded to the 9/11 attacks in New York and at the Pentagon.

I, along with Representative KING and other members of the New York delegation, introduced legislation earlier this year which would accomplish the same goal, and I am thankful that the committee has worked with us to correct this inequity.

I especially would like to thank Chairman MCHUGH for his steadfast support of these provisions.

My friend and colleague Representative KING has been invaluable in this endeavor, and I thank him for his efforts.

I also would like to commend Chairman HUNTER, Ranking Member SKELTON, Ranking Member SNYDER, and their staffs for their work on this issue.

Lastly, I would like to acknowledge Senator CLINTON for her support and for introducing the companion legislation in the Senate.

In the aftermath of 9/11, the National Guard responded to the call of duty heroically.

While others were moving toward safety, the Guard moved into unknown dangers around Ground Zero.

They did not know if another attack was coming, but they did not hesitate to respond. All they did was their selfless duty.

For almost a year after 9/11, these National Guard heroes streamlined the movement of rescue personnel during the critical first phases of the response and they endured the toxic air conditions of Ground Zero with thousands of responders.

However, the National Guard units that served in the disaster zones of New York after 9/11 did not receive Federal retirement credit, while the National Guard units that protected Federal sites like West Point are receiving Federal retirement credit.

While protecting Federal sites was an important duty after 9/11, those who risked their lives at Ground Zero, in the most dangerous conditions anywhere in the country, deserve the same fair treatment.

By including these provisions in this conference report, we are showing our gratitude to the brave men and women who responded on September 11th by giving them the retirement benefits to which they are entitled.

I urge my colleagues to support this legislation.

Mr. CONYERS. Mr. Speaker, while I am a strong supporter of the brave men and women who serve in our armed forces, I am deeply opposed to the unnecessary and pernicious last-minute amendment added to this bill by Senators GRAHAM, LEVIN, and KYL. I am also disappointed that the conferees have made further changes to the provision that will only further damage our rule of law and compromise the efforts of our soldiers around the world.

Their amendment, which is now Section 1405 of this bill, may severely curtail the federal court's review of detainees operations in ways that do irreparable damage to our rule of law. The provision also fails unequivocally to condemn torture and abuse, or the erratic and unreliable information that practice yields. These flaws are contrary to the fundamental principles of our legal traditions.

Let me first focus on the torture issue. Never before in America's proud history have we countenanced a system in which there is even a possibility that human liberty might be taken away based on evidence extracted by torture. And it is this refusal to debase ourselves, by resorting to immoral and illegal techniques, that lies at the core of our best and most noble traditions.

We should have made clear beyond doubt in this provision that we do not approve of and we are not willing to tolerate a system that rests on torture today. Even if it were true that there may be some extreme case—say, the infamous "ticking time-bomb" scenario—that could vindicate the use of abhorrent physical coercion, that exceptional case would not warrant the use of that evidence—evidence that our intelligence services have told us is very often unreliable—in subsequent judicial proceedings. There is simply no excuse or justification for this omission.

As we try to establish new democracies and the rule of law for Iraq and Afghanistan in place of sanctuaries for terrorists, Congress's failure to condemn and bar abuse is shameful, intolerable, and deeply hypocritical: How can we refuse to practice what we preach to other countries?

Congress must return to this issue as soon as possible and make good the promise of Senator MCCAIN's wise anti-abuse provision; after all standards are important but, as we have learned time and time again, we also need accountability and enforcement.

Time is of the essence because continued torture and abuse hurts our efforts in Iraq and beyond against al Qaeda. The persistent wave of stories about prisoners detained for the wrong reasons, or subjected to inappropriate treatment or abuse while in U.S. custody has inflicted terrible harm on our reputation, and on the efforts by our brave men and women in Iraq to win the hearts and minds campaign. Establishing a meaningful system of accountability for detainee operations is not only a matter of restoring America's honor in the eyes in the world, it is a vital part of our counterterrorism strategy.

Accountability, moreover, cannot be achieved without independent monitoring mechanisms. The rule of law, as events of the past four years have made clear, dies behind closed doors and barbed-wire. Cutting off meaningful judicial supervision of the Guantánamo Naval Base will not restore the military's honor. And turning the federal courts into rubber stamps for decisions generated through the rack and the screw would stain our legal traditions.

As Senator SPECTER powerfully urged, these difficult issues must be assigned to the House and Senate Judiciary Committees for their careful and expert consideration. Senator SPECTER's wise counsel has been repeated in letters from senior members of our armed forces, who have already retired; a bipartisan group of respected former federal judges; the American Bar Association; and a broad cross-section of professors from the legal academy. This wide-ranging opposition indicates how thorny these issues are, and how unwise it is to move so quickly on them.

I am heartened, however, that we have been able to preserve much that is not harmful in this provision. There are some sound ideas embedded in these provisions that we should use when we reconsider these issues.

Central to Congress's aim in this provision is a distinction between those detainees who have already been subject to a Combatant Status Review Tribunal (CSRT) and new detainees who will be subject to a future CSRT procedure that Congress will certify more than six months from now. For those who have already been subject to a CSRT and now challenge either that procedure or the lawfulness of the military commission system, the provision does not affect access to the federal courts.

Through section (h)(2), Congress has crafted a new system of judicial review for cases that will be brought under a new system of CSRTs, to be designed by the Secretary of Defense and reviewed with care by Congress. These appeals from new CSRTs will be heard in the United States Court of Appeals for the District of Columbia Circuit. And even in these new cases, the provision does not alter the now-established ability of attorneys to visit clients at Guantánamo. Attorneys litigating their cases in a circuit court need access to and communication with their client, as recent filings in the Hamdan v. Rumsfeld case show.

But section (h)(2) also circumscribes the new system of review to new cases, which will of necessity arise more than six months from now, when the new CSRT procedures have been promulgated. We have preserved the existing, expansive review role of the federal courts for the habeas petitions filed by those who have already been through a CSRT. So detainees who have already had a CSRT hearing, including those who have pending habeas petitions, will continue to have traditional habeas review.

We also chose in paragraph 3 of subsection (e) not to legislate an abstention rule. For those who have filed challenges to their military commissions, we did not take the extraordinary step of requiring convictions or other exhaustion before they come into federal court. As in Ex Parte Quirin, we have permitted pre-conviction challenge to be brought up to the U.S. Supreme Court. Paragraph 3 simply governs challenges to "final decisions" of commissions, and does not impact challenges when they are not brought "under [that] paragraph." See Section 1405 (e)(3)(c),(d).

To be sure, a few provisions are singled out to apply to pending cases, but these are provisions that give those who have filed cases additional rights, instead of taking any rights away. One such provision was added in conference with respect to coerced testimony, Section 1405(b)(2). But that provision does not in any way alter the clear intent of the Congress, which was to grandfather the jurisdiction of existing Guantánamo habeas and mandamus lawsuits under Lindh v. Murphy.

As such, nothing in the legislation alters or impacts the jurisdiction or merits of Hamdan. And, quite obviously, nothing in the legislation constitutes affirmative authorization, or even toleration, for the military commissions at issue in that case. That is the question that the Supreme Court will decide in the coming months. Our mention of commissions simply reflects, but does not endorse, the fact that the lower court in Hamdan held them legal.

This provision attempts to address problems that have occurred in the determinations of the status of people detained by the military at Guantánamo Bay and elsewhere. It recognizes that the CSRT procedures applied in the past were inadequate and must be changed going forward. As the former Chief Judge of the U.S. Foreign Intelligence Surveillance Court found, in In Re Guantánamo Detainee Cases, the past CSRT procedures "deprive[d] the detainees of sufficient notice of the factual bases for their detention and den[ied] them a fair opportunity to challenge their incarceration," and allowed "reliance on statements possibly obtained through torture or other coercion." Her review "call[ed] into serious question the nature and thoroughness" of the past CSRT process. The former CSRT procedures were not issued by the Secretary of Defense, were not reported to or approved by Congress, did not provide for final determinations by a civilian official answerable to Congress, did not provide for the consideration of new evidence, and did not address the use of statements possibly obtained through coercion.

To address these problems, this provision requires the Secretary of Defense to issue new CSRT procedures and report those procedures to the appropriate committees of Congress; it requires that going forward the determinations be made by a Designated Civilian Official who is answerable to Congress; it provides for the periodic review of new evidence; it provides for future CSRTs to assess whether statements were derived from coercion and their probative value; and it provides for review in the D.C. Circuit Court of Appeals for these future CSRT determinations.

At the same time, in accordance with our traditions, this amendment does not apply retroactively to revoke the jurisdiction of the courts to consider pending claims invoking the Great Writ of Habeas Corpus challenging past enemy combatant determinations reached without the safeguards this amendment requires for future determinations. The amendment alters the original language introduced by Senator GRAHAM so that those pending cases are not affected by this provision. Accordingly, subsection (h)(1) establishes that generally the provisions of this section, including subsection (e)(1), which affects the substantive rights of parties, apply only as of the date of enactment of this provision in accordance with the Supreme Court's decision in Lindh v. Murphy.

Recognizing the Supreme Court's concerns about judicial independence in cases such as City of Boerne v. Flores and United States v. Morrison, we have underscored that Congress is not attempting to settle any constitutional question that is the proper province of the federal courts. Thus in sections (e)(2)(C)(ii), (e)(3)(D)(ii), and (f), we have made clear, out of an abundance of caution, that we not purport to decide any constitutional question that remains within the proper bailiwick of the federal courts pursuant to Article III of the Constitution. Thus, this provision does not speak to the constitutionality of the military commissions or the old CSRTs. We leave it to the courts to decide these questions.

Mr. SKELTON. Mr. Speaker. I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SKELTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

AUTHORIZING THE CLERK TO PRODUCE DUPLICATE ENGROSSMENT OF H.R. 4525

Mr. ISSA. Mr. Speaker, I ask unanimous consent that the Clerk be authorized, if necessary, to produce a duplicate engrossment of H.R. 4525.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ROBERT T. FERGUSON POST OFFICE BUILDING

Mr. ISSA. Mr. Speaker, I ask unanimous consent that the Committee on Government Reform be discharged from further consideration of the bill (H.R. 1287) to designate the facility of the United States Postal Service located at 332 South Main Street in Flora, Illinois, as the "Robert T. Ferguson Post Office Building," and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 1287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ROBERT T. FERGUSON POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 332 South Main Street in Flora, Illinois, shall be known and designated as the "Robert T. Ferguson Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Robert T. Ferguson Post Office Building".

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. ROBERT T. FERGUSON POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 312 East North Avenue in Flora, Illinois, shall be known and designated as the "Robert T. Ferguson Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Robert T. Ferguson Post Office Building".

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to designate the facility of the United States Postal Service located at 312 East North Avenue in Flora, Illinois, as the 'Robert T. Ferguson Post Office Building'.".

A motion to reconsider was laid on the table.

DR. ROBERT E. PRICE POST OFFICE BUILDING

Mr. ISSA. Mr. Speaker, I ask unanimous consent that the Committee on Government Reform be discharged from further consideration of the bill (H.R. 4246) to designate the facility of the United States Postal Service located at 8135 Forest Lane in Dallas, Texas, as the "Dr. Robert E. Price Post Office Building," and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DR. ROBERT E. PRICE POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 8135 Forest Lane in Dallas, Texas, shall be known and designated as the "Dr. Robert E. Price Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Dr. Robert E. Price Post Office Building".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

STATE SENATOR VERDA WELCOME AND DR. HENRY WELCOME POST OFFICE BUILDING

Mr. ISSA. Mr. Speaker, I ask unanimous consent that the Committee on Government Reform be discharged from further consideration of the bill (H.R. 4108) to designate the facility of the United States Postal Service located at 3000 Homewood Avenue in Baltimore, Maryland, as the "State Senator Verda Welcome and Dr. Henry Welcome Post Office Building," and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STATE SENATOR VERDA WELCOME AND DR. HENRY WELCOME POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 3000 Homewood Avenue in Baltimore, Maryland, shall be known and designated as the "State Senator Verda Welcome and Dr. Henry Welcome Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "State Senator Verda Welcome and Dr. Henry Welcome Post Office Building".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

UNITED STATES REPRESENTATIVE PARREN J. MITCHELL POST OFFICE

Mr. ISSA. Mr. Speaker, I ask unanimous consent that the Committee on Government Reform be discharged from further consideration of the bill (H.R. 4109) to designate the facility of the United States Postal Service located at 6101 Liberty Road in Baltimore, Maryland, as the "United States Representative Parren J. Mitchell Post Office," and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. UNITED STATES REPRESENTATIVE PARREN J. MITCHELL POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 6101 Liberty Road in Baltimore, Maryland, shall be known and designated as the "United States Representative Parren J. Mitchell Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "United States Representative Parren J. Mitchell Post Office".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CORPORAL JASON L. DUNHAM POST OFFICE

Mr. ISSA. Mr. Speaker, I ask unanimous consent that the Committee on Government Reform be discharged from further consideration of the bill (H.R. 4515) to designate the facility of the United States Postal Service located at 4422 West Sciota Street in Scio, New York, as the "Corporal Jason L. Dunham Post Office," and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4515

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CORPORAL JASON L. DUNHAM POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 4422

West Sciota Street in Scio, New York, shall be known and designated as the "Corporal Jason L. Dunham Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Corporal Jason L. Dunham Post Office".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL TEEN DATING VIOLENCE AWARENESS AND PREVENTION WEEK

Mr. ISSA. Mr. Speaker, I ask unanimous consent that the Committee on Government Reform be discharged from further consideration of the resolution (H. Res. 483) supporting the goals and ideals of National Teen Dating Violence Awareness and Prevention Week, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the resolution, as follows:

H. Res. 483

Whereas 1 in 3 female high school students reports being physically abused or sexually abused by a dating partner;

Whereas over 40 percent of male and female high school students surveyed had been victims of dating violence at least once;

Whereas violent relationships in adolescence can have serious ramifications for victims, who are at higher risk for substance abuse, eating disorders, risky sexual behavior, suicide, and adult re-vicimization;

Whereas the severity of violence among intimate partners has been shown to increase if the pattern was established in adolescence;

Whereas 81 percent of parents surveyed either believed dating violence is not a problem or admitted they did not know it is a problem;

Whereas the week of February 6, 2006, has been recognized as an appropriate week for activities furthering awareness of teen dating violence; and

Whereas recognizing a "National Teen Dating Violence Awareness and Prevention Week" would benefit schools, communities, and families regardless of socioeconomic status, race, or gender: Now, therefore, be it

Resolved, That the House of Representatives should raise awareness of teen dating violence in the Nation by supporting the goals and ideals of National Teen Dating Violence Awareness and Prevention Week.

AMENDMENT OFFERED BY MR. ISSA

Mr. ISSA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Strike all after the resolved clause and insert the following:

Resolved, That the House of Representatives supports an increased awareness among parents, schools, and communities that dating violence is a criminal act and the ideals of the National Teen Dating Violence and Prevention Week.

Ms. MILLENDER-MCDONALD. Mr. Speaker, I offer heartfelt thanks to you for bringing this important resolution to the floor. Thanks to the Ranking Member as well. I join with my friend and co-sponsor, the gentlewoman from Connecticut, NANCY JOHNSON in bringing this very important legislation to the floor.

I am delighted to be able to say that my colleagues in this great Congress understand that protecting our children from violence is of utmost importance and that we as a body support the ideals of National Teen Dating Violence Awareness and Protection Week through H. Res. 483.

Teen Dating Violence is the proverbial elephant in the room. Too many girls are the victims of abuse perpetrated by an intimate partner and yet too many parents are unaware that their daughters live with this tragic reality. The facts are horrifying:

Girls and young women between the ages of 16 and 24 experience the highest per capita rates of non-fatal intimate partner violence of all women.

Many of our teens report experiencing some kind of abuse in their romantic relationships, including verbal and emotional abuse.

Over half of a national survey of parents either believe teen dating violence is not an issue or admit they don't know to what extent it is an issue.

It is time to end this gap between what we believe about teen dating violence and what is actually happening to our sisters, daughters, and granddaughters in their relationships.

The only way we will be able to combat this epidemic is if we are educated about it. Teen Dating Violence Awareness and Prevention Week is a crucial step towards acquiring this knowledge.

I am a mother of daughters and a grandmother of granddaughters. I hate to think of them engaged in a relationship where they may be at risk, emotionally, physically or mentally. But just because I do not want to think about this, does not mean I should not think about it.

Through communication and further education we will take away the stigma of coming forward to report abuse by a partner. We learn to recognize the signs that our girls are in trouble. We will help victims leave their relationships and get the help they need to embark on relationships that are worthy of their greatness.

I am passionate about this program because of its message of understanding and prevention, but also because teenager took it upon themselves to start this campaign towards consciousness on this issue.

I have deep admiration for the young women and men who attended the national awareness and education summit last year and were motivated enough to develop toolkits for schools and propose National Teen Dating Violence Awareness and Prevention Week. I will be proud to stand with them during that week in February. These young people will be the future leaders of our country, and we should all applaud them!

I want to thank Congresswoman NANCY JOHNSON for all of her help in ensuring that this bill received the attention it deserved and all of the co-sponsors who recognized the importance of this issue. I also want to thank Senator MIKE CRAPO for his leadership in the Senate. What a testament to the power of bipartisanship this has been, and how both chambers recognize the severity of this issue.

The amendment was agreed to.

The resolution, as amended, was agreed to.

The SPEAKER pro tempore. The Clerk will report the amendment to the preamble.

The Clerk read as follows:

Strike the preamble and insert the following:

Whereas the American Bar Association's National Teen Dating Violence Prevention (TDVPI) is a federally funded, comprehensive program that is aimed at putting a stop to the incidence of teen dating violence;

Whereas the TDVPI together with parents, schools and communities intends to positively impact the way teens view and value themselves and others;

Whereas the TDVPI is designed to teach and influence appropriate interpersonal behavior by increasing the knowledge and skills of our nation's youth enabling them to form lasting and healthy relationships as adults; and

Whereas the week of February 6, 2006 has been recognized as an appropriate week for activities furthering awareness of teen dating violence; Now, therefore, be it

Mr. ISSA (during the reading). Mr. Speaker, I ask unanimous consent that the amendment to the preamble be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The amendment to the preamble was agreed to.

The title of the resolution was amended so as to read: "Supporting the Ideals of National Teen Dating Violence and Prevention Week".

A motion to reconsider was laid on the table.

COMMEMORATING THE LIFE, ACHIEVEMENTS, AND CONTRIBUTIONS OF ALAN REICH

Mr. ISSA. Mr. Speaker, I ask unanimous consent that the Committee on Government Reform be discharged from further consideration of the resolution (H. Res. 586) commemorating the life, achievements, and contributions of Alan Reich, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 586

Whereas Alan A. Reich was a well respected and loved member of his family and an inspirational figure in the disability community, whose life was devoted to civic involvement and efforts to improve the quality of life for individuals with disabilities;

Whereas Alan Reich was born in Pearl River, New York;

Whereas Alan Reich graduated from Dartmouth College in 1952, where he was an all-American track and field athlete, received a Master's degree in Russian literature from Middlebury College in 1953, along with a diploma in Slavic languages and Eastern European studies from the University of Oxford, and received an M.B.A. from Harvard University in 1959;

Whereas Alan Reich was a brilliant linguist, who spoke 5 languages;

Whereas Alan Reich served in the United States Army from 1953 to 1957, as an infantry officer and Russian language interrogation officer in Germany, and was named a member of the United States Army Infantry Officer Candidate School Hall of Fame;

Whereas Alan Reich married his best friend and partner in life, Gay Forsythe Reich; they shared 50 years of marriage and were deeply committed to each other and their three children—James, Jeffrey, and Elizabeth;

Whereas Alan Reich was employed from 1960 to 1970 as an executive at Polaroid Corporation when, at age 32, he became a quadriplegic due to a swimming accident which required him to use a wheelchair;

Whereas, while Alan Reich was told he would not drive or write again, he relearned both skills and returned to work at Polaroid Corporation;

Whereas Alan Reich joined the State Department from 1970 to 1975, as a Deputy Assistant Secretary for Educational and Cultural Affairs;

Whereas Alan Reich then served as Director of the Bureau of East-West Trade for the Department of Commerce, before he was named the President of the United States Council for the International Year of Disabled Persons in 1978;

Whereas, in this position, Alan Reich was the first wheelchair user to address the United Nations General Assembly when it opened the International Year of the Disabled in 1981;

Whereas, in 1982, Alan Reich transformed the Council into the National Organization on Disability, an organization that is active on a local, state, and national level in seeking full and equal participation for people with disabilities in all aspects of life;

Whereas Alan Reich founded the Bimillennium Foundation in 1984, to encourage leaders of nations worldwide to set year 2000 goals aimed at improving the lives of people with disabilities;

Whereas Alan Reich also served as Chairman of the People-to-People Committee on Disability, Chairman of the Paralysis Cure Research Foundation and President of the National Paraplegia Foundation;

Whereas Alan Reich, who used a wheelchair for 43 years, led an effort that raised $1,650,000 to add the statue of President Franklin D. Roosevelt in a wheelchair to the former President's Memorial in Washington, DC, for reasons that he best expressed himself at the unveiling of the statue: "The unveiling is a major national moment, the removal of the shroud of shame that cloaks disability. The statue will become a shrine to people with disabilities, but it will also inspire everyone to overcome obstacles. When you see the memorial that follows the statue, what will be in your mind is that he did all this from a wheelchair.";

Whereas Alan Reich received the George H.W. Bush Medal in July of 2005, established to honor outstanding service under the Americans with Disabilities Act of 1990;

Whereas Alan Reich, through his leadership in the disability community, encouraged millions of Americans with disabilities to overcome obstacles to lead more independent and successful lives;

Whereas Alan Reich is survived by his wife, partner, and best friend, Gay, their two sons James and Jeffrey, their daughter Elizabeth, and 11 grandchildren; and

Whereas Alan Reich passed away on November 8, 2005, and the contributions he made to his family, his community, and his Nation will not be forgotten: Now, therefore, be it

Resolved, That the House of Representatives—

(1) honors the life, achievements, and contributions of Alan A. Reich; and

(2) extends its deepest sympathies to the family of Alan Reich for the loss of a great and generous man.

The resolution was agreed to.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. ISSA

Mr. ISSA. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Strike out the preamble and insert the following:

"Whereas Alan A. Reich was a well respected and loved member of his family and an inspirational figure in the disability community, whose life was devoted to civic involvement and efforts to improve the quality of life for individuals with disabilities;

Whereas Alan Reich was born in Pearl River, New York;

Whereas Alan Reich graduated from Dartmouth College in 1952, where he was an all-American track and field athlete, received a Master's degree in Russian literature from Middlebury College in 1953, along with a diploma in Slavic languages and Eastern European studies from the University of Oxford, and received an M.B.A. from Harvard University in 1959;

Whereas Alan Reich was a brilliant linguist, who spoke 5 languages;

Whereas Alan Reich served in the United States Army from 1953 to 1957, as an infantry officer and Russian language interrogation officer in Germany, and was named a member of the United States Army Infantry Officer Candidate School Hall of Fame;

Whereas Alan Reich married his best friend and partner in life, Gay Forsythe Reich; they shared 50 years of marriage and were deeply committed to each other and their three children—James, Jeffrey, and Elizabeth;

Whereas Alan Reich was employed from 1960 to 1970 as an executive at Polaroid Corporation when, at age 32, he became a quadriplegic due to a swimming accident which required him to use a wheelchair;

Whereas, while Alan Reich was told he would not drive or write again, he relearned both skills and returned to work at Polaroid Corporation;

Whereas Alan Reich joined the State Department from 1970 to 1975, as a Deputy Assistant Secretary for Educational and Cultural Affairs;

Whereas Alan Reich then served as Director of the Bureau of East-West Trade for the Department of Commerce, before he was named the President of the United States Council for the International Year of Disabled Persons in 1978;

Whereas, in this position, Alan Reich was the first wheelchair user to address the United Nations General Assembly when it opened the International Year of the Disabled in 1981;

Whereas, in 1982, Alan Reich transformed the Council into the National Organization on Disability, an organization that is active on a local, state, and national level in seeking full and equal participation for people with disabilities in all aspects of life;

Whereas Alan Reich founded the Bimillennium Foundation in 1984, to encourage leaders of nations worldwide to set year 2000 goals aimed at improving the lives of people with disabilities;

Whereas Alan Reich also served as Chairman of the People-to-People Committee on Disability, Chairman of the Paralysis Cure Research Foundation and President of the National Paraplegia Foundation;

Whereas Alan Reich, who used a wheelchair for 43 years, led an effort that raised $1,650,000 to add the statue of President Franklin D. Roosevelt in a wheelchair to the former President's Memorial in Washington, DC, for reasons that he best expressed himself at the unveiling of the statue: "The unveiling is a major national moment, the removal of the shroud of shame that cloaks disability. The statue will become a shrine to people with disabilities, but it will also inspire everyone to overcome obstacles. When you see the memorial that follows the statue, what will be in your mind is that he did all this from a wheelchair.";

Whereas Alan Reich received the George H.W. Bush Medal in July of 2005, established to honor outstanding service under the Americans with Disabilities Act of 1990;

Whereas Alan Reich, through his leadership in the disability community, encouraged millions of Americans with disabilities to overcome obstacles to lead more independent and successful lives;

Whereas Alan Reich is survived by his wife, partner, and best friend, Gay, their two sons James and Jeffrey, their daughter Elizabeth, and 11 grandchildren; and

Whereas Alan Reich passed away on November 8, 2005, and the contributions he made to his family, his community, and his Nation will not be forgotten: Now, therefore, be it

Mr. ISSA (during the reading). Mr. Speaker, I ask unanimous consent that the amendment to the preamble be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The amendment to the preamble was agreed to.

A motion to reconsider was laid on the table.

BUFFALO SOLDIERS COMMEMORATION ACT OF 2005

Mr. POMBO. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the Senate bill (S. 205) to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 205

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Buffalo Soldiers Commemoration Act of 2005".

SEC. 2. ESTABLISHMENT OF BUFFALO SOLDIERS MEMORIAL.

(a) Authorization.—The American Battle Monuments Commission is authorized to establish a memorial to honor the Buffalo Soldiers in or around the City of New Orleans on land donated for such purpose or on Federal land with the consent of the appropriate land manager.

(b) Contributions.—The Commission shall solicit and accept contributions for the construction and maintenance of the memorial.

(c) Cooperative Agreements.—The Commission may enter into a cooperative agreement with a private or public entity for the purpose of fundraising for the construction and maintenance of the memorial.

(d) Maintenance Agreement.—Prior to beginning construction of the memorial, the Commission shall enter into an agreement with an appropriate public or private entity to provide for the permanent maintenance of the memorial and shall have sufficient funds, or assurance that it will receive sufficient funds, to complete the memorial.

SEC. 3. BUFFALO SOLDIERS MEMORIAL ACCOUNT.

(a) Establishment.—The Commission shall maintain an escrow account ("account") to pay expenses incurred in constructing the memorial.

(b) Deposits Into the Account.—The Commission shall deposit into the account any principal and interest by the United States that the Chairman determines has a suitable maturity.

(c) Use of Account.—Amounts in the account, including proceeds of any investments, may be used to pay expenses incurred in establishing the memorial. After construction of the memorial amounts in the account shall be transferred by the Commission to the entity providing for permanent maintenance of the memorial under such terms and conditions as the Commission determines will ensure the proper use and accounting of the amounts.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BENJAMIN FRANKLIN NATIONAL MEMORIAL COMMEMORATION ACT OF 2005

Mr. POMBO. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the Senate bill (S. 652) to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Benjamin Franklin National Memorial Commemoration Act of 2005".

SEC. 2. BENJAMIN FRANKLIN NATIONAL MEMORIAL.

The Secretary of the Interior may provide a grant to the Franklin Institute to—

(1) rehabilitate the Benjamin Franklin National Memorial (including the Franklin statue) in Philadelphia, Pennsylvania; and

(2) develop an interpretive exhibit relating to Benjamin Franklin, to be displayed at a museum adjacent to the Benjamin Franklin National Memorial.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There is authorized to be appropriated to carry out this Act $10,000,000.

(b) Required Match.—The Secretary of the Interior shall require the Franklin Institute to match any amounts provided to the Franklin Institute under this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DELAWARE WATER GAP NATIONAL RECREATION AREA IMPROVEMENT ACT

Mr. POMBO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1310) to authorize the Secretary of the Interior to allow the Columbia Gas Transmission Corporation to increase the diameter of a natural gas pipeline located in the Delaware Water Gap National Recreation Area, to allow certain commercial vehicles to continue to use Route 209 within the Delaware Water Gap National Recreation Area, and to extend the termination date of the National Park System Advisory Board to January 1, 2007, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1310

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Delaware Water Gap National Recreation Area Improvement Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) Corporation.—The term "Corporation" means the Columbia Gas Transmission Corporation.

(2) Pipeline.—The term "pipeline" means that portion of the pipeline of the Corporation numbered 1278 that is—

(A) located in the Recreation Area; and

(B) situated on 2 tracts designated by the Corporation as ROW No. 16405 and No. 16413.

(3) Recreation area.—The term "Recreation Area" means the Delaware Water Gap National Recreation Area in the Commonwealth of Pennsylvania.

(4) Secretary.—The term "Secretary" means the Secretary of the Interior.

(5) Superintendent.—The term "Superintendent" means the Superintendent of the Recreation Area.

SEC. 3. EASEMENT FOR EXPANDED NATURAL GAS PIPELINE.

(a) In General.—The Secretary may enter into an agreement with the Corporation to grant to the Corporation an easement to enlarge the diameter of the pipeline from 14 inches to not more than 20 inches.

(b) Terms and Conditions.—The easement authorized under subsection (a) shall—

(1) be consistent with—

(A) the recreational values of the Recreation Area; and

(B) protection of the resources of the Recreation Area;

(2) include provisions for the protection of resources in the Recreation Area that ensure that only the minimum and necessary amount of disturbance, as determined by the Secretary, shall occur during the construction or maintenance of the enlarged pipeline;

(3) be consistent with the laws (including regulations) and policies applicable to units of the National Park System; and

(4) be subject to any other terms and conditions that the Secretary determines to be necessary;

(c) Permits.—

(1) In general.—The Superintendent may issue a permit to the Corporation for the use of the Recreation Area in accordance with subsection (b) for the temporary construction and staging areas required for the construction of the enlarged pipeline.

(2) Prior to issuance.—The easement authorized under subsection (a) and the permit authorized under paragraph (1) shall require that before the Superintendent issues a permit for any clearing or construction, the Corporation shall—

(A) consult with the Superintendent;

(B) identify natural and cultural resources of the Recreation Area that may be damaged or lost because of the clearing or construction; and

(C) submit to the Superintendent for approval a restoration and mitigation plan that—

(i) describes how the land subject to the easement will be maintained; and

(ii) includes a schedule for, and description of, the specific activities to be carried out by the Corporation to mitigate the damages or losses to, or restore, the natural and cultural resources of the Recreation Area identified under subparagraph (B).

(d) Pipeline Replacement Requirements.—The enlargement of the pipeline authorized under subsection (a) shall be considered to meet the pipeline replacement requirements required by the Research and

Special Programs Administration of the Department of Transportation (CPF No. 1–2002–1004–H).

(e) FERC Consultation.—The Corporation shall comply with all other requirements for certification by the Federal Energy Regulatory Commission that are necessary to permit the increase in pipeline size.

(f) Limitation.—The Secretary shall not grant any additional increases in the diameter of, or easements for, the pipeline within the boundary of the Recreation Area after the date of enactment of this Act.

(g) Effect on Right-of-Way Easement.—Nothing in this Act increases the 50-foot right-of-way easement for the pipeline.

(h) Penalties.—On request of the Secretary, the Attorney General may bring a civil action against the Corporation in United States district court to recover damages and response costs under Public Law 101-337 (16 U.S.C. 19jj et seq.) or any other applicable law if—

(1) the Corporation—

(A) violates a provision of—

(i) an easement authorized under subsection (a); or

(ii) a permit issued under subsection (c); or

(B) fails to submit or timely implement a restoration and mitigation plan approved under subsection (c)(2)(C); and

(2) the violation or failure destroys, results in the loss of, or injures any park system resource (as defined in section 1 of Public Law 101-337 (16 U.S.C. 19jj)).

SEC. 4. USE OF CERTAIN ROADS WITHIN DELAWARE WATER GAP.

Section 702 of Division I of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 110 Stat. 4185) is amended—

(1) in subsection (a), by striking "at noon on September 30, 2005" and inserting "on the earlier of the date on which a feasible alternative is available or noon of September 30, 2015"; and

(2) in subsection (c)—

(A) in paragraph (1), by striking "September 30, 2005" and inserting "on the earlier of the date on which a feasible alternative is available or September 30, 2015"; and

(B) in paragraph (2)—

(i) by striking "noon on September 30, 2005" and inserting "the earlier of the date on which a feasible alternative is available or noon of September 30, 2015"; and

(ii) by striking "not exceed $25 per trip" and inserting the following: "be established at a rate that would cover the cost of collection of the commercial use fee, but not to exceed $40 per trip".

SEC. 5. TERMINATION OF NATIONAL PARK SYSTEM ADVISORY BOARD.

Effective on January 1, 2006, section 3(f) of the Act of August 21, 1935 (16 U.S.C. 463(f)) is amended in the first sentence by striking "2006" and inserting "2007".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PUBLIC LANDS CORPS HEALTHY FORESTS RESTORATION ACT OF 2005

Mr. POMBO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1238) to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. KUCINICH. Mr. Speaker, I reserve the right to object.

I have a question for the gentleman. Does this deal with harvesting of trees of old growth forests in national parks?

Mr. POMBO. No, it does not.

Mr. KUCINICH. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Lands Corps Healthy Forests Restoration Act of 2005".

SEC. 2. AMENDMENTS TO THE PUBLIC LANDS CORPS ACT OF 1993.

(a) Definitions.—Section 203 of the Public Lands Corps Act of 1993 (16 U.S.C. 1722) is amended—

(1) by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (9), (10), (11), and (13), respectively;

(2) by inserting after paragraph (7) the following:

"(8) Priority project.—The term 'priority project' means an appropriate conservation project conducted on eligible service lands to further 1 or more of the purposes of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501 et seq.), as follows:

"(A) To reduce wildfire risk to a community, municipal water supply, or other at-risk Federal land.

"(B) To protect a watershed or address a threat to forest and rangeland health, including catastrophic wildfire.

"(C) To address the impact of insect or disease infestations or other damaging agents on forest and rangeland health.

"(D) To protect, restore, or enhance forest ecosystem components to—

"(i) promote the recovery of threatened or endangered species;

"(ii) improve biological diversity; or

"(iii) enhance productivity and carbon sequestration."; and

(3) by inserting after paragraph (11) (as redesignated by paragraph (1)) the following:

"(12) Secretary.—The term 'Secretary' means—

"(A) with respect to National Forest System land, the Secretary of Agriculture; and

"(B) with respect to Indian lands, Hawaiian home lands, or land administered by the Department of the Interior, the Secretary of the Interior.".

(b) Qualified Youth or Conservation Corps.—Section 204(c) of the Public Lands Corps Act of 1993 (16 U.S.C. 1723(c)) is amended—

(1) by striking "The Secretary of the Interior and the Secretary of Agriculture are" and inserting the following:

"(1) In general.—The Secretary is"; and

(2) by adding at the end the following:

"(2) Preference.—

"(A) In general.—For purposes of entering into contracts and cooperative agreements under paragraph (1), the Secretary may give preference to qualified youth or conservation corps located in a specific area that have a substantial portion of members who are economically, physically, or educationally disadvantaged to carry out projects within the area.

"(B) Priority projects.—In carrying out priority projects in a specific area, the Secretary shall, to the maximum extent practicable, give preference to qualified youth or conservation corps located in that specific area that have a substantial portion of members who are economically, physically, or educationally disadvantaged.".

(c) Conservation Projects.—Section 204(d) of the Public Lands Corps Act of 1993 (16 U.S.C. 1723(d)) is amended—

(1) in the first sentence—

(A) by striking "The Secretary of the Interior and the Secretary of Agriculture may each" and inserting the following:

"(1) In general.—The Secretary may"; and

(B) by striking "such Secretary" and inserting "the Secretary";

(2) in the second sentence, by striking "Appropriate conservation" and inserting the following:

"(2) Projects on Indian lands.—Appropriate conservation"; and

(3) by striking the third sentence and inserting the following:

"(3) Disaster prevention or relief projects.—The Secretary may authorize appropriate conservation projects and other appropriate projects to be carried out on Federal, State, local, or private land as part of a Federal disaster prevention or relief effort.".

(d) Conservation Centers and Program Support.—Section 205 of the Public Lands Corps Act of 1993 (16 U.S.C. 1724) is amended—

(1) by striking the heading and inserting the following:

"SEC. 205. CONSERVATION CENTERS AND PROGRAM SUPPORT.";

(2) by striking subsection (a) and inserting the following:

"(a) Establishment and Use.—

"(1) In general.—The Secretary may establish and use conservation centers owned and operated by the Secretary for—

"(A) use by the Public Lands Corps; and

"(B) the conduct of appropriate conservation projects under this title.

"(2) Assistance for conservation centers.—The Secretary may provide to a conservation center established under paragraph (1) any services, facilities, equipment, and supplies that the Secretary determines to be necessary for the conservation center.

"(3) Standards for conservation centers.—The Secretary shall—

"(A) establish basic standards of health, nutrition, sanitation, and safety for all conservation centers established under paragraph (1); and

"(B) ensure that the standards established under subparagraph (A) are enforced.

"(4) Management.—As the Secretary determines to be appropriate, the Secretary may enter into a contract or other appropriate arrangement with a State or local government agency or private organization to provide for the management of a conservation center."; and

(3) by adding at the end the following:

"(d) ASSISTANCE.—The Secretary may provide any services, facilities, equipment, supplies, technical assistance, oversight, monitoring, or evaluations that are appropriate to carry out this title.".

(e) LIVING ALLOWANCES AND TERMS OF SERVICE.—Section 207 of the Public Lands Corps Act of 1993 (16 U.S.C. 1726) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) LIVING ALLOWANCES.—The Secretary shall provide each participant in the Public Lands Corps and each resource assistant with a living allowance in an amount established by the Secretary."; and

(2) by adding at the end the following:

"(c) HIRING.—The Secretary may—

"(1) grant to a member of the Public Lands Corps credit for time served with the Public Lands Corps, which may be used toward future Federal hiring; and

"(2) provide to a former member of the Public Lands Corps noncompetitive hiring status for a period of not more than 120 days after the date on which the member's service with the Public Lands Corps is complete.".

(f) FUNDING.—The Public Lands Corps Act of 1993 is amended—

(1) in section 210 (16 U.S.C. 1729), by adding at the end the following:

"(c) OTHER FUNDS.—Amounts appropriated pursuant to the authorization of appropriations under section 211 are in addition to amounts allocated to the Public Lands Corps through other Federal programs or projects."; and

(2) by inserting after section 210 the following:

"SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $12,000,000 for each fiscal year, of which $8,000,000 is authorized to carry out priority projects and $4,000,000 of which is authorized to carry out other appropriate conservation projects.

"(b) DISASTER RELIEF OR PREVENTION PROJECTS.—Notwithstanding subsection (a), any amounts made available under that subsection shall be available for disaster prevention or relief projects.

"(c) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts appropriated for any fiscal year to carry out this title shall remain available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts are appropriated.".

(g) CONFORMING AMENDMENTS.—The Public Lands Corps Act of 1993 is amended—

(1) in section 204 (16 U.S.C. 1723)—

(A) in subsection (b)—

(i) in the first sentence, by striking "Secretary of the Interior or the Secretary of Agriculture" and inserting "Secretary";

(ii) in the third sentence, by striking "Secretaries" and inserting "Secretary"; and

(iii) in the fourth sentence, by striking "Secretaries" and inserting "Secretary"; and

(B) in subsection (e), by striking "Secretary of the Interior and the Secretary of Agriculture" and inserting "Secretary";

(2) in section 205 (16 U.S.C. 1724)—

(A) in subsection (b), by striking "Secretary of the Interior and the Secretary of Agriculture" and inserting "Secretary"; and

(B) in subsection (c), by striking "Secretary of the Interior and the Secretary of Agriculture" and inserting "Secretary";

(3) in section 206 (16 U.S.C. 1725)—

(A) in subsection (a)—

(i) in the first sentence—

(I) by striking "Secretary of the Interior and the Secretary of Agriculture are each" and inserting "Secretary is"; and

(II) by striking "such Secretary" and inserting "the Secretary";

(ii) in the third sentence, by striking "Secretaries" and inserting "Secretary"; and

(iii) in the fourth sentence, by striking "Secretaries" and inserting "Secretary"; and

(B) in the first sentence of subsection (b), by striking "Secretary of the Interior or the Secretary of Agriculture" and inserting "the Secretary"; and

(4) in section 210 (16 U.S.C. 1729)—

(A) in subsection (a)—

(i) in paragraph (1), by striking "Secretary of the Interior and the Secretary of Agriculture are each" and inserting "Secretary is"; and

(ii) in paragraph (2), by striking "Secretary of the Interior and the Secretary of Agriculture are each" and inserting "Secretary is"; and

(B) in subsection (b), by striking "Secretary of the Interior and the Secretary of Agriculture" and inserting "Secretary".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 0100

INDIAN LAND PROBATE REFORM TECHNICAL CORRECTIONS ACT OF 2005

Mr. POMBO. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the Senate bill (S. 1481) to amend the Indian Land Consolidation Act to provide for probate reform, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. BOOZMAN). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Land Probate Reform Technical Corrections Act of 2005".

SEC. 2. PARTITION OF HIGHLY FRACTIONATED INDIAN LAND.

Section 205 of the Indian Land Consolidation Act (25 U.S.C. 2204) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) PURCHASE OF LAND.—

"(1) IN GENERAL.—Subject to subsection (b), any Indian tribe may purchase, at not less than fair market value and with the consent of the owners of the interests, part or all of the interests in—

"(A) any tract of trust or restricted land within the boundaries of the reservation of the tribe; or

"(B) land that is otherwise subject to the jurisdiction of the tribe.

"(2) REQUIRED CONSENT.—

"(A) IN GENERAL.—The Indian tribe may purchase all interests in a tract described in paragraph (1) with the consent of the owners of undivided interests equal to at least 50 percent of the undivided interest in the tract.

"(B) INTEREST OWNED BY TRIBE.—Interests owned by an Indian tribe in a tract may be included in the computation of the percentage of ownership of the undivided interests in that tract for purposes of determining whether the consent requirement under subparagraph (A) has been met.";

(2) by redesignating subsection (d) as subsection (c); and

(3) in subsection (c) (as redesignated by paragraph (2))—

(A) in paragraph (2)—

(i) in subparagraph (G)(ii)(I), by striking "a higher valuation of the land" and inserting "a value of the land that is equal to or greater than that of the earlier appraisal"; and

(ii) in subparagraph (I)(iii)—

(I) in subclause (III), by inserting "(if any)" after "this section"; and

(II) in subclause (IV)—

(aa) in item (aa), by striking "less" and inserting "more"; and

(bb) in item (bb), by striking "to implement this section" and inserting "under paragraph (5)"; and

(B) in paragraph (5), in the second sentence, by striking "shall" and inserting "may".

SEC. 3. TRIBAL PROBATE CODES.

Section 206 of the Indian Land Consolidation Act (25 U.S.C. 2205) is amended—

(1) in subsection (b)(3), by striking subparagraph (A) and inserting the following:

"(A) the date that is 1 year after the date on which the Secretary makes the certification required under section 8(a)(4) of the American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note; Public Law 108-374); or"; and

(2) in subsection (c)—

(A) in paragraph (1)(A), by striking "section" and all that follows through "the Indian tribe" and inserting "section 207(b)(2)(A)(ii), the Indian tribe"; and

(B) in paragraph (2)(A)(i)(II)(bb), by inserting "in writing" after "agrees".

SEC. 4. DESCENT AND DISTRIBUTION.

(a) IN GENERAL.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended—

(1) by redesignating subsections (h) through (p) as subsections (g) through (o), respectively;

(2) in subsection (g) (as redesignated by paragraph (1))—

(A) in paragraph (2)—

(i) by inserting "specifically" after "pertains"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) the allotted land (or any interest relating to such land) of 1 or more specific Indian tribes expressly identified in Federal law, including any of the Federal laws governing the probate or determination of heirs associated with, or otherwise relating to, the land, interest in land, or other interests or assets that are owned by individuals in—

"(i) Five Civilized Tribes restricted fee status; or

"(ii) Osage Tribe restricted fee status."; and

(B) by adding at the end the following:

"(3) EFFECT OF SUBSECTION.—Except to the extent that this Act otherwise affects the application of a Federal law described in paragraph (2), nothing in this subsection limits the application of this Act to trust or restricted land, interests in such land, or any other trust or restricted interests or assets.";

(3) in subsection (h) (as redesignated by paragraph (1))—

(A) in paragraph (6), by striking "(25 U.S.C. 2205)"; and

(B) in paragraph (7), by inserting "in trust or restricted status" after "testator";

(4) in subsection (j) (as redesignated by paragraph (1))—

(A) in paragraph (2)(A)—

(i) in clause (ii)(I), by striking "the date of enactment of this subparagraph" and inserting "the date that is 1 year after the date on which the Secretary publishes a notice of certification under section 8(a)(4) of the American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note; Public Law 108-374)"; and

(ii) in clause (iii), by striking "the provisions of section 207(a)(2)(A)" and inserting "subsection (a)(2)(A)";

(B) in paragraph (8)(D), by striking "the provisions of section 207(a)(2)(D) (25 U.S.C. 2206(a)(2)(D))" and inserting "subsection (a)(2)(D)"; and

(C) in paragraph (9)(C)—

(i) by striking "section 207(e) (25 U.S.C. 2206(e))" and inserting "subsection (e)"; and

(ii) by striking "section 207(p) (25 U.S.C. 2206(p))" and inserting "subsection (o)"; and

(5) in subsection (o) (as redesignated by paragraph (1))—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking "section 207(a)(2)(A) or (D)" and inserting "subparagraph (A) or (D) of subsection (a)(2)"; and

(ii) in subparagraph (A), by striking "section 207(b)(1)(A)" and inserting "subsection (b)(1)(A)";

(B) in paragraph (3)(B), by striking "section 207(a)(2)(A) or (D)" and inserting "subparagraph (A) or (D) of subsection (a)(2)"; and

(C) in paragraph (6)—

(i) in the first sentence, by striking "Proceeds" and inserting the following:

"(A) In general.—Proceeds"; and

(ii) by striking the second sentence and inserting the following:

"(B) Holding in trust.—Proceeds described in subparagraph (A) shall be deposited and held in an account as trust personalty if the interest sold would otherwise pass to—

"(i) the heir, by intestate succession under subsection (a); or

"(ii) the devisee in trust or restricted status under subsection (b)(1).".

(b) Nontestamentary Disposition.—Section 207(a)(2)(D)(iv)(I)(aa) of the Indian Land Consolidation Act (25 U.S.C. 2206(a)(2)(D)(iv)(I)(aa)) is amended—

(1) by striking "clause (iii)" and inserting "this subparagraph"; and

(2) in subitem (BB), by striking "any co-owner" and inserting "not more than 1 co-owner".

(c) Joint Tenancy; Right of Survivorship.—Section 207(c) of the Indian Land Consolidation Act (25 U.S.C. 2206(c)) is amended by striking the subsection heading and inserting the following:

"(c) Joint Tenancy; Right of Survivorship.—".

(d) Estate Planning Assistance.—Section 207(f)(3) of the Indian Land Consolidation Act (25 U.S.C. 2206(f)(3)) is amended in the matter preceding subparagraph (A) by inserting ", including noncompetitive grants," after "grants".

SEC. 5. FRACTIONAL INTEREST ACQUISITION PROGRAM.

Section 213 of the Indian Land Consolidation Act (25 U.S.C. 2212) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 213. FRACTIONAL INTEREST ACQUISITION PROGRAM.";

and

(2) in subsection (a)(1), by striking "(25 U.S.C. 2206(p))".

SEC. 6. ESTABLISHING FAIR MARKET VALUE.

Section 215 of the Indian Land Consolidation Act (25 U.S.C. 2214) is amended by striking the last sentence and inserting the following: "Such a system may govern the amounts offered for the purchase of interests in trust or restricted land under this Act.".

SEC. 7. LAND OWNERSHIP INFORMATION.

Section 217(e) of the Indian Land Consolidation Act (25 U.S.C. 2216(e)) is amended by striking "be made available to" and inserting "be made available to—".

SEC. 8. CONFORMING AMENDMENTS.

(a) Probate Reform.—The American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note: Public Law 108–374) is amended—

(1) in section 4, by striking "(as amended by section 6(a)(2))"; and

(2) in section 9, by striking "section 205(d)(2)(I)(i)" and inserting "section 205(c)(2)(I)(i) of the Indian Land Consolidation Act (25 U.S.C. 2204(c)(2)(I)(i))".

(b) Transfer and Exchange of Land.—Section 4 of the Act of June 18, 1934 (25 U.S.C. 464) is amended to read as follows:

"SEC. 4. TRANSFER AND EXCHANGE OF RESTRICTED INDIAN LAND AND SHARES OF INDIAN TRIBES AND CORPORATIONS.

"(a) Approval.—Except as provided in this section, no sale, devise, gift, exchange, or other transfer of restricted Indian land or shares in the assets of an Indian tribe or corporation organized under this Act shall be made or approved.

"(b) Transfer to Indian Tribe.—

"(1) In general.—Land or shares described in subsection (a) may be sold, devised, or otherwise transferred to the Indian tribe on the reservation of which the land is located, or in the corporation of which the shares are held or were derived (or a successor of such a corporation), with the approval of the Secretary of the Interior.

"(2) Descent and devise.—Land and shares transferred under paragraph (1) shall descend or be devised to any member of the Indian tribe or corporation (or an heir of such a member) in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.), including a tribal probate code approved under that Act (including regulations).

"(c) Voluntary Exchanges.—The Secretary of the Interior may authorize a voluntary exchange of land or shares described in subsection (a) that the Secretary determines to be of equal value if the Secretary determines that the exchange is—

"(1) expedient;

"(2) beneficial for, or compatible with, achieving proper consolidation of Indian land; and

"(3) for the benefit of cooperative organizations.".

SEC. 9. EFFECTIVE DATE.

The amendments made by this Act shall be effective as if included in the American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note; Public Law 108–374).

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TRIBAL CLAIMS

Mr. POMBO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1892) to amend Public Law 107-153 to modify a certain date, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1892

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SETTLEMENT OF TRIBAL CLAIMS.

Section 1(a) of Public Law 107-153 (25 U.S.C. 4044 note; 116 Stat. 79) is amended by striking "December 31, 1999" and inserting "December 31, 2000".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ARABIA MOUNTAIN NATIONAL HERITAGE AREA ACT

Mr. POMBO. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the bill (H.R. 2099) to establish the Arabia Mountain National Heritage Area, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS; PURPOSES.

(a) Short Title.—This Act may be cited as the "Arabia Mountain National Heritage Area Act".

(b) Findings.—Congress finds the following:

(1) The Arabia Mountain area contains a variety of natural, cultural, historical, scenic, and recreational resources that together represent distinctive aspects of the heritage of the United States that are worthy of recognition, conservation, interpretation, and continuing use.

(2) The best methods for managing the resources of the Arabia Mountain area would be through partnerships between public and private entities that combine diverse resources and active communities.

(3) Davidson-Arabia Mountain Nature Preserve, a 535-acre park in DeKalb County, Georgia—

(A) protects granite outcrop ecosystems, wetland, and pine and oak forests; and

(B) includes federally-protected plant species.

(4) Panola Mountain, a national natural landmark, located in the 860-acre Panola

Mountain State Conservation Park, is a rare example of a pristine granite outcrop.

(5) The archaeological site at Miners Creek Preserve along the South River contains documented evidence of early human activity.

(6) The city of Lithonia, Georgia, and related sites of Arabia Mountain and Stone Mountain possess sites that display the history of granite mining as an industry and culture in Georgia, and the impact of that industry on the United States.

(7) The community of Klondike is eligible for designation as a National Historic District.

(8) The city of Lithonia has 2 structures listed on the National Register of Historic Places.

(c) PURPOSES.—The purposes of this Act are as follows:

(1) To recognize, preserve, promote, interpret, and make available for the benefit of the public the natural, cultural, historical, scenic, and recreational resources in the area that includes Arabia Mountain, Panola Mountain, Miners Creek, and other significant sites and communities.

(2) To assist the State of Georgia and the counties of DeKalb, Rockdale, and Henry in the State in developing and implementing an integrated cultural, historical, and land resource management program to protect, enhance, and interpret the significant resources within the heritage area.

SEC. 2. DEFINITIONS.

For the purposes of this Act, the following definitions apply:

(1) HERITAGE AREA.—The term "heritage area" means the Arabia Mountain National Heritage Area established by section 3.

(2) MANAGEMENT ENTITY.—The term "management entity" means the DeKalb County Parks and Recreation Department or a successor of the DeKalb County Parks and Recreation Department.

(3) MANAGEMENT PLAN.—The term "management plan" means the management plan for the heritage area developed under section 5.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) STATE.—The term "State" means the State of Georgia.

SEC. 3. ARABIA MOUNTAIN NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established the Arabia Mountain National Heritage Area in the State.

(b) BOUNDARIES.—The heritage area shall consist of certain parcels of land in the counties of DeKalb, Rockdale, and Henry in the State, as generally depicted on the map entitled "Arabia Mountain National Heritage Area", numbered AMNHA 80,000, and dated October, 2003.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) MANAGEMENT ENTITY.—The Arabia Mountain Heritage Area Alliance shall be the management entity for the heritage area.

SEC. 4. AUTHORITIES AND DUTIES OF THE MANAGEMENT ENTITY.

(a) AUTHORITIES.—For purposes of developing and implementing the management plan, the management entity may—

(1) make grants to, and enter into cooperative agreements with, the State, political subdivisions of the State, and private organizations;

(2) hire and compensate staff; and

(3) enter into contracts for goods and services.

(b) DUTIES.—

(1) MANAGEMENT PLAN.—

(A) IN GENERAL.—The management entity shall develop and submit to the Secretary the management plan.

(B) CONSIDERATIONS.—In developing and implementing the management plan, the management entity shall consider the interests of diverse governmental, business, and nonprofit groups within the heritage area.

(2) PRIORITIES.—The management entity shall give priority to implementing actions described in the management plan, including the following:

(A) Assisting units of government and nonprofit organizations in preserving resources within the heritage area.

(B) Encouraging local governments to adopt land use policies consistent with the management of the heritage area and the goals of the management plan.

(3) PUBLIC MEETINGS.—The management entity shall conduct public meetings at least quarterly on the implementation of the management plan.

(4) ANNUAL REPORT.—For any year in which Federal funds have been made available under this Act, the management entity shall submit to the Secretary an annual report that describes the following:

(A) The accomplishments of the management entity.

(B) The expenses and income of the management entity.

(5) AUDIT.—The management entity shall—

(A) make available to the Secretary for audit all records relating to the expenditure of Federal funds and any matching funds; and

(B) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available to the Secretary for audit all records concerning the expenditure of those funds.

(c) USE OF FEDERAL FUNDS.—

(1) IN GENERAL.—The management entity shall not use Federal funds made available under this Act to acquire real property or an interest in real property.

(2) OTHER SOURCES.—Nothing in this Act precludes the management entity from using Federal funds made available under other Federal laws for any purpose for which the funds are authorized to be used.

SEC. 5. MANAGEMENT PLAN.

(a) IN GENERAL.—The management entity shall develop a management plan for the heritage area that incorporates an integrated and cooperative approach to protect, interpret, and enhance the natural, cultural, historical, scenic, and recreational resources of the heritage area.

(b) BASIS.—The management plan shall be based on the preferred concept in the document entitled "Arabia Mountain National Heritage Area Feasibility Study", dated February 28, 2001.

(c) CONSIDERATION OF OTHER PLANS AND ACTIONS.—The management plan shall—

(1) take into consideration State and local plans; and

(2) involve residents, public agencies, and private organizations in the heritage area.

(d) REQUIREMENTS.—The management plan shall include the following:

(1) An inventory of the resources in the heritage area, including—

(A) a list of property in the heritage area that—

(i) relates to the purposes of the heritage area; and

(ii) should be preserved, restored, managed, or maintained because of the significance of the property; and

(B) an assessment of cultural landscapes within the heritage area.

(2) Provisions for the protection, interpretation, and enjoyment of the resources of the heritage area consistent with the purposes of this Act.

(3) An interpretation plan for the heritage area.

(4) A program for implementation of the management plan that includes—

(A) actions to be carried out by units of government, private organizations, and public-private partnerships to protect the resources of the heritage area; and

(B) the identification of existing and potential sources of funding for implementing the plan.

(5) A description and evaluation of the management entity, including the membership and organizational structure of the management entity.

(e) SUBMISSION TO SECRETARY FOR APPROVAL.—

(1) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act, the management entity shall submit the management plan to the Secretary for approval.

(2) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date specified in paragraph (1), the Secretary shall not provide any additional funding under this Act until such date as a management plan for the heritage area is submitted to the Secretary.

(f) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 90 days after receiving the management plan submitted under subsection (e), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

(2) ACTION FOLLOWING DISAPPROVAL.—

(A) REVISION.—If the Secretary disapproves a management plan submitted under paragraph (1), the Secretary shall—

(i) advise the management entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) allow the management entity to submit to the Secretary revisions to the management plan.

(B) DEADLINE FOR APPROVAL OF REVISION.—Not later than 90 days after the date on which a revision is submitted under subparagraph (A)(iii), the Secretary shall approve or disapprove the revision.

(g) REVISION OF MANAGEMENT PLAN.—

(1) IN GENERAL.—After approval by the Secretary of a management plan, the management entity shall periodically—

(A) review the management plan; and

(B) submit to the Secretary, for review and approval by the Secretary, the recommendations of the management entity for any revisions to the management plan that the management entity considers to be appropriate.

(2) EXPENDITURE OF FUNDS.—No funds made available under this Act shall be used to implement any revision proposed by the management entity under paragraph (1)(B) until the Secretary approves the revision.

SEC. 6. TECHNICAL AND FINANCIAL ASSISTANCE.

(a) IN GENERAL.—At the request of the management entity, the Secretary may provide technical and financial assistance to the heritage area to develop and implement the management plan.

(b) PRIORITY.—In providing assistance under subsection (a), the Secretary shall give priority to actions that facilitate—

(1) the conservation of the significant natural, cultural, historical, scenic, and recreational resources that support the purposes of the heritage area; and

(2) the provision of educational, interpretive, and recreational opportunities that are consistent with the resources and associated values of the heritage area.

SEC. 7. EFFECT ON CERTAIN AUTHORITY.

(a) OCCUPATIONAL, SAFETY, CONSERVATION, AND ENVIRONMENTAL REGULATION.—Nothing in this Act—

(1) imposes an occupational, safety, conservation, or environmental regulation on the heritage area that is more stringent than the regulations that would be applicable to the land described in section 3(b) but for the establishment of the heritage area by section 3; or

(2) authorizes a Federal agency to promulgate an occupational, safety, conservation, or environmental regulation for the heritage area that is more stringent than the regulations applicable to the land described in section 3(b) as of the date of enactment of this Act, solely as a result of the establishment of the heritage area by section 3.

(b) LAND USE REGULATION.—Nothing in this Act—

(1) modifies, enlarges, or diminishes any authority of the Federal Government or a State or local government to regulate any use of land as provided for by law (including regulations) in existence on the date of enactment of this Act; or

(2) grants powers of zoning or land use to the management entity.

SEC. 8. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(b) LANDOWNER WITHDRAW.—Any owner of private property included within the boundary of the Heritage Area shall have their property immediately removed from the boundary by submitting a written request to the management entity.

SEC. 9. PRIVATE PROPERTY PROTECTION.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this Act shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) LIABILITY.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this Act shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREA.—Nothing in this Act shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the Heritage Area represent the area within which Federal funds appropriated for the purpose of this Act may be expended. The establishment of the Heritage Area and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Area or its viewshed by the Secretary, the National Park Service, or the management entity.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $10,000,000, to remain available until expended, of which not more than $1,000,000 may be used in any fiscal year.

(b) FEDERAL SHARE.—The Federal share of the cost of any project or activity carried out using funds made available under this Act shall not exceed 50 percent.

SEC. 11. TERMINATION OF AUTHORITY.

The authority of the Secretary to make any grant or provide any assistance under this Act shall terminate on September 30, 2016.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. POMBO

Mr. POMBO. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. POMBO:

Strike all after the enacting clause and insert the following:

TITLE I—ARABIA MOUNTAIN NATIONAL HERITAGE AREA

SECTION 101. SHORT TITLE.

This title may be cited as the "Arabia Mountain National Heritage Area Act".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Arabia Mountain area contains a variety of natural, cultural, historical, scenic, and recreational resources that together represent distinctive aspects of the heritage of the United States that are worthy of recognition, conservation, interpretation, and continuing use.

(2) The best methods for managing the resources of the Arabia Mountain area would be through partnerships between public and private entities that combine diverse resources and active communities.

(3) Davidson-Arabia Mountain Nature Preserve, a 535-acre park in DeKalb County, Georgia—

(A) protects granite outcrop ecosystems, wetland, and pine and oak forests; and

(B) includes federally-protected plant species.

(4) Panola Mountain, a national natural landmark, located in the 860-acre Panola Mountain State Conservation Park, is a rare example of a pristine granite outcrop.

(5) The archaeological site at Miners Creek Preserve along the South River contains documented evidence of early human activity.

(6) The city of Lithonia, Georgia, and related sites of Arabia Mountain and Stone Mountain possess sites that display the history of granite mining as an industry and culture in Georgia, and the impact of that industry on the United States.

(7) The community of Klondike is eligible for designation as a National Historic District.

(8) The city of Lithonia has 2 structures listed on the National Register of Historic Places.

(b) PURPOSES.—The purposes of this title are as follows:

(1) To recognize, preserve, promote, interpret, and make available for the benefit of the public the natural, cultural, historical, scenic, and recreational resources in the area that includes Arabia Mountain, Panola Mountain, Miners Creek, and other significant sites and communities.

(2) To assist the State of Georgia and the counties of DeKalb, Rockdale, and Henry in the State in developing and implementing an integrated cultural, historical, and land resource management program to protect, enhance, and interpret the significant resources within the heritage area.

SEC. 103. DEFINITIONS.

In this title:

(1) HERITAGE AREA.—The term "heritage area" means the Arabia Mountain National Heritage Area established by section 4(a).

(2) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the Arabia Mountain Heritage Area Alliance or a successor of the Arabia Mountain Heritage Area Alliance.

(3) MANAGEMENT PLAN.—The term "management plan" means the management plan for the heritage area developed under section 6.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) STATE.—The term "State" means the State of Georgia.

SEC. 104. ARABIA MOUNTAIN NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established the Arabia Mountain National Heritage Area in the State.

(b) BOUNDARIES.—The heritage area shall consist of certain parcels of land in the counties of DeKalb, Rockdale, and Henry in the State, as generally depicted on the map entitled "Arabia Mountain National Heritage Area", numbered AMNHA 80,000, and dated October 2003.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) LOCAL COORDINATING ENTITY.—The Arabia Mountain Heritage Area Alliance shall be the local coordinating entity for the heritage area.

SEC. 105. AUTHORITIES AND DUTIES OF THE LOCAL COORDINATING ENTITY.

(a) AUTHORITIES.—For purposes of developing and implementing the management plan, the local coordinating entity may—

(1) make grants to, and enter into cooperative agreements with, the State, political subdivisions of the State, and private organizations;

(2) hire and compensate staff; and

(3) enter into contracts for goods and services.

(b) DUTIES.—

(1) MANAGEMENT PLAN.—

(A) IN GENERAL.—The local coordinating entity shall develop and submit to the Secretary the management plan.

(B) CONSIDERATIONS.—In developing and implementing the management plan, the local coordinating entity shall consider the interests of diverse governmental, business, and nonprofit groups within the heritage area.

(2) PRIORITIES.—The local coordinating entity shall give priority to implementing actions described in the management plan, including the following:

(A) Assisting units of government and nonprofit organizations in preserving resources within the heritage area.

(B) Encouraging local governments to adopt land use policies consistent with the management of the heritage area and the goals of the management plan.

(3) PUBLIC MEETINGS.—The local coordinating entity shall conduct public meetings at least quarterly on the implementation of the management plan.

(4) ANNUAL REPORT.—For any year in which Federal funds have been made available under this title, the local coordinating entity shall submit to the Secretary an annual report that describes the following:

(A) The accomplishments of the local coordinating entity.

(B) The expenses and income of the local coordinating entity.

(5) AUDIT.—The local coordinating entity shall—

(A) make available to the Secretary for audit all records relating to the expenditure of Federal funds and any matching funds; and

(B) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available to the Secretary for audit all records concerning the expenditure of those funds.

(c) USE OF FEDERAL FUNDS.—

(1) IN GENERAL.—The local coordinating entity shall not use Federal funds made available under this title to acquire real property or an interest in real property.

(2) OTHER SOURCES.—Nothing in this title precludes the local coordinating entity from using Federal funds made available under other Federal laws for any purpose for which the funds are authorized to be used.

SEC. 106. MANAGEMENT PLAN.

(a) IN GENERAL.—The local coordinating entity shall develop a management plan for the heritage area that incorporates an integrated and cooperative approach to protect, interpret, and enhance the natural, cultural, historical, scenic, and recreational resources of the heritage area.

(b) BASIS.—The management plan shall be based on the preferred concept in the document entitled "Arabia Mountain National Heritage Area Feasibility Study", dated February 28, 2001.

(c) CONSIDERATION OF OTHER PLANS AND ACTIONS.—The management plan shall—

(1) take into consideration State and local plans; and

(2) involve residents, public agencies, and private organizations in the heritage area.

(d) REQUIREMENTS.—The management plan shall include the following:

(1) An inventory of the resources in the heritage area, including—

(A) a list of property in the heritage area that—

(i) relates to the purposes of the heritage area; and

(ii) should be preserved, restored, managed, or maintained because of the significance of the property; and

(B) an assessment of cultural landscapes within the heritage area.

(2) Provisions for the protection, interpretation, and enjoyment of the resources of the heritage area consistent with the purposes of this title.

(3) An interpretation plan for the heritage area.

(4) A program for implementation of the management plan that includes—

(A) actions to be carried out by units of government, private organizations, and public-private partnerships to protect the resources of the heritage area; and

(B) the identification of existing and potential sources of funding for implementing the plan.

(5) A description and evaluation of the local coordinating entity, including the membership and organizational structure of the local coordinating entity.

(e) SUBMISSION TO SECRETARY FOR APPROVAL.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this title, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date specified in paragraph (1), the Secretary shall not provide any additional funding under this title until such date as a management plan for the heritage area is submitted to the Secretary.

(f) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 90 days after receiving the management plan submitted under subsection (e), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

(2) ACTION FOLLOWING DISAPPROVAL.—

(A) REVISION.—If the Secretary disapproves a management plan submitted under paragraph (1), the Secretary shall—

(i) advise the local coordinating entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) allow the local coordinating entity to submit to the Secretary revisions to the management plan.

(B) DEADLINE FOR APPROVAL OF REVISION.—Not later than 90 days after the date on which a revision is submitted under subparagraph (A)(iii), the Secretary shall approve or disapprove the revision.

(g) REVISION OF MANAGEMENT PLAN.—

(1) IN GENERAL.—After approval by the Secretary of a management plan, the local coordinating entity shall periodically—

(A) review the management plan; and

(B) submit to the Secretary, for review and approval by the Secretary, the recommendations of the local coordinating entity for any revisions to the management plan that the local coordinating entity considers to be appropriate.

(2) EXPENDITURE OF FUNDS.—No funds made available under this title shall be used to implement any revision proposed by the local coordinating entity under paragraph (1)(B) until the Secretary approves the revision.

SEC. 107. TECHNICAL AND FINANCIAL ASSISTANCE.

(a) IN GENERAL.—At the request of the local coordinating entity, the Secretary may provide technical and financial assistance to the heritage area to develop and implement the management plan.

(b) PRIORITY.—In providing assistance under subsection (a), the Secretary shall give priority to actions that facilitate—

(1) the conservation of the significant natural, cultural, historical, scenic, and recreational resources that support the purposes of the heritage area; and

(2) the provision of educational, interpretive, and recreational opportunities that are consistent with the resources and associated values of the heritage area.

SEC. 108. EFFECT ON CERTAIN AUTHORITY.

(a) OCCUPATIONAL, SAFETY, CONSERVATION, AND ENVIRONMENTAL REGULATION.—Nothing in this title—

(1) imposes an occupational, safety, conservation, or environmental regulation on the heritage area that is more stringent than the regulations that would be applicable to the land described in section 4(b) but for the establishment of the heritage area by section 4(a); or

(2) authorizes a Federal agency to promulgate an occupational, safety, conservation, or environmental regulation for the heritage area that is more stringent than the regulations applicable to the land described in section 4(b) as of the date of enactment of this Act, solely as a result of the establishment of the heritage area by section 4(a).

(b) LAND USE REGULATION.—Nothing in this title—

(1) modifies, enlarges, or diminishes any authority of the Federal Government or a State or local government to regulate any use of land as provided for by law (including regulations) in existence on the date of enactment of this Act; or

(2) grants powers of zoning or land use to the local coordinating entity.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $10,000,000, to remain available until expended, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) FEDERAL SHARE.—The Federal share of the cost of any project or activity carried out using funds made available under this title shall not exceed 50 percent.

SEC. 110. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this title terminates on the date that is 15 years after the date of enactment of this title.

SEC. 111. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(b) LANDOWNER WITHDRAW.—Any owner of private property included within the boundary of the Heritage Area shall have their property immediately removed from the boundary by submitting a written request to the management entity.

SEC. 112. PRIVATE PROPERTY PROTECTION.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this title shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) LIABILITY.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this title shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREA.—Nothing in this title shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the Heritage Area represent the area within which Federal funds appropriated for the purpose of this title may be expended. The establishment of the Heritage Area and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Area or its viewshed by the Secretary, the National Park Service, or the management entity.

TITLE II—ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR ACT AMENDMENTS

SEC. 201. SHORT TITLE.

This title may be cited as the "Illinois and Michigan Canal National Heritage Corridor Act Amendments of 2005".

SEC. 202. TRANSITION AND PROVISIONS FOR NEW LOCAL COORDINATING ENTITY.

The Illinois and Michigan Canal National Heritage Corridor Act of 1984 (Public Law 98–398; 16 U.S.C. 461 note) is amended as follows:

(1) In section 103—

(A) in paragraph (8), by striking "and";

(B) in paragraph (9), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(10) the term 'Association' means the Canal Corridor Association (an organization described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code).".

(2) By adding at the end of section 112 the following new paragraph:

"(7) The Secretary shall enter into a memorandum of understanding with the Association to help ensure appropriate transition of the local coordinating entity to the Association and coordination with the Association regarding that role.".

(3) By adding at the end the following new sections:

"SEC. 119. ASSOCIATION AS LOCAL COORDINATING ENTITY.

"Upon the termination of the Commission, the local coordinating entity for the corridor shall be the Association.

"SEC. 120. DUTIES AND AUTHORITIES OF ASSOCIATION.

"For purposes of preparing and implementing the management plan developed under section 121, the Association may use Federal funds made available under this title—

"(1) to make loans and grants to, and enter into cooperative agreements with, States and their political subdivisions, private organizations, or any person;

"(2) to hire, train, and compensate staff; and

"(3) to enter into contracts for goods and services.

"SEC. 121. DUTIES OF THE ASSOCIATION.

"The Association shall—

"(1) develop and submit to the Secretary for approval under section 123 a proposed management plan for the corridor not later than 2 years after Federal funds are made available for this purpose;

"(2) give priority to implementing actions set forth in the management plan, including taking steps to assist units of local government, regional planning organizations, and other organizations—

"(A) in preserving the corridor;

"(B) in establishing and maintaining interpretive exhibits in the corridor;

"(C) in developing recreational resources in the corridor;

"(D) in increasing public awareness of and appreciation for the natural, historical, and architectural resources and sites in the corridor; and

"(E) in facilitating the restoration of any historic building relating to the themes of the corridor;

"(3) encourage by appropriate means economic viability in the corridor consistent with the goals of the management plan;

"(4) consider the interests of diverse governmental, business, and other groups within the corridor;

"(5) conduct public meetings at least quarterly regarding the implementation of the management plan;

"(6) submit substantial changes (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan to the Secretary; and

"(7) for any year in which Federal funds have been received under this title—

"(A) submit an annual report to the Secretary setting forth the Association's accomplishments, expenses and income, and the identity of each entity to which any loans and grants were made during the year for which the report is made;

"(B) make available for audit all records pertaining to the expenditure of such funds and any matching funds; and

"(C) require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available for audit all records pertaining to the expenditure of such funds.

"SEC. 122. USE OF FEDERAL FUNDS.

"(a) In General.—The Association shall not use Federal funds received under this title to acquire real property or an interest in real property.

"(b) Other Sources.—Nothing in this title precludes the Association from using Federal funds from other sources for authorized purposes.

"SEC. 123. MANAGEMENT PLAN.

"(a) Preparation of Management Plan.—Not later than 2 years after the date that Federal funds are made available for this purpose, the Association shall submit to the Secretary for approval a proposed management plan that shall—

"(1) take into consideration State and local plans and involve residents, local governments and public agencies, and private organizations in the corridor;

"(2) present comprehensive recommendations for the corridor's conservation, funding, management, and development;

"(3) include actions proposed to be undertaken by units of government and nongovernmental and private organizations to protect the resources of the corridor;

"(4) specify the existing and potential sources of funding to protect, manage, and develop the corridor; and

"(5) include—

"(A) identification of the geographic boundaries of the corridor;

"(B) a brief description and map of the corridor's overall concept or vision that show key sites, visitor facilities and attractions, and physical linkages;

"(C) identification of overall goals and the strategies and tasks intended to reach them, and a realistic schedule for completing the tasks;

"(D) a listing of the key resources and themes of the corridor;

"(E) identification of parties proposed to be responsible for carrying out the tasks;

"(F) a financial plan and other information on costs and sources of funds;

"(G) a description of the public participation process used in developing the plan and a proposal for public participation in the implementation of the management plan;

"(H) a mechanism and schedule for updating the plan based on actual progress;

"(I) a bibliography of documents used to develop the management plan; and

"(J) a discussion of any other relevant issues relating to the management plan.

"(b) Disqualification From Funding.—If a proposed management plan is not submitted to the Secretary within 2 years after the date that Federal funds are made available for this purpose, the Association shall be ineligible to receive additional funds under this title until the Secretary receives a proposed management plan from the Association.

"(c) Approval of Management Plan.—The Secretary shall approve or disapprove a proposed management plan submitted under this title not later than 180 days after receiving such proposed management plan. If action is not taken by the Secretary within the time period specified in the preceding sentence, the management plan shall be deemed approved. The Secretary shall consult with the local entities representing the diverse interests of the corridor including governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners prior to approving the management plan. The Association shall conduct semi-annual public meetings, workshops, and hearings to provide adequate opportunity for the public and local and governmental entities to review and to aid in the preparation and implementation of the management plan.

"(d) Effect of Approval.—Upon the approval of the management plan as provided in subsection (c), the management plan shall supersede the conceptual plan contained in the National Park Service report.

"(e) Action Following Disapproval.—If the Secretary disapproves a proposed management plan within the time period specified in subsection (c), the Secretary shall advise the Association in writing of the reasons for the disapproval and shall make recommendations for revisions to the proposed management plan.

"(f) Approval of Amendments.—The Secretary shall review and approve all substantial amendments (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan. Funds made available under this title may not be expended to implement any changes made by a substantial amendment until the Secretary approves that substantial amendment.

"SEC. 124. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.

"(a) Technical and Financial Assistance.—Upon the request of the Association, the Secretary may provide technical assistance, on a reimbursable or nonreimbursable basis, and financial assistance to the Association to develop and implement the management plan. The Secretary is authorized to enter into cooperative agreements with the Association and other public or private entities for this purpose. In assisting the Association, the Secretary shall give priority to actions that in general assist in—

"(1) conserving the significant natural, historic, cultural, and scenic resources of the corridor; and

"(2) providing educational, interpretive, and recreational opportunities consistent with the purposes of the corridor.

"(b) Duties of Other Federal Agencies.—Any Federal agency conducting or supporting activities directly affecting the corridor shall—

"(1) consult with the Secretary and the Association with respect to such activities;

"(2) cooperate with the Secretary and the Association in carrying out their duties under this title;

"(3) to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

"(4) to the maximum extent practicable, conduct or support such activities in a manner which the Association determines is not likely to have an adverse effect on the corridor.

"SEC. 125. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—To carry out this title there is authorized to be appropriated $10,000,000, except that not more than $1,000,000 may be appropriated to carry out this title for any fiscal year.

"(b) 50 PERCENT MATCH.—The Federal share of the cost of activities carried out using any assistance or grant under this title shall not exceed 50 percent of that cost.

"SEC. 126. SUNSET.

"The authority of the Secretary to provide assistance under this title terminates on the date that is 15 years after the date of enactment of this section.".

SEC. 203. PRIVATE PROPERTY PROTECTION.

The Illinois and Michigan Canal National Heritage Corridor Act of 1984 is further amended by adding after section 126 (as added by section 402) the following new sections:

"SEC. 127. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

"(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the corridor until the owner of that private property has been notified in writing by the Association and has given written consent for such preservation, conservation, or promotion to the Association.

"(b) LANDOWNER WITHDRAWAL.—Any owner of private property included within the boundary of the corridor, and not notified under subsection (a), shall have their property immediately removed from the boundary of the corridor by submitting a written request to the Association.

"SEC. 128. PRIVATE PROPERTY PROTECTION.

"(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this title shall be construed to—

"(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

"(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

"(b) LIABILITY.—Designation of the corridor shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

"(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this title shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

"(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN CORRIDOR.—Nothing in this title shall be construed to require the owner of any private property located within the boundaries of the corridor to participate in or be associated with the corridor.

"(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the corridor represent the area within which Federal funds appropriated for the purpose of this title may be expended. The establishment of the corridor and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the corridor or its viewshed by the Secretary, the National Park Service, or the Association.".

SEC. 204. TECHNICAL AMENDMENTS.

Section 116 of Illinois and Michigan Canal National Heritage Corridor Act of 1984 is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) by striking "(a)" and all that follows through "For each" and inserting "(a) For each";

(B) by striking "Commission" and inserting "Association";

(C) by striking "Commission's" and inserting "Association's";

(D) by redesignating paragraph (2) as subsection (b); and

(E) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

Mr. POMBO (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. KUCINICH. Mr. Speaker, I reserve the right to object.

What is the amendment about? Can you read it?

The SPEAKER pro tempore. Does the gentleman object to dispensing with the reading?

Mr. KUCINICH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, the amendment is considered as read.

There was no objection.

Mr. WELLER. Mr. Speaker, I rise today to express my support for H.R. 2099. Among its provisions, H.R. 2099 reauthorizes the Illinois and Michigan (I&M) Canal National Heritage Corridor to receive appropriations and transfers management entity status from the federal, I&M Commission to the non-profit Canal Corridor Association. I would like to commend Chairman Pombo and the House Committee on Resources for their hard work on this important piece of legislation.

The I&M Canal changed the nation in 1848 when it opened the first shipping route between New York and New Orleans, designating Chicago as the nation's greatest inland port. While the canal eventually fell into disuse due to new transportation methods and routes, in 1982, business and industry leaders founded the Canal Corridor Association to help revitalize the I&M Canal region, and in doing so, created a national model for regional partnership, conservation and renewal. I am proud to say that the I&M Canal National Heritage Corridor was America's charter National Heritage area, being created by an act of Congress in 1984. For 20 years, the federal I&M Commission has worked to carry out the mission of the I&M Canal National Heritage Corridor. Its efforts have been particularly successful during the past five years that Phyllis Ellin has provided strong leadership as the Executive Director of the Commission.

Since 1984, the I&M Canal National Heritage Corridor has increasingly become an engine of economic growth in communities up and down the length of the Corridor; primarily through an increase in tourism but also in the use of the Corridor for recreational purposes. After consulting with local officials and those most interested and involved in the I&M Canal, it seems that the private sector approach offers more advantages to handle the increased work load brought on by the recent success of the canal and interest in heritage tourism.

As a result, H.R. 2099 designates the Canal Corridor Association (CCA) as the new management entity of the I&M Canal National Heritage Corridor. The CCA seeks to enhance economic vitality by raising awareness of and expanding the parks, trails, landscapes, and historic sites that make the I&M Canal region a special place. They have also successfully implemented education programs and improved the cultural, environmental, historic and tourism resources that the canal offers.

Under the leadership of the CCA, through their governance of the I&M Canal, will continue to successfully educate citizens of the nationally historical importance of the I&M Canal and to play a pivotal role in the continued economic redevelopment of the region.

Once again, I would like to thank Chairman POMBO and the entire Resources committee for making sure this important legislation passes before we adjourn.

Ms. MCKINNEY. Mr. Speaker, I rise today to support a bill that is close to my heart as well as the hearts of many others in the 4th Congressional District of Georgia. That is, H.R. 2099, the Arabia Mountain National Heritage Area Act. It would establish Arabia Mountain as a National Heritage Area, a recognition that is long overdue.

Arabia Mountain, a hidden treasure in its own right, is a place where natural, cultural, historic and recreational resources are intricately woven together to form an interconnected, nationally unique landscape. A true Georgia treasure—and an American one, too.

Arabia Mountain spans 4,000 acres and three counties.

Arabia Mountain is part of an area in eastern Metropolitan Atlanta that has been linked to human settlement and activity for thousands of years. This area not only includes the mountain, but also lakes, rivers, quarries, marked trails, and farmland in the surrounding area.

The history of human settlement in this region is intimately connected to its geological resources, starting over 7,000 years ago with the quarrying and trading of soapstone. Not only is this home for deer, beavers, and other animals but a place where everyday people can find peace and get away from the hustle and bustle of urban sprawl and enjoy a piece of America's true beauty.

Arabia Mountain is home to plants that only can be found on the mountain. Arabia Mountain is truly a national heritage area.

Arabia Mountain is also a place where families can come together to take a hike, be a part of a class, and even enjoy a cookout. We are in the midst of a season that causes us to remember the most important things in our lives—family.

Family, Mr. Speaker, is what Arabia Mountain is about. It is a place where you can watch the sunset with someone you love, photograph unique flora, discover Georgia's lizards with your child, or blowout her candles at a birthday party. I invite my colleagues on both sides of the aisle to vote yes on H.R.

2099, the Arabia Mountain National Heritage Area Act. Arabia Mountain is, indeed, a genuine American beauty.

Finally, Mr. Speaker, I'd like to take this opportunity to thank Georgia Senators SAXBY CHAMBLISS and JOHNNY ISAKSON for their support; Georgia's Department of Natural Resources for its valuable input; my colleagues DAVID SCOTT and JIM MARSHALL for cosponsoring this bill; and my staff for preparing this bill and helping it get to the Floor of the House today. I'd especially like to thank Congressman POMBO, Chairman of the House Resources Committee and his staff and NICK RAHALL, its Ranking Member, and his staff, for their advice and counsel as this bill went through the legislative process in the House.

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JUNIOR DUCK STAMP REAUTHORIZATION AMENDMENTS ACT OF 2005

Mr. POMBO. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the bill (H.R. 3179) to reauthorize and amend the Junior Duck Stamp Conservation and Design Program Act of 1994, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. OBEY. Reserving the right to object, Mr. Speaker, for the last 8 hours, we have been dealing with a majority leadership that has stripped out of the appropriations process and out of the conference virtually every major understanding we have had on those bills. We have had the United States Senate ram down our throats an ANWR provision. And then after we were assured in conference that there would be no language with respect to drug company indemnification, 3 hours after the conference report we get 45 pages of language which Senator FRIST and the Speaker of the House demanded be included in the conference report after the conference was specifically told it would not be in there.

Now, I want to know how do we have assurances on any bill brought to this floor under unanimous consent that that same kind of nonsense is not occurring in these instances? I have a responsibility as the ranking member of the Appropriations Committee to try to defend the integrity of this House, and I will use any opportunity I can to point out how the majority leadership in this House is destroying the principle that this is supposed to be the greatest deliberative body in the world.

How long is the bill? Because, Mr. Speaker, I am tempted to demand that every single bill that comes up tonight be read in its entirety.

The SPEAKER pro tempore. The bill is four pages.

Mr. OBEY. I would like to have the bill read.

The SPEAKER pro tempore. Under this unanimous-consent procedure a bill is reported by title only.

Mr. OBEY. Mr. Speaker, I will withdraw that request because I did not inform the gentleman ahead of time, and he just happened to get in the line of fire on something he should not have been involved in.

Mr. POMBO. Mr. Speaker, will the gentleman yield?

Mr. OBEY. Absolutely.

Mr. POMBO. The bills that we are doing by UC right now are bills that have been before the committee for a long time. The particular bill you are objecting to is a bill that the gentleman from Texas (Mr. ORTIZ) has been working on for years. It is something that means a lot to him. He was sitting right behind you just a minute ago, and I am sure he would be happy to explain it to you. We are not adding anything new into the bill of the gentleman from Texas (Mr. ORTIZ).

Mr. OBEY. I am not objecting to any bill, and I am not suggesting you did. What I am doing is using the only avenue available to me since we are operating under some very strange rules in this House to point out that even if these matters had been cleared on both sides of the aisle, there is really no way for the individual Member to protect himself if the leadership of this House is going to depart from what ought to be the custom in this place of not dictating what goes into conference reports.

Mr. POMBO. If the gentleman will yield, these bills have been worked out. They have been cleared by the gentleman from West Virginia (Mr. RAHALL) and myself. Most of these bills are from your side of the aisle, and they are bills that have been worked on for a number of years. There is nothing in here that has changed. I understand your frustration. It happens every year when we get to the end of the session that stupid stuff happens.

Mr. OBEY. With all due respect, what does not happen is that the leadership does not abuse its power routinely to alter the contents of conference reports. So I know the gentleman didn't, and I have no objection to the gentleman proceeding. But I wanted to use this as an opportunity to point out that the leadership of this House, starting with the Speaker of the House, is abdicating his responsibility to protect the integrity of this institution.

Mr. KUCINICH. Mr Speaker, I reserve the right to object.

Mr. POMBO. Mr. Speaker, I withdraw my unanimous consent request.

The SPEAKER pro tempore. The request is withdrawn.

Mr. POMBO. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the bill (H.R. 3179) to reauthorize and amend the Junior Duck Stamp Conservation and Design Program Act of 1994, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. MARKEY. Reserving the right to object, Mr. Speaker, this is one of the most preposterous situations that the House has ever been placed in. Poised to be placed before the House in just a matter of moments is a bill, the Defense appropriations bill, which is in violation of the germaneness rules of the House; it is in violation of any scope that the Defense appropriations bill has ever allowed to be considered in that bill because inside that bill is a provision which will in fact allow for the drilling in the Arctic Wildlife Refuge.

The gentleman from California is the chairman of the committee, the Natural Resources Committee, which has jurisdiction over the Arctic National Wildlife Refuge.

Mr. POMBO. Mr. Speaker, I withdraw my unanimous consent request.

Mr. MARKEY. The gentleman is out here propounding. I would like to continue to be recognized.

The SPEAKER pro tempore. The gentleman will suspend.

The request is withdrawn.

□ 0115

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2863, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

Mr. COLE of Oklahoma, from the Committee on Rules, submitted a privileged report (Rept. No. 109-361) on the resolution (H. Res. 639) waiving points of order against the conference report to accompany the bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON S. 1932, DEFICIT REDUCTION ACT OF 2005

Mr. NUSSLE submitted the following conference report and statement on the Senate bill (S. 1932) to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95):

CONFERENCE REPORT (H. REPT. 109-362)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1932), to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95), having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deficit Reduction Act of 2005".

SEC. 2. TABLE OF TITLES.

The table of titles is as follows:

TITLE I—AGRICULTURE PROVISIONS
TITLE II—HOUSING AND DEPOSIT INSURANCE PROVISIONS
TITLE III—DIGITAL TELEVISION TRANSITION AND PUBLIC SAFETY
TITLE IV—TRANSPORTATION PROVISIONS
TITLE V—MEDICARE
TITLE VI—MEDICAID AND SCHIP
TITLE VII—HUMAN RESOURCES AND OTHER PROVISIONS
TITLE VIII—EDUCATION AND PENSION BENEFIT PROVISIONS
TITLE IX—LIHEAP PROVISIONS
TITLE X—JUDICIARY RELATED PROVISIONS

TITLE I—AGRICULTURE PROVISIONS

SECTION 1001. SHORT TITLE.

This title may be cited as the "Agricultural Reconciliation Act of 2005".

SEC. 1002. TABLE OF CONTENTS.

The table of contents for this title is as follows:

Subtitle A—Commodity Programs

SEC. 1101. NATIONAL DAIRY MARKET LOSS PAYMENTS.

(a) Amount.—Section 1502(c) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982(c)) is amended by striking paragraph (3) and inserting the following new paragraph:

"(3)(A) during the period beginning on the first day of the month the producers on a dairy farm enter into a contract under this section and ending on September 30, 2005, 45 percent;

"(B) during the period beginning on October 1, 2005, and ending on August 31, 2007, 34 percent; and

"(C) during the period beginning on September 1, 2007, 0 percent.".

(b) Duration.—Section 1502 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982) is amended by striking "2005" each place it appears in subsections (f) and (g)(1) and inserting "2007".

(c) Conforming Amendments.—Section 1502 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982) is amended—

(1) in subsection (g)(1), by striking "and subsection (h)"; and

(2) by striking subsection (h).

SEC. 1102. ADVANCE DIRECT PAYMENTS.

(a) Covered Commodities.—Section 1103(d)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7913(d)(2)) is amended in the first sentence by striking "2007 crop years" and inserting "2005 crop years, up to 40 percent of the direct payment for a covered commodity for the 2006 crop year, and up to 22 percent of the direct payment for a covered commodity for the 2007 crop year,".

(b) Peanuts.—Section 1303(e)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7953(e)(2)) is amended in the first sentence by striking "2007 crop years" and inserting "2005 crop years, up to 40 percent of the direct payment for the 2006 crop year, and up to 22 percent of the direct payment for the 2007 crop year,".

SEC. 1103. COTTON COMPETITIVENESS PROVISIONS.

(a) Repeal of Authority to Issue Cotton User Marketing Certificates.—Section 1207 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7937) is amended—

(1) by striking subsection (a); and

(2) in subsection (b)(1)—

(A) in subparagraph (B), by striking ", adjusted for the value of any certificate issued under subsection (a),"; and

(B) in subparagraph (C), by striking ", for the value of any certificates issued under subsection (a)".

(b) Effective Date.—The amendments made by this section take effect on August 1, 2006.

Subtitle B—Conservation

SEC. 1201. WATERSHED REHABILITATION PROGRAM.

The authority to obligate funds previously made available under section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)) for a fiscal year and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

SEC. 1202. CONSERVATION SECURITY PROGRAM.

(a) Extension.—Section 1238A(a) of the Food Security Act of 1985 (16 U.S.C. 3838a(a)) is amended by striking "2007" and inserting "2011".

(b) Funding.—Section 1241(a)(3) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(3)) is amended by striking "not more than $6,037,000,000" and all that follows through "2014," and inserting the following: "not more than—

"(A) $1,954,000,000 for the period of fiscal years 2006 through 2010; and

"(B) $5,650,000,000 for the period of fiscal years 2006 through 2015.".

SEC. 1203. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

(a) Extension.—Section 1240B(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3839aa-2(a)(1)) is amended by striking "2007" and inserting "2010".

(b) Limitation on Payments.—Section 1240G of the Food Security Act of 1985 (16 U.S.C. 3839aa-7) is amended by striking "the period of fiscal years 2002 through 2007" and inserting "any six-year period".

(c) Funding.—Section 1241(a)(6) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(6)) is amended—

(1) by striking "and" at the end of subparagraph (D); and

(2) by striking subparagraph (E) and inserting the following new subparagraphs:

"(E) $1,270,000,000 in each of fiscal years 2007 through 2009; and

"(F) $1,300,000,000 in fiscal year 2010.".

Subtitle C—Energy

SEC. 1301. RENEWABLE ENERGY SYSTEMS AND ENERGY EFFICIENCY IMPROVEMENTS PROGRAM.

Section 9006(f) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106(f)) is amended by striking "2007" and inserting "2006 and $3,000,000 for fiscal year 2007".

Subtitle D—Rural Development

SEC. 1401. ENHANCED ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.

The authority to obligate funds previously made available under section 601(j)(1) of the Rural Electrification Act of 1936 for a fiscal year and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

SEC. 1402. VALUE-ADDED AGRICULTURAL PRODUCT MARKET DEVELOPMENT GRANTS.

The authority to obligate funds previously made available under section 231(b)(4) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1621 note) for a fiscal year and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

SEC. 1403. RURAL BUSINESS INVESTMENT PROGRAM.

(a) Termination of Fiscal Year 2007 and Subsequent Funding.—Subsection (a)(1) of section 384S of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–18) is amended by inserting after "necessary" the following: "through fiscal year 2006".

(b) Cancellation of Unobligated Prior-Year Funds.—The authority to obligate funds previously made available under such section and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

SEC. 1404. RURAL BUSINESS STRATEGIC INVESTMENT GRANTS.

The authority to obligate funds previously made available under section 385E of the Consolidated Farm and Rural Development Act and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

SEC. 1405. RURAL FIREFIGHTERS AND EMERGENCY PERSONNEL GRANTS.

(a) Termination of Fiscal Year 2007 Funding.—Subsection (c) of section 6405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 2655) is amended by striking "2007" and inserting "2006".

(b) Cancellation of Unobligated Prior-Year Funds.—The authority to obligate funds previously made available under such section for a fiscal year and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

Subtitle E—Research

SEC. 1501. INITIATIVE FOR FUTURE FOOD AND AGRICULTURE SYSTEMS.

(a) Termination of Fiscal Year 2007, 2008, and 2009 Transfers.—Subsection (b)(3)(D) of section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621) is amended by striking "2006" and inserting "2009".

(b) Termination of Multi-Year Availability of Fiscal Year 2006 Funds.—Paragraph (6) of subsection (f) of such section is amended to read as follows:

"(6) Availability of funds.—

"(A) Two-year availability.—Except as provided in subparagraph (B), funds for grants under this section shall be available to the Secretary for obligation for a 2-year period beginning on the date of the transfer of the funds under subsection (b).

"(B) Exception for fiscal year 2006 transfer.—In the case of the funds required to be transferred by subsection (b)(3)(C), the funds shall be available to the Secretary for obligation for the 1-year period beginning on October 1, 2005.".

TITLE II—HOUSING AND DEPOSIT INSURANCE PROVISIONS

Subtitle A—FHA Asset Disposition

SEC. 2002. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) The term "affordability requirements" means any requirements or restrictions imposed by the Secretary, at the time of sale, on a multifamily real property or a multifamily loan, such as use restrictions, rent restrictions, and rehabilitation requirements.

(2) The term "discount sale" means the sale of a multifamily real property in a transaction, such as a negotiated sale, in which the sale price is lower than the property market value and is set outside of a competitive bidding process that has no affordability requirements.

(3) The term "discount loan sale" means the sale of a multifamily loan in a transaction, such as a negotiated sale, in which the sale price is lower than the loan market value and is set outside of a competitive bidding process that has no affordability requirements.

(4) The term "loan market value" means the value of a multifamily loan, without taking into account any affordability requirements.

(5) The term "multifamily real property" means any rental or cooperative housing project of 5 or more units owned by the Secretary that prior to acquisition by the Secretary was security for a loan or loans insured under title II of the National Housing Act.

(6) The term "multifamily loan" means a loan held by the Secretary and secured by a multifamily rental or cooperative housing project of 5 or more units that was formerly insured under title II of the National Housing Act.

(7) The term "property market value" means the value of a multifamily real property for its current use, without taking into account any affordability requirements.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 2003. APPROPRIATED FUNDS REQUIREMENT FOR BELOW-MARKET SALES.

(a) DISCOUNT SALES.—Notwithstanding any other provision of law, except for affordability requirements for the elderly and disabled required by statute, disposition by the Secretary of a multifamily real property during fiscal years 2006 through 2010 through a discount sale under sections 207(l) or 246 of the National Housing Act (12 U.S.C. 1713(l), 1715z–11), section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11), or section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z-11a), shall be subject to the availability of appropriations to the extent that the property market value exceeds the sale proceeds. If the multifamily real property is sold, during such fiscal years, for an amount equal to or greater than the property market value then the transaction is not subject to the availability of appropriations.

(b) DISCOUNT LOAN SALES.—Notwithstanding any other provision of law and in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), a discount loan sale during fiscal years 2006 through 2010 under section 207(k) of the National Housing Act (12 U.S.C. 1713(k)), section 203(k) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(k)), or section 204(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z-11a(a)), shall be subject to the availability of appropriations to the extent that the loan market alue exceeds the sale proceeds. If the multifamily loan is sold, during such fiscal years, for an amount equal to or greater than the loan market value then the transaction is not subject to the availability of appropriations.

(c) APPLICABILITY.—This section shall not apply to any transaction that formally commences within one year prior to the enactment of this section.

SEC. 2004. UP-FRONT GRANTS.

(a) 1997 Act.—Section 204(a) of the Departments of Veterans Affairs and Housing And Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–11a(a))) is amended by adding at the end the following new sentence: "A grant provided under this subsection during fiscal years 2006 through 2010 shall be available only to the extent that appropriations are made in advance for such purposes and shall not be derived from the General Insurance Fund.".

(b) 1978 Act.—Section 203(f)(4) of the Housing and Community Development Amendments of 1978 (12 USC 1701z–11(f)(4)) is amended by adding at the end the following new sentence: "This paragraph shall be effective during fiscal years 2006 through 2010 only to the extent that such budget authority is made available for use under this paragraph in advance in appropriation Acts.".

(c) APPLICABILITY.—The amendments made by this section shall not apply to any transaction that formally commences within one year prior to the enactment of this section.

Subtitle B—Deposit Insurance

SEC. 2101. SHORT TITLE.

This subtitle may be cited as the "Federal Deposit Insurance Reform Act of 2005".

SEC. 2102. MERGING THE BIF AND SAIF.

(a) IN GENERAL.—

(1) MERGER.—The Bank Insurance Fund and the Savings Association Insurance Fund shall be merged into the Deposit Insurance Fund.

(2) DISPOSITION OF ASSETS AND LIABILITIES.—All assets and liabilities of the Bank Insurance Fund and the Savings Association Insurance Fund shall be transferred to the Deposit Insurance Fund.

(3) NO SEPARATE EXISTENCE.—The separate existence of the Bank Insurance Fund and the Savings Association Insurance Fund shall cease on the effective date of the merger thereof under this section.

(b) REPEAL OF OUTDATED MERGER PROVISION.—Section 2704 of the Deposit Insurance Funds Act of 1996 (12 U.S.C. 1821 note) is repealed.

(c) EFFECTIVE DATE.—This section shall take effect no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 2103. INCREASE IN DEPOSIT INSURANCE COVERAGE.

(a) IN GENERAL.—Section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) is amended—

(1) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) NET AMOUNT OF INSURED DEPOSIT.—The net amount due to any depositor at an insured depository institution shall not exceed the standard maximum deposit insurance amount as determined in accordance with subparagraphs (C), (D), (E) and (F) and paragraph (3)."; and

(2) by adding at the end the following new subparagraphs:

"(E) STANDARD MAXIMUM DEPOSIT INSURANCE AMOUNT DEFINED.—For purposes of this Act, the term 'standard maximum deposit insurance amount' means $100,000, adjusted as provided under subparagraph (F) after March 31, 2010.

"(F) INFLATION ADJUSTMENT.—

"(i) IN GENERAL.—By April 1 of 2010, and the 1st day of each subsequent 5-year period, the Board of Directors and the National Credit Union Administration Board shall jointly consider the factors set forth under clause (v), and, upon determining that an inflation adjustment is appropriate, shall jointly prescribe the amount by which the standard maximum deposit insurance amount and the standard maximum share insurance amount (as defined in section 207(k) of the Federal Credit Union Act) applicable to any depositor at an insured depository institution shall be increased by calculating the product of—

"(I) $100,000; and

"(II) the ratio of the published annual value of the Personal Consumption Expenditures Chain-Type Price Index (or any successor index thereto), published by the Department of Commerce, for the calendar year preceding the year in which the adjustment is calculated under this clause, to the published annual value of such index for the calendar year preceding the date this subparagraph takes effect under the Federal Deposit Insurance Reform Act of 2005.

The values used in the calculation under subclause (II) shall be, as of the date of the calculation, the values most recently published by the Department of Commerce.

"(ii) ROUNDING.—If the amount determined under clause (ii) for any period is not a multiple of $10,000, the amount so determined shall be rounded down to the nearest $10,000.

"(iii) PUBLICATION AND REPORT TO THE CONGRESS.—Not later than April 5 of any calendar year in which an adjustment is required to be calculated under clause (i) to the standard maximum deposit insurance amount and the standard maximum share insurance amount under such clause, the Board of Directors and the National Credit Union Administration Board shall—

"(I) publish in the Federal Register the standard maximum deposit insurance amount, the standard maximum share insurance amount, and the amount of coverage under paragraph (3)(A) and section 207(k)(3) of the Federal Credit Union Act, as so calculated; and

"(II) jointly submit a report to the Congress containing the amounts described in subclause (I).

"(iv) 6-MONTH IMPLEMENTATION PERIOD.—Unless an Act of Congress enacted before July 1 of the calendar year in which an adjustment is required to be calculated under clause (i) provides otherwise, the increase in the standard maximum deposit insurance amount and the standard maximum share insurance amount shall take effect on January 1 of the year immediately succeeding such calendar year.

"(v) INFLATION ADJUSTMENT CONSIDERATION.—In making any determination under clause (i) to increase the standard maximum deposit insurance amount and the standard maximum share insurance amount, the Board of Directors and the National Credit Union Administration Board shall jointly consider—

"(I) the overall state of the Deposit Insurance Fund and the economic conditions affecting insured depository institutions;

"(II) potential problems affecting insured depository institutions; or

"(III) whether the increase will cause the reserve ratio of the fund to fall below 1.15 percent of estimated insured deposits.".

(b) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—Section 11(a)(1)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(D)) is amended to read as follows:

"(D) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—

"(i) PASS-THROUGH INSURANCE.—The Corporation shall provide pass-through deposit insurance for the deposits of any employee benefit plan.

"(ii) PROHIBITION ON ACCEPTANCE OF BENEFIT PLAN DEPOSITS.—An insured depository institution that is not well capitalized or adequately capitalized may not accept employee benefit plan deposits.

"(iii) DEFINITIONS.—For purposes of this subparagraph, the following definitions shall apply:

"(I) CAPITAL STANDARDS.—The terms 'well capitalized' and 'adequately capitalized' have the same meanings as in section 38.

"(II) EMPLOYEE BENEFIT PLAN.—The term 'employee benefit plan' has the same meaning as in paragraph (5)(B)(ii), and includes any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(III) PASS-THROUGH DEPOSIT INSURANCE.—The term 'pass-through deposit insurance' means, with respect to an employee benefit plan, deposit insurance coverage based on the interest of each participant, in accordance with regulations issued by the Corporation.".

(c) INCREASED AMOUNT OF DEPOSIT INSURANCE FOR CERTAIN RETIREMENT ACCOUNTS.—Section 11(a)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(3)(A)) is amended by striking "$100,000" and inserting "$250,000 (which amount shall be subject to inflation adjustments as provided in paragraph (1)(F), except that $250,000 shall be substituted for $100,000 wherever such term appears in such paragraph)".

(h) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date the final regulations required under section 9(a)(2) take effect.

SEC. 2104. SETTING ASSESSMENTS AND REPEAL OF SPECIAL RULES RELATING TO MINIMUM ASSESSMENTS AND FREE DEPOSIT INSURANCE.

(a) SETTING ASSESSMENTS.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(1) by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

"(A) IN GENERAL.—The Board of Directors shall set assessments for insured depository institutions in such amounts as the Board of Directors may determine to be necessary or appropriate, subject to subparagraph (D).

"(B) FACTORS TO BE CONSIDERED.—In setting assessments under subparagraph (A), the Board of Directors shall consider the following factors:

"(i) The estimated operating expenses of the Deposit Insurance Fund.

"(ii) The estimated case resolution expenses and income of the Deposit Insurance Fund.

"(iii) The projected effects of the payment of assessments on the capital and earnings of insured depository institutions.

"(iv) The risk factors and other factors taken into account pursuant to paragraph (1) under the risk-based assessment system, including the requirement under such paragraph to maintain a risk-based system.

"(v) Any other factors the Board of Directors may determine to be appropriate."; and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) NO DISCRIMINATION BASED ON SIZE.—No insured depository institution shall be barred from the lowest-risk category solely because of size.".

(b) ASSESSMENT RECORDKEEPING PERIOD SHORTENED.—Paragraph (5) of section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended to read as follows:

"(5) DEPOSITORY INSTITUTION REQUIRED TO MAINTAIN ASSESSMENT-RELATED RECORDS.—Each insured depository institution shall maintain all records that the Corporation may require for verifying the correctness of any assessment on the insured depository institution under this subsection until the later of—

"(A) the end of the 3-year period beginning on the due date of the assessment; or

"(B) in the case of a dispute between the insured depository institution and the Corporation with respect to such assessment, the date of a final determination of any such dispute.".

(c) INCREASE IN FEES FOR LATE ASSESSMENT PAYMENTS.—Subsection (h) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(h)) is amended to read as follows:

"(h) PENALTY FOR FAILURE TO TIMELY PAY ASSESSMENTS.—

"(1) IN GENERAL.—Subject to paragraph (3), any insured depository institution which fails or refuses to pay any assessment shall be subject to a penalty in an amount of not more than 1 percent of the amount of the assessment due for each day that such violation continues.

"(2) EXCEPTION IN CASE OF DISPUTE.—Paragraph (1) shall not apply if—

"(A) the failure to pay an assessment is due to a dispute between the insured depository institution and the Corporation over the amount of such assessment; and

"(B) the insured depository institution deposits security satisfactory to the Corporation for payment upon final determination of the issue.

"(3) SPECIAL RULE FOR SMALL ASSESSMENT AMOUNTS.—If the amount of the assessment which an insured depository institution fails or refuses to pay is less than $10,000 at the time of such failure or refusal, the amount of any penalty to which such institution is subject under paragraph (1) shall not exceed $100 for each day that such violation continues.

"(4) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Corporation, in the sole discretion of the Corporation, may compromise, modify or remit any penalty which the Corporation may assess or has already assessed under paragraph (1) upon a finding that good cause prevented the timely payment of an assessment.".

(e) STATUTE OF LIMITATIONS FOR ASSESSMENT ACTIONS.—Subsection (g) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(g)) is amended to read as follows:

"(g) ASSESSMENT ACTIONS.—

"(1) IN GENERAL.—The Corporation, in any court of competent jurisdiction, shall be entitled to recover from any insured depository institution the amount of any unpaid assessment lawfully payable by such insured depository institution.

"(2) STATUTE OF LIMITATIONS.—The following provisions shall apply to actions relating to assessments, notwithstanding any other provision in Federal law, or the law of any State:

"(A) Any action by an insured depository institution to recover from the Corporation the overpaid amount of any assessment shall be brought within 3 years after the date the assessment payment was due, subject to the exception in subparagraph (E).

"(B) Any action by the Corporation to recover from an insured depository institution the underpaid amount of any assessment shall be brought within 3 years after the date the assessment payment was due, subject to the exceptions in subparagraphs (C) and (E).

"(C) If an insured depository institution has made a false or fraudulent statement with intent to evade any or all of its assessment, the Corporation shall have until 3 years after the date of discovery of the false or fraudulent statement in which to bring an action to recover the underpaid amount.

"(D) Except as provided in subparagraph (C), assessment deposit information contained in records no longer required to be maintained pursuant to subsection (b)(4) shall be considered conclusive and not subject to change.

"(E) Any action for the underpaid or overpaid amount of any assessment that became due before the amendment to this subsection under the Federal Deposit Insurance Reform Act of 2005 took effect shall be subject to the statute of limitations for assessments in effect at the time the assessment became due.".

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that the final regulations required under section 9(a)(5) take effect.

SEC. 2105. REPLACEMENT OF FIXED DESIGNATED RESERVE RATIO WITH RESERVE RANGE.

(a) IN GENERAL.—Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) is amended to read as follows:

"(3) DESIGNATED RESERVE RATIO.—

"(A) ESTABLISHMENT.—

"(i) IN GENERAL.—Before the beginning of each calendar year, the Board of Directors shall designate the reserve ratio applicable with respect to the Deposit Insurance Fund and publish the reserve ratio so designated.

"(ii) RULEMAKING REQUIREMENT.—Any change to the designated reserve ratio shall be made by the Board of Directors by regulation after notice and opportunity for comment.

"(B) RANGE.—The reserve ratio designated by the Board of Directors for any year—

"(i) may not exceed 1.5 percent of estimated insured deposits; and

"(ii) may not be less than 1.15 percent of estimated insured deposits.

"(C) FACTORS.—In designating a reserve ratio for any year, the Board of Directors shall—

"(i) take into account the risk of losses to the Deposit Insurance Fund in such year and future years, including historic experience and potential and estimated losses from insured depository institutions;

"(ii) take into account economic conditions generally affecting insured depository institutions so as to allow the designated reserve ratio to increase during more favorable economic conditions and to decrease during less favorable economic conditions, notwithstanding the increased risks of loss that may exist during such less favorable conditions, as determined to be appropriate by the Board of Directors;

"(iii) seek to prevent sharp swings in the assessment rates for insured depository institutions; and

"(iv) take into account such other factors as the Board of Directors may determine to be appropriate, consistent with the requirements of this subparagraph.

"(D) PUBLICATION OF PROPOSED CHANGE IN RATIO.—In soliciting comment on any proposed change in the designated reserve ratio in accordance with subparagraph (A), the Board of Directors shall include in the published proposal a thorough analysis of the data and projections on which the proposal is based.".

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that the final regulations required under section 9(a)(1) take effect.

SEC. 2106. REQUIREMENTS APPLICABLE TO THE RISK-BASED ASSESSMENT SYSTEM.

Section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) is amended by adding at the end the following new subparagraphs:

"(E) INFORMATION CONCERNING RISK OF LOSS AND ECONOMIC CONDITIONS.—

"(i) SOURCES OF INFORMATION.—For purposes of determining risk of losses at insured depository institutions and economic conditions generally affecting depository institutions, the Corporation shall collect information, as appropriate, from all sources the Board of Directors considers appropriate, such as reports of condition, inspection reports, and other information from all Federal banking agencies, any information available from State bank supervisors, State insurance and securities regulators, the Securities and Exchange Commission (including information described in section 35), the Secretary of the Treasury, the Commodity Futures Trading Commission, the Farm Credit Administration, the Federal Trade Commission, any Federal reserve bank or Federal home loan bank, and other regulators of financial institutions, and any information available from credit rating entities, and other private economic or business analysts.

"(ii) CONSULTATION WITH FEDERAL BANKING AGENCIES.—

"(I) IN GENERAL.—Except as provided in subclause (II), in assessing the risk of loss to the Deposit Insurance Fund with respect to any insured depository institution, the Corporation *shall consult with the appropriate Federal banking agency of such institution.*

"(II) TREATMENT ON AGGREGATE BASIS.—In the case of insured depository institutions that are well capitalized (as defined in section 38) and, in the most recent examination, were found to be well managed, the consultation under subclause (I) concerning the assessment of the risk of loss posed by such institutions may be made on an aggregate basis.

"(iii) RULE OF CONSTRUCTION.—No provision of this paragraph shall be construed as providing any new authority for the Corporation to require submission of information by insured depository institutions to the Corporation.

"(F) MODIFICATIONS TO THE RISK-BASED ASSESSMENT SYSTEM ALLOWED ONLY AFTER NOTICE AND COMMENT.—In revising or modifying the risk-based assessment system at any time after the date of the enactment of the Federal Deposit Insurance Reform Act of 2005, the Board of Directors may implement such revisions or modification in final form only after notice and opportunity for comment.".

SEC. 2107. REFUNDS, DIVIDENDS, AND CREDITS FROM DEPOSIT INSURANCE FUND.

(a) IN GENERAL.—Subsection (e) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(e)) is amended to read as follows:

"(e) REFUNDS, DIVIDENDS, AND CREDITS.—

"(1) REFUNDS OF OVERPAYMENTS.—In the case of any payment of an assessment by an insured depository institution in excess of the amount due to the Corporation, the Corporation may—

"(A) refund the amount of the excess payment to the insured depository institution; or

"(B) credit such excess amount toward the payment of subsequent assessments until such credit is exhausted.

"(2) DIVIDENDS FROM EXCESS AMOUNTS IN DEPOSIT INSURANCE FUND.—

"(A) RESERVE RATIO IN EXCESS OF 1.5 PERCENT OF ESTIMATED INSURED DEPOSITS.—If, at the end of a calendar year, the reserve ratio of the Deposit Insurance Fund exceeds 1.5 percent of estimated insured deposits, the Corporation shall declare the amount in the Fund in excess of the amount required to maintain the reserve ratio at 1.5 percent of estimated insured deposits, as dividends to be paid to insured depository institutions.

"(B) RESERVE RATIO EQUAL TO OR IN EXCESS OF 1.35 PERCENT OF ESTIMATED INSURED DEPOSITS AND NOT MORE THAN 1.5 PERCENT.—If, at the end of a calendar year, the reserve ratio of the Deposit Insurance Fund equals or exceeds 1.35 percent of estimated insured deposits and is not more than 1.5 percent of such deposits, the Corporation shall declare the amount in the Fund that is equal to 50 percent of the amount in excess of the amount required to maintain the reserve ratio at 1.35 percent of the estimated insured deposits as dividends to be paid to insured depository institutions.

"(C) BASIS FOR DISTRIBUTION OF DIVIDENDS.—

"(i) IN GENERAL.—Solely for the purposes of dividend distribution under this paragraph, the Corporation shall determine each insured depository institution's relative contribution to the Deposit Insurance Fund (or any predecessor deposit insurance fund) for calculating such institution's share of any dividend declared under this paragraph, taking into account the factors described in clause (ii).

"(ii) FACTORS FOR DISTRIBUTION.—In implementing this paragraph in accordance with regulations, the Corporation shall take into account the following factors:

"(I) The ratio of the assessment base of an insured depository institution (including any predecessor) on December 31, 1996, to the assessment base of all eligible insured depository institutions on that date.

"(II) The total amount of assessments paid on or after January 1, 1997, by an insured depository institution (including any predecessor) to the Deposit Insurance Fund (and any predecessor deposit insurance fund).

"(III) That portion of assessments paid by an insured depository institution (including any predecessor) that reflects higher levels of risk assumed by such institution.

"(IV) Such other factors as the Corporation may determine to be appropriate.

"(D) NOTICE AND OPPORTUNITY FOR COMMENT.—The Corporation shall prescribe by regulation, after notice and opportunity for comment, the method for the calculation, declaration, and payment of dividends under this paragraph.

"(E) LIMITATION.—The Board of Directors may suspend or limit dividends paid under subparagraph (B), if the Board determines in writing that—

"(i) a significant risk of losses to the Deposit Insurance Fund exists over the next 1-year period; and

"(ii) it is likely that such losses will be sufficiently high as to justify a finding by the Board that the reserve ratio should temporarily be allowed—

"(I) to grow without requiring dividends under subparagraph (B); or

"(II) to exceed the maximum amount established under subsection (b)(3)(B)(i).

"(F) CONSIDERATIONS.—In making a determination under subparagraph (E), the Board shall consider—

"(i) national and regional conditions and their impact on insured depository institutions;

"(ii) potential problems affecting insured depository institutions or a specific group or type of depository institution;

"(iii) the degree to which the contingent liability of the Corporation for anticipated failures of insured institutions adequately addresses concerns over funding levels in the Deposit Insurance Fund; and

"(iv) any other factors that the Board determines are appropriate.

"(H) REVIEW OF DETERMINATION.—

"(i) ANNUAL REVIEW.—A determination to suspend or limit dividends under subparagraph (E) shall be reviewed by the Board of Directors annually.

"(ii) ACTION BY BOARD.—Based on each annual review under clause (i), the Board of Directors shall either renew or remove a determination to suspend or limit dividends under subparagraph (E), or shall make a new determination in accordance with this paragraph. Unless justified under the terms of the renewal or new determination, the Corporation shall be required to provide cash dividends under subparagraph (A) or (B), as appropriate.

"(3) ONE-TIME CREDIT BASED ON TOTAL ASSESSMENT BASE AT YEAR-END 1996.—

"(A) IN GENERAL.—Before the end of the 270-day period beginning on the date of the enactment of the Federal Deposit Insurance Reform Act of 2005, the Board of Directors shall, by regulation after notice and opportunity for comment, provide for a credit to each eligible insured depository institution (or a successor insured depository institution), based on the assessment base of the institution on December 31, 1996, as compared to the combined aggregate assessment base of all eligible insured depository institutions, taking into account such factors as the Board of Directors may determine to be appropriate.

"(B) CREDIT LIMIT.—The aggregate amount of credits available under subparagraph (A) to all eligible insured depository institutions shall equal the amount that the Corporation could collect if the Corporation imposed an assessment of 10.5 basis points on the combined assessment base of the Bank Insurance Fund and the Savings Association Insurance Fund as of December 31, 2001.

"(C) ELIGIBLE INSURED DEPOSITORY INSTITUTION DEFINED.—For purposes of this paragraph, the term 'eligible insured depository institution' means any insured depository institution that—

"(i) was in existence on December 31, 1996, and paid a deposit insurance assessment prior to that date; or

"(ii) is a successor to any insured depository institution described in clause (i).

"(D) APPLICATION OF CREDITS.—

"(i) IN GENERAL.—Subject to clause (ii), the amount of a credit to any eligible insured depository institution under this paragraph shall be applied by the Corporation, subject to subsection (b)(3)(E), to the assessments imposed on such institution under subsection (b) that become due for assessment periods beginning after the effective date of regulations prescribed under subparagraph (A).

"(ii) TEMPORARY RESTRICTION ON USE OF CREDITS.—The amount of a credit to any eligible insured depository institution under this paragraph may not be applied to more than 90 percent of the assessments imposed on such institution under subsection (b) that become due for assessment periods beginning in fiscal years 2008, 2009, and 2010.

"(iii) REGULATIONS.—The regulations prescribed under subparagraph (A) shall establish the qualifications and procedures governing the application of assessment credits pursuant to clause (i).

"(E) LIMITATION ON AMOUNT OF CREDIT FOR CERTAIN DEPOSITORY INSTITUTIONS.—In the case of an insured depository institution that exhibits financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory, or is not adequately capitalized (as defined in section 38) at the beginning of an assessment period, the amount of any credit allowed under this paragraph against the assessment on that depository institution for such period may not exceed the amount calculated by applying to that depository institution the average assessment rate on all insured depository institutions for such assessment period.

"(F) SUCCESSOR DEFINED.—The Corporation shall define the term 'successor' for purposes of this paragraph, by regulation, and may consider any factors as the Board may deem appropriate.

"(4) ADMINISTRATIVE REVIEW.—

"(A) IN GENERAL.—The regulations prescribed under paragraphs (2)(D) and (3) shall include provisions allowing an insured depository institution a reasonable opportunity to challenge administratively the amount of the credit or dividend determined under paragraph (2) or (3) for such institution.

"(B) ADMINISTRATIVE REVIEW.—Any review under subparagraph (A) of any determination of the Corporation under paragraph (2) or (3) shall be final and not subject to judicial review.".

(b) DEFINITION OF RESERVE RATIO.—Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) (as amended by section 2105(b) of this subtitle) is amended by adding at the end the following new paragraph:

"(3) RESERVE RATIO.—The term 'reserve ratio', when used with regard to the Deposit Insurance Fund other than in connection with a reference to the designated reserve ratio, means the ratio of the net worth of the Deposit Insurance Fund to the value of the aggregate estimated insured deposits.".

SEC. 2108. DEPOSIT INSURANCE FUND RESTORATION PLANS.

Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) (as amended by section 2105(a) of this subtitle) is amended by adding at the end the following new subparagraph:

"(E) DIF RESTORATION PLANS.—

"(i) IN GENERAL.—Whenever—

"(I) the Corporation projects that the reserve ratio of the Deposit Insurance Fund will, within

6 months of such determination, fall below the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio; or

"(II) the reserve ratio of the Deposit Insurance Fund actually falls below the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio without any determination under subclause (I) having been made,
the Corporation shall establish and implement a Deposit Insurance Fund restoration plan within 90 days that meets the requirements of clause (ii) and such other conditions as the Corporation determines to be appropriate.

"(ii) REQUIREMENTS OF RESTORATION PLAN.—A Deposit Insurance Fund restoration plan meets the requirements of this clause if the plan provides that the reserve ratio of the Fund will meet or exceed the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio before the end of the 5-year period beginning upon the implementation of the plan (or such longer period as the Corporation may determine to be necessary due to extraordinary circumstances).

"(iii) RESTRICTION ON ASSESSMENT CREDITS.—As part of any restoration plan under this subparagraph, the Corporation may elect to restrict the application of assessment credits provided under subsection (e)(3) for any period that the plan is in effect.

"(iv) LIMITATION ON RESTRICTION.—Notwithstanding clause (iii), while any restoration plan under this subparagraph is in effect, the Corporation shall apply credits provided to an insured depository institution under subsection (e)(3) against any assessment imposed on the institution for any assessment period in an amount equal to the lesser of—

"(I) the amount of the assessment; or

"(II) the amount equal to 3 basis points of the institution's assessment base.

"(v) TRANSPARENCY.—Not more than 30 days after the Corporation establishes and implements a restoration plan under clause (i), the Corporation shall publish in the Federal Register a detailed analysis of the factors considered and the basis for the actions taken with regard to the plan.".

SEC. 2109. REGULATIONS REQUIRED.

(a) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall prescribe final regulations, after notice and opportunity for comment—

(1) designating the reserve ratio for the Deposit Insurance Fund in accordance with section 7(b)(3) of the Federal Deposit Insurance Act (as amended by section 2105 of this subtitle);

(2) implementing increases in deposit insurance coverage in accordance with the amendments made by section 2103 of this subtitle;

(3) implementing the dividend requirement under section 7(e)(2) of the Federal Deposit Insurance Act (as amended by section 2107 of this subtitle);

(4) implementing the 1-time assessment credit to certain insured depository institutions in accordance with section 7(e)(3) of the Federal Deposit Insurance Act, as amended by section 2107 of this subtitle, including the qualifications and procedures under which the Corporation would apply assessment credits; and

(5) providing for assessments under section 7(b) of the Federal Deposit Insurance Act, as amended by this subtitle.

(b) TRANSITION PROVISIONS.—

(1) CONTINUATION OF EXISTING ASSESSMENT REGULATIONS.—No provision of this subtitle or any amendment made by this subtitle shall be construed as affecting the authority of the Corporation to set or collect deposit insurance assessments pursuant to any regulations in effect before the effective date of the final regulations prescribed under subsection (a).

(2) TREATMENT OF DIF MEMBERS UNDER EXISTING REGULATIONS.—As of the date of the merger of the Bank Insurance Fund and the Savings Association Insurance Fund pursuant to section 2102, the assessment regulations in effect immediately before the date of the enactment of this Act shall continue to apply to all members of the Deposit Insurance Fund, until such regulations are modified by the Corporation, notwithstanding that such regulations may refer to "Bank Insurance Fund members" or "Savings Association Insurance Fund members".

TITLE III—DIGITAL TELEVISION TRANSITION AND PUBLIC SAFETY

SEC. 3001. SHORT TITLE; DEFINITION.

(a) SHORT TITLE.—This title may be cited as the "Digital Television Transition and Public Safety Act of 2005".

(b) DEFINITION.—As used in this Act, the term "Assistant Secretary" means the Assistant Secretary for Communications and Information of the Department of Commerce.

SEC. 3002. ANALOG SPECTRUM RECOVERY: FIRM DEADLINE.

(a) AMENDMENTS.—Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)) is amended—

(1) in subparagraph (A)—

(A) by inserting "full-power" before "television broadcast license"; and

(B) by striking "December 31, 2006" and inserting "February 17, 2009";

(2) by striking subparagraph (B);

(3) in subparagraph (C)(i)(I), by striking "or (B)";

(4) in subparagraph (D), by striking "subparagraph (C)(i)" and inserting "subparagraph (B)(i)"; and

(5) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) TERMINATIONS OF ANALOG LICENSES AND BROADCASTING.—The Federal Communications Commission shall take such actions as are necessary—

(1) to terminate all licenses for full-power television stations in the analog television service, and to require the cessation of broadcasting by full-power stations in the analog television service, by February 18, 2009; and

(2) to require by February 18, 2009, that all broadcasting by Class A stations, whether in the analog television service or digital television service, and all broadcasting by full-power stations in the digital television service, occur only on channels between channels 2 and 36, inclusive, or 38 and 51, inclusive (between frequencies 54 and 698 megahertz, inclusive).

(c) CONFORMING AMENDMENTS.—

(1) Section 337(e) of the Communications Act of 1934 (47 U.S.C. 337(e)) is amended—

(A) in paragraph (1)—

(i) by striking "CHANNELS 60 TO 69" and inserting "CHANNELS 52 TO 69";

(ii) by striking "person who" and inserting "full-power television station licensee that";

(iii) by striking "746 and 806 megahertz" and inserting "698 and 806 megahertz"; and

(iv) by striking "the date on which the digital television service transition period terminates, as determined by the Commission" and inserting "February 17, 2009";

(B) in paragraph (2), by striking "746 megahertz" and inserting "698 megahertz"; and

SEC. 3003. AUCTION OF RECOVERED SPECTRUM.

(a) DEADLINE FOR AUCTION.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(1) by redesignating the second paragraph (15) of such section (as added by section 203(b) of the Commercial Spectrum Enhancement Act (P.L. 108-494; 118 Stat. 3993)), as paragraph (16) of such section; and

(2) in the first paragraph (15) of such section (as added by section 3(a) of the Auction Reform Act of 2002 (P.L. 107-195; 116 Stat. 716)), by adding at the end of subparagraph (C) the following new clauses:

"(v) ADDITIONAL DEADLINES FOR RECOVERED ANALOG SPECTRUM.—Notwithstanding subparagraph (B), the Commission shall conduct the auction of the licenses for recovered analog spectrum by commencing the bidding not later than January 28, 2008, and shall deposit the proceeds of such auction in accordance with paragraph (8)(E)(ii) not later than June 30, 2008.

"(vi) RECOVERED ANALOG SPECTRUM.—For purposes of clause (v), the term 'recovered analog spectrum' means the spectrum between channels 52 and 69, inclusive (between frequencies 698 and 806 megahertz, inclusive) reclaimed from analog television service broadcasting under paragraph (14), other than—

"(I) the spectrum required by section 337 to be made available for public safety services; and

"(II) the spectrum auctioned prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005.".

(b) EXTENSION OF AUCTION AUTHORITY.—Section 309(j)(11) of such Act (47 U.S.C. 309(j)(11)) is amended by striking "2007" and inserting "2011".

SEC. 3004. RESERVATION OF AUCTION PROCEEDS.

Section 309(j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)) is amended—

(1) in subparagraph (A), by striking "subparagraph (B) or subparagraph (D)" and inserting "subparagraphs (B), (D), and (E)";

(2) in subparagraph (C)(i), by inserting before the semicolon at the end the following: ", except as otherwise provided in subparagraph (E)(ii)"; and

(3) by adding at the end the following new subparagraph:

"(E) TRANSFER OF RECEIPTS.—

"(i) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the Digital Television Transition and Public Safety Fund.

"(ii) PROCEEDS FOR FUNDS.—Notwithstanding subparagraph (A), the proceeds (including deposits and upfront payments from successful bidders) from the use of a competitive bidding system under this subsection with respect to recovered analog spectrum shall be deposited in the Digital Television Transition and Public Safety Fund.

"(iii) TRANSFER OF AMOUNT TO TREASURY.—On September 30, 2009, the Secretary shall transfer $7,363,000,000 from the Digital Television Transition and Public Safety Fund to the general fund of the Treasury.

"(iv) RECOVERED ANALOG SPECTRUM.—For purposes of clause (i), the term 'recovered analog spectrum' has the meaning provided in paragraph (15)(C)(vi).".

SEC. 3005. DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM.

(a) CREATION OF PROGRAM.—The Assistant Secretary shall—

(1) implement and administer a program through which households in the United States may obtain coupons that can be applied toward the purchase of digital-to-analog converter boxes; and

(2) make payments of not to exceed $990,000,000, in the aggregate, through fiscal year 2009 to carry out that program from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E).

(b) CREDIT.—The Assistant Secretary may borrow from the Treasury beginning on October 1, 2006 such sums as may be necessary, but not to exceed $1,500,000,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

(c) PROGRAM SPECIFICATIONS.—

(1) LIMITATIONS.—

(A) TWO-PER-HOUSEHOLD MAXIMUM.—A household may obtain coupons by making a request as required by the regulations under this section between January 1, 2008, and March 31, 2009, inclusive. The Assistant Secretary shall ensure that each requesting household receives, via the United States Postal Service, no more than two coupons.

(B) NO COMBINATIONS OF COUPONS.—Two coupons may not be used in combination toward the purchase of a single digital-to-analog converter box.

(C) DURATION.—All coupons shall expire 3 months after issuance.

(2) DISTRIBUTION OF COUPONS.—The Assistant Secretary shall expend not more than $100,000,000 on administrative expenses and shall ensure that the sum of—

(A) all administrative expenses for the program, including not more than $5,000,000 for consumer education concerning the digital television transition and the availability of the digital-to-analog converter box program; and

(B) the total maximum value of all the coupons redeemed, and issued but not expired, does not exceed $990,000,000.

(3) USE OF ADDITIONAL AMOUNT.—If the Assistant Secretary transmits to the Committee on Energy and Commerce of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate a statement certifying that the sum permitted to be expended under paragraph (2) will be insufficient to fulfill the requests for coupons from eligible households—

(A) paragraph (2) shall be applied—

(i) by substituting "$160,000,000" for "$100,000,000"; and

(ii) by substituting "$1,500,000,000" for "$990,000,000";

(B) subsection (a)(2) shall be applied by substituting "$1,500,000,000" for "$990,000,000"; and

(C) the additional amount permitted to be expended shall be available 60 days after the Assistant Secretary sends such statement.

(4) COUPON VALUE.—The value of each coupon shall be $40.

(e) DEFINITION OF DIGITAL-TO-ANALOG CONVERTER BOX.—For purposes of this section, the term "digital-to-analog converter box" means a stand-alone device that does not contain features or functions except those necessary to enable a consumer to convert any channel broadcast in the digital television service into a format that the consumer can display on television receivers designed to receive and display signals only in the analog television service, but may also include a remote control device.

SEC. 3006. PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS.

(a) CREATION OF PROGRAM.—The Assistant Secretary, in consultation with the Secretary of the Department of Homeland Security—

(1) may take such administrative action as is necessary to establish and implement a grant program to assist public safety agencies in the acquisition of, deployment of, or training for the use of interoperable communications systems that utilize, or enable interoperability with communications systems that can utilize, reallocated public safety spectrum for radio communication; and

(2) shall make payments of not to exceed $1,000,000,000, in the aggregate, through fiscal year 2010 to carry out that program from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E).

(b) CREDIT.—The Assistant Secretary may borrow from the Treasury beginnong on October 1, 2006 such sums as may be necessary, but not to exceed $1,000,000,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

(c) CONDITION OF GRANTS.—In order to obtain a grant under the grant program, a public safety agency shall agree to provide, from non-Federal sources, not less than 20 percent of the costs of acquiring and deploying the interoperable communications systems funded under the grant program.

(d) DEFINITIONS.—For purposes of this section:

(1) PUBLIC SAFETY AGENCY.—The term "public safety agency" means any State, local, or tribal government entity, or nongovernmental organization authorized by such entity, whose sole or principal purpose is to protect the safety of life, health, or property.

(2) INTEROPERABLE COMMUNICATIONS SYSTEMS.—The term "interoperable communications systems" means communications systems which enable public safety agencies to share information amongst local, State, Federal, and tribal public safety agencies in the same area via voice or data signals.

(3) REALLOCATED PUBLIC SAFETY SPECTRUM.—The term "reallocated public safety spectrum" means the bands of spectrum located at 764–776 megahertz and 794–806 megahertz, inclusive.

SEC. 3007. NYC 9/11 DIGITAL TRANSITION.

(a) FUNDS AVAILABLE.—From the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) the Assistant Secretary shall make payments of not to exceed $30,000,000, in the aggregate, which shall be available to carry out this section for fiscal years 2007 through 2008. The Assistant Secretary may borrow from the Treasury beginning October 1, 2006 such sums as may be necessary not to exceed $30,000,000 to implement and administer the program in accordance with this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

(b) USE OF FUNDS.—The sums available under subsection (a) shall be made available by the Assistant Secretary by grant to be used to reimburse the Metropolitan Television Alliance for costs incurred in the design and deployment of a temporary digital television broadcast system to ensure that, until a permanent facility atop the Freedom Tower is constructed, the members of the Metropolitan Television Alliance can provide the New York City area with an adequate digital television signal as determined by the Federal Communications Commission.

(d) DEFINITIONS.—For purposes of this section:

(1) METROPOLITAN TELEVISION ALLIANCE.—The term "Metropolitan Television Alliance" means the organization formed by New York City television broadcast station licensees to locate new shared facilities as a result of the attacks on September 11, 2001 and the loss of use of shared facilities that housed broadcast equipment.

(2) NEW YORK CITY AREA.—The term "New York City area" means the five counties comprising New York City and counties of northern New Jersey in immediate proximity to New York City (Bergen, Essex, Union, and Hudson Counties).

SEC. 3008. LOW-POWER TELEVISION AND TRANSLATOR DIGITAL-TO-ANALOG CONVERSION.

(a) CREATION OF PROGRAM.—The Assistant Secretary shall make payments of not to exceed $10,000,000, in the aggregate, during the fiscal year 2008 and 2009 period from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement and administer a program through which each eligible low-power television station may receive compensation toward the cost of the purchase of a digital-to-analog conversion device that enables it to convert the incoming digital signal of its corresponding full-power television station to analog format for transmission on the low-power television station's analog channel. An eligible low-power television station may receive such compensation only if it submits a request for such compensation on or before February 17, 2009. Priority compensation shall be given to eligible low-power television stations in which the license is held by a non-profit corporation and eligible low-power television stations that serve rural areas of fewer than 10,000 viewers.

(b) CREDIT.—The Assistant Secretary may borrow from the Treasury beginning October 1, 2006 such sums as may be necessary, but not to exceed $10,000,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

(c) ELIGIBLE STATIONS.—For purposes of this section, the term "eligible low-power television station" means a low-power television broadcast station, Class A television station, television translator station, or television booster station—

(1) that is itself broadcasting exclusively in analog format; and

(2) that has not purchased a digital-to-analog conversion device prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005.

SEC. 3009. LOW-POWER TELEVISION AND TRANSLATOR UPGRADE PROGRAM.

(a) ESTABLISHMENT.—The Assistant Secretary shall make payments of not to exceed $65,000,000, in the aggregate, during fiscal year 2009 from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement and administer a program through which each licensee of an eligible low-power television station may receive reimbursement for equipment to upgrade low-power television stations from analog to digital in eligible rural communities, as that term is defined in section 610(b)(2) of the Rural Electrification Act of 1937 (7 U.S.C. 950bb(b)(2)). Such reimbursements shall be issued to eligible stations no earlier than October 1, 2010. Priority reimbursements shall be given to eligible low-power television stations in which the license is held by a non-profit corporation and eligible low-power television stations that serve rural areas of fewer than 10,000 viewers.

(b) ELIGIBLE STATIONS.—For purposes of this section, the term "eligible low-power television station" means a low-power television broadcast station, Class A television station, television translator station, or television booster station—

(1) that is itself broadcasting exclusively in analog format; and

(2) that has not converted from analog to digital operations prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005.

SEC. 3010. NATIONAL ALERT AND TSUNAMI WARNING PROGRAM.

The Assistant Secretary shall make payments of not to exceed $156,000,000, in the aggregate, during the fiscal year 2007 through 2012 period from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement a unified national alert system capable of alerting the public, on a national, regional, or local basis to emergency situations by using a variety of communications technologies. The Assistant Secretary shall use $50,000,000 of such amounts to implement a tsunami warning and coastal vulnerability program.

SEC. 3011. ENHANCE 911.

The Assistant Secretary shall make payments of not to exceed $43,500,000, in the aggregate, from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement the ENHANCE 911 Act of 2004.

SEC. 3012. ESSENTIAL AIR SERVICE PROGRAM.

(a) IN GENERAL.—If the amount appropriated to carry out the essential air service program under subchapter II of chapter 417 of title 49, United States Code, equals or exceeds $110,000,000 for fiscal year 2007 or 2008, then the Secretary of Commerce shall make $15,000,000 available, from the Digital Television Transition and Public Safety Fund established by section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)), to the Secretary of Transportation for use in carrying out the essential air service program for that fiscal year.

(b) APPLICATION WITH OTHER FUNDS.—Amounts made available under subsection (a) for any fiscal year shall be in addition to any amounts—

(1) appropriated for that fiscal year; or

(2) derived from fees collected pursuant to section 45301(a)(1) of title 49, United States Code, that are made available for obligation and expenditure to carry out the essential air service program for that fiscal year.

(c) ADVANCES.—The Secretary of Transportation may borrow from the Treasury such sums as may be necessary, but not to exceed $30,000,000 on a temporary and reimbursable basis to implement subsection (a). The Secretary of Transportation shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) and made available to the Secretary under subsection (a).

SEC. 3014. SUPPLEMENTAL LICENSE FEES.

In addition to any fees assessed under the Communications Act of 1934 (47 U.S.C. 151 et seq.), the Federal Communications Commission shall assess extraordinary fees for licenses in the aggregate amount of $10,000,000, which shall be deposited in the Treasury during fiscal year 2006 as offsetting receipts.

TITLE IV—TRANSPORTATION PROVISIONS

SEC. 4001. EXTENSION OF VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act entitled "An Act to provide revenue, equalize duties and encourage the industries of the United States, and for other purposes", approved August 5, 1909 (36 Stat. 111; 46 U.S.C. App. 121), is amended—

(1) by striking "9 cents per ton" and all that follows through "2002," the first place it appears and inserting "4.5 cents per ton, not to exceed in the aggregate 22.5 cents per ton in any one year, for fiscal years 2006 through 2010,"; and

(2) by striking "27 cents per ton" and all that follows through "2002," and inserting "13.5 cents per ton, not to exceed 67.5 cents per ton per annum, for fiscal years 2006 through 2010,".

(b) CONFORMING AMENDMENT.—The Act entitled "An Act concerning tonnage duties on vessels entering otherwise than by sea", approved March 8, 1910 (36 Stat. 234; 46 U.S.C. App. 132), is amended by striking "9 cents per ton" and all that follows through "and 2 cents" and inserting "4.5 cents per ton, not to exceed in the aggregate 22.5 cents per ton in any one year, for fiscal years 2006 through 2010, and 2 cents".

TITLE V—MEDICARE

Subtitle A—Provisions Relating to Part A

SEC. 5001. HOSPITAL QUALITY IMPROVEMENT.

(a) SUBMISSION OF HOSPITAL DATA.—Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(1) in clause (i)—

(A) in subclause (XIX), by striking "2007" and inserting "2006"; and

(B) in subclause (XX), by striking "for fiscal year 2008 and each subsequent fiscal year," and inserting "for each subsequent fiscal year, subject to clause (viii),";

(2) in clause (vii)—

(A) in subclause (I), by striking "for each of fiscal years 2005 through 2007" and inserting "for fiscal years 2005 and 2006"; and

(B) in subclause (II), by striking "Each" and inserting "For fiscal years 2005 and 2006, each"; and

(3) by adding at the end the following new clauses:

"(viii)(I) For purposes of clause (i) for fiscal year 2007 and each subsequent fiscal year, in the case of a subsection (d) hospital that does not submit, to the Secretary in accordance with this clause, data required to be submitted on measures selected under this clause with respect to such a fiscal year, the applicable percentage increase under clause (i) for such fiscal year shall be reduced by 2.0 percentage points. Such reduction shall apply only with respect to the fiscal year involved and the Secretary shall not take into account such reduction in computing the applicable percentage increase under clause (i) for a subsequent fiscal year, and the Secretary and the Medicare Payment Advisory Commission shall carry out the requirements under section 5001(b) of the Deficit Reduction Act of 2005.

"(II) Each subsection (d) hospital shall submit data on measures selected under this clause to the Secretary in a form and manner, and at a time, specified by the Secretary for purposes of this clause.

"(III) The Secretary shall expand, beyond the measures specified under clause (vii)(II) and consistent with the succeeding subclauses, the set of measures that the Secretary determines to be appropriate for the measurement of the quality of care furnished by hospitals in inpatient settings.

"(IV) Effective for payments beginning with fiscal year 2007, in expanding the number of measures under subclause (III), the Secretary shall begin to adopt the baseline set of performance measures as set forth in the November 2005 report by the Institute of Medicine of the National Academy of Sciences under section 238(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

"(V) Effective for payments beginning with fiscal year 2008, the Secretary shall add other measures that reflect consensus among affected parties and, to the extent feasible and practicable, shall include measures set forth by one or more national consensus building entities.

"(VI) For purposes of this clause and clause (vii), the Secretary may replace any measures or indicators in appropriate cases, such as where all hospitals are effectively in compliance or the measures or indicators have been subsequently shown not to represent the best clinical practice.

"(VII) The Secretary shall establish procedures for making data submitted under this clause available to the public. Such procedures shall ensure that a hospital has the opportunity to review the data that are to be made public with respect to the hospital prior to such data being made public. The Secretary shall report quality measures of process, structure, outcome, patients' perspectives on care, efficiency, and costs of care that relate to services furnished in inpatient settings in hospitals on the Internet website of the Centers for Medicare & Medicaid Services.".

(b) PLAN FOR HOSPITAL VALUE BASED PURCHASING PROGRAM.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall develop a plan to implement a value based purchasing program for payments under the Medicare program for subsection (d) hospitals beginning with fiscal year 2009.

(2) DETAILS.—Such a plan shall include consideration of the following issues:

(A) The on-going development, selection, and modification process for measures of quality and efficiency in hospital inpatient settings.

(B) The reporting, collection, and validation of quality data.

(C) The structure of value based payment adjustments, including the determination of thresholds or improvements in quality that would substantiate a payment adjustment, the size of such payments, and the sources of funding for the value based payments.

(D) The disclosure of information on hospital performance.

In developing such a plan, the Secretary shall consult with relevant affected parties and shall consider experience with such demonstrations that are relevant to the value based purchasing program under this subsection.

(3) CONGRESSIONAL REPORT.—By not later than August 1, 2007, the Secretary of Health and Human Services shall submit a report to Congress on the plan for the value based purchasing program developed under this subsection.

(4) MEDPAC REPORT ON HOSPITAL VALUE BASED PURCHASING PROGRAM.—

(A) IN GENERAL.—By not later than June 1, 2007, the Medicare Payment Advisory Commission shall submit to Congress a report that includes detailed recommendations on a structure of value based payment adjustments for hospital services under the Medicare program under title XVIII of the Social Security Act.

(B) CONTENTS.—Such report shall include the following:

(i) Determinations of the thresholds, the size of payments, the sources of funds, and the relationship of payments to improvement and attainment of quality.

(ii) An analysis of hospital efficiency measures such as costs per discharge, related services within an episode of care including payments for physicians' services associated with the discharge or episode of care.

(iii) An identification of other changes that are needed within the payment structure under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) to assure consistency between such structure and the value based payment program.

(c) QUALITY ADJUSTMENT IN DRG PAYMENTS FOR CERTAIN HOSPITAL ACQUIRED INFECTIONS.—

(1) IN GENERAL.—Section 1886(d)(4) of the Social Security Act (42 U.S.C. 1395ww(d)(4)) is amended by adding at the end the following new subparagraph:

"(D)(i) For discharges occurring on or after October 1, 2008, the diagnosis-related group to be assigned under this paragraph for a discharge described in clause (ii) shall be a diagnosis-related group that does not result in higher payment based on the presence of a secondary diagnosis code described in clause (iv).

"(ii) A discharge described in this clause is a discharge which meets the following requirements:

"(I) The discharge includes a condition identified by a diagnosis code selected under clause (iv) as a secondary diagnosis.

"(II) But for clause (i), the discharge would have been classified to a diagnosis-related group that results in a higher payment based on the presence of a secondary diagnosis code selected under clause (iv).

"(III) At the time of admission, no code selected under clause (iv) was present.

"(iii) As part of the information required to be reported by a hospital with respect to a discharge of an individual in order for payment to be made under this subsection, for discharges occurring on or after October 1, 2007, the information shall include the secondary diagnosis of the individual at admission.

"(iv) By not later than October 1, 2007, the Secretary shall select diagnosis codes associated with at least two conditions, each of which codes meets all of the following requirements (as determined by the Secretary):

"(I) Cases described by such code have a high cost or high volume, or both, under this title.

"(II) The code results in the assignment of a case to a diagnosis-related group that has a higher payment when the code is present as a secondary diagnosis.

"(III) The code describes such conditions that could reasonably have been prevented through the application of evidence-based guidelines.

The Secretary may from time to time revise (through addition or deletion of codes) the diagnosis codes selected under this clause so long as there are diagnosis codes associated with at least two conditions selected for discharges occurring during any fiscal year.

"(v) In selecting and revising diagnosis codes under clause (iv), the Secretary shall consult with the Centers for Disease Control and Prevention and other appropriate entities.

"(vi) Any change resulting from the application of this subparagraph shall not be taken into account in adjusting the weighting factors under subparagraph (C)(i) or in applying budget neutrality under subparagraph (C)(iii).".

(2) NO JUDICIAL REVIEW.—Section 1886(d)(7)(B) of such Act (42 U.S.C. 1395ww(d)(7)(B)) is amended by inserting before the period the following: ", including the selection and revision of codes under paragraph (4)(D)".

SEC. 5002. CLARIFICATION OF DETERMINATION OF MEDICAID PATIENT DAYS FOR DSH COMPUTATION.

(a) IN GENERAL.—Section 1886(d)(5)(F)(vi) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(vi)) is amended by adding after and below subclause (II) the following:

"In determining under subclause (II) the number of the hospital's patient days for such period which consist of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX, the Secretary may, to the extent and for the period the Secretary determines appropriate, include patient days of patients not so eligible but who are regarded as such because they receive benefits under a demonstration project approved under title XI.".

(b) RATIFICATION AND PROSPECTIVE APPLICATION OF PREVIOUS REGULATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), regulations described in paragraph (3), insofar as such regulations provide for the treatment of individuals eligible for medical assistance under a demonstration project approved under title XI of the Social Security Act under section 1886(d)(5)(F)(vi) of such Act, are hereby ratified, effective as of the date of their respective promulgations.

(2) NO APPLICATION TO CLOSED COST REPORTS.—Paragraph (1) shall not be applied in a manner that requires the reopening of any cost reports which are closed as of the date of the enactment of this Act.

(3) REGULATIONS DESCRIBED.—For purposes of paragraph (1), the regulations described in this paragraph are as follows:

(A) 2000 REGULATION.—Regulations promulgated on January 20, 2000, at 65 Federal Register 3136 et seq., including the policy in such regulations regarding discharges occurring prior to January 20, 2000.

(B) 2003 REGULATION.—Regulations promulgated on August 1, 2003, at 68 Federal Register 45345 et seq.

SEC. 5003. IMPROVEMENTS TO THE MEDICARE-DEPENDENT HOSPITAL (MDH) PROGRAM.

(a) 5-YEAR EXTENSION.—

(1) EXTENSION OF PAYMENT METHODOLOGY.—Section 1886(d)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking "October 1, 2006" and inserting "October 1, 2011"; and

(B) in clause (ii)(II)—

(i) by striking "October 1, 2006" and inserting "October 1, 2011"; and

(ii) by inserting "or for discharges in the fiscal year" after "for the cost reporting period".

(2) CONFORMING AMENDMENTS.—

(A) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) of such Act (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(i) in the matter preceding clause (i)—

(I) by striking "beginning" and inserting "occurring"; and

(II) by striking "October 1, 2006" and inserting "October 1, 2011"; and

(ii) in clause (iv), by striking "through fiscal year 2005" and inserting "through fiscal year 2011".

'(B) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 1395ww note) is amended by striking "through fiscal year 2005" and inserting "through fiscal year 2011".

(b) OPTION TO USE 2002 AS BASE YEAR.—Section 1886(b)(3) of such Act (42 U.S.C. 1395ww(b)(3)) is amended—

(1) in subparagraph (D), by inserting "subject to subparagraph (K)," after "(d)(5)(G)),"; and

(2) by adding at the end the following new subparagraph:

"(K)(i) With respect to discharges occurring on or after October 1, 2006, in the case of a medicare-dependent, small rural hospital, for purposes of applying subparagraph (D)—

"(I) there shall be substituted for the base cost reporting period described in subparagraph (D)(i) the 12-month cost reporting period beginning during fiscal year 2002; and

"(II) any reference in such subparagraph to the 'first cost reporting period' described in such subparagraph is deemed a reference to the first cost reporting period beginning on or after October 1, 2006.

"(ii) This subparagraph shall only apply to a hospital if the substitution described in clause (i)(I) results in an increase in the target amount under subparagraph (D) for the hospital.".

(c) ENHANCED PAYMENT FOR AMOUNT BY WHICH THE TARGET EXCEEDS THE PPS RATE.—Section 1886(d)(5)(G)(ii)(II) of such Act (42 U.S.C. 1395ww(d)(5)(G)(iv)(II)) is amended by inserting "(or 75 percent in the case of discharges occurring on or after October 1, 2006)" after "50 percent".

(d) ENHANCED DISPROPORTIONATE SHARE HOSPITAL (DSH) TREATMENT FOR MEDICARE DEPENDENT HOSPITALS.—Section 1886(d)(5)(F)(xiv)(II) of such Act (42 U.S.C. 1395ww(d)(5)(F)(xiv)(II)) is amended by inserting "or, in the case of discharges occurring on or after October 1, 2006, as a medicare-dependent, small rural hospital under subparagraph (G)(iv)" before the period at the end.

SEC. 5004. REDUCTION IN PAYMENTS TO SKILLED NURSING FACILITIES FOR BAD DEBT.

(a) IN GENERAL.—Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(V) In determining such reasonable costs for skilled nursing facilities with respect to cost reporting periods beginning on or after October 1, 2005, the amount of bad debts otherwise treated as allowed costs which are attributable to the coinsurance amounts under this title for individuals who are entitled to benefits under part A and—

"(i) are not described in section 1935(c)(6)(A)(ii) shall be reduced by 30 percent of such amount otherwise allowable; and

"(ii) are described in such section shall not be reduced.".

(b) TECHNICAL AMENDMENT.—Section 1861(v)(1)(T) of such Act (42 U.S.C. 1395x(v)(1)(T)) is amended by striking "section 1833(t)(5)(B)" and inserting "section 1833(t)(8)(B)".

SEC. 5005. EXTENDED PHASE-IN OF THE INPATIENT REHABILITATION FACILITY CLASSIFICATION CRITERIA.

(a) IN GENERAL.—Notwithstanding section 412.23(b)(2) of title 42, Code of Federal Regulations, the Secretary of Health and Human Services shall apply the applicable percent specified in subsection (b) in the classification criterion used under the IRF regulation (as defined in subsection (c)) to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility under the Medicare program under title XVIII of the Social Security Act.

(b) APPLICABLE PERCENT.—For purposes of subsection (a), the applicable percent specified in this subsection for cost reporting periods—

(1) beginning during the 12-month period beginning on July 1, 2006, is 60 percent;

(2) beginning during the 12-month period beginning on July 1, 2007, is 65 percent; and

(3) beginning on or after July 1, 2008, is 75 percent.

(c) IRF REGULATION.—For purposes of subsection (a), the term "IRF regulation" means the rule published in the Federal Register on May 7, 2004, entitled "Medicare Program; Final Rule; Changes to the Criteria for Being Classified as an Inpatient Rehabilitation Facility" (69 Fed. Reg. 25752).

SEC. 5006. DEVELOPMENT OF A STRATEGIC PLAN REGARDING PHYSICIAN INVESTMENT IN SPECIALTY HOSPITALS.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall develop a strategic and implementing plan to address issues described in paragraph (2) regarding physician investment in specialty hospitals (as defined in section 1877(h)(7)(A) of the Social Security Act (42 U.S.C. 1395nn(h)(7)(A)).

(2) ISSUES DESCRIBED.—The issues described in this paragraph are the following:

(A) Proportionality of investment return.

(B) Bona fide investment.

(C) Annual disclosure of investment information.

(D) The provision by specialty hospitals of—

(i) care to patients who are eligible for medical assistance under a State plan approved under title XIX of the Social Security Act, including patients not so eligible but who are regarded as such because they receive benefits under a demonstration project approved under title XI of such Act; and

(ii) charity care.

(E) Appropriate enforcement.

(b) REPORTS.—

(1) INTERIM REPORT.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall submit an interim report to the appropriate committees of jurisdiction of Congress on the status of the development of the plan under subsection (a).

(2) FINAL REPORT.—Not later than six months after the date of the enactment of this Act, the

Secretary shall submit a final report to the appropriate committees of jurisdiction of Congress on the plan developed under subsection (a) together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(c) CONTINUATION OF SUSPENSION ON ENROLLMENT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall continue the suspension on enrollment of new specialty hospitals (as so defined) under title XVIII of the Social Security Act until the earlier of—

(A) the date that the Secretary submits the final report under subsection (b)(2); or

(B) the date that is six months after the date of the enactment of this Act.

(2) EXTENSION OF SUSPENSION.—If the Secretary fails to submit the final report described in subsection (b)(2) by the date required under such subsection, the Secretary shall—

(A) extend the suspension on enrollment under paragraph (1) for an additional two months; and

(B) provide a certification to the appropriate committees of jurisdiction of Congress of such failure.

(d) WAIVER.—In developing the plan and report required under this section, the Secretary may waive such requirements of section 553 of title 5, United States Code, as the Secretary determines necessary.

(e) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary for fiscal year 2006, $2,000,000 to carry out this section.

SEC. 5007. MEDICARE DEMONSTRATION PROJECTS TO PERMIT GAINSHARING ARRANGEMENTS.

(a) ESTABLISHMENT.—The Secretary shall establish under this section a qualified gainsharing demonstration program under which the Secretary shall approve demonstration projects by not later than November 1, 2006, to test and evaluate methodologies and arrangements between hospitals and physicians designed to govern the utilization of inpatient hospital resources and physician work to improve the quality and efficiency of care provided to Medicare beneficiaries and to develop improved operational and financial hospital performance with sharing of remuneration as specified in the project. Such projects shall be operational by not later than January 1, 2007.

(b) REQUIREMENTS DESCRIBED.—A demonstration project under this section shall meet the following requirements for purposes of maintaining or improving quality while achieving cost savings:

(1) ARRANGEMENT FOR REMUNERATION AS SHARE OF SAVINGS.—The demonstration project shall involve an arrangement between a hospital and a physician under which the hospital provides remuneration to the physician that represents solely a share of the savings incurred directly as a result of collaborative efforts between the hospital and the physician.

(2) WRITTEN PLAN AGREEMENT.—The demonstration project shall be conducted pursuant to a written agreement that—

(A) is submitted to the Secretary prior to implementation of the project; and

(B) includes a plan outlining how the project will achieve improvements in quality and efficiency.

(3) PATIENT NOTIFICATION.—The demonstration project shall include a notification process to inform patients who are treated in a hospital participating in the project of the participation of the hospital in such project.

(4) MONITORING QUALITY AND EFFICIENCY OF CARE.—The demonstration project shall provide measures to ensure that the quality and efficiency of care provided to patients who are treated in a hospital participating in the demonstration project is continuously monitored to ensure that such quality and efficiency is maintained or improved.

(5) INDEPENDENT REVIEW.—The demonstration project shall certify, prior to implementation, that the elements of the demonstration project are reviewed by an organization that is not affiliated with the hospital or the physician participating in the project.

(6) REFERRAL LIMITATIONS.—The demonstration project shall not be structured in such a manner as to reward any physician participating in the project on the basis of the volume or value of referrals to the hospital by the physician.

(c) WAIVER OF CERTAIN RESTRICTIONS.—

(1) IN GENERAL.—An incentive payment made by a hospital to a physician under and in accordance with a demonstration project shall not constitute—

(A) remuneration for purposes of section 1128B of the Social Security Act (42 U.S.C. 1320a–7b);

(B) a payment intended to induce a physician to reduce or limit services to a patient entitled to benefits under Medicare or a State plan approved under title XIX of such Act in violation of section 1128A of such Act (42 U.S.C. 1320a–7a); or

(C) a financial relationship for purposes of section 1877 of such Act (42 U.S.C. 1395nn).

(2) PROTECTION FOR EXISTING ARRANGEMENTS.—In no case shall the failure to comply with the requirements described in paragraph (1) affect a finding made by the Inspector General of the Department of Health and Human Services prior to the date of the enactment of this Act that an arrangement between a hospital and a physician does not violate paragraph (1) or (2) of section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7(a)).

(d) PROGRAM ADMINISTRATION.—

(1) SOLICITATION OF APPLICATIONS.—By not later than 90 days after the date of the enactment of this Act, the Secretary shall solicit applications for approval of a demonstration project, in such form and manner, and at such time specified by the Secretary.

(2) NUMBER OF PROJECTS APPROVED.—The Secretary shall approve not more than 6 demonstration projects, at least 2 of which shall be located in a rural area.

(3) DURATION.—The qualified gainsharing demonstration program under this section shall be conducted for the period beginning on January 1, 2007, and ending on December 31, 2009.

(e) REPORTS.—

(1) INITIAL REPORT.—By not later than December 1, 2006, the Secretary shall submit to Congress a report on the number of demonstration projects that will be conducted under this section.

(2) PROJECT UPDATE.—By not later than December 1, 2007, the Secretary shall submit to Congress a report on the details of such projects (including the project improvements towards quality and efficiency described in subsection (b)(2)(B)).

(3) QUALITY IMPROVEMENT AND SAVINGS.—By not later than December 1, 2008, the Secretary shall submit to Congress a report on quality improvement and savings achieved as a result of the qualified gainsharing demonstration program established under subsection (a).

(4) FINAL REPORT.—By not later than May 1, 2010, the Secretary shall submit to Congress a final report on the information described in paragraph (3).

(f) FUNDING.—

(1) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary for fiscal year 2006 $6,000,000, to carry out this section.

(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available for expenditure through fiscal year 2010.

(g) DEFINITIONS.—For purposes of this section:

(1) DEMONSTRATION PROJECT.—The term "demonstration project" means a project implemented under the qualified gainsharing demonstration program established under subsection (a).

(2) HOSPITAL.—The term "hospital" means a hospital that receives payment under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), and does not include a critical access hospital (as defined in section 1861(mm) of such Act (42 U.S.C. 1395x(mm))).

(3) MEDICARE.—The term "Medicare" means the programs under title XVIII of the Social Security Act.

(4) PHYSICIAN.—The term "physician" means, with respect to a demonstration project, a physician described in paragraph (1) or (3) of section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)) who is licensed as such a physician in the area in which the project is located and meets requirements to provide services for which benefits are provided under Medicare. Such term shall be deemed to include a practitioner described in section 1842(e)(18)(C) of such Act (42 U.S.C. 1395u(e)(18)(C)).

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 5008. POST-ACUTE CARE PAYMENT REFORM DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—By not later than January 1, 2008, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish a demonstration program for purposes of understanding costs and outcomes across different post-acute care sites. Under such program, with respect to diagnoses specified by the Secretary, an individual who receives treatment from a provider for such a diagnosis shall receive a single comprehensive assessment on the date of discharge from a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) of the needs of the patient and the clinical characteristics of the diagnosis to determine the appropriate placement of such patient in a post-acute care site. The Secretary shall use a standardized patient assessment instrument across all post-acute care sites to measure functional status and other factors during the treatment and at discharge from each provider. Participants in the program shall provide information on the fixed and variable costs for each individual. An additional comprehensive assessment shall be provided at the end of the episode of care.

(2) NUMBER OF SITES.—The Secretary shall conduct the demonstration program under this section with sufficient numbers to determine statistically reliable results.

(3) DURATION.—The Secretary shall conduct the demonstration program under this section for a 3-year period.

(b) WAIVER AUTHORITY.—The Secretary may waive such requirements of titles XI and XVIII of the Social Security Act (42 U.S.C. 1301 et seq.; 42 U.S.C. 1395 et seq.) as may be necessary for the purpose of carrying out the demonstration program under this section.

(c) REPORT.—Not later than 6 months after the completion of the demonstration program under this section, the Secretary shall submit to Congress a report on such program, that includes the results of the program and recommendations for such legislation and administrative action as the Secretary determines to be appropriate.

(d) FUNDING.—The Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund established under section 1817

of the Social Security Act (42 U.S.C. 1395i), $6,000,000 for the costs of carrying out the demonstration program under this section.

Subtitle B—Provisions Relating to Part B

CHAPTER 1—PAYMENT PROVISIONS

SEC. 5101. BENEFICIARY OWNERSHIP OF CERTAIN DURABLE MEDICAL EQUIPMENT (DME).

(a) DME.—

(1) IN GENERAL.—Section 1834(a)(7)(A) of the Social Security Act (42 U.S.C. 1395m(a)(7)(A)) is amended to read as follows:

"(A) PAYMENT.—In the case of an item of durable medical equipment not described in paragraphs (2) through (6), the following rules shall apply:

"(i) RENTAL.—

"(I) IN GENERAL.—Except as provided in clause (iii), payment for the item shall be made on a monthly basis for the rental of the item during the period of medical need (but payments under this clause may not extend over a period of continuous use (as determined by the Secretary) of longer than 13 months).

"(II) PAYMENT AMOUNT.—Subject to subparagraph (B), the amount recognized for the item, for each of the first 3 months of such period, is 10 percent of the purchase price recognized under paragraph (8) with respect to the item, and, for each of the remaining months of such period, is 7.5 percent of such purchase price.

"(ii) OWNERSHIP AFTER RENTAL.—On the first day that begins after the 13th continuous month during which payment is made for the rental of an item under clause (i), the supplier of the item shall transfer title to the item to the individual.

"(iii) PURCHASE AGREEMENT OPTION FOR POWER-DRIVEN WHEELCHAIRS.—In the case of a power-driven wheelchair, at the time the supplier furnishes the item, the supplier shall offer the individual the option to purchase the item, and payment for such item shall be made on a lump-sum basis if the individual exercises such option.

"(iv) MAINTENANCE AND SERVICING.—After the supplier transfers title to the item under clause (ii) or in the case of a power-driven wheelchair for which a purchase agreement has been entered into under clause (iii), maintenance and servicing payments shall, if the Secretary determines such payments are reasonable and necessary, be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the particular type of durable medical equipment), and such payments shall be in an amount determined to be appropriate by the Secretary.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items furnished for which the first rental month occurs on or after January 1, 2006.

(b) OXYGEN EQUIPMENT.—

(1) IN GENERAL.—Section 1834(a)(5) of such Act (42 U.S.C. 1395m(a)(5)) is amended—

(A) in subparagraph (A), by striking "and (E)" and inserting "(E), and (F)"; and

(B) by adding at the end the following new subparagraph:

"(F) OWNERSHIP OF EQUIPMENT.—

"(i) IN GENERAL.—Payment for oxygen equipment (including portable oxygen equipment) under this paragraph may not extend over a period of continuous use (as determined by the Secretary) of longer than 36 months.

"(ii) OWNERSHIP.—

"(I) TRANSFER OF TITLE.—On the first day that begins after the 36th continuous month during which payment is made for the equipment under this paragraph, the supplier of the equipment shall transfer title to the equipment to the individual.

"(II) PAYMENTS FOR OXYGEN AND MAINTENANCE AND SERVICING.—After the supplier transfers title to the equipment under subclause (I)—

"(aa) payments for oxygen shall continue to be made in the amount recognized for oxygen under paragraph (9) for the period of medical need; and

"(bb) maintenance and servicing payments shall, if the Secretary determines such payments are reasonable and necessary, be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the equipment), and such payments shall be in an amount determined to be appropriate by the Secretary.".

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by paragraph (1) shall take effect on January 1, 2006.

(B) APPLICATION TO CERTAIN INDIVIDUALS.—In the case of an individual receiving oxygen equipment on December 31, 2005, for which payment is made under section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)), the 36-month period described in paragraph (5)(F)(i) of such section, as added by paragraph (1), shall begin on January 1, 2006.

SEC. 5102. ADJUSTMENTS IN PAYMENT FOR IMAGING SERVICES.

(a) MULTIPLE PROCEDURE PAYMENT REDUCTION FOR IMAGING EXEMPTED FROM BUDGET NEUTRALITY.—Section 1848(c)(2)(B) of the Social Security Act (42 U.S.C. 1395w–4(c)(2)(B)) is amended—

(1) in clause (ii)(II), by striking "clause (iv)" and inserting "clauses (iv) and (v)";

(2) in clause (iv) in the heading, by inserting "OF CERTAIN ADDITIONAL EXPENDITURES" after "EXEMPTION"; and

(3) by adding at the end the following new clause:

"(v) EXEMPTION OF CERTAIN REDUCED EXPENDITURES FROM BUDGET-NEUTRALITY CALCULATION.—The following reduced expenditures, as estimated by the Secretary, shall not be taken into account in applying clause (ii)(II):

"(I) REDUCED PAYMENT FOR MULTIPLE IMAGING PROCEDURES.—Effective for fee schedules established beginning with 2007, reduced expenditures attributable to the multiple procedure payment reduction for imaging under the final rule published by the Secretary in the Federal Register on November 21, 2005 (42 CFR 405, et al.) insofar as it relates to the physician fee schedules for 2006 and 2007.".

(b) REDUCTION IN PHYSICIAN FEE SCHEDULE TO OPD PAYMENT AMOUNT FOR IMAGING SERVICES.—Section 1848 of such Act (42 U.S.C. 1395w–4) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR IMAGING SERVICES.—

"(A) IN GENERAL.—In the case of imaging services described in subparagraph (B) furnished on or after January 1, 2007, if—

"(i) the technical component (including the technical component portion of a global fee) of the service established for a year under the fee schedule described in paragraph (1) without application of the geographic adjustment factor described in paragraph (1)(C), exceeds

"(ii) the medicare OPD fee schedule amount established under the prospective payment system for hospital outpatient department services under paragraph (3)(D) of section 1833(t) for such service for such year, determined without regard to geographic adjustment under paragraph (2)(D) of such section,

the Secretary shall substitute the amount described in clause (ii), adjusted by the geographic adjustment factor described in paragraph (1)(C), for the fee schedule amount for such technical component for such year.

"(B) IMAGING SERVICES DESCRIBED.—For purposes of subparagraph (A), imaging services described in this subparagraph are imaging and computer-assisted imaging services, including X-ray, ultrasound (including echocardiography), nuclear medicine (including positron emission tomography), magnetic resonance imaging, computed tomography, and fluoroscopy, but excluding diagnostic and screening mammography."; and

(2) in subsection (c)(2)(B)(v), as added by subsection (a)(3), by adding at the end the following new subclause:

"(II) OPD PAYMENT CAP FOR IMAGING SERVICES.—Effective for fee schedules established beginning with 2007, reduced expenditures attributable to subsection (b)(4).".

SEC. 5103. LIMITATION ON PAYMENTS FOR PROCEDURES IN AMBULATORY SURGICAL CENTERS.

Section 1833(i)(2) of the Social Security Act (42 U.S.C. 1395l(i)(2)) is amended—

(1) in subparagraph (A), by inserting "subject to subparagraph (E)," after "subparagraph (D),";

(2) in subparagraph (D)(ii), by inserting before the period at the end the following: "and taking into account reduced expenditures that would apply if subparagraph (E) were to continue to apply, as estimated by the Secretary"; and

(3) by adding at the end the following new subparagraph:

"(E) With respect to surgical procedures furnished on or after January 1, 2007, and before the effective date of the implementation of a revised payment system under subparagraph (D), if—

"(i) the standard overhead amount under subparagraph (A) for a facility service for such procedure, without the application of any geographic adjustment, exceeds

"(ii) the medicare OPD fee schedule amount established under the prospective payment system for hospital outpatient department services under paragraph (3)(D) of section 1833(t) for such service for such year, determined without regard to geographic adjustment under paragraph (2)(D) of such section,

the Secretary shall substitute under subparagraph (A) the amount described in clause (ii) for the standard overhead amount for such service referred to in clause (i).".

SEC. 5104. UPDATE FOR PHYSICIANS' SERVICES FOR 2006.

(a) UPDATE FOR 2006.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w–4(d)) is amended—

(1) in paragraph (4)(B), in the matter preceding clause (i), by striking "paragraph (5)" and inserting "paragraphs (5) and (6)"; and

(2) by adding at the end the following new paragraph:

"(6) UPDATE FOR 2006.—The update to the single conversion factor established in paragraph (1)(C) for 2006 shall be 0 percent.".

(b) NOT TREATED AS CHANGE IN LAW AND REGULATION IN SUSTAINABLE GROWTH RATE DETERMINATION.—The amendments made by subsection (a) shall not be treated as a change in law for purposes of applying section 1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w–4(f)(2)(D)).

(c) MEDPAC REPORT.—

(1) IN GENERAL.—By not later than March 1, 2007, the Medicare Payment Advisory Commission shall submit a report to Congress on mechanisms that could be used to replace the sustainable growth rate system under section 1848(f) of the Social Security Act (42 U.S.C. 1395w–4(f)).

(2) REQUIREMENTS.—The report required under paragraph (1) shall—

(A) identify and examine alternative methods for assessing volume growth;

(B) review options to control the volume of physicians' services under the Medicare program while maintaining access to such services by Medicare beneficiaries;

(C) examine the application of volume controls under the Medicare physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4);

(D) identify levels of application of volume controls, such as group practice, hospital medical staff, type of service, geographic area, and outliers;

(E) examine the administrative feasibility of implementing the options reviewed under subparagraph (B), including the availability of data and time lags;

(F) examine the extent to which the alternative methods identified and examined under subparagraph (A) should be specified in such section 1848; and

(G) identify the appropriate level of discretion for the Secretary of Health and Human Services to change payment rates under the Medicare physician fee schedule or otherwise take steps that affect physician behavior.

Such report shall include such recommendations on alternative mechanisms to replace the sustainable growth rate system as the Medicare Payment Advisory Commission determines appropriate.

(3) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Medicare Payment Advisory Commission $550,000, to carry out this subsection.

SEC. 5105. THREE-YEAR TRANSITION OF HOLD HARMLESS PAYMENTS FOR SMALL RURAL HOSPITALS UNDER THE PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.

Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

(1) by inserting "(I)" before "In the case"; and

(2) by adding at the end the following new subclause:

"(II) In the case of a hospital located in a rural area and that has not more than 100 beds and that is not a sole community hospital (as defined in section 1886(d)(5)(D)(iii)), for covered OPD services furnished on or after January 1, 2006, and before January 1, 2009, for which the PPS amount is less than the pre-BBA amount, the amount of payment under this subsection shall be increased by the applicable percentage of the amount of such difference. For purposes of the previous sentence, with respect to covered OPD services furnished during 2006, 2007, or 2008, the applicable percentage shall be 95 percent, 90 percent, and 85 percent, respectively.".

SEC. 5106. UPDATE TO THE COMPOSITE RATE COMPONENT OF THE BASIC CASE-MIX ADJUSTED PROSPECTIVE PAYMENT SYSTEM FOR DIALYSIS SERVICES.

Section 1881(b)(12) of the Social Security Act (42 U.S.C. 1395rr(b)(12)) is amended—

(1) in subparagraph (F), in the flush matter at the end, by striking "Nothing" and inserting "Except as provided in subparagraph (G), nothing";

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) The Secretary shall increase the amount of the composite rate component of the basic case-mix adjusted system under subparagraph (B) for dialysis services furnished on or after January 1, 2006, by 1.6 percent above the amount of such composite rate component for such services furnished on December 31, 2005.".

SEC. 5107. REVISIONS TO PAYMENTS FOR THERAPY SERVICES.

(a) EXCEPTION TO CAPS FOR 2006.—

(1) IN GENERAL.—Section 1833(g) of the Social Security Act (42 U.S.C. 1395l(g)) is amended—

(A) in each of paragraphs (1) and (3), by striking "paragraph (4)" and inserting "paragraphs (4) and (5)"; and

(B) by adding at the end the following new paragraph:

"(5) With respect to expenses incurred during 2006 for services, the Secretary shall implement a process under which an individual enrolled under this part may, upon request of the individual or a person on behalf of the individual, obtain an exception from the uniform dollar limitation specified in paragraph (2), for services described in paragraphs (1) and (3) if the provision of such services is determined to be medically necessary. Under such process, if the Secretary does not make a decision on such a request for an exception within 10 business days of the date of the Secretary's receipt of the request, the Secretary shall be deemed to have found the services to be medically necessary.".

(2) TIMELY IMPLEMENTATION.—The Secretary of Health and Human Services shall waive such provisions of law and regulation (including those described in section 110(c) of Public Law 108–173) as are necessary to implement the amendments made by paragraph (1) on a timely basis and, notwithstanding any other provision of law, may implement such amendments by program instruction or otherwise. There shall be no administrative or judicial review under section 1869 or section 1878 of the Social Security Act (42 U.S.C. 1395ff and 1395oo), or otherwise of the process (including the establishment of the process) under section 1833(g)(5) of such Act, as added by paragraph (1).

(b) IMPLEMENTATION OF CLINICALLY APPROPRIATE CODE EDITS IN ORDER TO IDENTIFY AND ELIMINATE IMPROPER PAYMENTS FOR THERAPY SERVICES.—By not later than July 1, 2006, the Secretary of Health and Human Services shall implement clinically appropriate code edits with respect to payments under part B of title XVIII of the Social Security Act for physical therapy services, occupational therapy services, and speech-language pathology services in order to identify and eliminate improper payments for such services, including edits of clinically illogical combinations of procedure codes and other edits to control inappropriate billings.

CHAPTER 2—MISCELLANEOUS

SEC. 5111. ACCELERATED IMPLEMENTATION OF INCOME-RELATED REDUCTION IN PART B PREMIUM SUBSIDY.

Section 1839(i)(3)(B) of the Social Security Act (42 U.S.C. 1395r(i)(3)(B)) is amended—

(1) in the heading, by striking "5-YEAR" and inserting "3-YEAR";

(2) in the matter preceding clause (i), by striking "2011" and inserting "2009";

(3) in clause (i), by striking "20 percent" and inserting "33 percent";

(4) in clause (ii), by striking "40 percent" and inserting "67 percent"; and

(5) by striking clauses (iii) and (iv).

SEC. 5112. MEDICARE COVERAGE OF ULTRASOUND SCREENING FOR ABDOMINAL AORTIC ANEURYSMS.

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking "and" at the end of subparagraph (Y);

(B) by adding "and" at the end of subparagraph (Z) and moving such subparagraph 2 ems to the left; and

(C) by adding at the end the following new subparagraph:

"(AA) ultrasound screening for abdominal aortic aneurysm (as defined in subsection (bbb)) for an individual—

"(i) who receives a referral for such an ultrasound screening as a result of an initial preventive physical examination (as defined in section 1861(ww)(1));

"(ii) who has not been previously furnished such an ultrasound screening under this title; and

"(iii) who—

"(I) has a family history of abdominal aortic aneurysm; or

"(II) manifests risk factors included in a beneficiary category recommended for screening by the United States Preventive Services Task Force regarding abdominal aortic aneurysms;"; and

(2) by adding at the end the following new subsection:

"Ultrasound Screening for Abdominal Aortic Aneurysm

"(bbb) The term 'ultrasound screening for abdominal aortic aneurysm' means—

"(1) a procedure using sound waves (or such other procedures using alternative technologies, of commensurate accuracy and cost, that the Secretary may specify) provided for the early detection of abdominal aortic aneurysm; and

"(2) includes a physician's interpretation of the results of the procedure.".

(b) INCLUSION OF ULTRASOUND SCREENING FOR ABDOMINAL AORTIC ANEURYSM IN INITIAL PREVENTIVE PHYSICAL EXAMINATION.—Section 1861(ww)(2) of such Act (42 U.S.C. 1395x(ww)(2)) is amended by adding at the end the following new subparagraph:

"(L) Ultrasound screening for abdominal aortic aneurysm as defined in section 1861(bbb).".

(c) PAYMENT FOR ULTRASOUND SCREENING FOR ABDOMINAL AORTIC ANEURYSM.—Section 1848(j)(3) of such Act (42 U.S.C. 1395w-4(j)(3)) is amended by inserting "(2)(AA)," after "(2)(W),".

(d) FREQUENCY.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (L);

(2) by striking the semicolon at the end of subparagraph (M) and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(N) in the case of ultrasound screening for abdominal aortic aneurysm which is performed more frequently than is provided for under section 1861(s)(2)(AA);".

(e) NON-APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b) of such Act (42 U.S.C. 1395l(b)) is amended in the first sentence—

(1) by striking "and" before "(6)"; and

(2) by inserting ", and (7) such deductible shall not apply with respect to ultrasound screening for abdominal aortic aneurysm (as defined in section 1861(bbb))" before the period at the end.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2007.

SEC. 5113. IMPROVING PATIENT ACCESS TO, AND UTILIZATION OF, COLORECTAL CANCER SCREENING.

(a) NON-APPLICATION OF DEDUCTIBLE FOR COLORECTAL CANCER SCREENING TESTS.—Section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)), as amended by section 5112(e), is amended in the first sentence—

(1) by striking "and" before "(7)"; and

(2) by inserting ", and (8) such deductible shall not apply with respect to colorectal cancer screening tests (as described in section 1861(pp)(1))" before the period at the end.

(b) CONFORMING AMENDMENTS.—Paragraphs (2)(C)(ii) and (3)(C)(ii) of section 1834(d) of such Act (42 U.S.C. 1395m(d)) are each amended—

(1) by striking "DEDUCTIBLE AND" in the heading; and

(2) in subclause (I), by striking "deductible or" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2007.

SEC. 5114. DELIVERY OF SERVICES AT FEDERALLY QUALIFIED HEALTH CENTERS.

(a) COVERAGE.—

(1) IN GENERAL.—Section 1861(aa)(3) of the Social Security Act (42 U.S.C. 1395x(aa)(3)) is amended—

(A) in subparagraph (A), by striking ", and" and inserting "and services described in subsections (qq) and (vv); and";

(B) in subparagraph (B), by striking "sections 329, 330, and 340" and inserting "section 330"; and

(C) in the flush matter at the end, by inserting "by the center or by a health care professional under contract with the center" after "outpatient of a Federally qualified health center".

(2) CONSOLIDATED BILLING.—The first sentence of section 1842(b)(6)(F) of such Act (42 U.S.C. 1395u(b)(6)(F)) is amended—

(A) by striking "and (G)" and inserting "(G)"; and

(B) by inserting before the period at the end the following: ", and (H) in the case of services described in section 1861(aa)(3) that are furnished by a health care professional under contract with a Federally qualified health center, payment shall be made to the center".

(b) TECHNICAL CORRECTIONS.—Clauses (i) and (ii)(II) of section 1861(aa)(4)(A) of such Act (42 U.S.C. 1395x(aa)(4)(A)) are each amended by striking "(other than subsection (h))".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to services furnished on or after January 1, 2006.

SEC. 5115. WAIVER OF PART B LATE ENROLLMENT PENALTY FOR CERTAIN INTERNATIONAL VOLUNTEERS.

(a) IN GENERAL.—

(1) WAIVER OF PENALTY.—Section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)) is amended in the second sentence by inserting the following before the period at the end: "or months for which the individual can demonstrate that the individual was an individual described in section 1837(k)(3)".

(2) SPECIAL ENROLLMENT PERIOD.—

(A) IN GENERAL.—Section 1837 of such Act (42 U.S.C. 1395p) is amended by adding at the end the following new subsection:

"(k)(1) In the case of an individual who—

"(A) at the time the individual first satisfies paragraph (1) or (2) of section 1836, is described in paragraph (3), and has elected not to enroll (or to be deemed enrolled) under this section during the individual's initial enrollment period; or

"(B) has terminated enrollment under this section during a month in which the individual is described in paragraph (3),

there shall be a special enrollment period described in paragraph (2).

"(2) The special enrollment period described in this paragraph is the 6-month period beginning on the first day of the month which includes the date that the individual is no longer described in paragraph (3).

"(3) For purposes of paragraph (1), an individual described in this paragraph is an individual who—

"(A) is serving as a volunteer outside of the United States through a program—

"(i) that covers at least a 12-month period; and

"(ii) that is sponsored by an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; and

"(B) demonstrates health insurance coverage while serving in the program.".

(B) COVERAGE PERIOD.—Section 1838 of such Act (42 U.S.C. 1395q) is amended by adding at the end the following new subsection:

"(f) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to section 1837(k), the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall apply to months beginning with January 2007 and the amendments made by subsection (a)(2) shall take effect on January 1, 2007.

Subtitle C—Provisions Relating to Parts A and B

SEC. 5201. HOME HEALTH PAYMENTS.

(a) 2006 UPDATE.—Section 1895(b)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395fff(b)(3)(B)(ii)) is amended—

(1) in subclause (III), by striking "each of 2005 and 2006" and inserting "all of 2005";

(2) by striking "or" at the end of subclause (III);

(3) in subclause (IV), by striking "2007 and" and by redesignating such subclause as subclause (V); and

(4) by inserting after subclause (III) the following new subclause:

"(IV) 2006, 0 percent; and".

(b) APPLYING RURAL ADD-ON POLICY FOR 2006.—Section 421(a) of Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2283) is amended by inserting "and episodes and visits beginning on or after January 1, 2006, and before January 1, 2007," after "April 1, 2005,".

(c) HOME HEALTH CARE QUALITY IMPROVEMENT.—Section 1895(b)(3)(B) of the Social Security Act (42 U.S.C. 1395fff(b)(3)(B)) is amended—

(1) in clause (ii)(V), as redesignated by subsection (a)(3), by inserting "subject to clause (v)," after "subsequent year,"; and

(2) by adding at the end the following new clause:

"(v) ADJUSTMENT IF QUALITY DATA NOT SUBMITTED.—

"(I) ADJUSTMENT.—For purposes of clause (ii)(V),. for 2007 and each subsequent year, in the case of a home health agency that does not submit data to the Secretary in accordance with subclause (II) with respect to such a year, the home health market basket percentage increase applicable under such clause for such year shall be reduced by 2 percentage points. Such reduction shall apply only with respect to the year involved, and the Secretary shall not take into account such reduction in computing the prospective payment amount under this section for a subsequent year, and the Medicare Payment Advisory Commission shall carry out the requirements under section 5201(d) of the Deficit Reduction Act of 2005.

"(II) SUBMISSION OF QUALITY DATA.—For 2007 and each subsequent year, each home health agency shall submit to the Secretary such data that the Secretary determines are appropriate for the measurement of health care quality. Such data shall be submitted in a form and manner, and at a time, specified by the Secretary for purposes of this clause.

"(III) PUBLIC AVAILABILITY OF DATA SUBMITTED.—The Secretary shall establish procedures for making data submitted under subclause (II) available to the public. Such procedures shall ensure that a home health agency has the opportunity to review the data that is to be made public with respect to the agency prior to such data being made public.".

(d) MEDPAC REPORT ON VALUE BASED PURCHASING.—

(1) IN GENERAL.—Not later than June 1, 2007, the Medicare Payment Advisory Commission shall submit to Congress a report that includes recommendations on a detailed structure of value based payment adjustments for home health services under the Medicare program under title XVIII of the Social Security Act. Such report shall include recommendations concerning the determination of thresholds, the size of such payments, sources of funds, and the relationship of payments for improvement and attainment of quality.

(2) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Medicare Payment Advisory Commission $550,000, to carry out this subsection.

SEC. 5202. REVISION OF PERIOD FOR PROVIDING PAYMENT FOR CLAIMS THAT ARE NOT SUBMITTED ELECTRONICALLY.

(a) REVISION.—

(1) PART A.—Section 1816(c)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395h(c)(3)(B)(ii)) is amended by striking "26 days" and inserting "28 days".

(2) PART B.—Section 1842(c)(3)(B)(ii) of such Act (42 U.S.C. 1395u(c)(3)(B)(ii)) is amended by striking "26 days" and inserting "28 days".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to claims submitted on or after January 1, 2006.

SEC. 5203. TIMEFRAME FOR PART A AND B PAYMENTS.

Notwithstanding sections 1816(c) and 1842(c)(2) of the Social Security Act or any other provision of law—

(1) any payment from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) or from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t) for claims submitted under part A or B of title XVIII of such Act for items and services furnished under such part A or B, respectively, that would otherwise be payable during the period beginning on September 22, 2006, and ending on September 30, 2006, shall be paid on the first business day of October 2006; and

(2) no interest or late penalty shall be paid to an entity or individual for any delay in a payment by reason of the application of paragraph (1).

SEC. 5204. MEDICARE INTEGRITY PROGRAM FUNDING.

Section 1817(k)(4) of the Social Security Act (42 U.S.C. 1395i(k)(4)) is amended—

(1) in subparagraph (B), by striking "The amount" and inserting "Subject to subparagraph (C), the amount"; and

(2) by adding at the end the following new subparagraph:

"(C) ADJUSTMENTS.—The amount appropriated under subparagraph (A) for a fiscal year is increased as follows:

"(i) For fiscal year 2006, $100,000,000.".

Subtitle D—Provisions Relating to Part C

SEC. 5301. PHASE-OUT OF RISK ADJUSTMENT BUDGET NEUTRALITY IN DETERMINING THE AMOUNT OF PAYMENTS TO MEDICARE ADVANTAGE ORGANIZATIONS.

(a) IN GENERAL.—Section 1853 of the Social Security Act (42 U.S.C. 1395w–23) is amended—

(1) in subsection (j)(1)—

(A) in subparagraph (A)—

(i) by inserting "(or, beginning with 2007, 1/12 of the applicable amount determined under subsection (k)(1))" after "1853(c)(1)"; and

(ii) by inserting "(for years before 2007)" after "adjusted as appropriate";

(B) in subparagraph (B), by inserting "(for years before 2007)" after "adjusted as appropriate"; and

(2) by adding at the end the following new subsection:

"(k) DETERMINATION OF APPLICABLE AMOUNT FOR PURPOSES OF CALCULATING THE BENCHMARK AMOUNTS.—

"(1) APPLICABLE AMOUNT DEFINED.—For purposes of subsection (j), subject to paragraph (2), the term 'applicable amount' means for an area—

"(A) for 2007—

"(i) if such year is not specified under subsection (c)(1)(D)(ii), an amount equal to the amount specified in subsection (c)(1)(C) for the area for 2006—

"(I) first adjusted by the rescaling factor for 2006 for the area (as made available by the Secretary in the announcement of the rates on April 4, 2005, under subsection (b)(1), but excluding any national adjustment factors for coding intensity and risk adjustment budget neutrality that were included in such factor); and

"(II) then increased by the national per capita MA growth percentage, described in subsection (c)(6) for 2007, but not taking into account any adjustment under subparagraph (C) of such subsection for a year before 2004;

"(ii) if such year is specified under subsection (c)(1)(D)(ii), an amount equal to the greater of—

"(I) the amount determined under clause (i) for the area for the year; or

"(II) the amount specified in subsection (c)(1)(D) for the area for the year; and

"(B) for a subsequent year—

"(i) if such year is not specified under subsection (c)(1)(D)(ii), an amount equal to the amount determined under this paragraph for the area for the previous year (determined without regard to paragraph (2)), increased by the national per capita MA growth percentage, described in subsection (c)(6) for that succeeding year, but not taking into account any adjustment under subparagraph (C) of such subsection for a year before 2004; and

"(ii) if such year is specified under subsection (c)(1)(D)(ii), an amount equal to the greater of—

"(I) the amount determined under clause (i) for the area for the year; or

"(II) the amount specified in subsection (c)(1)(D) for the area for the year.

"(2) PHASE-OUT OF BUDGET NEUTRALITY FACTOR.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), in the case of 2007 through 2010, the applicable amount determined under paragraph (1) shall be multiplied by a factor equal to 1 plus the product of—

"(i) the percent determined under subparagraph (B) for the year; and

"(ii) the applicable phase-out factor for the year under subparagraph (C).

"(B) PERCENT DETERMINED.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), subject to clause (iv), the percent determined under this subparagraph for a year is a percent equal to a fraction the numerator of which is described in clause (ii) and the denominator of which is described in clause (iii).

"(ii) NUMERATOR BASED ON DIFFERENCE BETWEEN DEMOGRAPHIC RATE AND RISK RATE.—

"(I) IN GENERAL.—The numerator described in this clause is an amount equal to the amount by which the demographic rate described in subclause (II) exceeds the risk rate described in subclause (III).

"(II) DEMOGRAPHIC RATE.—The demographic rate described in this subclause is the Secretary's estimate of the total payments that would have been made under this part in the year if all the monthly payment amounts for all MA plans were equal to $^1/_{12}$ of the annual MA capitation rate under subsection (c)(1) for the area and year, adjusted pursuant to subsection (a)(1)(C).

"(III) RISK RATE.—The risk rate described in this subclause is the Secretary's estimate of the total payments that would have been made under this part in the year if all the monthly payment amounts for all MA plans were equal to the amount described in subsection (j)(1)(A) (determined as if this paragraph had not applied) under subsection (j) for the area and year, adjusted pursuant to subsection (a)(1)(C).

"(iii) DENOMINATOR BASED ON RISK RATE.—The denominator described in this clause is equal to the total amount estimated for the year under clause (ii)(III).

"(iv) REQUIREMENTS.—In estimating the amounts under the previous clauses, the Secretary shall—

"(I) use a complete set of the most recent and representative Medicare Advantage risk scores under subsection (a)(3) that are available from the risk adjustment model announced for the year;

"(II) adjust the risk scores to reflect changes in treatment and coding practices in the fee-for-service sector;

"(III) adjust the risk scores for differences in coding patterns between Medicare Advantage plans and providers under the original medicare fee-for-service program under parts A and B to the extent that the Secretary has identified such differences, as required in subsection (a)(1)(C);

"(IV) as necessary, adjust the risk scores for late data submitted by Medicare Advantage organizations;

"(V) as necessary, adjust the risk scores for lagged cohorts; and

"(VI) as necessary, adjust the risk scores for changes in enrollment in Medicare Advantage plans during the year.

"(v) AUTHORITY.—In computing such amounts the Secretary may take into account the estimated health risk of enrollees in preferred provider organization plans (including MA regional plans) for the year.

"(C) APPLICABLE PHASE-OUT FACTOR.—For purposes of subparagraph (A)(ii), the term 'applicable phase-out factor' means—

"(i) for 2007, 0.55;

"(ii) for 2008, 0.40;

"(iii) for 2009, 0.25; and

"(iv) for 2010, 0.05.

"(D) TERMINATION OF APPLICATION.—Subparagraph (A) shall not apply in a year if the amount estimated under subparagraph (B)(ii)(III) for the year is equal to or greater than the amount estimated under subparagraph (B)(ii)(II) for the year.

"(3) NO REVISION IN PERCENT.—

"(A) IN GENERAL.—The Secretary may not make any adjustment to the percent determined under paragraph (2)(B) for any year.

"(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the authority of the Secretary to make adjustments to the applicable amounts determined under paragraph (1) as appropriate for purposes of updating data or for purposes of adopting an improved risk adjustment methodology.".

(b) REFINEMENTS TO HEALTH STATUS ADJUSTMENT.—Section 1853(a)(1)(C) of such Act (42 U.S.C. 1395w-23) is amended—

(1) by designating the matter after the heading as a clause (i) with the following heading: "IN GENERAL.—" and indenting appropriately; and

(2) by adding at the end the following:

"(ii) APPLICATION DURING PHASE-OUT OF BUDGET NEUTRALITY FACTOR.—For 2006 through 2010:

"(I) In applying the adjustment under clause (i) for health status to payment amounts, the Secretary shall ensure that such adjustment reflects changes in treatment and coding practices in the fee-for-service sector and reflects differences in coding patterns between Medicare Advantage plans and providers under part A and B to the extent that the Secretary has identified such differences.

"(II) In order to ensure payment accuracy, the Secretary shall conduct an analysis of the differences described in subclause (I). The Secretary shall complete such analysis by a date necessary to ensure that the results of such analysis are incorporated into the risk scores only for 2008, 2009, and 2010. In conducting such analysis, the Secretary shall use data submitted with respect to 2004 and subsequent years, as available.".

SEC. 5302. RURAL PACE PROVIDER GRANT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) CMS.—The term "CMS" means the Centers for Medicare & Medicaid Services.

(2) PACE PROGRAM.—The term "PACE program" has the meaning given that term in sections 1894(a)(2) and 1934(a)(2) of the Social Security Act (42 U.S.C. 1395eee(a)(2); 1396u-4(a)(2)).

(3) PACE PROVIDER.—The term "PACE provider" has the meaning given that term in section 1894(a)(3) or 1934(a)(3) of the Social Security Act (42 U.S.C. 1395eee(a)(3); 1396u-4(a)(3)).

(4) RURAL AREA.—The term "rural area" has the meaning given that term in section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D)).

(5) RURAL PACE PILOT SITE.—The term "rural PACE pilot site" means a PACE provider that has been approved to provide services in a geographic service area that is, in whole or in part, a rural area, and that has received a site development grant under this section.

(6) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(b) SITE DEVELOPMENT GRANTS AND TECHNICAL ASSISTANCE PROGRAM.—

(1) SITE DEVELOPMENT GRANTS.—

(A) IN GENERAL.—The Secretary shall establish a process and criteria to award site development grants to qualified PACE providers that have been approved to serve a rural area.

(B) AMOUNT PER AWARD.—A site development grant awarded under subparagraph (A) to any individual rural PACE pilot site shall not exceed $750,000.

(C) NUMBER OF AWARDS.—Not more than 15 rural PACE pilot sites shall be awarded a site development grant under subparagraph (A).

(D) USE OF FUNDS.—Funds made available under a site development grant awarded under subparagraph (A) may be used for the following expenses only to the extent such expenses are incurred in relation to establishing or delivering PACE program services in a rural area:

(i) Feasibility analysis and planning.

(ii) Interdisciplinary team development.

(iii) Development of a provider network, including contract development.

(iv) Development or adaptation of claims processing systems.

(v) Preparation of special education and outreach efforts required for the PACE program.

(vi) Development of expense reporting required for calculation of outlier payments or reconciliation processes.

(vii) Development of any special quality of care or patient satisfaction data collection efforts.

(viii) Establishment of a working capital fund to sustain fixed administrative, facility, or other fixed costs until the provider reaches sufficient enrollment size.

(ix) Startup and development costs incurred prior to the approval of the rural PACE pilot site's PACE provider application by CMS.

(x) Any other efforts determined by the rural PACE pilot site to be critical to its successful startup, as approved by the Secretary.

(E) APPROPRIATION.—

(i) IN GENERAL.—Out of funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary to carry out this subsection for fiscal year 2006, $7.500.000.

(ii) AVAILABILITY.—Funds appropriated under clause (i) shall remain available for expenditure through fiscal year 2008.

(2) TECHNICAL ASSISTANCE PROGRAM.—The Secretary shall establish a technical assistance program to provide—

(A) outreach and education to State agencies and provider organizations interested in establishing PACE programs in rural areas; and

(B) technical assistance necessary to support rural PACE pilot sites.

(c) COST OUTLIER PROTECTION FOR RURAL PACE PILOT SITES.—

(1) ESTABLISHMENT OF FUND FOR REIMBURSEMENT OF OUTLIER COSTS.—Notwithstanding any other provision of law, the Secretary shall establish an outlier fund to reimburse rural PACE pilot sites for recognized outlier costs (as defined in paragraph (3)) incurred for eligible outlier participants (as defined in paragraph (2)) in an amount, subject to paragraph (4), equal to 80 percent of the amount by which the recognized outlier costs exceeds $50,000.

(2) ELIGIBLE OUTLIER PARTICIPANT.—For purposes of this subsection, the term "eligible outlier participant" means a PACE program eligible individual (as defined in sections 1894(a)(5) and 1934(a)(5) of the Social Security Act (42 U.S.C. 1395eee(a)(5); 1396u–4(a)(5) who resides in a rural area and with respect to whom the rural PACE pilot site incurs more than $50,000 in recognized costs in a 12-month period.

(3) RECOGNIZED OUTLIER COSTS DEFINED.—

(A) IN GENERAL.—For purposes of this subsection, the term "recognized outlier costs" means, with respect to services furnished to an eligible outlier participant by a rural PACE pilot site, the least of the following (as documented by the site to the satisfaction of the Secretary) for the provision of inpatient and related physician and ancillary services for the eligible outlier participant in a given 12-month period:

(i) If the services are provided under a contract between the pilot site and the provider, the payment rate specified under the contract.

(ii) The payment rate established under the original medicare fee-for-service program for such service.

(iii) The amount actually paid for the services by the pilot site.

(B) INCLUSION IN ONLY ONE PERIOD.—Recognized outlier costs may not be included in more than one 12-month period.

(3) OUTLIER EXPENSE PAYMENT.—

(A) PAYMENT FOR OUTLIER COSTS.—Subject to subparagraph (B), in the case of a rural PACE pilot site that has incurred outlier costs for an eligible outlier participant, the rural PACE pilot site shall receive an outlier expense payment equal to 80 percent of such costs that exceed $50,000.

(4) LIMITATIONS.—

(A) COSTS INCURRED PER ELIGIBLE OUTLIER PARTICIPANT.—The total amount of outlier expense payments made under this subsection to a rural PACE pilot site with respect to an eligible outlier participant for any 12-month period shall not exceed $100,000 for the 12-month period used to calculate the payment.

(B) COSTS INCURRED PER PROVIDER.—No rural PACE pilot site may receive more than $500,000 in total outlier expense payments in a 12-month period.

(C) LIMITATION OF OUTLIER COST REIMBURSEMENT PERIOD.—A rural PACE pilot site shall only receive outlier expense payments under this subsection with respect to costs incurred during the first 3 years of the site's operation.

(5) REQUIREMENT TO ACCESS RISK RESERVES PRIOR TO PAYMENT.—A rural PACE pilot site shall access and exhaust any risk reserves held or arranged for the provider (other than revenue or reserves maintained to satisfy the requirements of section 460.80(c) of title 42, Code of Federal Regulations) and any working capital established through a site development grant awarded under subsection (b)(1), prior to receiving any payment from the outlier fund.

(6) APPLICATION.—In order to receive an outlier expense payment under this subsection with respect to an eligible outlier participant, a rural PACE pilot site shall submit an application containing—

(A) documentation of the costs incurred with respect to the participant;

(B) a certification that the site has complied with the requirements under paragraph (4); and

(C) such additional information as the Secretary may require.

(7) APPROPRIATION.—

(A) IN GENERAL.—Out of funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary to carry out this subsection for fiscal year 2006, $10,000,000.

(B) AVAILABILITY.—Funds appropriated under subparagraph (A) shall remain available for expenditure through fiscal year 2010.

(d) EVALUATION OF PACE PROVIDERS SERVING RURAL SERVICE AREAS.—Not later than 60 months after the date of enactment of this Act, the Secretary shall submit a report to Congress containing an evaluation of the experience of rural PACE pilot sites.

(e) AMOUNTS IN ADDITION TO PAYMENTS UNDER SOCIAL SECURITY ACT.—Any amounts paid under the authority of this section to a PACE provider shall be in addition to payments made to the provider under section 1894 or 1934 of the Social Security Act (42 U.S.C. 1395eee; 1396u–4).

TITLE VI—MEDICAID AND SCHIP

Subtitle A—Medicaid

CHAPTER 1—PAYMENT FOR PRESCRIPTION DRUGS

SEC. 6001. FEDERAL UPPER PAYMENT LIMIT FOR MULTIPLE SOURCE DRUGS AND OTHER DRUG PAYMENT PROVISIONS.

(a) MODIFICATION OF FEDERAL UPPER PAYMENT LIMIT FOR MULTIPLE SOURCE DRUGS; DEFINITION OF MULTIPLE SOURCE DRUGS.—Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended—

(1) in subsection (e)(4)—

(A) by striking "The Secretary" and inserting "Subject to paragraph (5), the Secretary"; and

(B) by inserting "(or, effective January 1, 2007, two or more)" after "three or more";

(2) by adding at the end of subsection (e) the following new paragraph:

"(5) USE OF AMP IN UPPER PAYMENT LIMITS.—Effective January 1, 2007, in applying the Federal upper reimbursement limit under paragraph (4) and section 447.332(b) of title 42 of the Code of Federal Regulations, the Secretary shall substitute 250 percent of the average manufacturer price (as computed without regard to customary prompt pay discounts extended to wholesalers) for 150 percent of the published price.";

(3) in subsection (k)(7)(A)(i), in the matter preceding subclause (I), by striking "are 2 or more drug products" and inserting "at least 1 other drug product"; and

(4) in subclauses (I), (II), and (III) of subsection (k)(7)(A)(i), by striking "are" and inserting "is" each place it appears.

(b) DISCLOSURE OF PRICE INFORMATION TO STATES AND THE PUBLIC.—Subsection (b)(3) of such section is amended—

(1) in subparagraph (A)—

(A) in clause (i), by inserting "month of a" after "last day of each"; and

(B) by adding at the end the following: "Beginning July 1, 2006, the Secretary shall provide on a monthly basis to States under subparagraph (D)(iv) the most recently reported average manufacturer prices for single source drugs and for multiple source drugs and shall, on at least a quarterly basis, update the information posted on the website under subparagraph (D)(v)."; and

(2) in subparagraph (D)—

(A) by striking "and" at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting a comma; and

(C) by inserting after clause (iii) the following new clauses:

"(iv) to States to carry out this title, and

"(v) to the Secretary to disclose (through a website accessible to the public) average manufacturer prices.".

(c) DEFINITION OF AVERAGE MANUFACTURER PRICE.—

(1) EXCLUSION OF CUSTOMARY PROMPT PAY DISCOUNTS EXTENDED TO WHOLESALERS.—Subsection (k)(1) of such section is amended—

(A) by striking "The term" and inserting the following:

"(A) IN GENERAL.—Subject to subparagraph (B), the term";

(B) by striking ", after deducting customary prompt pay discounts"; and

(C) by adding at the end the following:

"(B) EXCLUSION OF CUSTOMARY PROMPT PAY DISCOUNTS EXTENDED TO WHOLESALERS.—The average manufacturer price for a covered outpatient drug shall be determined without regard to customary prompt pay discounts extended to wholesalers.".

(2) MANUFACTURER REPORTING OF PROMPT PAY DISCOUNTS.—Subsection (b)(3)(A)(i) of such section is amended by inserting ", customary prompt pay discounts extended to wholesalers," after "(k)(1))".

(3) REQUIREMENT TO PROMULGATE REGULATION.—

(A) INSPECTOR GENERAL RECOMMENDATIONS.—Not later than June 1, 2006, the Inspector General of the Department of Health and Human Services shall—

(i) review the requirements for, and manner in which, average manufacturer prices are determined under section 1927 of the Social Security Act, as amended by this section; and

(ii) shall submit to the Secretary of Health and Human Services and Congress such recommendations for changes in such requirements or manner as the Inspector General determines to be appropriate.

(B) DEADLINE FOR PROMULGATION.—Not later than July 1, 2007, the Secretary of Health and Human Services shall promulgate a regulation that clarifies the requirements for, and manner in which, average manufacturer prices are determined under section 1927 of the Social Security Act, taking into consideration the recommendations submitted to the Secretary in accordance with subparagraph (A)(ii).

(d) EXCLUSION OF SALES AT A NOMINAL PRICE FROM DETERMINATION OF BEST PRICE.—

(1) MANUFACTURER REPORTING OF SALES.—Subsection (b)(3)(A)(iii) of such section is amended by inserting before the period at the end the following: ", and, for calendar quarters beginning on or after January 1, 2007 and only with respect to the information described in subclause (III), for covered outpatient drugs".

(2) LIMITATION ON SALES AT A NOMINAL PRICE.—Subsection (c)(1) of such section is amended by adding at the end the following new subparagraph:

"(D) LIMITATION ON SALES AT A NOMINAL PRICE.—

"(i) IN GENERAL.—For purposes of subparagraph (C)(ii)(III) and subsection (b)(3)(A)(iii)(III), only sales by a manufacturer of covered outpatient drugs at nominal prices to the following shall be considered to be sales at a nominal price or merely nominal in amount:

"(I) A covered entity described in section 340B(a)(4) of the Public Health Service Act.

"(II) An intermediate care facility for the mentally retarded.

"(III) A State-owned or operated nursing facility.

"(IV) Any other facility or entity that the Secretary determines is a safety net provider to which sales of such drugs at a nominal price would be appropriate based on the factors described in clause (ii).

"(ii) FACTORS.—The factors described in this clause with respect to a facility or entity are the following:

"(I) The type of facility or entity.

"(II) The services provided by the facility or entity.

"(III) The patient population served by the facility or entity.

"(IV) The number of other facilities or entities eligible to purchase at nominal prices in the same service area.

"(iii) NONAPPLICATION.—Clause (i) shall not apply with respect to sales by a manufacturer at a nominal price of covered outpatient drugs pursuant to a master agreement under section 8126 of title 38, United States Code.".

(e) RETAIL SURVEY PRICES; STATE PAYMENT AND UTILIZATION RATES; AND PERFORMANCE RANKINGS.—Such section is further amended by inserting after subsection (e) the following new subsection:

"(f) SURVEY OF RETAIL PRICES; STATE PAYMENT AND UTILIZATION RATES; AND PERFORMANCE RANKINGS.—

"(1) SURVEY OF RETAIL PRICES.—

"(A) USE OF VENDOR.—The Secretary may contract services for—

"(i) the determination on a monthly basis of retail survey prices for covered outpatient drugs that represent a nationwide average of consumer purchase prices for such drugs, net of all discounts and rebates (to the extent any information with respect to such discounts and rebates is available); and

"(ii) the notification of the Secretary when a drug product that is therapeutically and pharmaceutically equivalent and bioequivalent becomes generally available.

"(B) SECRETARY RESPONSE TO NOTIFICATION OF AVAILABILITY OF MULTIPLE SOURCE PRODUCTS.—If contractor notifies the Secretary under subparagraph (A)(ii) that a drug product described in such subparagraph has become generally available, the Secretary shall make a determination, within 7 days after receiving such notification, as to whether the product is now described in subsection (e)(4).

"(C) USE OF COMPETITIVE BIDDING.—In contracting for such services, the Secretary shall competitively bid for an outside vendor that has a demonstrated history in—

"(i) surveying and determining, on a representative nationwide basis, retail prices for ingredient costs of prescription drugs;

"(ii) working with retail pharmacies, commercial payers, and States in obtaining and disseminating such price information; and

"(iii) collecting and reporting such price information on at least a monthly basis.

In contracting for such services, the Secretary may waive such provisions of the Federal Acquisition Regulation as are necessary for the efficient implementation of this subsection, other than provisions relating to confidentiality of information and such other provisions as the Secretary determines appropriate.

"(D) ADDITIONAL PROVISIONS.—A contract with a vendor under this paragraph shall include such terms and conditions as the Secretary shall specify, including the following:

"(i) The vendor must monitor the marketplace and report to the Secretary each time there is a new covered outpatient drug generally available.

"(ii) The vendor must update the Secretary no less often than monthly on the retail survey prices for covered outpatient drugs.

"(iii) The contract shall be effective for a term of 2 years.

"(E) AVAILABILITY OF INFORMATION TO STATES.—Information on retail survey prices obtained under this paragraph, including applicable information on single source drugs, shall be provided to States on at least a monthly basis. The Secretary shall devise and implement a means for providing access to each State agency designated under section 1902(a)(5) with responsibility for the administration or supervision of the administration of the State plan under this title of the retail survey price determined under this paragraph.

"(2) ANNUAL STATE REPORT.—Each State shall annually report to the Secretary information on—

"(A) the payment rates under the State plan under this title for covered outpatient drugs;

"(B) the dispensing fees paid under such plan for such drugs; and

"(C) utilization rates for noninnovator multiple source drugs under such plan.

"(3) ANNUAL STATE PERFORMANCE RANKINGS.—

"(A) COMPARATIVE ANALYSIS.—The Secretary annually shall compare, for the 50 most widely prescribed drugs identified by the Secretary, the national retail sales price data (collected under paragraph (1)) for such drugs with data on prices under this title for each such drug for each State.

"(B) AVAILABILITY OF INFORMATION.—The Secretary shall submit to Congress and the States full information regarding the annual rankings made under subparagraph (A).

"(4) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary of Health and Human Services $5,000,000 for each of fiscal years 2006 through 2010 to carry out this subsection.".

(f) MISCELLANEOUS AMENDMENTS.—

(1) IN GENERAL.—Sections 1927(g)(1)(B)(i)(II) and 1861(t)(2)(B)(ii)(I) of such Act are each amended by inserting "(or its successor publications)" after "United States Pharmacopoeia-Drug Information".

(2) PAPERWORK REDUCTION.—The last sentence of section 1927(g)(2)(A)(ii) of such Act (42 U.S.C. 1396r–8(g)(2)(A)(ii)) is amended by inserting before the period at the end the following: ", or to require verification of the offer to provide consultation or a refusal of such offer".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(g) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect on January 1, 2007, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 6002. COLLECTION AND SUBMISSION OF UTILIZATION DATA FOR CERTAIN PHYSICIAN ADMINISTERED DRUGS.

(a) IN GENERAL.—Section 1927(a) of the Social Security Act (42 U.S.C. 1396r–8(a)) is amended by adding at the end the following new paragraph:

"(7) REQUIREMENT FOR SUBMISSION OF UTILIZATION DATA FOR CERTAIN PHYSICIAN ADMINISTERED DRUGS.—

"(A) SINGLE SOURCE DRUGS.—In order for payment to be available under section 1903(a) for a covered outpatient drug that is a single source drug that is physician administered under this title (as determined by the Secretary), and that is administered on or after January 1, 2006, the State shall provide for the collection and submission of such utilization data and coding (such as J-codes and National Drug Code numbers) for each such drug as the Secretary may specify as necessary to identify the manufacturer of the drug in order to secure rebates under this section for drugs administered for which payment is made under this title.

"(B) MULTIPLE SOURCE DRUGS.—

"(i) IDENTIFICATION OF MOST FREQUENTLY PHYSICIAN ADMINISTERED MULTIPLE SOURCE DRUGS.—Not later than January 1, 2007, the Secretary shall publish a list of the 20 physician administered multiple source drugs that the Secretary determines have the highest dollar volume of physician administered drugs dispensed under this title. The Secretary may modify such list from year to year to reflect changes in such volume.

"(ii) REQUIREMENT.—In order for payment to be available under section 1903(a) for a covered outpatient drug that is a multiple source drug that is physician administered (as determined by the Secretary), that is on the list published under clause (i), and that is administered on or after January 1, 2008, the State shall provide for the submission of such utilization data and coding (such as J-codes and National Drug Code numbers) for each such drug as the Secretary may specify as necessary to identify the manufacturer of the drug in order to secure rebates under this section.

"(C) USE OF NDC CODES.—Not later than January 1, 2007, the information shall be submitted under subparagraphs (A) and (B)(ii) using National Drug Code codes unless the Secretary specifies that an alternative coding system should be used.

"(D) HARDSHIP WAIVER.—The Secretary may delay the application of subparagraph (A) or (B)(ii), or both, in the case of a State to prevent hardship to States which require additional time to implement the reporting system required under the respective subparagraph.".

(b) LIMITATION ON PAYMENT.—Section 1903(i)(10) of such Act (42 U.S.C. 1396b(i)(10)), is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking "or" at the end of subparagraph (B) and inserting "and"; and

(3) by adding at the end the following new subparagraph:

"(C) with respect to covered outpatient drugs described in section 1927(a)(7), unless information respecting utilization data and coding on such drugs that is required to be submitted under such section is submitted in accordance with such section; or".

SEC. 6003. IMPROVED REGULATION OF DRUGS SOLD UNDER A NEW DRUG APPLICATION APPROVED UNDER SECTION 505(c) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) INCLUSION WITH OTHER REPORTED AVERAGE MANUFACTURER AND BEST PRICES.—Section 1927(b)(3)(A) of the Social Security Act (42 U.S.C. 1396r–8(b)(3)(A)) is amended—

(1) by striking clause (i) and inserting the following:

"(i) not later than 30 days after the last day of each rebate period under the agreement—

"(I) on the average manufacturer price (as defined in subsection (k)(1)) for covered outpatient drugs for the rebate period under the agreement (including for all such drugs that are sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act); and

"(II) for single source drugs and innovator multiple source drugs (including all such drugs that are sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act), on the manufacturer's best price (as defined in subsection (c)(1)(C)) for such drugs for the rebate period under the agreement;"; and

(2) in clause (ii), by inserting "(including for such drugs that are sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act)" after "drugs".

(b) CONFORMING AMENDMENTS.—Section 1927 of such Act (42 U.S.C. 1396r–8) is amended—

(1) in subsection (c)(1)(C)—

(A) in clause (i), in the matter preceding subclause (I), by inserting after "or innovator multiple source drug of a manufacturer" the following: "(including the lowest price available to any entity for any such drug of a manufacturer that is sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act)"; and

(B) in clause (ii)—

(i) in subclause (II), by striking "and" at the end;

(ii) in subclause (III), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(IV) in the case of a manufacturer that approves, allows, or otherwise permits any other drug of the manufacturer to be sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act, shall be inclusive of the lowest price for such authorized drug available from the manufacturer during the rebate period to any manufacturer, wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the United States, excluding those prices described in subclauses (I) through (IV) of clause (i)."; and

(2) in subsection (k), as amended by section 6001(c)(1), by adding at the end the following:

"(C) INCLUSION OF SECTION 505(c) DRUGS.—In the case of a manufacturer that approves, allows, or otherwise permits any drug of the manufacturer to be sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act, such term shall be inclusive of the average price paid for such drug by wholesalers for drugs distributed to the retail pharmacy class of trade.".

(c) EFFECTIVE DATE.—The amendments made by this section take effect on January 1, 2007.

SEC. 6004. CHILDREN'S HOSPITAL PARTICIPATION IN SECTION 340B DRUG DISCOUNT PROGRAM.

(a) IN GENERAL.—Section 1927(a)(5)(B) of the Social Security Act (42 U.S.C. 1396r–8(a)(5)(B)) is amended by inserting before the period at the end the following: "and a children's hospital described in section 1886(d)(1)(B)(iii) which meets the requirements of clauses (i) and (iii) of section 340B(b)(4)(L) of the Public Health Service Act and which would meet the requirements of clause (ii) of such section if that clause were applied by taking into account the percentage of care provided by the hospital to patients eligible for medical assistance under a State plan under this title".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs purchased on or after the date of the enactment of this Act.

CHAPTER 2—LONG-TERM CARE UNDER MEDICAID

Subchapter A—Reform of Asset Transfer Rules

SEC. 6011. LENGTHENING LOOK-BACK PERIOD; CHANGE IN BEGINNING DATE FOR PERIOD OF INELIGIBILITY.

(a) LENGTHENING LOOK-BACK PERIOD FOR ALL DISPOSALS TO 5 YEARS.—Section 1917(c)(1)(B)(i) of the Social Security Act (42 U.S.C. 1396p(c)(1)(B)(i)) is amended by inserting "or in the case of any other disposal of assets made on or after the date of the enactment of the Deficit Reduction Act of 2005" before ", 60 months".

(b) CHANGE IN BEGINNING DATE FOR PERIOD OF INELIGIBILITY.—Section 1917(c)(1)(D) of such Act (42 U.S.C. 1396p(c)(1)(D)) is amended—

(1) by striking "(D) The date" and inserting "(D)(i) In the case of a transfer of asset made before the date of the enactment of the Deficit Reduction Act of 2005, the date"; and

(2) by adding at the end the following new clause:

"(ii) In the case of a transfer of asset made on or after the date of the enactment of the Deficit Reduction Act of 2005, the date specified in this subparagraph is the first day of a month during or after which assets have been transferred for less than fair market value, or the date on which the individual is eligible for medical assistance under the State plan and would otherwise be receiving institutional level care described in subparagraph (C) based on an approved application for such care but for the application of the penalty period, whichever is later, and which does not occur during any other period of ineligibility under this subsection.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers made on or after the date of the enactment of this Act.

(d) AVAILABILITY OF HARDSHIP WAIVERS.—Each State shall provide for a hardship waiver process in accordance with section 1917(c)(2)(D) of the Social Security Act (42 U.S.C. 1396p(c)(2)(D))—

(1) under which an undue hardship exists when application of the transfer of assets provision would deprive the individual—

(A) of medical care such that the individual's health or life would be endangered; or

(B) of food, clothing, shelter, or other necessities of life; and

(2) which provides for—

(A) notice to recipients that an undue hardship exception exists;

(B) a timely process for determining whether an undue hardship waiver will be granted; and

(C) a process under which an adverse determination can be appealed.

(e) ADDITIONAL PROVISIONS ON HARDSHIP WAIVERS.—

(1) APPLICATION BY FACILITY.—Section 1917(c)(2) of the Social Security Act (42 U.S.C. 1396p(c)(2)) is amended—

(A) by striking the semicolon at the end of subparagraph (D) and inserting a period; and

(B) by adding after and below such subparagraph the following:

"The procedures established under subparagraph (D) shall permit the facility in which the institutionalized individual is residing to file an undue hardship waiver application on behalf of the individual with the consent of the individual or the personal representative of the individual.".

(2) AUTHORITY TO MAKE BED HOLD PAYMENTS FOR HARDSHIP APPLICANTS.—Such section is further amended by adding at the end the following: "While an application for an undue hardship waiver is pending under subparagraph (D) in the case of an individual who is a resident of a nursing facility, if the application meets such criteria as the Secretary specifies, the State may provide for payments for nursing facility services in order to hold the bed for the individual at the facility, but not in excess of payments for 30 days.".

SEC. 6012. DISCLOSURE AND TREATMENT OF ANNUITIES.

(a) IN GENERAL.—Section 1917 of the Social Security Act (42 U.S.C. 1396p) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e)(1) In order to meet the requirements of this section for purposes of section 1902(a)(18), a State shall require, as a condition for the provision of medical assistance for services described in subsection (c)(1)(C)(i) (relating to long-term care services) for an individual, the application of the individual for such assistance (including any recertification of eligibility for such assistance) shall disclose a description of any interest the individual or community spouse has in an annuity (or similar financial instrument, as may be specified by the Secretary), regardless of whether the annuity is irrevocable or is treated as an asset. Such application or recertification form shall include a statement that under paragraph (2) the State becomes a remainder beneficiary under such an annuity or similar financial instrument by virtue of the provision of such medical assistance.

"(2)(A) In the case of disclosure concerning an annuity under subsection (c)(1)(F), the State shall notify the issuer of the annuity of the right of the State under such subsection as a preferred remainder beneficiary in the annuity for medical assistance furnished to the individual. Nothing in this paragraph shall be construed as preventing such an issuer from notifying persons with any other remainder interest of the State's remainder interest under such subsection.

"(B) In the case of such an issuer receiving notice under subparagraph (A), the State may require the issuer to notify the State when there is a change in the amount of income or principal being withdrawn from the amount that was being withdrawn at the time of the most recent disclosure described in paragraph (1). A State shall take such information into account in determining the amount of the State's obligations for medical assistance or in the individual's eligibility for such assistance.

"(3) The Secretary may provide guidance to States on categories of transactions that may be treated as a transfer of asset for less than fair market value.

"(4) Nothing in this subsection shall be construed as preventing a State from denying eligibility for medical assistance for an individual based on the income or resources derived from an annuity described in paragraph (1).".

(b) REQUIREMENT FOR STATE TO BE NAMED AS A REMAINDER BENEFICIARY.—Section 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), is amended by adding at the end the following:

"(F) For purposes of this paragraph, the purchase of an annuity shall be treated as the disposal of an asset for less than fair market value unless—

"(i) the State is named as the remainder beneficiary in the first position for at least the total amount of medical assistance paid on behalf of the annuitant under this title; or

"(ii) the State is named as such a beneficiary in the second position after the community spouse or minor or disabled child and is named in the first position if such spouse or a representative of such child disposes of any such remainder for less than fair market value.".

(c) INCLUSION OF TRANSFERS TO PURCHASE BALLOON ANNUITIES.—Section 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), as amended by subsection (b), is amended by adding at the end the following:

"(G) For purposes of this paragraph with respect to a transfer of assets, the term 'assets' includes an annuity purchased by or on behalf of an annuitant who has applied for medical assistance with respect to nursing facility services or other long-term care services under this title unless—

"(i) the annuity is—

"(I) an annuity described in subsection (b) or (q) of section 408 of the Internal Revenue Code of 1986; or

"(II) purchased with proceeds from—

"(aa) an account or trust described in subsection (a), (c), (p) of section 408 of such Code;

"(bb) a simplified employee pension (within the meaning of section 408(k) of such Code); or

"(cc) a Roth IRA described in section 408A of such Code; or

"(ii) the annuity—

"(I) is irrevocable and nonassignable;

"(II) is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief Actuary of the Social Security Administration); and

"(III) provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments made.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions (including the purchase of an annuity) occurring on or after the date of the enactment of this Act.

SEC. 6013. APPLICATION OF "INCOME-FIRST" RULE IN APPLYING COMMUNITY SPOUSE'S INCOME BEFORE ASSETS IN PROVIDING SUPPORT OF COMMUNITY SPOUSE.

(a) IN GENERAL.—Section 1924(d) of the Social Security Act (42 U.S.C. 1396r–5(d)) is amended by adding at the end the following new subparagraph:

"(6) APPLICATION OF 'INCOME FIRST' RULE TO REVISION OF COMMUNITY SPOUSE RESOURCE ALLOWANCE.—For purposes of this subsection and subsections (c) and (e), a State must consider that all income of the institutionalized spouse that could be made available to a community spouse, in accordance with the calculation of the community spouse monthly income allowance under this subsection, has been made available before the State allocates to the community spouse an amount of resources adequate to provide the difference between the minimum monthly maintenance needs allowance and all income available to the community spouse.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers and allocations made on or after the date of the enactment of this Act by individuals who become institutionalized spouses on or after such date.

SEC. 6014. DISQUALIFICATION FOR LONG-TERM CARE ASSISTANCE FOR INDIVIDUALS WITH SUBSTANTIAL HOME EQUITY.

(a) IN GENERAL.—Section 1917 of the Social Security Act, as amended by section 6012(a), is further amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1)(A) Notwithstanding any other provision of this title, subject to subparagraphs (B) and (C) of this paragraph and paragraph (2), in determining eligibility of an individual for medical assistance with respect to nursing facility services or other long-term care services, the individual shall not be eligible for such assistance if the individual's equity interest in the individual's home exceeds $500,000.

"(B) A State may elect, without regard to the requirements of section 1902(a)(1) (relating to statewideness) and section 1902(a)(10)(B) (relating to comparability), to apply subparagraph (A) by substituting for '$500,000', an amount that exceeds such amount, but does not exceed $750,000.

"(C) The dollar amounts specified in this paragraph shall be increased, beginning with 2011, from year to year based on the percentage increase in the consumer price index for all urban consumers (all items; United States city average), rounded to the nearest $1,000.

"(2) Paragraph (1) shall not apply with respect to an individual if—

"(A) the spouse of such individual, or

"(B) such individual's child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614,

is lawfully residing in the individual's home.

"(3) Nothing in this subsection shall be construed as preventing an individual from using a reverse mortgage or home equity loan to reduce the individual's total equity interest in the home.

"(4) The Secretary shall establish a process whereby paragraph (1) is waived in the case of a demonstrated hardship.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who are determined eligible for medical assistance with respect to nursing facility services or other long-term care services based on an application filed on or after January 1, 2006.

SEC. 6015. ENFORCEABILITY OF CONTINUING CARE RETIREMENT COMMUNITIES (CCRC) AND LIFE CARE COMMUNITY ADMISSION CONTRACTS.

(a) ADMISSION POLICIES OF NURSING FACILITIES.—Section 1919(c)(5) of the Social Security Act (42 U.S.C. 1396r(c)(5)) is amended—

(1) in subparagraph (A)(i)(II), by inserting "subject to clause (v)," after "(II)"; and

(2) by adding at the end of subparagraph (B) the following new clause:

"(v) TREATMENT OF CONTINUING CARE RETIREMENT COMMUNITIES ADMISSION CONTRACTS.—Notwithstanding subclause (II) of subparagraph (A)(i), subject to subsections (c) and (d) of section 1924, contracts for admission to a State licensed, registered, certified, or equivalent continuing care retirement community or life care community, including services in a nursing facility that is part of such community, may require residents to spend on their care resources declared for the purposes of admission before applying for medical assistance.".

(b) TREATMENT OF ENTRANCE FEES.—Section 1917 of such Act (42 U.S.C. 1396p), as amended by sections 6012(a) and 6014(a), is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) TREATMENT OF ENTRANCE FEES OF INDIVIDUALS RESIDING IN CONTINUING CARE RETIREMENT COMMUNITIES.—

"(1) IN GENERAL.—For purposes of determining an individual's eligibility for, or amount of, benefits under a State plan under this title, the rules specified in paragraph (2) shall apply to individuals residing in continuing care retirement communities or life care communities that collect an entrance fee on admission from such individuals.

"(2f TREATMENT OF ENTRANCE FEE.—For purposes of this subsection, an individual's entrance fee in a continuing care retirement community or life care community shall be considered a resource available to the individual to the extent that—

"(A) the individual has the ability to use the entrance fee, or the contract provides that the entrance fee may be used, to pay for care should other resources or income of the individual be insufficient to pay for such care;

"(B) the individual is eligible for a refund of any remaining entrance fee when the individual dies or terminates the continuing care retirement community or life care community contract and leaves the community; and

"(C) the entrance fee does not confer an ownership interest in the continuing care retirement community or life care community.".

SEC. 6016. ADDITIONAL REFORMS OF MEDICAID ASSET TRANSFER RULES.

(a) REQUIREMENT TO IMPOSE PARTIAL MONTHS OF INELIGIBILITY.—Section 1917(c)(1)(E) of the Social Security Act (42 U.S.C. 1396p(c)(1)(E)) is amended by adding at the end the following:

"(iv) A State shall not round down, or otherwise disregard any fractional period of ineligibility determined under clause (i) or (ii) with respect to the disposal of assets.".

(b) AUTHORITY FOR STATES TO ACCUMULATE MULTIPLE TRANSFERS INTO ONE PENALTY PERIOD.—Section 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), as amended by subsections (b) and (c) of section 6012, is amended by adding at the end the following:

"(H) Notwithstanding the preceding provisions of this paragraph, in the case of an individual (or individual's spouse) who makes multiple fractional transfers of assets in more than 1 month for less than fair market value on or after the applicable look-back date specified in subparagraph (B), a State may determine the period of ineligibility applicable to such individual under this paragraph by—

"(i) treating the total, cumulative uncompensated value of all assets transferred by the individual (or individual's spouse) during all months on or after the look-back date specified in subparagraph (B) as 1 transfer for purposes of clause (i) or (ii) (as the case may be) of subparagraph (E); and

"(ii) beginning such period on the earliest date which would apply under subparagraph (D) to any of such transfers.".

(c) INCLUSION OF TRANSFER OF CERTAIN NOTES AND LOANS ASSETS.—Section 1917(c)(1) of such Act (42 U.S.C. 1396 p(c)(1)), as amended by subsection (b), is amended by adding at the end the following:

"(I) For purposes of this paragraph with respect to a transfer of assets, the term 'assets' includes funds used to purchase a promissory note, loan, or mortgage unless such note, loan, or mortgage—

"(i) has a repayment term that is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief Actuary of the Social Security Administration);

"(ii) provides for payments to be made in equal amounts during the term of the loan, with no deferral and no balloon payments made; and

"(iii) prohibits the cancellation of the balance upon the death of the lender.

In the case of a promissory note, loan, or mortgage that does not satisfy the requirements of clauses (i) through (iii), the value of such note, loan, or mortgage shall be the outstanding balance due as of the date of the individual's application for medical assistance for services described in subparagraph (C).".

(d) INCLUSION OF TRANSFERS TO PURCHASE LIFE ESTATES.—Section 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), as amended by subsection (c), is amended by adding at the end the following:

"(J) For purposes of this paragraph with respect to a transfer of assets, the term 'assets' includes the purchase of a life estate interest in another individual's home unless the purchaser resides in the home for a period of at least 1 year after the date of the purchase.".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to payments under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for calendar quarters beginning on or after the date of enactment of this Act, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) EXCEPTIONS.—The amendments made by this section shall not apply—

(A) to medical assistance provided for services furnished before the date of enactment;

(B) with respect to assets disposed of on or before the date of enactment of this Act; or

(C) with respect to trusts established on or before the date of enactment of this Act.

(3) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by a provision of this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

Subchapter B—Expanded Access to Certain Benefits

SEC. 6021. EXPANSION OF STATE LONG-TERM CARE PARTNERSHIP PROGRAM.

(a) EXPANSION AUTHORITY.—

(1) IN GENERAL.—Section 1917(b) of the Social Security Act (42 U.S.C. 1396p(b)) is amended—

(A) in paragraph (1)(C)—

(i) in clause (ii), by inserting "and which satisfies clause (iv), or which has a State plan *amendment that provides for a qualified State long-term care insurance partnership (as defined in clause (iii))" after "1993,"; and*

(ii) by adding at the end the following new clauses:

"(iii) For purposes of this paragraph, the term 'qualified State long-term care insurance partnership' means an approved State plan amendment under this title that provides for the disregard of any assets or resources in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary under a long-term care insurance policy if the following requirements are met:

"(I) The policy covers an insured who was a resident of such State when coverage first became effective under the policy.

"(II) The policy is a qualified long-term care insurance policy (as defined in section 7702B(b) of the Internal Revenue Code of 1986) issued not earlier than the effective date of the State plan amendment.

"(III) The policy meets the model regulations and the requirements of the model Act specified in paragraph (5).

"(IV) If the policy is sold to an individual who—

"(aa) has not attained age 61 as of the date of purchase, the policy provides compound annual inflation protection;

"(bb) has attained age 61 but has not attained age 76 as of such date, the policy provides some level of inflation protection; and

"(cc) has attained age 76 as of such date, the policy may (but is not required to) provide some level of inflation protection.

"(V) The State Medicaid agency under section 1902(a)(5) provides information and technical assistance to the State insurance department on the insurance department's role of assuring that any individual who sells a long-term care insurance policy under the partnership receives training and demonstrates evidence of an understanding of such policies and how they relate to other public and private coverage of long-term care.

"(VI) The issuer of the policy provides regular reports to the Secretary, in accordance with regulations of the Secretary, that include notification regarding when benefits provided under the policy have been paid and the amount of such benefits paid, notification regarding when the policy otherwise terminates, and such other information as the Secretary determines may be appropriate to the administration of such partnerships.

"(VII) The State does not impose any requirement affecting the terms or benefits of such a policy unless the State imposes such requirement on long-term care insurance policies without regard to whether the policy is covered under the partnership or is offered in connection with such a partnership.

In the case of a long-term care insurance policy which is exchanged for another such policy, subclause (I) shall be applied based on the coverage of the first such policy that was exchanged. For purposes of this clause and paragraph (5), the term 'long-term care insurance policy' includes a certificate issued under a group insurance contract

"(iv) With respect to a State which had a State plan amendment approved as of May 14, 1993, such a State satisfies this clause for purposes of clause (ii) if the Secretary determines that the State plan amendment provides for consumer protection standards which are no less stringent than the consumer protection standards which applied under such State plan amendment as of December 31, 2005.

"(v) The regulations of the Secretary required under clause (iii)(VI) shall be promulgated after consultation with the National Association of Insurance Commissioners, issuers of long-term care insurance policies, States with experience with long-term care insurance partnership plans, other States, and representatives of consumers of long-term care insurance policies, and shall specify the type and format of the data and information to be reported and the frequency with which such reports are to be made. The Secretary, as appropriate, shall provide copies of the reports provided in accordance with that clause to the State involved.

"(vi) The Secretary, in consultation with other appropriate Federal agencies, issuers of long-term care insurance, the National Association of Insurance Commissioners, State insurance commissioners, States with experience with long-term care insurance partnership plans, other States, and representatives of consumers of long-term care insurance policies, shall develop recommendations for Congress to authorize and fund a uniform minimum data set to be reported electronically by all issuers of long-term care insurance policies under qualified State long-term care insurance partnerships to a secure, centralized electronic query and report-generating mechanism that the State, the Secretary, and other Federal agencies can access."; and

(B) by adding at the end the following:

"(5)(A) For purposes of clause (iii)(III), the model regulations and the requirements of the model Act specified in this paragraph are:

' "(i) In the case of the model regulation, the following requirements:

"(I) Section 6A (relating to guaranteed renewal or noncancellability), other than paragraph (5) thereof, and the requirements of section 6B of the model Act relating to such section 6A.

"(II). Section 6B (relating to prohibitions on limitations and exclusions) other than paragraph (7) thereof.

"(III) Section 6C (relating to extension of benefits).

"(IV) Section 6D (relating to continuation or conversion of coverage).

"(V) Section 6E (relating to discontinuance and replacement of policies).

"(VI) Section 7 (relating to unintentional lapse).

"(VII) Section 8 (relating to disclosure), other than sections 8F, 8G, 8H, and 8I thereof.

"(VIII) Section 9 (relating to required disclosure of rating practices to consumer).

"(IX) Section 11 (relating to prohibitions against post-claims underwriting).

"(X) Section 12 (relating to minimum standards).

"(XI) Section 14 (relating to application forms and replacement coverage).

"(XII) Section 15 (relating to reporting requirements).

"(XIII) Section 22 (relating to filing requirements for marketing).

"(XIV) Section 23 (relating to standards for marketing), including inaccurate completion of medical histories, other than paragraphs (1), (6), and (9) of section 23C.

"(XV) Section 24 (relating to suitability).

"(XVI) Section 25 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

"(XVII) The provisions of section 26 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in paragraph (4).

"(XVIII) Section 29 (relating to standard format outline of coverage).

"(XIX) Section 30 (relating to requirement to deliver shopper's guide).

"(ii) In the case of the model Act, the following:

"(I) Section 6C (relating to preexisting conditions).

"(II) Section 6D (relating to prior hospitalization).

"(III) The provisions of section 8 relating to contingent nonforfeiture benefits.

"(IV) Section 6F (relating to right to return).

"(V) Section 6G (relating to outline of coverage).

"(VI) Section 6H (relating to requirements for certificates under group plans).

"(VII) Section 6J (relating to policy summary).

"(VIII) Section 6K (relating to monthly reports on accelerated death benefits).

"(IX) Section 7 (relating to incontestability period).

"(B) For purposes of this paragraph and paragraph (1)(C)—

"(i) the terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of October 2000);

"(ii) any provision of the model regulation or model Act listed under subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision; and

"(iii) with respect to a long-term care insurance policy issued in a State, the policy shall be deemed to meet applicable requirements of the model regulation or the model Act if the State plan amendment under paragraph (1)(C)(iii) provides that the State insurance commissioner for the State certifies (in a manner satisfactory to the Secretary) that the policy meets such requirements.

"(C) Not later than 12 months after the National Association of Insurance Commissioners issues a revision, update, or other modification of a model regulation or model Act provision specified in subparagraph (A), or of any provision of such regulation or Act that is substantively related to a provision specified in such subparagraph, the Secretary shall review the changes made to the provision, determine whether incorporating such changes into the corresponding provision specified in such subparagraph would improve qualified State long-term care insurance partnerships, and if so, shall incorporate the changes into such provision.".

(2) STATE REPORTING REQUIREMENTS.—Nothing in clauses (iii)(VI) and (v) of section 1917(b)(1)(C) of the Social Security Act (as added by paragraph (1)) shall be construed as prohibiting a State from requiring an issuer of a long-term care insurance policy sold in the State (regardless of whether the policy is issued under a qualified State long-term care insurance partnership under section 1917(b)(1)(C)(iii) of such Act) to require the issuer to report information or data to the State that is in addition to the information or data required under such clauses.

(3) EFFECTIVE DATE.—A State plan amendment that provides for a qualified State long-term care insurance partnership under the amendments made by paragraph (1) may provide that such amendment is effective for long-term care insurance policies issued on or after a date, specified in the amendment, that is not earlier than the first day of the first calendar quarter in which the plan amendment was submitted to the Secretary of Health and Human Services.

(b) STANDARDS FOR RECIPROCAL RECOGNITION AMONG PARTNERSHIP STATES.—In order to permit portability in long-term care insurance policies purchased under State long-term care insurance partnerships, the Secretary of Health and Human Services shall develop, not later than January 1, 2007, and in consultation with the National Association of Insurance Commissioners, issuers of long-term care insurance policies, States with experience with long-term care

insurance partnership plans, other States, and representatives of consumers of long-term care insurance policies, standards for uniform reciprocal recognition of such policies among States with qualified State long-term care insurance partnerships under which—

(1) benefits paid under such policies will be treated the same by all such States; and

(2) States with such partnerships shall be subject to such standards unless the State notifies the Secretary in writing of the State's election to be exempt from such standards.

(c) ANNUAL REPORTS TO CONGRESS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall annually report to Congress on the long-term care insurance partnerships established in accordance with section 1917(b)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)(ii)) (as amended by subsection (a)(1)). Such reports shall include analyses of the extent to which such partnerships expand or limit access of individuals to long-term care and the impact of such partnerships on Federal and State expenditures under the Medicare and Medicaid programs. Nothing in this section shall be construed as requiring the Secretary to conduct an independent review of each long-term care insurance policy offered under or in connection with such a partnership.

(2) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary of Health and Human Services, $1,000,000 for the period of fiscal years 2006 through 2010 to carry out paragraph (1).

(d) NATIONAL CLEARINGHOUSE FOR LONG-TERM CARE INFORMATION.—

(1) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a National Clearinghouse for Long-Term Care Information. The Clearinghouse may be established through a contract or interagency agreement.

(2) DUTIES.—

(A) IN GENERAL.—The National Clearinghouse for Long-Term Care Information shall—

(i) educate consumers with respect to the availability and limitations of coverage for long-term care under the Medicaid program and provide contact information for obtaining State-specific information on long-term care coverage, including eligibility and estate recovery requirements under State Medicaid programs;

(ii) provide objective information to assist consumers with the decisionmaking process for determining whether to purchase long-term care insurance or to pursue other private market alternatives for purchasing long-term care and provide contact information for additional objective resources on planning for long-term care needs; and

(iii) maintain a list of States with State long-term care insurance partnerships under the Medicaid program that provide reciprocal recognition of long-term care insurance policies issued under such partnerships.

(B) REQUIREMENT.—In providing information to consumers on long-term care in accordance with this subsection, the National Clearinghouse for Long-Term Care Information shall not advocate in favor of a specific long-term care insurance provider or a specific long-term care insurance policy.

(3) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to carry out this subsection, $3,000,000 for each of fiscal years 2006 through 2010.

CHAPTER 3—ELIMINATING FRAUD, WASTE, AND ABUSE IN MEDICAID

SEC. 6032. ENCOURAGING THE ENACTMENT OF STATE FALSE CLAIMS ACTS.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1908A the following:

"STATE FALSE CLAIMS ACT REQUIREMENTS FOR INCREASED STATE SHARE OF RECOVERIES

"SEC. 1909. (a) IN GENERAL.—Notwithstanding section 1905(b), if a State has in effect a law relating to false or fraudulent claims that meets the requirements of subsection (b), the Federal medical assistance percentage with respect to any amounts recovered under a State action brought under such law, shall be decreased by 10 percentage points.

"(b) REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are that the Inspector General of the Department of Health and Human Services, in consultation with the Attorney General, determines that the State has in effect a law that meets the following requirements:

"(1) The law establishes liability to the State for false or fraudulent claims described in section 3729 of title 31, United States Code, with respect to any expenditure described in section 1903(a).

"(2) The law contains provisions that are at least as effective in rewarding and facilitating qui tam actions for false or fraudulent claims as those described in sections 3730 through 3732 of title 31, United States Code.

"(3) The law contains a requirement for filing an action under seal for 60 days with review by the State Attorney General.

"(4) The law contains a civil penalty that is not less than the amount of the civil penalty authorized under section 3729 of title 31, United States Code.

"(c) DEEMED COMPLIANCE.—A State that, as of January 1, 2007, has a law in effect that meets the requirements of subsection (b) shall be deemed to be in compliance with such requirements for so long as the law continues to meet such requirements.

"(d) NO PRECLUSION OF BROADER LAWS.—Nothing in this section shall be construed as prohibiting a State that has in effect a law that establishes liability to the State for false or fraudulent claims described in section 3729 of title 31, United States Code, with respect to programs in addition to the State program under this title, or with respect to expenditures in addition to expenditures described in section 1903(a), from being considered to be in compliance with the requirements of subsection (a) so long as the law meets such requirements.".

(b) EFFECTIVE DATE.—Except as provided in section 6035(e), the amendments made by this section take effect on January 1, 2007.

SEC. 6033. EMPLOYEE EDUCATION ABOUT FALSE CLAIMS RECOVERY.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (66), by striking "and" at the end;

(2) in paragraph (67) by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (67) the following:

"(68) provide that any entity that receives or makes annual payments under the State plan of at least $5,000,000, as a condition of receiving such payments, shall—

"(A) establish written policies for all employees of the entity (including management), and of any contractor or agent of the entity, that provide detailed information about the False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statements established under chapter 38 of title 31, United States Code, any State laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in section 1128B(f));

"(B) include as part of such written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse; and

"(C) include in any employee handbook for the entity, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and the entity's policies and procedures for detecting and preventing fraud, waste, and abuse.".

(b) EFFECTIVE DATE.—Except as provided in section 6035(e), the amendments made by subsection (a) take effect on January 1, 2007.

SEC. 6034. PROHIBITION ON RESTOCKING AND DOUBLE BILLING OF PRESCRIPTION DRUGS.

(a) IN GENERAL.—Section 1903(i)(10) of the Social Security Act (42 U.S.C. 1396b(i)), as amended by section 6002(b), is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking "; or" at the end and inserting ", and"; and

(3) by adding at the end the following:

"(D) with respect to any amount expended for reimbursement to a pharmacy under this title for the ingredient cost of a covered outpatient drug for which the pharmacy has already received payment under this title (other than with respect to a reasonable restocking fee for such drug); or".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the first day of the first fiscal year quarter that begins after the date of enactment of this Act.

SEC. 6035. MEDICAID INTEGRITY PROGRAM.

(a) ESTABLISHMENT OF MEDICAID INTEGRITY PROGRAM.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) by redesignating section 1936 as section 1937; and

(2) by inserting after section 1935 the following:

"MEDICAID INTEGRITY PROGRAM

"SEC. 1936. (a) IN GENERAL.—There is hereby established the Medicaid Integrity Program (in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the program under this title by entering into contracts in accordance with this section with eligible entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED—Activities described in this subsection are as follows:

"(1) Review of the actions of individuals or entities furnishing items or services (whether on a fee-for-service, risk, or other basis) for which payment may be made under a State plan approved under this title (or under any waiver of such plan approved under section 1115) to determine whether fraud, waste, or abuse has occurred, is likely to occur, or whether such actions have any potential for resulting in an expenditure of funds under this title in a manner which is not intended under the provisions of this title.

"(2) Audit of claims for payment for items or services furnished, or administrative services rendered, under a State plan under this title, including—

"(A) cost reports;

"(B) consulting contracts; and

"(C) risk contracts under section 1903(m).

"(3) Identification of overpayments to individuals or entities receiving Federal funds under this title.

"(4) Education of providers of services, managed care entities, beneficiaries, and other individuals with respect to payment integrity and quality of care.

"(c) ELIGIBLE ENTITY AND CONTRACTING REQUIREMENTS.—

"(1) IN GENERAL.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if the entity satisfies the requirements of paragraphs (2) and (3).

"(2) ELIGIBILITY REQUIREMENTS.—The requirements of this paragraph are the following:

"(A) The entity has demonstrated capability to carry out the activities described in subsection (b).

"(B) In carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities.

"(C) The entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement.

"(D) The entity meets such other requirements as the Secretary may impose.

"(3) CONTRACTING REQUIREMENTS.—The entity has contracted with the Secretary in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following:

"(A) Procedures for identifying, evaluating, and resolving organizational conflicts of interest that are generally applicable to Federal acquisition and procurement.

"(B) Competitive procedures to be used—

"(i) when entering into new contracts under this section;

"(ii) when entering into contracts that may result in the elimination of responsibilities under section 202(b) of the Health Insurance Portability and Accountability Act of 1996; and

"(iii) at any other time considered appropriate by the Secretary.

"(C) Procedures under which a contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

The Secretary may enter into such contracts without regard to final rules having been promulgated.

"(4) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.

"(d) COMPREHENSIVE PLAN FOR PROGRAM INTEGRITY.—

"(1) 5-YEAR PLAN.—With respect to the 5 fiscal year period beginning with fiscal year 2006, and each such 5-fiscal year period that begins thereafter, the Secretary shall establish a comprehensive plan for ensuring the integrity of the program established under this title by combatting fraud, waste, and abuse.

"(2) CONSULTATION.—Each 5-fiscal year plan established under paragraph (1) shall be developed by the Secretary in consultation with the Attorney General, the Director of the Federal Bureau of Investigation, the Comptroller General of the United States, the Inspector General of the Department of Health and Human Services, and State officials with responsibility for controlling provider fraud and abuse under State plans under this title.

"(e) APPROPRIATION.—

"(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to carry out the Medicaid Integrity Program under this section, without further appropriation—

"(A) for fiscal year 2006, $5,000,000;

"(B) for each of fiscal years 2007 and 2008, $50,000,000; and

"(C) for each fiscal year thereafter, $75,000,000.

"(2) AVAILABILITY.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

"(3) INCREASE IN CMS STAFFING DEVOTED TO PROTECTING MEDICAID PROGRAM INTEGRITY.—From the amounts appropriated under paragraph (1), the Secretary shall increase by 100 the number of full-time equivalent employees whose duties consist solely of protecting the integrity of the Medicaid program established under this section by providing effective support and assistance to States to combat provider fraud and abuse.

"(4) ANNUAL REPORT.—Not later than 180 days after the end of each fiscal year (beginning with fiscal year 2006), the Secretary shall submit a report to Congress which identifies—

"(A) the use of funds appropriated pursuant to paragraph (1); and

"(B) the effectiveness of the use of such funds.".

(b) STATE REQUIREMENT TO COOPERATE WITH INTEGRITY PROGRAM EFFORTS.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)), as amended by section 6033(a), is amended—

(1) in paragraph (67), by striking "and" at the end;

(2) in paragraph (68), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (68), the following:

"(69) provide that the State must comply with any requirements determined by the Secretary to be necessary for carrying out the Medicaid Integrity Program established under section 1936.".

(c) INCREASED FUNDING FOR MEDICAID FRAUD AND ABUSE CONTROL ACTIVITIES.—

(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Office of the Inspector General of the Department of Health and Human Services, without further appropriation, $25,000,000 for each of fiscal years 2006 through 2010, for activities of such Office with respect to the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(2) AVAILABILITY; AMOUNTS IN ADDITION TO OTHER AMOUNTS APPROPRIATED FOR SUCH ACTIVITIES.—Amounts appropriated pursuant to paragraph (1) shall—

(A) remain available until expended; and

(B) be in addition to any other amounts appropriated or made available to the Office of the Inspector General of the Department of Health and Human Services for activities of such Office with respect to the Medicaid program.

(3) ANNUAL REPORT.—Not later than 180 days after the end of each fiscal year (beginning with fiscal year 2006), the Inspector General of the Department of Health and Human Services shall submit a report to Congress which identifies—

(A) the use of funds appropriated pursuant to paragraph (1); and

(B) the effectiveness of the use of such funds.

(d) NATIONAL EXPANSION OF THE MEDICARE-MEDICAID (MEDI-MEDI) DATA MATCH PILOT PROGRAM.—

(1) REQUIREMENT OF THE MEDICARE INTEGRITY PROGRAM.—Section 1893 of the Social Security Act (42 U.S.C. 1395ddd) is amended—

(A) in subsection (b), by adding at the end the following:

"(6) The Medicare-Medicaid Data Match Program in accordance with subsection (g)."; and

(B) by adding at the end the following:

"(g) MEDICARE-MEDICAID DATA MATCH PROGRAM.—

"(1) EXPANSION OF PROGRAM.—

"(A) IN GENERAL.—The Secretary shall enter into contracts with eligible entities for the purpose of ensuring that, beginning with 2006, the Medicare-Medicaid Data Match Program (commonly referred to as the 'Medi-Medi Program') is conducted with respect to the program established under this title and State Medicaid programs under title XIX for the purpose of—

"(i) identifying program vulnerabilities in the program established under this title and the Medicaid program established under title XIX through the use of computer algorithms to look for payment anomalies (including billing or billing patterns identified with respect to service, time, or patient that appear to be suspect or otherwise implausible);

"(ii) working with States, the Attorney General, and the Inspector General of the Department of Health and Human Services to coordinate appropriate actions to protect the Federal and State share of expenditures under the Medicaid program under title XIX, as well as the program established under this title; and

"(iii) increasing the effectiveness and efficiency of both such programs through cost avoidance, savings, and recoupments of fraudulent, wasteful, or abusive expenditures.

"(B) REPORTING REQUIREMENTS.—The Secretary shall make available in a timely manner any data and statistical information collected by the Medi-Medi Program to the Attorney General, the Director of the Federal Bureau of Investigation, the Inspector General of the Department of Health and Human Services, and the States (including a medicaid fraud and abuse control unit described in section 1903(q)). Such information shall be disseminated no less frequently than quarterly.

"(2) LIMITED WAIVER AUTHORITY.—The Secretary shall waive only such requirements of this section and of titles XI and XIX as are necessary to carry out paragraph (1).".

(2) FUNDING.—Section 1817(k)(4) of such Act (42 U.S.C. 1395i(k)(4)), as amended by section 5204 of this Act, is amended—

(A) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraphs (B), (C), and (D)"; and

(B) by adding at the end the following:

"(D) EXPANSION OF THE MEDICARE-MEDICAID DATA MATCH PROGRAM.—The amount appropriated under subparagraph (A) for a fiscal year is further increased as follows for purposes of carrying out section 1893(b)(6) for the respective fiscal year:

"(i) $12,000,000 for fiscal year 2006.

"(ii) $24,000,000 for fiscal year 2007.

"(iii) $36,000,000 for fiscal year 2008.

"(iv) $48,000,000 for fiscal year 2009.

"(v) $60,000,000 for fiscal year 2010 and each fiscal year thereafter.".

(e) DELAYED EFFECTIVE DATE FOR CHAPTER.—Except as otherwise provided in this chapter, in the case of a State plan under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by a provision of this chapter, the State plan shall not be regarded as failing to comply with the requirements of such Act solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

SEC. 6036. ENHANCING THIRD PARTY IDENTIFICATION AND PAYMENT.

(a) CLARIFICATION OF THIRD PARTIES LEGALLY RESPONSIBLE FOR PAYMENT OF A CLAIM FOR A HEALTH CARE ITEM OR SERVICE.—Section 1902(a)(25) of the Social Security Act (42 U.S.C. 1396a(a)(25)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by inserting ", self-insured plans" after "health insurers"; and

(B) by striking "and health maintenance organizations" and inserting "managed care organizations, pharmacy benefit managers, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service"; and

(2) in subparagraph (G)—

(A) by inserting "a self-insured plan," after "1974,"; and

(B) by striking "and a health maintenance organization" and inserting "a managed care organization, a pharmacy benefit manager, or other party that is, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service".

(b) REQUIREMENT FOR THIRD PARTIES TO PROVIDE THE STATE WITH COVERAGE ELIGIBILITY AND CLAIMS DATA.—Section 1902(a)(25) of such Act (42 U.S.C. 1396a(a)(25)) is amended—

(1) in subparagraph (G), by striking "and" at the end;

(2) in subparagraph (H), by adding "and" after the semicolon at the end; and

(3) by inserting after subparagraph (H), the following:

"(I) that the State shall provide assurances satisfactory to the Secretary that the State has in effect laws requiring health insurers, including self-insured plans, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), service benefit plans, managed care organizations, pharmacy benefit managers, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service, as a condition of doing business in the State, to—

"(i) provide, with respect to individuals who are eligible for, or are provided, medical assistance under the State plan, upon the request of the State, information to determine during what period the individual or their spouses or their dependents may be (or may have been) covered by a health insurer and the nature of the coverage that is or was provided by the health insurer (including the name, address, and identifying number of the plan) in a manner prescribed by the Secretary;

"(ii) accept the State's right of recovery and the assignment to the State of any right of an individual or other entity to payment from the party for an item or service for which payment has been made under the State plan;

"(iii) respond to any inquiry by the State regarding a claim for payment for any health care item or service that is submitted not later than 3 years after the date of the provision of such health care item or service; and

"(iv) agree not to deny a claim submitted by the State solely on the basis of the date of submission of the claim, the type or format of the claim form, or a failure to present proper documentation at the point-of-sale that is the basis of the claim, if—

"(I) the claim is submitted by the State within the 3-year period beginning on the date on which the item or service was furnished; and

"(II) any action by the State to enforce its rights with respect to such claim is commenced within 6 years of the State's submission of such claim;".

(c) EFFECTIVE DATE.—Except as provided in section 6035(e), the amendments made by this section take effect on January 1, 2006.

SEC. 6037. IMPROVED ENFORCEMENT OF DOCUMENTATION REQUIREMENTS.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (i), as amended by section 104 of Public Law 109–91

(A) by striking "or" at the end of paragraph (20);

(B) by striking the period at the end of paragraph (21) and inserting "; or"; and

(C) by inserting after paragraph (21) the following new paragraph:

"(22) with respect to amounts expended for medical assistance for an individual who declares under section 1137(d)(1)(A) to be a citizen or national of the United States for purposes of establishing eligibility for benefits under this title, unless the requirement of subsection (x) is met."; and

(2) by adding at the end the following new subsection:

"(x)(1) For purposes of subsection (i)(23), the requirement of this subsection is, with respect to an individual declaring to be a citizen or national of the United States, that, subject to paragraph (2), there is presented satisfactory documentary evidence of citizenship or nationality (as defined in paragraph (3)) of the individual.

"(2) The requirement of paragraph (1) shall not apply to an alien who is eligible for medical assistance under this title—

"(A) and is entitled to or enrolled for benefits under any part of title XVIII;

"(B) on the basis of receiving supplemental security income benefits under title XVI; or

"(C) on such other basis as the Secretary may specify under which satisfactory documentary evidence of citizenship or nationality had been previously presented.

"(3)(A) For purposes of this subsection, the term 'satisfactory documentary evidence of citizenship or nationality' means—

"(i) any document described in subparagraph (B); or

"(ii) a document described in subparagraph (C) and a document described in subparagraph (D).

"(B) The following are documents described in this subparagraph:

"(i) A United States passport.

"(ii) Form N–550 or N–570 (Certificate of Naturalization).

"(iii) Form N–560 or N–561 (Certificate of United States Citizenship).

"(iv) A valid State-issued driver's license or other identity document described in section 274A(b)(1)(D) of the Immigration and Nationality Act, but only if the State issuing the license or such document requires proof of United States citizenship before issuance of such license or document or obtains a social security number from the applicant and verifies before certification that such number is valid and assigned to the applicant who is a citizen.

"(v) Such other document as the Secretary may specify, by regulation, that provides proof of United States citizenship or nationality and that provides a reliable means of documentation of personal identity.

"(C) The following are documents described in this subparagraph:

"(i) A certificate of birth in the United States.

"(ii) Form FS–545 or Form DS–1350 (Certification of Birth Abroad).

"(iii) Form I–97 (United States Citizen Identification Card).

"(iv) Form FS–240 (Report of Birth Abroad of a Citizen of the United States).

"(v) Such other document (not described in subparagraph (B)(iv)) as the Secretary may specify that provides proof of United States citizenship or nationality.

"(D) The following are documents described in this subparagraph:

"(i) Any identity document described in section 274A(b)(1)(D) of the Immigration and Nationality Act.

"(ii) Any other documentation of personal identity of such other type as the Secretary finds, by regulation, provides a reliable means of identification.

"(E) A reference in this paragraph to a form includes a reference to any successor form.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to determinations of initial eligibility for medical assistance made on or after July 1, 2006, and to redeterminations of eligibility made on or after such date in the case of individuals for whom the requirement of section 1903(z) of the Social Security Act, as added by such amendments, was not previously met.

(c) IMPLEMENTATION REQUIREMENT.—As soon as practicable after the date of enactment of this Act, the Secretary of Health and Human Services shall establish an outreach program that is designed to educate individuals who are likely to be affected by the requirements of subsections (i)(23) and (x) of section 1903 of the Social Security Act (as added by subsection (a)) about such requirements and how they may be satisfied.

CHAPTER 4—FLEXIBILITY IN COST SHARING AND BENEFITS

SEC. 6041. STATE OPTION FOR ALTERNATIVE MEDICAID PREMIUMS AND COST SHARING.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended by inserting after section 1916 the following new section:

"STATE OPTION FOR ALTERNATIVE PREMIUMS AND COST SHARING

"SEC. 1916A. (a) STATE FLEXIBILITY.—

"(1) IN GENERAL.—Notwithstanding sections 1916 and 1902(a)(10)(B), a State, at its option and through a State plan amendment, may impose premiums and cost sharing for any group of individuals (as specified by the State) and for any type of services (other than drugs for which cost sharing may be imposed under subsection (c)), and may vary such premiums and cost sharing among such groups or types, consistent with the limitations established under this section. Nothing in this section shall be construed as superseding (or preventing the application of) section 1916(g).

"(2) DEFINITIONS.—In this section:

"(A) PREMIUM.—The term 'premium' includes any enrollment fee or similar charge.

"(B) COST SHARING.—The term 'cost sharing' includes any deduction, copayment, or similar charge.

"(b) LIMITATIONS ON EXERCISE OF AUTHORITY.—

"(1) INDIVIDUALS WITH FAMILY INCOME BETWEEN 100 AND 150 PERCENT OF THE POVERTY LINE.—In the case of an individual whose family income exceeds 100 percent, but does not exceed 150 percent, of the poverty line applicable to a family of the size involved, subject to subsections (c)(2) and (e)(2)(A)—

"(A) no premium may be imposed under the plan; and

"(B) with respect to cost sharing—

"(i) the cost sharing imposed under subsection (a) with respect to any item or service may not exceed 10 percent of the cost of such item or service; and

"(ii) the total aggregate amount of cost sharing imposed under this section (including any cost sharing imposed under subsection (c) or (e)) for all individuals in the family may not exceed 5 percent of the family income of the family involved, as applied on a quarterly or monthly basis (as specified by the State).

"(2) INDIVIDUALS WITH FAMILY INCOME ABOVE 150 PERCENT OF THE POVERTY LINE.—In the case of an individual whose family income exceeds 150 percent of the poverty line applicable to a family of the size involved, subject to subsections (c)(2) and (e)(2)(A)—

"(A) the total aggregate amount of premiums and cost sharing imposed under this section (including any cost sharing imposed under subsection (c) or (e)) for all individuals in the family may not exceed 5 percent of the family income of the family involved, as applied on a quarterly or monthly basis (as specified by the State); and

"(B) with respect to cost sharing, the cost sharing imposed with respect to any item or service under subsection (a) may not exceed 20 percent of the cost of such item or service.

"(3) ADDITIONAL LIMITATIONS.—

"(A) PREMIUMS.—No premiums shall be imposed under this section with respect to the following:

"(i) Individuals under 18 years of age that are required to be provided medical assistance under section 1902(a)(10)(A)(i), and including individuals with respect to whom aid or assistance is made available under part B of title IV to children in foster care and individuals with respect to whom adoption or foster care assistance is made available under part E of such title, without regard to age.

"(ii) Pregnant women.

"(iii) Any terminally ill individual who is receiving hospice care (as defined in section 1905(o)).

"(iv) Any individual who is an inpatient in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs.

"(v) Women who are receiving medical assistance by virtue of the application of sections 1902(a)(10)(A)(ii)(XVIII) and 1902(aa).

"(B) COST SHARING.—Subject to the succeeding provisions of this section, no cost sharing shall be imposed under subsection (a) with respect to the following:

"(i) Services furnished to individuals under 18 years of age that are required to be provided medical assistance under section 1902(a)(10)(A)(i), and including services furnished to individuals with respect to whom aid or assistance is made available under part B of title IV to children in foster care and individuals with respect to whom adoption or foster care assistance is made available under part E of such title, without regard to age.

"(ii) Preventive services (such as well baby and well child care and immunizations) provided to children under 18 years of age regardless of family income.

"(iii) Services furnished to pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy.

"(iv) Services furnished to a terminally ill individual who is receiving hospice care (as defined in section 1905(o)).

"(v) Services furnished to any individual who is an inpatient in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs.

"(vi) Emergency services (as defined by the Secretary for purposes of section 1916(a)(2)(D)).

"(vii) Family planning services and supplies described in section 1905(a)(4)(C).

"(viii) Services furnished to women who are receiving medical assistance by virtue of the application of sections 1902(a)(10)(A)(ii)(XVIII) and 1902(aa).

"(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a State from exempting additional classes of individuals from premiums under this section or from exempting additional individuals or services from cost sharing under subsection (a).

"(4) DETERMINATIONS OF FAMILY INCOME.—In applying this subsection, family income shall be determined in a manner specified by the State for purposes of this subsection, including the use of such disregards as the State may provide. Family income shall be determined for such period and at such periodicity as the State may provide under this title.

"(5) POVERTY LINE DEFINED.—For purposes of this section, the term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

"(6) CONSTRUCTION.—Nothing in this section shall be construed—

"(A) as preventing a State from further limiting the premiums and cost sharing imposed under this section beyond the limitations provided under this section;

"(B) as affecting the authority of the Secretary through waiver to modify limitations on premiums and cost sharing under this section; or

"(C) as affecting any such waiver of requirements in effect under this title before the date of the enactment of this section with regard to the imposition of premiums and cost sharing.

"(d) ENFORCEABILITY OF PREMIUMS AND OTHER COST SHARING.—

"(1) PREMIUMS.—Notwithstanding section 1916(c)(3) and section 1902(a)(10)(B), a State may, at its option, condition the provision of medical assistance for an individual upon prepayment of a premium authorized to be imposed under this section, or may terminate eligibility for such medical assistance on the basis of failure to pay such a premium but shall not terminate eligibility of an individual for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days. A State may apply the previous sentence for some or all groups of beneficiaries as specified by the State and may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.

"(2) COST SHARING.—Notwithstanding section 1916(e) or any other provision of law, a State may permit a provider participating under the State plan to require, as a condition for the provision of care, items, or services to an individual entitled to medical assistance under this title for such care, items, or services, the payment of any cost sharing authorized to be imposed under this section with respect to such care, items, or services. Nothing in this paragraph shall be construed as preventing a provider from reducing or waiving the application of such cost sharing on a case-by-case basis.".

(b) INDEXING NOMINAL COST SHARING AND CONFORMING AMENDMENT.—Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(1) in subsection (f), by inserting "and section 1916A" after "(b)(3)"; and

(2) by adding at the end the following new subsection:

"(h) In applying this section and subsections (c) and (e) of section 1916A, with respect to cost sharing that is 'nominal' in amount, the Secretary shall increase such 'nominal' amounts for each year (beginning with 2006) by the annual percentage increase in the medical care component of the consumer price index for all urban consumers (U.S. city average) as rounded up in an appropriate manner.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to cost sharing imposed for items and services furnished on or after March 31, 2006.

SEC. 6042. SPECIAL RULES FOR COST SHARING FOR PRESCRIPTION DRUGS.

(a) IN GENERAL.—Section 1916A of the Social Security Act, as inserted by section 6041(a), is amended by inserting after subsection (b) the following new subsection:

"(c) SPECIAL RULES FOR COST SHARING FOR PRESCRIPTION DRUGS.—

"(1) IN GENERAL.—In order to encourage beneficiaries to use drugs (in this subsection referred to as 'preferred drugs') identified by the State as the least (or less) costly effective prescription drugs within a class of drugs (as defined by the State), with respect to one or more groups of beneficiaries specified by the State, subject to paragraph (2), the State may—

"(A) provide cost sharing (instead of the level of cost sharing otherwise permitted under section 1916, but subject to paragraphs (2) and (3)) with respect to drugs that are not preferred drugs within a class; and

"(B) waive or reduce the cost sharing otherwise applicable for preferred drugs within such class and shall not apply any such cost sharing for such preferred drugs for individuals for whom cost sharing may not otherwise be imposed under subsection (b)(3)(B).

"(2) LIMITATIONS.—

"(A) BY INCOME GROUP.—In no case may the cost sharing under paragraph (1)(A) with respect to a non-preferred drug exceed—

"(i) in the case of an individual whose family income does not exceed 150 percent of the poverty line applicable to a family of the size involved, the amount of nominal cost sharing (as otherwise determined under section 1916); or

"(ii) in the case of an individual whose family income exceeds 150 percent of the poverty line applicable to a family of the size involved, 20 percent of the cost of the drug.

"(B) LIMITATION TO NOMINAL FOR EXEMPT POPULATIONS.—In the case of an individual who is otherwise not subject to cost sharing due to the application of subsection (b)(3)(B), any cost sharing under paragraph (1)(A) with respect to a non-preferred drug may not exceed a nominal amount (as otherwise determined under section 1916).

"(C) CONTINUED APPLICATION OF AGGREGATE CAP.—In addition to the limitations imposed under subparagraphs (A) and (B), any cost sharing under paragraph (1)(A) continues to be subject to the aggregate cap on cost sharing applied under paragraph (1) or (2) of subsection (b), as the case may be.

"(3) WAIVER.—In carrying out paragraph (1), a State shall provide for the application of cost sharing levels applicable to a preferred drug in the case of a drug that is not a preferred drug if the prescribing physician determines that the preferred drug for treatment of the same condition either would not be as effective for the individual or would have adverse effects for the individual or both.

"(4) EXCLUSION AUTHORITY.—Nothing in this subsection shall be construed as preventing a State from excluding specified drugs or classes of drugs from the application of paragraph (1).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to cost sharing imposed for items and services furnished on or after March 31, 2006.

SEC. 6043. EMERGENCY ROOM COPAYMENTS FOR NON-EMERGENCY CARE.

(a) IN GENERAL.—Section 1916A of the Social Security Act, as inserted by section 6041 and as amended by section 6042, is further amended by adding at the end the following new subsection:

"(e) STATE OPTION FOR PERMITTING HOSPITALS TO IMPOSE COST SHARING FOR NON-EMERGENCY CARE FURNISHED IN AN EMERGENCY DEPARTMENT.—

"(1) IN GENERAL.—Notwithstanding section 1916 and section 1902(a)(1) or the previous provisions of this section, but subject to the limitations of paragraph (2), a State may, by amendment to its State plan under this title, permit a hospital to impose cost sharing for non-emergency services furnished to an individual (within one or more groups of individuals specified by the State) in the hospital emergency department under this subsection if the following conditions are met:

"(A) ACCESS TO NON-EMERGENCY ROOM PROVIDER.—The individual has actually available and accessible (as such terms are applied by the Secretary under section 1916(b)(3)) an alternate non-emergency services provider with respect to such services.

"(B) NOTICE.—The hospital must inform the beneficiary after receiving an appropriate medical screening examination under section 1867 and after a determination has been made that the individual does not have an emergency medical condition, but before providing the non-emergency services, of the following:

"(i) The hospital may require the payment of the State specified cost sharing before the service can be provided.

"(ii) The name and location of an alternate non-emergency services provider (described in subparagraph (A)) that is actually available and accessible (as described in such subparagraph).

"(iii) The fact that such alternate provider can provide the services without the imposition of cost sharing described in clause (i).

"(iv) The hospital provides a referral to coordinate scheduling of this treatment.

Nothing in this subsection shall be construed as preventing a State from applying (or waiving) cost sharing otherwise permissible under this section to services described in clause (iii).

"(2) LIMITATIONS.—

"(A) FOR POOREST BENEFICIARIES.—In the case of an individual described in subsection (b)(1), the cost sharing imposed under this subsection may not exceed twice the amount determined to be nominal under section 1916, subject to the percent of income limitation otherwise applicable under subsection (b)(1).

"(B) APPLICATION TO EXEMPT POPULATIONS.—In the case of an individual who is otherwise not subject to cost sharing under subsection (b)(3), a State may impose cost sharing under paragraph (1) for care in an amount that does not exceed a nominal amount (as otherwise determined under section 1916) so long as no cost sharing is imposed to receive such care through an outpatient department or other alternative health care provider in the geographic area of the hospital emergency department involved.

"(C) CONTINUED APPLICATION OF AGGREGATE CAP; RELATION TO OTHER COST SHARING.—In addition to the limitations imposed under subparagraphs (A) and (B), any cost sharing under paragraph (1) is subject to the aggregate cap on cost sharing applied under paragraph (1) or (2) of subsection (b), as the case may be. Cost sharing imposed for services under this subsection shall be instead of any cost sharing that may be imposed for such services under subsection (a).

"(3) CONSTRUCTION.—Nothing in this section shall be construed—

"(A) to limit a hospital's obligations with respect to screening and stabilizing treatment of an emergency medical condition under section 1867; or

"(B) to modify any obligations under either State or Federal standards relating to the application of a prudent-layperson standard with respect to payment or coverage of emergency services by any managed care organization.

"(4) STANDARD REGARDING IMPOSITION OF COST SHARING.—No hospital or physician shall be liable in any civil action or proceeding for the imposition of cost-sharing under this section, absent a finding by clear and convincing evidence of gross negligence by the hospital or physician. The previous sentence shall not affect any liability under section 1867 or otherwise applicable under State law based upon the provision of (or failure to provide) care.

"(5) DEFINITIONS.—For purposes of this subsection:

"(A) NON-EMERGENCY SERVICES.—The term 'non-emergency services' means any care or services furnished in an emergency department of a hospital that the physician determines do not constitute an appropriate medical screening examination or stabilizing examination and treatment required to be provided by the hospital under section 1867.

"(B) ALTERNATE NON-EMERGENCY SERVICES PROVIDER.—The term 'alternative non-emergency services provider' means, with respect to non-emergency services for the diagnosis or treatment of a condition, a health care provider, such as a physician's office, health care clinic, community health center, hospital outpatient department, or similar health care provider, that can provide clinically appropriate services for the diagnosis or treatment of a condition contemporaneously with the provision of the non-emergency services that would be provided in an emergency department of a hospital for the diagnosis or treatment of a condition, and that is participating in the program under this title.".

(b) GRANT FUNDS FOR ESTABLISHMENT OF ALTERNATE NON-EMERGENCY SERVICES PROVIDERS.—Section 1903 of the Social Security Act (42 U.S.C. 1396b), as amended by section 6037(a)(2), is amended by adding at the end the following new subsection:

"(y) PAYMENTS FOR ESTABLISHMENT OF ALTERNATE NON-EMERGENCY SERVICES PROVIDERS.—

"(1) PAYMENTS.—In addition to the payments otherwise provided under subsection (a), subject to paragraph (2), the Secretary shall provide for payments to States under such subsection for the establishment of alternate non-emergency service providers (as defined in section 1916A(e)(5)(B)), or networks of such providers.

"(2) LIMITATION.—The total amount of payments under this subsection shall not exceed $50,000,000 during the 4-year period beginning with 2006. This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Secretary to provide for the payment of amounts provided under this subsection.

"(3) PREFERENCE.—In providing for payments to States under this subsection, the Secretary shall provide preference to States that establish, or provide for, alternate non-emergency services providers or networks of such providers that—

"(A) serve rural or underserved areas where beneficiaries under this title may not have regular access to providers of primary care services; or

"(B) are in partnership with local community hospitals.

"(4) FORM AND MANNER OF PAYMENT.—Payment to a State under this subsection shall be made only upon the filing of such application in such form and in such manner as the Secretary shall specify. Payment to a State under this subsection shall be made in the same manner as other payments under section 1903(a).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to non-emergency services furnished on or after January 1, 2007.

SEC. 6044. USE OF BENCHMARK BENEFIT PACKAGES.

(a) IN GENERAL.—Title XIX of the Social Security Act, as amended by section 6035, is amended by redesignating section 1937 as section 1938 and by inserting after section 1936 the following new section:

"STATE FLEXIBILITY IN BENEFIT PACKAGES

"SEC. 1937. (a) STATE OPTION OF PROVIDING BENCHMARK BENEFITS.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, a State, at its option as a State plan amendment, may provide for medical assistance under this title to individuals within one or more groups of individuals specified by the State through enrollment in coverage that provides—

"(i) benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2); and

"(ii) for any child under 19 years of age who is covered under the State plan under section 1902(a)(10)(A), wrap-around benefits to the benchmark coverage or benchmark equivalent coverage consisting of early and periodic screening, diagnostic, and treatment services defined in section 1905(r).

"(B) LIMITATION.—The State may only exercise the option under subparagraph (A) for an individual eligible under an eligibility category that had been established under the State plan on or before the date of the enactment of this section.

"(C) OPTION OF WRAP-AROUND BENEFITS.—In the case of coverage described in subparagraph (A), a State, at its option, may provide such wrap-around or additional benefits as the State may specify.

"(D) TREATMENT AS MEDICAL ASSISTANCE.—Payment of premiums for such coverage under this subsection shall be treated as payment of other insurance premiums described in the third sentence of section 1905(a).

"(2) APPLICATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State may require that a full-benefit eligible individual (as defined in subparagraph (C)) within a group obtain benefits under this title through enrollment in coverage described in paragraph (1)(A). A State may apply the previous sentence to individuals within 1 or more groups of such individuals.

"(B) LIMITATION ON APPLICATION.—A State may not require under subparagraph (A) an individual to obtain benefits through enrollment described in paragraph (1)(A) if the individual is within one of the following categories of individuals:

"(i) MANDATORY PREGNANT WOMEN.—The individual is a pregnant woman who is required to be covered under the State plan under section 1902(a)(10)(A)(i).

"(ii) BLIND OR DISABLED INDIVIDUALS.—The individual qualifies for medical assistance under the State plan on the basis of being blind or disabled (or being treated as being blind or disabled) without regard to whether the individual is eligible for supplemental security income benefits under title XVI on the basis of being blind or disabled and including an individual who is eligible for medical assistance on the basis of section 1902(e)(3).

"(iii) DUAL ELIGIBLES.—The individual is entitled to benefits under any part of title XVIII.

"(iv) TERMINALLY ILL HOSPICE PATIENTS.—The individual is terminally ill and is receiving benefits for hospice care under this title.

"(v) ELIGIBLE ON BASIS OF INSTITUTIONALIZATION.—The individual is an inpatient in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other medical institution, and is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs.

"(vi) MEDICALLY FRAIL AND SPECIAL MEDICAL NEEDS INDIVIDUALS.—The individual is medically frail or otherwise an individual with special medical needs (as identified in accordance with regulations of the Secretary).

"(vii) BENEFICIARIES QUALIFYING FOR LONG-TERM CARE SERVICES.—The individual qualifies based on medical condition for medical assistance for long-term care services described in section 1917(c)(1)(C).

"(viii) CHILDREN IN FOSTER CARE RECEIVING CHILD WELFARE SERVICES AND CHILDREN RECEIVING FOSTER CARE OR ADOPTION ASSISTANCE.—The individual is an individual with respect to whom aid or assistance is made available under part B of title IV to children in foster care and individuals with respect to whom adoption or foster care assistance is made available under part E of such title, without regard to age.

"(ix) TANF AND SECTION 1931 PARENTS.—The individual qualifies for medical assistance on the basis of eligibility to receive assistance under a State plan funded under part A of title IV (as in effect on or after the welfare reform effective date defined in section 1931(i)).

"(x) WOMEN IN THE BREAST OR CERVICAL CANCER PROGRAM.—The individual is a woman who is receiving medical assistance by virtue of the application of sections 1902(a)(10)(A)(ii)(XVIII) and 1902(aa).

"(xi) LIMITED SERVICES BENEFICIARIES.—The individual—

"(I) qualifies for medical assistance on the basis of section 1902(a)(10)(A)(ii)(XII); or

"(II) is not a qualified alien (as defined in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) and receives care and services necessary for the treatment of an emergency medical condition in accordance with section 1903(v).

"(C) FULL-BENEFIT ELIGIBLE INDIVIDUALS.—

"(i) IN GENERAL.—For purposes of this paragraph, subject to clause (ii), the term 'full-benefit eligible individual' means for a State for a month an individual who is determined eligible by the State for medical assistance for all services defined in section 1905(a) which are covered under the State plan under this title for such month under section 1902(a)(10)(A) or under any other category of eligibility for medical assistance for all such services under this title, as determined by the Secretary.

"(ii) EXCLUSION OF MEDICALLY NEEDY AND SPEND-DOWN POPULATIONS.—Such term shall not include an individual determined to be eligible by the State for medical assistance under section 1902(a)(10)(C) or by reason of section 1902(f) or otherwise eligible based on a reduction of income based on costs incurred for medical or other remedial care.

"(b) BENCHMARK BENEFIT PACKAGES.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), each of the following coverage shall be considered to be benchmark coverage:

"(A) FEHBP-EQUIVALENT HEALTH INSURANCE COVERAGE.—The standard Blue Cross/Blue Shield preferred provider option service benefit plan, described in and offered under section 8903(1) of title 5, United States Code.

"(B) STATE EMPLOYEE COVERAGE.—A health benefits coverage plan that is offered and generally available to State employees in the State involved.

"(C) COVERAGE OFFERED THROUGH HMO.—The health insurance coverage plan that—

"(i) is offered by a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act), and

"(ii) has the largest insured commercial, non-medicaid enrollment of covered lives of such coverage plans offered by such a health maintenance organization in the State involved.

"(D) SECRETARY-APPROVED COVERAGE.—Any other health benefits coverage that the Secretary determines, upon application by a State, provides appropriate coverage for the population proposed to be provided such coverage.

"(2) BENCHMARK-EQUIVALENT COVERAGE.—For purposes of subsection (a)(1), coverage that meets the following requirement shall be considered to be benchmark-equivalent coverage:

"(A) INCLUSION OF BASIC SERVICES.—The coverage includes benefits for items and services within each of the following categories of basic services:

"(i) Inpatient and outpatient hospital services.

"(ii) Physicians' surgical and medical services.

"(iii) Laboratory and x-ray services.

"(iv) Well-baby and well-child care, including age-appropriate immunizations.

"(v) Other appropriate preventive services, as designated by the Secretary.

"(B) AGGREGATE ACTUARIAL VALUE EQUIVALENT TO BENCHMARK PACKAGE.—The coverage has an aggregate actuarial value that is at least actuarially equivalent to one of the benchmark benefit packages described in paragraph (1).

"(C) SUBSTANTIAL ACTUARIAL VALUE FOR ADDITIONAL SERVICES INCLUDED IN BENCHMARK PACKAGE.—With respect to each of the following categories of additional services for which coverage is provided under the benchmark benefit package used under subparagraph (B), the coverage has an actuarial value that is equal to at least 75 percent of the actuarial value of the coverage of that category of services in such package:

"(i) Coverage of prescription drugs.

"(ii) Mental health services.

"(iii) Vision services.

"(iv) Hearing services.

"(3) DETERMINATION OF ACTUARIAL VALUE.—The actuarial value of coverage of benchmark benefit packages shall be set forth in an actuarial opinion in an actuarial report that has been prepared—

"(A) by an individual who is a member of the American Academy of Actuaries;

"(B) using generally accepted actuarial principles and methodologies;

"(C) using a standardized set of utilization and price factors;

"(D) using a standardized population that is representative of the population involved;

"(E) applying the same principles and factors in comparing the value of different coverage (or categories of services);

"(F) without taking into account any differences in coverage based on the method of delivery or means of cost control or utilization used; and

"(G) taking into account the ability of a State to reduce benefits by taking into account the increase in actuarial value of benefits coverage offered under this title that results from the limitations on cost sharing under such coverage.

The actuary preparing the opinion shall select and specify in the memorandum the standardized set and population to be used under subparagraphs (C) and (D).

"(4) COVERAGE OF RURAL HEALTH CLINIC AND FQHC SERVICES.—Notwithstanding the previous provisions of this section, a State may not provide for medical assistance through enrollment of an individual with benchmark coverage or benchmark equivalent coverage under this section unless—

"(A) the individual has access, through such coverage or otherwise, to services described in subparagraphs (B) and (C) of section 1905(a)(2); and

"(B) payment for such services is made in accordance with the requirements of section 1902(bb).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on March 31, 2006.

CHAPTER 5—STATE FINANCING UNDER MEDICAID

SEC. 6051. MANAGED CARE ORGANIZATION PROVIDER TAX REFORM.

(a) IN GENERAL.—Section 1903(w)(7)(A)(viii) of the Social Security Act (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended to read as follows:

"(viii) Services of managed care organizations (including health maintenance organizations, preferred provider organizations, and such other similar organizations as the Secretary may specify by regulation).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendment made by subsection (a) shall be effective as of the date of the enactment of this Act.

(2) DELAY IN EFFECTIVE DATE.—

(A) IN GENERAL.—Subject to subparagraph (B), in the case of a State specified in subparagraph (B), the amendment made by subsection (a) shall be effective as of October 1, 2009.

(B) SPECIFIED STATES.—For purposes of subparagraph (A), the States specified in this subparagraph are States that have enacted a law providing for a tax on the services of a medicaid managed care organization with a contract under section 1903(m) of the Social Security Act as of December 8, 2005.

(c) CLARIFICATION REGARDING NON-REGULATION OF TRANSFERS.—

(1) IN GENERAL.—Nothing in section 1903(w) of the Social Security Act (42 U.S.C. 1396b(w)) shall be construed by the Secretary of Health and Human Services as prohibiting a State's use of funds as the non-Federal share of expenditures under title XIX of such Act where such funds are transferred from or certified by a publicly-owned regional medical center located in another State and described in paragraph (2), so long as the Secretary determines that such use of funds is proper and in the interest of the program under title XIX.

(2) CENTER DESCRIBED.—A center described in this paragraph is a publicly-owned regional medical center that—

(A) provides level 1 trauma and burn care services;

(B) provides level 3 neonatal care services;

(C) is obligated to serve all patients, regardless of State of origin;

(D) is located within a Standard Metropolitan Statistical Area (SMSA) that includes at least 3 States, including the States described in paragraph (1);

(E) serves as a tertiary care provider for patients residing within a 125 mile radius; and

(F) meets the criteria for a disproportionate share hospital under section 1923 of such Act in at least one State other than the one in which the center is located.

(3) EFFECTIVE PERIOD.—This subsection shall apply through December 31, 2006.

SEC. 6052. REFORMS OF CASE MANAGEMENT AND TARGETED CASE MANAGEMENT.

(a) IN GENERAL.—Section 1915(g) of the Social Security Act (42 U.S.C. 1396n(g)(2)) is amended by striking paragraph (2) and inserting the following:

"(2) For purposes of this subsection:

"(A)(i) The term 'case management services' means services which will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.

"(ii) Such term includes the following:

"(I) Assessment of an eligible individual to determine service needs, including activities that focus on needs identification, to determine the need for any medical, educational, social, or other services. Such assessment activities include the following:

"(aa) Taking client history.

"(bb) Identifying the needs of the individual, and completing related documentation.

"(cc) Gathering information from other sources such as family members, medical providers, social workers, and educators, if necessary, to form a complete assessment of the eligible individual.

“(II) Development of a specific care plan based on the information collected through an assessment, that specifies the goals and actions to address the medical, social, educational, and other services needed by the eligible individual, including activities such as ensuring the active participation of the eligible individual and working with the individual (or the individual’s authorized health care decision maker) and others to develop such goals and identify a course of action to respond to the assessed needs of the eligible individual.

“(III) Referral and related activities to help an individual obtain needed services, including activities that help link eligible individuals with medical, social, educational providers or other programs and services that are capable of providing needed services, such as making referrals to providers for needed services and scheduling appointments for the individual.

“(IV) Monitoring and followup activities, including activities and contacts that are necessary to ensure the care plan is effectively implemented and adequately addressing the needs of the eligible individual, and which may be with the individual, family members, providers, or other entities and conducted as frequently as necessary to help determine such matters as—

“(aa) whether services are being furnished in accordance with an individual’s care plan;

“(bb) whether the services in the care plan are adequate; and

“(cc) whether there are changes in the needs or status of the eligible individual, and if so, making necessary adjustments in the care plan and service arrangements with providers.

“(iii) Such term does not include the direct delivery of an underlying medical, educational, social, or other service to which an eligible individual has been referred, including, with respect to the direct delivery of foster care services, services such as (but not limited to) the following:

“(I) Research gathering and completion of documentation required by the foster care program.

“(II) Assessing adoption placements.

“(III) Recruiting or interviewing potential foster care parents.

“(IV) Serving legal papers.

“(V) Home investigations.

“(VI) Providing transportation.

“(VII) Administering foster care subsidies.

“(VIII) Making placement arrangements.

“(B) The term ‘targeted case management services’ are case management services that are furnished without regard to the requirements of section 1902(a)(1) and section 1902(a)(10)(B) to specific classes of individuals or to individuals who reside in specified areas.

“(3) With respect to contacts with individuals who are not eligible for medical assistance under the State plan or, in the case of targeted case management services, individuals who are eligible for such assistance but are not part of the target population specified in the State plan, such contacts—

“(A) are considered an allowable case management activity, when the purpose of the contact is directly related to the management of the eligible individual’s care; and

“(B) are not considered an allowable case management activity if such contacts relate directly to the identification and management of the noneligible or nontargeted individual’s needs and care.

“(4)(A) In accordance with section 1902(a)(25), Federal financial participation only is available under this title for case management services or targeted case management services if there are no other third parties liable to pay for such services, including as reimbursement under a medical, social, educational, or other program.

“(B) A State shall allocate the costs of any part of such services which are reimbursable under another federally funded program in accordance with OMB Circular A–87 (or any related or successor guidance or regulations regarding allocation of costs among federally funded programs) under an approved cost allocation program.

“(5) Nothing in this subsection shall be construed as affecting the application of rules with respect to third party liability under programs, or activities carried out under title XXVI of the Public Health Service Act or by the Indian Health Service.”.

(b) Regulations.—The Secretary shall promulgate regulations to carry out the amendment made by subsection (a) which may be effective and final immediately on an interim basis as of the date of publication of the interim final regulation. If the Secretary provides for an interim final regulation, the Secretary shall provide for a period of public comments on such regulation after the date of publication. The Secretary may change or revise such regulation after completion of the period of public comment.

(c) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 2006.

SEC. 6053. ADDITIONAL FMAP ADJUSTMENTS.

(a) Hold Harmless for Certain Decrease.—Notwithstanding the first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), if, for purposes of titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.), the Federal medical assistance percentage determined for the State specified in section 4725(a) of Public Law 105–33 for fiscal year 2006 or fiscal year 2007 is less than the Federal medical assistance percentage determined for such State for fiscal year 2005, the Federal medical assistance percentage determined for such State for fiscal year 2005 shall be substituted for the Federal medical assistance percentage otherwise determined for such State for fiscal year 2006 or fiscal year 2007, as the case may be.

(b) Hold Harmless for Katrina Impact.—Notwithstanding any other provision of law, for purposes of titles XIX and XXI of the Social Security Act, the Secretary of Health and Human Services, in computing the Federal medical assistance percentage under section 1905(b) of such Act (42 U.S.C. 1396d(b)) for any year after 2006 for a State that the Secretary determines has a significant number of evacuees who were evacuated to, and live in, the State as a result of Hurricane Katrina as of October 1, 2005, shall disregard such evacuees (and income attributable to such evacuees) from such computation.

SEC. 6054. DSH ALLOTMENT FOR THE DISTRICT OF COLUMBIA.

(a) In General.—For purposes of determining the DSH allotment for the District of Columbia under section 1923 of the Social Security Act (42 U.S.C. 1396r–4) for fiscal year 2006 and each subsequent fiscal year, the table in subsection (f)(2) of such section is amended under each of the columns for FY 00, FY 01, and FY 02, in the entry for the District of Columbia by striking “32” and inserting “49”.

(b) Effective Date.—The amendments made by subsection (a) shall take effect as if enacted on October 1, 2005, and shall only apply to disproportionate share hospital adjustment expenditures applicable to fiscal year 2006 and subsequent fiscal years made on or after that date.

SEC. 6055. INCREASE IN MEDICAID PAYMENTS TO INSULAR AREAS.

Section 1108(g) of the Social Security Act (42 U.S.C. 1308(g)) is amended—

(1) in paragraph (2), by inserting “and subject to paragraph (3)” after “subsection (f)”; and

(2) by adding at the end the following new paragraph:

“(3) Fiscal Years 2006 and 2007 for Certain Insular Areas.—The amounts otherwise determined under this subsection for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa for fiscal year 2006 and fiscal year 2007 shall be increased by the following amounts:

“(A) For Puerto Rico, $12,000,000 for fiscal year 2006 and $12,000,000 for fiscal year 2007.

“(B) For the Virgin Islands, $2,500,000 for fiscal year 2006 and $5,000,000 for fiscal year 2007.

“(C) For Guam, $2,500,000 for fiscal year 2006 and $5,000,000 for fiscal year 2007.

“(D) For the Northern Mariana Islands, $1,000,000 for fiscal year 2006 and $2,000,000 for fiscal year 2007.

“(E) For American Samoa, $2,000,000 for fiscal year 2006 and $4,000,000 for fiscal year 2007.

Such amounts shall not be taken into account in applying paragraph (2) for fiscal year 2007 but shall be taken into account in applying such paragraph for fiscal year 2008 and subsequent fiscal years.”.

CHAPTER 6—OTHER PROVISIONS

Subchapter A—Family Opportunity Act

SEC. 6061. SHORT TITLE OF SUBCHAPTER.

This subchapter may be cited as the “Family Opportunity Act of 2005” or the “Dylan Lee James Act”.

SEC. 6062. OPPORTUNITY FOR FAMILIES OF DISABLED CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH CHILDREN.

(a) State Option To Allow Families of Disabled Children To Purchase Medicaid Coverage for Such Children.—

(1) In General.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10)(A)(ii)—

(i) by striking “or” at the end of subclause (XVII);

(ii) by adding “or” at the end of subclause (XVIII); and

(iii) by adding at the end the following new subclause:

“(XIX) who are disabled children described in subsection (cc)(1);”; and

(B) by adding at the end the following new subsection:

“(cc)(1) Individuals described in this paragraph are individuals—

“(A) who are children who have not attained 19 years of age and are born—

“(i) on or after January 1, 2001 (or, at the option of a State, on or after an earlier date), in the case of the second, third, and fourth quarters of fiscal year 2007;

“(ii) on or after October 1, 1995 (or, at the option of a State, on or after an earlier date), in the case of each quarter of fiscal year 2008; and

“(iii) after October 1, 1989, in the case of each quarter of fiscal year 2009 and each quarter of any fiscal year thereafter;

“(B) who would be considered disabled under section 1614(a)(3)(C) (as determined under title XVI for children but without regard to any income or asset eligibility requirements that apply under such title with respect to children); and

“(C) whose family income does not exceed such income level as the State establishes and does not exceed—

“(i) 300 percent of the poverty line (as defined in section 2110(c)(5)) applicable to a family of the size involved; or

“(ii) such higher percent of such poverty line as a State may establish, except that—

“(I) any medical assistance provided to an individual whose family income exceeds 300 percent of such poverty line may only be provided with State funds; and

“(II) no Federal financial participation shall be provided under section 1903(a) for any medical assistance provided to such an individual.”.

(2) Interaction With Employer-Sponsored Family Coverage.—Section 1902(cc) of such Act

(42 U.S.C. 1396a(cc)), as added by paragraph (1)(B), is amended by adding at the end the following new paragraph:

"(2)(A) If an employer of a parent of an individual described in paragraph (1) offers family coverage under a group health plan (as defined in section 2791(a) of the Public Health Service Act), the State shall—

"(i) notwithstanding section 1906, require such parent to apply for, enroll in, and pay premiums for such coverage as a condition of such parent's child being or remaining eligible for medical assistance under subsection (a)(10)(A)(ii)(XIX) if the parent is determined eligible for such coverage and the employer contributes at least 50 percent of the total cost of annual premiums for such coverage; and

"(ii) if such coverage is obtained—

"(I) subject to paragraph (2) of section 1916(h), reduce the premium imposed by the State under that section in an amount that reasonably reflects the premium contribution made by the parent for private coverage on behalf of a child with a disability; and

"(II) treat such coverage as a third party liability under subsection (a)(25).

"(B) In the case of a parent to which subparagraph (A) applies, a State, notwithstanding section 1906 but subject to paragraph (1)(C)(ii), may provide for payment of any portion of the annual premium for such family coverage that the parent is required to pay. Any payments made by the State under this subparagraph shall be considered, for purposes of section 1903(a), to be payments for medical assistance.".

(b) STATE OPTION TO IMPOSE INCOME-RELATED PREMIUMS.—Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(1) in subsection (a), by striking "subsection (g)" and inserting "subsections (g) and (i)"; and

(2) by adding at the end, as amended by section 6041(b)(2), the following new subsection:

"(i)(1) With respect to disabled children provided medical assistance under section 1902(a)(10)(A)(ii)(XIX), subject to paragraph (2), a State may (in a uniform manner for such children) require the families of such children to pay monthly premiums set on a sliding scale based on family income.

"(2) A premium requirement imposed under paragraph (1) may only apply to the extent that—

"(A) in the case of a disabled child described in that paragraph whose family income—

"(i) does not exceed 200 percent of the poverty line, the aggregate amount of such premium and any premium that the parent is required to pay for family coverage under section 1902(cc)(2)(A)(i) and other cost-sharing charges do not exceed 5 percent of the family's income; and

"(ii) exceeds 200, but does not exceed 300, percent of the poverty line, the aggregate amount of such premium and any premium that the parent is required to pay for family coverage under section 1902(cc)(2)(A)(i) and other cost-sharing charges do not exceed 7.5 percent of the family's income; and

"(B) the requirement is imposed consistent with section 1902(cc)(2)(A)(ii)(I).

"(3) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of a child under section 1902(a)(10)(A)(ii)(XIX) for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of at least 60 days from the date on which the premium became past due. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.".

(c) CONFORMING AMENDMENTS.—(1) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended in the matter preceding subparagraph (A), by inserting "1902(a)(10)(A)(ii)(XIX)," after "1902(a)(10)(A)(ii)(XVIII),".

(2) Section 1905(u)(2)(B) of such Act (42 U.S.C. 1396d(u)(2)(B)) is amended by adding at the end the following sentence: "Such term excludes any child eligible for medical assistance only by reason of section 1902(a)(10)(A)(ii)(XIX).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance for items and services furnished on or after January 1, 2007.

SEC. 6063. DEMONSTRATION PROJECTS REGARDING HOME AND COMMUNITY-BASED ALTERNATIVES TO PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES FOR CHILDREN.

(a) IN GENERAL.—The Secretary is authorized to conduct, during each of fiscal years 2007 through 2011, demonstration projects (each in the section referred to as a "demonstration project") in accordance with this section under which up to 10 States (as defined for purposes of title XIX of the Social Security Act) are awarded grants, on a competitive basis, to test the effectiveness in improving or maintaining a child's functional level and cost-effectiveness of providing coverage of home and community-based alternatives to psychiatric residential treatment for children enrolled in the Medicaid program under title XIX of such Act.

(b) APPLICATION OF TERMS AND CONDITIONS.—

(1) IN GENERAL.—Subject to the provisions of this section, for the purposes of the demonstration projects, and only with respect to children enrolled under such demonstration projects, a psychiatric residential treatment facility (as defined in section 483.352 of title 42 of the Code of Federal Regulations) shall be deemed to be a facility specified in section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), and to be included in each reference in such section 1915(c) to hospitals, nursing facilities, and intermediate care facilities for the mentally retarded.

(2) STATE OPTION TO ASSURE CONTINUITY OF MEDICAID COVERAGE.—Upon the termination of a demonstration project under this section, the State that conducted the project may elect, only with respect to a child who is enrolled in such project on the termination date, to continue to provide medical assistance for coverage of home and community-based alternatives to psychiatric residential treatment for the child in accordance with section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), as modified through the application of paragraph (1). Expenditures incurred for providing such medical assistance shall be treated as a home and community-based waiver program under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) for purposes of payment under section 1903 of such Act (42 U.S.C. 1396b).

(c) TERMS OF DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—Except as otherwise provided in this section, a demonstration project shall be subject to the same terms and conditions as apply to a waiver under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), including the waiver of certain requirements under the first sentence of paragraph (3) of such section but not applying the second sentence of such paragraph.

(2) BUDGET NEUTRALITY.—In conducting the demonstration projects under this section, the Secretary shall ensure that the aggregate payments made by the Secretary under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) do not exceed the amount which the Secretary estimates would have been paid under that title if the demonstration projects under this section had not been implemented.

(3) EVALUATION.—The application for a demonstration project shall include an assurance to provide for such interim and final evaluations of the demonstration project by independent third parties, and for such interim and final reports to the Secretary, as the Secretary may require.

(d) PAYMENTS TO STATES; LIMITATIONS TO SCOPE AND FUNDING.—

(1) IN GENERAL.—Subject to paragraph (2), a demonstration project approved by the Secretary under this section shall be treated as a home and community-based waiver program under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) for purposes of payment under section 1903 of such Act (42 U.S.C. 1396b).

(2) LIMITATION.—In no case may the amount of payments made by the Secretary under this section for State demonstration projects for a fiscal year exceed the amount available under subsection (f)(2)(A) for such fiscal year.

(e) SECRETARY'S EVALUATION AND REPORT.—The Secretary shall conduct an interim and final evaluation of State demonstration projects under this section and shall report to the President and Congress the conclusions of such evaluations within 12 months of completing such evaluations.

(f) FUNDING.—

(1) IN GENERAL.—For the purpose of carrying out this section, there are appropriated, from amounts in the Treasury not otherwise appropriated, for fiscal years 2007 through 2011, a total of $218,000,000, of which—

(A) the amount specified in paragraph (2) shall be available for each of fiscal years 2007 through 2011; and

(B) a total of $1,000,000 shall be available to the Secretary for the evaluations and report under subsection (e).

(2) FISCAL YEAR LIMIT.—

(A) IN GENERAL.—For purposes of paragraph (1), the amount specified in this paragraph for a fiscal year is the amount specified in subparagraph (B) for the fiscal year plus the difference, if any, between the total amount available under this paragraph for prior fiscal years and the total amount previously expended under paragraph (1)(A) for such prior fiscal years.

(B) FISCAL YEAR AMOUNTS.—The amount specified in this subparagraph for—

(i) fiscal year 2007 is $21,000,000;

(ii) fiscal year 2008 is $37,000,000;

(iii) fiscal year 2009 is $49,000,000;

(iv) fiscal year 2010 is $53,000,000; and

(v) fiscal year 2011 is $57,000,000.

SEC. 6064. DEVELOPMENT AND SUPPORT OF FAMILY-TO-FAMILY HEALTH INFORMATION CENTERS.

Section 501 of the Social Security Act (42 U.S.C. 701) is amended by adding at the end the following new subsection:

"(c)(1)(A) For the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for special projects of regional and national significance for the development and support of family-to-family health information centers described in paragraph (2), there is appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated—

"(i) $3,000,000 for fiscal year 2007;

"(ii) $4,000,000 for fiscal year 2008; and

"(iii) $5,000,000 for fiscal year 2009.

"(B) Funds appropriated or authorized to be appropriated under subparagraph (A) shall—

"(i) be in addition to amounts appropriated under subsection (a) and retained under section 502(a)(1) for the purpose of carrying out activities described in subsection (a)(2); and

"(ii) remain available until expended.

"(2) The family-to-family health information centers described in this paragraph are centers that—

"(A) assist families of children with disabilities or special health care needs to make informed choices about health care in order to promote good treatment decisions, cost-effectiveness, and improved health outcomes for such children;

"(B) provide information regarding the health care needs of, and resources available for, such children;

"(C) identify successful health delivery models for such children;

"(D) develop with representatives of health care providers, managed care organizations, health care purchasers, and appropriate State agencies, a model for collaboration between families of such children and health professionals;

"(E) provide training and guidance regarding caring for such children;

"(F) conduct outreach activities to the families of such children, health professionals, schools, and other appropriate entities and individuals; and

"(G) are staffed—

"(i) by such families who have expertise in Federal and State public and private health care systems; and

"(ii) by health professionals.

"(3) The Secretary shall develop family-to-family health information centers described in paragraph (2) in accordance with the following:

"(A) With respect to fiscal year 2007, such centers shall be developed in not less than 25 States.

"(B) With respect to fiscal year 2008, such centers shall be developed in not less than 40 States.

"(C) With respect to fiscal year 2009 and each fiscal year thereafter, such centers shall be developed in all States.

"(4) The provisions of this title that are applicable to the funds made available to the Secretary under section 502(a)(1) apply in the same manner to funds made available to the Secretary under paragraph (1)(A).

"(5) For purposes of this subsection, the term 'State' means each of the 50 States and the District of Columbia.".

SEC. 6065. RESTORATION OF MEDICAID ELIGIBILITY FOR CERTAIN SSI BENEFICIARIES.

(a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended—

(1) by inserting "(aa)" after "(II)";

(2) by striking ") and" and inserting "and";

(3) by striking "section or who are" and inserting "section), (bb) who are"; and

(4) by inserting before the comma at the end the following: ", or (cc) who are under 21 years of age and with respect to whom supplemental security income benefits would be paid under title XVI if subparagraphs (A) and (B) of section 1611(c)(7) were applied without regard to the phrase 'the first day of the month following'".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance for items and services furnished on or after the date that is 1 year after the date of enactment of this Act.

Subchapter B—Money Follows the Person Rebalancing Demonstration

SEC. 6071. MONEY FOLLOWS THE PERSON REBALANCING DEMONSTRATION.

(a) PROGRAM PURPOSE AND AUTHORITY.—The Secretary is authorized to award, on a competitive basis, grants to States in accordance with this section for demonstration projects (each in this section referred to as an "MFP demonstration project") designed to achieve the following objectives with respect to institutional and home and community-based long-term care services under State Medicaid programs:

(1) REBALANCING.—Increase the use of home and community-based, rather than institutional, long-term care services.

(2) MONEY FOLLOWS THE PERSON.—Eliminate barriers or mechanisms, whether in the State law, the State Medicaid plan, the State budget, or otherwise, that prevent or restrict the flexible use of Medicaid funds to enable Medicaid-eligible individuals to receive support for appropriate and necessary long-term services in the settings of their choice.

(3) CONTINUITY OF SERVICE.—Increase the ability of the State Medicaid program to assure continued provision of home and community-based long-term care services to eligible individuals who choose to transition from an institutional to a community setting.

(4) QUALITY ASSURANCE AND QUALITY IMPROVEMENT.—Ensure that procedures are in place (at least comparable to those required under the qualified HCB program) to provide quality assurance for eligible individuals receiving Medicaid home and community-based long-term care services and to provide for continuous quality improvement in such services.

(b) DEFINITIONS.—For purposes of this section:

(1) HOME AND COMMUNITY-BASED LONG-TERM CARE SERVICES.—The term "home and community-based long-term care services" means, with respect to a State Medicaid program, home and community-based services (including home health and personal care services) that are provided under the State's qualified HCB program or that could be provided under such a program but are otherwise provided under the Medicaid program.

(2) ELIGIBLE INDIVIDUAL.—The term "eligible individual" means, with respect to an MFP demonstration project of a State, an individual in the State—

(A) who, immediately before beginning participation in the MFP demonstration project—

(i) resides (and has resided, for a period of not less than 6 months or for such longer minimum period, not to exceed 2 years, as may be specified by the State) in an inpatient facility;

(ii) is receiving Medicaid benefits for inpatient services furnished by such inpatient facility; and

(iii) with respect to whom a determination has been made that, but for the provision of home and community-based long-term care services, the individual would continue to require the level of care provided in an inpatient facility and, in any case in which the State applies a more stringent level of care standard as a result of implementing the State plan option permitted under section 1915(i) of the Social Security Act, the individual must continue to require at least the level of care which had resulted in admission to the institution; and

(B) who resides in a qualified residence beginning on the initial date of participation in the demonstration project.

(3) INPATIENT FACILITY.—The term "inpatient facility" means a hospital, nursing facility, or intermediate care facility for the mentally retarded. Such term includes an institution for mental diseases, but only, with respect to a State, to the extent medical assistance is available under the State Medicaid plan for services provided by such institution.

(4) MEDICAID.—The term "Medicaid" means, with respect to a State, the State program under title XIX of the Social Security Act (including any waiver or demonstration under such title or under section 1115 of such Act relating to such title).

(5) QUALIFIED HCB PROGRAM.—The term "qualified HCB program" means a program providing home and community-based long-term care services operating under Medicaid, whether or not operating under waiver authority.

(6) QUALIFIED RESIDENCE.—The term "qualified residence" means, with respect to an eligible individual—

(A) a home owned or leased by the individual or the individual's family member;

(B) an apartment with an individual lease, with lockable access and egress, and which includes living, sleeping, bathing, and cooking areas over which the individual or the individual's family has domain and control; and

(C) a residence, in a community-based residential setting, in which no more than 4 unrelated individuals reside.

(7) QUALIFIED EXPENDITURES.—The term "qualified expenditures" means expenditures by the State under its MFP demonstration project for home and community-based long-term care services for an eligible individual participating in the MFP demonstration project, but only with respect to services furnished during the 12-month period beginning on the date the individual is discharged from an inpatient facility referred to in paragraph (2)(A)(i).

(8) SELF-DIRECTED SERVICES.—The term "self-directed" means, with respect to home and community-based long-term care services for an eligible individual, such services for the individual which are planned and purchased under the direction and control of such individual or the individual's authorized representative (as defined by the Secretary), including the amount, duration, scope, provider, and location of such services, under the State Medicaid program consistent with the following requirements:

(A) ASSESSMENT.—There is an assessment of the needs, capabilities, and preferences of the individual with respect to such services.

(B) SERVICE PLAN.—Based on such assessment, there is developed jointly with such individual or the individual's authorized representative a plan for such services for such individual that is approved by the State and that—

(i) specifies those services, if any, which the individual or the individual's authorized representative would be responsible for directing;

(ii) identifies the methods by which the individual or the individual's authorized representative or an agency designated by an individual or representative will select, manage, and dismiss providers of such services;

(iii) specifies the role of family members and others whose participation is sought by the individual or the individual's authorized representative with respect to such services;

(iv) is developed through a person-centered process that—

(I) is directed by the individual or the individual's authorized representative;

(II) builds upon the individual's capacity to engage in activities that promote community life and that respects the individual's preferences, choices, and abilities; and

(III) involves families, friends, and professionals as desired or required by the individual or the individual's authorized representative;

(v) includes appropriate risk management techniques that recognize the roles and sharing of responsibilities in obtaining services in a self-directed manner and assure the appropriateness of such plan based upon the resources and capabilities of the individual or the individual's authorized representative; and

(vi) may include an individualized budget which identifies the dollar value of the services and supports under the control and direction of the individual or the individual's authorized representative.

(C) BUDGET PROCESS.—With respect to individualized budgets described in subparagraph (B)(vi), the State application under subsection (c)—

(i) describes the method for calculating the dollar values in such budgets based on reliable costs and service utilization;

(ii) defines a process for making adjustments in such dollar values to reflect changes in individual assessments and service plans; and

(iii) provides a procedure to evaluate expenditures under such budgets.

(9) STATE.—The term "State" has the meaning given such term for purposes of title XIX of the Social Security Act.

(c) STATE APPLICATION.—A State seeking approval of an MFP demonstration project shall submit to the Secretary, at such time and in such format as the Secretary requires, an application meeting the following requirements and containing such additional information, provisions, and assurances, as the Secretary may require:

(1) ASSURANCE OF A PUBLIC DEVELOPMENT PROCESS.—The application contains an assurance that the State has engaged, and will continue to engage, in a public process for the design, development, and evaluation of the MFP demonstration project that allows for input from eligible individuals, the families of such individuals, authorized representatives of such individuals, providers, and other interested parties.

(2) OPERATION IN CONNECTION WITH QUALIFIED HCB PROGRAM TO ASSURE CONTINUITY OF SERVICES.—The State will conduct the MFP demonstration project for eligible individuals in conjunction with the operation of a qualified HCB program that is in operation (or approved) in the State for such individuals in a manner that assures continuity of Medicaid coverage for such individuals so long as such individuals continue to be eligible for medical assistance.

(3) DEMONSTRATION PROJECT PERIOD.—The application shall specify the period of the MFP demonstration project, which shall include at least 2 consecutive fiscal years in the 5-fiscal-year period beginning with fiscal year 2007.

(4) SERVICE AREA.—The application shall specify the service area or areas of the MFP demonstration project, which may be a statewide area or 1 or more geographic areas of the State.

(5) TARGETED GROUPS AND NUMBERS OF INDIVIDUALS SERVED.—The application shall specify—

(A) the target groups of eligible individuals to be assisted to transition from an inpatient facility to a qualified residence during each fiscal year of the MFP demonstration project;

(B) the projected numbers of eligible individuals in each targeted group of eligible individuals to be so assisted during each such year; and

(C) the estimated total annual qualified expenditures for each fiscal year of the MFP demonstration project.

(6) INDIVIDUAL CHOICE, CONTINUITY OF CARE.—The application shall contain assurances that—

(A) each eligible individual or the individual's authorized representative will be provided the opportunity to make an informed choice regarding whether to participate in the MFP demonstration project;

(B) each eligible individual or the individual's authorized representative will choose the qualified residence in which the individual will reside and the setting in which the individual will receive home and community-based long-term care services;

(C) the State will continue to make available, so long as the State operates its qualified HCB program consistent with applicable requirements, home and community-based long-term care services to each individual who completes participation in the MFP demonstration project for as long as the individual remains eligible for medical assistance for such services under such qualified HCB program (including meeting a requirement relating to requiring a level of care provided in an inpatient facility and continuing to require such services, and, if the State applies a more stringent level of care standard as a result of implementing the State plan option permitted under section 1915(i) of the Social Security Act, meeting the requirement for at least the level of care which had resulted in the individual's admission to the institution).

(7) REBALANCING.—The application shall—

(A) provide such information as the Secretary may require concerning the dollar amounts of State Medicaid expenditures for the fiscal year, immediately preceding the first fiscal year of the State's MFP demonstration project, for long-term care services and the percentage of such expenditures that were for institutional long-term care services or were for home and community-based long-term care services;

(B)(i) specify the methods to be used by the State to increase, for each fiscal year during the MFP demonstration project, the dollar amount of such total expenditures for home and community-based long-term care services and the percentage of such total expenditures for long-term care services that are for home and community-based long-term care services; and

(ii) describe the extent to which the MFP demonstration project will contribute to accomplishment of objectives described in subsection (a).

(8) MONEY FOLLOWS THE PERSON.—The application shall describe the methods to be used by the State to eliminate any legal, budgetary, or other barriers to flexibility in the availability of Medicaid funds to pay for long-term care services for eligible individuals participating in the project in the appropriate settings of their choice, including costs to transition from an institutional setting to a qualified residence.

(9) MAINTENANCE OF EFFORT AND COST-EFFECTIVENESS.—The application shall contain or be accompanied by such information and assurances as may be required to satisfy the Secretary that—

'(A) total expenditures under the State Medicaid program for home and community-based long-term care services will not be less for any fiscal year during the MFP demonstration project than for the greater of such expenditures for—

(i) fiscal year 2005; or

(ii) any succeeding fiscal year before the first year of the MFP demonstration project; and

(B) in the case of a qualified HCB program operating under a waiver under subsection (c) or (d) of section 1915 of the Social Security Act (42 U.S.C. 1396n), but for the amount awarded under a grant under this section, the State program would continue to meet the cost-effectiveness requirements of subsection (c)(2)(D) of such section or comparable requirements under subsection (d)(5) of such section, respectively.

(10) WAIVER REQUESTS.—The application shall contain or be accompanied by requests for any modification or adjustment of waivers of Medicaid requirements described in subsection (d)(3), including adjustments to the maximum numbers of individuals included and package of benefits, including one-time transitional services, provided.

(11) QUALITY ASSURANCE AND QUALITY IMPROVEMENT.—The application shall include—

(A) a plan satisfactory to the Secretary for quality assurance and quality improvement for home and community-based long-term care services under the State Medicaid program, including a plan to assure the health and welfare of individuals participating in the MFP demonstration project; and

(B) an assurance that the State will cooperate in carrying out activities under subsection (f) to develop and implement continuous quality assurance and quality improvement systems for home and community-based long-term care services.

(12) OPTIONAL PROGRAM FOR SELF-DIRECTED SERVICES.—If the State elects to provide for any home and community-based long-term care services as self-directed services (as defined in subsection (b)(8)) under the MFP demonstration project, the application shall provide the following:

(A) MEETING REQUIREMENTS.—A description of how the project will meet the applicable requirements of such subsection for the provision of self-directed services.

(B) VOLUNTARY ELECTION.—A description of how eligible individuals will be provided with the opportunity to make an informed election to receive self-directed services under the project and after the end of the project.

(C) STATE SUPPORT IN SERVICE PLAN DEVELOPMENT.—Satisfactory assurances that the State will provide support to eligible individuals who self-direct in developing and implementing their service plans.

(D) OVERSIGHT OF RECEIPT OF SERVICES.—Satisfactory assurances that the State will provide oversight of eligible individual's receipt of such self-directed services, including steps to assure the quality of services provided and that the provision of such services are consistent with the service plan under such subsection.

Nothing in this section shall be construed as requiring a State to make an election under the project to provide for home and community-based long-term care services as self-directed services, or as requiring an individual to elect to receive self-directed services under the project.

(13) REPORTS AND EVALUATION.—The application shall provide that—

(A) the State will furnish to the Secretary such reports concerning the MFP demonstration project, on such timetable, in such uniform format, and containing such information as the Secretary may require, as will allow for reliable comparisons of MFP demonstration projects across States; and

(B) the State will participate in and cooperate with the evaluation of the MFP demonstration project.

(d) SECRETARY'S AWARD OF COMPETITIVE GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants under this section on a competitive basis to States selected from among those with applications meeting the requirements of subsection (c), in accordance with the provisions of this subsection.

(2) SELECTION AND MODIFICATION OF STATE APPLICATIONS.—In selecting State applications for the awarding of such a grant, the Secretary—

(A) shall take into consideration the manner in which, and extent to which, the State proposes to achieve the objectives specified in subsection (a);

(B) shall seek to achieve an appropriate national balance in the numbers of eligible individuals, within different target groups of eligible individuals, who are assisted to transition to qualified residences under MFP demonstration projects, and in the geographic distribution of States operating MFP demonstration projects;

(C) shall give preference to State applications proposing—

(i) to provide transition assistance to eligible individuals within multiple target groups; and

(ii) to provide eligible individuals with the opportunity to receive home and community-based long-term care services as self-directed services, as defined in subsection (b)(8); and

(D) shall take such objectives into consideration in setting the annual amounts of State grant awards under this section.

(3) WAIVER AUTHORITY.—The Secretary is authorized to waive the following provisions of title XIX of the Social Security Act, to the extent necessary to enable a State initiative to meet the requirements and accomplish the purposes of this section:

(A) STATEWIDENESS.—Section 1902(a)(1), in order to permit implementation of a State initiative in a selected area or areas of the State.

(B) COMPARABILITY.—Section 1902(a)(10)(B), in order to permit a State initiative to assist a selected category or categories of individuals described in subsection (b)(2)(A).

(C) INCOME AND RESOURCES ELIGIBILITY.—Section 1902(a)(10)(C)(i)(III), in order to permit a State to apply institutional eligibility rules to

individuals transitioning to community-based care.

(D) PROVIDER AGREEMENTS.—Section 1902(a)(27), in order to permit a State to implement self-directed services in a cost-effective manner.

(4) CONDITIONAL APPROVAL OF OUTYEAR GRANT.—In awarding grants under this section, the Secretary shall condition the grant for the second and any subsequent fiscal years of the grant period on the following:

(A) NUMERICAL BENCHMARKS.—The State must demonstrate to the satisfaction of the Secretary that it is meeting numerical benchmarks specified in the grant agreement for—

(i) increasing State Medicaid support for home and community-based long-term care services under subsection (c)(5); and

(ii) numbers of eligible individuals assisted to transition to qualified residences.

(B) QUALITY OF CARE.—The State must demonstrate to the satisfaction of the Secretary that it is meeting the requirements under subsection (c)(11) to assure the health and welfare of MFP demonstration project participants.

(e) PAYMENTS TO STATES; CARRYOVER OF UNUSED GRANT AMOUNTS.—

(1) PAYMENTS.—For each calendar quarter in a fiscal year during the period a State is awarded a grant under subsection (d), the Secretary shall pay to the State from its grant award for such fiscal year an amount equal to the lesser of—

(A) the MFP-enhanced FMAP (as defined in paragraph (5)) of the amount of qualified expenditures made during such quarter; or

(B) the total amount remaining in such grant award for such fiscal year (taking into account the application of paragraph (2)).

(2) CARRYOVER OF UNUSED AMOUNTS.—Any portion of a State grant award for a fiscal year under this section remaining at the end of such fiscal year shall remain available to the State for the next 4 fiscal years, subject to paragraph (3).

(3) REAWARDING OF CERTAIN UNUSED AMOUNTS.—In the case of a State that the Secretary determines pursuant to subsection (d)(4) has failed to meet the conditions for continuation of a MFP demonstration project under this section in a succeeding year or years, the Secretary shall rescind the grant awards for such succeeding year or years, together with any unspent portion of an award for prior years, and shall add such amounts to the appropriation for the immediately succeeding fiscal year for grants under this section.

(4) PREVENTING DUPLICATION OF PAYMENT.—The payment under a MFP demonstration project with respect to qualified expenditures shall be in lieu of any payment with respect to such expenditures that could otherwise be paid under Medicaid, including under section 1903(a) of the Social Security Act. Nothing in the previous sentence shall be construed as preventing the payment under Medicaid for such expenditures in a grant year after amounts available to pay for such expenditures under the MFP demonstration project have been exhausted.

(5) MFP-ENHANCED FMAP.—For purposes of paragraph (1)(A), the "MFP-enhanced FMAP", for a State for a fiscal year, is equal to the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)) for the State increased by a number of percentage points equal to 50 percent of the number of percentage points by which (A) such Federal medical assistance percentage for the State, is less than (B) 100 percent; but in no case shall the MFP-enhanced FMAP for a State exceed 90 percent.

(f) QUALITY ASSURANCE AND IMPROVEMENT; TECHNICAL ASSISTANCE; OVERSIGHT.—

(1) IN GENERAL.—The Secretary, either directly or by grant or contract, shall provide for technical assistance to, and oversight of, States for purposes of upgrading quality assurance and quality improvement systems under Medicaid home and community-based waivers, including—

(A) dissemination of information on promising practices;

(B) guidance on system design elements addressing the unique needs of participating beneficiaries;

(C) ongoing consultation on quality, including assistance in developing necessary tools, resources, and monitoring systems; and

(D) guidance on remedying programmatic and systemic problems.

(2) FUNDING.—From the amounts appropriated under subsection (h)(1) for the portion of fiscal year 2007 that begins on January 1, 2007, and ends on September 30, 2007, and for fiscal year 2008, not more than $2,400,000 shall be available to the Secretary to carry out this subsection during the period that begins on January 1, 2007, and ends on September 30, 2011.

(g) RESEARCH AND EVALUATION.—

(1) IN GENERAL.—The Secretary, directly or through grant or contract, shall provide for research on, and a national evaluation of, the program under this section, including assistance to the Secretary in preparing the final report required under paragraph (2). The evaluation shall include an analysis of projected and actual savings related to the transition of individuals to qualified residences in each State conducting an MFP demonstration project.

(2) FINAL REPORT.—The Secretary shall make a final report to the President and Congress, not later than September 30, 2011, reflecting the evaluation described in paragraph (1) and providing findings and conclusions on the conduct and effectiveness of MFP demonstration projects.

(3) FUNDING.—From the amounts appropriated under subsection (h)(1) for each of fiscal years 2008 through 2011, not more than $1,100,000 per year shall be available to the Secretary to carry out this subsection.

(h) APPROPRIATIONS.—

(1) IN GENERAL.—There are appropriated, from any funds in the Treasury not otherwise appropriated, for grants to carry out this section—

(A) $250,000,000 for the portion of fiscal year 2007 beginning on January 1, 2007, and ending on September 30, 2007;

(B) $300,000,000 for fiscal year 2008;

(C) $350,000,000 for fiscal year 2009;

(D) $400,000,000 for fiscal year 2010; and

(E) $450,000,000 for fiscal year 2011.

(2) AVAILABILITY.—Amounts made available under paragraph (1) for a fiscal year shall remain available for the awarding of grants to States by not later than September 30, 2011.

Subchapter C—Miscellaneous

SEC. 6081. MEDICAID TRANSFORMATION GRANTS.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b), as amended by sections 6037(a)(2) and 6043(b), is amended by adding at the end the following new subsection:

"(z) MEDICAID TRANSFORMATION PAYMENTS.—

"(1) IN GENERAL.—In addition to the payments provided under subsection (a), subject to paragraph (4), the Secretary shall provide for payments to States for the adoption of innovative methods to improve the effectiveness and efficiency in providing medical assistance under this title.

"(2) PERMISSIBLE USES OF FUNDS.—The following are examples of innovative methods for which funds provided under this subsection may be used:

"(A) Methods for reducing patient error rates through the implementation and use of electronic health records, electronic clinical decision support tools, or e-prescribing programs.

"(B) Methods for improving rates of collection from estates of amounts owed under this title.

"(C) Methods for reducing waste, fraud, and abuse under the program under this title, such as reducing improper payment rates as measured by annual payment error rate measurement (PERM) project rates.

"(D) Implementation of a medication risk management program as part of a drug use review program under section 1927(g).

"(E) Methods in reducing, in clinically appropriate ways, expenditures under this title for covered outpatient drugs, particularly in the categories of greatest drug utilization, by increasing the utilization of generic drugs through the use of education programs and other incentives to promote greater use of generic drugs.

"(F) Methods for improving access to primary and specialty physician care for the uninsured using integrated university-based hospital and clinic systems.

"(3) APPLICATION; TERMS AND CONDITIONS.—

"(A) IN GENERAL.—No payments shall be made to a State under this subsection unless the State applies to the Secretary for such payments in a form, manner, and time specified by the Secretary.

"(B) TERMS AND CONDITIONS.—Such payments are made under such terms and conditions consistent with this subsection as the Secretary prescribes.

"(C) ANNUAL REPORT.—Payment to a State under this subsection is conditioned on the State submitting to the Secretary an annual report on the programs supported by such payment. Such report shall include information on—

"(i) the specific uses of such payment;

"(ii) an assessment of quality improvements and clinical outcomes under such programs; and

"(iii) estimates of cost savings resulting from such programs.

"(4) FUNDING.—

"(A) LIMITATION ON FUNDS.—The total amount of payments under this subsection shall be equal to, and shall not exceed—

"(i) $75,000,000 for fiscal year 2007; and

"(ii) $75,000,000 for fiscal year 2008.

This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Secretary to provide for the payment of amounts provided under this subsection.

"(B) ALLOCATION OF FUNDS.—The Secretary shall specify a method for allocating the funds made available under this subsection among States. Such method shall provide preference for States that design programs that target health providers that treat significant numbers of Medicaid beneficiaries. Such method shall provide that not less than 25 percent of such funds shall be allocated among States the population of which (as determined according to data collected by the United States Census Bureau) as of July 1, 2004, was more than 105 percent of the population of the respective State (as so determined) as of April 1, 2000.

"(C) FORM AND MANNER OF PAYMENT.—Payment to a State under this subsection shall be made in the same manner as other payments under section 1903(a). There is no requirement for State matching funds to receive payments under this subsection.

"(5) MEDICATION RISK MANAGEMENT PROGRAM.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'medication risk management program' means a program for targeted beneficiaries that ensures that covered outpatient drugs are appropriately used to optimize therapeutic outcomes through improved medication use and to reduce the risk of adverse events.

"(B) ELEMENTS.—Such program may include the following elements:

"(i) The use of established principles and standards for drug utilization review and best practices to analyze prescription drug claims of *targeted beneficiaries and identify outlier physicians.*

"(ii) On an ongoing basis provide outlier physicians—

"(I) a comprehensive pharmacy claims history for each targeted beneficiary under their care;

"(II) information regarding the frequency and cost of relapses and hospitalizations of targeted beneficiaries under the physician's care; and

"(III) applicable best practice guidelines and empirical references.

"(iii) Monitor outlier physician's prescribing, such as failure to refill, dosage strengths, and provide incentives and information to encourage the adoption of best clinical practices.

"(C) TARGETED BENEFICIARIES.—For purposes of this paragraph, the term 'targeted beneficiaries' means Medicaid eligible beneficiaries who are identified as having high prescription drug costs and medical costs, such as individuals with behavioral disorders or multiple chronic diseases who are taking multiple medications.".

SEC. 6082. HEALTH OPPORTUNITY ACCOUNTS.

Title XIX of the Social Security Act, as amended by sections 6035 and 6044, is amended—

(1) by redesignating section 1938 as section 1939; and

(2) by inserting after section 1937 the following new section:

"HEALTH OPPORTUNITY ACCOUNTS

"SEC. 1938. (a) AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary shall establish a demonstration program under which States may provide under their State plans under this title (including such a plan operating under a statewide waiver under section 1115) in accordance with this section for the provision of alternative benefits consistent with subsection (c) for eligible population groups in one or more geographic areas of the State specified by the State. An amendment under the previous sentence is referred to in this section as a 'State demonstration program'.

"(2) INITIAL DEMONSTRATION.—

"(A) IN GENERAL.—The demonstration program under this section shall begin on January 1, 2007. During the first 5 years of such program, the Secretary shall not approve more than 10 States to conduct demonstration programs under this section, with each State demonstration program covering 1 or more geographic areas specified by the State. After such 5-year period—

"(i) unless the Secretary finds, taking into account cost-effectiveness, quality of care, and other criteria that the Secretary specifies, that a State demonstration program previously implemented has been unsuccessful, such a demonstration program may be extended or made permanent in the State; and

"(ii) unless the Secretary finds, taking into account cost-effectiveness, quality of care, and other criteria that the Secretary specifies, that all State demonstration programs previously implemented were unsuccessful, other States may implement State demonstration programs.

"(B) GAO REPORT.—

"(i) IN GENERAL.—Not later than 3 months after the end of the 5-year period described in subparagraph (A), the Comptroller General of the United States shall submit a report to Congress evaluating the demonstration programs conducted under this section during such period.

"(ii) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Comptroller General of the United States, $550,000 for the period of fiscal years 2007 through 2010 to carry out clause (i).

"(3) APPROVAL.—The Secretary shall not approve a State demonstration program under paragraph (1) unless the program includes the following:

"(A) Creating patient awareness of the high cost of medical care.

"(B) Providing incentives to patients to seek preventive care services.

"(C) Reducing inappropriate use of health care services.

"(D) Enabling patients to take responsibility for health outcomes.

"(E) Providing enrollment counselors and ongoing education activities.

"(F) Providing transactions involving health opportunity accounts to be conducted electronically and without cash.

"(G) Providing access to negotiated provider payment rates consistent with this section.

Nothing in this section shall be construed as preventing a State demonstration program from providing incentives for patients obtaining appropriate preventive care (as defined for purposes of section 223(c)(2)(C) of the Internal Revenue Code of 1986), such as additional account contributions for an individual demonstrating healthy prevention practices.

"(4) NO REQUIREMENT FOR STATEWIDENESS.—Nothing in this section or any other provision of law shall be construed to require that a State must provide for the implementation of a State demonstration program on a Statewide basis.

"(b) ELIGIBLE POPULATION GROUPS.—

"(1) IN GENERAL.—A State demonstration program under this section shall specify the eligible population groups consistent with paragraphs (2) and (3).

"(2) ELIGIBILITY LIMITATIONS DURING INITIAL DEMONSTRATION PERIOD.—During the initial 5 years of the demonstration program under this section, a State demonstration program shall not apply to any of the following individuals:

"(A) Individuals who are 65 years of age or older.

"(B) Individuals who are disabled, regardless of whether or not their eligibility for medical assistance under this title is based on such disability.

"(C) Individuals who are eligible for medical assistance under this title only because they are (or were within the previous 60 days) pregnant.

"(D) Individuals who have been eligible for medical assistance for a continuous period of less than 3 months.

"(3) ADDITIONAL LIMITATIONS.—A State demonstration program shall not apply to any individual within a category of individuals described in section 1937(a)(2)(B).

"(4) LIMITATIONS.—

"(A) STATE OPTION.—This subsection shall not be construed as preventing a State from further limiting eligibility.

"(B) ON ENROLLEES IN MEDICAID MANAGED CARE ORGANIZATIONS.—Insofar as the State provides for eligibility of individuals who are enrolled in medicaid managed care organizations, such individuals may participate in the State demonstration program only if the State provides assurances satisfactory to the Secretary that the following conditions are met with respect to any such organization:

"(i) In no case may the number of such individuals enrolled in the organization who participate in the program exceed 5 percent of the total number of individuals enrolled in such organization.

"(ii) The proportion of enrollees in the organization who so participate is not significantly disproportionate to the proportion of such enrollees in other such organizations who participate.

"(iii) The State has provided for an appropriate adjustment in the per capita payments to the organization to account for such participation, taking into account differences in the likely use of health services between enrollees who so participate and enrollees who do not so participate.

"(5) VOLUNTARY PARTICIPATION.—An eligible individual shall be enrolled in a State demonstration program only if the individual voluntarily enrolls. Except in such hardship cases as the Secretary shall specify, such an enrollment shall be effective for a period of 12 months, but may be extended for additional periods of 12 months each with the consent of the individual.

"(6) 1-YEAR MORATORIUM FOR REENROLLMENT.—An eligible individual who, for any reason, is disenrolled from a State demonstration program conducted under this section shall not be permitted to reenroll in such program before the end of the 1-year period that begins on the effective date of such disenrollment.

"(c) ALTERNATIVE BENEFITS.—

"(1) IN GENERAL.—The alternative benefits provided under this section shall consist, consistent with this subsection, of at least—

"(A) coverage for medical expenses in a year for items and services for which benefits are otherwise provided under this title after an annual deductible described in paragraph (2) has been met; and

"(B) contribution into a health opportunity account.

Nothing in subparagraph (A) shall be construed as preventing a State from providing for coverage of preventive care (referred to in subsection (a)(3)) within the alternative benefits without regard to the annual deductible.

"(2) ANNUAL DEDUCTIBLE.—The amount of the annual deductible described in paragraph (1)(A) shall be at least 100 percent, but no more than 110 percent, of the annualized amount of contributions to the health opportunity account under subsection (d)(2)(A)(i), determined without regard to any limitation described in subsection (d)(2)(C)(i)(II).

"(3) ACCESS TO NEGOTIATED PROVIDER PAYMENT RATES.—

"(A) FEE-FOR-SERVICE ENROLLEES.—In the case of an individual who is participating in a State demonstration program and who is not enrolled with a medicaid managed care organization, the State shall provide that the individual may obtain demonstration program medicaid services from—

"(i) any participating provider under this title at the same payment rates that would be applicable to such services if the deductible described in paragraph (1)(A) was not applicable; or

"(ii) any other provider at payment rates that do not exceed 125 percent of the payment rate that would be applicable to such services furnished by a participating provider under this title if the deductible described in paragraph (1)(A) was not applicable.

"(B) TREATMENT UNDER MEDICAID MANAGED CARE PLANS.—In the case of an individual who is participating in a State demonstration program and is enrolled with a medicaid managed care organization, the State shall enter into an arrangement with the organization under which the individual may obtain demonstration program medicaid services from any provider described in clause (ii) of subparagraph (A) at payment rates that do not exceed the payment rates that may be imposed under that clause.

"(C) COMPUTATION.—The payment rates described in subparagraphs (A) and (B) shall be computed without regard to any cost sharing that would be otherwise applicable under sections 1916 and 1916A.

"(D) DEFINITIONS.—For purposes of this paragraph:

"(i) The term 'demonstration program medicaid services' means, with respect to an individual participating in a State demonstration program, services for which the individual would be provided medical assistance under this title but for the application of the deductible described in paragraph (1)(A).

"(ii) The term 'participating provider' means—

"(I) with respect to an individual described in subparagraph (A), a health care provider that has entered into a participation agreement with the State for the provision of services to individuals entitled to benefits under the State plan; or

"(II) with respect to an individual described in subparagraph (B) who is enrolled in a medicaid managed care organization, a health care provider that has entered into an arrangement for the provision of services to enrollees of the organization under this title.

"(4) NO EFFECT ON SUBSEQUENT BENEFITS.—Except as provided under paragraphs (1) and (2), alternative benefits for an eligible individual shall consist of the benefits otherwise provided to the individual, including cost sharing relating to such benefits.

"(5) OVERRIDING COST SHARING AND COMPARABILITY REQUIREMENTS FOR ALTERNATIVE BENEFITS.—The provisions of this title relating to cost sharing for benefits (including sections 1916 and 1916A) shall not apply with respect to benefits to which the annual deductible under paragraph (1)(A) applies. The provisions of section 1902(a)(10)(B) (relating to comparability) shall not apply with respect to the provision of alternative benefits (as described in this subsection).

"(6) TREATMENT AS MEDICAL ASSISTANCE.—Subject to subparagraphs (D) and (E) of subsection (d)(2), payments for alternative benefits under this section (including contributions into a health opportunity account) shall be treated as medical assistance for purposes of section 1903(a).

"(7) USE OF TIERED DEDUCTIBLE AND COST SHARING.—

"(A) IN GENERAL.—A State—

"(i) may vary the amount of the annual deductible applied under paragraph (1)(A) based on the income of the family involved so long as it does not favor families with higher income over those with lower income; and

"(ii) may vary the amount of the maximum out-of-pocket cost sharing (as defined in subparagraph (B)) based on the income of the family involved so long as it does not favor families with higher income over those with lower income.

"(B) MAXIMUM OUT-OF-POCKET COST SHARING.—For purposes of subparagraph (A)(ii), the term 'maximum out-of-pocket cost sharing' means, for an individual or family, the amount by which the annual deductible level applied under paragraph (1)(A) to the individual or family exceeds the balance in the health opportunity account for the individual or family.

"(8) CONTRIBUTIONS BY EMPLOYERS.—Nothing in this section shall be construed as preventing an employer from providing health benefits coverage consisting of the coverage described in paragraph (1)(A) to individuals who are provided alternative benefits under this section.

"(d) HEALTH OPPORTUNITY ACCOUNT.—

"(1) IN GENERAL.—For purposes of this section, the term 'health opportunity account' means an account that meets the requirements of this subsection.

"(2) CONTRIBUTIONS.—

"(A) IN GENERAL.—No contribution may be made into a health opportunity account except—

"(i) contributions by the State under this title; and

"(ii) contributions by other persons and entities, such as charitable organizations, as permitted under section 1903(w).

"(B) STATE CONTRIBUTION.—A State shall specify the contribution amount that shall be deposited under subparagraph (A)(i) into a health opportunity account.

"(C) LIMITATION ON ANNUAL STATE CONTRIBUTION PROVIDED AND PERMITTING IMPOSITION OF MAXIMUM ACCOUNT BALANCE.—

"(i) IN GENERAL.—A State—

"(I) may impose limitations on the maximum contributions that may be deposited under subparagraph (A)(i) into a health opportunity account in a year;

"(II) may limit contributions into such an account once the balance in the account reaches a level specified by the State; and

"(III) subject to clauses (ii) and (iii) and subparagraph (D)(i), may not provide contributions described in subparagraph (A)(i) to a health opportunity account on behalf of an individual or family to the extent the amount of such contributions (including both State and Federal shares) exceeds, on an annual basis, $2,500 for each individual (or family member) who is an adult and $1,000 for each individual (or family member) who is a child.

"(ii) INDEXING OF DOLLAR LIMITATIONS.—For each year after 2006, the dollar amounts specified in clause (i)(III) shall be annually increased by the Secretary by a percentage that reflects the annual percentage increase in the medical care component of the consumer price index for all urban consumers.

"(iii) BUDGET NEUTRAL ADJUSTMENT.—A State may provide for dollar limitations in excess of those specified in clause (i)(III) (as increased under clause (ii)) for specified individuals if the State provides assurances satisfactory to the Secretary that contributions otherwise made to other individuals will be reduced in a manner so as to provide for aggregate contributions that do not exceed the aggregate contributions that would otherwise be permitted under this subparagraph.

"(D) LIMITATIONS ON FEDERAL MATCHING.—

"(i) STATE CONTRIBUTION.—A State may contribute under subparagraph (A)(i) amounts to a health opportunity account in excess of the limitations provided under subparagraph (C)(i)(III), but no Federal financial participation shall be provided under section 1903(a) with respect to contributions in excess of such limitations.

"(ii) NO FFP FOR PRIVATE CONTRIBUTIONS.—No Federal financial participation shall be provided under section 1903(a) with respect to any contributions described in subparagraph (A)(ii) to a health opportunity account.

"(E) APPLICATION OF DIFFERENT MATCHING RATES.—The Secretary shall provide a method under which, for expenditures made from a health opportunity account for medical care for which the Federal matching rate under section 1903(a) exceeds the Federal medical assistance percentage, a State may obtain payment under such section at such higher matching rate for such expenditures.

"(3) USE.—

"(A) GENERAL USES.—

"(i) IN GENERAL.—Subject to the succeeding provisions of this paragraph, amounts in a health opportunity account may be used for payment of such health care expenditures as the State specifies.

"(ii) GENERAL LIMITATION.—Subject to subparagraph (B)(ii), in no case shall such account be used for payment for health care expenditures that are not payment of medical care (as defined by section 213(d) of the Internal Revenue Code of 1986).

"(iii) STATE RESTRICTIONS.—In applying clause (i), a State may restrict payment for—

"(I) providers of items and services to providers that are licensed or otherwise authorized under State law to provide the item or service and may deny payment for such a provider on the basis that the provider has been found, whether with respect to this title or any other health benefit program, to have failed to meet quality standards or to have committed 1 or more acts of fraud or abuse; and

"(II) items and services insofar as the State finds they are not medically appropriate or necessary.

"(iv) ELECTRONIC WITHDRAWALS.—The State demonstration program shall provide for a method whereby withdrawals may be made from the account for such purposes using an electronic system and shall not permit withdrawals from the account in cash.

"(B) MAINTENANCE OF HEALTH OPPORTUNITY ACCOUNT AFTER BECOMING INELIGIBLE FOR PUBLIC BENEFIT.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, if an account holder of a health opportunity account becomes ineligible for benefits under this title because of an increase in income or assets—

"(I) no additional contribution shall be made into the account under paragraph (2)(A)(i);

"(II) subject to clause (iii), the balance in the account shall be reduced by 25 percent; and

"(III) subject to the succeeding provisions of this subparagraph, the account shall remain available to the account holder for 3 years after the date on which the individual becomes ineligible for such benefits for withdrawals under the same terms and conditions as if the account holder remained eligible for such benefits, and such withdrawals shall be treated as medical assistance in accordance with subsection (c)(6).

"(ii) SPECIAL RULES.—Withdrawals under this subparagraph from an account—

"(I) shall be available for the purchase of health insurance coverage; and

"(II) may, subject to clause (iv), be made available (at the option of the State) for such additional expenditures (such as job training and tuition expenses) specified by the State (and approved by the Secretary) as the State may specify.

"(iii) EXCEPTION FROM 25 PERCENT SAVINGS TO GOVERNMENT FOR PRIVATE CONTRIBUTIONS.—Clause (i)(II) shall not apply to the portion of the account that is attributable to contributions described in paragraph (2)(A)(ii). For purposes of accounting for such contributions, withdrawals from a health opportunity account shall first be attributed to contributions described in paragraph (2)(A)(i).

"(iv) CONDITION FOR NON-HEALTH WITHDRAWALS.—No withdrawal may be made from an account under clause (ii)(II) unless the account holder has participated in the program under this section for at least 1 year.

"(v) NO REQUIREMENT FOR CONTINUATION OF COVERAGE.—An account holder of a health opportunity account, after becoming ineligible for medical assistance under this title, is not required to purchase high-deductible or other insurance as a condition of maintaining or using the account.

"(4) ADMINISTRATION.—A State may coordinate administration of health opportunity accounts through the use of a third party administrator and reasonable expenditures for the use of such administrator shall be reimbursable to the State in the same manner as other administrative expenditures under section 1903(a)(7).

"(5) TREATMENT.—Amounts in, or contributed to, a health opportunity account shall not be counted as income or assets for purposes of determining eligibility for benefits under this title.

"(6) UNAUTHORIZED WITHDRAWALS.—A State may establish procedures—

"(A) to penalize or remove an individual from the health opportunity account based on nonqualified withdrawals by the individual from such an account; and

"(B) to recoup costs that derive from such nonqualified withdrawals.".

SEC. 6083. STATE OPTION TO ESTABLISH NON-EMERGENCY MEDICAL TRANSPORTATION PROGRAM.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by sections 6033(a) and 6035(b), is amended—

(1) in paragraph (68), by striking "and" at the end;

(2) in paragraph (69) by striking the period at the end and inserting “; and”; and

(3) by inserting after paragraph (69) the following:

“(70) at the option of the State and notwithstanding paragraphs (1), (10)(B), and (23), provide for the establishment of a non-emergency medical transportation brokerage program in order to more cost-effectively provide transportation for individuals eligible for medical assistance under the State plan who need access to medical care or services and have no other means of transportation which—

“(A) may include a wheelchair van, taxi, stretcher car, bus passes and tickets, secured transportation, and such other transportation as the Secretary determines appropriate; and

“(B) may be conducted under contract with a broker who—

“(i) is selected through a competitive bidding process based on the State's evaluation of the broker's experience, performance, references, resources, qualifications, and costs;

“(ii) has oversight procedures to monitor beneficiary access and complaints and ensure that transport personnel are licensed, qualified, competent, and courteous;

“(iii) is subject to regular auditing and oversight by the State in order to ensure the quality of the transportation services provided and the adequacy of beneficiary access to medical care and services; and

“(iv) complies with such requirements related to prohibitions on referrals and conflict of interest as the Secretary shall establish (based on the prohibitions on physician referrals under section 1877 and such other prohibitions and requirements as the Secretary determines to be appropriate).”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of the enactment of this Act.

SEC. 6084. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA) AND ABSTINENCE EDUCATION PROGRAM.

Effective as if enacted on December 31, 2005, activities authorized by sections 510 and 1925 of the Social Security Act shall continue through December 31, 2006, in the manner authorized for fiscal year 2005, notwithstanding section 1902(e)(1)(A) of such Act, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the first quarter of fiscal year 2007 at the level provided for such activities through the first quarter of fiscal year 2006.

SEC. 6085. EMERGENCY SERVICES FURNISHED BY NON-CONTRACT PROVIDERS FOR MEDICAID MANAGED CARE ENROLLEES.

(a) IN GENERAL.—Section 1932(b)(2) of the Social Security Act (42 U.S.C. 1396u-2(b)(2)) is amended by adding at the end the following new subparagraph:

“(D) EMERGENCY SERVICES FURNISHED BY NON-CONTRACT PROVIDERS.—Any provider of emergency services that does not have in effect a contract with a medicaid managed care entity that establishes payment amounts for services furnished to a beneficiary enrolled in the entity's Medicaid managed care plan must accept as payment in full no more than the amounts (less any payments for indirect costs of medical education and direct costs of graduate medical education) that it could collect if the beneficiary received medical assistance under this title other than through enrollment in such an entity. In a State where rates paid to hospitals under the State plan are negotiated by contract and not publicly released, the payment amount applicable under this subparagraph shall be the average contract rate that would apply under the State plan for general acute care hospitals or the average contract rate that would apply under such plan for tertiary hospitals.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2007.

SEC. 6086. EXPANDED ACCESS TO HOME AND COMMUNITY-BASED SERVICES FOR THE ELDERLY AND DISABLED.

(a) HOME AND COMMUNITY-BASED SERVICES AS AN OPTIONAL BENEFIT FOR ELDERLY AND DISABLED INDIVIDUALS.—Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended by adding at the end the following new subsection:

“(i) STATE PLAN AMENDMENT OPTION TO PROVIDE HOME AND COMMUNITY-BASED SERVICES FOR ELDERLY AND DISABLED INDIVIDUALS.—

“(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, a State may provide through a State plan amendment for the provision of medical assistance for home and community-based services (within the scope of services described in paragraph (4)(B) of subsection (c) for which the Secretary has the authority to approve a waiver and not including room and board or such other services requested by the State as the Secretary may approve) for individuals eligible for medical assistance under the State plan whose income does not exceed 150 percent of the poverty line (as defined in section 2110(c)(5)), without determining that but for the provision of such services the individuals would require the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded, but only if the State meets the following requirements:

“(A) NEEDS-BASED CRITERIA FOR ELIGIBILITY FOR, AND RECEIPT OF, HOME AND COMMUNITY-BASED SERVICES.—The State establishes needs-based criteria for determining an individual's eligibility under the State plan for medical assistance for such home and community-based services, and if the individual is eligible for such services, the specific home and community-based services that the individual will receive.

“(B) ESTABLISHMENT OF MORE STRINGENT NEEDS-BASED ELIGIBILITY CRITERIA FOR INSTITUTIONALIZED CARE.—The State establishes needs-based criteria for determining whether an individual requires the level of care provided in a hospital, a nursing facility, or an intermediate care facility for the mentally retarded under the State plan or under any waiver of such plan that are more stringent than the needs-based criteria established under subparagraph (A) for determining eligibility for home and community-based services.

“(C) PROJECTION OF NUMBER OF INDIVIDUALS TO BE PROVIDED HOME AND COMMUNITY-BASED SERVICES.—

“(i) IN GENERAL.—The State submits to the Secretary, in such form and manner, and upon such frequency as the Secretary shall specify, the projected number of individuals to be provided home and community-based services.

“(ii) AUTHORITY TO LIMIT NUMBER OF ELIGIBLE INDIVIDUALS.—A State may limit the number of individuals who are eligible for such services and may establish waiting lists for the receipt of such services.

“(D) CRITERIA BASED ON INDIVIDUAL ASSESSMENT.—

“(i) IN GENERAL.—The criteria established by the State for purposes of subparagraphs (A) and (B) requires an assessment of an individual's support needs and capabilities, and may take into account the inability of the individual to perform 2 or more activities of daily living (as defined in section 7702B(c)(2)(B) of the Internal Revenue Code of 1986) or the need for significant assistance to perform such activities, and such other risk factors as the State determines to be appropriate.

“(ii) ADJUSTMENT AUTHORITY.—The State plan amendment provides the State with the option to modify the criteria established under subparagraph (A) (without having to obtain prior approval from the Secretary) in the event that the enrollment of individuals eligible for home and community-based services exceeds the projected enrollment submitted for purposes of subparagraph (C), but only if—

“(I) the State provides at least 60 days notice to the Secretary and the public of the proposed modification;

“(II) the State deems an individual receiving home and community-based services on the basis of the most recent version of the criteria in effect prior to the effective date of the modification to be eligible for such services for a period of at least 12 months beginning on the date the individual first received medical assistance for such services; and

“(III) after the effective date of such modification, the State, at a minimum, applies the criteria for determining whether an individual requires the level of care provided in a hospital, a nursing facility, or an intermediate care facility for the mentally retarded under the State plan or under any waiver of such plan which applied prior to the application of the more stringent criteria developed under subparagraph (B).

“(E) INDEPENDENT EVALUATION AND ASSESSMENT.—

“(i) ELIGIBILITY DETERMINATION.—The State uses an independent evaluation for making the determinations described in subparagraphs (A) and (B).

“(ii) ASSESSMENT.—In the case of an individual who is determined to be eligible for home and community-based services, the State uses an independent assessment, based on the needs of the individual to—

“(I) determine a necessary level of services and supports to be provided, consistent with an individual's physical and mental capacity;

“(II) prevent the provision of unnecessary or inappropriate care; and

“(III) establish an individualized care plan for the individual in accordance with subparagraph (G).

“(F) ASSESSMENT.—The independent assessment required under subparagraph (E)(ii) shall include the following:

“(i) An objective evaluation of an individual's inability to perform 2 or more activities of daily living (as defined in section 7702B(c)(2)(B) of the Internal Revenue Code of 1986) or the need for significant assistance to perform such activities.

“(ii) A face-to-face evaluation of the individual by an individual trained in the assessment and evaluation of individuals whose physical or mental conditions trigger a potential need for home and community-based services.

“(iii) Where appropriate, consultation with the individual's family, spouse, guardian, or other responsible individual.

“(iv) Consultation with appropriate treating and consulting health and support professionals caring for the individual.

“(v) An examination of the individual's relevant history, medical records, and care and support needs, guided by best practices and research on effective strategies that result in improved health and quality of life outcomes.

“(vi) If the State offers individuals the option to self-direct the purchase of, or control the receipt of, home and community-based service, an evaluation of the ability of the individual or the individual's representative to self-direct the purchase of, or control the receipt of, such services if the individual so elects.

“(G) INDIVIDUALIZED CARE PLAN.—

“(i) IN GENERAL.—In the case of an individual who is determined to be eligible for home and community-based services, the State uses the independent assessment required under subparagraph (E)(ii) to establish a written individualized care plan for the individual.

"(ii) PLAN REQUIREMENTS.—The State ensures that the individualized care plan for an individual—

"(I) is developed—

"(aa) in consultation with the individual, the individual's treating physician, health care or support professional, or other appropriate individuals, as defined by the State, and, where appropriate the individual's family, caregiver, or representative; and

"(bb) taking into account the extent of, and need for, any family or other supports for the individual;

"(II) identifies the necessary home and community-based services to be furnished to the individual (or, if the individual elects to self-direct the purchase of, or control the receipt of, such services, funded for the individual); and

"(III) is reviewed at least annually and as needed when there is a significant change in the individual's circumstances.

"(iii) STATE OPTION TO OFFER ELECTION FOR SELF-DIRECTED SERVICES.—

"(I) INDIVIDUAL CHOICE.—At the option of the State, the State may allow an individual or the individual's representative to elect to receive self-directed home and community-based services in a manner which gives them the most control over such services consistent with the individual's abilities and the requirements of subclauses (II) and (III).

"(II) SELF-DIRECTED SERVICES.—The term 'self-directed' means, with respect to the home and community-based services offered under the State plan amendment, such services for the individual which are planned and purchased under the direction and control of such individual or the individual's authorized representative, including the amount, duration, scope, provider, and location of such services, under the State plan consistent with the following requirements:

"(aa) ASSESSMENT.—There is an assessment of the needs, capabilities, and preferences of the individual with respect to such services.

"(bb) SERVICE PLAN.—Based on such assessment, there is developed jointly with such individual or the individual's authorized representative a plan for such services for such individual that is approved by the State and that satisfies the requirements of subclause (III).

"(III) PLAN REQUIREMENTS.—For purposes of subclause (II)(bb), the requirements of this subclause are that the plan—

"(aa) specifies those services which the individual or the individual's authorized representative would be responsible for directing;

"(bb) identifies the methods by which the individual or the individual's authorized representative will select, manage, and dismiss providers of such services;

"(cc) specifies the role of family members and others whose participation is sought by the individual or the individual's authorized representative with respect to such services;

"(dd) is developed through a person-centered process that is directed by the individual or the individual's authorized representative, builds upon the individual's capacity to engage in activities that promote community life and that respects the individual's preferences, choices, and abilities, and involves families, friends, and professionals as desired or required by the individual or the individual's authorized representative;

"(ee) includes appropriate risk management techniques that recognize the roles and sharing of responsibilities in obtaining services in a self-directed manner and assure the appropriateness of such plan based upon the resources and capabilities of the individual or the individual's authorized representative; and

"(ff) may include an individualized budget which identifies the dollar value of the services and supports under the control and direction of the individual or the individual's authorized representative.

"(IV) BUDGET PROCESS.—With respect to individualized budgets described in subclause (III)(ff), the State plan amendment—

"(aa) describes the method for calculating the dollar values in such budgets based on reliable costs and service utilization;

"(bb) defines a process for making adjustments in such dollar values to reflect changes in individual assessments and service plans; and

"(cc) provides a procedure to evaluate expenditures under such budgets.

"(H) QUALITY ASSURANCE; CONFLICT OF INTEREST STANDARDS.—

"(i) QUALITY ASSURANCE.—The State ensures that the provision of home and community-based services meets Federal and State guidelines for quality assurance.

"(ii) CONFLICT OF INTEREST STANDARDS.—The State establishes standards for the conduct of the independent evaluation and the independent assessment to safeguard against conflicts of interest.

"(I) REDETERMINATIONS AND APPEALS.—The State allows for at least annual redeterminations of eligibility, and appeals in accordance with the frequency of, and manner in which, redeterminations and appeals of eligibility are made·under the State plan.

"(J) PRESUMPTIVE ELIGIBILITY FOR ASSESSMENT.—The State, at its option, elects to provide for a period of presumptive eligibility (not to exceed a period of 60 days) only for those individuals that the State has reason to believe may be eligible for home and community-based services. Such presumptive eligibility shall be limited to medical assistance for carrying out the independent evaluation and assessment under subparagraph (E) to determine an individual's eligibility for such services and if the individual is so eligible, the specific home and community-based services that the individual will receive.

"(2) DEFINITION OF INDIVIDUAL'S REPRESENTATIVE.—In this section, the term 'individual's representative' means, with respect to an individual, a parent, a family member, or a guardian of the individual, an advocate for the individual, or any other individual who is authorized to represent the individual.

"(3) NONAPPLICATION.—A State may elect in the State plan amendment approved under this section to not comply with the requirements of section 1902(a)(1) (relating to statewideness) and section 1902(a)(10)(C)(i)(III) (relating to income and resource rules applicable in the community), but only for purposes of provided home and community-based services in accordance with such amendment. Any such election shall not be construed to apply to the provision of services to an individual receiving medical assistance in an institutionalized setting as a result of a determination that the individual requires the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded.

"(4) NO EFFECT ON OTHER WAIVER AUTHORITY.—Nothing in this subsection shall be construed as affecting the option of a State to offer home and community-based services under a waiver under subsections (c) or (d) of this section or under section 1115.

"(5) CONTINUATION OF FEDERAL FINANCIAL PARTICIPATION FOR MEDICAL ASSISTANCE PROVIDED TO INDIVIDUALS AS OF EFFECTIVE DATE OF STATE PLAN AMENDMENT.—Notwithstanding paragraph (1)(B), Federal financial participation shall continue to be available for an individual who is receiving medical assistance in an institutionalized setting, or home and community-based services provided under a waiver under this section or section 1115 that is in effect as of the effective date of the State plan amendment submitted under this subsection, as a result of a determination that the individual requires the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded, without regard to whether such individuals satisfy the more stringent eligibility criteria established under that paragraph, until such time as the individual is discharged from the institution or waiver program or no longer requires such level of care.".

(b) QUALITY OF CARE MEASURES.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality, shall consult with consumers, health and social service providers and other professionals knowledgeable about long-term care services and supports to develop program performance indicators, client function indicators, and measures of client satisfaction with respect to home and community-based services offered under State Medicaid programs.

(2) BEST PRACTICES.—The Secretary shall—

(A) use the indicators and measures developed under paragraph (1) to assess such home and community-based services, the outcomes associated with the receipt of such services (particularly with respect to the health and welfare of the recipient of the services), and the overall system for providing home and community-based services under the Medicaid program under title XIX of the Social Security Act; and

(B) make publicly available the best practices identified through such assessment and a comparative analyses of the system features of each State.

(3) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary of Health and Human Services, $1,000,000 for the period of fiscal years 2006 through 2010 to carry out this subsection.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) take effect on January 1, 2007, and apply to expenditures for medical assistance for home and community-based services provided in accordance with section 1915(i) of the Social Security Act (as added by subsections (a) and (b)) on or after that date.

SEC. 6087. OPTIONAL CHOICE OF SELF-DIRECTED PERSONAL ASSISTANCE SERVICES (CASH AND COUNSELING).

(a) EXEMPTION FROM CERTAIN REQUIREMENTS.—Section 1915 of the Social Security Act (42 U.S.C. 1396n), as amended by section 6086(a), is amended by adding at the end the following new subsection:

"(j)(1) A State may provide, as 'medical assistance', payment for part or all of the cost of self-directed personal assistance services (other than room and board) under the plan which are provided pursuant to a written plan of care to individuals with respect to whom there has been a determination that, but for the provision of such services, the individuals would require and receive personal care services under the plan, or home and community-based services provided pursuant to a waiver under subsection (c). Self-directed personal assistance services may not be provided under this subsection to individuals who reside in a home or property that is owned, operated, or controlled by a provider of services, not related by blood or marriage.

"(2) The Secretary shall not grant approval for a State self-directed personal assistance services program under this section unless the State provides assurances satisfactory to the Secretary of the following:

"(A) Necessary safeguards have been taken to protect the health and welfare of individuals provided services under the program, and to assure financial accountability for funds expended with respect to such services.

"(B) The State will provide, with respect to individuals who—

"(i) are entitled to medical assistance for personal care services under the plan, or receive home and community-based services under a waiver granted under subsection (c);

"(ii) may require self-directed personal assistance services; and

"(iii) may be eligible for self-directed personal assistance services,

an evaluation of the need for personal care under the plan, or personal services under a waiver granted under subsection (c).

"(C) Such individuals who are determined to be likely to require personal care under the plan, or home and community-based services under a waiver granted under subsection (c) are informed of the feasible alternatives, if available under the State's self-directed personal assistance services program, at the choice of such individuals, to the provision of personal care services under the plan, or personal assistance services under a waiver granted under subsection (c).

"(D) The State will provide for a support system that ensures participants in the self-directed personal assistance services program are appropriately assessed and counseled prior to enrollment and are able to manage their budgets. Additional counseling and management support may be provided at the request of the participant.

"(E) The State will provide to the Secretary an annual report on the number of individuals served and total expenditures on their behalf in the aggregate. The State shall also provide an evaluation of overall impact on the health and welfare of participating individuals compared to non-participants every three years.

"(3) A State may provide self-directed personal assistance services under the State plan without regard to the requirements of section 1902(a)(1) and may limit the population eligible to receive these services and limit the number of persons served without regard to section 1902(a)(10)(B).

"(4)(A) For purposes of this subsection, the term 'self-directed personal assistance services' means personal care and related services, or home and community-based services otherwise available under the plan under this title or subsection (c), that are provided to an eligible participant under a self-directed personal assistance services program under this section, under which individuals, within an approved self-directed services plan and budget, purchase personal assistance and related services, and permits participants to hire, fire, supervise, and manage the individuals providing such services.

"(B) At the election of the State—

"(i) a participant may choose to use any individual capable of providing the assigned tasks including legally liable relatives as paid providers of the services; and

"(ii) the individual may use the individual's budget to acquire items that increase independence or substitute (such as a microwave oven or an accessibility ramp) for human assistance, to the extent that expenditures would otherwise be made for the human assistance.

"(5) For purpose of this section, the term 'approved self-directed services plan and budget' means, with respect to a participant, the establishment of a plan and budget for the provision of self-directed personal assistance services, consistent with the following requirements:

"(A) SELF-DIRECTION.—The participant (or in the case of a participant who is a minor child, the participant's parent or guardian, or in the case of an incapacitated adult, another individual recognized by State law to act on behalf of the participant) exercises choice and control over the budget, planning, and purchase of self-directed personal assistance services, including the amount, duration, scope, provider, and location of service provision.

"(B) ASSESSMENT OF NEEDS.—There is an assessment of the needs, strengths, and preferences of the participants for such services.

"(C) SERVICE PLAN.—A plan for such services (and supports for such services) for the participant has been developed and approved by the State based on such assessment through a person-centered process that—

"(i) builds upon the participant's capacity to engage in activities that promote community life and that respects the participant's preferences, choices, and abilities; and

"(ii) involves families, friends, and professionals in the planning or delivery of services or supports as desired or required by the participant.

"(D) SERVICE BUDGET.—A budget for such services and supports for the participant has been developed and approved by the State based on such assessment and plan and on a methodology that uses valid, reliable cost data, is open to public inspection, and includes a calculation of the expected cost of such services if those services were not self-directed. The budget may not restrict access to other medically necessary care and services furnished under the plan and approved by the State but not included in the budget.

"(E) APPLICATION OF QUALITY ASSURANCE AND RISK MANAGEMENT.—There are appropriate quality assurance and risk management techniques used in establishing and implementing such plan and budget that recognize the roles and responsibilities in obtaining services in a self-directed manner and assure the appropriateness of such plan and budget based upon the participant's resources and capabilities.

"(6) A State may employ a financial management entity to make payments to providers, track costs, and make reports under the program. Payment for the activities of the financial management entity shall be at the administrative rate established in section 1903(a).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 2007.

Subtitle B—SCHIP

SEC. 6101. ADDITIONAL ALLOTMENTS TO ELIMINATE FISCAL YEAR 2006 FUNDING SHORTFALLS.

(a) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by inserting after subsection (c) the following:

"(d) ADDITIONAL ALLOTMENTS TO ELIMINATE FUNDING SHORTFALLS.—

"(1) APPROPRIATION; ALLOTMENT AUTHORITY.—For the purpose of providing additional allotments to shortfall States described in paragraph (2), there is appropriated, out of any money in the Treasury not otherwise appropriated, $283,000,000 for fiscal year 2006.

"(2) SHORTFALL STATES DESCRIBED.—For purposes of paragraph (1), a shortfall State described in this paragraph is a State with a State child health plan approved under this title for which the Secretary estimates, on the basis of the most recent data available to the Secretary as of December 16, 2005, that the projected expenditures under such plan for such State for fiscal year 2006 will exceed the sum of—

"(A) the amount of the State's allotments for each of fiscal years 2004 and 2005 that will not be expended by the end of fiscal year 2005;

"(B) the amount, if any, that is to be redistributed to the State during fiscal year 2006 in accordance with subsection (f); and

"(C) the amount of the State's allotment for fiscal year 2006.

"(3) ALLOTMENTS.—In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the additional allotments under paragraph (1) for fiscal year 2006, the Secretary shall allot—

"(A) to each shortfall State described in paragraph (2) such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for the State; and

"(B) to each commonwealth or territory described in subsection (c)(3), the same proportion as the proportion of the commonwealth's or territory's allotment under subsection (c) (determined without regard to subsection (f)) to 1.05 percent of the amount appropriated under paragraph (1).

"(4) USE OF ADDITIONAL ALLOTMENT.—Additional allotments provided under this subsection are only available for amounts expended under a State plan approved under this title for child health assistance for targeted low-income children.

"(5) 1-YEAR AVAILABILITY; NO REDISTRIBUTION OF UNEXPENDED ADDITIONAL ALLOTMENTS.—Notwithstanding subsections (e) and (f), amounts allotted to a State pursuant to this subsection for fiscal year 2006 shall only remain available for expenditure by the State through September 30, 2006. Any amounts of such allotments that remain unexpended as of such date shall not be subject to redistribution under subsection (f) and shall revert to the Treasury on October 1, 2006.".

(b) CONFORMING AMENDMENTS.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended—

(1) in subsection (a), by inserting "subject to subsection (d)," after "under this section,";

(2) in subsection (b)(1), by inserting "and subsection (d)" after "Subject to paragraph (4)"; and

(3) in subsection (c)(1), by inserting "subject to subsection (d)," after "for a fiscal year,".

(c) EFFECTIVE DATE.—The amendments made by this section apply to items and services furnished on or after October 1, 2005, without regard to whether or not regulations implementing such amendments have been issued.

SEC. 6102. PROHIBITION AGAINST COVERING NONPREGNANT CHILDLESS ADULTS WITH SCHIP FUNDS.

(a) PROHIBITION ON USE OF SCHIP FUNDS.—Section 2107 of the Social Security Act (42 U.S.C. 1397gg) is amended by adding at the end the following:

"(f) LIMITATION OF WAIVER AUTHORITY.—Notwithstanding subsection (e)(2)(A) and section 1115(a), the Secretary may not approve a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult. For purposes of the preceding sentence, a caretaker relative (as such term is defined for purposes of carrying out section 1931) shall not be considered a childless adult.".

(b) CONFORMING AMENDMENTS.—Section 2105(c)(1) of such Act (42 U.S.C. 1397ee(c)(1)) is amended—

(1) by inserting "and may not include coverage of a nonpregnant childless adult" after "section 2101)"; and

(2) by adding at the end the following: "For purposes of the preceding sentence, a caretaker relative (as such term is defined for purposes of carrying out section 1931) shall not be considered a childless adult.".

(c) RULE OF CONSTRUCTION.—Nothing in this section or the amendments made by this section shall be construed to—

(1) authorize the waiver of any provision of title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.) that is not otherwise authorized to be waived under such titles or under title XI of such Act (42 U.S.C. 1301 et seq.) as of the date of enactment of this Act;

(2) imply congressional approval of any waiver, experimental, pilot, or demonstration project

affecting funds made available under the State children's health insurance program under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) or any amendment to such a waiver or project that has been approved as of such date of enactment; or

(3) apply to any waiver, experimental, pilot, or demonstration project that would allow funds made available under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult that is approved before the date of enactment of this Act or to any extension, renewal, or amendment of such a waiver or project that is approved on or after such date of enactment.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect as if enacted on October 1, 2005, and shall apply to any waiver, experimental, pilot, or demonstration project that is approved on or after that date.

SEC. 6103. CONTINUED AUTHORITY FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.

(a) IN GENERAL.—Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by striking "or 2001" and inserting "2001, 2004, or 2005".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenditures made under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) on or after October 1, 2005.

Subtitle C—Katrina Relief

SEC. 6201. ADDITIONAL FEDERAL PAYMENTS UNDER HURRICANE-RELATED MULTI-STATE SECTION 1115 DEMONSTRATIONS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall pay to each eligible State, from amounts appropriated pursuant to subsection (e), amounts for the following purposes:

(1) Under the authority of an approved Multi-State Section 1115 Demonstration Project (in this section referred to as an "section 1115 project")—

(A) with respect to evacuees receiving health care under such project, for the non-Federal share of expenditures:

(i) for medical assistance furnished under title XIX of the Social Security Act, and

(ii) for child health assistance furnished under title XXI of such Act;

(B) with respect to evacuees who do not have other coverage for such assistance through insurance, including (but not limited to) private insurance, under title XIX or title XXI of the Social Security Act, or under State-funded health insurance programs, for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those evacuees receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies beyond those included as medical assistance or child health assistance under the State's approved plan under title XIX or title XXI of the Social Security Act;

(C) with respect to affected individuals receiving health care under such project for the non-Federal share of the following expenditures:

(i) for medical assistance furnished under title XIX of the Social Security Act, and

(ii) for child health assistance furnished under title XXI of such Act; and

(D) with respect to affected individuals who do not have other coverage for such assistance through insurance, including (but not limited to) private insurance, under title XIX or title XXI of the Social Security Act, or under State-funded health insurance programs, for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies beyond those included as medical assistance or child health assistance under the State's approved plan under title XIX or title XXI of the Social Security Act.

(2) For reimbursement of the reasonable administrative costs related to subparagraphs (A) through (D) of paragraph (1) as determined by the Secretary.

(3) Only with respect to affected counties or parishes, for reimbursement with respect to individuals receiving medical assistance under existing State plans approved by the Secretary of Health and Human Services for the following non-Federal share of expenditures:

(A) For medical assistance furnished under title XIX of the Social Security Act.

(B) For child health assistance furnished under title XXI of such Act.

(4) For other purposes, if approved by the Secretary under the Secretary's authority, to restore access to health care in impacted communities.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "affected individual" means an individual who resided in an individual assistance designation county or parish pursuant to section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as declared by the President as a result of Hurricane Katrina and continues to reside in the same State that such county or parish is located in.

(2) The term "affected counties or parishes" means a county or parish described in paragraph (1).

(3) The term "evacuee" means an affected individual who has been displaced to another State.

(4) The term "eligible State" means a State that has provided care to affected individuals or evacuees under a section 1115 project.

(c) APPLICATION TO MATCHING REQUIREMENTS.—The non-Federal share paid under this section shall not be regarded as Federal funds for purposes of Medicaid matching requirements, the effect of which is to provide fiscal relief to the State in which the Medicaid eligible individual originally resided.

(d) TIME LIMITS ON PAYMENTS.—

(1) No payments shall be made by the Secretary under subsection (a)(1)(A) or (a)(1)(C), for costs of health care provided to an eligible evacuee or affected individual for services for such individual incurred after June 30, 2006.

(2) No payments shall be made by the Secretary under subsection (a)(1)(B) or (a)(1)(D) for costs of health care incurred after January 31, 2006.

(3) No payments may be made under subsection (a)(1)(B) or (a)(1)(D) for an item or service that an evacuee or an affected individual has received from an individual or organization as part of a public or private hurricane relief effort.

(e) APPROPRIATIONS.—For the purpose of providing funds for payments under this section, in addition to any funds made available for the National Disaster Medical System under the Department of Homeland Security for health care costs related to Hurricane Katrina, including under a section 1115 project, there is appropriated out of any money in the Treasury not otherwise appropriated, $2,000,000,000, to remain available to the Secretary until expended. The total amount of payments made under subsection (a) may not exceed the total amount appropriated under this subsection.

SEC. 6202. STATE HIGH RISK HEALTH INSURANCE POOL FUNDING.

(a) IN GENERAL.—There are hereby authorized and appropriated for fiscal year 2006—

(1) $75,000,000 for grants under subsection (b)(1) of section 2745 of the Public Health Service Act (42 U.S.C. 300gg–45); and

(2) $15,000,000 for grants under subsection (a) of such section.

(b) TREATMENT.—The amount appropriated under—

(1) paragraph (1) shall be treated as if it had been appropriated under subsection (c)(2) of such section; and

(2) paragraph (2) shall be treated as if it had been appropriated under subsection (c)(1) of such section.

(c) REFERENCES.—Effective upon the enactment of the State High Risk Pool Funding Extension Act of 2005—

(1) subsection (a)(1) shall be applied by substituting "subsections (b)(2) and (c)(3)" for "subsection (b)(1)";

(2) subsection (b)(1) shall be applied by substituting "(d)(1)(B)" for "(c)(2)"; and

(3) subsection (b)(2) shall be applied by substituting "(d)(1)(A)" for "(c)(1)".

SEC. 6203. IMPLEMENTATION FUNDING.

For purposes of implementing the provisions of, and amendments made by, title V of this Act and this title—

(1) the Secretary of Health and Human Services shall provide for the transfer, in appropriate part from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t), of $30,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for fiscal year 2006; and

(2) out of any funds in the Treasury not otherwise appropriated, there are appropriated to such Secretary for the Centers for Medicare & Medicaid Services Program Management Account, $30,000,000 for fiscal year 2006.

TITLE VII—HUMAN RESOURCES AND OTHER PROVISIONS

SEC. 7002. REFERENCES.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the amendment or repeal shall be considered to be made to a section or other provision of the Social Security Act.

Subtitle A—TANF

SEC. 7101. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES AND RELATED PROGRAMS FUNDING THROUGH SEPTEMBER 30, 2010.

(a) IN GENERAL.—Activities authorized by part A of title IV and section 1108(b) of the Social Security Act (adjusted, as applicable, by or under this subtitle, the amendments made by this subtitle, and the TANF Emergency Response and Recovery Act of 2005) shall continue through September 30, 2010, in the manner authorized for fiscal year 2004, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority on a quarterly basis through fiscal year 2010 at the level provided for such activities for the corresponding quarter of fiscal year 2004 (or, as applicable, at such greater level as may result from the application of this subtitle, the amendments made by this subtitle, and the TANF Emergency Response and Recovery Act of 2005), except that in the case of section 403(a)(3) of the Social Security Act, grants and

payments may be made pursuant to this authority only through fiscal year 2008 and in the case of section 403(a)(4) of the Social Security Act, no grants shall be made for any fiscal year occurring after fiscal year 2005.

(b) CONFORMING AMENDMENTS.—Part A of title IV (42 U.S.C. 601 et seq.) is amended—

(1) in section 403(a)(3)(H)(ii), by striking "December, 31, 2005" and inserting "fiscal year 2008";

(2) in section 403(b)(3)(C)(ii), by striking "2006" and inserting "2010"; and

(3) in section 409(a)(7)—

(A) in subparagraph (A), by striking "or 2007" and inserting "2007, 2008, 2009, 2010, or 2011"; and

(B) in subparagraph (B)(ii), by striking "2006" and inserting "2010".

(c) EXTENSION OF THE NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE THROUGH SEPTEMBER 30, 2010.—Activities authorized by section 429A of the Social Security Act shall continue through September 30, 2010, in the manner authorized for fiscal year 2004, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority on a quarterly basis through fiscal year 2010 at the level provided for such activities for the corresponding quarter of fiscal year 2004.

SEC. 7102. IMPROVED CALCULATION OF WORK PARTICIPATION RATES AND PROGRAM INTEGRITY.

(a) RECALIBRATION OF CASELOAD REDUCTION CREDIT.—

(1) IN GENERAL.—Section 407(b)(3)(A) (42 U.S.C. 607(b)(3)(A)) is amended—

(A) in clause (i), by inserting "or any other State program funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i))" after "this part" ; and

(B) by striking clause (ii) and inserting the following:

"(ii) the average monthly number of families that received assistance under any State program referred to in clause (i) during fiscal year 2005.".

(2) CONFORMING AMENDMENT.—Section 407(b)(3)(B) (42 U.S.C. 607(b)(3)(B)) is amended by striking "and eligibility criteria" and all that follows through the close parenthesis and inserting "and the eligibility criteria in effect during fiscal year 2005".

(b) INCLUSION OF FAMILIES RECEIVING ASSISTANCE UNDER SEPARATE STATE PROGRAMS IN CALCULATION OF PARTICIPATION RATES.—

(1) Section 407 (42 U.S.C. 607) is amended in each of subsections (a)(1), (a)(2), (b)(1)(B)(i), (c)(2)(A)(i), (e)(1), and (e)(2), by inserting "or any other State program funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i))" after "this part".

(2) Section 411(a)(1) (42 U.S.C. 611(a)(1)) is amended—

(A) in subparagraph (A), by inserting "or any other State program funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i))" before the colon; and

(B) in subparagraph (B)(ii), by inserting "and any other State programs funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i))" after "this part".

(c) IMPROVED VERIFICATION AND OVERSIGHT OF WORK PARTICIPATION.—

(1) IN GENERAL.—Section 407(i) (42 U.S.C. 607(i)) is amended to read as follows:

"(i) VERIFICATION OF WORK AND WORK-ELIGIBLE INDIVIDUALS IN ORDER TO IMPLEMENT REFORMS.—

"(1) SECRETARIAL DIRECTION AND OVERSIGHT.—

"(A) REGULATIONS FOR DETERMINING WHETHER ACTIVITIES MAY BE COUNTED AS 'WORK ACTIVITIES', HOW TO COUNT AND VERIFY REPORTED HOURS OF WORK, AND DETERMINING WHO IS A WORK-ELIGIBLE INDIVIDUAL.—

"(i) IN GENERAL.—Not later than June 30, 2006, the Secretary shall promulgate regulations to ensure consistent measurement of work participation rates under State programs funded under this part and State programs funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i)), which shall include information with respect to—

"(I) determining whether an activity of a recipient of assistance may be treated as a work activity under subsection (d);

"(II) uniform methods for reporting hours of work by a recipient of assistance;

"(III) the type of documentation needed to verify reported hours of work by a recipient of assistance; and

"(IV) the circumstances under which a parent who resides with a child who is a recipient of assistance should be included in the work participation rates.

"(ii) ISSUANCE OF REGULATIONS ON AN INTERIM FINAL BASIS.—The regulations referred to in clause (i) may be effective and final immediately on an interim basis as of the date of publication of the regulations. If the Secretary provides for an interim final regulation, the Secretary shall provide for a period of public comment on the regulation after the date of publication. The Secretary may change or revise the regulation after the public comment period.

"(B) OVERSIGHT OF STATE PROCEDURES.—The Secretary shall review the State procedures established in accordance with paragraph (2) to ensure that such procedures are consistent with the regulations promulgated under subparagraph (A) and are adequate to ensure an accurate measurement of work participation under the State programs funded under this part and any other State programs funded with qualified State expenditures (as so defined).

"(2) REQUIREMENT FOR STATES TO ESTABLISH AND MAINTAIN WORK PARTICIPATION VERIFICATION PROCEDURES.—Not later than September 30, 2006, a State to which a grant is made under section 403 shall establish procedures for determining, with respect to recipients of assistance under the State program funded under this part or under any State programs funded with qualified State expenditures (as so defined), whether activities may be counted as work activities, how to count and verify reported hours of work, and who is a work-eligible individual, in accordance with the regulations promulgated pursuant to paragraph (1)(A)(i) and shall establish internal controls to ensure compliance with the procedures.".

(2) STATE PENALTY FOR FAILURE TO ESTABLISH OR COMPLY WITH WORK PARTICIPATION VERIFICATION PROCEDURES.—Section 409(a) (42 U.S.C. 609(a)) is amended by adding at the end the following:

"(15) PENALTY FOR FAILURE TO ESTABLISH OR COMPLY WITH WORK PARTICIPATION VERIFICATION PROCEDURES.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 407(i)(2) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not less than 1 percent and not more than 5 percent of the State family assistance grant.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2006.

SEC. 7103. GRANTS FOR HEALTHY MARRIAGE PROMOTION AND RESPONSIBLE FATHERHOOD.

(a) HEALTHY MARRIAGE AND FAMILY FUNDS.—Section 403(a)(2) (42 U.S.C. 603(a)(2)) is amended to read as follows:

"(2) HEALTHY MARRIAGE PROMOTION AND RESPONSIBLE FATHERHOOD GRANTS.—

"(A) IN GENERAL.—

"(i) USE OF FUNDS.—Subject to subparagraphs (B) and (C), the Secretary may use the funds made available under subparagraph (D) for the purpose of conducting and supporting research and demonstration projects by public or private entities, and providing technical assistance to States, Indian tribes and tribal organizations, and such other entities as the Secretary may specify that are receiving a grant under another provision of this part.

"(ii) LIMITATIONS.—The Secretary may not award funds made available under this paragraph on a noncompetitive basis, and may not provide any such funds to an entity for the purpose of carrying out healthy marriage promotion activities or for the purpose of carrying out activities promoting responsible fatherhood unless the entity has submitted to the Secretary an application which—

"(I) describes—

"(aa) how the programs or activities proposed in the application will address, as appropriate, issues of domestic violence; and

"(bb) what the applicant will do, to the extent relevant, to ensure that participation in the programs or activities is voluntary, and to inform potential participants that their participation is voluntary; and

"(II) contains a commitment by the entity—

"(aa) to not use the funds for any other purpose; and

"(bb) to consult with experts in domestic violence or relevant community domestic violence coalitions in developing the programs and activities.

"(iii) HEALTHY MARRIAGE PROMOTION ACTIVITIES.—In clause (ii), the term 'healthy marriage promotion activities' means the following:

"(I) Public advertising campaigns on the value of marriage and the skills needed to increase marital stability and health.

"(II) Education in high schools on the value of marriage, relationship skills, and budgeting.

"(III) Marriage education, marriage skills, and relationship skills programs, that may include parenting skills, financial management, conflict resolution, and job and career advancement, for non-married pregnant women and non-married expectant fathers.

"(IV) Pre-marital education and marriage skills training for engaged couples and for couples or individuals interested in marriage.

"(V) Marriage enhancement and marriage skills training programs for married couples.

"(VI) Divorce reduction programs that teach relationship skills.

"(VII) Marriage mentoring programs which use married couples as role models and mentors in at-risk communities.

"(VIII) Programs to reduce the disincentives to marriage in means-tested aid programs, if offered in conjunction with any activity described in this subparagraph.

"(B) LIMITATION ON USE OF FUNDS FOR DEMONSTRATION PROJECTS FOR COORDINATION OF PROVISION OF CHILD WELFARE AND TANF SERVICES TO TRIBAL FAMILIES AT RISK OF CHILD ABUSE OR NEGLECT.—

"(i) IN GENERAL.—Of the amounts made available under subparagraph (D) for a fiscal year, the Secretary may not award more than $2,000,000 on a competitive basis to fund demonstration projects designed to test the effectiveness of tribal governments or tribal consortia in coordinating the provision to tribal families at risk of child abuse or neglect of child welfare services and services under tribal programs funded under this part.

"(ii) LIMITATION ON USE OF FUNDS.—A grant made pursuant to clause (i) to such a project shall not be used for any purpose other than—

"(I) to improve case management for families eligible for assistance from such a tribal program;

"(II) for supportive services and assistance to tribal children in out-of-home placements and the tribal families caring for such children, including families who adopt such children; and

"(III) for prevention services and assistance to tribal families at risk of child abuse and neglect.

"(iii) REPORTS.—The Secretary may require a recipient of funds awarded under this subparagraph to provide the Secretary with such information as the Secretary deems relevant to enable the Secretary to facilitate and oversee the administration of any project for which funds are provided under this subparagraph.

"(C) LIMITATION ON USE OF FUNDS FOR ACTIVITIES PROMOTING RESPONSIBLE FATHERHOOD.—

"(i) IN GENERAL.—Of the amounts made available under subparagraph (D) for a fiscal year, the Secretary may not award more than $50,000,000 on a competitive basis to States, territories, Indian tribes and tribal organizations, and public and nonprofit community entities, including religious organizations, for activities promoting responsible fatherhood.

"(ii) ACTIVITIES PROMOTING RESPONSIBLE FATHERHOOD.—In this paragraph, the term 'activities promoting responsible fatherhood' means the following:

"(I) Activities to promote marriage or sustain marriage through activities such as counseling, mentoring, disseminating information about the benefits of marriage and 2-parent involvement for children, enhancing relationship skills, education regarding how to control aggressive behavior, disseminating information on the causes of domestic violence and child abuse, marriage preparation programs, premarital counseling, marital inventories, skills-based marriage education, financial planning seminars, including improving a family's ability to effectively manage family business affairs by means such as education, counseling, or mentoring on matters related to family finances, including household management, budgeting, banking, and handling of financial transactions and home maintenance, and divorce education and reduction programs, including mediation and counseling.

"(II) Activities to promote responsible parenting through activities such as counseling, mentoring, and mediation, disseminating information about good parenting practices, skills-based parenting enducation, encouraging child support payments, and other methods.

"(III) Activities to foster economic stability by helping fathers improve their economic status by providing activities such as work first services, job search, job training, subsidized employment, job retention, job enhancement, and encouraging education, including career-advancing education, dissemination of employment materials, coordination with existing employment services such as welfare-to-work programs, referrals to local employment training initiatives, and other methods.

"(IV) Activities to promote responsible fatherhood that are conducted through a contract with a nationally recognized, nonprofit fatherhood promotion organization, such as the development, promotion, and distribution of a media campaign to encourage the appropriate involvement of parents in the life of any child and specifically the issue of responsible fatherhood, and the development of a national clearinghouse to assist States and communities in efforts to promote and support marriage and responsible fatherhood.

"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $150,000,000 for each of fiscal years 2006 through 2010, for expenditure in accordance with this paragraph.".

(b) COUNTING OF SPENDING ON CERTAIN PRO-FAMILY ACTIVITIES.—Section 409(a)(7)(B)(i) (42 U.S.C. 609(a)(7)(B)(i)) is amended by adding at the end the following:

"(V) COUNTING OF SPENDING ON CERTAIN PRO-FAMILY ACTIVITIES.—The term 'qualified State expenditures' includes the total expenditures by the State during the fiscal year under all State programs for a purpose described in paragraph (3) or (4) of section 401(a).".

Subtitle B—Child Care

SEC. 7201. ENTITLEMENT FUNDING.

Section 418(a)(3) (42 U.S.C. 618(a)(3)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting a semicolon; and

(3) by adding at the end the following:

"(G) $2,917,000,000 for each of fiscal years 2006 through 2010.".

Subtitle C—Child Support

SEC. 7301. ASSIGNMENT AND DISTRIBUTION OF CHILD SUPPORT.

(a) MODIFICATION OF RULE REQUIRING ASSIGNMENT OF SUPPORT RIGHTS AS A CONDITION OF RECEIVING TANF.—Section 408(a)(3) (42 U.S.C. 608(a)(3)) is amended to read as follows:

"(3) NO ASSISTANCE FOR FAMILIES NOT ASSIGNING CERTAIN SUPPORT RIGHTS TO THE STATE.—A State to which a grant is made under section 403 shall require, as a condition of paying assistance to a family under the State program funded under this part, that a member of the family assign to the State any right the family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance) to support from any other person, not exceeding the total amount of assistance so paid to the family, which accrues during the period that the family receives assistance under the program.".

(b) INCREASING CHILD SUPPORT PAYMENTS TO FAMILIES AND SIMPLIFYING CHILD SUPPORT DISTRIBUTION RULES.—

(1) DISTRIBUTION RULES.—

(A) IN GENERAL.—Section 457(a) (42 U.S.C. 657(a)) is amended to read as follows:

"(a) IN GENERAL.—Subject to subsections (d) and (e), the amounts collected on behalf of a family as support by a State pursuant to a plan approved under this part shall be distributed as follows:

"(1) FAMILIES RECEIVING ASSISTANCE.—In the case of a family receiving assistance from the State, the State shall—

"(A) pay to the Federal Government the Federal share of the amount collected, subject to paragraph (3)(A);

"(B) retain, or pay to the family, the State share of the amount collected, subject to paragraph (3)(B); and

"(C) pay to the family any remaining amount.

"(2) FAMILIES THAT FORMERLY RECEIVED ASSISTANCE.—In the case of a family that formerly received assistance from the State:

"(A) CURRENT SUPPORT.—To the extent that the amount collected does not exceed the current support amount, the State shall pay the amount to the family.

"(B) ARREARAGES.—Except as otherwise provided in an election made under section 454(34), to the extent that the amount collected exceeds the current support amount, the State—

"(i) shall first pay to the family the excess amount, to the extent necessary to satisfy support arrearages not assigned pursuant to section 408(a)(3);

"(ii) if the amount collected exceeds the amount required to be paid to the family under clause (i), shall—

"(I) pay to the Federal Government the Federal share of the excess amount described in this clause, subject to paragraph (3)(A); and

"(II) retain, or pay to the family, the State share of the excess amount described in this clause, subject to paragraph (3)(B); and

"(iii) shall pay to the family any remaining amount.

"(3) LIMITATIONS.—

"(A) FEDERAL REIMBURSEMENTS.—The total of the amounts paid by the State to the Federal Government under paragraphs (1) and (2) of this subsection with respect to a family shall not exceed the Federal share of the amount assigned with respect to the family pursuant to section 408(a)(3).

"(B) STATE REIMBURSEMENTS.—The total of the amounts retained by the State under paragraphs (1) and (2) of this subsection with respect to a family shall not exceed the State share of the amount assigned with respect to the family pursuant to section 408(a)(3).

"(4) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute to the family the portion of the amount so collected that remains after withholding any fee pursuant to section 454(6)(B)(ii).

"(5) FAMILIES UNDER CERTAIN AGREEMENTS.—Notwithstanding paragraphs (1) through (3), in the case of an amount collected for a family in accordance with a cooperative agreement under section 454(33), the State shall distribute the amount collected pursuant to the terms of the agreement.".

(B) STATE OPTION TO PASS THROUGH ADDITIONAL SUPPORT WITH FEDERAL FINANCIAL PARTICIPATION BEGINNING WITH FISCAL YEAR 2009.—

(i) IN GENERAL.—Section 457(a) (42 U.S.C. 657(a)) is amended by adding at the end the following:

"(7) STATE OPTION TO PASS THROUGH ADDITIONAL SUPPORT WITH FEDERAL FINANCIAL PARTICIPATION.—

"(A) FAMILIES THAT FORMERLY RECEIVED ASSISTANCE.—Notwithstanding paragraph (2), a State shall not be required to pay to the Federal Government the Federal share of an amount collected on behalf of a family that formerly received assistance from the State to the extent that the State pays the amount to the family.

"(B) FAMILIES THAT CURRENTLY RECEIVE ASSISTANCE.—

"(i) IN GENERAL.—Notwithstanding paragraph (1), in the case of a family that receives assistance from the State, a State shall not be required to pay to the Federal Government the Federal share of the excepted portion (as defined in clause (ii)) of any amount collected on behalf of such family during a month to the extent that—

"(I) the State pays the excepted portion to the family; and

"(II) the excepted portion is disregarded in determining the amount and type of assistance provided to the family under such program.

"(ii) EXCEPTED PORTION DEFINED.—For purposes of this subparagraph, the term "excepted portion" means that portion of the amount collected on behalf of a family during a month that does not exceed $100 per month, or in the case of a family that includes 2 or more children, that does not exceed an amount established by the State that is not more than $200 per month.".

(ii) EFFECTIVE DATE.—The amendment made by clause (i) shall take effect on October 1, 2008.

(iii) REDESIGNATION.—Effective October 1, 2009, paragraph (7) of section 457(a) of the Social Security Act (as added by clause (i)) is redesignated as paragraph (6).

(C) STATE PLAN TO INCLUDE ELECTION AS TO WHICH RULES TO APPLY IN DISTRIBUTING CHILD SUPPORT ARREARAGES COLLECTED ON BEHALF OF

FAMILIES FORMERLY RECEIVING ASSISTANCE.—Section 454 (42 U.S.C. 654) is amended—

(i) by striking "and" at the end of paragraph (32);

(ii) by striking the period at the end of paragraph (33) and inserting "; and"; and

(iii) by inserting after paragraph (33) the following:

"(34) include an election by the State to apply section 457(a)(2)(B) of this Act or former section 457(a)(2)(B) of this Act (as in effect for the State immediately before the date this paragraph first applies to the State) to the distribution of the amounts which are the subject of such sections and, for so long as the State elects to so apply such former section, the amendments made by subsection (b)(1) of section 7301 of the Deficit Reduction Act of 2005 shall not apply with respect to the State, notwithstanding subsection (e) of such section 7301.".

(2) CURRENT SUPPORT AMOUNT DEFINED.—Section 457(c) (42 U.S.C. 657(c)) is amended by adding at the end the following:

"(5) CURRENT SUPPORT AMOUNT.—The term 'current support amount' means, with respect to amounts collected as support on behalf of a family, the amount designated as the monthly support obligation of the noncustodial parent in the order requiring the support or calculated by the State based on the order.".

(c) STATE OPTION TO DISCONTINUE OLDER SUPPORT ASSIGNMENTS.—Section 457(b) (42 U.S.C. 657(b)) is amended to read as follows:

"(b) CONTINUATION OF ASSIGNMENTS.—

"(1) STATE OPTION TO DISCONTINUE PRE-1997 SUPPORT ASSIGNMENTS.—

"(A) IN GENERAL.—Any rights to support obligations assigned to a State as a condition of receiving assistance from the State under part A and in effect on September 30, 1997 (or such earlier date on or after August 22, 1996, as the State may choose), may remain assigned after such date.

"(B) DISTRIBUTION OF AMOUNTS AFTER ASSIGNMENT DISCONTINUATION.—If a State chooses to discontinue the assignment of a support obligation described in subparagraph (A), the State may treat amounts collected pursuant to the assignment as if the amounts had never been assigned and may distribute the amounts to the family in accordance with subsection (a)(4).

"(2) STATE OPTION TO DISCONTINUE POST-1997 ASSIGNMENTS.—

"(A) IN GENERAL.—Any rights to support obligations accruing before the date on which a family first receives assistance under part A that are assigned to a State under that part and in effect before the implementation date of this section may remain assigned after such date.

"(B) DISTRIBUTION OF AMOUNTS AFTER ASSIGNMENT DISCONTINUATION.—If a State chooses to discontinue the assignment of a support obligation described in subparagraph (A), the State may treat amounts collected pursuant to the assignment as if the amounts had never been assigned and may distribute the amounts to the family in accordance with subsection (a)(4).".

(d) CONFORMING AMENDMENTS.—Section 6402(c) of the Internal Revenue Code of 1986 (relating to offset of past-due support against overpayments) is amended—

(1) in the first sentence, by striking "the Social Security Act." and inserting "of such Act."; and

(2) by striking the third sentence and inserting the following: "The Secretary shall apply a reduction under this subsection first to an amount certified by the State as past due support under section 464 of the Social Security Act before any other reductions allowed by law.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by the preceding provisions of this section shall take effect on October 1, 2009, and shall apply to payments under parts A and D of title IV of the Social Security Act for calendar quarters beginning on or after such date, and without regard to whether regulations to implement the amendments (in the case of State programs operated under such part D) are promulgated by such date.

(2) STATE OPTION TO ACCELERATE EFFECTIVE DATE.—Notwithstanding paragraph (1), a State may elect to have the amendments made by the preceding provisions of this section apply to the State and to amounts collected by the State (and the payments under parts A and D), on and after such date as the State may select that is not earlier than October 1, 2008, and not later than September 30, 2009.

(f) USE OF TAX REFUND INTERCEPT PROGRAM TO COLLECT PAST-DUE CHILD SUPPORT ON BEHALF OF CHILDREN WHO ARE NOT MINORS.—

(1) IN GENERAL.—Section 464 (42 U.S.C. 664) is amended—

(A) in subsection (a)(2)(A), by striking "(as that term is defined for purposes of this paragraph under subsection (c))"; and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by striking "(1) Except as provided in paragraph (2), as used in" and inserting "In"; and

(II) by inserting "(whether or not a minor)" after "a child" each place it appears; and

(ii) by striking paragraphs (2) and (3).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on October 1, 2007.

(g) STATE OPTION TO USE STATEWIDE AUTOMATED DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEM FOR INTERSTATE CASES.—Section 466(a)(14)(A)(iii) (42 U.S.C. 666(a)(14)(A)(iii)) is amended by inserting before the semicolon the following: "(but the assisting State may establish a corresponding case based on such other State's request for assistance)".

SEC. 7302. MANDATORY REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS FOR FAMILIES RECEIVING TANF.

(a) IN GENERAL.—Section 466(a)(10)(A)(i) (42 U.S.C. 666(a)(10)(A)(i)) is amended—

(1) by striking "parent, or," and inserting "parent or"; and

(2) by striking "upon the request of the State agency under the State plan or of either parent,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2007.

SEC. 7303. DECREASE IN AMOUNT OF CHILD SUPPORT ARREARAGE TRIGGERING PASSPORT DENIAL.

(a) IN GENERAL.—Section 452(k)(1) (42 U.S.C. 652(k)(1)) is amended by striking "$5,000" and inserting "$2,500".

(b) CONFORMING AMENDMENT.—Section 454(31) (42 U.S.C. 654(31)) is amended by striking "$5,000" and inserting "$2,500".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2006.

SEC. 7304. MAINTENANCE OF TECHNICAL ASSISTANCE FUNDING.

Section 452(j) (42 U.S.C. 652(j)) is amended by inserting "or the amount appropriated under this paragraph for fiscal year 2002, whichever is greater" before ", which shall be available".

SEC. 7305. MAINTENANCE OF FEDERAL PARENT LOCATOR SERVICE FUNDING.

Section 453(o) (42 U.S.C. 653(o)) is amended—

(1) in the first sentence, by inserting "or the amount appropriated under this paragraph for fiscal year 2002, whichever is greater" before ", which shall be available"; and

(2) in the second sentence, by striking "for each of fiscal years 1997 through 2001".

SEC. 7306. INFORMATION COMPARISONS WITH INSURANCE DATA.

(a) DUTIES OF THE SECRETARY.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following:

"(l) COMPARISONS WITH INSURANCE INFORMATION.—

"(1) IN GENERAL.—The Secretary, through the Federal Parent Locator Service, may—

"(A) compare information concerning individuals owing past-due support with information maintained by insurers (or their agents) concerning insurance claims, settlements, awards, and payments; and

"(B) furnish information resulting from the data matches to the State agencies responsible for collecting child support from the individuals.

"(2) LIABILITY.—An insurer (including any agent of an insurer) shall not be liable under any Federal or State law to any person for any disclosure provided for under this subsection, or for any other action taken in good faith in accordance with this subsection.".

(b) STATE REIMBURSEMENT OF FEDERAL COSTS.—Section 453(k)(3) (42 U.S.C. 653(k)(3)) is amended by inserting "or section 452(l)" after "pursuant to this section".

SEC. 7307. REQUIREMENT THAT STATE CHILD SUPPORT ENFORCEMENT AGENCIES SEEK MEDICAL SUPPORT FOR CHILDREN FROM EITHER PARENT.

(a) STATE AGENCIES REQUIRED TO SEEK MEDICAL SUPPORT FROM EITHER PARENT.—

(1) IN GENERAL.—Section 466(a)(19)(A) (42 U.S.C. 666(a)(19)(A)) is amended by striking "which include a provision for the health care coverage of the child are enforced" and inserting "shall include a provision for medical support for the child to be provided by either or both parents, and shall be enforced".

(2) CONFORMING AMENDMENTS.—

(A) TITLE IV–D.—

(i) Section 452(f) (42 U.S.C. 652(f)) is amended by striking "include medical support as part of any child support order and enforce medical support" and inserting "enforce medical support included as part of a child support order".

(ii) Section 466(a)(19) (42 U.S.C. 666(a)(19)), as amended by paragraph (1) of this subsection, is amended—

(I) in subparagraph (A)—

(aa) by striking "section 401(e)(3)(C)" and inserting "section 401(e)"; and

(bb) by striking "section 401(f)(5)(C)" and inserting "section 401(f)";

(II) in subparagraph (B)—

(aa) by striking "noncustodial" each place it appears; and

(bb) in clause (iii), by striking "section 466(b)" and inserting "subsection (b)"; and

(III) in subparagraph (C), by striking "noncustodial" each place it appears and inserting "obligated".

(B) STATE OR LOCAL GOVERNMENTAL GROUP HEALTH PLANS.—Section 401(e)(2) of the Child Support Performance and Incentive Act of 1998 (29 U.S.C. 1169 note) is amended, in the matter preceding subparagraph (A), by striking "who is a noncustodial parent of the child".

(C) CHURCH PLANS.—Section 401(f)(5)(C) of the Child Support Performance and Incentive Act of 1998 (29 U.S.C. 1169 note) is amended by striking "noncustodial" each place it appears.

(b) ENFORCEMENT OF MEDICAL SUPPORT REQUIREMENTS.—Section 452(f) (42 U.S.C. 652(f)), as amended by subsection (a)(2)(A)(i), is amended by inserting after the first sentence the following: "A State agency administering the program under this part may enforce medical support against a custodial parent if health care coverage is available to the custodial parent at a reasonable cost, notwithstanding any other provision of this part.".

(c) DEFINITION OF MEDICAL SUPPORT.—Section 452(f) (42 U.S.C. 652(f)), as amended by subsections (a)(2)(A)(i) and (b) of this section, is *amended by adding at the end the following: "For purposes of this part, the term 'medical support' may include health care coverage, such as coverage under a health insurance plan (including payment of costs of premiums, co-payments, and deductibles) and payment for medical expenses incurred on behalf of a child.".*

SEC. 7308. REDUCTION OF FEDERAL MATCHING RATE FOR LABORATORY COSTS INCURRED IN DETERMINING PATERNITY.

(a) In General.—Section 455(a)(1)(C) (42 U.S.C. 655(a)(1)(C)) is amended by striking "90 percent (rather than the percentage specified in subparagraph (A))" and inserting "66 percent".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 2006, and shall apply to costs incurred on or after that date.

SEC. 7309. ENDING FEDERAL MATCHING OF STATE SPENDING OF FEDERAL INCENTIVE PAYMENTS.

(a) In General.—Section 455(a)(1) (42 U.S.C. 655(a)(1)) is amended by inserting "from amounts paid to the State under section 458 or" before "to carry out an agreement".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 2007.

SEC. 7310. MANDATORY FEE FOR SUCCESSFUL CHILD SUPPORT COLLECTION FOR FAMILY THAT HAS NEVER RECEIVED TANF.

(a) In General.—Section 454(6)(B) (42 U.S.C. 654(6)(B)) is amended—

(1) by inserting "(i)" after "(B)";

(2) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(3) by adding "and" after the semicolon; and

(4) by adding after and below the end the following new clause:

"(ii) in the case of an individual who has never received assistance under a State program funded under part A and for whom the State has collected at least $500 of support, the State shall impose an annual fee of $25 for each case in which services are furnished, which shall be retained by the State from support collected on behalf of the individual (but not from the 1st $500 so collected), paid by the individual applying for the services, recovered from the absent parent, or paid by the State out of its own funds (the payment of which from State funds shall not be considered as an administrative cost of the State for the operation of the plan, and the fees shall be considered income to the program);".

(b) Conforming Amendments.—Section 457(a)(3) (42 U.S.C. 657(a)(3)) is amended to read as follows:

"(3) Families that never received assistance.—In the case of any other family, the State shall distribute to the family the portion of the amount so collected that remains after withholding any fee pursuant to section 454(6)(B)(ii).".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2006.

SEC. 7311. EXCEPTION TO GENERAL EFFECTIVE DATE FOR STATE PLANS REQUIRING STATE LAW AMENDMENTS.

In the case of a State plan under part D of title IV of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this subtitle, the effective date of the amendments imposing the additional requirements shall be 3 months after the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

Subtitle D—Child Welfare

SEC. 7401. STRENGTHENING COURTS.

(a) Court Improvement Grants.—

(1) In general.—Section 438(a) (42 U.S.C. 629h(a)) is amended—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(C) by adding at the end the following:

"(3) to ensure that the safety, permanence, and well-being needs of children are met in a timely and complete manner; and

"(4) to provide for the training of judges, attorneys and other legal personnel in child welfare cases.".

(2) Applications.—Section 438(b) (42 U.S.C. 629h(b)) is amended to read as follows:

"(b) Applications.—

"(1) In general.—In order to be eligible to receive a grant under this section, a highest State court shall submit to the Secretary an application at such time, in such form, and including such information and assurances as the Secretary may require, including—

"(A) in the case of a grant for the purpose described in subsection (a)(3), a description of how courts and child welfare agencies on the local and State levels will collaborate and jointly plan for the collection and sharing of all relevant data and information to demonstrate how improved case tracking and analysis of child abuse and neglect cases will produce safe and timely permanency decisions;

"(B) in the case of a grant for the purpose described in subsection (a)(4), a demonstration that a portion of the grant will be used for cross-training initiatives that are jointly planned and executed with the State agency or any other agency under contract with the State to administer the State program under the State plan under subpart 1, the State plan approved under section 434, or the State plan approved under part E; and

"(C) in the case of a grant for any purpose described in subsection (a), a demonstration of meaningful and ongoing collaboration among the courts in the State, the State agency or any other agency under contract with the State who is responsible for administering the State program under part B or E, and, where applicable, Indian tribes..

"(2) Separate applications.— A highest State court desiring grants under this section for 2 or more purposes shall submit separate applications for the following grants:

"(A) A grant for the purposes described in paragraphs (1) and (2) of subsection (a).

"(B) A grant for the purpose described in subsection (a)(3).

"(C) A grant for the purpose described in subsection (a)(4).".

(3) Allotments.—Section 438(c) (42 U.S.C. 429h(c)) is amended—

(A) in paragraph (1)—

(i) by inserting "of this section for a grant described in subsection (b)(2)(A) of this section" after "subsection (b)"; and

(ii) by striking "paragraph (2) of this subsection" and inserting "subparagraph (B) of this paragraph";

(B) in paragraph (2)—

(i) by striking "this paragraph" and inserting "this subparagraph";

(ii) by striking "paragraph (1) of this subsection" and inserting "subparagraph (A) of this paragraph"; and

(iii) by inserting "for such a grant" after "subsection (b)";

(C) by redesignating and indenting paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(D) by inserting before and above such subparagraph (A) the following:

"(1) Grants to assess and improve handling of court proceedings relating to foster care and adoption.—"; and

(E) by adding at the end the following:

"(2) Grants for improved data collection and training.—

"(A) In general.—Each highest State court which has an application approved under subsection (b) of this section for a grant referred to in subparagraph (B) or (C) of subsection (b)(2) shall be entitled to payment, for each of fiscal years 2006 through 2010, from the amount made available under whichever of paragraph (1) or (2) of subsection (e) applies with respect to the grant, of an amount equal to the sum of $85,000 plus the amount described in subparagraph (B) of this paragraph for the fiscal year with respect to the grant.

"(B) Formula.—The amount described in this subparagraph for any fiscal year with respect to a grant referred to in subparagraph (B) or (C) of subsection (b)(2) is the amount that bears the same ratio to the amount made available under subsection (e) for such a grant (reduced by the dollar amount specified in subparagraph (A) of this paragraph) as the number of individuals in the State who have not attained 21 years of age bears to the total number of such individuals in all States the highest State courts of which have approved applications under subsection (b) for such a grant.".

(4) Funding.—Section 438 (42 U.S.C. 629h) is amended by adding at the end the following:

"(e) Funding for Grants for Improved Data Collection and Training.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary, for each of fiscal years 2006 through 2010—

"(1) $10,000,000 for grants referred to in subsection (b)(2)(B); and

"(2) $10,000,000 for grants referred to in subsection (b)(2)(C).".

(b) Requirement to Demonstrate Meaningful Collaboration Between Courts and Agencies in Child Welfare Services Programs.—Section 422(b) (42 U.S.C. 622(b)) is amended—

(1) by striking "and" at the end of paragraph (13);

(2) by striking the period at the end of paragraph (14) and inserting "; and"; and

(3) by adding at the end the following:

"(15) demonstrate substantial, ongoing, and meaningful collaboration with State courts in the development and implementation of the State plan under subpart 1, the State plan approved under subpart 2, and the State plan approved under part E, and in the development and implementation of any program improvement plan required under section 1123A.".

(c) Use of Child Welfare Records in State Court Proceedings.—Section 471 (42 U.S.C. 671) is amended—

(1) in subsection (a)(8), by inserting "subject to subsection (c)," after "(8)"; and

(2) by adding at the end the following:

"(c) Use of Child Welfare Records in State Court Proceedings.—Subsection (a)(8) shall not be construed to limit the flexibility of a State in determining State policies relating to public access to court proceedings to determine child abuse and neglect or other court hearings held pursuant to part B or this part, except that such policies shall, at a minimum, ensure the safety and well-being of the child, parents, and family.".

SEC. 7402. FUNDING OF SAFE AND STABLE FAMILIES PROGRAMS.

Section 436(a) (42 U.S.C. 629f(a)) is amended to read as follows:

"(a) Authorization.—In addition to any amount otherwise made available to carry out

this subpart, there are authorized to be appropriated to carry out this subpart $345,000,000 for fiscal year 2006. Notwithstanding the preceding sentence, the total amount authorized to be so appropriated for fiscal year 2006 under this subsection and under this subsection (as in effect before the date of the enactment of the Deficit Reduction Act of 2005) is $345,000,000.''.

SEC. 7403. CLARIFICATION REGARDING FEDERAL MATCHING OF CERTAIN ADMINISTRATIVE COSTS UNDER THE FOSTER CARE MAINTENANCE PAYMENTS PROGRAM.

(a) ADMINISTRATIVE COSTS RELATING TO UNLICENSED CARE.—Section 472 (42 U.S.C. 672) is amended by inserting after subsection (h) the following:

''(i) ADMINISTRATIVE COSTS ASSOCIATED WITH OTHERWISE ELIGIBLE CHILDREN NOT IN LICENSED FOSTER CARE SETTINGS.—Expenditures by a State that would be considered administrative expenditures for purposes of section 474(a)(3) if made with respect to a child who was residing in a foster family home or child-care institution shall be so considered with respect to a child not residing in such a home or institution—

''(1) in the case of a child who has been removed in accordance with subsection (a) of this section from the home of a relative specified in section 406(a) (as in effect on July 16, 1996), only for expenditures—

''(A) with respect to a period of not more than the lesser of 12 months or the average length of time it takes for the State to license or approve a home as a foster home, in which the child is in the home of a relative and an application is pending for licensing or approval of the home as a foster family home; or

''(B) with respect to a period of not more than 1 calendar month when a child moves from a facility not eligible for payments under this part into a foster family home or child care institution licensed or approved by the State; and

''(2) in the case of any other child who is potentially eligible for benefits under a State plan approved under this part and at imminent risk of removal from the home, only if—

''(A) reasonable efforts are being made in accordance with section 471(a)(15) to prevent the need for, or if necessary to pursue, removal of the child from the home; and

''(B) the State agency has made, not less often than every 6 months, a determination (or redetermination) as to whether the child remains at imminent risk of removal from the home.''.

(b) CONFORMING AMENDMENT.—Section 474(a)(3) (42 U.S.C. 674(a)(3)) is amended by inserting ''subject to section 472(i)'' before ''an amount equal to''.

SEC. 7404. CLARIFICATION OF ELIGIBILITY FOR FOSTER CARE MAINTENANCE PAYMENTS AND ADOPTION ASSISTANCE.

(a) FOSTER CARE MAINTENANCE PAYMENTS.—Section 472(a) (42 U.S.C. 672(a)) is amended to read as follows:

''(a) IN GENERAL.—

''(1) ELIGIBILITY.—Each State with a plan approved under this part shall make foster care maintenance payments on behalf of each child who has been removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) into foster care if—

''(A) the removal and foster care placement met, and the placement continues to meet, the requirements of paragraph (2); and

''(B) the child, while in the home, would have met the AFDC eligibility requirement of paragraph (3).

''(2) REMOVAL AND FOSTER CARE PLACEMENT REQUIREMENTS.—The removal and foster care placement of a child meet the requirements of this paragraph if—

''(A) the removal and foster care placement are in accordance with—

''(i) a voluntary placement agreement entered into by a parent or legal guardian of the child who is the relative referred to in paragraph (1); or

''(ii) a judicial determination to the effect that continuation in the home from which removed would be contrary to the welfare of the child and that reasonable efforts of the type described in section 471(a)(15) for a child have been made;

''(B) the child's placement and care are the responsibility of—

''(i) the State agency administering the State plan approved under section 471; or

''(ii) any other public agency with which the State agency administering or supervising the administration of the State plan has made an agreement which is in effect; and

''(C) the child has been placed in a foster family home or child-care institution.

''(3) AFDC ELIGIBILITY REQUIREMENT.—

''(A) IN GENERAL.—A child in the home referred to in paragraph (1) would have met the AFDC eligibility requirement of this paragraph if the child—

''(i) would have received aid under the State plan approved under section 402 (as in effect on July 16, 1996) in the home, in or for the month in which the agreement was entered into or court proceedings leading to the determination referred to in paragraph (2)(A)(ii) of this subsection were initiated; or

''(ii)(I) would have received the aid in the home, in or for the month referred to in clause (i), if application had been made therefor; or

''(II) had been living in the home within 6 months before the month in which the agreement was entered into or the proceedings were initiated, and would have received the aid in or for such month, if, in such month, the child had been living in the home with the relative referred to in paragraph (1) and application for the aid had been made.

''(B) RESOURCES DETERMINATION.—For purposes of subparagraph (A), in determining whether a child would have received aid under a State plan approved under section 402 (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 402(a)(7)(B), as so in effect) have a combined value of not more than $10,000 shall be considered a child whose resources have a combined value of not more than $1,000 (or such lower amount as the State may determine for purposes of section 402(a)(7)(B)).

''(4) ELIGIBILITY OF CERTAIN ALIEN CHILDREN.—Subject to title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, if the child is an alien disqualified under section 245A(h) or 210(f) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which the agreement described in paragraph (2)(A)(i) was entered into or court proceedings leading to the determination described in paragraph (2)(A)(ii) were initiated, the child shall be considered to satisfy the requirements of paragraph (3), with respect to the month, if the child would have satisfied the requirements but for the disqualification.''.

(b) ADOPTION ASSISTANCE.—Section 473(a)(2) (42 U.S.C. 673(a)(2)) is amended to read as follows:

''(2)(A) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if the child—

''(i)(I)(aa) was removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) and placed in foster care in accordance with a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or section 403, as such section was in effect on July 16, 1996), or in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and

''(bb) met the requirements of section 472(a)(3) with respect to the home referred to in item (aa) of this subclause;

''(II) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits; or

''(III) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the minor parent of the child as provided in section 475(4)(B); and

''(ii) has been determined by the State, pursuant to subsection (c) of this section, to be a child with special needs.

''(B) Section 472(a)(4) shall apply for purposes of subparagraph (A) of this paragraph, in any case in which the child is an alien described in such section.

''(C) A child shall be treated as meeting the requirements of this paragraph for the purpose of paragraph (1)(B)(ii) if the child—

''(i) meets the requirements of subparagraph (A)(ii);

''(ii) was determined eligible for adoption assistance payments under this part with respect to a prior adoption;

''(iii) is available for adoption because—

''(I) the prior adoption has been dissolved, and the parental rights of the adoptive parents have been terminated; or

''(II) the child's adoptive parents have died; and

''(iv) fails to meet the requirements of subparagraph (A) but would meet such requirements if—

''(I) the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under this part; and

''(II) the prior adoption were treated as never having occurred.''.

Subtitle E—Supplemental Security Income

SEC. 7501. REVIEW OF STATE AGENCY BLINDNESS AND DISABILITY DETERMINATIONS.

Section 1633 (42 U.S.C. 1383b) is amended by adding at the end the following:

''(e)(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in connection with applications for benefits under this title on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled as of a specified onset date. The Commissioner of Social Security shall review such a determination before any action is taken to implement the determination.

''(2)(A) In carrying out paragraph (1), the Commissioner of Social Security shall review—

''(i) at least 20 percent of all determinations referred to in paragraph (1) that are made in fiscal year 2006;

''(ii) at least 40 percent of all such determinations that are made in fiscal year 2007; and

''(iii) at least 50 percent of all such determinations that are made in fiscal year 2008 or thereafter.

''(B) In carrying out subparagraph (A), the Commissioner of Social Security shall, to the extent feasible, select for review the determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect.''.

SEC. 7502. PAYMENT OF CERTAIN LUMP SUM BENEFITS IN INSTALLMENTS UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

(a) IN GENERAL.—Section 1631(a)(10)(A)(i) (42 U.S.C. 1383(a)(10)(A)(i)) is amended by striking ''12'' and inserting ''3''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 3 months after the date of the enactment of this Act.

Subtitle F—Repeal of Continued Dumping and Subsidy Offset

SEC. 7601. REPEAL OF CONTINUED DUMPING AND SUBSIDY OFFSET.

(a) REPEAL.—Effective upon the date of enactment of this Act, section 754 of the Tariff Act of

1930 (19 U.S.C. 1675c), and the item relating to section 754 in the table of contents for title VII of that Act, are repealed.

(b) DISTRIBUTIONS ON CERTAIN ENTRIES.—All duties on entries of goods made and filed before October 1, 2007, that would, but for subsection (a) of this section, be distributed under section 754 of the Tariff Act of 1930, shall be distributed as if section 754 of the Tariff Act of 1930 had not been repealed by subsection (a).

Subtitle G—Effective Date

SEC. 7701. EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title shall take effect as if enacted on October 1, 2005.

TITLE VIII—EDUCATION AND PENSION BENEFIT PROVISIONS

Subtitle A—Higher Education Provisions

SEC. 8001. SHORT TITLE; REFERENCE; EFFECTIVE DATE.

(a) SHORT TITLE.—This subtitle may be cited as the "Higher Education Reconciliation Act of 2005".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(c) EFFECTIVE DATE.—Except as otherwise provided in this subtitle or the amendments made by this subtitle, the amendments made by this subtitle shall be effective July 1, 2006.

SEC. 8002. MODIFICATION OF 50/50 RULE.

Section 102(a)(3) (20 U.S.C. 1002(a)(3)) is amended—

(1) in subparagraph (A), by inserting "(excluding courses offered by telecommunications as defined in section 484(l)(4))" after "courses by correspondence"; and

(2) in subparagraph (B), by inserting "(excluding courses offered by telecommunications as defined in section 484(l)(4))" after "correspondence courses".

SEC. 8003. ACADEMIC COMPETITIVENESS GRANTS.

Subpart 1 of part A of title IV (20 U.S.C. 1070a) is amended by adding after section 401 the following new section:

"SEC. 401A. ACADEMIC COMPETITIVENESS GRANTS.

"(b) ACADEMIC COMPETITIVENESS GRANT PROGRAM.—

"(1) ACADEMIC COMPETITIVENESS GRANTS AUTHORIZED.—The Secretary shall award grants, in the amounts specified in subsection (e)(1), to eligible students to assist the eligible students in paying their college education expenses.

"(2) ACADEMIC COMPETITIVENESS COUNCIL.—

"(A) ESTABLISHMENT.—There is established an Academic Competitiveness Council (referred to in this paragraph as the 'Council'). From the funds made available under subsection (f) for fiscal year 2006, $50,000 shall be available to the Council to carry out the duties described in subparagraph (B). The Council shall be chaired by the Secretary of Education, and the membership of the Council shall consist of officials from Federal agencies with responsibilities for managing existing Federal programs that promote mathematics and science (or designees of such officials with significant decision-making authority).

"(B) DUTIES.—The Council shall—

"(i) identify all Federal programs with a mathematics or science focus;

"(ii) identify the target populations being served by such programs;

"(iii) determine the effectiveness of such programs;

"(iv) identify areas of overlap or duplication in such programs; and

"(v) recommend ways to efficiently integrate and coordinate such programs.

"(C) REPORT.—Not later than one year after the date of enactment of the Higher Education Reconciliation Act of 2005, the Council shall transmit a report to each committee of Congress with jurisdiction over a Federal program identified under subparagraph (B)(i), detailing the findings and recommendations under subparagraph (B), including recommendations for legislative or administrative action.

"(c) DESIGNATION.—A grant under this section—

"(1) for the first or second academic year of a program of undergraduate education shall be known as an 'Academic Competitiveness Grant'; and

"(2) for the third or fourth academic year of a program of undergraduate education shall be known as a 'National Science and Mathematics Access to Retain Talent Grant' or a 'National SMART Grant'.

"(d) DEFINITION OF ELIGIBLE STUDENT.—In this section the term 'eligible student' means a full-time student who, for the academic year for which the determination of eligibility is made—

"(1) is a citizen of the United States;

"(2) is eligible for a Federal Pell Grant; and

"(3) in the case of a student enrolled or accepted for enrollment in—

"(A) the first academic year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education—

"(i) has successfully completed, after January 1, 2006, a rigorous secondary school program of study established by a State or local educational agency and recognized as such by the Secretary; and

"(ii) has not been previously enrolled in a program of undergraduate education;

"(B) the second academic year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education—

"(i) has successfully completed, after January 1, 2005, a rigorous secondary school program of study established by a State or local educational agency and recognized as such by the Secretary; and

"(ii) has obtained a cummulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) at the end of the first academic year of such program of undergraduate education; or

"(C) the third or fourth academic year of a program of undergraduate education at a four-year degree-granting institution of higher education—

"(i) is pursuing a major in—

"(I) the physical, life, or computer sciences, mathematics, technology, or engineering (as determined by the Secretary pursuant to regulations); or

"(II) a foreign language that the Secretary, in consultation with the Director of National Intelligence, determines is critical to the national security of the United States; and

"(ii) has obtained a cummulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) in the coursework required for the major described in clause (i).

"(e) GRANT AWARD.—

"(1) AMOUNTS.—

"(A) The Secretary shall award a grant under this section in the amount of—

"(i) $750 for an eligible student under subsection (d)(3)(A);

"(ii) $1,300 for an eligible student under subsection (d)(3)(B); or

"(iii) $4,000 for an eligible student under subsection (d)(3)(C).

"(B) Notwithstanding subparagraph (A)—

"(i) the amount of such grant, in combination with the Federal Pell Grant assistance and other student financial assistance available to such student, shall not exceed the student's cost of attendance;

"(ii) if the amount made available under subsection (f) for any fiscal year is less than the amount required to provide grants to all eligible students in the amounts determined under subparagraph (A) and clause (i) of this subparagraph, then the amount of the grant to each eligible student shall be ratably reduced; and

"(iii) if additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced.

"(2) LIMITATIONS.—The Secretary shall not award a grant under this section—

"(A) to any student for an academic year of a program of undergraduate education described in subparagraph (A), (B), or (C) of subsection (d)(3) for which the student received credit before the date of enactment of the Higher Education Reconciliation Act of 2005; or

"(B) to any student for more than—

"(i) one academic year under subsection (d)(3)(A);

"(ii) one academic year under subsection (d)(3)(B); or

"(iii) two academic years under subsection (d)(3)(C).

"(f) FUNDING.—

"(1) AUTHORIZATION AND APPROPRIATION OF FUNDS.—There are authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Education to carry out this section—

"(A) $790,000,000 for fiscal year 2006;

"(B) $850,000,000 for fiscal year 2007;

"(C) $920,000,000 for fiscal year 2008;

"(D) $960,000,000 for fiscal year 2009; and

"(E) $1,010,000,000 for fiscal year 2010.

"(2) USE OF EXCESS FUNDS.—If, at the end of a fiscal year, the funds available for awarding grants under this section exceed the amount necessary to make such grants in the amounts authorized by subsection (e), then all of the excess funds shall remain available for awarding grants under this section during the subsequent fiscal year.

"(g) RECOGNITION OF PROGRAMS OF STUDY.—The Secretary shall recognize at least one rigorous secondary school program of study in each State under subsection (d)(3)(A) and (B) for the purpose of determining student eligibility under such subsection.

"(h) SUNSET PROVISION.—The authority to make grants under this section shall expire at the end of academic year 2010–2011.".

SEC. 8004. REAUTHORIZATION OF FEDERAL FAMILY EDUCATION LOAN PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 421(b)(5) (20 U.S.C. 1071(b)(5)) is amended by striking "an administrative cost allowance" and inserting "a loan processing and issuance fee".

(b) EXTENSION OF AUTHORITY.—

(1) FEDERAL INSURANCE LIMITATIONS.—Section 424(a) (20 U.S.C. 1074(a)) is amended—

(A) by striking "2004" and inserting "2012"; and

(B) by striking "2008" and inserting "2016".

(2) GUARANTEED LOANS.—Section 428(a)(5) (20 U.S.C. 1078(a)(5)) is amended—

(A) by striking "2004" and inserting "2012"; and

(B) by striking "2008" and inserting "2016".

(3) CONSOLIDATION LOANS.—Section 428C(e) (20 U.S.C. 1078–3(e)) is amended by striking "2004" and inserting "2012".

SEC. 8005. LOAN LIMITS.

(a) FEDERAL INSURANCE LIMITS.—Section 425(a)(1)(A) (20 U.S.C. 1075(a)(1)(A)) is amended—

(1) in clause (i)(I), by striking "$2,625" and inserting "$3,500"; and

(2) in clause (ii)(I), by striking "$3,500" and inserting "$4,500".

(b) GUARANTEE LIMITS.—Section 428(b)(1)(A) (20 U.S.C. 1078(b)(1)(A)) is amended—

(1) in clause (i)(I), by striking "$2,625" and inserting "$3,500"; and

(2) in clause (ii)(I), by striking "$3,500" and inserting "$4,500".

(c) FEDERAL PLUS LOANS.—Section 428B (20 U.S.C. 1078-2) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by striking "Parents" and inserting "A graduate or professional student or the parents";

(B) in subparagraph (A), by striking "the parents" and inserting "the graduate or professional student or the parents"; and

(C) in subparagraph (B), by striking "the parents" and inserting "the graduate or professional student or the parents";

(2) in subsection (b), by striking "any parent" and inserting "any graduate or professional student or any parent";

(3) in subsection (c)(2), by striking "parent" and inserting "graduate or professional student or parent"; and

(4) in subsection (d)(1), by striking "the parent" and inserting "the graduate or professional student or the parent".

(d) UNSUBSIDIZED STAFFORD LOANS FOR GRADUATE OR PROFESSIONAL STUDENTS.—Section 428H(d)(2) (20 U.S.C. 1078-8(d)(2)) is amended—

(1) in subparagraph (C), by striking "$10,000" and inserting "$12,000"; and

(2) in subparagraph (D)—

(A) in clause (i), by striking "$5,000" and inserting "$7,000"; and

(B) in clause (ii), by striking "$5,000" and inserting "$7,000".

(e) EFFECTIVE DATE OF INCREASES.—The amendments made by subsections (a), (b), and (d) shall be effective July 1, 2007.

SEC. 8006. PLUS LOAN INTEREST RATES AND ZERO SPECIAL ALLOWANCE PAYMENT.

(a) PLUS LOANS.—Section 427A(l)(2) (20 U.S.C. 1077a(l)(2)) is amended by striking "7.9 percent" and inserting "8.5 percent".

(b) CONFORMING AMENDMENTS FOR SPECIAL ALLOWANCES.—

(1) AMENDMENTS.—Subparagraph (I) of section 438(b)(2) (20 U.S.C. 1087-1(b)(2)) is amended—

(A) in clause (iii), by striking ", subject to clause (v) of this subparagraph";

(B) in clause (iv), by striking ", subject to clause (vi) of this subparagraph"; and

(C) by striking clauses (v), (vi), and (vii) and inserting the following:

"(v) RECAPTURE OF EXCESS INTEREST.—

"(I) EXCESS CREDITED.—With respect to a loan on which the applicable interest rate is determined under subsection (k) or (l) of section 427A and for which the first disbursement of principal is made on or after April 1, 2006, if the applicable interest rate for any 3-month period exceeds the special allowance support level applicable to such loan under this subparagraph for such period, then an adjustment shall be made by calculating the excess interest in the amount computed under subclause (II) of this clause, and by crediting the excess interest to the Government not less often than annually.

"(II) CALCULATION OF EXCESS.—The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

"(aa) the applicable interest rate minus the special allowance support level determined under this subparagraph; multiplied by

"(bb) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

"(cc) four.

"(III) SPECIAL ALLOWANCE SUPPORT LEVEL.—For purposes of this clause, the term 'special allowance support level' means, for any loan, a number expressed as a percentage equal to the sum of the rates determined under subclauses (I) and (III) of clause (i), and applying any substitution rules applicable to such loan under clauses (ii), (iii), and (iv) in determining such sum.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall not apply with respect to any special allowance payment made under section 438 of the Higher Education Act of 1965 (20 U.S.C 1087-1) before April 1, 2006.

SEC. 8007. DEFERMENT OF STUDENT LOANS FOR MILITARY SERVICE.

(a) FEDERAL FAMILY EDUCATION LOANS.—Section 428(b)(1)(M) (20 U.S.C. 1078(b)(1)(M)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by redesignating clause (iii) as clause (iv); and

(3) by inserting after clause (ii) the following new clause:

"(iii) not in excess of 3 years during which the borrower—

"(I) is serving on active duty during a war or other military operation or national emergency; or

."(II) is performing qualifying National Guard duty during a war or other military operation or national emergency; or".

(b) DIRECT LOANS.—Section 455(f)(2) (20 U.S.C. 1087e(f)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) not in excess of 3 years during which the borrower—

"(i) is serving on active duty during a war or other military operation or national emergency; or

"(ii) is performing qualifying National Guard duty during a war or other military operation or national emergency; or".

(c) PERKINS LOANS.—Section 464(c)(2)(A) (20 U.S.C. 1087dd(c)(2)(A)) is amended—

(1) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(2) by inserting after clause (ii) the following new clause:

"(iii) not in excess of 3 years during which the borrower—

"(I) is serving on active duty during a war or other military operation or national emergency; or

"(II) is performing qualifying National Guard duty during a war or other military operation or national emergency;".

(d) DEFINITIONS.—Section 481 (20 U.S.C. 1088) is amended by adding at the end the following new subsection:

"(d) DEFINITIONS FOR MILITARY DEFERMENTS.—For purposes of parts B, D, and E of this title:

"(1) ACTIVE DUTY.—The term 'active duty' has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

"(2) MILITARY OPERATION.—The term 'military operation' means a contingency operation as such term is defined in section 101(a)(13) of title 10, United States Code.

"(3) NATIONAL EMERGENCY.—The term 'national emergency' means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

"(4) SERVING ON ACTIVE DUTY.—The term 'serving on active duty during a war or other military operation or national emergency' means service by an individual who is—

"(A) a Reserve of an Armed Force ordered to active duty under section 12301(a), 12301(g), 12302, 12304, or 12306 of title 10, United States Code, or any retired member of an Armed Force ordered to active duty under section 688 of such title, for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; and

"(B) any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

"(5) QUALIFYING NATIONAL GUARD DUTY.—The term 'qualifying National Guard duty during a war or other military operation or national emergency' means service as a member of the National Guard on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, in connection with a war, other military operation, or a national emergency declared by the President and supported by Federal funds.".

(e) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to authorize any refunding of any repayment of a loan.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to loans for which the first disbursement is made on or after July 1, 2001.

SEC. 8008. ADDITIONAL LOAN TERMS AND CONDITIONS.

(a) DISBURSEMENT.—Section 428(b)(1)(N) (20 U.S.C. 1078(b)(1)(N)) is amended—

(1) by striking "or" at the end of clause (i); and

(2) by striking clause (ii) and inserting the following:

"(ii) in the case of a student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled, and only after verification of the student's enrollment by the lender or guaranty agency, are, at the request of the student, disbursed directly to the student by the means described in clause (i), unless such student requests that the check be endorsed, or the funds transfer be authorized, pursuant to an authorized power-of-attorney; or

"(iii) in the case of a student who is studying outside the United States in a program of study at an eligible foreign institution, are, at the request of the foreign institution, disbursed directly to the student, only after verification of the student's enrollment by the lender or guaranty agency by the means described in clause (i).".

(b) REPAYMENT PLANS: DIRECT LOANS.—Section 455(d)(1) (20 U.S.C. 1087e(d)(1)) is amended by striking subparagraphs (A), (B), and (C) and inserting the following:

"(A) a standard repayment plan, consistent with subsection (a)(1) of this section and with section 428(b)(9)(A)(i);

"(B) a graduated repayment plan, consistent with section 428(b)(9)(A)(ii);

"(C) an extended repayment plan, consistent with section 428(b)(9)(A)(v), except that the borrower shall annually repay a minimum amount determined by the Secretary in accordance with section 428(b)(1)(L); and".

(c) ORIGINATION FEES.—

(1) FFEL PROGRAM.—Paragraph (2) of section 438(c) (20 U.S.C. 1087–1(c)) is amended—

(A) by striking the designation and heading of such paragraph and inserting the following:

"(2) AMOUNT OF ORIGINATION FEES.—

"(A) IN GENERAL.—"; and

(B) by adding at the end the following new subparagraph:

"(B) SUBSEQUENT REDUCTIONS.—Subparagraph (A) shall be applied to loans made under this part (other than loans made under sections 428C and 439(o))—

"(i) by substituting '2.0 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2006, and before July 1, 2007;

"(ii) by substituting '1.5 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2007, and before July 1, 2008;

"(iii) by substituting '1.0 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2008, and before July 1, 2009;

"(iv) by substituting '0.5 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2009, and before July 1, 2010; and

"(v) by substituting '0.0 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2010.".

(2) DIRECT LOAN PROGRAM.—Subsection (c) of section 455 (20 U.S.C. 1087e(c)) is amended—

(A) by striking "(c) LOAN FEE.—" and inserting the following:

"(c) LOAN FEE.—

"(1) IN GENERAL.—"; and

(B) by adding at the end the following:

"(2) SUBSEQUENT REDUCTION.—Paragraph (1) shall be applied to loans made under this part, other than Federal Direct Consolidation loans and Federal Direct PLUS loans—

"(A) by substituting '3.0 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after the date of enactment of the Higher Education Reconciliation Act of 2005, and before July 1, 2007;

"(B) by substituting '2.5 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2007, and before July 1, 2008;

"(C) by substituting '2.0 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2008, and before July 1, 2009;

"(D) by substituting '1.5 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2009, and before July 1, 2010; and

"(E) by substituting '1.0 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2010.".

(3) CONFORMING AMENDMENT.—Section 455(b)(8)(A) (20 U.S.C. 1087e(b)(8)(A)) is amended by inserting "or origination fee" after "reductions in the interest rate".

SEC. 8009. CONSOLIDATION LOAN CHANGES.

(a) CONSOLIDATION BETWEEN PROGRAMS.—Section 428C (20 U.S.C. 1078–3) is amended—

(1) in subsection (a)(3)(B)(i)—

(A) by inserting "or under section 455(g)" after "under this section" both places it appears;

(B) by inserting "under both sections" after "terminates";

(C) by striking "and" at the end of subclause (III);

(D) by striking the period at the end of subclause (IV) and inserting "; and"; and

(E) by adding at the end the following new subclause:

"(V) an individual may obtain a subsequent consolidation loan under section 455(g) only for the purposes of obtaining an income contingent repayment plan, and only if the loan has been submitted to the guaranty agency for default aversion."; and

(2) in subsection (b)(5), by striking the first sentence and inserting the following: "In the event that a lender with an agreement under subsection (a)(1) of this section denies a consolidation loan application submitted to the lender by an eligible borrower under this section, or denies an application submitted to the lender by such a borrower for a consolidation loan with income-sensitive repayment terms, the Secretary shall offer any such borrower who applies for it, a Federal Direct Consolidation loan. The Secretary shall offer such a loan to a borrower who has defaulted, for the purpose of resolving the default.".

(b) REPEAL OF IN-SCHOOL CONSOLIDATION.—

(1) DEFINITION OF REPAYMENT PERIOD.—Section 428(b)(7)(A) (20 U.S.C. 1078(b)(7)(A)) is amended by striking "shall begin—" and all that follows through "earlier date." and inserting the following: "shall begin the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution).".

(2) CONFORMING CHANGE TO ELIGIBLE BORROWER DEFINITION.—Section 428C(a)(3)(A)(ii)(I) (20 U.S.C. 1078–3(a)(3)(A)(ii)(I)) is amended by inserting "as determined under section 428(b)(7)(A)" after "repayment status".

(c) ADDITIONAL AMENDMENTS.—Section 428C (20 U.S.C. 1078–3) is amended in subsection (a)(3), by striking subparagraph (C).

(d) CONFORMING AMENDMENTS TO DIRECT LOAN PROGRAM.—Section 455 (20 U.S.C. 1087e) is amended—

(1) in subsection (a)(1) by inserting "428C," after "428B,";

(2) in subsection (a)(2)—

(A) by striking "and" at the end of subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

"(C) section 428C shall be known as 'Federal Direct Consolidation Loans'; and"; and

(3) in subsection (g)—

(A) by striking the second sentence; and

(B) by adding at the end the following new sentences: "To be eligible for a consolidation loan under this part, a borrower shall meet the eligibility criteria set forth in section 428C(a)(3). The Secretary, upon application for such a loan, shall comply with the requirements applicable to a lender under section 428C(b)(1)(F).".

SEC. 8010. REQUIREMENTS FOR DISBURSEMENTS OF STUDENT LOANS.

Section 428G (20 U.S.C. 1078–7) is amended—

(1) in subsection (a)(3), by adding at the end the following: "Notwithstanding section 422(d) of the Higher Education Amendments of 1998, this paragraph shall be effective beginning on the date of enactment of the Higher Education Reconciliation Act of 2005.";

(2) in subsection (b)(1), by adding at the end the following: "Notwithstanding section 422(d) of the Higher Education Amendments of 1998, the second sentence of this paragraph shall be effective beginning on the date of enactment of the Higher Education Reconciliation Act of 2005."; and

(3) in subsection (e), by striking ", made to a student to cover the cost of attendance at an eligible institution outside the United States".

SEC. 8011. SCHOOL AS LENDER.

Paragraph (2) of section 435(d) (20 U.S.C. 1085(d)(2)) is amended to read as follows:

"(2) REQUIREMENTS FOR ELIGIBLE INSTITUTIONS.—

"(A) IN GENERAL.—To be an eligible lender under this part, an eligible institution—

"(i) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution;

"(ii) shall not be a home study school;

"(iii) shall not—

"(I) make a loan to any undergraduate student;

"(II) make a loan other than a loan under section 428 or 428H to a graduate or professional student; or

"(III) make a loan to a borrower who is not enrolled at that institution;

"(iv) shall award any contract for financing, servicing, or administration of loans under this title on a competitive basis;

"(v) shall offer loans that carry an origination fee or an interest rate, or both, that are less than such fee or rate authorized under the provisions of this title;

"(vi) shall not have a cohort default rate (as defined in section 435(m)) greater than 10 percent;

"(vii) shall, for any year for which the institution engages in activities as an eligible lender, provide for a compliance audit conducted in accordance with section 428(b)(1)(U)(iii)(I), and the regulations thereunder, and submit the results of such audit to the Secretary;

"(viii) shall use any proceeds from special allowance payments and interest payments from borrowers, interest subsidies received from the Department of Education, and any proceeds from the sale or other disposition of loans, for need-based grant programs; and

"(ix) shall have met the requirements of subparagraphs (A) through (F) of this paragraph as in effect on the day before the date of enactment of the Higher Education Reconciliation Act of 2005, and made loans under this part, on or before April 1, 2006.

"(B) ADMINISTRATIVE EXPENSES.—An eligible lender under subparagraph (A) shall be permitted to use a portion of the proceeds described in subparagraph (A)(viii) for reasonable and direct administrative expenses.

"(C) SUPPLEMENT, NOT SUPPLANT.—An eligible lender under subparagraph (A) shall ensure that the proceeds described in subparagraph (A)(viii) are used to supplement, and not to supplant, non-Federal funds that would otherwise be used for need-based grant programs.".

SEC. 8012. REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS; TREATMENT OF BORROWERS ATTENDING SCHOOLS THAT FAIL TO PROVIDE A REFUND, ATTENDING CLOSED SCHOOLS, OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW.

Section 437 (20 U.S.C. 1087) is amended—

(1) in the section heading, by striking "**CLOSED SCHOOLS OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW**" and inserting "**SCHOOLS THAT FAIL TO PROVIDE A REFUND, ATTENDING CLOSED SCHOOLS, OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW**"; and

(2) in the first sentence of subsection (c)(1), by inserting "or was falsely certified as a result of a crime of identity theft" after "falsely certified by the eligible institution".

SEC. 8013. ELIMINATION OF TERMINATION DATES FROM TAXPAYER-TEACHER PROTECTION ACT OF 2004.

(a) EXTENSION OF LIMITATIONS ON SPECIAL ALLOWANCE FOR LOANS FROM THE PROCEEDS OF TAX EXEMPT ISSUES.—Section 438(b)(2)(B) (20 U.S.C. 1087–1(b)(2)(B)) is amended—

(1) in clause (iv), by striking "and before January 1, 2006."; and

(2) in clause (v)(II)—

(A) by striking "and before January 1, 2006," each place it appears in divisions (aa) and (bb); and

(B) by striking ", and before January 1, 2006" in division (cc).

(b) ADDITIONAL LIMITATION ON SPECIAL ALLOWANCE FOR LOANS FROM THE PROCEEDS OF TAX EXEMPT ISSUES.—Section 438(b)(2)(B) (20 U.S.C. 1087–1(b)(2)(B)) is further amended by adding at the end thereof the following new clauses:

"(vi) Notwithstanding clauses (i), (ii), and (v), but subject to clause (vii), the quarterly rate of the special allowance shall be the rate determined under subparagraph (A), (E), (F), (G), (H), or (I) of this paragraph, as the case may be, for a holder of loans—

"(I) that were made or purchased on or after the date of enactment of the Higher Education Reconciliation Act of 2005; or

"(II) that were not earning a quarterly rate of special allowance determined under clauses (i) or (ii) of subparagraph (B) of this paragraph (20 U.S.C. 1087–1(b)(2)(b)) as of the date of enactment of the Higher Education Reconciliation Act of 2005.

"(vii) Clause (vi) shall be applied by substituting 'December 31, 2010' for 'the date of enactment of the Higher Education Reconciliation Act of 2005' in the case of a holder of loans that—

"(I) was, as of the date of enactment of the Higher Education Reconciliation Act of 2005, and during the quarter for which the special allowance is paid, a unit of State or local government or a nonprofit private entity;

"(II) was, as of such date of enactment, and during such quarter, not owned or controlled by, or under common ownership or control with, a for-profit entity; and

"(III) held, directly or through any subsidiary, affiliate, or trustee, a total unpaid balance of principal equal to or less than $100,000,000 on loans for which special allowances were paid under this subparagraph in the most recent quarterly payment prior to September 30, 2005.".

(c) ELIMINATION OF EFFECTIVE DATE LIMITATION ON HIGHER TEACHER LOAN FORGIVENESS BENEFITS.—

(1) TECHNICAL CLARIFICATION.—The matter preceding paragraph (1) of section 2 of the Taxpayer-Teacher Protection Act of 2004 (Public Law 108–409; 118 Stat. 2299) is amended by inserting "of the Higher Education Act of 1965" after "Section 438(b)(2)(B)".

(2) AMENDMENT.—Paragraph (3) of section 3(b) of the Taxpayer-Teacher Protection Act of 2004 (20 U.S.C. 1078–10 note) is amended by striking ", and before October 1, 2005".

(3) EFFECTIVE DATES.—The amendment made by paragraph (1) shall be effective as if enacted on October 30, 2004, and the amendment made by paragraph (2) shall be effective as if enacted on October 1, 2005.

(d) COORDINATION WITH SECOND HIGHER EDUCATION EXTENSION ACT OF 2005.—

(1) REPEAL.—Section 2 of the Second Higher Education Extension Act of 2005 is amended by striking subsections (b) and (c).

(2) EFFECT ON AMENDMENTS.—The amendments made by subsections (a) and (c) of this section shall be effective as if the amendments made subsections (b) and (c) of section 2 of the Second Higher Education Extension Act of 2005 had not been enacted.

(e) ADDITIONAL CHANGES TO TEACHER LOAN FORGIVENESS PROVISIONS.—

(1) FFEL PROVISIONS.—Section 428J (20 U.S.C. 1078–10) is amended—

(A) in subsection (b)(1)(B), by inserting after "1965" the following: ", or meets the requirements of subsection (g)(3)"; and

(B) in subsection (g), by adding at the end the following new paragraph:

"(3) PRIVATE SCHOOL TEACHERS.—An individual who is employed as a teacher in a private school and is exempt from State certification requirements (unless otherwise applicable under State law), may, in lieu of the requirement of subsection (b)(1)(B), have such employment treated as qualifying employment under this section if such individual is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in the applicable grade levels and subject areas. For such purposes, the competency tests taken by such a private school teacher shall be recognized by 5 or more States for the purpose of fulfilling the highly qualified teacher requirements under section 9101 of the Elementary and Secondary Education Act of 1965, and the score achieved by such teacher on each test shall equal or exceed the average passing score of those 5 States.".

(2) DIRECT LOAN PROVISIONS.—Section 460 (20 U.S.C. 1087j) is amended—

(A) in subsection (b)(1)(A)(ii), by inserting after "1965" the following: ", or meets the requirements of subsection (g)(3)"; and

(B) in subsection (g), by adding at the end the following new paragraph:

"(3) PRIVATE SCHOOL TEACHERS.—An individual who is employed as a teacher in a private school and is exempt from State certification requirements (unless otherwise applicable under State law), may, in lieu of the requirement of subsection (b)(1)(A)(ii), have such employment treated as qualifying employment under this section if such individual is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in the applicable grade levels and subject areas. For such purposes, the competency tests taken by such a private school teacher shall be recognized by 5 or more States for the purpose of fulfilling the highly qualified teacher requirements under section 9101 of the Elementary and Secondary Education Act of 1965, and the score achieved by such teacher on each test shall equal or exceed the average passing score of those 5 States.".

SEC. 8014. ADDITIONAL ADMINISTRATIVE PROVISIONS.

(a) INSURANCE PERCENTAGE.—

(1) AMENDMENT.—Subparagraph (G) of section 428(b)(1) (20 U.S.C. 1078(b)(1)(G)) is amended to read as follows:

"(G) insures 98 percent of the unpaid principal of loans insured under the program, except that—

"(i) such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to section 428(j) or 439(q);

"(ii) for any loan for which the first disbursement of principal is made on or after July 1, 2006, the preceding provisions of this subparagraph shall be applied by substituting '97 percent' for '98 percent'; and

"(iii) notwithstanding the preceding provisions of this subparagraph, such program shall insure 100 percent of the unpaid principal amount of exempt claims as defined in subsection (c)(1)(G);".

(2) EFFECTIVE DATE OF AMENDMENT.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement of principal is made on or after July 1, 2006.

(b) FEDERAL DEFAULT FEES.—

(1) IN GENERAL.—Subparagraph (H) of section 428(b)(1) (20 U.S.C. 1078(b)(1)(H)) is amended to read as follows:

"(H) provides—

"(i) for loans for which the date of guarantee of principal is before July 1, 2006, for the collection of a single insurance premium equal to not more than 1.0 percent of the principal amount of the loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and ensures that the proceeds of the premium will not be used for incentive payments to lenders; or

"(ii) for loans for which the date of guarantee of principal is on or after July 1, 2006, for the collection, and the deposit into the Federal Student Loan Reserve Fund under section 422A of a Federal default fee of an amount equal to 1.0 percent of the principal amount of the loan, which fee shall be collected either by deduction from the proceeds of the loan or by payment from other non-Federal sources, and ensures that the proceeds of the Federal default fee will not be used for incentive payments to lenders;".

(2) UNSUBSIDIZED LOANS.—Section 428H(h) (20 U.S.C. 1078–8(h)) is amended by adding at the end the following new sentences: "Effective for loans for which the date of guarantee of principal is on or after July 1, 2006, in lieu of the insurance premium authorized under the preceding sentence, each State or nonprofit private institution or organization having an agreement with the Secretary under section 428(b)(1) shall collect and deposit into the Federal Student Loan Reserve Fund under section 422A, a Federal default fee of an amount equal to 1.0 percent of the principal amount of the loan, which fee shall be collected either by deduction from the proceeds of the loan or by payment from other non-Federal sources. The Federal default fee shall not be used for incentive payments to lenders.".

(3) VOLUNTARY FLEXIBLE AGREEMENTS.—Section 428A(a)(1) (20 U.S.C. 1078–1(a)(1)) is amended—

(A) by striking "or" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(C) by adding at the end the following new subparagraph:

"(C) the Federal default fee required by section 428(b)(1)(H) and the second sentence of section 428H(h).".

(c) TREATMENT OF EXEMPT CLAIMS.—

(1) AMENDMENT.—Section 428(c)(1) (20 U.S.C. 1078(c)(1)) is amended—

(A) by redesignating subparagraph (G) as subparagraph (H), and moving such subparagraph 2 em spaces to the left; and

(B) by inserting after subparagraph (F) the following new subparagraph:

"(G)(i) Notwithstanding any other provisions of this section, in the case of exempt claims, the Secretary shall apply the provisions of—

"(I) the fourth sentence of subparagraph (A) by substituting '100 percent' for '95 percent';

"(II) subparagraph (B)(i) by substituting '100 percent' for '85 percent'; and

"(III) subparagraph (B)(ii) by substituting '100 percent' for '75 percent'.

"(ii) For purposes of clause (i) of this subparagraph, the term 'exempt claims' means claims with respect to loans for which it is determined that the borrower (or the student on whose behalf a parent has borrowed), without the lender's or the institution's knowledge at the time the loan was made, provided false or erroneous information or took actions that caused the borrower or the student to be ineligible for all or a portion of the loan or for interest benefits thereon.".

(2) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by this subsection shall apply with respect to loans for which the first disbursement of principal is made on or after July 1, 2006.

(d) CONSOLIDATION OF DEFAULTED LOANS.—Section 428(c) (20 U.S.C. 1078(c)) is further amended—

(1) in paragraph (2)(A)—

(A) by inserting "(i)" after "including"; and

(B) by inserting before the semicolon at the end the following: "and (ii) requirements establishing procedures to preclude consolidation lending from being an excessive proportion of guaranty agency recoveries on defaulted loans under this part";

(2) in paragraph (2)(D), by striking "paragraph (6)" and inserting "paragraph (6)(A)"; and

(3) in paragraph (6)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting "(A)" before "For the purpose of paragraph (2)(D),"; and

(C) by adding at the end the following new subparagraphs:

"(B) A guaranty agency shall—

"(i) on or after October 1, 2006—

"(I) not charge the borrower collection costs in an amount in excess of 18.5 percent of the outstanding principal and interest of a defaulted loan that is paid off through consolidation by the borrower under this title; and

"(II) remit to the Secretary a portion of the collection charge under subclause (I) equal to 8.5 percent of the outstanding principal and interest of such defaulted loan; and

"(ii) on and after October 1, 2009, remit to the Secretary the entire amount charged under clause (i)(I) with respect to each defaulted loan that is paid off with excess consolidation proceeds.

"(C) For purposes of subparagraph (B), the term 'excess consolidation proceeds' means, with respect to any guaranty agency for any Federal fiscal year beginning on or after October 1, 2009, the proceeds of consolidation of defaulted loans under this title that exceed 45 percent of the agency's total collections on defaulted loans in such Federal fiscal year.".

(e) DOCUMENTATION OF FORBEARANCE AGREEMENTS.—Section 428(c) (20 U.S.C. 1078(c)) is further amended—

(1) in paragraph (3)(A)(i)—

(A) by striking "in writing"; and

(B) by inserting "and documented in accordance with paragraph (10)" after "approval of the insurer"; and

(2) by adding at the end the following new paragraph:

"(10) DOCUMENTATION OF FORBEARANCE AGREEMENTS.—For the purposes of paragraph (3), the terms of forbearance agreed to by the parties shall be documented by confirming the agreement of the borrower by notice to the borrower from the lender, and by recording the terms in the borrower's file.".

(f) VOLUNTARY FLEXIBLE AGREEMENTS.—Section 428A(a) (20 U.S.C. 1078-1(a)) is further amended—

(1) in paragraph (1)(B), by striking "unless the Secretary" and all that follows through "designated guarantor";

(2) by striking paragraph (2);

(3) by redesignating paragraph (3) as paragraph (2); and

(4) by striking paragraph (4).

(g) FRAUD: REPAYMENT REQUIRED.—Section 428B(a)(1) (20 U.S.C. 1078–2(a)(1)) is further amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) in the case of a graduate or professional student or parent who has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining funds under this title, such graduate or professional student or parent has completed the repayment of such funds to the Secretary, or to the holder in the case of a loan under this title obtained by fraud; and".

(h) DEFAULT REDUCTION PROGRAM.—Section 428F(a)(1) (20 U.S.C. 1078–6(a)(1)) is amended—

(1) in subparagraph (A), by striking "consecutive payments for 12 months" and inserting "9 payments made within 20 days of the due date during 10 consecutive months";

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) A guaranty agency may charge the borrower and retain collection costs in an amount not to exceed 18.5 percent of the outstanding principal and interest at the time of sale of a loan rehabilitated under subparagraph (A).".

(j) EXCEPTIONAL PERFORMANCE INSURANCE RATE.—Section 428I(b)(1) (20 U.S.C. 1078–9(b)(1)) is amended—

(1) in the heading, by striking "100 PERCENT" and inserting "99 PERCENT"; and

(2) by striking "100 percent of the unpaid" and inserting "99 percent of the unpaid".

(k) UNIFORM ADMINISTRATIVE AND CLAIMS PROCEDURE.—Section 432(l)(1)(H) (20 U.S.C. 1082(l)(1)(H)) is amended by inserting "and anticipated graduation date" after "status change".

(2) Section 428(a)(3)(A)(v) (20 U.S.C. 1078(a)(3)(A)(v)) is amended—

(A) by striking "or" at the end of subclause (I);

(B) by striking the period at the end of subclause (II) and inserting "; or"; and

(C) by adding after subclause (II) the following new subclause:

"(III) in the case of a loan disbursed through an escrow agent, 3 days before the first disbursement of the loan.".

(3) Section 428(c)(1)(A) (20 U.S.C. 1078(c)(1)(A)) is amended by striking "45 days" in the last sentence and inserting "30 days".

(4) Section 428(i)(1) (20 U.S.C. 1078(i)(1)) is amended by striking "21 days" in the third sentence and inserting "10 days".

SEC. 8016. FUNDS FOR ADMINISTRATIVE EXPENSES.

Section 458 is amended to read as follows:

"SEC. 458. FUNDS FOR ADMINISTRATIVE EXPENSES.

"(a) ADMINISTRATIVE EXPENSES.—

"(1) MANDATORY FUNDS FOR FISCAL YEAR 2006.—For fiscal year 2006, there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for—

"(A) administrative costs under this part and part B, including the costs of the direct student loan programs under this part; and

"(B) account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsections (b) and (c),

not to exceed (from such funds not otherwise appropriated) $820,000,000 in fiscal year 2006.

"(2) AUTHORIZATION FOR ADMINISTRATIVE COSTS BEGINNING IN FISCAL YEARS 2007 THROUGH 2011.—For each of the fiscal years 2007 through 2011, there are authorized to be appropriated such sums as may be necessary for administrative costs under this part and part B, including the costs of the direct student loan programs under this part.

"(3) CONTINUING MANDATORY FUNDS FOR ACCOUNT MAINTENANCE FEES.—For each of the fiscal years 2007 through 2011, there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsection (b).

"(4) ACCOUNT MAINTENANCE FEES.—Account maintenance fees under paragraph (3) shall be paid quarterly and deposited in the Agency Operating Fund established under section 422B.

"(5) CARRYOVER.—The Secretary may carry over funds made available under this section to a subsequent fiscal year.

"(b) CALCULATION BASIS.—Account maintenance fees payable to guaranty agencies under subsection (a)(3) shall not exceed the basis of 0.10 percent of the original principal amount of outstanding loans on which insurance was issued under part B.

"(c) BUDGET JUSTIFICATION.—No funds may be expended under this section unless the Secretary includes in the Department of Education's annual budget justification to Congress a detailed description of the specific activities for which the funds made available by this section have been used in the prior and current years (if applicable), the activities and costs planned for the budget year, and the projection of activities and costs for each remaining year for which administrative expenses under this section are made available.".

SEC. 8017. COST OF ATTENDANCE.

Section 472 (20 U.S.C. 1087ll) is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) for less than half-time students (as determined by the institution), tuition and fees and an allowance for only—

"(A) books, supplies, and transportation (as determined by the institution);

"(B) dependent care expenses (determined in accordance with paragraph (8)); and

"(C) room and board costs (determined in accordance with paragraph (3)), except that a student may receive an allowance for such costs under this subparagraph for not more than 3 semesters or the equivalent, of which not more than 2 semesters or the equivalent may be consecutive;";

(2) in paragraph (11), by striking "and" after the semicolon;

(3) in paragraph (12), by striking the period and inserting "; and"; and

(4) by adding at the end the following:

"(13) at the option of the institution, for a student in a program requiring professional licensure or certification, the one time cost of obtaining the first professional credentials (as determined by the institution).".

SEC. 8018. FAMILY CONTRIBUTION.

(a) FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS.—

(1) AMENDMENTS.—Section 475 (20 U.S.C. 1087oo) is amended—

(A) in subsection (g)(2)(D), by striking "$2,200" and inserting "$3,000"; and

(B) in subsection (h), by striking "35" and inserting "20".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007.

(b) FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.—

(1) AMENDMENTS.—Section 476 (20 U.S.C. 1087pp) is amended—

(A) in subsection (b)(1)(A)(iv)—

(i) in subclause (I), by striking "$5,000" and inserting "$6,050";

(ii) in subclause (II), by striking "$5,000" and inserting "$6,050"; and

(iii) in subclause (III), by striking "$8,000" and inserting "$9,700"; and

(B) in subsection (c)(4), by striking "35" and inserting "20".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007.

(c) FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.—

(1) AMENDMENT.—Section 477(c)(4) (20 U.S.C. 1087qq(c)(4)) is amended by striking "12" and inserting "7".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007.

(d) REGULATIONS; UPDATED TABLES.—Section 478(b) (20 U.S.C. 1087rr(b)) is amended—

(1) in paragraph (1), by adding at the end the following: "For the 2007–2008 academic year, the

Secretary shall revise the tables in accordance with this paragraph, except that the Secretary shall increase the amounts contained in the table in section 477(b)(4) by a percentage equal to the greater of the estimated percentage increase in the Consumer Price Index (as determined under the preceding sentence) or 5 percent."; and

(2) in paragraph (2)—

(A) by striking "2000–2001" and inserting "2007–2008"; and

(B) by striking "1999" and inserting "2006".

(e) EMPLOYMENT EXPENSE ALLOWANCE.—Section 478(h) (20 U.S.C. 1087rr(h)) is amended—

(1) by striking "476(b)(4)(B),"; and

(2) by striking "meals away from home, apparel and upkeep, transportation, and housekeeping services" and inserting "food away from home, apparel, transportation, and household furnishings and operations".

SEC. 8019. SIMPLIFIED NEED TEST AND AUTOMATIC ZERO IMPROVEMENTS.

(a) AMENDMENTS.—Section 479 (20 U.S.C. 1087ss) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking clause (i) and inserting the following:

"(i) the student's parents—

"(I) file, or are eligible to file, a form described in paragraph (3);

"(II) certify that the parents are not required to file a Federal income tax return; or

"(III) received, or the student received, benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) in subparagraph (B), by striking clause (i) and inserting the following:

"(i) the student (and the student's spouse, if any)—

"(I) files, or is eligible to file, a form described in paragraph (3);

"(II) certifies that the student (and the student's spouse, if any) is not required to file a Federal income tax return; or

"(III) received benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(B) in the matter preceding subparagraph (A) of paragraph (3), by striking "A student or family files a form described in this subsection, or subsection (c), as the case may be, if the student or family, respectively, files" and inserting "In the case of an independent student, the student, or in the case of a dependent student, the family, files a form described in this subsection, or subsection (c), as the case may be, if the student or family, as appropriate, files";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the student's parents—

"(i) file, or are eligible to file, a form described in subsection (b)(3);

"(ii) certify that the parents are not required to file a Federal income tax return; or

"(iii) received, or the student received, benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) the sum of the adjusted gross income of the parents is less than or equal to $20,000; or"; and

(B) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the student (and the student's spouse, if any)—

"(i) files, or is eligible to file, a form described in subsection (b)(3);

"(ii) certifies that the student (and the student's spouse, if any) is not required to file a Federal income tax return; or

"(iii) received benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to $20,000."; and

(3) by adding at the end the following:

"(d) DEFINITION OF MEANS-TESTED FEDERAL BENEFIT PROGRAM.—In this section, the term 'means-tested Federal benefit program' means a mandatory spending program of the Federal Government, other than a program under this title, in which eligibility for the program's benefits, or the amount of such benefits, are determined on the basis of income or resources of the individual or family seeking the benefit, and may include such programs as—

"(1) the supplemental security income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

"(2) the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

"(3) the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

"(4) the program of block grants for States for témporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(5) the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

"(6) other programs identified by the Secretary.".

(b) EVALUATION OF SIMPLIFIED NEEDS TEST.—

(1) ELIGIBILITY GUIDELINES.—The Secretary of Education shall regularly evaluate the impact of the eligibility guidelines in subsections (b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A)).

(2) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—For each 3-year period, the Secretary of Education shall evaluate the impact of including the receipt of benefits by a student or parent under a means-tested Federal benefit program (as defined in section 479(d) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(d)) as a factor in determining eligibility under subsections (b) and (c) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b) and (c)).

SEC. 8020. ADDITIONAL NEED ANALYSIS AMENDMENTS.

(a) TREATING ACTIVE DUTY MEMBERS OF THE ARMED FORCES AS INDEPENDENT STUDENTS.—Section 480(d)(3) (20 U.S.C. 1087vv(d)(3)) is amended by inserting before the semicolon at the end the following: "or is currently serving on active duty in the Armed Forces for other than training purposes".

(b) DEFINITION OF ASSETS.—Section 480(f)(1) (20 U.S.C. 1087vv(f)(1)) is amended by inserting "qualified education benefits (except as provided in paragraph (3))," after "tax shelters,".

(c) TREATMENT OF FAMILY OWNERSHIP OF SMALL BUSINESSES.—Section 480(f)(2) (20 U.S.C. 1087vv(f)(2)) is amended—

(1) in subparagraph (A), by striking "or";

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(C) a small business with not more than 100 full-time or full-time equivalent employees (or any part of such a small business) that is owned and controlled by the family.".

(d) ADDITIONAL DEFINITIONS.—Section 480(f) is further amended by adding at the end the following new paragraphs:

"(3) A qualified education benefit shall not be considered an asset of a student for purposes of section 475.

"(4) In determining the value of assets in a determination of need under this title (other than for subpart 4 of part A), the value of a qualified education benefit shall be—

"(A) the refund value of any tuition credits or certificates purchased under a qualified education benefit; and

"(B) in the case of a program in which contributions are made to an account that is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, the current balance of such account.

"(5) In this subsection:

"(A) The term 'qualified education benefit' means—

"(i) a qualified tuition program (as defined in section 529(b)(1)(A) of the Internal Revenue Code of 1986) or other prepaid tuition plan offered by a State; and

"(ii) a Coverdell education savings account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986).

"(B) The term 'qualified higher education expenses' has the meaning given the term in section 529(e) of the Internal Revenue Code of 1986.".

(e) DESIGNATED ASSISTANCE.—Section 480(j) (20 U.S.C. 1087vv(j)) is amended—

(1) in the subsection heading, by striking "; TUITION PREPAYMENT PLANS";

(2) by striking paragraph (2);

(3) by redesignating paragraph (3) as paragraph (2); and

(4) by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1) and section 472, assistance not received under this title may be excluded from both estimated financial assistance and cost of attendance, if that assistance is provided by a State and is designated by such State to offset a specific component of the cost of attendance. If that assistance is excluded from either estimated financial assistance or cost of attendance, it shall be excluded from both.".

SEC. 8021. GENERAL PROVISIONS.

(a) ACADEMIC YEAR.—Paragraph (2) of section 481(a) (20 U.S.C. 1088(a)) is amended to read as follows:

"(2)(A) For the purpose of any program under this title, the term 'academic year' shall—

"(i) require a minimum of 30 weeks of instructional time for a course of study that measures its program length in credit hours; or

"(ii) require a minimum of 26 weeks of instructional time for a course of study that measures its program length in clock hours; and

"(iii) require an undergraduate course of study to contain an amount of instructional time whereby a full-time student is expected to complete at least—

"(I) 24 semester or trimester hours or 36 quarter credit hours in a course of study that measures its program length in credit hours; or

"(II) 900 clock hours in a course of study that measures its program length in clock hours.

"(B) The Secretary may reduce such minimum of 30 weeks to not less than 26 weeks for good cause, as determined by the Secretary on a case-by-case basis, in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree.".

(b) DISTANCE EDUCATION: ELIGIBLE PROGRAM.—Section 481(b) (20 U.S.C. 1088(b)) is amended by adding at the end the following new paragraphs:

"(3) An otherwise eligible program that is offered in whole or in part through telecommunications is eligible for the purposes of this title if the program is offered by an institution, other than a foreign institution, that has been evaluated and determined (before or after the date of enactment of the Higher Education Reconciliation Act of 2005) to have the capability to effectively deliver distance education programs by an accrediting agency or association that—

"(A) is recognized by the Secretary under subpart 2 of part H; and

"(B) has evaluation of distance education programs within the scope of its recognition, as described in section 496(n)(3).

"(4) For purposes of this title, the term 'eligible program' includes an instructional program that, in lieu of credit hours or clock hours as the measure of student learning, utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by others, if such assessment is consistent with the accreditation of the institution or program utilizing the results of the assessment. In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to be an eligible program.".

(c) CORRESPONDENCE COURSES.—Section 484(l)(1) (20 U.S.C. 1091(l)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "for a program of study of 1 year or longer"; and

(B) by striking "unless the total" and all that follows through "courses at the institution"; and

(2) by amending subparagraph (B) to read as follows:

"(B) EXCEPTION.—Subparagraph (A) shall not apply to an institution or school described in section 3(3)(C) of the Carl D. Perkins Vocational and Technical Education Act of 1998.".

SEC. 8022. STUDENT ELIGIBILITY.

(a) FRAUD: REPAYMENT REQUIRED.—Section 484(a) (20 U.S.C. 1091(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; and"; and

(2) by adding at the end the following new paragraph:

"(6) if the student has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining funds under this title, have completed the repayment of such funds to the Secretary, or to the holder in the case of a loan under this title obtained by fraud.".

(b) VERIFICATION OF INCOME DATE.—Paragraph (1) of section 484(q) (20 U.S.C. 1091(q)) is amended to read as follows:

"(1) CONFIRMATION WITH IRS.—The Secretary of Education, in cooperation with the Secretary of the Treasury, is authorized to confirm with the Internal Revenue Service the information specified in section 6103(l)(13) of the Internal Revenue Code of 1986 reported by applicants (including parents) under this title on their Federal income tax returns for the purpose of verifying the information reported by applicants on student financial aid applications.".

(c) SUSPENSION OF ELIGIBILITY FOR DRUG OFFENSES.—Section 484(r)(1) (20 U.S.C. 1091(r)(1)) is amended by striking everything preceding the table and inserting the following:

"(1) IN GENERAL.—A student who is convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance for conduct that occurred during a period of enrollment for which the student was receiving any grant, loan, or work assistance under this title shall not be eligible to receive any grant, loan, or work assistance under this title from the date of that conviction for the period of time specified in the following table:".

SEC. 8023. INSTITUTIONAL REFUNDS.

Section 484B (20 U.S.C. 1091b) is amended—

(1) in the matter preceding clause (i) of subsection (a)(2)(A), by striking "a leave of" and inserting "1 or more leaves of";

(2) in subsection (a)(3)(B)(ii), by inserting "(as determined in accordance with subsection (d))" after "student has completed";

(3) in subsection (a)(3)(C)(i), by striking "grant or loan assistance under this title" and inserting "grant assistance under subparts 1 and 3 of part A, or loan assistance under parts B, D, and E,";

(4) in subsection (a)(4), by amending subparagraph (A) to read as follows:

"(A) IN GENERAL.—After determining the eligibility of the student for a late disbursement or post-withdrawal disbursement (as required in regulations prescribed by the Secretary), the institution of higher education shall contact the borrower and obtain confirmation that the loan funds are still required by the borrower. In making such contact, the institution shall explain to the borrower the borrower's obligation to repay the funds following any such disbursement. The institution shall document in the borrower's file the result of such contact and the final determination made concerning such disbursement.";

(5) in subsection (b)(1), by inserting "not later than 45 days from the determination of withdrawal" after "return";

(6) in subsection (b)(2), by amending subparagraph (C) to read as follows:

"(C) GRANT OVERPAYMENT REQUIREMENTS.—

"(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), a student shall only be required to return grant assistance in the amount (if any) by which—

"(I) the amount to be returned by the student (as determined under subparagraphs (A) and (B)), exceeds

"(II) 50 percent of the total grant assistance received by the student under this title for the payment period or period of enrollment.

"(ii) MINIMUM.—A student shall not be required to return amounts of $50 or less.";

(7) in subsection (d), by striking "(a)(3)(B)(i)" and inserting "(a)(3)(B)"; and

(8) in subsection (d)(2), by striking "clock hours—" and all that follows through the period and inserting "clock hours scheduled to be completed by the student in that period as of the day the student withdrew.".

SEC. 8024. COLLEGE ACCESS INITIATIVE.

Part G is further amended by inserting after section 485C (20 U.S.C. 1092c) the following new section:

"SEC. 485D. COLLEGE ACCESS INITIATIVE.

"(a) STATE-BY-STATE INFORMATION.—The Secretary shall direct each guaranty agency with which the Secretary has an agreement under section 428(c) to provide to the Secretary the information necessary for the development of Internet web links and access for students and families to a comprehensive listing of the postsecondary education opportunities, programs, publications, Internet web sites, and other services available in the States for which such agency serves as the designated guarantor.

"(b) GUARANTY AGENCY ACTIVITIES.—

"(1) PLAN AND ACTIVITY REQUIRED.—Each guaranty agency with which the Secretary has an agreement under section 428(c) shall develop a plan, and undertake the activity necessary, to gather the information required under subsection (a) and to make such information available to the public and to the Secretary in a form and manner as prescribed by the Secretary.

"(2) ACTIVITIES.—Each guaranty agency shall undertake such activities as are necessary to promote access to postsecondary education for students through providing information on college planning, career preparation, and paying for college. The guaranty agency shall publicize such information and coordinate such activities with other entities that either provide or distribute such information in the States for which such guaranty agency serves as the designated guarantor.

"(3) FUNDING.—The activities required by this section may be funded from the guaranty agency's Operating Fund established pursuant to section 422B and, to the extent funds remain, from earnings on the restricted account established pursuant to section 422(h)(4).

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require a guaranty agency to duplicate any efforts under way on the date of enactment of the Higher Education Reconciliation Act of 2005 that meet the requirements of this section.

"(c) ACCESS TO INFORMATION.—

"(1) SECRETARY'S RESPONSIBILITY.—The Secretary shall ensure the availability of the information provided, by the guaranty agencies in accordance with this section, to students, parents, and other interested individuals, through Internet web links or other methods prescribed by the Secretary.

"(2) GUARANTY AGENCY RESPONSIBILITY.—The guaranty agencies shall ensure that the information required by this section is available without charge in printed format for students and parents requesting such information.

"(3) PUBLICITY.—Not later than 270 days after the date of enactment of the Higher Education Reconciliation Act of 2005, the Secretary and guaranty agencies shall publicize the availability of the information required by this section, with special emphasis on ensuring that populations that are traditionally underrepresented in postsecondary education are made aware of the availability of such information.".

SEC. 8026. WAGE GARNISHMENT REQUIREMENT.

Section 488A(a)(1) (20 U.S.C. 1095a(a)(1)) is amended by striking "10 percent" and inserting "15 percent".

Subtitle B—Pensions

SEC. 8201. INCREASES IN PBGC PREMIUMS.

(a) FLAT-RATE PREMIUMS.—

(1) SINGLE-EMPLOYER PLANS.—

(A) IN GENERAL.—Clause (i) of section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended by striking "$19" and inserting "$30".

(B) ADJUSTMENT FOR INFLATION.—Section 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)) is amended by adding at the end the following new subparagraph:

"(F) For each plan year beginning in a calendar year after 2006, there shall be substituted for the premium rate specified in clause (i) of subparagraph (A) an amount equal to the greater of—

"(i) the product derived by multiplying the premium rate specified in clause (i) of subparagraph (A) by the ratio of—

"(I) the national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the 2 calendar years preceding the calendar year in which such plan year begins, to

"(II) the national average wage index (as so defined) for 2004; and

"(ii) the premium rate in effect under clause (i) of subparagraph (A) for plan years beginning in the preceding calendar year.

If the amount determined under this subparagraph is not a multiple of $1, such product shall be rounded to the nearest multiple of $1.".

(2) MULTIEMPLOYER PLANS.—

(A) IN GENERAL.—Section 4006(a)(3)(A) of such Act (29 U.S.C. 1306(a)(3)(A)) is amended—

(i) in clause (iii)—

(I) by inserting "and before January 1, 2006," after "Act of 1980,"; and

(II) by striking the period at the end and inserting ", or"; and

(ii) by adding at the end the following:

"(iv) in the case of a multiemployer plan, for plan years beginning after December 31, 2005, $8.00 for each individual who is a participant in such plan during the applicable plan year.".

(B) ADJUSTMENT FOR INFLATION.—Section 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)), as amended by this subsection, is amended by adding at the end the following new subparagraph:

"(G) For each plan year beginning in a calendar year after 2006, there shall be substituted for the premium rate specified in clause (iv) of subparagraph (A) an amount equal to the greater of—

"(i) the product derived by multiplying the premium rate specified in clause (iv) of subparagraph (A) by the ratio of—

"(I) the national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the 2 calendar years preceding the calendar year in which such plan year begins, to

"(II) the national average wage index (as so defined) for 2004; and

"(ii) the premium rate in effect under clause (iv) of subparagraph (A) for plan years beginning in the preceding calendar year.

If the amount determined under this subparagraph is not a multiple of $1, such product shall be rounded to the nearest multiple of $1.".

(b) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—Subsection (a) of section 4006 of such Act (29 U.S.C. 1306) is amended by adding at the end the following:

"(7) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—

"(A) IN GENERAL.—If there is a termination of a single-employer plan under clause (ii) or (iii) of section 4041(c)(2)(B) or section 4042, there shall be payable to the corporation, with respect to each applicable 12-month period, a premium at a rate equal to $1,250 multiplied by the number of individuals who were participants in the plan immediately before the termination date. Such premium shall be in addition to any other premium under this section.

"(B) SPECIAL RULE FOR PLANS TERMINATED IN BANKRUPTCY REORGANIZATION.—In the case of a single-employer plan terminated under section 4041(c)(2)(B)(ii) or under section 4042 during pendency of any bankruptcy reorganization proceeding under chapter 11 of title 11, United States Code, or under any similar law of a State or a political subdivision of a State (or a case described in section 4041(c)(2)(B)(i) filed by or against such person has been converted, as of such date, to such a case in which reorganization is sought), subparagraph (A) shall not apply to such plan until the date of the discharge or dismissal of such person in such case.

"(C) APPLICABLE 12-MONTH PERIOD.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'applicable 12-month period' means—

"(I) the 12-month period beginning with the first month following the month in which the termination date occurs, and

"(II) each of the first two 12-month periods immediately following the period described in subclause (I).

"(ii) PLANS TERMINATED IN BANKRUPTCY REORGANIZATION.—In any case in which the requirements of subparagraph (B)(i)(I) are met in connection with the termination of the plan with respect to 1 or more persons described in such subparagraph, the 12-month period described in clause (i)(I) shall be the 12-month period beginning with the first month following the month which includes the earliest date as of which each such person is discharged or dismissed in the case described in such clause in connection with such person.

"(D) COORDINATION WITH SECTION 4007.—

"(i) Notwithstanding section 4007—

"(I) premiums under this paragraph shall be due within 30 days after the beginning of any applicable 12-month period, and

"(II) the designated payor shall be the person who is the contributing sponsor as of immediately before the termination date.

"(ii) The fifth sentence of section 4007(a) shall not apply in connection with premiums determined under this paragraph.

"(E) TERMINATION.—Subparagraph (A) shall not apply with respect to any plan terminated after December 31, 2010.".

(c) CONFORMING AMENDMENT.—Section 4006(a)(3)(B) of such Act (29 U.S.C. 1306(a)(3)(B)) is amended by striking "subparagraph (A)(iii)" and inserting "clause (iii) or (iv) of subparagraph (A)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (b) shall apply to plans terminated after December 31, 2005.

(B) SPECIAL RULE FOR PLANS TERMINATED IN BANKRUPTCY.—The amendment made by subsection (b) shall not apply to a termination of a single-employer plan that is terminated during the pendency of any bankruptcy reorganization proceeding under chapter 11 of title 11, United States Code (or under any similar law of a State or political subdivision of a State), if the proceeding is pursuant to a bankruptcy filing occurring before October 18, 2005.

TITLE IX—LIHEAP PROVISIONS

SECTION 9001. FUNDING AVAILABILITY.

(a) IN GENERAL.—In addition to amounts otherwise made available, there are appropriated, out of any money in the Treasury not otherwise appropriated, to the Secretary of Health and Human Services for a 1-time only obligation and expenditure—

(1) $250,000,000 for fiscal year 2007 for allocation under section 2604(a) through (d) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(a) through (d)); and

(2) $750,000,000 for fiscal year 2007 for allocation under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)).

(b) SUNSET.—The provisions of this section shall terminate, be null and void, and have no force and effect whatsoever after September 30, 2007. No monies provided for under this section shall be available after such date.

TITLE X—JUDICIARY RELATED PROVISIONS

Subtitle A—Civil Filing Adjustments

SEC. 10001. CIVIL CASE FILING FEE INCREASES.

(a) CIVIL ACTIONS FILED IN DISTRICT COURTS.—Section 1914(a) of title 28, United States Code, is amended by striking "$250" and inserting "$350".

(b) APPEALS FILED IN COURTS OF APPEALS.—The $250 fee for docketing a case on appeal or review, or docketing any other proceeding, in a court of appeals, as prescribed by the Judicial Conference, effective as of January 1, 2005, under section 1913 of title 28, United States Code, shall be increased to $450.

(c) EXPENDITURE LIMITATION.—Incremental amounts collected by reason of the enactment of this section shall be deposited in a special fund in the Treasury to be established after the enactment of this Act. Such amounts shall be available for the purposes specified in section 1931(a) of title 28, United States Code, but only to the extent specifically appropriated by an Act of Congress enacted after the enactment of this Act.

(d) EFFECTIVE DATE.—This section and the amendment made by this section shall take effect 60 days after the date of the enactment of this Act.

Subtitle B—Bankruptcy Fees

SEC. 10002. BANKRUPTCY FEES.

(a) BANKRUPTCY FILING FEES.—Section 1930(a) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A) by striking "$220" and inserting "$245"; and

(B) in subparagraph (B) by striking "$150" and inserting "$235"; and

(2) in paragraph (2) by striking "$1,000" and inserting "$2,750".

(b) EXPENDITURE LIMITATION.—Incremental amounts collected by reason of the amendments made by subsection (a) shall be deposited in a special fund in the Treasury to be established after the enactment of this Act. Such amounts shall be available for the purposes specified in section 1931(a) of title 28, United States Code, but only to the extent specifically appropriated by an Act of Congress enacted after the enactment of this Act.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

And the House agree to the same.

For consideration of the Senate bill, and the House amendment thereto, and modifications committed to conference:

JIM NUSSLE,
JIM RYUN,
ANDER CRENSHAW,
ADAM PUTNAM,
ROGER F. WICKER,
KENNY C. HULSHOF,
PAUL RYAN,
ROY BLUNT,
TOM DELAY,

From the Committee on Agriculture, for consideration of title I of the Senate bill and title I of the House amendment, and modifications committed to conference:

BOB GOODLATTE,
FRANK D. LUCAS,

From the Committee on Education and the Workforce, for consideration of title VII of the Senate bill and title II and subtitle C of title III of the House amendment, and modifications committed to conference:

JOHN BOEHNER,
HOWARD P. MCKEON,

From the Committee on Energy and Commerce, for consideration of title III and title VI of the Senate bill and title III of the House amendment, and modifications committed to conference:

JOE BARTON,
NATHAN DEAL,

From the Committee on Financial Services, for consideration of title II of the Senate bill and title IV of the House amendment, and modifications committed to conference:

MICHAEL G. OXLEY,
SPENCER BAUCUS,
(Provided that Mr. Ney is appointed in lieu of Mr. Bachus for consideration of subtitles C and D of title II of the Senate bill and subtitle B of title IV of the House amendment:)

From the Committee on the Judiciary, for consideration of title VII of the senate bill and title V of the House amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER, Jr.,
LAMAR SMITH,

From the Committee on Resources, for consideration of title IV of the Senate bill and title VI of the House amendment, and modifications committed to conference:

RICHARD POMBO,
JIM GIBBONS,

From the Committee on Transportation and Infrastructure, for consideration of title V and division A of the Senate bill and title VII of the House amendment, and modifications committed to conference:

DON YOUNG,
FRANK LOBIONDO,

From the Committee on Ways and Means, for consideration of sections 6039, 6071, and subtitle B of title VI of the Senate bill and title VIII of the House amendment, and modifications committed to conference:

WILLIAM THOMAS,
WALLY HERGER,
Managers on the Part of the House.

JUDD GREGG,
PETE DOMENICI,
CHUCK GRASSLEY,
MICHAEL B. ENZI,
WAYNE ALLARD,
JEFF SESSIONS,
TED STEVENS,
RICHARD SHELBY,
ARLEN SPECTER,
SAXBY CHAMBLISS,
MITCH MCCONNELL,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1932), to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95), submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text:

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

The managers representing authorizing committees submitted separate joint statements explaining the provisions within their respective jurisdictions: Committee on Agriculture, Committee on Education and the Workforce, Committee on Energy and Commerce, Committee on Financial Services, Committee on Transportation and Infrastructure, Committee on Ways and Means.

TITLE I—COMMITTEE ON AGRICULTURE

(1) Short title

The Senate bill cites this Title as the "Agricultural Reconciliation Act of 2005." (Section 1001)

The House amendment cites this Title as the "Agricultural Reconciliation Act of 2005" and contains a table of contents. (Section 1001)

The Conference substitute adopts the Senate provision.

Subtitle A—Commodity Programs

(2) Reduction of commodity program payments

The Senate bill adds a new section to Title I of the Farm Security and Rural Investment Act to reauthorize direct payments, counter-cyclical payments and marketing assistance loans through 2011 and reduce these program payments 2.5 percent for crop years 2006 through 2010. It also reduces by 2.5 percent payments to dairy producers pursuant to section 1502 of the Farm Security and Rural Investment Act (known as "MILC") during the period of October 1, 2005, through September 30, 2007. The reauthorization does not include 1104(f) and 1304(g) which specify the times at which the Secretary is required to make partial counter-cyclical payments. It also does not include section 1307(a)(6) which requires the Secretary to pay storage, handling, and other costs for peanut crops. Further, the Senate bill extends the period during which the prevailing world market price for upland cotton must be further adjusted to July 31, 2012, and extends the extra long staple competitiveness program through July 31, 2012. (Section 1101)

The House amendment amends section 1103 of the Farm Security and Rural Investment Act to reduce the total amount of direct payments to be paid to producers of covered commodities by 1 percent for crop years 2006 and 2007, and for crop years 2008 and 2009 if direct payments are made in these years. The House amendment also amends section 1303 of the Farm Security and Rural Investment Act to reduce the total amount of the direct payments to be paid to producers of peanuts by 1 percent for crop years 2006 and 2007, and for crop years 2008 and 2009 if direct payments are made in these years. (Section 1101)

The Conference substitute adopts neither provision.

(3) Forfeiture penalty for nonrecourse sugar loans

The Senate bill amends the Federal Agriculture Improvement and Reform (FAIR) Act of 1996 to require that a penalty be assessed on the forfeiture of any sugar from the 2006 through 2010 crops of sugar beets and sugarcane pledged as collateral for a nonrecourse loan. It provides that the penalty is 1.2 percent of the loan rate established under section 156 of the FAIR Act. Further, it reduces payments owed to a producer by a processor that forfeits sugar pledged as collateral in proportion to the penalty incurred by the processor. (Section 1102)

The House amendment has no comparable provision.

The Conference substitute deletes the Senate provision.

(4) Cotton competitiveness provisions

The Senate bill amends the Farm Security and Rural Investment Act to eliminate authority for the establishment of the upland cotton user marketing certificate program known as "Step 2." It also repeals section 136 of the Federal Agriculture Improvement and Reform Act of 1996 which has duplicate language for the establishment of Step 2. Further, it provides that the above amendments take effect on August 1, 2006. (Section 1103)

The House amendment has identical language. (Section 1103)

The Conference substitute adopts the Senate provision with an amendment that eliminates the language repealing section 136 of the Federal Agriculture Improvement and Reform Act of 1996.

(5) National dairy market loss payments

The Senate bill amends the MILC Program (section 1502 of the Farm Security and Rural Investment Act) by extending until September 30, 2007, the period during which the Secretary must offer to enter into contracts with producers. It also includes a new provision that decreases the multiplier used to calculate payments from 45 percent to 34 percent during the period of October 1, 2005, through September 30, 2007. In addition it extends until September 30, 2007, the period during which eligible production must be covered in any contract entered into by a producer. It also strikes section 1502(h) of the Farm Security and Rural Investment Act and strikes an obsolete reference to section 1502. (Section 1104)

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that will decrease the multiplier used to calculate payments from 45 percent to 34 percent during the period from October 1, 2005, through August 31, 2007, and from 34 percent to 0 percent after September 1, 2007.

(6) Advance direct payments

The Senate bill reduces the direct payment amounts that producers are eligible to receive in advance for the 2006 through 2011 crop years. It gives producers the option of receiving up to 40 percent of their direct payments in advance for the 2006 crop year and up to 20 percent of their direct payments in advance for any of the 2007 through 2011 crop years.

The Senate bill provides for a corresponding reduction in the direct payment amount that peanut producers may receive in advance for any of the 2006 through 2011 crop years. It gives peanut producers the option of receiving up to 40 percent of their direct payments in advance for the 2006 crop year and up to 29 percent of their direct payments in advance for any of the 2007 through 2011 crop years. (Section 1105)

The House amendment reduces the direct payment amounts that producers are eligible to receive in advance for the 2006 and 2007 crop years. It gives producers the option of receiving up to 40 percent of their direct payments in advance for the 2006 and 2007 crop years.

The House amendment provides for a corresponding reduction in the direct payment amounts that producers of peanuts are eligible to receive in advance for the 2006 and 2007 crop years. It gives peanut producers the option of receiving up to 40 percent of their direct payments in advance for the 2006 and 2007 crop years. (Section 1102)

The Conference substitute adopts the House provision with an amendment that reduces the direct payment amounts that producers are eligible to receive in advance from 50 percent to 40 percent for the 2006 crop year and to 22 percent for the 2007 crop year. Advance direct payments to peanut producers are reduced in an identical fashion.

Subtitle B—Conservation

(7) Conservation reserve program

The Senate bill extends the Conservation Reserve Program (CRP) through 2011. It decreases the amount of acres that the Secretary is authorized to maintain in the conservation reserve program to 36.4 million acres through calendar year 2010, and 38.3 million acres in 2011. It extends the period during which the Secretary may enroll acres, and it extends the requirement to enroll wetland and buffer acreage in reserve through 2011.

It also requires the Secretary, in implementing the amendments made by this section, to achieve the new maximum acreage enrollment limit not later than 2 years after the date of enactment of the bill without affecting conservation reserve existing contracts. (Section 1201)

The House amendment has no comparable provision.

The Conference substitute deletes the Senate provision.

(8) Conservation security program

The Senate bill extends the authorization for the Conservation Security Program (CSP) through 2011. It strikes the current limitation on funding and inserts a new limitation with two restraints. The new limits are $1,954,000,000 for fiscal years 2006 through 2010 and $5,200,000,000 for fiscal years 2006 through 2015. (Section 1202).

The House amendment extends the authorization for the Conservation Security Program through 2011. strikes the current limitation on funding and inserts a new limitation with two restraints. The new limits are $2,213,000,000 for fiscal years 2006 through 2010 and $5,729,000,000 for fiscal years 2006 through 2015. (Section 1202)

The Conference substitute adopts the Senate provision with an amendment that provides for a limit of $5,650,000,000 for fiscal years 2006 through 2015.

(9) Environmental quality incentives program

The Senate bill extends the authorization for the Environmental Quality Incentives Program (EQIP) through 2011. and extends the aggregate payment limit for all EQIP payments through 2011. It also amends the funding provisions to provide: $1,017,000,000 for fiscal year 2005; $1,185,000,000 for fiscal year 2006; $1,270,000,000 for fiscal year 2007 through 2010; and $1,300,000,000 for fiscal year 2011. (Section 1203)

The House amendment has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that provides for $1,270,000,000 in each of fiscal years 2007 and 2009 and $1,300,000,000 in fiscal year 2010, limits payments under this program to $450,000 during any six-year period, and extends the authorization for EQIP through fiscal year 2010.

(10) Limitation on use of Commodity Credit Corporation funds to carry out watershed rehabilitation program

The Senate bill has no comparable provision.

The House amendment removes the requirement that funds for the watershed rehabilitation program remain available to the Secretary until expended. It reduces funding for the watershed rehabilitation program by $15 million in fiscal year 2007, and it rescinds funds that are previously made available and are unobligated as of September 30, 2006. (Section 1201)

The Conference substitute adopts the House provision with an amendment that cancels the authority to obligate funds previously made available for a fiscal year and unobligated as of October 1, 2006, but permits funding to remain available until expended and maintains funding at $65,000,000 for fiscal year 2007.

(11) Limitation on use of Commodity Credit Corporation funds to carry out the agricultural management assistance program

The Senate bill has no comparable provision.

The House amendment eliminates funding for the agricultural management assistance program in 2007. (Section 1203)

The Conference substitute deletes the House provision.

Subtitle C—Miscellaneous (Senate Bill)

Subtitle E—Research (House Amendment)

(12) Initiative for future agriculture and food systems

The Senate bill reduces the amount of funds the Secretary is required to transfer on October 1, 2005, to $104 million and on October 1, 2006 through 2009 to $130 million. It provides $200,000,000 of funding in 2010 and in subsequent fiscal years, and provides that the amendments take effect on October 1, 2005. (Section 1301)

The House amendment eliminates funding for the Initiative for Future Agriculture and Food Systems in fiscal years 2007, 2008, and 2009. It provides $200,000,000 of funding in 2010 and in subsequent fiscal years, and limits availability of fiscal year 2006 funds to the one year period beginning on October 1, 2005, while maintaining the two-year period of availability for funds made available in other fiscal years. (Section 1501)

The Conference substitute adopts the House provision.

Subtitle C—Energy

(13) Termination of use of commodity credit funds to carry out renewable energy systems and energy efficiency improvement program

The Senate bill has no comparable provision.

The House amendment eliminates the requirement that the Secretary make funding available for loans and grants under the renewable energy systems and energy efficiency improvements program. (Section 1301)

The Conference substitute adopts the House provision with an amendment that maintains $3,000,000 of funding for this program in fiscal year 2007.

Subtitle D—Rural Development

(14) Enhanced access to broadband telecommunication services in rural areas

The Senate bill has no comparable provision.

The House amendment eliminates the requirement that the Secretary provide loans for enhanced broadband access in fiscal year 2007, prohibits funding for this program from remaining available until expended, and rescinds all funding that is available and unobligated as of September 30, 2006. (Section 1401)

The Conference substitute adopts the House provision with an amendment that cancels funding previously made available for a fiscal year and unobligated as of October 1, 2006, but permits funding to remain available until expended and maintains the funding for fiscal year 2007.

(15) Value-added agricultural product market development grants

The Senate bill has no comparable provision.

The House amendment eliminates funding for value-added agricultural product grants in fiscal year 2007, prohibits funding for this program from remaining available until expended, and rescinds all funding that is available and unobligated as of September 30, 2006. (Section 1402)

The Conference substitute adopts the House provision with an amendment that cancels funding previously made available for a fiscal year and unobligated as of October 1, 2006, but permits funding to remain available until expended and maintains the funding for fiscal year 2007.

(16) Rural business investment program

The Senate bill has no comparable provision.

The House amendment eliminates funding for the rural business investment program in fiscal year 2007, prohibits funding for this program from remaining available until expended, and rescinds all funding that is available and unobligated as of September 30, 2006. (Section 1403).

The Conference substitute adopts the House provision with an amendment that eliminates funding in fiscal year 2007 and rescinds all funding that is available and unobligated as of October 1, 2006, but permits funding to remain available until expended.

(17) Rural business strategic investment grants

Senate bill has no comparable provision.

The House amendment eliminates funding for rural business strategic investment grants in fiscal year 2007 and rescinds all funding that is available and unobligated as of September 30, 2006. (Section 1404)

The Conference substitute adopts the House provision with an amendment that cancels funding previously made for a fiscal year and unobligated as of October 1, 2006, but maintains the funding for fiscal year 2007.

(18) Rural firefighters and emergency personnel grants

The Senate bill has no comparable provision.

The House amendment eliminates funding for rural firefighter and emergency personnel grants in fiscal year 2007, prohibits funding for this program from remaining available until expended, and rescinds all funding that is available and unobligated as of September 30, 2006. (Section 1405).

The Conference substitute adopts the House provision with an amendment that permits funding to remain available until expended, but eliminates funding in fiscal year 2007, and rescinds all funding that is available and unobligated as of October 1, 2006.

Subtitle F—Nutrition

(19) Eligible households

The Senate bill has no comparable provision.

The House amendment amends the Food Stamp Act to restrict categorical eligibility status, during fiscal years 2006 through 2010, to only those households in which each member receives cash benefits under the Temporary Assistance for Needy Families program (TANF). It provides an exception to the "cash benefits" rule for households in which each member receives substantial and ongoing non-cash benefits under TANF. It further provides that such non-cash benefits must be provided for purposes of shelter, utilities, child care, health care, transportation, or job training, and it requires that such households must have a monthly income that does not exceed 150 percent of the poverty line.

The House amendment reauthorizes provisions in the Food Stamp Act through 2011 (except assistance for community food projects (section 25(b)) and innovative programs for addressing common community problems (section 25(h)). It also amends the eligibility categories for free school lunch and breakfast to provide a new eligibility category that will include a child who is a member of a household: (1) in which each member receives or is eligible to receive non-cash or in-kind benefits under TANF; and (2) that has a gross monthly income at or below 200 percent of the Federal poverty level. (Section 1601)

The Conference substitute deletes the House provision.

(20) Availability of commodities for the emergency food assistance program

The Senate bill has no comparable provision.

The House amendment reauthorizes the purchase of $140,000,000 worth of commodities per year for the Emergency Food Assistance Program through 2011, and it authorizes the purchase of an additional $12,000,000 worth of commodities in 2006 to be distributed to States affected by Hurricanes Katrina and Rita. (Section 1602)

The Conference substitute deletes the House provision.

(21) Residency requirement

The Senate bill has no comparable provision.

The House amendment amends the Personal Responsibility and Work Opportunity Reconciliation Act to require that, until fiscal year 2010, non-citizens must reside in the U.S. for 7 years or more before becoming eligible for food stamp benefits. It provides an exemption, however, for aliens who currently receive food stamp benefits and who are 60 years of age or older or have petitioned for naturalization as a U.S. citizen. It also provides that on October 1, 2010, these provisions will expire. (Section 1603)

The Conference substitute deletes the House provision.

(22) Disaster food stamp program

The Senate bill has no comparable provision.

The House amendment authorizes the Secretary of Agriculture to pay to state agencies 100 percent of the administrative costs incurred in the delivery of food stamp benefits under the disaster food stamp program initiated in response to Hurricanes Katrina and Rita (Section 1604)

The Conference substitute deletes the House provision.

TITLE II—SENATE COMMITTEE ON BANKING AND HOUSE COMMITTEE ON FINANCIAL SERVICES

Subtitle A—FHA Asset Disposition

SUMMARY OF FHA RECONCILIATION LANGUAGE (DECEMBER 15, 2005)

The House Financial Services and Senate Banking Committees approved reconciliation language that will make several FHA multifamily authorities subject to appropriations. This move to discretionary spending will enable the Administration and Congress to set the level of activity for these FHA authorities and better control their use. This legislation authorizes $100 million to be appropriated for fiscal year 2006 to make these reforms.

Bill Summary

Originally proposed in the President's budget, the FHA Asset Disposition Act of 2005 will make several FHA multifamily authorities subject to appropriations, including (1) discount property sales; (2) discount loan sales; and (3) up-front grant assistance.

The Congressional Budget Office estimate of total savings in outlays are as follows (in millions):

FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	Total
$30	$60	$60	$60	$60	$270

The savings from this proposal, taken together with Deposit Insurance Reform, constitute the reconciliation recommendations of the House Financial Services and Senate Banking Committees. Together the proposals will save an estimated $520 million over fiscal years 2006–10, with $30 million in fiscal 2006. This amount is the savings target for these committees contemplated in the budget resolution.

Background

Since 1934, FHA and HUD have insured almost 33 million home mortgages and multifamily project mortgages. Within HUD, FHA provides mortgage insurance to lenders to protect against losses as a result of borrower default. Currently, FHA has the authority to sell, at below-market rates, properties taken over by the agency because of mortgage defaults. FHA also has the authority to sell discount loans. This legislation will make these mandatory authorities discretionary and subject to appropriations. Additionally, FHA can provide up-front grants to rehabilitate dilapidated multifamily properties. Funding for the grants currently comes from the General Insurance Fund, which collects money from premiums and servicing of insured mortgages. The amount spent on the grants is left to the discretion of FHA. Under this legislation, funding for these grants will no longer be drawn from the General Insurance Fund and would be subject to appropriations. Finally, this proposal is effective during fiscal years 2006 through 2010.

Subtitle B—Deposit Insurance

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 2101. Short title; table of contents

This section establishes the short title of the subtitle, the 'Federal Deposit Insurance Reform Act of 2005,' and provides a table of contents.

Section 2102. Merging the BIF and SAIF

This section amends provisions of the Federal Deposit Insurance Act to merge the Bank Insurance Fund and the Savings Association Insurance Fund no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning on the date of the enactment of this Act.

Section 2103. Increase in deposit insurance coverage

This section provides for an inflation index for general depositors and a higher level of deposit insurance coverage for certain individual retirement accounts. Credit unions are provided with complete parity in coverage with other insured depository institutions.

The section also retains the $100,000 deposit insurance limit on accounts at insured depository institutions, to be known as the "standard maximum deposit insurance amount," subject to future cost of living adjustments.

Beginning April 1, 2010, and every succeeding five years, the Board of Directors of the FDIC and the National Credit Union Administration Board shall jointly determine whether an increase in the standard maximum deposit insurance is appropriate after considering certain factors. If appropriate, the new standard maximum deposit insurance limit would be increased by a cost of living adjustment. This adjustment would be calculated according to the Personal Consumption Expenditures Chain-Type Index (PCE) published by the Department of Commerce and rounded down to the nearest $10,000. The FDIC and National Credit Union Administration (NCUA) Boards of Directors are required to publish the new standard maximum deposit insurance amount in the Federal Register and provide a corresponding report to Congress by April 5, 2010, and April 5 of every succeeding fifth year. The approved adjustment in the standard maximum deposit insurance amount would automatically occur unless a Congressional act provides otherwise and would take effect on January 1 of the year immediately succeeding the calendar year in which the new amount is calculated.

The section also provides pass-through coverage to certain employee benefit plans, even if the institution is not authorized to accept employee benefit plan deposits because it is not well-capitalized or adequately capitalized.

The section also increases the deposit insurance limit for certain retirement accounts to $250,000, also subject to future cost-of-living adjustments.

Section 2104. Setting assessments and repeal of special rules relating to minimum assessments and free deposit insurance

This section allows the FDIC Board to set assessments in such amounts as it may determine to be necessary or appropriate. This provision also eliminates the existing restrictions on the FDIC's authority to levy assessments on any institution above amounts needed to achieve and maintain the existing DRR of 1.25 percent. The minimum statutory rate (23 basis point cliff rate) applicable in certain circumstances is eliminated.

This section also provides that under the FDIC's risk-based assessment system, no depository institution shall be barred from the lowest-risk category solely because of size.

The section also requires insured depository institutions to maintain all records that the FDIC may require for verifying the accuracy of any assessment for 3 years or, in the case of disputed assessments, until the dispute has been resolved, and increases the fees that the FDIC can impose for late payments of premium assessments from $100 to 1 percent of assessments per day, for institutions with assessments greater than $10,000. Institutions with assessments lower than $10,000 would face a maximum penalty of $100 for each day they were delinquent in paying their premium assessments.

The bill repeals a number of provisions requiring the FDIC to set premiums on a semiannual basis, replacing them with a provision granting the FDIC greater flexibility in the timing of those evaluations.

Section 2105. Replacement of fixed designated reserve ratio with reserve range

This section eliminates the current 1.25 percent 'hard target' DRR and provides the FDIC Board with the discretion to set the DRR within a range of 1.15 to 1.50 percent for any given year, using the following criteria as a basis for making these determinations: (1) present and future risk of losses to the deposit insurance fund; (2) economic conditions; and (3) any other factors the Board may determine to be appropriate.

In designating the reserve ratio, the FDIC must follow notice-and-comment rulemaking procedures, and is required to publish a thorough analysis of the data and projections if it proposes to change the DRR.

Section 2106. Requirements applicable to the risk-based assessment system

This section directs the FDIC to collect information from all appropriate sources in determining risk of losses to the DIF. This provision does not authorize the FDIC to impose additional recordkeeping requirements on insured depository institutions.

The FDIC is required to consult with the appropriate Federal banking agency in assessing the risk of loss to the DIF with respect to any insured depository institution. This risk of loss evaluation may be done on an aggregate basis for institutions that are determined to be well-capitalized and well-managed.

The FDIC is also required to provide notice and opportunity for comment prior to revising or modifying the risk-based assessment system.

Section 2107. Refunds, dividends, and credits from Deposit Insurance Fund

This section provides for refunds or credits of any assessment payment that was made by an insured depository institution in excess of the amount due the FDIC.

The section specifies two circumstances under which the FDIC is required to pay dividends to insured depository institutions: (1) whenever the reserve ratio of the DIF equals or exceeds 1.35 percent of estimated insured deposits and is less than or equal to 1.5 percent of such deposits, the FDIC is required to pay dividends equal to 50 percent of the amount in excess of what is required to maintain the reserve ratio at 1.35 percent unless the FDIC determines that a significant risk of losses to the DIF exists and such losses justify the growth of the reserve ratio; and (2) whenever the reserve ratio of the DIF exceeds 1.5 percent of estimated insured deposits, the FDIC is required to pay dividends in the amount of the excess of what is necessary to maintain the ratio at 1.5 percent.

The section also provides for a transitional credit of 10.5 basis points of the total assessment base as of December 31, 2001 (or about $4.7 billion) to eligible insured depository institutions based on their respective percentage of total industry assessable deposits held as of December 31, 1996. Eligible insured depository institutions had to be in existence at December 31, 1996, or be a successor to such an institution, and to have paid a deposit insurance assessment prior to that date.

For purposes of allocating dividends, the FDIC is required to determine each insured depository institution's relative contribution to the DIF (or any predecessor deposit insurance fund), taking into account the institution's share of the assessment base as of December 31, 1996; the total amount of deposit insurance assessments paid by the institution after December 31, 1996; that portion of assessments paid by an institution that reflects higher levels of risk assumed by the institution; and such other factors as the FDIC deems appropriate. The FDIC's calculation, declaration and payment of dividends are made subject to notice-and-comment rulemaking.

For any insured depository institution that exhibits financial, operational or compliance weaknesses ranging from moderately severe to unsatisfactory at the beginning of the assessment period, credits may not exceed the amount calculated by applying to that institution the average assessment rate on all insured depository institutions for that assessment period.

In promulgating regulations establishing a system for dividends and credits, the FDIC is required to include provisions allowing insured depository institutions a reasonable opportunity to challenge administratively the amount of their dividends or credits.

In determining the appropriate distribution of dividends, the FDIC must weigh a number of factors in its rulemaking process. The calculation should recognize past contributions to the deposit insurance funds by incorporating the ratio determined for an institution in the calculation of the institution's one-time credit based on total assessment base at year-end 1996, as well as the actual assessments paid since that time. In establishing the dividend system, the FDIC should also take into account and make adjustments that reflect the higher risk profiles of some institutions so that they are not rewarded for riskier behavior. The FDIC is given the discretion to incorporate additional factors, through the rulemaking process, as it deems appropriate.

Section 2108. Deposit Insurance Fund restoration plans

Whenever the reserve ratio falls or is projected to fall below the low end of the range within which the FDIC is authorized to set the DRR, the FDIC is required, within 90 days, to establish and implement a plan for restoring the DIF to that level within five years or a longer period in extraordinary circumstances. While such a restoration plan is in effect, the FDIC has the authority to restrict the use of assessment credits by insured depository institutions, but is required to apply to an institution's assessment an amount that is the lesser of the institution's assessment or 3 basis points of an institution's assessment base. The FDIC must publish the details of its restoration plan in the Federal Register within 30 days of its implementation.

Section 2109. Regulations required

This section provides that the FDIC has 270 days after the date of enactment to prescribe final regulations, after notice and opportunity for public comment, establishing the DRR, implementing increases in deposit insurance coverage, implementing the dividend requirement and the one-time assessment credit, and providing for premium assessments under the amended Act.

Section 2010. Studies of FDIC structure and expenses and certain activities and further possible changes to deposit insurance system

This section provides that within one year of enactment, reports must be submitted to Congress on the following issues:

(1) The efficiency and effectiveness of the administration of the prompt corrective action (PCA) program, including the degree of effectiveness of the Federal banking agencies in identifying troubled depository institutions and the degree of accuracy of the risk assessments made by the FDIC;

(2) The appropriateness of the FDIC's organizational structure for the mission of the FDIC, to take into account the current size and complexity of the business of insured depository institutions; the extent to which the organizational structure contributes to or reduces operational inefficiencies that increase operational costs; and the effectiveness of internal controls;

(3) The feasibility of establishing a voluntary deposit insurance system for deposits in excess of the maximum amount of deposit insurance for any depositor;

(4) The feasibility of increasing the limit on deposit insurance for deposits of municipalities and other units of general local government;

(5) The feasibility of privatizing all deposit insurance at insured depository institutions and insured credit unions; and,

(6) The feasibility of using an alternative to estimated insured deposits in calculating the DIF's reserve ratio and the DRR.

(7) The section directs the FDIC to conduct a study of the reserve methodology and loss accounting for insured depository institutions in a troubled condition over the period January 1, 1992 through December 31, 2004, and report its findings and conclusions to Congress within one year of the date of enactment. The FDIC is required to obtain comments on the design of this study from the Government Accountability Office (GAO), and to provide a draft of the final report to GAO prior to its submission to Congress.

(8) The section directs the Comptroller General to report to the Committee on Financial Services of the House and the Committee on Banking, Housing, and Urban Affairs in the Senate, the potential impact on the United States financial system, the implementation of the new Basel Capital Accord and the proposed revisions to current reserve requirement regulations for non-Basel II banks.

Section 2111. Bi-annual FDIC survey and report on increasing the deposit base by encouraging use of depository institutions by the unbanked

This section requires the FDIC to conduct a bi-annual survey on efforts by insured depository institutions to bring the 'unbanked' into the conventional finance system, and report its findings and conclusions to the House Committee on Financial Services and the Senate Committee on Banking, Housing and Urban Affairs, together with any recommendations for legislative or administrative action.

Section 2112. Technical and Conforming Amendments to the Federal Deposit Insurance Act relating to the merger of the BIF and SAIF

This section makes numerous amendments to ensure the technical conformity of the Federal Deposit Insurance Reform Act to various provisions in the Federal Deposit Insurance Act and other banking laws, to include the authority of the DIF to borrow from insured depository institutions and the Federal Home Loan Banks.

In particular, this section repeals section 5(d)(2) of the Federal Deposit Insurance Act, dealing with exit fees collected from institutions leaving the Savings Association Insurance Fund (SAIF). These funds will be returned to the DIF upon the repeal of this provision.

Section 2113. Other Technical and Conforming Amendments relating to the merger of the BIF and SAIF

This section ensures the technical conformity of the Federal Deposit Insurance Reform Act to various provisions in the Federal Deposit Insurance Act and other banking laws.

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to bill (S. 1932), to expedite the digital television (DTV) transition while helping consumers to continue to use their analog televisions, to free spectrum for public safety and commercial use, to improve emergency communications, to provide resources for the design and deployment of a temporary digital television broadcast system for New York City in response to the destruction of the World Trade Center during the terrorist attacks of September 11, 2001, and to ensure continued air service to rural communities through the Essential Air Service program and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

CONGRESSIONAL DIRECTIVES

The statement of the managers remains silent on provisions that were in both the House and Senate bills that remain unchanged by this conference agreement, except as noted in this statement of the managers.

The conferees agree that executive branch wishes cannot substitute for Congress' own statements as to the best evidence of congressional intentions—that is, the official reports of the Congress.

TITLE III—DIGITAL TELEVISION TRANSITION

Section 3001. Short title

Section 3001 would provide that this Title may be cited as the "Digital Television Transition and Public Safety Act of 2005."

Sec. 3002. Analog spectrum recovery; firm deadline

Section 3002 directs the Federal Communication Commission (FCC) to take all steps necessary to require, by February 18, 2009, that full-power television stations stop analog broadcasting, and that Class A stations, whether broadcasting in analog or digital format, and full-power television stations broadcasting in digital format, conduct such broadcasting on channels 2 to 36 and 38 to 51. This enables channels 52 to 62 and 65 to 67 to be auctioned, and channels 63, 64, 68, and 69 to be used for public-safety purposes. Among the necessary steps the FCC will need to take are to issue a report and order on the digital television table of channel allotments, and to coordinate those allotments with Canada and Mexico to resolve any international interference issues.

Section 3002 also clarifies that only full-power stations, not low-power stations, must cease analog broadcasting by February 18, 2009. Low-power stations, including Class A stations, may continue broadcasting in analog format after February 18, 2009, subject to future decisions by the FCC on how to complete the digital television transition for such stations. Low-power stations other than Class A stations may also continue such analog broadcasting above channel 51, subject to future FCC decisions, so long as those stations' use of those channels is secondary to the use of those channels by the auction winners and public safety officials.

Section 3003. Auction of recovered spectrum

Section 3003 would amend the Communications Act of 1934 to require the FCC to conduct an auction of the recovered spectrum commencing by January 28, 2008. The FCC's auction authority would be extended through September 30, 2011.

Sec. 3004. Reservation of auction proceeds

This provision requires that the proceeds from the auction of analog spectrum be deposited in a single separate fund in the Treasury, to be called the "Digital Television Transition and Public Safety Fund," in order to fund several programs. On September 30, 2009, $7,363,000,000 shall be transferred from the Digital Television Transition and Public Safety Fund to the general fund of the Treasury.

Section 3005. Digital transition and public safety fund

To help consumers who wish to continue receiving broadcast programming over the air using analog-only televisions not connected to cable or satellite service, the bill authorizes the National Telecommunications and Information Administration (NTIA) to create a digital-to-analog converter box assistance program. Under the program, the NTIA is initially allocated up to $990 million of the spectrum auction revenues to send by U.S. mail up to two $40 coupons to each U.S. household that requests to participate in the program. Consumers may use the coupons toward the purchase of eligible digital-to-analog converter-boxes. Such boxes, and over-the-air digital televisions in general, can work with the antennas consumers already use in their homes for analog over-the-air broadcasts. The NTIA may use up to $100 million of the $990 million for administrative costs. Up to $5,000,000 of the administrative funds may be used to educate consumers about the digital television transition and the digital-to-analog converter-box program. If, as the program progresses, it appears the NTIA will need additional funds, the NTIA may certify to Congress that it cannot operate the program without more money, at which point the funds available for the program shall increase to $1.5 billion and the cap on administrative expenses shall increase to $160 million. The NTIA would be allowed access to the additional funds 60 days after the certification.

Even if NTIA spends $100 million on administrative costs, the remaining $890 million in converter-box program proceeds would fund 22,250,000 coupons. And each additional $40 the NTIA does not spend on administration is another coupon it can make available to consumers. Thus, the Managers expect in any NTIA certification to raise the caps that the NTIA explain in detail why access to additional funds is necessary, whether those funds are to be used for administrative costs or for the coupons themselves, and why the NTIA was unable to operate the program within the $990 million overall cap and $100 million administrative cap.

The Managers note that the February 17, 2009, firm deadline will have little impact on most television households. Only consumers relying on over-the-air broadcasts should need to participate in the converter-box program. Only 14.86 percent of U.S. television households relied exclusively on over-the-air transmission as of June 2004, according to the FCC. By contrast, the FCC reports that 92.3 million households, representing 85.14 percent, subscribed to a multichannel video programming distribution (MVPD) service, such as those offered by a cable or satellite operator.

The coupon structure of the program and requiring consumers to make affirmative requests for coupons takes into account that many consumers will neither need nor want a subsidized converter box. By contrast, if converter-boxes were made directly available at subsidized rates at stores, or coupons were automatically sent to every U.S. household, impulse participation by consumers who do not really need either a converter-box or a subsidy would cause the program to run out of funds before consumers who really do need a subsidized box avail themselves of the program.

The Managers expect NTIA to promulgate regulations within nine months of enactment governing: (1) the content and distribution of coupon request forms and coupons; (2) consumer redemption of, and retailer reimbursement for, the coupons; (3) the types of converter boxes that shall be eligible for purchase with a coupon; (4) certification, education, and auditing of retailers involved in the program; and (5) consumer and retailer appeals. The requirement to send the coupons through the U.S. mail is designed to help NTIA administer the two-coupon per household limit. That limit would be much more difficult to implement if the coupons themselves were distributed electronically or simply made available at government buildings such as post offices. The U.S. mail requirement is also intended to reduce fraud that might occur with electronically distributed coupons. The Managers expect NTIA to take additional measures to reduce fraud and abuse, such as including anti-counterfeit measures and perhaps unique serial numbers on the coupons. The Managers do expect NTIA to use the efficiencies of electronic media and networks, however, to make other aspects of the program more efficient, such as outreach efforts, the distribution of coupon request forms, and the reimbursement of retailers for coupons that consumers redeem. NTIA should also take measures to protect consumer privacy in the use of information provided in conjunction with participation in the program.

Sec. 3006. Public safety interoperable communications

Section 3006 provides funding in the amount of $1,000,000,000 to help ensure interoperability for our nation's first responders. In order to obtain a grant under this section, a public safety agency shall—(1) submit an application to the Assistant Secretary at such time, in such form, and containing or accompanied by such information and assurances as the Assistant Secretary shall require; (2) agree that, if awarded a grant, the public safety agency will submit annual reports to the Assistant Secretary for the duration of the grant award period with respect to—(A) the expenditure of grant funds; and (B) progress toward acquiring and deploying interoperable communications systems funded by the grant; and (3) agree to remit to the Assistant Secretary any grant funds that remain unexpended at the end of the 3-year period of the grant.

Grants under this section shall be awarded in the form of a single grant for a period of not more that 3 years. At the end of 3 years, any grant funds that remain unexpended should be remitted by the grantee to the Assistant Secretary, and, may be awarded to other eligible grant recipients. At the end of fiscal year 2010, any such re-awarded grant funds that remain unexpended shall be remitted by the grantee to the Assistant Secretary and may not be re-awarded to other grantees.

In order to ensure consistency amongst various federal interoperable communications grant programs, the Managers expect the Assistant Secretary, in consultation with the Secretary of the Department of Homeland Security, to administer the grant program in a manner consistent with the recommended guidance for public safety communications and interoperability grants established by the Office of Grant and Training of the Preparedness Directorate and the SAFECOM Program of the Office for Interoperability and Compatibility of the Science and Technology Directorate of the Department of Homeland Security. In addition, the Managers expect that the Assistant Secretary, in consultation with the Secretary of the Department of Homeland Security, will ensure that the grants awarded under this program are utilized by public safety agencies in a manner which is consistent with applicable state interoperable communications plans, state and urban area homeland security strategies, and the National Preparedness Goal and accompanying guidance.

Moreover, in order to minimize the paperwork and administrative burden of public safety agencies applying for funds under this grant program, the Managers expect the Assistant Secretary, in consultation with the Secretary of the Department of Homeland Security, to enable a public safety agency to utilize, to the maximum extent practicable, the identical application such public safety agency may have submitted to the Department of Homeland Security for any interoperable communications funding from the Department of Homeland Security and to take any other steps to minimize the administrative burden of public safety agencies that may be applying both for funds under this grant program and funds for interoperable communications from the Department of Homeland Security.

The Managers intend that grants under this section may be used for the acquisition costs associated with designing an interoperable communications system so that the system is properly engineered based upon the topography, population density, or other characteristics of the area in which the system will operate. The Managers note that there is a diverse array of technological and engineering solutions that enable interoperable communications systems.

The Managers encourage the Assistant Secretary, in consultation with the Secretary of the Department of Homeland Security, to consider distributing a limited portion of grant funds under this section in a manner that gives priority to those public safety agencies in areas designated as at high risk for natural disasters and threats of terrorism to the agriculture, food, banking, and chemical industries; the defense industrial base; emergency services; energy; government facilities; postal, shipping, public health, health care, information technology, telecommunications, and transportation systems; water; dams; commercial facilities; and national monuments and icons.

Section 3007. NYC 9/11 digital transition

The funding provided under this section, $30,000,000, would enable New York City broadcasters can build interim facilities to ensure that the New York metropolitan area could receive an adequate digital broadcast signal until the new facilities atop the Freedom tower can be completed. The Managers do not intend this program to alter or affect the FCC's authority with respect to licensing, interference, or other regulation.

Sec. 3008. Low-Power television and translator digital to analog conversion

Section 3008 provides funding to facilitate continued service for the viewers of low power television stations over their analog TVs. The Assistant Secretary shall determine the maximum amount of compensation such a low-power television station may receive based on the average cost of such digital-to-analog conversion devices during the time period such low-power broadcast television station purchased the digital-to-analog conversion device, but in no case shall such compensation exceed $1,000.

Section 3009. Low-power and translator upgrade program

The funding provided under this section would make available $65,000,000 for a program to convert low-power television stations and television translator stations from analog to digital transmissions.

Sec. 3010. National alert and tsunami warning program

The funding provided under this section, $156,000,000, will provide for a modern all hazards alert and warning program to provide alerts in response to natural disasters, manmade accidents, and terrorist incidents. The program will encourage, but not mandate, new technologies such as wireless communication devices, satellite radios, and personal computers to enhance the nation's current emergency warning capability. The goal of the program will be to help ensure that regardless of what communication technology an individual relies upon they will get an alert to a threat to public safety.

The funding will be used to develop technologies to allow emergency managers to precisely geographically target their alerts to only populations at risk. Research and development will be encouraged, but not mandated, to be conducted through a cooperative research program with the telecommunications industry. The funds should also be used to provide emergency managers with the tools necessary to input alerts into a national alerting system and have them retransmitted across all appropriate communication mediums. There should be established a procedure to provide credentials to emergency managers who wish to use the system to ensure the integrity of emergency alert communications to the public. The office responsible for managing the system should also ensure that personnel using the system are appropriately trained on how and when to use the system and understand that the system should only be used for grave threats to public safety. Personnel should also be trained to issue alerts that provide the public with information on what to do to protect themselves from the threat.

Section 3011. ENHANCE 911

The funding provided under this section would make available $43,500,000 in grants to implement the ENHANCE 911 Act of 2004.

Section 3012. Essential air service program

The funding provided under this section would make $30,000,000 in grants to the Essential Air Service program.

Section 3013. Supplemental license fees

This section provides for additional fees to be assessed by the Federal Communications Commission in the aggregate amount of $10,000,000 during fiscal year 2006.

TITLE V—MEDICARE

Subtitle A—Part A

Hospital Quality Improvement (Section 5001 of the Conference Agreement, Section 6110 of the Senate Bill and no provision in the House Bill)

Current Law

Each year, Medicare's operating payments to hospitals are increased or updated by a factor that is determined in part by the projected annual change in the hospital market basket (MB), a measure that estimates price inflation affecting hospitals. Congress establishes the update for Medicare's inpatient prospective payment system (IPPS) for operating costs in acute care hospitals, often several years in advance. Currently, through FY2007, the IPPS operating update has been established as the MB for hospitals that submit specific quality information and as the MB minus 0.4 percentage points for hospitals that do not provide such information. The required data are those ten quality indicators established by the Secretary of the Department of Health and Human Services (the Secretary) as of November 1, 2003. Starting in FY2008, the IPPS update will be the hospital MB. Any MB reduction does not apply when computing the applicable percentage increase in subsequent years.

Outlier payments are intended to protect IPPS hospitals from the risk of financial losses associated with patients with exceptionally high costs or unusually long stays. Medicare cases qualify for outlier payments if they exceed a threshold or fixed loss amount that is established each year. As directed by statute, the total amount of any outlier payments for any year should equal no less than 5% nor more than 6% of total projected operating diagnosis related group (DRG) payments. Outlier payments are financed by a reduction in the national average standardized amount, typically set at 5.1%.

For the purpose of establishing the correct IPPS payment, Medicare discharges are classified into diagnosis related groups (DRGs) primarily on the basis of the diagnosis and procedure code information included on the beneficiary's claim. The information includes the principal diagnosis (or main problem requiring inpatient care), up to eight secondary diagnoses codes as well as up to six procedures performed during the stay. Medicare pays for inpatient hospital services using per discharge rates that will vary by the DRG (and its calculated weight) to which a patient's stay is assigned. Each DRG weight represents the average resources required to provide care for cases in that specific DRG relative to the average resources used to treat cases in all DRGs. The Center for Medicare and Medicaid Services (CMS) annually reviews the DRG definitions and relative weights to (1) reflect changes in treatment patterns and technology improvements and (2) ensure that cases with clinically similar conditions requiring comparable resources are grouped together.

Under the DRG classification system, certain secondary diagnoses are considered to be complications or comorbidities (CC). When present as a secondary condition (with a specific principal diagnosis), these diagnosis codes are considered to increase the length of stay by at least one day in at least 75% of the patients. In FY2006, there are 3,285 diagnosis codes on the CC list. 524 DRGs are used for Medicare payment purposes and 121 paired DRGs are split into higher and lower paid DRGs on the presence or the absence of a CC. CMS has added and deleted codes from the standard list of CCs, but has never conducted a comprehensive review of the list. It is planning to review systematically the CC list for FY2007 Medicare payments.

Senate Bill

The Medicare statute would be amended by adding a new Section 1860E–2 which establishes the hospital value-based purchasing program for inpatient hospital services, starting FY2007. The program would make value-based payments to hospitals based on data reported under the quality measurement system established by the Secretary. Hospitals paid under Medicare's prospective payment system (PPS) that have substantially improved the quality of care over the prior year or exceeded an established quality threshold would receive a value-based payment as determined by the Secretary. A majority of the total amount available for value-based payments in any fiscal year would be paid to hospitals that are receiving such payments for exceeding a quality threshold. Starting in FY2008, the percentage of the total amount for value-based payments in any fiscal year that is paid to such hospitals would be greater than the equivalent percentage paid in the previous year. Hospitals would be required to comply with all the quality data reporting requirements and attest to the accuracy of the data in order to be eligible for a value-based payment. The total amount of value-based payments in a fiscal year would equal the total amount of available funding for such payments for that year. The payments would be based on the methods determined by the Secretary and would be made to hospitals no later than the close of the following fiscal year. No later than January 1, 2007, the Secretary would provide each hospital with a description of how its payments for FY2006 would have been affected had the valuebased payment program been in effect that fiscal year.

Value-based payments in a fiscal year would be made from Medicare's Part A Trust fund and would equal specified reductions in those trust fund expenditures as established in Section 6110(b) of the bill. Specifically, IPPS outlier payments would be established as no less than 5 percent and no more than 6 percent for fiscal years prior to 2007. In FY2007, outlier payments would be established as no less than 4 percent and no more than 5 percent. In FY2008, outlier payments would be established as no less than 3.75 percent and no more than 4.75 percent. In FY2009, outlier payments would be established as no less than 3.5 percent and no more than 4.5 percent. In FY2010, outlier payments would be established as no less than 3.25 percent and no more than 4.25 percent. In FY2011 and in subsequent years, outlier payments would be established as no less than 3 percent and no more than 4 percent.

The Secretary would be directed to reduce the average standardized amount by certain percentages to fund outlier payments and the hospital value-based purchasing program. The reduction factor would be equal to a calculation where the numerator is the sum of the additional outlier payments (as discussed in the preceding paragraph) plus a specified percentage of total projected DRG prospective payment rates divided by the total projected DRG prospective payment rates. The specific percentages would be 0 percent for fiscal years prior to 2007, 1 percent in FY2007, 1.25 percent in FY2008, 1.5 percent in FY2009, 1.75 percent in FY2010, and 2 percent in FY2011 and in subsequent years.

Acute care hospitals that do not submit required quality data would receive the MB minus 2 percentage points for FY2007 and each subsequent fiscal year. The reduction would apply only with respect to the fiscal year involved and would not be taken into account when computing subsequent updates. The required quality data would be that determined by the Secretary to be appropriate for the measurement of health care quality, including data necessary for the operation of the IPPS hospital value-based purchasing program.

House Bill

No provision.

Conference Agreement

Hospitals that do not submit the required data in FY2007 and each subsequent year will have the applicable MB percentage increase reduced by 2 percentage points. Each IPPS hospital is required to submit data on measures selected by the Secretary in the established form, manner, and specified time. Any reduction applies only to the fiscal year in question and does not affect subsequent fiscal years.

The conference agreement establishes that the Secretary will expand the number of quality indicators required to be reported by acute care hospitals. Beginning October 1, 2006 the Secretary will begin to adopt the baseline set of performance measures set forth in the November 2005 Institute of Medicine report that was required by section 238(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. Beginning October 1, 2007, the Secretary will add other measures that reflect consensus among the affected parties. To the extent feasible and practicable, these measures will include those established by national consensus building entities. The Secretary is permitted to vary and replace any measures in appropriate cases, such as where all hospitals are effectively in compliance or where measures have been shown not to represent the best clinical practice.

The Secretary is required to establish procedures for making the submitted quality data available to the public. These procedures will ensure that a hospital has the opportunity to review the data before they are made available to the public. The Secretary is required to report quality measures of process, structure, outcome, patients' perspective on care, efficiency, and costs of care that relate to inpatient services on the Internet website of CMS.

The Secretary is required to develop a plan to implement a value-based purchasing program for IPPS payments to acute care hospitals beginning with FY2009. The plan will include consideration of (1) the on-going development, selection, and modification process for measures of quality and resource use in hospital inpatient settings; (2) the reporting, collection, and validation of the data; (3) the structure of value-based payment adjustments such as the determination of thresholds for a payment adjustment, the size of the payment adjustment and the sources of funding for the value-based payments; and (4) the disclosure of information on hospital performance. The Secretary will consult with relevant affected parties and consider experience with applicable demonstration programs.

The Secretary is required to submit a report to Congress on the plan for the value-based purchasing program no later than August 1, 2007. The Medicare Payment Advisory Commission (MedPAC) is required to submit a report with detailed recommendations on the structure of the valued based payment adjustments no later than June 1, 2007. The report will include (1) a determination of thresholds, size of payments, sources of funds, and relationship of payments to quality measures; (2) analyses of hospital efficiency measures such as costs per discharge, related services (including physician services) within an episode of care; and (3) an identification of other changes that are needed within the IPPS payment structure.

Starting for discharges on October 1, 2007, hospitals are required to report any secondary diagnosis codes applicable to patients at their admission. By October 1, 2007, the Secretary is required to identify at least 2 high cost or high volume (or both high cost and high volume) diagnoses codes with a DRG assignment that has a higher payment weight when present with secondary diagnoses. These diagnoses codes represent conditions, including certain hospital acquired infections, that could reasonably have been prevented through the application of evidence-based guidelines. Starting for discharges on October 1, 2008, the DRG assigned to a discharge with the identified diagnosis codes will be the DRG that does not result in higher payments based on the presence of these secondary diagnosis codes. This assignment of the lower paid DRG applies to discharges, where, at the time of the patient's admission, the beneficiary had none of the identified diagnosis codes. Adjustments to the relative weight that occur because of this action are not budget neutral. Specifically, aggregate payments for discharges in a fiscal year could be changed as a result of such adjustments.

The list of selected diagnosis may be revised from time to time as long as there are at least two conditions selected for discharges occurring during any fiscal year. The Secretary is required to consult with the Centers for Disease Control and Prevention and other appropriate entities when selecting and revising the identified diagnosis codes. The list of diagnosis codes and DRGs are not subject to judicial review.

Clarification of Determination of Medicaid Patient Days for DSH Computation (Section 5002 of the Conference Agreement, no provision in the Senate Bill and no provision in the House Bill).

Current Law

Hospitals that serve a certain number of low income Medicare and Medicaid beneficiaries will receive a disproportionate share hospital (DSH) adjustment that increases their Medicare IPPS payments. Most DSH hospitals receive the additional payments based on their DSH patient percentage which is the proportion of the hospital's total days provided to Medicaid recipients added to the proportion of the hospital's Medicare inpatient days provided to poor Medicare beneficiaries (those who are eligible for Part A and receive Supplemental Security Income.) After a minimum threshold of 15 percent is met, a hospital's DSH adjustment will vary by the hospital's bed size or urban or rural location.

The policy of whether inpatient days provided to a patient covered under a demonstration project established by Section 1115 waivers could be included in the Medicare DSH calculation has changed over time. Prior to January 20, 2000, hospitals could not include the inpatient hospital days attributable to patients made eligible for Medicaid pursuant to a state's Social Security Act Section 1115 waiver. Starting on January 20, 2000, hospitals could include days for populations under the section 1115 waiver who were or could have been made eligible under a State Medicaid plan. This policy was corrected for discharge starting on October 1, 2003, when hospital inpatient days attributed to patients who do not receive coverage for inpatient benefits under Section 1115 demonstration projects could not be counted in the Medicare DSH calculation. These policies were established by regulation in January, 2000 and August, 2003.

Senate Bill

No provision.

House Bill

No provision.

Conference Agreement

The conference agreement permits the Secretary to include inpatient hospital days of patients eligible for medical assistance under a Section 1115 demonstration waiver in the Medicare DSH calculation. These days will be counted as if they were provided to patients who were eligible for medical assistance under an approved Medicaid state plan. The existing regulations and their effective date are ratified. No hospital cost reports that are closed on the enactment date will be reopened to implement this provision.

Improvements to the Medicare-Dependent Hospital (MDH) Program (Section 5003 of the Conference Agreement, Section 6101 of the Senate Bill, and no provision in the House Bill)

Current Law

Certain rural hospitals with 100 beds or less that have at least 60 percent of its inpatient days or discharges during FY1987 or during two of the three most recently audited cost reporting periods (for which there is a settled cost report) are attributed to patients covered under Medicare qualify for special treatment under the inpatient prospective payment system as Medicare dependent hospitals (MDH). MDH hospitals are paid at national standardized rate or, if higher, 50 percent of their adjusted FY1982 or FY1987 hospital-specific costs. This special treatment will lapse for discharges starting on October 1, 2006.

Certain hospitals that serve a high proportion of Medicaid patients or poor Medicare beneficiaries qualify for a disproportionate share hospital (DSH) adjustment to their inpatient payments. Small urban and most rural hospitals (except for rural referral centers) have their DSH adjustment capped at 12 percent.

Senate Bill

The MDH status for qualifying rural hospitals would be extended through discharges occurring before October 1, 2011. Starting for discharges on October 1, 2006, a MDH would be able to elect payments based of its FY2002 hospital-specific costs if that would result in higher Medicare payments. MDH's payments would be based on 75 percent of their adjusted hospital-specific costs starting for discharges on October 1, 2006. MDH's that qualify for a disproportionate share hospital (DSH) adjustment would not have the adjustment capped at 12 percent.

House Bill

No provision.

Conference Agreement

The conference agreement adopts the Senate provision.

Reduction in Payments to Skilled Nursing Facilities for Bad Debt (Section 5004 of the Conference Agreement, Section 6102 of the Senate Bill, and no provision in the House Bill)

Current Law

Medicare pays for the costs of certain items outside of the Prospective Payment System on a reasonable costs basis. Section 1861(v)(1)(A)(I) of the Social Security Act states that the costs for individuals covered by the Medicare program must not be borne by individuals not covered by the program, and the costs for individuals not covered by the program must not be borne by Medicare. Under this authority, the Secretary adopted a bad debt policy in 1966. Under this policy, Medicare reimburses certain providers for debt unpaid by beneficiaries for coinsurance and deductibles. Historically, CMS has reimbursed certain providers for 100 percent of this bad debt. SNFs are among the Medicare entities that are currently being reimbursed for 100 percent of beneficiary's bad debt.

Effective beginning with cost reports starting in FY2001, Medicare began reimbursing hospitals for 70 percent of the reasonable costs associated with beneficiaries' bad debt. In 2003, CMS issued a proposed rule (42 CFR Part 413, Medicare Program; Provider Bad Debt Payment) in which it described its intent to reduce reimbursement of bad debt for certain providers, including SNFs, by 30 percent. Within the rule, CMS explained that it believed that reducing the amount of Medicare debt reimbursement would encourage accountability and foster an incentive to be more efficient in bad debt collection efforts. It also stated that it believed that Medicare bad debt policy should be applied consistently and fairly among all providers eligible to receive bad debt reimbursement.

Senate Bill

The provision would amend Section 1861(v)(1) of the Social Security Act to reduce the payment for the allowable bad debts attributable to Medicare deductibles and coinsurance amounts by 30 percent for services furnished in SNFs on or after October 1, 2005.

House Bill

No provision.

Conference Agreement

The conference agreement reduces payments for allowable bad debts attributable to Medicare coinsurance by 30 percent for those individuals who are not dually eligible for Medicare and Medicaid. Bad debt payments for individuals who are dually eligible for Medicare and Medicaid remain at 100 percent.

Extended Phase-in of the Inpatient Rehabilitation Facility Classification Criteria (Section 5005 of the Conference Agreement, Section 6103 of the Senate Bill, and no provision in the House Bill)

Current Law

Inpatient rehabilitation facilities (IRFs) are either freestanding hospitals or distinct part units of other hospitals that are exempt from Medicare's inpatient prospective payment system (IPPS) used to pay short-term general hospitals. The Medicare statute gives the Secretary discretion to establish the criteria that facilities must meet in order to be considered an IRF. Since 1983, CMS has required that a facility must treat a certain proportion of patients with specified medical conditions in order to qualify as an IRF and receive higher Medicare payments. The rule was suspended temporarily and reissued in 2004 with a revised set of qualifying conditions and a transition period for the compliance threshold as follows: at 50 percent from July 1, 2004 and before July 1, 2005; at 60 percent from July 1, 2005 and before July 1, 2006; at 65 percent from July 1, 2006 and before July 1, 2007; and at 75 percent from July 1, 2007 and thereafter. In April 2005, the Governmental Accountability Office issued a final report recommending that the Centers for Medicare and Medicaid Services (CMS) refine the rule to describe more thoroughly the subgroups of patients within a condition that require IRF services, possibly using functional status or other factors in addition to condition, to help ensure that IRFs can be classified appropriately and that only patients needing IRF services are admitted.

Senate Bill

The provision would establish the compliance threshold at 50 percent from July 1, 2005 through June 30, 2007. The Secretary would not be permitted to change the designation of an IRF that is in compliance with that threshold. The Secretary would be required to restore the status of a facility as an IRF from July 1, 2005 through the effective date of this provision because of not meeting the 60 percent threshold. The Secretary would be required to make appropriate payments to those facilities. IRFs that failed to meet the 50 percent compliance threshold would be deemed to meet that threshold while an additional 6 months of claims data is examined. If the review of the new data indicates that the IRF is not in compliance with the 50 percent threshold, the IRF's deemed status would be revoked retroactively to the beginning of the 6 month period. The Secretary would collect any overpayments made to the IRF. The Inspector General would be required to analyze the types of patients treated in IRFs that have a compliance rate between 50 percent and 60 percent. A report would be submitted to Congress and the Secretary by January 1, 2005. A Rehabilitation Advisory Council would be established until September 30, 2010 to provide advice and recommendations concerning coverage of rehabilitation services under the Medicare program.

House Bill

No provision.

Conference Agreement

The conference agreement establishes the compliance threshold at 60 percent during the 12-month period beginning on July 1, 2006; at 65 percent during the 12-month period beginning on July 1, 2007; and at 75 percent beginning on July 1, 2008 and subsequently. The conferees encourage CMS to conduct additional research and study on this issue.

Development of a strategic plan regarding physician investment in specialty hospitals (Section 5006 of the Conference Agreement, Section 6104 of the Senate Bill, and no provision in the House Bill)

Current Law

Physicians are generally prohibited from referring Medicare and Medicaid patients to facilities in which they (or their immediate family member) have financial interests. Physicians, however, are not prohibited from referring patients to hospitals where they have ownership or investment interest in the whole hospital itself (and not merely in a subdivision of the hospital). Section 507 of the Medicare Prescription Drug Improvement, and Modernization Act of 2003 (MMA) established that the exception for physician investment and self-referral would not extend to specialty hospitals for a period of 18-months from enactment (or until June 8, 2004). In this instance, a specialty hospital is primarily or exclusively engaged in the care and treatment of patients with a cardiac condition, an orthopedic condition, those receiving a surgical procedure, or other specialized category of patient or cases that the Secretary designates as inconsistent with the purpose of permitting physician investment in a hospital. A specialty hospital does not include any hospital that is determined by the Secretary to be in operation or under development as of November 18, 2003, with the same number of physician investors as of such date that meets other specified requirements. For instance, an increase in the number of beds could only occur on the main campus of the hospital and could not exceed the greater of 50 percent of the number of beds in the hospital as of November 18, 2003, or 5 beds. The Secretary was directed to consider the certain factors in determining whether a hospital is under development, such as the completion of architectural plans, and the status of funding, zoning requirements, and necessary approvals from State agencies.

Senate Bill

The prohibition on Medicare and Medicaid referrals to specialty hospitals by physician investors would be effective on and after December 8, 2003. The exception to the definition of specialty hospital would be modified to include those: (1) where the percent investment by physician investors is no greater than the percentage on June 8, 2005; (2) where the percent investment by any physician investor is no greater than the percentage on June 8, 2005; and (3) where the number of operating rooms is not greater than the number on June 8, 2005. The existing requirement concerning permissible changes in the number of beds in order to qualify for the specialty hospital exception would be modified. From December 8, 2003 through June 7, 2005, an acceptable increase in the number of beds would only occur on the main campus of the hospital and could not exceed the greater of 50 percent of the number of beds in the hospital as of November 18, 2003, or 5 beds. After June 8, 2005, the number of beds at the specialty hospital would not be able to increase. These amendments would be effective on June 8, 2005.

House Bill

No provision.

Conference Agreement

The conference agreement directs the Secretary to develop a strategic and implementing plan regarding physician investment in specialty hospitals that addresses issues related to proportionality of investment return, bona fide investments, annual disclosure of investment information, and the provision of Medicaid and charity care by specialty hospitals. An interim report is due within three months and a final report no later than six months after date of enactment. The Secretary will continue the suspension on enrollment of new specialty hospitals until the earlier of the date of submission of the report or 6 months after date of enactment. If the Secretary fails to comply with the statutory requirement to submit the final report within the six month time period, then the suspension on enrollment will be extended an additional two months. In developing the strategic and implementing plan the Secretary may waive certain requirements under the Administrative Procedures Act.

Medicare demonstration projects to permit gainsharing arrangements (Section 5007 of the Conference Agreement, no provision in the Senate bill, and no provision in the House Bill)

Current Law

No provision.

Senate Bill

No provision.

House Bill

No provision.

Conference Agreement

The conference agreement establishes a gainsharing demonstration project to test and evaluate arrangements between hospitals and other providers, including physicians, and practitioners, that govern the utilization of inpatient hospital resources to improve the quality and efficiency of care provided to Medicare beneficiaries and to improve operational efficiency and performance. The Secretary will solicit applications 90 days after enactment, will approve not more than 6 demonstration projects with at least 2 of which will be in a rural area, and will begin on January 1, 2007.

The projects will meet certain requirements to maintain or improve quality while achieving cost savings. Such requirements include arrangements that provide remuneration as a share of savings, a written plan agreement, patient notification, quality and efficiency monitoring, independent review, and referral limitations. Restrictions on incentive payments in a project are waived, and similar protections extend to existing arrangements.

Not later than December 1, 2006, the Secretary will report to Congress on the number of demonstration projects. Not later than December 1, 2007, the Secretary will provide a project update to Congress including improvements toward quality and efficiency. By December 1, 2008, the Secretary will report to Congress on quality improvement and savings from the program. A final report will be submitted to Congress by May 1, 2010.

Post-acute care payment reform demonstration (Section 5008 of the Conference Agreement, no provision in the Senate bill, and no provision in the House Bill)

Current Law

No provision.

Senate Bill

No provision.

House Bill

No provision.

Conference Agreement

By January 1, 2008, the Secretary shall establish a demonstration program to better understand costs and outcomes across different post-acute care sites. Under the program, for certain diagnoses specified by the Secretary, an individual receiving treatment for such diagnosis shall receive a comprehensive assessment on the date of discharge of clinical characteristics and patient needs, to determine appropriate placement of the patient in a post-acute care site. The Secretary shall use a standardized patient assessment instrument across all post-acute sites, to measure functional status and other factors during treatment and discharge from each provider. Participants shall provide information on the fixed and variable cost for each individual, and an additional comprehensive assessment shall be provided at the end of the individual's episode of care. The program will operate for a three year period, and shall be conducted with sufficient numbers to determine statistically reliable results.

No later than 6 months after the end of the program, the Secretary will submit a report to Congress on results and recommendations.

Subtitle B—Provisions Relating to Part B

CHAPTER 1—PAYMENT PROVISIONS

Beneficiary Ownership of Certain DME (Section 5101 of the Conference Agreement, Sections 6109 and Section 6116 of Senate bill, no provision in the House bill)

Current Law

Medicare Part B pays for certain items of durable medical equipment such as hospital beds, nebulizers and power-driven wheelchairs under the capped rental category. Most items in this category are provided on a rental basis for a period that cannot exceed fifteen months. After using the equipment for ten months, beneficiaries must be given the option of purchasing it effective thirteen months after the start of the rental period. If they choose the purchase option, the title to the equipment is transferred to beneficiaries. If the purchase option is not chosen, the supplier retains ownership of the equipment. Beneficiaries can continue to use it, but Medicare rental payments to the supplier are terminated. In the case of a power-driven wheelchair, the supplier must offer the beneficiary the option of purchasing the equipment when it is first furnished.

Medicare payments to suppliers for maintenance and servicing differ based on whether the beneficiary has purchased the equipment or whether the supplier continues to own it. In the case of a purchase agreement, payment for repairs and extensive maintenance recommended by the manufacturer is covered. When the equipment remains in the ownership of the supplier and continues to be used by a beneficiary after the fifteen month rental period, Medicare makes a payment to the supplier every six months for servicing and maintenance regardless of whether any maintenance and servicing is performed.

Senate Bill

The Senate bill would require the supplier to transfer the title of durable medical equipment in the capped rental category to the beneficiary after a thirteen month rental period. The option for a fifteen month rental period with the supplier retaining ownership of the item would be eliminated. The option for beneficiaries to purchase power-driven wheelchairs when initially furnished would be retained.

Automatic payments to the supplier every six months for maintenance and servicing would be eliminated. Such payments (for parts and labor not covered by the supplier's or manufacturer's warranty) would only be made if the Secretary determined them to be reasonable and necessary. This amendment would apply to items for which the first rental month occurred on or after January 1, 2006.

House Bill

No provision.

Conference Agreement

The conference agreement includes the Senate bill. The provisions apply to items for which the first rental month occurs on or after January 1, 2006.

The agreement further provides that rental payments for oxygen equipment (including portable oxygen equipment) are converted to ownership at 36 months. The supplier is required to transfer the title of the equipment to the beneficiary after a 36 month rental period. After transfer of the title, monthly payments for oxygen contents (in the case of gaseous and liquid oxygen) will continue to be made, as provided for under current law, for the period of medical need. Payments for maintenance and servicing (for parts and labor not covered by the supplier's or manufacturer's warranty) will be made if the Secretary determines them to be reasonable and necessary. The agreement specifies that the provision takes effect on January 1, 2006. In the case of an individual receiving oxygen equipment as of December 31, 2005, the 36-month period begins January 1, 2006.

Adjustments in Payments for Imaging Services (Section 5102 of the Conference Agreement, no provision in the Senate Bill and no provision in the House Bill)

Current Law

Medicare has a long-standing policy of reducing payment for multiple surgical procedures performed by the same physician, on the same patient on the same day. Full payment is made for the highest priced procedure, with any subsequent procedure paid at 50%. In 1995, the policy was extended to certain nuclear medicine diagnostic procedures.

Under the physician fee schedule, diagnostic imaging procedures are priced as follows: (1) the professional component (PC) represents the physician work, i.e. the interpretation; (2) the technical component (TC) represents practice expenses including clinical staff, supplies, and equipment; and (3) the global service which represents both the PC and TC. Diagnostic imaging services, even those paid on contiguous body parts, are generally paid at 100% for each procedure.

In its March 2005 report, Medicare Payment Policy, the Medicare Payment Advisory Commission recommended that CMS expand its coding edit policy to help the program pay more accurately for multiple imaging services performed during the same encounter. It noted that a number of private plans use coding edits to adjust payments for multiple imaging services performed on contiguous body parts. Private insurers usually pay the full amount for the first service but a reduced amount (usually half) for the technical component of any additional study that is of the same modality. This is based on the premise that there are savings in clerical time, preparation, and supplies.

In August 2005, CMS issued its proposed physician fee schedule for 2006 (Federal Register, vol. 70, no. 151, 45764–46064). CMS noted that its analysis supported a 50% reduction in the TC for the subsequent imaging procedure performed on contiguous body parts. It did not propose to apply the multiple procedure reduction to PC services because it believed that physician work is not significantly affected for multiple procedures.

When a global service code is billed, the TC portion, but not the PC portion, would be reduced. CMS identified 11 families of imaging procedures by imaging modality. It recommended extending the multiple procedure TC payment reduction only to procedures involving contiguous body parts within a family of codes, not across families.

On November 21, 2005, CMS issued its final physician fee schedule regulation for 2006 (Federal Register, vol 70, no. 223, 70116–70476). It retained the proposed reduction with modifications. The payment reduction is to be phased-in with a 25% reduction in 2006 and a 50% reduction in 2007. Further, the budget neutrality adjustment is to be applied only to practice expense relative value units rather than to both work and practice expense relative value units.

When the Secretary revises the relative values for the work, practice expense and malpractice components of physician payments, the revisions may not change the amount of physician expenditures by more than $20 million. Thus, changes must be budget neutral. When reducing practice expenses for imaging, the Secretary is required to increase practice expenses for other physician services to maintain budget neutrality.

Senate Bill

No provision.

House Bill

No provision.

Conference Agreement

The conference agreement specifies that, effective for fee schedules established beginning with 2007, the reduced expenditures attributable to the multiple procedure payment reduction for imaging (under the final rule published November 21, 2005) will not be taken into account for purposes of the budget neutrality calculation for fee schedules for 2006 and 2007.

The agreement further provides that for specified imaging services furnished on or after January 1, 2007, the technical component (including the technical component of the global fee) for a service will be reduced if it exceeds (without regard to the geographic wage adjustment factor) the outpatient department (OPD) fee schedule amount for the service established under the prospective payment system for hospital outpatient departments. In such cases, the Secretary will provide for the use of that OPD amount, adjusted by the geographic adjustment factor under the physician fee schedule. The services this policy applies to are: imaging and computer-assisted imaging services, including X-ray, ultrasound (including echocardiography), nuclear medicine (including positron emission tomography), magnetic resonance imaging, computed tomography, and fluoroscopy. Not included are diagnostic and screening mammography. This change will not be taken into account for purposes of the budget neutrality calculation beginning in 2007.

This provision moves toward payment neutrality across sites of service delivery.

Limitation on Payments for Procedures in Ambulatory Surgical Centers (Section 5103 of the Conference Agreement, no provision in the Senate Bill, and no provision in the House Bill)

Current Law

Medicare uses a fee schedule to pay for the facility services related to a surgery provided in an ambulatory care surgery center (ASC). The associated physician services (surgery and anesthesia) are reimbursed under the physician fee schedule. CMS maintains a list of approved ASC procedures which is required to be updated every two years. The approved ASC procedures are categorized into one of nine payment groups that comprise the ASC facility fee schedule. The nine payment rates reflect the national median cost of procedures in that group adjusted to reflect geographic price variation.

The Secretary is required under the MMA to implement a new payment system for ASCs no later than January 2008.

Medicare reimbursement for hospital outpatient department (OPD) services is based on a fee schedule established by a separate prospective payment system (OPPS). Under OPPS, the unit of payment is the individual service or procedure as assigned to an ambulatory payment classification (APC). The payment rate for each service is determined by multiplying the relative weight for the service's APC by the conversion factor.

Senate Bill

No provision.

House Bill

No provision.

Conference Agreement

Beginning on January 1, 2007, when the ASC facility payment (without application of any geographic price differences) is greater than the Medicare OPD fee schedule amount established under OPPS (without application of any geographic adjustment) for the same service, the ASC will be paid the OPD fee schedule amount. This adjustment applies to ASC payments until the revised ASC payment system is implemented. Total payments to ASCs will be held budget neutral between the year prior to implementation of the new payment system and the first year of the new payment system.

This provision moves toward payment neutrality across sites of service delivery.

Update for Physicians' Services for 2006 (Section 5104 of the Conference Agreement, Section 6105 of Senate bill, and no provision in the House Bill)

Current Law

Medicare payments for services of physicians and certain nonphysician practitioners are made on the basis of a fee schedule. The fee schedule assigns relative values to services that reflect physician work (i.e., the time, skill, and intensity it takes to provide the service), practice expenses, and malpractice costs. The relative values are adjusted for geographic variations in costs. The adjusted relative values are then converted into a dollar payment amount by a conversion factor. The conversion factor for 2005 is $37.8975.

The conversion factor is the same for all services. It is updated each year according to a formula specified in law. The intent of the formula is to place a restraint on overall spending for physicians' services. Several factors enter into the calculation of the formula. These include: (1) the sustainable growth rate (SGR) which is essentially a cumulative target for Medicare spending growth over time (with 1996 serving as the base period); (2) the Medicare economic index (MEI) which measures inflation in the inputs needed to produce physicians services; and (3) the update adjustment factor which modifies the update, which would otherwise be allowed by the MEI, to bring spending in line with the SGR target. In no case can the adjustment factor be less than minus seven percent or more than plus three percent.

The law specifies a formula for calculating the SGR. It is based on changes in four factors: (1) estimated changes in fees; (2) estimated change in the average number of Part B enrollees (excluding Medicare Advantage beneficiaries); (3) 10-year rolling average change in real gross domestic product (GDP) growth per capita; and (4) estimated change in expenditures due to changes in law or regulations.

The SGR target is not a limit on expenditures. Rather, the fee schedule update reflects the success or failure in meeting the target. If expenditures exceed the target, the update for a future year is reduced. This is what occurred for 2002. It was also slated to occur in 2003 and 2004; however, the MMA prevented this from occurring through 2005. A negative 4.4 percent update is slated to occur in 2006.

Senate Bill

The Senate bill would specify that the update to the conversion factor in 2006 could not be less than one percent. The provision would further specify that these amendments would not be considered as a change in law for purposes of calculating the SGR.

House Bill

No provision.

Conference Agreement

The conference agreement specifies that the update for 2006 is zero percent. These amendments are not considered as a change in law for purposes of calculating the SGR.

MedPAC is required to report to Congress by March, 2007 on mechanisms to replace the Sustainable Growth Rate system.

Three-year Transition of the Hold Harmless Payments for Small Rural Hospitals Under the Prospective Payment System For Hospital Outpatient Department Services (Section 5105 of the Conference Agreement, Section 6106 of the Senate Bill, and no provision of the House Bill)

Current Law

The prospective payment system for services provided by hospital outpatient departments (OPO) was implemented in August 2000 for most acute care hospitals. Under hold harmless provisions, as modified by the MMA, rural hospitals with no more than 100 beds and sole community hospitals (SCH) located in rural areas are paid no less under this payment system than they would have received under the prior reimbursement system for covered OPO services provided before January 1, 2006.

Senate Bill

The hold harmless provisions governing OPO reimbursement for small rural hospitals and rural SCH would be extended to January 1, 2007.

House Bill

No provision.

Conference Agreement

The conference agreement establishes that small rural hospitals (with no more than 100 beds that are not SCHs) can receive additional Medicare payments, if their outpatient payments under the prospective payment system are less than under the prior reimbursement system. For calendar year (CY) 2006, these hospitals will receive 95 percent of the difference between the prospective payment system and the prior reimbursement system. The hospitals will receive 90 percent of the difference in CY2007 and 85 percent of the difference in CY2008

On November 10, 2005, CMS issued its final hospital outpatient prospective payment system regulation for CY2006 (Federal Register, vol. 70, no. 217, 68516–68980). Under this rule, rural sole community hospitals will receive a 7.1 percent increase on January 1, 2006.

Update to the Composite Rate Component of the Basic Case-Mix Adjusted Prospective Payment System for Dialysis Services (Section 5106 of the Conference Agreement, Section 6107 of the Senate Bill, no provision in the House Bill)

Current Law

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) required the Secretary to establish a basic case-mix adjusted prospective payment system for dialysis services furnished either at a facility or in a patient's home, for services furnished beginning on January 1, 2005. The basic case-mix adjusted system has two components: (1) the composite rate, which covers services, including dialysis; and (2) a drug add-on adjustment for the difference between the payment amounts for separately billable drugs and biologicals and their acquisition costs, as determined by the Inspector General Report.

The Secretary is required to update the basic case-mix adjusted payment amounts annually beginning with 2006, but only for that portion of the case-mix adjusted system that is represented by the add-on adjustment and not for the portion represented by the composite rate.

Senate Bill

The provision would increase the composite rate component of the basic case-mix adjusted system for services beginning January 1, 2006 by 1.6 percent above the amount paid for such services furnished on December 31, 2005.

House Bill

No provision.

Conference agreement

The conference agreement follows the Senate bill.

Revisions to Payments for Therapy Services (Section 5107 of the Conference Agreement, Section 6108 of Senate Bill and no provision in the House Bill)

Current Law

The Balanced Budget Act of 1997 established annual per beneficiary payment limits for all outpatient therapy services provided by non-hospital providers. The limits applied to services provided by independent therapists as well as to those provided by comprehensive outpatient rehabilitation facilities (CORFs) and other rehabilitation agencies. The limits did not apply to outpatient services provided by hospitals.

Beginning in 1999, there were two beneficiary limits. The first was a $1,500 per beneficiary annual cap for all outpatient physical therapy services and speech language pathology services. The second was a $1,500 per beneficiary annual cap for all outpatient occupational therapy services. Beginning in 2002, the amount would increase by the Medicare economic index (MEI) rounded to the nearest multiple of $10.

The Balanced Budget Refinement Act of 1999 (BBRA) suspended application of the limits for 2000 and 2001. The Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) extended the suspension through 2002. Implementation of the provision was delayed until September 2003. The caps were implemented from September 1, 2003 through December 7, 2003. MMA reinstated the moratorium from December 8, 2003 through December 31, 2005. The caps are slated to go into effect beginning January 1, 2006. In the November 2005 final physician fee schedule regulation for 2006 CMS announced that the caps would be $1,740 in 2006.

Senate Bill

The Senate bill would extend the moratorium for an additional year, through 2006.

House Bill

No provision.

Conference Agreement

The conference agreement would not extend the therapy cap moratorium. However, the Secretary would be required to implement an exceptions process for expenses incurred in 2006. Under the process, a Part B enrollee, or a person acting on behalf of the enrollee, may request an exception from the physical therapy/speech language pathology and occupational therapy caps. The individual may obtain such exception if the provision of services is determined medically necessary. If the Secretary does not make a decision on a request within 10 business days of receipt, the Secretary is deemed to have found the services medically necessary. The provision may be implemented by program instruction or otherwise. The agreement specifies that there can be no administrative or judicial review of the exceptions process (including establishment of the process).

The agreement requires the Secretary, by July 1, 2006, to implement clinically appropriate coding edits for physical therapy services; occupational therapy services, and speech language pathology services. The edits are to identify and eliminate improper payments. The edits are to include edits of clinically illogical combinations of procedure codes and other edits to control inappropriate billings.

CHAPTER 2—MISCELLANEOUS

Accelerated Implementation of Income-Related Reduction in Part B Premium Subsidy (Section 5111 of the Conference Agreement, no provision in the Senate Bill, no provision in the House Bill)

Current Law

The MMA increased the Part B premiums for higher income enrollees beginning in 2007. In 2007, individuals whose modified adjusted gross income (AGI) exceeds $80,000 and couples whose modified AGI exceeds $160,000 will be subject to higher premium amounts. The increase will be phased-in over five years. During the first year, higher income enrollees will pay premiums ranging from 27 percent to 36 percent of the value of Part B. When fully phased-in, higher income individuals will pay premiums ranging from 35 percent to 80 percent of the value of Part B.

Senate Bill

No provision.

House Bill

No provision.

Conference Agreement

The agreement accelerates the phase-in period from five years to three years, with the provision fully effective in 2009. In 2007, higher income enrollees will pay total premiums ranging from 28 percent to 43 percent of the total value of Part B. In 2008, enrollees will pay total premiums ranging from 32 percent to 62 percent of the total value of Part B. When fully phased-in in 2009, higher income individuals will pay total premiums ranging from 35 percent to 80 percent of the total value of Part B.

Medicare Coverage of Ultrasound Screening for Abdominal Aortic Aneurysms (Section 5112 of the Conference Agreement, Section 6117 of the Senate Bill and no provision in the House Bill)

Current Law

Medicare provides coverage for services which are reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member. In addition, Medicare covers certain preventive services specified in law.

Senate Bill

The Senate bill would authorize Medicare coverage of ultrasound screening for abdominal aortic aneurysms for individuals who: 1) received referrals for such screenings as a result of an initial preventive physical exam performed for new Medicare enrollees; 2) who had not previously had such a test covered by Medicare; and 3) who had a family history of abdominal aortic aneurysms or who manifested risk factors included in a beneficiary category (not related to age) identified by the United States Preventive Services Task Force.

An ultrasound screening for abdominal aortic aneurysms would be defined as a procedure using sound waves provided for the early detection of abdominal aortic aneurysms. The Secretary could specify other procedures using alternative technologies which were of commensurate accuracy and cost. The term would include the physician's interpretation of the results of the procedure. Ultrasound screening for abdominal aortic aneurysms would be included in the package of services (including related education, counseling and referral) provided in the initial preventive service exam offered to new Medicare enrollees.

Payment for services would be made under the physician fee schedule. The provision would specify that payment would not be made for screenings performed more frequently than specified above. The Part B deductible would not apply to these services.

The Secretary would be required to establish quality assurance standards, in consultation with national medical, vascular technologist and sonographer societies, with respect to individuals (other than physicians) performing ultrasound screening for abdominal aortic aneurysms and diagnostic laboratories. Such standards would specify that the individual or laboratory was certified by the appropriate state licensing or certifying agency or (in the case of a state which did not license or certify such individuals or laboratories) by a national accreditation agency recognized by the Secretary. Medicare payment would not be made where individuals or laboratories performing the screening did not meet the quality assurance standards.

The bill would require the Secretary (after consultation with national medical, vascular technologist and sonographer societies) to conduct a national education and information campaign to promote awareness among health care practitioners and the general public with respect to the importance of early detection and treatment of abdominal aortic aneurysms. The section would authorize the appropriation of such funds as may be necessary, beginning in FY 2006 and each fiscal year thereafter. The Secretary could use such amounts to make grants to national medical, vascular technologist and sonographer societies to enable them to educate practitioners and providers about matters relating to such aneurysms. Such grants would be made in accordance with procedures and criteria specified by the Secretary.

The amendments would apply to ultrasound screenings for abdominal aortic aneurysms performed on or after January 1, 2007.

House Bill

No provision.

Conference Agreement

The conference agreement includes the Senate bill with modifications. The agreement does not specify that beneficiary categories recommended for screening cannot include categories related to age. The agreement does not provide for the development of quality assurance standards. Further, it does not include the national education and information campaign.

Improving Patient Access to, and Utilization of, Colorectal Cancer Screening Under Medicare (Section 5113 of the Conference Agreement, Section 6118 of the Senate Bill and no provision in the House Bill)

Current Law

Medicare covers certain cancer screening tests, subject to coverage limitations based on the type of test and the individual's level of risk. Covered tests are fecal occult blood test, flexible sigmoidoscopy, screening colonoscopy, and barium enema. Payments for services are made under the physician fee schedule which assigns relative values to services based on physician work, practice expense costs, and malpractice costs. The relative values are then adjusted for geographic variations in costs. These adjusted relative values are converted into dollar payment amounts by a conversion factor.

The Secretary is required to review and adjust relative values for specific services periodically, and has established a process for this review and adjustment.

Senate Bill

The Senate bill would require the Secretary to establish minimum payment amounts for CPT codes 45378 (diagnostic colonoscopy), 45380 (colonoscopy and biopsy), and 45385 (lesion removal, colonoscopy) and HCPCS codes G0105 (colorectal screen, high risk individual) and G0121 (colon cancer screen, not high risk individual) for items and services furnished after January 1, 2007. The amounts would reflect a 5 percent increase above the relative value units in effect as the non-facility rates for such codes on December 31, 2006; the revised payment levels would apply to items and services furnished in non-facility settings. Similarly, the provision would require the Secretary to establish minimum payment amounts for the same CPT and HCPCS codes for items and services furnished after January 1, 2007 which would reflect a 5 percent increase above the relative value units in effect as the facility rates for such codes on December 31, 2006; the revised payment levels would apply to items and services furnished in facility settings. The payment amounts would be adjusted annually in accordance with the payment update rules under the fee schedule. The Secretary would not take into account the revised payment amounts in determining the amount of payment under the prospective payment system for covered hospital outpatient department services.

The bill would also authorize Medicare coverage for an office visit or consultation prior to a screening colonoscopy or in connection with a beneficiary's decision to obtain such a screening. The visit or consultation would be for the purpose of beneficiary education, assuring selection of the proper screening test, and securing information relating to the procedure and sedation of the beneficiary. The visit or consultation would be covered regardless of whether the screening was medically indicated for the beneficiary. Payments would equal 80 percent of the lesser of the actual charge or the amount established under the physician fee schedule. Payment amounts established under the fee schedule would be consistent with those established for CPT codes 99203 (office/outpatient visit, new patient) and 99243 (office consultation). The provision would apply to services furnished on or after January 1, 2007.

The Part B deductible would not apply to colorectal cancer screening tests, effective January 1, 2007.

House Bill

No provision.

Conference Agreement

The conference agreement only includes the Senate provision waiving the Part B deductible.

Delivery of Services at Federally Qualified Health Centers (Section 5114 of the Conference Agreement, Section 6115 of the Senate Bill, and no provision in the House Bill)

Current Law

The Omnibus Budget Reconciliation Act (OBRA) of 1989 amended the Social Security Act (SSA) to create a new category of facility under Medicare and Medicaid known as a federally qualified health center (FQHC). An FQHC is required to provide certain primary care services by physicians and appropriate mid-level practitioners as well as other preventive health services including those required under certain sections of the Public Health Service (PHS) Act (specifically Sections 329, 330, and 340 of the PHS).

Prior to the enactment of MMA, FQHC services were covered by a skilled nursing facility's (SNF) consolidated billing requirement. FQHC services were bundled into the SNF comprehensive per diem payment for the covered stay and not separately billable. MMA specified that a SNF Part A resident who receives FQHC services from a physician or appropriate practitioner would be excluded from SNF consolidated billing and be paid separately.

Senate Bill

The provision would add diabetes self-management training and nutrition therapy benefits, as covered under Medicare, as additional services that may be covered under the all-inclusive per visit payment rate for FQHCs. It would allow FQHCs to receive payments for services provided through a health care professional who contracts with the center and would remove restrictions on receipt of homeless grants.

House Bill

No provision.

Conference Agreement

The conference agreement adopts the Senate provision.

Waiver of Part B Late Enrollment Penalty for Certain International Volunteers (Section 5115 of the Conference Agreement, Section 6114 of the Senate Bill and no provision in the House Bill)

Current Law

Medicare Part B is a voluntary program. Individuals generally enroll in Part B when they turn 65. Individuals who delay enrollment in the program after their initial enrollment period are subject to a premium penalty. This penalty is a surcharge equal to 10 percent of the premium amount for each 12 months of delayed enrollment. There is no upper limit on the amount of the surcharge that may apply. Further, the penalty continues to apply for the entire time the individual is enrolled in Part B. The law establishes certain exceptions to the delayed enrollment penalty. One exception applies to the "working aged." Delayed enrollment is also permitted for certain disabled persons who have group health insurance coverage based on their own or a family member's current employment with a large group health plan.

Individuals who are permitted to delay enrollment have their own special enrollment periods. A special enrollment period begins when current employment ends or when coverage under the plan ends. The special enrollment period ends eight months later. Individuals who fail to enroll in this period are considered to have delayed enrollment and could become subject to the penalty.

Senate Bill

The Senate bill would permit certain individuals to delay enrollment in Part B without a delayed enrollment penalty. Those individuals who volunteer outside of the United States for at least 12 months through a program sponsored by a tax-exempt organization defined under section 501(c)(3) of the Internal Revenue Code would be permitted to delay enrollment under Medicare Part B. They would have a 6 month special Part B enrollment period beginning on the first day of the month the individual was no longer in the program. Coverage would begin the month after the individual enrolled. This section would apply to months and special enrollment periods beginning January 2007.

House Bill

No provision.

Conference Agreement

The conference agreement includes the Senate bill with a modification. The provision applies to individuals who can demonstrate health insurance coverage while volunteering outside the United States.

Coverage of Marriage and Family Therapist Services and Mental Health Counselor Services Under Part B of the Medicare Program (No provision in the Conference Agreement, Section 6119 of the Senate Bill and no provision in the House Bill)

Current Law

Medicare provides coverage for mental health services, subject to certain limitations. Medicare Part B will make direct payments to physicians, psychologists, and clinical social workers for such services. Medicare does not make direct payments for services provided by marriage and family therapists and mental health counselors. Their services are generally paid as incident to a physician's professional services. They may also be included as part of covered facility services such as those provided by a skilled nursing facility.

Senate Bill

The Senate bill would include "marriage and family therapist services" and "mental health counselor services" within the definition of "medical and other health services" covered under Medicare Part B. The term marriage and family therapist services would be defined as services performed by marriage and family therapists for the diagnosis and treatment of mental illnesses. Such services would be those which the individual was legally authorized to perform under state law (or the state regulatory mechanism provided by state law) of the state in which the services were performed. Such services would also have to be of the type which would otherwise be covered if furnished by a physician or as incident to a physician's professional services. Payment would only be made if no facility or other provider charged or was paid for such services.

The term marriage and family therapist would be defined as an individual who: (1)

possessed a master's or doctoral degree which qualified the individual for licensure or certification as a marriage and family therapist pursuant to state law; (2) performed at least 2 years of clinical supervised experience in marriage and family therapy after obtaining the degree; (3) was licensed or certified as a marriage and family therapist in the state if such state provided for licensure and certification of marriage and family therapists.

The provision would define mental health counselor services as services performed by mental health counselors for the diagnosis and treatment of mental illnesses. Such services would be those which the individual was legally authorized to perform under state law (or the state regulatory mechanism provided by state law) of the state in which the services were performed. Such services would also have to be of the type which would otherwise be covered if furnished by a physician or as incident to a physician's professional services. Payment would only be made if no facility or other provider charged or was paid for such services.

The term mental health counselor would be defined as an individual who: (1) possessed a master's or doctoral degree in mental health counseling or a related field; (2) performed at least 2 years of supervised mental health counselor practice after obtaining the degree; (3) was licensed or certified as a mental health counselor or professional counselor in the state if such state provided for licensure and certification of mental health counselors or professional counselors.

Payment for covered services would be made under Medicare Part B. Payment would equal the lesser of 80 percent of the actual charge for the service or 75 percent of the amount paid to a psychologist for such services. All services provided by marriage and family therapists and mental health counselors would be paid on an assignment basis. Further, services provided by marriage and family therapists and mental health counselors would be added to the list of services excluded from payment as part of the skilled nursing facility prospective payment system.

The bill would include services provided by marriage and family therapists and mental health counselors in the definition of covered rural health clinic services. It would modify the definition of the required interdisciplinary team for a hospice program to permit a marriage or family therapist to be on the team instead of a social worker.

The provision would apply to services provided on or after January 1, 2007.

House Bill

No provision.

Conference Agreement

No provision.

Subtitle C—Provisions Relating to Parts A and B

Home Health Payments. (Section 5201 of the Conference Agreement, Section 6110 of the Senate Bill—with respect to quality of home health services, and no provision in the House Bill)

Current Law

The Medicare home health prospective payment system, which was implemented on October 1, 2000, provides a standardized payment for a 60-day episode of care furnished to a Medicare beneficiary. Medicare's payment is adjusted to reflect the type and intensity of care furnished and area wages as measured by the hospital wage index.

Each year Medicare's payment to home health agencies is updated by the projected annual change in the home health market basket (HHMB), with specified reductions in some years. For the last three calendar quarters of 2004 through 2006, the home health update is the HHMB minus 0.8 percentage points. In 2007 and subsequent years, the payment update for home health agencies is equal to the full HHMB.

The Medicare Prescription Drug Improvement and Modernization act of 2003 provided for a one-year 5% additional payment for home health services furnished in rural areas. The temporary payment began for episodes and visits ending on or after April 1, 2004 and before April 1, 2005. It was made without regard to certain budget neutrality provisions and was not included in the base for determination of payment updates.

Senate Bill

The Medicare statute would be amended by adding a new Section 1860E–6 which establishes the Home Health Agency Value-Based Purchasing Program. In 2008 and in subsequent years, the Secretary would make value-based payments to those home health agencies that, based on data submitted under the quality measurement system, have either substantially improved quality of care over the prior year, or exceed a threshold established by the Secretary. A majority of the total amount available for value-based payments in any fiscal year would be paid to home health agencies that qualify for payments because they exceed a quality threshold. Starting in 2009 and in each subsequent year, the percentage of total value-based payments made to agencies that exceed the quality threshold would be greater than the percentage made in the previous year. To be eligible for a value-based payment, home health agencies would be required to submit the required quality data and attest that it is complete and accurate.

The total amount of value-based payments made in a year would equal the total funds available for such payments. The Secretary would determine the most appropriate method for making payments. Payments for a year would be required to be made no later than December 31 of the subsequent year. By January 1, 2008, the Secretary would be required to provide each home health agency with a description of how its payments for 2007 would have been affected had the value-based purchasing system been in effect that year.

Value-based payments would be made from Part A and Part B in the same proportion as payments for home health services are made.

In 2007 and subsequent years, a home health agency that does not submit to the Secretary the required quality data would receive an update of the market basket minus two percentage points. This reduction would only apply to the fiscal year in question. For 2007 and subsequently, each home health agency would be required to submit data necessary for a value-based purchasing system in the form, manner, and time period specified by the Secretary. Procedures for making the data available to the public would be established.

To fund the program, spending under the trust funds for home health services would be reduced by a percent applied to the standard prospective payment amount made to all agencies that comply with the data submission requirements. The percent reduction would be 1% in 2008, 1.25% in 2009, 1.5% in 2010, 1.75% in 2011, and 2% in 2012 and subsequent years.

House Bill

No provision.

Conference Agreement

The conference agreement eliminates the update for home health payments in 2006. It also provides for a one-year 5% additional payment for home health episodes or visits furnished in a rural area during calendar year 2006.

The Conference agreement accepts the Senate language with respect to (1) the collection of health care quality data, as determined appropriate by the Secretary, (2) procedures for making the data available to the public, and (3) the reduction of payments to home health agencies that do not submit quality data in 2007 and beyond. The reduction in payments is equal to the market basket minus two percentage points. However the reduction will not be taken into account for calculation of the payment rate in subsequent years.

The conference agreement directs the Medicare Payment Advisory Commission to submit a report to Congress no later than June 1, 2007 on a value-based purchasing program for home health services. The report is to include recommendations on the structure of the program, the determination of thresholds, the size of value-based payments, sources of funds, and the relationship of payments for improvements in health care quality.

Revision of Period for Providing Payment for Claims that are not Submitted Electronically (Section 5202 of the Conference Agreement, no provision in the Senate Bill, and no provision in the House Bill)

Current Law

Mandatory electronic claims submission went into effect on July 1, 2005 for all providers, with a few exceptions. The exceptions include: (1) small providers with fewer than 25 full-time equivalent (FTEs) employees and physicians, practitioners, or suppliers with fewer than 10 FTEs, (2) dentists, and (3) other providers as specified by the Centers for Medicare and Medicaid Services (CMS). Medicare contractors must pay 95% of all "clean" paper claims within 27–30 days of receipt.

Senate Bill

No provision.

House Bill

No provision.

Conference Agreement

The Conference agreement directs Medicare contractors to delay the payment of claims that are not submitted electronically. The contractors are directed to pay 95% of all "clean" claims within 29-30 days of receipt for paper claims.

Timeframe for Part A and B Payments (Section 5203 of the Conference Agreement, Section 6112(b) of the Senate Bill, and no provision in the House Bill)

Current Law

Medicare contractors accept, process and pay claims submitted by providers for Medicare-covered services. Medicare contractors must pay interest on claims that are not promptly paid. The contractors must pay 95% of all "clean" claims within 14–30 days of receipt for electronically submitted claims, or within 27–30 days of receipt for paper claims. If the payment is not made within that time, interest begins accruing on the day after the required payment date and ends on the date on which the payment is made. The interest rate is set at the higher of the "private consumer rate," or the "current value of the funds."

Senate Bill

The Senate bill would delay Medicare Part A and B payments by 9 days. Claims that would otherwise be paid on September 22, 2006, through September 30, 2006 would be paid on the first business day of October 2006. No interest or late penalty would be paid to an entity or individuals for any delay in a payment during the period.

House Bill

No provision.

Conference agreement

The conference agreement accepts the Senate provision.

Medicare Integrity Program Funding (Section 5204 of the Conference Agreement, no provision in the Senate Bill and no provision in the House Bill)

Current Law

As part of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Congress acted to increase and stabilize federal funding for anti-fraud activities. As required by Section 1817(k) of the Medicare law, an expenditure account was established within the Federal Hospital Insurance Trust Fund (the HCFAC account). Certain amounts were appropriated from the Trust Fund for specific activities, including the Medicare Integrity Program (MIP). These amounts have been established as not less than $710 million and not more than $720 million for FY2002 and subsequently.

Senate Bill

No provision.

House Bill

No provision.

Conference Agreement

The conference agreement would increase MIP funding amounts by $100 million for FY2006.

Subtitle D—Provisions Relating to Part C

Phase-out of Risk adjustment budget neutrality in determining the amount of payments to Medicare Advantage organizations. (Section 5301 of the Conference Agreement, Section 6111 of the Senate Bill, and no provision in the House Bill)

Current Law

Medicare Advantage payment rates are risk adjusted to control for the variation in the cost of providing health care among beneficiaries. Rates are adjusted by demographic and health status indicators. In the report language to the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999, Congress urged the Secretary to implement a more clinically-based risk adjustment methodology without reducing overall payments to plans. To keep payments from being reduced overall, the Secretary applied a budget neutrality adjustment to the risk adjusted rates. However, the Secretary has proposed to phase-out the budget neutrality adjustment citing studies that show a difference in the reported health status of Medicare Advantage enrollees compared to the reported health status of beneficiaries in traditional Medicare.

Senate Bill

Beginning in 2007, this section would specify an adjustment to the benchmarks to phase-out overall increases in MA rates that result from the budget neutral implementation of risk adjustment. In 2007, if the Secretary does not rebase rates to 100% of per capita fee-for-service costs, the MA benchmarks would be equal to the 2006 rates as announced by the Secretary on April 4, 2005, with four adjustments—(1) exclusion of any national adjustments for coding intensity, (2) exclusion of risk adjustment budget neutrality, (3) increase based on the national per capita MA growth percentage, and (4) omission of any adjustments to account for errors in previous years' projections of the national per capita MA growth percentage. If the Secretary does rebase the rates in 2007, the MA benchmark would be set at the greater of either the rate calculated above, or 100% of per capita fee-for-service spending in the area. After 2007, if the Secretary does not rebase rates, the MA benchmarks would be the previous year's benchmark increased by the national per capita MA growth percentage without adjusting for errors in the estimation of the growth percentage for a year before 2004. After 2007, if the Secretary rebases rates, the benchmark would be equal to the greater of either the rate calculated above, or 100% of per capita fee-for-service spending.

The benchmarks described above would be free of the budget neutral risk adjustment. However, the benchmarks would be adjusted so that budget neutrality would be phased-out over 4 years. The applicable phase-out factors would be equal to .55 in 2007, .40 in 2008, .25 in 2009 and .05 in 2010. This means that in 2007, 55% of the payment to plans would be based on payment rates including the budget neutral risk adjustment, and 45% of the payment to plans would be based on a rate without the budget neutral adjustment. The budget neutrality factor is calculated through a formula that equals the Secretary's estimate of the total amount of payments that would have been made to plans under the demographic risk adjustment system, minus the Secretary's estimate of the payments that would have been made to plans under the health status risk adjustment system without the budget neutrality adjustment, divided by the Secretary's estimate of the total amount of payments that would be made under the health status risk adjustment system without the budget neutrality adjustment. When making this calculation, the Secretary would (a) use a complete set of the most recent and representative MA risk scores available, (b) adjust the risk scores to reflect changes in treatment and coding practices in fee-for-service, and (c) adjust the risk scores for differences in coding patterns under Medicare Part A and B compared to Medicare Part C, to the extent the Secretary has identified differences and (d) as necessary, adjust for late data submissions, lagged cohorts, and changes in MA enrollment. The Secretary could take into account estimated health risk of enrollees in preferred provider organizations (including MA regional plans) for the year. The Secretary would be required to conduct an analysis of differences in coding patterns between MA plans and providers under Parts A and B of Medicare using data starting in 2004, and incorporate, to the extent such differences are identified, the findings into calculations of MA benchmarks no later than 2008. Adjustments would be terminated if the total amount of payments adjusted for health status exceeded payments adjusted for demographics.

The Secretary could not make any adjustments to the budget neutrality factor, other than those specified above. The Secretary's authority to risk adjust MA benchmarks based on 100 percent of per capita fee-for-service spending would not be limited by these changes.

This section also refines adjustments for health status when plans are paid based on their bid amounts (rather than the benchmark). The Secretary would ensure that such risk adjustments reflect changes in the treatment and coding practices between Medicare Part A and Part B relative to Medicare Part C to the extent that the Secretary has identified differences.

House Bill

No provision.

Conference Agreement

The conference agreement accepts the Senate language in part, with modifications. The conference agreement codifies the phase-out of the budget neutrality factor over 2006 to 2010 and outlines the adjustments that can be made to that factor. Under the agreement, the Secretary must conduct an analysis to identify differences in coding patterns between Medicare Advantage plans and fee for service. To the extent that the Secretary identifies any differences, they are to be incorporated into calculations of the risk rates and the budget neutrality factor in 2008, 2009, and 2010. The conferees intend that any adjustments made for differences in coding patterns be made for differences resulting from inaccurate coding. The conference agreement makes no permanent change to Medicare Advantage payment calculations.

Rural Pace Provider Grant Program (Section 5302 in the Conference Agreement, Section 6113 of the Senate Bill, and no provision in the House Bill)

Current Law

PACE is a program providing comprehensive Medicare and Medicaid services under a managed care arrangement to individuals over age 55 who are eligible for a nursing home level of care. PACE organizations, which are public or private non-profit entities, receive a fixed monthly Medicare and Medicaid payment to cover a comprehensive set of services for PACE participants. The PACE service package must include all Medicare and Medicaid covered services, and other services determined necessary by the multidisciplinary team for the care of the PACE participant.

Senate Bill

This provision would create site development grants, provide technical assistance to established rural PACE providers, and establish a fund to reimburse rural PACE providers for certain outlier costs. A rural area would be a county that is not part of a Metropolitan Statistical Areas (as defined by the Office of Management and Budget) as established for Medicare IPPS payments to acute care hospitals. The Secretary would establish a procedure to award site development grants to be used for expenses incurred in relation to establishing or delivering services in rural areas. Up to 15 qualified PACE providers that serve a rural area, in whole or in part can receive a grant not to exceed $750,000. The Secretary would be appropriated $7.5 million in FY2006 and FY2007 out of the Treasury for these development grants. The appropriated funds would remain available for expenditure until FY 2010. The Secretary would establish a technical assistance program to provide 1) outreach and education to specified entities interested in starting rural PACE programs, and 2) technical assistance necessary to support rural PACE pilot sites. The Secretary would establish an outlier fund for inpatient and related physician and ancillary costs incurred for an eligible participant within a given 12-month period. Outlier costs would be those costs for inpatient and related physician and ancillary services in excess of $50,000 incurred within a given 12-month period for an eligible participant who resides in a rural area. For the first 3 years of its operation, a rural PACE site would receive 80 percent of the outlier costs in excess of $50.000 for that period. Total outlier payments for an eligible participant could not exceed $100.000 for the 12-month period used to calculate the payment. No site may receive more than $500.000 in total outlier expense payments in a 12–month period. A rural PACE pilot site would be required to access and exhaust risk reserves held or arranged for the provider and any working capital established through a site development grant prior to receiving any payment from the outlier fund. The Secretary would be appropriated $10 million for FY2006 and FY2007 for the outlier fund. These outlier appropriations would remain available for expenditure through FY2010. The Secretary would be required to submit a report to Congress on the evaluation of the rural PACE pilot sites no later than 60 months from the date of enactment. Any amount paid under this authority would be in addition to Medicare PACE funds paid under Section 1894 of the Social Security Act or Medicaid PACE funds paid for under Section 1934 of the same act.

Conference Agreement

The conference agreement adopts the Senate provision with certain exceptions. The Secretary is required to establish a process and criteria to award site development grants to qualified PACE providers that have been approved to serve a rural area. The Secretary is appropriated $7.5 million for FY2006 for the rural site development grants. These appropriated funds would remain available for expenditure through FY2008. The Secretary is appropriated $10 million for FY2006 for the outlier funds. These appropriated funds would remain available for expenditure through FY201O. Rural PACE pilot sites must apply to receive outlier funds and document their incurred costs for the outlier participant in a manner specified by the Secretary.

Elimination of Medicare Advantage Regional Plan Stabilization Fund (No provision in Conference agreement, Section 6112(a) of the Senate Bill, and no provision in the House Bill)

Current Law

The Secretary must establish an MA Regional Plan Stabilization Fund to provide incentives for plan entry in each region and plan retention in certain MA regions with below average MA penetration. Initially, $10 billion will be available for expenditures from the Fund beginning on January 1. 2007 and ending on December 31, 2013.

Additional funds will be available in an amount equal to 12.5% of average per capita monthly savings from regional plans that bid below the benchmark.

Senate Bill

The Senate bill would repeal the stabilization fund retrospectively as of the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

House Bill

No provision.

Conference agreement

No provision.

Establishment of Medicare Value-based Purchasing Programs. (No provision in the Conference Agreement. Section 6110 of Senate Bill and no provision in the House Bill)

Subsection (a) Establishment of Medicare Value-Based Purchasing Programs Part E Value-Based Purchasing Programs—Quality Measurement Systems for Value-Based Purchasing Programs. (No provision in the Conference Agreement. Section 6110 of the Senate Bill and no provision in the House Bill)

Current Law

No provision.

Senate Bill

Section 6110 would amend the Medicare statute by redesignating the existing Section 1860E as Section 1860F and by adding a new Section 1860E which requires the Secretary to establish value-based purchasing systems for different providers.

Subsection (a) of Section 6110 would create Section 1860E–1 in the Medicare statute and would require the Secretary to develop provider-specific quality measurement systems for making value-based payments to hospitals, physicians and practitioners, Medicare Advantage (MA) and Part D prescription drug plans, end stage renal disease provider's and facilities, and home health agencies. Measures for each quality system would be required to (1) be evidence-based; (2) be easy to collect and report; (3) address process, structures, outcomes, beneficiary experience, efficiency, equity, and overuse and underuse of health care; and (4) include at least one measure of health information technology infrastructure during the first year of implementation. Additional measures would be added in subsequent years. Measures would include those that assess the quality of care furnished to older, frail individuals and those with multiple complex chronic conditions. By 2008, hospital quality systems would be required to include at least 5 measures that take into account the unique characteristics of small hospitals located in rural areas and frontier areas.

Before a measure would be used to determine whether a provider receives a value-based payment, data on the measure must have been collected for at least a twelve month period. Each set of quality measures selected for specific categories of providers would be able to vary in their application to an individual or entity depending of the type, size, scope and volume of services provided by the individual or entity.

The Secretary would be required to establish risk adjustment procedures to control for differences in beneficiaries' health status and characteristics and to assign weights to measures used by each quality system. If appropriate, measures of clinical effectiveness would be weighted more heavily than measures of beneficiary experience; and measures of risk adjusted outcomes would be weighted more heavily than measures of process. The Secretary would be required to update the quality measurement system, but not more often than every twelve months. The update would permit a comparison of data from one year to the next. The Secretary would be required to use the most recent quality data for a provider type. However, if the Secretary determines that there is insufficient data because of the low service volume, the Secretary would be able to aggregate data across more than one fiscal or calendar year.

In developing and updating each quality measurement system, the Secretary would be required to consult with provider-based groups and clinical specialty societies. The Secretary would also take into account quality measures developed by nationally recognized entities, existing quality measurement systems, reports by MedPAC required by this Act, results of relevant demonstrations, and the report on Health Care Performance Measures being developed by the Institute of Medicine under section 238 (b) of the MMA. In implementing each quality measurement system, the Secretary would be required to consult with entities that have developed strategies for quality measurement and reporting as well as a wide range of stakeholders.

By July 1, 2006, the Secretary would be required to have in place an arrangement with an entity that will provide the Secretary with advice and recommendations about the development and updating of the quality measurement systems established by this Act. This arrangement, with a private nonprofit entity, would meet a specific set of requirements. For FY2006 and FY2007, $3.000.000 is authorized for this purpose, with the amount in subsequent years increased by the Consumer Price Index for urban consumers.

House Bill

No provision.

Conference Agreement

No provision.

Physician and practitioner value-based purchasing program

Current Law

No provision.

Senate Bill

A new Section 1860E–3 would direct the Secretary to establish a program under which value-based payments are provided each year to physicians and practitioners that demonstrate the provision of high quality health care to individuals enrolled under part B. In addition, MedPAC would be required to conduct five studies evaluating the new program.

The first study would examine how the Medicare value-based purchasing programs under this section will affect Medicare beneficiaries, Medicare providers, and Medicare financing, including the impact of these programs on the access of such beneficiaries to items and services, the volume and utilization of such items and services, and low-volume providers. The initial report would be due to Congress and the Secretary no later than March 1, 2008, and a final report due no later than June 1, 2012.

The second study would examine the advisability and feasibility of establishing a value-based purchasing program for critical access hospitals (CAHs). This report would be due to Congress and the Secretary no later than March 1, 2007.

The third study would address the advisability and feasibility of including renal dialysis facilities in the value-based purchasing program described in this section or establishing a separate value-based purchasing program for renal dialysis facilities under this title. This report would be required to be submitted to Congress and the Secretary no later than June 1, 2007.

The fourth study would be a report on the implementation of an end-stage renal disease (ESRD) provider and facility value-based purchasing program. This report would take into account the results to date of the demonstration of bundled case-mix adjusted payment system for ESRD services under Section 623(e) of MMA and would include issues for the Secretary to consider in operating the ESRD provider and facility value-based purchasing program as well as recommendations on such issues. This report would be required to be submitted to Congress and the Secretary no later than June 1, 2008.

The fifth study, due to Congress and the Secretary by June 1, 2007, would report on the advisability and feasibility of establishing a value-based purchasing program for skilled nursing facilities (SNFs).

The value-based purchasing program would be established so that value-based payments will be made initially in 2009 and in each subsequent year. The definition of a physician would not be changed as a result of this section and would remain as given in current law (section 1861(r)). The term 'practitioner' would mean: (i) a practitioner defined under current law; (ii) a physical therapist; (iii) an occupational therapist; and (iv) a qualified speech-language pathologist. The Secretary would be charged with establishing procedures for the identification of physicians and practitioners for payment purposes under this section, such as through physician or practitioner billing units or other units.

The value-based payments would be based on either relative or absolute standards. The Secretary would be able to make a value-based payment to a physician or a practitioner if both the quality and efficiency of care to an individual enrolled under Part B has improved substantially or has exceeded an established threshold. In determining which physicians and practitioners would qualify for a value-based payment, the Secretary would be required to use both the quality measurement system developed for this section with respect to the quality of the care provided by the physician or practitioner and the comparative utilization system developed under this section with respect to the efficiency of such care.

In determining the amount of award and the allocation of awards under the value-based purchasing program, the Secretary would determine both the amount of a value-based payment provided to a physician or a practitioner and the allocation of the total amount available for value-based payments for any year between payments with respect to physicians and practitioners that meet the quality threshold requirements described above.

In determining the amount and allocation of the value-based payments for physicians and practitioners who exceed the threshold that allows them to receive such payments, the Secretary would ensure that a majority of the total amount available for value-based payments for any year is provided to physicians and practitioners who meet the threshold for receiving such payments. Additionally, the percentage of value-based payments would not be able to decrease. For every year beginning in 2010, the Secretary would be required to ensure that the percentage of the total amount available for value-based payments for any year that is used to make payments to physicians and practitioners is greater than the previous year's percentage.

In order for a physician or a practitioner to be eligible for a value-based payment for a year, the physician or practitioner would be required to submit quality data with respect to that year, and provide the Secretary (under procedures established by the Secretary) with an attestation that the data submitted is complete and accurate.

The Secretary would be required to establish value-based payments such that the estimated total amount of the value-based payments is equal to the total amount of available funding for value-based payments for the year. The payment of value-based payments would be based on such a method as the Secretary determines appropriate, and the Secretary would ensure that value-based payments with respect to a year are made by not later than December 31 of the subsequent year.

The Secretary, in consultation with relevant unnamed stakeholders, would develop a comparative utilization system for purposes of providing value-based payments. The resulting comparative utilization system would measure the efficiency of the care provided by a physician or practitioner. Under this comparative utilization system, the Secretary would select the measures of efficiency and review the most recent claims data with respect to services furnished or ordered by physicians and practitioners to determine utilization patterns and efficiency. The Secretary would establish risk adjustment procedures, as appropriate, to control for differences in beneficiary health status and beneficiary characteristics.

Beginning in 2007, the Secretary would provide physicians and practitioners with annual reports on the utilization of items and services under this title based upon the review of claims data. The 2007 and 2008 reports would be confidential and not be made available to the public. Not later than March 1, 2009, the Secretary would provide each physician and practitioner with a description of the Secretary's estimate of how payments to the physician or practitioner would have been affected with respect to items and services furnished in 2008 if the value-based payment program had been in effect in 2008.

Payments to physicians and practitioners under the value-based payment program would be made from the Federal Supplementary Medical Insurance (Part B) Trust Fund. The total amount available for value-based payments with respect to a year would be equal to the amount of the reduction in expenditures under the Federal Supplementary Medical Insurance Trust Fund in the year as a result of the amendments made by Section 6110(c)(2) of the bill, as estimated by the Secretary.

House Bill

No provision.

Conference Agreement

No provision.

Subsection (c) physicians and practitioners

(1) Voluntary submission of physician and practitioner quality data

Current Law

No provision.

Senate Bill

In 2007 and in subsequent years, physicians and providers who do not submit the required quality data would receive an update to the conversion factor minus two percentage points. This reduction would only apply to the fiscal year in question. In 2007 and subsequently, physicians and practitioners would be required to submit appropriate data necessary for a value-based purchasing system in the specified form, manner, and time of the data submission as determined by the Secretary. Procedures for making the data available to the public would be established. These procedures would be required to provide the physicians and practitioners with an opportunity to review the data before it is released to the public. The Secretary would be allowed to make exceptions to the requirement for making data available to the public and would take into account the size and specialty representation of the practice involved when providing such exceptions.

House Bill

No provision.

Conference Agreement

No provision.

(2) Reduction in conversion factor for physicians and practitioners that submit quality data in order to fund program

Current Law

Medicare payments under Part B are based on a fee schedule. The fee schedule reflects a set of weights that vary across the many procedures that encompass the range of activities and services that physicians and practitioners provide. These relative weights are converted to dollar amounts for payment under Medicare by applying a multiplicative conversion factor. The conversion factor is updated each year according to a formula that aims to place a restraint on overall increases in Medicare spending for Part B services.

Senate Bill

To fund the value-based purchasing program for physicians and practitioners, the conversion factor would be reduced as follows: 1.0% in 2009, 1.25% in 2010, 1.5% in 2011, 1.75% in 2012, and 2.0% in 2013 and subsequent years.

House Bill

No provision.

Conference Agreement

No provision.

ESRD provider and facility value-based purchasing program

Current Law

No provision.

Senate Bill

Section 1680E-5. Beginning in 2007, the Secretary would establish a program under which value-based payments are provided each year to providers of services and renal dialysis facilities that provide services to ESRD individuals enrolled under part B and that demonstrate the provision of high quality health care. Facilities with at least 50% of their patients under the age of 18, as well as those providers and facilities currently participating in the bundled case-mix demonstration are excluded from this program.

Value-based payments would be made to a provider or facility, if the Secretary determines that the quality of care in that year has substantially improved over the prior year or exceeds a threshold established by the Secretary, using the quality measurement system.

The Secretary would determine the amount of a value-based payment and the allocation of the total amount available for all such payments, subject to certain requirements. The Secretary would ensure that the majority of the total amount available is awarded to those providers of services and renal dialysis facilities who provide high quality services. For 2007, the entire amount would be available for those who meet the requirements. Beginning in 2009, the percentage of the total amount available would be provided to those who improved in meeting such requirements relative to the previous year.

Beginning in 2007, each provider of services and renal dialysis facility would be required to submit data that the Secretary determines is appropriate for the measurement of health outcomes and other indices of quality, including data necessary for the operation of the program. A provider or facility would be required to submit this data, in order to be eligible for a value-based payment for a year. The Secretary would establish procedures for making submitted data available to the public in a clear and understandable form and would ensure that a provider or facility first has the opportunity to review the data. The provider or facility would be required to provide an attestation that the data is complete and accurate.

The Secretary would establish payment amounts so that, as estimated by the Secretary, the total amount of value-based payments made in a year is equal to the total amount available. The payment of the awards would be based on a method as determined by the Secretary and must be paid no later than December 31 of the subsequent year. The amount available for value-based payments would be equal to the amount of the reduction in expenditures under the Federal Supplementary Medical Insurance (SMI) Trust Fund, as estimated by the Secretary. Payments to providers of services and renal dialysis facilities, under this section, would be made from the Federal SMI Trust Fund.

House Bill

No provision.

Conference Agreement

No provision.

Subsection (e) ESRD

Providers and facilities

Current Law

No provision.

Senate Bill

No later than July 31, 2006, the Secretary would establish procedures for providers of services and renal dialysis facilities, who are paid based on the case-mix adjusted prospective payment system, to submit data that permits the measurement of health outcomes and other indices of quality.

In the case of any payment for an item or service furnished on or after January 1, 2007, the case-mix adjusted prospective payment amount would be reduced by the applicable percent, but only for those providers of services or renal facilities included in the value-based program. The applicable percent would be 1% for 2007, 1.25% for 2008, 1.5% for 2009, 1.75% for 2010, and 2% for each year thereafter.

Beginning January 1, 2007, the Secretary would implement a value-based purchasing program for providers and facilities participating in the bundled case-mix demonstration (as established under Section 623 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003), in a manner similar to the value-based program established under Section 1860E–5 of this bill, including the funding of the program.

House Bill

No provision.

Conference Agreement

No provision.

PPS Hospital value-based purchasing program

Current Law

No provision.

Senate Bill

The Medicare statute would be amended by adding a new Section 1860E–2 which establishes the hospital value-based purchasing program for inpatient hospital services, starting FY2007. The program would make value-based payments to hospitals based on data reported under the quality measurement system established by the Secretary. Hospitals paid under Medicare's prospective payment system (PPS) that have substantially improved the quality of care over the prior year or exceeded an established quality threshold would receive a value-based payment as determined by the Secretary. A majority of the total amount available for value-based payments in any fiscal year would be paid to hospitals that are receiving such payments for exceeding a quality threshold. Starting in FY2008, the percentage of the total amount for value-based payments in any fiscal year that is paid to such hospitals would be greater than the equivalent percentage paid in the previous year. Hospitals would be required to comply with all the quality data reporting requirements and attest to the accuracy of the data in order to be eligible for a value-based payment. The total amount of value-based payments in a fiscal year would equal the total amount of available funding for such payments for that year. The payments would be based on the methods determined by the Secretary and would be made to hospitals no later than the close of the following fiscal year. No later than January 1, 2007, the Secretary would provide each hospital with a description of how its payments for FY2006 would have been affected had the value-based payment program been in effect that fiscal year.

Value-based payments in a fiscal year would be made from Medicare's Part A Trust fund and would equal specified reductions in those trust fund expenditures as established in Section 6110(b) of the bill.

House Bill

No provision.

Conference Agreement

See Section 5001 of the Conference Agreement.

Plan value-based purchasing program

Current Law

No provision.

Senate Bill

A new Section 1860E–4 would require the Secretary to establish a program to award value-based payments to Medicare Advantage (MA) organizations that provide high quality health care. Payments would start in 2009, and continue each year thereafter. The program would apply to both MA regional and local plans. It also would apply to reasonable cost contract plans, except for provisions that would require plans to submit data two years prior to the start of the program, and provisions relating to plan bids.

The Secretary would make payments for each plan offered by an MA organization if the plan substantially improved over the prior year, or exceeded a minimum threshold. The Secretary would use measures of quality developed for the plan value-based payments system (Section 1860E–1) and ensure that awards are based on data from a full 12-months when making a comparison against a threshold, and 24-months when measuring improvement over a prior year.

The Secretary would determine the amount of the value-based payments, but must ensure that the majority of funds go to plans that receive a payment because their health measures exceeded a threshold. In 2010 and each subsequent year, the percentage of the total amount available is greater than the percentage in a previous year.

Value-based payments may only be used to invest in quality improvement programs or to enhance beneficiary benefits.

To be eligible for value-based payments, an MA plan or reasonable cost contract would be required to have collected, analyzed and reported the required data for the two previous years. Also, an MA plan would be required to provide the Secretary with an attestation that the value-based payment program including payment adjustments made by reason of Section 6110(d)(2)(A) had no effect on the integrity and actuarial soundness of the plan's bid.

The Secretary would ensure that the total of value-based payments is equal to the amount made available for those payments. Payments for a particular year would be required to be made not later than March 1 of the subsequent year, in a manner determined by the Secretary.

By March 1, 2009, the Secretary would provide each MA organization with an estimate of how plan payments would have been affected if the value-based payment system had been in effect in 2008.

The amount available for value-based payments would be equal to the amount of the reduction in expenditures under the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund as a result of amendments to fund the value-based payment system, as estimated by the Secretary. Payments to MA organizations would be drawn from the two trust funds in proportion to the relative weight that part A and part B benefits represent of the total actuarial value of Medicare benefits.

House Bill

No provision.

Conference Agreement

No provision.

Home Health Agency Value-based Purchasing Program

Current Law

No provision.

Senate Bill

The Medicare statute would be amended by adding a new Section 1860E–6 which establishes the Home Health Agency Value-Based Purchasing Program. In 2008 and in subsequent years, the Secretary would make value-based payments to those home health agencies that, based on data submitted under the quality measurement system, have either substantially improved quality of care over the prior year, or exceed a threshold established by the Secretary. A majority of the total amount available for value-based payments in any fiscal year would be paid to home health agencies that qualify for payments because they exceed a quality threshold. Starting in 2009 and in each subsequent year, the percentage of total value-based payments made to agencies that exceed the quality threshold would be greater than the percentage made in the previous year. To be eligible for a value-based payment, home health agencies would be required to submit the required quality data and attest that it is complete and accurate.

The total amount of value-based payments made in a year would equal the total funds available for such payments. The Secretary would determine the most appropriate method for making payments. Payments for a year would be required to be made no later than December 31 of the subsequent year. By January 1, 2008, the Secretary would be required to provide each home health agency with a description of how its payments for 2007 would have been affected had the value-based purchasing system been in effect that year.

Value-based payments would be made from Part A and Part B in the same proportion as payments for home health services are made.

House Bill

No provision.

Conference Agreement

No provision.

Subsection (b).—Hospitals

(1) Voluntary submission of hospital quality data

Current Law

Each year, Medicare's operating payments to acute general hospitals are increased or updated by a factor that is determined, in part, by the projected annual change in the hospital market basket (MB). Congress establishes the update for Medicare's inpatient prospective payment system (IPPS) for operating costs, often several years in advance. An IPPS hospital will receive an operating update of the MB from FY2005 through FY2007 if it submits data on the 10 quality indicators established by the Secretary as of November 1, 2003. The Secretary will specify the form, manner, and time of the data submission. A hospital that does not submit data to the Secretary will receive an update of the MB minus 0.4 percentage points for the fiscal year in question. The Secretary will not take into account this reduction when computing the applicable percentage increase in subsequent years. For FY2008 and subsequent fiscal years, hospitals will receive an update of the MB.

Senate Bill

In FY2007 and subsequent years, an IPPS hospital that does not submit the required quality data would receive an update of the MB minus two percentage points. This reduction would only apply to the fiscal year in question. In FY2007 and subsequently, an IPPS hospital would be required to submit appropriate data necessary for a value-based purchasing system in the specified form, manner, and time of the data submission as determined by the Secretary. Procedures for making the data available to the public would be established. These procedures would be required to provide the hospitals with an opportunity to review the data before it is released to the public.

House Bill

No provision.

Conference Agreement

No provision.

(2) Reduction in outlier payments in order to fund program

Current Law

Outlier payments are intended to protect IPPS hospitals from the risk of financial losses associated with patients with exceptionally high costs or unusually long stays. Medicare cases qualify for outlier payments if they exceed a threshold or fixed loss amount that is established each year. As directed by statute, the total amount of any outlier payments for any year should equal no less than 5 percent nor more than 6 percent of total projected operating diagnosis related group (DRG) payments. Outlier payments are financed by a reduction in the national average standardized amount, typically set at 5.1 percent.

Senate Bill

Outlier payments would be established as no less than 5 percent and no more than 6 percent for fiscal years prior to 2007. In FY2007, outlier payments would be established as no less than 4 percent and no more than 5 percent. In FY2008, outlier payments would be established as no less than 3.75 percent and no more than 4.75%. In FY2009, outlier payments would be established as no less than 3.5% and no more than 4.5 percent. In FY2010, outlier payments would be established as no less than 3.25 percent and no more than 4.25 percent. In FY2011 and in subsequent years, outlier payments would be established as no less than 3% and no more than 4%.

The Secretary would be directed to reduce the average standardized amount by certain percentages to fund outlier payments and the hospital value-based purchasing program. The reduction factor will be equal to a calculation where the numerator is the sum of the additional outlier payments (as discussed in the preceding paragraph) plus a specified percentage of total projected DRG prospective payment rates divided by the total projected DRG prospective payment rates. The specific percentages would be 0 percent for fiscal years prior to 2007, 1 percent in FY2007, 1.25 percent in FY2008, 1.5 percent in FY2009, 1.75 percent in FY2010, and 2 percent in FY2011 and in subsequent years.

House Bill

No provision.

Conference Agreement

No provision.

(3) Value-based purchasing demonstration program for critical access hospitals

Current Law

No provision.

Senate Bill

The Secretary, within six months from enactment, would be required to establish a two-year value-based payment demonstration program at six representative CAHs, using such funds as are necessary from the Part A trust fund. The Secretary would be required to report to Congress with recommendations within six months of completing the demonstration.

House Bill

No provision.

Conference Agreement

No provision.

Subsection (d)—Plans

(1) Submission of quality data

Current Law

Each Medicare Advantage (MA) organization has an ongoing quality improvement program. MA private fee-for-service plans, MSA plans and Medicare cost reimbursement plans are exempt from this requirement. Each MA organization collects, analyses and reports health outcomes and quality data. The quality improvement program for local preferred provider organizations only applies to providers that have contracts with the organization. The Secretary can collect only the types of data that were collected by the Secretary as of November 1, 2003. The Secretary can collect other types of data only after consulting with MA organizations and private accrediting bodies, and submitting a report to Congress.

Senate Bill

Beginning on or after January 1, 2006, the Secretary would also collect data necessary for the plan value-based purchasing program (Section 1860E-4). The Secretary would establish requirements for MA private fee-for-service plans and cost reimbursement plans with respect to the collection, analysis and reporting of data on health outcomes and quality. The Secretary would establish procedures for making health outcomes and quality data available to the public in a clear and understandable form. Prior to the data being made public, the Secretary would ensure that an MA organization has the opportunity to review the data for the plans it offers. The Secretary may change the type of data collected for the value-based purchasing program after complying with requirements for the development, update and implementation of the program.

The Secretary would take into account the data reporting requirements that plans must comply with under other federal and state programs and in the commercial market when establishing a time frame for data reporting requirements under the new program.

House Bill

No provision.

Conference Agreement

No provision.

(2) Reduction in payments to organizations in order to fund program

Current Law

No provision.

Senate Bill

For those providers included in the value-based program, including reasonable cost contracts, the monthly payment to plans would be reduced by 1% in 2009, 1.25% in 2010, 1.5% in 2011, 1.75% in 2012, and 2.0% for 2013 and each subsequent year. These reductions would not have any effect on determining whether the risk adjusted benchmark exceeds a plan's risk adjusted bid, or the amount of the difference.

House Bill

No provision.

Conference Agreement

No provision.

(3) Requirements for reporting on use of value-based payments

Current Law

No provision.

Senate Bill

Beginning on or after January 1, 2011, MA plans would submit information describing how the organization will use any value-based payments received under the program. This information would be submitted by plans at the same time they submit plan bids. Beginning in 2010, not later than July 1 of each year, any reasonable cost reimbursement contract that received a value-based payment would submit a report to the Secretary describing how the organization will use the value-based payment.

House Bill

No provision.

Conference Agreement

No provision.

Subsection (f) Home Health Agencies

Value-based purchasing program for home health agencies

Current Law

No provision.

Senate Bill

In 2007 and subsequent years, a home health agency that does not submit to the Secretary the required quality data would receive an update of the market basket minus two percentage points. This reduction would only apply to the fiscal year in question. For 2007 and subsequently, each home health agency would be required to submit data necessary for a value-based purchasing system in the form, manner, and time period specified by the Secretary. Procedures for making the data available to the public would be established.

To fund the program, spending under the trust funds for home health services would be reduced by a percent applied to the standard prospective payment amount made to all agencies that comply with the data submission requirements. The percent reduction would be 1 percent in 2008, 1.25 percent in 2009, 1.5 percent in 2010, 1.75 percent in 2011, and 2 percent in 2012 and subsequent years.

House Bill

No provision.

Conference Agreement

See Section 5201 of the Conference Agreement.

Subsection (g) Skilled Nursing Facilities

(1) Requirement for skilled nursing facilities to report functional capacity of medicare residents upon admission and discharge

Current Law

Medicare law requires nursing homes to conduct a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity. Under the law, this assessment must describe the resident's capability of performing daily life functions and significant impairments in functional capacity and be based on a uniform minimum data set specified by the Secretary, or specified by the state with the Secretary's approval. If specified by a state, it must be consistent with the minimum data set of core elements, common definitions, and utilization guidelines.

As a result, the Minimum Data Set (MDS), designed by the Secretary, consists of a core set of screening, clinical and functional status elements, including common definitions and coding categories which form the foundation of the comprehensive assessment for all residents of long-term care facilities certified to participate in Medicare or Medicaid. The items in the MDS standardize communication about resident problems and conditions within facilities, between facilities, and between facilities and outside agencies. MDS is designed to facilitate and standardize resident assessments, which are structured, problem-oriented frameworks for organizing MDS information, and examining additional clinically relevant information about an individual. These resident assessments help identify social, medical and psychological problems and form the basis for individualized care planning. MDS is also used as a data collection tool to classify Medicare and Medicaid residents into the Resource Utilization Groups (RUG–III). The RUG–III Classification system is used in the PPS for nursing facilities, hospital swing bed programs, and in many State Medicaid case mix payment systems to group residents into similar resource usage categories for the purposes of reimbursement.

In general, MDS resident assessments are conducted on the 5th, 14th, 30th, 60th, and 90th days of post-hospital SNF care. SNFS also conduct other assessments that may be needed to account for changes in patient care needs.

Senate Bill

This provision would amend section 1819(b) of the Social Security Act by adding a requirement that on or after October 1, 2006, a SNF would be required to submit a report to the Secretary on the functional capacity of each resident who is entitled to SNF benefits at the time of his or her admission and discharge. This report would be required to be submitted within 10 days of the admission or discharge as the case may be.

House Bill

No provision.

Conference Agreement

No provision.

(2) Voluntary submission of skilled nursing facility data

Current Law

As described above, the MDS submitted to CMS by states is intended to provide information on the quality of care provided to residents in SNFs. In recent years, CMS has attempted to make available additional quality measures. CMS posts data on nursing home's care records from complaint surveys, staffing levels, and number and types of residents, facility ownership and 15 quality measure scores on a website entitled Nursing Home Compare. This site is available to the public and is intended to assist individuals in choosing a Medicare- and Medicaid-certified nursing home by state, county, city, zip code, or by facility name. Additional research into the development of quality measures, staffing, and best practices is currently underway through CMS contracts with Quality Improvement Organizations (QIOs).

Senate Bill

This provision would also require SNFs to submit quality data for the measurement of health outcomes and other indices of quality to the Secretary for FY 2009 and each subsequent fiscal year. Data required would be determined by the Secretary after conducting a study in consultation with certain nationally recognized quality measurement entities, researchers, health care provider organizations, and other appropriate groups and consult with, and take into account, recommendations of, the entity that the Secretary has an arrangement with based on criteria specified in section 6110(e) of this bill. The Secretary would also be required to consult with entities that have joined together to develop strategies for quality measurement and reporting, including the feasibility of collecting and reporting meaningful data on quality measures and that involve representatives of health care providers, health plans, consumers, employers, purchasers, quality experts, government agencies, and other individuals and groups that are interested in quality of care.

For FY 2009 and each subsequent year, SNF market basket percentage changes would be reduced by two percentage points for SNFs that do not submit this data. Such reductions would apply only with respect to the fiscal year involved and the Secretary would be prohibited from taking into account a reduction in the Federal per diem rate.

The Secretary would be required to establish procedures for making this data available to the public in a clear and understandable form. Such procedures would be required to ensure that a facility has the opportunity to review the data that is be made public with respect to the facility prior to such data being made public.

House Bill

No provision.

Conference Agreement

No provision.

TITLE VI—MEDICAID AND SCHIP

Subtitle A—Medicaid

Chapter 1—Payment for Prescription Drugs

Federal Upper Payment Limit for Multiple Source Drugs and Other Drug Payment Provisions (Section 6001 of the Conference Agreement, Section 6001 of the Senate Bill, and Section 3101 of the House Bill)

a. Modification of federal upper payment limit for multiple source drugs; definition of multiple source drugs

Current Law

States set the amounts to pay pharmacies for outpatient prescription drugs provided to Medicaid enrollees. States pay those amount to pharmacies and then seek reimbursement of the federal share of those payments. Federal reimbursements to states for state spending for certain outpatient prescription drugs are subject to ceilings called federal upper limits (FULs). The FUL applies, in the aggregate, to payments for multiple source drugs—those that have at least three therapeutically equivalent drug versions. The Centers for Medicare and Medicaid Services (CMS) calculates the FUL to be equal to 150 percent of the published price for the least costly therapeutic equivalent. The published prices that CMS uses as a basis for calculating the FULs are the lowest of the average wholesale prices (AWP) for each group of drug equivalents. Brand name drugs are subject to an upper limit equal to the amount that pharmacists must pay to acquire the drug (the acquisition cost) as estimated by the states.

Pharmaceutical manufacturers whose drugs are available to Medicaid beneficiaries must provide state Medicaid programs with rebates. Rebates are calculated based on the average manufacturer's price (AMP) of each product, and for certain other products, the best price at which the manufacturers sell the drug. The AMP is defined as the average price paid to a manufacturer by wholesalers for drugs distributed to retail pharmacies. Certain federal drug purchases as well as several other specific kinds of sales are exempt from the AMP and from the best price calculation. Sales at prices that are "nominal" in amount are excluded from the computation of best price. CMS defines nominal prices to be those that are below 10 percent of the AMP.

Senate Bill

The Senate bill would specify that FULs for multiple source drugs provided in pharmacies that are not critical access pharmacies would be calculated to be equal to 115 percent of the weighted AMP for those drugs. The FULs for multiple source drugs provided in critical access pharmacies would be calculated to be equal to the lesser of 140 percent of the AMP or the wholesale acquisition cost (WAC) for the drug. The bill would establish FULs for single source drugs. For those single source drugs provided in pharmacies that are not critical access pharmacies, the FUL would be calculated to be equal to 105 percent of the AMP. FULs for those single source drugs provided in critical access retail pharmacies would be calculated to be equal to the lesser of 108 percent of the AMP or the WAC for the drug.

Exceptions to the FUL would be for drugs sold during an initial sales period in which data on sales for the drug are not sufficiently available from the manufacturer to compute the AMP or the weighted AMP, and for drugs for which alternatives would not be as effective. For drugs sold during an initial sales period, the Senate bill would establish a transitional upper payment limit to apply only during such period. For a period not to exceed 2 calendar quarters, the upper limit for single source drugs would be calculated to be equal to the wholesale acquisition cost (WAC) for the drug. The bill would define WAC—the definition would be identical to the current law Medicare definition. For first non-innovator multiple source drugs, the upper limit during the transition period would be equal to the AMP for the single source drug rated as therapeutically equivalent minus 10 percent. For subsequent non-innovator multiple source drugs, if the Secretary has sufficient data to determine AMP, the FUL during the transition period would be equal to the weighted AMP for the therapeutically equivalent and bioequivalent form of the drug. If the Secretary does not have sufficient data, the FUL would be the AMP for the single source drug that is therapeutically equivalent and bioequivalent minus 10 percent.

In the case of an innovator multiple source drug that a prescribing health care provider determines is necessary for treatment of a condition and that a non-innovator multiple source drug would not be as effective for the individual or would have adverse effects for the individual or both, and for which the provider obtains prior authorization in accordance with the states' program, the upper payment limit for the innovator multiple source drug shall be equal to 105 percent of the AMP for such drug.

The Secretary would be required to update FULs on a quarterly basis, taking into account the most recent data collected for the purposes of determining such limits and the FDA's most recent publication of "Approved Drug Products with Therapeutic Equivalence Evaluations."

The Senate FUL provisions would become effective on the later of January 1, 2007 or the date that is 6 months after the close of the first regular session of the State legislature that begins after the date of enactment.

The Senate bill would establish interim FULs to apply during calendar year 2006, before the new FULs become effective. During the period January 1, 2006 through the effective date of the FUL provisions, the Secretary would apply the FUL as under current law and regulations except that instead of limiting federal matching to 150 percent of AWP, it would be limited to 125 percent of AWP. In the case of covered outpatient drugs that are marketed as of July 1, 2005 and are subject to FULs under current law, the Secretary would be required to use the AWPs, direct prices, and WACs as of that date to calculate the applicable FUL. New drugs first marketed between July 1, 2005 and January 1, 2007 would be subject to this interim FUL calculation.

House Bill

The House bill would specify that the FUL for the ingredient cost of a multiple source drug would be equal to 120 percent of the volume weighted average RAMP for that drug. The bill would establish upper limits for single source drugs as well. The FUL for the ingredient cost of a single source drug would be equal to the 106 percent of the RAMP for that drug. A drug product that is a single source drug and that becomes a multiple source drug would continue to be treated as a single source drug, with respect to the applicable FUL, until the Secretary determines that there is sufficient data to compile the volume weighted average RAMP.

The House bill would provide the Secretary with an option to develop an alternative methodology setting the FUL based on the most recently reported retail survey price instead of a percentage of RAMP or the volume weighted average RAMP. The House bill would allow the Secretary to use this methodology, in 2007, for a limited number of covered outpatient drugs, including both single source and multiple source drugs selected to be representative of the classes of drugs dispensed under Medicaid.

The House bill provides exceptions to the FULs for drugs sold during an initial sales period and for drugs dispensed by specialty pharmacies. For those drugs sold during an initial sales period for which data for computation of the RAMP may not be available, the House bill includes a provision similar to the Senate provision, except it would apply only to single source drugs sold during the initial sales period and the provision does not include any specification for first innovator multiple source drugs. The bill includes a definition of WAC, to be used during the initial sales period, that is identical to the definition of WAC in the Senate bill. The House bill would also allow a state to elect not to apply the new FUL to covered outpatient drugs dispensed by specialty pharmacies, such as those that dispense only immunosuppressive drugs, as defined by the Secretary, or drugs administered by a physician in a physician's office.

The House bill would require the Secretary to update the FULs at least on a quarterly basis. Otherwise, the provision regarding FUL updates is identical to the Senate provision.

The effective date for the House FUL provisions would be on the later of January 1, 2007 or the date that is 6 months after the close of the first regular session of the state legislature that begins after the date of enactment of this Act.

The House bill would provide the Secretary with the authority to delay the implementation of the new FUL limits for a period of not more than 1 year, if the Comptroller General finds that the estimated average payment amount to pharmacies for covered outpatient drugs under the new FULs are below the average prices paid by pharmacies for acquiring such drugs. If the Secretary delays the implementation of the FULs then the Secretary would be required to transmit to Congress, prior to the termination of the period of delay, a report containing specific recommendations for legislation to establish a more equitable payment system.

The House bill would clarify that the FULs would not affect maximum allowable cost limits as established by states and rebates would continue to be paid without regard to whether or not states' payments are subject to such a limit In addition, it would prohibit administrative and judicial reviews of the Secretary's determinations of FULs, RAMPs, volume weighted average RAMPs including the:

- assignment of National Drug Codes to billing and payment classes;
- Secretary's disclosure to states of AMP, RAMP, volume weighted average RAMP, and retail survey prices;
- determinations by the Secretary of covered outpatient drugs dispensed by specialty pharmacies or administered in physicians' offices;
- contracting and calculations under these provisions; and
- methods of allocating rebates, chargebacks, or other price concessions if specified by the Secretary.

The House bill would require the Comptroller General of the U.S. to provide a report to Congress no later than nine months after the date of enactment on the appropriateness of payment levels to pharmacies for dispensing fees under the Medicaid program and on whether the estimated average payment amounts to pharmacies for covered outpatient drugs under the new FUL method are below the average prices paid by pharmacies for acquiring such drugs. The bill would also require the Inspector General of HHS to provide a report to Congress, no later than two years after the date of enactment, on the appropriateness of using RAMP and retail survey prices rather than the AMP or other price measures, as the basis for establishing a FUL for reimbursement of outpatient drugs under Medicaid.

Conference Agreement

The conference agreement applies FULs to multiple source drugs for which the FDA has rated 2 or more products to be therapeutically and pharmaceutically equivalent. For those drugs, the FUL would be equal to 250% of the average manufacturer price computed without regard to prompt pay discounts for the lowest cost drug. Effective January 1, 2007.

The agreement modifies the definition of multiple source drug so that a drug qualifies as a multiple source drug if there is at least one other drug sold and marketed during the period that is rated as therapeutically equivalent and bioequivalent to it.

b. Disclosure of price information to states and the public

Current Law

AMP and best price data are required to be reported by manufacturers to CMS no later than 30 days after the date of entering into a rebate agreement and then no later than 30 days after the last day of each rebate period. Those prices are required to be kept confidential except for the purpose of carrying out the requirements of Medicaid rebates, or to permit the Comptroller General and the Director of the Congressional Budget Office to review the information.

Senate Bill

The Senate bill would modify the confidentiality requirements to allow states access to reported price information and would require the Secretary to make available to states, beginning with the first quarter of FY2006, the most recently reported AMP and weighted AMPs. The Secretary would be required to devise and implement a means of electronic distribution for these prices to state Medicaid agencies.

House Bill

The House bill would modify the confidentiality requirements to allow states access to reported price information. In addition, the bill would require the Secretary to devise and implement a means for electronic distribution to state Medicaid agencies, of retail survey prices.

Conference Agreement

The conference agreement would increase the required reporting of AMP and best prices. AMP would be reported and calculated on a monthly basis. In addition, the agreement allows states to have access to reported AMP data for multiple source drugs for the purpose of carrying out the Medicaid programs and would require the Secretary to disclose such information through a website accessible to the public. In addition, the provision requires the Secretary to provide AMPs to States on a monthly basis and to update information posted to the website on at least a quarterly basis.

c. Definition of average manufacturer price

Current Law

The AMP is defined as the average price paid to a manufacturer by wholesalers for drugs distributed to retail pharmacies. CMS instructs manufacturers to exclude certain federal drug purchases as well as free goods from the computation of AMP. Sales at nominal prices are excluded from the best price computation. Manufacturers are required to report, for each rebate period, the AMP for all Medicaid covered outpatient drug products and the best price for single source and innovator multiple source drugs to CMS.

Senate Bill

The Senate bill would modify the definition of AMP and require the modified AMP to be used to calculate the FUL for single source drugs in addition to rebates, as under current law. The provision would specify that sales exempted from inclusion in the determination of best price, nominal price sales (except for those contingent on purchase requirements or agreements), and bona fide service fees would be exempted from the computation of the AMP. Computation of AMP would include cash and volume discounts; nominal price sales contingent on a purchase agreement or requirement; free goods; chargebacks or rebates to a pharmacy (excluding mail order, nursing home pharmacies and pharmacy benefit managers), or any other direct or indirect discounts; and any other price concessions which may be based on recommendations of the Inspector General of HHS. Bona fide user fees would be defined as expenses for a service actually performed by an entity for a manufacturer that would have generally been paid for by the manufacturer at the same rate had these services been performed by another entity.

The Senate bill would define the weighted AMP, to be used in calculating the FUL for multiple source drugs, with respect to the rebate period, as the volume-weighted average of manufacturers' reported prices for all drug products that are therapeutically equivalent and bioequivalent. It would be computed by summing, for all therapeutic equivalents and bioequivalent forms of the drug, the products of the AMP and the number of units sold. The sum of those amounts would be divided by the sum of all units sold for all NDCs assigned to such products. In cases in which there is a lag in the reporting of information on rebates and chargebacks so that adequate data are not available on a timely basis to update the weighted AMP for a multiple source drug, the manufacturer of such drug would apply a methodology based on a 12-month rolling average to estimate costs attributable to rebates and chargebacks for such drugs. For years after 2006, the Secretary would be required to establish a uniform methodology to estimate and apply such costs.

The Senate bill would modify the existing price reporting requirements so that manufacturers would be required to report the modified AMP and the weighted AMP to the Secretary of CMS as well as information and data on any sales made during the reporting period at a nominal price. The bill would provide the Secretary with the authority to enter into contracts with appropriate entities to determine AMP, prices, volume, and other data necessary to calculate the FUL and payment limits for covered drugs.

The Senate modifications to the definition of AMP would become effective as if enacted on July 1, 2005 except for the provisions related to the exclusion of nominal prices from AMP. Those provisions would become effective on the later of the expiration date of a contract in effect on the date of enactment or October 1, 2006 and would apply to sales made and rebate periods beginning on or after that date.

House Bill

The House bill would not change AMP. Instead it would establish a measure of price referred to as RAMP for the purpose of calculating the FUL for single source drugs. RAMP would be defined as the average price paid to a manufacturer for the drug in the U.S. in the quarter by wholesalers for drugs distributed to retail pharmacies, excluding service fees. For this purpose, retail pharmacies would be defined to exclude mail-order only pharmacies and pharmacies at nursing facilities and homes. Specified items to be excluded from RAMP are similar to those to be excluded from AMP in the Senate bill except that the House bill allows the Secretary to define nominal sales, and free goods contingent on purchase requirements would not be excluded from RAMP. In addition, service fees that represent fair market value for a bonafide service provided by the entity would be excluded from RAMP. Items to be included in RAMP are also similar to those included in AMP in the Senate bill except that RAMP includes free goods contingent upon a purchase requirement; and does not provide for an exception for mail order, nursing home pharmacies and pharmacy benefit managers.

The volume weighted average RAMP would be defined, for all drug products in the same multiple source drug billing and payment code (or other methodology as specified by the Secretary), as the volume weighted average of the reported RAMPs. It would be computed by summing the products of the RAMPs for all product with an NDC code and multiplying by the total number of units of the drug product sold. Those amounts would be summed together and divided by the total number of units sold for all NDC codes assigned to such products.

The House bill would establish reporting requirements of drug manufacturers. Manufacturers would be required, beginning after July 1, 2006, to submit the RAMP, the total number of units required to compute the volume weighted average RAMP, the WAC for drugs sold during an initial sales period, and information on nominal price sales. The reporting would be by National Drug Code (NDC). In addition, the bill would provide the Secretary with the authority to enter into contracts with appropriate entities to determine RAMPs and other data necessary to calculate the FULs and payment limits and would modify the confidentiality provisions allowing states access to reported price information.

Conference Agreement

The conference agreement amends the definition of AMP to exclude customary prompt pay discounts extended to wholesalers from those amounts. In addition, the agreement modifies the price reporting requirements so that manufacturers would be required to submit, not later than 30 days after the last day of each rebate period, the customary prompt pay discounts extended to wholesalers in addition to the AMP and best price reporting required under current law.

The conference agreement requires the Inspector General of the Department of Health and Human Services (HHS) to, no later than June 1, 2006, review the requirements for, and the manner in which AMP is determined and to submit to the Secretary and Congress any recommendations for changes as determined to be appropriate.

The agreement also requires the Secretary of HHS to promulgate a regulation clarifying the requirements for and the manner in which AMPs are to be determined, taking into consideration the recommendations of the Inspector General.

d. Exclusion of sales at a nominal price from determination of best price

Current Law

In addition to the AMP, pharmaceutical manufacturers are required to report to the Secretary of HHS the "best price" at which the manufacturer sells each of its drug products to certain purchasers for the purpose of calculating the rebate amounts. Prices that are nominal in amount are excluded from best price reporting. Nominal prices are defined by CMS to be those that are below 10% of the average manufacturer's price.

Senate Bill

The Senate bill would exclude, for the purposes of computing the AMP, sales by a manufacturer of covered outpatient drugs that are single source, innovator multiple source drugs, or are authorized generics that are made available at nominal prices to the following listed entities: (a) entities eligible for discounted prescription drug prices under Section 340(B) of the Public Health Service Act; (b) intermediate care facilities for the mentally retarded, (c) stateowned or operated nursing facilities, (d) any other facility or entity that the "Secretary determines is a safety net provider to which sales of such drugs at nominal prices would be appropriate based on the type of facility, the services it provides, the patients served and the number of other such facilities eligible for nominal pricing in the area. The nominal price limitations would not apply to nominal drug purchases pursuant to a master agreement for procurement of drugs on the Federal Supply Schedule. In addition, the bill would modify manufacturers' price reporting requirements to include, for calendar quarters beginning on or after January 1, 2006 information on sales made at a nominal price.

House Bill

The House bill would exclude, for the purpose of computing the RAMP, sales as the Secretary identifies, that are nominal in amount. In addition, the bill would modify manufacturers' price reporting requirements to include, for calendar quarters beginning on or after July 1, 2006 information on sales made at a nominal price.

Conference Agreement

The conference agreement modifies the manufacturer price reporting requirements so that for calendar quarters beginning on or after January 1, 2007, manufacturers would be required to report information on sales of Medicaid covered drugs that are made at a nominal price.

In addition, the agreement defines the sales are to be considered nominal for the purpose of reporting nominal price sales and for computing and reporting the best price. (The agreement does not amend the AMP vis-a-vis nominal prices.) Nominal sales are those made by a manufacturer of covered drugs at nominal prices to (a) entities eligible for discounted prescription drug prices under Section 340(B) of the Public Health Service Act; (b) intermediate care facilities for the mentally retarded, (c) state-owned or operated nursing facilities, (d) any other facility or entity that the Secretary determines is a safety net provider to which sales of such drugs at nominal prices would be appropriate based on the type of facility, the services it provides, the patients served and the number of other such facilities eligible for nominal pricing in the area. The nominal price limitations do not apply to nominal drug purchases pursuant to a master agreement for procurement of drugs on the Federal Supply Schedule.

e. Retail survey prices; state payment and utilization rates; and performance rankings.

Current Law

No provision.

Senate Bill

No provision.

House Bill

The House bill would allow the Secretary to contract with a vendor to obtain retail survey prices for Medicaid covered outpatient drugs that represent a nationwide average of pharmacy sales costs for such drugs, net of all discounts and rebates. Such a contract would be awarded for a term of 2 years.

The Secretary would be required to competitively bid for an outside vendor with a demonstrated history in surveying and determining on a representative nationwide basis, retail prices for ingredient costs of prescription drugs; working with retail pharmacies, commercial payers, and states in obtaining and disseminating price information; and "Collecting and reporting price information on at least a monthly basis. The contract would include the terms and conditions specified by the Secretary and would include a requirement that the vendor monitor the marketplace and report to the Secretary each time there is a new covered outpatient drug available nationwide; update the Secretary no less often than monthly on the retail survey prices for multiple source drugs and on the computed upper payment limit for those drugs; to independently confirm retail survey prices. Information on the retail survey prices obtained through this process, including information on single source drugs would be required to be provided to states on an ongoing and timely basis.

Conference Agreement

The conference agreement includes a provision similar to the House provision. The agreement allows the Secretary to contract for services for the determination of retail survey prices for covered outpatient drugs that represent a nationwide average of consumer purchase prices for such drugs. The conference agreement adds a provision allowing such a contract to include notification of the Secretary when a drug product that is therapeutically and pharmaceutically equivalent and bioequivalent becomes generally available. The vendor must update the Secretary no less often than monthly on the retail survey prices for covered outpatient drugs. The contract shall be effective for a term of two years. If the Secretary were to be notified that such a product has become generally available, the Secretary would be required to make a determination within 7 days as to whether the drug meets the definition of a multiple source drug subject to the application of the FUL. The agreement allows the Secretary to waive those provisions the Secretary determines are appropriate to waive, of the Federal Acquisition Regulation, for the efficient implementation of the contract.

The agreement does not require the contractor to independently confirm retail survey prices, as in the House bill, and does not require the Secretary to provide for electronic distribution to states. On the other hand, the Secretary would be required to devise and implement a means for providing access to each state Medicaid agency of collected price information and to provide information on retail survey prices, including information on single source drugs, to states at least monthly.

The agreement requires an annual report from each state agency. States are required to provide to the Secretary, the payment rates for all covered drugs, dispensing fees and utilization of innovator multiple source drugs under the state Medicaid plan. The Secretary is required to compare, on an annual basis, for the 50 most widely prescribed drugs, the national retail sales price data for each state. In addition, the Secretary is required to submit full information regarding the annual rankings to Congress. The provision becomes effective on January 1, 2007.

(f) Miscellaneous amendments

Current Law

States are required to have in place a program of prospective drug review wherein before each prescription is filled, the use of the prescription is screened for potential drug therapy problems. The requirement includes language clarifying that nothing in the provision is intended to require a pharmacist to provide this consultation when a beneficiary refuses such a consultation.

Senate Bill

No provision.

House Bill

No provision.

Conference Agreement

The conference agreement clarifies that the requirement to provide prospective drug reviews is not intended to require verifications that consultations were offered or refused.

Effective on the date of enactment.

(g) Effective date

Current Law

No provision.

Senate Bill

No provision.

House Bill

No provision.

Conference Agreement

Unless otherwise specified, the provisions in Section 6001 take effect on January 1, 2007, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

Collection and Submission of Utilization Data for Certain Physician Administered Drugs (Section 6002 of the Conference Agreement, Section 6004 of the Senate Bill, and Section 3102 of the House Bill)

Current Law

Manufacturers are required to provide rebates to states for all outpatient prescription drugs with some exceptions. Outpatient prescription drugs provided through managed care organizations are explicitly exempted from the rebate requirement. In addition, outpatient drugs dispensed by a hospital and billed at no more than the hospital's purchasing costs are exempt from the rebate requirement. Certain drugs administered by physicians in their offices or in another outpatient setting, such as chemotherapy, have often been excluded from the drug rebate program although there is no specific statutory exclusion. This is because providers use Healthcare Common Procedure Coding System (HCPCS) J-codes to bill the Medicaid program for injectible prescription drugs, including cancer drugs. The HCPCS J-codes do not, however, provide States with the specific manufacturer information necessary to enable them to seek rebates. The NDC number is necessary for the state to bill manufacturers for rebates. CMS has requested that states identify Medicaid drugs, specifically those using HCPCS J-codes, by their NDC codes so that rebates can be collected for these drugs (Letter to State Medicaid Director, SMDL #03-002, dated March 14, 2003). CMS has concluded that because of this coding, many state Medicaid programs have not collected rebates on these drugs, resulting in millions of dollars in uncollected rebates.

Senate Bill

As a condition of receiving Medicaid payment, states would be required to submit, to the Secretary of HHS, utilization data and coding information for physician administered outpatient drugs. The Secretary would determine the drugs for which such reporting information would be required. The reporting would include J-codes and National Drug Code numbers. The purpose of the reporting would be to allow the Secretary to secure rebates for such drugs.

Effective upon enactment.

House Bill

As a condition of receiving Medicaid payment, and in order to secure rebates for physician administered drugs states would be required to submit:

—No later than January 1, 2006, utilization data and coding information for single source drugs or biologicals that are physician administered outpatient drugs. The Secretary would determine the drugs for which such reporting information would be required.

—No later than January 1, 2007, utilization data and coding information by NDC (unless the Secretary identifies an alternative coding system) for multiple source drugs.

—No later than January 1, 2008, utilization and coding information for those drugs on the list of 20 high volume physician administered drugs.

—No later than January 1, 2007, the Secretary would be required to publish a list of the 20 physician administered multiple source drugs that have the highest volume of physician administered dispensing under Medicaid. The Secretary would be able to modify such list from year.

The Secretary would be permitted to delay the application of the reporting requirements in the case of a State to prevent hardship to States that require additional time to implement such a reporting system.

Conference Agreement

The agreement includes a provision similar to the House provision. For drugs administered on or after January 1, 2006, states are required to provide for the collection and submission of utilization and coding information for each Medicaid single source drug that is physician administered. For drugs administered on or after January 1, 2008, states are required to provide for the collection and submission of utilization and coding information for each Medicaid multiple source drug that is physician administered. Submissions from states will be based on National Drug Codes unless the Secretary specified an alternative coding system. All other provisions are identical to the House bill.

Improved Regulation of Drugs Sold Under a New Drug Application Approved Under Section 505(c) of the Federal Food, Drug, and Cosmetic Act (Section 6003 of the Conference Agreement, Section 6003 of the Senate Bill, and Section 3103 of the House Bill)

Current Law

Prescription drug manufacturers participating in the Medicaid program are required to report, to the Secretary of HHS, the AMP for each pharmaceutical product offered under Medicaid and, for each brand name drug product, the best price available to any wholesaler, retailer, provider, health maintenance organization (HMO), nonprofit entity, or governmental entity. The term 'best price' is defined in the Medicaid statute but only with respect to single source and innovator multiple source drugs since the best price is part of the rebate computation for only those drugs. These reported prices are used to calculate rebates—which are generally calculated separately for brand name drug products and for generics.

Sometimes manufacturers produce both a brand name version of a prescription drug and also sell or license a second manufacturer (or a subsidiary) to produce some of the same product to be sold or re-labeled as a generic. These generics, called "authorized generics," are subject to a separate rebate calculation. Rebates for brand name products, take into account the best price reported for each drug. Such price often does not include the price of the product sold as the authorized generic.

Current law defines best price with respect only to a single source drug or innovator multiple source drug, as the lowest price available from the manufacturer during the rebate period to any wholesaler, retailer, provider, HMO, nonprofit entity, or governmental entity within the U.S. excluding prices charged to specified governmental purchasers. The AMP is defined as the average price paid to a manufacturer by wholesalers for drugs distributed to retail pharmacies. Certain federal drug purchases as well as several other specific kinds of sales are exempt from the AMP and from the best price calculation.

Senate Bill

The Senate bill would modify the existing drug price reporting requirements to include, for single source drugs, innovator multiple source drugs, authorized generic drugs, and any other drugs sold under a new drug application approved (under Section 505c of the Federal Food, Drug and Cosmetic Act, FFDCA) by FDA, both the average manufacturer's price and the manufacturer's best price for such drugs. An authorized generic drug would be defined as a listed drug that has been approved by the FDA under Section 505(c) of such Act and is marketed, sold or distributed directly or indirectly to retail class of trade under a different labeling, packaging (other than repackaging the listed drug for use in institutions), product code, labeler code, trade name, or trade mark than the listed drug.

The definition of best price would be modified so that, in the case of a manufacturer that approves, allows or otherwise permits an authorized generic or any other drug to be sold under an NDA, it is inclusive of the lowest price such drug is sold to any wholesaler, retailer, provider, HMO, nonprofit or governmental entity. The definition of AMP would be modified to include, in the case of a manufacturer that approves, allows, or otherwise permits an authorized generic or any other drug of the manufacturer to be sold under an NDA to be inclusive of the average price paid for such drugs. The provision would become effective on January 1, 2006.

House Bill

The provision would modify the existing drug price reporting requirements for pharmaceutical manufacturers. No later than 30 days after the last day of each rebate period, manufacturers would be required to report,

- for each covered outpatient drug, including those sold under a new drug application approved by the FDA, the average manufacturer's price for such drugs; and,
- for single source drugs, innovator multiple source drugs, and any other drug sold under a new drug application approved by the FDA, the manufacturers best price for such drugs during the applicable rebate period.

Not later than 30 days after the date of entering into a drug rebate agreement, manufacturers would be required to report on the average manufacturer price for each of the manufacturer's covered outpatient drugs, including those sold under a new drug application approved by the FDA.

The definition of best price would be changed to apply, not only to each single source drug and innovator multiple source drug, but also to drugs sold under a new drug application (NDA) approved by (under Section 505c of FFDCA) FDA. In addition, the definition would be modified so that the best price, in the case of a manufacturer that approves, allows or otherwise permits an authorized, generic or any other drug of the manufacturer to be sold under an NDA, is inclusive of the lowest price such authorized generic or other drug is sold to any wholesaler, retailer, provider, HMO, nonprofit or governmental entity except for those entities excluded under current law. The provision would modify the current law definition of AMP to include, in the case of a manufacturer that approves, allows, or otherwise permits a drug of the manufacturer to be sold under an NDA to be inclusive of the average manufacturer price paid for such drugs. The provision would become effective on January 1, 2006.

Conference Agreement

The agreement includes a provision similar to the Senate provision. The provision is different from the Senate provision in that it does not refer to the affected drugs as "authorized generics". Instead, the agreement uses the phrase "any drug of the manufacturer sold under a new drug application approved under section "505(c) of the Federal Food, Drug, and Cosmetic Act" to include authorized generics. The conference agreement does not include a definition of "authorized generics." In addition, the definition of best price would be modified so that it is inclusive, in the case of a manufacturer that approves, allows, or otherwise permits any other drug of the manufacturer to be sold under a new drug application approved under section 505(c) of the FFDCA, of the lowest price for an authorized drug available from the manufacturer during the rebate period to any manufacturer, wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the U.S. The effective date would be January 1, 2007.

Children's Hospital Participation in Drug Discount Program (Section 6004 of the Conference Agreement, no provision of the Senate Bill, and Section 3104 of the House Bill)

Current Law

Section 340(B) of the Public Health Service Act allows certain health care providers, including community health centers and disproportionate share hospitals, access to prescription drug prices that are similar to the prices paid by Medicaid agencies after being reduced by manufacturer rebates.

Senate Bill

No provision.

House Bill

The House bill would include a provision adding Children's Hospitals to the list of providers that may have access to 340(B) discounted prices. The provision would become effective for drugs purchased on or after the date of enactment.

Conference Agreement

The conference agreement includes the House provision.

Dispensing Fees (No provision in the Conference Agreement, Section 6001 of the Senate Bill, and Section 3101 of the House Bill)

Current Law

States are allowed to pay pharmacies reasonable dispensing fees.

Senate Bill

The Senate bill would require states to establish dispensing fees that are (a) greater for noninnovator multiple source drugs than those for innovator multiple source drugs that are therapeutically equivalent and bioequivalent; and (b) that take into account requirements established by the Secretary to include reasonable costs associated with a pharmacist's time checking an individual's coverage or performing quality assurance; measuring or mixing of a drug; filing the container; providing the completed prescription; delivery; special packaging; physical overhead and salaries of pharmacists and other pharmacy workers; geographic factors that impact costs; patient counseling; and drugs requiring specialty pharmacy management services.

The Senate bill would require, no later than 15 months after the date of enactment, with quarterly updates thereafter, the Secretary to establish of list of covered outpatient drugs requiring specialty pharmacy care management services. The list would include only those drugs for which the Secretary determines that access to the drug would be seriously impaired without the provision of such care management services. Specialty pharmacy care management services would be defined as those services provided in connection with the dispensing of a covered drug that requires:

- significant caregiver contact, education about the disease state, prevention, treatment, drug indications, benefits, risks, complications, pharmacy counseling and explanation;
- patient compliance services including coordination of provider visits with drug delivery, compliance with dosing regimen, mailing or telephone call reminders, compiling compliance data, assistance providers with compliance programs;
- tracking services, referral processes, screening referrals, and tracking patient weight for dosage.

In addition, the Senate bill would require states to consider, in establishing dispensing fees, the costs associated with operating a critical access retail pharmacy.

House Bill

The House bill would require states to pay a dispensing fee for each covered outpatient drug. States would be allowed to vary dispensing fees to take into account the special circumstances of pharmacies serving rural and underserved areas and sole community pharmacies. Dispensing fees for drugs defined as multiple source drugs under the FUL policy would be required to be no less than $8 per prescription unit. The Secretary would be required to define what constitutes a prescription unit for this purpose.

Conference Agreement

No provision.

Increase in rebates for covered outpatient drugs (No provisions of the Conference Agreement, Sections 6001, 6002 and 6039D of the Senate Bill, and no provisions of the House Bill)

Current Law

Basic Medicaid rebates for single source and innovator multiple source drugs are equal to the greater of 15.1 percent of the

AMP or the difference between the reported AMP and best price for each drug. In addition, if the prices of single source or innovator multiple source drugs rise faster than inflation, additional rebates are due. Rebates for all other multiple source drugs is equal to 11 percent of the AMP.

Senate Bill

The Senate bill would modify the formulas for prescription drug rebates under the Medicaid program. Beginning on January 1, 2006, rebates for single source and innovator multiple source drugs would be equal to the greater of 18.1 percent of the AMP or the difference between the reported AMP and the best price for each drug. (Sections 6002(a)(3) and 6001(b)(2).)

Rebates for single source and innovator multiple source drugs equal to 17.8% of the AMP or the difference between the reported AMP and the best price for each drug. (Section 6039D.)

Rebates for all other drugs would be equal to 17%. Changes to the rebate formula would begin on January 1, 2006.

House Bill

No provision.

Conference Agreement

No provision.

Extension of rebates to Medicaid MCOs (No provisions of the Conference Agreement, Sections 6001 and 6038 of the Senate Bill, and no provisions of the House Bill)

Current Law

Rebates are not required for drugs dispensed by Medicaid managed care organizations (MCO) when the drugs are paid as part of the MCO capitation rate, to drugs provided in hospitals, and sometimes in physicians', or dentists' offices.

Senate Bill

Section 6001(a)(5) of the Senate bill would establish rebates for drugs dispensed by Medicaid MCOs. States would have the option of collecting rebates directly from manufacturers or allowing the MCO to collect the rebates in exchange for a reduction in the prepaid payment made to the entity for Medicaid enrollees. The provision would become effective on the date of enactment and would apply to Medicaid rebate agreements entered into or renewed on or after that date.

Section 6038 would establish rebates for drugs dispensed by Medicaid MCOs except for those drugs purchased at discounted prices under the Public Health Service Act Sec. 340B drug discount program.

House Bill

No provision.

Conference Agreement

No provision.

Improving Patient Outcomes (No provision of the Conference Agreement, no provision of the Senate Bill, and Section 3105 of the House Bill)

Current Law

States may establish a prior authorization program as long as the system provides a response for a request for approval within 24 hours, and as long as the program allows for a dispensing of at least a 72 hour supply of a covered drug in an emergency situation. Other restrictions may be imposed if they are necessary to discourage waste, fraud or abuse.

Senate Bill

No provision.

House Bill

The provision would limit the ability of states to place atypical antipsychotic or antidepressant single source drugs on prior authorization lists imposing other restrictions unless a drug use review board has determined that doing so is not likely to harm patients or increase overall medical costs. It also would require states to pay for a 30 day supply of such drugs in cases where a request for authorization is not responded to within 24 hours after the prescription is transmitted. The provision would be effective on January 1, 2007.

Conference Agreement

No provision.

Chapter 2—Long-Term Care Under Medicaid

SUBCHAPTER A—REFORM OF ASSET TRANSFER RULES LENGTHENING LOOK-BACK PERIOD; CHANGE IN BEGINNING DATE FOR PERIOD OF INELIGIBILITY

Lengthening Look-back Period for all Disposals to 5 years (Section 6011(a) of the Conference Agreement, no provision in the Senate Bill, and Section 3111(a) of the House Bill)

Current Law

Current law requires states to impose penalties on individuals who transfer assets (all income and resources of the individual and of the individual's spouse) for less than fair market value (an estimate of the value of an asset if sold at the prevailing price at the time it was actually transferred). Specifically, the rules require states to delay Medicaid eligibility for certain Medicaid long-term care services for individuals applying for care in a nursing home, and, at state option, for certain people receiving care in community-based settings, who have transferred assets for less than fair market value on or after a "look-back date." The "look-back date" is 36 months prior to application for Medicaid for income and most assets disposed of by the individual, and 60 months in the case of certain trusts.

Ineligibility for Medicaid coverage is limited to only certain long-term care services, not all services covered under the program. The services for which the penalty applies include nursing facility care; services provided in any institution in which the level of care is equivalent to those provided by a nursing facility; Section 1915(c) home and community-based waiver services; home health services; and personal care furnished in a home or other locations. States may choose to apply this ineligibility period to other state plan long-term care services. (They also currently apply to home and community care for functionally disabled elderly individuals under section 1929 of the Act. This is an optional coverage group which operates only in Texas.) In general, states do not extend the penalty to Medicaid's acute care services.

Senate Bill

No provision.

House Bill

The House bill would amend section 1917(c)(1)(B)(i) of the Social Security Act to lengthen the look-back date to 5 years, or 60 months, for all income and assets disposed of by the individual after this Act's date of enactment. For income and assets disposed of prior to the enactment date, the look back periods of 36 months for income and assets and 60 months for certain trusts would apply. The House bill would become effective on the date of the enactment of this Act.

Conference Agreement

The conference agreement includes the House provision.

Change in Beginning Date for Period of Ineligibility (Section 6011(b) of the Conference Agreement, no provision in the Senate Bill, and Section 3111(b) of the House Bill)

Current Law

The period of ineligibility, or penalty period, begins on the first day of the first month during or after which assets have been improperly transferred and which does not occur in any other period of ineligibility. There is no limit to the length of the penalty period. Some penalties imposed on applicants who made improper transfers within the look-back period and prior to the date of Medicaid application may expire before the date of Medicaid application. For example, an improper transfer of $100,000 made 2 years prior to Medicaid application could result in a 20-month penalty period ($100,000 divided by the private rate for a nursing home state in a state of $5,000). Since the individual applies to Medicaid two years, or 24 months, after having made the transfer, the penalty has already expired before the individual applies to Medicaid. However, if the transfer of $100,000 is made one year prior to Medicaid application, the penalty of 20 months would not have expired before the applicant needed Medicaid coverage, but rather would continue for eight months after Medicaid application.

Senate Bill

No provision.

House Bill

The House bill would amend section 1917(c)(1)(D) of the Social Security Act by changing the start date of the ineligibility period for all transfers made on or after the date of the enactment, to the first day of a month during or before which assets have been transferred for less than fair market value, or the date on which the individual is eligible for Medicaid and is receiving certain long-term care services, whichever is later and which does not occur during any period of ineligibility as a result of an asset transfer policy. For transfers made prior to this Act's enactment, current law applies.

Conference Agreement

The conference agreement includes the House provision but specifies that the start date begins on the first day of a month during or after which assets have been transferred for less than fair market value, or the date on which the individual is eligible for Medicaid and would otherwise be receiving institutional level care based on an approved application for such care but for the application of the penalty period, whichever is later, and which does not occur during any period of ineligibility as a result of an asset transfer policy.

Effective Date (Sections 6011(c) of the Conference Agreement, no provision in the Senate Bill, and Section 3111(c) of the House Bill)

Current Law

Currently effective.

Senate Bill

No provision.

House Bill

The amendments made by this section would apply to transfers made on or after the date of enactment.

Conference Agreement

The conference agreement includes the House provision.

Availability of Hardship Waivers (Sections 6011(d) and (e) of the Conference Agreement, Section 6011(f) of the Senate Bill, and Sections 3111(d) and (e) of the House Bill)

Current Law

To protect beneficiaries from unintended consequences of the asset transfer penalties, current law requires states to establish procedures for not imposing penalties on persons who, according to criteria established by the Secretary, can show that a penalty would impose an undue hardship. CMS guidance specifies that undue hardship can occur when application of the penalty would deprive the individual of medical care so that his or her health or life would be endangered, or when it would deprive the individual of food, clothing, shelter, or other necessities of life. The guidance explains that undue hardship does not exist when application of the penalty would merely cause the individual inconvenience or when it might restrict his or her lifestyle but would not put him or her at risk of serious deprivation.

CMS guidance requires that state procedures, at a minimum, provide for and discuss: (I) a notice to recipients that an undue hardship exception exists; (2) a timely process for determining whether an undue hardship waiver win be granted; and (3) a process under which an adverse determination can be appealed.

Senate Bill

The Senate bill would amend Section 1917(c) of the Social Security Act by adding a requirement that states establish undue hardship procedures (in accordance with standards specified by the Secretary) that would provide for: (1) a notice that an undue hardship exception exists before the imposition of a penalty period to an applicant for Medicaid who would be subject to such a penalty; (2) a timely process before the imposition of a penalty determining whether an undue hardship waiver win be granted for the individual; (3) a process under which an adverse determination can be appealed; and (4) an application of criteria that specifies that undue hardship exists when application of the ineligibility period or counting of trusts would deprive the individual of medical care so that the individual's health or life would be endangered or when it would deprive the individual of food, clothing, shelter, or other necessities of life.

House Bill

The House bill would amend section 1917(c)(2)(D) of the Social Security Act to specify the criteria by which an application for an undue hardship waiver would be approved. Approval would be subject to a finding that the application of an ineligibility period would deprive the individual of medical care such that the individual's health or life would be endangered, or that the individual would be deprived of food, clothing, shelter, or other necessities of life. States would also be required to provide for: (A) notice to recipients that an undue hardship exception exists; (B) a timely process for determining whether an undue hardship waiver will be granted; and (C) a process under which an adverse determination can be appealed.

This provision would also amend section 1917(c)(2) of the Social Security Act to permit facilities in which institutionalized individuals reside to file undue hardship waiver applications on behalf of the individual, with the institutionalized individual's consent or the consent of his or her guardian. If the application for undue hardship of nursing facility residents meets criteria specified by the Secretary, the state would have the option of providing payments for nursing facility services to hold the bed for these individuals at a facility while an application is pending. Such payments could not be made for longer than 30 days.

Conference Agreement

The conference agreement includes the House provision.

Disclosure and Treatment of Annuities and of Large Transactions (Section 6012 of the Conference Agreement, Section 6011(d) of the Senate Bill, and Section 3112 of the House Bill)

Current Law

Current law provides that the term "trust," for purposes of asset transfers and the look-back period, includes annuities only to the extent that the Secretary of DHHS defines them as such. CMS guidance (Transmittal Letter 64) asks states to determine the ultimate purpose of an annuity in order to distinguish those that are validly purchased as part of a retirement plan from those that abusively shelter assets. To be deemed valid in this respect, the life of the annuity must coincide with the average number of years of life expectancy for the individual (according to tables in the transmittal). If the individual is not reasonably expected to live longer than the guarantee period of the annuity, the individual will not receive fair market value for the annuity based on the projected return; in this case, the annuity is not "actuarially sound" and a transfer of assets for less than fair market value has taken place. The State Medicaid Manual provides life expectancy tables to be used by states for determining whether an annuity is actuarially sound.

States and courts interpret this guidance differently. In Mertz v. Houston, 155 F. Supp.2d 415 (E.D. Pa. 2001), for example, the court held that if an annuity was actuarially sound then the intent of the transfer was not relevant under federal law. In a recent case in Ohio, a state court ruled that it was proper to look at the intent of asset transfers, even if the annuity was actuarially sound. (Bateson v. Ohio Dept. of Job and Family (Ohio Ct. Appl., 12th, No. CA2003–09–093, Nov. 22, 2004).

Medicaid Estate Recovery. Current law requires states to recover the private assets (e.g., countable and non-countable assets) of the estates of deceased beneficiaries who have received certain long-term care services. Recovery of Medicaid payments may be made only after the death of the individual's surviving spouse, and only when there is no surviving child under age 21 and no surviving child who is blind or has a disability; Estate recovery is limited to the amounts paid by Medicaid for services received by the individual and is limited to only certain assets that remain in the estate of the beneficiary upon his or her death. As a result, estate recovery is generally applied to a beneficiary's home, if available, and certain other assets within a beneficiary's estate.

For purposes of these recovery requirements, estates are defined as all real and personal property and other assets in an estate as defined in state probate law. At the option of the state, recoverable assets also may include any other real and personal property and other assets in which the person has legal title or interest at the time of death, including assets conveyed to a survivor, heir, or through assignment through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement. Thus assets such as living trusts, life insurance policies, certain annuities, which may pass to heirs outside of probate, would be subject to Medicaid recovery only if a state expanded its definition of "estate."

Senate Bill

The Senate bill would amend section 1917(c)(1) of the Social Security Act to include, in the definition of assets subject to transfer penalties, an annuity purchased by or on behalf of an annuitant who has applied for Medicaid-covered nursing facility or other long-term care services. Annuities that would not be subject to asset transfer penalties would include an annuity as defined in section 408(b) or (q) of the Internal Revenue Code (IRC), or purchased with proceeds from: (1) an account or trust described in section 408(a)(c)(p) of the IRC; (2) a simplified employee pension as defined in section 408(k) of the IRC; or (3) a Roth IRA defined in section 408A of the IRC. Annuities would also be excluded from penalties if they are irrevocable and non-assignable, actuarially sound (as determined by actuarial publications of the Office of the Chief Actuary of the Social Security Administration), and provide for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments.

The Senate bill would amend section 1917(c)(1) of the Social Security Act by adding that the purchase of an annuity shall be treated as the disposal of an asset for less than fair market value unless the state is named as the remainder beneficiary in the first position for at least the total amount of Medicaid expenditures paid on behalf of the annuitant or is named as such a beneficiary in the second position after the community spouse and such spouse does not dispose of any such remainder for less than fair market value.

The Senate bill would amend Section 1917(b)(4) of the Social Security Act to include an annuity in the definition of estate that is subject to estate recovery unless the annuity was purchased from a financial institution or other business that sells annuities in the state as part of its regular business.

House Bill

The House bill would amend section 1917 of the Social Security Act by adding a new subsection that would require individuals, at the initial application or recertification for certain Medicaid long-term care services, to disclose to the state the following:

(A) A description of any interest the individual has in an annuity (or similar financial instrument which provides for the conversion of a countable asset to a noncountable assets, as specified by the Secretary), regardless of whether the annuity is irrevocable or is treated as an asset;

Applications or recertification forms shall include a statement that designates the state as the remainder beneficiary under such an annuity or similar financial instrument, subject to the following provisions:

(A) For institutionalized individuals who receive certain Medicaid-covered long-term care services, the state would become the remainder beneficiary in the first position of an annuity (in which he or she has an interest) for the total amount paid by Medicaid on behalf of the individual; The state becomes the remainder beneficiary in the second position when there is a spouse, minor, or disabled child as a named beneficiary.

(B) In the case of disclosure concerning an annuity, the state would notify the annuity's issuer of the state's right as a preferred remainder beneficiary in the annuity for Medicaid services furnished to the individual.

This provision would not prevent the issuer from notifying persons with any other remainder of the state's interest in the remainder.

(C) The state may require an issuer to notify when there is a change in the amount of income or principal being withdrawn from the amount being withdrawn at the time of the most recent disclosure, as specified above. A state would take such information into account when determining the amount of the state's obligations for Medicaid or the individual's eligibility. Such a change in amount would be deemed as a transfer of an asset for less than fair market value unless the individual demonstrates, to the state's satisfaction, that the asset transfer was for fair market value.

The Secretary may provide guidance to states on categories of arms length transactions (such as the purchase of a commercial annuity) that could be generally treated as an asset transfer for fair market value.

The House bill would not prevent a state from denying Medicaid eligibility for an individual based on the income or resources derived from an annuity.

The House bill would apply to transactions (including the purchase of an annuity) occurring on or after the date of the enactment.

Conference Agreement

The conference agreement requires individuals, upon Medicaid application and recertification of eligibility, to disclose to the state, a description of any interest the individual or community spouse has in an annuity (or similar financial instrument, as specified by the Secretary), regardless of whether the annuity is irrevocable or is treated as an asset. Such application or recertification form includes a statement naming the state as the remainder beneficiary. In the case of disclosure concerning an annuity, the state notifies the annuity's issuer of the state's right as a preferred remainder beneficiary for Medicaid assistance furnished to the individual. Issuers may notify persons with any other remainder interest of the state's remainder interest.

States may require an issuer to notify the state when there is a change in the amount of income or principal withdrawn from the amount withdrawn at the point of Medicaid application or recertification. States take this information into account when determining the amount of the state's financial share of costs or in the individual's eligibility for Medicaid.

The Secretary may provide guidance to states on categories of transactions that may be treated as a transfer of asset for less than fair market value. States may deny eligibility for medical assistance for an individual based on the income or resources derived from an annuity.

The conference agreement amends section 1917(c)(1) of the Social Security Act by adding that the purchase of an annuity shall be treated as the disposal of an asset for less than fair market value unless the state is named as the remainder beneficiary in the first position for at least the total amount of Medicaid expenditures paid on behalf of the annuitant or is named as such a beneficiary in the second position after the community spouse or minor or disabled child and is named in the first position if such spouse or a representative of such child disposes of any such remainder for less than fair market value.

The conference agreement amends section 1917(c)(1) of the Social Security Act to include, in the definition of assets subject to transfer penalties, an annuity purchased by or on behalf of an annuitant who has applied for Medicaid-covered nursing facility or other long-term care services. Annuities that would not be subject to asset transfer penalties would include an annuity as defined in subsection (b) and (q) of section 408 of the Internal Revenue Code (IRC), or purchased with proceeds from: (1) an account or trust described in subsections (a), (c), and (p) of section 408 of the IRC; (2) a simplified employee pension as defined in section 408(k) of the IRC; or (3) a Roth IRA defined in section 408A of the IRC. Annuities would also be excluded from penalties if they are irrevocable and non-assignable, actuarially sound (as determined by actuarial publications of the Office of the Chief Actuary of the Social Security Administration), and provide for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments.

The amendments apply to transactions, including the purchase of annuity, occurring on or after the date of this Act's enactment.

Application of Income-First Rule in Applying Community Spouse's Income Before Assets in Providing Support of Community Spouse (Section 6013 of the Conference Agreement, no provision in the Senate Bill, and Section 3113 of the House Bill)

Current Law

Current law includes provisions intended to prevent impoverishment of a spouse whose husband or wife seeks Medicaid coverage for long-term care services. These provisions were added by the Medicare Catastrophic Coverage Act (MCCA) of 1988 to address the situation that would otherwise leave the spouse not receiving Medicaid (community spouse) with little or no income or assets when the other spouse is institutionalized or, at state option, receives Medicaid's home- and community-based services. Before MCCA, states could consider all of the assets of the community spouse, as well as the spouse needing Medicaid coverage, to be available to pay for care for the spouse needing Medicaid coverage. These rules created hardships for the spouse living in the community who was forced to spend down virtually all of the couple's assets to Medicaid eligibility levels so that the other spouse could qualify for coverage. MCCA established new rules for the treatment of income and assets of married couples, allowing the community spouse to retain higher amounts of income and assets (on top of non-countable assets such as a house, car, etc.) than allowed under general Medicaid rules.

Regarding income, current law exempts all of the community spouse's income (e.g., pension or Social Security) from being considered available to the other spouse for purposes of Medicaid eligibility. For community spouses with more limited income, section 1924(d) of the Social Security Act provides for the establishment of a minimum monthly maintenance needs allowance for each community spouse to try to ensure that the community spouse has sufficient income to meet his or her basic monthly needs. (The community spouse's minimum monthly maintenance needs allowance is set at a level that is higher than the official federal poverty level.) Once income is attributed to each of the spouses according to their ownership interest, the community spouse's monthly income is compared against the minimum monthly maintenance needs allowance. If the community spouse's monthly income amount is less than the minimum monthly maintenance needs allowance, the institutionalized spouse may choose to transfer an amount of his or her income or assets to make up for the shortfall (i.e. the difference between the community spouse's monthly income and the state-specified minimum monthly maintenance needs allowance). This transfer allows more income to be available to the community spouse, while Medicaid pays a larger share of the institutionalized spouse's care costs. Within federal limits, states set the maximum monthly income level that community spouses may retain. Federal requirements specify that this amount may be no greater than $2,377.50 per month, and no less than $1,561.25 per month in 2005.

Regarding assets, federal law allows states to select the amount of assets a community spouse may be allowed to retain. This amount is referred to as the community spouse resource allowance (CSRA). Federal requirements specify that this amount may be no greater than $95,100 and no less than $19,020 in total countable assets in 2005. When determining eligibility, all assets of the couple are combined, counted, and split in half, regardless of ownership. If the community spouse's share of the assets is less than the state-specified maximum, then the Medicaid beneficiary must transfer his or her share of the assets to the community spouse until the community spouse's share reaches the maximum. All other non-exempt assets must be depleted before the applicant can qualify for Medicaid.

States have some flexibility in the way they apply these rules at the time in which a person applies through the fair hearing process to raise his or her minimum maintenance needs allowance. At this point, a state may decide to allocate more income or resources from the institutionalized spouse to the community spouse. In doing so, states have employed two divergent methods. Under the method used by most states, known as the "income-first" method, the state requires that the institutionalized spouse's income is first allocated to the community spouse to enable the community spouse sufficient income to meet or, if approved by the state, exceed the minimum monthly maintenance needs allowance; the remainder, if any, is applied to the institutionalized spouse's cost of care. Under this method, the assets of an institutionalized spouse (e.g. an annuity or other income producing asset) cannot be transferred to the community spouse to generate additional income for the community spouse unless the income transferred by the institutionalized spouse would not enable the community spouse's total monthly income to reach the state-approved monthly maintenance needs allowance. This method generally requires a couple to deplete a larger share of their assets than the resources-first method.

In contrast, under the other method, known as the "resources-first" method, the couple's resources can be protected first for the benefit of the community spouse to the extent necessary to ensure that the community spouse's total income, including income generated by the CSRA, meets or, if approved by the state, exceeds the community spouse's minimum monthly maintenance needs allowance. Additional income from the institutionalized spouse that may be, but has not been, made available for the community spouse is used toward the cost of care for the institutionalized spouse. This method generally allows the community-spouse to retain a larger amount of assets than the income-first method.

On September 7, 2001, the Secretary issued a proposed rule (Federal Register Vol. 66, No.

174) that would have codified state practices. The proposed rule would have allowed states to choose between using either the income-first or resources-first method when determining whether the community spouse has sufficient income to meet the minimum monthly maintenance needs allowance. Under the proposed rule, states would not have been able to apply different rules to different individuals, on a case-by-case basis. The Secretary has not issued a final rule.

Senate Bill

No provision.

House Bill

The House bill would amend section 1924(d) of the Social Security Act to require that any transfer or allocation made from an institutionalized spouse to meet the need of a community spouse for a community spouse's monthly income allowance be first made from income of the institutionalized spouse. Only when sufficient income is not available, could resources of the institutionalized spouse be transferred or allocated.

The House bill would apply to transfers and allocations made on or after the date of this Act's enactment by individuals who become institutionalized spouses on or after such date.

Conference Agreement

The conference agreement amends section 1924(d), and therein sections (c) and (e), of the Social Security Act to require that states consider that all income of the institutionalized spouse that could be made available to the community spouse, in accordance with the calculation of the post-eligibility allocation of income or additional income allowance allocated at a fair hearing, has been made before states allocate the community spouse an amount of resources adequate to provide the difference between the minimum monthly maintenance needs allowance and all income available to the community spouse. These amendments apply to transfers and allocations made on or after the date of this Act's enactment by individuals who become institutionalized spouses on or after such date.

Disqualification for Long-Term Care Assistance for Individuals with Substantial Home Equity (Section 6014 of the Conference Agreement, no provision in the Senate Bill, and Section 3114 of the House Bill).

Current Law

Within federal law, states set asset standards that applicants must meet to qualify for Medicaid coverage. Among other things, these standards specify a limit on the amount of countable assets a person may have to qualify, as well as define which types of assets are counted and not counted. In general, countable assets cannot exceed $2,000 for an individual applicant. States generally follow SSI rules for computing both countable and non-countable assets.

Under Medicaid and SSI rules, the value of an item may be totally or partially excluded when calculating countable resources. For example, the entire value of a car, regardless of its worth, is excluded, but life insurance is counted to the extent that the cash surrender value exceeds $1,500 (if the total value of all life insurance policies on any person does not exceed $1,500, no part of the cash surrender value of such life insurance will be counted for eligibility purposes).

Current Medicaid and SSI asset counting practices generally exclude the entire value of an applicant's home. A home is defined as any property in which an individual (and spouse, if any) has an ownership interest and which serves as the individual's principal place of residence. This property includes the shelter in which an individual resides, the land on which the shelter is located and related outbuildings. If an individual (and spouse, if any) moves out of his or her home without the intent to return, the home becomes a countable resource because it is no longer the individual's principal place of residence. However, if an individual leaves his or her home to live in an institution, the home is still considered to be the individual's principal place of residence, irrespective of the individual's intent to return, as long as a spouse or dependent relative of the eligible individual continues to live there. The individual's equity in the former home becomes a countable resource effective with the first day of the month following the month it is no longer his or her principal place of residence.

Senate Bill

No provision.

House Bill

The House bill would amend section 1917 of the Social Security Act to exclude from Medicaid eligibility for nursing facility or other long-term care services, certain individuals with an equity interest in their home of greater than $750,000. (The Secretary would establish a process to waive application of this provision for demonstrated cases of hardship.) This amount would be increased, beginning in 2011, from year to year based on the percentage increase in the consumer price index for all urban consumers (all items, United States city average), rounded to the nearest $1,000.

Individuals whose spouse, child under age 21, or child who is blind or disabled (as defined by the section 1614 of the Social Security Act) lawfully resides in the individual's home would not be excluded from eligibility. This provision would not prevent an individual from using a reverse mortgage or home equity loan to reduce the individual's total equity interest in the home.

The House bill would apply to individuals who are determined eligible for Medicaid with respect to nursing facility or other long-term care services based on an application filed on or after January 1, 2006.

Conference Agreement

The Conference agreement amends section 1917 of the Social Security Act to exclude from Medicaid eligibility for nursing facility or other long-term care services, certain individuals with an equity interest in their home of greater than $500,000. A state may elect an amount that exceeds $500,000, but does not exceed $750,000. These dollar amounts are increased, beginning in 2011, from year to year based on the percentage increase in the consumer price index for all urban consumers (all items, United States city average), rounded to the nearest $1,000.

Individuals whose spouse, child under age 21, or child who is blind or disabled (as defined by the section 1614 of the Social Security Act) lawfully resides in the individual's home would not be excluded from eligibility. This provision would not prevent an individual from using a reverse mortgage or home equity loan to reduce the individual's total equity interest in the home.

The House bill would apply to individuals who are determined eligible for Medicaid with respect to nursing facility or other long-term care services based on an application filed on or after January 1, 2006.

Enforceability of Continuing Care Retirement Communities (CCRC) and Life Care Community Admission Contracts (Section 6015 of the Conference Agreement, no provision in the Senate Bill, and Section 3115 of the House Bill)

Current Law

Continuing Care Retirement Communities (CCRCs) offer a range of housing and health care services to serve older persons as they age and as their health care needs change over time. CCRCs generally offer independent living units, assisted living, and nursing facility care for persons who can afford to pay entrance fees and who often reside in such CCRCs throughout their older years. The services generally offered include meals, transportation, emergency response systems, and on-site nursing and physician services. Many also offer home care, maid services and laundry. CCRCs were developed, in large part, in response to an interest among many elderly persons to age-in-place. CCRCs can be either for-profit or not-for-profit CCRCs. They are paid primarily with private funds, but a number also accept Medicaid payment for nursing facility services. Although the majority of CCRC residents do not meet the financial criteria for Medicaid, some do. Under current law, section 1919(c)(5)(A)(i)(II) of the Social Security Act prohibits Medicaid-certified nursing facility from requiring that individuals provide them with oral or written assurance that they are not eligible for, or will not apply for, Medicaid or Medicare benefits.

Senate Bill

No provision.

House Bill

The House bill would amend section 1919(c)(5)(A)(i)(II) of the Social Security Act to provide an exception for state-licensed, registered, certified, or equivalent continuing care retirement communities (CCRCs) or a life care community (including nursing facility services provided as part of that community) that are certified to accept Medicaid and/or Medicare payment to allow them to require in their admissions contracts that residents spend their resources (subject to Medicaid's rules concerning the resources allowance for community spouses, described above), declared for the purposes of admission, on their care before they apply for Medicaid.

The House bill would also amend section 1917 of the Social Security Act to consider certain entrance fees for CCRCs or life care communities to be countable resources, and thus available to the applicant, for purposes of the Medicaid eligibility determination. For applicants with community spouses, only that part of the entrance fee that is not protected for by the community spouse's resource allowance would be considered in the computation of the spousal share available to Medicaid. Entrance fees that would be considered a resource available to the individual would meet the following criteria:

(A) the individual would have the ability to use the entrance fee, or the contract provides that the entrance fee could be used, to pay for care should other resources or income of the individual be insufficient to pay for care;

(B) the individual would be eligible for a refund of any remaining entrance fee when the individual dies or terminates the CCRC or life care community contracts and leaves the community; and

(C) the entrance fee does not confer an ownership interest in the continuing care retirement community or life care community

Conference Agreement

The conference agreement includes the House provision except that a CCRC or life care community cannot retain a portion of an entrance fee, otherwise made available to spend on care before applying for Medicaid, on account of a community spouse's resource allowance.

Additional Reforms of Medicaid Asset Transfer Rules

Requirement to Impose Partial Months of Ineligibility (Section 6016(a) of the Conference Agreement, Section 6011 (a) of the Senate Bill, and no provision in the House Bill)

Current Law

Current law requires states to impose penalties on individuals applying for Medicaid who transfer assets (all income and resources of the individual and of the individual's spouse) for less than fair market value (an estimate of the value of an asset if sold at the prevailing price at the time it was actually transferred). Specifically, the roles require states to delay Medicaid eligibility for individuals receiving care in a nursing home, and, at state option, certain people receiving care in community-based settings, who have transferred assets for less than fair market value on or after a "look-back date." The look-back date" is 36 months prior to application for Medicaid for income and most assets disposed of by the individual, and 60 months in the case of certain trusts.

The length of the delay is determined by dividing the total cumulative uncompensated value of all assets transferred by the individual (or individual's spouse) on or after the look-back date by the average monthly cost to a private patient of a nursing facility in the state (or, at the option of the state, in the community in which the individual is institutionalized) at the time of application. For example, a transferred asset worth $60,000, divided by a $5,000 average monthly private pay rate in a nursing home, results in a 12-month period of ineligibility for Medicaid long-term care services. The period of ineligibility begins the first day of the first month during or after which assets have been improperly transferred and which does not occur in any other period of ineligibility. There is no limit to the length of the penalty period.

When calculating the length of the penalty period when assets are transferred for less than fair market value, current law allows states to "round down," or not include in the ineligibility period the quotient amounts (resulting from the division of the value of the transferred asset by the average monthly private pay rate in a nursing home) that are less than one month. For example, in a state with an average private stay in a nursing home of $4,100, an ineligibility period for an improper transfer of $53,000 could be 12.92 months (i.e. $53,000/$4,100=12.92). Although some states would impose an ineligibility period of 12 months and 28 days (of a 31 day month), other states may round down the quotient to an ineligibility period of 12 months only.

Senate Bill

The Senate bill would amend Section 1917(c)(1)(E) of the Social Security Act by adding that a state shall not round down, or otherwise disregard any fractional period of ineligibility when determining the ineligibility period.

House Bill

No provision.

Conference Agreement

The conference agreement includes the Senate provision.

Authority for States to Accumulate Multiple Transfers into One Penalty Period (Section 6016(b) of the Conference Agreement, Section 6011(b) of the Senate Bill, and no provision in the House Bill)

Current Law

Current law and additional CMS guidance provides that when a number of assets are transferred for less than fair market value on or after the look-back date during the same month, the penalty period is calculated using the total cumulative uncompensated value of all assets transferred during that month by the individual (or individual's spouse) divided by the average monthly cost to a private patient of a nursing facility in the state (or, at the option of the state, in the community in which the individual is institutionalized) at the time of application. When a number of assets are transferred during different months, then the rules vary based upon whether the penalty periods overlap. If a penalty period for each transfer overlaps with the beginning of a new penalty period, then states may either add together the value of the transferred assets and calculate a single penalty period or impose each penalty period sequentially. If the penalty period for each transfer does not overlap, then states must treat each transfer as a separate event and impose each penalty period starting on the first day of the month in which each transfer was made.

Senate Bill

The Senate bill would amend Section 1917(c)(1) of the Social Security Act by adding that for an individual or an individual's spouse who disposes of multiple assets in more than one month for less than fair market value on or after the applicable look-back date, states may determine the penalty period by treating the total, cumulative uncompensated value of all assets transferred by the individual (or individual's spouse) during all months as one transfer. States would be allowed to begin such penalty periods on the earliest date which would apply to such transfers.

House Bill

No provision.

Conference Agreement

The conference agreement includes the Senate provision but refers to the disposal of multiple fractional transfers of assets instead of multiple assets.

Inclusion of Transfer of Certain Notes and Loans Assets (Section 6016(c) of the Conference Agreement, Section 6011(c) of the Senate Bill, and no provision in the House Bill)

Current Law

Under current law, states set standards, within federal parameters, for the amount and type of assets that applicants may have to qualify for Medicaid. In general, countable assets cannot exceed $2,000 for an individual. However, not all assets are counted for eligibility purposes. The standards states set also include criteria for defining noncountable, or exempt, assets. States generally follow rules for the Supplemental Security Income (SSI) program for computing both countable and non-countable assets.

Under state Medicaid and SSI rules, countable assets may include, but are not limited to, funds in a savings or money market account, stocks or other types of equities, accelerated cash benefits from certain types of insurance policies, and funds from certain types of trusts that can be obtained by the individual, the individual's spouse, or anyone acting for the individual or the individual's spouse, to pay for the individual's medical or nursing facility care, even if the funds or payments are not distributed. Under Medicaid and SSI rules, non-countable assets include an individual's primary place of residence, one automobile, household goods and personal effects,[1] property essential to income-producing activity, up to $1,500 in burial funds, life insurance policies whose total face value is not greater than $1,500, and miscellaneous other items.

Other rules defining countable and noncountable assets apply only in particular states. Their rules are generally intended to restrict the use of certain financial instruments (e.g. annuities, promissory notes, or trusts) to protect assets so that applicants can qualify for Medicaid earlier than they might otherwise.

Senate Bill

The Senate bill would amend Section 1917(c)(1) of the Social Security Act to make additional assets subject to the look-back period, and thus a penalty, if established or transferred for less than fair market value. Such assets would include funds used to purchase a promissory note, loan or mortgage, unless the repayment terms are actuarially sound, provide for payments to be made in equal amounts during the term of the loan and with no deferral nor balloon payments, and prohibit the cancellation of the balance upon the death of the lender.

In the case of a promissory note, loan, or mortgage that does not satisfy these requirements, their value shall be the outstanding balance due as of the date of the individual's application for certain Medicaid long-term care services.

House Bill

No provision.

Conference Agreement

The conference agreement includes the Senate provision.

Inclusion of Transfers to Purchase Life Estates (Section 6016(d) of the Conference Agreement, Section 6011(e) of the Senate Bill, and no provision in the House Bill)

Current Law

Current law does not specify whether life estates should be treated as countable or noncountable assets for purposes of applying the Medicaid asset transfer rules. In CMS guidance, however, the Secretary specifies that the establishment of a life estate constitutes a transfer of assets. The guidance also explains that a transfer for less than fair market value occurs whenever the value of the transferred asset is greater than the value of the rights conferred by the life estate. According to CMS, a life estate is involved when an individual who owns property transfers ownership to another individual while retaining, for the rest of his or her life (or the life of another person), certain rights to that property. Generally, a life estate entitles the grantor to possess, use, and obtain profits from the property as long as he or she lives, even though actual ownership of the property has passed to another individual.

Senate Bill

The Senate bill would amend Section 1917(c)(1) of the Social Security Act to add a provision that would redefine the term 'assets,' with respect to the Medicaid asset transfer rules, to include the purchase of a life estate interest in another individual's home unless the purchaser resides in the home for at least one year after the date of purchase.

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[1] Under former SSI rules, there were restrictions placed on the value of the automobile and household goods and personal effects that could be excluded from countable assets. As of March 9, 2005, one automobile and all household goods and personal effects are excluded, regardless of their value. 70 Federal Register 6340, no. 24, Feb. 7, 2005.

House Bill

No provision.

Conference Agreement

The conference agreement includes the Senate provision.

Effective Date (Section 6016(e) of the Conference Agreement, Section 6011(g) of the Senate Bill, and no provision in the House Bill)

Current Law

No provision.

Senate Bill

This provision would apply to payment made under the Medicaid program for calendar quarters beginning on or after the date of this Act's enactment, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date. Amendments made by this provision would not apply to Medicaid assistance provided for services before the date of enactment, with respect to assets disposed of on or before the date of enactment, or with respect to trusts established on or before the date of enactment.

In the case of a state that the Secretary of Health and Human Services determines requires state legislation to meet the additional requirements of this provision, the state Medicaid plan would not be regarded as failing to comply with the requirements solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the state legislature that begins after the date of enactment of this Act. In the case of a state that has a two-year legislative. session, each year of the session would be considered to be a separate regular session of the state legislature. This amendment applies to provision under section 6011 of the Senate bill.

House Bill

No provision.

Conference Agreement

The conference agreement includes the Senate provision with respect to amendments made by section 6016.

Subchapter B—Expanded Access to Certain Benefits

Expansion of State Long-Term Care Partnership Program (Section 6021 of the Conference Agreement, and Section 6012 of the Senate Bill, and Section 3133 of the House Bill)

Current Law

Under Medicaid's long-term care (LTC) insurance partnership program, certain persons who have exhausted (or used at least some of) the benefits of a private long-term care insurance policy may access Medicaid without meeting the same means-testing requirements as other groups of Medicaid eligibles. For these individuals, means-testing requirements are relaxed at: (1) the time of application to Medicaid; and (2) the time of the beneficiary's death when Medicaid estate recovery is generally applied.

In general, states allow individuals to retain no more than $2,000 in countable assets and exempt certain non-countable assets such as an individual's primary place of residence, one automobile, household goods and personal effects. Under section 1902 of the Social Security Act, a state may request the Secretary's permission to amend its Medicaid state plans to allow certain applicants to retain greater amounts of countable assets than other applicants and still qualify for Medicaid. Specifically, states that obtain the Secretary's approval may disregard some or all of the assets of persons applying for Medicaid who have purchased long-term care insurance policies.

Section 1917 of the Social Security Act (amended by the Omnibus Budget Reconciliation Act of 1993, P.L. 103–66) allows only those states with an approved state plan amendment as of May 14, 1993 to exempt individuals from Medicaid estate recovery who apply to Medicaid after exhausting their private long-term care insurance benefits. By that date, five states (California, Connecticut, Indiana, Iowa, and New York) had received CMS approval. All of these states, except Iowa, have implemented partnership programs.

The four partnership states with active programs have different models for determining the amount of assets that an eligible participant may protect. Connecticut and California use a dollar-for-dollar model, in which the amount of the assets protected is equivalent to the value of the benefit package paid by the policy purchased (e.g., $100,000 of nursing-home or assisted living benefits paid enables that individual to retain up to $100,000 in assets and still qualify for Medicaid coverage in that state). New York uses a total asset protection model in which persons who purchase certain state-approved policies may qualify for Medicaid without having to meet any of Medicaid's asset criteria. Indiana uses a hybrid model, offering both dollar-for-dollar and total asset protection (Indiana switched from the dollar-for-dollar model to the hybrid model in 1998).

Federal oversight of long-term care insurance is largely limited to provisions established by the Health Insurance Portability and Accountability Act of 1996 (HIPAA, P.L. 104-191). HIPAA established new rules regarding the tax treatment of LTC insurance and expenses, and defined the requirements for a tax-qualified LTC insurance policy. LTC insurance products are largely regulated by states. Every state and the District of Columbia has some laws governing LTC insurance. Many of these laws reflect guidance provided by the National Association of Insurance Commissioners (NAIC), an organization of state insurance regulators. This guidance, provided in the form of a Model Act and Model Regulations for LTC insurance, addresses a number of areas, including the following.

Model Regulations:

- Application forms and replacement coverage;
- Reporting requirements;
- Filing requirements for marketing;
- Standards for marketing;
- Appropriateness of recommended purchase;
- Standard format outline of coverage; and
- Requirements to deliver shopper's guide.

Model Act:

- Outline of coverage;
- Requirements for certificates under group plans;
- Policy summary;
- Accelerated death benefits; and
- Incontestability period.

HIPPA also includes requirements that tax-qualified policies comply with consumer protections regarding the delivery of policies, information on denials of claims, and disclosure. While many state laws and regulations are based largely on the NAIC standards, others have adopted only some of these standards. As a result, there is significant variation in regulatory practices across states.

National Clearinghouse for Long-Term Care. No provision in current law requires the establishment of a long-term care consumer clearinghouse.

In related activities, DHHS has funded some states to establish state-based consumer-friendly access to information about long-term care services. In FY2003 and FY2004, the Centers for Medicare and Medicaid (CMS) and AoA awarded approximately $19 million in grants to states for the purpose of assisting their efforts to create a single, coordinated system of information and access for all persons seeking long term care to minimize confusion, enhance individual choice, and support informed decision-making. In FY2005, $15 million was awarded. A total of 43 states have received grants for this purpose. Some of the common activities under this grants program include information and referral, outreach, counseling about public benefits and long-term care options, and case management. States' methods for implementing the grant may vary; some states have established an actual physical location, and other states have established a statewide clearinghouse through a toll-free number or a web-based information site.

In addition, CMS has made available to the public, via its website, a comparison of Medicare and Medicaid-certified nursing homes and home health agencies. The information provides detailed facility and agency information and characteristics, and contains several measures of quality (e.g., improvement in mobility). This website does not cover assisted living facilities, group homes and other residential facilities that are not nursing facilities; nor does it cover non-medical, non-certified, home and community-based long-term care services.

Senate Bill

The Senate bill would exempt an additional group of persons with certain long-term care insurance plans from Medicaid estate recovery. This group would include individuals who received Medicaid under a Qualified State Long-Term Care Insurance Partnership plan meeting requirements A through G described below. The provision would also require that existing LTC insurance partnership programs satisfy requirements B through G below for LTC insurance policies sold on or after 2 years after enactment.

The Senate bill would define LTC insurance policies as including, but not be limited to, certificates issued under group insurance contracts [also would include individual and other LTC insurance contracts]. The term "Qualified State LTC Insurance Partnership," would mean a state with an approved Medicaid State plan amendment meeting the following requirements:

(A) the disregard of any assets or resources in an amount equal to the amount of payments made to, or on behalf of, an individual who is a beneficiary under any LTC insurance policy sold under such plan amendment;

(B) a state would treat benefits paid under any LTC partnership insurance policy sold under another states' Qualified LTC Insurance Partnership" or a long-term care insurance policy, the same as the state treats benefits paid under such a policy under the state's plan amendment;

(C) any long-term care insurance policy sold would be required to be a tax-qualified policy (Meeting specifications defined in section 7702B(b) of the Internal Revenue Code of 1986) and meet the consumer protection requirements described below;

(D) any policy would be required to provide for compound annual inflation protection of at least 5 percent and asset protection that does not exceed $250,000. This amount would be increased, beginning with 2007, from year-to-year based on the percentage increase in the medical care expenditure category of the Consumer Price Index for Urban Consumers (United States city average), published by the Bureau of Labor Statistics rounded to the nearest $100;

(E) an insurer would be allowed to rescind a LTC insurance policy in effect for at least 2 years or deny an otherwise valid LTC insurance claim only upon a showing (1) of misrepresentation that is material to the acceptance of coverage; (2) pertains to the claim made; and (3) could not have been known by the insurer at the time the policy was sold;

(F) any individual who sells these policies would be required to receive training and demonstrate evidence of an understanding of the policy and how it relates to other public and private LTC coverage; and

(G) the issuer would be required to report, to the Secretary required information, and to report to the state: (1) the information or data reported to the Secretary, (2) the information or data required under the minimum reporting requirements developed under section 103(c)(1)(B) of the Improving LTC Choices Act of 2005, and (3) such additional information or data as the state may require. If a LTC insurance policy is exchanged for another such policy, the effective date of coverage under the first policy would determine when coverage first becomes effective.

LTC insurance policies would be required to meet the following requirements specified in the National Association of Insurance Commissioner's (NAIC) Long-Term Care Insurance Model Regulations and Long-Term Care Insurance Model Act (as adopted as of October 2000). The requirements include the following topics described below.

Model Regulations:

- Guaranteed renewal or noncancellability;
- Prohibitions on limitations and exclusions;
- Extension of benefits;
- Continuation or conversion of coverage;
- Discontinuance and replacement of policies;
- Unintentional lapse;
- Disclosure;
- Required disclosure of rating practices to consumer;
- Prohibitions against post-claims underwriting;
- Minimum standards;
- Application forms and replacement coverage;
- Reporting requirements;
- Filing requirements for marketing;
- Standards for marketing, including inaccurate completion of medical histories;
- Suitability;
- Prohibition against preexisting conditions and probationary periods in replacement policies or certificates;
- Contingent nonforfeiture benefits if the policyholder declines the offer of a nonforfeiture provision;
- Standard format outline of coverage; and
- Deliver shopper's guide.

Model Act:

- Preexisting conditions;
- Prior hospitalization;
- Contingent nonforfeiture benefits;
- Right of return;
- Outline of coverage;
- Requirements for certificates under group plans;
- Policy summary; and
- Monthly reports on accelerated death benefits.

These provisions of the Long-Term Care Insurance Model Regulation and Long-Term Care Insurance Model Act would be treated as including any other provision the Regulation or Act necessary to implement the provision. The determination of whether any requirement under the Model Act or Regulation have been met would be made by the Secretary.

No later than one year after enactment, the Secretary, in consultation with the NAIC, issuers of LTC insurance policies, states with experience with LTC insurance partnership plans, other states, and representatives of consumers of LTC insurance policies would be required to develop uniform standards for:

- Reciprocity. These standards would ensure that LTC insurance policies issued under the state LTC partnership (described in this provision) would be portable to other states with such-LTC insurance partnerships;
- Minimum reporting requirements. These standards would be required to specify the data and information that each issuer of LTC insurance policies under State LTC insurance partnerships shall report to the state with which it has such a partnership. The requirements developed would be required to specify the type and format of the data and information to be reported and the frequency with which such reports are to be made. States would be permitted to require an issuer of LTC insurance policy sold in the state (regardless of whether the policy is issued under a State LTC insurance partnership) to require the issuer to report information or data to the state that is in addition to the information or data required under these minimum reporting requirements;
- Suitability. These standards would be for determining whether a long-term care insurance policy is appropriate for the needs of an applicant (based on guidance of the NAIC regarding suitability).

The Secretary, in consultation with those listed above, would also be required to submit recommendations to Congress with respect to the following:

- Incontestability. Recommendations regarding whether the requirements relating to incontestability for LTC insurance policies sold under a state partnership program should be modified based on NAIC guidance;
- Nonforfeiture. Recommendations regarding whether requirements relating to nonforfeiture for issuers of LTC insurance policies under a state LTC insurance partnership program should be modified to reflect changes in an insured's financial circumstances;
- Independent certification for benefits assessment. Recommendations regarding whether uniform standards for requiring benefits assessment evaluations to be conducted by independent entities should be established for issuers of LTC insurance policies under such a state partnership program, and if so, what such standards should be;
- Rating requirements. Recommendations regarding whether uniform standards for the establishment of, and annual increases in, premiums for LTC insurance policies sold under such a state partnership program should be established and if so, what such standards should be; and
- Dispute Resolution. Recommendations regarding whether uniform standards are needed to ensure fair adjudication of coverage disputes under LTC insurance policies sold under such a state partnership program and the delivery of the benefits promised under such policies.

The DHHS Secretary would be required to annually report to Congress on the LTC insurance partnerships. Such reports would be required to include analyses of the extent to which such partnerships expand or limit access of individuals to LTC and the impact of such partnerships on Federal and State Medicaid expenditures and federal Medicare expenditures.

Effective Date. These amendments would become effective on October 1, 2007 and apply to long-term care insurance policies sold on or after that date.

House Bill

The House bill would amend section 1917(b)(1)(C)(ii) of the Social Security Act to allow additional groups of individuals in states with state plan amendments approved after May 14, 1993 to be exempt from estate recovery requirements if the amendment provides for a qualified state long-term care insurance partnership program. The term "Qualified State LTC Insurance Partnership," would mean a Medicaid State plan amendment that provides for the disregard of any assets or resources in the amount equal to the amount of insurance benefit made to or on behalf of an individual who is a beneficiary under a long-term care policy (including a certificate issued under a group insurance contract), if the following requirements are met:

(I) The policy covers an insured who was a resident of such state when coverage first became effective under the policy. (In the case of a long-term care insurance policy exchanged for another such policy, this requirement would apply based on the coverage of the first such policy that was exchanged);

(II) The policy is a qualified long-term care insurance policy (meeting specifications defined in section 7702B(b) of the Internal Revenue Code of 1986) issued on or after the first day of the first calendar quarter in which the plan amendment was submitted to the Secretary;

(III) If the policy does not provide some level of inflation protection, the insured was offered, before the policy was sold, a long-term care insurance policy that provides some level of inflation protection;

(IV) The state Medicaid agency provides information and technical assistance to the state insurance department on the insurance department's role of assuring that any individual who sells a long-term care insurance policy under the partnership receives training or demonstrates evidence of an understanding of such policies and how they relate to other public and private coverage of long-term care;

(V) The issuer of the policy provides regular reports to the Secretary that include, in accordance with the Secretary's regulations (promulgated after consultation with the states), notification regarding when all benefits provided under the policy have been paid and the amount of such benefits paid, when the policy otherwise terminates, and such other information as the Secretary determines appropriate to the administration of such partnerships;

(VI) The state does not impose any requirement affecting the terms or benefits of such a policy unless the state imposes such requirement on long-term care insurance policies without regard to whether the policy is covered under the partnership or is offered in connection with such a partnership.

The Secretary, as appropriate, would provide copies of the state reports to the state involved and would promote the education of consumers regarding qualified state long-term care insurance partnerships. In addition, in consultation with other appropriate Federal agencies, issuers of long-term care insurance, and the National Association of Insurance Commissioners, the Secretary would develop recommendations for Congress to authorize and fund a uniform minimum data set to be reported electronically by all issuers of long-term care insurance policies under qualified state long-term care insurance partnerships to a secure, centralized electronic query and report generating mechanism that State, the Secretary, and other Federal agencies can access.

To permit portability in long-term care insurance policies purchased under state long-term care insurance partnerships, the Secretary may develop, in consultation with the states and the National Association of Insurance Commissioners, uniform standards for reciprocal recognition of such policies among states with qualified state long-term care insurance partnerships.

Effective Date. A state plan amendment that provides for a qualified state long-term care insurance partnership would be effective for long-term care insurance policies issued on or after a date, specified in the amendment, that is not earlier than the first day of the first calendar quarter in which the plan amendment was submitted to the Secretary.

Conference Agreement

The conference agreement amends section 1917(b)(1)(C)(ii) of the Social Security Act to: (1) require that existing partnership programs not allow consumer protection standards, as defined in a Medicaid state plan amendment, to be less stringent (determined by the Secretary) than those applying under the state plan amendment as of December 31, 2005; and (2) allows certain individuals in states with state plan amendments approved after May 14, 1993 to be exempt from estate recovery requirements if the amendment provides for the disregard of any assets or resources in the amount equal to the amount of insurance benefits made to or on behalf of an individual who is a beneficiary under a long-term care policy (including a certificate issued under a group insurance contract), if the following requirements are met:

(I) The policy covers an insured who was a resident of such state when coverage first became effective under the policy. In the case of a long-term care insurance policy exchanged for another such policy, this requirement applies based on the coverage of the first such policy that was exchanged;

(II) The policy is a qualified long-term care insurance policy (meeting specifications defined in section 7702B(b) of the Internal Revenue Code of 1986) issued not earlier than the effective date of the Medicaid state plan amendment;

(III) The policy meets the following requirements specified in the National Association of Insurance Commissioner's (NAIC) Long-Term Care Insurance Model Regulations and Long-Term Care Insurance Model Act (as adopted as of October 2000).

Model Regulations relating to:

- Guaranteed renewal or noncancellability (including some sections of the Model Act);
- Prohibitions on limitations and exclusions;
- Extension of benefits;
- Continuation or conversion of coverage;
- Discontinuance and replacement of policies;
- Unintentional lapse;
- Disclosure;
- Required disclosure of rating practices to consumer;
- Prohibitions against post-claims underwriting;
- Minimum standards;
- Application forms and replacement coverage;
- Reporting requirements;
- Filing requirements for marketing;
- Standards for marketing, including inaccurate completion of medical histories;
- Prohibition against preexisting conditions and probationary periods in replacement policies or certificates;
- Contingent nonforfeiture benefits if the policyholder declines the offer of a nonforfeiture provision;
- Appropriateness of recommended purchase;
- Standard format outline of coverage; and
- Delivery of shopper's guide.

Model Act relating to:

- Preexisting conditions;
- Prior hospitalization;
- Contingent nonforfeiture benefits;
- Right of return;
- Outline of coverage;
- Requirements for certificates under group plans;
- Policy summary; and
- Monthly reports on accelerated death benefits.

These provisions of the Long-Term Care Insurance Model Regulation and Long-Term Care Insurance Model Act are treated as including any other provision of the Regulation or Act necessary to implement the provision. Long-term care insurance policies issued in a state shall be deemed as meeting the requirements of the model regulation or the Model Act if the state plan amendment provides that the State insurance commissioner for the state certifies (in a manner satisfactory to the Secretary) that the policy meets such requirements.

(IV) If at the date of purchase the purchaser is younger than age 61, the policy must provide for compound inflation; if the purchaser is at least age 61 but not older than age 76, the policy must provide some level of inflation protection; and if the purchaser is age 76 or older, the policy may, but is not required to, provide some level of inflation protection.

(V) The state Medicaid agency provides information and technical assistance to the state insurance department on the insurance department's role of assuring that any individual who sells a long-term care insurance policy under the partnership receives training or demonstrates evidence of an understanding of such policies and how they relate to other public and private coverage of long-term care;

(VI) The issuer of the policy provides regular reports to the Secretary that include, in accordance with the Secretary's regulations (after consultation with the National Association of Insurance Commissioners, issuers of long-term care insurance policies, states with experience with long-term care insurance partnership plans, other states, and representatives of consumers of long-term care insurance policies) notification regarding when all benefits and their amounts under the policy have been paid, when the policy otherwise terminates, and other information that the Secretary determines is appropriate to the administration of the partnership programs. These regulations shall specify the data format and information to be reported, and the frequency with which such reports are to be made. The Secretary, as appropriate, provides copies of the reports to the state involved;

(VII) The state does not impose any requirement affecting the terms or benefits of such a policy unless the state imposes such requirement on long-term care insurance policies without regard to whether the policy is covered under the partnership or is offered in connection with such a partnership.

In consultation with other appropriate Federal agencies, issuers of long-term care insurance, and the National Association of Insurance Commissioners, state insurance commissioners, states with experience with long-term care insurance partnership plans, other states, and representatives of consumers of long-term care insurance policies, the Secretary develops recommendations for Congress to authorize and fund a uniform minimum data set to be reported electronically by all issuers of long-term care insurance policies under qualified state long-term care insurance partnerships to a secure, centralized electronic query and report generating mechanism that State, the Secretary, and other Federal agencies can access.

Not later than 12 months after the National Association of Insurance Commissioners issues a revision, update or other modification of a model regulation or model act provision listed above or substantially related those listed above, the Secretary reviews these changes, determines whether incorporating such changes into the corresponding provision would improve qualified state long-term care insurance partnerships, and, if so, incorporate the changes into the provision.

States may require issuers of long-term care insurance policies sold in that state (regardless of whether the policy is issued under a qualified state long-term care insurance partnership) to report additional information or data to the state.

To permit portability in long-term care insurance policies purchased under state long-term care insurance partnerships, the Secretary develops no later than January 1, 2007, in consultation with the National Association of Insurance Commissioners, states with experience with long-term care insurance partnership plans, other state, and representatives of consumers of long-term care insurance policies, standards for uniform reciprocal recognition of such policies among states with qualified state long-term care insurance partnerships which have benefits paid under such policies will be treated the same by all such states, and states with such partnerships shall be subject to such standards unless the state notifies the Secretary of the State's election to be exempt from such standards.

The Secretary annually reports to Congress on the long-term care insurance partnerships. Such reports would include analyses of the extent to which partnership programs expand or limit access of individuals to long-term care and the impact of such partnerships on federal and state expenditures under Medicare and Medicaid. Nothing in this provision shall require the Secretary to conduct an independent review of each long-term care insurance policy offered under or in connection with a state partnership program.

A state plan amendment that provides for a qualified state long-term care insurance partnership may provide that the amendment be effective for long-term care insurance policies issued on or after a date that is not earlier than the first day of the first calendar quarter in which the plan amendment was submitted to the Secretary.

With respect to policy exchanges, Conferees expect existing policy holders will be able to exchange existing policies for Partnership policies in accordance with policy provisions and state law after a State's plan amendment is effective.

National Clearinghouse for Long-Term Care. The Secretary establishes a National Clearinghouse for Long-Term Care Information (this may be done through a contract or interagency agreement). The National Clearinghouse for Long-Term Care: (1) educates consumers with respect to the availability and limitations of Medicaid long-term care coverage, including state Medicaid eligibility and estate recovery requirements; (2) provides objective information to assist consumers with the decision-making process for determining whether to purchase long-term care insurance or to pursue other private market alternatives for purchasing long-term care; (3) provide contact information for additional objective sources on planning for long-term care services needs; and (4) maintain a list of states with state long-term care insurance partnerships.

In providing information to consumers on long-term care, the National Clearinghouse for Long-Term Care Information shall not advocate in favor of a specific long-term care insurance provider or a specific long-term care insurance policy.

Out of any funds in the Treasury not otherwise appropriated, there is appropriated to carry out for the National Clearinghouse for Long-Term Care $3 million for each of fiscal years 2006 through 2010.

Expanded Access to Borne and Community-based Services for the Elderly and Disabled (Section 6022 of the Conference Agreement, no provision in the Senate Bill, and Section 3131 of the House Bill)

Current law

Medicaid home and community-based service (HCBS) waivers authorized by Section 1915(c) of the Social Security Act allow states to provide home and community-based services to Medicaid beneficiaries who would otherwise need the level of care provided in a nursing facility, intermediate care facility for persons with mental retardation (ICF–MR) or hospital. HCBS waiver services can include case management, homemaker/home health aide services, personal care, psychosocial rehabilitation, home health, private duty nursing, adult day care, habilitation, respite care, day treatment, and any other service requested by the state and approved by the Secretary. As part of the waiver, states may define the services that will be offered, target a specific population (e.g., individuals with developmental disabilities) or a specific geographic region, and limit the number of waiver participants (resulting in a waiting list for services in many states).

Approval for a HCBS waiver is contingent on a state documenting the cost-neutrality of the waiver. Cost-neutrality is met if, on average, the per person cost under the HCBS waiver is no higher than the cost if the person were residing in one of the three types of institutions identified in Medicaid law, (hospital, nursing facility or ICF–MR). The state determines which type of institution(s) it will use to make the cost-neutrality calculation.

A HCBS waiver is generally approved for a 3- or 5-year time period and is subject to additional oversight from the Centers for Medicare and Medicaid Services (CMS). In July 2003, there were 275 HCBS waivers nationwide in all states (except Arizona which offers HCBS services under a Section 1115 waiver).

Senate Bill

No provision.

House Bill

The House bill would allow states to cover a broad range of home and community-based services (HCBS) as an optional benefit under the state Medicaid plan without requiring a waiver. States would be able to define which HCBS services will be covered and could include any service authorized by federal law for existing HCBS waiver programs (as defined in Section 1915(c)(4)(B) of the Social Security Act). Similar to the existing HCBS waiver program, paying for an individual's room and board would not be permitted under this new benefit.

To qualify for this benefit the individual must meet the following criteria: (1) Age 65 or older or disabled (as defined under the Medicaid state plan) but who is not an individual with a developmental disability, mental retardation or a related condition; (2) have had a determination that, but for the provision of such services, the individual would require the level of care provided in a hospital or nursing facility (the cost of which could be reimbursed under Medicaid); and (3) meet the Medicaid eligibility standards in effect in the state (which may include an approved Medicaid waiver) as of the date of enactment of this provision.

A state would be able to cover this benefit under the Medicaid state plan if certain conditions are met: (1) Any state waiver or demonstration under Sections 1915 or 1115 of the Social Security Act with respect to such services for individuals described in this provision must have expired; and (2) the state must monitor and report to the Secretary of the Department of Health and Human Services (DHHS) on a quarterly basis the enrollment and expenditures for services provided under this option.

A state would not be required to comply with existing Medicaid requirements regarding the statewide availability of the service, the comparability of services, and the income and resource rules applicable in the community. A state may also limit the number of individuals who are eligible for services, establish waiting lists for the receipt of these services, and limit the amount, duration, and scope of services.

This section would be effective for home and community-based services furnished on or after October 1, 2006.

Conference Agreement

The conference agreement establishes home and community-based services as an optional Medicaid benefit that would not require a waiver and that meets certain other requirements for individuals whose income does not exceed 150% of the federal poverty level. The scope of services may include any services permitted under Section 1915(c)(4)(B) of the Social Security Act which the Secretary has the authority to approve, and would not include an individual's room and board. The state may provide this option to individuals without determining that but for the provision of such services, the person would require the level of care provided in a hospital, nursing home, or ICF–MR.

States are required to establish needs-based criteria for determining an individual's eligibility for the HCBS option established by this provision, and the specific HCBS the individual will receive. The State must also establish needs-based criteria for determining whether an individual requires the level of care provided in a hospital, nursing home, ICF–MR, or under a waiver of the state plan, that is more stringent than the needs-based criteria for the HCBS option established by this provision.

The state is also required to submit to the Secretary a projection of the number of individuals to be served under the option, and may limit the number of individuals who are eligible for such services.

The needs-based criteria must be based on an assessment of an individual's support needs and capabilities, and may take into account the inability of the individual to perform two or more activities of daily living (ADLs) as defined in the Internal Revenue Service (IRS) code (i.e., bathing, dressing, transferring, toileting, eating, and continence), or the need for significant assistance to perform these activities, and other risk factors determined to be appropriate by the state.

A state is allowed to modify the needs-based criteria described above in the event that enrollment of individuals for the HCBS option exceeds projected enrollment. The state is not required to seek prior approval of the Secretary if the state wishes to modify the needs-based criteria, but must give the Secretary and the public at least 60 days notice of the proposed modification. If a state modifies the needs-based criteria, existing recipients of the HCBS optional state plan services will continue to be eligible to receive those services for at least 12 months beginning on the date the individual first received medical assistance for HCBS services. After such a modification, the state, at a minimum, must apply the level of care determination for hospitals, nursing facilities, and ICF–MRs that were in effect prior to the application of more stringent criteria.

The state is required to use an independent evaluation for determining an individual's eligibility for HCBS. The independent evaluation must include an assessment of the needs of the individual to: (1) determine a necessary level of services and supports consistent with the individual's physical and mental capacity; (2) prevent unnecessary or inappropriate care, and (3) establish an individualized care plan for the individual.

The assessment must include: (1) an objective evaluation of an individual's inability or need for significant assistance to perform two or more activities of daily living as defined in the Internal Revenue Service code; (2) a face-to-face evaluation of the individual by an individual trained in the assessment and evaluation of individuals whose physical or mental conditions trigger a potential need for HCBS; (3) where appropriate, consultation with the individual's family, spouse, guardian, or other responsible individual; (4) consultation with all treating and consulting health and support professionals caring for the individual; (5) an examination of the individual's relevant history and medical records, and care and support needs guided by best practices and research on effective strategies that result in improved health and quality of life outcomes. The assessment must also evaluate the ability of the individual or individual's representative to self-direct the purchase and control of HCBS if he/she elects this option, and if such an option is covered by the state.

The independent evaluation is to establish a written individualized plan of care. The plan must be developed in consultation with the individual, the individual's treating physician, health care or support professionals, or other appropriate individuals, and the family caregiver or individual representative if appropriate; (2) to take into account the extent, and the need for, any family or other supports for the individual; (3) to identify the HCBS services to be provided (or purchase, if the individual elects to self-direct his/her care); (4) to be reviewed at least annually or as needed when there is a significant change in circumstances.

States may allow individual (or the individual's representative) to elect to self-direct the purchase and control of state plan HCBS. Under the self-directed option, the individual's needs, preferences, and capabilities are assessed, and based on the assessment, a service plan is developed jointly with the individual (or representative) that is approved by the state. The service plan must include certain activities such as a person-centered planning process and risk management techniques. States may also include an individualized budget that identifies a dollar value for the services and supports under the control and direction of the individual or his or her representative. States are required to provide information in the state plan amendment about how an individualized budget is developed and implemented.

The state must ensure that the provision of home and community-based services meets federal and state guidelines for quality assurance. The state must establish standards for the conduct of the independent evaluation to prevent conflicts of interest, and must allow for at least annual redetermination of eligibility and appeals using the process for appeals under the State Plan.

States may elect to provide for a period of presumptive eligibility (not to exceed 60 days) for individuals that the state has reason to believe may be eligible for home and community-based services. The covered activities include carrying out the independent evaluation and assessment and, if eligible, the specific services the individual will receive.

In covering this benefit, a state may elect not to comply with existing Medicaid requirements related to statewideness and the income and resource rules applicable in the community, but only for purposes of providing home and community-based services in accordance with this benefit. This option should not be construed as applying to those receiving Medicaid in an institution as a result of a determination that the individual requires the level of care in a hospital, nursing facility or ICF/MR.

Federal Medicaid funding will continue to be available for individuals who are receiving Medicaid in an institution or home and community-based setting (under a HCBS waiver program or Section 1115 demonstration) as of the effective date of the Medicaid state plan amendment, without regard to whether the individuals satisfy the more stringent eligibility criteria established under that paragraph until the individual is discharged from the institution or waiver program, or no longer requires such level of care.

The provision requires the Secretary acting through the Director of the Agency for Healthcare Research and Quality, to consult with consumers and health and social service providers and other professionals knowledgeable about long-term care services and supports to develop program performance indicators, client function indicators, and measures of client satisfaction regarding HCBS offered under Medicaid.

The Secretary is required to use the indicators and measures to assess HCBS and outcomes, particularly with respect to a recipient's health and welfare, and the overall system for RCBS under Medicaid. The Secretary is also required to make best practices and comparative analyses of system features available to the public.

This provision will be effective on January 1, 2007.

Optional Choice of Self-directed Personal Assistance Services (Cash and Counseling) (Section 6023 of the Conference Agreement, and no provision in the Senate Bill, and Section 3132 of the House Bill)

Current law

Under current law, state Medicaid programs offer several types of long-term care services to individuals who, because of disability or chronic illness, need assistance with activities such as eating, bathing, and dressing. Medicaid programs have the option of covering personal care services and may also cover a broad set of other services through a home and community-based services (HCBS) waiver authorized under Section 1915(c) of the Social Security Act. To qualify for a HCBS waiver, the individual must require the level of care of a hospital, nursing facility or intermediate care facility for persons with mental retardation (ICF/MR).

Traditionally, Medicaid personal care and other related services have been provided to individuals through local public or private agencies. However, in the last decade, Medicaid beneficiaries with disabilities or chronic conditions and federal and state policymakers have been increasing the discretion that beneficiaries have over key elements of the service (e.g., what time a personal care worker comes to the home to help the beneficiary, who provides the service, etc.) These types of programs are broadly known as "self-directed" or "consumer-directed" programs. The specific elements that a Medicaid beneficiary can control vary widely depending upon the state and the type of service covered. Currently, Medicaid law allows certain types of self directed programs to be implemented through the normal Medicaid state plan and HCBS waiver process. Other types of self-directed programs require a research and demonstration waiver under Section 1115 of the Social Security Act.

Under the Medicaid personal care benefit, the Centers for Medicare and Medicaid Services (CMS) explicitly permits self-direction of personal care services. The CMS State Medicaid Manual specifies, "Medicaid beneficiaries may hire their own provider, train the provider according to their personal preferences, supervise and direct the provision of the personal care services and, if necessary, fire the provider." However, the state Medicaid agency maintains responsibility for monitoring service delivery and ensuring that qualified providers are delivering the personal care services. The state is not permitted to provide Medicaid funds directly to a consumer to pay for the personal care services.

Generally, CMS policy has been that payments for personal care (or similar) services delivered by legally responsible individuals (e.g., the parent of a minor child or a spouse) are not eligible for federal Medicaid matching funds. However, CMS has recently amended its policy so that under a HCBS waiver (though not the Medicaid personal care benefit), states have the option of paying legally responsible relatives in extraordinary circumstances when the provision of personal care services is determined to be necessary to ensure the health and welfare of the waiver participant and so long as the parent or spouse meets the Medicaid provider requirements established by the state.

Senate Bill

No provision.

House Bill

This proposal would allow a state to cover, under the Medicaid program, payment for part or all of the cost of self-directed personal assistance services (other than room and board) based on a written plan of care to individuals for whom there has been a determination that, but for the provision of such services, the individuals would require and receive personal care services under Medicaid state plan or home and community-based services under a HCBS waiver. Self-directed personal assistance services may not be provided to individuals who reside in a home or property that is owned, operated, or controlled by a provider of services, not related by blood or marriage.

The Secretary must not approve a state's self-directed personal assistance services program unless the state assures that the necessary safeguards have been taken to protect the health and welfare of individuals receiving these services and that financial accountability exists for funds expended for these services.

The state must also evaluate the need for personal care under the Medicaid state plan or personal services under a HCBS waiver for individuals who (1) are entitled to Medicaid personal care under the state plan or receive HCBS waiver services; (2) may require self-directed personal assistance services; and (3) may be eligible for self-directed personal assistance services. If covered by the state and at the choice of the individual, those who are likely to require personal care or HCBS waiver services must be informed of the feasible alternatives in the provision of Medicaid personal care services or personal assistance services under a HCBS waiver. The state must also provide a support system that ensures participants in the program are appropriately assessed and counseled prior to enrollment and are able to manage their budgets. Additional counseling and management support may be provided at the request of the participant.

The state will be required to submit an annual report to the Secretary which includes the number of individuals served and total expenditures on their behalf, in the aggregate. The state must also provide an evaluation of overall impact on the health and welfare of participants compared to non-participants every three years.

A state may provide self-directed personal assistance services under the state plan without regard to the Medicaid requirements for statewideness (under Section 1902(a)(1) of the Social Security Act), and may limit the population eligible to receive these services and the number of persons served without regard to Medicaid requirements regarding comparability (Section 1902(a)(10)(B) of the Social Security Act).

Under this provision, the term "self-directed personal assistance services" means personal care and related services, or HCBS waiver services that are provided to an eligible participant. Individuals participating in such services will be permitted, within an approved self-directed services plan and budget, to purchase personal assistance and related services, and hire, fire, supervise, and manage the individuals providing such services.

At the election of the state, a participant will be allowed to (1) choose as a paid service provider, any individual capable of providing the assigned tasks including legally liable relatives, and (2) use the individualized budget to acquire items that increase independence or substitute (such as a microwave oven or an accessibility ramp) for human assistance, to the extent that expenditures would otherwise be made for the human assistance.

An approved self-directed services plan and budget under this provision must meet the following requirements: (1) The participant (or his/her guardian or authorized representative if appropriate) exercises choice and control over the budget, planning, and purchase of self-directed personal assistance services, including the amount, duration, scope, provider and location of service provision: (2) There is an assessment of the needs, strengths, and preferences of the participants for such service; (3) An individual's plan for self-directed services and supports, which has been developed and approved by the state, is based on a person-centered assessment process that builds upon the participant's capacity to engage in activities that promote community life; respects the participant's preferences, choices and abilities; and involves families, and professionals in the planning or delivery of services or supports as desired or required by the participant.

The budget for self-directed services and supports must be developed and approved by the state based on the assessment and plan (described above), and on a methodology that uses valid,reliable cost data, is open to public inspection, and includes a calculation of the expected cost of such services if those services were not self-directed. The budget may not restrict access to other medically necessary care and services furnished under the plan and approved by the state but not included in the budget.

In establishing and implementing the self-directed services plan and budget, appropriate quality assurance and risk management techniques must be used which recognize the roles and sharing of responsibilities in obtaining services in a self-directed manner and which assure the appropriateness of the plan and the budget, based on the individual's resources and capabilities.

A state may employ a financial management entity to make payments to providers, track costs, and make reports under this program. Payment for the activities of the financial management entity will be reimbursed at the same rate as other Medicaid administrative activities (generally federal Medicaid administrative reimbursement is 50%, though certain activities may be eligible for 75% reimbursement).

This provision win apply to apply to services furnished on or after January 1, 2006.

Conference Agreement

The conference agreement follows the House provision except that the effective date has been changed to January 1, 2007.

Authority to continue providing certain adult day health care services or medical adult day care services (No provision in Conference Agreement, Section 6039B of Senate Bill, and no provision in the House Bill)

Current Law

Most states currently offer adult day care services to Medicaid beneficiaries through either the rehabilitation or clinic benefits of the Medicaid state plan (in about 8 states), or through a home and community-based (HCBS) waiver under Section 1915(c) of Medicaid law (in about 44 states through 102 separate HCBS programs).

Senate Bill

The Senate bill would prohibit the Secretary of HHS from denying federal Medicaid funding or withdrawing federal approval for adult day health care services or medical adult day care services under the Medicaid state plan, as defined by the state and approved by the Secretary on or before 1982.

House Bill

No provision.

Conference Agreement

No provision.

Chapter 3—Eliminating Fraud, Waste, and Abuse in Medicaid

Limitation on Use of Contingency Fee Arrangements (Section 6031 of the Conference Agreement, Section 6022 of the Senate Bill, and no provision in the House Bill)

Current Law

Federal law requires each state to designate a single state agency to administer or supervise the administration of its Medicaid program. This agency, which is usually part of a welfare, health, or human resources umbrella agency, will often contract with other public or private entities (e.g., other state agencies or departments, consulting firms) to perform various administrative functions. In some cases, contingency fee arrangements are used to pay contractors based on Medicaid dollars saved, recovered, or otherwise obtained for the state (e.g., a fee equal to 10% of third party liability collections). The federal reimbursement rate for most Medicaid administrative costs is 50%.

In determining the amount of administrative costs—including contingency fees—that may be eligible for federal reimbursement, states must comply with a number of federal statutes and regulations. In general, federal Medicaid law requires states to use methods of administration that are found by the Secretary of HHS to be necessary for the proper and efficient operation of their Medicaid programs. With regard to contingency fee contracts, guidance issued by the Centers for Medicare and Medicaid Services (CMS) to its regional offices in 2002 notes that in order to be eligible for federal reimbursement, contingency fees must: (1) be based on Medicaid cost avoidance savings or recoveries in which the federal government shares, (2) be intended to produce Medicaid program savings, not additional expenditures reported for federal reimbursement, and (3) not be contingent upon recoveries from the federal government. CMS guidance also notes that states may not claim federal reimbursement for contingency fee payments made to another government unit for Medicaid administrative activities.

Additional federal guidance is contained in Office of Management Budget (OMB) Circular A–87, which establishes principles and standards for determining allowable costs for states (and other governmental units) under federal grant programs such as Medicaid. The circular specifies that the cost of professional and consultant services are allowable when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the federal government.

Senate Bill

Under the Senate bill, states would not be eligible for federal reimbursement of amounts expended in connection with a contract or agreement (other than a Medicaid managed care contract) between the state Medicaid agency (or any state or local agency that administers a portion of the Medicaid program) and a consultant or other contractor if the terms of compensation for the consultant or other contractor do not meet standards established by the Inspector General (IG) of HHS.

Such standards would be designed by the IG to ensure prudent purchasing and program integrity with respect to federal funds. The IG would annually review the standards and revise them as necessary to promptly address new compensation arrangements that may present a risk to Medicaid program integrity. The standards would be issued no later than six months after enactment of the provision.

The provision would be effective January 1, 2007, except that in the case of a state which the Secretary of HHS determines that state legislation is required for compliance, the state would not be regarded as failing to comply solely on the basis of its failure to meet the requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the state legislature that begins after the date of enactment of the bill.

House Bill

No provision.

Conference Agreement

The conference agreement follows the House bill.

Encouraging the Enactment of State False Claims Acts (Section 6032 of the Conference Agreement, Section 6023 of the Senate Bill, and no provision in the House Bill)

Current Law

Under the federal False Claims Act, anyone who knowingly submits a false claim to the federal government is liable for damages up to three times the amount of the government's damages plus mandatory penalties of $5,500 to $11,000 for each false claim submitted. Under *qui tam* (whistleblower) provisions of the act, private citizens with knowledge of potential violations ("relators") may file suit on behalf of the government and are entitled to receive a share of the proceeds of the action or settlement of the claim (ranging from 15% to 30%, depending on whether or not the government elects to participate in the case).

States may have a variety of laws in place to facilitate prosecution of Medicaid fraud, and some have established their own versions of a false claims act. With limited exceptions, a state must repay the federal share (generally determined by the federal medical assistance percentage, or FMAP) of any provider overpayment within 60 days of discovering the overpayment, regardless of whether or not the state has recovered the overpayment.

Senate Bill

Under the Senate bill, if a state has in effect a law relating to false or fraudulent claims that meets certain requirements (described below), the federal medical assistance percentage, with respect to any amounts recovered under a state action brought under such a law, would be decreased by 10 percentage points.

The state law relating to false and fraudulent claims must be determined by the Inspector General of HHS, in consultation with the Attorney General, to: (1) establish liability to the state for false or fraudulent claims described in the federal False Claims Act, with respect to Medicaid expenditures, (2) contain provisions that are at least as effective in rewarding and facilitating *qui tam* actions as those in the federal False Claims Act, (3) contain a requirement for filing an action under seal for 60 days with review by the state Attorney General, (4) contain a civil penalty that is not less than the amount authorized by the federal False

Claims Act, (5) contain provisions that are designed to prevent a windfall recovery for a *qui tam* relator that files a federal and state action for the same false or fraudulent claim.

The provision would be effective January 1, 2007.

House Bill

No provision.

Conference Agreement

The conference agreement follows the Senate bill, but excludes language regarding windfall recoveries for *qui tam* relators.

Employee Education About False Claims Recovery (Section 6033 of the Conference Agreement, Section 6024 of the Senate Bill, and no provision in the House Bill).

Current Law

No provision.

Senate Bill

Under the Senate bill, a state would be required to provide that any entity that receives annual Medicaid payments of at least $1 million, as a condition of receiving such payments, must: (1) establish written policies, procedures, and protocols for training of all employees of the entity, and of any contractor or agent of the entity, that includes a detailed discussion of the federal False Claims Act, federal administrative remedies for false claims and statements, any state laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in federal health care programs, (2) include in such written materials detailed provisions and training regarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse, (3) include in any employee handbook for the entity a specific discussion of such laws, the rights of employees to be protected as whistleblowers, and the entity's policies and procedures for detecting and preventing fraud, waste, and abuse, and (4) require mandatory training for all employees of the entity and of any contractor or agent of the entity, at the time of hiring, with respect to such laws and the entity's policies and procedures for detecting fraud, waste, and abuse.

The provision would be effective January 1, 2007, except that in the case of a state which the Secretary of HHS determines that state legislation is required for compliance, the state would not be regarded as failing to comply solely on the basis of its failure to meet the requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the state legislature that begins after the date of enactment of the bill.

House Bill

No provision.

Conference Agreement

The conference agreement follows the Senate bill, but applies only to entities receiving annual Medicaid payments of at least $5 million and does not require the establishment of protocols and procedures for training of employees (i.e., only written policies are required).

Prohibition on Restocking and Double Billing of Prescription Drugs (Section 6034 of the Conference Agreement, and Section 6025 of the Senate Bill, and no provision in the House Bill)

Current Law

No provision.

Senate Bill

The Senate bill would prohibit federal matching payments for the ingredient cost of a covered outpatient drug for which the pharmacy has already received payment (other than a reasonable re-stocking fee). It would become effective on the first day of the first fiscal quarter beginning after enactment.

House Bill

No provision.

Conference Agreement

The conference agreement includes the Senate provision.

Medicaid Integrity Program (Section 6035 of the Conference Agreement, Section 6026 of the Senate Bill, and no provision in the House Bill)

Current Law

States and the federal government share in the responsibility for safeguarding Medicaid program integrity. States must comply with federal requirements designed to ensure that Medicaid funds are properly spent (or recovered, when necessary). The Centers for Medicare and Medicaid Services (CMS) is the primary federal agency responsible for providing oversight of states' activities and facilitating their program integrity efforts. The HHS Office of Inspector General (GIG) also plays a role in Medicaid fraud and abuse detection and prevention efforts through its investigations, audits, evaluations, issuances of program recommendations, and other activities.

As part of its program integrity activities, CMS operates a Medicare-Medicaid (MediMedi) data match project that analyzes claims data from both programs together to detect aberrant patterns that may not be evident when billings are viewed in isolation (e.g., providers submitting claims to both programs for procedures that add up to more than 24 hours of patient care in a single day). The Medi-Medi project began with one state in 2001, and was subsequently expanded to include eight others. It is primarily supported by "wedge" funds from the Health Care Fraud and Abuse Control (HCFAC) account within the federal Hospital Insurance (Medicare Part A) trust fund. HCFAC wedge funds are divided between the Department of Justice, the HHS Office of Inspector General, CMS, and other HHS agencies. The HCFAC account also funds the Medicare Integrity Program and activities of the Federal Bureau of Investigation related to health care fraud. Annual minimum and maximum HCFAC appropriations are specified in statute.

Senate Bill

The Senate bill would establish a Medicaid Integrity Program under title XIX. The Secretary of HHS would enter into contracts with eligible entities to carry out the program's activities, which would include: (1) review of the actions of individuals or entities furnishing items or services for which a Medicaid payment may be made, (2) audit of claims for payment for items or services furnished or for administrative services rendered, (3) identification and recovery of overpayments to individuals or entities receiving federal funds under Medicaid, (4) education of service providers, managed care entities, beneficiaries, and other individuals with respect to payment integrity and benefit quality assurance issues.

An entity would be eligible to enter into a contract to carry out Medicaid Integrity Program activities if it meets eligibility and contracting requirements similar to those under the Medicare Integrity Program. Beginning in FY2006 and every five years, the Secretary of HHS—in consultation with the Attorney General, the Director of the Federal Bureau of Investigation, the Comptroller General of the United States, the Inspector General of HHS, and state officials with responsibility for controlling provider fraud and abuse under Medicaid—would establish a comprehensive plan for ensuring Medicaid program integrity by combating fraud, waste, and abuse.

Appropriations for the Medicaid Integrity Program would total $50 million in FY2006, $49 million in each of FY2007 and FY2008, $74 million in each of FY2009 and FY2010, and $75 million in FY2011 and each fiscal year thereafter. No later than 180 days after the end of each fiscal year (beginning with FY2006), the Secretary of HHS would submit a report to Congress that identifies the use and effectiveness of the use of such funds.

A Medicaid Chief Financial Officer (CFO) and Medicaid Program Integrity Oversight Board would also be established under title XIX. The Medicaid CFO would be appointed by and would report directly to the Administrator of CMS. The duties and authority of the Medicaid CFO would be comparable to those of other CFOs with respect to the management and expenditure of federal funds under federal health care programs. A Medicaid Program Integrity Oversight Board would also be established by the Secretary of HHS. The duties and authority of the board would be comparable to those of the Medicare Contractor Oversight Board, and would include responsibility for identifying vulnerabilities and developing strategies for minimizing integrity risks to state Medicaid programs.

States would be required to comply with any requirements determined by the Secretary of HHS to be necessary for carrying out the Medicaid Integrity Program, or the duties of the Medicaid CFO and the Medicaid Program Integrity Oversight Board.

In each of fiscal years 2006 through 2010, $25 million would be appropriated for Medicaid activities of the HHS Office of Inspector General (in addition to any other amounts appropriated or made available for its Medicaid activities, to remain available until expended). No later than 180 days after the end of each fiscal year (beginning with FY2006), the Inspector General of HHS would submit a report to Congress that identifies the use and effectiveness of the use of such funds.

The Secretary of HHS would significantly increase the number of full-time equivalent CMS employees whose duties consist solely of ensuring the integrity of the Medicaid program.

House Bill

No provision.

Conference Agreement

The conference agreement generally follows the Senate bill, but excludes recovery of overpayments from the list of Medicaid Integrity Program activities and does not establish a Medicaid CFO or oversight board. It appropriates $5 million in FY2006, $50 million in each of FY2007 and FY2008, and $75 million in each fiscal year thereafter for Medicaid Integrity Program activities.

The conference agreement also establishes a national expansion of the Medicare-Medicaid data match project (referred to as the Medi-Medi Program) as a required activity of the Medicare Integrity Program under Title XVIII of the Social Security Act. The Secretary of HHS shall enter into contracts with eligible entities to ensure that the Medi-Medi Program is conducted for the purpose of: (1) identifying program vulnerabilities in Medicare and Medicaid through the use of computer algorithms to look for payment anomalies, (2) working with states, the Attorney General, and the Inspector General of HHS to coordinate appropriate actions to protect Medicare and Medicaid expenditures, and (3) increasing the effectiveness and efficiency of both programs through cost avoidance, savings, and recoupment of fraudulent, wasteful, or abuse expenditures. At least quarterly, the Secretary shall make available in a timely manner any data and statistical information collected by the Medi-Medi Program to the Attorney General, the Director of the Federal Bureau of Investigation, the Inspector General of HHS, and the states.

In addition to HCFAC appropriations for the Medicare Integrity Program (which have a statutory floor and ceiling), the Medi-Medi Program would receive $12 million in FY2006, $24 million in FY2007, $36 million in FY2008, $48 million in FY2009, and $60 million in FY2010 and each fiscal year thereafter.

Enhancing Third Party Identification and Payment (Section 6036 of the Conference Agreement, Section 6021 of the Senate Bill, and Section 3144 of the House Bill)

Current Law

Third-party liability (TPL) refers to the legal obligation of third parties—individuals, entities, or programs—to pay all or part of the expenditures for medical assistance furnished under a Medicaid state plan. In general, federal law requires Medicaid to be the payor of last resort, meaning that all other available third parties must meet their legal obligation to pay claims before the Medicaid program pays for the care of an individual. Examples of third parties which may be liable to pay for services include employment-related health insurance, court-ordered medical support (including health insurance) from noncustodial parents, workers' compensation, long-term care insurance, and other state and federal programs (with certain exceptions, such as the Indian Health Service).

States are required to take all reasonable measures to ascertain the legal liability of third parties to pay for care and services available under the state Medicaid plan. To this end, they must: (1) collect health insurance information from individuals at the time of initial application for Medicaid and during any subsequent redeterminations of eligibility, (2) match data provided by Medicaid applicants and recipients to certain files maintained by government agencies (e.g., state wage and income, Social Security Administration wage and earnings, state workers' compensation, state motor vehicle accident reports), (3) identify claims with diagnosis codes that would indicate trauma-related injury for which a third party may be liable for payment, and (4) follow up on TPL leads identified through these information-gathering activities.

If the state has determined that probable third party liability exists at the time a claim for reimbursement is filed, it generally must reject the claim and return it to the provider for a determination of the amount of third party liability (referred to as "cost avoidance"). If probable liability has not been established or the third party is not available to pay the individual's medical expenses, the state must pay the claim and then attempt to recover the amount paid (referred to as "pay and chase"). States are generally required to cost avoid claims unless they have an approved waiver that allows them to use the pay and chase method.

As a condition of eligibility for Medicaid, individuals are required to assign to the state Medicaid agency their rights to medical support and payment for medical care from any third party. This assignment of rights facilitates TPL recovery by allowing the state to collect, on behalf of Medicaid enrollees, amounts owed by third parties for claims paid by Medicaid.

Senate Bill

The Senate bill would amend the list of third parties named in Section 1902(a)(25) of the Social Security Act for which states must take all reasonable measures to ascertain the legal liability to include: (1) self-insured plans, (2) pharmacy benefit managers, and (3) other parties that are legally responsible (by statute, contract, or agreement) for payment of a claim for a health care item or service. It would also amend that section to include these entities in the list of health insurers that states must prohibit from taking an individual's Medicaid status into account when enrolling the individual or making payments for benefits to or on behalf of the individual.

In addition, it would require a state to provide assurances satisfactory to the Secretary of HHS that it has laws in effect requiring health insurers (including parties that are legally responsible for payment of a claim for a health care item or service), as a condition of doing business in the state, to: (1) provide, upon request of the state, eligibility and claims payment data with respect to individuals who are eligible for or receiving Medicaid, (2) accept an individual's or other entity's assignment of rights (i.e., rights to payment from the parties) to the state, (3) respond to any inquiry from the state regarding a claim for payment for any health care item or service submitted not later than three years after the date such item or service was provided, and (4) agree not to deny a claim submitted by the state solely on the basis of the date of submission of the claim.

The provision would be effective January 1, 2006, except that in the case of a state which the Secretary of HHS determines that state legislation is required for compliance, the state would not be regarded as failing to comply solely on the basis of its failure to meet the requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the state legislature that begins after the date of enactment of the bill.

House Bill

The House bill is similar to the Senate bill.

Conference Agreement

The conference agreement generally follows the Senate and House bills, but substitutes the term "managed care organization" for "health maintenance organization" in Section 1902(a)(25) of the Social Security Act and specifies that states must require parties legally responsible for payment of a claim to provide, upon request of the state, information to determine during what period an individual or their spouses and dependents may be (or may have been) covered by a health insurer and the nature of the coverage that is or was provided by the health insurer (including the name, address, and identifying number of the plan) in a manner prescribed by the Secretary of HHS.

Chapter 4—Flexibility in Cost Sharing and Benefits

State Option for Alternative Medicaid Premiums and Cost Sharing (Section 6041 of the Conference Agreement, no provision in the Senate Bill, and Sections 3121 and 3126 of the House Bill)

Current Law

With some exceptions, premiums and enrollment fees are generally prohibited under Medicaid. When applicable, nominal amounts for such charges are between $1 and $19 depending on family income. States are allowed to establish nominal service-related cost-sharing requirements that are generally between $0.50 and $3, depending on the cost of the service provided. The regulations that specify nominal premium and service-related cost-sharing amounts were published and amended in the late 1970s and the early 1980s. These amounts are not adjusted by any factor. Specific services and groups are exempted from such cost-sharing. Waiver authority is required to change these rules.

Under certain circumstances, families qualifying for transitional Medicaid, pregnant women and infants with income over 150% FPL, medically needy groups, and workers with disabilities may be charged premiums for Medicaid coverage.

All service-related cost-sharing is prohibited for: (1) children under 18 years of age; (2) pregnant women for any services that relate to the pregnancy or to any other medical condition which may complicate pregnancy; (3) services furnished to individuals who are inpatients in a hospital, or are residing in a long term care facility or in another medical institution if the individual is required to spend most of their income for medical care; (4) services furnished to individuals receiving hospice care; (5) emergency services; and (6) family planning services and supplies. For most other beneficiaries and services, states may impose nominal service-related cost-sharing (described above). For workers with disabilities, service-related cost-sharing may be required that exceeds nominal amounts as long as they are set on a sliding scale based on income.

Under the state Medicaid plan, providers must not deny care or services to Medicaid beneficiaries due to the individual's inability to pay a cost-sharing charge. However, this requirement does not eliminate the beneficiary's liability for payment of such charges. For certain groups of pregnant women and infants for which monthly premiums may be charged, states must not require prepayment and must not terminate Medicaid eligibility for failure to pay such premiums until such failure continues for at least 60 days. States may waive those premiums when such payments would cause undue hardship.

States may offer Medicaid to certain uninsured women who are under age 65, and are in need of treatment for breast or cervical cancer based on screening services provided by an early detection program run by the CDC. This group has access to the same Medicaid services offered to the categorically needy in a given state, and are subject to Medicaid's nominal cost-sharing rules.

Senate Bill

No provision.

House Bill

The House Bill would allow states to impose premiums and cost-sharing for any group of individuals for any type of service, through Medicaid state plan amendments (rather than waivers), subject to specific restrictions. Premiums and cost-sharing imposed under this option would be allowed to vary among classes or groups of individuals, or types of service, including through the use of tiered cost-sharing for prescription drugs. Generally, the total amount of annual cost-sharing for all individuals in a family would be capped at 5% of family income for all families regardless of income. Individuals in families with income below 100% FPL would not be subject to premiums but could be subject to nominal service-related cost-sharing.

Individuals in families with income exceeding 100% FPL may be subject to premiums and higher than nominal cost-sharing amounts.

Premiums would not be permitted for: (1) mandatory groups of children under 18, including individuals receiving adoption or foster care assistance under Title IV–E regardless of age; (2) pregnant women; (3) terminally ill persons receiving Medicaid hospice care; (4) individuals in institutions who are required to spend for costs of care all but a minimal amount of their income for personal needs. States may exempt additional groups from premiums.

Service related cost-sharing would not be permitted for: (1) services provided to mandatory groups of children under 18, including individuals receiving adoption or foster care assistance under Title IV–E regardless of age; (2) preventive services provided to children under 18 regardless of family income; (3) services provided to pregnant women that relate to pregnancy or to other medical conditions that may complicate pregnancy; (4) services provided to individuals receiving Medicaid hospice services; (5) services provided to individuals in institutions who are required to spend for costs of care all but a minimal amount of their income for personal needs; (6) emergency services; and (7) family planning services and supplies. States may exempt additional individuals or services from service-related cost-sharing.

In applying limits on cost-sharing amounts under this option that states may impose on individuals under 100% FPL, beginning with 2006, the Secretary would be required to increase nominal amounts of service-related cost-sharing by the annual percentage increase in the medical care component of the consumer price index (CPI) for all urban consumers (U.S. city average), as rounded up in an appropriate manner.

The bill further specifies that these provisions would not prevent states from further limiting cost-sharing, affect the authority of the Secretary to waive limits on premiums or cost-sharing, nor affect waivers in effect before the date of enactment.

The bill would allow states to condition the provision of medical assistance on the payment of premiums, and to terminate Medicaid eligibility on the basis of failure to pay a premium if that failure continues for at least 60 days. States may apply this provision to some or all groups of beneficiaries, and may waive premium payments in cases where such payments would be an undue hardship. In addition, the provision would allow states to permit providers participating in Medicaid to require a Medicaid beneficiary to pay authorized cost-sharing as a condition for the provision of care or services. Providers would also be allowed to reduce or waive cost-sharing amounts.

The Government Accountability Office (GAO) would be required to conduct a study of the impact of premiums and cost-sharing under Medicaid on access to and utilization of services. The report would be required to be submitted to Congress no later than January 1, 2008.

These provisions would apply to cost-sharing for items and services furnished on or after January 1, 2006. The House bill also specifies that none of the proposed cost-sharing (or benefit) provisions described above would apply to women who qualify for Medicaid under the breast and cervical cancer eligibility group.

Conference Agreement

The conference agreement includes the House bill, with modifications. It clarifies that rules with respect to optional cost sharing for prescribed drugs (see below) are separate from the rules for other optional cost sharing. Explicit cost sharing limits for individuals in families with income under 100% FPL are dropped in the conference agreement. For individuals in families with income between 100 and 150% FPL: (1) no premiums may be imposed, (2) cost sharing for any item or service cannot exceed 10% of the cost of the item or service, and (3) the total aggregate amount of all cost-sharing (including cost sharing for prescribed drugs and emergency room copayments for non-emergency care; see below) cannot exceed 5% of family income as applied on a quarterly or monthly basis as specified by the state. For individuals in families with income above 150% FPL: (1) the total aggregate amount of all cost sharing (including cost sharing for prescribed drugs and emergency room copayments for non-emergency care) cannot exceed 5% of family income as applied on a quarterly or monthly basis as specified by the state, and (2) cost-sharing for any item or service cannot exceed 20% of the cost of the item or service.

Two groups are added to the list of those exempt from paying premiums and cost-sharing under the House bill. In the conference agreement, these additional groups include (1) children in foster care who receive aid and assistance under Part B of Title IV (Child and Family Services) of the Social Security Act; and (2) women who qualify for Medicaid under the breast and cervical cancer eligibility group (a technical change from the House bill).

In addition, the agreement clarifies that providers could reduce or waive cost-sharing on a case-by-case basis.

Under the conference agreement, increases in the nominal cost-sharing amounts follow the House bill (i.e., annual adjustments using the medical CPI), but apply more broadly to existing cost-sharing provisions in statute (Section 1916) as well as to the new cost-sharing provisions in the House bill specific to prescription drugs and non-emergency care provided in an emergency room (described below).

Special Rules for Cost Sharing for Prescription Drugs (Section 6042 of the Conference Agreement, no provision in the Senate Bill, and Section 3122 of the House Bill)

Current Law

States are allowed to establish nominal service-related cost-sharing requirements (defined in regulation) that are generally between $0.50 and $3, depending on the cost of the service provided. Specific services and groups are exempted from such cost-sharing. Waiver authority is required to change these rules. As with other Medicaid benefits, nominal cost-sharing may be imposed on prescribed drugs, and states may vary nominal cost-sharing amounts for preferred and non-preferred drugs. States may also implement prior authorization for prescribed drugs.

Senate Bill

No provision.

House Bill

The House bill would allow states to impose cost-sharing amounts that exceed the proposed state option limits described above for certain state-identified non-preferred drugs if the cost sharing plan meets the following characteristics. Under this option, states may impose higher cost-sharing amounts for non-preferred drugs within a class; waive or reduce the cost-sharing otherwise applicable for preferred drugs within such class; and must not apply such cost-sharing for preferred drugs to persons exempt from cost-sharing (identified above).

Cost-sharing for non-preferred drugs would be based on multiples of the nominal amounts based on family income. For persons with family income below 100% of FPL, nominal cost sharing would apply. For those with family income at or above 100% but below 150% of FPL, the multiple is equal to two times the applicable nominal amount, and for those with income equal to or exceeding 150% of FPL, the multiple is equal to three times the applicable nominal amount. For persons generally exempt from cost-sharing (identified above), cost-sharing for non-preferred drugs may be applied. Such cost-sharing may not exceed nominal amounts, and aggregate caps on cost-sharing (in terms of nominal amounts and maximum cost-sharing based on the specified percentage of family income identified above) would still apply.

For Medicaid purposes, states would not be allowed to treat a preferred drug under the TRICARE pharmacy benefit program as a non-preferred drug, nor could states impose cost-sharing that exceeds the standards under this program that are in effect on the date of enactment for this provision.

In cases in which a prescribing physician determines that the preferred drug would not be effective or would have adverse health effects or both, the state may impose the cost-sharing amount for preferred drugs on the prescribed non-preferred product.

The House bill would not prevent states from excluding specified drugs or classes of drugs from these special cost-sharing rules.

States would be prohibited from implementing these special cost-sharing rules for prescription drugs unless the state has instituted a system for prior authorization and related appeals processes for outpatient prescription drugs.

These provisions would become effective for cost-sharing imposed for items and services furnished on or after October 1, 2006.

Conference Agreement

The conference agreement includes the House bill, with modifications. Cost-sharing for non-preferred drugs may not exceed: (1) nominal amounts for individuals in families with income below or equal to 150% FPL, and (2) 20% of the cost of the drug for individuals in families with income above 150% FPL.

The conference agreement also drops both the TRICARE and the prior authorization appeals process provisions in the House bill. It also changes the effective date of these provisions to January 1, 2007.

Emergency Room Copayments for Non-Emergency Care (Section 6043 of the Conference Agreement, no provision in the Senate Bill, and Section 3123 of the House Bill)

Current Law

Waivers may be used to allow states to impose up to twice the otherwise applicable nominal cost-sharing amounts for non-emergency services provided in a hospital emergency room (ER). States may impose these higher amounts if they have established that Medicaid beneficiaries have available and accessible alternative sources of non-emergency, outpatient services.

Senate Bill

No provision.

House Bill

The House bill would allow states, through a state plan amendment, to impose increased cost-sharing on state-specified groups for non-emergency services provided in an ER, when certain conditions are met. First, alternative non-emergency providers must be available and accessible to the person seeking care. Second, after initial screening but before the nonemergency care is provided at the ER, the beneficiary must be told: (1) the hospital can require a higher copayment, (2) the name and location of an alternative non-emergency provider and that this provider and that a lower copayment may apply, and (3) the hospital can provide a referral. When these conditions are met, states could apply or waive cost-sharing for services delivered by the alternate provider.

For persons with income below 100% FPL, cost-sharing for non-emergency services in an ER could not exceed twice the nominal amounts. Individuals exempt from premiums or service-related cost-sharing under other provisions of this bill may be subject to nominal copayments for non-emergency services in an ER, only when no cost-sharing is imposed for care in hospital outpatient departments or by other alternative providers in the area served by the hospital ER. Aggregate caps on cost-sharing established under this bill (described in Sec. 3121(a)) would still apply.

These provisions would have no impact on a hospital's obligations with respect to screening and stabilizing emergency medical conditions, nor would they modify the application of the prudent-layperson standard with respect to payment or coverage of emergency services by any managed care organization. In addition, no hospital or physician that makes a cost-sharing determination would be liable in any civil action or proceeding, absent a finding by clear and convincing evidence of gross negligence. Liabilities related to the provision of care (or failure to do so) would not be affected by these provisions.

"Non-emergency services" would mean any care or services furnished in an ER that the physician determines does not constitute an appropriate medical screening examination or stabilizing examination and treatment screening required for hospitals under Medicare law (regarding examination and treatment for emergency medical conditions and women in labor). "Alternative non-emergency services provider" would mean a Medicaid-participating health care provider, such as a physician's office, health care clinic, community health center, hospital outpatient department, or similar health care provider that provides clinically appropriate services for such diagnosis or treatment of the condition within a clinically appropriate time of the provision of such non-emergency services.

The Secretary would be required to provide for payments to states for the establishment of alternate non-emergency providers, or networks of such providers. The House bill also authorizes and appropriates $100 million for paying such providers for the 4-year period beginning with 2006. The Secretary would be required to give a preference to states that establish or provide for alternate non-emergency services providers (or networks) that serve rural or underserved areas where beneficiaries may have limited access to primary care providers, or in partnership with local community hospitals. To access these funds, states would be required to file an application meeting requirements set by the Secretary.

These amendments would apply to non-emergency services furnished on or after the date of enactment of this Act.

Conference Agreement

The conference agreement includes the House bill, with modifications. This provision allows states to permit a hospital to impose cost sharing for non-emergency care delivered in an ER under the same conditions identified in the House bill. But the conditions defining the beneficiary notification process are expanded to explicitly include a medical screening examination for emergency medical conditions as defined in Medicare law and a determination that such an emergency does not exist, prior to the delivery of non-emergency care in the ER. In addition, the hospital (not the physician or hospital) is responsible for the notification process.

The conference agreement clarifies that no hospital or physician can be held liable in any civil action or proceeding for the imposition of cost sharing under this new option, absent a finding of gross negligence by the hospital or physician. This provision does not affect liability with respect to examination and treatment for emergency medical conditions (including women in labor) as specified in Medicare law or otherwise applicable under state law based on the provision of (or failure to provide) care.

The conference agreement also slightly modifies the definition of an alternative non-emergency services provider by specifying that such providers be able to diagnose or treat a condition contemporaneously with (rather than within a clinically appropriate time of) the provision of similar non-emergency services that would be provided in an ER.

The conference agreement also changes the effective date of these provisions to January 1, 2007.

Use of Benchmark Packages (Section 6044 of the Conference Agreement, no provision in the Senate Bill, and Section 3124 of the House Bill)

Current Law

Categorically needy (CN) eligibility groups include families with children, the elderly, certain persons with disabilities, and certain other pregnant women and children who meet applicable financial standards. Medically needy (MN) groups include the same types of individuals, but different, typically higher financial standards apply. Some benefits are mandatory for the CN (e.g., inpatient and outpatient hospital care, lab and x-ray services, physician services, nursing facility care for persons age 21 and over). Other benefits are optional for the CN (e.g., other practitioner services, routine dental care, physical therapy). Benefits offered to CN groups must be the same statewide, and in amount, duration and scope. States may offer a more restrictive benefit package to the MN, but must offer prenatal and delivery services, ambulatory services for persons under 21 and those entitled to institutional services, and home health services for those entitled to nursing facility care. Benefits offered to MN groups must be the same statewide, and in amount, duration and scope. Changes in comparability or statewideness for benefits for CN and MN groups require a waiver.

As described above, some benefits are mandatory for the CN (e.g., inpatient and outpatient hospital care, lab and x-ray services, physician services, FQHC services, nursing facility care for persons age 21 and over). Other benefits are optional for the CN (e.g., other practitioner services, routine dental care, physical therapy). Benefits offered to CN groups must be the same statewide, and in amount, duration and scope. States may offer a more restrictive benefit package to the MN, but must offer prenatal and delivery services, ambulatory services for persons under 21 and those entitled to institutional services, and home health services for those entitled to nursing facility care. Benefits offered to MN groups must be the same statewide, and in amount, duration and scope. Changes in comparability or statewideness for benefits for CN and MN groups require a waiver.

Under the Early and Periodic, Screening, Diagnostic and Treatment (EPSDT) benefit, Medicaid children in CN groups are guaranteed access to all federally coverable routine and follow-up dental services necessary to treat a dental problem. EPSDT may be offered to MN children.

Both the services provided by rural health clinics (RHCs) and federally qualified health services (FQHCs) are required benefits for CN groups under Medicaid. Among other mandatory benefits for MN groups, states must offer ambulatory services for persons under 21 and those entitled to institutional services. Such ambulatory services may include RHC and FQHC services at state option. In general, RHCs and FQHCs are paid on a per visit basis, using a prospective payment system that takes into account costs incurred and changes in the scope of services provided. Per visit payment rates are also adjusted annually by the Medicare Economic Index applicable to primary care services.

Senate Bill

No provision.

House Bill

The House bill would give states the option to provide Medicaid to state-specified groups through enrollment in benchmark and benchmark-equivalent coverage (described below). States could only apply this option to eligibility categories established before the date of enactment of this provision. States may choose to provide wrap-around and additional benefits.

Enrollment in benchmark and benchmark-equivalent coverage could be required for "full benefit eligible individuals," including persons eligible for all services covered for the CN, or any other category of eligibility for all covered services as determined by the Secretary. Certain individuals would be excluded from the definition of a full-benefit eligible, including (1) the MN; (2) CN individuals in certain states who are required to pay for medical expenses from their income until their remaining net income meets SSI financial standards in effect in 1972; and (3) other individuals who qualify for Medicaid when costs incurred for medical expenses or other remedial care are subtracted from income to meet financial eligibility requirements (also known as spend-down populations).

The House bill would require that specified groups be exempted from this option, including: (1) mandatory pregnant women and children; (2) dual eligibles (i.e., Medicaid beneficiaries also entitled to benefits under Medicare); (3) terminally ill persons receiving Medicaid hospice services; (4) individuals in medical institution who are required, as a condition of receiving institutional care, to pay for costs of medical care except for a minimal amount retained from their income for personal needs; (5) individuals who are medically frail or who have special medical needs, as identified in accordance with regulations of the Secretary; and (6) individuals who qualify for Medicaid long-term care services (i.e., nursing facility services, a level of care in any institution equivalent to nursing facility services, home and community-based waiver services, home health services, home and community-care for functionally disabled elderly individuals, personal care, and other optional long-term care services offered by the state).

Benchmark and benchmark-equivalent packages would be nearly identical to those offered under SCHIP, with some additions. Benchmark coverage would include: (1) the standard Blue Cross/Blue Shield preferred provider plan under FEHBP; (2) health coverage for state employees; and (3) health coverage offered by the largest commercial HMO. Benchmark equivalent coverage would have the same actuarial value as one of the benchmark plans. Such coverage would include: (1) inpatient and outpatient hospital services, (2) physician services, (3) lab and x-ray services, (4) well child care, including immunizations, and (5) other appropriate preventive care (designated by the Secretary). Such coverage must also include at least 75% of the actuarial value of coverage under the benchmark plan for: (1) prescribed drugs, (2) mental health services, (3) vision care, and (4) hearing services. Determination of actuarial value would follow generally accepted actuarial principles and methodologies and would be conducted by a member of the American Academy of Actuaries.

Both benchmark and benchmark-equivalent coverage would include "qualifying child benchmark dental coverage." A qualifying child would include individuals under 18 with family income below 133% FPL. Benchmark dental coverage would be equivalent to or better than the dental plan that covers the greatest number of individuals in the state who are not eligible for Medicaid.

States could only enroll eligible beneficiaries in benchmark and benchmark-equivalent coverage if such persons have access to services provided by RHCs and FQHCs, and the Medicaid prospective payment system for both types of providers remains in effect.

These provisions would be effective upon the date of enactment.

Conference Agreement

The conference agreement includes the House bill, with modifications. For any child under age 19 in one of the major mandatory and optional eligibility groups (defined in Section 1902(a)(10)(A) under the state Medicaid plan, wrap-around benefits to the benchmark or benchmark-equivalent coverage consists of early and periodic screening, diagnostic and treatment services as defined in current Medicaid law. The agreement drops benchmark dental coverage and accompanying provisions defining the children who would qualify for such benchmark dental coverage.

Also, under the conference agreement, states may exercise this option only for eligibility groups that were established under the state plan before the date of enactment of this option.

The conference agreement drops mandatory children under 18 (under Section 1902(a)(10)(A)(i) from the list of groups exempted from this option.

The conference agreement also expands the list of specified groups that would be exempted from benchmark coverage to include: (1) individuals who qualify for Medicaid under the state plan on the basis of being blind or disabled regardless of whether the individual is eligible for SSI on such basis, including children with disabilities that meet SSI disability standards who require institutional care, but for whom care is delivered outside the institution, and the cost of that care does not exceed the otherwise applicable institutional care (also known as Katie Beckett or TEFRA children); (2) children in foster care receiving child welfare services (under Part B of Title IV) and children receiving foster care or adoption assistance under Part E of Title IV without regard to age; (3) individuals who qualify for Medicaid on the basis of receiving assistance under TANF (as in effect on or after the welfare reform effective date); (4) women in the breast and cervical cancer eligibility group (a technical change from the House bill); and (5) other "limited services beneficiaries," including certain tuberculosis-infected individuals, and legal and undocumented non-citizens who meet the financial and categorical requirements for Medicaid eligibility without regard to time in the U.S. and are eligible only for emergency medical services.

The conference agreement also adds to the set of three benchmark benefit packages, a fourth option called "secretary approved coverage" which may include any other health benefits coverage that the Secretary determines will provide appropriate coverage for the population targeted to receive such coverage.

Finally, the conference agreement changes the effective date of these provisions to January 1, 2007.

Chapter 5—State Financing Under Medicaid

Managed Care Organization Provider Tax (Section 6051 of the Conference Agreement, and Section 6033 of the Senate Bill, and Section 3142 of the House Bill)

Current Law

States' ability to use provider-specific taxes to fund Medicaid expenditures is limited. If a state establishes provider-specific taxes to fund the state's share of program costs, reimbursement of the federal share will not be available unless the tax program meets the following three rules: the taxes collected cannot exceed 25% of the state (or non-federal) share of Medicaid expenditures; the state cannot provide a guarantee to the providers that the taxes will be returned to them; and the tax must be "broad-based." A broad-based tax is a tax that is uniformly applied to all providers or services within the provider class. The federal statute identifies each of the classes of providers or services for the purpose of determining whether a tax is broad-based.

Medicaid managed care organizations (MCOs) are identified as a separate class of providers for the purposes of determining if a tax is broad-based. This class is unlike all of the other classes of providers or services because it is limited to only Medicaid providers. Other classes of providers or services identified in statute, such as inpatient hospital services, outpatient hospital services, physicians—are not restricted to Medicaid providers or Medicaid services.

Senate Bill

The Senate bill would expand the Medicaid MCO provider class to include all MCOs. To qualify for federal reimbursement, a state's provider tax would need to apply to both Medicaid and non-Medicaid MCOs. This would make the MCO provider class more consistent with the other provider classes for purposes of determining if a provider tax is broad-based.

The provision would become effective on January 1, 2006 except in States that have, as of December 31, 2005, a tax on the Medicaid MCO class of providers as defined under current law. The provision would not apply to those states.

House Bill

Similar to Senate provision except the provision would become effective upon enactment except for in states with taxes based on the current law Medicaid MCO provider class. For those states, the prohibition would become effective on October 1, 2008 and the reduction in Medicaid reimbursement due to this provision would be 50% for the fiscal year beginning on that day.

Conference Agreement

The conference agreement expands the Medicaid MCO provider class to include all MCOs. To qualify for federal reimbursement, a state's provider tax would need to apply to both Medicaid and non-Medicaid MCOs. The provision becomes effective upon enactment except in states with taxes based on the current law Medicaid MCO provider class as of December 8, 2005. In those states, the provision becomes effective on October 1, 2009.

Reforms of Case Management and Targeted Case Management Services (Section 6052 of the Conference Agreement, and Section 6031 of the Senate Bill, and Section 3146 of the House Bill)

Current Law

Under current Medicaid law (Section 1915(g)(2) of the Social Security Act), case management is defined as including services to assist a Medicaid beneficiary in gaining access to needed medical, social, educational and other services. Case management services are an optional benefit under the Medicaid state plan. The term "targeted case management" (TCM) refers to situations in which these services are not provided statewide to all Medicaid beneficiaries but rather are provided only to specific classes of Medicaid eligible individuals as defined by the state (e.g., those with chronic mental illness), or persons who reside in a specific area.

Several states extend the Medicaid TCM benefit to individuals who may also be receiving case management services as a component of another state and/or federal program. For example, a state may provide TCM services for Medicaid beneficiaries in foster care—defined in the Medicaid state plan as "children in the state's custody and who are placed in foster homes." As part of the foster care program, children receive certain case management services regardless of whether or not they are a Medicaid beneficiary.

In addition, the existing federal guidance is conflicting with respect to the process states should follow to claim Medicaid reimbursement for TCM services when another program also covers case management services for the same beneficiary. The State Medicaid Manual (Section 4302.2) states that claims for targeted case management services must be fully documented for a specific Medicaid beneficiary in order to receive payment. In addition, documentation that includes time studies and cost allocation plans "are not acceptable as a basis for Federal participation in the costs of Medicaid services." Cost allocation plans are a narrative description of the procedures that a state agency uses in identifying, measuring, and allocating the state agency's administrative costs incurred for supervising or operating programs. Per federal regulations (45 CFR 95.505), the cost allocation plan does not include payments for services and goods provided directly to program recipients. However, a State Medicaid Director's (SMD) letter dated January 19, 2001, which discusses targeted case management services for children in foster care under the federal Title IV–E program, requires states to "properly allocate case management costs between the two programs in accordance with OMB Circular A–87 under an approved cost allocation program." Thus, this letter extended the application of cost allocation plans to claim reimbursement for case management services when a child is receiving these services under both the Title IV–E (foster care) and Medicaid programs.

Senate Bill

This proposal would further define the Medicaid TCM benefit under Section 1915(g)(2) of the Social Security Act, and would codify the ability of states to use an approved cost allocation plan (as outlined under OMB Circular A–87, or other related or subsequent guidance) for determining the amount that can be billed as Medicaid TCM services when case management is also reimbursable by another federally-funded program.

Specifically, the proposal would clarify that the TCM benefit includes the following: (1) assessment of an eligible individual to determine service needs by taking a client history, identifying an individual's needs and completing related documentation, and if needed, gathering information from other sources; (2) development of a specific care plan based on the information collected through an assessment that specifies the goals and actions to address the individual's needs; (3) referral and related activities to help an individual obtain needed services; and (4) monitoring and follow-up activities including activities and contacts to ensure the care plan is effectively implemented and adequately addressing the individual's needs.

The proposal would, also specify certain activities that are not reimbursable as TCM services. First, the TCM benefit would not include the direct delivery of an underlying medical, educational, social or other services to which an eligible individual has been referred. In addition, with respect to the direct delivery of foster care services, the TCM benefit would not cover: research gathering and completion of required foster care documentation, assessing adoption placements, recruiting or interviewing potential foster care parents, serving legal papers, home investigations, providing transportation, administering foster care subsidies, and making placement arrangements.

In cases where a TCM provider contacts individuals who are not Medicaid eligible or who are not part of the TCM target population, the activity could be billed as TCM services if the purpose of the contact is directly related to the management of the eligible individual's care. If the contact is related to the identification and management of the non-eligible or non-targeted individual's needs and care, the activity may not be billed as TCM services.

Finally, consistent with existing Medicaid law, this proposal would also specify that federal Medicaid funding would only be available for TCM services if there are no other third parties liable to pay for such services, including as reimbursement under a medical, social, educational, or other program.

This provision would take effect January 1, 2006.

House Bill

Same as Senate provision.

Conference Agreement

The conference agreement modifies the Senate and House bills to differentiate between case management and targeted case management services. It would define case management services in federal law as services that will assist Medicaid-eligible individuals in gaining access to needed medical, social, educational, and other services including: (1) assessment of an eligible individual to determine service needs by taking a client history, identifying an individual's needs and completing related documentation, and if needed, gathering information from other sources; (2) development of a specific care plan based on the information collected through an assessment that specifies the goals and actions to address the individual's needs; (3) referral and related activities to help an individual obtain needed services; and (4) monitoring and follow-up activities including activities and contacts to ensure the care plan is effectively implemented and adequately addressing the individual's needs.

The conference agreement also establishes those activities that are not reimbursable as case management services including the direct delivery of an underlying medical, educational, social or other services to which an eligible individual has been referred. With respect to the direct delivery of foster care services, case management would not include research gathering and completion of required foster care documentation, assessing adoption placements, recruiting or interviewing potential foster care parents, serving legal papers, home investigations, providing transportation, administering foster care subsidies, and making placement arrangements.

The term "targeted case management services" is defined as case management services that are provided to specific classes of individuals or to individuals who reside in specific areas.

In cases where a case management provider contacts individuals who are not Medicaid eligible, or who are not part of the TCM target population, the activity could be billed as case management services if the purpose of the contact is directly related to the management of the eligible individual's care. If the contact is related to the identification and management of the non-eligible or non-targeted individual's needs and care, the activity may not be billed as case management services.

Consistent with existing Medicaid law, this proposal would also specify that federal Medicaid funding would only be available for case management (or TCM) services if there are no other third parties liable to pay for such services, including as reimbursement under a medical, social, educational, or other program. If case management (or TCM) services are reimbursable by another federally-funded program the state would be required to allocate the costs of these services using OMB Circular A–87 (or any related or successor guidance or regulations).

Finally, the conference agreement established that (1) nothing in the provision would affect the application of rules with respect to third party liability under programs or activities carried out under Title XXVI of the Public Health Service Act (the HIV Health Care Services Program) or the Indian Health Service; and (2) the Secretary would be required to promulgate regulations to carry out the changes made by this provision. The effective date of this provision would be January 1, 2006.

Additional FMAP Adjustments (Section 6053 of the Conference Agreement, Sections 6032 and 6037 of the Senate Bill, and Sections 3148 and 3205 of the House Bill)

Current Law

The federal medical assistance percentage (FMAP) is the rate at which states are reimbursed for most Medicaid service expenditures. It is based on a formula that provides higher reimbursement to states with lower per capita incomes relative to the national average (and vice versa); it has a statutory minimum of 50% and maximum of 83%. An enhanced FMAP is available for both services and administration under the State Children's Health Insurance Program (SCHIP), subject to the availability of funds from a state's SCHIP allotment. In addition to Medicaid and SCHIP, the FMAP is used in determining federal reimbursement for a number of other programs, including foster care and adoption assistance under Title IV–E of the Social Security Act.

When state FMAPs are calculated by HHS for an upcoming fiscal year, the state and U.S. amounts used in the formula are equal to the average of the three most recent calendar years of data on per capita personal income available from the Department of Commerce's Bureau of Economic Analysis (BEA). For example, to calculate FMAPs for FY2006, HHS used per capita personal income data for 2001, 2002, and 2003 that became available from BEA in October 2004.

BEA revises its most recent estimates of state per capita personal income on an annual basis to incorporate revised Census Bureau population figures and newly available source data. It also undertakes a comprehensive data revision—reflecting methodological and other changes—every few years that may result in upward and downward revisions to each of the component parts of personal income, which include: wages and salaries, supplements to wages and salaries (such as employer contributions for employee pension and insurance funds), proprietors' income, and dividends, interest, and rent.

As a result of these annual and comprehensive revisions, it is often the case that the value of a state's per capita personal income for a given year will change over time. For example, the 2001 per capita personal income data published by BEA in October 2003 (used in the calculation of FY2005 FMAPs) differed from the 2001 per capita personal income published in October 2004 (used in the calculation of FY2006 FMAPs).

P.L. 106–554 (Consolidated Appropriations Act, 2001), provided that for fiscal years 2001 through 2005, the Medicaid and SCHIP FMAPs for Alaska would be calculated using the state's per capita income divided by 1.05. Dividing by 1.05 lowered the state's per capita income, thereby increasing its FMAP.

Senate Bill

Under the Senate bill, FY2006 FMAPs for Medicaid and SCHIP would be re-computed for all states so that no FY2006 FMAP would be less than the greater of: (1) a state's FY2005 FMAP minus 0.5 percentage points (0.1 in the case of Delaware and Michigan, 0.3 in the case of Kentucky) or (2) the FY2006 FMAP that would have been determined for a state if per capita incomes for 2001 and 2002 that were used to calculate the state's FY2005 FMAP were used.

In a separate provision, if Alaska's calculated FY2006 or FY2007 FMAP for Medicaid or SCHIP is less than its FY2005 FMAP, the FY2005 FMAP would apply.

House Bill

Under the House bill, for purposes of computing Medicaid FMAPs beginning with FY2006, employer contributions toward pensions that exceed 50% of a state's total increase in personal income for a period would be excluded from the per capita income of a state, but not from U.S. per capita income.

In a separate provision, for purposes of computing Medicaid and SCHIP FMAPs for any year after 2006 for a state that the Secretary of HHS determines has a significant number of individuals who were evacuated to and live in the state as a result of Hurricane Katrina as of October 1, 2005, the Secretary would disregard such evacuees and their incomes.

Conference Agreement

The conference agreement follows the Alaska provision in the Senate bill and the Katrina provision in the House bill.

DSH Allotment for the District of Columbia (Section 6054 of the Conference Agreement, and Section 6035 of the Senate Bill, and no provision in the House Bill)

Current Law

States and the District of Columbia are required to recognize, in establishing hospital payment rates, the situation of hospitals that serve a disproportionate number of Medicaid beneficiaries and other low-income patients with special needs. Under broad federal guidelines, each state determines which hospitals receive DSH payments and the payment amounts to be made to each qualifying hospital. The federal government shares in the cost of state DSH payments at the same federal matching percentage as for most other Medicaid services. Total federal reimbursement for each state's DSH payments, however, are capped at a statewide ceiling, referred to as the state's DSH allotment.

Senate Bill

The Senate bill would raise the allotments for the District of Columbia for FY 2000, 2001, and 2002 from $32 million to $49 million. The higher allotments would be used to calculate DSH allotments beginning with FY 2006 amounts. The provision would take effect as if enacted on October 1, 2005 and would apply to expenditures made on or after that date.

House Bill

No provision.

Conference Agreement

The conference agreement includes a provision similar to the Senate provision. The agreement clarifies that the increased amounts calculated based on the modified allotments for FY 2000, 2001, and 2002 only apply to DSH expenditures applicable to fiscal year 2006 and subsequent fiscal years that are paid on or after October 1, 2005.

Increase in Medicaid Payments to Insular Areas. (Section 6055 of the Conference Agreement, no provision in the Senate Bill, and Section 3141 of the House Bill)

Current Law

In the 50 states and the District of Columbia, Medicaid is an individual entitlement. There are no limits on the federal payments for Medicaid as long as the state is able to contribute its share of the matching funds. In contrast, Medicaid programs in the territories are subject to spending caps. For fiscal year 1999 and subsequent fiscal years, these caps are increased by the percentage change in the medical care component of the Consumer Price Index (CPI–U) for all Urban Consumers (as published by the Bureau of Labor Statistics). The federal Medicaid matching rate, which determines the share of Medicaid expenditures paid for by the federal government, is statutorily set at 50 percent of the territories. Therefore, the federal government pays 50% of the cost of Medicaid items and services in the territories up to the spending caps.

Senate Bill

No provision.

House Bill

For each of fiscal years 2006 and 2007, the House bill would increase the total annual cap on federal funding for the Medicaid programs in each of the Virgin Islands, Guam, the Northern Marianas, and American Samoa. Puerto Rico would not receive additional federal Medicaid funding from this provision.

For the Virgin Islands and Guam, the FY2006 total annual Medicaid caps would be increased by $2.5 million and the FY2007 caps would be increased by $5.0 million. For the Northern Marianas, the FY2006 total annual Medicaid cap would be increased by $1.0 million and the FY2007 cap would be increased by $2.0 million. For American Samoa, the FY2006 total annual Medicaid cap would be increased by $2.0 million and the FY2007 cap would be increased by $4.0 million. For fiscal year 2008 and subsequent fiscal years, the total annual cap on federal funding for the Medicaid programs in each of the Virgin Islands, Guam, the Northern Marianas, and American Samoa would be calculated by increasing the FY2007 ceiling, as modified by this provision, by the percentage change in the medical care component of the Consumer Price Index (CPI–U) for all Urban Consumers (as published by the Bureau of Labor Statistics).

Conference Agreement

The conference agreement follows the House bill.

Demonstration Project Regarding Medicaid Coverage of Low-income HIV-infected individuals (No provision in the Conference Agreement, Sec. 6039(c) of the Senate Bill, and no provision in the House Bill)

Current Law

Section 1115 gives the Secretary of HHS authority to modify virtually all aspects of the Medicaid (and SCHIP) programs. Among other projects, the Secretary has used the Section 1115 waiver authority to approve benefit-specific demonstrations that provide targeted services to certain individuals. For example, under existing Medicaid HIV/AIDS Section 1115 demonstration waivers, the Secretary approved programs that provide a limited set of Medicaid benefits (e.g., case management, and pharmacy services) to individuals with HIV/AIDS who would not otherwise be eligible for Medicaid. Approved Section 1115 waivers are deemed to be part of a state's Medicaid (or SCHIP) state plan for purposes of federal reimbursement. Project costs associated with waiver programs granted under the Medicaid (or SCHIP) programs are subject to that state's FMAP (or enhanced-FMAP). Unlike regular Medicaid (or SCHIP), CMS waiver guidance specifies that costs associated with waiver programs must be budget neutral (or allotment neutral) to the federal government over the life of the waiver program whereby the federal and state government negotiate a spending cap beyond which the federal government has no fiscal responsibility.

Senate Bill

The Senate Bill would require the Secretary of HHS to allow states to seek approval for time limited (i.e., 5-year) Section 1115 demonstration projects that provide full Medicaid coverage to specified HIV-infected individuals. For fiscal years 2006 through 2010, $450,000,000 in federal funds would be appropriated for such demonstrations. From this amount, the Secretary would allocate money to states and territories (without regard to existing federal Medicaid spending caps applicable in the territories) with approved HIV Section 1115 demonstrations based on the availability of such funds. Allotment of funds among states (or territories) with approved demonstrations would be based on an amount equal to the state's SCHIP Enhanced Federal Medical Assistance Percentage (Enhanced-FMAP) for quarterly expenditures associated with medical assistance provided to individuals under the waiver up to the specified cap. The Secretary would be required to submit a program evaluation to Congress not later than December 31, 2010. This provision would be effective on January 1, 2006.

House Bill

No provision.

Conference Agreement

The conference agreement does not include the Senate bill.

Inclusion of Podiatrists As Physicians (no provision in the Conference Agreement, Section 6034 of the Senate Bill, and no provision in the House Bill)

Current Law

Under Medicaid, services provided by podiatrists may be covered under the optional "other practitioners" benefit category. "Physician services" are a mandatory Medicaid benefit.

Senate Bill

The Senate bill would treat podiatrists as physicians, as is the case under Medicare. Thus, states would be required to cover the medical services of podiatrists (i.e., doctors of podiatric medicine) under Medicaid. This provision would apply to all such services furnished on or after January 1, 2006.

House Bill

No provision.

Conference Agreement

The conference agreement does not include this provision.

Demonstration Project Regarding Medicaid Reimbursement for Stabilization of Emergency Medicaid Conditions by Non-Publicly Owned or Operated Institutions for Mental Diseases (no provision in the Conference Agreement, Section 6036 of the Senate Bill, and no provision in the House Bill)

Current Law

An IMD is defined as a hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services. The 1950 amendments to the Social Security Act established the prohibition of federal assistance for IMD residents as well as for patients diagnosed with a psychosis found in other medical institutions. When Medicaid was established in 1965, the law included a state option to allow Medicaid funding for inpatient psychiatric care rendered in general hospitals as well as funding for specific services provided to residents age 65 years and older in IMDs. The 1972 amendments allowed for optional coverage, under certain circumstances, for IMD residents under age 21 or, in some cases, under age 22. In general, reimbursement for services obtained in IMDs by Medicaid beneficiaries ages 22 to 64 years remains prohibited. The term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

Under Medicare, "emergency medical condition" means a medical condition with acute symptoms of sufficient severity such that the absence of immediate medical attention could result in (1) placing the health of the individual in serious jeopardy, (2) serious impairment to bodily functions, or (3) serious dysfunction of any organ. Under Medicare, the term "stabilize" means medical treatment as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility.

Senate Bill

The Senate bill would require the Secretary to establish a 3-year demonstration project in eligible states to provide Medicaid coverage for certain IMD services (not publicly-owned or operated) for Medicaid eligible individuals who are between the ages of 21 and 64, and who require IMD services to stabilize an emergency medical condition. Upon approval of an application, eligible states would include Arizona, Arkansas, Louisiana, Maine, North Dakota, Wyoming, and four additional states to be selected by the Secretary to provide geographic diversity. The provision would appropriate $30 million for FY2006 for the demonstration which would be available through December 31, 2008. The Secretary would allocate funds to eligible states based on their applications and the availability of funds. Payments to states would be drawn from these allocations, based on the federal matching rate (FMAP) for benefits.

For purposes of the demonstration, the Secretary would be required to waive current law limitations on payments for services delivered to persons under 65 who are patients in an IMD. The Secretary would have the option to also waive other requirements in Sections XI and XIX, including requirements relating to statewideness and comparability of benefits, only to the extent necessary to carry out the demonstration project. The terms "emergency medical condition" and "stabilize," as defined under Medicare, would apply to the demonstration described in this provision.

The Senate bill would also require the Secretary to submit annual reports to Congress on the progress of the demonstration project. No later than March 31, 2009, the Secretary would submit to Congress a final report describing whether the demonstration: (1) resulted in increased access to Medicaid inpatient mental health services, (2) produced a significant reduction in the use of higher cost emergency room services for Medicaid beneficiaries, (3) impacted the costs of providing Medicaid inpatient psychiatric care, and (4) should be continued after December 31, 2008, and expanded nationwide.

House Bill

No provision.

Conference Agreement

The conference agreement does not include this provision.

Chapter 6—Other Provisions

Subchapter A—Family Opportunity Act

Opportunity for Families of Disabled Children to Purchase Medicaid Coverage for Such Children (Section 6062 of the Conference Agreement, Section 6042 of the Senate Bill, and no provision in the House Bill)

Current Law

For children with disabilities, there are a number of potentially applicable Medicaid eligibility groups, some mandatory but most optional. For some of these groups, disability status or medical need is directly related to Medicaid eligibility (e.g., children receiving SSI with family income below 75% FPL). But there are other pathways through which such children may qualify for Medicaid coverage for which disability status and/or medical need are irrelevant (e.g., children under age 6 with family income below 133% FPL). All of the Medicaid eligibility pathways for children require income levels that are generally below 300% of the federal poverty level (FPL) with some state-specific exceptions.

States may require Medicaid beneficiaries to apply for coverage in certain employer-sponsored group health plans (in which such persons are eligible) when it is cost-effective to do so (defined below). This requirement may be imposed as a condition of continuing Medicaid eligibility, except that failure of a parent to enroll a child must not affect the child's continuing eligibility for Medicaid. If all members of the family are not eligible for Medicaid, and the group health plan requires enrollment of the entire family, Medicaid will pay associated premiums for full family coverage if doing so is cost-effective. Medicaid will not pay deductibles, coinsurance or other cost-sharing for family members ineligible for Medicaid. Third party liability rules apply to coverage in a group health plan; that is, such plans, not Medicaid, must pay for all covered services under the plan. Cost-effectiveness means that the reduction in Medicaid expenditures for Medicaid beneficiaries enrolled in a group health plan is likely to be greater than the additional costs for premiums and cost-sharing required under the group health plan.

For certain eligibility categories, states may not impose enrollment fees, premiums or similar charges. States are specifically prohibited from requiring payment of deductions, cost-sharing or similar charges for services furnished to children under 18 (up to age 21; or reasonable subcategories, at state option). Also, in certain circumstances, states may impose monthly premiums for Medicaid. For example, states may require certain workers with disabilities to pay premiums and cost-sharing set on a sliding scale based on income. For one of these groups, states may require those with income between 250% and 450% FPL to pay the full premium. But the sum of such payments may not exceed 7.5% of income. For other groups, states may not require prepayment of premiums and may not terminate eligibility due to failure to pay premiums, unless such failure continues for at least 60 days. States may also waive premiums when such payments would cause undue hardship.

Unless otherwise specified for a given coverage group, Medicaid eligibility for children is limited to those in families with income up to 133 and 1/3% of the applicable AFDC payment standard in place as of July 16, 1996. In addition, targeted low-income children under SCHIP statute are defined as those who would not qualify for Medicaid under the state plan in effect on 70 March 31, 1997. Payments for services provided to children who receive Medicaid benefits through an expansion of eligibility under SCHIP authority are reimbursed by the federal government at the enhanced federal medical assistance percentage (E-FMAP) rate, and funds based on this rate are drawn from annual SCHIP allotments. The SCHIP E-FMAP builds on the Medicaid FMAP. The FMAP formula is designed to provide a higher federal matching rate for states with lower average per capita income, compared to the national average.

Senate Bill

The Senate bill would create a new optional Medicaid eligibility group for children with disabilities under age 19 who meet the severity of disability required under the Supplemental Security Income (SSI) program with family income that exceeds SSI financial standards but is below 300% FPL. Medicaid coverage would be phased in by age group, beginning with children through age 6 in the second through fourth quarters of FY2008, then covering children through age 12 beginning in FY2009, and finally, covering children through age 18 during FY2010 and thereafter.

The Senate bill would require states to require certain parents of children eligible for Medicaid under the new optional coverage group to enroll in family coverage through employer-sponsored insurance (ESI) if certain conditions are met. When the employer offers family coverage, the parent is eligible for such coverage, and the employer contributes at least 50% of the total cost of annual premiums for such coverage, states must require participation in such coverage as a condition of continuing Medicaid eligibility for the child. Also, if such coverage is obtained, states must reduce premiums by an amount that reasonably reflects the premium contribution made by the parent for private coverage on behalf of a child with a disability. States could pay any portion of required premiums on behalf of eligible children under such plans. Medicaid would be the secondary payer to these ESI plans. Benefits offered by Medicaid but not offered by the ESI plans would be covered under Medicaid.

States would be permitted, within certain limits, to require families with children-that qualify for Medicaid under the new optional eligibility category to pay monthly premiums on a sliding scale based on income, but only if specific caps on aggregate payments for cost-sharing (premiums plus other charges) for employer-sponsored family coverage are met. These caps specify that cost-sharing would not exceed 5% of income for families with income up to 200% FPL, and would not exceed 7.5% of income for families with income between 200% and 300% FPL. States could not require prepayment of premiums, nor would states be allowed to terminate eligibility of an enrolled child for failure to pay premiums unless lack of payment continues for a minimum of 60 days beyond the due date. States could waive payment of premiums when such payment would cause undue hardship.

The Senate bill would permit the income level for the new optional coverage group (set at 300% FPL) to exceed the otherwise applicable AFDC-related income standard for children under Medicaid. This section also stipulates that children with disabilities made eligible for Medicaid through the new optional coverage group would not be considered to be targeted low-income children as defined under SCHIP. Thus, the regular Medicaid FMAP, rather than the higher SCHIP E-FMAP, would apply for determining the federal share of Medicaid expenditures for the new optional coverage group. In addition, federal payments would be drawn from the open-ended Medicaid account and not the capped SCHIP account.

These provisions would be effective for items and services furnished on or after January 1, 2008.

House Bill

No provision.

Conference Agreement

The conference agreement includes the Senate bill, with modifications. First, the agreement defines qualifying children as those considered disabled under the SSI program without regard to any income or asset eligibility requirements that apply under SSI for children and whose family income does not exceed 300% FPL. In addition, the agreement moves up the start date by one year for phasing in Medicaid coverage for this new group. That is, Medicaid coverage would be phased in, beginning with children through age 6 in the second through fourth quarters of FY2007 (rather than FY2008), then covering children through age 12 beginning in FY2008 (rather than FY2009), and finally, covering children through age 18 beginning in FY2009 (rather than FY2010) and thereafter.

As under the Senate bill, the conference agreement allows states to impose income-related premiums under this option. But the agreement changes the aggregate amount of cost sharing for families based on income levels.

For children in families with income that does not exceed 200% FPL, the aggregate amount of premiums for Medicaid coverage and any premium for employer-sponsored family coverage (in order to cover the disabled child) plus other cost-sharing cannot exceed 5% of family income. For children in families with income between 200% FPL and 300% FPL, the aggregate amount of premiums for Medicaid coverage and any premium for employer-sponsored family coverage (in order to cover the disabled child) plus other cost-sharing cannot exceed 7.5% of family income.

Finally, the conference agreement changes the effective date of these provisions to January 1, 2007.

Demonstration Projects Regarding Home and Community-based Alternative to Psychiatric Residential Treatment Facilities for Children (Section 6063 of the Conference Agreement, Section 6043 of the Senate Bill, and no provision in the House Bill)

Current Law

Medicaid home and community-based service (HCBS) waivers authorized by Section 1915(c) of the Social Security Act allows states to provide a broad range of home and community-based services to Medicaid beneficiaries who would otherwise need the level of care provided in a hospital, nursing facility, or intermediate care facility for individuals with mental retardation (ICF–MR). Federal approval for these waivers is contingent on the state's documentation of the waiver's cost-neutrality. Cost-neutrality is met if, on average, the per person cost with the HCBS waiver is no higher than the cost if the person were residing in a hospital, nursing home, or ICF–MR. The state determines which type of institution(s) it will use to make the cost-neutrality calculation.

For children with psychiatric disabilities, many states provide Medicaid funding for inpatient psychiatric residential treatment facilities. However, because the waiver cost-neutrality calculation does not allow a comparison of HCBS waiver expenditures to expenditures in these psychiatric residential treatment facilities, most states have had difficulty covering HCBS waiver services for children with psychiatric disabilities. Four states (Indiana, Kansas, New York and Vermont) have been able to offer HCBS waiver services for children with psychiatric disabilities by documenting the cost-neutrality of the waiver compared to the state's hospital expenditures. However given the cost-neutrality requirement, those states that have limited the use of hospitals for children with psychiatric disabilities may be unable to develop HCBS waivers for this population.

Senate Bill

The Senate bill would authorize the Secretary to conduct demonstration projects in up to 10 states during the period from FY2007 through FY2011 to test the effectiveness of improving or maintaining the child's functional level, and cost-effectiveness of providing coverage of home and community-based alternatives to psychiatric residential treatment, for children enrolled in Medicaid. These demonstration projects will develop home and community-based services as an alternative to a psychiatric residential treatment facility. However, these projects must also follow the requirements of the HCBS waiver program. Specifically, demonstration participants would be required to meet the level of care of a psychiatric residential treatment facility, and the average, per-person project expenditures may not exceed the average, per-person cost of a psychiatric residential treatment facility.

The demonstration states would be selected through a competitive bidding process. At the end of the demonstration period, the state may allow children enrolled in the demonstration project to continue receiving the Medicaid home and community-based waiver services provided under the demonstration; however, no new children could be added to the project.

As part of the demonstration, the following conditions would apply: (1) projects must meet the same terms and conditions that apply to all HCBS waivers; (2) the Secretary must ensure that the projects are budget neutral; that is, total Medicaid expenditures under the demonstration projects will not be allowed to exceed the amount that the Secretary estimates would have been paid in the absence of the demonstration projects; and (3) applications for a demonstration project must include an assurance to conduct an interim and final evaluation by an independent third party and any reports that the Secretary may require.

This proposal would appropriate $218 million for FY2007 through FY2011 for the state demonstration projects and the federal evaluations and report. Total expenditures for state demonstration projects would not be allowed to exceed $21 million in FY2007, $37 million in FY2008, $49 million in FY2009, $53 million in FY2010, and $57 million in FY2011. Funds not expended in a given fiscal year would continue to be available in subsequent fiscal years. An additional $1 million would be available to the Secretary to complete a required interim and final evaluation of the project and report the conclusions of the evaluations to the President and Congress within 12 months of completing these evaluations.

House Bill

No provision.

Conference Agreement

The conference agreement follows the Senate provision.

Development and Support of Family-to-family Health Information Centers (Section 6064 of the Conference Agreement, Section 6044 of the Senate Bill, and no provision in the House Bill)

Current Law

Family-to-family health centers provide information and assistance to help families of children with special health care needs navigate the system of care and make decisions about the needs and available supports for their child. No provision in current law specifically authorizes a dedicated amount of funds for these family-to-family health information centers. However, since 2002, the Department of Health and Human Services (HHS) has awarded approximately $6.9 million to develop these information centers in 36 states under various program authorities including: (1) Special Projects of Regional and National Significance Program (SPRANS) of the Maternal and Child Services Block Grant (Title V of the Social Security Act) operated by the Health Resources Services Administration (HRSA); (2) the Real Choice Systems Change grant program operated by the Centers for Medicare and Medicaid Services (CMS); and (3) a one-year direct Congressional appropriation to an organization in Iowa. Federal funding for these projects is time-limited. Except for the one-year direct appropriation, state projects have generally been funded for a three or four-year period. HRSA intends to fund additional family-to-family health information centers awarding up to $2.4 million to six projects for a four-year period starting in FY2006.

Senate Bill

The Senate bill would increase funding under the SPRANS program of Title V of the Social Security Act for the development and support of new family-to-family health information centers (described below). This proposal would appropriate an additional $3 million for FY2007, $4 million for FY2008, and $5 million for FY2009 for this new purpose. For each of fiscal years 2010 and 2011, the bill would authorize to be appropriated to the Secretary $5 million for this purpose. Funds would remain available until expended.

The family-to-family health information centers would: (1) assist families of children with disabilities or special health care needs to make informed choices about health care so as to promote good treatment decisions, cost-effectiveness, and improved health outcomes for such children; (2) provide information regarding the health care needs of, and resources available for children with disabilities or special health care needs; (3) identify successful health delivery models; (4) develop a model for collaboration between families of such children and health professionals; (5) provide training and guidance with regard to the care of such children; and (6) conduct outreach activities to the families of such children, health professionals, schools, and other appropriate entities and individuals. The family-to-family health information center would be staffed by families who have expertise in public and private health care systems and by health professionals.

The Secretary would be required to develop family-to-family health information centers in at least 25 states in FY2007, 40 states in FY2008, and all states in FY2009.

House Bill

No provision.

Conference Agreement

The conference agreement follows the Senate provision.

Restoration of Medicaid Eligibility for Certain SSI Beneficiaries (Section 6065 of the Conference Agreement, Section 6045 of the Senate Bill, and no provision in the House Bill)

Current Law

SSI and Medicaid eligibility is effective on the later of (1) the first day of the month following the date the application is filed, or (2) the first day of the month following the date that the individual is determined eligible.

Senate Bill

The Senate bill would extend Medicaid eligibility to persons who are under age 21 and who are eligible for SSI, effective on the later of: (1) the date the application was filed, or (2) the date SSI eligibility was granted. This provision would be effective one year after the date of enactment.

House Bill

No provision.

Conference Agreement

The conference agreement includes the Senate bill provision.

Subchapter B—Money Follows the Person Rebalancing Demonstration

Money Follows the Person Rebalancing Demonstration (Section 6071 of the Conference Agreement, Section 6061 of the Senate Bill, and no provision in the House Bill)

Current law

Under Medicaid, states can offer a variety of home and community-based services to Medicaid beneficiaries who need long-term care. Some of these services may be offered statewide as part of the Medicaid state plan (e.g., home health services and personal care services). Other services may be offered through a home and community-based services (HCBS) waiver under Section 1915(c) of the Social Security Act. These waivers allow states to provide a broad range of home and community-based services to individuals who would otherwise require the level of care provided in certain types of institutions (i.e., a hospital, nursing facility or intermediate care facility for individuals with mental retardation (ICF-MR)). For example, HCBS waiver services could include respite, personal care, adult day care, or therapy. As part of the HCBS waiver, states have the ability to define the specific services that will be offered, to target a specific population (e.g., elderly individuals) and to limit the number of individuals who can participate in the waiver.

Approval for an HCBS waiver is contingent on a state documenting the cost-neutrality of the waiver. Cost-neutrality is met if the average per person cost under the HCBS waiver is no higher than the average per person cost of receiving care in a hospital, nursing facility or ICF-MR. The state determines which type of institution(s) it will use to make the cost-neutrality calculation.

Under current law, Medicaid beneficiaries who are residents of an institution (such as a nursing home) and who would like to leave that institution would be entitled to receive those Medicaid services covered by the Medicaid state plan. However, individuals may not be able to access the broader range of services under an HCBS waiver because many states have waiting lists for the waiver.

Medicaid expenditures for services (including the Medicaid state plan and HCBS waiver) are generally shared between the federal and state governments. In FY2003 (the latest expenditure data available), the federal government covered 59% of the cost of services; states covered the remaining 41% of expenditures. The specific federal share of a state is based on the state's federal medical assistance percentage (FMAP) rate which can range from 50% to 83%.

Senate Bill

The Senate provision would authorize the Secretary to conduct a demonstration project in states to increase the use of home and community-based care instead of institutions. States awarded a demonstration would receive 90% of the costs of home and community-based, long-term care services (under a HCBS waiver and/or the state plan) for 12 months following a demonstration participant's transition from an institution into the community. In a given fiscal year, funding would be capped at the amount of a state's grant award. After the 12 months of grant funding, the state would be required to continue providing services through a Medicaid home and community-based long-term care program, as described below.

Individuals will be eligible to participate in the demonstration if they meet the following criteria: they are residents of a hospital, nursing facility, ICF-MR, or an institution for mental disease (IMD) (but only to the extent that the IMD benefit is offered as part of the existing state Medicaid plan); they have resided in the facility for no less than six months or for a longer time period specified by the state (up to a maximum of two years); they are receiving Medicaid benefits for the services in this facility; and they will continue to require the level of care of the facility but for the provision of HCBS services.

The state's application for a demonstration project will be required to include, at a minimum, the following information: (1) assurance that the project was developed and will be operated through a public input process; (2) assurance that the project will operate in conjunction with an existing Medicaid home and community-based program; (3) the duration of the project, which must be for at least two consecutive fiscal years in a five-year period starting in FY2009; (4) the service area, which may be statewide or less-than-statewide; (5) the target groups and the projected number to be enrolled and the estimated total expenditures for each fiscal year; (6) assurance that the project defers to individual choice and that the state will continue services for participants after the demonstration ends, as long as the state offers such services and the individual remains eligible; (7) information on recent Medicaid expenditures for long-term care and home and community-based services and proposed methods to increase the state's investment in home and community-based services; (8) methods the state will use to eliminate barriers to paying for long-term care services for participants in the setting(s) of their choice; (9) assurance that the state will meet a maintenance of effort for Medicaid HCBS expenditures and will continue to operate a HCBS waiver that meets the statutory requirements for cost-neutrality.

A state will also be required to describe a plan for quality assurance and improvement of HCBS services under Medicaid; any requested waivers of Medicaid law; if applicable, the process for participants to self-direct his or her own services (meeting standards outlined in this proposal); and compliance with reports and evaluation, as required by the Secretary.

In addition to evaluating the merits of a state's application, in selecting demonstration projects, the Secretary will be required to consider a national balance of target groups and geographic distribution and to give a preference to states that cover multiple groups or offer project participants the opportunity to self-direct their services. The Secretary will be authorized to waive certain sections of Medicaid law to achieve the purpose of the demonstration.

To qualify for grant awards after year one, states will be required to meet numerical benchmarks measuring the increased investment in services under this proposal and the number of individuals transitioned into the community. States will also be required to demonstrate that they are assuring the health and welfare of project participants. For states that do not meet these requirements, the Secretary will be required to rescind the grant award for future grant periods and will be allowed to re-award unused funding.

The proposal would require the Secretary to provide technical assistance and oversight to state grantees and may use up to $2.4 million of the amounts appropriated for the portion of fiscal year 2009 that begins on January 1, 2009, and ends on September 30, 2009, and for fiscal year 2010, to carry out these activities during the period beginning on January 1, 2009 and ending on September 30, 2013. The Secretary would also be required to conduct a national evaluation and report its findings to the President and Congress no later than September 30, 2012 and may use up to $1.1 million each year from FY2010 through FY2013 to carry out these activities.

This proposal would appropriate $250 million for the portion of FY2009 which begins on January 1, 2009, and ends on September 30, 2009; $300 million in FY2010; $350 million in FY2011; $400 million in FY2012; and $450 million in FY2013 to carry out the demonstration project. Funds not awarded to states in a given fiscal year would continue to be available in subsequent fiscal years through September 30, 2013.

Payments for home and community-based long-term care services under the demonstration project would be in lieu of payment with respect to expenditures that could otherwise be paid for by Medicaid. However, if a state exhausts its grant funding in a particular year, the state is not prevented from using Medicaid to pay for home and community-based long term care services. Finally, a state that does not use all of its funding in a given fiscal year will continue to have access to that funding for four subsequent fiscal years.

House Bill

No provision.

Conftrence Agreement

The conference agreement follows the Senate provision, but makes several changes to the Senate bill. First, to be eligible an individual must continue to require the level of care in an institution. However, in any case where a state would apply a more stringent level of care standard as a result of implementing a Medicaid state plan option under section 1915(I), established under this conference agreement, the individual must continue to require the level of care which had resulted in admission to the institution.

A state must assure that it will continue services for participants after the demonstration ends, as long as the state offers such services and the individual remains eligible. If the state chooses to apply a more stringent level of care as a result of covering the state plan option under Section 1915(I), established under this conference agreement, the individual must continue to meet the requirement for the level of care that had resulted in his or her admission to the institution.

In addition, those states awarded a demonstration would receive an enhanced FMAP rate (referred to as the "MFP-enhanced FMAP") equal to the current FMAP rate for the state increased by a number of percentage points equal to 50% of the difference between 100% and the normal FMAP rate. However, in no case can the FMAP rate exceed 90% for a state. The state will receive the MFP-enhanced FMAP for the costs of home and community-based, long-term care services for 12 months following a demonstration participant's transition from an institution into the community.

Finally, demonstration grants would be awarded starting in 2007, instead of 2009 which changes all relevant dates within this provision including:

- The duration of the project must be for at least two consecutive fiscal years in a five-year period starting in FY2007: and

- The Secretary would be able to use up to $2.4 million of the amounts appropriated for the portion of fiscal year 2007 that begins on January 1, 2007, and ends on September 30, 2007, and for fiscal year 2008, to carry out technical assistance and quality assurance activities during the period beginning on January 1, 2007 and ending on September 30, 2011; and
- The Secretary will also be required to report evaluation and findings to the President and Congress no later than September 30, 2011 and may use up to $1.1 million each year from FY2008 through FY2011 to carry out these activities; and
- The provision would appropriate $250 million for the portion of FY2007 which begins on January 1, 2007, and ends on September 30, 2007; $300 million in FY2008; $350 million in FY2OO9; $400 million in FY2010; and $450 million in FY2011 to carry out the demonstration project; and
- Funds not awarded to states in a given fiscal year would continue to be available in subsequent fiscal years through September 30, 2011.

Subchapter C—Miscellaneous

Medicaid Transformation Grants (Section 6081 of the Conference Agreement, no provision in the Senate Bill, and Section 3143 of the House Bill)

Current Law

Section 1903(a) of the Social Security Act describes the level of federal reimbursement available to states for various Medicaid program functions. The federal medical assistance percentage (FMAP) is the rate at which states are reimbursed for most Medicaid service expenditures. It is based on a formula that provides higher reimbursement to states with lower per capita incomes relative to the national average (and vice versa); it has a statutory minimum of 50% and maximum of 83%. The federal reimbursement rate for Medicaid administrative expenditures does not vary by state and is generally 50%, but certain administrative functions receive enhanced (usually 75%) reimbursement.

Senate Bill

No provision.

House Bill

Under the House bill, in addition to the normal federal Medicaid reimbursement received by states under section 1903(a), the Secretary of HHS would provide for payments to states for the adoption of innovative methods to improve the effectiveness and efficiency in providing medical assistance under Medicaid.

Examples of innovative methods for which such funds may be used include: (1) methods for reducing patient error rates through the implementation and use of electronic health records, electronic clinical decision support tools, or e-prescribing programs, (2) methods for improving rates of collection from estates of owed to Medicaid, (3) methods for reducing waste, fraud, and abuse under Medicaid, such as reducing improper payment rates as measured by the annual payment error rate measurement (PERM) project rates, (4) implementation of a medication risk management program as part of a drug use review program, and (5) methods for reducing, in clinically appropriate ways, Medicaid expenditures for covered outpatient drugs, particularly in the categories of greatest drug utilization, by increasing the utilization of generic drugs through the use of education programs and other incentives to promote greater use of generics.

No payments would be made to a state unless the state applied to the Secretary of HHS for such payments in a form, manner, and time specified by the Secretary. Payments would be made under such terms and conditions consistent with the subsection as the Secretary prescribes. Payment to a state under the subsection would be conditioned on the state submitting to the Secretary an annual report on the programs supported by such payment. The reports would include information on: (1) the specific uses of such payment, (2) an assessment of the quality improvements and clinical outcomes under such programs, and (3) estimates of the cost savings resulting from such programs.

Total payments would equal and not exceed $50 million in each of FY2007 and FY2008. The Secretary would specify a method for allocating the funds among states. Such method would provide preference for states that design programs that target health providers that treat significant numbers of Medicaid beneficiaries. The method would also allocate at least 25% of the funds among states whose populations as of July 1, 2004 were more than 105% of their populations as of April 1, 2000.

Conference Agreement

The conference agreement follows the House bill, but would increase total payments to equal and not exceed $75 million in each of FY2007 and FY2008. The agreement also adds, as an additional option for use of funds, methods for improving access to primary and specialty physician care for the uninsured using integrated university-based hospital clinic systems. Conferees believe that it is important to develop new models to meet the needs of the uninsured. University based physicians are uniquely qualified to assume this task. Bringing the resources of academia and health care system together to serve the poor and medically needy will create new opportunities to develop strategies that can be used on a broader scale.

Improved Enforcement of Documentation Requirements (Section 6082 of the Conference Agreement, no provision in the Senate Bill, and Section 3145 of the House Bill)

Current Law

To be eligible for the full range of benefits offered under Medicaid, an individual must be a citizen or national of the United States or a qualified alien (e.g., a legal permanent resident, refugee, alien granted asylum or related relief) who meets all other Medicaid program eligibility criteria. Non-qualified aliens (e.g., those who are unauthorized or illegally present, non-immigrants admitted for a temporary purpose such as education or employment, short-term parolees) who would otherwise be eligible for Medicaid except for their immigration status may only receive Medicaid care and services that are necessary for the treatment of an emergency medical condition and are not related to an organ transplant procedure.

As a condition of an individual's eligibility for Medicaid benefits, Section 1137(d) of the Social Security Act requires a state to obtain a written declaration, under penalty of perjury, stating whether the individual is a citizen or national of the United States. If an individual declares that he or she is a citizen or national, the state is not required to obtain additional documentary evidence but may choose to do so. According to a 2005 report from the Department of Health and Human Services' Office of Inspector General, 46 states and the District of Columbia allow or sometimes allow self-declaration of United States citizenship, while four states require Medicaid applicants to submit documentary evidence to verify citizenship statements.

If an individual declares that he or she is not a citizen or national, the individual must declare that he or she is a qualified alien and must present: (1) alien registration documentation or other proof of immigration registration from the Department of Homeland Security's United States Citizenship and Immigration Services Bureau (DHS/USCIS, formerly the Immigration and Naturalization Service) or (2) other documents determined by the state to constitute reasonable evidence of satisfactory immigration status. If an individual presents DHS/USCIS documentation, the state must verify the individual's immigration status with DHS/USCIS through the automated Systematic Alien Verification for Entitlements (SAVE) system, or by using an alternative verification system approved by the Secretary of Health and Human Services. States receive 100% federal reimbursement for the operation of such systems.

Senate Bill

No provision.

House Bill

Under the House bill, states would be prohibited from receiving federal reimbursement for medical assistance provided under Medicaid to an individual who has not provided satisfactory documentary evidence of citizenship or nationality.

Such evidence would include one of the following documents:

- a United States passport;
- Form N-550 or N-570 (Certificate of Naturalization);
- Form N-560 or N-561 (Certificate of United States Citizenship);
- such other document that the Secretary may specify, by regulation, that provides proof of United States citizenship or nationality and that provides a reliable means of documentation of personal identity.

Satisfactory documentary evidence would also include a document from each of the following lists:

- a certificate of birth in the United States;
- Form FS-545 or Form DS-1350 (Certificate of Birth Abroad);
- Form 1-97 (United States Citizen Identification Card);
- Form FS–240 (Report of Birth Abroad of a Citizen of the United States); or
- such other document as the Secretary may specify (excluding a document specified by the Secretary as described above) that provides proof of United States citizenship or nationality;

AND

- any identity document described in section 274A(b)(1)(D) of the Immigration and Nationality Act; or
- any other documentation of personal identity of such other type as the Secretary finds, by regulation, provides a reliable means of identification.

The documentary requirements would not apply to an alien who is: (1) eligible for Medicaid and is entitled to or enrolled for Medicare benefits, (2) eligible for Medicaid on the basis of receiving Supplemental Security Income benefits, or (3) eligible for Medicaid on such other basis as the Secretary may specify under which satisfactory documentary evidence of citizenship or nationality had been previously presented.

The provision would apply to determinations of initial eligibility for Medicaid made on or after July 1, 2006, and to redeterminations made after such date in the case of individuals for whom the new documentary requirements were not previously met.

Conference Agreement

The conference agreement follows the House bill, but allows a state-issued driver's license or other identity document described in section 274(A)(b)(1)(D) of the Immigration and Nationality Act as satisfactory evidence, but only if the state issuing the license or such document requires proof of U.S. citizenship before issuance or obtains a Social Security number from the applicant and verifies before certification that such number is valid and assigned to an applicant who is a citizen.

Health Opportunity Accounts (Section 6083 of the Conference Agreement, no provision in the Senate Bill, and Section 3134 of the House Bill)

Current Law

Medicaid is a joint federal-state entitlement program that finances health care coverage for certain low-income families, children, pregnant women, and individuals who are aged or disabled. To qualify for Medicaid, an individual must meet both categorical and financial eligibility requirements. The specific income and resource limitations that apply to each eligibility group are set through a combination of federal parameters and state definitions. Each state designs and administers its own program under broad federal guidelines. Variation exists among states in eligibility, covered services, and the delivery of, and reimbursement for services. States that wish to experiment with new approaches for providing health care coverage that promote the objectives of the Medicaid program may seek approval for Section 1115 demonstration waivers.

Medicaid's basic benefits rules require all states to provide certain "mandatory" services as listed in Medicaid statute. Federal matching payments are also available for optional services if states choose to include them in their Medicaid plans. States define the specific features of each service to be provided under that plan within broad federal guidelines including: (1) Amount, duration, and scope. Each covered service must be sufficient in amount, duration, and scope to reasonably achieve its purpose. (2) Comparability. With certain exceptions, services available to any categorically needy beneficiary in a state must be equal in amount, duration, and scope to those available to any other categorically needy beneficiary in the state. Similarly, services available to any medically needy beneficiary in a state must be equal in amount, duration, and scope to those available to any other medically needy beneficiary in the state. (3) Statewideness. State plan services must be covered throughout an entire state, and (4) Freedom of choice. With certain exceptions, a state's Medicaid plan must allow recipients freedom of choice among health care providers or managed care entities participating in Medicaid.

States may generally impose nominal cost-sharing on beneficiaries, with certain exceptions. They are precluded from imposing cost sharing on services for children under 18, services related to pregnancy, family planning or emergency services, services provided to nursing facility residents who are required to spend all of their income for medical care except for a personal needs allowance, and services furnished to individuals receiving hospice care. States may require nominal copayments, coinsurance, or deductibles within federal limits from other beneficiaries or for other services. Beneficiaries may be charged only one type of cost sharing per service. Providers may collect cost sharing amounts from beneficiaries and generally are not to be reimbursed by the state if they are unsuccessful in collecting cost sharing from beneficiaries. Providers generally may not deny services if beneficiaries are unable to pay cost sharing amounts.

For the most part, states establish their own rates to pay Medicaid providers for services. By regulation these rates must be sufficient to enlist enough providers so that covered services will be available to Medicaid beneficiaries at least to the extent they are available to the general population in a geographic area. All providers are required to accept payments under the program as payment in full for covered services except where states require nominal cost-sharing by beneficiaries.

Senate Bill

No provision.

House Bill

The House bill would require the Secretary of HHS to establish no more then 10 demonstration programs within Medicaid for health opportunity accounts (HOA), effective January 1, 2006. While demonstration programs described in the House bill have some of the elements of a Section 1115 demonstration waiver, "Health Opportunity Accounts," as defined by the provision, are not explicitly authorized under current law.

If successful during the initial 5-year test period, other demonstrations would be approved. HOAs would be used to pay (via electronic funds transfers) health care expenses specified by the state; payments could be restricted to licensed or otherwise authorized providers as well as to items and services that are medically appropriate or necessary. Eligibility for HOAs would be determined by the state, though individuals age 65 or older, or who are disabled, pregnant, or receiving terminal care or long-term care, would be among those who would be precluded from participating. Once account holders were no longer eligible for Medicaid they could continue to make HOA withdrawals under state-specified conditions, though accounts could then also be used to pay for health insurance or, at state option, for job training or education. Among other things, state demonstration programs would have to make patients aware of the high cost of medical care, provide incentives for them to seek preventive care, and reduce inappropriate uses of health care.

Demonstration participants would have both an HOA and coverage for medical items and services that, after an annual deductible is met, were available under the existing Medicaid state plan and/or Section 1115 waiver authorities. HOA contributions could be made by the state or by other persons or entities, including charitable organizations. Including federal shares, state contributions generally could not exceed $2,500 for each adult and $1,000 for each child.

Demonstration participants would be required to meet an annual deductible before they would be permitted to access coverage for medical items and services available under the existing Medicaid state plan and/or Section 1115 waiver authorities. The deductible would have to be at least 100%, but no more than 110%, of the annual state contributions to the HOA. Both the deductible and the maximum for out-of-pocket cost-sharing could vary among families. The deductible need not apply to preventive care.

The House bill would require demonstration participants to be able to obtain services from Medicaid providers or managed care organizations at the same payment rates that would be applicable if the coverage deductible did not apply, or from any provider for payment rates not exceeding 125% of those rates.

Conference Agreement

The House bill is agreed to with the following modifications. The conference agreement requires the Secretary of HHS to establish no more then 10 demonstration programs within Medicaid for health opportunity accounts (BOA), effective January 1, 2007. If successful (based on cost-effectiveness, quality of care and other Secretary-specified criteria) during the initial 5-year test period, such demonstrations may be extended or made permanent, and other demonstrations may be approved. Not later than 3 months prior to the end of the initial 5-year test period, the conference agreement requires the Comptroller General of the Unites States to submit an evaluation of the demonstration programs to Congress.

HOAs are used to pay (via electronic funds transfers) health care expenses specified by the state; payments could be restricted to licensed or otherwise authorized providers as well as to items and services that are medically appropriate or necessary. Eligibility for HOAs is determined by the state, though individuals age 65 or older, or who are disabled, pregnant, or receiving terminal care or long-term care, are among those who are precluded from participating. Once account holders are no longer eligible for Medicaid they may continue to make HOA withdrawals under state-specified conditions for a period of three years, though no additional account contributions will be made and the account balances will be reduced by 25%. For ineligible individuals who participated in the demonstration program for at least one year, accounts could then also be used to pay for health insurance or, at state option, for additional expenditures such as job training or education. The conference agreement adds a 1-year moratorium for reenrollment, whereby eligible individuals disenrolled from the state demonstration programs are not permitted to reenroll for a full year from such individual's disenrollment date. Among other things, state demonstration programs are required to make patients aware of the high cost of medical care, provide incentives for them to seek preventive care, and reduce inappropriate uses of health care.

The conference agreement requires demonstration participants have both an HOA and coverage for medical items and services that, after an. annual deductible is met, are available under the existing Medicaid state plan and/or Section 1115 waiver authorities. HOA contributions could be made by the state or by other persons or entities, including charitable organizations as permitted under current law. Including federal shares, state contributions generally may not exceed $2,500 for each adult and $1,000 for each child.

The conference agreement requires demonstration participants to meet an annual deductible before they are permitted to access coverage for medical items and services available under the existing Medicaid state plan and/or Section 1115 waiver authorities. The deductible must be at least 100%, but no more than 110%, of the annual state contributions to the HOA without regard to state-specified limits on the HOA balance. Both the deductible and the maximum for out-of-pocket cost-sharing could vary among families. The deductible need not apply to preventive care.

The conference agreement requires demonstration participants to be able to obtain services from Medicaid providers, or Medicaid managed care organizations at the same payment rates that are applicable if the coverage deductible did not apply, or from any other provider or managed care organization at payment rates not exceeding 125% of such Medicaid provider payment rates. The conference agreement requires that the payment rates for Medicaid providers or managed care organizations be computed without regard to any cost sharing that are otherwise applicable under current law (as modified by the conference agreement).

State Option to Establish Non-emergency Medical Transportation Program (Section 6084 of the Conference Agreement, no provision in the Senate Bill, and Section 3125 of the House Bill)

Current Law

Federal regulations require states to ensure necessary transportation for beneficiaries to and from providers. When states offer transportation as an optional benefit, federal reimbursement uses the federal assistance medical percentage (FMAP) rate which varies by state and ranges from 50% to 83%. FMAP reimbursement is only available if transportation is furnished by a provider to whom a direct payment can be made. Beneficiaries must have freedom of choice among transportation providers and such services must be equal in amount, duration and scope for all beneficiaries classified as categorically needy (CN). This comparability requirement also applies among medically needy (MN) groups. Other arrangements, such as payments to a broker who manages and pays transportation vendors, must be claimed as an administrative expense rather than as a benefit. Such costs are reimbursed by the federal government at 50%, and fewer federal requirements must be met.

Senate Bill

No provision.

House Bill

The House bill would allow states to establish a non-emergency medical transportation brokerage program for beneficiaries who need access to medical care but have no other means of transportation. The state would not be required to provide comparable services for all Medicaid enrollees, nor freedom of choice among providers. The program would include wheelchair van, taxi, stretcher car, bus passes and tickets, and other transportation methods deemed appropriate by the Secretary, and could be conducted under contract with a broker who: (1) is selected through a competitive bidding process that assesses the broker's experience, references, qualifications, resources and costs; (2) has oversight procedures to monitor beneficiary access and complaints and to ensure that transport personnel are licensed, qualified, competent and courteous; (3) is subject to regular auditing by the state to ensure quality of services and adequacy of beneficiary access to medical care; and (4) complies with requirements related to prohibitions on referrals and conflict of interest established by the Secretary. These provisions would be effective upon enactment.

The Office of the Inspector General (OIG) of DHHS would be required to submit a report to Congress examining the non-emergency medical transportation brokerage program implemented under this provision no later than January 1, 2007. This report must include findings regarding conflicts of interest and improper utilization of transportation services under this program, as well as recommendations for improvements.

Conference Agreement

The conference agreement includes the House bill, and specifies that non-emergency medical transportation brokerage programs do not have to be available statewide.

Extension of Transitional Medical Assistance (TMA) and Abstinence Education Program (Section 6085 of the Conference Agreement, no provision in the Senate Bill, no provision in the House Bill)

Current Law

States are required to continue Medicaid benefits for certain low-income families who would otherwise lose coverage because of changes in their income. This continuation of benefits is known as transitional medical assistance (TMA). States are currently required to provide TMA to families losing eligibility for Medicaid under two scenarios: one related to child or spousal support, and one related to work.

First, under 1931(c) of the Social Security Act, states must provide four months of TMA coverage to families losing Medicaid eligibility due to increased child or spousal support. This is a permanent provision of law with no sunset date.

Second, states are required to provide TMA to families losing Medicaid eligibility for work-related reasons. While Section 1902(e)(1) of the Social Security Act permanently requires states to provide four months of TMA to families losing Medicaid eligibility due to an increase in hours of work or income from employment, the Family Support Act (FSA) of 1988 expanded state TMA requirements under Section 1925 of the Social Security Act. As a result, states are currently required to provide at least six, and up to 12, months of TMA coverage to families losing Medicaid eligibility due to increased hours of work or income from employment, as well as to families who lose eligibility due to the loss of a time-limited earned income disregard (such disregards have the effect of increasing the income level at which a family may qualify for Medicaid). FSA originally authorized Section 1925 to replace the four-month requirement in Section 1902(e)(1) through FY1998. However, the sunset date for Section 1925 has been extended a number of times, most recently through December 31, 2005.

Under Section 510 of the Social Security Act, federal law appropriated $50 million annually for each of the fiscal years 1998–2003 for matching grants to states to provide abstinence education and, at state option, mentoring, counseling, and adult supervision to promote abstinence from sexual activity, with a focus on groups that are most likely to bear children out-of-wedlock. Funds must be requested by states when they apply for Maternal and Child Health Services (MCR) Block Grant funds and must be used exclusively for the teaching of abstinence. States must match every $4 in federal funds with $3 in state funds.

A state's allotment of abstinence education block grant program funding is based on the proportion of low-income children in the state as compared to the national total. Funding for the abstinence education block grant has been extended through December 31, 2005 by temporary extension measures.

Senate Bill

No provision.

House Bill

No provision.

Conference Agreement

The conference agreement extends TMA under Section 1925 of the Social Security Act through December 31, 2006. It also extends the $50 million annual appropriation for the abstinence education block grant program through fiscal year 2006 and provides an additional $12.5 million for the program for the first quarter of fiscal year 2007 (i.e., through December 31, 2006).

Emergency Services Furnished by Non-Contract Providers for Medicaid Managed Care Entities (Section 6086 of the Conference Agreement, no provision in the Senate Bill, and Section 3147 of the House Bill)

Current Law

Medicaid law provides certain protections for beneficiaries enrolled in managed care, including assuring coverage of emergency services under each managed care contract awarded by the state.

Senate Bill

No provision.

House Bill

A Medicaid provider that does not have a contract with a Medicaid managed care entity (MCE) that furnishes emergency care to a beneficiary enrolled with that MCO must accept as payment in full the amount otherwise applicable outside of managed care (e.g., in the fee-for-service setting) minus any payments for indirect costs of medical education and direct costs of graduate medical education. The effective date of this provision would be January 1, 2007.

Conference Agreement

The conference agreement includes the House bill, but clarifies that the fee-for-service rate is the maximum payment rate. Also, in a state where rates paid to hospitals under the state plan are negotiated by contract and not publicly released, the payment amount applicable under this provision must be the average contract rate that would apply under the state plan for general acute care hospitals or the average contract rate that would apply under the plan for tertiary hospitals.

Subtitle B—SCHIP

Additional allotments to eliminate fiscal year 2006 funding shortfalls (Section 6101 Subsection a of the Conference Agreement, Section 6051 Subsection a of the Senate Bill, and no provision in the House Bill)

Current Law

In general, funds for the SCHIP program are authorized and appropriated for FY1998 through FY2007. From each year's appropriation, a state is allotted an amount determined by a formula set in law. Federal funds not drawn from a state's allotment by the end of each fiscal year continue to be available to that state for two additional fiscal years. At the end of the three-year period, unspent funds from the original allotment are reallocated in ways that vary depending on the fiscal year. The original SCHIP law, (i.e., BBA97), specifies that only those states that spend all of their original allotment by the applicable three-year deadline would receive redistributed funds from the other states' unspent allotments, based on a process determined by the Secretary of Health and Human Services (HHS); and these redistributed funds would be available for one year. However, later laws (i.e., P.L. 106-554 and P.L. 108-74) overrode how the reallocation of unspent FY1998 to FY2001 original allotments would occur. The redistribution of unspent FY2002 SCHIP original allotments was determined by the Secretary of HHS in accordance with the default redistribution provision in BBA97.

Under current law, unspent original allotments from FY2003 forward are to be redistributed according to the original BBA97 methodology. That is, redistributed funds will go only to those states that spend all of their original allotments by the applicable three-year deadline, with the redistributed amounts determined by the Secretary of HHS and made available for one year only.

Senate Bill

In general, the Senate bill would reduce the period of availability of the FY2004 and FY2005 original allotments from three years to two, and would specify rules for the reallocation of unspent FY2003, FY2004, and FY2005 SCHIP original allotments. The reallocated FY2003 and FY2004 funds would be available in FY2006; the reallocated FY2005 funds would be available in FY2007.

In FY2006, the Senate bill would require that unspent FY2003 original allotments remaining at the end of FY2005 (after a set-aside of 1.05% of the total unspent FY2003 funds for the territories) would be redistributed to states with an initial projected FY2006 shortfall. The initial projected shortfall is the amount by which a state's estimated federal SCHIP expenditures in FY2006 would exceed the amounts available from the state's FY2005 and FY2006 original allotments. Each state with an initial projected shortfall would receive a portion of the available unspent FY2003 original allotments in proportion to its contribution to the total pool of such shortfalls. From the 1.05% territory set-aside, each territory would receive an amount in proportion to its contribution to the total pool of FY2003 original allotments for the territories.

Also in FY2006, the Senate bill would require that the territories receive a set-aside of 1.05% of the total unspent FY2004 original allotments available at the end of FY2005. Described states would be permitted to extend the use of their unspent FY2004 original allotments in an amount equal to the shortfall still remaining after receiving redistributed FY2003 funds. Described states would be defined as states that: (1) spent all FY2003 original allotments by the end of FY2005, (2) did not spend all of their FY2004 original allotment by the end of FY2005, and (3) reported an initial projected FY2006 shortfall. After the set-aside for the territories as well as the reduction of FY2004 extended funds for the described states, the remaining unspent FY2004 funds would be available to states with a net projected FY2006 shortfall, defined as each state's initial projected shortfall reduced by the redistributed FY2003 funds it received and by the extended FY2004 funds if it is a described state. Each state with a net projected shortfall would receive a redistribution of FY2004 funds to cover its net projected shortfall. Any remaining FY2004 unspent original allotments would then be extended proportionally to states that did not spend their FY2004 allotments by the end of the two-year period of availability. From the 1.05% territory set-aside, each territory would receive an amount in proportion to its contribution to the total pool of FY2004 original allotments for the territories.

In FY2007, the Senate bill would require that the territories receive a set-aside of 1.05% of the total unspent FY2005 original allotments available at the end of FY2006. Described states would be permitted to extend the use of their unspent FY2005 original allotments in an amount equal to their initial projected FY2007 shortfall. The initial projected shortfall is the amount by which a state's estimated federal SCHIP expenditures for FY2007 exceeds the amount available from the state's FY2006 and FY2007 original allotments. Described states would be defined as states that: (1) did not spend all of their FY2005 original allotment by the end of FY2006, and (2) reported an initial projected FY2007 shortfall. After the set-aside for the territories as well as the reduction of FY2005 extended funds for the described states, the remaining unspent FY2005 funds would be available to states with a net projected FY2007 shortfall, described as each state's initial projected shortfall reduced by the extended FY2005 funds for the described states. Each state with a net projected shortfall would receive a redistribution of FY2005 funds to cover its net projected shortfall or, if the remaining funds are inadequate to cover the FY2007 projected shortfalls, a portion of the available unspent FY2005 original allotments in proportion to the state's contribution to the total shortfall pool. If any FY2005 unspent original allotments remain, they would then be extended proportionally to states that did not spend their FY2005 allotments by the end of the two-year period of availability. From the 1.05% territory set-aside, each territory would receive an amount in proportion to its contribution to the total pool of FY2005 original allotments for the territories.

To calculate the amounts available for redistribution and retention in each formula described above, the Secretary would use expenditures reported by states not later than November 30, 2005, for the FY2003and FY2004 redistributions, and November 30, 2006, for the FY2005 redistribution. To calculate states with projected shortfalls in each formula described above, the Secretary would use projected expenditures reported by the states not later than September 30, 2005, for the FY2003 and FY2004 redistributions, and not later than September 30, 2006, for the FY2005 redistribution. This provision of the Senate bill would be effective upon enactment of this Act.

House Bill

No provision.

Conference Agreement

Out of money not otherwise available in the Treasury, the conference agreement authorizes and appropriates $283 million for the purpose of providing additional SCHIP allotments to shortfall states in FY2006. The conference agreement defines shortfall states as those with an approved SCHIP plan for which (based on the most recent SCHIP data as of December 16, 2005 the Secretary estimates that such state's FY2006 projected expenditures exceed the sum of all funds available for expenditure by that state in FY2006 including: (1) the amount of such state's FY2004 and FY2005 original allotments that will not be expended in FY2005; (2) the amount, if any, that is redistributed to such state during FY2006; and (3) the amount of such state's FY2006 original allotment. From the additional SCHIP appropriation, each FY2006 shortfall state would receive an allotment to cover its projected shortfall or, if the appropriated funds are inadequate to cover the FY2006 projected shortfalls, the Secretary shall distribute the available funds on a pro rata basis based on each such state's estimated shortfall. Such additional SCHIP allotments are available for one year only. On October 1, 2006, any remaining unspent additional allotments will not be subject to redistribution, but will instead revert to the Treasury.

The conference agreement limits the types of payments that may be matched at the SCHIP enhanced matching rate for SCHIP expenditures drawn against the additional FY2006 appropriation available to shortfall states to include child health assistance payments made on behalf of targeted low-income children. The amendments made by this section of the conference agreement apply to items and services furnished on or after October 1, 2005, without regard to whether or not regulations implementing such amendments have been issued.

Prohibition against covering nonpregnant childless adults with SCHIP funds (Section 6102 of the Conference Agreement, and Section 6053 of the Senate Bill)

Current Law

Section 1115 of the Social Security Act gives the Secretary of HHS broad authority to modify virtually all aspects of the Medicaid and SCHIP programs. Under Section 1115, the Secretary may waive requirements in Section 1902 (usually, freedom of choice of provider, comparability, and statewideness). For SCHIP, no specific sections or requirements are cited as "waive-able." SCHIP statute simply states that Section 1115, pertaining to research and demonstration projects, applies to SCHIP.

With respect to SCHIP, the Clinton Administration issued a July 31, 2000, letter regarding treatment of adults. While this Administration was supportive of using the 1115 authority to expand SCHIP to parents of Medicaid or SCHIP-eligible children, as well as to certain pregnant women, it opposed coverage of childless adults. Under the Bush Administration, the Health Insurance Flexibility and Accountability (HIFA) Initiative was implemented using the 1115 waiver authority. The initiative was created to encourage states to increase the number of individuals with health insurance coverage (including childless adults) within current program resources.

Senate Bill

The Senate bill would limit the Secretary of Health and Human Services's Section 1115 waiver authority by prohibiting the approval of new waiver, experimental, pilot, or demonstration projects that allow federal SCHIP funds to be used to provide child health assistance or other health benefits coverage to nonpregnant childless adults. The provision would allow the Secretary to continue to approve projects that expand the SCHIP program to caretaker relatives of Medicaid or SCHIP-eligible children (as defined under Section 1931 of Medicaid statue), and to pregnant adults. Finally, the provision would allow for the continuation of existing Medicaid or SCHIP waiver projects (and/or extensions, amendments, or renewals to such projects) affecting federal SCHIP funds that had been approved under the Section 1115 waiver authority before the date of enactment of this Act. This provision would be effective upon the enactment of this Act.

House Bill

No provision.

Conference Agreement

The Senate bill is agreed to.

Continued authority for qualifying states to use certain funds for Medicaid expenditures. (Section 6103 of the Conference Agreement, Section 6054 of the Senate Bill, and no provision in the House Bill)

Current Law

Current law permits qualifying states (i.e., states that on or after April 15, 1997, had an income eligibility standard for children, other than infants, of at least 184% of the FPL.—Other qualifications also apply to states with statewide waivers under Section

1115 of the Social Security Act.) to receive the SCHIP enhanced federal matching rate for the coverage of certain children enrolled in regular Medicaid. Specifically, for services delivered to Medicaid beneficiaries under the age of 19 who are not otherwise eligible for SCHIP and have family income that exceeds 150% of the FPL, federal SCHIP funds can be used to pay the difference between the SCHIP enhanced federal matching rate and the regular Medicaid federal matching rate. The maximum amount that qualifying states may claim under this allowance is the lesser of the following two amounts: (1) 20% of the state's available FY1998 through FY2001 original SCHIP allotments; and (2) the state's balance (calculated quarterly) of any available FY1998 to FY2001 federal SCHIP funds (original allotments or reallocated funds). If there is no balance, states may not claim 20% spending. No 20% spending will be permitted in FY2006 or any fiscal year thereafter.

House Bill

No provision.

Senate Bill

The Senate bill would continue the authority for qualifying states to apply federal SCHIP matching funds toward the coverage of certain children enrolled in regular Medicaid (not an SCHIP Medicaid expansion). Specifically, the bill would allow qualifying states to use any available FY2004 and FY2005 SCHIP funds (i.e., FY2005 original allotments, and/or FY2004 and FY2005 retained allotments or redistributed funds, as the case may be) for such Medicaid services made on or after October 1, 2005 under the 20% allowance. This provision of the Senate bill would be effective on or after October 1, 2005.

Conference Agreement

The Senate bill is agreed to.

Use of Redistributed Funds for Child Health Assistance for Targeted Low-income Children (No provision in the Conference Agreement. "Section 6051—Subsection b of the Senate Bill, and no provision in the House Bill)

Current Law

Like Medicaid, SCHIP is a federal-state matching program. For each dollar of state spending, the federal government makes a matching payment drawn from SCHIP accounts. The federal government contributes more toward the coverage of individuals in SCHIP than it does for those covered under Medicaid. All SCHIP assistance for targeted low-income children, including claims submitted to and approved by CMS for expenditures under the Section 1115 waiver authority, are matched at the enhanced federal medical assistance percentage (enhanced-FMAP).

Title XXI of the Social Security Act specifies that federal SCHIP funds can be used for child health assistance that meets certain requirements. Apart from these benefit payments, SCHIP payments at the enhanced FMAP rate for four other specific health care activities can be made, including: (1) other child health assistance for targeted low-income children; (2) health services initiatives to improve the health of targeted low-income children and other low-income children; (3) outreach activities; and (4) other reasonable administrative costs.

Senate Bill

The Senate bill would limit the types of payments that could be matched at the SCHIP enhanced matching rate for SCHIP expenditures drawn against the FY2003, FY2004, and FY2005 redistributed funds available to shortfall states. Specifically, the Senate bill would require the federal government to make matching payments at the SCHIP enhanced matching rate for child health assistance payments made on behalf of targeted low-income children. However, expenditures drawn against the FY2003, FY2004, and FY2005 redistributed SCHIP funds would occur at the regular Medicaid FMAP rate for all other approved SCHIP expenditures, consisting of the following: (1) benefit expenditures for adults (other than pregnant women) approved under the Section 1115 waiver authority; (2) health services initiatives to improve the bealth of targeted low-income children and other low-income children; (3) outreach activities; and (4) other reasonable administrative costs.

House Bill

No provision.

Conference Agreement

The conference agreement does not include this provision.

Authority to Use up to 10 Percent of Fiscal Year 2006 and 2007 Allotments for Outreach (No provision in the Conference Agreement. Section 6052 of the Senate Bill, and no provision in the House Bill)

Current Law

In general, Title XXI of the Social Security Act specifies that federal SCHIP funds can be used for child health assistance that meets certain requirements. Apart from these benefit payments, SCHIP payments at the enhanced FMAP rate can be made for the following four specific health care activities: (1) other child health assistance for targeted low-income children; (2) health services initiatives to improve the health of targeted low-income children and other low-income children; (3) outreach activities; and (4) other reasonable administrative costs. For a given fiscal year, payments for these four specific health care activities cannot exceed 10% of the total amount of expenditures for SCHIP insurance benefits and other specific health care activities combined. The Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) created a special rule for the redistribution of unspent FY1998 and FY1999 original allotments. Under BIPA, states that did not use all of their original allotments for the year were permitted to use up to 10% of their retained FY1998 funds for outreach activities. This allowance is over and above spending for such activities under the general administrative cap, described above.

Senate Bill

The Senate bill would allow states to use up to 10% of their FY2006 and FY2007 original allotments for expenditures on outreach activities incurred during FY2006 and FY2007 respectively. This allowance would be over and above spending for such activities under the general administrative cap described under current law. Outreach activities would include: (1) activities to promote the coordination of the administration of SCHIP with other public and private health insurance programs; and (2) strategies to market the program to the target population and to simplify and expedite the eligibility determination and enrollment process. This provision would be effective upon enactment of this Act.

House Bill

No provision.

Conference Agreement

The conference agreement does not include this provision.

Grants to Promote Innovative Outreach and Enrollment Under Medicaid and SCHIP (No provision in the Conference Agreement. Section 6055 of the Senate Bill, and no provision in the House Bill)

Current Law

The federal and state governments share in the costs of both Medicaid and SCHIP, based on formulas defining the federal contribution in federal law. States are responsible for the nonfederal share, using state tax revenues, for example, but can also use local government funds to comprise a portion of the non-federal share. Generally, the non-federal share of costs under Medicaid and SCHIP cannot be comprised of other federal funds.

Under Medicaid, there are no caps on administrative expenses that may be claimed for federal matching dollars. Title XXI specifies that federal SCHIP funds can be used for SCHIP health insurance coverage, called child health assistance that meets certain requirements. Apart from these benefit payments, SCHIP payments for four other specific health care activities can be made, including: (1) other child health assistance for targeted low-income children; (2) health services initiatives to improve the health of SCHIP children and other low-income children; (3) outreach activities; and (4) other reasonable administrative costs. For a given fiscal year, payments for other specific health care activities cannot exceed 10% of the total amount of expenditures for SCHIP benefits and other specific health care activities combined.

Senate Bill

The Senate bill would establish a new grant program under SCHIP to (1) finance outreach and enrollment efforts to increase participation of eligible children in both SCHIP and Medicaid, and (2) promote understanding of the importance of health insurance coverage for prenatal care and children. The Secretary would be permitted to reserve a portion of the grant funds for the purpose of awarding performance bonuses to eligible entities (defined below) that meet enrollment goals or other criteria established by the Secretary.

In awarding grants, the Secretary would be required to give priority to: (1) entities that propose to target geographic areas with high rates of eligible but not enrolled children, or racial and ethnic minorities and health disparity populations, and (2) entities targeting the same populations that are federal health safety net organizations (defined below) or faith-based organizations or consortia. Of the funds appropriated for this grant program (see below), 10% would be set aside for grants to certain Indian health care providers for outreach and enrollment of Indian children. These Indian health care providers would include the Indian Health Service (IRS) and Urban Indian Organization (UIO) providers that receive funds under Title V of the Indian Health Care Improvement Act.

The Senate bill would require entities seeking a grant to submit an application to the Secretary containing information on the quality and outcome performance measures to be used to evaluate the effectiveness of grant activities to ensure that these activities are meeting their goals. In addition, the application must provide assurances that the entity would: (1) conduct an assessment of the effectiveness using such performance measures, and (2) collect and report enrollment data and other information from these assessment to the Secretary in a form and manner as required by the Secretary.

The Senate bill would require the Secretary to disseminate to eligible entities and make publicly available the enrollment data and information collected and reported by grantees. The Secretary would also be required to submit an annual report to Congress on the funded outreach activities.

The Senate bill would require that federal funds awarded under this new grant be used to supplement, not supplant, non-federal funds that are otherwise available for these grant activities.

Specific definitions would be applicable to the new grant program. Five types of entities would be eligible to receive these grants, including: (1) state or local governments, (2) federal health safety net organizations, (3) national, local or community-based public or nonprofit private organization, (4) faith-based organizations or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of Section 1955 of the Public Health Service Act (relating to grant awards to non-governmental entities), and (5) elementary or secondary schools. Federal health safety net organizations include a number of different types of entities, including for example: (1) Indian tribes, tribal organizations, UIOs and IHS providers, (2) federally qualified health centers, (3) hospitals that receive disproportionate share hospital (DSH) payments, (4) entities described in Section 340B(a)(4) of the Public Health Service Act (e.g., certain family planning projects, certain grantees providing early intervention services for HIV disease, certain comprehensive hemophilia diagnostic treatment centers, and certain Native Hawaiian health centers), and (5) any other entity that serves children under a federally-funded program, including the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), Head Start programs, school lunch programs, and elementary or secondary schools.

The Senate bill would appropriate $25 million for fiscal year 2007 for these grants. These grants would be in addition to existing SCHIP appropriations, and would not be subject to restrictions on expenditures for outreach activities under current law.

These provisions would be effective with the FY2007 appropriation for this new grant program.

House Bill

No provision.

Conference Agreement

The conference agreement does not include this provision.

Subtitle C—Katrina Relief

Additional Federal Payments Under Hurricane-Related Multi-State Section 1115 Demonstrations (Section 6201 of the Conference Agreement, Sections 6032 and 6071 of the Senate Bill, and Sections 3100 and 3201 of the House Bill)

Current Law

The federal medical assistance percentage (FMAP) is the rate at which states are reimbursed for most Medicaid service expenditures. It is based on a formula that provides higher reimbursement to states with lower per capita incomes relative to the national average (and vice versa); it has a statutory minimum of 50% and maximum of 83%. An enhanced FMAP is available for both services and administration under SCHIP, subject to the availability of funds from a state's SCHIP allotment. In order for a state to receive federal Medicaid or SCHIP reimbursement, it must have in effect a state plan approved by the Secretary of HHS that meets requirements set forth in federal statute and regulations.

Using an application template developed by the Centers for Medicare and Medicaid Service within HHS, a number of states (17 as of December 15, 2005) have been granted waivers under Section 1115 of the Social Security Act to provide Medicaid and SCHIP services to certain individuals affected by Hurricane Katrina (these waivers are referred to as being part of a multistate demonstration project). For purposes of FMAP reimbursement, Section 1115 waivers are deemed to be part of a state's Medicaid or SCHIP state plan (i.e., its "regular" Medicaid or SCHIP program).

All of the waivers granted thus far under the Hurricane Katrina multi-state Section 1115 demonstration create a temporary eligibility period, not to exceed five months, during which certain Hurricane Katrina evacuees will be granted access to Medicaid and SCHIP services in the host state (i.e., the state that has been granted a Section 1115 waiver) based on simplified eligibility criteria. In addition to creating temporary Medicaid or SCHIP eligibility for evacuees, waivers for some states also create an uncompensated care pool that may be used through January 31, 2006, to augment Medicaid and SCHIP services for evacuees and to reimburse providers that incur uncompensated care costs for uninsured evacuees who do not qualify for Medicaid or SCHIP.

Disaster declarations were issued in the wake of Hurricane Katrina pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which authorizes the President to issue such declarations to speed a wide range of federal aid—including individual assistance (e.g., housing for individuals and families) and public assistance (e.g., repair of community infrastructure)—to states determined to be overwhelmed by hurricanes or other catastrophes. The Federal Emergency Management Agency (FEMA) makes the decision as to when a major disaster or emergency is "closed out" for administrative purposes.

Senate Bill

Under the Senate bill, for items and services furnished during the period August 28, 2005 through May 15, 2006, states would receive 100% FMAP reimbursement for Medicaid and SCHIP assistance provided to individuals who resided during the week preceding Hurricane Katrina in one of the parishes of Louisiana or counties of Mississippi and Alabama specified in the bill. Costs directly attributable to related administrative activities would also be reimbursed at 100%.

A separate provision would allow the state of Louisiana, Mississippi, or Alabama to elect to not have the Medicaid subtitle of the bill apply with respect to the state during any period for which a major disaster declared in accordance with the Stafford Act with respect to a parish (in the case of Louisiana) or a county (in the case of Mississippi or Alabama) as a result of Hurricane Katrina is in effect.

House Bill

Under the House bill, for items and services furnished during the period August 28, 2005 through May 15, 2006, states would receive 100% FMAP reimbursement for Medicaid and SCHIP assistance provided to: (1) any individual residing in a parish of Louisiana, a county of Mississippi, or a major disaster county of Alabama and (2) individuals who resided during the week preceding Hurricane Katrina in a parish or county for which a major disaster has been declared as a result of the hurricane and for which the President has determined, as of September 14, 2005, warrants individual assistance under the Stafford Act. Costs directly attributable to related administrative activities would also be reimbursed at 100%.

A separate provision would allow the Medicaid subtitle of the bill to not apply during the 11-month period beginning September 1, 2005, to individuals entitled to Medicaid assistance by reason of their residence in a parish of Louisiana or a county of Mississippi or Alabama for which a major disaster has been declared as a result of Hurricane Katrina and for which the President has determined, before September 14, 2005, warrants individual and public assistance under the Stafford Act.

Conference Agreement

The conference agreement appropriates $2 billion (in addition to any funds made available for the National Disaster Medical System under the Department of Homeland Security for health care costs related to Hurricane Katrina) for use by the Secretary of HHS to pay eligible states (those who have provided care to affected individuals or evacuees under a Section 1115 project) for the following purposes:

- the non-federal share of expenditures for health care provided to affected individuals (those who reside in a major disaster area declared as a result of Hurricane Katrina and continue to reside in the same state) and evacuees (affected individuals who have been displaced to another state) under approved multi-state Section 1115 demonstration projects;
- reasonable administrative costs related to such projects;
- the non-federal share of expenditures for medical care provided to individuals under existing Medicaid and SCHIP state plans; and
- other purposes, if approved by the Secretary, to restore access to health care in impacted communities.

The non-federal share paid to eligible states shall not be regarded as federal funds for purposes of Medicaid matching requirements. No payment obligations may be incurred under approved multi-state Section 1115 projects for costs of: (1) health care provided as Medicaid or SCHIP medical assistance incurred after June 30, 2006 and (2) uncompensated care or services and supplies beyond those included as Medicaid or SCHIP medical assistance incurred after January 31, 2006.

State High Risk Health Insurance Pool Funding (Section 6202 of the Conference Agreement, no provision in the Senate Bill, and Section 3202 of the House Bill)

Current Law

A majority of states have established high-risk health insurance pool programs as one approach to reduce the number of uninsured persons. These programs target individuals who cannot obtain or afford health insurance in the private health insurance market, primarily because of pre-existing health conditions. Many states also use their high-risk pools to provide access to health insurance to individuals eligible under the guaranteed issue and portability provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, P.L. 104-191). In general, high-risk pools are operated through state-established nonprofit organizations that contract with private insurance companies to collect premiums, administer benefits, and pay claims. These programs tend to be small and enroll a small percentage of the uninsured. As of December 2004, 33 states operate high risk health insurance pool programs. Authorizing legislation for federal funding of these pools expired September 30, 2005.

Senate Bill

No provision.

House Bill

The House bill would amend the Public Health Service Act to reauthorize federal funding for state high risk health insurance pools. For FY2006, it would provide $90 million in appropriations for grants to states to be used to cover up to 50% of operating expenses of existing state high risk pools.

Conference Agreement

The conference agreement would appropriate, for FY2006, $75 million for the losses incurred by a State in connection with the operation of their qualified high risk pool. There is also $15 million in FY2006 appropriated to fund seed grants to States to create, and initially fund, a high risk pool. This funding will also apply upon the enactment of the State High Risk Pool Funding Extension Act of 2005.

Recomputation of HPSA, MUA, and MUP Designations Within Hurricane Katrina Affected Areas (No provision in the Conference Agreement, no provision in the Senate Bill, and Section 3203 of the House Bill)

Current Law

The Public Health Service Act provides for the designation of areas underserved by healthcare personnel, providing federal loans, scholarships and grants to improve the distribution of health care workers. The program is authorized through 2006.

Senate Bill

No provision.

House Bill

The House bill would direct the Secretary of HHS to review all such shortage designations in Hurricane Katrina declared disaster areas (pursuant to the Stafford Act), considering potential new shortages of health care workers.

Conference Agreement

No provision.

Waiver of Certain Requirements Applicable to the Provision of Health Care in Areas Impacted by Hurricane Katrina (No provision in the Conference Agreement, no provision in the Senate Bill, and Section 3204 of the House Bill)

Current Law

The Public Health Service Act establishes requirements for federally qualified health centers and personnel in the National Health Service Corps. Programs are authorized through 2006.

Senate Bill

No provision.

House Bill

The House bill would direct the Secretary of HHS to relax certain requirements for the conduct of federally qualified health centers, and National Health Service Corps personnel staffing them, in areas directly affected by Hurricane Katrina, or indirectly affected by hosting large numbers of evacuees.

Conference Agreement

No provision.

House Bill

Section 7001 temporarily increases the vessel tonnage fees paid by vessels arriving in the United States. Specifically, section 7001 increases the vessel tonnage fees paid by vessels arriving in the U.S. from a place in North America, Central America, the West India Islands, the Bahama Islands, and Newfoundland, and by certain vessels returning from a "voyage to nowhere." The fees are increased from 2 cents per ton, not to exceed 10 cents per ton in a single year, to 4.5 cents per ton, not to exceed 22.5 cents per ton in a single year. In addition, section 7001 increases the vessel tonnage fees paid by vessels arriving from a foreign port anywhere else in the world from 6 cents per ton, not to exceed to 30 cents per ton, to 13.5 cents per ton, not to exceed 67.5 cents per ton in a single year. These increased rates will be in effect for fiscal years 2006 through 2010.

TITLE VII.—HOUSE COMMITTEE ON WAYS AND MEANS

TANF—Temporary Assistance for Needy Families (Subtitle A)

Reauthorization of Grants

Current Law

The TANF block grant provides states with funding for a wide range of benefits and services to families with children, including cash welfare. Basic block grants are funded nationally at $16.5 billion per year. The law also provides supplemental grants to certain states funded at $319 million per year; performance bonus funds of $200 million per year for meeting program goals and $100 million per year for reducing out-of-wedlock pregnancies; contingency funds of $2 billion for states experiencing economic downturns; and a loan fund. Funding authority for the program expires December 31, 2005.

Allows up to 30% of TANF block grants to be transferred to the Child Care and Development Block Grant (CCDBG) and Social Services Block Grant (SSBG), although limit on transfers to SSBG is set at 4.25% for FY2006 and later.

House Passed Bill

Extends TANF block grant at current level through FY2010 and TANF supplemental grants at current levels through FY2009. Eliminates all bonus funds and the loan fund. (Some of these savings are used to finance grants to promote healthy marriages and responsible fatherhood, see below.) Continues a $2 billion contingency fund through FY2010.

Raises overall transfer authority to 50% of the TANF block grant, and increases maximum transfer to SSBG to 10% (level allowed in the original 1996 welfare law).

Senate Passed Bill

No provision.

Conference Report

Recede to the House, with the modification that TANF supplemental grants are authorized at their current level for three fiscal years (through FY2008). Recede to the Senate with regard to transfer authority.

Work Participation Requirements

Current Law

States are required to make an assessment of the work-readiness of TANF assistance recipients and may establish an Individual Responsibility plan for them. States are required to sanction families with a recipient who does not comply with work.

Recipients are required to visit their children's schools twice per year.

Senate Passed Bill

No provision.

Conference Report

Recede to the Senate with respect to self-sufficiency plans, sanctions, and the increase in work participation standard to 70%.

Recede to the House with regard to the caseload reduction credit, with the modification that the base year for this credit is changed to FY2005, effective October 1, 2006. Adds that families receiving assistance under separate state programs are included in the calculation of work participation rates; and the Secretary of Health and Human Services is to provide additional direction to and oversight of states related to activities that may be counted as work activities, how to count and verify reported hours of work, and determining who is a work-eligible individual, with a new penalty for states that fail to establish and maintain such improved work participation verification procedures.

Recede to the Senate on additional credits for states with large past caseload declines, hours of work, partial credits, special allowances or requirements, and changes in list of work activities and extent to which such activities may be counted as work.

Healthy Marriage Promotion Grants

Current Law

No special grants. States may use TANF funds for activities to promote the formation and maintenance of two-parent families.

House Passed Bill

Establishes $100 million per year in matching grants and $100 million per year in demonstration grants to fund various activities to promote healthy marriages. Requires that marriage promotion activities be voluntary. Requires that grantees consult with organizations with experts in domestic violence.

Senate Passed Bill

No provision.

Conference Report

Recede to the House with the modification that the Secretary of HHS will award $150 million per fiscal year in healthy marriage promotion, responsible fatherhood, and related grants in each of FYs 2006–2010. Of this amount, up to $50 million per fiscal year may be awarded on a competitive basis for activities promoting responsible fatherhood, and up to $2 million per fiscal year is available for demonstration projects for coordination of child welfare and TANF services to tribal families at risk of child abuse or neglect.

Conference Report

Recede to the House with the modification that total child care funding will increase by $1 billion above the current level over five years, appropriating $2.917 billion in mandatory child care funding for each of FYs 2006-2010.

Child Support Enforcement (Subtitle C)

Current Law

The Child Support Enforcement (CSE) program is a federal-state program that provides the following basic services to both welfare and nonwelfare families: parent location, review and modification of child support orders, collection of child support payments, establishment of medical child support, and distribution of child support payments. The CSE program is funded with both state and federal dollars. There are four funding mechanisms. First, states spend their own money to operate a CSE program. Second, the federal government reimburses each state 66% for most of its child support enforcement activities or services. The federal government reimburses states at a higher 90% matching rate for paternity determination expenditures. Third, states collect child support on behalf of families receiving welfare benefits to reimburse themselves (and the federal government) for the cost of welfare payments to the family. Fourth, an incentive payment is given to states for operating a good program (current law requires that states reinvest incentive payments back into the CSE program or related activities).

House Passed Bill

Revises some child support enforcement collection mechanisms and add others.

Provides financial incentives to states that send more child support collected on behalf of families on welfare to the families themselves (rather than retain funds as reimbursement for welfare costs). The federal government would pay for a share of support passed through to welfare families as long as that support did not reduce the family's welfare benefit. Also gives states financing incentives to send to former welfare families more of the child support payments collected on their behalf.

Includes a provision to gradually reduce (from FY2007–FY2010) the federal matching rate for child support administrative expenditures from its current 66% to 50%. Also, prohibits the federal government from matching child support incentive payments reinvested in the CSE program.

Senate Passed Bill

No provision.

Conference Report

Recede to the House with modifications that revise child support enforcement collection mechanisms, and provide financial incentives to states that pass through more child support to current and former TANF families. Recede to the House with respect to ending federal matching of state expenditure of federal child support incentive funds, effective in FY 2008. Recede to the Senate with regard to reducing the federal administrative matching rate. Includes provision changing to 66 percent the federal matching rate for laboratory costs incurred in determining paternity, effective October 1, of the Social Security Act and determinations regarding foster care placement, termination of parental rights, and recognition of adoptions. Courts can also use these grant funds to implement changes found necessary as a result of the assessments.

House Passed Bill

Restates the federal foster care eligibility rules to effectively nullify the *Rosales* decision. Restates adoption assistance eligibility to make the same clarification and to simplify the eligibility determination.

Senate Passed Bill

No provision.

Conference Report

Recede to the House, with the modification to include (1) new funds totaling $100 million over the five-year period FY 2006–2010 for strengthening courts involved in child welfare proceedings, and (2) new funds for the Safe and Stable Families program, increasing mandatory funding to $345 million in FY 2006 (and thus totaling $200 million over the five-year period FY 2006–2010).

Limit Federal Foster Care Administrative Claims

Current Law

States may claim reimbursement for some administrative costs related to children who are at "imminent" risk of entering foster care. Some states, relying on prior HHS policy guidance, make additional administrative claims for children placed in unlicensed, or otherwise federally ineligible placement settings, provided the foster child meets all other federal foster care eligibility criteria.

House Passed Bill

Specifies in which cases, and for how long, states may seek reimbursement of foster care administrative costs only on behalf of otherwise federally eligible children who are living with unlicensed relatives, in another ineligible setting, or who have not yet entered foster care.

Senate Passed Bill

No provision.

Conference Report

Recede to the House.

Supplemental Security Income (Subtitle E)

Review of State Agency Blindness and Disability Determinations

Current Law

No provision.

Conference Report

Recede to the Senate.

STATEMENT OF MANAGERS

TITLE VIII—EDUCATION AND PENSION BENEFIT PROVISIONS

With respect to Section 2201 (d) of the House amendment, the managers on the Part of the House agree to request a study by the Government Accountability Office regarding the effect of the premium as provided under Section 4006(a)(7) of ERISA on persons who are a contributing sponsor of the plan or a member of such sponsor's controlled group and who has filed or has had filed against such person a petition seeking reorganization in a case under title 11 of the United States Code, or under any similar law of a State or a political subdivision of a State (or a case described in section 4041(c)(2)(B)(i) filed by or against such person and report the same to the Committees on Education and the Workforce and the Committee on the Judiciary within 18 months of enactment of this Act.

STATEMENT OF MANAGERS

LIHEAP PROVISION

The Congress finds the following:

(1) Hurricanes Katrina and Rita severely disrupted crude oil and natural gas production in the Gulf of Mexico. The Energy Information Administration estimates that as a result of these two hurricanes, the amount of shut in crude oil production nearly doubled to almost 1,600,000 barrels per day, and the amount of natural gas production shut in also doubled to about 8,000,000,000 cubic feet per day. The hurricanes also initially shut down most of the crude oil refinery capacity in the Gulf of Mexico region. These disruptions led to significantly higher prices for crude oil, refined oil products, and natural gas expected to continue in the foreseeable future.

(2) These production and supply disruptions are expected to lead to significantly higher heating costs for consumers for the foreseeable future. These significant increases in home heating costs this winter and for the foreseeable future will particularly harm low-income consumers. The Low-Income Home Energy Assistance Program is designed to assist these low-income consumers in this situation. Accordingly, Congress seeks a one-time only supplement to the Low-Income Home Energy Assistance Program fund to assist low-income consumers with the additional home heating expenditures that they will face in the foreseeable future as a result of Hurricanes Katrina and Rita.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 9001 Funding Availability

This section appropriates to the Secretary of Health and Human Services for a 1-time only obligation and expenditure $250,000,000 for fiscal year 2007 for allocation under section 2604(a) through (d) and $750,000,000 for allotment of emergency funds under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 D.S.C. 8623(a) through (e)), for the sole purpose of providing assistance to offset the anticipated higher energy costs caused by Hurricane Katrina and Hurricane Rita.

This section sunsets after September 30, 2007, and no monies provided for under this section shall be available after such date.

P.L. 109–58, the Energy Policy Act of 2005, reauthorized annual regular LIHEAP funds at $5.1 billion per year from FY2005 to FY2007. The LIHEAP appropriation for FY2005 was $2.182 billion for allocation pursuant to the formula set forth by law. No funds were appropriated for allotment of emergency funds.

For consideration of the Senate bill, and the House amendment thereto, and modifications committed to conference:

JIM NUSSLE,
JIM RYUN,
ANDER CRENSHAW,
ADAM PUTNAM,
ROGER F. WICKER,
KENNY C. HULSHOF,
PAUL RYAN,
ROY BLUNT,
TOM DELAY,

From the Committee on Agriculture, for consideration of title I of the Senate bill and title I of the House amendment, and modifications committed to conference:

BOB GOODLATTE,
FRANK D. LUCAS,

From the Committee on Education and the Workforce, for consideration of title VII of the Senate bill and title II and subtitle C of title III of the House amendment, and modifications committed to conference:

JOHN BOEHNER,
HOWARD P. MCKEON,

From the Committee on Energy and Commerce, for consideration of title III and title VI of the Senate bill and title III of the House amendment, and modifications committed to conference:

JOE BARTON,
NATHAN DEAL,

From the Committee on Financial Services, for consideration of title II of the Senate bill and title IV of the House amendment, and modifications committed to conference:

MICHAEL G. OXLEY,
SPENCER BACHUS
(Provided that Mr. Ney is appointed in lieu of Mr. Bachus for consideration of subtitles C and D of title II of the Senate bill and subtitle B of title IV of the House amendment:),

From the Committee on the Judiciary, for consideration of title VIII of the Senate bill and title V of the House amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER, Jr.,
LAMAR SMITH,

From the Committee on Resources, for consideration of title IV of the Senate bill and title VI of the House amendment, and modifications committed to conference:

RICHARD POMBO,
JIM GIBBONS,

From the Committee on Transportation and Infrastructure, for consideration of title V and division A of the Senate bill and title VII of the House amendment, and modifications committed to conference:

DON YOUNG,
FRANK LOBIONDO,

From the Committee on Ways and Means, for consideration of sections 6039, 6071, and subtitle B of title VI of the Senate bill and title VIII of the House amendment, and modifications committed to conference:

WILLIAM THOMAS,
WALLY HERGER,
Managers on the Part of the House.

JUDD GREGG,
PETE DOMENICI,
CHUCK GRASSLEY,
MICHAEL B. ENZI,
WAYNE ALLARD,
JEFF SESSIONS,
TED STEVENS,
RICHARD SHELBY,
ARLEN SPECTER,
SAXBY CHAMBLISS,
MITCH MCCONNELL,
Managers on the Part of the Senate.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2863, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

Mr. COLE of Oklahoma. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 639 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 639

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. BOOZMAN). The gentleman from Oklahoma (Mr. COLE) is recognized for 1 hour.

Mr. COLE of Oklahoma. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER) pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. COLE of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include tabular and extraneous material on H. Res. 639.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. COLE of Oklahoma. Mr. Speaker, today the Rules Committee met and reported the rule for consideration of House Resolution 639.

Mr. Speaker, the rule waives all points of order against the conference report and against its consideration and provides that the conference report shall be considered as read.

Mr. Speaker, I rise today to urge support of the rule for H. Res. 639 and the underlying bill.

Normally in these situations, Mr. Speaker, we focus on matters such as force levels, military capabilities, procurement, pay and benefits for our men and women in uniform, and budgetary concerns, and of course, in the course of this debate and debate on the underlying bill we will. Before we do, however, I think we ought to reflect on the nature, the mission and the morale of our current military forces.

The United States military is the most remarkable, capable and multifaceted armed force in the history of the world, but it is much more than a proficient military force designed to protect our country. It contains our finest and our most dedicated citizens, it embodies and exhibits our best ideals and traditions, and it projects our values as well as our power around the world.

We should always remember that the men and women who wear the uniform of the United States are all volunteers. They represent every race, every ethnic group, every geographic region, every shade of political opinion in this country.

Their mission is not just to defend our country but to spread and defend freedom around the world. While they are feared by our enemies, they are respected by our friends and seen as a source of protection and assistance in time of need and disasters by people all over the world. Their recent performance in the tsunami and the Pakistani earthquake disasters are an indication of that.

Our men and women embody the best of who we are as a people. This was brought home to me when I visited the 101st Airborne in Mosul in October of 2003. I had the occasion to talk to a gentleman who was on the city council of that dangerous and troubled city, and while we were having our discussion I pointed out that his city was one of the most ethnically diverse in Iraq. It had Kurds, it had Sunnis, it had Shiites, it had Turkmen, it had other groups in that country.

I asked the question, which is still pertinent today, how can you get all these different groups to work together. He answered in a rather unusual way. He said first, you did in your country and you have given us an extraordinary example of how it can be done; we see it in your military, again, every religion, every race, every ethnic group, both genders, cooperating for a common purpose. That is what I want for my people, what you demonstrate in your military.

This remarkable force is once again engaged in defending our country, confronting our enemies and extending freedom in Afghanistan and Iraq and other troubled spots around the world.

This mission, as the President noted earlier this evening, is dangerous and difficult. Yet we are succeeding as we have seen in historically unprecedented elections in Afghanistan and Iraq.

And the morale in the forces, despite the challenges they face, is high. Reenlistment rates, as reported in the Washington Post today, are among the highest in our history, and those rates are often even higher among units involved in operations in Afghanistan and Iraq.

Mr. Speaker, our job here in this Congress is to make sure that this magnificent armed force of dedicated Americans has the equipment, the training and the capabilities to defend our country and accomplish their very many important missions.

I believe this bill accomplishes that important mission and keeps faith with the men and women in the uniform who have volunteered to defend our country.

There are many highlights in this bill. It appropriates $97 billion for military personnel and fully funds the pay raises that have been promised for next year. It adds $123.6 billion for operation and maintenance, $76.5 billion to procurement, $72.1 billion for research development test and evaluations, and over $50 billion in emergency wartime appropriations.

Mr. Speaker, there is no doubt that this bill directs the expenditures of vast amounts of money. Frankly, I wish the bill were even more generous in that regard as I believe we need to expand the size of our forces in the years ahead.

However, it is important to note and for the American people to realize that our military is by any measure a bargain. It consumes only a fraction of our national wealth, and that fraction has declined dramatically over recent decades.

President Eisenhower and President Kennedy served our country with great distinction at the height of the Cold War. Military consumed almost 9 percent of the national wealth and 50 percent of the Federal budget. Ronald Reagan began to rebuild the military in the 1980s, another critical juncture in the Cold War. It consumed only 6 percent of our national wealth and about a third of the Federal budget, and today, even in the difficult time of war, it consumes only 3.6 percent of the national wealth and about 18 percent of the Federal budget. This suggests our military, by historical standard, is more efficient and less burdensome than at any time than at least 1940.

Mr. Speaker, this Defense Appropriations Act also contains a number of items which, while not usually found in such legislation, are nevertheless important to our security and the welfare of our Nation.

These include the prohibitions that allow for the drilling of oil and natural gas in the Arctic National Wildlife Reserve, where there is an estimated 10.4

billion barrels of oil. This measure will generate billions of dollars of revenue for the Federal Government. It is critical to the energy security of America, and it is favored by bipartisan majorities in both Houses of Congress and by the President.

Another item in this bill is over $3.7 billion set aside to deal with the avian flu preparedness initiative. That is only half of what the President requests, but it is enough to get things moving and enough to give Congress the time to come back and more fully consider this appropriation in next year's session.

There is also hurricane disaster relief for troubled and distressed Americans along the gulf coast, $29 billion in all of reprogrammed and additional funds.

Finally, there are offsets in this bill, $23 billion plus, for FEMA disaster relief fund reprogramming, $8.5 billion across-the-board cuts in discretionary spending except in Veterans Affairs, and over $1 billion in other rescissions.

Mr. Speaker, this is a good rule and a good bill, and it deserves the support of this House of Representatives. To that end, I urge the support of the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to do something I have never done before and that is talk about the process in the Rules Committee.

I listened to the gentleman from Wisconsin (Mr. OBEY), and I really am astonished at the deterioration of process in this House. I want it strictly on the record for this debate today that those of us in the Rules Committee, the four Democrats, all voted to expunge from this bill the matter of the 45 pages of liability added after the conference was over. I realize that we waive everything in Rules, but I did not think that all the rules of the House back to Jefferson's Manual had just been waived.

We are very distressed about it. The process has been awful. We have been here for 2 days doing suspensions, for heaven's sake. What we are doing here, this is so critical, and I can guarantee every Member here that you are going to spend your whole time home in January and I understand we are working 6 days in February, so we are going to be around the district a lot, you are going to be explaining what was in this bill and why you did not know it and why you did not do something about it.

In doing so, I have to say that probably two of the the nicest people in the House of Representatives, Chairman YOUNG and Chairman LEWIS, I think have their names attached to this. I feel badly for them as well.

This bill determines how we as a Nation will spend our resources, at home and abroad, and in order to do the best to protect our fellow Americans, our shared values and our common interests. And in doing so, people around the world will rightly view this legislation as a testament to the values our Nation has chosen to embrace and promote, how we have chosen to define ourselves at this critical moment in history.

Our international credibility and the moral weight of our words continues to be damaged by every new allegation of detainee mistreatment at the hands of our forces and our government. With every new revelation of secret detention facilities operating beyond public scrutiny, we take a perilous step toward that which we wish to defeat.

Stories of undisclosed domestic spying and wiretaps approved by this White House and carried out by our top law enforcement agencies, without congressional knowledge or judicial review, force citizens, here and abroad, to question this Nation's commitment to its own ideals. How determined are we to create an open world ruled by clear and established laws if we are abandoning them at home?

The creation of clandestine CIA facilities beyond the oversight of Congress and the world community, the troubling misuse of American power, undermining the goodwill born of the sincerest efforts of our fighting men and women, that is not the work of my America.

My America won two world wars and faced down fascism without resorting to torture. My America survived those troubling times without abandoning the civil and personal liberties which made us different and made our way of life so worth fighting for. My America practices what it preaches.

I applaud the fact that Senator MCCAIN's torture amendment has been added to this appropriations bill. Mr. MCCAIN understands that torture is not just morally reprehensible. It also gives us bad intelligence, undermines our credibility and endangers our troops by providing their enemies with an excuse to mistreat them if they are captured. I am relieved that most of my fellow Members in this House see the wisdom in Senator MCCAIN's words.

At the same time, there have been reports suggesting that the Army Field Manual, enshrined by Mr. MCCAIN, is being quietly amended in a way which threatens to undermine his efforts. If this is true, this Congress must vigilantly monitor what is added to the list of acceptable interrogation procedures given to our troops, and we must further guarantee that our Nation continues to exemplify the kind of society we hope to encourage.

Today, we fund continued operation of the defense community and all those who are part of it. We do so gladly because we believe, as we always have, that ours is the way of life that should not perish.

But to change the values of our society at the moment we are fighting to preserve them at home and champion them abroad would not just be the height of irony, Mr. Speaker, it would be the height of tragedy.

We have many questions to answer about how the United States will define itself in the years ahead and how we will interact with the world. I hope that we will use the upcoming holiday to reflect on what kind of America we in Congress wish to create for future generations. I hope we take that question seriously in the second half of this session.

I have faith in this body just as I have faith in this Nation that we possess the wisdom to do what is right and the courage to right what is wrong if only we will use it. The very nature of our democracy depends on it.

Mr. Speaker, I reserve the balance of my time.

☐ 0130

Mr. COLE of Oklahoma. Mr. Speaker, I yield myself such time as I may consume for a couple of quick remarks.

First, I share the gentlewoman's concern about allegations of torture and misbehavior of any kind, and I am pleased that this legislation contains compromise language worked out between the President and Senator MCCAIN that I think will take care of any concerns.

We know that, frankly, any instances of misbehavior, whenever they have been identified, and I can say this from having sat in numerous hearings on the Armed Services Committee, have been dealt with swiftly and severely by the appropriate authorities on our side. We do not ever condone torture.

As for spying and those conversations, I think the President has been well within his power, particularly in the aftermath of 9/11, to keep up an appropriate level of surveillance on people who wish to do harm to the United States of America. This body has been informed about that. The ranking members and chairmen of the intelligence committees have been kept apprised of this, according to what I have been told at least.

And finally, on process, we quite often get hung up on this. I hope we spend at least some time talking about the merits of this very important bill.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. CONAWAY).

Mr. CONAWAY. Mr. Speaker, I thank my good friend from Oklahoma for yielding me this time.

I serve on the Armed Services Committee, and I am proud of the underlying bill this rule represents, and that is the way we provide for the defense of this country, with all of the equipment and gear and training and personnel that we have in place. But I want to speak specifically to a provision that is in there relating to the drilling in the Arctic National Wildlife Reserve.

I come from west Texas, where a good slug of the daily production in America comes from, the area that I represent; and we have been drilling there for a long, long time in a responsible manner.

America imports crude oil every day in the millions of barrels. To the extent that we can reduce that dependency on foreign crude, we will improve the national security of this country. We have drilled in ANWR three test wells; and with the best science we have and the best estimates that we have, we should be able to produce between 800,000 and a million barrels a day. Now, if you come from oil country, you know that until you drill it, you do not know if the production is going to be there. But let us say for the sake of argument that that production is there. I believe that our current drilling companies, drilling operators and contractors can do that drilling in an environmentally sensitive and responsible manner.

To put the 2,000 acres we intend to drill on in perspective, if you take the full front page of the Wall Street Journal, every letter on that page, the drilling in ANWR is the equivalent of one letter on that page. Now, I am not trying to minimize the responsibility of the commitment to do this drilling in an environmentally sensitive manner, but we will do that in this regard.

Drilling in ANWR will improve our daily production of crude oil, it will reduce the amount of crude oil that we will have to buy, and that purchase of crude oil from foreign countries obviously aggravates the trade deficit.

So I speak in favor of the rule and the underlying legislation and encourage my colleagues to vote "yes" on the rule and the bill itself.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking member of the Appropriations Committee.

Mr. OBEY. Mr. Speaker, the Republican leadership of this House has decided that this war-time Defense bill is the proper vehicle to resolve the debate on ANWR. Now, I know this is not the first time that substantive legislation has been added to an appropriations bill, but it is certainly one of the worst.

There is something especially outrageous about the willingness of the majority party leadership to allow the Defense Department bill, in a time of war, to be held hostage to totally unrelated special interest items. The Defense bill should be about delivering equipment and support to our troops. Instead, it is being used to deliver a multibillion dollar bonanza to the oil companies.

That action represents a fundamental corruption of the integrity of the legislative process, in my view. This legislation allows one Senator to grease the skids to allow the passage of ANWR by sprinkling enough money around this bill in selected accounts to buy enough votes in the Senate to ensure passage. I think that ought not happen, but that is what is going to happen if we pass the rule.

I have another objection to what is happening here tonight. I have in my hand 45 pages of language which we were told in writing during the conference would not be included in the conference committee report. This is language which relates to indemnification of the pharmaceutical industry and the establishment of a compensation fund.

What happens under this language is that individuals have their right to sue in case they are made very ill or in case, say someone in their family dies, they lose their right to sue a pharmaceutical manufacturer except when the Secretary finds malfeasance. Instead, they are told that they can have access to a compensation fund, but then there is no money put in the compensation fund. So that means that if you do get sick, you lose your right to sue, but you have to lobby the Congress in order to provide an appropriation in order to provide compensation for your loss.

We were told in writing that that was not going to be in the conference report; and yet Senator FRIST walked across the Capitol, walked into the Speaker's office, and Senator FRIST and the Speaker demanded that the Republican leadership on the House Appropriations Committee insert that language in the bill. So we are here tonight recognizing that once again the orderly legislative process has been corrupted by a couple of muscle men in the Congress who think that they have a right to tell everybody else that they have to do their bidding.

ANWR does not belong in this bill. This language with respect to the drug companies does not belong in this bill. It ought to be stripped. This rule should be turned down.

Mr. COLE of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Let me first address my good friend's concern about ANWR and point out a couple of things. ANWR has been voted on repeatedly in both Houses of Congress. Frankly, bipartisan majorities in each House have repeatedly expressed their support for this measure. The President has indicated he would sign it.

Minorities in both Houses, particularly in the other body, have frustrated that process. I have no objection to that, because they have done that, frankly, under the rules and traditions of the Senate. They have been shrewd, they have been tough, and they have been wily; but they have represented a minority viewpoint on the issue.

I think it is somewhat disingenuous now, when the majority bipartisan proponents of this measure are equally tough and shrewd and wily and find a procedure to pass their measure, that they somehow are engaging in something that is either unprecedented or unfair or untoward in some way. Frankly, this is a matter that has been discussed extensively and debated extensively. People have settled opinions on it, but this is simply a case where the majority of Congress and the President are working their will and passing a very important piece of legislation.

As to the avian flu matter that my good friend discusses, I still would point out that wrongful action lawsuits are still permitted under this legislation. A fund has, as he points out, been established. It has not been filled up yet, but it is in being. And, finally, we are only appropriating roughly half of what the President requested. We will be back and review this issue again, and I suspect we will review not only funding mechanisms but liability protections as well.

So I do not think this is the last time we are going to discuss it; but it is critical that we begin the process so that if, God forbid, something I know all of us on each side does not want to happen, but something should occur, this country is well down the road for preparation, and we can move quickly to meet the needs of our citizens.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Every Member of the House should understand that they are about to cast the most important environmental vote of the decade. The vote on the rule on the Defense appropriations bill is a vote to drill in the Arctic National Wildlife Refuge. This provision was not in the House bill. This amendment was not in the Senate Bill. In violation of all House rules, this provision has been added to the Defense appropriations bill. A can't-pass measure has been added to a must-pass measure in order for the Republicans to give an early huge Christmas gift to the oil companies of the United States.

It is not enough that the Republicans have already tipped American consumers and taxpayers upside down all year for the oil companies. But now, after the oil companies registered $100 billion worth of profits, now, here on the Defense appropriations bill, the Republicans, waiving all rules of the House, have taken the number one environmental issue of the decade and they have slapped it onto the Defense appropriations bill.

The Republicans have said, or President Bush has said, the war in Iraq had nothing to do with oil. But here we are at 20 of 2 in the morning, with the Defense appropriations bill out here for the Republicans and what are they doing on the Defense appropriations bill? They are attaching an oil amendment to drill in the Arctic Wildlife Refuge. This whole myth that the Republicans do not fight wars over oil, do not corrupt the way in which the rules of the House are conducted in order to advance the agenda of the oil industry is once and for all put to rest here where the Members cannot even vote straight up or down on whether or not they want to drill in the Arctic National Wildlife Refuge.

And let me make it clear to everyone who might have some pangs of conscience about our fighting men and women in Iraq, which every one of us wants to help, if you vote "no" on this rule, the Rules Committee in 5 minutes is going to bring another rule back down here without the Arctic National Wildlife Refuge in it, and we will be able to fund everything that we want to do for every single soldier and marine in Iraq.

So do not let yourself be fooled by that. They just did it. We are doing stuff for drug companies in this bill that was just added. We are doing stuff for the oil companies in this bill that was just added. And if you think for a minute after we vote down this rule because it is the single worst anti-environmental bill in history that they are not going to have the bill right back out here in a nanosecond, then you are kidding yourself.

So that is not the cover. If you want to drill in the Arctic Wildlife Refuge, you do so. But that is your environmental vote. The next vote will be on the Defense appropriations itself. This is on a rule that is banning, barring Members from having a straight up-or-down vote on the Arctic National Wildlife Refuge.

We reach this point at the end of the year where the House and the Senate majority, lead by the White House, is contorting the rules of both institutions in a way which will set precedence for a generation in order to accomplish a goal which should not in fact be considered on this Defense appropriations bill. So in order to preserve the integrity of the rules of the House, in order to ensure that we give the full consideration to the historic importance of voting in this body to drill in the Arctic National Wildlife Refuge, I urge a "no" vote.

And each and every Member should be warned that this will be the number one environmental vote not just of this year but of the decade. I urge a "no" vote.

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Mr. COLE of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Let me quickly make a point that oil and gas drilling is something if you are from Oklahoma you know something about. And, frankly, in the history of my State, we have had over half a million wells drilled.

The technology today is unbelievably different. I sometimes think when I listen to my friends on the other side or friends from States that are not energy States, they sort of have the picture of the old movie "Boom Town" with Spencer Tracy and Clark Gable that all oil wells are wooden derricks about 6 feet apart. That is not what modern energy exploration is all about. Frankly, we do it again and again across this country.

As to the fact of this being an unusual method of passing ANWR, I would remind my friends on the other side that ANWR has passed this House repeatedly by large bipartisan majorities. As a matter of fact, I would talk to my good friends on the other side, 30-odd, who have consistently supported them and suggest that a vote against the rule is to vote against ANWR and is to take out your own vote and, frankly, cancel your own interest. So I hope you consider that if you happen to be someone who has previously been in favor of this measure.

Finally, I would like to point out that this legislation adds enormous amounts of new money in addition to LIHEAP to deal with the heating challenge that we undoubtedly will have this winter, and I think that is a wise measure.

Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me this time, and I want to tell him that he is aging himself when he talks about Clark Gable and Spencer Tracy in that movie.

Let me start off by saying that I looked at this bill, and 95 percent of it I agree with; but there is one area I do not. I am probably going to vote for the rule, but I have a terrible problem with this Avian Flu Pandemic Compensation Fund, so-called. I think my colleagues need to know really what is in this language, this 40-some pages that were added very late in the day.

First of all, I do not believe anybody is going to be able to collect any money at all. The fund does not have any money in it, number one. Number two, when you look at the language, it gives carte blanche authority to the vaccine companies, but it does not provide a mechanism for people to get compensation if they are damaged or injured.

Let me just read to you what it says. It says: "The plaintiff," that is the person who was injured by the vaccine, "shall have the burden of proving by clear and convincing evidence willful misconduct by each covered person," i.e. the manufacturers, "sued and that such willful misconduct caused death or serious injury." However, a manufacturer is presumed not to have engaged in willful misconduct if they "acted consistent with guidelines or recommendations by the Secretary of Health and Human Services regarding the administration" of the vaccine.

So, basically, the manufacturers are protected no matter what. No matter what. And then it goes on to say that the Secretary of Health and Human Services has to decide whether or not they engaged in willful misconduct, and that is a determination that he would have to make. And if he does not make that determination, there is no action whatsoever a damaged person could take.

Now, we had a similar problem with the smallpox vaccination problem in 2003, and first responders would not be vaccinated because there was not adequate provisions for compensation in the event they were damaged. They would not take the vaccination.

Now, what would happen if we had an avian flu pandemic and people found out there might be damage caused to them by the vaccination and there was no recourse for them whatsoever, which is the case, in my opinion? Would they take the vaccination knowing they might be damaged, or would they risk not getting the avian flu and maybe be a conductor of this epidemic and spread it all over the country?

I really believe this language should not have been put in this bill. I believe we should give liability protection to the pharmaceutical companies, but we should do it in conjunction with things that are going to protect the American public from vaccinations that hurt them. And this does not do that. It just does not do that. And I am very sorry that this was added to this legislation at the 11th hour. I think it is a tragic mistake and God help us, God help us if we have the kind of problems that could happen with people being damaged by the thousands by this vaccination. It will not be checked out. We will not have time if we have an epidemic for it to be tested again and again. And you could have tens of thousands, maybe hundreds of thousands people die or hurt from the vaccination itself and they would have no recourse whatsoever.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Let me take just a second to say I agree with Mr. BURTON, and also it does not just include vaccine. It is some other medical devices as well that are indemnified.

Mr. Speaker, I yield for a unanimous consent request to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, I rise in strong opposition to this rule because of the inclusion of the drilling in the Arctic Wildlife Refuge.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, this is wrong. It is indefensible. And the only reason that it is being done is because the majority has the power to do it. There are a great many Members of the majority, I can see them right now, that know that the defense appropriations bill is not the vehicle with which we should be establishing profoundly important environmental policy. Whether or not to drill in the Arctic National Wildlife Refuge is an issue that has been divisive and contentious, that is bound to delay this bill and that has nothing germane to do with this defense appropriations bill. It should not be here. And yet we are going to do it because the majority can get away with it at 2:00 a.m. in the morning.

We have been debating this for decades, whether or not to allow our national wildlife refuges to be opened for drilling. Good people of good intention on both sides can make their arguments, but they should be made in the authorizing committee, not at 2:00 a.m. in the morning, not slipped into an appropriations bill when we are sitting in conference at the last minute just because the chairman can do it. He figures he can force Members to have to choose between supporting the troops and protecting the environment. That is a false choice. I do not believe that the policy is right. To save a penny a gallon, we are going to establish this precedent, we are going to drill in what is really the Serengeti of the Arctic meaning that our future generations will not be able to enjoy this wilderness in the same way because we have jeopardized the ecology of this pristine wilderness.

Beyond the fact that the policy is wrong is that the process stinks. It is indefensible to be doing this at this time on this bill, forcing Members into this kind of a false choice. This policy of protecting our wildlife refuges has been upheld through four Republican Presidents, three Democratic Presidents. It should. It is a very important environmental priority. The process you are using to change this policy does not show respect for the integrity of this body. That is why this rule should be defeated. This provision should not be part of the defense appropriations bill. It does not belong here. We should not be debating it at 2:00 a.m. in the morning. And just because people can do it, because they have the power to do it does not mean it is right, and it will come back to haunt us.

Mr. COLE of Oklahoma. Mr. Speaker, I yield 3½ minutes to the gentleman from California (Mr. POMBO), the distinguished chairman of the Resources Committee.

Mr. POMBO. Mr. Speaker, obviously ANWR is a controversial issue and it is something that this House has debated a number of times. This House has passed it a number of times. It is somewhat ironic that here, at 2 o'clock in the morning, as Mr. MORAN points out, that we are hearing that this deserves to be debated again. And I guess we will debate it again because we have debated it probably half a dozen times since I have been here, probably 20 or 30 times since the creation of ANWR. We have talked about what we can do to harness those resources that exist there. The House has spoken a number of times. It has passed a number of times through the House in a strong bipartisan vote.

ANWR today represents the largest potential reserves of new energy resources in this country, and if you look at supply and demand right now we do not have enough oil, enough natural gas in the world to meet what the demand is, and that is why the price keeps going up. And the oil companies do like that. They like the price to continue to go up. And we have Members coming down here tonight who have always voted against every new potential energy source. Everything that we have brought to the floor they are opposed to. They are opposed to ANWR. They are opposed to anything that creates new energy in this country. And yet they are still arguing about the high price of energy. It is a direct result of their votes. It is a direct result of the policies that they have pushed through for years. And I think it is kind of funny when I hear people talk about using parliamentary procedural rules to get this into this particular bill.

A majority in the House supports opening up ANWR to responsible energy development. A majority in the Senate supports opening it up, and yet they have used procedural rules for 20 years to stop it from happening. And now, in this particular bill, it happens to be included in this. It is not the way I wanted it. I wanted it in the energy bill, but they used procedural rules in the Senate to stop it from becoming part of the energy bill, not once, not twice, but three times. They have used procedural rules to stop it even though a majority supported it in both bodies of Congress and continue to support that today.

We need to do something about energy in this country. We need to produce more of our own energy. We continue to be dependent on foreign energy sources and we as a Congress need to stand up and begin to do that.

We need to continue to develop new energy sources. There are a number of new technologies that have been developed, a number of new ways that we can conserve and get more out of the energy that we produce. But we have to begin to produce more energy in this country and quit being dependent on Middle Eastern countries and other countries around the world for our energy. That is why we are in this mess right now. You cannot continue to oppose every new source of energy that anybody comes up with and say that you want to do something about it.

I support the rule. Vote for the rule and vote for the underlying bill.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

I recall the last time ANWR was debated that major oil companies said they had no interest in ANWR and it was purely speculative whether there is oil there or not.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. KUCINICH) for a unanimous consent request.

Mr. KUCINICH. Mr. Speaker, I rise in opposition to this bill, principally because of the inclusion of the Arctic National Wildlife Refuge.

I oppose this bill for many reasons including:

1. Bad process—Withholding language so we can't review the bill is anti-democratic. Adding provisions that would never pass if brought to a legitimate vote to a must pass bill is anti-democratic. Trying to use our desperation to go home to see our families to extort us into voting for a bad bill is anti-democratic. This abuse of power is a shameful display by a nation that claims to be a paragon of democratic virtue.

2. Improper Defense spending—The bill spends over $300 billion. Congress could spend tens of billions less and do a far better job protecting our nation.

The bill continues the misguided strategy of buying weapons that provide us no additional protection. Buying ever more expensive fighter jets, massive naval ships, and a missile defense system provides no additional protection for our nation. No other nation has fighter jets or naval ships that can compete with our Air Force or Navy. The claimed ballistic missile threat is grossly over-exaggerated.

Yet, the Army is vastly over-used because of our war in Iraq. To re-establish the Army, we need to cut back of weapon spending. In response, recent press reports indicate the Pentagon wants to cut troop levels and resources for the troops to ensure we can continue spending on unnecessary weapons systems.

In effect, this funding bill forces our troops to fight wars against enemy with the wrong weapons. The F–22, naval ships, and missile defense cannot defeat insurgents fighting a different kind of war. We need a different kind of Army. One that is capable of dealing with the real threats we face. The Soviet Union is gone, and the insurgents of Iraq are not scared of a poorly functioning missile defense system.

3. Drilling in the Arctic National Wildlife Refuge—This bill violates the basic constitutional rights to life, liberty and pursuit of happiness of the Gwick'in Native peoples. This Bill will not help America Achieve Energy Independence. According to a March, 2004 U.S. Geological Survey—will lower U.S. oil imports by between one and two percent per year and even at peak production in 2025 the U.S.

would still import 66% of its oil, up from 58% today.

The Arctic Refuge Has Less Than A Year's Worth Of Oil. According to the most recent figures released by the Energy Information Administration, the United States used over 20.7 million barrels of oil each day in October of 2004. At this rate, over the course of a year the U.S. goes through over 7.5 billion barrels, accounting for more than a quarter of the world's oil demand. However, since the Arctic Refuge contains only approximately 3.2 billion barrels of economically recoverable oil, it could only sustain the United States for less than a year.

Oil Would Not Reach Consumers For Ten Years. Even if the Arctic Refuge were opened for drilling immediately the oil would not be available for around ten years while the oil companies explored the area and built the infrastructure to transport the oil.

4. Liability exemption for vaccine manufacturers—Liability immunity for pandemic flu vaccines is included in the bill. This giveaway will not result in increased vaccine production, but it leaves consumers with no recourse if they are injured, and it could exacerbate the epidemic. We learned from the smallpox scenario only a few years ago that if the vaccine companies and Congress won't back the safety of the vaccines, people will not accept them and the epidemic could be worse as a result. This is nothing more than another giveaway to big Pharma at the expense of public health.

First, it is said that liability concerns are the reason that pharmaceutical manufacturers do not want to manufacture vaccines. An October study published in the Journal of the American Medical Association found otherwise. It found that other more glaring uncertainties, like the absence of a guaranteed market, are the problem. However, the pandemic flu plan appropriates billions of dollars specifically to create this guaranteed market. Chiron, a major pharmaceutical company and vaccine manufacturer, does not need more financial incentives—they have been working on an H5N1 vaccine since 1997. Liability immunity is simply not necessary.

Second, the language could hasten the epidemic. In order for a vaccine to be effective, it must be widely used. But liability immunity like this sends the message that it is expected that people will be injured or worse by the vaccine. If they are, they will have no recourse. Citizens and health workers may refuse the vaccine if neither the vaccine maker nor the government asking them to take it will stand behind its safety. In fact, the American Nurses Association recalled that, ". . . ultimately, fears about the side effects of the smallpox vaccine and the lack of a comprehensive compensation program discouraged RNs from participating in the program, which caused it to fall far short of its goal." Fewer vaccine recipients means that the virus could spread faster.

Third, there is reason to doubt the safety of these vaccines. Chiron, the company responsible for the collapse of half of last year's flu vaccine supply because it allowed contamination during the manufacturing process, is planning to use MF59 in an avian flu vaccine. MF59 is an adjuvant (a vaccine additive used to increase the effectiveness of a vaccine dose) that is highly controversial because a primary ingredient, squalene, is on the list of potential causes for the chronic debilitating illnesses experienced by the veterans of the first Persian Gulf War. The adjuvant is unlicensed by the FDA despite having been a component of vaccines in several clinical trials over the last ten years. Despite these risks, liability exemption language is being forced into the Defense Appropriations bill with no public debate and no vetting in Congress. At a minimum, this decision should be made in the open before the public, not behind closed doors.

The liability immunity is unnecessary, quite possibly counterproductive, and is being passed undemocratically. It is nothing more than another gift to the already enormously profitable pharmaceutical industry.

5. Funding for Avian Flu preparedness. The bulk of the funding is likely to go to stockpiling vaccines and anti-virals like Tamiflu. But, despite months of promises from Roche, there have been no agreements to allow other companies to help quickly build the stockpile to meet our needs. By failing to issue a compulsory license for Tamiflu, we are gambling with public health and the proceeds are going to Roche. If a compulsory license was issued, Roche would still get their royalties. Allowing Roche to control world supply and price is yet another blatant giveaway to one of the most profitable industries in the world.

6. Gulf War Illness funding. Earlier this year, I won an amendment, along with Mr. Shays and Mr. Sanders, to reestablish funding for research into the chronic debilitating illnesses that veterans of the first Persian gulf war are experiencing. The Veterans Administration has finally recently admitted that these illnesses are NOT due to psychological trauma. That means the specific list of causes is shorter than ever which means we are closer than ever to finding treatment. Yet there is no new funding for this research. I hope the conferees have seen fit to stand behind the funding, along with the House and major veterans groups.

DANCING WITH GHOSTS

(By Dennis Kucinich, U.S. Congressman (D-Ohio))

Early in the morning, Monday, December 19, 2005, the United States House of Representatives will vote on the Defense Authorization bill which will contain a provision to permit the drilling for oil in the Arctic National Wildlife Refuge (ANWR). I have taken three opportunities on the floor of the House early today to alert the American people of this backdoor approach to passing a very controversial bill which is desecration of the basic human rights of the Gwich'in people.

When will America get off the treadmill of sacrificing native rights to greed, territorial ambitions and fear? We will soon observe a grim anniversary which testifies to our persistent moral dilemma when it comes to those who were here first.

One hundred and fifteen years ago, on December 29, 1890, the US Seventh Cavalry, under the control of Colonel James Forsyth, directed artillery fire against Lakota men, women and children. One hundred and fifty Native Americans were killed in what became known as the Massacre at Wounded Knee in South Dakota.

U.S. Government troops were drawn to the land of the Lakotas to enforce a ban on Ghost Dance Religion, a native mysticism which taught non-violence and included chanting prayers and dancing one could achieve the ecstasy of harmony with the paradise of the natural world. The dance was forbidden out of fear that excitation of religious passions would turn to Indian violence against the US Government.

The history of the United States' relationship with our native peoples has been one shame-ridden chapter after another of expropriation, humiliation, and deception, theft of lands, theft of natural resources, destruction of sacred sites and massacres. The U.S.'s relationship with our native peoples has been an endless cycle of exploitation and contrition. Massacres and apologies.

Who in the future United States will apologize to the descendants of today's Gwich'in tribe, whose humble, natural way of life, religion, and culture are threatened with extinction by the plan to drill oil in the Arctic National Wildlife Refuge? The Gwich'in tribe has lived on their ancestral lands for 20,000 years in harmony with the natural world.

The drilling for oil in the coastal plain of the Arctic Refuge, called by the Gwich'in "the Sacred Place Where All Life Begins" will disrupt caribou calving grounds, leading to the long-term decline not only of the herd, but of the tribe which depends upon it for survival This will not only violate Gwich'in internationally recognized human rights and make a mockery of our founding principles of belief in the inalienable right of each person to "life, liberty and pursuit of happiness."

Members of Congress will come to the floor today and say we need to drill to protect our economy, to defend our country, to keep our way of life. I intend to point out the reciprocal nature of our moral decisions.

Christian teaching tells us to do unto others as we would have them do unto ourselves. We learn from other spiritual insights that what we do unto others we actually do to ourselves. We cannot in the consciousness of true American spirit return to a history of slavery, a history where women had no rights, or a history where native peoples are objectified and deprived of their humanity, their culture, their religion, their health, their lives.

We must make our stand now not only as to who the Gwich'in are, but, in a world where all are interdependent and interconnected, who we are, and what we will become based on our decisions today.

When we perpetrate acts of violence, such as drilling in ANWR, we are damaging ourselves as humans. It destroys the land, it destroys the herd, it destroys the Gwich'in. It destroys us alL Another part of the true America will die. We must not only search for alternative energy. We must search for an alternative way to live. We must escape this cycle of destruction. We must reconcile with nature. We must find a path to peace, with our native brothers and sisters and with ourselves.

One hundred and fifteen years ago, the Ghost Dancers were killed. Yet we still meet their ghosts. They are dancing upon the coastal plains of the Arctic National Wildlife Refuge.

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Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, this bill provides sorely needed funds for our troops and their families who deserve the very best of equipment, research and development and support services. We should have passed this bill weeks, even months ago. The administration's puzzling reluctance to accept a ban on torture, along with the majority's decision to use defense spending as a shield for passing controversial legislation, delayed passage of this important measure.

So here we are tonight, poised to push through a measure that would open up the pristine Arctic National Wildlife Refuge to oil drilling, a measure so contentious and wrongheaded they had to hide it behind our courageous troops to get it done. Here we are passing an across the board cut on all discretionary spending programs. We are wielding the axe indiscriminately and unmercifully, hurting low income children in need of reading and math help, seniors who need help paying record heating bills this winter, local law enforcement officers who need equipment and training and our Nation's own FBI counterterrorism efforts.

Here we are passing a landmark package to ready our Nation for a potential outbreak of avian flu. But we shortchange the President's request, ignore key priorities like State and local preparedness, leaving our hometowns woefully unprepared to contend with such a disaster. We ignore the fact that the best responses is prevention, dedicating only meager funds to international efforts to detect and fight avian influenza.

Furthermore, we fail to provide one cent to entice farmers in affected countries who are on the front lines of detection to report incidents of avian flu to the proper health authorities. The flu package included in this bill is riddled with gaps which may undermine all our efforts, and the overly broad liability provisions and inadequate compensation programs are simply unacceptable, dangerous, wrong. Here we are ignoring the blatant need in one of the most wretched corners of the earth, Darfur, Sudan. While the administration and the Republican majority each try to earn their fiscal responsibility stripes by withholding needed funding from the African Union peacekeeping mission, the genocide continues. $50 million, miniscule percentage of the total included in the bill, could save innocent lives in Sudan.

Tonight's shenanigans have demonstrated that this administration and this majority will ram through whatever legislation they want if given the opportunity. They are simply not committed to do what we can to bring peace and stability to Darfur. We should all be ashamed that this bill is silent on this matter of life and death.

Mr. Speaker, the American people deserve more from Congress than 11th hour gamesmanship and stealth legislating. This dishonest process and incomplete product should disgust us and our constituents. We can do better.

Mr. COLE of Oklahoma. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, 2005 will be remembered as a year of good intentions, bad disasters and promises kept. This spring, Congress adopted the toughest budget since the Reagan years, and the Appropriations Committee reported one bill after another, on time and on budget.

Then came the heartbreak that was Hurricane Katrina, 90,000 square miles of the gulf coast destroyed. Congress responded by speeding relief and recovery funds totaling $60 billion in 6 days to rebuild the families and communities destroyed by this storm.

After the storm, many in Washington thought that fiscal discipline was the last thing Congress should be thinking about, preferring raising taxes or raising the national debt to making tough choices, but not this majority.

Seeing that a catastrophe of nature could become a catastrophe of debt, dozens of House conservatives challenged the Congress to offset the cost of Hurricane Katrina with budget cuts. And I will always believe that their effort, which came to be known as Operation Offset, helped spark a national debate that propelled us to this moment tonight.

The American people wanted Washington to pay for Katrina with budget cuts, and Washington got the message. In direct response to President George W. Bush's call for offsets, Speaker Dennis Hastert unveiled a bold plan we consider tonight, to find budget cuts from every area of the Federal Government. The Hastert plan with the across the board cut included in this bill and the more than $40 billion in entitlement savings in the Deficit Reduction Act will become a reality today. This legislation includes $33.5 billion in spending offsets, $23 billion reallocated of unspent FEMA funds, a 1 percent across the board cut, saving $8.5 billion and $1.6 billion in additional rescissions.

But with a national debt of $8 trillion, Mr. Speaker, nearly $26,000 for every American, completing the task of putting our fiscal house in order will take time. But tonight, the task begins.

In 1994, the American people said yes to a vision of fiscal discipline, limited government and reform. Some called it the Republican Revolution. With the passage of the Deficit Reduction Act and the across the board cut in spending in this legislation, I say with great sincerity the Republican Revolution is back.

By showing that we can make tough choices even during tough times, Congress is renewing our commitment to the principles of fiscal discipline and limited government that minted this majority. And in so doing, we are beginning the task of ensuring the continued prosperity of our Nation and our national government for future generations.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, if absolute power corrupts absolutely, so does oil. And the continued lust, the continued rapacious grab for oil in one of our most pristine areas in this country has corrupted this body absolutely. We stand here in the middle of the night tagging on in this scheme, something that could not pass this body tonight in any other way other than through this subterfuge. And yes, those artificers who tried to run this scheme recognize it is difficult to ask Members to vote against any defense bill because all of us, Republican and Democrat, stand for our troops. But I hope we take a little bit of inspiration from our troops. Mr. COLE and I went and visited Baghdad a few weeks ago, who are standing late night sentry duty, and it does get cold in the desert this time of year. Alone, away from the holidays, they are doing a little tough duty. And maybe we can have a few Democrats and Republicans do a little tough duty tonight and call foul and blow the whistle on this corruption of the Armed Services appropriation process on a bipartisan basis.

Whatever you think of the Arctic drilling, and for those who think it is such a great thing I will just tell you. I went out to the Washington Mall. I went for a walk tonight. It is a beautiful night. Saw these beautiful monuments. People were out enjoying the Lincoln Monument tonight, even in the cold. And they feel the same way about the Lincoln Monument as they do about the wildlife, the Arctic National Wildlife Refuge. We should not drill in the Yellowstone, in the Glacier, in the National Mall or the Arctic Wildlife Refuge.

Why? Because it is not an answer to our problem. We can solve our problem with 2 miles a gallon fuel efficiency. You can believe in Santa Claus, but you cannot believe the Arctic is a solution to our energy problems.

Vote no on the biggest environmental vote, which is on the rule today. Vote no against corruption of the Armed Services appropriations process. Vote no to restore integrity of this situation and vote no on this rule.

Mr. COLE of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Speaker. I thank the gentleman from Oklahoma, who also grew up in an area where they knew about drilling for oil and gas. You know, it is important that this be part of the defense budget. It is a matter of national security. It would have been better to be part of the energy. It should have been, but by maneuvering that did not happen. But it is a matter of national security that we can provide oil and gas.

Go back through history. Why did the Germans fail in the Battle of the Bulge? Because they ran out of gasoline. And there in East Texas where I grew up, man, they were just pumping that oil and gas right out as fast they could to help the Nation survive.

Now, what kind of arrogance and hypocrisy says, you know, I want my car, I want my jet ride, I want my air conditioning, electricity, but I do not want to drill anywhere, well, except in like Texas, Louisiana, Oklahoma, places we do not care about. But not anywhere else we care about.

Folks, it is a matter of national security. We need every part of the solution in order to conquer our energy needs. All the alternative energy needs to be pursued.

The majority has passed this time and again out of our subcommittee, out of our committee, and to the floor. This is the thing to do.

And I just submit, in conclusion, for anyone whose transportation is a bicycle that you yourself made, without the use of any plastic or metal, you have a right to complain. Everybody else is a hypocrite.

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman from Maryland (Mr. HOYER), the minority whip, to make a good point.

Mr. HOYER. Mr. Speaker, Lewis Carroll continues to write their material. Mr. PENCE, your Republican leadership has taken us $1.5 trillion into deficit over the last 60 months. That is the so-called revolution. Seventeen years you have controlled the presidency. You have taken us $4 trillion into debt. Bill Clinton was President of the United States for 8 years, $62.5 billion surplus. This time you cut $50 billion. But when we cut $250 billion not one of you had the guts to vote for it.

Mr. COLE of Oklahoma. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, there are so many needs that we have to confront and the defense appropriations bill seems to be the place where every one is running to. As I look at the resources that have been designated for disaster assistance, and look at a whole region that is suffering, although I am grateful for the $29 billion, I would have hoped that we would have been able to put in new money. In our own community in Houston, our school districts, many of them are spending large sums of money in a welcoming manner for many of the students who have come into our system. Our State schools, who have taken college students, are not being reimbursed for those students, and many of them do not have resources to pay. One school district in particular is spending $186,000 a day to a total of approximately $30 million. They have received reimbursement of $164,000. It is obvious that we will need to provide more funding in a very short order.

The levee money has not been put in, and we will need more money for the levees. We have not put in enough money for the wetland restoration, which is crucial for the entire gulf coast region.

Many of our constituents will be, in essence without funds for housing in the first quarter of the new year. Many of the travel trailers are not placed because the electricity cannot be in place because the companies are bankrupt. And so I hope that my colleagues will look at this as a serious responsibility that requires further study, further assessment and more money.

Might I also say that our troops need these dollars. And I would imagine that we want to give these dollars. And with that in mind, we would have hoped that there would have been a free independent debate on the ANWR question so that we could move forward with this defense appropriation without the addition of ANWAR. This is an untimely, inappropriate unfair misuse of this legislation and the environment.

Mr. COLE of Oklahoma. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time. May I inquire how many requests my colleague has?

Mr. COLE of Oklahoma. I have no further requests. I am prepared to close.

Ms. SLAUGHTER. Let me take my remaining time, then, to close.

Mr. Speaker, let me end as I began, deploring the process. This is the third legislature that I have served in. I am always proud to have been elected by people to represent them and their interests.

We cannot take care of their interests any more, Mr. Speaker. We can only stand here in the middle of the night, when obviously I am beginning to think that is the plot, because we know that nobody is going to be listening to this, not even those who love us most.

But a lot of harm is going to be done here. Not the least of it is the fact that the process was so flawed that even after the conference report was signed, 45 more pages were added to do harm. I deplore that. I look for better days for the Congress of the United States for it to get back to the rules, and that once again, Mr. Jefferson's Manual, and not a Senate and House conference, will rule this House.

Mr. Speaker, I yield back the balance of my time.

Mr. COLE of Oklahoma. Mr. Speaker, we have had a good debate here today. We have talked a lot about ANWR. And I want to point out to my good friends again, this body has repeatedly passed ANWR. As a matter of fact, Mr. Speaker, I would like to submit for the RECORD the last vote we had in this House on this issue, where 231 of our Members favored ANWR and only 200 opposed.

Mr. Speaker, the other body also has had a bipartisan majority in favor of ANWR. Indeed, this Congress, if I recall correctly, actually passed ANWR in the 1990s, and President Clinton vetoed it. So this is an issue that is well known, well discussed, well explored.

I have no complaints that my friends on the other side of the aisle who oppose ANWR have been very successful, very skillful and very consistent in using the legislative process to their advantage. They have every right to do so. I am surprised at the outrage now that the proponents, who, after all, do represent the majority in both bodies, and have a President who shares their view of this issue has finally managed to use the legislative process to its advantage.

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We would not be dealing here with ANWR if our good friends on the other side had not resorted to every single expedient to keep us from getting it passed. Having done that, I do not think they can claim with any legitimacy when we finally are able to do that.

I am very proud it is on this bill. I think it is important for the country's energy security, and I appreciate the Appropriations Committee working in this fashion to get it on.

We have also talked a great deal tonight about avian flu, and that is an interesting topic and an important topic and one, frankly, where we could face a very difficult situation in our own country.

I would just point out to my friends that we do continue to reserve the right for people to sue if wrongful action takes place. We have only appropriated, as was pointed out, half of what the President has requested so that we can come back, frankly, and consider this again. And I suspect we will look at this issue not only in terms of finance but liability and administration of the programs as we move forward. So I do not think our debate is final, but I do think it is important that we move ahead, that we appropriate these funds, that we send a signal that we are serious about this and we begin to prepare the country.

However, as important as ANWR and avian flu funds are, they are secondary to the nature and purpose of the legislation, and I regret we did not have more discussion on this tonight. This bill is fundamentally about supporting our troops in the field; supporting our husbands, wives, sons, and daughters as they prosecute a war against hardened terrorists who would not blink at killing innocent civilians and, frankly, thousands and potentially millions of Americans. This is about supporting our military while overseas, on deployment, and engaged in combat. This is a critically important piece of good bipartisan legislation. This is legislation, frankly, that sends a powerful signal to our adversaries around the world and a powerful signal to our friends as well.

More importantly, it is a recognition and a signal to the men and women that wear the uniform of the United States that not only defend us each and every day but also spread and represent our values around the world in a way that is quite unique in world history and one which, on both sides of the aisle, I know, we are extraordinarily proud of. It is a good bill. It is an important bill. The rule allows the bill to move forward.

Mr. Speaker, I urge that we support the rule and support the underlying bill.

Mr. COOPER. Mr. Speaker, if anyone needed evidence that this Congress is being managed in an incompetent and corrupt fashion, tonight's debate is it.

At 2 o'clock in the morning we are finally taking up some of the most important defense bills of the year, only to find them burdened with irrelevant, special-interest measures that have nothing to do with the underlying legislation. Pharmaceutical companies, oil companies, and Lord knows what other special interests are probably smiling at this late hour, but the average taxpayer back home should be ashamed of what we are doing tonight, especially in the name of our soldiers, sailors, airmen and marines.

We have just learned that many of these special interest provisions were added in the dark of night, with no notice even to the conferees. What are they afraid of? Why don't they want us to read and understand the added language? Why not let the public see what is really going on? It was not enough for the Republican leadership to almost completely exclude any real bipartisan discussion or debate in conference, and to so radically short-circuit the democratic process that this year's process may mark an all-time low in the history of the House of Representatives.

Mr. Speaker, as our troops risk their lives to promote democracy in Iraq and Afghanistan, we should not be degrading our democracy here at home. I strongly support the troops and the many excellent provisions in the defense authorization and appropriations bills on their behalf. We should honor their sacrifice by passing legislation for them, not using them as a shield for special interests. We should also honor them by refusing the $4 billion cut in the defense budget that was inserted in this bill in order to fund the extraneous provisions. You didn't hear about that defense cut, did you, while the Republicans were bragging on their efforts on defense.

The only reason these special interest provisions have been added is that Republican leadership knows that they could not pass in the light of day, when the public is allowed to see what we are doing. These provisions could not pass on their own strength, in either day or night.

Given the few minutes that we have been allowed to read these conference reports of many hundreds of pages, no one on the House floor tonight really knows what is contained in these bills because all normal House procedures have broken down. Rumors are rampant that other embarrassments have been added to worthy defense bills, simply because they are viewed as "must pass" legislation. We simply don't have time to verify or debunk these rumors. The only safe vote tonight for the American taxpayer is a "no" vote. Let's stay in session a few more days, even though the Christmas holiday approaches, and do the job right. Our troops deserve no less.

Mr. SCHWARTZ of Michigan. Mr. Speaker, I rise as a strong supporter of our Armed Forces, a strong supporter of our troop's efforts in the war on terror and a member who believes we can and will achieve victory in Iraq. However, the amalgamation with the DoD Appropriations Bill of the act allowing exploration and drilling in the Artic National Wildlife Reserve is an act which raises disingenuousness to an art form. There are, apparently, no limits on the maneuvers the proponents of ANWR drilling will attempt in order to despoil one of the last truly wild and unsulllied wilderness areas in the United States. For those of us who are legitimately concerned about the Abysmally low opinion the people of the United States hold of their Congress, they need look only at this attempt to admix the question of oil drilling in a pristine wilderness with the funding of our armed services. If it is the sense of the Congress that it is appropriate to open ANWR for oil exploration, put the issue to an up or down vote, a vote on ANWR only, not a vote that can only be described as a murky obfuscation. Oppose this rule so we all have the opportunity to vote on a clean defense appropriations bill.

Mr. COLE of Oklahoma. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 1932, DEFICIT REDUCTION ACT OF 2005

Mr. PUTNAM, from the Committee on Rules, submitted a privileged report (Rept. No. 109–363) on the resolution (H. Res. 640) waiving points of order against the conference report to accompany the Senate bill (S. 1932) to provide for reconciliation pursuant to section 201(a) of the concurrent resolution on the budget for fiscal year 2006, which was referred to the House Calendar and ordered to be printed.

Mr. PUTNAM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 640 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 640

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 1932) to provide for reconciliation pursuant to section 201(a) of the concurrent resolution on the budget for fiscal year 2006. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

SEC. 2. Section 2 of House Resolution 619 is amended to read as follows: "On any legislative day of the second session of the One Hundred Ninth Congress from January 3, 2006, through January 30, 2006, the Speaker may dispense with organizational and legislative business."

The SPEAKER pro tempore. The gentleman from Florida (Mr. PUTNAM) is recognized for 1 hour.

Mr. PUTNAM. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 640 provides for consideration of the conference report on Senate 1932, the Deficit Reduction Act of 2005. The rule waives all points of order against the conference report and against its consideration. As a member of both the Rules Committee and the Budget Committee and a conferee on this conference report, I am pleased to bring this resolution to the floor for its consideration.

This is a historic moment for the House, Mr. Speaker. Mr. Speaker, it has been a most unusual year for our Nation and for its government. It has culminated in this Congress being in session late into the year. We are here in the final hours of the First Session of the 109th Congress, working to complete the business of the people and ensure that our government provides opportunity and security for today and for future generations.

We are here at this unusual hour on this unusual day to bring to a close what has been a year of remarkable accomplishments for the 109th Congress. We passed major legislation such as the energy bill, the highway bill, and border security, to name just a few. Additionally, the House Appropriations Committee completed passage in the House of all funding bills prior to the July 4 recess. Chairman LEWIS kept his promise to complete the appropriations process in regular order and avoid an omnibus bill. I am impressed by and proud of the work of this House and all that it has done this year in moving so much important legislation.

Our Nation also has endured a year of unusual natural disasters. The Gulf Coast States, including my home State of Florida, have faced not one but three major hurricanes that have caused some of the worst destruction this Nation has seen, not to mention the unprecedented destruction that our friends and neighbors in east Texas, Louisiana, Mississippi, and Alabama have faced. This Congress has stepped up to the task of providing recovery and reconstruction funds for the devastated areas. We have passed two supplemental appropriations bills thus far and are set to provide additional relief when we pass the Department of Defense appropriations bill. The unforeseen events in the gulf changed the focus of the last half of the year and will continue to have an impact on this Nation for years to come.

This change in budgetary focus brings me to the legislation we are set to consider when this rule passes. For the first time since 1997, the congressional budget resolution included deficit reduction instructions to authorizing committees to find and achieve mandatory program savings for a more accountable government. It does this by finding smarter ways to spend and slowing the rate of growth of government. This deficit reduction provides a downpayment toward hurricane recovery and reconstruction costs and, most importantly, puts us on a path toward long-term fiscal health.

The Deficit Reduction Act fights back against the out-of-control growth of mandatory programs that are set to consume 62 percent of our total budget in the next 10 years if left unchecked. The conference report will stimulate reform of entitlement programs, many of which are outdated, inefficient, and costly. I am pleased that the legislation begins a longer-term effort at slowing the growth of entitlement spending.

In another unusual occurrence this year, those on the other side of the aisle called for deficit reduction. However, their proposals increased taxes on the American family. I am pleased to say that this House has delivered deficit reduction without raising the tax burden of the working American. Our goal is to control government spending so Americans can keep more of their own money instead of sending more to the government. The authorizing committees from both Chambers have worked hard to find savings within their individual jurisdictions. They did this using their own individual expertise through regular order. And I commend the authorizing chairman and committee members for their aggressive oversight that has yielded $40 billion in efficiencies. The conference report allows programs and agencies to weed out abuse, fraud, and inefficiency so that we can channel more Federal dollars to programs that succeed and effectively serve their intended populations.

I congratulate Chairman NUSSLE and Senator GREGG, along with all the members and staff from the Budget Committees, for their hard worked preparing the deficit reduction package. I look forward to passing this reform bill and reaffirming sound oversight and fiscal accountability here in Washington. This conference report is a step forward towards smarter and more competent, responsive government.

I urge Members to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am disappointed and sad to say that the content of the budget, and the way we are approaching it, confirms the fears of the American people instead of their hopes.

The bill the Republicans reported less than an hour ago is a bill that no one has seen, but one that will have far-reaching impact on the future of our country. We do not know everything it does, and yet we are being asked to vote on it before the ink is even dry.

Our form of government requires the trust of the people, a trust that this leadership has not earned. Being asked to take the Federal budget on faith, in a year when the majority has itself lost faith in the values that matter most to our democracy, integrity, honesty and openness, is simply asking too much.

One thing we do know about this budget is that its very foundation is fundamentally dishonest. The majority has titled it the Deficit Reduction Act when the facts clearly show that the bill, when combined with the Republican tax giveaway to the rich, will actually increase the deficit by billions of dollars. Supporters will also claim that they have addressed criticisms of the legislation, but they are not being honest either.

It is true that the leadership was shamed by the public, the Democrats, and even by Members of their own party into abandoning some of the most egregious attacks on the less fortunate. But the fact remains that the bill still takes over $1 billion from child support services. It cuts education spending by $16.2 billion so that our Nation's children will find it harder to go to college and to realize their dreams. And it slashes Medicaid by $5 billion, putting health care for those who need it further out of reach.

The budget does all this while adding to the deficit and giving away tens of billions of dollars to the rich and the super rich in tax cuts, dramatic cuts that middle-class Americans will not share in, but will be asked to pay for.

Is this really what our constituents sent us here to do, to spend the holiday season taking from the needy so that we can give even more to those who need it the least?

Mr. Speaker, this year has repeatedly shown us the consequences of poor leadership. We saw a natural disaster turn into a national tragedy because of failed government response, casting doubt on our readiness to respond to future challenges. We saw self-interest run amok, as top lawmakers violated the people's trust and were indicted and forced to step down in the wake of scandal.

We saw our troops and the people of Iraq struggle heroically to lift not just the weight of a vicious insurgency but also the burden of poor planning and unfulfilled promises from the White House.

And here again today, the American people will be made victims of unscrupulous, disingenuous leadership.

On the opening day of the 109th Congress, almost 1 year ago, the first act of this leadership was to try to destroy the House ethics committee under the guise of ethical reform.

Unfortunately, my colleagues in the majority have committed to ending this session of Congress on the same sad note with which they began it, by employing unacceptable, unprecedented tactics and trying to deceive the American people out of pure political self-interest at the expense of this body and our shared values.

We cannot afford another year like this. We need to start investing in America's future, not letting those in power invest only in their friends at America's expense. It is time for real reform, for real integrity, for real leadership. It is time for a change, and together we can do better.

Mr. Speaker, I reserve the balance of my time.

Mr. PUTNAM. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. COLE), my colleague on the Rules Committee.

Mr. COLE of Oklahoma. Mr. Speaker, our friends on the other side of the aisle asked us, Were we sent here to do this?

Frankly, I can only speak for my district and tell Members that is exactly what I was asked to do. When I talk to my constituents at home, they tell me government is too big, taxes are too high. Do something about it.

We all know the numbers here, and we are going to hear a lot of sound and fury tonight about how horrific and dramatic this bill is.

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In reality, it is not. We are talking about a little over $40 billion out of a $14.5 trillion revenue stream over the next 5 years, less than one-half of 1 percent.

We will not cut spending. Spending, instead of going up annually at 6.4 percent a year, will go up at 6.3 percent.

We will not cut Medicaid. Instead of going up at 7.3 percent, it will go up at a little over 7 percent.

This is, though, an important first step, where we begin to deal with nondiscretionary entitlement spending. That is going to be, I think, the big challenge over the next decade. I am very proud that this Congress has begun to grapple with that problem. I look forward to the process as we continue this in the years ahead.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, Merry Christmas. Happy Chanukah, and meanwhile, the Republicans are stealing from the stockings and taking away the hopes and dreams of aspiring students, slashing safety nets that help middle-income households get by, and kicking seniors to the curb with this budget package that is contrary to everything about the true spirit of Christmas as I understand it.

People of all faiths know that budgets are not just about numbers or percentages. There is no more moral document that we in Congress work on than the budget. What we choose to pay for and what we choose to cut are moral choices about how to run our country, reflections of the values of our society. And it takes a special brand of callousness, in the day or the middle of the night, to propose big cuts to Medicaid, student loans and foster care, as we believe this budget does, when the needs of our country are greater today than they were just a few short months ago.

When the need in the gulf coast rose, the need in the rest of the country did not subside. It is not the students who are responsible for historic deficits. Poor people did not cause our fiscal decline.

If we want to get our fiscal house in order, then we should start with the tax cuts that mostly benefit the wealthiest households. Millionaires are getting an average of $103.000 in tax cuts this year because of cuts from 2001 and 2003, and next year they are going to get another $20.000 as two more tax cuts take effect. And the Republican bills passed another $108 billion in tax cuts this year. Tell me, who is going to pay for those?

Deficits matter. But the one we should be talking about today is the moral deficit of those who would balance tax cuts for the wealthy on the backs of the working poor. I believe, as best said by President Franklin Delano Roosevelt, that, "the test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have little."

Mr. Speaker, tonight we have a choice about the type of leaders we want to be and what our country stands for. We can decide to do the morally responsible thing. We can do what is right. Mr. Speaker, together, America can do better.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would remind my friends on the other side of the aisle that this is the deficit reduction package, and we will have another opportunity to consider the tax reconciliation package. But their references to the tax cuts or tax reform or tax relief, and I am very proud of the work that the Budget Committee and all the other committees have done, is not in this bill.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Kansas (Mr. RYUN), a colleague on the Budget Committee.

Mr. RYUN of Kansas. Mr. Speaker, when I go back to my district, the people in Kansas want to know what we are doing to control the national debt. I tell them the Republicans are working to find savings in a bloated Federal Government. Then they hear from Democrats that we are cutting vital programs, such as Medicaid and food stamps.

Well, Mr. Speaker, if it were up to the other side, entitlement programs would continue to grow at an unsustainable rate. Within 10 years, we would see the entitlement programs taking up 62 percent of the Federal budget.

If we grow the government as our friends on the left would like us to, we will be faced with three choices: one, we would have to possibly raise taxes; or, two, eliminate all Federal programs other than entitlements; or, three, we will face an ever-expanding national debt that will threaten our entire economy.

There are no easy solutions to this problem, Mr. Speaker, but if we do not act to reform these programs now while we have time, the problem will only grow worse as the national debt will only grow larger.

Today, by passing the Deficit Reduction Act, those of us who believe in limited government are taking the first step to reverse a culture of spending. Today, we are standing behind our belief that bigger government is not better government. Today, we are making commonsense reforms that will result in less waste, fraud, and abuse.

The Deficit Reduction Act is a small step to rein in Federal spending, but I think it is an important step. As we all return home for the Christmas season, let us give Americans some good news. Let us tell them Congress acted responsibly to control Federal spending. Let us pass this rule and pass the Deficit Reduction Act.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I can understand why this budget bill is coming up at 2:35 in the morning Washington time. If I had a bill this bad, I would want it to come up at 2:30 in the morning as well. I think the American people, those at least who are watching at this time of day, perhaps out in Hawaii, if nowhere else in America, ought to know what this does in combination with everything else Republicans are doing.

This bill, along with its tax cuts, $220.000 a year, in fact, to those making $1 million a year in dividend income, will make a sham out of the American principles of shared sacrifice during time of war. This budget bill that the House is about to vote on will actually increase the college education costs of the sons and daughters of our Iraqi war troops in combat right at this moment by up to $28.000, up to a $28.000 student tax on the backs of men and women who are this morning bearing the burden for fighting America's wars. I do not know how you could get more unfair than that.

The fact is that the Republicans' claim of supporting compassionate conservatism now comes clear at 2:30 in the morning. They are going to provide cuts for working families and the poor and cuts for the rich. The difference is the cuts for the poor and working families are going to be cuts to the Women, Infants, and Children program that helps low-income children get prenatal care. It is going to cut funding that helps disabled children get a better education. It is going to cut funding that helps local school districts pay for working families' educations.

And, yes, in just a few weeks, they will come back and also have cuts to be fairer to the wealthy. They will cut their taxes by billions of dollars. Again, this is good news for those making $1 million a year in dividend income. You are going to get a $220,000 a year tax cut.

What is fair about that, given that we are going to have a student tax on the backs of sons and daughters of Iraqi war troops? We are going to cut special education. In fact, this is $4 billion short of what the Republicans said they wanted to do. No Child Left Behind, let us blow that out the window along with the phrase "compassionate conservatism."

This bill, combined with the other cuts we are going to vote on this morning, will see that 200.000 low-income children would find their tutoring assistance eliminated. This bill throws out the window help for seniors and people of all ages around the country struggling to pay their high utility bills this winter.

This bill and the Republican leadership make Scrooge look like a philanthropist. I would challenge them to show me one major religion in the world that preaches at any time of the day, whether it is 2:30 in the morning or 2:30 in the afternoon. I would challenge, Mr. Speaker, the Members of the

Republican Party only the floor right now to stand up and tell me what major religion in the world asks that we take the most from those who have the least and ask nothing from those who have the most. That is what the combination of this budget bill, along with their tax cuts and their spending cuts, is going to do.

So I think what the American people, at least those that are up at this time of day, are seeing, is all the rhetoric is not matched by the record of the Republicans. Compassionate conservatism? These budgets, these bills are neither conservative nor compassionate. Leave No Child Behind, this bill is going to leave millions of children behind, along with seniors and a lot of hardworking families trying to pay their bills every month and provide a better life for their children.

As far as being strong on national defense, you know, you look at what the Republicans are doing this morning, they are going to cut $8.5 billion out of President Bush's defense bill. I wonder what Republicans would say if Democrats proposed that?

Republicans are hurting the American people, and this is wrong, at any time of the day.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in amongst the theology you would never know that the Department of Education programs have skyrocketed since 1994, the Department of Veterans Affairs' budgets have skyrocketed since 1994, investment in our defense continues to go up, support for our troops and their training, as well as their widows and loved ones and the level of support there, continue to go up, and overall mandatory spending in this budget continues to go up.

It is the rate of growth that we are here to discuss, and the fact that it is consuming our overall budget, something that some aspects of the other side of the aisle have expressed concern about, which is getting our arms around the budget deficit. This Deficit Reduction Act offers them the opportunity to do that.

Mr. Speaker, I am pleased to yield 2 minutes to my friend, the gentleman from Mississippi (Mr. WICKER).

Mr. WICKER. Mr. Speaker, I thank my friend from Florida, who could also have mentioned that spending on Federal health research has almost tripled in the decade of Republican rule in this House of Representatives. So I am proud of the accomplishments we have made in that regard.

Mr. Speaker, there has been a great deal of debate tonight about the growth in the national debt, and certainly it is something we are very interested in. In the debate on the previous rule, accomplishments were pointed out on the discretionary spending side. That is spending that is controlled by the appropriations process. But we will never get a handle on deficit reduction, we will never be able to accomplish this challenge of the growth in the national debt unless we get a handle on our mandatory spending, those entitlement programs that are on autopilot. They spend year in and year out, whether there is an appropriation bill or not.

Mandatory programs will grow this year at a growth rate of over twice the inflation rate. If we do nothing about the mandatory spending programs, they will increase from their current 54 percent of the Federal budget to an unbelievable, unchecked 62 percent of total Federal spending in a decade. So clearly this is the key area in budget deficit reduction, and that is why we have a plan to implement reforms to provide savings for the American people in the area of mandatory programs.

One example, of course, would be the Medicaid program, a program which Governors, Democrat and Republican, from around the country have come to Congress about, saying please help us to save this valuable program by slowing the growth rate. Under the underlying bill that this rule would provide, Medicaid will grow at a rate of 7.5 percent over the next 10 years, instead of a rate of 7.7 percent. For these reasons, I support the rule and the underlying bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, this bill is entitled the Deficit Reduction Act of 2005. What it should really be entitled is the Deficit Increase Act of 2006. It reminds me of the old joke of Monseigneur O'Malley, who goes up into the pulpit on Sunday and says, "On Wednesday night in the church hall, Father Murphy will lecture on the evils of gambling. On Thursday night in the church hall, bingo."

Here tonight we are being lectured by the Republicans on the need to reduce the deficit. How? Well, we are going to cut Medicare for the poorest in our country. We are going to cut Medicaid for the poorest in our country. We are going to cut education programs for the kids who need it the most across our country. And they are going to cut out $41 billion from the poor and the working class in our country who need it the most right before the holidays. And then their plan is to come back here in January with a $56 billion tax break for millionaires, dividend cuts all across the board for the wealthiest in our country.

So what we are going to have here is a lecture tonight on the need to cut and to ensure that the poorest sacrifice, and then in January, bingo, $56 billion in cuts for the wealthiest in our country, increasing, if you can do the math here, I am not sure the Republicans can do math, $41 billion in cuts, $56 billion in tax breaks, mostly for the wealthiest, means you have spent $15 billion more and dug the hole even deeper.

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The Republicans do not understand that they are in violation of the first law of holes, which is when you are in one stop digging. And so what they do is in order to cover for a tax break for the wealthiest, they cut the poorest and they simultaneously increase the deficit for subsequent generations all at the same time. And when do they do it? At quarter to 3 in the morning, when the people who are going to be hurt the most are suffering. And when are they going to tell the people who are going to benefit? Next year around campaign time when they, once again, remind them that if you want to get tax breaks for the wealthiest in America, then vote yourself a Republican in Congress, because that is what tonight is all about: a hypocrisy coefficient at historic highs. And tonight, if you want to ensure that we protect those most in need in our country, vote "no" on this hypocritical Republican attempt to increase the deficit in our country while calling it the Deficit Reduction Act of 2005.

Mr. PUTNAM. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Texas (Mr. CONAWAY), a member of the Budget Committee.

Mr. CONAWAY. Mr. Speaker, I rise tonight in support of this rule and also the underlying bill that will come up later on. I am a CPA. I have spent 30-plus years in business dealing with clients and families and other businesses. Our family business or our family home runs by a budget; it cannot run at a deficit very long. Our businesses cannot, certainly State and local governments cannot do it. About the only one that can is the Federal Government. Simply because the Federal Government does run a deficit or can does not mean it should.

The only way to whack down a deficit is to cut spending and raise revenue. Tonight we are about cutting spending; actually, cutting a reduction in the growth in spending. The problem with spending, and I suspect even my good colleagues on the other side of the aisle use the phrase "we need to cut Federal spending." It rolls off the tongues very easily, but it is, quite frankly, very hard to do it. It is hard to get that done. We have been at this since February, and it is going to be hard.

It is hard because every single dollar that comes out of the Treasury has a constituent attached to it, has a special interest group attached to it. If we listened to much of the rhetoric here tonight, every single one of the reductions in the rate of growth that we talked about affects a program that is the single most important program in the entire Federal Government. Logic does not allow that to happen. We cannot have every single program that we do in this Federal Government be the most important. We have to set some priorities, and reducing the rate of growth that this bill does is an appropriate way to do it.

I would also like to respond to the religion issue that was brought up earlier. I cannot speak to all religions, but I can speak to the faith that I follow. I am a reasonably good student of the New Testament and there is plenty of evidence, plenty of scripture where Christ instructs me to take my wealth, resources, and benefits and help those who are less fortunate, help the poor and needy, all of those kinds of things. I cannot find anywhere where the Christ tells me to take money from everybody else and fix those programs, fix those problems for the needy in our country. So I am curious as to a religion that might have a concept like that.

So I speak tonight in favor of the rule and also the underlying bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, a lot of euphemisms on the other side, such as the cuts in the rates of growth, suggesting that that is just a neutral act when it takes place. They have cut about $40 billion out of this budget in this package that we are going to vote on in a little while. Twelve billion of that comes from student loan accounts, and about $7 billion, 70 percent, almost $8 billion of that, 70 percent of those cuts come off the backs of students and their parents.

They increase the cost of college education over the next few years by almost $8 billion. That means that students that are struggling to finish their college education, to acquire a college education so they can participate in this economic system, will have thousands of dollars added on to the cost of the borrowing that they must engage in. They must engage in that because the cost of education is outstripping the ability of middle income families to supply that money for that education for those children. So the Republicans' idea is to make college more expensive. At a time when we worry whether we will have enough students graduating from college to meet the needs of the economy, their idea is make it more expensive.

Yes, the Democrats do have a better idea, and that is to try to open up the access to college and lessen the cost of college.

Then, if that is not enough, if that is not enough, if you get to the other part of the program like Medicaid, they say they are going to reduce the cost of increase. Well, that cost of increase is done by increasing the premiums and the copayments to the poorest people in this country. Those premiums and copayments is about $19 billion over 5 years, $100 billion over 10 years. And if it is not enough that they increase your copayments and their premiums, then they take away the benefits. They are going to take away eyeglasses from elderly people, hearing aids from elderly people, and if Tiny Tim was here today they plan to take away his crutches. That is the Republicans at Christmastime: Take away the crutches of old people, the hearing aids of old people and eyeglasses, because those are the benefits that are listed and the benefits that they plan to cut to the poorest people who need health care.

They are going to add on billions of dollars to the States because of the changes in the work requirements, unfunded mandates. So you can talk about slowing the growth, but the growth and the costs to parents of students going to college, the growth in the costs of people who need health care who are poor, the growth in the cost of people who need those services under health care, all of those increases. Now, maybe that does not sound like a tax increase to you, but if you are poor and you are trying to pay for your health care and it costs you more, that kind of looks like a tax increase. If you are going to add on thousands of dollars to student loans, that is a tax increase.

What we have here is one cruel, one inhumane, one insensitive budget by the Republican Party.

STUDENT AID

The Republican conference report cuts $12.7 billion from the federal student aid programs in order to help finance tax breaks for the wealthiest Americans.

This Republican raid on student aid represents the single largest cut to the student aid programs ever.

70 percent of the gross savings generated by this bill are achieved by continuing the practice of forcing student and parent borrowers to pay excessive interest rates in and by assessing new charges on parent borrowers.

This bill puts college even further out of reach for millions of American students and families.

To make matters even worse, the Republican bill puts billions of dollars in student aid at risk by cutting all of the critical funds ($2.2 billion) used to carry out and administer the student aid programs.

As a result, this bill puts the safe delivery of Pell Grant scholarships, loans and other aid to millions of students at risk.

In the face of rising college costs and soaring loan debt, Republicans have failed to provide any real relief for rising tuition costs.

Since 2001, tuition at 4-year public colleges has risen by 40 percent.

And now to make matters even worse Republicans are going to make it even harder for families to pay for college.

Democrats have a better idea—to make college more affordable without costing taxpayers an extra dime.

We can do it by cutting excessive government subsidies paid to banks and lenders in the student loan industry, and using the savings to make student loans more affordable than they are today and to boost the Pell Grant scholarship.

By the year 2020, the United States is projected to face a shortage of up to 12 million college educated workers, directly threatening America's economic strength.

If we want to keep the American economy strong in the face of fierce global competition, then we must not allow financial barriers to prevent even a single qualified student from going to college.

American should be investing in the skills of a new generation of students so they can prosper and make America's economy stronger.

Democrats believe in an America that works for everyone, not just the few.

That's why Democrats oppose this Raid on Student Aid.

WELFARE

The anti-family nature of this bill is also proven by its appalling treatment of the working poor.

The poverty level in America is a national disgrace.

America has more and deeper poverty than any other developed country except Mexico.

And the number of Americans living in poverty has increased for the fourth year in a row.

So today, 37 million Americans—many of them full-time workers—live in poverty.

That's 13 percent of all Americans and 1 in every 3 poor people in this country is a child.

This is a disgrace.

Yet the Republicans have included in this bill a welfare proposal that is clearly bad for America's poorest families by forcing states to adopt policies that will make it even harder for the working poor to become self-sufficient, to move off welfare, and to stay off welfare.

We cannot judge welfare reform primarily by the number of people on or off of welfare assistance but by how many families still live in poverty.

And studies show that many former welfare recipients remain poor and lack a steady job after leaving welfare.

Welfare reform will be successful only when families leave welfare for decent jobs and economic stability.

That's why the Democratic proposals for welfare reform have focused on giving states the flexibility, incentives, and resources to implement innovative programs and address individual needs and differences.

Unfortunately, the welfare legislation in this conference report moves us farther away from making work pay and hurts America's working poor.

The welfare provisions in this report impose massive new mandates that will force states to shift resources away from workers and their families.

The non-partisan Congressional Budget Office estimates the cost to states of meeting the new welfare requirements is $8.4 billion over the next 5 years.

And CBO expects states to try and avoid some of these costs by increasing the use of sanctioning and imposing new barriers to poor families seeking assistance.

If states do adopt such policies, the likely result is that the number of children and families living in deep poverty will continue to increase.

Matters will be made worse for states and families by the grossly inadequate child care funding in this conference agreement—even though we know that access to stable child care is essential for parents' efforts to stay employed.

The Congressional Budget Office estimates that the child care funding in this bill is $11.5 billion short of what is needed to meet the new work requirements and ensure that current child care funding keeps pace with inflation.

The consequence is that even by the Administration's estimations, more than 300,000 children will be cut from this program over the next 5 years.

That's why the welfare approach in this bill has been opposed by Governors and Mayors across this country.

And why the Senate has been unwilling to adopt this unwise approach.

Yet, apparently, a backroom deal struck by the Republican Leaderships in the House and the Senate is trying to hide irresponsible welfare legislation as part of this much larger conference agreement.

House Republicans have unsuccessfully tried to get this anti-family welfare legislation passed into law for 3 years and finally decided the only way they could do it was in the middle of the night when America is asleep.

That the Republican party considers themselves the party of family values is a joke and the legislation before us makes that painfully clear.

Do what's right for all of America's families and vote no.

Mr. PUTNAM. Mr. Speaker, we have run through the gospels and now we are on to Dickens. We have heard it all. We would take away the crutches, the eyeglasses, and the hearing aids from Tiny Tim. I guess the other side would just tax him.

I am pleased to yield 4 minutes to the distinguished chairman of the Education and Work Force Committee, the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, if this bill was anywhere near as difficult and as bad as my friends would have described, there would be no Member of the House who would vote for it.

Now, I think all of us realize that our Nation is going broke. You would argue that we are not taxing enough. Most of my colleagues and I would argue that we are spending too much. And if you look at Federal revenues over the last 10 years, 20 years, you will see that there is never an increasing rise in Federal revenues.

The problem we have is we have a spending problem. We are spending money that we do not have year in and year out, and we are passing those bills on to our kids and theirs. It is not fair. We decided we are going to take a bite at the apple, and we are going to try to do something about it.

Before us we are going to have about a $41 billion deficit reduction program. It is going to reform many Federal programs to provide savings to reduce the budget deficit. In my committee we are going to take $16.2 billion of reforms to lower that deficit, about $3.6 billion of that will come in the form of strengthening the Pension Benefit Guaranty Corporation, raising the premiums on employers who pay into that system, and making some other changes that will produce those savings.

The higher education side is rather unique. We are able to increase benefits for American students while at the same time reducing and reforming those programs to save $12.6 billion. We keep the current law fixed interest rates into the foreseeable future for the loan program. The consolidation program stays at the same interest rates. We phased out origination fees for those in the Pell program from 3 percent down to 1 percent over the next 5 years. We increase loan limits for students, freshmen, up to $3,500 per year in guaranteed programs. The second year, we increase it to $4,500. We eliminate the single holder rule. We increase loan rates and loan volumes for graduate students. At the same time, we reform the programs and the fees that we pay to lenders. We eliminate the 9.5 percent loans and eliminate recycling. We eliminate floor income, we reduce the insurance rate for the lenders from 98 to 97 percent, and we give guarantors incentives for rehabilitating loans rather than to put them into the consolidation program. This is a good deal for American students.

On top of all that, there is $3.7 billion in this bill to start an academic competitive grant for Pell-eligible students who are interested in math, science, and specialized languages. We all know that we have problems with enough mathematicians and scientists in America, and this program is aimed at Pell-eligible students trying to encourage them into math and science and giving them significant grants in their junior and senior year to make sure they graduate as mathematicians and scientists.

All of this is being done on behalf of students, while saving, producing savings of $12.6 billion to help reduce the deficit.

Now, I think all of us have a job to do when it comes to reducing this deficit. Again, my colleagues want to raise taxes. I do not think that we have a revenue problem; I think we have a spending problem. And I think reforming these Federal programs, especially in a way where we can provide additional benefits for students, is a win-win for the American people. It is a good bill. We ought to vote for it.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, what irony. This is the Deficit Reduction Act. We just heard; what was the deficit in November? $83 billion. You have the gall to come here and talk about deficit reduction? $83 billion in one month. Your priorities are clear. You do not bring up the tax bill tonight because you are afraid to combine a bill that cuts $20 billion, over half of which goes to people making 1 million bucks a year, with these budget cuts.

Mr. Speaker, we scared you off, some of your intentions on child support, which would have resulted in $24 billion less over the next 10 years collected for the kids of America. You have now reduced it to $8.4 billion. That is how much less children are going to receive. And the irony is that the States that are hurt the most are the States that are best performing. And then when it comes to welfare reform, in the 1990s, many of us worked together to change our laws. We did it in a way that provided adequate child care and Medicaid. President Clinton would not sign the bill until those provisions were in there.

You could not get an immediate welfare reform package through the Senate, so what you have done is to stick it in this bill. That is what you are doing.

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The child care provision, only about $1 billion. It would take $11 billion for the States, if the States met the work requirements, $11 billion more in child care, and you do not help at all in terms of health care. What you do is change the formulas so that there is going to be on the States a cost in order to meet this in the next 5 years of over $8 billion.

So you are going to hurt the States, you are going to hurt kids of a parent or parents who are moving from welfare to work, and you are going to provide totally inadequate child care for those people who are moving from welfare to work.

Your priorities are very clear, very clear, a tax cut for millionaires and hurting the kids of the United States of America. Frankly, I do not care what time of the year it is; it is bad every day of the year to do that, and I hope we will turn this down.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

I share the gentleman's concern about the budget deficit. That is why I am proud to announce that the deficit is $134 billion less than what was estimated a year ago, thanks to the strength of the economy.

I understand his concern about the ongoing growth of mandatory programs, which is why we have in place a deficit reduction package that helps us to get our arms around the fact that two-thirds of the Federal budget will be on auto pilot if we do not act.

Mr. Speaker, I am pleased to yield 3½ minutes to my friend from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding me time.

I just want to say, if we look at what our budget has done in terms of Federal student aid, for student grants it has nearly doubled in 10 years. For Federal loans, it has gone up about 30 or 40 percent. There are more tax benefits than ever before for education.

For the Medicaid that we are getting accused of slashing to death, we are debating here a difference in growth of 7.7 percent versus 7.5 percent.

The spending growth in SSI has been increasing at an annual rate of about 4.4 percent, and it has gone from $29 billion to $36 billion in the last 5 years.

The spending growth in foster care in 2000 was $5.7 billion, and today it is $6.8 billion. The spending growth in child support has gone from about $1 billion in 2000 to $4 billion today.

We keep hearing about tax cuts for the rich. Why do people with more money get more tax reductions when you look to change tax policy? That is because they are paying the taxes.

What are the results of these economic decisions which we are making sometimes and too often on a nonpartisan basis because we do not get the support that we feel we should get from both parties on this? But what are the results of this?

Gross domestic product, we have had an increase of 4.3 percent in the third quarter. Real gross domestic product has increased about 3 percent for the last 10 consecutive quarters.

For employment, 215,000 new jobs were added in November alone, and this year so far 1.8 million jobs. The unemployment rate was 5 percent in November. The unemployment rate has fallen from 6.3 percent in June of 2003 to the current 5 percent level.

Productivity has increased at a robust 4.7 percent annualized in the third quarter. Manufacturing has been expanding for 30 consecutive months. Services have been expanding for 32 consecutive months.

Business investment from its low in 2003 has been increasing for over 24 percent, and home sales, certainly the barometer of health in the United States of America, everybody's dream to own their own home, and new home sales rose to another high in October. Sales of existing homes, which account for 85 percent of all home sales, retreated in October but remain close to record levels.

The economy is robust. These policies speak for themselves. If you do not confiscate money from folks in the form of taxes, participatory taxes, and if you do not overspend and expand the Federal Government, the economy in the United States of America works miracles because the rising tide lifts all boats. There are more jobs than ever before.

There is an old expression, when the carpenter has work everybody's employed. That is what these economic policies are doing, and I support this bill. There are things in there I do not like, just like everybody else, but overall, cutting spending and cutting taxes grows the economy and creates jobs. So I stand in support of the rule and the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. LARSON).

Mr. LARSON of Connecticut. Mr. Speaker, I thank the gentlewoman for the time.

Mr. Speaker, how appropriate that we bring this piece of legislation in the early morning, deep in December, as our Nation braces for yet another cold winter.

To my Democratic colleagues I say, you know, do not be too harsh on our Republican colleagues. Take heart in what Franklin Delano Roosevelt said. Remember this, that they are not bad people. In fact, they can be very well intended, but more often than not they are frozen in the ice of their own indifference, frozen in indifference to the cries of people from the rooftops of New Orleans or to fellow colleagues who come to the floor from Bay St. Louis and New Orleans and talk about people who still live in tents, frozen in their indifference to the elderly in this country who are refugees from their own health care system and have to go to Canada to get prescription drugs, frozen in that indifference and yet come to this Chamber with the temerity to talk about spending.

We agree with you on spending. It is just that you lavish your spending on the oil companies and the pharmaceutical companies and only ask of the least amongst us to provide for the sacrifice that this Nation and you are going to place upon their backs.

Roosevelt had it right: You are frozen in the ice of your own indifference.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

I noted the gentleman's lavish description of the frozen tundra that people find themselves frozen in, and I would point out to him that $1 billion will be put into LIHEAP, something that he failed to mention, that will assist all Americans who find themselves in a low-income situation and need of assistance for paying their utility bills, to make sure they have the adequate protection they need, a record amount of money, $1 billion. That has not been mentioned in amongst all the other comments about the cuts that people are facing.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman from Missouri (Mr. CLEAVER).

Mr. CLEAVER. Mr. Speaker, there was a statement made earlier that the New Testament spoke about individuals as opposed to government, and I would be glad to enter into a colloquy with anyone who would purport to demonstrate that. I can show you for the remainder of the night a litany of scripture that would suggest almost unquestionably that government has a responsibility. Jesus authenticated government, and then Paul asked that we pray for the government.

This issue that we are dealing with, if we are going to bring religion into it, I think we have some obligation to at least deal with the Holy Writ in the fashion that it was written.

Mr. PUTNAM. Mr. Speaker, I am pleased to yield 2½ minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, we are here tonight to debate a very historic bill, although I do not believe the rhetoric from the other side is necessarily historic.

We are hearing a lot tonight about cuts and compassion, but when I look at this bill, all I seem to see is increases in spending. So I am trying to figure out where the reductions in spending have actually taken place. Mr. Speaker, people are entitled to their own opinions. They are just simply not entitled to their own facts.

After this set of reforms is passed, Federal outlays are going to grow 4.3 percent. Mandatory is going to grow 6.3. Medicaid is going to grow 7.5. I am still looking for the cuts.

I think maybe, Mr. Speaker, I have found those cuts now that I look, and that is every time we increase a program of the Federal budget, we are having to decrease some program of the family budget.

This is a very historic piece of legislation because tonight we start that process, those first few steps towards reforming out-of-control government spending. We know what that future is, Mr. Speaker, if we do not do something about it.

Already Chairman Greenspan of the Federal Reserve has said, "As a Nation, we may have already made promises to coming generations of retirees that we will be unable to fulfill."

The Brookings Institution has said, Expected growth in our entitlement programs along with projected increases in interest on the debt in defense will absorb all of the government's currently projected revenue within 8 years, leaving nothing for any other program. So no veterans program, no student loans, no housing programs.

Where is the compassion in this, Mr. Speaker, if we follow the Democrat plan and do nothing for reforming our entitlement spending?

The GAO says that we will have to double taxes on our children just to balance the budget if we do not begin this process of reform. Now, where is the compassion there?

And when people start to lecture us about the least of these, I submit to you, Mr. Speaker, that the least of these are those who are too young to vote and those who have yet to be born. Who represents them here this evening? Who speaks out for them?

Let us have compassion for the next generation and let us enact this rule, let us enact this underlying bill, and let us save this next generation from a fiscal calamity.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, 3:10 a.m. The Republicans do all their best worst work at this time in the dark of night.

Well, they have done a new thing here. They have bifurcated Santa Claus. We have two Santa Clauses. We have Santa thief who is going to wriggle down the chimney and he is going to steal from the least among us. He is going to take $16 billion out of student loans, kids struggling to get ahead. Why? So we can finance tax cuts on dividend paying stocks.

He is going to take money from struggling families in the form of Medicaid, seniors on Medicare. Oh, he is going to give another $1 billion to the LIHEAP program, thank you to Santa thief.

He has also given $9 billion in subsidies to the oil, coal and gas industry in the so-called travesty of an energy bill that passed this House.

But that old St. Nick, he is still alive, thank God. Republicans have kept him alive, but he is in the Bahamas with the expatriate people who are avoiding taxes, clinking champagne glasses, hopefully not French, owing to the sensibilities of the Republicans here and those French, and he is giving them wonderful benefits.

We are going to reduce taxes on people who earn over $300,000 a year so their tax rate on dividends or capital gains is less than the tax rate paid by the checkout clerk at the supermarket. Now, that is fair. That is equitable. By God, because those people are going to trickle down on the rest of America, as they trickle we are actually creating a sea of red ink and their yachts float higher and their mansions get bigger. A few lucky folks will get to wash the decks of the yachts and to cut their lawns.

Now, this is what the Republicans say. We do not have a revenue problem. We are hemorrhaging revenue. If we just restored the tax rates of the booming 1990s, when the wealthy were doing quite well, the yachts and mansions and increasing incomes, we would gain $386 billion if they just paid the same rate of taxes they did before you took over everything.

That is 10 times the cuts here, 10 times what Santa thief is stealing from the students, the old folks and the poor, 10 times as much. We do not have a revenue problem. No, your contributor wealthy investor class is doing very well. They just have to wait until next year for their gratification, but we are going to stick it to the most suffering among us here early this morning.

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Mr. PUTNAM. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, the week before Christmas and here we are gathered, most of the children in their bed even in my district by now, and the elves have been working. So here we are.

The Republican Party, since the days of Reagan, have lived by the motto of Mrs. Thatcher, that there is no society, there is only individuals. Now, that is contrary, as you heard from the gentleman from Missouri, to what the Bible says. We all start the story of the Bible, the Christian story, in Isaiah. And in Isaiah the prophet is categorizing what is going on in Jerusalem and why it is failing as the injustice and the materialism and the wealth accumulated. Here is what Isaiah said, verse 23, first chapter. Right off the bat: "Everyone loves a bribe and runs after gifts. They do not defend the fatherless. The widow's cause does not come before them."

For us to be here in the middle of the night taking whatever it is, $50 billion, $60 billion, nobody on this floor knows what is in this budget, let us admit that right up front, except about six people who wrote it. We are all taking it that we are going to take $60 billion and we are going to tell the poor people, you know, you are so lucky to live in America. We are going to throw you a little something.

In our history, every one of us has been raised with the Christmas story, either the biblical Christmas story or the Dickens Christmas story of the coal and the Grinch. You think about all the stories we have about what happens at Christmas time, and you have the nerve to come out here with a budget at this time of year where you cut child support, you cut food stamps, you cut Medicaid; and then you say to people, Merry Christmas and a happy new year.

That takes the height of gall, or else no feeling whatsoever. There is no way you could stand up and talk about these issues if you understood what people at the bottom really have to deal with. Most of us make $150,000 as a minimum. The average income in this country is about a quarter of that, or a fifth of it. Those people are scraping along, and we are doing everything we can to make it impossible for them to live a decent life because of our own, as the prophet says, our own greed and materialism.

Mr. PUTNAM. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Speaker, we keep hearing there are all these vicious tax cuts. There are no cuts in this bill. A vote for this bill means we are voting not to raise taxes.

And it has done my heart good to hear so many religious references to Jesus and to the Bible. I would point you in that direction. Jesus never said, go ye and use and abuse your taxing authority. Take from others to give. He said, you do it. And I would offer you the example of Zacharius when he met Jesus. What did he do? He went and cut taxes.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Shame, shame, shame. You know, I am really glad that I am not a Republican. You know, Christianity is not what you say; it is what you do. And today you all practice what I call all the time reverse Robin Hood. During Christmas time you are robbing from the poor, the working people, to give tax breaks to the rich. Humbug.

The Republicans today are trying to be the Grinches that stole . . .

Not Christmas, but health care from the poor.

Republicans are practicing what I call reverse Robin Hood, robbing from the poor to give to the rich.

In this season of giving, the Republicans are taking from the poor to line the pockets of the wealthiest Americans.

Well, I say Bah Humbug!

Bah Humbug to you and your policies.

Those who will suffer will be: single mothers seeking child support; students struggling to pay their college loans, foster kids; the sick and the poor whose only access to health coverage is Medicaid; and those whose nutrition depends on food stamps or school lunches.

Christianity what you say not what you do.

If you are going to talk the talk, you must walk the walk. And the Republicans today are not walking with the poorest among us.

Mr. PUTNAM. Mr. Speaker, we have worked our way through Dickens, Dr. Seuss, and the entire New Testament. I wait to see what else awaits us.

Ms. SLAUGHTER. Mr. Speaker, I yield the balance of my time to the gentlewoman from California (Ms. PELOSI), the minority leader.

Ms. PELOSI. I thank the gentlewoman from New York for yielding me this time and for her eloquent presentation of this rule against this terrible, terrible, as the Congresswoman from Florida said, shameful bill.

I want to also pay tribute to Mr. SPRATT of South Carolina, our ranking member on the Budget Committee, as I rise in opposition to this rule and in opposition to this bill. Mr. SPRATT, anybody in our country who cares about fairness, about opportunity, about responsibility, about community is enormously in your debt for the values budget that you put forth and the great and excellent work that you do on behalf of the American people. Thank you, Mr. SPRATT.

Mr. SPRATT called me earlier this evening and told me, well, actually it was earlier this morning, and he told me he had just received the budget bill. 700 pages. Now, we all know one thing for sure. No one in this Congress has read that bill. So later, in just a short while, we will be voting on a bill that no one has read. But we do know certain things about it that make it very objectionable, not just to us but to the religious community in America.

Mr. Speaker, "Christmas is coming, the goose is getting fat, please to put a penny in the old man's hat. If you haven't got a penny, a ha'penny will do. If you haven't got a ha'penny, God bless you."

With this budget bill, the special interest goose is getting very, very fat. Do we say God bless you with this budget when Congress leaves here without passing a budget which comes close to meeting the needs of America's families who are struggling to pay their home heating bills and pay the price at the pump? This same Congress gave obscene subsidies to oil companies that are making historic profits this year; yet we give a small token to America's families to help pay the bills to those oil companies.

Do we say God bless you with this budget when we leave here without extending the time that our seniors need to understand the befuddling prescription drug bill that has been handed to them with a time limit? Democrats have a better idea of extending the time for seniors and lowering the cost of prescription drugs. But, no, the pharmaceutical and health industry goose is getting fat off this Congress at the expense of America's seniors.

And, really, what is so sad about it is that when it comes to meeting the needs of our young people and opportunities for them, we do not say God bless you, we say to them we are adding $5,800 more to those who use student loans. How could that be right while at the same time we give tax cuts to those making over $1 million a year; and at the same, at the same time we are growing the deficit and heaping mountains of debt onto those same young people?

Mr. OBEY calls this Scroogenomics. Scroogenomics. But, really, associating Scrooge with this Republican budget gives Scrooge a bad name. He saw the evil of his ways, Scrooge did. These Republicans are so blinded by the greed of their special interest friends that they are stuck in their cruel ways.

That is why leaders of every religious denomination have prayed in this rotunda, have prayed in churches across America, and as recently as a couple of days ago were arrested, over 100 of them and their representatives on the steps of the Cannon Building, to protest this budget.

Religious denominations prayed and lobbied Congress that Congress would do the right thing. They said that they were drawing a moral line in the sand against this budget. Democrats joined them in drawing that line in the sand between a Republican government of the privileged few instead of the government of the many, which is the American way.

Mr. Speaker, I associate myself with the remarks of the gentlewoman from Florida when she says, shame on you. It is shameful that this Congress will adjourn passing this immoral budget, meeting the greeds of the special interest friends of the Republicans instead, again, as I said, of the needs of the American people.

Mr. Speaker, as we leave for this Christmas recess, let us say God bless you to the American people by voting against this Republican budget statement of injustice and immorality. And let us not let the special interest goose get fat at the expense of America's children.

The gentleman from Washington State (Mr. MCDERMOTT) quoted the prophet Isaiah. My favorite saying from Isaiah is when he said: "To minister to the needs of God's creation is an act of worship. To ignore those needs is to dishonor the God who made us."

Let us vote "no" on this budget as an act of worship and for America's children.

Mr. PUTNAM. Mr. Speaker, obviously, I came prepared for the wrong debate. I brought the good economic news that is being told and shared and being invested all across this great land. Productivity numbers up, unemployment at 5 percent, nearly full employment for the country. RECORD numbers. Robust GDP growth quarter after quarter after quarter. The news that important reforms to Medicaid and Medicare will be moving forward, allowing those programs to continue to grow at, in some cases, double the rate of inflation, double the rate of the CPI that most people use as their common benchmark. And the news that there is a record amount of money into LIHEAP.

We brought those facts and figures to a debate that was about deficit reduction, that was about the future of America. The other side brought Dr. Seuss. The other side brought Dickens and nursery rhymes and enough theology to field an old-time revival, but to do nothing about the fiscal health of this country; to do nothing about the fact that if we move forward with their Dickens economic plan, that if we move forward with their Dr. Seuss approach to economics that two-thirds of the Federal budget will be on autopilot; that if we move forward with their plan, these programs will continue to have the inefficiencies and the waste and the fraud that makes for an unresponsive, unreactive government that confiscates people's money and then does not even invest it back into a program that serves the very people who need it the most.

That is the crime in this, Mr. Speaker, that we have a thoughtful, long-term plan for the fiscal health of this country, something that future generations will say marked the turning point, the first reconciliation bill, the first real attempt at deficit reduction since 1997 to turn that ship of state toward a brighter tomorrow. It cannot be summed up in some cute little nursery rhyme. It is important stuff. Sometimes it is dry stuff; sometimes it is dull stuff. But, by golly, it is important.

It is important to each and every American because it impacts how much money their government takes from them and how wisely that government uses that money for the needs of its people.

☐ 0330

GENERAL LEAVE

Mr. PUTNAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 639 and H. Res. 640.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. PUTNAM. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

conference report to accompany H.R. 1815;

adoption of H. Res. 639;

suspending the rules with respect to H. Con. Res. 284.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

CONFERENCE REPORT ON H.R. 1815, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

The SPEAKER pro tempore. The pending business is the question on adoption of the conference report on H.R. 1815 on which the yeas and nays are ordered.

The Clerk read the title of the bill.

The question is on the conference report.

The vote was taken by electronic device, and there were—yeas 374, nays 41, not voting 19, as follows:

[Roll No. 665]

YEAS—374

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Inglis (SC)
Inslee
Israel
Issa
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—41

Baird
Baldwin
Blumenauer
Conyers
Davis (IL)
Filner
Frank (MA)
Grijalva
Hastings (FL)
Hinchey
Jackson (IL)
Jones (OH)
Kilpatrick (MI)
Kucinich
Lee
Lewis (GA)
Markey
McDermott
McGovern
McKinney
McNulty
Miller, George
Nadler
Oberstar
Olver
Owens
Paul
Payne
Rangel
Rush
Schakowsky
Serrano
Solis
Stark
Tierney
Towns
Velázquez
Waters
Watson
Watt
Woolsey

NOT VOTING—19

Baca
Clay
Davis, Jo Ann
Emanuel
Gutierrez
Harman
Hefley
Hostettler
Hyde
Istook
Johnson, Sam
Jones (NC)
Kolbe
Miller, Gary
Myrick
Price (GA)
Radanovich
Reyes
Roybal-Allard

☐ 0401

Messrs. RUSH, GEORGE MILLER of California, TIERNEY, and Mrs. JONES of Ohio changed their vote from "yea" to "nay."

Ms. McCOLLUM of Minnesota, Ms. CORRINE BROWN of Florida, Ms. MOORE of Wisconsin, and Messrs. DELAHUNT, DOGGETT, and DINGELL changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WAIVING POINTS OF ORDER AGAINST, CONFERENCE REPORT ON H.R. 2863, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore (Mr. LAHOOD). The pending business is the vote on adoption of House Resolution 639 on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 214, nays 201, not voting 19, as follows:

[Roll No. 666]

YEAS—214

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barton (TX)
Beauprez
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Davis (KY)
Davis (TN)
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Doyle
Drake
Dreier
Duncan
Emerson
English (PA)
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Holden
Hulshof
Hunter
Inglis (SC)
Issa
Jenkins
Jindal
Kanjorski
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Otter
Oxley
Pascrell
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Poe
Pombo
Porter
Pryce (OH)
Putnam
Regula
Rehberg
Renzi
Reynolds

Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—201

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Barrow
Bartlett (MD)
Bass
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chandler
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fitzpatrick (PA)
Ford
Frank (MA)
Gerlach
Gilchrest
Gonzalez
Gordon
Green, Al
Grijalva
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Osborne
Owens
Pallone
Pastor
Payne
Pelosi
Peterson (MN)
Platts
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Reichert
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—19

Baca
Clay
Davis, Jo Ann
Emanuel
Gutierrez
Harman
Hefley
Hostettler
Hyde
Istook
Johnson, Sam
Jones (NC)
Kolbe
Miller, Gary
Myrick
Price (GA)
Radanovich
Reyes
Roybal-Allard

☐ 0410

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. PRICE of Georgia. Mr. Speaker, on rollcall Nos. 665 and 666 I was unavoidably detained. Had I been present, I would have voted "yea" on both measures.

REMARKS BY THE HON. JOE BARTON

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, last Thursday evening I had an event occur that at the time my thought was, why me, Lord? But as I stand here this evening, I actually can say it is one of the greatest blessings of my life because since that time I have learned how great and how good this institution is and this country is. Literally thousands of people, many of whom I have never heard of, have sent good wishes and prayers to me and my family.

I am not going to embarrass anybody on this floor, but some of the meanest, toughest reputations on both sides of the aisle have called me and shown themselves to be some of the biggest softies I have ever known.

So I just want to say from the very bottom of my very, very sore heart, God bless this institution. This is the greatest institution for good the world has ever known.

And I want to also say God bless the Lord for sending me my sweet wife, Terri, who is watching this and has been with me every step of the way.

Let us work together the next year for the greater good of America because when we do what is good for America we do what is good for the world.

Thank you for your prayers. God bless you all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, 5-minute voting will continue.

There was no objection.

EXPRESSING SENSE OF CONGRESS WITH RESPECT TO THE 2005 ELECTIONS IN EGYPT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 284, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 284, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 388, nays 22, not voting 24, as follows:

[Roll No. 667]

YEAS—388

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Bachus
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Tom
Deal (GA)
DeGette
Delahunt
DeLauro
DeLay
Dent
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Inglis (SC)
Inslee
Israel
Issa
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo

Marchant
Markey
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Young (AK)
Young (FL)

NAYS—22

Baird
Blumenauer
Conyers
DeFazio
Fortenberry
Hinchey
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Kilpatrick (MI)
Kucinich
Lee
McKinney
Miller, George
Obey
Pastor
Paul
Payne
Rahall
Taylor (NC)
Waters
Wynn

NOT VOTING—24

Baca
Bonilla
Clay
Cleaver
Davis, Jo Ann
Diaz-Balart, L.
Diaz-Balart, M.
Emanuel
Gutierrez
Harman
Hastings (FL)
Hefley
Hostettler
Hyde
Istook
Johnson, Sam
Jones (NC)
Kolbe
Marshall
Miller, Gary
Myrick
Radanovich
Reyes
Roybal-Allard

□ 0421

Mr. CONYERS changed his vote from "yea" to "nay."

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2669

Ms. HARRIS. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2669, the Pet Animal Welfare Statute of 2005.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentlewoman from Florida?

There was no objection.

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include tabular and extraneous material on the conference report to accompany H.R. 2863.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CONFERENCE REPORT ON H.R. 2863, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

Mr. YOUNG of Florida. Mr. Speaker, pursuant to House Resolution 639, I call up the conference report to accompany the bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

The SPEAKER pro tempore (Mr. CAMP of Michigan). Pursuant to House Resolution 639, the conference report is considered read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from Florida (Mr. YOUNG) and the gentleman from Pennsylvania (Mr. MURTHA) each will control 30 minutes.

The Chair recognizes the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, the Defense appropriations bill, which this conference report is about, is also the vehicle for a number of other issues. Those other issues have been discussed very thoroughly during consideration of the rule, so I am going to reserve my comments strictly to the area of the Defense appropriations bill.

Mr. Speaker, this bill is to provide for the security of our Nation and to appropriate the funds to pay for the equipment, the training, the consumable supplies, but more importantly, for the men and women who serve in our uniform, those who make it possible for us to sleep tonight, well, not tonight, because we are not sleeping tonight, but to make it possible for Americans to sleep tonight, knowing that they are secure because of these brave warriors who are prepared to protect America at any instance.

This bill, for example, includes the money for the pay raise for the members of our military. The bill provides a bridge fund of $50 billion for the conduct of the global war against terror in Afghanistan and Iraq and other places. It provides for replacing the equipment that has been destroyed or worn out during the conduct of the war. It provides additional funding to provide more effective ways to protect against and defend against the terrible tragic IEDs. It provides armor for our vehicles.

Mr. Speaker, I am going to be brief. I just want to hit some of the highlights of what the bill does. I want the Members to know that this appropriations bill funds the insurance and death gratuities that we have increased for the members of our military. It provides basically the President's request for a fairly aggressive shipbuilding program.

Mr. Speaker, this is a really good Defense appropriations bill. It was strongly supported when it passed the House 6 months ago, Mr. Speaker; but because of other delays, we are just now getting to vote on this final package. This is a good bill, and I do not think there is any controversy associated with the defense part of this conference report.

Mr. Speaker, I include the following tabular material for the RECORD.

DIVISION A - DEPARTMENT OF DEFENSE APPROPRIATIONS ACT-FY 2006 (H.R. 2863)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	House 5/	Senate	Conference	Conference vs. Enacted
TITLE I						
MILITARY PERSONNEL						
Military Personnel, Army	29,381,422	28,400,687	28,303,287	28,099,587	28,191,287	-1,190,135
Military Personnel, Navy	24,347,807	23,032,101	23,010,601	22,671,875	22,788,101	-1,559,706
Military Personnel, Marine Corps	9,581,102	9,024,984	9,018,884	8,894,984	8,968,884	-612,218
Military Personnel, Air Force	24,155,911	23,494,950	23,323,150	22,908,750	23,199,850	-956,061
Reserve Personnel, Army	3,663,890	3,249,269	3,172,669	3,052,269	3,172,669	-491,221
Reserve Personnel, Navy	2,084,032	1,774,399	1,677,399	1,617,299	1,686,099	-397,933
Reserve Personnel, Marine Corps	623,073	521,201	513,001	491,601	513,001	-110,072
Reserve Personnel, Air Force	1,451,950	1,314,846	1,296,646	1,263,046	1,296,646	-155,304
National Guard Personnel, Army	5,901,729	5,122,794	4,813,394	4,555,794	4,912,794	-988,935
National Guard Personnel, Air Force	2,540,242	2,300,032	2,276,532	2,125,632	2,267,732	-272,510
Total, title I, Military Personnel	103,731,158	98,235,263	97,405,563	95,680,837	96,997,063	-6,734,095
TITLE II						
OPERATION AND MAINTENANCE						
Operation and Maintenance, Army	25,764,634	25,316,595	24,283,245	24,573,795	24,105,470	-1,659,164
Operation and Maintenance, Navy	29,687,245	30,759,889	30,064,789	30,317,964	29,995,383	+308,138
Operation and Maintenance, Marine Corps	3,629,901	3,804,926	3,677,726	3,780,926	3,695,256	+65,355
Operation and Maintenance, Air Force	28,113,533	31,521,136	30,505,074	30,891,386	30,313,136	+2,199,603
Operation and Maintenance, Defense-Wide	17,449,619	18,453,469	18,438,916	18,517,218	18,500,716	+1,051,097
Operation and Maintenance, Army Reserve	1,991,128	1,987,382	1,995,582	1,956,482	1,973,382	-17,746
Operation and Maintenance, Navy Reserve	1,237,638	1,245,695	1,246,395	1,239,295	1,244,795	+7,157
Operation and Maintenance, Marine Corps Reserve	187,196	199,934	210,034	197,734	202,734	+15,538
Operation and Maintenance, Air Force Reserve	2,242,590	2,501,686	2,520,886	2,474,286	2,499,286	+256,696
Operation and Maintenance, Army National Guard	4,442,386	4,509,719	4,534,419	4,428,119	4,491,109	+48,723
Operation and Maintenance, Air National Guard	4,472,738	4,724,091	4,732,306	4,681,291	4,701,306	+228,568
Overseas Contingency Operations Transfer Account	10,000	20,000	20,000	---	---	-10,000
United States Court of Appeals for the Armed Forces	10,825	11,236	11,236	11,236	11,236	+411
Environmental Restoration, Army	400,948	407,865	407,865	407,865	407,865	+6,917
Environmental Restoration, Navy	266,820	305,275	305,275	305,275	305,275	+38,455
Environmental Restoration, Air Force	397,368	406,461	406,461	406,461	406,461	+9,093
Environmental Restoration, Defense-Wide	23,684	28,167	28,167	28,167	28,167	+4,483
Environmental Restoration, Formerly Used Defense Sites	266,516	221,921	221,921	271,921	256,921	-9,595
Overseas Humanitarian, Disaster, and Civic Aid	59,000	61,546	61,546	61,546	61,546	+2,546
Former Soviet Union Threat Reduction Account	409,200	415,549	415,549	415,549	415,549	+6,349
Total, title II, Operation and maintenance	121,062,969	126,902,542	124,087,392	124,966,516	123,615,593	+2,552,624
TITLE III						
PROCUREMENT						
Aircraft Procurement, Army	2,854,541	2,800,880	2,879,380	2,562,480	2,653,280	-201,261
Missile Procurement, Army	1,307,000	1,270,850	1,239,350	1,214,919	1,208,919	-98,081
Procurement of Weapons and Tracked Combat Vehicles, Army	2,467,495	1,660,149	1,670,949	1,359,465	1,391,615	-1,075,880
Procurement of Ammunition, Army	1,590,952	1,720,872	1,753,152	1,708,680	1,733,020	+142,068
Other Procurement, Army	4,955,296	4,302,634	4,491,634	4,426,531	4,594,031	-361,265
Aircraft Procurement, Navy	8,912,042	10,517,126	9,776,440	9,880,492	9,774,749	+862,707
Weapons Procurement, Navy	2,114,720	2,707,841	2,596,781	2,593,341	2,659,978	+545,258
Procurement of Ammunition, Navy and Marine Corps	888,340	872,849	885,170	832,791	851,841	-36,499
Shipbuilding and Conversion, Navy	10,427,443	8,721,165	9,613,358	8,677,887	9,027,231	-1,400,212
Other Procurement, Navy	4,875,786	5,487,818	5,461,196	5,293,157	5,444,294	+568,508
Procurement, Marine Corps	1,432,203	1,377,705	1,426,405	1,361,605	1,398,955	-33,248
Aircraft Procurement, Air Force	13,648,304	11,973,933	12,424,298	12,729,492	12,737,215	-911,089
Missile Procurement, Air Force	4,458,113	5,490,287	5,062,949	5,068,974	5,174,474	+716,361
Procurement of Ammunition, Air Force	1,327,459	1,031,207	1,031,907	996,111	1,016,887	-310,572
Other Procurement, Air Force	13,071,297	14,002,689	13,737,214	14,048,439	14,060,714	+989,417
Procurement, Defense-Wide	2,956,047	2,677,832	2,728,130	2,572,250	2,573,964	-382,083
National Guard and Reserve Equipment	350,000	---	---	422,000	180,000	-170,000
Defense Production Act Purchases	42,765	19,573	28,573	68,573	58,248	+15,483
Total, title III, Procurement	77,679,803	76,635,410	76,806,886	75,817,187	76,539,415	-1,140,388

DIVISION A - DEPARTMENT OF DEFENSE APPROPRIATIONS ACT-FY 2006 (H.R. 2863)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	House 5/	Senate	Conference	Conference vs. Enacted
TITLE IV						
RESEARCH, DEVELOPMENT, TEST AND EVALUATION						
Research, Development, Test and Evaluation, Army......	10,698,989	9,733,824	10,827,174	10,520,592	11,172,397	+473,408
Research, Development, Test and Evaluation, Navy......	17,043,812	18,037,991	18,481,862	18,557,904	18,993,135	+1,949,323
Research, Development, Test and Evaluation, Air Force.	20,890,922	22,612,351	22,864,868	21,859,010	21,999,649	+1,108,727
Research, Development, Test and Evaluation, Defense-Wide	20,983,624	18,803,416	19,514,530	19,301,618	19,798,599	-1,185,025
Operational Test and Evaluation, Defense..............	314,835	168,458	168,458	168,458	168,458	-146,377
Total, title IV, Research, Development, Test and Evaluation..............	69,932,182	69,356,040	71,656,892	70,407,582	72,132,238	+2,200,056
TITLE V						
REVOLVING AND MANAGEMENT FUNDS						
Defense Working Capital Funds..........................	1,174,210	1,471,340	1,154,340	1,154,940	1,154,940	-19,270
National Defense Sealift Fund: Ready Reserve Force	1,204,626	1,648,504	1,599,459	579,954	1,089,056	-115,570
Total, title V, Revolving and Management Funds..	2,378,836	3,119,844	2,753,799	1,734,894	2,243,996	-134,840
TITLE VI						
OTHER DEPARTMENT OF DEFENSE PROGRAMS						
Defense Health Program:						
Operation and maintenance.......................	17,297,419	19,247,137	19,184,537	19,345,087	19,299,787	+2,002,368
Procurement..........................	367,035	375,319	355,119	377,319	379,119	+12,084
Research and development......................	506,982	169,156	444,256	515,558	542,306	+35,324
Total, Defense Health Program..................	18,171,436	19,791,612	19,983,912	20,237,962	20,221,212	+2,049,776
Chemical Agents & Munitions Destruction, Army:						
Operation and maintenance.........................	1,088,801	1,241,514	1,191,514	1,241,514	1,216,514	+127,713
Procurement..................................	78,980	116,527	116,527	116,527	116,527	+37,547
Research, development, test and evaluation.......	205,209	47,786	47,786	72,686	67,786	137,423
Total, Chemical Agents 1/	1,372,990	1,405,827	1,355,827	1,430,727	1,400,827	+27,837
Drug Interdiction and Counter-Drug Activities, Defense	906,522	895,741	906,941	926,821	917,651	+11,129
Office of the Inspector General.......................	204,562	209,687	209,687	209,687	209,687	+5,125
Total, title VI, Other Department of Defense Programs....................................	20,655,510	22,302,867	22 456,367	22,805,197	22,749,377	+2,093,867
TITLE VII						
RELATED AGENCIES						
Central Intelligence Agency Retirement and Disability System Fund..	239,400	244,600	244,600	244,600	244,600	+5,200
Intelligence Community Management Account............	310,466	354,844	376,844	413,344	422,344	+111,878
Transfer to Department of Justice................	(39,422)	(17,000)	(39,000)	(17,000)	(39,000)	(-422)
National Security Education Trust Fund..........	8,000	---	---	---	---	-8,000
Total, title VII, Related agencies.............	557,866	599,444	621,444	657,944	666,944	+109,078
TITLE VIII						
GENERAL PROVISIONS						
Additional transfer authority (Sec. 8005)............	(3,500,000)	(4,000,000)	(4,000,000)	(3,500,000)	(3,750,000)	(+250,000)
Indian Financing Act incentives (Sec. 8020)...........	8,000	---	8,000	8,000	8,000	---
FFRDCs (Sec. 8026).....	-125,000	---	-40,000	-51,600	-46,000	+79,000
Disposal & lease of DOD real property...	25,000	---	---	---	---	-25,000
Overseas Mil Fac Invest Recovery (Sec. 8034)..........	1,000	---	1,000	1,000	1,000	---
Army Historical Foundation (Sec. 8053)...............	---	---	---	3,000	3,000	+3,000
Rescissions (Sec. 8045)..............................	-779,637	---	-633,550	-496,800	-405,723	+373,914
Shipbuilding & Conv. Funds, Navy (Sec. 8115)..........	---	18,000	---	18,000	18,000	+18,000
Travel Cards (Sec. 8074)...........	44,000	45,000	45,000	45,000	45,000	+1,000
Special needs students (Sec. 8110)............. ...	5,500	---	---	5,500	5,500	---
Fisher House (Sec. 8084).............................	2,000	---	2,500	---	2,200	+200
CAAS/Other Contract Growth (Sec. 8086)..	-300,000	---	-264,630	-265,890	-265,000	+35,000
Contracted Advisory and Assistance Services (Sec 8087)	-500,000	---	-167,000	-100,000	-100,000	+400,000
Aircraft Procurement, Navy	34,000	---	---	---	---	-34,000

DIVISION A - DEPARTMENT OF DEFENSE APPROPRIATIONS ACT-FY 2006 (H.R. 2863)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	House 5/	Senate	Conference	Conference vs. Enacted
Operation and Maintenance, Defense-wide	40,000	---	---	---	---	-40,000
IT cost growth reduction	-197,500	---	---	---	---	+197,500
Working Capital Funds Cash Balance (Sec. 8094)	-316,000	---	-250,000	-350,000	-250,000	+66,000
Ctr for Mil Recruiting Assessment & Vet Emp(Sec. 8095)	6,000	---	6,000	---	5,100	-900
Various grants (Sec. 8098)	51,425	---	14,400	12,850	33,350	-18,075
Assumed management improvements	-711,000	---	---	---	---	+711,000
Transportation Working Capital Fund	-967,200	---	---	---	---	+967,200
MCAGCC health demonstration program	2,500	---	---	---	---	-2,500
Contract offsets	-50,000	---	---	---	---	+50,000
Budget withholds	-350,000	---	---	---	---	+350,000
Tanker replacement transfer fund	100,000	---	---	---	---	-100,000
Unobligated balances	-768,100	---	---	---	---	+768,100
Travel costs (Sec. 8109)	-100,000	---	147,000	-92,000	-92,000	+8,000
SCN Transfer--SSGN (Sec. 8116)	---	---	---	---	---	---
Procurement Offsets (Sec. 8111)	---	---	-176,500	-591,100	-361,000	-361,000
Army Venture Capital Funds (Sec. 8112)	---	---	15,000	---	15,000	+15,000
Centers for Disease Control and Prevention, Avian Flu epidemic activities (Sec. 8127) (emergency)	---	---	---	3,913,000	---	---
Hurricane Katrina Expenses:						
Department of Labor, State Unemployment Insurance and Employment Service Operations (emergency)	---	---	---	14,000	---	---
Department of Health and Human Services, Office of the Inspector General (emergency)	---	---	---	5,000	---	---
Revised Economic Assumptions (Sec.8125)	---	---	---	---	-771,300	-771,300
Total, Title VIII, General Provisions	-4,845,012	63,000	-1,586,780	2,077,960	-2,154,873	+2,690,139
TITLE IX - ADDITIONAL APPROPRIATIONS						
DEPARTMENT OF DEFENSE--MILITARY						
Military Personnel						
Military Personnel, Army (contingency operations)	---	---	5,877,400	5,009,420	4,713,245	+4,713,245
Military Personnel, Navy (contingency operations)	---	---	282,000	180	144,000	+144,000
Military Personnel, Marine Corps (contingency operations)	---	---	667,800	455,420	455,000	+455,000
Military Personnel, Air Force (contingency operations)	---	---	982,800	372,480	508,000	+508,000
Reserve Personnel, Army (contingency operations)	---	---	138,755	121,500	138,755	+138,755
Reserve Personnel, Navy (contingency operations)	---	---	---	10,000	10,000	+10,000
National Guard Personnel, Army (contingency operations)	---	---	67,000	232,300	234,400	+234,400
National Guard Personnel, Air Force (contingency operations)	---	---	---	5,300	3,200	+3,200
Total, Military Personnel	---	---	8,015,755	6,206,600	6,206,600	+6,206,600
Operation and Maintenance						
Operation & Maintenance, Army (contingency operations)	---	---	20,398,450	21,915,547	21,348,886	+21,348,886
Operation & Maintenance, Navy (contingency operations)	---	---	1,907,800	1,806,400	1,810,500	+1,810,500
Operation & Maintenance, Marine Corps (contingency operations)	---	---	1,827,150	1,275,800	1,833,126	+1,833,126
Operation & Maintenance, Air Force (contingency operations)	---	---	3,559,900	2,014,900	2,483,900	+2,483,900
Operation & Maintenance, Defense-Wide (contingency operations)	---	---	826,000	980,000	805,000	+805,000
Iraq Freedom Fund (contingency operations)	---	---	3,500,000	4,100,000	4,658,686	+4,658,686
Operation & Maintenance, Army Reserve (contingency operations)	---	---	35,700	53,700	48,200	+48,200
Operation & Maintenance, Navy Reserve (contingency operations)	---	---	---	9,400	6,400	+6,400
Operation & Maintenance, Marine Corps Reserve (contingency operations)	---	---	23,950	27,950	27,950	+27,950
Operation & Maintenance, Air Force Reserve (contingency operations)	---	---	---	7,000	5,000	+5,000
Operation & Maintenance, Army National Guard (contingency operations)	---	---	153,500	201,300	183,000	+183,000
Operation & Maintenance, Air National Guard (contingency operations)	---	---	---	13,400	7,200	+7,200
Total, Operation and Maintenance	---	---	32,238,450	32,405,397	33,217,848	+33,217,848
Procurement						
Aircraft Procurement, Army (contingency operations)	---	---	---	348,100	232,100	+232,100
Missile Procurement, Army (contingency operations)	---	---	---	80,000	55,000	+55,000
Procurement of Weapons and Tracked Combat Vehicles, Army (contingency operations)	---	---	455,427	910,700	860,190	+860,190

DIVISION A - DEPARTMENT OF DEFENSE APPROPRIATIONS ACT-FY 2006 (H.R. 2863)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	House 5/	Senate	Conference	Conference vs. Enacted
Procurement of Ammunition, Army (contingency operations)	---	---	13,900	335,780	273,000	+273,000
Other Procurement, Army (contingency operations)	---	---	1,501,270	3,916,000	3,174,900	+3,174,900
Aircraft Procurement, Navy (contingency operations)	---	---	---	151,537	138,837	+138,837
Weapons Procurement, Navy (contingency operations)	---	---	81,696	56,700	116,900	+116,900
Procurement of Ammunition, Navy and Marine Corps (contingency operations)	---	---	144,721	48,485	38,885	+38,885
Other Procurement, Navy (contingency operations)	---	---	48,800	116,048	49,100	+49,100
Procurement, Marine Corps (contingency operations)	---	---	389,900	2,303,700	1,710,145	+1,710,145
Aircraft Procurement, Air Force (contingency operations)	---	---	115,300	118,058	115,300	+115,300
Missile Procurement, Air Force (contingency ops.)	---	---	---	17,000	17,000	+17,000
Other Procurement, Air Force (contingency operations)	---	---	2,400	17,500	17,500	+17,500
Procurement, Defense-Wide (contingency operations)	---	---	103,900	132,075	182,075	+182,075
National Guard and Reserve Equipment (emergency)	---	---	---	1,300,000	1,000,000	+1,000,000
Total, Procurement	---	---	2,857,314	9,851,683	7,980,932	+7,980,932
Research, Development, Test and Evaluation						
Research, Development, Test & Evaluation, Army (contingency operations)	---	---	---	72,000	13,100	+13,100
Research, Development, Test & Evaluation, Navy (contingency operations)	---	---	13,100	---	---	---
Research, Development, Test & Evaluation, Air Force (contingency operations)	---	---	---	17,800	12,500	+12,500
Research, Development, Test and Evaluation, Defense-Wide (contingency operations)	---	---	75,000	2,500	25,000	+25,000
Total, Research, Development, Test and Evaluation	---	---	88,100	92,300	50,600	+50,600
Defense Working Capital Funds (contingency operations)	---	---	2,055,000	2,716,400	2,516,400	+2,516,400
Defense Health Program (contingency operations)	---	---	---	---	---	---
Additional transfer authority (contingency operations)	---	---	(2,500,000)	(2,500,000)	(2,500,000)	(+2,500,000)
Drug Interdiction and Counter-Drug Activities, Defense (contingency operations)	---	---	---	27,620	27,620	+27,620
Total, Title IX	---	---	45,254,619	51,300,000	50,000,000	+50,000,000
Total for the bill (net)	391,153,312	397,214,410	439,456,182	445,448,117	442,789,753	+51,636,441
OTHER APPROPRIATIONS						
Emergency Supplemental Appropriations for Hurricane Disaster Assistance Act (emergency) (P.L. 108-324)	909,400	---	---	---	---	-909,400
Miscellaneous Provisions and Offsets (Sec. 108) (Division J, P.L. 108-447)	2,000	---	---	---	---	-2,000
Emergency Supplemental Appropriations for Defense, The Global War on Terror, and Tsunami Relief Act, 2005 (emergency) (P.L. 109-13)	73,163,308	---	---	---	---	-73,163,308
Transfer authority (emergency)	(5,685,000)	---	---	---	---	(-5,685,000)
Emergency Supplemental Appropriations for Hurricane Katrina (emergency) (P.L. 109-61)	500,000	---	---	---	---	-500,000
Emergency Supplemental Appropriations for Hurricane Katrina (emergency) (P.L. 109-62)	1,400,000	---	---	---	---	-1,400,000
Net grand total (including other appropriations)	467,128,020	397,214,410	439,456,182	445,448,117	442,789,753	-24,338,267

DIVISION A - DEPARTMENT OF DEFENSE APPROPRIATIONS ACT-FY 2006 (H.R. 2863)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	House 5/	Senate	Conference	Conference vs. Enacted
CONGRESSIONAL BUDGET RECAP						
Scorekeeping adjustments:						
Lease of defense real property (permanent)2/	---	12,000	12,000	12,000	12,000	+12,000
Disposal of defense real property (permanent)2/	---	15,000	15,000	15,000	15,000	+15,000
Army Venture Capital Funds	17,000	---	---	---	---	-17,000
O&M, Army transfer to National Park Service:						
Defense function	-1,900	---	-2,500	---	-2,000	-100
Non-defense function	1,900	---	2,500	---	2,000	+100
RDT&E, Navy transfer to NOAA:						
Defense function	-18,000	---	---	---	---	+18,000
Non-defense function	18,000	---	---	---	---	-18,000
O&M, Defense-wide transfer to Forest Service:						
Defense function	-40,000	---	---	---	---	+40,000
Non-defense function	40,000	---	---	---	---	-40,000
Iraq Freedom Fund transfer to Coast Guard, Operating Expenses (contingency operations)	---	---	---	---	---	---
Tricare accrual (permanent, indefinite auth.) 3/	---	10,707,483	10,707,483	10,707,483	10,707,483	+10,707,483
Less emergency appropriations 4/	-75,972,708	---	-45,254,619	-55,232,000	-50,000,000	+25,972,708
Total, scorekeeping adjustments	-75,955,708	10,734,483	-34,520,136	-44,497,517	-39,265,517	+36,690,191
Adjusted total (includ. scorekeeping adjustments)	391,172,312	407,948,893	404,936,046	400,950,600	403,524,236	+12,351,924
Appropriations	(391,951,949)	(407,948,893)	(405,569,596)	(401,447,400)	(403,929,959)	(+11,978,010)
Rescissions	(-779,637)	---	(-633,550)	(-496,800)	(-405,723)	(+373,914)
Total (including scorekeeping adjustments)	391,172,312	407,948,893	404,936,046	400,950,600	403,524,236	+12,351,924
Amount in this bill	(467,128,020)	(397,214,410)	(439,456,182)	(445,448,117)	(442,789,753)	(-24,338,267)
Scorekeeping adjustments	(-75,955,708)	(10,734,483)	(-34,520,136)	(-44,497,517)	(-39,265,517)	(+36,690,191)
Total mandatory and discretionary	391,172,312	407,948,893	404,936,046	400,950,600	403,524,236	+12,351,924
Mandatory	239,400	244,600	244,600	244,600	244,600	+5,200
Discretionary	390,932,912	407,704,293	404,691,446	400,706,000	403,279,636	+12,346,724
RECAPITULATION						
Title I - Military Personnel	103,731,158	98,235,263	97,405,563	95,680,837	96,997,063	-6,734,095
Title II - Operation and Maintenance	121,062,969	126,902,542	124,087,392	124,966,516	123,615,593	+2,552,624
Title III - Procurement	77,679,803	76,635,410	76,806,886	75,817,187	76,539,415	-1,140,388
Title IV - Research, Development, Test and Evaluation	69,932,182	69,356,040	71,656,892	70,407,582	72,132,238	+2,200,056
Title V - Revolving and Management Funds	2,378,836	3,119,844	2,753,799	1,734,894	2,243,996	-134,840
Title VI - Other Department of Defense Programs	20,655,510	22,302,867	22,456,367	22,805,197	22,749,377	+2,093,867
Title VII - Related Agencies	557,866	599,444	621,444	657,944	666,944	+109,078
Title VIII - General Provisions (net)	-4,845,012	63,000	-1,586,780	2,077,960	-2,154,873	+2,690,139
Title IX - Additional Appropriations (net)	---	---	45,254,619	51,300,000	50,000,000	+50,000,000
Total, Department of Defense	391,153,312	397,214,410	439,456,182	445,448,117	442,789,753	+51,636,441
Other defense appropriations	75,974,708	---	---	---	---	-75,974,708
Total funding available (net)	467,128,020	397,214,410	439,456,182	445,448,117	442,789,753	-24,338,267
Scorekeeping adjustments	-75,955,708	10,734,483	-34,520,136	-44,497,517	-39,265,517	+36,690,191
Total mandatory and discretionary	391,172,312	407,948,893	404,936,046	400,950,600	403,524,236	+12,351,924
RECAP BY FUNCTION						
Mandatory	239,400	244,600	244,600	244,600	244,600	+5,200
Discretionary:						
General purpose discretionary:						
Defense discretionary	390,873,012	407,704,293	404,688,946	400,706,000	403,277,636	+12,404,624
Nondefense discretionary	59,900	---	2,500	---	2,000	-57,900
Total discretionary	390,932,912	407,704,293	404,691,446	400,706,000	403,279,636	+12,346,724
Grand total, mandatory and discretionary	391,172,312	407,948,893	404,936,046	400,950,600	403,524,236	+12,351,924

FOOTNOTES:

1/ Included in Budget under Procurement title.

2/ Sec. 8034 of Public Law 108-287.

3/ Contributions to Department of Defense Retiree Health Care Fund (Sec. 725, P.L. 108-375)

4/ Includes Title IX contingency operations funds.

5/ Includes funding contained in the House Military Quality of Life & Veterans Affairs Appropriations Bill

Division B - Emergency Supplemental Appropriations to Address Hurricanes
in the Gulf of Mexico and Pandemic Influenza - 2006 (H R. 2863)
(Amounts in thousands)

	FY 2006 Request	Conference	Conference vs. Request
DIVISION B			
EMERGENCY SUPPLEMENTAL APPROPRIATIONS TO ADDRESS HURRICANES IN THE GULF OF MEXICO AND PANDEMIC INFLUENZA, 2006			
TITLE I			
EMERGENCY SUPPLEMENTAL APPROPRIATIONS TO ADDRESS HURRICANES IN THE GULF OF MEXICO			
CHAPTER 1			
Department of Agriculture			
Executive Operations			
Working capital fund (emergency)	70,000	35,000	-35,000
Agricultural Research Service			
Salaries and expenses (emergency)	6,000	---	-6,000
Buildings and facilities (emergency)	9,200	9,200	---
Rural Development			
Rural community advancement program (emergency)	---	45,000	+45,000
Rural Housing Service			
Rural housing insurance fund program (emergency)	10,000	45,000	+35,000
Rental assistance program (emergency)	17,000	---	-17,000
Rural housing assistance grants (emergency)	10,000	20,000	+10,000
Rural Utilities Service			
Rural electrification and telecom (emergency)	---	8,000	+8,000
Food and Nutrition Service			
Commodity assistance program (emergency)	4,000	4,000	---
The emergency food assistance program (emergency)	---	6,000	+6,000
General Provisions			
Emergency conservation program (emergency)	160,000	199,800	+39,800
Watershed and flood prevention operations (emergency)	200,000	300,000	+100,000
Emergency forestry conservation reserve program	---	404,100	+404,100
Total, Chapter 1	486,200	1,076,100	+589,900
CHAPTER 2			
Department of Defense			
Military Personnel			
Military personnel Army (emergency)	29,830	29,830	---
Military personnel Navy (emergency)	57,691	57,691	---
Military personnel Marine Corps (emergency)	14,193	14,193	---
Military personnel, Air Force (emergency)	105,034	105,034	---
Reserve personnel, Army (emergency)	11,100	11,100	---
Reserve personnel, Navy (emergency)	33,015	33,015	---
Reserve personnel, Marine Corps (emergency)	3,028	3,028	---
Reserve personnel, Air Force (emergency)	2,370	2,370	---
National Guard personnel, Army (emergency)	220,556	220,556	---
National Guard personnel, Air Force (emergency)	77,718	77,718	---
Subtotal, Military personnel	554,535	554,535	---
Operation and maintenance			
Operation and maintenance, Army (emergency)	156,166	156,166	---
Operation and maintenance, Navy (emergency)	543,590	544,690	+1,100
Operation and maintenance, Marine Corps (emergency)	7,343	7,343	---
Operation and maintenance, Air Force (emergency)	554,252	554,252	---
Operation and maintenance, Defense-wide (emergency)	29,027	29,027	---
Operation and maintenance, Army Reserve (emergency)	16,118	16,118	---

Division B - Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza - 2006 (H.R. 2863)
(Amounts in thousands)

	FY 2006 Request	Conference	Conference vs. Request
Operation and maintenance, Navy Reserve (emergency)	480,084	480,084	---
Operation and maintenance, Marine Corps Reserve (emergency)	16,331	16,331	---
Operation and maintenance, Air Force Reserve (emergency)	2,366	2,366	---
Operation and maintenance, Army National Guard (emergency)	98,855	98,855	---
Operation and maintenance, Air National Guard (emergency)	48,086	48,086	---
Subtotal, Operation and Maintenance	1,952,218	1,953,318	+1,100
Procurement			
Procurement of weapons and tracked combat vehicles, Army (emergency)	1,600	1,600	---
Procurement of ammunition, Army (emergency)	1,000	1,000	---
Other procurement, Army (emergency)	1,390	43,390	+42,000
Aircraft procurement, Navy (emergency)	3,856	3,856	---
Procurement of ammunition, Navy and Marine Corps (emergency)	2,600	2,600	---
Shipbuilding and conversion, Navy (emergency)	1,987,000	1,987,000	---
Other procurement, Navy (emergency)	89,675	76,675	-13,000
Other procurement, Air Force (emergency)	170,300	162,315	-7,985
Procurement, Defense-wide (emergency)	12,082	12,082	---
National Guard and Reserve equipment (emergency)	19,260	19,260	---
Subtotal, Procurement	2,288,763	2,309,778	+21,015
Research, Development, Test and Evaluation			
RDT&E, Navy (emergency)	27,612	2,462	-25,150
RDT&E, Air Force (emergency)	6,200	6,200	---
RDT&E, Defense-wide (emergency)	32,720	32,720	---
Subtotal, RDT&E	66,532	41,382	-25,150
Revolving and Management Funds			
Defense working capital funds (emergency)	7,224	7,224	---
Defense health program (emergency)	201,550	201,550	---
Trust Funds			
Surcharge collections, sales of commissary stores, Defense (emergency)	44,341	44,341	---
Other Department of Defense Programs			
Office of the Inspector General (emergency)	310	310	---
G.P. - additional transfer authority (emergency)	(750,000)	---	(-750,000)
General reduction	---	-737,089	-737,089
Total, Chapter 2	5,115,473	4,375,349	-740,124
CHAPTER 3			
Department of Defense - Civil			
Department of the Army			
Corps of Engineers - Civil			
Investigations (emergency)	4,600	37,300	+32,700
Construction (emergency)	292,300	101,417	-190,883
Flood control, Mississippi River and tributaries (emergency)	100,000	153,750	+53,750
Operation and maintenance (emergency)	194,600	327,517	+132,917
Flood control and coastal emergencies (emergency)	998,000	2,277,965	+1,279,965
General expenses (emergency)	---	1,600	+1,600
Total, Chapter 3	1,589,500	2,899,549	+1,310,049

Division B - Emergency Supplemental Appropriations to Address Hurricanes
in the Gulf of Mexico and Pandemic Influenza - 2006 (H.R. 2863)
(Amounts in thousands)

	FY 2006 Request	Conference	Conference vs. Request
CHAPTER 4			
Department of Homeland Security			
Customs and Border Protection			
Salaries and expenses (emergency)	27,100	24,100	-3,000
Construction (emergency)	26,700	10,400	-16,300
Immigration and Customs Enforcement			
Salaries and expenses (emergency)	13,848	13,000	-848
Coast Guard			
Operating expenses (emergency)	139,335	132,000	-7,335
Acquisition, construction, and improvements (emergency)	136,660	74,500	-62,160
U.S. Secret Service			
Salaries and expenses (emergency)	---	3,600	+3,600
Office for Domestic Preparedness			
State and local program (emergency)	---	10,300	+10,300
Federal Emergency Management Agency			
Administrative and regional operations (emergency)	87,100	17,200	-69,900
Disaster relief (transfer out emergency)	---	(-1,500)	(-1,500)
Disaster assistance direct loan program (by transfer emergency)	---	(1,500)	(+1,500)
Total, Chapter 4	430,743	285,100	-145,643
CHAPTER 5			
Department of the Interior			
U.S. Fish and Wildlife Service			
Construction (emergency)	61,000	30,000	-31,000
National Park Service			
Construction (emergency)	38,000	19,000	-19,000
U.S. Geological Survey			
Surveys, investigations and research (emergency)	5,300	5,300	---
Minerals Management Service			
Royalty and offshore minerals management (emergency)	31,500	16,000	-15,500
Environmental Protection Agency			
Leaking underground storage tank program (emergency)	15,000	8,000	-7,000
Department of Agriculture			
Forest Service			
State and private forestry (emergency)	---	30,000	+30,000
National Forest System (emergency)	---	20,000	+20,000
Capital improvement and maintenance (emergency)	13,900	7,000	-6,900
Forestry disaster assistance fund (emergency)	50,000	---	-50,000
Total, Chapter 5	214,700	135,300	-79,400
CHAPTER 6			
Department of Labor			
Employment and Training Administration			
Training and employment services (emergency)	125,000	125,000	---

Division B - Emergency Supplemental Appropriations to Address Hurricanes
in the Gulf of Mexico and Pandemic Influenza - 2006 (H.R. 2863)
(Amounts in thousands)

	FY 2006 Request	Conference	Conference vs. Request
Department of Health and Human Services			
Administration for Children and Families			
Social services block grant (emergency)	500,000	550,000	+50,000
Children and families services programs (emergency)	90,000	90,000	---
Department of Education			
Elementary and secondary - K-12 start-up (emergency)	---	750,000	+750,000
Homeless education	---	5,000	+5,000
Elementary and secondary - K-12 impacted students (emergency)	---	645,000	+645,000
Higher education (emergency)	---	200,000	+200,000
Total, Chapter 6	715,000	2,365,000	+1,650,000
CHAPTER 7			
Department of Defense			
Military Construction			
Military construction, Navy and Marine Corps (emergency)	314,629	291,219	-23,410
Military construction, Air Force (emergency)	44,305	52,612	+8,307
Military construction, Defense-wide (emergency)	45,000	45,000	---
Military construction, Army National Guard (emergency)	414,118	374,300	-39,818
Military construction, Air National Guard (emergency)	35,000	35,000	---
Military construction, Naval Reserve (emergency)	120,132	120,132	---
Family Housing			
Family housing, construction, Navy and Marine Corps (emergency)	86,165	86,165	---
Family housing operation and maintenance, Navy & Marine Corps (emergency)	48,889	48,889	---
Family housing, construction, Air Force (emergency)	313,000	278,000	-35,000
Family housing operation and maintenance, Air Force (emergency)	47,019	47,019	---
Department of Veterans Affairs			
Medical Services (emergency)	198,265	198,265	---
Departmental administration			
General operating expenses (emergency)	24,871	24,871	---
National Cemetery Administration (emergency)	200	200	---
Construction, Major projects (emergency)	1,155,000	367,500	-787,500
Construction, Minor projects (emergency)	1,800	1,800	---
Armed Forces Retirement Home (emergency)	20,800	65,800	+45,000
General provision MSAVER (emergency)	3,000	3,000	---
Total, Chapter 7	2,872,193	2,039,772	-832,421
CHAPTER 8			
Department of Justice			
Legal Activities			
Salaries and expenses, United States Attorneys (emergency)	9,000	9,000	---
United States Marshals Service			
Salaries and expenses (emergency)	9,000	9,000	---
Federal Bureau of Investigation			
Salaries and expenses (emergency)	52,700	45,000	-7,700
Drug Enforcement Administration			
Salaries and expenses (emergency)	12,700	10,000	-2,700

Division B - Emergency Supplemental Appropriations to Address Hurricanes
in the Gulf of Mexico and Pandemic Influenza - 2006 (H.R. 2863)
(Amounts in thousands)

	FY 2006 Request	Conference	Conference vs. Request
Bureau of Alcohol, Tobacco, Firearms and Explosives			
Salaries and expenses (emergency)	24,600	20,000	-4,600
Federal Prison System			
Buildings and facilities (emergency)	18,000	11,000	-7,000
Office of Justice Programs			
State and local law enforcement assistance (emergency)	---	125,000	+125,000
Department of Commerce			
National Oceanic and Atmospheric Administration			
Operations, research, and facilities (emergency)	17,200	17,200	---
Procurement, acquisition and construction (emergency)	37,400	37,400	---
National Aeronautical and Space Administration			
Exploration capabilities (emergency)	324,800	349,800	+25,000
Small Business Administration			
Office of the Inspector General (emergency)	5,000	5,000	---
Disaster loan program (emergency)	466,000	441,000	-25,000
Total, Chapter 8	976,400	1,079,400	+103,000
CHAPTER 9			
Department of Transportation			
Federal Aviation Administration			
Facilities and equipment (emergency)	40,600	40,600	---
Federal Highway Administration			
Emergency relief program (emergency)	2,325,000	2,750,000	+425,000
Maritime Administration			
Operations and training (emergency)	7,500	7,500	---
Department of Housing and Urban Development			
Public and Indian Housing: Katrina disaster housing assistance (emergency)	390,300	390,300	---
Community Planning and Development			
Community development fund (emergency)	1,500,000	11,500,000	+10,000,000
Community development fund (SHOP) (emergency)	50,000	---	-50,000
HOME investments partnership program (emergency)	70,000	---	-70,000
Housing Programs: Hurricane Katrina recovery homesteading (emergency)	200,000	---	-200,000
Office of the Inspector General (emergency)	---	---	---
The Judiciary			
Courts of appeals, district courts, and other judicial Services (emergency)	65,596	18,000	-47,596
General Services Administration			
Federal buildings fund (emergency)	75,000	38,000	-37,000
GP - government wide transfer authority:			
Transfer out (emergency)	(-4,500,000)	---	(+4,500,000)
By transfer (nonemergency)	(4,500,000)	---	(-4,500,000)
Total, Chapter 9	4,723,996	14,744,400	+10,020,404
Total, Title I	17,124,205	28,999,970	+11,875,765

Division B - Emergency Supplemental Appropriations to Address Hurricanes
in the Gulf of Mexico and Pandemic Influenza - 2006 (H.R. 2863)
(Amounts in thousands)

	FY 2006 Request	Conference	Conference vs Request
TITLE II			
EMERGENCY SUPPLEMENTAL APPROPRIATIONS TO ADDRESS PANDEMIC INFLUENZA			
CHAPTER 1			
Department of Agriculture			
Office of the Secretary (emergency)	---	11,350	+11,350
Agricultural Research Service			
Salaries and expenses (emergency)	---	7,000	+7,000
Cooperative State Research, Education, and Extension Service			
Research and educational activities (emergency)	---	1,500	+1,500
Animal and Plant Health Inspection Service			
Salaries and expenses (emergency)	91,350	71,500	-19,850
Department of Health and Human Services			
Salaries and expenses (emergency) 1/	---	20,000	+20,000
Total, Chapter 1	91,350	111,350	+20,000
CHAPTER 2			
Department of Defense			
Operation and maintenance			
Operation and maintenance, Defense-wide (emergency)	10,000	10,000	---
Defense health program (emergency)	120,000	120,000	---
Total, Chapter 2	130,000	130,000	---
CHAPTER 3			
Bilateral Economic Assistance			
Funds Appropriated to the President			
United States Agency for International Development			
Child survival and health programs fund (emergency)	75,200	75,200	---
International disaster and famine assistance (emergency)	56,330	56,330	---
Total, Chapter 3	131,530	131,530	---
CHAPTER 4			
Department of Homeland Security			
Office of the secretary and executive management (emergency)	---	47,283	+47,283
Management and administration (emergency)	47,283	---	-47,283
Total, Chapter 4	47,283	47,283	---
CHAPTER 5			
Department of the Interior			
U.S. Fish and Wildlife Service			
Resource management (emergency)	7,398	7,398	---

Division B - Emergency Supplemental Appropriations to Address Hurricanes
in the Gulf of Mexico and Pandemic Influenza - 2006 (H.R. 2863)
(Amounts in thousands)

	FY 2006 Request	Conference	Conference vs. Request
National Park Service			
Operation of the national park system (emergency).....	525	525	---
U.S. Geological Survey			
Surveys, investigations and research (emergency)......	3,670	3,670	---
Total, Chapter 5.....	11,593	11,593	---
CHAPTER 6			
Department of Health and Human Services			
Office of the Secretary			
Public health and social services emergency fund:			
FY 2006 (emergency).....	3,200,000	3,300,000	+100,000
FY 2007 (emergency).....	2,300,000	---	-2,300,000
FY 2008 (emergency).....	1,160,000	---	-1,160,000
Total, Chapter 6.....	6,660,000	3,300,000	-3,360,000
CHAPTER 7			
Department of Defense			
Department of Veterans Affairs			
Veterans Health Administration			
Medical Services (emergency).....	27,000	27,000	---
Total, Chapter 7.....	27,000	27,000	---
CHAPTER 8			
Department of State			
Administration of Foreign Affairs			
Diplomatic and consular programs (emergency).....	17,000	16,000	-1,000
Educational and cultural exchange programs (emergency)	1,500	---	-1,500
Emergencies in the diplomatic and consular service (emergency).....	20,000	15,000	-5,000
Total, Chapter 8.....	38,500	31,000	-7,500
Total, Title II.....	7,137,256	3,789,756	-3,347,500
FY 2006.....	3,677,256	3,789,756	+112,500
FY 2007.....	2,300,000	---	-2,300,000
FY 2008.....	1,160,000	---	-1,160,000

Title II Endnotes:
1/ Funds requested by the Administration under HHS Public Health and Social Services emergency fund.

Division B - Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza - 2006 (H.R. 2863)
(Amounts in thousands)

	FY 2006 Request	Conference	Conference vs. Request
TITLE III			
RESCISSIONS AND OFFSETS			
CHAPTER 1			
Department of Agriculture			
Natural Resources Conservation Service: Conservation Operations (rescission)	-10,000	-10,000	---
Rural Utilities Service			
High Energy Cost Grants (rescission)	-30,278	---	+30,278
Distance Learning, Telemedicine, and Broadband direct loan financing (rescission)	-9,920	-9,900	+20
Food and Nutrition Service: Food Stamp Program (rescission)	-37,000	-11,200	+25,800
Foreign Agricultural Service			
Public Law 480 Title I Ocean Freight Differential Grants (rescission)	-35,000	-35,000	---
Public Law 480 Title I Direct Credit and Food for Progress (rescission)	-10,000	---	+10,000
Total, Chapter 1	-132,198	-66,100	+66,098
CHAPTER 2			
Department of Defense			
Operation and maintenance			
Support for International Sporting Competitions (rescission)	-26,000	---	+26,000
Disposal of Dept. of Defense Real Property (rescission)	-45,000	-45,000	---
Lease of Dept. of Defense Real Property (rescission)	-30,000	-30,000	---
Overseas Military Facility Investment			
Recovery (rescission)	-5,000	-5,000	---
RDT&E, Army (rescission)	-48,600	---	+48,600
Total, Chapter 2	-154,600	-80,000	+74,600
CHAPTER _			
Department of the Interior			
Bureau of Reclamation			
Water and related resources (rescission)	-183,000	---	+183,000
Department of Energy			
Defense site acceleration completion (rescission)	-100,000	---	+100,000
Total, Chapter	-283,000	---	+283,000
CHAPTER 3			
United States Agency for International Development			
Assistance for the Independent States of the former Soviet Union (rescission)	-20,000	---	+20,000
Department of State			
International narcotics control and law enforcement (rescission)	-15,700	---	+15,700
Andean counterdrug initiative (rescission)	-9,300	---	+9,300

Division B - Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza - 2006 (H.R. 2863)
(Amounts in thousands)

	FY 2006 Request	Conference	Conference vs Request
Export-Import Bank			
Subsidy appropriation (rescission)	---	-25,000	-25,000
Total, Chapter 3	-45,000	-25,000	+20,000
CHAPTER 4			
Department of Homeland Security			
U.S. Coast Guard			
Operating expenses (rescission)	-260,533	-260,533	---
Federal Emergency Management Agency			
Disaster relief fund (emergency)	-17,130,000	-23,409,300	-6,279,300
Total, Chapter 4	-17,390,533	-23,669,833	-6,279,300
CHAPTER 5			
Department of the Interior			
Bureau of Land Management			
Management of lands and resources (rescission)	-500	-500	---
Wildland fire management (rescission)	-34,952	---	+34,952
U.S. Fish and Wildlife Service			
Landowner incentive program (rescission)	-2,000	-2,000	---
Private stewardship grants (rescission)	-500	---	+500
Cooperative endangered species conservation fund (rescission)	-6,000	-1,000	+5,000
State and tribal wildlife grants (rescission)	-5,000	---	+5,000
National Park Service			
National recreation and preservation (rescission)	-6,677	---	+6,677
Construction (rescission)	-34,000	---	+34,000
Land acquisition and state assistance (rescission)	-28,278	---	+28,278
Departmental management: PILT (rescission)	-5,000	---	+5,000
Environmental Protection Agency			
State and tribal assistance grants (rescission)	-166,000	---	+166,000
Department of Agriculture			
Forest Service			
State and private forestry (rescission)	-9,000	---	+9,000
Wildfire management (rescission)	-500,000	---	+500,000
Total, Chapter 5	-797,907	-3,500	+794,407
CHAPTER _			
Department of Labor			
Employment and Training Administration - Training and employee Services (rescission)	-70,000	---	+70,000
Department of Health and Human Services			
HRSA			
Construction facilities improvement program (rescission)	-281	---	+281
Health centers loan guarantee program (rescission)	-6,943	---	+6,943
Nursing education loan repayment program (rescission)	-430	---	+430
Recall federal capital contribution to student loan revolving funds (rescission)	-100,000	---	+100,000

Division B - Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza - 2006 (H.R. 2863)
(Amounts in thousands)

	FY 2006 Request	Conference	Conference vs. Request
Centers for Disease Control			
Disease control, research, and training (rescission)	-7,000	---	+7,000
National Institutes of Health			
Buildings and facilities (rescission)	-15,000	---	+15,000
Department of Education			
Office of Safe and Drug-free Schools: Safe Schools and Citizenship education (rescission)	-4,960	---	+4,960
Office of Special Ed and Rehab Services: Special education (rescission)	-50,653	---	+50,653
Office of Vocational and Adult Education			
Vocational and adult education (rescission)	-95,329	---	+95,329
Corporation for Public Broadcasting: Program and financing (rescission)	-10,000	---	+10,000
Total, Chapter	-360,596	---	+360,596
CHAPTER 6			
Department of Commerce			
Emergency steel guaranteed loan program account (rescission)	-49,000	---	+49,000
National Institute for Standards and Technology			
Industrial technology services (rescission)	-6,000	-7,000	-1,000
Department of State			
Diplomatic and consular programs (emergency)	---	-10,000	-10,000
Embassy security, construction, and maintenance (rescission)	-50,000	-20,000	+30,000
Broadcasting Board of Governors			
Broadcasting capital improvements (rescission)	-3,800	---	+3,800
Federal Communications Commission			
Salaries and expenses (rescission)	-13,480	---	+13,480
Total, Chapter 6	-122,280	-37,000	+85,280
CHAPTER 7			
Department of Transportation			
Federal Highway Administration			
Contract authority (rescission)	---	-1,143,000	-1,143,000
Federal Railroad Administration			
National railroad passenger corporation (rescission)	---	-8,300	-8,300
Department of the Treasury			
Internal Revenue Service			
Processing, assistance, and management (rescission)	-10,000	---	+10,000
Health Insurance Tax Credit Administration (rescission)	-10,000	---	+10,000
Department of Housing and Urban Development			
Community Planning and Development			
Brownfields Redevelopment (rescission)	-24,000	---	+24,000
Community Development Loan Guarantees (rescission)	-6,000	---	+6,000

Division B - Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza - 2006 (H.R. 2863)
(Amounts in thousands)

	FY 2006 Request	Conference	Conference vs. Request
Housing Programs: Housing for persons with disabilities (rescission)	-100,000	---	+100,000
Total, Chapter 7	-150,000	-1,151,300	-1,001,300
Chapter 8			
Across-the-board cut (1 percent)	---	-8,500,000	-8,500,000
Total, Title III	-19,436,114	-33,532,733	-14,096,619
TITLE V			
GENERAL PROVISIONS AND TECHNICAL CORRECTIONS			
DOL- Workers compensation; CDC- Disease control (emergency)	---	125,000	+125,000
Total, General Provisions	---	125,000	+125,000
Grand Total	4,825,347	-618,007	-5,443,354
FY 2006	1,365,347	-618,007	-1,983,354
FY 2007	2,300,000	---	-2,300,000
FY 2008	1,160,000	---	-1,160,000

Mr. Speaker, I reserve the balance of my time.

Mr. MURTHA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the chairman.

Mr. Speaker, I yield 6 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I am going to say something that I said earlier this evening when virtually nobody was here: the Republican leadership has decided that this wartime defense bill is the proper vehicle to resolve the debate on ANWR. As I said, this is not the first time that substantive legislation has been added to an appropriations bill, but it is one of the worst occasions I have ever seen.

There is something especially outrageous and callous about the willingness of the majority party leadership to allow the Defense Department bill in a time of war to be held hostage to totally unrelated special interest items. The Defense bill ought to be about delivering equipment and supporting our troops. Instead, it is being used to deliver a multibillion dollar bonanza to the oil companies.

That act represents a fundamental corruption of the integrity of the legislative process. This legislation allows one Senator to grease the skids to allow the passage of ANWR by sprinkling around money in selected accounts in this bill to buy enough votes in the Senate to assure passage.

All year long, the Republican majority has squeezed programs for working people to pay for tax cuts for those most well off in our society. In the process, the House has become an assembly line for special interest legislation. This bill continues that practice. It slashes crucial activities for the government, cutting $8 billion. It cuts $4 billion out of defense. Some people will say, Don't worry about it. We will put it back in the supplemental. If that is the case, then this bill is a fraud. If it is not the case, then we run the risk of not fully funding the needs that we ought to be funding under the Defense bill.

This bill, if you vote for it, will provide $1 billion less than last year for No Child Left Behind education programs.

□ 0430

This bill will cut the Federal share of the support for special education. This bill will cut $63 million out of last year's FBI budget, slashing new hires for counterintelligence by $750 personnel. This bill will cut local law enforcement grants by $315 million below last year. The clean water revolving fund, which was previously cut by 40 percent, is cut another $214 million. Pell grants are cut by $31 million over last year. The Labor-Health-Education bill overall is $1.4 billion below last year and this bill, with the across-the-board cut, means that that bill will be $3 billion less than we provided last year.

I will be offering a recommittal motion to eliminate that across-the-board cut, to eliminate those $8 billion in cuts. But I want to make two other points. We met for 5 hours today and the Senate totally misdescribed the language and the effect of their language as far as ANWR was concerned. I asked the Senate seven different questions about the effect of their language. They were erroneous in each response that they gave to me.

So after the conference was over they had to go back and rewrite that entire section of the bill. Then they told us in writing that there would be no language, no language with respect to indemnification of the pharmaceutical companies, and then they produced 41 pages, 41 pages of language at the last minute at the instruction of the Speaker and the Senate Majority Leader. They said, oh, this was just a last-minute thing. We did not know we were going to have to do it. However, if you look at the documentation, it was prepared at 11:30 yesterday, and I do not mean Sunday, I mean Saturday.

So I want Members of the House to understand what you are doing here is to take away anyone who gets sick or dies, you are taking away their right to sue. You are telling them instead, you can go to the government and get compensation, and then they provide no money in the compensation fund. It is an outrageous rip-off and I wish it were not in the bill, but it is.

So all I want to say is I cannot do anything about that, but I am offering a motion to recommit, as I have just described, and I would urge an "aye" vote on the recommittal motion.

Mr. MURTHA. Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding me this time. I do not know that I have ever voted against this bill, and I am not sure I am going to tonight, but I share the view of the ranking Democrat on our committee (Mr. OBEY) that this bill has been misused. This bill, as Mr. YOUNG has said so correctly, is not controversial as it relates to the defense of our Nation and the support of our troops. This bill has been held hostage to the issue of the abuse of detainees for some 3 months. Finally, that was resolved, in my opinion correctly. It has been burdened now with very controversial issues, and it has been subjected to a cut of the very defense that it seeks to support. I know that is not what either the chairman of the committee or the chairman of the subcommittee or indeed the ranking member wanted to see happen, but it is a sad handling of this bill.

I thank the gentleman for his leadership.

Mr. YOUNG of Florida. Mr. Speaker, I yield such time as he may consume to the chairman of the Appropriations Committee.

Mr. LEWIS of California. Mr. Speaker, I rise simply to express my appreciation for both my chairman, BILL YOUNG, and for JACK MURTHA for this conference report.

Mr. Speaker, I rise in support of the conference report funding the Department of Defense, hurricane disaster assistance, and avian flu preparedness.

The conference report funds the DoD at $403.5 billion plus a bridge fund of $50 billion for military operations in Iraq and Afghanistan.

The conference report also includes a total of $29 billion for disaster assistance to hurricane damaged areas as well as $3.8 billion for avian flu preparedness.

The conference report includes no new net spending for hurricane assistance and avian flu. Any additional expenditures are offset by the following: reallocating previously appropriated funds in FEMA's Disaster Relief Fund, rescissions of un-obligated balances, and a one percent across-the-board reduction applied to all FY06 discretionary spending with the exception of VA funding.

Let me be very clear: This package is less than ideal in my mind's eye, but it is absolutely critical that we pass it.

As the body knows, the Appropriations Committee has made tremendous strides this year in reforming the process of adopting our annual spending bills.

The Appropriations Committee has been strongly committed to bringing to this floor individual conference reports for each and every bill.

Early in this process, I made it very clear to my leadership and to our members that the Appropriations Committee would not support an omnibus spending bill in any form. This Committee has done everything in its power to ensure that did not happen.

The Appropriations Committee passed each of the 11 spending bills off the House floor by June 30th, the earliest that has been done in 18 years.

The Appropriations Committee made a commitment to move its spending bills individually—in "regular order"—and within the framework of the Budget Resolution. We have done that. My colleagues, the Appropriations Committee has kept its word. "

Moving our spending bills individually is the only way for us to maintain fiscal discipline. Lacking regular order, there is a tendency for these bills to become Christmas trees for unrelated legislative proposals and for spending to grow out of control. That is simply not acceptable. I hope that next year we do not find ourselves in the position we are in today.

The underlying bill in this conference report—the DoD Appropriations bill—is the most important of our annual appropriation bills for it funds our national security.

Frankly, we could have passed this bill weeks ago. Our failure to enact this bill earlier is a disservice to our men and women in uniform. We are at war, we have troops in harm's way, and here we are—two weeks from the end of the year—and we still have not passed this critical legislation.

And now, at the eleventh hour, controversial legislative language has been attached to this conference report. My fear is this language has the potential to sink the entire package once it reaches the Senate.

But tonight, with passage of this conference report, the Appropriations Committee fulfills its commitment to pass all 11 individual bills under the parameters of the budget agreement.

Again, the Appropriations Committee has kept its word and has concluded its work for the year.

I urge my colleagues to support this conference report and close my remarks by wishing all of my friends on both sides of the aisle a Merry Christmas and a Happy New Year.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to say that the negative comments that we have just heard from two previous speakers, while they relate to parts of this conference report, they do not relate to the defense appropriations bill, which is the main vehicle that we are voting on tonight. So I would just hope that Members will understand we are at war, we need to do a lot for our national security. We need to do a lot for the men and women who provide for that national security and wear our uniform and who go to war, and I just hope that we can give them a strong vote of confidence with a strong vote on this bill.

Mr. DICKS. Mr. Speaker, as we consider the FY 2006 Defense Appropriations Act today in the House of Representatives, I would like to bring to my colleagues' attention the important contributions of the Ready Reserve Fleet of U.S. ships that helps to multiply the dollars we appropriate each year to the Department of Defense. The Military Sealift Command calls upon American shipping companies to assist in the deployment of forces overseas, providing a critical supplement to the military's cargo transportation capability. These arrangements are most essential at times when the defense equipment supply chain extends for 8,000 miles, as it does with our current deployments in Afghanistan and Iraq. Clearly we would not have sufficient capability within the Navy to accomplish the enormous task of keeping our troops supplied without the Ready Reserve Fleet. I mention this because I have recently received a copy of a letter from the Commander of the U.S. Transportation Command to a company in my congressional district, Totem Ocean Trailer Express, Inc. (TOTE), expressing thanks for the contributions made by one of the firm's ships to Operation Iraqi Freedom. In the letter, General Norton Schwartz commended the officers and crew of TOTE's "SS Northern Lights" for making 25 voyages and 49 port calls during its continuous deployment, which lasted longer than any other ship, government-owned or commercial. This is a tremendous accomplishment, Mr. Speaker, and as a strong and consistent advocate for maintaining our U.S. maritime shipping capability, I am proud to submit the TRANSCOM letter for the RECORD in order to document the contributions of the "Northern Lights" and of the entire U.S. Ready Reserve Fleet.

UNITED STATES
TRANSPORTATION COMMAND,
Scott Air Force Base, IL, Oct. 26, 2005.

ROBERT MAGEE,
Totem Ocean Trailer Express, Inc.,
Federal Way, Tacoma, Washington.

DEAR MR. MAGEE: As we near the end of our charter for SS Northern Lights, I want to recognize and thank you, your company, and the officers and crew of SS Northern Lights for your superior support.

Early in the Iraq deployment, the Military Sealift Command (MSC) sought commercial support and your company answered the call. Since 18 February 2003, six weeks after the start of the deployment of forces to Iraq, SS Northern Lights was under charter to MSC. She continuously operated in support of U.S. forces since that time, never missing a commitment. No other ship, government-owned or commercial, has operated as long in support of these critical operations.

During the charter period SS Northern Lights made 25 voyages and 49 port calls. She carried 12,200 pieces of military gear totaling 81,000 short tons and covering over 2 million square feet.

Those statistics clearly demonstrate the value that the U.S. flag shipping industry brings to the Defense Transportation System. At 200,000 sq ft of cargo space, this ship has nearly the capacity of the Fast Sealift Ships, has speeds approaching those of the Navy's Large, Medium Speed RoRo Ships, and had a perfect record of reliability. Having this asset enabled us to improve readiness by keeping ships of the Ready Reserve Fleet available for other contingencies as needed.

You and your team of professionals showcased the U.S. flag industry at its best. Again, thanks for a job well done.

Thank you.

NORTON A. SCHWARTZ,
General, USAF, Commander.

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me begin by noting the time here in the Capitol. Across our country, people are quietly sleeping in their beds. Half way around the world, however, our soldiers are awake, patrolling the streets of Iraq, under the constant danger of enemy attack. (Iraq is 8 hours ahead of our time.) I don't know if they have CSPAN over there, but if so, I hope they will listen to this debate and understand what the Republicans are doing here. The Republicans are using you, our troops, as a weapon to accomplish things that are unpopular with the American people. At a time of war, it is outrageous that the Republican leadership would abuse their power by holding our troops hostage to sneak in last minute special interest gifts.

Everyone in this house tonight cares deeply about our armed forces, and about the security of this nation, but we are being put in a lose-lose situation. Among other things, H.R. 2863 tucks in a provision to provide virtually unlimited liability protection to the drug industry, while providing illusory and unfunded compensation to any potential victims. An adequately funding compensation program is needed to protect all those, but especially health care workers and other first responders in case of a flu pandemic, so that they can be ready to help the public. The Republican bill uses the threat of a flu pandemic as an excuse to push the Administration's agenda of giving unwarranted and broad liability protection to the drug industry for a broad array of products.

In addition, the bill does not step up to the plate when it comes to aid to Hurricane Katrina families and divisive school voucher plan for the Gulf Coast. In a time of much needed help, the bill only provides $5 to $6 billion in new funding for Katrina relief—not nearly enough to begin the huge rebuilding needed in light of the enormous devastation for the Gulf Coast. Any additional funds from last-minute negotiations relating to Arctic Refuge and spectrum savings are highly speculative. The Republican leaders of Congress are also attaching a meager and unnecessarily complicated aid package for Gulf Coast schools that includes an ill-conceived, divisive school voucher plan. It includes $645 million in aid to displaced students, which can be used as vouchers paid to private schools—sending federal taxpayer dollars to private and religious schools. Not only does this violate the separation of church and state, but it also includes no accountability requirements on the part of private schools.

It is also very important that I make mention of the fact that H.R. 2863 possibly contains an across-the-board cut totaling more than $8 billion that will impact all FY 06 discretionary spending, excluding veterans. Examples of programs impacted are:

No child left behind (cut by $799 million); Federal Bureau of Investigations (cut by $57 million); Homeland Security Programs (cut by $300 million across the board); Local Law Enforcement Block Grants (cut by $315 million across the board); Job and Employment Assistance (cut by 437 million); Community Development Block Grants (cut by nearly $400 million across the board).

Before closing, it is important for me to take a moment to speak on the issue of ANWR. For many years I have been a strong proponent of exploration and development. As a matter of fact, I was successful in having an amendment attached to H.R. 6 (energy bill 1) earlier this year that required the Secretary of Interior, in consultation with the heads of other appropriate federal agencies to conduct a study every two years which will assess the contents of natural gas and oil deposits at existing drilling sites off the coasts of Texas and Louisiana. As a Member representing a district that is full of energy companies, I am highly concerned with the energy crisis this country is facing. Many factors, ranging from the war in Iraq, to increased demand from China and India have caused a spike in prices. While the factors may vary, the results are constant. Many Americans are suffering from the high cost of gasoline which has exceeded $3 dollars a gallon in some areas. In addition, as winter approaches the price of natural gas is also expected to be exceedingly high which will further increase the burden Americans, particularly those who fall into low income brackets, will have to shoulder as they figure out how to pay for gas to get to work and electricity to heat their homes.

All of the just mentioned factors suggest that we need to take serious steps to locate new sources of oil in this country. Despite this fact, I am not sure that ANWR is the way to go, particularly on this bill. A majority of Americans believe that we should not sacrifice one of our most magnificent places for the sake of, in effect, a thimble-full of oil—six months' supply, 10 years from now. The Arctic Refuge is one of the last, wild, untouched places left in the United States—with an abundance and variety of wildlife including caribou, polar bears, snow geese, migratory birds, eagles, wolves, and muskoxen. This is a special interest giveaway that has no place in the defense spending bill. We need more open debate on this important issue. This Arctic Refuge drilling proposal has no business in the Defense Appropriations bill.

Mr. SALAZAR. Mr. Speaker, I rise today to express my frustration over the abuse of procedures in the House of Representatives. For the past day we have waited for a chance to debate and vote on the Defense Appropriations Bill. Now, in the early morning, we will do so without any of us having had a chance to thoroughly review the bill. I will vote for the bill—I believe it is right to support our troops as well as Hurricane Katrina and Rita relief efforts. However, I do not support the last minute moves to open up ANWR for drilling by inserting language into an unrelated bill which requires an up or down vote. If ANWR has such widespread support as some argue, then why is it being pushed through on the 11th hour?

Our focus should be on how we can best protect our nation and our troops deployed overseas. I am troubled that the Leadership would use our troops as a weapon to accomplish something which is so unpopular with the American people. I have heard this belief on ANWR drilling expressed over and over again as I travel throughout the district. Yet, somehow, this unpopular provision still found its way into the bill. It is a sad day when our troops are held hostage to a last-minute rider. It is a special interest giveaway that has no place in the defense spending bill.

We have just a few unspoiled lands remaining in our country and we need to protect them. Nobody really knows how much oil ANWR holds, and unfortunately, it will require a significant amount of drilling and testing to find out. Once the exploration starts, we'll have already destroyed part of the environment.

I realize our country has a fundamental imbalance between supply and demand, but drilling in ANWR will provide little relief of that demand. We cannot drill our way out of current energy problems. Likewise, we cannot conserve our way out of our current energy problems. We must diversify our energy portfolio. On my farm, I do not grow just one crop. I must diversify my farming operation to be able handle the ups and downs of the agriculture markets, and that is also what we need to do to with our energy supply. By diversifying our energy portfolio, our country can better handle the volatility of the energy markets.

I know each of us is concerned about how to shape our future energy policy. I can tell you that it should not include ANWR and I will continue on my mission to promote a diverse energy portfolio, one that includes renewable energy sources. It is my hope that we will have a chance to revisit this issue in the near future.

As for the Defense Appropriations Bill, we cannot delay any longer. While I have some serious concerns with the bill, it contains critical funding for our nation's defense and the safety of the brave men and women fighting in our Armed Forces. It would be a disservice to these men and women for Congress to adjourn for the year without passing a funding bill. It would also be a disservice to our fellow Americans in the Gulf Coast Region who have been waiting for months to receive aid. Hurricanes Rita and Katrina may have washed away homes and a lifetime of belongings, but they did not wash away our compassion for others in need. Together we can move forward—together we can do better.

Mr. CARDIN. Mr. Speaker, since President Bush took office in 2001 I have voted to support every annual defense authorization and appropriations bill that has come before this House. Congress has an obligation to act responsibly in providing necessary resources to the troops to carry out the missions authorized by their government. Our troops are under a tremendous strain in Iraq, Afghanistan, and in the global war on terrorism. They have performed admirably, made enormous sacrifices on behalf of their country, and have served longer deployments than expected. Congress also should act responsibly to provide adequate housing and benefits to military families, and to ensure that our veterans returning home to the United States receive the best medical care available.

I am therefore outraged, Mr. Speaker, that the House leadership has played politics with this bill in a time of war—a bill that is more than two months overdue—and has added extraneous provisions to this bill that have nothing to do with military spending, the war on terrorism, or the ongoing war in Iraq and Afghanistan. The House leadership is shamefully using this military spending bill as a shield for offensive provisions that could never pass in the light of day, such as drilling in the Arctic National Wildlife Refuge and more than $8 billion in across-the-board spending cuts, including a $4 billion cut in defense spending, along with cuts in homeland security, education and health care.

In this breakdown of the democratic process, after midnight we were given a few hours to review a 465-page bill. Members cannot possibly have a clear picture of what they are voting on in these circumstances, and we must read about what is really in this bill in the newspapers later this week.

One extraneous provision that was slipped into this military spending bill is a provision authorizing oil and gas drilling in Alaska. I have consistently voted against drilling in the Arctic National Wildlife Refuge. We must establish a comprehensive energy policy that will not only help consumers in the short term, but also strengthen our nation's long term energy supply while simultaneously protecting our environment. The stated rationale for drilling in ANWR is achieving the admirable goal of American energy independence, but the oil reserves that may lie beneath ANWR would last a relatively short time based on current levels of energy consumption. There are also far more effective ways to achieve energy independence, through conservation and use of alternative energy sources. In the long run, gaining the oil that may lie below ANWR simply does not warrant the permanent environmental destruction and pollution that drilling would bring to this area.

This legislation also contains an unacceptable one percent across-the-board cut for most non-defense discretionary spending. Because of the billions of dollars in tax cuts contained in earlier budget reconciliation legislation, these budget cuts will not even pay down the deficit or cover the costs of rebuilding in the aftermath of Katrina. Instead, this bill will make unconscionable cuts in critical domestic services, in a bill that is supposed to provide funding for our military in a time of war.

These one percent cuts will have real impact: for example, with an additional one percent across-the-board cut, No Child Left Behind funding will be cut by $1 billion this year.

This bill cuts funding for the FBI by $57 million, at a time when we need to make additional investments in homeland security. Homeland security programs face a $300 million cut from this bill.

In a winter when home heating costs are projected to soar by 44 percent for natural gas and 24 percent for home heating oil, this bill will cut vital LIHEAP funding by $21 million. The House also rejected an effort to add $2 billion in additional funds for LIHEAP.

While 7.6 million Americans are out of work, this bill will bring the total cuts to adult and youth job training and help for dislocated workers to $529 million, affecting 2 million Americans who would lose critical adult and youth job training, as well as assistance for dislocated workers.

This legislation also omits critical funds needed to meet America's commitment to protect human rights. I am disappointed that this legislation does not contain, as I have requested to the President in a letter last week, $50 million for the African Union (AU) peacekeepers that are trying to stop the ongoing genocide in the Darfur region of the Sudan. The United States has committed to provide these funds but has yet to provide them.

I therefore cannot support this legislation.

By way of contrast, Mr. Speaker, I will support H.R. 1815, the Defense Authorization bill for FY '06. I commend Armed Services Committee Chairman HUNTER and Ranking Member SKELTON for working on a bipartisan basis to produce this' legislation. This legislation provides an average 3.1 percent pay increase for military personnel, and funds certain special pay and bonuses for reserve personnel. This bill also reduces the pay gap between the military and private sector, increases payments to survivors of deceased military personnel to $100,000 from $12,000, and further increases military health care (TRICARE) coverage for reservists and their families.

Mr. LANGEVIN. Mr. Speaker, I rise in support of this legislation to fund the functions of our Nation's military and our brave men and women in uniform, but am deeply opposed to the Republican leadership's decision to attach unrelated and controversial language, including drilling in the Arctic and school vouchers.

As a member of the House Armed Services Committee, I know how vital the Defense Appropriations Act is for the security of our Nation and the safety of our servicemembers. I would like to thank the chairman, the gentleman from Florida, Mr. Young, and the ranking member, the gentleman from Pennsylvania, Mr. Murtha, for their steadfast support for our military and for supporting a number of initiatives important to our Nation and to my constituents in Rhode Island. The measure contains important force protection funds, including $1.2 billion for gear such as body armor; $8 billion for equipment such as up-armored Humvees, tactical wheeled-vehicles, and night-vision devices; and $363 million for improvised explosive device (IED) jammers. The legislation also includes much-needed assistance to areas devastated by this year's hurricanes—funds that are sorely needed by our Gulf Coast communities.

However, I must admit that I am greatly disappointed by the House Republican leadership's decision to attach controversial provisions to this essential legislation, most notably Arctic drilling. Since I was elected to Congress in 2000, I have consistently opposed efforts to open the Arctic National Wildlife Refuge to energy exploration, and I have repeatedly cosponsored legislation to designate lands within the Arctic National Wildlife Refuge as wilderness to prevent the destruction of this environmentally fragile area. Despite claims that we have heard tonight, drilling in the Arctic would have no appreciable effect on gas prices nor would it improve our Nation's energy independence. We cannot drill, dig, or mine our way out of the problem we have created for ourselves. Instead, we should be encouraging energy conservation efforts, including an increase in vehicle fuel efficiency standards and the development of clean and renewable sources of energy, such as solar and wind power. The American public recognizes the value of the Arctic National Wildlife Refuge and has consistently opposed endangering it by opening it to oil and gas exploration. However, since proponents have never been able to muster the votes to pass the bill on its own merits, they have attached it to this vital piece of legislation, demonstrating their desire to win at any cost, as well as potentially jeopardizing the ability of this bill to be signed into law.

Furthermore, this legislation is reported to contain controversial language regarding education assistance for Hurricane Katrina victims—including the implementation of a national voucher program—as well as liability exemptions for the pharmaceutical industry in the section intended to guard against avian flu. As the ranking Democrat on the House Homeland Security Subcommittee for the Prevention of Nuclear and Biological Attack, I understand our Nation's vulnerabilities with regard to pandemics and have been working with my colleagues to shore up our Nation's defense. However, rather than address these questions in the light of day, we must vote on them in the dead of night with limited ability to debate the specifics of the measure. I am disappointed and frustrated by the majority's refusal to conduct its business in an open and forthright manner, instead opting for midnight backroom deals.

It is one of Congress's greatest responsibilities to protect our Nation by establishing a well-trained and well-equipped military. For that reason, I must support this measure despite my objections to some of the extraneous provisions. I will vote for this legislation, but do not condone the process that directed it to the House floor.

Mr. DEAL of Georgia. Mr. Speaker, I rise in support of the provisions in this bill called the Public Readiness and Emergency Preparedness Act. This is absolutely critical legislation. It addresses parts of the important speech given by the President to address the threat of pandemic flu and other bioterror threats.

The Health Subcommittee of the Energy and Commerce Committee has held several hearings on this important threat and the need to begin to have the manufacturing capacity to produce pandemic flu vaccine. Unfortunately, there is no business model that would have vaccine manufacturers take on the tremendous liability risks to produce such a vaccine. We must address this concern or we will have none. It's really that simple.

This legislation does not actually provide any liability protection. What the legislation does is provide authority to the Secretary the ability to declare limited liability protection. The Secretary can use these declarations to make sure the vaccine gets developed and to make sure doctors are willing to give it when the time comes.

These are, of course, hypothetical circumstances. So why are we passing this legislation? It's simple. We cannot afford not to take the important steps of making sure we can get and deliver a vaccine.

We have also provided the outline of a compensation fund to address any adverse serious physical injury that might be caused by a vaccine itself. But again, this is a hypothetical. We don't have a vaccine yet. There is no pandemic flu yet. And no declaration of liability protection has been issued.

Those who argue we are deficient because we have not yet put money in the compensation fund don't get it. You really can't do that until there is a reason to do so. If there is no pandemic flu, there will be no reason for a vaccine to be administered. Indeed, we can't really produce an effective flu vaccine until we have the specific pandemic strain. Right now there is no need for any compensation funding at all. Those who imply there is such a need are simply not relaying these facts properly to the American people.

So what we have tried to do is think through the issues, provide the authority and be prepared, so that the Secretary and any Congress faced with the real deal can act quickly and responsibly.

This legislation also provides billions of dollars in preparedness money to prepare for the threat of a possible pandemic flu, including upgrading the domestic manufacturing capability for a vaccine.

This is the call of the President and I am pleased that Congress is supporting the President in making the Nation more secure from the threat of pandemic flu and other bioterror threats.

Mr. POMBO. Mr. Speaker, the adoption of this conference report will allow America to develop the vast oil and gas resources of the Arctic Coastal Plain and help ensure our energy security for ourselves and our children. It is without exaggeration that I say that the bipartisan provision allowing ANWR's oil and gas to flow to would not have been included in this conference report without the tireless work of Daniel Val Kish.

Dan has a long history with Alaska provisions, having been Chief of Staff for the Resources Committee under Chairman DON YOUNG. He later worked for Senator Frank Murkowski on the Senate nergy and Natural Resources Committee before becoming my key senior advisors on energy policy. Dan was here in 1986 when efforts were first made to embargo this important energy resource. Dan was here when we unlocked ANWR in 1995, only to see it vetoed by President Clinton. These experiences, coupled with Dan's keen intellect, his hard work and his charm and wit, have helped produce this milestone today. Dan is a modest man, but his achievements today are far from modest.

I thank Dan for his vision, his perseverance, his dedication and his loyalty. All of America owes a debt of gratitude to this seasoned staffer.

Mr. HOLT. Mr. Speaker, I rise today to oppose the Department of Defense Appropriations Act for Fiscal Year 2006.

I am deeply troubled by the process that has brought us to where we are today with this important bill. Just hours ago, the final text of this bill was made available to members of Congress and the public. This has ensured that members will not only not have time to fully consider or analyze the provisions within this bill we didn't even have time to read it. This is a poor way to govern and I am disappointed that the majority has chosen to abuse the process so badly on what is traditionally a mostly bipartisan bill.

I supported the version of this bill that we passed in the House over the summer. That version appropriated more than $400 billion for the Department of Defense. It would have helped to keep faith with our service members by providing them with a much needed pay increase. That bill also provided funding for our service members on the ground in Iraq and Afghanistan who are waiting for additional body armor and up armored HUMVEEs.

Unfortunately, the majority decided to destroy that bill by loading it up with special interests goodies. What they've done is the height of irresponsibility. Our service members should have every resource they need to do their job to protect, and defend the American people and they should be able to rely on Congress to do its job ethically and thoroughly. But the Republican leadership has chosen to play politics with our soldiers and our country's national security.

This bill before us now contains important funding for various defense related programs, but it also contains a one percent across-the-board cut in all discretionary spending, except for the Department of Veteran Affairs. This means cuts to food assistance programs, home heating oil assistance, local law enforcement grants, first responder grants, special education programs, the FBI, the No Child Left Behind Act, job and employment assistance grants, and environmental clean up regardless of the problems they cause.

Further, it contains a provisions allowing for a voucher program for schools, and drilling in the Arctic National Wildlife Refuge (ANWR). Both were tucked in this bill at the last moment.

Mr. Speaker, we can do better.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to express my displeasure with the last minute political maneuvering that occurred early this morning marring the Defense Appropriations Bill. The majority has included in this year's Defense Appropriations bill a provision that would open the Arctic National Wildlife Reserve (ANWR) to drilling. As bad as that idea is, it pales in comparison to the means by which it was brought to the floor for consideration.

By tying the delivery of appropriations to our troops to a misguided oil drilling scheme that failed to pass in the energy bill, the majority is holding our troops hostage. Eitllet we must vote to harm our environment or to short our troops. We should say 'no' to this bill and work together to produce a better bill that does not permanently damage our environment for ill-conceived short term goals.

Mr. MCGOVERN. Mr. Speaker, in the normal course of events, I had intended to support the Conference Report on FY06 Defense Appropriations Act, H.R. 2863.

I believe America's uniformed men and women deserve the very best in training, equipment, communications, logistical support, health care and pay.

Unfortunately, the Republican leadership has decided to include in this Conference Report controversial items not related to our national defense.

In addition, other controversial bills have been attached to the defense appropriations bill—transforming it into the vehicle for an omnibus appropriations bill—that I simply cannot support.

Therefore, I will cast my vote against the Conference Report on H.R. 2863, but I want to emphasize my vote is not against genuine defense appropriations, but several of the extraneous, non-defense provisions and bills that are included in this omnibus measure.

Mr. SCOTT of Virginia. Mr. Speaker, I rise to express my opposition to the Katrina education proposal because it unwisely contains vouchers for displaced students attending private schools. While the Supreme Court has addressed the constitutionality of school voucher proposals, I continue to oppose them because I believe they take away much needed resources and attention from our public schools. Even under the extraordinary circumstances of hurricane Katrina, I continue to believe that vouchers for displaced students to attend private schools is a misguided policy.

I offer into the RECORD a letter from Americans United for Separation of Church and State that further discusses problems inherent in this legislation.

AMERICANS UNITED FOR SEPARATION
OF CHURCH AND STATE,
Washington, DC., December 16, 2005.

DEAR SENATOR: Americans United for Separation of Church and State, representing more than 75,000 individual members and 9,500 clergy nationwide, as well as cooperating houses of worship and other religious bodies committed to the preservation of religious liberty, urges you to oppose a Hurricane Katrina education proposal that includes private school vouchers and aid to restart private school operations. We understand that this proposal will be attached to the Department of Defense Appropriations bill and we urge your opposition to including it in that measure.

Originally attached to the Senate-passed Budget Reconciliation legislation, the education package, sponsored by Senators Alexander (R-TN), Enzi (R-WY), Kennedy (D-MA) and Dodd (D-CT), constitutes the first national educational voucher program—authorizing funding at $1.2 billion—and sets a dangerous precedent that undermines America's commitment to fully funding the Nation's public schools.

The current proposal allows up to $6,000 per displaced student (or up to $7,500 per displaced student with a disability) to be sent to any public, private, or religious school nationwide of the displaced family's choice in order to defray tuition costs. Under the bill, funds from the Federal Government would go through State structures to the Local Education Agencies (LEAs), which would hold the money for distribution. The Federal funds would then be distributed from the LEA to any school educating an eligible child on a per-capita basis. As a result, per-capita funding would go from a governmental entity (the LEA) to public, private, and religious schools, depending on where displaced families have decided to educate their children. This is the very essence of a school voucher program, which allows families to decide where students will be educated and then drives government money to those schools on a per capita basis. As a result, this is a school voucher program, regardless of the terminology used under the bill. There is no analytical difference between the funding structure under this bill and traditional, "pure" school voucher programs. It would mark the first national Federally-funded voucher program in everything but name.

Although Americans United opposed the Senate-passed Enzi-Kennedy legislation as attached to the Senate Budget Reconciliation bill, the newly crafted compromise eliminates all religious liberty protections afforded to displaced students in that legislation. The Enzi-Kennedy legislation contained some provisions that attempted to ensure that government funds will not be used for "religious instruction, proselytization, or worship." However, these provisions have been completely removed from the current draft. In addition, the Enzi-Kennedy legislation contained a provision to protect students from being required to participate in religious worship or religious classes. This "Opt-In" provision has been replaced with an "Opt-Out" requirement, placing the entire burden on the displaced parents to object to any religious proselytization and indoctrination of their children.

In addition, neither the Enzi-Kennedy legislation nor the new draft contain a requirement to provide both parents and students notice of their rights regarding participation in religious activities. Although both proposals contain a prohibition against religious discrimination as to students, both fail to provide enforcement mechanisms or to ensure that displaced students are informed of their right to not be discriminated against for any refusal to participate in religious activity. The argument has been made that some religious schools are the only option for displaced students. It is all the more reason to ensure that any measure contain strong and effective religious liberty protections to ensure that rights of displaced students are protected.

This voucher program could also authorize government-funded religious discrimination in staffing. The bill contains no provision barring religious schools from hiring co-religionists only or requiring that employees' personal conduct conform to the tenets and teachings of the schools' associated faiths. Vouchers may well result in publicly supported employment discrimination, not only on religious grounds, but also on the basis of gender, sexual orientation, or other protected classes.

In addition, the Enzi-Kennedy legislation provided $450 million in "immediate aid to restart school operations" solely for public schools. The current proposal provides the same level of funding but allows—for the first time—private and religious schools to receive aid. These funds are designated for recovery of student data, purchasing instructional materials and textbooks, and rental of mobile educational units with the requirement that purchased equipment and materials "shall be secular, neutral, and nonideological." Although we acknowledge the provision attempts to maintain current law against using Federal funds to buy religious materials, we are deeply troubled by the underlying proposal of allowing scarce Federal dollars to be funneled to private and religious schools for start-up costs.

Americans United is committed to the protection of public education. However, we strongly believe that the Nation's civil liberties must be upheld even in difficult circumstances, including natural disasters. It is inappropriate to capitalize on the Katrina disaster by attempting to push through Congress a divisive and unsound vouchers policy that would severely undermine American's longstanding commitment to public education. It is the public schools that have long served as the safety net for all displaced school children. Billions of dollars set aside for these voucher and restart programs should be invested instead into our public schools for the benefit of all students.

If you have any questions about this legislative proposal or would like further information on any other issue of importance to Americans United, please contact Aaron D. Schuham, Legislative Director, at (202) 466-3234, extension 240.

Sincerely,

REV. BARRY W. LYNN,
Executive Director.

Mr. CASTLE. Mr. Speaker, I rise today in strong opposition to the decision to attach drilling in the Arctic National Wildlife Refuge to the Defense Appropriations Act conference report. This is a clear abuse of process and I urge my colleagues to join me in opposing this rule, which would allow it.

The Deficit Reduction Act was an inappropriate venue to debate this important environmental issue and the Defense Appropriations Act conference report is no different. The inclusion of drilling in the Arctic Refuge is the determination of a few individuals who are willing to put national policy priorities aside for a special-interest agenda.

Drilling in the Arctic Refuge will scarcely make a ripple on our dependence on foreign oil, nor will it increase our national security. Even by the most optimistic estimates, oil from the Refuge will never meet more than two percent of the energy needs in America.

The Arctic Refuge represents one of the last large pristine natural environments left in our country. I strongly believe that the debate on drilling in the Arctic Refuge should be done on its own merits, not as a tagalong to the essential funding for our troops in Iraq and Afghanistan and for relief to hurricane victims.

To include drilling in the Arctic Refuge in a must pass defense appropriations bill, at a time of war, is an abomination. The American people strongly support protecting the Arctic Refuge and I urge my colleagues to vote no on this rule.

Ms. KAPTUR. Mr. Speaker, tonight, Congress will pass the Department of Defense Appropriations Act for fiscal year 2006. This comes not a moment too soon for our troops serving bravely overseas during this holiday season. Passage of this critical legislation will ensure that our servicemen and women in Iraq and Afghanistan will receive much needed supplies, protective equipment and health benefits.

While I wholeheartedly support the underlying bill, I vehemently oppose a last minute amendment that was added by Senate and House Republicans that will open up a portion of the Arctic National Wildlife Refuge for drilling. This controversial environmental matter should never be attached to a defense bill. Surely the Senate is acting in the mistrusted tradition the American people call Christmas tree bills. This ANWR ramrod fits the description perfectly. Seemingly not content to leave town before selling out to Big Oil one last time, Republican leaders in both chambers have decided to play politics with this must-pass bill and attach to it a provision that is soundly opposed by majorities in both the House and Senate, and, not insignificantly, by the American people. This ANWR ramrod is a mistake. It is a mistake procedurally. It is a mistake morally. And it is a mistake environmentally. Opening the refuge to oil exploration will disturb a delicate environmental balance and threaten a way of life for the native peoples whose livelihoods depend on that balance. That is why I have consistently supported legislative efforts to ban oil and gas exploration along the northern coastal plain of the refuge. Moreover, this sets a terrible precedent for the future. America's last remaining major oil and gas reserves should not be opened up in this way, nor used at this time. They should be preserved for a true national emergency. And that emergency does not exist today.

In my twenty-three years of Congress I have never seen the crucial Defense spending bill used as a catch-all for pushing forward legislation that would not otherwise pass on its own merits. By allowing these unrelated drilling provisions, Republican leaders are subverting the will of this House. No Member, including this one, should be forced to choose between providing for our troops and protecting the environment. No, we should not play politics when it comes to supporting our troops. We owe it to the men and women who serve our country to provide the best training, equipment services and support in a timely fashion.

Proponents of the plan say that opening ANWR to oil and gas interests will help ease our reliance on imported oil and gas. I could not disagree more. Opening ANWR is merely a temporary stop-gap—not a solution. Congress must pass meaningful legislation to address the serious energy crises that face our nation especially our dangerous reliance on imported oil and our unwillingness to put ourselves on a 10-year program to become energy independent again. That would take real Presidential and Congressional leadership, and we sure aren't

Ms. LEE. Mr. Speaker, I rise tonight in strong opposition to this $453 billion defense appropriations conference report.

As the proud daughter of a veteran of two wars, I believe that our nation is best defended by funding priorities that truly make our nation and world safer.

But what does it say about our priorities when Congress puts another $50 billion downpayment for the Bush administration's unnecessary war in Iraq?

This is outrageous particularly when the administration has failed to articulate a clear strategy for bringing our troops home or conduct any oversight on the war or demand accountability for funds spent to date.

And the Bush administration is set to come back for another $100 billion war supplemental in January. Where does it end?

The main purpose of this funding bill is to provide for our national defense.

Yet in the same way that the war in Iraq has made us less safe, the funding priorities in this bill are for weapons systems and military contractors, and billions of additional funds are unaccounted for in waste, fraud, and abuse.

This only undermines our national interest.

But what's even worse, Mr. Speaker, is not only does this bill fail to address our security priorities, with the inclusion of provisions to open the pristine Arctic National Wildlife Refuge to commercial drilling, it's also a prime example of how the Republican majority pays off its generous campaign contributors in the energy industry.

Mr. Speaker, we must get our funding priorities right. It's incredible to me that we are provoking unnecessary wars and pursuing outdated defense paradigms while at the same time we are sacrificing the funding needs for our critical efforts here in America like housing, healthcare, and education and our environment.

That's why, I strongly urge my colleagues to vote against this conference report.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in strong support of the rule for this conference report and for the underlying conference report.

This bill will make our nation's military stronger, by providing funding for the equipment, salaries, and materials we need to prosecute the War on Terror around the world and the War in Iraq.

On behalf of my constituents, particularly those in our armed services, I have committed to never cutting off support while they are serving in a war zone.

Congress authorized the President to act, based on numerous assurances about the nature of the threat from Saddam. Much of that information turned out to be wrong, and as a result, the responsibility for the war now rests with the Administration's civilian leadership.

Congress' role should be to provide the necessary support and conduct vigorous oversight of our activities.

This appropriations bill also provides beneficial hurricane relief and improves our national energy security by providing access to ANWR for oil and gas exploration and production.

I want to thank the appropriators for hearing the concern of Texas, which has been hit indirectly by Hurricane Katrina and directly by Hurricane Rita. We have 150,000 evacuees in Houston, but funding and red-tape are still major burdens.

On the topic of ANWR, our nation's energy crisis this year proved we need a more robust supply of petroleum, because hurricanes can disrupt vital production in the Gulf of Mexico.

I encourage supporters of oil and gas exploration and production in ANWR to support the rule and support this conference report because this is a historic opportunity to finally achieve what many Congresses could not achieve.

This legislation may not be the ideal vehicle, and I would have preferred to do this on the energy bill.

However, a majority of the House and a majority of the Senate support opening ANWR, but procedural moves in the other body have stood in the way of our energy security.

As a result we need this procedural maneuver to get ANWR done, to provide energy and jobs for America.

I have visited the North Slope on several occasions and I can personally attest to the strong environmental protections.

Unfortunately, ANWR has become a symbolic issue for environmentalists, blown far out of proportion to the actual affects of oil and gas production on this coastal plain.

History will likely prove their dire predictions of environmental problems to be incorrect.

In closing, Mr. Speaker, I encourage all Members to support the rule and support the underlying conference report for Fiscal Year 2006 DOD Appropriations.

Mr. KIRK. Mr. Speaker, I rise in reluctant opposition to the Conference Report to the Fiscal Year (FY) 2006 Department of Defense Appropriations Act. Earlier this evening, I voted in favor of the FY 2006 Defense Authorization bill because it was a good bill, unencumbered by controversial and non-defense related items.

I oppose this bill for several reasons. First, evidence indicates that this bill does not provide what Defense Department officials already know our forces will require in the field. Today, officials in our Army headquarters are working on a new request for money from taxpayers far in excess of what is provided in this Conference Report. Authoritative press accounts indicate that the Department has already identified "urgent" needs exceeding $100 billion above the amounts included in this legislation. This bill only provides half that amount. No doubt we will consider additional appropriations in the spring. We should have done it here and now.

Common sense would dictate that the Congress should include these funds in a bill not yet passed if the Army already knows its current funding request before Congress will fall far short of what uniformed Americans in the field need. It would appear that instead, we may pass this bill—already known to be inadequate to our needs—and then ask for more money under procedures that waive the budget and will automatically add every dollar in new appropriations to our deficit.

Deliberate and stable management of our defense budget demands better. So do our men and women in uniform. If we know they have urgent needs in the field, it is our duty to meet them.

I oppose this bill for another reason. The calm, stable administration of appropriations follows the rules of the House, precedent, and common sense. Our rules mandate that matters not germane to a bill be excluded. Hence, this should be a defense appropriations bill, nothing else. Our House rules normally exclude matters from final consideration that have not been attached to the bill in either the House or the Senate. That requires elected representatives of at least one chamber to review all matters for consideration in a House-Senate conference. This bill includes extraneous issues not related to the defense of the Nation. It sets a bad precedent that could bog down other defense bills with controversial, non-defense issues not considered by either chamber. This unusual procedure has prevented nearly all members of both the House and Senate from considering these contentious issues.

A key controversial issue included in this bill authorizes the opening of the Arctic National Wildlife Refuge to oil drilling. It was not considered in either the House or the Senate bills. It is not germane to legislation making appropriations for national defense. Like many "Green Republican" members who support the protection of the Refuge, I oppose this bill because it includes this controversial, unpassed and non-germane attachment to the Defense Appropriations bill.

This bill does not provide the full funding that the Army already knows is necessary for our troops in the field. The bill runs against House rules by including controversial matters not attached by either the House or Senate. It also has provisions totally unrelated to defense issues, opening the door for future defense bills to be slowed by unnecessary controversy.

Mr. Speaker, I have never voted against a defense authorization or appropriation bill. My record is still perfect having always supported all Defense Authorization bills. As a Member of Congress and a naval officer, I have dedicated a good portion of my life to our national safety. My hope on the coming vote tonight is that we can redraft this appropriations bill to add funds the Army already knows it needs while stripping extraneous and controversial provisions from the conference report.

When we do so, we should find a way to pass a defense appropriations final bill that does not open the Arctic Refuge to oil drilling and does not provide school vouchers to religious schools only because they are located in the Gulf Coast region.

Mr. FRELINGUYSEN. Mr. Speaker, I rise in strong support of H.R. 2863, legislation making appropriations for fiscal year 2006 for the programs under the jurisdiction of the Subcommittee on Defense. And ask unanimous consent to revise and extend my remarks.

At the outset, I want to commend the Chairman of the Subcommittee, Mr. YOUNG of Florida and the Ranking Member, the gentleman from Pennsylvania, Mr. MURTHA for their leadership on this bipartisan bill, and their staffs.

As my colleagues have noted, H.R. 2863 includes over $403 billion in discretionary funding in the base appropriations bill. An additional $50 billion is provided in a critical "bridge fund" to support ongoing operations in Iraq and Afghanistan. Over 80 percent of this funding will go to the Army and Marine units that are taking the fight directly to our enemies in Iraq and Afghanistan, as well as funds to our Naval and Air Force and Special Forces over there.

Mr. Speaker, I want to commend the conferees for good work in tight fiscal times. Our Committee's allocation was $3.3 billion below the President's request. The Senate's allocation was even more difficult than that—$7 billion below the level sought by the President. We compromised and pegged our top line spending level at approximately $5 billion below the Administration.

This presented the Conference with some significant challenges. We looked carefully at programs in the President's budget and made selected reductions. And we also recommended less funding for programs encountering technological problems and development delays. With the many competing challenges facing our military as we prosecute the Global War on Terror, this was not an easy task. But we believe we have made appropriate choices to allow us to deter our enemies and to enhance the high-intensity combat capability of the U.S. armed forces.

Mr. Speaker, as we consider this important legislation, we must remain mindful that our troops in Iraq and Afghanistan (all volunteers—active duty, Guard and Reserve) are on the battlefield, as we speak—brave men and women fighting a new kind of war. Everyone is on the "front line." There is no "rear area."

And the sooner these new resources reach them, the better!

As we all know, the Army and the Marines are carrying the brunt of the battle in Iraq and Afghanistan with an unprecedented level of partnership by their Guard and Reserve components. And young men and women from the Air Force and Navy stand beside them!

Their service and dedication on the battlefields of Iraq and Afghanistan is making our nation safer from terrorists who seek to do us and other freedom-loving nations harm.

Make no mistake—our success in Iraq is hugely important. And our enemies in Iraq are "thinking" enemies. They are adaptable and would like nothing better than to see us "cut and run," set arbitrary dates for withdrawal and then come back after our departure to reinstall a new version of Saddam Hussein or a regime even more oppressive, more fanatical, more horrendous AND more dangerous than the last.

We should never forget that the soldiers we support through this appropriations bill have freed nearly 50 million people in Iraq and Afghanistan from killer regimes where protest and dissent were answered by killing fields and genocide, where women were denied basic freedoms, education, health care and the vote.

Of course, the loss of any young soldier from our ranks is heartbreaking. So are the deaths of innocent civilians killed by roadside bombs.

But we are dealing with Saddam loyalists, jihadists, imported terrorists and domestic criminals who play by no rules and do not hesitate to bomb Iraqi weddings, funerals and gatherings of school children as a common tactic.

Since we are engaged in a Global War on Terrorism, with Iraq and Afghanistan being countries of conflict and violence, our soldiers and Marines need every possible advantage.

This legislation provides our fighting men and women with the resources they need to be more deployable, more agile, more flexible, more interoperable, and more lethal in the execution of their missions. It provides for better training, better equipment, better weapons, paychecks and support for their families at home.

But this Conference Report also provides funding for new equipment, additional trucks, radios, electronic jammers, and up-armored Humvees, attack helicopters, warships and fighter aircraft. Most important, this bill provides an additional $1.2 billion for personnel protection items, such as body armor. As troops rotate in and out of the theater, they need the latest equipment and weapons system.

It is imperative that we support this Defense Appropriations Conference Report today—our warfighters are depending on us.

In this regard I would note that the bill contains nearly $1.9 billion for the activities of the Joint IED Defeat Task Force. These are the men and women who carry the burden of keeping our troops one, two or several steps ahead of the terrorist insurgents who murder and maim by using lethal standoff roadside bombs and vehicle-borne bombs.

This bill provides the resources. Now this member will be expecting the Task Force to provide effective new tools to our soldiers and Marines in a timely fashion.

Mr. Speaker, I welcome increased funding for research and development. Our bill exceeds the President's budget by $2.3 billion so that we can speed important new technology from the drawing board to the laboratory to the testbed and into the arsenal of our warfighters.

My colleagues, the Global War on Terror will not be short. It will require deep and enduring commitment.

And looking down the road, we face many potential and real threats. We cannot know what hostile forces we will face next year, much less five years from now! So we must take care to ensure that we have laid the proper foundation for a secure national defense. Investments now will pay off in more capability in the future.

In the years ahead, we will have to evaluate and re-evaluate our investment in such critically important areas as shipbuilding, aircraft procurement, Army weapons systems, and our Air Force and Intel space programs and the industrial base that supports them in both the public and private sector.

My Colleagues, this is a critical bill, designed to preserve and enhance our Armed Forces critical capabilities.

I am pleased to support this Conference Report and the soldiers who proudly wear our Nation's uniform.

Mr. VAN HOLLEN. Mr. Speaker, I rise in opposition to this conference report—and the breathtaking abuse of power it represents.

The purpose of a Defense Appropriations bill is to fund the fighting forces of the United States and to provide our troops with the support and equipment they need. At no time is that obligation more solemn than when our soldiers are at risk in places like Iraq and Afghanistan.

That is why it is so inexcusable for this congressional leadership to put our troops in jeopardy by playing politics with this bill.

Republicans and Democrats should unite behind a clean, bipartisan conference report that supports our soldiers and provides for a robust national defense. Instead, this legislation arrives on the floor packed with highly divisive, completely extraneous, last minute giveaways to special interests—giveaways the Republican leadership knows perfectly well could never survive the scrutiny of the ordinary legislative process.

In that regard, I am particularly appalled by the inclusion of Arctic National Wildlife Refuge (ANWR) drilling in this legislation. And I am not alone: Five high profile military officials—including retired General Anthony Zinni—recently implored Congress not to politicize military spending by embroiling it in the ANWR debate. Senator MCCAIN called the ANWR insertion "disgraceful" and "disgusting".

Mr. Speaker, the Arctic National Wildlife Refuge is a spectacular arctic ecosystem, sustaining wildlife so diverse it is sometimes called the American Serengeti. Along with a sizable majority of Americans, I continue to believe we should not despoil this national treasure for what amounts to six months worth of gasoline ten years from now. Instead, we should move expeditiously to diversify the Nation's fuel mix away from our reliance on foreign oil and embrace the renewable energy and energy efficiency technologies of the 21st century.

I agree with General Zinni and Senator MCCAIN: It is the height of irresponsibility to be playing games with needed defense funds when our men and women in uniform are in harm's way—and I am hopeful the Senate will reject inclusion of this extremely controversial and unrelated environmental provision in this military spending bill.

Moreover, I strongly object to the eleventh hour special interest liability protections added to this legislation. Once again, this kind of provision is not germane to the defense appropriations process. Furthermore, I am concerned it fails to provide adequate compensation to legitimately injured patients.

Finally, the Defense Appropriations bill is no place to be making spending decisions that have nothing to do with defense. Yet this bill contains a 1% across-the-board spending cut affecting almost every appropriations bill we have passed this year.

Mr. Speaker, earlier today I voted in favor of the defense authorization bill to provide the ongoing authority for ensuring our national defense. I am particularly pleased that the conferees on that bill saw fit to include Senator MCCAIN's language on the humane treatment of prisoners held in American custody.

But on this vote I will not reward the abuse of power dragging down this bill. Shame on this House for playing politics with our troops during wartime. I urge my colleagues to vote no so we can return quickly with a defense bill worthy of our military's service and sacrifice.

Mr. BLUMENAUER. Mr. Speaker, the legislative process has clearly broken down and this conference report reflects that sad state of affairs. Included in this bill are a number of critical issues that have nothing to do with defense and deserve separate votes. Instead, because they cannot or do not want to legislate, the Republican leadership has decided to play politics with our troops and use this bill as a vehicle to force through harmful provisions.

It is shameful that this conference report contains, for the first time, authority for oil drilling in the Arctic National Wildlife Refuge. Not only is this bad policy, but it has nothing to do with our Nation's national defense. If Republicans were truly serious about reducing our dependence on foreign oil for security reasons, this bill would contain an increase in fuel efficiency standards for automobiles or a renewable portfolio standard. Instead, it contains an ideological victory for the anti-environmental leadership of this Congress that would only provide enough oil to meet our country's needs for 6 months to a year.

This bill also contains a significant across the board budget cut, which is an unfortunate and easy way out of making smart spending choices. These cuts will have a harmful impact on everything from transportation to economic development to health care. In addition, the bill contains a damaging provision to provide immunity to drug and vaccine manufacturers.

I am disappointed that the conferees were unwilling to include fundamental provisions such as $50 million in funding for the African Union Mission in Sudan. Without these funds, there will be no U.S. support for Darfur peacekeepers beginning in 2006. The African Union is the only security force in Darfur that has been able to provide a modicum of security. Yet without this funding it will not be able to continue its current level of around 6,000 peacekeepers for an area the size of Texas, let alone expand its operations to protect more civilians and aid workers. To allow Congress to adjourn without addressing this issue makes Republican leadership and the White House complicit in this ongoing genocide.

We face significant security and military challenges from the war in Iraq to the threat of terrorism and nuclear proliferation. Unfortunately, the spending choices in this bill do not reflect these threats and challenges. The billions we waste on outdated programs like missile defense come at the expense of the less-flashy tools we need to wage counterinsurgency warfare in places like Iraq and Afghanistan, such as armored vehicles and language training for soldiers. The security of the American people and the safety of our men and women in uniform demand better than this conference report.

Mr. RAMSTAD. Mr. Speaker, I rise to strongly oppose the use of our brave troops as political cover to open the Arctic National Wildlife Refuge, ANWR, to oil drilling.

Adding the totally unrelated and highly controversial ANWR drilling provision to the Defense appropriations bill (H.R. 2863) is the most outrageous abuse of power I've seen in my 15 years as a member of Congress.

This last-ditch effort to impose oil drilling in the Arctic wilderness by converting the Defense appropriations bill into a "garbage bill" is a great insult to our troops and a flagrant abuse of the legislative process.

We should oppose this heavy-handed, back-door tactic to impose oil drilling in one of the Nation's last great wilderness areas.

We should vote down the conference report so the conferees can remove the ANWR provision and bring back a clean Defense spending bill tonight for our approval.

I urge members to honor our troops and stand up for the environment by rejecting this conference report.

Let's not hold our brave troops hostage to Arctic oil drilling!

Ms. KILPATRICK of Michigan. Mr. Speaker, reluctantly, I rise in opposition to the bill making appropriations for the Department of Defense for fiscal year 2006. Had this bill been limited to providing funding for our Nation's defense and our men and women serving our country, this bill would have my wholehearted support. But there are major sections in this bill that have nothing to do with our Nation's defense. They found their way into this bill because it is "must have" legislation. I refuse to play the game of legislative blackmail. These provisions ought to be stripped from this bill. The majority leadership profanes the military by adding these extraneous provisions. For these reasons, I must vote against this defense-funding bill.

One of the major problems with this bill is that it will make an $8 billion across the board cut in all 2006 discretionary spending, excluding veterans. I strongly support our veterans but the $8 billion in cuts include special education, "No Child Left Behind," homeland security, defense spending, low-income heating assistance, job and employment assistance, the Women, Infant, and Children Program, WIC, and many other programs.

The sections authorizing oil drilling in the Arctic National Wildlife Refuge, ANWR, should not be in this defense-spending bill. H.R. 2863 also exempts drug companies from liability. Drug company language does not belong in this bill. Drug companies should be liable when their products cause physical harm or death to consumers. I am also opposed to this bill because I do not think that the Republican leadership should use our troops to accomplish political goals that are unpopular with Americans. For these reasons I must vote against this defense bill.

Mr. CROWLEY. Mr. Speaker, shame! That is all I can say—both on the way the Republican leadership has governed this country this year—and on how they are using the troops as a political tool to provide huge taxpayer benefits to the oil and gas industry.

Over 2,100 Americans killed in Iraq, and the Republican leadership waits until the last night of Congress—3 months after we needed to fund the military—to pass the spending bill for our troops.

This is called a "must pass" bill, as it is one Congress MUST pass as if we don't, the military will literally run out of money and not be able to pay our troops, buy supplies and give them shelter.

Specifically, the facts show that without passing this bill, our military is slated to run out of money for Iraq operations in January.

What does this mean? It means the curtailment of training and equipment maintenance activities in the United States to better prepare our troops.

It means that contracts will be severely delayed or canceled to provide body armor, armored vehicles, jammers, and radios needed in the field to keep these guys not only protecting our security but protecting their own lives.

But the politicians in Washington, many of whom have never worn the uniform and have done a heck of a job to avoid service, now stand proud and mighty saying they are working for these troops safety.

And they will again use our troops as a prop to make their so-called case.

But the facts are the troops are the last things on the mind of the White House and this shameful Republican Congress.

This Republican Congress and this Bush White House has continually underfunded our troops and used them as a political prop.

Remember "Mission Accomplished" anyone?!?

If Congress cared about our military so, outside of props and campaign commercials, why is this bill 3 months behind schedule?

Why is this bill being used to provide a multi-billion gift to the nation's biggest gas companies, by allowing them to drill in Alaska?

The Republican Leadership attached the can't pass ANWR provision to this must pass bill in the ultimate example of politics gone wrong.

By not giving us the ability to vote on ANWR alone, this does not mean that we approve of this misguided policy.

I thought they were making enough profits off Americans at the pump now—but Congress and the White House think they can make more money for the ExxonMobils of the world—this time off the backs and lives of our troops fighting overseas in Iraq and Afghanistan.

This is the most shameful act I have seen in the most corrupt Congress in American history.

This year America has seen the Republican Majority Leader of the House of Representatives TOM DELAY be indicted on money laundering charges.

America has seen the Republican Majority Leader of the Senate BILL FRIST under investigation for criminal charges—charges like those that sent Martha Stewart to jail.

America has seen a senior Republican Congressman from California, Randy Cunningham, take over $2 million in bribes through war-profiteering using information he gathered on the House Intelligence Committee.

He sold this confidential information to the highest bidder, but this Congress won't even seize his 6-figure, taxpayer-financed annual pension.

America has seen the U.S. Congress put up for sale to the highest bidder by people like Jack Abramoff and Mike Scanlon.

But tonight, we are seeing something far worse and far more depraved, the complete politicization of our troops, serving in war time, to provide a boon to the oil and gas industry.

There is more shame to go around Congress now than indictments, and that is saying something today in Washington. The Republicans are holding funding for our military, funding for body armor, funding for security for military personnel hostage to keep the world safe for the profits of big energy.

And for that you pay $2.35 a gallon for gas!

Regardless of what one thinks of the war, we need to protect our sons and daughters fighting over there.

But again, this bill and this Administration falls short, using politics over policy; using political consultants over generals to fight a war.

Who loses? Our troops lose. Their families lose. America loses.

But this bill again reflects the warped priorities of the Bush Administration.

While I am angry about this process and this bill, I will reluctantly vote for it as our men and women in military need these funds immediately—even with these shameful additions.

I won't play the Republicans' game and hold our troops hostage, but I hope the Republicans in Congress and the White House who use our military as a political sound bite or tool to pass their own unrelated items recognize they represent the worst of America.

The blood of American men and women is on their hands for their politics of delay, diversion and division.

I yield back what shame is left in this corrupt institution.

Mrs. MALONEY. Mr. Speaker, America's servicemen and servicewomen are the bravest, most valiant and skillful soldiers on earth and because of them, our military is the best in history. As the daughter and brother of war veterans, I am particularly supportive of our Nation's soldiers. The men and women serving America deserve the full support of our Nation. This is why it is particularly distasteful and dangerous when elected officials in Washington play politics with legislation that affects our troops serving right now in Iraq, Afghanistan and elsewhere.

It is tremendously disappointing that the leadership from the other side of the aisle has decided to play politics with this bill. They have taken a straightforward bill to fund our military, knowing that it is destined to pass, and hung politically controversial and unacceptable legislation to it. They have given us a withering Christmas tree.

This is politics at its distasteful worst, and it must be rejected. I am voting "no" on this bill because of the bad governance it represents and because of the bad policy attached at the last minute.

Opening part of the Arctic National Wildlife Refuge to oil drilling creates environmental harm in pursuit of a band-aid for our Nation's energy problems. Instead of putting adequate resources into developing alternative energy sources, which could solve our long-term problems, some in the Congress and the administration find it easier to go rushing into a treasured wildlife sanctuary for a short-term stopgap.

They were unable to get what they want through the normal legislative process. So, my colleagues on the other side of the aisle used a ploy—they attached their legislation to a defense bill, literally in the middle of the night.

As if that weren't bad enough, this bill has also been saddled with an irresponsible gift to drugmakers, shielding them from liability and giving victims only phantom protections. This is another proposal that did not go through the regular legislative process and could not have passed on its own merits.

Added on to all of that is a one percent across the board cut that will affect homeland security, education and health care programs. It will even chop $4 billion from the defense budget that supports our troops. Again, this did not go through the regular process and could not have passed on its own merits.

Though I cannot vote for this bill on principle, I am glad that it includes the restoration of $125 million for sick and injured 9/11 responders. The money was taken back from the responders at the president's request in the Labor-HHS appropriations bill we passed recently. My colleagues in the New York delegation and I worked hard to ensure that the 9/11 heroes can keep the assistance many of them so desperately still need. We were informed shortly before Thanksgiving that the Speaker would find a way to salvage the funds, and I thank him for following through with this action.

Despite the positive aspects of this bill, the other side of the aisle has attached—literally at the last minute—many unrelated items, which makes it impossible to support its passage. Such actions shouldn't be tolerated by this House. I wish to be associated with the comments of my friend and colleague, Mr. OBEY, who has spoken strongly in opposition to the process under which this final bill was created.

Mr. ETHERIDGE. Mr. Speaker, I rise in reluctant support for the conference report on the Fiscal Year 2006 Department of Defense Appropriations bill.

As a veteran of the U.S. Army and as the Representative for Fort Bragg, Pope Air Force Base and numerous Guard and Reserve units, I strongly support our men and women in uniform and their families. This bill contains needed funding for such necessary items as the military pay raise, body armor for our troops in Iraq and vehicle armor for the vehicles that carry them. The base bill is important legislation, and I strongly support it.

However, I deeply regret that the Republican Congressional Leaders have inserted into this bill the extraneous provision to permit oil and natural gas exploration in the Artic National Wildlife Refuge (ANWR). I oppose the exploitation ANWR through drilling for oil, and I have repeatedly voted against that provision when it has been considered in this House. Unfortunately, the Republican Leaders have decided on a cynical strategy to sneak ANWR into the defense bill. This underhanded maneuver represents the arrogant abuse of power that all too often characterizes the operating style of the current Majority.

I support the defense appropriations conference report, but I encourage my colleagues to defeat the rule so we can take the ANWR provisions out and pass a clean defense bill.

Ms. MCCOLLUM of Minnesota. Mr. Speaker, by including the legislative provision to drill and destroy the Arctic National Wildlife Refuge (ANWR) in this defense appropriation conference report (H.R. 2863), the Republican majority has demonstrated their on-going abuse of power, their shameless collusion with the oil industry and a distasteful willingness to exploit the needs of U.S. troops at war in Iraq and Afghanistan in order to achieve their policy desires, regardless of the cost. This is a cynical strategy to pass a provision designed for the oil industry, a provision that has already been rejected by this House earlier this year. The fact that the Republican majority is using our brave men and women serving in the armed forces as political cover to ensure that the provision allowing for oil drilling in ANWR is passed by this House shows the majority's desperation, their deception and their willingness to undermine our democratic process.

The intended purpose of this bill is to provide the resource for the defense of our nation. It is to ensure the men and women serving in the armed forces have the training, the protective gear, the equipment and all of the necessary support to execute their missions in Iraq, Afghanistan, Korea, Europe and here at home. The men and women of the U.S. Armed Forces comprise the greatest fighting force the world has ever known and they not only keep the citizens of the U.S. safe from a world filled with very real threats, they are serving the cause of peace and security around the world. I commend our troops and our military leadership for their service and sacrifice, as well as the dedication of their families.

Of the more than $450 billion appropriated in this bill, much of the defense related expenditures are necessary for national security. I strongly support the 3.1 percent pay raise for military personnel. The allocation of more than $7 billion for the ballistic-missile defense system continues to be a waste for tax dollars since the program has failed many of its critical tests and by all accounts is a boondoggle.

The language in the bill that bans torture by all U.S. personnel, including civilian defense and intelligence personnel, sets the appropriate standard by which the U.S. should conduct itself—even in a war against terrorism. Senator JOHN MCCAIN should be commended for his perseverance and determination not to yield to President Bush and Vice President CHENEY's demands that torture be permitted under certain circumstances. Torture is an inhumane practice that is the antithesis of America's values and moral obligations as a defender of international human rights.

In addition to allowing drilling for oil in ANWR, this bill has a number of nondefense provisions that are objectionable. The across-the-board cut included in H.R. 2863 will total an additional $8 billion in cuts to services critical to our families. This will result in another $28 million cut to No Child Left Behind, bringing the total cut this year to $1 billion. This is in addition to the $40 billion this law has been under-funded by the Republicans since its passage.

Also included in this bill are funds to prepare for a possible Avian Flu pandemic. While I support providing funding for this work, the Republicans have included a provision providing unlimited liability protection to the pharmaceutical industry. Instead of having an honest debate about the needs of health care workers, public health systems and local governments in the case of a pandemic, Republicans have chosen only to worry about another of their strong allies—the drug companies.

H.R. 2863 also claims to provide new funding for Katrina relief which I support. However, this bill includes only $5 billion—not nearly enough to allow families to begin to rebuild their lives and their community. And it relies on a complicated scheme of possible revenues from drilling in ANWR and sales of spectrum to fund relief. In addition, Republicans used this opportunity to push through a divisive school voucher plan that was defeated by the Education and Workforce Committee. This plan will allow $645 million in taxpayer schools to go to private and religious schools that do not have to adhere to the accountability requirements of public schools.

Mr. Speaker, I strongly support our troops. Overall, this bill however, is an example of the shameless and abusive tactics used over and over again by this Republican party to force their special interest agenda on the American people. It shows again that the Majority does not represent the values of American families, but rather values their corporate contributors. I urge my colleagues to reject this outrageous bill.

Mr. CONYERS. Mr. Speaker, I rise in opposition to the legislation. Specifically, I oppose the avian flu liability provision which provides sweeping blanket immunity for the drug companies while again leaving American citizens unprotected. This legislation, which appears both unconstitutional and contrary to federalism, has not been reviewed by any committee of jurisdiction. In fact, this language was added to the Department of Defense Appropriations Conference Report in the middle of the night, long after the conferees approved the bill.

Under the current provision, punitive damages for any claims are barred, allowing for no corporate liability. Drug companies that engaged in the worst kinds of abuses could not be penalized by juries. In addition, the legislation limits the total liability of any manufacturer or distributor. The result is no out of pocket payments by reckless corporations and no real recovery for injured citizens.

Consider this example: The Secretary of Health and Human Services declares a potential public health emergency and designates a vaccine as a countermeasure. Later production of the vaccine demonstrates that the vaccine has vast problems with its potency and may render the vaccine harmful. With this knowledge, the company still sends the vaccine to thousands of distributors and when it is administered, the result is numerous deaths. Under this provision, families who are trying to gain compensation for their losses are left without recourse.

This provision requires that before an injured person can pursue a claim, the Secretary of HHS must determine, by clear and convincing evidence, that there was willful misconduct on the part of the manufacturer, distributor, or administrator of a covered product. First, this would insure that no injured person, including first responders and medical personnel, would have coverage. Second, it is doubtful that "willful misconduct," which is defined as actual knowledge that a covered product would cause harm, could actually be proven. Third, even if an injured victim proved willful misconduct by clear and convincing evidence, the massive tort reform such as no punitive damages and capped non-economic damages would severely limit any compensation.

In addition, this portion of the conference report applies to a wide range of drugs, vaccines, and other products. The provision does not limit its application to only new drugs or vaccines used in a pandemic context. Instead, it applies to any "drug, biological product or device" that is used to treat or cure a pandemic, epidemic or limit the harm that a pandemic or epidemic might cause. As drafted, this legislation would include drugs such as Tylenol or Advil.

Finally, the conference report falsely claims to establish a compensation process. This "compensation process", under the sole direction of the Secretary of HHS, is governed by regulations created by the Secretary alone and includes caps on compensation awards. Further, no monies have been appropriated for the fund and consequently, the "compensation process" is whole inoperable. The provision has no true compensation program.

Attached to my statement is a letter from Professor Erwin Chemerinsky, Alston & Bird Professor at the Duke University School of Law which further outlines the problems and issues concerning this preparedness provision. Instead of putting the burden on the victim by cutting compensation and protecting the drug manufacturers, we must ensure corporate accountability and protection for our citizens. I strongly urge a "no" vote.

ALSTON & BIRD PROFESSOR OF LAW
AND POLITICAL SCIENCE, DUKE
UNIVERSITY SCHOOL OF LAW,

December 20, 2005.

DEAR SENATOR: I understand that the Congress is considering legislation that has been denominated as the "Public Readiness and Emergency Preparedness Act." This legislation would give the Secretary of Health and Human Services extraordinary authority to designate a threat or potential threat to health as constituting a public health emergency and authorizing the design, development, and implementation of countermeasures, while providing total immunity for liability to all those involved in its development and administration. In addition to according unfettered discretion to the Secretary to grant complete immunity from liability, the bill also deprives all courts of jurisdiction to review those decisions. Sec. (a)(7). I write to alert the Congress to the serious constitutional issues that the legislation raises.

First, the bill is of questionable constitutionality because of its broad, unfettered delegation of legislative power by Congress to the executive branch of government. Under the nondelegation doctrine, Congress may provide another branch of government with authority over a subject matter, but "cannot delegate any part of its legislative power except under the limitation of a prescribed standard." United States v. Chicago, M., St. P. & P.R. Co., 282 U.S. 311, 324 (1931). Recently, the Supreme Court endorsed Chief Justice Taft's description of the doctrine: "the Constitution permits only those delegations where Congress 'shall lay down by legislative act an intelligible principle to which the person or body authorized to [act] is directed to conform.'" Clinton v. City of New York, 524 U.S. 417, 484 (1998)(emphasis in original), quoting J.W. Hampton, Jr., & Co. v. United States, 276 U.S. 394, 409 (1928). The breadth of authority granted the Secretary without workable guidelines from Congress appears to be the type of "delegation running riot" that grants the Secretary a "roving commission to inquire into evils and upon discovery correct them" of the type condemned by Justice Cardozo in A.L.A. Schechter Poultry Corp. v. United States, 295 U.S. 495, 553 (1935)(Cardozo, J., concurring).

Second, the bill raises important federalism issues because it sets up an odd form of federal preemption of state law. All relevant state laws are preempted. Sec. (a)(8).

However, for the exttemely narrow instance of willful (knowing) misconduct by someone in the stream of commerce for a countermeasure the bill establishes that the substantive law is the law of the state where the injury occurred, unless preempted. Sec. (e)(2). The sponsors appear to be trying to have it both ways, which may not be constitutionally possible. The bill anticipates what is called express preemption, because the scope of any pennissible lawsuits is changed from a state-based to a federally based cause of action. See Beneficial Nat'l Bank v. Anderson, 539 U.S. 1, 8 (2003).

Usually, that type of "unusually 'powerful'" preemptive statute provides a remedy for any plaintiff's claim to the exclusion of state remedies. Id. at 7 (citation omitted). Here, rather than displace state law in such instances, the bill adopts the different individual laws of the various states, but amends them to include a willful misconduct standard that can only be invoked if the Secretary or Attorney General initiates an enforcement action against those involved in the countermeasure and that action is either pending at the time a claim is filed or concluded with some form of punishment ordered.

Such a provision raises two important constitutional concerns. One problem is that this hybrid form of preemption looks less like an attempt to create a federal cause of action than an direct attempt by Congress to amend state law in violation of Erie Railroad Co. v. Tompkins, 304 U.S. 64 (1938) and basic principles of federalism. Although Congress may preempt state law under the Supremacy Clause by creating a different and separate federal rule, see *Crosby v. Nat'l Foreign Trade Counc.*, 530 U.S. 363, 372 (2000), it may not directly alter, amend, or negate the content of state law as state law. That power, the Erie Court declared, "reserved by the Constitution to the several States." 304 U.S. at 80. It becomes clear that the bill attempts to amend state law, rather than preempt it with a federal alternative, when one realizes that States will retain the power to enact new applicable laws or amend existing ones with a federal overlay that such an action may only be commenced in light of a federal enforcement action and can only succeed when willful misconduct exists. The type of back and forth authority between the federal and state governments authorized by the bill fails to constitute a form of constitutionally authorized preemption.

The other problem with this provision is that the unfettered and unreviewable discretion accorded the Secretary or Attorney General to prosecute an enforcement action as a prerequisite for any action for willful misconduct violates the constitutional guarantee of access to justice, secured under both the First Amendment's Petition Clause and the Fifth Amendment's Due Process Clause. See *Christopher* v. *Harbury*, 536 U.S. 403, 415 n. 12 (2002). In fact, the Court has repeatedly recognized that that "the right of access to the courts is an aspect of the First Amendment right to petition the Government for redress of grievances." *Bill Johnson's Restaurants* v. *NLRB*, 461 U.S. 731, 741 (1983), citing *California Motor Transport Co* . v. *Trucking Unlimited*, 404 U.S. 508, 510 (1972). First Amendment rights, the Supreme Court has said in a long line of precedent, cannot be dependent on the "unbridled discretion" of government officials or agencies. See, e.g., *City of Lake wood* v. *Plain Dealer Pub. Co.*, 486 U.S. 750, 757 (1988). At the same time, the Due Process Clause guarantees a claimant an opportunity to be heard "at a meaningful time and in a meaningful manner." *Armstrong* v. *Manzo*, 380 U.S. 545, 552 (1965). The obstacles placed before a claimant, including the insuperable one of inaction by the Secretary or Attorney General, raise significant due process issues. The Supreme Court has recognized that official inaction cannot prevent a claimant from being able to go forth with a legitimate lawsuit. See *Logan* v. *Zimmerman Brush Co.*, 455 U.S. 422 (1982). The proposed bill seems to reverse that constitutional imperative.

Third, the complete preclusion of judicial review raises serious constitutional issues. The Act, through Sec. 319F–3(b)(7), expressly abolishes judicial review of the Secretary's actions, ordaining that "[n]o court of the United States, or of any State, shall have subject matter jurisdiction," i.e., the power, "to review . . . any action of the Secretary regarding" the declaration of emergencies, as well as the determination of which diseases or threats to health are covered, which individual citizens are protected, which geographic areas are covered, when an emergency begins, how long it lasts, which state laws shall be preempted, and when or if he shall report to Congress.

The United States Supreme Court has repeatedly stressed that the preclusion of all judicial review raises "serious questions" concerning separation of powers and due process of law. See, e.g., *Johnson* v. *Robison*, 415 U.S. 361 (1974); see also, Oestereich v. Selective Service System Local Board No. 14, 393 U.S. 233 (1968); *McNary* v. *Haitian Refugee Center, Inc.*, 498 U.S. 479 (1991); *Reno* v. *Catholic Social Services*, 509 U.S. 43 (1993). Judicial review of government actions has long regarded as "an important part of our constitutional traditional" and an indispensable feature of that system. *Lehnhausen* v. *Lake Shore Auto Parts Co.*, 410 U.S. 356, 365 (1973).

The serious constitutional issues raised by this legislation deserve a full airing and counsels against any rush to judgment by the Congress. Whatever the merits of the bill's purposes, they may only be accomplished by consideration that assures its constitutionality .

ERWIN CHEMERINSKY.

Mr. POMEROY. Mr. Speaker, I rise to say that although I will be voting for H.R. 2863, I would like to express my disappointment about several of the provisions in the Act. These extraneous provisions should not have been included in this important bill that is helping to fund and support our troops.

First, I am concerned about the inclusion of aid for students displaced by Hurricane Katrina both procedurally and substantively. While I believe that schools serving displaced students must be reimbursed for educational expenses associated with these students as soon as possible, I am concerned that the system in this bill will create a continuing voucher system, which will not be in the best interest for teachers, students, or parents. I am not satisfied that this program will provide the best relief for students and it is my hope that the program will only be utilized in this emergency time and will sunset as provided next August.

I am also concerned about the 1 percent across the board cut contained in the bill. This cut will reduce defense spending by $4 billion. These cuts will affect funding of important homeland security programs, such as the Customs and Border Patrol and Immigration and Customs Enforcement, education programs including No Child Left Behind, and FBI funding, including a reduction of new hires for the counterintelligence/counterterrorism department.

I am disappointed in both of the above provisions, which I feel should have been considered separately. For this reason, I voted against the rule that allowed these provisions to be permitted for consideration in the Defense Appropriations bill.

Mr. YOUNG of Florida. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CAMP of Michigan). Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker. I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. OBEY. I most certainly am. I am not opposed to the defense portion of this budget, but I am opposed to the other provisions that I described earlier.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY moves to recommit the conference report H. Rpt. 109-359 to the conference with instructions to the managers on the part of the House not to include Chapter 8 of Title III of Division B.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of adoption of the conference report.

The vote was taken by electronic device, and there were—yeas 183, nays 231, not voting 20, as follows:

[Roll No. 668]

YEAS—183

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Hastings (FL)

Herseth
Higgins
Hinchey
Hinojosa
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—231

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Holden
Hulshof
Hunter
Inglis (SC)
Issa
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Kanjorski
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—20

Baca
Davis, Jo Ann
Emanuel
Feeney
Gutierrez
Harman
Hefley
Hostettler
Hyde
Istook
Johnson, Sam
Jones (NC)
Kolbe
McGovern
Miller, Gary
Myrick
Radanovich
Reyes
Roybal-Allard
Stark

□ 0455

Mr. MOLLOHAN, Mr. LUCAS, Ms. ROS-LEHTINEN, Messrs. BUYER, BURGESS and WHITFIELD changed their vote from "yea" to "nay."

Messrs. COOPER, GEORGE MILLER of California, RANGEL, MILLER of North Carolina and Ms. MCKINNEY changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MCGOVERN. Mr. Speaker, I was inadvertently absent for the rollcall votes on the motion to recommit on the Defense Appropriations Conference Report and the Conference Report itself. If I were present, I would have voted "yes" on the motion to recommit and "no" on final passage of the conference report for the FY 06 Department of Defense Appropriations.

The SPEAKER pro tempore (Mr. CAMP of Michigan). The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 308, nays 106, answered "present" 2, not voting 18, as follows:

[Roll No. 669]

YEAS—308

Abercrombie
Aderholt
Akin
Alexander
Allen
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Beauprez
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capuano
Cardoza
Carnahan
Carson
Carter
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Davis (AL)
Davis (CA)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Tom
Deal (GA)
DeFazio
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Emerson
English (PA)
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Holden
Hooley
Hoyer
Hulshof
Hunter
Inglis (SC)
Israel
Issa
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Kanjorski
Kaptur
Keller
Kennedy (MN)
Kennedy (RI)
Kind
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Meehan
Meek (FL)
Melancon
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pascrell
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Rahall
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (TX)
Snyder
Sodrel
Souder
Spratt
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—106

Ackerman
Andrews
Baird
Baldwin
Bass
Becerra
Blumenauer
Boswell
Capps
Cardin
Case
Castle
Conyers
Cooper
Cummings
Davis (IL)
DeGette
Delahunt
Dingell
Doggett
Ehlers
Engel
Eshoo
Farr
Filner
Fitzpatrick (PA)
Frank (MA)
Grijalva
Hastings (FL)
Hinchey
Hoekstra
Holt
Honda
Inslee
Jackson (IL)
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kelly
Kildee
Kilpatrick (MI)
Kirk
Kucinich
Leach
Lee
Lewis (GA)
LoBiondo
Lofgren, Zoe
Maloney
Markey
McCollum (MN)
McDermott
McKinney
McNulty
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller, George
Moore (WI)
Nadler
Napolitano
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Paul
Payne
Petri
Ramstad
Rangel
Rothman
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Scott (VA)
Serrano
Shays
Slaughter
Smith (NJ)
Smith (WA)
Solis
Stark
Stupak
Tauscher
Thompson (CA)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

ANSWERED "PRESENT"—2

Burton (IN)
Saxton

NOT VOTING—18

Baca
Davis, Jo Ann
Emanuel
Gutierrez
Harman
Hefley
Hostettler
Hyde
Istook
Johnson, Sam
Jones (NC)
Kolbe
McGovern
Miller, Gary
Myrick
Radanovich
Reyes
Roybal-Allard

□ 0504

Ms. WASSERMAN SCHULTZ changed her vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VACATING ORDERING OF YEAS AND NAYS ON HOUSE RESOLUTION 633, HONORING HELEN SEWELL ON THE OCCASION OF HER RETIREMENT FROM THE HOUSE OF REPRESENTATIVES

Mr. NUSSLE. Mr. Speaker, I ask unanimous consent that the ordering of the yeas and nays on House Resolution 633 be vacated to the end that the Chair put the question de novo.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and agree to the resolution, H. Res. 633.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 1932, DEFICIT REDUCTION ACT OF 2005

Mr. NUSSLE. Mr. Speaker, pursuant to House Resolution 640, I call up the conference report on the Senate bill (S. 1932) to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to House Resolution 640, the conference report is considered read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from Iowa (Mr. NUSSLE) and the gentleman from South Carolina (Mr. SPRATT) each will control 30 minutes.

The Chair recognizes the gentleman from Iowa.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have a plan to reform the government and achieve savings. We present that plan to the House.

Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield myself such time as I may consume. We have before us a conference report that everybody should understand there has really been no conference in which House and Senate Democrats have had any meaningful role.

Our objection to this bill begins with its title: The Deficit Reduction Act of 2005. Let us be honest, this bill does not reduce the deficit. When this reconciliation bill with spending cuts is paired with its counterpart, the reconciliation bill with tax cuts, the deficit is actually increased, not decreased; and the increase in the deficit gets worse when you add, as I think you should, the $50 bill in other tax cuts passed by the House over the last few months.

At the outset, the proponents of this bill called it necessary in order to help pay for hurricanes Katrina and Rita. That has proven to be a false claim, too. This bill has nothing to do with paying for Katrina. It has everything to do with facilitating further tax cuts. This bill comes out of a budget resolution that calls for a total of $106 billion in new and additional tax cuts, $70 billion reconciled, $36 billion unreconciled.

So the spending cuts in this bill are really just the first step in a three-step process. Step two will come when the tax cuts reconciliation bill emerges from conference. When these two bills are paired, the result will be a deficit bigger by about $60 billion over 5 years.

Then there is a third step. There is an increase in the national debt pending, an increase in the national debt ceiling of $781 billion necessary to accommodate budgets like the 2006 budget being passed here tonight. This increase was deemed approved when the Republican budget resolution passed the House several months ago.

Over the last 4 fiscal years, to make room for budgets of the Bush administration and budgets that have been passed by the majority in this House, we have had to raise the legal debt ceiling of the United States by $3.15 trillion to accommodate those budgets.

Once upon a time, the purpose of reconciliation was to rein in the deficit; but as you can see from the charts I am about to put up, and I knew this was just what you wanted me to serve you for breakfast this morning, more numbers and more charts, so I did not disappoint.

First of all, when you put this chart up, you can see what the debt increases have been over the last 4 or 5 fiscal years: $3.15 trillion. As Casey Stengel said, "If you don't believe it, you can look it up." $3.15 trillion.

Next, let me show you what reconciliation in past years has accomplished as opposed to what reconciliation this year will accomplish in terms of reducing the deficit. In past years, for example the Bush budget summit in 1990, the deficit reduction due to reconciliation was $482 billion. In the Clinton budget in 1993, the deficit reduction due to reconciliation was $433 billion. In the balanced budget agreement of 1997, reconciliation produced savings of $118 billion over 5 years. This bill saves nothing. It aggravates and worsens the deficit.

Now, it is fair to ask: Why have the Republicans, those who put this budget together, why have they put spending cuts in one bill and tax cuts in another bill? Why did they not just combine the two so we could keep tabs on everything with one reconciliation bill? Which is typically what we have done in the past.

Well, there is a reason for this hiatus between spending cuts and tax cuts. The spending cuts made by this bill will hit the young, the old, the sick, and the poor, and hit them rather hard. The savings realized from these spending cuts will help offset tax cuts for top-bracket taxpayers. Our Republican colleagues want to avoid that connection, so they have produced two separate bills, one for tax cuts, and then a little later on, one for spending cuts.

Who bears the brunt of these bills? Single mothers still do. Despite some moderation in the effect of the cuts that were proposed originally, single mothers still take about a $2 billion hit. Students struggling to pay for their college education. The hit on student loans is $12.7 billion. The sick and the poor, whose only access to medical care is Medicaid. Medicaid still suffers a hit of $7 billion.

So these cuts have been moderated in the conference with the Senate, but some of the worst of the House bill provisions are still there. A bit less significant, but still hurtful to the people who are the victims of these particular cuts.

And bear this in mind. Bear this in mind. This bill still increases, for all of the cuts it makes, still increases the deficit, still uses spending cuts to offset tax cuts, and still cuts services for the least among us, the most vulnerable and poorest Americans.

In short, there are many reasons this bill does not live up to its title, the Deficit Reduction Act of 2005. It makes deep and painful cuts still, only to pave the way for new and additional tax cuts and never mind the deficit. The result is a larger deficit. So in this respect, today's legislation is like the budget resolution that set it in motion. This is one of a series of fiscal actions that will cause the debt ceiling of the United States at the end of this year to be move to $3.15 trillion.

Bear in mind that when the Bush administration came to office, it inherited a surplus and predicted that this surplus would endure even if its trillion dollar tax cuts were adopted. Well, the Bush budget was adopted, and in fiscal 2005 the bottom line was not a surplus of $269 billion, as once projected, but a deficit of $319 billion.

□ 0515

Realistic estimates from CBO show that if you take the Bush budget of 2006 as last proposed in July, and they are updated, if you take that budget and run it out 10 years with all the assumptions made in the Bush budget, these are the results. The deficit of last year, which was $320 billion, this is CBO, will go to $640 billion, if you follow the trajectory shown here, the curve shown here. The deficit goes from $320 billion to $640 billion. It doubles.

Debt service on the debt goes from $182 billion last year to $458 billion in 10 years, and the national debt doubles. That is the course we are embarked upon as we do one more part of a long series of fiscal actions that are leading us deeper and deeper into debt, and nobody should be fooled by what is happening here on the House floor tonight. Once the pieces are all put together, and you can see the whole puzzle, this means a deeper deficit and no resolution to the problem before us.

Mr. Speaker, I reserve the balance of my time.

Mr. NUSSLE. Mr. Speaker, I would just note for the record that it is now the break of dawn. It is no longer the dead of night.

I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, it may be 5:15 in the morning, but that is not our fault. We would liked to have done this in the light of day with a little more time to look at this package. Here is what we have got just 1 hour ago.

When we unpacked the package to see what was in it, we had the Speaker's press release, which told us earlier in the evening that, by golly, you would come up with $41.6 billion in total spending reductions. We got this package, and, finally, looking through 700 pages, we finally got a summary of the action taken, and they came to $39.7 billion. It was $1.9 billion less than the Speaker had claimed earlier. Even for government work, that is not very close.

Here is the Speaker's press release. We discern that this difference came from the fact that between the Speaker's press release and the release of this voluminous document here called the budget resolution, or the budget reconciliation bill, there was a deal made with the medical equipment manufacturers and suppliers with respect to Medicare reimbursement, a deal that costs your total package $1.9 billion.

If I am not right, I would like to be corrected, which leads us to ask, if you could adjust for them to the tune of $1.9 billion, couldn't we have gone back and looked at student loans and moderated the cuts being inflicted on them? Couldn't we have gone back and looked at children with delinquent dads and moderated what we were doing with respect to the cuts in child support enforcement, foster care, and the other things that are still in this bill? If you could do that for the medical equipment manufacturers, couldn't you do it for the least of these?

Mr. Speaker, it may be 5:20 in the morning, but Mr. DINGELL is still up and ready for a good fight. I yield to the gentleman for 4 minutes.

Mr. DINGELL. Mr. Speaker, I rise against the conference report. I urge my colleagues to vote it down. This might be called a Christmas Carol. The Republicans give tax cuts to every Ebeneezer Scrooge and his friends, and they raise the costs to the Cratchit family and take medical care away from Tiny Tim.

There is no way to hide the fact that these cuts hurt beneficiaries. Cuts in the Medicare program come directly from the families who depend on them, by raising their payments, making health care unaffordable, or by not paying for needed treatments when those families seek care. Millions of children will lose medically necessary benefits and face increases in the amount that their parents have to pay for them to go to the doctor.

Because this conference report allows, in fact it almost requires States to charge families four times more today than they do to see their doctor at this time, we know this size increase will force people to forgo needed care. Millions of families will seek cuts in important services in mental health, physical and rehabilitation therapies, dental and vision benefits.

What good can come from allowing States to deny eyeglasses to children who cannot see in school or hearing assistance to children who cannot hear. One in nine children with special health care needs are those who reside in military families and rely on Medicaid for supplemental health care jeopardized by this bill.

The conference report seeks to raise health care premiums on individuals who depend on Medicaid. A major portion of the savings of this provision will come from families, including children, losing health insurance coverage. There are more than 45 million uninsured now in this Nation. This bill will add significantly to that number. Nearly 40 children's groups, March of Dimes, Family Voices, oppose these cuts. AARP has written to urge the Congress not to harm those who rely on this program for long-term care. One hundred forty national groups, American Nurses Association, the American Academy of Pediatrics, wrote in opposition to benefit cuts and increases in cost sharing.

There is another little thing here that my colleagues will want to know about, and that is very interesting. The conference report takes away from the moneys that we could give to first responders to adequately respond from the spectrum sales that will occur, and it gives those monies as it gives other monies to tax cuts for the well-to-do.

The end result, my dear friend, is that first responders, public health, public safety will be shortchanged. Our first responders risk their lives to leave no one behind, but the Republicans here leave the first responders behind, and they are going to have a nice little tax increase for those who are going to see their television sets go blank because of the change from the normal analog spectrum to the digital spectrum which is going to take place shortly.

You can expect to hear from all of your constituents that they have had to go out to spend $60 to get a converter box to go on top of their television. This, my friends, is a Christmas present of our Republican friends to the American people, tax cuts for the wealthy, cost increases on health for the small children and for the families on limited income and cuts in needed services to the first responders and spectrum and increases in the cost to ordinary citizens to continue watching television.

This is a bad program. I urge my colleagues to reject it.

Mr. SPRATT. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER), the Democratic whip.

Mr. HOYER. Mr. Speaker, Ruth Marcus, a reporter for the Washington Post, wrote the other day that those who forget history are condemned to be spun by it. I remember history. I have been here for a quarter of a century, and I have heard the representations made by Republicans in the administration and on this floor over those years, telling me how their policies were going to lead to fiscal responsibility, reduction of deficits, elimination of debt. It hasn't happened. Not in one of the 17 years has that happened.

In fact, when Washington is under the total control, absolute control of Republicans over the last 5 years, we have had the worst deficit performance in our history, and we have had much larger spending than we had under Bill Clinton.

There is only one person that can stop spending in America. You have heard me say this before. It is the President of the United States. He can veto a bill, and we have never in the 25 years I have served here overridden a President's veto that said we were spending too much.

As a matter of fact, the only veto override that I remember in the Reagan years was when we overrode a veto where President Reagan said we did not spend enough money. In that instance it was on defense; $4 trillion of deficits under Republican Presidents, $62.5 billion surplus under a Democratic President. That is the experience of the 25 years.

My friends, if we were responsible people, we would say we will cut spending, and then we will cut revenues. Because if we have the courage to cut spending, then we do not need to pay for the things that we cut. But if we do not have the courage to pay for what we buy, we are misserving the American public and, even more deeply, our children and our grandchildren. That is the consequence of your policy.

You come here cutting revenues. That is an honest policy, but you do not have the courage to cut the spending. You cut $50 billion, you say, in this bill, but you then cut $56 billion in revenue. You don't have to be much of a math expert to know that that is a $6 billion addition to the deficit.

Ladies and gentlemen, America expects better of us. America expects honest leadership. America deserves honest policies. The absence of honest policies has led to us incurring $1.5 trillion of deficits in less than 60 months. We can do better. We ought to do better. We must do better. Reject this irresponsible bill.

Mr. NUSSLE. Mr. Speaker, I yield myself as much time as I may consume just to tell the gentleman from Maryland that our tax policies have created 4.5 million new jobs in the past 30 months. Our Nation's unemployment rate has dropped to 5 percent lower than the average rate of the last three decades. Revenue coming into Washington has increased this year by 15 percent, and we have reduced the deficit over the last 2 years by over $200 billion.

We have a plan. It is reforming government. It is reducing the deficit, and we need to pass that plan, and we need to stop just talking about fairy tales and Dickens and all sorts of things that are very interesting but are certainly not getting us to the results that we need. We have a plan to provide those results, and we need to pass that plan this morning.

Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. I yield to the gentleman from Maryland 3½ minutes.

Mr. HOYER. The chairman of the Budget Committee came to this floor and put a bag over his head because he was ashamed of serving in this House. He was ashamed.

Mr. NUSSLE. Would the gentleman yield on that point?

Mr. HOYER. Not yet.

Mr. NUSSLE. Well, the gentleman referenced me.

Mr. HOYER. I did reference you and I may do it again, but I will not yield yet.

He came to this floor, and he said he was ashamed. He was ashamed because of a bank scandal. It wasn't handled very well but there were no tax dollars involved, nobody lost anything and the account at Riggs Bank was never overdrawn. But, my friends, under his administration over the last 5 years, $1.5 trillion in deficits.

Now, let me tell you something. Economic performance, these are facts. This is not Dickens or Chaucer or Shakespeare or anybody else. These are facts from your budget book. Average weekly earnings, Bush I, minus 1.1 percent; Bush II, minus three-tenths of 1 percent; Bill Clinton, plus eight-tenths of 1 percent; Median household income, Bush I, minus eight-tenths of 1 percent; Bush II, minus nine-tenths of 1 percent; Clinton, plus 1.6 percent.

□ 0530

Poverty, Bush I, went up 1.8 percent. Bush II it has gone up 1.4 percent; Clinton, down 3.5 percent. Jobs, you talked about jobs. Bush I, plus-2.13 million; Bush II, now about 4 million; Clinton, 21 million new jobs average. Now, let me give you the averages. Bush I, 44,500 per month; Bush II, 34,678 per month; Clinton, 228,464 per month. Real GDP. Bush I, up 2.1; Clinton, plus-3.6 percent; Bush II, plus-2.6 percent.

Now, ladies and gentlemen, we like a lot of polls. The Dow Jones, that is sort of a poll on economic security, growth, confidence in our economy. Dow Jones under Bush I, up 46.7 percent. Under Bush II, now it has gone up a little bit the last few days, about 1 percent, from the time he took over to now.

Now, listen to this, my friends. This is a poll that counts about people who think our economy is doing well. Up under Clinton, remember it was 46 percent under Bush I, 1 percent under this President, under Bill Clinton, 255 percent increase in those 8 years.

So in conclusion, my friend, I will tell you that on every statistic, the representations you have made have been wrong. I will tell you the last 2 months, the last 2 months, ladies and gentlemen, the deficit in America went up $130 billion of deficit spending in just the last 2 months. That is the fiscal management that presents this program on the floor today. America ought to reject it, and we surely should on their behalf.

Mr. SPRATT. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, at this hour of the night, I am not sure who in the world is listening to whom. Certainly, none of our constituents are awake. They have all fallen asleep, except those who are total insomniacs.

But I had the experience last week when I was home of going to the City Club in Seattle. And they have a yearly meeting where they talk about how the year has gone and what they expect for the next year. It is sort of looking forward to the next year and what is going to happen, and they pick out important citizens from our city to put on the panel. And the question was asked of the panel, what is the thing you worry about most in the future?

Now, one of the panelists was a guy who some of you may know, his name is William Gates, Sr. He is the father of Bill Gates. He runs the Gates Foundation. And his answer was this: I worry most that people do not realize how close we are to economic collapse in this country. The spending that is going on, and he went on to elaborate, in terms of the issues that we face today, with a bubble of real estate out there, with everybody buying houses on interest-only loans, on the huge credit card debt in this country, on people working full-time and not having any increase in their wages.

Now, you can look at certain figures and we have the battle here of the figures. And if you are sitting at home thinking what are people thinking about all those flying back and forth, because their experience is that their wages are not going up. Prices are still going up. Their cable TV is costing more than it did and their gas is costing more than it did. But their wages are not going up.

Now, they read that the GDP is going well and that more taxes are coming in. That is not affecting the basic people in this society. And this bill, this so-called reconciliation bill, I do not know whoever thought that that was a good term for it, because we are not reconciliating the people at the top and the people at the bottom. This is a bill directed at the people at the bottom. The people on the top are doing great.

There is nobody in this room who is going to suffer for one single minute in the next year. Not one single one of you will be cold or hungry or without the ability to go see a physician or receive a dental appointment when you need it, when you have got a toothache.

How many States are there in the United States that still have a dental program for the people on TANF? Practically none. And we stand out here and say that this is a great budget and you are going to cut, it is baloney. It is a sham and we ought to vote "no" on it.

Mr. SPRATT. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, lest anyone think that we are about to launch a bill here that will lead us to a balanced budget, let me disabuse you of that illusion.

First of all, let us look at some of the specific items in this particular package to see whether or not they are real in the way of budget reduction.

For example, this bill calls for the abolition of mandatory spending to administer the student loan program. Now, how do you administer the student loan program if you do not provide the funding for it? If you do not provide the mandatory funding for it, it has to come out of discretionary funding. That means we will be underfunding No Child Left Behind and other discretionary educational programs by $2 billion a year more, because that is where the money for administration of the student loan programs will have to come from if you bar its coming from mandatory spending. It is a phony cut.

Secondly, $3.6 billion is scored as a revenue to offset these spending increases, $3.6 billion in PBGC premiums. Now why is that not allowable? In my good accounting book, if you book all of the liabilities that PBGC is faced with over the foreseeable future, there is no net balance in that account, even after you add this $3.6 billion. That money is entrusted. It is encumbered and it cannot fairly be said to be available in the general fund to offset other spending. In truth, it will be spent much, much too soon anyway, and we will have to replenish it.

Third, child support enforcement. You have moderated that. You have brought it down from $4.9 billion, which was absurd, to $1.5 billion, which still hurts. You either shift that expense to the States that are responsible for child support enforcement, or parents who are looking to delinquent parents to pay their child support will have less assistance, and they will collect less in the way of child support. It is a false economy.

You say there are no tax increases in your bill. But the PBGC premium increase is certainly equivalent to the same thing. It will come out of paychecks. And the Medicare part B under your provisions is certainly going up. It will come out of Social Security checks. It is offset.

And then there is another thing about your bill that is myopic that gives us real problems with it. In looking for places to cut, you wholly ignore any kind of revenue effects connected with your tax cut agenda. And the way you are able to do this, and avoid responsibility for it, is you break the tax cuts into so many small pieces that you clutter the audit trail and make it hard for anybody, Members and otherwise, to follow just how big the tax tab, the tax cut tab is adding up to.

So let me take two charts here and try to reconstruct the path, the audit trail of tax cuts that has been implemented since the budget resolution for 2006 was passed just a few minutes ago, a few months ago, and what it means for the bottom line, that is, the deficit.

Let us start with the highway bill passed earlier this year. This revenue impact is about $500 million over 5 years. Next comes the energy policy act. Revenue loss over 5 years is $7.9 billion. Then there is the Katrina tax relief act of 2005, which we adopted a few weeks ago. It has a revenue head of $6 billion.

The biggest tax cuts come from that bill that is waiting in the wings for this bill to be passed; and it will come along a little bit later, the Tax Extension Reconciliation Act of 2006, 20005. It entails tax cuts for $56 billion over 5 years passed by this House, $80 billion over 10 years. Then there is the so-called Stealth Tax Relief Act, patching the alternative minimum tax for this year so that it affects no more taxpayers than it affected last year. The cost for 1 year: $31.2 billion. Covers only 1 year.

The Tax Revision Act of 2005 is just a sundry assortment of tax measures; but it has a revenue cost too, $153 million over 5 years. And finally there is the Gulf Opportunity Zone Act of 2005, revenue impact: $7 billion.

Now, add all of these together and you will see that the total revenue impact entailed by these tax policies comes to $110 billion. So this reconciliation bill offsets about $40 billion of that amount, leaving an additional debt of around $80 billion. That is the net effect of this reconciliation bill. That is why we say it does not decrease the deficit when you pair it up with this other reconciliation bill, the tax cuts. It increases the deficit. But that is not all. That is not the worst of it.

As we have shown, in patching up the AMT last year and again this year, it has to be fixed or it is going to raise the taxes of middle-income taxpayers for whom it was never intended. If we do basically in future years what we have done this year, the revenue impact of patching the AMT is shown right here, $167 billion. That makes the revenue impact of all seven tax cuts $307 billion. Offset your 40 billion against that, you have still got $267 billion in tax reduction over the next 5 years. That is why I say it is myopic. You are looking for solutions to this problem and overlooking one of the bases of the problem, ignoring the fact that if we are going to tackle a deficit worth 320 and rising, we have got to have action on the spending side of the ledger and on the tax side of the ledger as well.

That is the problem here, and that is why I say if you leave here thinking, after voting for this bill, that you have begun a series of fiscal actions that will bring the budget to heel, that you will finally reduce the deficit of $320 million, you are badly, badly disillusioned. Once again, let me show you a chart the CBO did for us last September when we asked them to take the budget that they had just portrayed out over a 10-year period of time and apply to it the President's budget policy as enunciated in his July midterm review.

This is what happened. They said, you are going to follow this path right here that takes you to 640 billion total deficit, a doubling of the deficit over 10 years. You are going to increase the debt service in the United States from $182 billion to $458 billion 10 years from now, and you are going to double the national debt. That is the path we are on, and this bill tonight will not divert us 1 inch. Indeed, it will aggravate that path and that is the plea that I am making to you. That is why you should vote against this bill. Reject it now. Come back next year. Let us do something realistic about deficit reduction.

Mr. Speaker, I yield back the balance of my time.

Mr. NUSSLE. Mr. Speaker, on the heels of reducing the deficit over the last 2 years by $200 billion, this year we Republicans passed a good budget plan, and it is continuing to work. This year, and we just completed the work, but the House of Representatives, under the leadership of chairman Jerry Lewis, passed its bills for appropriations on time and under budget. We just completed that work, and it is the first nondiscretionary freeze in over a generation.

□ 0545

We also committed that we were not going to allow an automatic tax increase on the American people, and Chairman Bill Thomas delivered.

We want to continue the strong economic growth and job creation, and it is working. And tonight we pledge to reform the automatic spending programs to get rid of waste, fraud, and abuse, and eight committees stepped forward to do the hard work to bring us here tonight.

Mr. Speaker, we have a plan. They do not. It reforms important government programs and saves money for the hardworking American taxpayers.

Let us pass our plan, finish our work, and let us go home.

Ms. JACKSON-LEE of Texas. Mr. Speaker, we have before us perhaps the most important piece of legislation that we will vote on all year, the Budget Reconciliation Spending Cuts Act. This $40 billion of spending cuts have turned everything we believe in as a country on its head. The Republicans are actually asking the poor, the downtrodden, the disabled and the young to sacrifice on behalf of the rich. I want to emphasize that these cuts are not meant to free up money to rebuild the gulf coast, or reduce the deficit. In fact, many of these proposed cuts will actually hurt those affected by Katrina. Overall, the plan before the House, when combined with the tax cuts for the rich, will increase the deficit and the national debt.

From a healthcare perspective, there are 45 million Americans living today without any health insurance at all, but this budget cuts $6.9 billion over 5 years from Medicaid and State Children's Health Insurance Program, SCHIP. Among other provisions, this bill increases cost-sharing for Medicaid beneficiaries and permits States to reduce benefits. Most of the billions of dollars of savings over 5 years is passed directly on to you, the constituents. This bill decimates health care funding for children, the elderly, and people with disabilities and making it even harder for families to afford nursing home care. The conference report includes provisions that will reduce spending on Medicare by a net total of $6.4 billion over 5 years.

As founder and co-chair of the Congressional Children's caucus, as a person who understands the value of our Nation's youth, and as a mother of two children, I really want to bring focus on the effect this bill will have on our Nation's children. If you have children who are in, or who are considering going to college, I want you to listen to this: this Republican spending cut will place an added burden of $12.7 billion directly on our students over the next 5 years. This is accomplished through added fees on students, and increases of interest rates. Students borrowing money for college will pay thousands of dollars more on their students loans! This is in the face of college costs up over 7 percent this past year alone. Further, this bill targets child support funds as a wasteful government program, cutting $1.5 billion from collections programs for dead-beat dads. It accomplishes this by ending the Federal match on child support spending that States finance with incentive payments.

Another important aspect of this bill is the addition of $600 million for Low-Income Home Energy Assistance Program. I appreciate the addition of this money in to the conference report, but am concerned that this will not be sufficient. Especially around the gulf coast and in my district of Houston, we are experiencing abnormally high energy costs after the damage caused by Katrina and Rita, and many of the infrastructures of homes in the area has been damaged. I hope we can consider subsidizing this LIHEAP program further in this upcoming session.

I would also like to express my concern over the loss of $400 million from the house bill to the conference bill of funding that would go to Katrina health care relief. The $2.1 billion towards Katrina health care relief is a small part of what should be a much more substantial recovery package for the region. I again hope we can find it in our budgets next year to further help the damaged gulf coast and its inhabitants.

Allow me to cite some of the specific cuts I, and our constituents across the country, will find so objectionable in this conference report:

Medicaid—The bill cuts Medicaid spending by $6.9 billion nationwide.

Medicare—The bill cuts Medicare spending by $6.4 billion nationwide.

Student Loans—The bill cuts spending on student loan program by $12.7 billion over 4 years.

Child Support—The bill cuts $1.5 billion from child support programs over 5 years by ending Federal incentives to states for collections.

This is not how we take care of our own in Texas, and this is not how we do things in the United States. This bill launches an unabashed attack on the American way by slashing funding towards those that are most vulnerable. And don't you be fooled! These spending cuts aren't meant to offset the costs of rebuilding the gulf coast, these spending cuts are meant to offset tax cuts that will benefit the rich.

Mr. Speaker, we cannot allow the burden of the $50 billion in tax cuts to be placed on the backs of our Nation's neediest families. The decision to vote up or down on this legislation isn't a blurry line involving political ideology; it isn't a debate of republican vs. democratic philosophy. This is black and white. This cut hurts the children, it hurts the poor, it hurts the old and it hurts the young. I am strongly opposed to this legislation, and I implore my colleagues on both sides of the aisle to vote against these unreasonable cuts.

Mr. CARDIN. Mr. Speaker, I rise in strong opposition to the so-called Deficit Reduction Act of 2005. Let's be clear about this: the majority is moving this bill to make way for tax cuts in the order of $106 billion over five years. To make room for those tax cuts, we have to cut programs that help middle-income and low-income Americans. That's correct: this morning, we are cutting nearly $40 billion over five years from important domestic initiatives. The net result will be a double-whammy on most Americans: an increased deficit that will fall on the shoulders of every man, woman and child and painful cuts to our neediest citizens. Let's take a closer look at who is targeted by this misguided legislation. First, college students. The conference report cuts $12.7 billion to student loan programs. Students will have to pay higher fees for their loans, parents will have to pay higher interest rates. The barriers to higher education just got higher.

Next, America's farmers. This bill cuts important farm conservation programs by $934 million. It cuts the Conservation Security Program by $649 million, it zeroes out the Watershed Rehabilitation Program; and it cuts the Environmental Quality Incentives Programs by $75 million.

Next are America's uninsured families. Even though the number of uninsured Americans at an all-time high of 45 million, this Congress has decided to decimate their safety net, the Medicaid program.

The conference report increases Medicaid cost sharing and will make it far more difficult for families to get the care they need. The Senate-passed bill had not included any provisions cutting health care benefits or increasing families costs to see their doctor. In addition, under this bill, States may provide any child, without regard to income, with a lesser benefits package than they have today. States may supplement this reduced level of coverage with additional benefits if they choose, but the requirement for a basic level of care is eliminated by this bill. As a result, low income children are no longer guaranteed vision screenings, therapy services, medical equipment, or other key benefits. From now on, States may offer a choice of coverage to beneficiaries between a "benchmark" package or a so-called Health Opportunity Account, eliminating any requirement that individuals are covered for needed benefits. This bill sharply increases cost sharing for prescription drugs and would allow States to charge up to 20 percent of the cost of each medication. Medicaid beneficiaries who take many drugs will have to forgo some needed medicines. It also lifts limits on emergency room copayments for all but the poorest beneficiaries.

Last but not least are our seniors and persons with disabilities who rely on Medicare. It has been 8 years since the Balanced Budget Act of 1997, a bill that Republicans said would "slow the rate of Medicare growth" by $130 billion, but in truth slashed more than $260 billion hurting nursing homes, home health agencies, hospitals, doctors, and most importantly, beneficiaries. Two years after BBA's enactment, Congress began passing a series of "fix" bills to repair the unanticipated damage from several provisions; to this day, some of the more egregious mistakes, such as outpatient therapy caps and the flawed "sustainable growth rate" formula for the physician fee schedule have still not been fixed. That is why it is so disappointing as we review this bill to see that Congress has not learned its lesson. Today, with the needs of children, the elderly, and persons with disabilities even greater than in 1997, the 109th Congress is back with a bill that ignores the urgent needs of those who care for Medicare beneficiaries and fails to address serious problems with a Medicare drug plan that has befuddled and frustrated millions of seniors and their loved ones.

I am deeply disappointed that the House did not even try to address needed reforms in Medicare. Now we are looking at $8 billion in Medicare cuts that were not considered in the Ways and Means or the Energy and Commerce Committees. We now have a band-aid physician payment fix; unjustifiable arbitrary caps on rehabilitation therapy services, no improvement in payments for lifesaving cancer screenings, higher Medicare Part B premiums for many seniors, no reduction in the unnecessary "stabilization fund" for Medicare HMOs. This was a flawed process and it led to an even more deeply flawed bill. I urge my colleagues to reject this conference report and return in the new year to consider real improvements to these vital programs.

Mr. LANGEVIN. Mr. Speaker, I rise in strong opposition to the conference report on H.R. 4241. This will be the third time this year I have voted against an irresponsible Republican budget plan to cut spending on programs important to the poorest Americans in order to pay for a tax cut for the wealthiest. Frankly, I'm tired of it, and Rhode Islanders are too. We need to return our budget to balance, but not on the backs of those who can least afford it.

The Republicans claim this bill is necessary to offset the enormous costs of Hurricanes Katrina, Rita, and Wilma, but their actions show the majority's true motives. Shortly after H.R. 4241 passed the House in November, Republicans voted for more than $50 billion in tax cuts, much of which benefit the top earners in the country. These tax cuts cost more than the savings in this bill. However, these paltry savings will come at a high cost, namely higher costs for health care, education and other important services.

I urge my colleagues to join me in rejecting this irresponsible conference report and instead focusing on real debt reduction based on fairness and shared sacrifice.

Mr. BACHUS. Mr. Speaker, I thank the Chairman for yielding time, and I rise in strong support of the Deposit Insurance Reform legislation included in the conference report to S. 1932, the Deficit Reduction Act of 2005.

I want to begin by thanking Financial Services Committee Chairman OXLEY for his relentless efforts on moving this deposit insurance reform legislation. He has shown tremendous leadership in steering this complex bill through the legislative process, and I am deeply grateful that he gave me the opportunity to work on this landmark piece of legislation. I also want to thank the Ranking Member of the Committee, Mr. FRANK for his support. This was truly a bipartisan effort, and I believe we have a better legislative product because of that. Senator SHELBY and the other Senators on his committee are also to be commended for their fine work.

Deposit insurance reform has been thoroughly discussed and debated over several years. During both the 107th (H.R. 3717) and 108th (H.R. 522) Congress, I introduced comprehensive deposit insurance reform legislation. The legislation was a byproduct of recommendations made by the FDIC in early 2001, a series of hearings held in my Subcommittee on proposed reforms to the Federal deposit insurance system, and broad-based bipartisan cooperation. H.R. 3717 passed the House in the 107th Congress by a vote of 408–18, and H.R. 522 passed the House in the 108th Congress by a vote of 411–11. During this Congress, Congresswoman HOOLEY and I introduced this same legislation—H.R. 1185—with Chairman OXLEY and Ranking Member FRANK. On May 4, 2005, H.R. 1185 passed the House by a vote of 413 to 10. The legislation is supported by the American Association of Retired Persons (AARP) as well as all of the banking a credit union trade associations.

Federal deposit insurance has been a hallmark of our Nation's banking system for more than 70 years. The reforms made by this legislation will ensure that this system that has served America's savers and depositors so well for so long will continue to do so for future generations.

What does the legislation do? First, it merges the separate insurance funds that currently apply to deposits held by banks on the one hand and savings associations on the other, creating a stronger and more stable fund that will benefit banks and thrifts alike.

Second, the bill makes a number of changes designed to address the "pro-cyclical" bias of the current system, which results in sharply higher premiums being assessed at "down" points in the business cycle, when banks can least afford to pay them and when funds are most needed for lending to jumpstart economic growth. By giving the FDIC greater discretion to manage the insurance funds based on industry conditions and economic trends, the legislation will ease volatility in the banking system and facilitate recovery from economic downturns.

Third, the legislation makes monumental changes to law with regard to deposit insurance coverage levels. The system has gone 25 years without such an adjustment—the longest period in its history—and the increases provided for in the legislation are critical if deposit insurance is to maintain its relevance. The conference report establishes a permanent indexation system to ensure that coverage levels keep pace with inflation by indexing coverage from its current level of $100,000 every five years. The indexation, which begins in 2010, applies to all accounts, including retirement and municipal accounts. Without these changes, deposit insurance will wither on the vine, which is an unacceptable outcome for the millions of Americans who depend upon it to protect their savings.

The legislation also immediately increases deposit insurance coverage available to retirement accounts, including IRAs and 401ks, from its current level of $100,000 to $250,000. Particularly in light of volatility on Wall Street and other developments that have shaken confidence in the markets in recent years, senior citizens and those planning for retirement need a convenient, conservative, and secure place for their retirement savings. With the higher coverage levels provided for in this bill, the American banking system will give seniors that safe haven. That is why the AARP has enthusiastically endorsed the coverage increases in this bill.

All of us have heard from community bankers in our districts about the challenges they face in competing for deposits with large money-center banks that are perceived by the market—rightly or wrongly—as being "too big to fail." By strengthening the deposit insurance system, the conference report will help small, neighborhood-based financial institutions across the country, particularly in rural America, continue to play an important role in financing economic development. The deposits that community banks are able to attract through the Federal deposit insurance guarantee are cycled back into local communities in the form of consumer and small business loans, community development projects, and home mortgages. If this source of funding dries up, it will have devastating consequences for the economic vitality of small-town America.

I want to again commend Chairman OXLEY for the tremendous leadership he has shown in steering this complex bill through the legislative process. I also want to thank Ranking Member FRANK and Congresswoman HOOLEY for all of their work on this legislation.

Let me also take this opportunity to thank the staff members on the House Financial Services Committee who worked on this legislation. Both Chairman OXLEY and Ranking Member FRANK are to be commended for assembling such a talented group of staff to work on Deposit Insurance Reform legislation. On the majority side, I would like to thank Bob Foster, Carter McDowell, Peggy Peterson, Tom Duncan, Peter Barrett and Dina Ellis who serves as my designee on the Committee. I want to give a special thanks to Jim Clinger who recently left the Committee to work at the Department of Justice. Without Jim's hard work, dedication and knowledge we would not be here today, and I am grateful for all of his efforts. I would also like to thank Larry Lavender, Warren Tryon and Kim Olive of my staff for their work on this issue. On the minority staff, I would like to thank the following staff members: Jeanne Roslanowick, Jaime Lizarraga, Erika Jeffers, Ken Swab and Matt Schumaker of Congresswoman HOOLEY'S staff.

In closing, Mr. Speaker, let me just say that this legislation will promote the stability and soundness of the banking system. It is also provide assurance to working families, retirees, and others who place their hard-earned savings in U.S. banks, thrifts, and credit unions that their FDIC-insured deposits are safe and secure.

Mr. RANGEL. Mr. Speaker, this Budget reconciliation spending cut bill asks those with the least to sacrifice the most, while providing the most fortunate with even more.

Today's Bill: This Budget reconciliation charade is such an affront to working and lower-income families that our nation's religious leaders have stepped in to say 'enough is enough.'

The Lutheran Bishops sent a letter saying this bill is contrary to Biblical teachings.

The Presiding Bishop of the Episcopal Church has said this reconciliation bill is "tantamount . . . to blasphemy."

And the Conference of Catholic Bishops have said they are "deeply disappointed" with this legislation, especially "its lack of concern for children."

The conference report before us includes a number of cuts that would hurt children, the disabled and poor Americans.

This bill picks on our most vulnerable citizens who depend on Medicare, Medicaid, SSI, child support, welfare and a host of other critical programs.

Some of the most egregious items in the conference report include:

Unfunded Welfare Policies: includes new work requirements in the TANF program without providing adequate funding for child care. According to CBO, the bill is far short of the nearly $11 billion needed to implement the new work requirements and keep child care funding even with inflation.

Cuts Child Support Enforcement: CBO tells us that the reductions in child support collections will reduce collections being sent to families by $8.4 billion over the next 10 years.

Cuts Assistance to Relatives Caring for Abused Children: the report eliminates Federal foster care payments to grandparents and other relatives with limited incomes who are caring for abused children.

Delays Assistance to the Disabled: the report delays the payment of past-due benefits to low-income disabled individuals who are eligible for back payments.

Medicaid and Medicare cuts: the legislation before us makes extraordinary cuts in Medicaid that will raise health care costs and reduce benefits for our nation's most vulnerable children and individuals. It also contains more than $6 billion of Medicare cuts, including premium increases.

Protects Special Interests: this agreement protects special interests at the expense of struggling families. Yet, the conference did not have to pursue these Dickensian cuts. It could have accepted Senate language that reduced overpayments to private insurance companies. Or it could have gone further, and completely eliminated these overpayments, which would negate the need for most of the pain and raise more than $20 billion over five years. Instead, it's gifts for the greedy, and cuts for the needy.

I don't know what the poor, elderly, disabled, and foster children have done to deserve this. And I don't know why the Republicans would wait until the wee hours of the morning, just a few days before Christmas, to show just how mean-spirited they can be.

For the Republicans to deal this heavy blow to the poorest among us at the same time they reduce taxes for the very rich is not only wrong, but it smacks of being immoral.

Future Tax cuts (February?):

The $56 billion Republican tax bill overwhelmingly benefits the very wealthy.

Nearly 50% of the benefit from the extension of capital gains and dividend rate cuts goes to households with incomes over $1 million

This tax bill grants these wealthy households an annual benefit of more than $32,000.

In contrast—Middle-income families receive only 2 percent of the benefit of the capital gains and dividend rate cuts, resulting in an average annual benefit of only $7.

So the rich get richer, the poor get poorer, and the middle class gets left behind. That's Republican economics.

I urge a "no" vote on this shameful conference report.

Ms. BORDALLO. Mr. Speaker, I rise this morning to address a particular provision included in Title VI of S. 1932, the Deficit Reduction Act of 2005. This provision, Section 6055, is very important to my district, to my constituency, and to the Members of this body who represent one of the U.S. territories. Over the past two years, since arriving in Congress, I have worked to address the serious concern relating to the application of the Medicaid program to Guam and the other U.S. territories vis-à-vis the application to the 50 States.

In the 50 States, Medicaid is an individual entitlement. There are no limits on the Federal payments for Medicaid in the 50 States as long as the state is able to contribute its share of matching funds. However, annual Federal Medicaid payments in Guam and in the other U.S. territories are subject to different rules and may not exceed a certain amount specified in law. These limitations are set under Section 1108 of the Social Security Act (42 U.S.C. 1308(g)).

The reality is that Medicaid claims and expenditures in Guam and in the other U.S. territories exceed the limited amounts or ceilings set in U.S. law. Even if the Government of Guam is financially prepared, able and willing to meet its share of the matching requirement, U.S. law will not allow for Federal Medicaid payments to be made beyond the specified limit. Fortunately, to account for inflation, the law was previously amended to provide for increases beginning in 1999 to the ceilings based on the annual percentage change in the medical care component of the Consumer Price Index. Indexing the ceilings for inflation was a needed and important improvement in the Medicaid program for the U.S. territories. However, even with the inflation indexing, the ceilings provided for in current law fall far short of meeting actual Medicaid-eligible claims in the territories.

Apart from the fundamental and more inherent issues associated with the disparate treatment of the territories in this entitlement program, are the practical and public health problems caused by the seemingly arbitrary and budget-driven federal funding limitations placed on the territories. Medicaid is an important Federal safety net and it is essential that the program be operated efficiently and to the fullest extent needed in the territories.

I am pleased that the Senate receded to the House position and accepted Section 3141 of H.R. 4241, the House version of this budget reconciliation legislation, in the conference committee. This provision will provide for adjustments to the Medicaid payments for the U.S. territories under Section 1108 of the Social Security Act. These Medicaid adjustments address critical health care needs in the territories.

Specifically, Section 6055, as included in the conference report, will provide annual increases for Fiscal Years 2006 and 2007 in the ceilings placed on Federal funding for the Medicaid program in Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and Puerto Rico. The total adjustment for all territories in Fiscal Year 2006 is $20 million and in Fiscal Year 2007 the adjustment is $28 million. For Fiscal Year 2008 and subsequent fiscal years, the funding for the Medicaid program in the territories will be calculated by increasing the Fiscal Year 2007 amount by the percentage change in the medical care component of the Consumer Price Index, in the same manner as currently provided in law. The Congressional Budget Office has estimated that these adjustments will amount to additional $140 million in Medicaid payments for the territories over the next five years, and $323 million over the next ten years.

This provision has been included in this conference report as a result of bipartisan negotiations. On September 8 and 9, 2004, in the 108th Congress, I offered an amendment to H.R. 5006, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act for Fiscal Year 2005 that would have provided an additional $8 million in Medicaid funding that year for Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands. A point of order was raised and sustained on the amendment the first time it was offered. However, a modified and second amendment filed to the bill for the same purpose, was debated the following day. This amendment led to a serious and direct discussion for the first time on the House floor on the issue of Medicaid payments to the territories. Ultimately, I withdrew the amendment at the request of the gentleman from Texas, Mr. BARTON, who pledged to work with me, my colleagues from the territories, and the gentleman from Indiana, Mr. BURTON, on this issue. The gentleman from Texas, Mr. BARTON, the Chairman of the House Committee on Energy and Commerce, kept his word. The gentleman and his professional staff and counsel have worked patiently and diligently with us to address this issue.

The language included in Section 6055 of S. 1932 is a result of this close collaboration and cooperation. I want to thank the gentleman from Texas, Mr. BARTON, the gentleman from Indiana, Mr. BURTON, who has been an ally and leader on this issue, and the leadership of the budget committees, for their work on this provision.

In the case of Guam, the adjustment made to the ceiling by this bill will bring the Federal Government, closer to meeting the actual amount of recent annual Medicaid costs. This is especially the case when factoring in Federal grants received under mandatory appropriations made for annual Compact-impact assistance. Guam currently receives $14.2 million every year from the Department of the Interior to defray costs incurred as a result of increased demands placed on health and social services due to the residence in Guam of citizens of the Freely Associated States. This funding was authorized by the Compact of Free Association Amendments Act of 2003 (Public Law 108–188).

However, despite the adjustments made to the ceilings set under Section 1108 of the Social Security Act by this bill, a significant and outstanding issue remains with respect to the application of the Medicaid program in Guam and the other U.S. territories. The Federal Medicaid matching rate, which determines the share of Medicaid expenditures paid for by the Federal Government, is statutorily set at 50 percent for the territories (42 U.S.C. 1396d(b)(2)). However, a formula is used to determine the matching rate for the States. If qualified for the formula the territories would receive rates as high as 77 percent. I hope that at some point in the future the rate for the territories could be set by the same formula as used for the states or at minimum adjusted to be on par with the rate statutorily set for the District of Columbia.

With the increase in Medicaid payment authorization provided by this legislation, the territories can more effectively address health care needs within the fiscal constraints of the Medicaid program. As has been stated, the Medicaid program in the territories is significantly different from the program in the states, and these differences present unique challenges to the territorial governments.

I thank the conferees for their attention to and acceptance of this important provision for the territories. This adjustment to Federal funding for Medicaid in the territories will have a significant impact in helping to address health care disparities between the states and the territories. I look forward to continuing to work with my colleagues from the territories.

and the leadership of both chambers, to effectively address and eliminate disparities in federal health care financing between the states and the territories.

Mr. GOODLATTE. Mr. Speaker, I rise in support of the conference report for the Deficit Reduction Act of 2005.

Several months ago, when the Committee on Agriculture was given instructions to find savings within the programs under our jurisdiction, we took the task seriously and reported to the Budget Committee a total package that exceeded our original instructions. We did so without the support of our colleagues from across the aisle and found ourselves in a similar situation when the Deficit Reduction Act was brought to the House Floor several weeks ago.

Our efforts to try to gain control of mandatory spending have been politicized and demonized by Members of the other party who claimed that this was the wrong time and the wrong way to rein in mandatory spending. If not now, then when? If we continue to stand by and play the passive observer role, in 10 years mandatory will grow to consume 62 percent of the federal budget. I will also note that throughout this process, we have yet to see a comprehensive proposal from the minority. This bill will not solve all of our problems and it isn't a magic solution, but it is a step in the right direction. It is unrealistic to think we can meet the pressing challenges facing our Nation without reducing federal spending and redirecting priorities.

Additional costs associated with recent disasters further necessitate the need for budget reform. The Agriculture Committee has worked with our counterparts in the Senate to come up with a compromise that contributes to the deficit reduction while maintaining the interests of American agriculture. Our producers rely on our domestic agriculture policy. The 2002 Farm Bill, provided our producers with a foundation they could base their decisions on through 2007, which is when we will re-examine the Farm Bill for reauthorization. It would be irresponsible to rip the rug out from our producers midway through the Farm Bill and I am pleased that this legislation keeps the policies of the 2002 Farm Bill intact.

Mr. Speaker, it is not easy to limit or reduce funding for any program, but it is imperative that instead of cowering away from the problem, we take a stand and vote yes to reducing the deficit and vote yes to responsible spending.

Ms. SCHAKOWSKY. Mr. Speaker, I want to raise my concerns about the Medicaid provisions in the House-passed budget reconciliation bill and, in particular, the provision that imposes new documentation requirements on individuals and on states.

There are many, many problems with the Medicaid bill. It would shift costs and take away benefits from those who need assistance the most: children, pregnant women, people with disabilities and frail senior citizens. The House-passed bill would do real harm—30 million Americans could face higher cost-sharing, 2 million children could lose coverage altogether, and 26 million individuals could lose benefits according to an analysis by the American Progress Action Fund.

One of the most disturbing provisions in the bill—Section 3145—would impose strict new documentation requirements on Medicaid applicants. Instead of allowing self-declaration of citizenship—as 47 states do today—applicants have to show documentation of citizenship status—such as a birth certificate or a passport. The authors are Section 3145 are apparently concerned that some ineligible immigrant pregnant woman, children or seniors—will slip through the cracks and get health care. Out of that unjustified and undocumented concern, they have created a provision that will actually penalize citizens and state Medicaid programs.

First, there is no reason for Section 3145. It is a measure that seeks to address an illusory problem. Eligible immigrants already have to provide proof of their legal status when they apply for Medicaid, and states take steps to verify that status. Current law is working.

The Office of the Inspector General (OIG) looked at this issue and reported last July that they found no substantial evidence that immigrants are falsely claiming citizenship to qualify for Medicaid. OIG did not recommend eliminating the opportunity for self-declarations. The Centers for Medicare and Medicaid Services has found no evidence that there is a problem and state Medicaid administrators have "not seen a problem with self-declaration of citizenship" based on the results of their quality control review systems.

Second, Section 3145 would have a disastrous effect by erecting Medicaid barriers for U.S. citizens. These new requirements will mean that those who have no money to obtain these documents or no time to wait for care will be unable to receive medical services. The Center on Budget and Policy Priorities has concluded that the "bulk" of the $735 million, 10-year savings from Section 3145 would come from reducing or delaying enrollment for U.S. citizens.

Many citizens—particularly low-income citizens—do not have birth certificates in their possession and do not have passports. And getting those documents is neither easy nor cheap. Getting a birth certificate can take weeks and cost up to $23. People born at home may not even have a birth certificate—a particular problem for people in some rural areas and elderly African Americans. According to information reported in Population Studies, as many as one-fifth of African Americans born around 1940 don't have a birth certificate. Getting a passport is even more expensive and takes even longer. Passports cost about $90. Just think about how these provisions will affect older women, living alone, possibly cognitively-impaired.

Third, at a time when we are cutting federal Medicaid funds and states are struggling to pay their share of Medicaid costs, Section 3145 would impose a brand new and costly administrative burden on them. The OIG surveyed state Medicaid directors who allow self-declaration. Twenty-five said that they were encouraged by the Centers for Medicare and Medicaid Services to simplify their application processes in order to reduce barriers to health care access. 28 said the requirement for documentations would delay eligibility determinations, twenty-five said it would increase personnel costs, and 21 said it would be burdensome and expensive for applicants.

This provision is not necessary but it is dangerous. It should be rejected.

Mr. BLUMENAUER. Mr. Speaker, There's a lot of talk about "savings" associated with this budget reconciliation, but let's be honest with ourselves and our children. This Congress continues to add to our $8 trillion national debt. Nothing is being done here that is making any serious attempt to balance the national budget. Any reduction to our budget deficit will be more than offset by the tax cuts that Congress is still negotiating.

What makes matters worse are the programs being targeted to pay for these tax cuts. Republican leadership is cutting federal child-support enforcement aid, reducing states' capacity to help families make sure that children get the financial support they are owed. Student loans are the subject of some of the largest cuts, $16 billion over 5 years.

This budget cuts programs that help protect the financial well-being of our children and grandchildren; cuts that help them cope with an increasingly expensive education. Even worse, this budget will then add to the national debt that these future generations will have to payoff.

It is a sad day for this country and a poor reflection on this Congress when our children will inherit a worse world because of what we do here today. This situation is a result of the Republican leadership's inability to legislate. Honest debate, open dialogue and legislating would not create bills so detrimental to society. This is the shameful outcome of back room negotiating and ideological policy making.

Ms. MATSUI. Mr. Speaker, today we begin to debate this budget package and attempt to wrap up legislative business for the year. As we do so, many members find themselves thinking about going home to be with their families.

For me, I look forward to spending time with my family and particularly my 2-year-old granddaughter Anna. As many of my colleagues already know, Anna is the driving force behind my work in Congress—I want to make sure that we create policy that is best for Anna and those in her generation who do not have a say in what we are doing here today.

Therefore, I favor reducing the deficit. Anna and her generation should not have to bear the burden of the debt this Congress has created. But Congress must reduce the deficit in a responsible manner that results in a shared sacrifice.

Unfortunately, H.R. 4241 fails to do this. It disproportionately places the burden of these cuts on a few. And it also imposes cuts on key programs including Medicaid, child support enforcement and student loans.

When I consider how these cuts will impact my constituents and their families back in Sacramento—not to mention Anna and her friends—it is clear this is not a conscientious way to cut spending.

For example, one of the critical programs cut in this bill are student loans. By doing so we are placing greater financial stress on students who are already spread thin.

Recently I met with a group of students from Sacramento State, who reiterated this point to me. Each one of them stressed the importance of student loans in financing their education.

We need to be investing in the future to compete in the global marketplace. But, by cutting these loan programs we are undercutting America's ability to compete.

This is only one example of the impact of these cold-hearted spending cuts. Spending cuts necessary to finance the tax breaks in this budget package.

We need to restore fiscal responsibility in a way that makes sense—in a way that aligns with the priorities of the American people. But the draconian cuts in this bill will not accomplish that. If you showed the American people the tradeoffs in this budget, they would tell Congress to go back to the drawing board and get it right. They would urge us to fund vital programs before cutting taxes for the fifth time in five years.

Why rush through legislation that could have tremendous repercussions on so many in this Nation? Instead, I would urge my colleagues to vote down this bill—take this holiday season to reflect on our Nation's true priorities and needs. Let's start fresh next year and figure out a way to protect future generations without impeding this government's ability to help those that need it the most.

Mrs. MALONEY. Mr. Speaker, this administration, in concert with this Congress under this leadership, has given us five years of record debt and deficits. It seems that with each new month comes a new dubious record—just last week we learned that the trade deficit for October hit another all-time high.

This reckless fiscal policy has come on the heels of the thriving economy of the 1990s, when we showed that government can be fiscally disciplined and compassionate to our neighbors most in need at the same time.

That time and that economic philosophy is a distant memory, having given way to misguided priorities. Now, instead of fundamentally changing the economic approach that turned record surpluses into record deficits and that has floated us down a river of red ink, we have the bill that is before us. It gives no real help to our debt and deficits, and it targets programs that need help the most.

By cutting less than one half of one percent of the projected $14.3 trillion in federal spending over the next five years, we are not returning to fiscal sanity, as supporters of this bill claim.

And despite what some on the other side of the aisle might think, slashing programs that help low-income Americans and our seniors stay healthy and help our young go to college is not sound policy. A $12.7 billion cut to student loans will not help educate Americans. A $6.9 billion cut in Medicaid and the State Children's Health Insurance Program will not keep low-income Americans healthy. And a $6.4 billion cut in Medicare is not beneficial to the well-being of our nation's seniors.

Instead, this bill shows a lack of compassion and a lack of vision for the long-term health and productivity of our Nation. It would be more beneficial if we returned to the sound, balanced-budget vision that guided us through the prosperous '90s.

I urge my colleagues to vote "no" on this uncompassionate bill and to instead focus on a revision of our economic direction.

Mr. VAN HOLLEN. Mr. Speaker, unfortunately for the American people, this reconciliation spending conference report arrives back in this Chamber substantially unimproved from its original form.

Notwithstanding modest revisions in areas like food stamps, low income heating assistance and physician reimbursement under Medicare, this package represents a warped vision for America: take from those with the least, give to those with the most and tell our children they will have to pay for it all later.

It would be a disgraceful document at any time of the year, but seems particularly Scrooge-like during this Holiday season.

Take Medicaid and the State Children's Health Insurance Program (SCHIP), which this conference report slashes by $6.9 billion. The cost-sharing and premium increases mandated by this legislation fall entirely on the poor—who have no other way to access basic health care for themselves and their families.

Or the $2.6 billion in cuts for child support enforcement, foster care and Supplemental Security Income (SSI), designed to assist single parents, foster children and the disabled. Setting aside the immorality of deliberately targeting the most vulnerable among us, child support enforcement dollars actually save the government money through reduced public assistance costs.

Then there's higher education, whose $12.7 billion cut accounts for about a third of this $39.7 billion conference agreement. Though $1.6 billion less than the House's original draconian proposal, $12.7 billion remains the single largest cut to student aid in the forty year history of the Higher Education Act. The resulting increase in interest rates, fees and other charges represents an unprecedented disinvestment in our students and their families—at precisely the time our young people are going to need that education the most.

We already know that college graduates earn $1 million more over their lifetimes than their cohorts who do not attend college, which gives taxpayers a tremendous return on their federal financial aid investment. Additionally, over the course of this past year scores of CEOs from across the country have repeatedly told this Congress that a highly educated workforce is a critical prerequisite for maintaining America's competitive advantage in the knowledge, information and innovation economy of 21st century.

Given these realities, it is the height of penny wise, pound foolish bean-counting to put college even further out of reach for the generation of Americans who will have to face these challenges. Yet that's precisely what this conference report does.

Mr. Speaker, while I commend the conferees for embracing substantial reforms I have long advocated regarding the need to end 9.5 percent guaranteed floor loans and strengthen oversight of schools acting as lenders, this progress does not begin to redeem the damage done by the rest of the legislation.

The $40 billion in spending cuts tonight's proponents take such pride in pronouncing are in fact dwarfed by $110 billion in tax cuts this same Congress proposes to enact this year—tax cuts whose benefits flow disproportionately to the wealthiest in our society.

That's right: When all is said and done, the so-called Deficit Reduction Act of 2005 and its accompanying tax legislation will actually increase the deficit by at least $70 billion over the next five years.

Mr. Speaker, this fiscal policy is irresponsible and it is unjust. I urge my colleagues to vote no.

Mrs. MALONEY. Mr. Speaker, I rise in support of the deposit insurance provisions of this legislation which implement reforms that are long overdue and that I have worked on for a long time. I strongly support the Safe and Fair Deposit Insurance Act of 2005, which provides for establishment of the Deposit Insurance Fund and for the merger of the Bank Insurance Fund and the Savings Association Insurance Fund into it. I also support the Deposit Insurance Reform Act of 2005, which revises requirements for deposit insurance.

Unless this bill passes before year end, community and regional bankers could face higher deposit insurance premiums, taking capital out of communities and sending it to Washington.

Congress has been considering major reforms to the nation's federal deposit insurance system for several years. From the time I joined this Committee at the close of the S&L crisis, I have been committed to legislation and oversight of the banking system, including deposit insurance reform, that ensures we will not repeat that crisis.

Just this year the House voted 413–10 to pass deposit insurance reform as a stand-alone bill, H.R. 1185. As an original cosponsor of H.R. 1185, as well as its predecessor in the 108th Congress, I am a long-time supporter of this reform bill.

It is long past time to merge the insurance funds. Additionally, eliminating the 23 basis point cliff and providing a new premium system that takes into account the past contributions of institutions are major steps forward. The mechanism for determining credit for past contributions is based on an amendment I cosponsored with former Rep. Bereuter last Congress. This provision is critically important as premiums banks pay to the FDIC limit their ability to make loans in the communities they serve. This balanced amendment is now part of the legislation.

In the House bill there was debate over what number should be the new limit of insured funds. The budget reconciliation conferees crafted a compromise that will provide safety and stability to our nation's financial system by giving the FDIC increased flexibility to administer deposit insurance. It will also benefit consumers by raising coverage levels for certain retirement accounts and adjust coverage for inflation.

For over 70 years our constituents—both banks and accountholders—have depended on the deposit insurance system to protect their savings and maintain the safety and soundness of the banking system. We should pass this legislation to ensure the future of deposit insurance and our banks.

Ms. MCCOLLUM of Minnesota. Mr. Speaker, I rise in strong opposition to the Republican's so-called budget reconciliation plan. This bill cuts vital services to families to provide tax cuts for the most fortunate. At the same time that the majority adds to our Nation's exploding Federal budget deficit.

The conference committee unfortunately failed to alleviate the draconian cuts in the original House version of this bill. The conference report before us slashes Medicaid, reducing access to health care for children and families, the elderly, and persons with disabilities. It continues the Republican plan to balance the budget on the backs of students by including $13 billion in cuts to student financial aid: The bill increases costs for local government and decreases services for families by cutting funding for child support enforcement, foster care, and other child welfare programs.

Conferees also chose to disregard the common-sense cost saving measures passed in the Senate bill. The bill before us does not include the elimination of the PPO slush fund which is a $10 million giveaway to the insurance and drug industry. Republicans have once again chosen to prioritize corporations over families.

Mr. Speaker, this bill is an outrage. It is outrageous that Republicans dare to claim fiscal responsibility while preparing to pass $60 billion in tax breaks for the wealthy. It is outrageous that to pay for these giveaways to their wealthy friends, American families will lose access to health care, critical services, and an affordable college education. And it is outrageous that the leadership of this House is passing this shameful bill in the early hours of the morning while the American public is sleeping.

This reckless bill should be defeated and urge my colleagues to join me in voting against it.

Mr. NUSSLE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SPRATT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on adoption of the conference report will be followed by a 5-minute vote on the motion to suspend the rules and agree to H. Con. Res. 275.

The vote was taken by electronic device, and there were—yeas 212, nays 206, not voting 16, as follows:

[Roll No. 670]

YEAS—212

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Jenkins
Jindal
Johnson (CT)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kuhl (NY)
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Moran (KS)
Murphy
Musgrave
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—206

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Buyer
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOT VOTING—16

Baca
Davis, Jo Ann
Emanuel
Gutierrez
Harman
Hostettler
Hyde
Istook
Johnson, Sam
Jones (NC)
Kolbe
Miller, Gary
Myrick
Radanovich
Reyes
Roybal-Allard

☐ 0607

Mr. AL GREEN of Texas changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS REGARDING EDUCATION CURRICULUM IN SAUDI ARABIA

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 275.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 275, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 351, nays 1, answered "present" 2, not voting 79, as follows:

[Roll No. 671]

YEAS—351

Aderholt
Akin
Alexander
Allen
Andrews
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boehlert
Boehner

Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Butterfield
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Carnahan
Carson
Case
Castle
Chabot
Chandler
Clay
Cleaver
Clyburn
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Dicks
Dingell
Doggett
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Foley
Ford
Fortenberry
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hobson
Holden
Holt
Honda
Hooley
Hoyer
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McDermott
McGovern
McHenry
McIntyre
McMorris
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy
Musgrave
Nadler
Napolitano
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Olver
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Pickering
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Putnam
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

ANSWERED "PRESENT"—2

Abercrombie
Taylor (NC)

NOT VOTING—79

Ackerman
Baca
Baker
Barton (TX)
Blunt
Bonilla
Brady (TX)
Brown (OH)
Burton (IN)
Buyer
Calvert
Cardin
Cardoza
Carter
Chocola
Coble
Crowley
Davis, Jo Ann
Delahunt
Diaz-Balart, L.
Diaz-Balart, M.
Doyle
Emanuel
Everett
Flake
Forbes
Fossella
Granger
Graves
Gutierrez
Hall
Harman
Hayes
Hinojosa
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Kolbe
Larson (CT)
LaTourette
Leach
Lewis (CA)
Lynch
McCrery
McHugh
McKeon
McKinney
McNulty
Miller (FL)
Miller, Gary
Moran (KS)
Murtha
Myrick
Neal (MA)
Obey
Ortiz
Pearce
Peterson (PA)
Petri
Pitts
Pryce (OH)
Radanovich
Rangel
Reyes
Rohrabacher
Roybal-Allard
Ryan (WI)
Sherwood
Slaughter
Thornberry
Velázquez
Waters

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

☐ 0614

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unavoidably detained and missed rollcall votes Nos. 664 and 671. Had I been present, I would have voted "aye."

H.R. 2520, on Passage, rollcall No. 664, "aye."

H. Con. Res. 275, rollcall No. 671, "aye.'

THANKS TO THE STAFF

(Mr. NUSSLE asked and was given permission to address the House for 1 minute.)

Mr. NUSSLE. Mr. Speaker, I want to first thank all of the staff that worked so hard to bring us to this point in time and the leadership on the Budget Committee, and I would like to pay a special thanks to the floor staff and the official reporters and the clerk staff and everyone who stuck around with us on this very late day and night and into the morning. The sacrifices that everyone makes for us we really do deeply appreciate, and we give you our heartiest thanks and best wishes these holidays.

GENERAL LEAVE

Mr. NUSSLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1932, the Deficit Reduction Act of 2005 just passed.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Iowa?

There was no objection.

JUNIOR DUCK STAMP REAUTHORIZATION AMENDMENTS ACT OF 2005

Mr. POMBO. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the bill (H.R. 3179) to reauthorize and amend the Junior Duck Stamp Conservation and Design Program Act of 1994, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Junior Duck Stamp Reauthorization Amendments Act of 2005".

SEC. 2. USE OF PROCEEDS FROM LICENSING AND MARKETING OF JUNIOR DUCK STAMPS AND JUNIOR DUCK STAMP DESIGNS.

Section 3(c) of the Junior Duck Stamp Conservation and Design Program Act of 1994 (16 U.S.C. 719a(c)) is amended to read as follows:

"(c) USE OF PROCEEDS.—Amounts received under subsection (b)—

"(1) shall be available to the Secretary until expended, without further appropriations, solely for—

"(A) awards, prizes, and scholarships to individuals who submit designs in competitions under subsection (a), that are—

"(i) selected in such a competition as winning designs; or

"(ii) otherwise determined in such a competition to be superior;

"(B) awards and prizes to schools, students, teachers, and other participants to further education activities related to the conservation education goals of the Program;

"(C) award ceremonies for winners of national and State Junior Duck Stamp competitions;

"(D) travel expenses for winners of national and State Junior Duck Stamp competitions to award ceremonies, if—

"(i) the event is intended to honor students for winning a national competition; or

"(ii) the event is intended to honor students for winning a State competition;

"(E) expenses for licensing and marketing under subsection (b);

"(F) expenses for migratory bird reference materials or supplies awarded to schools that participate in the Program; and

"(G) expenses for marketing and educational materials developed to promote the Program;".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 6 of the Junior Duck Stamp Conservation and Design Program Act of 1994 (16 U.S.C. 719c) is amended—

(1) by striking "$250,000" and inserting "$350,000";

(2) by striking "fiscal years 2001 through 2005" and inserting "fiscal years 2006 through 2010";

(3) by inserting "(a) AUTHORIZATION.—" before the first sentence; and

(4) by adding at the end the following:

"(b) LIMITATIONS ON USE FOR DISTRIBUTION TO STATE AND REGIONAL COORDINATORS TO IMPLEMENT COMPETITIONS.—Of the amount appropriated under this section for a fiscal year—

"(1) not more than $100,000 may be used by the Secretary to administer the Program; and

"(2) not more than $250,000 may be distributed to State and regional coordinators to implement competitions under the Program.".

SEC. 4. REPEAL.

The second section 6 of the Junior Duck Stamp Conservation and Design Program Act of 1994 (16 U.S.C. 668dd note), relating to an environmental education center and refuge headquarters, is repealed.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING CERTAIN REPAYMENT CONTRACTS

Mr. POMBO. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the bill (H.R. 4000) to authorize the Secretary of the Interior to revise certain repayment contracts with the Bostwick Irrigation District in Nebraska, the Kansas Bostwick Irrigation District No. 2, the Frenchman-Cambridge Irrigation District, and the Webster Irrigation District No. 4, all a part of the Pick-Sloan Missouri Basin Program, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOSTWICK IRRIGATION DISTRICT IN NEBRASKA; REPAYMENTS EQUALIZED AND RESERVE FUNDS CONTRIBUTIONS EXTENDED.

The Secretary of the Interior may revise the repayment contract with the Bostwick Irrigation District in Nebraska numbered 009D6B0121 and all amendatory contracts thereto, by equalizing the annual total repayment obligation under the contracts for the distribution works construction charge and the water supply repayment obligation for the remaining years of the contract relying upon the annual water supply repayment obligation as of the date of the enactment of this Act as the base for equalizing the annual total payments and by extending the date for adjusting the annual deposits into the distribution works reserve fund and the district water supply reserve fund for an additional 10 years.

SEC. 2. KANSAS BOSTWICK IRRIGATION DISTRICT NO. 2; REPAYMENTS EQUALIZED AND RESERVE FUNDS CONTRIBUTIONS EXTENDED.

The Secretary of the Interior may revise the repayment contract with the Kansas Bostwick Irrigation District No. 2 numbered 009D6B0120 and all amendatory contracts thereto, by equalizing the annual total repayment obligation under the contracts for the distribution works construction charge and the water supply repayment obligation for the remaining years of the contract relying upon the annual water supply repayment obligation as of the date of the enactment of this Act as the base for equalizing the annual total payments and by extending the date for adjusting the annual deposits into the distribution works reserve fund and the district water supply reserve fund for an additional 10 years.

SEC. 3. FRENCHMAN-CAMBRIDGE IRRIGATION DISTRICT; REPAYMENTS EQUALIZED AND RESERVE FUNDS CONTRIBUTIONS EXTENDED.

The Secretary of the Interior may revise the repayment contract with the Frenchman-Cambridge Irrigation District numbered 009D6B0122 and all amendatory contracts thereto, by equalizing the annual total repayment obligation under the contracts for the distribution works construction charge and the water supply repayment obligation for the remaining years of the contract relying upon the annual water supply repayment obligation as of the date of the enactment of this Act as the base for equalizing the annual total payments and by extending the date for adjusting the annual deposits into the distribution works reserve fund and the district water supply reserve fund for an additional 10 years.

SEC. 4. WEBSTER IRRIGATION DISTRICT; REPAYMENTS EQUALIZED AND RESERVE FUNDS CONTRIBUTIONS EXTENDED.

The Secretary of the Interior may revise the repayment contract with the Webster Irrigation District numbered 039D6B0002 and all amendatory contracts thereto, by equalizing the annual total repayment obligation under the contracts for the distribution works construction charge and the water supply repayment obligation for the remaining years of the contract relying upon the annual water supply repayment obligation as of the date of the enactment of this Act as the base for equalizing the annual total payments and by extending the date for adjusting the annual deposits into the distribution works reserve fund and the district water supply reserve fund for an additional 10 years.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FEDERAL DEPOSIT INSURANCE REFORM CONFORMING AMENDMENTS ACT OF 2005

Mr. POMBO. Mr. Speaker, I ask unanimous consent that the Committee on Financial Services be discharged from further consideration of the bill (H.R. 4636) to enact the technical and conforming amendments necessary to implement the Federal Deposit Insurance Reform Act of 2005, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. FRANK of Massachusetts. Reserving the right to object, Mr. Speaker, we have before us a very well-done bill, and what is before us is good and useful and constructive.

I do have to call attention, however, to a glaring omission caused by the Senate. When our committee considered this measure to merge the insurance funds, the gentlewoman from California (Ms. WATERS) offered a proposal to establish what we call lifeline banking, a provision to extend to very low-income people the ability to get into the banking system at no cost to themselves, lessening the likelihood that they would go to payday lenders or check-cashing institutions to send excessively expensive money orders.

And we worked this out and there were discussions with the representatives of the bankers, and we arrived at a satisfactory means of paying for it. It is not a very expensive proposal, and it would have done significant social good.

Unfortunately, the Senate simply refused to consider it. The Senate procedure on a number of the bills we have sent over has been arbitrary and the result has been unfortunate. What is left, it is still a good bill and worth passing; but I did want to call attention to this just to say to some who do not understand this, there are many of us prepared to work constructively with the financial community and the business community to help advance their ability to serve the economy. When they insist that we do that, without paying some attention to the needs of the lowest-income people in this society, they make a great mistake. They are making that mistake here; there is nothing that we can correct.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4636

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Deposit Insurance Reform Conforming Amendments Act of 2005".

SEC. 2. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Technical and Conforming Amendments Relating to Government Deposits.—Section 11(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by moving the margins of clauses (i) through (v) 4 ems to the right;

(B) by striking, in the matter following clause (v), "such depositor shall" and all that follows through the period; and

(C) by striking the semicolon at the end of clause (v) and inserting a period;

(2) by striking "(2)(A) Notwithstanding" and all that follows through "a depositor who is—" and inserting the following:

"(2) Government depositors.—

"(A) In general.—Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available to any 1 depositor—

"(i) a government depositor shall, for the purpose of determining the amount of insured deposits under this subsection, be deemed to be a depositor separate and distinct from any other officer, employee, or agent of the United States or any public unit referred to in subparagraph (B); and

"(ii) except as provided in subparagraph (C), the deposits of a government depositor shall be insured in an amount equal to the standard maximum deposit insurance amount (as determined under paragraph (1)).

"(B) Government depositor.—In this paragraph, the term 'government depositor' means a depositor that is—";

(3) by striking "(B) The" and inserting the following:

"(C) Authority to limit deposits.—The"; and

(4) by striking "depositor referred to in subparagraph (A) of this paragraph" each place such term appears and inserting "government depositor".

(b) Technical and Conforming Amendment Relating to Insurance of Trust Funds.—Paragraphs (1) and (3) of section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) are each amended by striking "$100,000" and inserting "the standard maximum deposit insurance amount (as determined under section 11(a)(1))".

(c) Other Technical and Conforming Amendments.—

(1) Section 11(m)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(m)(6)) is amended by striking "$100,000" and inserting "an amount equal to the standard maximum deposit insurance amount".

(2) Subsection (a) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)) is amended to read as follows:

"(a) Insurance Logo.—

"(1) Insured depository institutions.—

"(A) In general.—Each insured depository institution shall display at each place of business maintained by that institution a sign or signs relating to the insurance of the deposits of the institution, in accordance with regulations to be prescribed by the Corporation.

"(B) Statement to be included.—Each sign required under subparagraph (A) shall include a statement that insured deposits are backed by the full faith and credit of the United States Government.

"(2) Regulations.—The Corporation shall prescribe regulations to carry out this subsection, including regulations governing the substance of signs required by paragraph (1) and the manner of display or use of such signs.

"(3) Penalties.—For each day that an insured depository institution continues to violate this subsection or any regulation issued under this subsection, it shall be subject to a penalty of not more than $100, which the Corporation may recover for its use.".

(3) Section 43(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(d)) is amended by striking "$100,000" and inserting "an amount equal to the standard maximum deposit insurance amount".

(4) Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104) is amended—

(A) by striking "$100,000" each place such term appears and inserting "an amount equal to the standard maximum deposit insurance amount"; and

(B) by adding at the end the following new subsection:

"(e) Standard Maximum Deposit Insurance Amount Defined.—For purposes of this section, the term 'standard maximum deposit insurance amount' means the amount of the maximum amount of deposit insurance as determined under section 11(a)(1) of the Federal Deposit Insurance Act.".

(d) Conforming Change to Credit Union Share Insurance Fund.—

(1) In general.—Section 207(k) of the Federal Credit Union Act (12 U.S.C. 1787(k)) is amended—

(A) by striking "(k)(1)" and all that follows through the end of paragraph (1) and inserting the following:

"(k) Insured Amounts Payable.—

"(1) Net insured amount.—

"(A) In general.—Subject to the provisions of paragraph (2), the net amount of share insurance payable to any member at an insured credit union shall not exceed the total amount of the shares or deposits in the name of the member (after deducting offsets), less any part thereof which is in excess of the standard maximum share insurance amount, as determined in accordance with this paragraph and paragraphs (5) and (6), and consistently with actions taken by the Federal Deposit Insurance Corporation under section 11(a) of the Federal Deposit Insurance Act.

"(B) Aggregation.—Determination of the net amount of share insurance under subparagraph (A), shall be in accordance with such regulations as the Board may prescribe, and, in determining the amount payable to any member, there shall be added together all accounts in the credit union maintained by that member for that member's own benefit, either in the member's own name or in the names of others.

"(C) Authority to define the extent of coverage.—The Board may define, with such classifications and exceptions as it may prescribe, the extent of the share insurance coverage provided for member accounts, including member accounts in the name of a minor, in trust, or in joint tenancy.";

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) in clauses (i) through (v), by moving the margins 4 ems to the right;

(II) in the matter following clause (v), by striking "his account" and all that follows through the period; and

(III) by striking the semicolon at the end of clause (v) and inserting a period;

(ii) by striking "(2)(A) Notwithstanding" and all that follows through "a depositor or member who is—" and inserting the following:

"(2) Government depositors or members.—

"(A) In general.—Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of insurance available to any 1 depositor or member, deposits or shares of a government depositor or member shall be insured in an amount equal to the standard maximum share insurance amount (as determined under paragraph (5)), subject to subparagraph (C).

"(B) Government depositor.—In this paragraph, the term 'government depositor' means a depositor that is—";

(iii) by striking "(B) The" and inserting the following:

"(C) Authority to limit deposits.—The"; and

(iv) by striking "depositor or member referred to in subparagraph (A)" and inserting "government depositor or member"; and

(C) by adding at the end the following new paragraphs:

"(4) Coverage for certain employee benefit plan deposits.—

"(A) Pass-through insurance.—The Administration shall provide pass-through share insurance for the deposits or shares of any employee benefit plan.

"(B) Prohibition on acceptance of deposits.—An insured credit union that is not well capitalized or adequately capitalized may not accept employee benefit plan deposits.

"(C) Definitions.—For purposes of this paragraph, the following definitions shall apply:

"(i) Capital standards.—The terms 'well capitalized' and 'adequately capitalized' have the same meanings as in section 216(c).

"(ii) Employee benefit plan.—The term 'employee benefit plan'—

"(I) has the meaning given to such term in section 3(3) of the Employee Retirement Income Security Act of 1974;

"(II) includes any plan described in section 401(d) of the Internal Revenue Code of 1986; and

"(III) includes any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(iii) Pass-through share insurance.—The term 'pass-through share insurance' means, with respect to an employee benefit plan, insurance coverage based on the interest of each participant, in accordance with regulations issued by the Administration.

"(D) Rule of construction.—No provision of this paragraph shall be construed as authorizing an insured credit union to accept the deposits of an employee benefit plan in an amount greater than such credit union is authorized to accept under any other provision of Federal or State law.

"(5) Standard maximum share insurance amount defined.—For purposes of this Act, the term 'standard maximum share insurance amount' means $100,000, adjusted as provided under section 11(a)(1)(F) of the Federal Deposit Insurance Act.".

(2) Increase in share insurance for certain retirement accounts.—Section 207(k)(3) of the Federal Credit Union Act (12 U.S.C. 1787(k)(3)) is amended by striking "$100,000" and inserting "'$250,000 (which amount shall be subject to inflation adjustments as provided under section 11(a)(1)(F) of the Federal Deposit Insurance Act, except that $250,000 shall be substituted for $100,000 wherever such term appears in such section)'".

(3) Other technical and conforming amendments.—Section 205(a) of the Federal Credit Union Act (12 U.S.C. 1785(a)) is amended to read as follows:

"(a) Insurance Logo.—

"(1) Insured credit unions.—

"(A) In general.—Each insured credit union shall display at each place of business maintained by that credit union a sign or signs relating to the insurance of the share accounts of the institution, in accordance with regulations to be prescribed by the Board.

"(B) STATEMENT TO BE INCLUDED.—Each sign required under subparagraph (A) shall include a statement that insured share accounts are backed by the full faith and credit of the United States Government.

"(2) REGULATIONS.—The Board shall prescribe regulations to carry out this subsection, including regulations governing the substance of signs required by paragraph (1) and the manner of display or use of such signs.

"(3) PENALTIES.—For each day that an insured credit union continues to violate this subsection or any regulation issued under this subsection, it shall be subject to a penalty of not more than $100, which the Board may recover for its use.".

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date on which the final regulations required under section 2109(a)(2) of the Federal Deposit Insurance Reform Act of 2005 take effect.

SEC. 3. CONFORMING AMENDMENTS RELATING TO ASSESSMENTS AND REPEAL OF SPECIAL RULES RELATING TO MINIMUM ASSESSMENTS AND FREE DEPOSIT INSURANCE.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended as follows:

(1) Paragraph (3) of section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by striking the 3d sentence and inserting the following: "Such reports of condition shall be the basis for the certified statements to be filed pursuant to subsection (c).".

(2) Subparagraphs (B)(ii) and (C) of section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) are each amended by striking "semiannual" where such term appears in each such subparagraph.

(3) Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(A) by striking subparagraphs (E), (F), and (G);

(B) in subparagraph (C), by striking "semiannual"; and

(C) by redesignating subparagraph (H) (as amended by subsection (e)(2) of this section) as subparagraph (E).

(4) Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by striking paragraph (4) and redesignating paragraphs (5) (as amended by subsection (b) of this section), (6), and (7) as paragraphs (4), (5), and (6) respectively.

(5) Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended—

(A) in paragraph (1)(A), by striking "semiannual";

(B) in paragraph (2)(A), by striking "semiannual"; and

(C) in paragraph (3), by striking "semiannual period" and inserting "initial assessment period".

(6) Section 8(p) of the Federal Deposit Insurance Act (12 U.S.C. 1818(p)) is amended by striking "semiannual".

(7) Section 8(q) of the Federal Deposit Insurance Act (12 U.S.C. 1818(q)) is amended by striking "semiannual period" and inserting "assessment period".

(8) Section 13(c)(4)(G)(ii)(II) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)(II)) is amended by striking "semiannual period" and inserting "assessment period".

(9) Section 232(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834(a)) is amended—

(A) in the matter preceding subparagraph (A) of paragraph (2), by striking "the Board and";

(B) in subparagraph (J) of paragraph (2), by striking "the Board" and inserting "the Corporation";

(C) by striking subparagraph (A) of paragraph (3) and inserting the following new subparagraph:

"(A) CORPORATION.—The term 'Corporation' means the Federal Deposit Insurance Corporation."; and

(D) in subparagraph (C) of paragraph (3), by striking "Board" and inserting "Corporation".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that the final regulations required under section 2109(a)(5) of the Federal Deposit Insurance Reform Act of 2005 take effect.

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO REPLACEMENT OF FIXED DESIGNATED RESERVE RATIO WITH RESERVE RANGE.

(a) IN GENERAL.—Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) is amended—

(1) by striking "(y) The term" and inserting

"(y) DEFINITIONS RELATING TO DEPOSIT INSURANCE FUND.—

"(1) DEPOSIT INSURANCE FUND.—The term"; and

(2) by inserting after paragraph (1) (as so designated by paragraph (1) of this subsection) the following new paragraph:

"(2) DESIGNATED RESERVE RATIO.—The term 'designated reserve ratio' means the reserve ratio designated by the Board of Directors in accordance with section 7(b)(3).".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that the final regulations required under section 2109(a)(1) of the Federal Deposit Insurance Reform Act of 2005 take effect.

SEC. 5. REPORT TO CONGRESS ON REFUNDS, DIVIDENDS, AND CREDITS FROM DEPOSIT INSURANCE FUND.

(a) SUBMISSION.—Any determination under section 7(e)(2)(E) of the Federal Deposit Insurance Act, as added by section 2107(a) of the Federal Deposit Insurance Reform Act of 2005, shall be submitted to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 270 days after making such determination.

(b) CONTENT.—The report submitted under subsection (a) shall include—

(1) a detailed explanation for the determination; and

(2) a discussion of the factors required to be considered under section 7(e)(2)(F) of the Federal Deposit Insurance Act, as added by section 2107(a) of the Federal Deposit Insurance Reform Act of 2005.

SEC. 6. STUDIES OF FDIC STRUCTURE AND EXPENSES AND CERTAIN ACTIVITIES AND FURTHER POSSIBLE CHANGES TO DEPOSIT INSURANCE SYSTEM.

(a) STUDY BY COMPTROLLER GENERAL.—

(1) STUDY REQUIRED.—The Comptroller General shall conduct a study of the following issues:

(A) The efficiency and effectiveness of the administration of the prompt corrective action program under section 38 of the Federal Deposit Insurance Act by the Federal banking agencies (as defined in section 3 of such Act), including the degree of effectiveness of such agencies in identifying troubled depository institutions and taking effective action with respect to such institutions, and the degree of accuracy of the risk assessments made by the Corporation.

(B) The appropriateness of the organizational structure of the Federal Deposit Insurance Corporation for the mission of the Corporation taking into account—

(i) the current size and complexity of the business of insured depository institutions (as such term is defined in section 3 of the Federal Deposit Insurance Act);

(ii) the extent to which the organizational structure contributes to or reduces operational inefficiencies that increase operational costs; and

(iii) the effectiveness of internal controls.

(2) REPORT TO THE CONGRESS.—The Comptroller General shall submit a report to the Congress before the end of the 1-year period beginning on the date of the enactment of this Act containing the findings and conclusions of the Comptroller General with respect to the study required under paragraph (1) together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

(b) STUDY OF FURTHER POSSIBLE CHANGES TO DEPOSIT INSURANCE SYSTEM.—

(1) STUDY REQUIRED.—The Board of Directors of the Federal Deposit Insurance Corporation and the National Credit Union Administration Board shall each conduct a study of the following:

(A) The feasibility of establishing a voluntary deposit insurance system for deposits in excess of the maximum amount of deposit insurance for any depositor and the potential benefits and the potential adverse consequences that may result from the establishment of any such system.

(B) The feasibility of increasing the limit on deposit insurance for deposits of municipalities and other units of general local government, and the potential benefits and the potential adverse consequences that may result from any such increase.

(C) The feasibility of privatizing all deposit insurance at insured depository institutions and insured credit unions.

(2) REPORT.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation and the National Credit Union Administration Board shall each submit a report to the Congress on the study required under paragraph (1) containing the findings and conclusions of the reporting agency together with such recommendations for legislative or administrative changes as the agency may determine to be appropriate.

(c) STUDY REGARDING APPROPRIATE DEPOSIT BASE IN DESIGNATING RESERVE RATIO.—

(1) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall conduct a study of the feasibility of using alternatives to estimated insured deposits in calculating the reserve ratio of the Deposit Insurance Fund and designating a reserve ratio for such Fund.

(2) REPORT.—The Federal Deposit Insurance Corporation shall submit a report to the Congress before the end of the 1-year period beginning on the date of the enactment of this Act containing the findings and conclusions of the Corporation with respect to the study required under paragraph (1) together with such recommendations for legislative or administrative action as the Board

of Directors of the Corporation may determine to be appropriate.

(d) STUDY OF RESERVE METHODOLOGY AND ACCOUNTING FOR LOSS.—

(1) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall conduct a study of the reserve methodology and loss accounting used by the Corporation during the period beginning on January 1, 1992, and ending December 31, 2004, with respect to insured depository institutions in a troubled condition (as defined in the regulations prescribed pursuant to section 32(f) of the Federal Deposit Insurance Act). The Corporation shall obtain comments on the design of the study from the Comptroller General.

(2) FACTORS TO BE INCLUDED.—In conducting the study pursuant to paragraph (1), the Federal Deposit Insurance Corporation shall—

(A) consider the overall effectiveness and accuracy of the methodology used by the Corporation for establishing and maintaining reserves and estimating and accounting for losses at insured depository institutions, during the period described in such paragraph;

(B) consider the appropriateness and reliability of information and criteria used by the Corporation in determining—

(i) whether an insured depository institution was in a troubled condition; and

(ii) the amount of any loss anticipated at such institution;

(C) analyze the actual historical loss experience over the period described in paragraph (1) and the causes of the exceptionally high rate of losses experienced by the Corporation in the final 3 years of that period; and

(D) rate the efforts of the Corporation to reduce losses in such 3-year period to minimally acceptable levels and to historical levels.

(3) REPORT REQUIRED.—The Board of Directors of the Federal Deposit Insurance Corporation shall submit a report to the Congress before the end of the 1-year period beginning on the date of the enactment of this Act, containing the findings and conclusions of the Corporation with respect to the study required under paragraph (1), together with such recommendations for legislative or administrative action as the Board of Directors may determine to be appropriate. Before submitting the report to Congress, the Board of Directors shall provide a draft of the report to the Comptroller General for comment.

(e) BASEL II STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the potential impact on the financial system of the United States of the implementation of the new Basel Capital Accord (Basel II) and the proposed revisions to current reserve requirement regulations for non-Basel II banks.

(2) FACTORS TO BE INCLUDED.—The report required under paragraph (1) shall address the following:

(A) The potential impact of Basel II on capital requirements in the United States, including—

(i) whether there would be a reduction in capital requirements;

(ii) whether Basel II could hinder enforcement of prompt corrective action laws and regulations; and

(iii) the potential implications any changes in capital requirements may have on the safety and soundness of the financial system in the United States.

(B) By gathering available information, the ability of United States banks and bank regulators to implement and comply with the provisions of Basel II, including—

(i) the costs of Basel II for financial institutions and regulators

(ii) the feasibility and appropriateness of Basel II's statistical models; and

(iii) the ability of regulators to oversee capital requirement operations of financial institutions.

(C) The ability of the United States financial institution regulatory agencies—

(i) to attract and retain sufficient expertise, both among specialists and examiners; and

(ii) to conduct the necessary oversight of capital and risk modeling by regulated financial institutions subject to Basel II.

SEC. 7. BI-ANNUAL FDIC SURVEY AND REPORT ON INCREASING THE DEPOSIT BASE BY ENCOURAGING USE OF DEPOSITORY INSTITUTIONS BY THE UNBANKED.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 49. BI-ANNUAL FDIC SURVEY AND REPORT ON ENCOURAGING USE OF DEPOSITORY INSTITUTIONS BY THE UNBANKED.

"(a) SURVEY REQUIRED.—

"(1) IN GENERAL.—The Corporation shall conduct a bi-annual survey on efforts by insured depository institutions to bring those individuals and families who have rarely, if ever, held a checking account, a savings account or other type of transaction or check cashing account at an insured depository institution (hereafter in this section referred to as the 'unbanked') into the conventional finance system.

"(2) FACTORS AND QUESTIONS TO CONSIDER.—In conducting the survey, the Corporation shall take the following factors and questions into account:

"(A) To what extent do insured depository institutions promote financial education and financial literacy outreach?

"(B) Which financial education efforts appear to be the most effective in bringing 'unbanked' individuals and families into the conventional finance system?

"(C) What efforts are insured institutions making at converting 'unbanked' money order, wire transfer, and international remittance customers into conventional account holders?

"(D) What cultural, language and identification issues as well as transaction costs appear to most prevent 'unbanked' individuals from establishing conventional accounts?

"(E) What is a fair estimate of the size and worth of the 'unbanked' market in the United States?

"(b) REPORTS.—The Chairperson of the Board of Directors shall submit a bi-annual report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the Corporation's findings and conclusions with respect to the survey conducted pursuant to subsection (a), together with such recommendations for legislative or administrative action as the Chairperson may determine to be appropriate.".

SEC. 8. TECHNICAL AND CONFORMING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT RELATING TO THE MERGER OF THE BIF AND SAIF.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 3 (12 U.S.C. 1813)—

(A) by striking subparagraph (B) of subsection (a)(1) and inserting the following new subparagraph:

"(B) includes any former savings association."; and

(B) by striking paragraph (1) of subsection (y) (as so designated by section 4(b) of this title) and inserting the following new paragraph:

"(1) DEPOSIT INSURANCE FUND.—The term 'Deposit Insurance Fund' means the Deposit Insurance Fund established under section 11(a)(4).";

(2) in section 5(b)(5) (12 U.S.C. 1815(b)(5)), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund,";

(3) in section 5(c)(4), by striking "deposit insurance fund" and inserting "Deposit Insurance Fund";

(4) in section 5(d) (12 U.S.C. 1815(d)), by striking paragraphs (2) and (3) (and any funds resulting from the application of such paragraph (2) prior to its repeal shall be deposited into the general fund of the Deposit Insurance Fund);

(5) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

(A) in subparagraph (A), by striking "reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund as required by section 7" and inserting "the reserve ratio of the Deposit Insurance Fund";

(B) by striking subparagraph (B) and inserting the following:

"(2) FEE CREDITED TO THE DEPOSIT INSURANCE FUND.—The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.";

(C) by striking "(1) **UNINSURED INSTITUTIONS**.—"; and

(D) by redesignating subparagraphs (A) and (C) as paragraphs (1) and (3), respectively, and moving the left margins 2 ems to the left;

(6) in section 5(e) (12 U.S.C. 1815(e))—

(A) in paragraph (5)(A), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(B) by striking paragraph (6); and

(C) by redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively;

(7) in section 6(5) (12 U.S.C. 1816(5)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(8) in section 7(b) (12 U.S.C. 1817(b))—

(A) in paragraph (1)(C), by striking "deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) in paragraph (1)(D), by striking "each deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(C) in paragraph (5) (as so redesignated by section 3(d)(4))—

(i) by striking "any such assessment" and inserting "any such assessment is necessary";

(ii) by striking subparagraph (B);

(iii) in subparagraph (A)—

(I) by striking "(A) is necessary—";

(II) by striking "Bank Insurance Fund members" and inserting "insured depository institutions"; and

(III) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and moving the margins 2 ems to the left; and

(iv) in subparagraph (C) (as so redesignated)—

(I) by inserting "that" before "the Corporation"; and

(II) by striking "; and" and inserting a period;

(9) in section 7(j)(7)(F) (12 U.S.C. 1817(j)(7)(F)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(10) in section 8(t)(2)(C) (12 U.S.C. 1818(t)(2)(C)), by striking "deposit insurance fund" and inserting "Deposit Insurance Fund";

(11) in section 11 (12 U.S.C. 1821)—

(A) by striking "deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) by striking paragraph (4) of subsection (a) and inserting the following new paragraph:

"(4) DEPOSIT INSURANCE FUND.—

"(A) ESTABLISHMENT.—There is established the Deposit Insurance Fund, which the Corporation shall—

"(i) maintain and administer;

"(ii) use to carry out its insurance purposes, in the manner provided by this subsection; and

"(iii) invest in accordance with section 13(a).

"(B) USES.—The Deposit Insurance Fund shall be available to the Corporation for use with respect to insured depository institutions the deposits of which are insured by the Deposit Insurance Fund.

"(C) LIMITATION ON USE.—Notwithstanding any provision of law other than section 13(c)(4)(G), the Deposit Insurance Fund shall not be used in any manner to benefit any shareholder or affiliate (other than an insured depository institution that receives assistance in accordance with the provisions of this Act) of—

"(i) any insured depository institution for which the Corporation has been appointed conservator or receiver, in connection with any type of resolution by the Corporation;

"(ii) any other insured depository institution in default or in danger of default, in connection with any type of resolution by the Corporation; or

"(iii) any insured depository institution, in connection with the provision of assistance under this section or section 13 with respect to such institution, except that this clause shall not prohibit any assistance to any insured depository institution that is not in default, or that is not in danger of default, that is acquiring (as defined in section 13(f)(8)(B)) another insured depository institution.

"(D) DEPOSITS.—All amounts assessed against insured depository institutions by the Corporation shall be deposited into the Deposit Insurance Fund.";

(C) by striking paragraphs (5), (6), and (7) of subsection (a); and

(D) by redesignating paragraph (8) of subsection (a) as paragraph (5);

(12) in section 11(f)(1) (12 U.S.C. 1821(f)(1)), by striking ", except that—" and all that follows through the end of the paragraph and inserting a period;

(13) in section 11(i)(3) (12 U.S.C. 1821(i)(3))—

(A) by striking subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (B); and

(C) in subparagraph (B) (as so redesignated), by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A)";

(14) in section 11(p)(2)(B) (12 U.S.C. 1821(p)(2)(B)), by striking "institution, any" and inserting "institution, the";

(15) in section 11A(a) (12 U.S.C. 1821a(a))—

(A) in paragraph (2), by striking "liabilities.—" and all that follows through "Except" and inserting "liabilities.—Except";

(B) by striking paragraph (2)(B); and

(C) in paragraph (3), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund";

(16) in section 11A(b) (12 U.S.C. 1821a(b)), by striking paragraph (4);

(17) in section 11A(f) (12 U.S.C. 1821a(f)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(18) in section 12(f)(4)(E)(iv) (12 U.S.C. 1822(f)(4)(E)(iv)), by striking "Federal deposit insurance funds" and inserting "the Deposit Insurance Fund (or any predecessor deposit insurance fund)";

(19) in section 13 (12 U.S.C. 1823)—

(A) by striking "deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) in subsection (a)(1), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund";

(C) in subsection (c)(4)(E)—

(i) in the subparagraph heading, by striking "funds" and inserting "fund"; and

(ii) in clause (i), by striking "any insurance fund" and inserting "the Deposit Insurance Fund";

(D) in subsection (c)(4)(G)(ii)—

(i) by striking "appropriate insurance fund" and inserting "Deposit Insurance Fund";

(ii) by striking "the members of the insurance fund (of which such institution is a member)" and inserting "insured depository institutions";

(iii) by striking "each member's" and inserting "each insured depository institution's"; and

(iv) by striking "the member's" each place that term appears and inserting "the institution's";

(E) in subsection (c), by striking paragraph (11);

(F) in subsection (h), by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(G) in subsection (k)(4)(B)(i), by striking "Savings Association Insurance Fund member" and inserting "savings association"; and

(H) in subsection (k)(5)(A), by striking "Savings Association Insurance Fund members" and inserting "savings associations";

(20) in section 14(a) (12 U.S.C. 1824(a)), in the 5th sentence—

(A) by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(B) by striking "each such fund" and inserting "the Deposit Insurance Fund";

(21) in section 14(b) (12 U.S.C. 1824(b)), by striking "Bank Insurance Fund or Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(22) in section 14(c) (12 U.S.C. 1824(c)), by striking paragraph (3);

(23) in section 14(d) (12 U.S.C. 1824(d))—

(A) by striking "Bank Insurance Fund member" each place that term appears and inserting "insured depository institution";

(B) by striking "Bank Insurance Fund members" each place that term appears and inserting "insured depository institutions";

(C) by striking "Bank Insurance Fund" each place that term appears (other than in connection with a reference to a term amended by subparagraph (A) or (B) of this paragraph) and inserting "Deposit Insurance Fund";

(D) by striking the subsection heading and inserting the following:

"(d) BORROWING FOR THE DEPOSIT INSURANCE FUND FROM INSURED DEPOSITORY INSTITUTIONS.—";

(E) in paragraph (3), in the paragraph heading, by striking "BIF" and inserting "THE DEPOSIT INSURANCE FUND"; and

(F) in paragraph (5), in the paragraph heading, by striking "BIF MEMBERS" and inserting "INSURED DEPOSITORY INSTITUTIONS";

(24) in section 14 (12 U.S.C. 1824), by adding at the end the following new subsection:

"(e) BORROWING FOR THE DEPOSIT INSURANCE FUND FROM FEDERAL HOME LOAN BANKS.—

"(1) IN GENERAL.—The Corporation may borrow from the Federal home loan banks, with the concurrence of the Federal Housing Finance Board, such funds as the Corporation considers necessary for the use of the Deposit Insurance Fund.

"(2) TERMS AND CONDITIONS.—Any loan from any Federal home loan bank under paragraph (1) to the Deposit Insurance Fund shall—

"(A) bear a rate of interest of not less than the current marginal cost of funds to that bank, taking into account the maturities involved;

"(B) be adequately secured, as determined by the Federal Housing Finance Board;

"(C) be a direct liability of the Deposit Insurance Fund; and

"(D) be subject to the limitations of section 15(c).";

(25) in section 15(c)(5) (12 U.S.C. 1825(c)(5))—

(A) by striking "the Bank Insurance Fund or Savings Association Insurance Fund, respectively" each place that term appears and inserting "the Deposit Insurance Fund"; and

(B) in subparagraph (B), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund, respectively" and inserting "the Deposit Insurance Fund";

(26) in section 17(a) (12 U.S.C. 1827(a))—

(A) in the subsection heading, by striking "BIF, SAIF," and inserting "THE DEPOSIT INSURANCE FUND"; and

(B) in paragraph (1)—

(i) by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place that term appears and inserting "the Deposit Insurance Fund"; and

(ii) in subparagraph (D), by striking "each insurance fund" and inserting "the Deposit Insurance Fund";

(27) in section 17(d) (12 U.S.C. 1827(d)), by striking ", the Bank Insurance Fund, the Savings Association Insurance Fund," each place that term appears and inserting "the Deposit Insurance Fund";

(28) in section 18(m)(3) (12 U.S.C. 1828(m)(3))—

(A) by striking "Savings Association Insurance Fund" in the 1st sentence of subparagraph (A) and inserting "Deposit Insurance Fund";

(B) by striking "Savings Association Insurance Fund member" in the last sentence of subparagraph (A) and inserting "savings association"; and

(C) by striking "Savings Association Insurance Fund or the Bank Insurance Fund" in subparagraph (C) and inserting "Deposit Insurance Fund";

(29) in section 18(o) (12 U.S.C. 1828(o)), by striking "deposit insurance funds" and "deposit insurance fund" each place those terms appear and inserting "Deposit Insurance Fund";

(30) in section 18(p) (12 U.S.C. 1828(p)), by striking "deposit insurance funds" and inserting "Deposit Insurance Fund";

(31) in section 24 (12 U.S.C. 1831a)—

(A) in subsections (a)(1) and (d)(1)(A), by striking "appropriate deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) in subsection (e)(2)(A), by striking "risk to" and all that follows through the period and inserting "risk to the Deposit Insurance Fund."; and

(C) in subsections (e)(2)(B)(ii) and (f)(6)(B), by striking "the insurance fund of which such bank is a member" each place that term appears and inserting "the Deposit Insurance Fund";

(32) in section 28 (12 U.S.C. 1831e), by striking "affected deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(33) by striking section 31 (12 U.S.C. 1831h);

(34) in section 36(i)(3) (12 U.S.C. 1831m(i)(3)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(35) in section 37(a)(1)(C) (12 U.S.C. 1831n(a)(1)(C)), by striking "insurance funds" and inserting "Deposit Insurance Fund";

(36) in section 38 (12 U.S.C. 1831o), by striking "the deposit insurance fund" each place that term appears and inserting "the Deposit Insurance Fund";

(37) in section 38(a) (12 U.S.C. 1831o(a)), in the subsection heading, by striking "FUNDS" and inserting "FUND";

(38) in section 38(k) (12 U.S.C. 1831o(k))—

(A) in paragraph (1), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(B) in paragraph (2), by striking "A deposit insurance fund" and inserting "The Deposit Insurance Fund"; and

(C) in paragraphs (2)(A) and (3)(B), by striking "the deposit insurance fund's outlays" each place that term appears and inserting "the outlays of the Deposit Insurance Fund"; and

(39) in section 38(o) (12 U.S.C. 1831o(o))—

(A) by striking "associations.—" and all that follows through "Subsections (e)(2)" and inserting "associations.—Subsections (e)(2)";

(B) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively, and moving the margins 2 ems to the left; and

(C) in paragraph (1) (as so redesignated), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and moving the margins 2 ems to the left.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the day of the merger of the Bank Insurance Fund and the Savings Association Insurance Fund pursuant to the Federal Deposit Insurance Reform Act of 2005.

SEC. 9. OTHER TECHNICAL AND CONFORMING AMENDMENTS RELATING TO THE MERGER OF THE BIF AND SAIF.

(a) SECTION 5136 OF THE REVISED STATUTES.—The paragraph designated the "Eleventh" of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended in the 5th sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(b) INVESTMENTS PROMOTING PUBLIC WELFARE; LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended in the 4th sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(c) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—Section 10B(b)(3)(A)(ii) of the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking "any deposit insurance fund in" and inserting "the Deposit Insurance Fund of".

(d) AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

(1) in section 11(k) (12 U.S.C. 1431(k))—

(A) in the subsection heading, by striking "SAIF" and inserting "THE DEPOSIT INSURANCE FUND"; and

(B) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(2) in section 21 (12 U.S.C. 1441)—

(A) in subsection (f)(2), by striking ", except that" and all that follows through the end of the paragraph and inserting a period; and

(B) in subsection (k), by striking paragraph (4);

(3) in section 21A(b)(4)(B) (12 U.S.C. 1441a(b)(4)(B)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(4) in section 21A(b)(6)(B) (12 U.S.C. 1441a(b)(6)(B))—

(A) in the subparagraph heading, by striking "SAIF-INSURED BANKS" and inserting "CHARTER CONVERSIONS"; and

(B) by striking "Savings Association Insurance Fund member" and inserting "savings association";

(5) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(6) in section 21A(n)(6)(E)(iv) (12 U.S.C. 1441(n)(6)(E)(iv)), by striking "Federal deposit insurance funds" and inserting "the Deposit Insurance Fund";

(7) in section 21B(e) (12 U.S.C. 1441b(e))—

(A) in paragraph (5), by inserting "as of the date of funding" after "Savings Association Insurance Fund members" each place that term appears; and

(B) by striking paragraphs (7) and (8); and

(8) in section 21B(k) (12 U.S.C. 1441b(k))—

(A) by inserting before the colon ", the following definitions shall apply";

(B) by striking paragraph (8); and

(C) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

(e) AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended—

(1) in section 5 (12 U.S.C. 1464)—

(A) in subsection (c)(5)(A), by striking "that is a member of the Bank Insurance Fund";

(B) in subsection (c)(6), by striking "As used in this subsection—" and inserting "For purposes of this subsection, the following definitions shall apply:";

(C) in subsection (o)(1), by striking "that is a Bank Insurance Fund member";

(D) in subsection (o)(2)(A), by striking "a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member" and inserting "insured by the Deposit Insurance Fund";

(E) in subsection (t)(5)(D)(iii)(II), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(F) in subsection (t)(7)(C)(i)(I), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund"; and

(G) in subsection (v)(2)(A)(i), by striking "the Savings Association Insurance Fund" and inserting "or the Deposit Insurance Fund"; and

(2) in section 10 (12 U.S.C. 1467a)—

(A) in subsection (c)(6)(D), by striking "this title" and inserting "this Act";

(B) in subsection (e)(1)(B), by striking "Savings Association Insurance Fund or Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(C) in subsection (e)(2), by striking "Savings Association Insurance Fund or the Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(D) in subsection (e)(4)(B), by striking "subsection (1)" and inserting "subsection (1)";

(E) in subsection (g)(3)(A), by striking "(5) of this section" and inserting "(5) of this subsection";

(F) in subsection (i), by redesignating paragraph (5) as paragraph (4);

(G) in subsection (m)(3), by striking subparagraph (E) and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively;

(H) in subsection (m)(7)(A), by striking "during period" and inserting "during the period"; and

(I) in subsection (o)(3)(D), by striking "sections 5(s) and (t) of this Act" and inserting "subsections (s) and (t) of section 5".

(f) AMENDMENTS TO THE NATIONAL HOUSING ACT.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

(1) in section 317(b)(1)(B) (12 U.S.C. 1723i(b)(1)(B)), by striking "Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund"; and

(2) in section 536(b)(1)(B)(ii) (12 U.S.C. 1735f–14(b)(1)(B)(ii)), by striking "Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund".

(g) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note) is amended—

(1) in section 951(b)(3)(B) (12 U.S.C. 1833a(b)(3)(B)), by inserting "and after the merger of such funds, the Deposit Insurance Fund," after "the Savings Association Insurance Fund,"; and

(2) in section 1112(c)(1)(B) (12 U.S.C. 3341(c)(1)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund".

(h) AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.—The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended—

(1) in section 2(j)(2) (12 U.S.C. 1841(j)(2)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(2) in section 3(d)(1)(D)(iii) (12 U.S.C. 1842(d)(1)(D)(iii)), by striking "appropriate deposit insurance fund" and inserting "Deposit Insurance Fund".

(i) AMENDMENTS TO THE GRAMM-LEACH-BLILEY ACT.—Section 114 of the Gramm-Leach-Bliley Act (12 U.S.C. 1828a) is amended by striking "any Federal deposit insurance fund" in subsection (a)(1)(B), paragraphs

(2)(B) and (4)(B) of subsection (b), and subsection (c)(1)(B), each place that term appears and inserting "the Deposit Insurance Fund".

(j) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the day of the merger of the Bank Insurance Fund and the Savings Association Insurance Fund pursuant to the Federal Deposit Insurance Reform Act of 2005.

The SPEAKER pro tempore. Without objection, the bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SOJOURNER TRUTH BUST ACCEPTANCE AND DISPLAY

Mr. POMBO. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the bill (H.R. 4510) to direct the Joint Committee on the Library to accept the donation of a bust depicting Sojourner Truth and to display the bust in a suitable location in the rotunda of the Capitol, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4510

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds as follows:

(1) Sojourner Truth was a towering figure among the founders of the movement for women's suffrage in the United States, and no monument that does not include her can accurately represent this important development in our Nation's history.

(2) The statue known as the Portrait Monument, originally presented to Congress in 1920 in honor of the passage of the Nineteenth Amendment guaranteeing women the right to vote and presently exhibited in the rotunda of the Capitol, portrays several early suffragists who were Sojourner Truth's contemporaries but not Sojourner Truth herself, the only African American among the group.

SEC. 2. ACCEPTANCE AND DISPLAY OF BUST OF SOJOURNER TRUTH IN ROTUNDA OF CAPITOL.

(a) ACCEPTANCE OF DONATION OF BUST.—Not later than 2 years after the date of the enactment of this Act, the Joint Committee on the Library shall accept the donation of a bust depicting Sojourner Truth, subject to such terms and conditions as the Joint Committee considers appropriate.

(b) DISPLAY.—

(1) IN GENERAL.—The Joint Committee shall place the bust accepted under subsection (a) in a suitable permanent location in the rotunda of the Capitol.

(2) PLACEMENT NEAR PORTRAIT MONUMENT.—It is the sense of Congress that the most suitable location for the placement of the bust accepted under subsection (a) is a location which is adjacent to the statue known as the Portrait Monument.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. POMBO

Mr. POMBO. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. FINDINGS.

Congress finds as follows:

(1) Sojourner Truth was a towering figure among the founders of the movement for women's suffrage in the United States, and no monument that does not include her can accurately represent this important development in our Nation's history.

(2) The statue known as the Portrait Monument, originally presented to Congress in 1920 in honor of the passage of the Nineteenth Amendment guaranteeing women the right to vote and presently exhibited in the rotunda of the Capitol, portrays several early suffragists who were Sojourner Truth's contemporaries but not Sojourner Truth herself, the only African American among the group.

SEC. 2. ACCEPTANCE AND DISPLAY OF BUST OF SOJOURNER TRUTH IN CAPITOL.

(a) ACCEPTANCE OF DONATION OF BUST.—Not later than 2 years after the date of the enactment of this Act, the Joint Committee on the Library shall accept the donation of a bust depicting Sojourner Truth, subject to such terms and conditions as the Joint Committee considers appropriate.

(b) DISPLAY.—The Joint Committee shall place the bust accepted under subsection (a) in a suitable permanent location in the Capitol.

Ms. MILLENDER-McDONALD. Mr. Speaker, I am happy that tonight this House will pass a bill that enjoys strong bipartisan support of 221 cosponsors that honors the contribution of another woman suffragist—Sojourner Truth. Sojourner Truth was a towering figure among the founders of the movement for women's suffrage in the United States.

Over 1,000 civic, religious, political, cultural, fraternal, business, and labor organizations and the National Congress of Black Women (NCBW), support this legislation.

Specifically, this legislation directs the Joint Committee on the Library to accept the donations for a bust depicting Sojourner Truth and to display it in an appropriate location within the Halls of Congress.

One of the initial proponents of the "Honor Sojourner Truth" initiative, was the late Dr. C. Delores Tucker and past President of the NCBW, who fought for Congress to pass this legislation.

Recognition of Sojourner Truth as one of the great women's rights leaders is well deserved.

Mr. Speaker, it has been a pleasure working with you on this very important legislation, and the sponsors of this legislation, Congresswoman SHEILA JACKSON-LEE, who worked tirelessly for the passage of this important legislation and to fulfill a promise made to Dr. Tucker.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong support of my bill, H.R. 4510 which would direct the Joint Committee on the Library to accept the donation of a bust depicting Sojourner Truth and to display the bust in a suitable location in the Capitol. No one has been more instrumental in helping to bring this vision of mind to reality than the late Dr. C. Delores Tucker who was a close and valued friend for many years. Her crusade for women's and civil rights served not only as an inspiration to women, minorities, and other traditionally disadvantaged groups, but to all of society, and her lifelong service indeed worked for its betterment. From her devout involvement in the Democratic Party to her founding of the Philadelphia Martin Luther King, Jr. Association for Non-Violent Change, she embodied the tenacity and courage necessary to eradicate the disparities and bigotry that continues to constrain the attainment of equality. Of her many endearing qualities were the fact that her service was never for personal gain and that it was boundless—she never hesitated to travel the extra mile to help others. This was evident in her singular work as the lead advocate to urge the recognition and honor of abolitionist Sojourner Truth with the addition of her likeness to the statue commemorating women's suffrage in the United States Capitol. Tonight I am sure she is smiling with joy because it is due to her determined, passionate, and powerful efforts that have ultimately resulted in us honoring Sojourner Truth.

I would also like to thank Representatives BOB NEY, JUANITA MILLENDER-McDONALD and DIANE WATSON. Their efforts are truly worth mentioning for they have been major contributors in making this monumental moment. In particular, Representative WATSON worked very hard to see that the suffrage movement in the House would include all women who contributed to the movement including an ex-slave named Sojourner Truth. It is also important that I mention that Representative MILLENDER-McDONALD also worked closely with the late Dr. C. Delores Tucker to see this vision become a reality.

As noted in the beginning of my statement, this long overdue legislation directs the Joint Committee on the Library to accept the donation of a bust depicting Sojourner Truth and to display it in an appropriate location within the Halls of Congress. In a prior iteration of this legislation in the 108th Congress, H.R. 601, we were able to obtain 82 cosponsors in the House, and its companion bill in the Senate, S. 2600, gleaned 20 bi-partisan cosponsors. The key distinction between those bills and the measure before us now is the fact that the latter does not purport to alter the existing "Portrait Monument" in any way; nor does it require the receipt of any monies or for Congress to address any tax consequences.

Let me now take some time to speak on the women we honor tonight. Sojourner Truth was born in 1797 in Ulster County, a Dutch settlement in upstate New York. Her given name was Isabella Baumfree. She was one of 13 children born to slave parents. She spoke only Dutch until she was sold from her family around the age of eleven. Because of the cruel treatment she suffered at the hands of her new master she learned to speak English quickly, but would continue to speak with a Dutch accent for the rest of her life. Sojourner Truth was sold several times and suffered many hardships under slavery, but her mother endowed her with a deep, unwavering Christian faith that carried her through these trials for her entire life. Forced to submit to the will of her third master, John Dumont, Sojourner Truth married an older slave named Thomas. Thomas and Sojourner Truth had five children. She stayed on the Dumont farm until a few months before the state of New York ended slavery in 1828. Dumont had promised Sojourner Truth freedom a year before the state emancipation. When Dumont reneged on his promise, Sojourner Truth ran away with her infant son.

Sojourner Truth eventually settled in New York City, working as a domestic for several religious communes. Sojourner Truth was inspired by a spiritual revelation that would forever change her life. She changed here name from Isabella Baumfree to Sojourner Truth and walked through Long Island and Connecticut, preaching "God's truth and plan for salvation." After months of travel, she arrived in Northampton, MA, and joined the utopian community "The Northampton Association for Education and Industry," where she met and worked with abolitionists such as William Lloyd Garrison, Frederick Douglass and Olive Gilbert. Her dictated memoirs were published in 1850 as The Narrative of Sojourner Truth: A Northern Slave. She eventually added abolitionism and women's suffrage to her oratory, often giving personal testimony about her experiences as a slave. In 1851, she spoke at a Women's Convention in Akron, Ohio. The legendary phrase, "Ain't I a Woman?" was associated with Sojourner Truth after this speech.

After the Civil War ended, she worked tirelessly to aid the newly-freed southern slaves. She even attempted to petition Congress to give the ex-slaves land in the "new West." Sojourner Truth continued preaching and lecturing until ill health forced her to retire.

As I close, it goes with out saying that Sojourner Truth was a great advocate for women and all humankind. She achieved a great deal despite the many hardships she faced. It is because of this that Sojourner Truth truly deserves to be honored and depicted in the Halls of Congress as a member of the suffrage movement.

I urge all my colleagues to support this legislation.

Mr. POMBO (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A Bill to direct the Joint Committee on the Library to accept the donation of a bust depicting Sojourner Truth and to display the bust in a suitable location in the Capitol.".

A motion to reconsider was laid on the table.

MAKING CERTAIN TECHNICAL CORRECTIONS IN AMENDMENTS MADE BY THE ENERGY POLICY ACT OF 2005

Mr. POMBO. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the bill (H.R. 4637) to make certain technical corrections in amendments made by the Energy Policy Act of 2005, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4637

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTIONS.

(a) SUBTITLE I OF SOLID WASTE DISPOSAL ACT.—The Solid Waste Disposal Act is amended as follows:

(1) In section 9012, in subsection (a)(2)(D), strike "or a regulated" and insert "of a regulated".

(2) In section 9003, subsection (i), relating to government-owned tanks, as added by section 1526(b) of the Energy Policy Act of 2005, is redesignated as subsection (j).

(3) Section 9014 is amended by striking "2005 through 2009" in each place it appears and inserting "2006 through 2011" in each such place.

(b) TITLE XVII OF ENERGY POLICY ACT OF 2005.—Title XVII of the Energy Policy Act of 2005 is amended as follows:

(1) Section 1703(c)(4) is amended by striking "clean coal power initiative under subtitle A of title IV for" and inserting "Department of Energy's Clean Coal Power Initiative for Fischer-Tropsch".

(2) Section 1704(b) is amended by striking "clean coal power initiative under subtitle A of title IV" and inserting "Clean Coal Power Initiative".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TANF AND CHILD CARE CONTINUATION ACT OF 2005

Mr. POMBO. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means be discharged from further consideration of the bill (H.R. 4635) to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2006, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "TANF and Child Care Continuation Act of 2005".

SEC. 2. EXTENSION OF THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT PROGRAM THROUGH MARCH 31, 2006.

(a) IN GENERAL.—Activities authorized by part A of title IV and section 1108(b) of the Social Security Act (adjusted, as applicable, by or under the TANF Emergency Response and Recovery Act of 2005) shall continue through March 31, 2006, in the manner authorized for fiscal year 2005, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the second quarter of fiscal year 2006 at the level provided for such activities through the second quarter of fiscal year 2005 (or, as applicable, at such greater level as may result from the application of the TANF Emergency Response and Recovery Act of 2005).

(b) CONFORMING AMENDMENT.—Section 403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C. 603(a)(3)(H)(ii)) is amended by striking "December 31, 2005" and inserting "March 31, 2006".

(c) OFFSET.—Notwithstanding subsection (a) of this section and section 403(a)(2) of the Social Security Act, for each of fiscal years 2006 through 2010, the Secretary shall reduce the amount of each grant otherwise payable under such section 403(a)(2) to each eligible State (as defined in subparagraph (C)(i) of such section 403(a)(2)) by such equal percentage as may be necessary to ensure that the total amount of grants paid under such section 403(a)(2) does not exceed $73,000,000.

SEC. 3. EXTENSION OF THE NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE AND CHILD WELFARE WAIVER AUTHORITY THROUGH MARCH 31, 2006.

Activities authorized by sections 429A and 1130(a) of the Social Security Act shall continue through March 31, 2006, in the manner authorized for fiscal year 2005, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the second quarter of fiscal year 2006 at the level provided for such activities through the second quarter of fiscal year 2005.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. POMBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the following bills: S. 205, S. 652, S. 1238, S. 1310, S. 1481, S. 1892, H.R. 2099, H.R. 3179, H.R. 4000.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR SINE DIE ADJOURNMENT OF THE TWO HOUSES

Mr. POMBO. Mr. Speaker, I offer a privileged concurrent resolution (H.

Con. Res. 326) and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the concurrent resolution.

The Clerk read as follows:

H. CON. RES. 326

Resolved by the House of Representatives (the Senate concurring),

That when the House adjourns on any legislative day from Sunday, December 18, 2005, through Saturday, December 24, 2005, or from Monday, December 26, 2005, through Saturday, December 31, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die or until the time of any reassembly pursuant to section 3 of this concurrent resolution; and when the Senate adjourns on any day from Monday, December 19, 2005, through Saturday, December 24, 2005, or from Monday, December 26, 2005, through Saturday, December 31, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die or until the time of any reassembly pursuant to section 3 of this concurrent resolution.

SEC. 2. When the House adjourns on any legislative day of the second session of the One Hundred Ninth Congress from Tuesday, January 3, 2006, through Saturday, January 28, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it shall stand adjourned until noon on Tuesday, January 31, 2006, or until the time of any reassembly pursuant to section 3 of this concurrent resolution, whichever occurs first; when the Senate recesses or adjourns on any day of the second session of the One Hundred Ninth Congress from Tuesday, January 3, 2006, through Monday, January 16, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it shall stand recessed or adjourned until noon on Wednesday, January 18, 2006, or until such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 3 of this concurrent resolution, whichever occurs first; and when the Senate recesses or adjourns on any day from Friday, January 20, 2006, through Saturday, January 28, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it shall stand recessed or adjourned until noon on Tuesday, January 31, 2006, or until such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 3 of this concurrent resolution, whichever occurs first.

SEC. 3. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONDITIONAL ADJOURNMENT TO THURSDAY, DECEMBER 22, 2005

Mr. POMBO. Mr. Speaker, I ask unanimous consent that when the House adjourns today pursuant to this order, it adjourn to meet at 4 p.m. on Thursday, December 22, 2005, unless it sooner has received a message or messages from the Senate transmitting its adoption of a conference report to accompany H.R. 2863, its adoption of a conference report to accompany H.R. 3010, and its adoption of House Concurrent Resolution 326, in which case the House shall stand adjourned sine die pursuant to that concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO REVISE AND EXTEND REMARKS IN CONGRESSIONAL RECORD UNTIL LAST EDITION IS PUBLISHED

Mr. POMBO. Mr. Speaker, I ask unanimous consent that Members may have until publication of the last edition of the CONGRESSIONAL RECORD authorized for the First Session of the 109th Congress by the Joint Committee on Printing to revise and extend their remarks and to include brief, related extraneous material on any matter occurring before the adjournment of the First Session sine die.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING THE SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND TO MAKE APPOINTMENTS AUTHORIZED BY LAW OR BY THE HOUSE DURING SECOND SESSION OF THE 109TH CONGRESS

Mr. POMBO. Mr. Speaker, I ask unanimous consent that during the Second Session of the 109th Congress, the Speaker, majority leader, and minority leader may accept resignations and make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF HON. WAYNE T. GILCHREST OR HON. FRANK R. WOLF OR HON. TOM DAVIS TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JANUARY 31, 2006

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

HOUSE OF REPRESENTATIVES,
Washington, DC, December 18, 2005.

I hereby appoint the Honorable WAYNE T. GILCHREST, the Honorable FRANK R. WOLF, and the Honorable TOM DAVIS to act as Speaker pro tempore to sign enrolled bills and joint resolutions through January 31, 2006.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

HONORING AND CONGRATULATING SOJOURNER TRUTH

(MS. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, the sun is now rising, and I am very grateful that the sun has risen on the history of this House.

Just a few minutes ago, this House passed unanimously H.R. 4510, a bill that I authored and introduced with 232 cosponsors. Let me thank my colleagues for allowing a speaker of truth to be placed by way of a bust in the United States Capitol. Isabella Baumfree, now Sojourner Truth, was one of the earliest and most passionate of the female abolitionists and a fighter for women's rights and the right to vote. Her cause was championed by Dr. C. DeLores Tucker, one of the most prominent civil rights leaders in the past 40 years and the first African American woman to serve as Secretary of State in the State of Pennsylvania.

Allow me to thank Chairman NEY as well as Ranking Member MILLENDER-MCDONALD for their great leadership of the House Administration Committee and DIANE WATSON for her championing of the cause in working with me, the Speaker of the House, the leader of the House, and all of my colleagues who can go home thinking that we are a Nation and a Capitol that respects the history of all Americans.

Congratulations to Sojourner Truth in her death for now being placed in the United States Capitol.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. ROYBAL-ALLARD (at the request of Ms. PELOSI) for today and the balance of the week.

Mrs. JO ANN DAVIS of Virginia (at the request of Mr. BLUNT) for today on account of a medical treatment.

Mr. JONES of North Carolina (at the request of Mr. BLUNT) from midnight and the balance of the legislative day of December 18 on account of a medical appointment.

Mr. GARY G. MILLER of California (at the request of Mr. BLUNT) for today on account of illness.

ENROLLED BILLS SIGNED

Mrs. Haas, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 358. An act to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes.

H.R. 797. An act to amend the Native American Housing Assistance and Self-Determination Act of 1996 and other Acts to improve housing programs for Indians.

H.R. 2520. An act to provide for the collection and maintenance of human cord blood stem cells for the treatment of patients and research, and to amend the Public Health Service Act to authorize the C.W. Bill Young Cell Transplantation Program.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 467. An act to extend the applicability of the Terrorism Risk Insurance Act of 2002.

BILLS PRESENTED TO THE PRESIDENT

Karen L. Haas, Clerk of the House, reports that on December 17, 2005, she presented to the President of the United States, for his approval, the following bills.

H.J. Res 75. Making further continuing appropriations for the fiscal year 2006, and for other purposes.

H.R. 327. To allow binding arbitration clauses to be included in all contracts affecting land within the Gila River Indian Community Reservation.

H.R. 4324. To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster mitigation program, and for other purposes.

H.R. 4436. To provide certain authorities for the Department of State, and for other purposes.

SINE DIE ADJOURNMENT

Mr. POMBO. Mr. Speaker, pursuant to the order of the House of today, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Accordingly, pursuant to the previous order of the House of today, the House stands adjourned until 4 p.m. on Thursday, December 22, 2005, unless it sooner has received a message or messages from the Senate transmitting its adoption of a conference report to accompany H.R. 2863, its adoption of a conference report to accompany H.R. 3010, and its adoption of House Concurrent Resolution 326, in which case the House shall stand adjourned sine die pursuant to that concurrent resolution.

Thereupon (at 6 o'clock and 30 minutes a.m.), pursuant to the previous order of the House of today, the House adjourned until 4 p.m. on Thursday, December 22, 2005, unless it sooner has received a message or messages from the Senate transmitting its adoption of a conference report to accompany H.R. 2863, its adoption of a conference report to accompany H.R. 3010, and its adoption of House Concurrent Resolution 326, in which case the House shall stand adjourned sine die pursuant to that concurrent resolution.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5861. A letter from the Administrator, Housing and Community Facilities Programs, Department of Agriculture, transmitting the Department's final rule — Direct Single Family Housing Loans and Grants (RIN: 0575-AC54) received December 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5862. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Bifenazate; Pesticide Tolerances for Emergency Exemptions [EPA-HQ-OPP-2005-0276; FRL-7746-5] received December 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5863. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Acetic acid, [(5-chloro-8-quinolinyl) oxy]-, 1-methylhexyl ester (Cloquintocet-mexyl); Pesticide Tolerance [EPA-HQ-OPP-2005-0234; FRL-7753-4] received December 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5864. A letter from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement, Prohibition of Foreign Taxation on U.S. Assistance Programs [DFARS Case 2004-D012] received October 7, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

5865. A letter from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Foreign Acquisition [DFARS Case 2003-D008] received December 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

5866. A letter from the Publications Control Officer, Department of the Army, Department of Defense, transmitting the Department's final rule — Amred Forces Disciplinary Control Boards and Off-Installation Liason and Operations (RIN: 0702-AA50) received December 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

5867. A letter from the Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Eligibility of Adjustable Rate Mortgages [Docket No. FR-4946-F-02] (RIN: 2502-AI26) received December 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5868. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Commission Guidance Regarding Accounting for Sales of Vaccines and Bioterror Countermeasures to the Federal Government for Placement into the Pediatric Vaccine Stockpile or the Strategic National Stockpile [Release Nos. 33-8642; 34-52885; IC-27178] received December 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5869. A letter from the Secretary, Department of Education, transmitting the annual report of the National Advisory Committee on Institutional Quality and Integrity for Fiscal Year 2005, pursuant to 20 U.S.C. 1145(e); to the Committee on Education and the Workforce.

5870. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's report on the Community Services Block Grant Statistical Report and Report on Performance Outcomes for Fiscal Years 2000 through 2003; to the Committee on Education and the Workforce.

5871. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Protection of Stratospheric Ozone: Process for Exempting Critical Uses of Methyl Bromide for the 2005 Supplemental Request [FRL-8007-9] (RIN: 2060-AN13) received December 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5872. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; CO; PM10 Designation of Areas for Air Quality Planning Purposes, Lamar; State Implementation Plan Correction [CO-001-0076a; FRL-8004-9] received December 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5873. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Texas; Revisions to Regulations for Control of Air Pollution by Permits for New Construction or Modification [R06-OAR-2005-TX-0030; FRL-8005-9] received December 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5874. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines: Technical Amendments to Evaporative Emissions Regulations, Dyamometer Regulations, and Vehicle Labeling [OAR-2004-0011; FRL-8004-7] (RIN: 2060-AM32) received December 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5875. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines; Modification of Federal Onboard Diagnostic Regulations for Light-Duty Vehicles, Light-Duty Trucks, Medium Duty Passenger Vehicles, Complete Heavy Duty Vehicles and Engines Intended for Use in Heavy Duty Vehicles weighing 14,000 pounds GVWR or less [FRL-8005-4] (RIN: 2060-AJ77) received December 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5876. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Oklahoma Department of Environmental Quality [R06-OAR-2005-OK-0003; FRL-8006-7] received December 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5877. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Albuquerque — Bernalillo County Air Quality Control Board [R06-OAR-2005-NM-0005; FRL-8006-2] received December 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5878. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Regulation of Fuels and Fuel Additives: Modifications to Standards and Requirements for Reformulated and Conventional Gasoline Incuding Butane Blenders and Attest Engagements [OAR-2003-0019; FRL-8006-5] (RIN: 2060-AK77) received December 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5879. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Other Solid Waste Incineration Units [EPA-HQ-OAR-2003-0156; FRL-8005-5] (RIN: 2060-AG31) received December 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5880. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Iowa [EPA-R07-OAR-2005-IA-0006; FRL-8010-9] received December 6, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5881. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — List of Hazardous Air Pollutants, Petition Process, Lesser Quantity Designations, Source Category List [OAR-2003-0028; FRL-8009-5] (RIN: 2060-AI72) received December 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5882. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — NESHAP: National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors [FRL-8009-3] received December 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5883. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — TSCA Inventory Update Reporting Partially Exempted Chemicals List Addition of Certain Aluminum Alkyl Chemicals [EPA-HQ-OPPT-2005-0047; FRL-7732-6] (RIN: 2070-AC61) received December 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5884. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — TSCA Inventory Update Reporting Revisions [EPA-HQ-OPPT-2004-0106; FRL-7743-9] (RIN: 2070-AC61) received December 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5885. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Memoranda of Understanding between Texas Department of Transportation and the Texas Commission on Environmental Quality [EPA-R06-OAR-2004-TX-0001; FRL-8007-5] received December 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5886. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Exemption of Certain Area Sources from Title V Operating Permit Programs [OAR-2004-0010; FRL-8008-5] (RIN: 2060-AM31) received December 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5887. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's first annual report on Ethanol Market Concentration, pursuant to Section 1501(a)(2) of the Energy Policy Act of 2005; to the Committee on Energy and Commerce.

5888. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's report providing a detailed analysis of the effectiveness and enforcement of the provisions of the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003, pursuant to Public Law 108–187, section 10; to the Committee on Energy and Commerce.

5889. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

5890. A letter from the Deputy Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Revisions to the Import Certificate Requirements in the Export Administration Regulations [Docket No. 050812221-5221-01] (RIN: 0694-AD50) received December 7, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

5891. A letter from the Director, Office of Personnel Management, President's Pay Agent, transmitting a report justifying the reasons for the extension of locality-based comparability payments to categories of positions that are in more than one executive agency, pursuant to 5 U.S.C. 5304(h)(2)(C); to the Committee on Government Reform.

5892. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting the Department's final rule — Privacy Act of 1974; Implementation [AAG/A Order No. 010-2005] received December 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

5893. A letter from the President, James Madison Memorial Fellowship Foundation, transmitting the Foundation's Annual Report for 2005, pursuant to 20 U.S.C. 4513; to the Committee on Government Reform.

5894. A letter from the Director, Peace Corps, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 2005 through September 30, 2005, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

5895. A letter from the Chairman, Federal Election Commission, transmitting the Commission's final rule — Extension of Administrative Fines Program [Notice 2005-30] received December 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

5896. A letter from the Chairman, Federal Election Commission, transmitting the Commission's final rule — Electioneering Communications [Notice 2005-29] received December 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

5897. A letter from the Legal Analyst, Presidio Trust, transmitting the Trust's final rule — Debt Collection (RIN: 3212-AA07) received December 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5898. A letter from the Assistant Secretary of the Army, Civil Works, Department of the Army, transmitting a copy of the the Final Feasibility Report and Environmental Impact of the Napa Salt Marsh Restoration, California; to the Committee on Transportation and Infrastructure.

5899. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Iron and Steel Manufacturing Point Source Category [Docket No. EPA-OW-2002-0027; FRL-8007-8] (RIN: 2040-AE78) received December 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5900. A letter from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule — Announcement of Contract Awards (RIN: 2700-AD18) received December 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

5901. A letter from the Director, SHRP, Office of Personnel Management, transmitting the Office's final rule — Veterans Recruitment Appointments (RIN: 3206-AJ90) received December 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

5902. A letter from the Director, Regulations and Rulings Division, Alcohol & Tobacco Tax & Trade Bureau, Department of the Treasury, transmitting the Department's final rule — Establishment of the Wahluke Slope Viticultural Area (2005R-026P) [T.D. TTB-40; Re: Notice No. 46] (RIN: 1513-AB01) received December 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5903. A letter from the Administrator, Office of Workforce Security, Department of Labor, transmitting the Department's final rule — Allocation of Costs of Assessing and Collecting State Taxes that are Collected in Conjunction with the State Unemployment Compensation Tax—received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5904. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Sickness or Accident Disability Payments [TD 9233] (RIN: 1545–BC89) received December 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5905. A letter from the United States Trade Representative, transmitting reports of the Advisory Committee for Trade Policy and Negotiations (ACTPN) and the Industry Trade Advisory Committee (ITAC) 8: Information and Communication Technologies, and E-Commerce, on the Agreement on Duty-Free Treatment of Multi-Chip Integrated Circuits, pursuant to Section 2104(e) of the Trade Act of 2002 and Section 135(e) of the Trade Act of 1974, as amended; to the Committee on Ways and Means.

5906. A letter from the Portfolio Manager, Critical Infrastructure Protection, Department of Homeland Security, transmitting a copy of the National Critical Infrastructure Protection Research and Development Plan; to the Committee on Homeland Security.

5907. A letter from the Assistant Secretary for Special Operations and Low-Interest Conflict, Department of Defense, transmitting the Department's Fiscal Year 2005 annual report on the Regional Defense Counterterrorism Fellowship Program, pursuant to 10 U.S.C. 2249c; jointly to the Committees on Armed Services and International Relations.

5908. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 7(a) of the Jerusalem Embassy Act of 1995 (Pub. L. 104–45), a copy of Presidential Determination No. 2006-5 suspending the limitation on the obligation of the State Department Appropriations contained in sections 3(b) and 7(b) of that Act for six months as well as the periodic report provided for under Section 6 of the Act covering the period from June 16, 2005 to the present, pursuant to Public Law 104–45, section 6 (109 Stat. 400); jointly to the Committees on International Relations and Appropriations.

5909. A letter from the Acting Assistant Secretary for Economic Development, Department of Commerce, transmitting the annual report on the activities of the Economic Development Administration for Fiscal Year 2004, pursuant to 42 U.S.C. 3217; jointly to the Committees on Transportation and Infrastructure and Financial Services.

5910. A letter from the Chairman, Medicare Payment Advisory Commission, transmitting the Commission's report entitled, "Home Health Agency Case Mix and Financial Performance," pursuant to Public Law 108–173, section 705; jointly to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Florida: Committee of Conference. Conference report on H.R. 2863. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–359). Ordered to be printed.

Mr. HUNTER: Committee of Conference. Conference report on H.R. 1815. A bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2006, and for other purposes (Rept. 109–360). Ordered to be printed.

[Filed on December 19 (legislative day of December 18), 2005]

Mr. COLE of Oklahoma: Committee on Rules. House Resolution 639. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–361). Referred to the House Calendar.

Mr. NUSSLE: Committee of Conference. Conference report on S. 1932. An act to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95) (Rept. 109–362). Ordered to be printed.

Mr. PUTNAM: Committee on Rules. House Resolution 640. Resolution waiving points of order against the conference report to accompany the bill (S. 1932) to provide for reconciliation pursuant to section 201(a) of the concurrent resolution on the budget for fiscal year 2006 (Rept. 109–363). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HERGER:

H.R. 4635. A bill to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2006, and for other purposes; to the Committee on Ways and Means. considered and passed.

By Mr. OXLEY:

H.R. 4636. A bill to enact the technical and conforming amendments necessary to implement the Federal Deposit Insurance Reform Act of 2005, and for other purposes; to the Committee on Financial Services. considered and passed.

By Mr. GILLMOR:

H.R. 4637. A bill to make certain technical corrections in amendments made by the Energy Policy Act of 2005; to the Committee on Energy and Commerce. considered and passed.

By Mr. HALL:

H.R. 4638. A bill to increase domestic supplies of natural gas through an accelerated program of development and deployment of new technologies; to the Committee on Science, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FOSSELLA:

H.R. 4639. A bill to require community notice for the placement of group houses, and for other purposes; to the Committee on Financial Services.

By Mr. GERLACH:

H.R. 4640. A bill to reduce the Nation's oil dependence and enhance the Nation's ability to produce alternative fuels; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GINGREY (for himself, Mr. Norwood, Mr. Garrett of New Jersey, Mrs. Capito, and Miss McMorris):

H.R. 4641. A bill to amend the Internal Revenue Code of 1986 to increase the deduction under section 179 for the purchase of qualified health care information technology by medical care providers and to allow a credit against tax for applicable telecommunications charges paid or incurred by such providers; to the Committee on Ways and Means.

By Mr. ISSA:

H.R. 4642. A bill to enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States; to the Committee on Energy and Commerce.

By Mr. KING of Iowa (for himself, Mrs. Blackburn, Mrs. Musgrave, Mr. Feeney, Mr. Flake, and Mr. Hensarling):

H.R. 4643. A bill to repeal the wage rate requirements commonly known as the Davis-Bacon Act; to the Committee on Education and the Workforce.

By Mr. MENENDEZ:

H.R. 4644. A bill to authorize grants to carry out projects to provide education on preventing teen pregnancies, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. SCHWARTZ of Pennsylvania (for herself and Mrs. Lowey):

H.R. 4645. A bill to amend title XVIII of the Social Security Act to provide broader and more informed protection to Medicare eligible individuals from abusive marketing practices of Medicare prescription drug plans and MA-PD plans to permit enrollees under Medicare prescription drug plans that have been sanctioned to elect to enroll under other plans; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHERMAN:

H.R. 4646. A bill to designate the facility of the United States Postal Service located at 7320 Reseda Boulevard in Reseda, California, as the "Coach John Wooden Post Office Building"; to the Committee on Government Reform.

By Mr. POMBO:

H. Con. Res. 326. Concurrent resolution providing for the sine die adjournment of the first session of the One Hundred Ninth Congress; considered and agreed to.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. Conyers, and Mr. Honda):

H. Con. Res. 327. Concurrent resolution congratulating President Ellen Johnson-Sirleaf for becoming the first democratically-elected female President of the Republic of Liberia and the first female African head of state; to the Committee on International Relations.

By Mr. MACK:

H. Con. Res. 328. Concurrent resolution condemning the anti-democratic actions of Venezuelan President Hugo Chavez and expressing the sense of Congress that the United States should strongly support the aspirations of the democratic forces in Venezuela; to the Committee on International Relations.

By Mr. CONYERS:

H. Res. 635. A resolution creating a select committee to investigate the Administration's intent to go to war before congressional authorization, manipulation of prewar intelligence, encouraging and countenancing torture, retaliating against critics, and to make recommendations regarding grounds for possible impeachment; to the Committee on Rules.

By Mr. CONYERS:

H. Res. 636. A resolution censuring President George W. Bush for failing to respond to requests for information concerning allegations that he and others in his Administration misled Congress and the American people regarding the decision to go to war in

Iraq, misstated and manipulated intelligence information regarding the justification for the war, countenanced torture and cruel, inhuman, and degrading treatment of persons in Iraq, and permitted inappropriate retaliation against critics of his Administration, for failing to adequately account for specific misstatements he made regarding the war, and for failing to comply with Executive Order 12958; to the Committee on the Judiciary.

By Mr. CONYERS:

H. Res. 637. A resolution censuring Vice President Richard B. Cheney for failing to respond to requests for information concerning allegations that he and others in the Administration misled Congress and the American people regarding the decision to go to war in Iraq, misstated and manipulated intelligence information regarding the justification for the war, countenanced torture and cruel, inhuman, and degrading treatment of persons in Iraq, and permitted inappropriate retaliation against critics of the Administration and for failing to adequately account for specific misstatements he made regarding the war; to the Committee on the Judiciary.

By Ms. WATERS:

H. Res. 638. A resolution congratulating Bill Gates, Melinda Gates and Bono for being named Time Magazine's 2005 Person of the Year; to the Committee on Government Reform.

By Ms. LEE:

H. Res. 641. A resolution requesting the President to provide to the House of Representatives certain documents in his possession relating to electronic surveillance without search warrants on individuals in the United States; to the Committee on Intelligence (Permanent Select).

By Ms. LEE:

H. Res. 642. A resolution requesting the President and directing the Secretary of State to provide to the House of Representatives certain documents in their possession relating to the Secretary of State's trip to Europe in December 2005; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

228. The SPEAKER presented a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution Number 13 memorializing the Congress of the United States to take appropriate action so that the Youngstown Joint Air Reserve Station in Vienna Township, Ohio, is excluded from the list of base closures for Base Realignment and Closure process; to the Committee on Armed Services.

229. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution Number 7 memorializing the Congress of the United States to take appropriate action so that funding to the Joint Systems Manufacturing Center in Lima, Ohio, is not reduced through the Base Realignment and Closure process; to the Committee on Armed Services.

230. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution Number 11 memorializing the Congress of the United States to take appropriate action so that Wright-Patterson Air Force Base is excluded from the list of base closures for the Base Realignment and Closure process; to the Committee on Armed Services.

231. Also, a memorial of the General Assembly of the State of Ohio, relative to Senate Concurrent Resolution Number 12 memorializing the Congress of the United States to take appropriate action so that the NASA John H. Glenn Research Center and the Defense Finance Accounting Services Center in Cleveland are excluded from the list of base closures for the Base Realignment and Closure process; to the Committee on Armed Services.

232. Also, a memorial of the Legislature of the State of California, relative to Senate Joint Resolution No. 11 urging the Congress of the United States to adopt the Military Readiness Enhancement Act of 2005 (H.R. 1059) to end the discriminatory federal policy of "Don't Ask, Don't Tell"; to the Committee on Armed Services.

233. Also, a memorial of the General Assembly of the State of California, relative to Assembly Joint Resolution No. 5 memorializing the Congress of the United States to take necessary action to increase corporate average fuel economy standards by at least 1.5 miles per gallon per annum until total average fuel economy for new light-duty motor vehicle fleet sold in California is double today's average; to the Committee on Energy and Commerce.

234. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 169 urging the Congress of the United States to take appropriate action to address the hydrogen shortage in the United States due to factory shutdowns caused by the devastation of Hurricane Katrina; to the Committee on Energy and Commerce.

235. Also, a memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to a Resolution supporting the commencement of negotiations on the elimination of nuclear weapons and supporting the "Mayors for Peace" initiative; to the Committee on International Relations.

236. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 33 memorializing the Congress of the United States to mandate that federal contracts awarded for reconstruction of the Gulf Coast region give a preference to local contractors and workers; to the Committee on Government Reform.

237. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 38 memorializing the Congress of the United States to provide financial assistance to the state necessary to maintain essential public services to the people of Louisiana following the devestation caused by hurricanes Katrina and Rita; to the Committee on Government Reform.

238. Also, a memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to a Resolution memorializing the Congress of the United States to address the concerns of citizens concerned for the future of Frederick Law Olmstead National Historic Site; to the Committee on Resources.

239. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 8 memorializing the Congress of the United States to extend Louisiana's seaward boundary in the Gulf of Mexico to twelve geographical miles; to the Committee on the Judiciary.

240. Also, a memorial of the General Assembly of the State of California, relative to Assembly Joint Resolution No. 3 memorializing the Congress of the United States to protect and uphold the intent and substance of the United States Supreme Court decision in Roe v. Wade, relating to reproductive rights; to the Committee on the Judiciary.

241. Also, a memorial of the Senate of the State of Michigan, relative to Resolution No. 84 urging the Congress of the United States to implement the action plan to restore and protect the Great Lakes; to the Committee on Transportation and Infrastructure.

242. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 57 expressing opposition to the study and construction of an international border crossing in the Downriver area; to the Committee on Transportation and Infrastructure.

243. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 27 memorializing the Congress of the United States to vate against the repealing of the "Byrd Amendment"; to the Committee on Ways and Means.

244. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 22 memorializing the Congress of the United States to review and consider revising or eliminating provisions which reduce social security benefits for those receiving benefits from federal, state, and local government retirement systems; to the Committee on Ways and Means.

245. Also, a memorial of the Legislature of the State of Montana, relative to House Joint Resolution No. 29 urging the Congress of the United States to recognize the statutory concessions made by the State of Montana and urged to obtain meaningful and substantive funding for the impacts from the federal wolf reintroduction program that was forcibly established in Montana; jointly to the Committees on Agriculture and Resources.

246. Also, a memorial of the Legislature of the State of California, relative to Senate Joint Resolution No. 17 memorializing the Congress of the United States to take specific actions regarding stem cell research and to prohibit human cloning; jointly to the Committees on Energy and Commerce and Science.

247. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 191 memorializing the Congress of the United States to appropriate supplemental funds for the Low-Income Home Energy Assistance Program; jointly to the Committees on Energy and Commerce and Education and the Workforce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 521: Mr. Rogers of Alabama and Mr. Bonner.

H.R. 691: Mr. Baird.

H.R. 772: Mr. Holt.

H.R. 815: Mr. Campbell of California.

H.R. 1222: Mr. Andrews and Mr. Boucher.

H.R. 1245: Mr. Miller of North Carolina.

H.R. 1405: Mrs. Cubin.

H.R. 1441: Mr. Hinchey, Mr. Moran of Kansas, and Ms. McCollum of Minnesota.

H.R. 1687: Mr. Brown of Ohio.

H.R. 2048: Mr. Cleaver, Mr. George Miller of California, and Mr. Snyder.

H.R. 2669: Mr. Scott of Georgia and Ms. Moore of Wisconsin.

H.R. 2828: Mr. Blumenauer.

H.R. 3086: Mr. Brown of Ohio.

H.R. 3373: Mr. Kind.

H.R. 3922: Mr. MORAN of Virginia, Mr. ROTHMAN, and Mr. AL GREEN of Texas.

H.R. 4098: Mr. PICKERING.

H.R. 4122: Mr. CASTLE.

H.R. 4190: Mr. DOGGETT.

H.R. 4213: Ms. SCHAKOWSKY.

H.R. 4313: Mr. WICKER and Mr. BEAUPREZ.

H.R. 4318: Mr. KNOLLENBERG, Mr. BOUSTANY, Mr. CULBERSON, Mr. WESTMORELAND, and Mr. DEAL of Georgia.

H.R. 4341: Mr. MORAN of Kansas.

H.R. 4372: Mr. HIGGINS, Mr. PALLONE, Ms. SCHAKOWSKY, Ms. KILPATRICK of Michigan, Mr. TOWNS, and Mr. CUMMINGS.

H.R. 4409: Mr. BERMAN and Mr. INSLEE.

H.R. 4410: Mr. TIERNEY.

H.R. 4463: Mr. VAN HOLLEN.

H.R. 4476: Mr. MCGOVERN and Ms. SCHAKOWSKY.

H.R. 4491: Mr. FITZPATRICK of Pennsylvania.

H.R. 4506: Ms. ESHOO.

H.R. 4510: Mr. PRICE of North Carolina, Mrs. CHRISTENSEN, Mr. LUCAS, Ms. PRYCE of Ohio, Mr. MURPHY, Mr. TIBERI, Mr. GILLMOR, Mr. ENGLISH of Pennsylvania, Mr. HINOJOSA, Mr. DENT, Mr. SWEENEY, Mrs. Schmidt, Mr. TURNER, Mr. GALLEGLY, Mr. OBEY, Ms. HARRIS, Mr. BISHOP of New York, Mr. SHERMAN, Mr. ALLEN, Mr. INSLEE, Mr. MARIO DIAZ-BALART of Florida, Mr. FEENEY, and Mr. WEXLER.

H.R. 4526: Mr. GARRETT of New Jersey.

H.R. 4535: Mrs. BIGGERT, Mr. DAVIS of Kentucky, Mr. GARRETT of New Jersey, and Ms. FOXX.

H.R. 4542: Mr. CASE and Mr. RUSH.

H.R. 4551: Mr. HERGER, Ms. FOXX, Mr. MILLER of Florida, and Mr. KING of Iowa.

H.R. 4570: Mr. CONYERS.

H.R. 4619: Mr. BOEHLERT, Mr. TOWNS, and Mr. SHAYS.

H.R. 4625: Mr. PETERSON of Pennsylvania and Mr. PICKERING.

H.R. 4627: Mr. PORTER and Ms. BERKLEY.

H.R. 4629: Mr. BERMAN.

H.J. Res. 71: Mr. INGLIS of South Carolina.

H. Con. Res. 184: Mr. CLEAVER.

H. Res. 597: Ms. BORDALLO.

H. Res. 601: Ms. FOXX.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2669: Ms. HARRIS.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

91. The SPEAKER presented a petition of the City of Pembroke Pines, Florida, relative to Resolution No. 3057 urging the Congress of the United States to refrain from any support or co-sponsorship of S.1504 and to vote in opposition to S.1504; to the Committee on Energy and Commerce.

92. Also, a petition of the Town of Chesterfield, New York, relative to a resolution urging the New York Congressional Delegation to issue statements of support for the test burn of discarded tires by the International Paper Company; to the Committee on Energy and Commerce.

93. Also, a petition of the Board of Supervisors of the County of Los Angeles, California, relative to a petition supporting House Resolution 316 and House Concurrent Resolution 195, both of which relate to the Armenian Genocide of 1915 to 1923; to the Committee on International Relations.

94. Also, a petition of the Oconto County Board of Supervisors, Wisconsin, relative to Resolution No. 50 petitioning the Congress of the United States to restore the cut to the Payment in Lieu of Taxes (PILT) Funding to the FY 2005 Level Plus Inflation; to the Committee on Resources.

95. Also, a petition of the Oconto County Board of Supervisors, Wisconsin, relative to Resolution No. 47 petitioning for the relocation of problem gray wolves; to the Committee on Resources.

96. Also, a petition of the Oconto County Board of Supervisors, Wisconsin, relative to Resolution No. 45 petitioning for the increase of county forest acreage payments to townships; to the Committee on the Judiciary.

97. Also, a petition of Mr. Daniel A.D. Gossai, a Citizen of Rancho Palos Verdes, Californian, relative to a complaint pursuant of conspiracy to deny civil rights, equal protection and due process; to the Committee on the Judiciary.

98. Also, a petition of the Oconto County Board of Supervisors, Wisconsin, relative to Resolution No. 49 petitioning the Congress of the United States to reauthorize and fund Pub. L. 106-393, the Secure Rural Schools and Community Self-Determination Act; jointly to the Committees on Agriculture and Resources.

99. Also, a petition of the Oconto County Board of Supervisors, Wisconsin, relative to Resolution No. 48 requesting the Congress of the United States to take action to eliminate the gridlock that is occuring in Forest Service Land Use Planning and in the implementation of timber sale projects that are permissible within approved Forest Plans; jointly to the Committees on Resources and Agriculture.

100. Also, a petition of the Oklahoma Floodplain Managers Association, relative to Resolution No. 2005-1 providing recommendations for the reconstruction of the area along the Gulf Coast in Alabama, Mississippi and Louisiana; jointly to the Committees on Transportation and Infrastructure, Energy and Commerce, and Financial Services.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 4510

OFFERED BY MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 1: Strike all after the enacting clause and insert the following:

SECTION 1. FINDINGS.

Congress finds as follows:

(1) Sojourner Truth was a towering figure among the founders of the movement for women's suffrage in the United States, and no monument that does not include her can accurately represent this important development in our Nation's history.

(2) The statue known as the Portrait Monument, originally presented to Congress in 1920 in honor of the passage of the Nineteenth Amendment guaranteeing women the right to vote and presently exhibited in the rotunda of the Capitol, portrays several early suffragists who were Sojourner Truth's contemporaries but not Sojourner Truth herself, the only African American among the group.

SEC. 2. ACCEPTANCE AND DISPLAY OF BUST OF SOJOURNER TRUTH IN CAPITOL.

(a) ACCEPTANCE OF DONATION OF BUST.—Not later than 2 years after the date of the enactment of this Act, the Joint Committee on the Library shall accept the donation of a bust depicting Sojourner Truth, subject to such terms and conditions as the Joint Committee considers appropriate.

(b) DISPLAY.—The Joint Committee shall place the bust accepted under subsection (a) in a suitable permanent location in the Capitol.

Amend the title so as to read: "A Bill to direct the Joint Committee on the Library to accept the donation of a bust depicting Sojourner Truth and to display the bust in a suitable location in the Capitol.".

EXTENSIONS OF REMARKS

PERSONAL EXPLANATION

HON. JO ANN DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 17, 2005

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I was granted a leave of absence for December 16–17, 2005, due to a medical treatment. I would like to state for the record that had I been present, I would have voted the following:

Rollcall 642: Motion to close portions of the Defense Authorization Conference to the Press and Public when matters of National Security are under consideration—Yea.

Rollcall 643: Skelton Motion to Instruct Conferees on H.R. 1815—National Defense Authorization Act for FY06—Yea.

Rollcall 644: Previous Question on Rule for H. Res. 612—Yea—Expressing the commitment of the House of Representatives to achieving victory in Iraq.

Rollcall 645: Adoption of Rule for H. Res. 612—Yea—Expressing the commitment of the House of Representatives to achieving victory in Iraq.

Rollcall 646: Adoption of Rule for H.R. 4437—Yea—Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005.

Rollcall 647: H. Con. Res. 294—Yea—Calling on the international community to condemn the Laogai, the system of forced labor prison camps in the People's Republic of China, as a tool for suppression maintained by the Chinese Government.

Rollcall 648: Final Passage of H. Res. 612—Yea—Expressing the commitment of the House of Representatives to achieving victory in Iraq.

Rollcall 649: H. Res. 409—Yea—Condemning the Government of Zimbabwe's "Operation Murambatsvina".

Rollcall 650: H. Res. 575—Yea—Providing that Hamas and other terrorist organizations should not participate in elections held by the Palestinian Authority.

Rollcall 651: H. Res. 534—Yea—Recognizing the importance and credibility of an independent Iraqi judiciary in the formation of a new and democratic Iraq.

Rollcall 652: Spratt Motion to Instruct Conferees on H.R. 4241—Deficit Reduction Act of2005—NAY.

Rollcall 653: Goodlatte/Herseth Amendment—Yea.

Rollcall 654: Stearns Amendment—Yea.

Rollcall 655: Sensenbrenner Amendment—Yea.

Rollcall 656: Norwood Amendment—Yea.

Rollcall 657: Westmoreland Amendment—Yea.

Rollcall 658: Gonzalez Amendment—NAY.

Rollcall 659: Sullivan Amendment—Yea.

Rollcall 660: Democrat Motion to Recommit—NAY.

Rollcall 661: Final Passage of H.R. 4437—Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005—Yea.

Rollcall 662: H. Res. 598—Condemning actions by the Government of Syria that have hindered the investigation of the assassination of former Prime Minister of Lebanon Rafik Hariri conducted by the United Nations International Independent Investigation Commission—Yea.

Rollcall 663: Adoption of the Rule providing for consideration of motions to suspend the rules—Yea.

Rollcall 664: H.R. 2520—Stem Cell Therapeutic and Research Act of 2005—Yea.

ON THE OCCASION OF MR. LARRY E. PRICE'S AWARD OF SUPERINTENDENT OF THE YEAR IN NORTH CAROLINA

HON. G.K. BUTTERFIELD

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. BUTTERFIELD. Mr. Speaker, I rise today in support of one of the finest educators ever produced by the great State of North Carolina.

This year, Superintendent Larry Price of my hometown of Wilson was named the 2006 North Carolina Superintendent of the Year. This is the highest honor for an educator in our State. The award was given by the North Carolina Association of School Administrators and the State school boards' association and announced at an awards banquet Monday night.

Larry Price has served as superintendent in Wilson County since 1998, overseeing 13 elementary schools, 6 middle schools, 3 high schools, and 2 learning centers. Under his guidance, Wilson County schools have produced thousands of students who have gone on to become doctors, lawyers, teachers, ministers, businessmen, and other professions. An increasing number each year meet or excel in reading and math at all grade levels since 1998.

I rise to congratulate Mr. Price on his accomplishment, and wish him many more years of success. Larry, we expect many more great things from you.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. BECERRA. Mr. Speaker, on Saturday, December 17, 2005, I was unable to cast my floor vote on rollcall numbers 663 and 664. The votes I missed included a vote to agree to resolution H. Res. 623, providing for consideration of motions to suspend the rules, and a motion to suspend the rules and agree to the senate amendment on H.R. 2520, the Stem Cell Therapeutic and Research Act.

Had I been present for the votes, I would have voted "nay" on rollcall 663 and "aye" on rollcall vote 664.

HONORING THE 57TH MAYOR OF BUFFALO, NEW YORK, HON. ANTHONY M. MASIELLO

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. HIGGINS. Mr. Speaker, I rise today to pay tribute to the public service and personal strength of character of Anthony M. Masiello, who will complete his third and final term as the 57th Mayor of the City of Buffalo on December 31, 2005. Coupled with his deep and abiding love and loyalty to his beautiful family, Mayor Masiello will always be known for his enthusiastic and unwavering love for the City of Buffalo, New York. Through the triumphs and the tribulations of serving as the Chief Executive Officer of the second largest city in New York State, Mayor Masiello never gave up, never gave in and has led us to a better Buffalo.

Born the oldest of seven children, Tony Masiello learned the value of family, hard work and the importance of giving back to one's community from his parents, Bridget and Dan. Educated in Buffalo Catholic Schools, Mayor Masiello graduated from Canisius College in 1969 after a Hall of Fame basketball career with the Division I Golden Griffins.

In 1971, the voters embraced his competitive spirit and youthful energy and elected him District Councilmember and soon after, he won his first citywide election as an At-Large Councilmember on the Buffalo City Council. In 1980, he was elected to the New York State Senate becoming "Buffalo's Senator." Reelected to 7 2-year terms, he rose through the ranks to Minority Whip and Chair of the Democratic Conference. During his tenure in the State Legislature, then-Senator Masiello secured greater funding for the city's public school system, increased financial support for Roswell Park Cancer Institute and Children's Hospital, Buffalo's nationally known health care institutions. He helped fund housing developments and provided leadership in the passage of the Vietnam Veterans Tuition Assistance Bill.

This commitment to education, health care, housing and the needs of others would foreshadow the Mayor's greatest achievements in his next elected office.

Anthony M. Masiello was sworn in as the 57th Mayor of the city of Buffalo on January

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

1, 1994. Since that time, he has tackled daunting financial challenges while instituting sweeping changes in the way the city conducts its business and delivers essential services. He initiated and implemented the Mayor's Impact team; a hands-on Task Force consisting of various city departments working together to perform comprehensive clean-up, maintenance and inspection services in the city, the Citizens Service Hotline and the Good Neighbors Planning Alliance to ensure real residential participation in planning the city's future.

Mayor Masiello led the creation of the Joint Schools Construction Program, an ambitious, pioneering construction and rehabilitation program to provide a 21st Century learning environment for the city's public school students. In 2000, the Mayor proposed state legislation that allowed the city to construct new schools and renovate existing buildings with private financing and now, more than $150 million is being spent in Phase I of the Joint Schools Construction Project to renovate nine schools. Eventually all schools will be renovated or rebuilt giving Buffalo School students the proper facilities and the high tech equipment fundamental to meeting the academic challenges of today and tomorrow.

As citizens of Buffalo, we are also indebted to the Mayor for his vision in bringing together the leaders of the local health care and medical school institutions as well as, for the first time, the neighborhood leaders from the Fruit Belt and Allentown, to create the Buffalo Niagara Medical Campus in the City's center. Through mutual respect and recognition of the need for improved communication, expert planning for shared needs and future growth, the Buffalo Niagara Medical Campus Board of Directors continues to attract local, state and federal funding which has transformed the Campus with more than $300 million dollars of investment in state-of-the-art health care and research facilities. Recruiting efforts for national and international medical, scientific and research talent is succeeding and all efforts have the shared goal of enhancing the opportunities for the Campus' neighbors and its neighborhood. The story and the success of the Buffalo Niagara Medical Campus is rightly attributable to the ability of Mayor Masiello to bring people together, impart the absolute need to work together and help direct the first $14 million in "seed money" that led to hundreds of millions of dollars in real private/pubic investments.

And it is the Mayor's commitment to implementation that led to one of the greatest achievements in the history of the City of Buffalo as it was recognized with the 2005 National American Planning Association Award for "The Queen City Hub: A Regional Action Plan for Downtown Buffalo, as the best plan in the country.

The plan's development began in the late 1990's as the Mayor created a partnership with the City of Buffalo, the University of Buffalo Urban Design Project and Buffalo Place, the leading business group dedicated to downtown development, with the mission of making downtown Buffalo a 24/7 community to live, work and play. This effort has more than succeeded with $1 billion dollars of public and private investment in the ground and in planning stages that includes the Buffalo Niagara Medical Campus to the waterfront and connects to the east and west side neighborhoods of Buffalo. The Mayor himself led" Seeing Is Believing," a series of highly successful walking tours of downtown Buffalo through 2004 and 2005 where hundreds of people followed this very tall Mayor as he walked briskly in and out of converted buildings which now features the wildly popular loft apartments, theatres, grocery stores, mixed use buildings, new single family homes and pointed proudly to green space, traffic improvements and new hope for future growth.

While he gives credit to all who joined him in this collaboration, it was Mayor Masiello who created the partnership that led to the Queen City Hub plan and developed the award-winning road map to be followed by those who will follow him.

Mayor Masiello's ability to create real partnerships with a stated goal and a heartfelt commitment to make Buffalo a better place must be rightly acknowledged. A Mayor's job is never easy and perhaps, never tougher than throughout the 12 years of the Masiello administration when the challenges of the leading a northeast urban center to a new century and in a new direction brought with it crushing financial conditions that never crushed the Mayors spirit.

And so this grateful Congressman and city resident offers heartful thanks and best wishes to the Honorable Anthony M. Masiello as he concludes this chapter in a lifetime of public service and begins new challenges and opportunities. We send our deepest appreciation to his family, who also serves, as we thank his beautiful wife, personal and professional partner, Kate Maseillo, and their daughters, Ariel and Madeline. We also acknowledge the Mayor's newest title—grandfather—to Rose Elizabeth, the daughter of his daughter, Kim and husband, John Adamucci, and wish health and happiness as another grandchild is on its way.

Perhaps the highest tribute we can pay to the 57th Mayor of the City of Buffalo is with his own words and so I will conclude my comments, by including those of Mayor Anthony M. Masiello—on the man who showed him by example to never walk away from the challenges of being Mayor—his father, Dan, who died earlier this year. "My father worked two or three jobs at a time for many years to support seven children. He was a foreman for the city's sanitation department and then he would work 3–11 p.m. at night unloading trucks for 10–15 years. Yet he never missed a day of work even when he was sick or tired. I remember seeing him so tired he could hardly stand up but he would go to see his second job not long after leaving his first. Some days I would think of my Dad as I was driving to City Hall so I would just pick myself up and keep going. This is a city worth fighting for and it was my privilege to fight for it for the last 12 years."

Thank you Mayor Masiello for fighting for Buffalo, for bringing us together and bringing out the best in who we are and what we can be by continuing to work together. Thank you for leading us to a Better Buffalo.

U.S. DEPARTMENT OF STATE'S RECENT ACTION TO REINSTATE FOREIGN MILITARY FINANCING AND DEFENSE EXPORTS TO INDONESIA

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Ms. BALDWIN. Mr. Speaker, I rise today in strong opposition to the U.S. Department of State's recent action to reinstate Foreign Military Financing (FMF) and defense exports to Indonesia, by waiving restrictions placed on that aid by this Congress.

In 2000, due to the Indonesian military's record of abuse in places such as East Timor, Congress responsibly placed conditions on military assistance packages to Indonesia. The restrictions on military aid to Indonesia were included, once again, in the Fiscal Year 2006 Foreign Operations Appropriations bill. Two days after the bill became law in November 2005, the State Department waived all remaining restrictions on Foreign Military Financing and defense exports to Indonesia. This Administration's waiver was in clear contravention of the will of this Congress. It greatly diminishes the leverage we have to press for human rights improvements.

Organizations such as the East Timor Action Group and Human Rights Watch are highly critical of this waiver. Indonesian military officers and soldiers who have committed human rights violations have not been prosecuted. At least 15 human rights defenders, including Indonesia's foremost human rights advocate Munir, have been murdered since 2000. To date, no senior Indonesian officer has been held accountable for crimes against humanity in East Timor in 1999 or before.

To this day, there are reports of the Indonesian military terrorizing the people of West Papua, but documenting these human rights violations is nearly impossible because the government and military severely limit access to the province.

While the people of Indonesia have made democratic advances, these have happened in spite of the military. I believe the Bush Administration's decision to waive the restrictions this Congress placed on FMF and defense exports to Indonesia could threaten the democratic advances by once again propping up brutal forces. Human rights activists in Indonesia and East Timor have repeatedly called for continued restrictions of U.S. military assistance to Indonesia. I am disappointed the Bush Administration has chosen to ignore them.

SAN BERNARDINO POLICE DEPARTMENT CELEBRATES 100 YEARS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. LEWIS of California. Mr. Speaker, I rise today to say congratulations to the San

Bernardino, California, Police Department, which has been protecting and serving the people of my hometown since 1905. I would like to give a hearty thanks to Chief Garrett Zimmon and his officers, and all of those who have served over the years in this fine department.

When the police department was formed, nine officers were sworn in to patrol a city of 20 square miles and provide law enforcement to 9,150 residents. By 1913, San Bernardino saw its first motor officers, and the department continued to grow with the city. Seven brave officers have given their lives in the line of duty for San Bernardino citizens.

Although the first female officer was not hired for the force until 1974, I would like to mention that the mother of one of my high school friends—Jack Brown—served as a reserve officer beginning in 1954. Rose Brown set an upstanding example of community involvement for her son, who as CEO of Stater Bros. Markets is now one of San Bernardino County's most active private citizens.

Mr. Speaker, the San Bernardino Police Department now serves a city of 190,000 residents, covering 60 square miles. Many of the law enforcement problems that used to belong in the "big city" are now faced daily by the 301 sworn officers and 159 support staff members. I've been pleased to be able to provide some assistance in creating a 21st-Century dispatch system that places computers in every patrol car. In short, the San Bernardino Police Department has grown up with my hometown, and I ask you to join me to with the chief and his officers congratulations on their Centennial year.

STEM CELL THERAPEUTIC AND RESEARCH ACT OF 2005

HON. W. TODD AKIN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. AKIN. Mr. Speaker, I rise today to strongly support the passage of the Stem Cell Therapeutic and Research Act of 2005. This bill will encourage and support the most promising avenue of stem cell research available to us today, and will do so without ending a human life, as is required in embryonic stem cell research. Cord blood is one the most exciting areas of medical research today and successful treatments have been developed for a wide range of diseases, from sickle cell anemia to leukemia.

The promise of medical research using the stem cells found in umbilical cords is truly amazing. Stem cells from cord blood have already resulted in treatments for at least 67 different human afflictions and future research looks immensely promising. Just one example of this is the successful treatment of numerous children afflicted by Krabbe's Disease. Dozen's of children across the country have been saved from an early death by cord blood transplants. This legislation will make cord blood more readily available to save lives and treat numerous conditions.

This summer I had the opportunity to visit a leading center of cord blood-based stem cell research. The St. Louis Cord Blood Bank at Cardinal Glennon Children's Hospital is one of the leaders in this field and is the second largest cord blood bank in the world. It was exciting to see the research being done and hear stories about the lives that have been radically altered by successful cord blood treatments. I believe that the work being done by the St. Louis Cord Blood Bank is just a taste of what can be accomplished in the future.

While embryonic stem cell research may draw more media attention and certainly produces many improbably optimistic promises for the future, cord blood stem cells are already producing treatments. Embryonic stem cell research requires the death of an innocent embryo, but cord blood stem cells are a gift from God that we would be irresponsible to waste. Cord blood stem cell research has already resulted in numerous successful medical treatments, and I believe that this research has a bright future. The support and coordination of cord blood banking and research efforts across the country will benefit our citizens in numerous ways in the years ahead. I urge my colleagues to support the Stem Cell Therapeutic and Research Act of 2005.

MANAGEMENT OF THE MISSOURI RIVER AND THE CROP INSURANCE PROGRAM

HON. KENNY C. HULSHOF

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. HULSHOF. Mr. Speaker, as my colleagues know, Federal actions that negatively impact private property inflame the passions of farmers. This is certainly the case for the farmers in my district who make their living along the Missouri River, particularly as it relates to the efforts of some to create an artificial spring rise on the Missouri River.

On one side, bureaucrats and fringe special interests—absent sound science or empirical data—want to periodically flood the lower Missouri River basin in the hopes of helping the endangered pallid sturgeon spawn. On the other side, concerned farmers, river stakeholders, Missouri's congressional delegation, Governor Matt Blunt—just to name a few—understand that increasing river flows above the normal river levels during a volatile time of year—one in which farmers are most vulnerable—will cause flooding of adjacent farmland, infrastructure and even entire communities. Those of us on this side of the debate know that only sound science should be used as a basis for our river policy, and actions meant to help wildlife—especially actions that lack scientific merit—should not take precedence over the needs of the people who live and work along the river.

Despite this, the Army Corps of Engineers was compelled to include two artificial spring rises in their 2006 operating plan for the Missouri River. While the broad coalition that opposes this misguided spring rise fully intends to continue fighting implementation of these unproven and scientifically questionable spring rises, I want to make the House aware of an issue that we will need to address, should the Corps move forward with spring rises in 2006.

For years now, those of us opposed to a spring rise made the commonsense assumption that the U.S. Department of Agriculture's Risk Management Agency would serve as a safety net for those adversely affected by the spring rise, providing crop insurance coverage to those harmed by government-induced flooding, such as a spring rise on the Missouri River.

Apparently, it is the opinion of some that this is not the case. Just this week, the Risk Management Agency administrator stated in a letter dated December 15, 2005, that the Risk Management Agency "is prohibited by law from covering crop losses due to a government sanction release of water by the Corps because it does not qualify as a naturally occurring event."

To me, and to those I represent who live along the river, this policy defies logic. Common sense and basic fairness dictate that crop insurance should cover flood damages caused by a spring rise. From the perspective of a farmer, it adds insult to injury for the Federal Government to cause a flood and then refuse to cover crop insurance damages associated with the Government's actions.

I'm not asking for a handout, nor are my constituents. What I am seeking is a flood insurance policy relating to a spring rise that is consistent with the Risk Management Agency's stated mission, to "promote, support, and regulate sound risk management solutions to preserve and strengthen the economic stability of America's agricultural producers" and to "provide crop insurance to American producers."

Over the coming weeks and months, I will be working with some of my colleagues, like my friends Representative SKELTON and Senator TALENT to find the best, most efficient solution to this obvious problem. In this effort, I look forward to working with the administration and the committees of jurisdiction in Congress to remedy this situation. Likewise, I fully intend to continue working with like-minded stakeholders and elected officials to stop the flawed spring rise that will cause unnecessary flooding and damage for those along the Missouri River.

H.R. 4581, THE EASEMENT OWNERS' FAIR COMPENSATION CLAIMS ACT OF 2005

HON. W. TODD AKIN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. AKIN. Mr. Speaker, in his first State of the Union address, President Abraham Lincoln said, "It is as much the duty of government to render prompt justice against itself in favor of citizens as it is to administer the same between private individuals." President Lincoln said this in reference to the United States Court of Claims which he proposed Congress to establish for the purpose of justly resolving the claims of citizens against the United States. One of the most fundamental rights we enjoy in this nation is the right to know that our property is free from confiscation absent the protections of the Fifth Amendment. When the government does confiscate a citizen's property, the United States Constitution requires the government to provide the citizens from whom the property is confiscated full and fair compensation for the property that has been taken.

A matter has come to my attention in which the United States government falls tragically short of meeting this obligation. I refer to those individual property owners in St. Louis County whose property has been confiscated by the Federal Government for use as a public recreational trail under the Federal Trails Act. These citizens' property was taken more than 12 years ago when it was converted to a recreational trail under the Federal Trails Act, and they have still not received compensation. This is so despite the fact that the Justice Department has admitted in a settlement agreement and in numerous court pleadings that the Federal Government has confiscated their property and that the Fifth Amendment to the U.S. Constitution requires that the Federal Government pay these property owners the fair value of the property taken. The Justice Department and the property owners each hired appraisers who determined the fair value of the property and after 6 years of litigation in the Federal Court of Claims a settlement agreement was reached.

Yet, two days before this agreement was to be approved by the judge, the Federal Circuit Court of Appeals issued a decision in a Georgia case called Caldwell v. United States. The Justice Department and the U.S. Court of Claims have interpreted that case as announcing a new rule for the time when a property owner must file a claim to recover the value of his property taken by operation of the Trails Act. This "new rule" is inconsistent with the understanding of Congress when we enacted the Trails Act and, as announced by the dissenting opinion in the Caldwell case, is "contrary to all authority". The Federal Circuit decision ruled that the statute of limitations for Trails Act compensation claims begins to run, not when the property owners land is actually taken from the landowner, but when the Surface Transportation Board issues a notice that there is a possibility that the land might be taken in the future.

Mr. Speaker, this "new rule" announced by the Caldwell court, as it has been interpreted and applied by the Justice Department and the lower courts, will work a great injustice to a limited number of property owners whose property has been confiscated but will now be denied compensation, while at the same time requiring the Federal Government to pay compensation for property that might never be converted to a public recreational trail. The new Caldwell rule will cost the Federal Government plenty—requiring taxpayers to pay significantly greater interest for compensation claims during the time before the property was ever taken from the land owners.

Mr. Speaker, this injustice is best illustrated by the letter I received from Gale and Sara Illig. Mr. and Mrs. Illig live in my home county of St. Louis, Missouri and their property was taken for a recreational trail. I incorporate Mr. and Mrs. Illig's letter in these remarks.

DEAR CONGRESSMAN AKIN: We have a small business. Gale is in commercial holiday decorating and Sarah helps in the business. After a number of years of saving, in 1984 we bought our home in Grantwood Village. By most standards it is a modest home but it is a home that we love and have worked hard to care for and improve over the years. This home is where we have raised our family and now spend our retirement years. We are not a family of great wealth and our home represents our most significant asset.

When we bought our home in 1984, one of the features that appealed to us was the quiet and secluded community and location. A screened-in sun porch on the south side of our home is one of our favorite rooms. Outside the sun porch and further to the south is the now abandoned Missouri Pacific Railroad right-of-way. We own the property over which the MoPac held an easement for this branch-line of their railroad. The tracks themselves were just a single line and they were infrequently used. Between the tracks and our home was a large, attractive hedge which gave us privacy.

In 1992 a not-for-profit nature trail group negotiated with MoPac to acquire this now abandoned railroad right-of-way. We have been told that the federal government gave the trail group the authority to acquire this abandoned railroad right-of-way and to prevent us from using our property. We understand that the federal Trails Act gave them this ability to take our property even though under Missouri law we had the right to use and occupy this property once it was abandoned by MoPac. We wrote to Senator Bond in 1992 expressing concern about the effect this trail would have upon our home and property value. While the railroad had a full 100 foot width easement, they only used a very narrow 12 feet that was occupied by the train tracks and, as noted, that was used infrequently. Because of the Trails Act, the trail organization now claims the right to use the full 100 foot width of the original railroad easement, including the right to cut and remove all of the foliage on this part of our property. Additionally, with the trail use we now have, quite literally, hundreds of people biking and walking through our property where previously we enjoyed a quiet and secluded home.

Now, we want to make clear that we do not oppose recreational hiking and biking trails and we think parks and recreational trails are a fine thing. It is just that when, as in our situation, the federal government runs the trail through our property without our consent we believe that we should be fairly compensated for this taking of our property. This public trail runs just several feet from our sunroom and across almost the entire southern third of our property.

We have always understood that the U.S. Constitution provided us the guarantee that if our property were to be taken we would be compensated. I mentioned that we are a family of modest means and this is true. This causes us to feel even more painfully the effect that this taking of our property has had upon our own home value.

The government took our property almost 13 years ago. We spent more than 6 years in a lawsuit with the government seeking to be compensated for the government's taking of this property. In that lawsuit, the Justice Department agreed that this taking of our property represented a value of $72,065 taken from us by the federal government. The Justice Department also agreed that they would pay us this money and that they were responsible to make this payment under the Fifth Amendment of the U.S. Constitution. The Justice Department also agreed to pay us interest on this because it has now been 13 years since our property was taken. The Justice Department's agreement that they would pay us was long overdue but was very welcome.

As we get older we face the realistic understanding that we will not be able to live in our home forever. During the twelve years since the trail was created, Gale has suffered both cancer and a multiple heart valve replacement. The value that we have built up in our home is an asset that we look to provide for our needs when we reach a point where we can no longer care for this home and need to move into other living arrangements. For this reason the $72,065 plus interest since 1992, while not much money to the federal government, is quite literally huge to us. This is why we were so pleased when the settlement was reached last December.

* * * what happened next, * * * is still one of the most outrageous experiences in our life and represents a great injustice to us personally. Two days before the hearing with the Judge to approve the settlement, we understand that the Court of Appeals decided a Georgia Trails Act case. The government claimed this case changed the law and meant that now they now no longer had to pay us what they had agreed they were obligated to pay us for the confiscation of our property.

We are not lawyers so maybe that is why we cannot understand the nuances of this but, to us, a very simple principle is involved. The government has taken our property, the government agreed that they have taken our property (I am told by [our attorney] that the government agreed to this not just once, but on multiple occasions in formal statements filed with the Court), the government agrees how much they owe us for the property, including interest, and the government is required by the U.S. Constitution to pay us this money. Then, at literally the last minute, they claim the law has changed because of a case in Georgia so they no longer have to pay us. This is just flat wrong! And, no amount of legal nuance can make it right.

Congressman Akin, a lot of us in St. Louis experienced the same sense of outrage during the October 16th Cardinals game against the Astros when the home plate umpire, Cuzzi called what was clearly a ball to be a strike on Jim Edmonds and then threw Jim Edmonds out of the game. That bad call did not necessarily change the outcome of the game. But the tragic effect of this bad call by the Court in the Georgia case and the bad call by the Department of Justice to use that case as an excuse for the government to escape its obligation to pay us for our property represents a devastating financial setback for our family.

We have always worked hard, saved our money, and paid our taxes and expected that the federal government would treat us in a fair and just manner. We must tell you that we see this effort by the government to now escape their clear constitutional obligation to pay us (and the other one hundred property owners from whom they admit taking property) as a very fundamental injustice. For that reason, we are extremely grateful to have you represent us in the Congress and greatly appreciate your efforts to address this injustice. We are grateful for your help on this matter of such great importance to us.

Warmest regards,

SARAH and GALE ILLIG.

Mr. Speaker, this letter demonstrates my initial point that the Federal Government has dramatically fallen short of President Lincoln's standard of "providing prompt justice against itself in favor of citizens". Mr. Speaker, H.R. 4581 remedies this injustice and also returns administration of the Trails Act to a manner consistent with Congress' intention when initially passed.

THE PURPOSE OF H.R. 4581, THE EASEMENT OWNERS' FAIR COMPENSATION CLAIMS ACT OF 2005

The Easement Owners' Fair Compensation Claims Act of 2005 will remedy the injustice worked by the Federal Circuit Decision in Caldwell v. United States. It will establish clearly Congress's intent regarding when the Trails Act is intended to interfere with a property owner's interest and it will provide that those property owners in the limited number of cases affected by this Caldwell decision are, in fact, provided full, fair compensation for the property that the Federal Government took from them while, at the same time, assuring that the Federal Government does not use taxpayers' funds to pay for claims where it did not take any property and where ultimately, no recreational trail is ever created. In so doing, we will bring justice on behalf of those owners whose property is taken and we will also preserve and steward the taxpayers' resources by not paying for claims where no recreational trail for public use is ever created. This bill will provide the constitutionally mandated compensation to those property owners whose lands have been confiscated (as the Justice Department has already admitted) while on a broader level saving the Government from having to pay money for property that is never taken for a public recreational trail and prevent the Federal Government from having to pay interest for a "taking" of property years before the property owner's State law right to use and possess the property is ever interfered with.

In short, H.R. 4581 restores the date for starting the statute of limitations to the date when the property owners' rights to the property are actually taken by the Federal Government. This is consistent with Congress's intention when the Trails Act amendments were passed in 1983 and will assure compensation to those property owners whose property the Government already acknowledged taking but not require the Government to pay compensation or interest for property never converted to trail use. H.R. 4581 will not undercut the operation of the Trails Act but will actually make it more cost efficient and will fairly treat those property owners whose property is actually taken for a trail.

HONORING THE WORK OF RAY BECK

HON. KENNY C. HULSHOF

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. HULSHOF. Mr. Speaker, I rise today in recognition of Ray Beck, the presiding city manager of Columbia, MO, as he is retiring this January after 45 years of service to the city of Columbia. Ray has held numerous positions during his tenure with the city of Columbia, the most notable of which is his current post of city manager, which he has held since 1985.

The second youngest of six children, Ray Beck was born in St. Elizabeth, MO, on November 9, 1932. After graduating from St. Elizabeth High School, Ray went on to earn both a bachelor's and a master's degree in engineering from the University of Missouri-Columbia. Ray then dutifully served his country as an officer in the US. Army. He is also a graduate of the US. Army Field Artillery School as well as the US. Army Command and General Staff College.

Ray always knew that his life would be best spent working as a public servant. As my colleagues here in this Chamber can attest, public service can be an extremely rewarding experience. This calling is the reason why I ran for Congress and am fortunate enough to represent the good people of the Ninth District of Missouri. I am saddened to see Ray leave this position with the city of Columbia, as he has not only been an invaluable resource to the city and myself, he has also become a good friend. His counsel and words of wisdom have certainly aided me as we worked collaboratively for the benefit of Columbia.

Columbia looks a lot different today than in 1960 when Ray first started working for the city. Over this time span, Columbia's population has more than doubled to its current size of roughly 91,000 residents. The cityscape continues to evolve as more and more families and businesses flock to the area. With its strong business climate, close-knit community, excellent public schools and ready access to world-class higher education, Columbia has consistently been ranked as one of the most desirable places to live. Ray can look back with pride at this progress.

Through his official capacities as city manager, Ray has helped Columbia develop into the vibrant city it is today. During his tenure, Columbia established a city-operated waste removal program, expanded the local parks and recreation services, and implemented a municipally operated transit system as well as many other public works projects.

Whether it was working to improve the city's sewer systems, roadways or public utilities, these infrastructure improvements have made Columbia a better place to live and work. Ray accomplished all of this and much more while working with 14 different mayors.

Aside from his official duties, Ray has always been actively involved in the community. Through his involvement with the National Recreation and Parks Association, the University of Missouri-Columbia Dean's Engineering Advisory Council, or the Missouri Highways Engineers Association, Ray was always seeking additional resources or contacts that could assist him in his various endeavors for the city. His drive, however, was not only limited to work related activities. Ray should be commended for his good work and involvement with the MU Alumni Association, the United Way and the U.S. Army Retired Officers' Association, just to name a few.

When Ray retires this January, I suspect he may shed a few tears—some of joy and some of sadness. But when he looks back upon his career, I hope he realizes how much his work has improved the lives of those who make Columbia their home. And for that, I am eternally grateful.

I know his new priorities will no longer focus either on housing or sewer systems, but spending time with his wife, Dee, his 4 children, his 13 grandchildren and his many friends. I only hope that on the day of my retirement I can look back upon a career as accomplished as his.

Ray, I sincerely thank you for your dedication and service to Columbia and the State of Missouri. Congratulations on a well-deserved retirement.

SENATE—*Monday, December 19, 2005*

The Senate met at 9:30 a.m. and was called to order by the Honorable LISA MURKOWSKI, a Senator from the State of Alaska.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal spirit, by whose providence we have been blessed with the gift of another day. Your greatness overwhelms us. We bow in adoration because of Your merciful kindness. We thank You for disasters averted and advancements made. We thank You also for blessings that come disguised as adversity.

Bless our Senators in their significant work. Strengthen and refresh them with Your goodness. Purge them from all unworthy self-indulgence that they may not hinder but help the work of freedom. Give them hearts and hands that are willing to serve. Temper their successes with humility. Open their eyes to new levels of truth that they have not known before.

Bless also the many staffers who assist our leaders in their labors.

Empower us all to live abundantly as Your children.

We pray in Your strong Name. Amen.

NOTICE

If the 109th Congress, 1st Session, adjourns sine die on or before December 22, 2005, a final issue of the Congressional Record for the 109th Congress, 1st Session, will be published on Friday, December 30, 2005, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Thursday, December 29. The final issue will be dated Friday, December 30, 2005, and will be delivered on Tuesday, January 3, 2006. Both offices will be closed Monday, December 26, 2005.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

Senators' statements should also be submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at "Record@Sec.Senate.gov".

Members of the House of Representatives' statements may also be submitted electronically by e-mail, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at http://clerk.house.gov/forms. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, and signed manuscript. Deliver statements to the Official Reporters in Room HT–60.

Members of Congress desiring to purchase reprints of material submitted for inclusion in the Congressional Record may do so by contacting the Office of Congressional Publishing Services, at the Government Printing Office, on 512–0224, between the hours of 8:00 a.m. and 4:00 p.m. daily.

By order of the Joint Committee on Printing.

TRENT LOTT, *Chairman.*

PLEDGE OF ALLEGIANCE

The Honorable LISA MURKOWSKI led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 19, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LISA MURKOWSKI, a Senator from the State of Alaska, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Ms. MURKOWSKI assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Madam President, there will be a period of morning business this morning. Over the course of this morning, the House has passed both conference reports, the DOD appropriations conference report and the spending reduction reconciliation report, as well, early this morning. The first DOD appropriations passed 308 to 106 and the spending reconciliation 212 to 206 in the House just a few hours ago.

As our colleagues know, we have been waiting for House action on those bills so those bills could be sent to this body. They have now completed their work on DOD appropriations, DOD authorization, and the spending reconciliation bill, all three of which we will be addressing over the next several days.

There has been a tremendous amount of work among and between the House and the Senate and among various interested parties, and now we are on the final stretch before the holiday season. It will be a difficult time to get through the next couple of days because of a lot of tension, but I ask for

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

our colleagues' understanding and patience as we go through what will be challenging for us as quickly as possible to address these issues. But all of these will be addressed, plus many others. We will be working over the course of the morning to schedule both conference reports, DOD appropriations and the spending reconciliation conference report.

I hope we can schedule Defense authorization, which is another bill we have had on the floor and off the floor and on the floor, and Chairman WARNER has done a tremendous job with that bill. We were hoping to do that several days ago, but the House had not acted on it until this morning. It has now been completed, and we are ready to go to that hopefully this morning. Hopefully here in a few minutes we will have a short time agreement, and then I will be working with the Democratic leader to schedule an appropriate time for that vote.

On the deficit reduction conference report, as my colleagues know, we have 10 hours for debate before that vote. We want to start that time as soon as we can. Every hour we put that off is just an hour later that we will get out of here. We want to get that time started and that debate started as soon as possible—10 hours before we vote on the deficit reduction conference report.

A number of other issues are outstanding. In terms of judges, I am not sure exactly when the next vote will be until we work out the schedule this morning. We will not have any rollcall votes this morning, but I think we have told all of our colleagues that from noon on, we may well be voting. We will just have to alert people in terms of the time.

BOY SCOUTS AND GIRL SCOUTS OF AMERICA

Mr. FRIST. Madam President, yesterday I had the pleasure of hosting Boy Scouts and Girl Scouts here in the Nation's Capitol in celebration with an event that looked at a bill that will be included in the Department of Defense appropriations bill, and this bill is the Support our Troops Act of 2005. We had an event to celebrate. We had a little press conference, and with the hot lights actually one of the Scouts got a little faint, which many of us do, and it was remarkable to see the Scouts' reaction. They knew exactly what to do and how to handle it as we stood before those cameras.

The event yesterday highlighted the tremendous contributions of Scouting, a much beloved tradition in this country under congressional charter in 1910 and since that point in time has served over 110 million Americans as participants in Scouting. Our efforts here in the Senate have been to protect that tradition for generations to come.

I have worked very closely with Roy Williams, the chief Scout executive for the Boy Scouts of America, and John Cushman, the national president of the Boy Scouts of America, in fashioning this legislation. Both were there at that event yesterday, as well as Troop 1100 from Burke, VA.

I have worked closely with Roy and John to craft what is commonsense legislation, the Support our Troops Act of 2005. It will be passed here hopefully a little bit later today as part of that DOD bill. It passed this floor in an overwhelming, bipartisan way earlier this year.

The bill is a straightforward victory for the Boy Scouts of America as well as other youth organizations that are helping to mold the hearts and the minds of our young generation today.

Without question, the success of Scouting relies on the commitment of the Scouts and their leaders and their parents. But Scouting also depends on having equal access to public facilities and participation in public programs and forums that allow Scouts to learn their field craft, to sharpen their skills, contribute to their community, and to learn the values that make America great.

Over the last few years, the Boy Scouts have been subjected to repeated attempts to exclude them from public facilities. The attacks have mounted so quickly that exclusion from Government forums has become the greatest legal challenge for the existence of the Boy Scouts.

For example, last year, the Department of Defense was required to notify American military bases worldwide that they cannot provide support to or directly sponsor the Boy Scouts of America. This unfortunate directive came about because of a lawsuit—a vindictive lawsuit—by the American Civil Liberties Union to demand that the Government discontinue its support of the Scouts. Their reason? Because they argue the Scouts are a religious organization. Most Americans would not recognize camping and building trails and fellowship and voluntarism as distinctly religious activities, but the ACLU is bound and determined to undermine the Scouting mission at a time when probably more than ever in history our Nation yearns for stronger community ties, stronger family ties, and stronger fellowship, a culture of integrity, a culture of honesty, and a culture of character for our young people.

That is why I sponsored the Support Our Troops Act, to ensure that the Boy Scouts of America and the Girl Scouts of the United States of America are not subject to unfair legal assaults, to remove any doubt that Federal agencies may, indeed, welcome Scouts onto Federal property, to ensure that State and local governments cannot discriminate against the Scouts.

I have tremendous admiration for the Boy Scouts. I was a Boy Scout. The first question I had yesterday from Scouts was: Were you an Eagle Scout? I said, no, but the one goal I set and should have done was becoming an Eagle Scout.

Scouting meant much to my three boys, Harrison, Jonathan, and Bryan, all of whom participated in Scouts, each of whom I have had the opportunity to camp with many times, with their troops and with their Scouting entities.

Through exposure to the outdoors, through the hard work and virtues of civic duty, the Boy Scouts have developed millions of young Americans into fine citizens today, community servants and, of course, future leaders. It is an honor to support this fine organization. Those values taught by Scouts have played an important role in shaping my own life and that of my family, and now, because of the Support Our Troops Act, Scouting continues to enrich the lives of countless young boys and girls and their families and their communities as it has always done over the last 100 years, strengthening the fabric of American life.

Madam President, I suggest the absence of a quorum.

ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. STEVENS. Reserving the right to object, I will not object if I can follow the Senator.

The ACTING PRESIDENT pro tempore. It is not in order to reserve the right to object.

Is there objection?

Mr. FEINGOLD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The Senator from Wisconsin.

ANWR

Mr. FEINGOLD. Madam President, I wish to bring to the attention of the body the extremely troubling tactics that some in this body have used over the past few days to try to push through a legislative proposal that, standing on its own, does not have the support of a majority of the U.S. Congress. And I think these tactics reflect poorly on this body and its leadership. Discarding the rules that govern all of us demonstrates contempt not only for the need to have and follow rules, but for the history, and future, of the United States Senate.

To be clear, I am talking about the inclusion of the Arctic National Wildlife Refuge drilling provision in the Department of Defense appropriations bill, a provision we all know is controversial and has not been able to pass Congress on a variety of occasions.

Drilling in the Arctic has absolutely nothing to do with funding the Defense Department. The distinguished minority leader has already submitted into the RECORD a letter from five retired U.S. generals who are arguing this very point: Funding for our brave men and women in uniform should not be jeopardized by including a highly controversial and unrelated provision to open up the Arctic National Wildlife Refuge for drilling.

I ask unanimous consent that this letter be again printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 17, 2005.

Hon. BILL FRIST,
Majority Leader.
Hon. HARRY REID,
Minority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR FRIST AND SENATOR REID: We are very concerned that the FY2006 Defense Appropriations Bill may be further delayed by attaching a controversial non-defense legislative provision to the defense appropriations conference report.

We know that you share our overarching concern for the welfare and needs of our troops. With 160,000 troops fighting in Iraq, another 18,000 in Afghanistan, and tens of thousands more around the world defending this country, Congress must finish its work and provide them the resources they need to do their job.

We believe that any effort to attach controversial legislative language authorizing drilling in the Arctic National Wildlife Refuge (ANWR) to the defense appropriations conference report will jeopardize Congress' ability to provide our troops and their families the resources they need in a timely fashion.

The passion and energy of the debate about drilling in ANWR is well known, and a testament to vibrant debate in our democracy. But it is not helpful to attach such a controversial non-defense legislative issue to a defense appropriations bill. It only invites delay for our troops as Congress debates an important but controversial non-defense issue on a vital bill providing critical funding for our nation's security.

We urge you to keep ANWR off the defense appropriations bill.

Sincerely,

JOSEPH P. HOAR,
General, U.S. Marine Corps (Ret.).
ANTHONY C. ZINNI,
General, U.S. Marine Corps (Ret.).
CLAUDIA J. KENNEDY,
Lieutenant General, U.S. Army (Ret.).
LEE F. GUNN,
Vice Admiral, U.S. Navy (Ret.).
STEPHEN A. CHENEY,
Brigadier General, U.S. Marine Corps (Ret.).

Mr. FEINGOLD. Thank you, Madam President.

For the benefit of my colleagues, I would like to read from the Senate's Web page and the Web page of the Senate Committee on Rules and Administration—the very places the American public would refer to when interested in learning how the Senate has said it will conduct business. I have printed copies of the relevant pieces of these U.S. Government Web sites, and I ask unanimous consent that these be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STANDING RULES OF THE SENATE

CHAPTER 28: CONFERENCE COMMITTEES; REPORTS; OPEN MEETINGS

2. Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses. If new matter is inserted in the report, or if matter which was agreed to by both Houses is stricken from the bill, a point of order may be made against the report, and if the point of order is sustained, the report is rejected or shall be recommitted to the committee of conference if the House of Representatives has not already acted thereon.

HISTORY OF COMMITTEE ON RULES AND ADMINISTRATION

I. INTRODUCTION

All legislative bodies need rules to follow if they are to transact business in an orderly fashion. Legislatures must have established rules if they are to operate fairly, efficiently, and expeditiously.

Mr. Jefferson wrote in his Manual of Parliamentary Practice that whether the rules "be in all cases the most rational or not, is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business, not subject to the caprice of the Speaker or captiousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body."

The first Senate understood this concept, and on the next day after a quorum of the Senators appeared and took their oath of office, a special committee was created to "prepare a system of rules for conducting business."

The committee consisting of Senators Ellsworth (Conn.), Lee (Va.), Strong (Mass.), Maclay (Pa.), and Bassett (Del.) was appointed on April 7, 1789, and on April 13, it filed a report which "was read, and ordered to lie until tomorrow, for consideration."

The following day the report was read again, but consideration thereof was put off until April 15. On April 16, the new set of rules, consisting of 19 in total, was adopted, but on April 18, another rule numbered XX, not reported by the committee, was adopted.

The members of this first committee were qualified for their task; all five were lawyers with experience in various legislative bodies. Senators Ellsworth, Strong, and Bassett, in addition to their other legislative experiences, were members of the Federal Convention. Mr. Lee had been President of the Continental Congress as well as a member of other legislative bodies, and Mr. Maclay had served in the Pennsylvania Provincial Assembly.

Other special committees formed to revise or reexamine the Senate rules and to recommend changes therein, were created from time to time until April 17, 1867. On this date a committee of three Senators was appointed "to revise the rules of the Senate, and to report thereon early in the next session." This committee became known as the Select Committee on the Revision of the Rules and, as such, was a continuous committee until December 9, 1874, when it was designated as a standing committee to be known as the Committee on Rules.

From 1789, when the first committee was appointed, until 1867, the beginning of a continuous committee on rules, the Senate created nine special committees to revise the rules of the Senate, but only seven (3) filed reports to the Senate, and, pursuant to such reports during that time, the Senate adopted three general revisions of its rules, none of which were at the beginning of a new session. During that same period, the Senate occasionally amended its existing rules and adopted various procedural orders, some or most of which were included in the body of the rules when each next general revision was adopted.

The select committee, begun in 1867, consisted of three Senators and was directed by resolution adopted on April 13, "to revise the rules of the Senate, and to "report thereon early in the next session." The committee filed its report, which was ordered printed, on February 21, 1868, and the Senate adopted this general revision of its rules on March 25, 1868. On December 21, 1874, the Senate adopted a resolution instructing the standing Committee on Rules "to consider the propriety of revising and reclassifying the rules of the Senate," and that it report accordingly at the earliest day practicable. The committee made its first report on March 2, 1875, which was ordered printed and recommitted.

On July 14, 1876, the committee filed another report on rules revision; the Senate proceeded to consider this report on December 18, 1876, which it recommitted on the same day. On December 26, 1876, the Committee filed another report which was ordered to lie on the table. The Senate began consideration of this report on January 15, 1877, and after three days of consideration and the adoption of various amendments, the revision of the rules was adopted on January 17, 1877.

On March 2, 1883, the Senate adopted a resolution instructing the standing Committee on Rules "to sit during the recesses of Congress, at Washington or elsewhere, for the purpose of revising, codifying, and simplifying the rules of the Senate." On December 10 of that year, a report was submitted, which the Senate began to consider on December 13 and continued with from time to time until January 11, 1884, when another general revision of the rules was adopted.

On May 10, 1976, the Senate adopted Senate Resolution 156 (submitted by Mr. BYRD, the majority leader) to authorize and direct the Committee on Rules and Administration to prepare a revision of the Standing Rules of the Senate. On November 7, 1979, a report was filed pursuant to the above resolution in the form of Senate Resolution 274 (submitted by Mr. BYRD for himself and Mr. Baker, the minority leader), to revise and modernize the Standing Rules of the Senate without substantive change in Senate procedure and to incorporate therein certain other rules of the Senate. The resolution was called up on November 14, 1979, and passed by a vote of 97 to 0, after a brief discussion thereon.

Between 1884 and 1979, many changes were made in the rules of the Senate and its procedure. The history of these changes has been piecemeal. Some amendments to the rules were proposed by the Rules Committee in the form of resolutions reported by that committee and adopted by the Senate, and some resolutions amending the rules in various ways were submitted, considered, and passed immediately or soon thereafter without reference to a committee. Some changes were made by the Senate agreeing to unanimous consent requests to that effect, and precedents and practices of the Senate since 1884 have had a great effect on the rules and procedure. Additionally, some changes were made by a combination of the above methods. For example, one of the most controversial provisions of the changes in the Senate rules since 1884 includes the cloture rule. The Committee on Rules reported S. Res. 195 on May 16, 1916, to amend Rule XXII to provide for a cloture procedure. It was debated but did not come to a vote. On March 7, 1917, the Senate was called into special session, and Senator Martin of Virginia submitted a resolution (S. Res. 5) to provide for a cloture procedure. It was similar to the resolution reported by the committee and was adopted on March 8, 1917. A number of amendments have been made to this rule—some reported and adopted; and some submitted, called up for consideration without reference to a committee and adopted. The so-called post-cloture amendment to rule XXII, adopted in 1979, was called up without reference and adopted, but the Committee on Rules and Administration had reported a resolution in the previous Congress containing a section therein that was very similar to the resolution adopted in 1979.

II. RULES COMMITTEE—A BRIEF SKETCH OF ITS DEVELOPMENT

HISTORY OF SPECIAL COMMITTEES ON RULES BEFORE THE CREATION OF A STANDING COMMITTEE ON RULES

The Senate first convened on March 4, 1789 without a quorum (only eight Senators appeared) and without any rules. It was not until April 6 that a quorum of the membership appeared. During the interim, the Senate adjourned from day to day without transacting any business except acting on proposed communications to absent members requesting their attendance. On April 7, a special committee to prepare and propose a system of rules was created (Journal, p. 10) as follows: "Ordered, That Mr. Ellsworth, Mr. Lee, Mr. Strong, Mr. Maclay, and Mr. Bassett, be a committee to prepare a system of rules to govern the two Houses in cases of conference, and to take under consideration the manner of electing Chaplains, and to confer thereupon with a committee of the House of Representatives." "Ordered, That the same committee prepare a system of rules for conducting business in the Senate."

This committee performed its assignment and filed a report on April 13, 1789, proposing 19 rules for conducting business in the Senate. The report was adopted on April 16, 1789, which gave the Senate the following 19 rules (Journal, p. 13):

The, report of the committee appointed to determine upon rules for conducting business in the Senate, was agreed to. Whereupon, "Resolved, That the following rules, from No. I, to XIX, inclusive, be observed."

I. The President having taken the chair, and a quorum being present, the journal of the preceding day shall be read, to the end that any mistake may be corrected that shall have been made in the entries.

II. No member shall speak to another, or otherwise interrupt the business of the Senate, or read any printed paper while the journals or public papers are reading, or when any member is speaking in any debate.

III. Every member, when he speaks, shall address the chair, standing in his place, and when he has finished, shall sit down.

IV. No member shall speak more than twice in any one debate on the same day, without leave of the Senate.

V. When two members rise at the same time, the President shall name the person to speak; but in all cases the member first rising shall speak first.

VI. No motion shall be debated until the same shall be seconded.

VII. When a motion shall be made and seconded, it shall be reduced to writing, if desired by the President, or any member, delivered in at the table, and read by the President, before the same shall be debated.

VIII. While a question is before the Senate, no motion shall be received unless for an amendment, for the previous question, or for postponing the main question, or to commit it, or to adjourn.

IX. The previous question being moved and seconded, the question from the Chair shall be: "Shall the main question be now put?" And if the nays prevail, the main question shall not then be put.

X. If a question in debate contains several points, any member may have the same divided.

XI. When the yeas and nays shall be called for by one-fifth of the members present, each member called upon shall, unless for special reasons he be excused by the Senate, declare, openly and without debate, his assent or dissent to the question. In taking the yeas and nays, and upon the call of the House, the names of the members shall be taken alphabetically.

XII. One day's notice at least shall be given of an intended motion for leave to bring in a bill.

XIII. Every bill shall receive three readings previous to its being passed; and the President shall give notice at each, whether it be the first, second, or third; which readings shall be on three different days, unless the Senate unanimously direct otherwise.

XIV. No bill shall be committed or amended until it shall have been twice read, after which it may be referred to a committee.

XV. All committees shall be appointed by ballot, and a plurality of votes shall make a choice.

XVI. When a member shall be called to order, he shall sit down until the President shall have determined whether he is in order or not; and every question of order shall be decided by the President, without debate; but, if there be a doubt in his mind, he may call for the sense of the Senate.

XVII. If a member be called to order for words spoken, the exceptionable words shall be immediately taken down in writing, that the President may be better enabled to judge of the matter.

XVIII. When a blank is to be filled, and different sums shall be proposed, the question shall be taken on the highest sum first.

XIX. No member shall absent himself from the service of the Senate without leave of the Senate first obtained.

Two days later (April 18) the Senate adopted the following motion, giving the Senate a total of 20 rules (Journal, p. 14): On motion, Resolved, That the following be subjoined to the standing orders of the Senate:

XX. Before any petition or memorial, addressed to the Senate, shall be received and read at the table, whether the same shall be introduced by the President, or a member, a brief statement of the contents of the petition or memorial shall verbally be made by the introducer.

After the first session of the first Congress, a considerable number of orders and resolutions to study a particular rule or a general revision of the rules were adopted before the Rules Committee became a standing committee. This review will concern itself only with the creation of special committees which were concerned with a general revision of the rules as opposed to those created to explore a certain procedure or particular operations of the Senate. There were more special committees created to study general revisions of the rules than there were general revisions adopted; some committees never filed a report and others filed reports which were rejected.

During the entire history of the Senate, only seven general revisions of the rules since 1789 have been adopted, namely: March 26, 1806; January 3, 1820; February 14, 1828; March 25, 1868; January 17, 1877; January 11, 1884; and November 14, 1979. The last three revisions were considered and reported by the standing Committee on Rules before being adopted by the Senate.

Mr. FEINGOLD. Thank you, Madam President.

Let me start with reading from the Senate Web page's description of the legislative process—our description to the public as to how we do business in our Nation's Capitol.

Under the heading "Conference Committees; reports; open meetings," the first sentence reads:

> 2. Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses.

This section goes on in more detail, but let me turn to what our constituents, members of the public whom we expect to abide by the laws we pass, would find if they visited the Senate Committee on Rules and Administration Web site:

> All legislative bodies need rules to follow if they are to transact business in an orderly fashion. Legislatures must have established rules if they are to operate fairly, efficiently, and expeditiously.

The committee Web site goes on to quote from Thomas Jefferson's 1801 edition of the "Manual of Parliamentary Practice," saying that:

> . . . whether the rules "be in all cases the most rational or not, is really not of so great importance. It is much more material that there should be a rule to go by than what the rule is; that there may be a uniformity of proceeding in business, not subject to the caprice of the Speaker or captiousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body."

A logical follow-up question is then: How is it that we find it acceptable to knowingly break our own rules? I am truly astonished at the contempt I see certain of my colleagues showing for this institution on this issue.

I could stand here and read at length from the history of the Senate rules, as written by the Senate Committee on Rules and Administration, to reflect on how our rules came to be. I will not do that. But I do encourage my colleagues to read up on this history, because if we go forward on the path that some have set, I worry what it means for the future of this body. It most definitely opens the door to future abuses. If you don't like the rules, you break them. In fact, those who want the drilling provision included in the defense spending bill, recognizing that it breaks Senate rules, have actually put language into the conference report that says once the bill is signed into law, Senate rule 28 would come back into effect.

In fact, let me read the exact language:

> Section 13. Legislative Procedure: Effective immediately, the Presiding Officer shall apply all of the precedents of the Senate under rule 28 in effect at the beginning of the 109th Congress.

So apparently you can break the rules because you will immediately reinstate the rules. Is this the message the Senate is willing to send to the American public? I have more faith in this body than to believe we are willing to sink so low.

Let's imagine the consequences if, in fact, this conference report is accepted. You can't move an unpopular proposal through the legislative process? No need to worry. You just attach language to an important funding bill that says you want to reinstate the rules after you have broken them. Is this the precedent that we, Members of both parties, want to set, a precedent that says you can break the rules because you will put them back in place? I sincerely hope not.

Additionally, how will we respond when our constituents ask us, how is it that the very people who make the laws that govern public behavior simply ignore the rules governing their own behavior? What will we say?

Madam President, I hope when it comes time for the Senate to go on record as to whether it believes its rules are important enough to stand, that a majority of this body will take the honorable position that this institution's rules are worth defending.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Madam President, I am sad to hear a Senator say that this amendment that is controversial, the amendment to allow exploration and development of the Arctic Coastal Plain, has never passed the Senate. It passed the Senate this year as part of the reconciliation package. It passed both bodies in 1995 and was vetoed by President Clinton.

With regard to the question of the concept of matters being added to conference reports, we voted in 1995 on a motion to overturn the Chair. It was a motion to overturn the Chair on the aviation reauthorization reform bill. It was the last bill before the Congress at that time. At that time, there was an appeal from the Chair, and there was a vote to overturn the Chair. The Chair was not sustained. On that vote, there were a series of Senators, here now, who voted to disagree with the Chair.

We are not changing the rules at all. Rule XXVIII is not affected by the amendment I am presenting to the Senate. I have been around here 37 years. I know the rules. I was chairman of the Rules Committee for a while. As a matter of fact, I think I wrote, during the time I was Rules Committee chair—I am still on the Rules Committee—the comments the Senator read.

As a practical matter, the right to disagree with a ruling of the Chair is inherent in any body, any legislature. In Roberts Rules of Order, it is a little different than it is here. But we have the right to appeal the ruling of the Chair. When we do, it is not destroying the rule. It represents a difference of opinion.

Do you know what the difference of opinion now is? It is whether this amendment, which is the amendment to go forward, as the Congress indicated in 1980 in the Alaska National Interest Conservation Lands Act, with the exploration and development of the Arctic Plain of Alaska, whether that is part of and related to national security.

Oil is related to national security. I will provide the statistics later on how much oil the Department of Defense uses. This is an amendment to pursue domestic production of oil, without which we will be in great difficulty. The largest consumer of oil in the United States is the Department of Defense. If the opposition disagrees with us on that position, then let's see whether the Senate believes that this is a matter that is in the interest of national security.

We should not be having people say that it has never been done, that I am trying to do something that breaks the rules. We don't break the rules. We are living by the rules. This amendment is here because of the rules. I intend to enforce the rules. One of the procedures in this Senate is to appeal the ruling of the Chair. We haven't had that ruling yet. There appears to be a presumption that it will happen.

But let's go back to 1980, to that time when we had the Alaska oil pipeline amendment. At that time, we had the same opposition from the extreme environmental groups. It was going to destroy Alaska. It was going to destroy caribou. It was going to be inconsistent with our environment. There was no filibuster. There wasn't even the threat of filibuster. The Senate at that time agreed that oil was a matter of national security, and we don't filibuster national security issues. As a matter of fact, in defense matters, on the defense Appropriations bill, et cetera, we need 51 votes, not 60, on various matters with regard to compliance and whatnot of the Senate. There are exceptions here. They could get a couple of 60-degree votes when we have this bill before the Senate.

But the point I am trying to make is, the Senate, at the time we passed the Alaska oil pipeline amendment, did not filibuster. What has happened is the constant filibuster now during this decade by people who persist in trying to reverse the provisions of the 1980 act.

I will never forget the 1980 act because that act, in 1978, had been blocked by my then-colleague, Senator Gravel, in the closing minutes of the Congress in 1978. It had passed the House. It passed the Senate. It had gone to conference. It came out of conference, and Senator Gravel blocked that by demanding that the bill be read after the adjournment resolution had been presented to the Senate.

In the next Congress in 1979, my good friend Senator Jackson of Washington came to me and said: Ted, if you want to be involved in consideration of this bill this year, you must come back to the Interior and Insular Affairs Committee. I had left that committee to come to the Appropriations Committee. But as a matter of fact, I did. I left the Appropriations Committee and went back to the Interior and Insular Affairs Committee. We worked on that same bill then for 1979 and 1980.

That was a period of extreme stress for me. I lost my wife in the 1978 accident that happened after the blocking of that bill. We all knew that we had to come back in. As a matter of fact, the flight we were on was a flight to raise money to come back and ask people to help us lobby for the passage of something to get that bill done.

At that time Alaska's selection of lands under the act were blocked by what was called a freeze. They were blocked by an order made by President Carter under the Antiquities Act. We could not go forward without getting an act passed. So I split off from my then-colleague and said: I am going to help you. I only want one thing in this bill for sure. And that is, I wanted the right to continue to explore the Arctic Plain. The two Senators in charge of that bill, Senator Tsongas of Massachusetts, Senator Jackson of Washington said: You are right. And they put in the amendment that created section 2002 in the 1980 Alaska National Interest Lands Conservation Act. It was their amendment.

These people are filibustering fulfilling the commitment of Senator Tsongas and Senator Jackson. As a matter of fact, I did vote for that bill and, at the time, there were enormous full-page ads in newspapers in my State which said: Come home, Ted. You no longer represent us. We can't trust the Congress.

I said: I trust the Congress. I particularly trust Senator Tsongas and Senator Jackson. Unfortunately, God willed otherwise. Those two gentlemen left us prematurely and, as a consequence, we have fought now for 25 years to fulfill that commitment.

Let me tell you a little bit more history, Madam President. I was in the Department of Interior during the Eisenhower days. In 1958, I helped write the order that created what was known as the Arctic Wildlife Range. In that range, 9 million acres in northeast Alaska, oil and gas exploration was permitted.

The reason I asked for this amendment in 1980 was that I wanted to continue the fact that oil and gas exploration would be permitted.

I see I am close to the end of my time. I will finish my statement later; others want to speak but I want to finish with this one comment, with the permission of the Chair.

I am not trying to turn over the rules. I am not trying to do anything that others have not done. We have a full right to appeal the ruling of the Chair, should it take place, that we disagree with the basic assumption that oil is not needed in the interest of national security. And those of us who will vote to make sure we vote on this conference report are ones who believe in national security. We cannot mention the vote in the House, but we can mention the statements in the House. See what they said on the House floor. We believe in national security. This amendment must go through as part of the National Security Defense Appropriations Act of 2005.

I yield the floor. I will be back throughout the day, Madam President.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I wish to make a couple quick points regarding the remarks of the Senator from Alaska.

Let's be clear, the Senate has never passed the version of the Arctic drilling that is included in this Department of Defense bill. That is simply not the case.

Mr. STEVENS. The Senator didn't say that.

Mr. FEINGOLD. The Senator indicated we passed this provision before, and we had not. And if the Senator is not breaking the rules, why does he need to create language that explicitly reinstates the rule? He can't have it both ways—have language that says the rule doesn't apply in this instance but will go right back into effect. It clearly is breaking the rule, and the Senator is trying to set a precedent for all this. The aviation bill from the midnineties—I remember that one—they didn't have the votes to put in this special interest provision for Federal Express business. It is something that never passed any committee in the whole Congress. Yes, they violated the rules and abused the rules to get that one done, too. I wouldn't use that as a precedent. It is merely a precedent of the abuse that is occurring here.

Mr. STEVENS. Madam President, is it possible for me to regain the floor?

The ACTING PRESIDENT pro tempore. Yes. The Senator is recognized.

Mr. STEVENS. Madam President, let me say this. If it was possible to have an appeal of the ruling of the Chair in 1996, it is possible now. That is not breaking the rules. With regard to the version of this bill, we took the bill that passed the House and have added to it the provisions that allow funding for disaster areas and other items, but the basic portion of this bill that is coming to us in this amendment is, in fact, the bill that passed the House before.

Again, I want to say this. I think there is a lot of really extreme comments about this Senator's actions. They can't come close to really offending the rules themselves. I have done nothing illegal. I have done nothing immoral. I have done nothing wrong. I am pursuing—as a matter of fact, there hasn't been a ruling of the Chair yet, but thinking there might be, we followed the procedure that was established by the distinguished minority leader in 2000. We put a provision in there saying, look, if there is a ruling and consideration of this amendment, we do not want to disturb the rules.

By the way, after the aviation ruling that I mentioned, the Federal Aviation Reauthorization Reform Act, the rule wasn't changed: it was the interpretation of the Parliamentarian. The Parliamentarian believes that after a Chair is overruled, the rule is no longer enforceable. It is still there, but it is a question of enforcement, not a question of repealing.

Even if we have an appeal of the Chair, and the Chair is overruled, we won't take rule XXVIII out of the rules. It will be a question of whether the Parliamentarian will tell the Chair that based upon precedent that rule would no longer be enforceable.

So we put a provision in the bill saying in the event a ruling of the Chair is overturned and there is a situation where the Parliamentarian would advise the Chair that means rule XXVIII is no longer enforceable, then we use the same approach of the Senator from Nevada, and we say that will not be the case. We do not intend to destroy the rule. We intend to support the rule. We don't want it to be in hiatus.

After the 1996 act, it was inoperable for 4 years because of the interpretation of the Parliamentarian, based upon precedent. I am not criticizing the Parliamentarian; that is the basic precedent of the Senate. Once the Chair is overruled, that rule is unenforceable until reinstated. We are saying that is not our intent this time. We don't intend to attack the rule. We want the rule to stay in place. We want to make sure anybody who votes for this, in the national security interest, that we must proceed with oil exploration in the Arctic, is not being told, Oh, you are going to destroy rule XXVIII. It wasn't destroyed in 1996. It was made inoperable by an interpretation of the Parliamentarian.

By the way, again, that was consistent with precedent. We are saying that precedent will not apply to this bill, the Department of Defense appropriations bill, when it comes before the Senate.

This is going to go on for a long time, but one thing I know is that I am not violating the rules. When I proceed with this amendment in the conference report, which I fully intend to do, and trust the Senate—I am putting my faith in the Senate to support national security as a part of the conference report.

Remember now, we don't have an amendment. We have a conference report now. That is treated in a different manner than an amendment to the bill. I am not offering an amendment to the bill. I am managing a conference report on the Defense appropriations bill for 2006. As such, I expect that bill to pass, and I expect that bill to pass containing the provision which is in the interest of national security, that we now proceed with exploration and development of the Arctic Plain as was intended by two great Senators, Senator Scoop Jackson and Senator Tsongas. It was their concession to the State of Alaska, as President Carter insisted on withdrawing 105 million acres of Alaska. Only 1.5 million acres were assured for the future development of our State. One point five million were assured for the future development of the State, and 105 acres were set aside and not available for development. There can be no oil and gas development in those other areas. In this area, we allowed 1.5 million acres to stay open for development.

More will be said later. I thank the Chair for her patience.

Mr. REID. Parliamentary inquiry, Madam President: If the Chair is overruled on rule XXVIII exceeding the scope point of order, would that set a precedent that would lower the standard for enforcement of that rule to such an extent as rendered almost impossible to enforce?

The ACTING PRESIDENT pro tempore. It would lower the standard with respect to enforcing the rule.

Mr. REID. Madam President, let me say this. Clearly what is being attempted by the distinguished Senator from Alaska is wrong. As the Senator will recall, we had another Parliamentarian who was fired over a matter similar to this. This is absolutely wrong what is being attempted here.

This is the Defense appropriations bill, and to wave the flag of national defense, even at the very best, if ANWR goes forward, it will be 10 years before any oil is produced. Oil companies made, as I indicated last night, $100 billion last year. This is a speck of oil if, in fact, it goes forward.

I know how strongly the Senator from Alaska feels about it. Why not do it the right way? Even though I voted against this being inserted in the reconciliation, which I think was wrong, it was done according to the rules, and the Senator from Alaska and what he wanted prevailed. To do it this way is absolutely wrong. It shows that if it is inconvenient, if the rules are inconvenient, then just overrule them. We will play around with it. We will sustain the Parliamentarian at one point, overrule him in another, and then come back in the same bill and pretend as if nothing had ever happened. This has never been done before.

It shows absolute contempt for the rules of this body, and it shows that Lord Acton was right. Power tends to corrupt, and absolute power tends to corrupt absolutely. That is what we have here. That is what is going on in Washington.

I will be happy to run through what I think are the ethical lapses that have taken place in this town, led by the Republicans over the past year, but that is not necessary. I believe what we have is intellectual games being played in a negative fashion. This is absolutely wrong to do this, to hold up this bill.

We will have a vote. As things now stand, we will vote on cloture probably on Wednesday. Following that cloture vote, there will be a vote in upholding the ruling of the Chair, and we will see what happens at that time. The votes are very close. I would not be a betting person either way on either cloture or this rule, but understand that sticking this in this bill has nothing to do with the national defense of this country. It has everything to do with breaking the rules to the convenience of the powerful.

I am disappointed that this happened. I think it is wrong. I think when the history of this body is written, if this is allowed to go forward, it will be a dark day in the Senate.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Madam President——

Mr. REID. Madam President, let me just finish. I have one additional thing to say.

Mr. STEVENS. Pardon me. I apologize.

Mr. REID. I will be finished just quickly.

The ACTING PRESIDENT pro tempore. The minority leader.

Mr. REID. Regarding conversations we had on this floor about this has been done before, returning to the Chair and later fixing it, it has not been done before. This is a unilateral fix of a precedent in the same bill. Anything that has been done before has been done on a bipartisan basis. I was part of changing it back with Senator TRENT LOTT. It was the right thing to do. Scope of conference is very important. It should not be changed willy-nilly. It should not be changed because it is inconvenient. The precedents of this body are extremely important, and I think they are being played with at this time. It is really unfortunate.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Madam President, I again apologize to the Senator from Nevada. I thought he had completed his statement.

I want to read to the Senate the comments I made in 1996 at the time the point of order was pending on the FAA conference report, just to show I have maintained a constant position with regard to this. I said this:

> Mr. President, this is a rather difficult situation. We have just passed, recently, a Defense appropriations bill. I was the chairman of that conference. Before it was over, we had a whole series of other bills, a series of legislative items. It was not necessary to raise a point of order. Everybody knew we had exceeded the scope of the conference.

Now, this is 1996. I am again quoting:

> I ask any chairman of a conference if he or she has ever really been totally restricted by this rule? . . . When the leader became aware that Senator Kennedy was going to raise this point of order, the leader determined to raise it himself. I take it that having done that, there is no question this is a rather significant occasion. I hope it will be a rather narrow precedent.
>
> I point out to the Senate that this provision is not only the only matter that exceeds the scope of the conference. We had to include, at this administration's request, special authority for the executive branch to purchase and deploy explosive detection devices. We put in here the provisions that pertain to the rights of survivors of victims of air crashes. We put in the provisions requiring passenger screening companies to be certified by the FAA. That is not required under any existing law. We put in restrictions on underage pilots, following the one disaster that involved a young girl who was a pilot. We put in a provision requiring the FAA to deal with structures that interfere with air commerce.
>
> My point is, as we get to the end of a session, we, of necessity, include in a bill extraneous matters totally beyond the scope. We know they are beyond the scope. As the chairman of the Defense Appropriations Committee, I knew all those items we brought to the floor earlier this week were beyond the scope of the conference, but we did not anticipate anyone would raise a point of order.
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> Anticipating that Senator Kennedy would bring this point of order before the Senate, the leader made this point of order. I ask the Senate to keep in mind this will be a rather limited precedent, in my opinion. I do not know whether the Chair will agree with me, but clearly when you get to the end of a Congress, some things have to be done. We did not have time to take up separate bills. We held a hearing on the bill in the Senate Commerce Committee dealing with the rights of victim-survivors of air disasters. They pleaded with us to include that bill in this legislation. We have done so.
>
> In other words, this point of order is not only valid, in my judgment, against the amendment offered by Senator Hollings, but against the other provisions where we have exceeded the scope on various matters on this bill.

What I am saying is we have had this process year after year. I know of other amendments that have gone into bills like this at the last minute where people tried to get passed something that did not pass before, and because of the circumstances they passed.

In this instance, again, the Senate is going to hear this over and over again, that this is a matter of national security that I have for 25 years tried to support the position taken by the Senator from Washington and the Senator from Massachusetts that this area should be open to oil and gas exploration. We have had two environmental impact statements. They have proved that no permanent damage will be done to this area. We have disproved all the allegations concerning destruction of wildlife. As a matter of fact, there are seven to eight times more caribou on the North Slope today than there were at the time the oil pipeline was built and at the time we were told if that pipeline is built there will never be another caribou in Alaska, in effect. They said we would destroy it.

The other day, they called it the Serengeti. I do not want to point out the Senator who said it, but one Senator went up there and viewed it. When that Senator got off the helicopter, that Senator said: What the blank is this all about? That person had looked over the area when it was snowing and said: Why would someone possibly block this?

I have to say that this is the beginning of a long debate. I yield the floor.

The ACTING PRESIDENT pro tempore. The minority leader.

Mr. REID. Madam President, if a Senate filibuster over ANWR stops a Defense bill, the legislation can be quickly modified and passed. So there is no impact on military finances. If someone proposing this loses, then we will reconstitute the conference and ANWR will be out. Now, this is not me talking. This is the distinguished President pro tempore of the Senate, Mr. STEVENS, quoted in yesterday's Fairbanks Daily News-Miner.

Senator STEVENS said: If the Senate filibuster stops the Defense bill, the legislation will be quickly modified and passed. There is no impact on military finances. If we lose, the distinguished Senator went on to say, we will reconstitute the conference and ANWR will be out.

That is the point. I appreciate the honesty of the interview with my friend from Alaska with this newspaper because that is the way it is. If we prevail, that is, those who oppose this being in the bill, on the point of order which will likely be on Wednesday, then the Defense bill goes forward. No one voting on this point of order will stop the Defense bill. No one voting for cloture will stop the Defense bill. This bill will go forward. There is a continuing resolution that takes us to the end of the year, and we need not get that far. If, in fact, we have a majority of the Senators who vote on this point of order and it prevails, then the bill will go forward, just as the Senator from Alaska said yesterday in the Fairbanks newspaper.

So I would hope that there would come a time—we could go home today. We could be finished today. The Senator from Alaska knows he has the votes to do what he did on reconciliation again. As soon as the new session of this Congress convenes, we could take this out and goodwill would prevail. We would go home tonight, and we would be home 4 or 5 days before Christmas.

Mr. STEVENS. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. STEVENS. I agree. I agree with the statement the Senator read. I think that is true. I am not accusing anyone of delay. I would be happy to have a time agreement on the conference report, and I would be happy to have a time agreement on any type of point of order or motion to be raised on the conference report. I will be glad to have a vote on the conference report by voice vote if it passes. I am anxious to let people get home. I will be happy to get time agreements, and I do believe if we lose we can go back to conference and protect the Department of Defense.

I am not accusing anyone of harming the Department of Defense. I am urging people to think about national defense.

Would the Senator agree to any type of time agreement?

Mr. REID. I will be happy to consider anything that is reasonable. I am sure there are things we can do.

Mr. STEVENS. Good.

Mr. REID. One of the things I think would be appropriate, the way I understand things now, if everything is here by midnight tonight and cloture is filed, there will be a Wednesday cloture vote. After that Wednesday cloture vote, there will be a vote on this point of order. That would be Wednesday.

If it is necessary that there be cloture invoked on the Defense authorization bill—and I am not sure that is necessary, but it is possible—the two cloture votes would be back to back.

So I would be happy to consider working out some reasonable time agreement. Maybe we could even have the vote on the point of order first.

Mr. STEVENS. I thank the Senator. I think that is the way to go.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

THE ALASKA WILDLIFE REFUGE

Ms. CANTWELL. Madam President. I rise to raise my concerns about this process and the unbelievable avenues through which this legislation is coming before us, just to try to open up the Arctic National Wildlife Refuge for oil drilling.

As my colleagues have just been discussing on the floor, these are priorities, for Congress to pass the DOD appropriations bill and the DOD authorization bill. As this Senator sees it, we could wrap up this business today and go home. But because a provision in this legislation coming over from the House opens up drilling in the Arctic National Wildlife Refuge, you bet there are Members on this side of the aisle—Members on both sides of the aisle in the House and Senate—who have great concerns over this measure.

As one Senator who would like to wrap up the year today and go home and spend time with my family, I know there are the prospects of us staying here to fight for something we believe in. It is very clear that we could go home today if the Senator from Alaska would agree to take this language out of the bill. So, in fact, this process is being held up over the fact that he has inserted a controversial measure into this legislation. It is such a controversial measure that House Democrats and Republicans refused to vote on a budget bill while it still remained in the legislation. That gives you some idea of how controversial it is. In fact, they took it out of the budget bill because they could not get the budget bill passed with it in there.

Now my colleague wants to say that somehow he is not holding up the process when it is very clear that he is holding up the process. We could all go home today instead of arguing over something that has been argued over for 25 years. There is a reason we have been arguing over it for 25 years, and that is because there has been great division over this issue.

The notion that this is about national security is unbelievable to me. To me, what national security is really about is passing a clean DOD appropriations bill that gives resources to our troops. In fact, we should give the military in Iraq the ability to do a better job protecting the security and infrastructure of the pipeline there. We lose 800,000 barrels a day of oil in Iraq that could be part of helping the Iraqi government get on its feet and the rest of the world energy markets stabilize. But this ANWR measure is holding up a DOD bill instead of giving the military all the resources they need. We are not talking about an oil supply 10 years from now; we are talking about something we should be doing today in terms of securing existing infrastructure. We should strip this ANWR language out and pass this bill.

I understand the Senator from Alaska thinks this ANWR provision is in the interest of some, because I think it is in Alaska's interest. In 2005, petroleum counted for 86 percent of the State of Alaska's general revenues—86 percent of their State revenues. In fact, according to a published article, State officials expect that at least until 2013, 74 percent of Alaska's general purpose revenues will come from oil revenues. So I get why the State of Alaska cares so much. In fact, CBO recently calculated that Alaska will get $5 billion in revenue from this legislation if it is passed. Of course Alaska cares about this. Of course Alaska would hold up the legislative process and keep us here extra days to get this bill passed and get ANWR in by hook or crook, any possible way. Of course they would.

But don't say that this is in the national interest. What is in the national interest of our country is to get over our overdependence on foreign oil. We need to start doing that now, as well as get off of our overdependence on domestic oil and fossil fuels in general. Instead of implementing this Arctic drilling program, we ought to be implementing policies that help us diversify and move forward, so people can have affordable energy rates in this country and not be held hostage by these special interests.

It is another thing to say, somehow, this legislation has arrived here through a clean process. The fact is you would basically have to overrule the Parliamentarian—which is our judge here. It is basically like going to a Federal court, having a judge rule on something, then when the judge rules on it voting to overturn them, and then a few minutes later reinstating the rule. If that isn't a quick fix around the legislative process here, I don't know what is. But this whole ANWR measure, trying to get it on any piece of legislation that is moving, has been exactly that—every attempt to make the process go without adhering to the rules.

The fact is this legislation comes to us and basically takes away about seven different laws that would otherwise apply to drilling in the Arctic. It really is—it is a free ride, a back door that circumvents seven different Federal laws and countless regulations that have been on the books for years. So this is not just passing ANWR; this is basically giving the oil companies a sweetheart deal around Federal laws and regulations that no other company has ever gotten. I guarantee, Scoop Jackson would roll over in his grave. There is no way Scoop Jackson would support drilling in the Arctic Wildlife Refuge when you are overturning a law, the National Environmental Policy Act, that he wrote. So you can mention Scoop Jackson's name a thousand times, there is no way he would support this process.

Did you ever ask yourself why he didn't just authorize it to begin with? I think he knew exactly what he was doing. He wanted further review, and he certainly wanted environmental laws to apply. But, no, this legislation basically overrides the environmental statutes. It creates ill-defined environmental standards. It has a waiver for the lease and sale of land and cuts off the Secretary's ability to protect environmentally sensitive areas, and it allows the Secretary to lease an unlimited amounts of coastal plain. It takes a weak reclamation standard and basically hamstrings the Federal agencies that are supposed to do their job when it comes to protecting federal lands.

Maybe it is no surprise that, after trying to stick this on the budget bill, having both Democrats and Republicans in the House defeat it, now there is an effort to try to stick it on the DOD appropriations bill.

In this Senator's opinion, this is nothing more than legislative blackmail, to try to get colleagues to vote for something because it is a must-pass bill. That's because, in fact, the proponents of this measure know that there is great opposition to this process and to drilling in the Arctic. I know the Senator from Alaska said in the Fairbanks paper that he was not going to hold up the process. But newspapers across the country know exactly what is going on. In fact, the Oregonian just said a few days ago:

> Arctic drilling has been thrown in with the defense bill and the emotionally charged matter of supporting American troops at a time of war. It does not belong there, something that ought to be obvious to all but the most cynical members of Congress.

All but the most cynical Members of Congress should see that this is obvious.

We actually had a letter from military leaders, military leaders in our country, raising the same concern:

> . . . any effort to attach controversial legislative language authorizing drilling to the Defense appropriations conference report will jeopardize Congress' ability to provide our troops and their families the resources they need in a timely fashion.

That is coming from General Zinni and many others who wrote to us saying, don't do this. This is crazy. We want to get about the process of getting a DOD bill passed.

The New Hampshire newspaper said:

> He has threatened to attach the provision to the Hurricane Katrina relief bill or to the defense appropriations bill, a cynical ploy. . . .

Trying to attach this, basically, should be rejected. Both approaches should be rejected.

Even my newspaper in Seattle called this, "dubious congressional standards of fair play," because they know that this situation is one in which any legislative rule will be thrown out, just to pass drilling in ANWR.

We know that this issue is not without controversy. We know the oil spills of the past are raising great concerns for people. If they have raised so many great concerns for us, why would we give a blanket pass to drilling in ANWR and overthrow those Federal rules and regulations that apply everywhere else? Why should we go to the extent of trying to attach it to a bill that has to pass, knowing that you are going to ask Members to overrule the Parliamentarian and then, after you basically have tried to overrule him, then go back and say the Parliamentarian was right?

How far are we willing to go? How many rules are we willing to break in this process just to get a small amount of oil 10 years from now?

What the American people want is for us to do our job and send money to the troops and get them home. They do not want to sit and watch us stay here for 3 or 4 more days to continue to complain about this process. What they want us to do is pass legislation that gives the troops the support they need. Let us give the troops the money they need to make sure that 800,000 barrels a day are protected right now. Let's do a better job of making sure we're making the right infrastructure investments, which will help everybody. Let's make sure that gets done.

But this Senator still remains in opposition to drilling in the Arctic National Wildlife Refuge, because you can't tell me that 5,504 spills on an annual basis in the North Slope since 1996 is a good track record. You just can't tell me that all those oil spills in the Prudhoe Bay area and near the Trans-Alaska Pipeline constitute a good enough track record to now say you can open up drilling in an Arctic wildlife refuge and have no impact. Last year, those spills totaled more than 1.9 million gallons of toxic substance, mostly crude oil and diesel.

We know where this is heading. We know where it is heading with no great result for the United States. We are not going to see any oil for a long time. It is a time in which the United States should be making an investment in diversifying off of our dependence on oil instead, and supporting our troops.

This Senator plans to talk a long time about this issue. This Senator knows that we could be going home today, having finished our work, having a session that is ended, having Members back at home talking to their constituents and having the troops realize that we didn't play politics with their legislation.

I hope we will get about doing business here today and closing this legislative session. That's what we should be doing instead of figuring out what three or four other rules in the process need to be broken just to try to pass ill-conceived legislation that we have been battling over for 25 years. Let us not hold the troops' money hostage. Let's pass this legislation in a clean fashion and get home to our families.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DORGAN. Madam President, my colleague from the State of Washington just discussed an issue that is going to be a recontested issue this week; that is, drilling in ANWR and an amendment that allows the drilling in ANWR in Alaska attached to the DOD appropriations bill.

I was a member of the conference committee that met yesterday starting at noon. I believe we finished close to 5 o'clock yesterday afternoon. We had a pretty aggressive and contentious discussion about this issue.

I just want to say that while I believe we need to produce more energy. I supported the Energy bill. I was a member of the Energy Committee and am proud to support the Energy bill. It does mean that we need to produce more oil, coal, and natural gas; produce more renewable forms of energy; move toward a different energy construct, such as hydro and fuel cells; have more efficiency and conservation. I support all of that.

But I said then, and I believe now that opening the most pristine area of our country that has been set aside ought to be a last resort, not a first resort. Deciding to open that now and getting oil from it 10 years from now makes precious little sense to me especially when there are alternatives. But even more importantly, adding this controversial issue to the Defense appropriations conference report that is going to come to the Senate really makes no sense at all. It adds a very controversial provision to a bill that basically is to fund the actions of the Defense Department and support our troops. I do not, for the life of me, understand why this is being done.

In order for this to be accomplished, there will have to be a debate in this Chamber. When the conference report comes to the floor of the Senate, which I assume is going to be Wednesday, the debate will ensue, and those who oppose adding this unrelated, extraneous, highly controversial issue to the Defense appropriations bill will make a point of order that it violates the rules of the Senate, and it does. There is no question about that. This is violative of rule XXVIII of the Senate. My guess is, from what I hear, the proponents of doing this will then, after the Parliamentarian and the Chair would rule that this violates rule XXVIII of the Senate, ask that the ruling be overturned and have a vote on appealing the ruling of the Chair—in effect, changing the rules of the Senate in the middle in order to accomplish doing something that otherwise would violate the rules of the Senate.

Well, they are going to do that the Wednesday before Christmas, do it on a Defense appropriations bill. I, for the life of me, do not understand how they think that is justifiable. But as I indicated, it will be controversial and difficult this week as we go through this.

One of my colleagues who is pursuing this says he has a right to pursue it. Right; indeed, he does. He has a right to pursue it, but it will require, in my judgment, the violation of the rules of the Senate, and therefore the changing of the rules of the Senate in the middle of this process. Doing it not only upholds his right but violates the rights of others in the Senate, in my judgment. It abrogates other rights that exist in the Senate.

I know this is all inside baseball to a lot of people, and foreign language to people if they do not understand the rules of the Senate, but rules are rules. There are rules established for the way the Senate works for a very good purpose. If, in this circumstance, we decide that in this conference we can take anything, totally unrelated, anything, and stick it on this conference report, bring it to the well of the Senate in a way that is violative of the rules, but then simply by majority vote decide to appeal the ruling of the Chair, it violates the rules and changes the rules and changes them back in a minute. There is kind of an arrogance there that, in my judgment, does not befit the Senate. We will have that discussion at some point later.

I wanted to say that I also was a member of the conference yesterday in which we discussed the issue of Katrina relief; that is, relief for Hurricanes Katrina and Rita that hit the gulf coast. I said the Senator from Mississippi, Mr. COCHRAN, who comes from that region and who has pushed very hard to represent the gulf region in a very substantial way has been successful in doing that.

DISASTER RELIEF

The one piece that yesterday bothered me, and I indicated so and offered an amendment on it, was a piece that the Senate had, with the leadership of Senator COCHRAN, previously represented to the House of Representatives, and that was there are many farmers who were devastated by these hurricanes in the gulf. These hurricanes came rushing through and destroyed all the crops, and farmers were devastated. So there is about $404 million in the disaster package that will help those farmers in the gulf.

The point I made was—and I know the Senator from Mississippi had previously supported this point because the Senate position was that we should provide disaster relief not just for those farmers in the gulf—they, in fact, should have disaster relief, but there are others in this country who had weather-related disasters, and they ought to, as well, be people who would be eligible for disaster assistance.

In my State, for example, torrential rains in the spring meant that 1 million acres of land were not planted, a million acres were not able to be planted. If you are a farmer and your acreage is in that million acres, you are done. You are in huge trouble. So they ought to also qualify for disaster aid. I offered the amendment yesterday afternoon to add the $1.6 billion to the package that would have allowed us to be fair to all of the rest of the farmers in this country who have been hit with weather-related disasters, and the Senate conferees passed my amendment. We sent it to the House conferees, and they rejected the amendment. So now we have a circumstance where there is no disaster relief for those who have been hit by this disaster and weather-related disasters in other parts of the country.

Family farming is probably easy for some to forget, but family farming is very important to our country. These are families who live out under the yard light, in many cases far from town working to try to make a living against all the odds, against the potential of a grain market collapsing, against the odds that there may be disease in their crops or hail or too much rain or too little rain, all kinds of natural disasters. And we, generally speaking, reached out to those family farmers to say we want to help you because we want to be able to keep family farms on the land in this country.

Yesterday's action by which the House of Representatives rejected that aid, the disaster assistance, is, in my judgment, a huge mistake. We have had severe drought in Illinois, Missouri, parts of Iowa, and other States. As I indicated, we had torrential rains in some disaster areas in my State earlier this year, and there are other parts of the country in which family farmers suffered the same fate. I think it is wrong for this Congress to decide that some will get assistance and others will not, if all have—in terms of the groups who would be affected, if all of them were affected by weather-related disasters. I just think that is wrong.

The House of Representatives rejected that because they said the $1.6 billion was above the agreement, and the President and the White House would not support it.

I want to just talk a little about our fiscal priorities. Because something is seriously wrong here.

Last year, we had a provision in this Chamber that provided a very significant tax cut, and it was a tax cut for the largest corporations in our country.

I objected to it, standing at this desk, but it got through the Congress, and it is now law. I want to talk about that tax cut just for a minute because it is not just on the order of $1.6 billion we could have used to help family farmers struggle through a tough time, it is about a $60 billion tax cut to the biggest corporations in our country. It was something that had nothing to do with the substance of the bill. It was called the JOBS Act that was run through the Congress, the JOBS Act.

Presumably, it was titled the JOBS Act because those who offered it said it would create new jobs.

In fact, I will read a couple of comments from my colleagues. One of my colleagues says the idea is for 1 year to reduce the tax burden and bring those profits back into this country, to invest them in ways that help your business, and this creates new jobs.

Another of my colleagues said, well, this is insourcing. This insources jobs to the United States. This will create a lot of jobs in the United States.

Another of my colleagues said if you are interested in creating jobs, it has been estimated on a conservative basis this proposal will create 660,000 jobs.

What was this tax proposal? It was to say to the largest corporations in this country, do business here and overseas, if you have earned income overseas, at some point you expect to bring that income back to this country to your headquarters and to your stockholders, and when you do that you would be paying corporate income taxes.

We have a corporate income tax rate of 35 percent, and when you repatriate earnings, as they call it, from your overseas operation, you pay income taxes in this country.

But there is a special little deal that has been in law for decades and decades—in fact, the first person who tried to get rid of this special deal was John F. Kennedy. That tells you how long it has been there. It is called deferral. Do business overseas, move your plant, move your jobs, do business overseas and, by the way, you get a tax break. You don't have to pay taxes on those earnings from overseas until you bring them back to this country. So that has been around for a long time.

That tax break anticipates, though, at some point, even though you can defer paying taxes, you are going to have to bring the profits back when you do business overseas, and you are going to have to pay taxes in this country on those profits. It would be at the corporate tax rate of 35 percent, except a year ago this Congress said the following: We would like to create a great, big old dessert tray for the biggest corporations in the country. When you bring your profits back in the next year, we will tax them at 5.25 percent—no, not 35 percent, 5.25 percent.

Do people around this county have that right? Is there a Johnson or an Olson family, that brings their profits back or pays income tax at a 5.25-percent tax rate? No, no, no. Real people pay taxes at rates far in excess of 5.25 percent. But now some of the biggest corporations in the country are repatriating profits to this country and paying 5.25 percent in income taxes—5.25 percent, a fraction of what the lowest income people in this country are paying. And, oh, by the way, they are also cutting jobs at the same time.

Now, let me just show a picture of a building in the Cayman Islands because it is part of the puzzle. This is a picture of a building in the Cayman Islands. This is a five-story building on Church Street in the Cayman Islands. It is called the Ugland House. This five-story white building on Church Street is the official address for 12,748 corporations.

Now, you may ask, how can that be? It is just an address. It does not mean anything. All it means is they set up an address in the Cayman Islands so they can run their profits through the Cayman Islands and avoid paying taxes in the United States.

Madam President, 12,748 companies run income through this building in the Cayman Islands. It is just an address.

Now, the folks who push this bill on the floor of the Senate, that has now cut taxes by $60 billion—$60 billion it costs this country in lost tax revenue from the biggest corporations in the country that are now repatriating income at tax rates that are a fraction of what every other American pays—those folks said this is going to create jobs. Well, really? Let's just look at that. I will just give you a couple examples. I could bring over a lot of charts.

Hewlett-Packard, they are bringing back $14.5 billion they made overseas, and they are going to pay a 5.25-percent income tax rate. They also announced they are going to cut 14,500 jobs.

Motorola, $4.4 billion they are bringing back in repatriated taxes, paying a 5.25-percent income tax rate. They are cutting jobs.

Colgate Palmolive, they are cutting jobs.

The list is pretty substantial, actually.

Merck Corporation is cutting jobs, and repatriating earnings.

So to my colleagues who are on the floor pointing out that if we just pass this $60 billion tax cut, in 1 year—$60 billion tax cut for the largest companies in our country that do business overseas—they would create more jobs at home, I wonder, now, how they will come to the floor of the Senate and answer the question: If you actually see the repatriation of about $200 to $220 billion, and companies using a substantial portion of that to buy back their stock, and other companies repatriating it and cutting jobs, how do you, then, justify having given a $60 billion tax cut to the biggest corporations in this country? There will not be much of an answer to that.

I think of the quote from Will Rogers when I think of the wool that was pulled over the eyes of the Congress, or perhaps it was not. Perhaps the Congress is controlled by a majority who just find it important every day to get up to see how you can give big tax breaks to the biggest corporations or the highest income earners. Perhaps that is just an advocation that is now natural for those who control this Congress.

Will Rogers once said: It is not what they know that bothers me, it is what they say they know for sure that just ain't so. That is the case with this $60 billion tax cut, in 1 year, that affects the largest corporations in this country.

Here are some of the editorials and notices about it. October 16 of this year:

> It shouldn't escape Americans' attention that U.S. companies have disclosed plans to repatriate $206 billion in foreign profits this year under a one-time tax break allowed by Congress on the grounds—you guessed it—that such a big tax break would ignite a strong spurt in job growth. The upshot, of course, is that no such job spurt appears to be materializing.
>
> Some have even announced plans to cut operations and jobs. Colgate Palmolive repatriated $800 million in foreign profits, planning to cut 4,450 jobs and a third of its plants over the next 4 years.

Interestingly,

> Even the primary advocate for the special, one-time tax break, economist Allen Sinai, is now soft pedaling his prediction of 660,000 new jobs over 5 years. He now says the efficacy of the tax break will be hard to prove.

The Chicago Tribune, August 11: Motorola disclosed Wednesday it will bring $4.4 billion in profits back under the controversial Federal tax law that was passed, and announced Wednesday it will cut 500 more workers than previously announced.

Hewlett-Packard is going to bring back $14.5 billion. And, by the way, they get to pay at a 5.25-percent income tax rate. Wouldn't every American like to pay an income tax rate of 5.25 percent? But it is not so. Just the big shots do. They pay 5.25 percent, bring back $14.5 billion, and lay off 14,500 workers. Almost perfect symmetry, isn't it? You bring back $14.5 billion, pay a bottom-rate tax rate that nobody else gets, and you lay off 14,500 workers.

It is not only this technique that is bothering me but many others these days. There was a story recently in the Wall Street Journal about some of the largest technology corporations that are setting up buildings in other countries. This one is in Ireland. You set up a building in Ireland—a tiny little quiet building, on a quiet street, in Dublin, Ireland—and then move your intellectual property, programming, and software and so on to a wholly-owned subsidiary in that country, and then license it back in other countries where you are selling it, and run billions of dollars—billions of dollars—through that little address in Ireland.

What is the purpose of that? Avoiding taxes. So you do not have to pay taxes. In this case, one of the companies avoided paying $500 million a year in taxes to the U.S. Government by moving its software to Ireland, running the licensing through Ireland, and essentially moving taxes and income away from the U.S. Government.

The question is, When will this stop? We are up to our neck in debt. We have very substantial Federal deficits, the largest trade deficits in history, and we have corporations in this country that have decided they want all the advantages America has to offer. But they do not want the responsibilities to pay taxes. And they have friends in this Congress who will say: Oh, by the way, if you do pay, we will give you a special discount rate, one of these blue light specials. Regular folks are going to pay 20 percent, 30 percent, 35 percent, 36 percent, but, no, you get to pay 5.25 percent.

I think it was Tom Paxton who used to sing that song "I'm changing my name to Poland," after Poland got a Government loan some years ago. Perhaps there are American families who might want to change their name to Hewlett-Packard or Motorola or Merck. Perhaps American families would like to pay a 5.25-percent income tax rate. And maybe American families would like to set up an address on Church Street in the Cayman Islands so they can run their income through the Cayman Islands and avoid paying taxes. But maybe not.

Most American families say the Pledge of Allegiance, believe in this country and its promise, understand we have things to do together. We have a Defense Department to fund. We build roads. We have the National Institutes of Health to fund. We do so many things together in Government. We educate our kids. We have security on the streets in the form of law enforcement.

Maybe most Americans know that is what we do together, and the responsibility is to pay taxes. Do we like it? Not necessarily. Do we understand it? Sure. But not everybody apparently understands it, because some decide to run their business through this five-story building for the purpose of avoiding taxes.

Our domestic individual tax rates are 10 percent, 15 percent, 25, 28, 33, and 35. Those are the tax rates for individuals who file individual tax returns. There is only one tax rate I know of that is lower than that, and that is the tax rate the largest corporations will pay when they bring $220 billion back that this repatriation provision allows. So they will pay half the rate of the lowest rate the lowest income Americans will pay. That is unbelievable. It was pushed through this Congress with the promise that it would produce more jobs.

Most of us said that is nonsense. We knew it wasn't going to happen. But it was pushed through the Congress. At this desk right here, Senator Fritz Hollings—now not in the Senate; he retired—offered the amendment to strip this provision out of that tax bill. Those who wanted this provision would hear none of it. They wanted it. They got it. So now we have some of the highest income enterprises in the world paying a 5¼-percent tax rate on the repatriation of profits.

When I mentioned the building on Church Street in the Cayman Islands, Senator LEVIN and I had the General Accounting Office do an evaluation of who is running operations through these tax haven countries. Fifty-nine of the 100 largest publicly traded Federal contractors—companies that contract with the Federal Government, that have tens of billions of dollars in contracts with the Federal Government—had established hundreds of subsidiaries in overseas tax havens. In other words, they want to do business with the Federal Government, make income from doing so, but want to run it through tax subsidiaries in tax havens to not pay taxes to the Federal Government. It is unbelievable.

The point is, we sat yesterday in conference discussions for 4 hours and talked about all kinds of funding issues. There wasn't $1.6 billion to help family farmers through tough times, but there was $60 billion this year given to the largest corporations to repatriate their profits with the promise that they would produce new jobs. The fact is, those jobs don't exist. This was an unforgivable gift, a giveaway that made no sense. It is one more example of doing the wrong thing at the wrong time and pledging that somehow it is going to help advance the interests of our country.

A man named Uwe Reinhardt from Princeton University probably captures all of this best in terms of priorities, warped priorities, wrong priorities. In a piece he had written talking about tax cuts and health insurance, he wrote a memo at the start of it: Dear God, we had to decide between health insurance and a tax cut, and we took all the money as a tax cut. We hope that pleases you. A grateful nation.

This is, after all, about priorities, what makes our country stronger, what improves our country. We have a very substantial Federal budget deficit. Yet we will now, I believe this week, see the reconciliation bill with additional tax cuts that will substantially benefit upper income people. On top of the Federal budget deficit, we will see additional tax cuts benefiting upper income people. We have a substantial trade deficit, well over $700 billion a year, and a huge movement of American jobs overseas, especially to China. Any worry about that? Not much. You can't find much around here. I have spoken at length about it. We actually have the incentive, the perverse, obscene incentive that says to a company today, on Monday, anywhere in this country: If you fire your workers, put a padlock on the front door of your manufacturing plant and move the whole thing to China and hire Chinese workers, we will give you a deal. You get yourself a tax break.

That is unbelievable, but it is in the law. Get rid of your manufacturing workers. Shut down your American plant. Move the jobs to China, Indonesia, Sri Lanka, Bangladesh, we will give you a tax break.

We have tried four times to shut down that tax break, and unbelievably, there is a majority of Senators who believe that tax break should continue to exist, a tax break that says: On tipping the balance, we believe we ought to provide incentives to move American jobs elsewhere, get rid of American jobs in search of 30-cent labor with 1 billion people around the world who are willing to work that way and companies who are interested in finding places where you can hire people for 30 cents an hour. You can dump the chemicals into the rivers and the air. And by the way, you don't have to have a safe work plant. And importantly, if somebody tries to organize because they don't like the working conditions, you can fire them. In some countries, they will put them in jail for you.

We say: Want to get rid of your American workers, want to find cheaper labor someplace, get rid of all the encumbrances? We will give you a tax break if you want to do it.

That is unbelievable, but it is part and parcel of this whole story about a five-story building with 12,748 companies calling it home for the purpose of getting a tax break by running income through the Cayman Islands. Once again, companies that want all of the opportunities that come with being American but seem to want to avoid some of the significant responsibilities; that is, to pay taxes to support this Government.

We will, in the next 24 or 48 hours plus, have a robust and aggressive debate on the issue of attaching ANWR to the Defense appropriations bill. When that occurs—I assume on Wednesday—my hope is we will come to the right solution. The right solution is to pass legislation that will fund the troops, fund the needs of the Defense Department. We have considered and will consider the issue of ANWR in the future. There are other mechanics and other approaches by which that should be considered and will be considered in the Congress. I believe this is an inappropriate approach.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

DEFENSE APPROPRIATIONS

Mr. STEVENS. Madam President, when I spoke earlier this morning, I failed to make the comment that there are many provisions in the conference report that are beyond the scope of the original Defense appropriations bill and would be subject to rule XXVIII. For instance, the hurricane supplemental; we have $29 billion for hurricane victims, including funding for education expenses, housing, and reconstruction efforts. That was not in the bill as it came out of either House. We have the Gulf Coast Recovery Fund. This provides short and long-term funding for Louisiana, Mississippi, Alabama, Texas, and Florida. Where from? From revenues from the approval of ANWR and from revenues from the approval in the reconciliation bill of the sale of spectrum when the transition takes place between analog and digital broadcasting.

Those are predictable funds. They are currently not scored, but they are moneys that, when they do come in, will be held in the Treasury to help those people in the gulf coast who need assistance.

There are also provisions in the bill concerning liability with regard to the manufacture of vaccines for avian flu. The basic bill had a provision dealing with the provision of money for research on avian flu, but now the conference report before us ensures that the production of avian flu vaccines will be available in the United States. Without this liability provision, we cannot assure that a sufficient supply of vaccines to protect us against a flu pandemic would be available.

Our American industry moved overseas. Why? Because of decisions concerning liability. In this bill is a provision authored by many Senators and Members of the House that deals with adding to the money that we provide in the Senate version of the Defense appropriations bill, the provisions regarding liability and compensation being authorized on an emergency basis, if it is ever needed. God help us it will ever be needed.

The avian flu pandemic is a real possibility now. I think it is one of the great fears of those who are involved in medicine, and I think our majority leader is one of the leaders in trying to develop a program to prevent that pandemic, if it hits the United States, from being like the pandemic flu in the early 1900s and what it did not only to the United States but the world.

In addition to that, there is real money in this bill for home energy assistance, the so-called LIHEAP program. There is $2 billion for home heating assistance.

In addition to that, we provide 5 percent from the ANWR revenues to the

Federal Government to provide a long-term funding stream to deal with the problems related to increasing fuel prices and its effect on those people who need assistance to provide heating for their homes.

We also have in the bill provisions regarding interoperable communications equipment. All of us have been trying to prepare those people, called first responders, to have the equipment necessary to carry out their work. There is money in this bill for equipment grants to State and local governments to assure that first responders can communicate during national disasters and terrorist attacks.

We also have—again, there is not any other provision in either the House or Senate bill—we have emergency preparedness grants. We have money to give all State emergency preparedness people grants, and these grants are based upon population and risk. It is a fair distribution of these grants. Some of my friends in the Senate from the larger population States have worried about distribution of such funds. These funds will be on the basis of population and risk.

We also have for the first time—really at the basic insistence of the Senator from New Hampshire, Mr. GREGG—border security improvements. We have funds for increased border security, helicopter replacements, and security infrastructure, particularly in Arizona and California.

In addition, there is agricultural assistance that provides much-needed funding for conservation at a time when our farmers are paying such record-high energy costs. This is assistance to farmers.

Why do I point these out? Those who attack this conference report on the basis of being beyond the scope of rule XXVIII are attacking the whole conference report. The subjects I have mentioned are beyond the scope of the original Defense appropriations bill, no question about it. We added it. I urged the conference to add it because I know of the need in these areas for these funds and this legislation.

As I said before, I read the statements I made in 1996 when the Senate at another time had before it a bill pertaining to aviation where we did, in fact, have an appeal of a ruling of the Chair, and it was overruled.

The concept of overruling the Chair is not a disaster for rule XXVIII. It is an opinion. It is a disagreement on the basis of the sentiments on the floor. It is really the Senate that decides these questions. But it is true that as a result of having such a vote—by the way, I have before me now a report of the Congressional Research Service that pertains to S. Res. 160 reversing the Hutchison FedEx precedents. On two occasions in the past regarding another rule, rule XVI, there has been an overturning of the ruling of the Chair, and by adopting this S. Res. 160, the Senate directed the Presiding Officer to once again enforce the Senate rule, permitting points of order to be raised against amendments to appropriations bills authored by other Senators.

That is what we have done in this bill. The bill contains a provision which is similar to S. Res. 160, which was offered by Senator REID, to reestablish the vitality of rule XVI.

Let me say this: By adopting, as the report says, S. Res. 160, the Senate directed the Presiding Officer to once again enforce the Senate rule permitting points of order to be raised. That is what we have done in this bill. We have added a provision which is like S. Res. 160 which directs the Presiding Officer to enforce the rule as was intended.

There is a basic disagreement. We are looking to waive the rule for one time. We are not seeking a precedent. We are not seeking to find some way around rule XXVIII permanently. We are saying that in this instance, because of the vastness of the problems we face, the problems of Hurricanes Katrina, Rita, and Wilma, the problems of avian flu, the problems of LIHEAP, the problems of interoperable communications, the problems of the emergency preparedness grants, the homeland security and border security problems, the agricultural assistance that is needed, and the fact that ANWR, having passed both the House and the Senate, has been blocked by a filibuster.

What we are really trying to do is to avoid a filibuster being continued against a bill that passed the Senate and passed the House in this Congress. By putting it in the conference report, we do that. It cannot be filibustered. Conference reports can't be filibustered, but there can be points of order. We will be happy to face those.

I hope my colleagues in the Senate will understand the reason for what we have done and why we have done it. We have done it because of a sincere belief that production of oil domestically has a great deal to do with our national security and that our national defense cannot operate without the basic potential for our own production of oil.

In the event of a blockade, such as we had in the seventies, we have to depend primarily on our own oil. Today, we import almost 60 percent of our oil. In order to operate the Department of Defense in time of emergency if there is a blockade, we have to have domestic production, and that is a matter of national security. That is why we have pursued this.

Beyond this, there is no question about it, this is important to my State—to our State, Madam President. You are from our State. The Presiding Officer dignifies the Senate by presiding over it. When we look at the problem we have in oil pipelines carrying 2.1 million barrels a day—that was its production at the height of the gulf war. At this time, we are somewhere around 400,000 barrels a day. One-third of the oil is available to supply what we call the South 48 States. By law, that cannot be exported except by approval of the President. It has only been waived one time that I know of.

As a practical matter, what we are looking at is finding out if it is possible to increase the supply of oil that is brought by the Alaska oil pipeline to the rest of the country. That means a lot. We are here because it means jobs in our State, and it means income for our State. But this is Federal land this time. Prudhoe Bay was on State land. We are talking about Federal land.

By the way, some people argue that this is a pristine area that has never been explored for oil and gas. That is wrong. One well was drilled in this area, drilled at Kaktovik. We have had oil exploration there for years. When I was with the Interior Department in 1958, I helped draw the order that established the Arctic Wildlife Range, 9 million acres in the northeast corner of Alaska. Oil and gas exploration was permitted. Then along came the withdrawals and demands of President Carter for additional withdrawals. We had a long debate. It was a debate that lasted 7 years. It culminated in the act that was called ANILCA, Alaska National Interest Lands Conservation Act, in 1980. That act specifically reserved 1.2 million acres of that coastal plain for oil and gas exploration. When that is over, it will become part of the Arctic Wildlife Refuge, but at this time it is reserved for oil and gas exploration.

What this provision in this bill says is go ahead with that exploration, which was the commitment made to us in 1980 by Senator Jackson and Senator Tsongas. I will continue to talk about this, but I want to make sure every Senator understands, although I did say if this conference report fails, we can quickly reconstitute another conference committee. The provisions I have mentioned that are beyond the scope will be challenged. They will be challenged and some of them are part of the ANWR provision. We have taken the funds that will be received by the Federal Government and committed them to assist in the recovery of the disaster areas. We have committed them to assist in terms of low-income heating, the LIHEAP program. We have committed them across the board in many places in order to assure that funding is available for these emergency areas where it normally takes time to have Congress come in to being and consider a bill usually in a year to a year and a half.

We are saying in advance the moneys are in the Treasury and if they are needed for these emergency purposes they are to be released. In other words, the ANWR bill is not only a bill to proceed with oil and gas exploration development; it says the bonus that will be received and it will be shared in the LIHEAP program, it will be shared in the communications area and in the disaster area. As we get revenues from royalties to the Federal Government, those will be committed to further protect the completion of recovery from the disaster of these terrible hurricanes. It will be there to assist in our transition to a new form of digital communication. It will be there to assist the first responders throughout the country. The ANWR revenues are very important revenues. They are revenues that come to the Treasury from the production of oil and gas. As the price of oil goes up, those revenues go up. They are real revenues, and we are saying to the people of the United States, if we develop this area, the money that is received by the Federal Government will be committed to those people who are in great need.

So I tell the Senate, if this conference report comes down because of a point of order, we will go back to conference, but many of these provisions cannot be in there if ANWR is no longer there. I urge the Senate to listen to what is in this bill and to understand that the motivation of this Senator in regard to those provisions came out of the trip I took when I took the Commerce Committee to New Orleans. This is not something dreamed up. I see the distinguished Senator from Louisiana is in the Chamber. We went down there and, along with the people from the city and the State, we toured that area of devastation. As I told my own people at home by television programming just recorded, I have seen devastation in my day. I saw the earthquake in Alaska in 1964. I saw the great interior of Alaska flooded in 1966. I saw enormous devastation in China in World War II where the Japanese had bombed villages and areas out of existence. But I have never seen devastation as has occurred in the New Orleans area as a result of failure of those levees and Hurricane Katrina. It is something one cannot believe unless they see it, and when they see it they come home filled with sadness. How can we possibly help those people? The Federal laws do not contemplate that kind of devastation. The Federal laws assist people from normal types of hurricanes and even typhoons and tidal waves that have hit our States, but the real possibility is that unless we pass this bill, a lot of those people are not going to receive the assistance they should have.

I see the Senator from Mississippi is behind me. I would be happy to yield the floor.

The PRESIDING OFFICER (Mr. ISAKSON). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am pleased to congratulate my good friend from Alaska and commend him for his work as chairman of the Defense Appropriations Subcommittee of the Committee on Appropriations. He and the distinguished Senator from Hawaii, Mr. INOUYE, provided bipartisan and strong leadership in the crafting of this appropriations bill that is now before the Senate as a conference report. I am pleased as chairman of the full committee to have been a part of that conference as a member of the subcommittee and am very pleased that the leadership of Senator STEVENS and Senator INOUYE has been followed by the House and Senate Committees on Appropriations so that we have before us a bill that not only funds the Department of Defense and related agencies for the next fiscal year, 2006, but also contains amendments that were proffered and accepted by the conference dealing with relief from Hurricanes Katrina, Rita, and others that have devastated the Gulf Coast States of our country.

As the Senator from Mississippi, I have been in close touch with friends and residents of the Mississippi gulf coast area and I have been pleased to join other Senators in trips to visit Louisiana and Alabama and get an impression and find out what the facts are about the seriousness of the devastation. The provisions of this conference report will go a long way toward providing assistance that is needed right now, not over a period of years but right now, so people can rebuild and truly recover from this devastating hurricane.

I am hopeful the Senate will approve the conference report. The Senator from Alaska did a good job of outlining all of the provisions of the conference report. We are particularly grateful that the amendment relating to disaster relief due to hurricanes in the amount of $29 billion was approved by the committee last night. There are other provisions in the bill, as Senator STEVENS pointed out, that will directly affect our recovery efforts in a very positive way that are included in this bill. There is money that goes directly to levee assistance in the Louisiana area, a very high priority of the local officials there. We have specified amounts that can be reconsidered in the next fiscal year. All the money cannot be spent in 1 year. This is something people are realizing. We cannot appropriate in 1 year all that is going to be needed in the outyears. Some of these projects are going to take not a few months to complete but a few years to complete. So we are hopeful that with the full understanding of the Senate this conference report will be agreed to by a large vote of support for the committee's work in this area.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, I rise to speak this morning on the great success of the conference committee in reaching this package and urge all of my colleagues in the Senate, Republican and Democrat, to come together to have these necessary votes and to pass this important legislation.

Let me start by thanking and recognizing the vital work of the two leaders in this endeavor. Senator THAD COCHRAN, the chairman of the Senate Appropriations Committee, has worked tirelessly on this package. Of course, he had all the motivation in the world coming from Mississippi, but he has also reached out to all of us from all of the devastated areas, certainly me and my colleague MARY LANDRIEU from Louisiana. I want to thank him for all of his great work and for being so generous with his time, thoughts, and efforts with regard to helping us meet our Louisiana needs as well.

I also thank and recognize the vital work of my chairman of the Commerce Committee, TED STEVENS, who spearheaded another crucial component of this overall package. TED came down at my invitation, as he mentioned on the floor a few minutes ago, to tour the devastated area in greater New Orleans. Nobody can come down there and see the devastation on the ground in New Orleans—or Mississippi, for that matter—and not help but be truly moved and have their whole perspective changed. Perhaps the single best example of that is TED STEVENS. He was very helpful and very sympathetic even before that visit in early November. But when he was there on the ground, when he saw that devastation, particularly in Lake View and the lower Ninth Ward, when we were standing there together and he saw the levee breach on the Industrial Canal and just hundreds upon hundreds of homes everywhere as far as the eye could see ravaged as a result of that, his level of understanding and his commitment grew even more. He has clearly been a vital partner in this important work. So I thank and recognize his work, along with that of Chairman COCHRAN.

I urge all my colleagues in the Senate, Republican and Democrat, to come together to make sure we have these crucial votes as soon as possible and to make sure we pass this important package.

I have been disappointed to hear some of the comments from the other side of the aisle, particularly those of the minority leader. He has expressed outrage at some of the procedures that are involved in passing this crucial bill. I chuckle a little bit when I hear those comments, for two reasons.

The first reason is that every procedure involved, every step that we will take this year to complete this important work, has been done before in the Senate and has been done before in the Senate with his support. He has voted for these same procedures in the past, every single one, every step of the way.

This is regular order. This is all under the Senate rules. So for him to express this level of outrage is ironic at best.

Second, what he proposes in rejecting moving forward is to reject everything in this bill save Defense appropriations. It is not simply to reject ANWR, which is the focus of his wrath, it is to reject all of the hurricane relief, the entire package Senator COCHRAN has worked so hard to put together and fashion with his House counterparts. It is to reject all of the revenue from not only ANWR but DTV, which would also go to the devastated region. It is to reject all of that. What Senator REID is proposing is to reject $2 billion for LIHEAP funding, which is absolutely crucial for our citizens in the Northeast and elsewhere. What he is proposing is to reject crucial funding for communications interoperability, which is a key need and a key priority for homeland security.

Let's be clear. The path Senator REID is urging us to go down is not simply to vote against ANWR. We have had votes on ANWR. We are free to vote for or against ANWR. We had a clear and fair vote on ANWR earlier this year, and it passed, no ifs, ands, or buts; perfectly fair. So he is not really just talking about that. He is talking about everything in this vital package save Defense appropriations. He is talking about all of the hurricane relief. He is talking about all of that DTV and ANWR revenue that would also go to the devastated region. He is talking about all that crucial help for LIHEAP, $2 billion upfront additional money into the future. It is very important for Northeastern States and citizens and for others. He is talking about the crucial interoperability piece for our first responders, a very important, top priority for homeland security.

We must do all that work now, this year, before Christmas, before we leave. The way we get this work done is to have these important votes. Every Member of the Senate will be free to vote for or against. Every Member of the Senate will be free to vote as their conscience deems they should on all of these procedural matters.

Again, Senator REID has voted for all these procedures in the past. Let's be clear about that. So I urge us to put the politics aside, to not make this yet another Washington partisan political fight. Far too much is at stake for us to do that. Far too much in my State of Louisiana. Far too much in the devastated State of Mississippi and Alabama and Florida, with Wilma, and Texas with Rita, and southwest Louisiana with Rita.

If there is ever a time for us to look at the substance and the national good and not Washington politics, it is now. That is what people sent us here to do, not play these partisan games. I urge everyone to put that substance first, to put the American people first, to put the people of the devastated regions of the gulf coast first and have these votes and pass this crucial package of relief.

Let me be clear. ANWR is directly related to this relief because significant revenues from ANWR would go to the devastated region for crucial needs in Mississippi, Alabama, Louisiana, Texas, and Florida. That is very much a part of this hurricane package.

Let me close as I began, by thanking the chairman of Appropriations, Senator COCHRAN, and Senator STEVENS, the chairman of the committee on which I am proud to serve, the Commerce Committee, for their vital leadership, for their vital work. But for them, we would not be in this moment of huge opportunity to meet the crucial needs of the still suffering citizens of the gulf coast.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

HURRICANE RELIEF

Mr. COCHRAN. Mr. President, I commend the distinguished Senator from Louisiana for his eloquent statement about the importance of this legislation. He has been a true leader in this effort to craft a bill that will provide money now, needed desperately by the victims of these disasters in the Gulf Coast States. He and his colleague, Ms. LANDRIEU, have been very active, as all Senators know, in describing in detail the dilemma that is faced by local governments, municipal governments, and county and parish governments in the region. Our State governments have been stressed beyond imagination in terms of trying to make resources available to help save lives, to help rescue victims, to help communities that are struggling to repair and replace damaged and destroyed infrastructure such as water and sewer systems, highways and roads and bridges. The list is almost endless of the challenges that have been faced by the people of this region.

But the Senator from Louisiana has been, more than anybody I know, on a daily basis working his heart out and trying his best to be sure that we respond in the way that we should as a Federal Government, to provide the assistance needed for a full and real recovery from these disasters.

I also think about my colleague, Senator LOTT from Mississippi, and Congressman TAYLOR in the House, who both lost their houses and suffered real, serious personal losses as a result of Hurricane Katrina. They have been tirelessly and constantly in touch with the situation as victims of this disaster but at the same time lending their energies, their imagination, their knowhow, their leadership to provide guidance and suggestions all along the way.

This is not the last bill we are going to see on the subject of disaster assistance, but it is the most important because it provides real money at once. It is made available immediately upon passage for distribution to those who need the help the most. And it is urgent.

If we delay and get tangled up in a lot of parliamentary maneuvering, criticism, second-guessing, and partisan infighting, whatever kind of resistance to this important appropriations bill, it will be a disgrace. It will be a disgrace to the Congress and an injustice to the victims of this disaster.

There are a lot of people we could talk about this morning—State government leaders. Our Governor, Haley Barbour, has been up here for days answering questions, providing information, making suggestions of alternatives that would be appropriate for the Federal Government to undertake to help the recovery, and identifying ways State governments can share in the responsibility. The Community Development Block Grant Program is one of the suggestions Governor Barbour made as a conduit for funds to help rebuild communities and help landowners who have been harmed and who were outside the flood plain, didn't have flood insurance, yet they were flooded and didn't have coverage to pay for those losses and those damages. He is looking for ways to help everybody who needs help and who deserves help from their Government.

This bill provides this substantial amount of money and commitment from our Government at a time when it is truly needed. I am hopeful the Senate will act with dispatch and send this conference report to the President for his signature.

Leadership in the House and in the Appropriations Committee, the Defense Appropriations Subcommittee, has also been very important and crucial to this undertaking. The Speaker of the House, personally, and the whip, Roy Blunt from Missouri, have been personally engaged in trying to find ways to reach an accommodation with the Senate and with the States affected. They have done a wonderful job. It has culminated in the presentation of this conference report.

The Congressman from California, JERRY LEWIS, chairman of the full committee in the other body, and Congressman BILL YOUNG from Florida, who has had experiences with other disasters in the past, have been very helpful in remembering how we responded to past challenges—Hurricane Dennis, I recall—and there are others that Florida has experienced. But everybody coming together and doing their best to sort through the challenges, identify ways to help, has culminated in the presentation to the Senate of this conference report. I am hopeful we will respond.

As Senator VITTER said, everybody has an opportunity to vote to help us recover. We hope you will. It is a bipartisan effort. Democrats and Republicans have both been involved, from both sides of the aisle here in the Senate and in the House as well.

We hope we will act quickly in response to the suggestions made by leadership here in the Senate and approve this conference report. We are deeply grateful to all who have been helpful, who have come up here, stayed and talked and explained what the facts are, who testified before committees.

We have reviewed all the facts. We know what the situation is. Now it is time to act, and act is what the Senate should do now.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COBURN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE APPROPRIATIONS PROCESS

Mr. COBURN. Mr. President, in the past in this body, I have been highly critical of some of the things that have gone on in the appropriations process. But I want to say the chairman of the Appropriations Committee in this body, with the appropriations package we are going to look at today, or whenever we get to it, has done a phenomenal job. I think the American people need to know this is the type of leadership we have been looking for for a long time.

All of the additional spending for the victims of the hurricane, for LIHEAP, for all of the additional things we are going to be doing, has been paid for not on the backs of our children and our grandchildren but in fact by making hard decisions on what to trim.

A lot of resistance is probably going to come with this, and the reason people are uncomfortable with it is because we are trimming the size of the Federal Government at the same time we have neighbors on the gulf coast who need help, and those who are unfortunate with their heating bills this year need help.

I want to have in the RECORD that both Senator STEVENS on the Defense appropriations bill and Senator COCHRAN I believe have done a fantastic job, and they have set a benchmark for where we need to go next year in terms of any new programs we need to be paying for by making reductions in other programs. What it is doing is securing the future for our children and our grandchildren.

My hat is off to them. I think they have done a great job. We have looked over the bill since last evening, since the numbers came through. We are very pleased. There are no gimmicks, no games being played with the numbers. Hard choices have been delineated in this bill which will require hard votes but for the right reasons. And for the next two generations, I thank them for their hard work on this bill.

With that, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. STABENOW. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEFENSE APPROPRIATIONS

Ms. STABENOW. Mr. President, I rise today to express great concern about the process, about what has been happening as it relates to the Defense appropriations bill. I have supported every appropriations bill for our troops since coming here to the Senate, and before in the House. I am deeply concerned about what I see in terms of abuse of the process, abuse of power involved in this debate on a bill that is critical for our troops, a bill that without the controversial provisions I believe would have overwhelming, positive, if not unanimous, support from this Chamber.

I want to start by reading a portion of a letter from five distinguished retired generals from the Marines, the Army, and the Navy, that speaks to this in a way that I think we should all be listening to. This is a letter to our leaders in the Senate:

> We are very concerned that the FY2006 Defense Appropriations Bill may be further delayed by attaching a controversial non-defense legislative provision to the defense appropriations conference report.
>
> We know that you share our overarching concern for the welfare and needs of our troops. With 160,000 troops fighting in Iraq, another 18,000 in Afghanistan, and tens of thousands more around the world defending this country, Congress must finish its work and provide them the resources they need to do their job.
>
> We believe that any effort to attach controversial legislative language authorizing drilling in the Arctic National Wildlife Refuge to the defense appropriations conference report will jeopardize Congress' ability to provide our troops and their families the resources they need in a timely fashion.

It goes on from there.

Mr. President, I would not agree more. I ask unanimous consent that the full text of this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 17, 2005.

Hon. BILL FRIST,
Majority Leader.
Hon. HARRY REID,
Minority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR FRIST AND SENATOR REID: We are very concerned that the FY2006 Defense Appropriations Bill may be further delayed by attaching a controversial non-defense legislative provision to the defense appropriations conference report.

We know that you share our overarching concern for the welfare and needs of our troops. With 160,000 troops fighting in Iraq, another 18,000 in Afghanistan, and tens of thousands more around the world defending this country, Congress must finish its work and provide them the resources they need to do their job.

We believe that any effort to attach controversial legislative language authorizing drilling in the Arctic National Wildlife Refuge (ANWR) to the defense appropriations conference report will jeopardize Congress' ability to provide our troops and their families the resources they need in a timely fashion.

The passion and energy of the debate about drilling in ANWR is well known, and a testament to vibrant debate in our democracy. But it is not helpful to attach such a controversial non-defense legislative issue to a defense appropriations bill. It only invites delay for our troops as Congress debates an important but controversial non-defense issue on a vital bill providing critical funding for our nation's security.

We urge you to keep ANWR off the defense appropriations bill.

Sincerely,

JOSEPH P. HOAR,
General, U.S. Marine Corps (Ret.).
ANTHONY C. ZINNI,
General, U.S. Marine Corps (Ret.).
CLAUDIA J. KENNEDY,
Lieutenant General, U.S. Army (Ret.).
LEE F. GUNN,
Vice Admiral, U.S. Navy (Ret.).
STEPHEN A. CHENEY,
Brigadier General, U.S. Marine Corps (Ret.).

Ms. STABENOW. Now is the time—past time. There is no reason for us to be here today on this Defense bill. This could have been done. We could have made it very clear that the dollars are there—critical dollars are there—for our troops, if it were not for an effort to subvert the process and the rules of the Senate and the efforts that have gone on to put things into this Defense bill that should not be there.

Now, I am one who does not support drilling in ANWR. I have never voted for that. There is no relationship, in my mind, to energy independence or national security, as we look at the small amount of reserves that are there versus the tradeoff in terms of our environment and the commitment we have made as it relates to our environment. But regardless of that, that deserves a separate debate. We have had that debate on the floor of this Senate. We have had it a number of times.

People have a right to have that debate and to be able to cast their votes concerning that issue, but it should not be included in a bill to support our troops, the men and women who are serving right now around the world. They deserve better than that. We can do better than that. I would hope we could clean up this bill, get those provisions out of there that have been put in for political purposes because they have not been able to pass in other ways, and be able to strictly focus on a bill to support our men and women in the armed services.

What are some of the things in this underlying bill?

Well, it provides a 3.1-percent across-the-board pay raise for military personnel. I support that. I am sure my colleagues on both sides of the aisle do, as well.

It provides an increase for basic housing allowance to eliminate out-of-pocket housing expenses for military personnel. It is critical.

It provides $142 million for body armor and personal protection equipment. How many times have we heard concerns regarding this? This $142 million is important. It needs to get passed now. It should not be part of a political struggle that has been going on in the Senate, in the House, and with the administration.

The bill would provide $12 million to provide treatment for soldiers with head and blast injuries who are returning from Iraq and Afghanistan.

Again, on the equipment end, it would provide $1.4 billion for the Joint Improvised Explosive Device Task Force.

It provides $170 million for up-armored HMMWVs and another $464 million for humvee recapitalization.

It provides $293 million for Army night vision equipment.

It provides $1 billion to address equipment shortfalls for the Guard and Reserve. I can tell you, having talked with so many of our Guard and reservists, and having been there when they have left and been there when they have come home, we owe them a budget that will address the equipment shortfalls.

We also owe them efforts to support their families and the needs of their families as they have been deployed and redeployed and redeployed into Iraq and Afghanistan and around the world.

We are past time to get this done. There is no reason we should see the maneuvers going on that have gotten in the way of passing this bill.

There is no reason. I hope they do not succeed. These maneuvers should not succeed. I hope we will say no and that we will then pass quickly the bill that has been worked on in good faith by so many.

Let me give an example of another piece of legislation where this was done. I commend both the distinguished Senator from Virginia and my colleague, the distinguished Senator from Michigan, Senators WARNER and LEVIN, who worked through a complicated Defense reauthorization bill. There were a lot of similar kinds of issues of extraneous measures being placed into that bill, but they worked through it. They kept their eye on the primary goal, which was to provide support for our men and women who are serving us, who are placed in harm's way, who are fighting terrorism, who are fighting to protect our families and our country, keep the focus on them, which they did. They have been able to produce a bill that is for the troops, for the Department of Defense, for the defense of our country, without extraneous measures in the legislation. I commend both of them for their leadership. It is an example time and again of what these two distinguished Senators have been able to do because they kept their focus where it should be—on the defense of our country and the support of those who are defending us around the globe.

Compare that to what is in front of us today. Again, these measures are worth debating. The other issues that were put into the Defense bill deserve debate, have had debate on the floor of the Senate. They deserve that debate. They deserve up-or-down votes. But to take the excellent work that has been done on the Defense appropriations bill and put these together is plain wrong. I hope we will be successful in separating these issues so that those of us who strongly support this appropriations bill, who strongly support our troops, will have an opportunity to, again, hopefully, vote yes unanimously, without the debate on other issues such as drilling in ANWR where many of us are strongly in opposition to that issue and others that were placed in this bill.

This is an opportunity for us to stand together, as we have done, as we will do on Defense reauthorization, as we have done so many times in the Senate, standing up on a bipartisan basis for our troops. I hope we will be able to do so again at the end of the day when this bill finally comes before us. I am hopeful that my colleagues will join with me in separating the controversial provisions unrelated to defense from this bill and give us the opportunity to support our men and women in the manner which they deserve.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the Senator from Michigan has asked a great question: Why are we here? And why is this bill before us? We are here primarily because, as I went through the process of trying to get the Arctic national wildlife area, the coastal plain open for exploration and development as was promised in 1980, I ran across a lot of things that were involved in this process this year that I, incidentally, support.

I support LIHEAP. There is no question that there is a demand, because of the increase in the price of energy, for assistance to those people who have to pay more for their heating oil. We tried to deal with that in connection with the reconciliation act, and there was a billion dollars in that bill for that program. We face a demand from the people who believe in it, as I do, that that be increased.

The provisions of ANWR in this bill, as we go into the process of trying to assist people who need assistance, will provide for $2 billion for LIHEAP. That is $2 billion in 2006 in terms of appropriation of moneys now. These funds will be allocated based on emergency needs. That emergency will be repaid by funds generated from this amendment. Those funds we hope will be generated in 2008.

Many people oppose declaring emergency after emergency. I agree with that. I think the greatest increase in our budget now is interest on the national debt once again. We have to stop that increase because as it increases, it squeezes out programs such as LIHEAP. But we put in here a provision to go ahead and help people in 2006 but repay it when the moneys come from ANWR.

If you don't want to vote for ANWR, you are not going to get money for 2006 for LIHEAP. People say that is bad. That is the only place they could find the money. That is a program I support very much. When you look at these other areas, I will be coming back time and again to say to people: OK, you oppose ANWR, but where are you going to get the money to do some of the things we want?

We have to stop exporting our money for oil. Every time we buy a barrel of oil from offshore, we export jobs. We export money. We can't get it back unless we reduce the value of our exports in order to try to balance our payments.

I do believe we have a lot of problems. I will be discussing them today. But it is a good question: Why are we here? We are here because the Senate passed ANWR in the reconciliation process. The House passed the bill as a legislative item. The House insisted that we try to find a way to pass the ANWR provision in the Senate without putting it in the reconciliation bill. A bipartisan plea came to me from the House to put the ANWR provision on the Defense appropriations bill. I had said before: You don't want to do that. We have it in reconciliation. Why did we put it in the reconciliation bill? Because there has been a filibuster. We are not talking about a fair vote; we are talking about an assumption by opponents of this that we must have a filibuster every time we try to find some way to increase our domestic production of oil and gas.

This is an area that is known as containing the largest single structure on the North American Continent from which oil and gas can be produced. We want to find a way to bring into production the oil from that vast area. A well was drilled there, and it was what we call a tight hole. It was agreed at the time it was drilled that the information from that drilling would only be provided to the Department of the Interior and to the companies that drilled it, but it must be sealed. No one has ever published the results of that well. But the area has been drilled.

I will say to the Chair that not one of the companies that participated in funding that well ever was discouraged from seeking the leasing at ANWR. So while they can't publish that it was good, their actions over 25 years demonstrate that it was good. The question is, Should we produce it? If we produce it, revenue from the bonus bids to get the leases will be used to repay what we spend in 2006 for LIHEAP. This program is to provide low-income heating assistance. This is a very legitimate way to get money for the home energy assistance program that is needed right now.

Another thing that is tied into these funds is emergency preparedness. Another thing is equipment for first responders. Again, the funds there come from spectrum sales.

Mr. President, the budget estimated $10 billion for spectrum sales. The FCC says it will be $28 billion. I conferred with the Congressional Budget Office and said: Look, you have estimated $10 billion, and the FCC says $28 billion. I am going to assume it is going to be at least $20 billion.

They said: If you make that assumption, what you are doing in terms of spending in the bill, we cannot validate that because we deal with total predictability. You deal with probability when you look at that second $10 billion.

I was the author of spectrum originally. Before that, spectrum was available through the FCC when it was released by one company. There was a lottery to see who got the right to have it. They literally drew from a hat. Whoever got that draw out of the hat got a piece of paper that entitled them to a license from the FCC worth millions and sometimes billions.

I say: Why do that? Why don't you have an auction for that? When I was in the Department of the Interior, we used to do the same thing with leases on Federal lands. I convinced them at that time to find a way to auction those off. That is why we have the auction for the leasing of ANWR. We will get revenues from auction, and the estimated revenue by OMB and CBO is $2.5 billion. We know it is going to be at least $18 billion. All we are assuming is there is an additional $2.5 billion involved. As it comes into the Treasury, it is earmarked to pay back these emergencies we have declared. I think that is legitimate and a way to be fiscally responsible—only if we lease ANWR.

Those who want to take ANWR out of the bill are taking out funding for the things that flow from it and flow from an additional assumption that the receipts from spectrum are going to be more than estimated by CBO. I am going to be back again and again.

We have been involved in this debate for a long time. Every time I come here I remember my departed friends, Senators Jackson and Tsongas. As an old friend of mine says, I get "puddled up" a little. They were on the other side of the aisle, but we worked for the common good and we got a commitment that 1½ million acres of Alaska would remain open for oil and gas development. As they took the Carter bill through the Senate that withdrew 105 million acres of my State's land—my State has 365 million acres. This 105 million acres is roughly the size of California. All of that is not open for oil and gas development. It is not open for hardly anything. We have national parks, wildlife refuge, wilderness areas, and a whole series of classified types of programs where the public land laws don't apply.

But the one area where the Mineral Leasing Act law still applies subject to an act of Congress to proceed is the 1½ million acres on the Arctic Plain. There is unquestioned money coming in from this auction, Mr. President. It will be big. Our oil industry is now developing throughout the world. The great, dynamic, young President of ConocoPhilips is in Moscow negotiating with the Russians today to get Russian oil for the United States. In 1980, we could not have even dreamed that we would have a chief executive officer of an American oil company in Moscow negotiating to get oil from Russia. We had just come through the embargoes of the 1970s, when the imports into the United States of oil from Arab countries was barred by an embargo.

We are at the point now where we are dependent upon foreign oil for almost 60 percent of our total needs for petroleum. What we are saying is why don't we do what we know should be done? Congress passed this bill in 1995. Both Houses voted for it. It was an amendment that went to President Clinton, and he vetoed the bill.

Mr. President, I believe we have a real problem in terms of our domestic production. Let me say this. Production from Prudhoe Bay, the area that brought in the great amount of production for the United States, averaged 1.6 million barrels a day in 1988, and it was down to 381,000 barrels this year. That pipeline is designed to carry 2.1 million barrels a day, and it did for a little while. It is down to 381,000 barrels. North Slope production has dropped from 2.1 million barrels a day to 916,000 barrels a day. The production is expected to drop even further during this period ahead of us.

The way to fill that pipeline back up is to complete exploration and development of that part of the Arctic Plain left open for development by my friends, Senators Jackson and Tsongas after a long period of debate. I do believe there is a lot to be said about this bill. In 2004, our trade deficit was $651.52 billion; 25 percent of that, one-quarter—really 25.5—came from the importation of oil. People talk about our trade deficit. That is $166 billion in 2004. The reason we continue to be importing more oil is because we are producing less at home. We have doubled our energy imports since 1999. We have an insatiable demand for energy.

I agree that we should develop alternative sources, but meanwhile we have to meet the demand, which is enormous. We are importing now, in September of this year, 9 million barrels a day, at an average cost of $55 per barrel. We spent $495 million a day—almost a half billion dollars a day is going out of the country to buy oil. For every barrel of oil we import, we send that $55 abroad. If that $55 was spent in the United States, changing hands several times in our economy, as the people who work and develop and produce that oil pay for goods and services, it would generate tax revenue. One of the reasons our tax revenue is not going up as predicted is we are importing more oil.

For every $1 billion we spend to develop domestic resources, we create 12,500 jobs. That means in 2003 we lost over 1.3 million jobs by importing oil rather than producing it here. The public lands of the United States have been closed to oil and gas exploration. This area left open to oil and gas exploration in Alaska has been denied access for the oil and gas industry. We have had a 75-percent increase in the price of gasoline during this period. Why? The total cost of oil is now determined by foreign producers, not by competition with domestic producers.

By developing the resources on the coastal plain, we could create between 700,000 and a million American jobs, and we would put $60 million back into the U.S. economy every day that we produce and send that oil south in the oil pipeline.

I do believe there is every reason to be here today. There is every reason to say let's vote; let's vote on the conference report. That conference report ought to be approved. It has money for Defense and for Katrina, in terms of the disaster area; it has the money for the avian flu, and particularly the liability provisions that are necessary to make that work.

Mr. President, I think we should think twice about this and people saying something is wrong here. We have repeatedly at times in the past challenged the ruling of the Chair. We did it really in terms of very controversial subjects in terms of the FedEX bill and in terms of the aviation bill in 1996. We are not trying to do something that has never been done. I have heard some Senators accuse me of breaking the rules. I am here because of the rules, Mr. President. I am here because we are using the rules to try to achieve the passage of this very vital measure for our national defense because it has been filibustered. We did pass it in connection with the Reconciliation Act this year, and I believe we ought to recognize that there is no question about our need to develop and produce in this area.

I don't want to keep going. I could go all month about ANWR. I have been dealing with it for 25 years. I don't even need any notes to keep going for a day. The point is if anybody else wants to speak, I will be glad to yield to them.

This is a very vital subject, as far as I am concerned. The necessity for it is linked to national defense, there is no question about it.

This bill contains $446.7 billion for the Department of Defense. It includes $50 billion to sustain contingency operations for Iraq and Afghanistan. It has a 3.1 percent across-the-board pay raise for military personnel.

My colleague and I, my great friend and cochairman from Hawaii, Senator INOUYE, managed this bill. There is no question we did our best within the amount of money allowed to take care of the essential needs for the Department of Defense. Without this bill, the Department of Defense has to continue to defer spending, freeze contracts, postpone repair projects, and delay hiring. It is currently operating under a continuing resolution. I opposed a continuing resolution. I said, no, let's pass this bill, in July. I said when we came back in September, let's pass this bill.

It has been delayed. Why? Because of so many demands on the Congress coming out of Hurricanes Katrina, Rita, and Wilma. We have been immersed in trying to solve the problems that came out of those monstrous disasters.

I do believe that if the Senate votes not to take this conference report, we will need a new conference. We will have to appoint new conferees, and the process will start from the beginning. The important thing is, unless ANWR is back in there, there is not money for LIHEAP, there is not money for first responders, there is not money for interoperability, there is not the money for the various items we have been able to find ways to pay for because of the development of ANWR.

I predict we can quickly get at it if we have to, as I said, but if we vote to do it, and we can vote today—we can vote for both this and the reconciliation process today—this bill could be on the President's desk tonight. It is right there. It is on the desk. It can be voted on. We are ready to vote. The reason we sat through last night was they would not let us vote.

I do think we should understand that the failure to vote on this bill is a failure to respond to the needs of the country. My staff and I have worked many days on this. We have worked long hours, as I told my group at home. We have burned the midnight oil on this one. We examined the needs when I went down to New Orleans with our Commerce Committee. We examined the needs in hearings of our Department of Defense Subcommittee. We examined the needs in terms of the Commerce Committee. Senator INOUYE and I heard about the needs of first responders and the need for interoperability equipment for them. This bill gives it to them. It responds to their needs.

It doesn't pay all of them right away, but it says: Look, you can get the money you need to start this, but as the money starts coming in from ANWR and spectrum, you will be able to proceed with the programs you need to have funded.

This is a serious issue. Our national security depends upon a reliable supply of oil that is not subject to the whims of a foreign country or adversaries.

The fuel used by the Department of Defense is delivered today primarily through the Trans-Alaska pipeline system, and much of it is refined in our State right now. Jet fuel in our State used by the Department of Defense includes 52 million gallons per year at Elmendorf and other places, 21 million gallons per year in Eielson, 3.5 million gallons of JP5 used by the Coast Guard. A total of 76.5 million gallons a year comes from current production of oil in Alaska.

The Alaska pipeline amendment, as I said before, was not filibustered because there was complete agreement in the Senate. Not one person suggested that pipeline amendment should be delayed. It was a close vote. The Vice President broke the tie on the Trans-Alaska pipeline. No one realizes it, but at the time, it was predicted there was to be 1 billion barrels of oil produced from that area. We have produced 14 billion barrels already.

Overall the Department of Defense uses 4.62 billion gallons of oil a year. In Iraq alone, the total amount predicted to be consumed per year is 5.76 billion gallons. And yet we are almost totally dependent now on foreign sources. It is not right.

Let me quote from my good friend Senator Jackson, then chairman of the Energy Committee, when he addressed the Senate on the pipeline. Senator Jackson said:

> The pipeline involves a national security issue. There is no serious question today that it is urgently needed in the national interest to start the North Slope oil flowing to markets.

That is the Democratic Senator from Washington, chairman of the Energy Committee at the time.

People today challenge my statement that oil is a national security issue. He said that at the time of the debate on the oil pipeline amendment in 1973. He said, I repeat:

> This involves a national security issue. There is no serious question today that it is urgently needed in the national interest to start North Slope oil flowing to markets.

This area known as ANWR is the balance of the North Slope production area, and it should be available for production.

I have a lot of other issues to mention. At the very least, we ought to compare our situation. In 1973, when the oil embargo took place, we imported one-third of our oil, our petroleum. Now we import 60 percent. Without ANWR, by 2025, we will import 70 percent of our oil. We will be more than two-thirds dependent upon foreign sources for oil.

What will we do in times of need? I remember those lines in the seventies. Some of us remember them well. I remember rationing in World War II. Are we going to go to a system of rationing? Our foreign imports are not that secure, no matter what anybody says.

Senator HUTCHISON is on the floor, and I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise today to speak in favor of the Defense appropriations bill, in favor of Katrina and Rita supplemental help. This is such an important piece of legislation. This is a bill that has already passed the House. It only lacks Senate approval to go to the President and give the Defense Department the appropriations it needs to do the job we are asking them to do. It will also help the people on the gulf coast who have been waiting for the signal that they will have some relief.

I start by talking about the defense part of this bill and say that it would be unthinkable not to pass the Defense appropriations that we must have to stay in an orderly way, going into the next year, with the priorities we have set for this fiscal year. Continuing resolutions are last year's priorities. So it is essential for Congress to act.

I have heard some on the floor say: ANWR is a big surprise. ANWR is hiding the ball. Putting ANWR in this bill is somehow thwarting the will of the Senate. The opposite is true. The Senate has voted in favor of ANWR. The House and the Senate have voted in favor of ANWR.

If we were putting something in a conference report that had never passed the Senate, that would be one thing. ANWR has been adopted by the Senate. Those who would hold up this bill are thwarting the will of the majority. I do believe we have a national security issue and an economic viability issue for our country if we put our heads in the sand and say, well, we know there is a shortage of energy, we know the price of gasoline has gone up almost a dollar—it went up almost $2 after the hurricanes hit for a short period of time, but thanks to the leadership of the President, who took very swift action opening the reserves, we were able to bring the price back down, but we know there is an energy shortage in the world. We know there are various reasons for that because there are more consumers now, because the economies of China and India and other places are now using more energy.

So if we are a country that is looking out toward the future, if we are a country that is going to make sure we have economic viability, we must take the steps to assure that we have energy supplies from our own resources in order to meet this challenge, and that means that we look for new sources of energy. It means we do research for renewable sources of energy. It means we highlight conservation and give tax credits for all of these items that would add to our energy stability, and yes, it also means we provide more opportunity to drill for the basic energy providers for our country, and that is oil and gas.

For some of those whom I have heard debating, to say, Oh, yes, we have an energy crisis in this country, but we should not drill on the east coast and we should not drill on the west coast and now we should not drill within 200 miles of Florida and we should not open up ANWR, is irresponsible. We should be looking to open up our own resources so that we are not dependent on foreign countries for our energy needs, and we should do it by opening up ANWR, which is the largest domestic resource we have. Approval for this has been passed by a majority of the Senate and a majority of the House time and time again. The will of the majority is being thwarted again, because we are looking to the future.

Let us take another argument that could be made. Maybe the people who live around ANWR or in whose State ANWR is do not want it. Are we forcing something on them by allowing this drilling? Oh, no. The people of Alaska have said time and time again they do want to drill in ANWR. They want to drill in ANWR because they know it will be done in an environmentally safe way. They know that the area which would be drilled is an area about the size of Washington National Airport in ANWR, which is an area the size of the State of South Carolina. The people of Alaska know that. They know it will not hurt the environment of their own State. They know it will provide jobs for their people. They know it will provide quality education for their children and small business opportunities for the people who live there and would come there to add to the economy of Alaska. So the people of Alaska who would feel the direct impact of drilling in this very small area want ANWR to be drilled because they know what it will do for the economy of their home State of Alaska. So we have the capability to drill in a very small area.

By the way, it is grassland. There are no trees in this part of ANWR. Sometimes I see the pictures on television against drilling in ANWR, and it looks like a pristine forest. There are no trees in this area. It is a grassland. In fact, there will be drilling when everything is iced over anyway. The roads will be ice roads that will melt in the summer, when there will not be drilling, so there will be no footprint. So I cannot think of anything more environmentally safe, and I think it is very important for the future of the economy of Alaska and more importantly for the future security of our country because economic security is national security.

Can one imagine an economic downturn when we have had so many crises in our country in the last 5 years, starting with 9/11, a war on terror, an insurgency in Iraq, Afghanistan, which is on its way to self-governance, and then there is Katrina and Rita, a tsunami and an earthquake in Pakistan, and we are trying to help all of the people affected by these tragedies? An economic downturn—it would be irresponsible for us to allow it to happen if we have any control, and ANWR is part of establishing our economic security by assuring that we will have energy no matter what else happens, whether it is a hurricane or whether it is a foreign country that provides a good source for us of oil and gas that all of a sudden says: Well, we are not going to provide that anymore, or if we do, it is going to be at such a price that it will affect your economy.

We are over 50 percent dependent on foreign sources for our energy needs today in America, and that is not a sign of the strongest Nation on Earth. So to say that ANWR is a surprise is wrong. To say that it has blind-sided the minority in this body is wrong. The Senate has passed ANWR before. We have passed it this year, and it is time that we get this bill to the President.

In the supplemental appropriations for the victims of Katrina and Rita, it is so important that we have accomplished the first real help that goes not only directly to the people but also to begin the infrastructure improvements where the gulf coast has been ravaged. One of the things I have tried to do in this bill is to ensure that where the evacuees have gone, the money will also go. This is hurricane assistance like we have never seen before.

In a normal hurricane, there are maybe 2 or 3 months of significant displacement, and there is a lot of cleanup and a lot of rebuilding, but most people are back in their area after a few weeks. Katrina so devastated Louisiana and Mississippi that people have had to flee with absolutely nothing, and they have had to stay in other States, get jobs if they can, get housing where they can, and educate their children. So that has meant that States such as Texas, Arkansas, Oklahoma, Georgia, and Tennessee have paid a large part of the expense of the taking care of the people displaced by this hurricane, rather than the burden being on those States actually hit by the hurricane.

So we have had to rethink the model for how to provide this assistance and how we meet the needs of today. My home State of Texas, I think it is well known, has taken in the range of 400,000 evacuees. We have in the range of more than 40,000 in our school systems. We have had almost no reimbursement for the education of these children. We have had to repair schools that were closed so they can reopen. We have had to add temporary facilities. We have had to hire teachers and also try to welcome these children in so they would be able to function in the classroom. This has taken huge resources, tens of millions of dollars from our State.

I passed a bill in September that would have allowed the per-pupil cost of educating these students to be reimbursed, which would have especially helped these States which have taken large numbers. Texas has taken the most, but other States, relative to their populations, are in much the same situation. These are hits on education systems that they cannot absorb. Yet the bill I passed in the Senate in September never passed the House. Finally, last night, in this supplemental appropriations bill we have addressed the needs of these children in the way I had asked in September that they be helped. We are giving the help to these school systems that have taken in these children.

Our school districts and our States have been footing the bill for these added education expenses since the children came over—in desolation, frankly—right after that level-5 hurricane hit the gulf coast of America.

To think this bill would be held up because there are people on the other side who want to thwart the majority that has passed ANWR and would hold up our Defense Appropriations bill and our supplemental appropriation for the victims of Katrina and Rita. I hope those who would thwart this bill would reconsider.

In this bill, we have money for the education of the students, which has been a priority for me. It also includes money for repairs and dredging of waterways in the hurricane-affected States; plus, of course, money to start rebuilding the levees in New Orleans; grants for the Department of Labor for displaced workers; social services block grants; Head Start money for children displaced by the hurricanes; community development block grants in the hurricane-affected States, which includes Texas. Texas has spent just about all of its community development block grant money, much of it for hurricane assistance, so we will look forward to replenishing some of that which was needed before the hurricane. It has money for highway, road, and bridge repairs, and for State and local law enforcement assistance. I can tell you, having toured in Houston, Austin, and Dallas, the convention centers where evacuees were being held, there was a lot of overtime money for the law enforcement personnel, and that needs to be reimbursed because those police departments and sheriffs departments are not able to absorb that. There is money from the Small Business Administration for disaster loans and money for manufacturing extension centers.

There is an offset for all of this added money because there are many people in our country who believe that spending more money and adding to our deficit is not the responsible thing to do. So there is a 1-percent across-the-board cut in discretionary spending. Veterans are exempt from this. Obviously exempt from this would be salaries of our military and civilian personnel. There will be no cuts in veterans health care. That is something I talked to Senator COCHRAN about on Sunday, to make sure we did not cut into the veterans health benefits, because we had just put in an added $1.2 billion because there were more calls on the veterans health care programs. I certainly didn't want to get into a hole in that department.

We have offset this supplemental expenditure with an across-the-board cut in the discretionary spending and other areas so we do not add to the deficit.

In addition, in this conference report, we have ensured that avian flu vaccines will be available in this country. Again, we are looking out for something that we see happening in another part of the world and are trying to protect our citizens if somehow avian flu does come to our shores.

The LIHEAP money we have passed on this floor has an added amount of $2 billion for home heating assistance. That is very important in certain places in our country where heating assistance is needed. We all know the cost of energy is going to be very high this winter.

There are border security improvements. I come from a State that is very concerned about the security of our borders. I went with the majority leader just 2 months ago on a helicopter tour of the border, where we saw the footprints that were very fresh in the fields in Mexico, that walk right into the Rio Grande River, knowing those were illegal aliens who had just come into our country. We went to one of the border stations where we saw illegal aliens being processed. They were not from Mexico, they were from other countries. So the funds for increased border security are in this bill. This is something that is important to the security of our country.

I hope we will be able to pass this bill without being thwarted by the minority. We will have more than a majority if we are forced to cloture. I do not know if we will have 60 votes, but it will be the majority of the Senate speaking on these important issues: the Department of Defense appropriations and the Katrina and Rita supplemental appropriation which will get people the help they need in important areas such as education, debris cleanup, medical treatment, and reimbursement. It has provided for other areas of emergency needs such as the avian flu vaccine, LIHEAP assistance, border security improvements—things that we have worked on all year in the Senate and which have the support of a majority of this body.

This is not the time to be held up on procedural motions that would require 60 votes when the majority should be able to go forward on policies that have been set in the Senate all year. The Senate has passed ANWR. The Senate has passed Katrina- and Rita-related supplemental appropriations. The Senate always passes the Department of Defense appropriations. It would be unthinkable not to be able to do that before we leave for the year, to fulfill our responsibility. I hope we can come together at a time when we should show our country this unity.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COBURN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I ask unanimous consent to speak in morning business for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine is recognized.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 2145 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The minority leader.

USA PATRIOT ACT

Mr. REID. Mr. President, the issue before this body in the waning days and hours of this first session of the Congress is whether the PATRIOT Act should be extended.

Why are people concerned about the PATRIOT Act? Let me read an interview that took place, which is a condensation of a long story that appeared in the Washington Post about Las Vegas, NV. Barton Gellman was the writer of the article, and here is what he said:

> At the end of 2003 there was an . . . alert. One of the reasons was a fragmentary report. . . . [At the end of 2003] they tried [the Federal Government] for the first time ever to create an instant real-time moving census of every tourist and visitor in the city during its most visited period of the year.

Forty-four million, 50 million people come to Las Vegas every year.

Continuing the statement of Mr. Gellman:

> They sifted through about a million people who were considered potential suspects to see if they could find any match with any other indicator in their big database of the terrorist universe. So they used grand jury subpoenas, they used national security letters and they got every hotel guest, every air passenger, every person who rented a car or a truck or a storage space, and they made a giant database out of that and started sifting [through] it.
>
> In the parlance of the intelligence community, the whole thing washed out. They had no suspects. There was no attack. They had an undeniably important motivation here, but one of the prices that the country has paid for that is that on the order of a million people are now in government databases and are staying there. So if you got a Las Vegas hotel room and maybe if you were there with someone you ought not to have been there with, what happened in Las Vegas did not stay in Las Vegas.

The question was asked:

> How can it be that four years into the Patriot Act the national security letters have not been challenged in court as, you know, a blatant intrusion of privacy?

Mr. Gellman continues:

> Well, there have recently been two court cases. We know of only two cases ever in which they were challenged. The plaintiffs are not officially known to the public. I discovered one of them. In the Connecticut library case that was the lead of my story, the librarian who received a national security letter was afraid to call a lawyer because the letter said that he shall not disclose to any person that he'd received it. But the reason there hasn't been much public debate until now is because no one had any idea what scale they were being used on. And crucially, people did not know, even in Congress, that the great majority of these letters asked for information about ordinary Americans and U.S. visitors who are not suspected of any wrongdoing.

We do not know the exact number of these letters. And "letters" is a word that is not appropriate. These "demands." We know there are 30,000. Could be more, may be less, but tens of thousands of Americans, just like what happened New Year's Eve in Las Vegas. That is why people are concerned, on a bipartisan basis, about the PATRIOT Act.

The President and the Republican leadership should stop playing politics with the PATRIOT Act. They should join the bipartisan group of Senators who agree the Government can fight terrorists and protect the privacy and freedom of innocent Americans.

Americans want both liberty and security. These two terms are not contradictory. We do not have to sacrifice our basic liberties in the course of strengthening national security.

Democrats voted to support the PATRIOT Act. We voted for the original act in 2001. It passed with all but one Democratic vote. We voted unanimously for an extension of the bill in July of this year. Virtually every Senate Democrat has cosponsored Senator SUNUNU's—a Republican—bill to extend the act for 3 months while negotiations on a longer term extension continue.

We support the act, but we want to improve it. That is what this is all about.

Now, the President in his press conference today, of course, directed his attention to me, among others. The President, I think, talked about trust and credibility. So I am willing to take that at face value: trust and credibility. I think it should be based on liberty and security, but he wants to do it on trust and credibility.

Let's take a look at this. On 9/11, we had a terrible calamity in this country. We responded quickly and passed the PATRIOT Act. We were wise, though, in setting certain sunsets; that is, if they were not renewed, they would expire. We did that. That was the right thing to do.

We are now back, and the time has come to look at how the PATRIOT Act has worked. I read to the Senate what has happened with New Year's Eve in Las Vegas.

Trust and credibility: The President told us there were weapons of mass destruction in Iraq, that there were secret meetings in Europe. al-Qaida training in Iraq. The Secretary of State still talks about the aluminum tubes. She talked about them then—yellowcake, things that were supposedly there so they could develop these weapons of mass destruction.

Every one of these the administration either knew or should have known was absolutely not true. We were told that we would invade Iraq, and as we proceeded up these boulevards, they would be throwing bouquets. Well, there are 2,200 dead Americans, 17,000 wounded Americans, a third of them grievously wounded, missing arms and legs and blind and head injuries, costing the American people $2 billion a week.

Ronald Reagan said: Trust but verify. And that is what this is all about, verifying what has gone on in the last 4 years with this PATRIOT Act.

I supported the first PATRIOT Act. I do not regret my vote. I supported the bill that came out of the Senate Judiciary Committee unanimously. I supported the bill that came out of the Senate unanimously. But I, with other Senators, believe the PATRIOT Act as presently designed is not good for America.

Mr. DURBIN. Will the Senator yield for a question?

Mr. REID. I am happy to yield.

Mr. DURBIN. Is the Senator from Nevada aware of the fact that the President said today, at his press conference:

> In a war on terror, we cannot afford to be without this law [the PATRIOT Act] for a single moment.

I ask the Senator from Nevada: Did the Senator from Nevada not ask unanimous consent to extend the PATRIOT Act as written for 3 months, and is it not true that when you made that request a few days ago, the Republican leader of the Senate objected to extending the PATRIOT Act for 3 months, after the revision of the law was held up here on the Senate floor?

Mr. REID. Mr. President, I asked unanimous consent that a bipartisan piece of legislation extending this bill for 3 months be made operative. It was objected to by the Republican leader.

The President wants to talk about trust and credibility. I think we need to look at that statement: Not for a single minute, not for a single hour should the PATRIOT Act not be in effect. Well, the burden of it not being in effect is solely on the shoulders of the President without any question. All he would have to do is pick up the phone, call his Republican leader in the Senate, say go ahead, 3 months, maybe you guys can work something out.

This is a bipartisan piece of legislation. We support the act. We want to improve it. That is what this is all about. Let's be clear who is killing the PATRIOT Act. Yes, we killed the conference report on a bipartisan basis. We did the right thing for America because we believe that liberty and security should be part of this Government. Twice last week a bipartisan group of Senators tried to move forward on a 3-month extension but instead of joining us, the President and the Republican leadership decided that they would rather see the bill expire.

Maybe the President has trouble getting away from being "campaigner in chief," maybe not wanting to be as badly the Commander in Chief as he wants to be "campaigner in chief." Maybe he thinks this gives him a political advantage. The responsibility of this bill going up or down is his and no one else's. It is time for the President to put politics aside and national security first. The President and the Republican leadership should join us in supporting the PATRIOT Act and protecting Americans. It would be irresponsible and a dereliction of duty for the administration to allow these provisions to expire.

Nobody seriously believes that the expiring provisions of the PATRIOT Act should be allowed to lapse while this debate continues. Senator SPECTER and Senator LEAHY can work this out. Democrats are not the only ones who believe we should improve the PATRIOT Act. Senators SUNUNU, CRAIG, HAGEL, and MURKOWSKI voted not to terminate debate last week. All four of these Republican Senators have cosponsored the bill to extend the act for 3 months. I have had Senators from the other side of the aisle come and say: That was a very close call. That was a hard vote for me.

There is a bipartisan coalition of Senators wanting a 3-month extension of the PATRIOT Act in its current form so that we can pass a better bill that will have the confidence of the American people.

RUSS FEINGOLD, the Senator from Wisconsin, one of the finest Members of Congress I have ever served under, a person who I believe is one of the consciences of the Congress, someone with an impeccable record of academics, a Rhodes scholar, Harvard law, he was the only person to vote against the PATRIOT Act the first time. He took this on during a campaign for reelection. Millions and millions of dollars were spent to try to exploit this by his Republican opponent, and it didn't work. He won overwhelmingly. He said at a press conference this morning:

> It is the President who wants to play chicken here. He wants to have the risk taken that this would expire. All he has to do is be just a little reasonable, [allow] the will of the Senate. The law will be extended permanently, other than certain sunset provisions. I think it's clear that the president is the one who is playing politics with this.

So says RUSS FEINGOLD. Just as Senator JOHN MCCAIN called the President's bluff on torture not being part of what America does—rather than calling bluffs, he persuaded the President that we needed to check potential excesses in interrogation tactics—we also need to ensure that we put in place checks on the Government's power to trample on the privacy of innocent Americans.

I would hope the President would put down his campaign hat and put on his hat that is the President of the United States, Commander in Chief, and recognize that legislation is the art of compromise.

I want to first ask unanimous consent——

Mr. GREGG. Will the Senator yield for a question?

Mr. REID. I am happy to yield for a question to my friend.

Mr. GREGG. If the majority or even a few Members beyond the two who voted for cloture had voted with the Republicans for cloture on the PATRIOT Act, isn't it true that the PATRIOT Act would have been on the floor?

Mr. REID. I am sorry. Say that again.

Mr. GREGG. If we had been allowed to go forward without cloture, isn't it true that the PATRIOT Act would have been on the floor, if the Democratic membership had voted for cloture?

Mr. REID. The PATRIOT Act is still on the floor. Cloture was not invoked, so the PATRIOT Act is still in order.

Mr. GREGG. But wouldn't we be able to complete the business of the PATRIOT Act if cloture had been invoked?

Mr. REID. As I explained, and it has been talked about for some time, the PATRIOT Act in its present form is not something that can muster the parliamentary procedure to get through the Senate. As has been indicated, cloture was not invoked on this bill. The bill is still before the Senate. The reason being, a bipartisan group of Senators believes the bill is bad. I have given a number of reasons it is bad. These should be corrected. The bill in its present form is not good. The law that is now in effect, we have agreed that there should be a 3-month extension on it. It is a bipartisan group of Senators who have agreed to that. So I say to my friend from New Hampshire, it is the considered opinion of this Senator that if this goes down, based on what the President said this morning, if this bill is not in effect for one day, the country can't afford that and, therefore, I think if he believes what he said, then he should agree to the 3-month extension.

Mr. GREGG. If the Senator will yield for an additional question.

Mr. REID. I am happy to yield.

Mr. GREGG. My point was, if there had been a vote which had invoked cloture so that we could have completed the business of the PATRIOT Act, we would have a vote on final passage of the PATRIOT Act, and it would have been put into law because a majority of Members were for it. So since the Democratic leader basically led the opposition to cloture, therefore led the opposition to the ability to get to a final vote on the PATRIOT Act, it does seem to me that you are a little bit in the position right now like the person about 50 years ago in New Hampshire who shot his parents and then, when he was brought before the court on the murder charge, threw himself on the mercy of the court because he claimed he was an orphan. Are you an orphan?

Mr. REID. I say to my friend, who usually is very analytical and concise, that example is pretty bad. I would also say that we could stand out here and say the reason we haven't finished the Defense appropriations bill is because there is extraneous matter put in the bill. If that had not been in the bill, we would be home wrapping our Christmas presents now. There are a lot of hypotheticals. That hypothetical doesn't apply. We are here in the real world. The real world is that cloture was defeated on the effort to cut off debate by a bipartisan group of Senators. There is legislation now pending that would take a matter of a minute to approve; that is, to approve a 3-month extension.

UNANIMOUS CONSENT REQUEST—S. 2082

Therefore, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 2082, the 3-month extension of the PATRIOT Act; that the Senate proceed to its immediate consideration; the bill be read the third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object.

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the PATRIOT Act, as reported by the Judiciary Committee, S. 1389, Calendar No. 171; that the committee substitute be agreed to, the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Reserving the right to object, would the minority leader stand for a question?

Mr. REID. Of course.

Mr. KYL. In the Philadelphia Inquirer, a reporter by the name of James Kuhnhenn has quoted the distinguished minority leader, and this has been out on the airwaves. I don't want people to be quoted inaccurately. This was according to a report of December 17, 2005, and this comment is attributed to the Senator from Nevada: "We killed the PATRIOT Act."

I ask my friend, the distinguished minority leader, whether that is an accurate quotation of what the Senator said.

Mr. REID. Mr. President, I stated earlier in my remarks a few minutes ago that it is absolutely true that the conference report on this bill was killed. Cloture was not invoked. I say to my friend, the Senator from Arizona, that is a fact. Maybe the term was the wrong term. Maybe I should have said defeated or whatever. But that quote is accurate, sure.

Mr. KYL. I will explain why I ask the question. It was reported to me that in the remarks the distinguished Senator made, he said, "Let's be clear about who is killing the PATRIOT Act.' I just wanted it to be clear that the action taken to prevent us from getting a vote on the PATRIOT Act was an action, a filibuster, or not invoking cloture, and that action has prevented us from completing action on the PATRIOT Act, which means we were not able to take a final vote on it and therefore to reauthorize it.

Mr. REID. Reclaiming my time. Mr. President, I appreciate the example——

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Objection, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Reclaiming my time, the example given by my friend, the distinguished Senator from New Hampshire, about killing a parent and claiming to be an orphan, and my friend from Arizona talking about our having killed the PATRIOT Act—look, everyone knows Senate procedure. The conference report was defeated. The ability to extend the conference report was made minutes after that, saying—in fact, it is no secret. I told the majority leader on the morning before that vote:

> You don't have enough votes to invoke cloture. Why don't you extend it for 3 months?

That wasn't done then. We offered to do that immediately after cloture was defeated. We offered it again today. Not only did we offer to extend it for 3 months, we offered to take up the bill that passed the Judiciary Committee and the Senate unanimously and pass it in the Senate unanimously.

I think the appropriate thing to do would be to have the 3-month extension. Obviously, this business doesn't mean as much to the President as he said to the American public in his statement because it is up to him.

The PATRIOT Act does not expire until the 31st day of December of this year.

Mr. DURBIN. Will the Senator yield for a question?

Mr. REID. Yes.

Mr. DURBIN. I want to make the record clear. I was with the Democratic leader when he made the statement about the PATRIOT Act. I took it to mean that we defeated cloture on the conference report on the PATRIOT Act. That was the way I understood it. It has been twisted a little bit by some who want to read more into it. But it is accurate, I believe, to say that.

I will just ask the Senator from Nevada, at least once informally with Senator FRIST, and now four different times on the floor of the Senate, we have tried to extend the PATRIOT Act for 3 additional months while we work out our differences—an extension which would not change the PATRIOT Act in any way whatsoever—so that for 90 days, at least, it could continue to be used and enforced without question. Now we have had the Senator from Arizona, Mr. KYL, object to extending the PATRIOT Act for 90 days.

One could reach the conclusion that the Senator from Arizona opposes the PATRIOT Act as currently written if he opposes extending it for 90 days, I might say. I am happy to allow the Senator to reply. If the Senator from Arizona supports the PATRIOT Act as currently written, why would the Senator object to extending the PATRIOT Act for 90 days?

Mr. REID. Reclaiming my time, Mr. President. Mr. President, maybe——

Mr. KYL. If I may ask the minority leader——

Mr. REID. Mr. President, maybe I didn't have the education of a lot of my friends. I was educated in a little school in Searchlight, NV. We didn't have English class. Maybe my choice of words wasn't perfect. Maybe I should have said we killed the conference report. But the fact is, that is what we had done. People can try to change the words and the meaning of it all they want, but that is what happened. I may not have the ability to express myself like the folks who were educated in all these private schools and fancy schools, but I understand the Senate rules. Everyone knows that cloture was defeated, killed, whatever you want to call it. That means that cloture was defeated and that bill is still before the Senate.

Any time the leader wants to bring it up again, he can do that. But the fact is, we have offered on numerous occasions to extend it for 3 months. If it is not extended past December 31, 2005—as the President said, we have to have it every minute of every day. He should understand that the brunt of it not being extended is on his shoulders. Even the only Senator who voted against it 4 years ago said it should be extended. That is RUSS FEINGOLD. We have I don't know how many cosponsors, but a significant number who believe that could be done.

But it appears to me that the White House and the Republican leadership in the House and Senate think they have a political issue. If they think the American people are that unable to understand, then they have a lot coming. The American people understand by virtue of this bipartisan vote that this extension should be done the right way. The right way is to extend it 3 months and see if the kinks can be worked out. Remember, the extension of the PATRIOT Act passed this body unanimously. It was changed in the House. They put a lot of things in it that should not be in it. It came back and Republicans and Democrats raised their arms and said: You cannot do this.

So the fact is, if the PATRIOT Act is not extended, the whole burden is upon the White House and the Republican leadership in this Congress.

Mr. KYL. Mr. President, the minority leader has the time right now; is that correct?

Mr. REID. That is true.

The PRESIDING OFFICER. He has the floor, yes.

Mr. KYL. If the leader would like to relinquish the floor to me, I can respond to the Chair rather than going through the minority leader. Otherwise, I will go through the leader and respond to the Senator from Illinois that way.

Mr. REID. I yield the floor.

Mr. KYL. Mr. President, let me respond to the minority leader and to the question asked of me. The words that the minority leader used were "killed the PATRIOT Act." I don't suggest that this reflects his view that the PATRIOT Act should not exist. I want to be very clear about that, just as I am sure the question posed to me by the Senator from Illinois doesn't mean to suggest that my objecting to a 3-month extension means that I don't want the PATRIOT Act to exist. I have made it crystal clear in all of my comments before today that that is precisely what I want to see—if not the PATRIOT Act in its existing form, until December 31, in the modified form as developed in conference between the House and Senate. I think we can both agree that we understand that the PATRIOT Act is a good thing and indeed it is a good thing whether in the existing form or in the form that came out of conference committee.

Let me address that for a moment. As we know, in the Senate, we passed it out unanimously—unanimously—and it is difficult for me to see why Members of the other side of the Chamber are proud of having filibustered it so it cannot come up—don't use the word "killed it"—having prevented it from coming to a vote when, by everyone's agreement, about 80 percent of what the Senate passed unanimously ended up in the final version of the conference committee report. By 80 percent, I mean of the contentious issues. Most of the bill was not contentious. There were a few provisions that were. On those, the House of Representatives in the conference committee conceded most of the ground. So, in other words, the Senate mostly got its way in that discussion.

It seems to me that what the other side is basically arguing is, unless we get our way 100 percent, then we are not going to agree to this. The distinguished minority leader pointed out that everybody knows how the filibuster rules work. I think it is also clear everyone knows how the two Chambers work together. We pass our version of the bill, the House passes its version of the bill, there are a few items in disagreement, and those are compromised. It is not that one Chamber gets its way and the other Chamber has to concede to everything.

What has been clear from the House of Representatives is that 3 months, 6 months, 1 year is not going to change anything. They have come to the conclusion that they have already conceded more than they should have. Frankly, from my position, I would be of that same view.

Mr. DURBIN. Will the Senator yield for a question?

Mr. KYL. It seems to me that were there to be additional concessions made, we would no longer have a PATRIOT Act that could easily be used by our law enforcement and intelligence people to protect us. It would make it more and more difficult. As a result, you do have to draw the line somewhere and say: Look, if you try to change this any more, it is not going to protect the American people; in fact, it is going to prevent law enforcement and intelligence people from doing their job of protecting the American people.

There does come a point in time when you have to say this is it. Either you are going to be for extending this or not, and that is the position we were in last week when the minority—a majority favored moving forward; I think it was 52, 53 votes. A minority said no, but that minority under our rules had the ability to prevent us from moving forward.

I will be happy to yield for a question.

Mr. DURBIN. I would like to ask the Senator from Arizona if he would consider two questions. The first question is this: Is it not true that the position we are arguing in the PATRIOT Act is the same position that the Senator from Arizona voted for in the Judiciary Committee and at least did not object to on the floor of the Senate? So to suggest it is a radical position—I would like to ask the Senator, has he changed his view on that?

Mr. KYL. Let me answer that question, and I will be happy to yield again.

I don't believe the Senator heard me use the words "radical position." I have not contended anything is a radical position. What I have said is it would not work. We do want something that will work to protect the American people.

Mr. DURBIN. If the Senator will yield, I believe it worked when I voted for it in the Judiciary Committee, as the Senator did, and agreed to in passing it unanimously on the floor. I think it still will work.

The second question I ask the Senator is this: Here is the choice we have. The PATRIOT Act can expire on December 31 of this year or it can be extended at least 90 days by a request being made on the floor. Does the Senator from Arizona think it is better for the PATRIOT Act to expire December 31 than to extend it 90 days?

Mr. KYL. Mr. President, let me answer the question this way: Since it is not at all clear, given the holidays and the fact the Senate is only in session at the very end of January, that we could resolve heretofore unresolvable issues in 90 days, how about a 1-year extension? That way, we would make sure the PATRIOT Act did not expire, we would have it in force, and whatever time it took for us to try to reach agreement, there would at least not be uncertainty; we would know what the law was. If we were able to reach agreement in the meantime, then, of course, we could pass the bill and whatever changes that would be made were made. Let me answer the question that way and perhaps not pose a specific unanimous consent request but see what the response of the Senator from Illinois would be were I to do that.

Mr. DURBIN. I say through the Chair—and I am not sure of the exact parliamentary form we are using here—in a question to the Senator from Arizona, based on his experience working in both the House and Senate, is it not more likely that when you say 1 year, it will be 11 months, 3 weeks, and 6 days before we consider this seriously again? Has it not been his experience—it has been mine—that in this legislative body, if one says 90 days, it is more likely people will get serious within a few weeks and start talking about real change? Perhaps the Senator's experience is different from mine. Giving it a year means putting off the inevitable. Let's get this resolved and move forward.

Mr. KYL. The Senator from Illinois certainly makes the point that when you have a longer deadline, work tends to be put off. I make this point: The distinguished chairman of the Judiciary Committee is here. We have been working for the better part of a year on this reauthorization of the PATRIOT Act. The chairman can tell us when the Judiciary Committee took it up. There were a lot of sessions before that. For many months now, this issue of reauthorization has been well known to all of us. We have known what the deadline was, and we worked on it and worked on it hard.

I think people of good faith have reached the degree of compromise they believe they can reach at this point. Given the fact that most of the concessions were made by our House colleagues and that they have indicated they are not ready to make any additional concessions and that the President has made it clear he does not want to see the act degraded any further than the conference report presented to us, I suggest that at some point legislators need to make a decision either to vote yes or no and not to hide behind what is, in effect, a procedural vote—namely, a filibuster—and saying: We are really for it; that wasn't really a vote to kill it; we were just voting not to vote on it. When you filibuster a bill, when you vote not to vote on something, it is the same thing as voting against it in practical effect when the act expires on December 31.

So my suggestion is that we roll up our sleeves, if you want a real deadline, instead of 3 months from now, we have another week. We are going to be here apparently until Friday. Let's conclude our work, vote on it, have an up-or-down vote, and see whether people really are ready to go into the new year without an extension of the PATRIOT Act.

I am happy to yield the floor to the Senator from Pennsylvania.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I will pick up on comments made both by the Senator from Arizona and the Senator from Illinois.

When the Senator from Illinois says if you have a 1-year extension, nobody will get serious about it until 11 months, 3 weeks, and 6 days, I agree with that. But if you have a 3-month extension, nobody will get serious about it until 2 months, 3 weeks, and 6 days.

The Senator from Arizona has made the comment that we are going to be around here for a while. I usually like to agree with Senator KYL, but I hope he is wrong about Friday, or maybe, long about Thursday. I will hope he was right about Friday. We may be here longer than Friday. But we know we have a cloture vote on Wednesday. So that means we have 2 days, which is twice as long as the Senator from Illinois postulates if we have a 1-year extension. That is twice as long, 2 days, to work on it.

I do not know what the House of Representatives is going to do. I know that Chairman SENSENBRENNER has been very cooperative, but I don't know what his rejoinder would be. He is talking about an extension, or I have heard a rumor that there is talk in the House about an extension for 4 years. I do not know what the President is going to do. He said he will not sign an extension. I do not know what the majority leader is going to do. He said he is not going to bring it up. But I am ready, willing, and able to sit down with the Senator from Idaho, who is in the Chamber. I cosponsored his so-called SAFE Act. I am trying to work it out.

We passed a good bill out of the Senate. Everybody agrees with that because it was unanimous. We made certain changes because we have a bicameral system. I am ready to sit down at 2:10, 2 minutes from now, or right now, and see what people have in mind.

The distinguished ranking member at one time said that if we had a modification on the conclusive presumption about which he feels very strongly—it was the subject of a lot of floor debate—so that we did not have a bar that on representation by certain ranking officials, the national security interests or foreign diplomacy issues were conclusively presumed, there couldn't be disclosure, if there could be modification of that standard, I think we might work that out.

That is a big point. It would be great for the country if it were to be seen that Republicans and Democrats get together on something, practically anything.

I yield to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I think in the closing moments prior to the cloture vote and following that the Senator was very open, and I appreciate his willingness to come together with the House to try to resolve it. What is most important—and I want to say it and I want to say it again—for those of us who offered the SAFE Act and stood together, our intent was not to kill the PATRIOT Act and it never has been. I would hope that this process does not end up in the PATRIOT Act expiring without modifications of it and the reauthorization of it. The chairman certainly has spent a good deal of time in that effort, as have I and many others. His willingness now to sit down and to attempt to work this out, all of that is doable and can be accomplished, especially if the time we are now involved in, in dealing with DOD conference and DOD reauthorization and the budget reconciliation conference is going to be protracted to the extent of the rules of the Senate, then we do have that time more than ever.

I would hope it is possible to come together. I do know the Justice Department has stated that all ongoing investigations would not be compromised during the period of time in which the PATRIOT Act might expire. That is not the point. The point is we ought to do it. We ought to do it appropriately, and I would hope that in the end the chairman would take us as close to the Senate version as we could possibly get because I think the work that came out of the Senate Judiciary Committee is what this Senate ought to vote on once again and what ought to become law.

I thank the chairman for yielding and I yield the floor.

Mr. DURBIN. Mr. President.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SPECTER. Mr. President, I do not know if anybody is going to agree with the proposed change that was made on the conclusive presumption. It may be that it is not negotiable. I do not know. All I have to say is that there are a lot of people with a lot of diverse viewpoints, and I am prepared to sit down with anybody or everybody and see what those viewpoints are.

The Senator from Arizona has been very cooperative. He has views. The Senator from Illinois does, the Senator from Idaho does. I am trying to get it worked out. On the floor, I am not prepared to say what concessions would be made, but as long as we are going to be around here, there is no harm in talking.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I am glad we are having this conversation. I think it shows that there is some room for dialogue and, I hope, for progress to be made on this issue. I think it is unfortunate some of these statements made earlier today by the President suggesting that those who did not share his point of view on this issue were somehow not as sensitive to the threat of terrorism. I can assure the President and all listening to this debate there is sensitivity to that threat of terrorism on both sides of the aisle by people who were on both sides of that cloture vote on the PATRIOT Act.

What is at issue are some fundamental questions about our constitutional rights, our freedoms, and liberties in America. Each of us, when we assume the responsibility of Senator, swears to uphold the Constitution. There are so many important elements within that Constitution, but one might argue that the Bill of Rights is the most important because it is a guarantee of our individual rights and freedoms. So when we initially enacted the PATRIOT Act in the fear that was gripping this country after 9/11, there was a concern that perhaps we had gone too far; perhaps we had given the Government more authority over our privacy, more authority over our freedom, than was necessary.

In the bipartisan wisdom of those who wrote the act, we promised that 4 years afterwards we would revisit it and see if, in fact, it needed to be changed in any respect. That is what this debate is all about.

There may be some today who argue we should do away with the PATRIOT Act, but I cannot say who they might be. The only Senator who voted against it is supporting the reform that passed the Senate Judiciary Committee, so it is clear that he was prepared to vote for a PATRIOT Act with some modifications.

The Senator from Idaho, Mr. CRAIG, and I have been the lead cosponsors of the SAFE Act which, as he accurately described, was an attempt to modify the PATRIOT Act, not to abolish it, but to modify it, in certain respects, so as to protect our basic freedoms and liberties. We were happy at the end of the debate in the Senate when the bill came forward in the Judiciary Committee on a unanimous, bipartisan vote, which I hasten to add is a rare thing in the Judiciary Committee, if not the Senate. A unanimous, bipartisan vote on this measure brought it to the floor where it was enacted by a voice vote since there was no objection to it on the Senate floor. That is an amazing testimony to the fine work of the Senator from Pennsylvania as chairman of the committee and all the Members who compromised to reach that point.

It is worth noting for the record when that occurred. It occurred in July. It was in July that we finished our work on this and sent it over to the House of Representatives, understanding we were backing up against the deadline of December 31. It was not until November 9 of this year that the House appointed their conferees. They waited 3 months or more before they appointed conferees and sat down to seriously debate this issue. Then a few weeks later, even with Thanksgiving intervening, they produced this conference report. So if it is a matter of timing, it does not take that long to try to work out differences.

That is why those of us who are proposing a 3-month extension believe it is entirely appropriate and possible that we would reach an agreement in that short period of time.

I would like to spend a moment reflecting on the substance of this debate. We have talked about the Senate procedure and timing and what words were spoken by Members and what they meant, but it is important to get down to the substance of the issue to understand that what we are talking about are some fairly fundamental issues.

The first is the question of Section 215. That is a section that will allow the Government to obtain medical records, financial records, library records and other sensitive personal information simply by showing, under the current PATRIOT Act, that the information might be relevant to an authorized investigation. That is as low a standard as I can imagine, and it basically means that the Government, without proof of any wrongdoing on the part of any individual or group of individuals, could secure a great deal of private personal information and cull through it simply by saying it may be relevant to an authorized investigation.

When we passed the Senate bill reauthorizing the PATRIOT Act, we said that it really should be a higher standard, not an impossible standard but a higher standard; that the person whose records are being sought has at least some connection to the kind of conduct we are trying to guard against. That is not a huge leap in terms of our legal standard in America. It is consistent with what we call due process.

The second concern with Section 215 is an equally important one. Assume that one is the custodian administrator of records, either at a business or at a hospital, and they receive a notice under section 215 of the PATRIOT Act, the Federal Government wants all of their records in their hospital on hundreds, if not thousands, of patients, and they believe that is an unwarranted intrusion into the privacy of their clients; what can one do if they believe the Government has gone too far?

Currently, under the PATRIOT Act, they are precluded from even arguing their case in court, arguing that the Government has gone too far. And section 215 has an automatic permanent gag that prevents any person from speaking out, even if he believes his rights have been violated. In my mind, that is a fundamental attack on a very basic freedom in America.

So when we wrote the revision of the PATRIOT Act in the Senate, which all of the Senators voted for, Democrats and Republicans, we said we would give a person the right to go to court and to ask that this gag order be lifted so that they could argue the merits of the Government's activities. Those are two critical issues when it comes to the rights of the freedoms of Americans.

To argue that they are inconsequential, that they are not worthy of fight, is to ignore our basic responsibility. Many of us who are arguing to extend the PATRIOT Act also want to include in it some very fundamental protections of the rights of Americans. That is what this debate is about.

It is not about who can get the upper hand on the political debate on a day-to-day basis. I think most Americans are weary of that. I am. What we are trying to do is extend the PATRIOT Act for 90 days past December 31 and work out these differences, significant differences but differences we can address and address successfully.

It is interesting to note that this debate about the PATRIOT Act, which is going on on the floor of the Senate and in the President's press conference, is occurring at a moment in time which is freighted with significance in terms of the activities of this Government in relation to the privacy and the personal rights of its citizens.

It was disclosed in the New York Times and Washington Post and other major papers last week that for several years now our Government has been eavesdropping on American citizens through the National Security Agency. This, to me, is a dramatic departure from the basic rules and process we followed for over 30 years in America, where we have said that if you want to listen in on the conversation of my neighbor or someone in my family, you need to have a legal right to do so and that legal right will be established by going to court to establish why it is necessary for you to listen in on that conversation; to establish, for example, probable cause that a crime has been committed or probable cause or evidence that someone has engaged in unlawful activities. That is the American standard. It appears now, from what the President has said, that this administration for several years has rejected that standard. The President has assumed the power to eavesdrop on the conversations of innocent Americans on the possibility that they will come up with some evidence of wrongdoing. This is not only illegal, it borders if not crosses the border into a violation of criminal law. It is extremely significant.

In this holiday season with all the other things we are thinking about personally, with the rush of Congress to adjourn and go home and be with our families, I don't know if we are reflecting on the significance of what we have learned in the last several days. To think that any President of the United

States believes he has the power as Commander in Chief to basically avoid, ignore, or violate the laws of the land is a significant charge.

I am encouraged that Senator SPECTER, the chairman of the Senate Judiciary Committee, a member of the President's own party, from Pennsylvania, has promised us a thorough investigation when we return in January as to what has been occurring in terms of the National Security Agency and this eavesdropping. But I raise this because our entire discussion of the PATRIOT Act is in the context of this consideration: Simply stated, have we gone too far in violating the basic rights and liberties and freedoms of Americans in our pursuit for security and safety? Can we strike a balance and be safe as a nation without endangering our basic freedoms and liberties? I think this question of eavesdropping on hundreds if not thousands of innocent Americans raises that question foursquare. But I also believe the extension of the PATRIOT Act does as well.

When the Democratic leader of the Senate comes before the body twice today, as he did last week, and asks for an extension of time so the PATRIOT Act will still be in force, can still be used for 90 days while we work out these significant questions, it is a good-faith offer. For his critics—whether in the executive branch or legislative branch—to suggest that he wants to do away with the PATRIOT Act or he is insensitive to the terrorist threat is not a fair characterization of his position nor the position of many of us. We believe the PATRIOT Act is important, but we believe some modifications will make it an act that is more consistent with our constitutional rights.

I hope the Republican leadership in the Senate will reconsider their position. I hope they will allow us to extend the PATRIOT Act for 90 days. We can go home for the holidays and return in January, which the Senate Judiciary Committee is going to do, anyway, and get down to business, rolling up our sleeves to work out this conference committee. Let's make sure the PATRIOT Act is not only reenacted but in a fashion that is consistent with our basic freedoms.

Mr. NELSON of Florida. Will the Senator yield for a question?

Mr. DURBIN. I am happy to yield for a question.

Mr. NELSON of Florida. I want to again commend the Senator for reminding the Senate of the substance of the issue. The substance of the issue is that Americans are quite concerned they are going to lose their civil liberties. They certainly want the Government of the United States to in fact prosecute the war against terrorists, but they don't want our society, because of our protection of civil liberties, to change into some other kind of society. Would the Senator agree that is the substantial majority opinion in this country, to protect our civil liberties?

Mr. DURBIN. It certainly is in my State of Illinois and I suspect nationwide. It is interesting to me, the passions that many of our colleagues bring to the fight of protecting a person's money—which is an important part of our job—but when it comes to protecting our freedoms, I don't see the same level of passionate commitment. I hope we will see that change during the course of this debate. But I think Americans value their freedoms very much.

I always recall, as a practicing attorney, how many people would be dismissive of criminal procedures to protect defendants until it was their teenage son or daughter who was arrested and then they came to their attorney and said, What can we do? What does the law provide to protect us?

I think we should all be sensitive to that fact.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, in a few moments—there are a few details being worked out in the next few seconds—we will be moving to hopefully get the clock started on the omnibus deficit reduction bill. As our colleagues know, as I outlined this morning, we have 10 hours to spend on that conference report. Then I know there are other discussions and comments that are wanted to be made about the PATRIOT Act. We plan on doing that using that time. A number of people have been waiting to speak on that.

At this juncture, while we work out the last few remaining details, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, our intention has been to go to the Omnibus deficit reduction bill, but apparently not all the papers are in order at this juncture; therefore, we will postpone that for a bit of time, although as soon as that paperwork is available I will be coming back to the floor in order to proceed to the consideration of the conference report, which is going to require a vote. That is for getting the clock started.

But, in the meantime, because we are sitting here with empty time, I ask unanimous consent that Senator KYL be permitted to speak, followed by Senator KERRY, in which case my intention is to come back and propound the unanimous consent request at that juncture.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Arizona.

PATRIOT ACT

Mr. KYL. Mr. President, this resumes our discussion of the PATRIOT Act, which we were discussing before this little interlude. Since much of the attention has been focused on section 215 of the PATRIOT Act, I want to discuss that for a little bit.

The Senator from Illinois, for example, was talking about that just before we broke and, specifically, talked about the subject of section 215, which includes financial records, library records. Incidentally, "library" is never mentioned in the PATRIOT Act. It is just that library records are included in the general definition of business records. As a result, people have focused on that. So we are going to talk about that for just a little bit.

As he pointed out, the standard for a court to issue a warrant is relevance. That is the same standard that is used in all the other civil subpoenas. It is a standard that the courts had begun to impose since we did not have a standard within the law itself. Given the fact that is the standard the courts began to impose—and it is a reasonable standard—we amended that into the law. Part of what passed the Senate unanimously was a relevance standard. So there is nothing wrong with having a relevance standard. I would think those who are weary of the application of the PATRIOT Act would agree this was a good addition. It is an additional safeguard to have a relevant standard.

What exactly is section 215? That is what I would like to address. What it allows is for the FBI to seek an order from the Foreign Intelligence Surveillance Act Court for the production of tangible things—that is the definition—including books, records, papers, documents, and other items for an investigation to obtain foreign intelligence information. That is the key. You are before the Foreign Intelligence Surveillance Act Court, and you are asking for information that pertains to an investigation of foreign intelligence information. That is further defined in the act as information relating to foreign espionage, foreign sabotage or international terrorism.

It is impossible to get from the court—talking about getting an order from a judge—anything that isn't relevant to foreign espionage, foreign sabotage or international terrorism. All of this concern about wanting to find out what kind of books you checked out from the library is simply wrong. Anybody who talks about it in those terms and knows what I have said cannot be serious about objecting to section 215 of the PATRIOT Act.

Let's put it in context. There are 335 administrative subpoenas authorized for our Government. For example, if you are suspected of Medicare fraud, the Department of Health and Human Services has to issue an administrative subpoena to get information relating to whether you might be guilty of Medicare fraud, such as your business records or somebody else's business records that would perhaps go to proving that case. Or perhaps bank fraud, you could get the bank records that might pertain to that. In none of these other 335 cases is it necessary to go to a court first. There is only one exception. Under the PATRIOT Act, you are required to go to the FISA Court in order to get a subpoena with respect to terrorism. One would think that given the seriousness of terrorism and sometimes the emergency nature of it, it would be easier to get a subpoena dealing with terrorism than it would Medicare fraud or bank fraud. That is not the case. We care so much about civil liberties, we added this requirement that you have to go to court first in order to get the subpoena. This is not a search warrant. This is a subpoena. It is merely a request for information. Unlike a warrant, a subpoena does not allow the Government to enter someone's home or business or property to take things. It is only a request. If the recipient objects to it, the Government has to go to court and defend the subpoena and seek an order for its enforcement. That, too, is where I disagree with my friend from Illinois. There is an ability to say, no, we will not submit the records, in which case the Government has to prove them in court.

Most Government agencies already have the authority to issue subpoenas, and there are 335 of them in the code. It is interesting. If Mohamed Atta were suspected of Medicare fraud, then the Department of Health and Human Services could get a subpoena into business records that might demonstrate whether he is connected with that Medicare fraud. It seems to me to be a little bit incongruous not to allow the Department of Justice to go to the FISA Court and ask for a subpoena in the event that they suspect him of terrorism, especially when we have added the other protections in here that the conference report has added—the relevancy standard and an additional three-part test that makes it clear that it has to relate to foreign espionage or terrorism.

Some people say: The section 215 subpoena is a little different because these other subpoenas relate to regulated industries. Even subpoenas that are involved in investigating industries that are used to get information from citizens outside the regulated industry use it in a situation where people are outside of the industry and not just the regulated industry itself. For example, if you are talking about some kind of business fraud, if the SBA is seeking an administrative subpoena, they are not just subpoenaing the beneficiary itself. They can subpoena others doing business with the entity under investigation. In one important way, the PATRIOT Act has more protections in it than any of the others because you are required to go to court first. I dare say that most of the people who are raising questions about this don't advertise the fact that you have to go to court, you have to get approval from a judge first.

Even a subpoena to appear before a grand jury is issued without going to the judge. There may be a misconception about that, but all the prosecutor has to do is write out the subpoena and you have to supply these business records in accordance with the law to the grand jury. You never have to go to a court first. The only time you have to go to court first is a subpoena invoked under section 215.

One of the complaints is that 215 can be used to obtain books from libraries or other kinds of business records. Of course, to the extent library records are business records, that is true. But it does not, obviously, allow the FBI to simply go into a library and figure out what somebody is reading. It can be used to get library records but only if they are relevant to an investigation into foreign espionage or terrorism.

Let me give an example. Some people remember the case of the Unabomber, Ted Kaczynski. This was an example given by the Justice Department because his brother had actually relayed to Federal agents his suspicion that Ted Kaczynski was behind the decades-long string of attacks. Remember the mail bomb attacks? At the time, the Unabomber had published his manifesto in the New York Times which cited several obscure, even ancient texts. In order to confirm the brother's suspicions, Federal agents subpoenaed Ted Kaczynski's library records and discovered that he had, in fact, checked out the obscure texts that had been cited in the manifesto, thus helping lead them to Ted Kaczynski as the Unabomber. Is there anything wrong with that? Would anybody have an objection to that? That didn't even require going to a court to get the subpoena.

Section 215 also could have been used directly in investigating the conspirators who acted on September 11. How so? We now know that in August of 2001, a month before September 11, individuals using Internet accounts registered to Nawaf al Hazmi and Khalid al Midhar had used public access computers in the library of a State college in New Jersey. The computers in the library were used to shop for and review airline tickets on the Internet travel reservation site. Al Hazmi and al Midhar were hijackers aboard American Airlines Flight 77, the flight that took off from Dulles Airport and crashed into the Pentagon. The last documented visit to the library occurred on August 30, 2001, a dozen or so days before that fateful day. On that occasion, records indicate that a person using al Hazmi's account used the library's computer to review September 11 reservations he had previously booked.

I hope the significance of this sinks in. Library records confirmed airline reservations on September 11. During that same month, August of 2001, Federal agents knew that al Midhar and al Hazmi had entered the United States and initiated a search for those two known associates of al-Qaida. Had the investigators caught the trail of these individuals and had the PATRIOT Act already been law, the investigators likely would have used section 215 to review the library's records of their Internet usage. Imagine if we had then picked them up, how the course of history might have changed.

This is the use of section 215 relative to library records. It has nothing to do with you and me, nothing to do with what we read in the library. It has to do with determining whether there is information relevant to a foreign terrorist or international espionage, nothing more. It could theoretically have had an impact on the course of events that occurred on September 11, had we been able to use it in connection with al Hazmi and al Midhar. I also want to mention the fact that over half a dozen reports submitted by the inspector general of the Department of Justice have uncovered no instances of abuse of this section. The latest public report indicates that the authority had been used approximately three dozen times and that it had not been found to have been abused. Moreover, in the conference report which was filibustered, the one we would like to be able to vote on so that the act could be reauthorized, we require reports every 6 months to the Congress. These reports are very specific as to the kinds of information with respect to section 215 that we want to review, including whether, as a result of the audits done by the inspector general, there is any potential abuse or there was any potential abuse of this section.

So, Mr. President, we have the original section 215, which already had protections that are unlike any other use of an administrative subpoena; added onto that is the requirement that you have to go to the FISA Court, that it must relate and must be relevant to an investigation into espionage or terrorism. And we have an after-the-fact report so that if anything went wrong, or that the inspector general had reason to suspect. That information comes to the Members of Congress every 6 months. It seems to me that any fair reading and fair consideration of section 215 would lead to the conclusion that it is an authority that we need, that it is an important tool for law enforcement, that it has adequate protections built into it, and that all of the hype that surrounds this is, frankly, just exactly that—that it is an effort to draw some kind of conclusion, create some kind of confusion here that something is wrong with the law, that it is potentially used to eavesdrop on American citizens or somehow sneak their records in a way that could nefariously be used by the U.S. Government.

There is not one example where this has occurred or where anybody is complaining about the use of section 215 that harmed them. With all of the protections we have built in, I ask my colleagues, what else exactly do you want? What could you do? How would you change this? What would be different? Why isn't the bill that is before us adequate to both protect American civil liberties and, importantly, protect all of our freedoms by giving law enforcement and intelligence agencies the ability they need to carry out their mission?

Let me conclude with respect to this argument that if we just had a little bit more time, maybe we could reopen this and resolve issues. First of all, the conference committee is closed. As a matter of procedure, we cannot just reopen a conference committee. Secondly, a lot of things could have been raised or were raised in conference committee that would be revisited.

I will tell you what some of those things would be in the event you are interested in having these things revisited. I wanted to include a provision relating to terrorist hoaxes. That is not in here. We know when somebody phones in with a hoax, the police or the fire department or the bomb squad or the hazardous material squad need to be sent out. It can be a horrible drain on law enforcement, and there ought to be a way to deal with these hoaxes in a much more serious way.

Law enforcement would like to have a better definition of "material support." This is used in statutes to deal with people who are providing support—the accessory before the fact kind of situation. Because of the kind of support that can be provided to terrorists, that section probably could stand some further definition. I would like to be able to do that in another conference committee.

The Classified Information Procedures Act is something that was initially considered and should be considered again if a new conference committee is opened. Frankly, the House was asked to eliminate an important death penalty provision, and they did that in conference, as well as some other provisions that I very strongly would like to have in the bill.

Let it be clear that if a new conference committee were created, there would be all sorts of issues that would be brought to bear, and negotiation is a two-way street. There are other ways we could improve on by strengthening the PATRIOT Act. I would want to be sure that those things are developed and are brought to bear.

Finally is this matter that has been brought up regarding eavesdropping on the citizens of the United States. A couple of my colleagues, just before the vote on the PATRIOT Act on the cloture motion, said they had been going back and forth on whether to support it. They read the article in the New York Times and that was dispositive in their minds that they had to vote against cloture. Bear it in mind, it has nothing to do with the PATRIOT Act. In other words, the disclosure of this kind of intelligence gathering that has been in the news in the last 72 hours or so has nothing whatsoever to do with the PATRIOT Act. I gather there is a view that, well, if the administration does one kind of thing, they might therefore be willing to abuse the law in another situation. That is exactly why all of these protections have been built into the PATRIOT Act.

I would think my colleagues would want to pass the PATRIOT Act, make sure that it is now the law, rather than leaving the PATRIOT Act the way it is today. They asked for an extension. Yet if they wanted to improve it and add additional protections, one would think they would want to act quickly to get these protections into the law. Congress will, in fact, obviously, be looking into these new allegations. I urge my colleagues, as well as the American citizens, to think about two things. First of all, the question of whether anybody has complained during the time, under both President Clinton and President Bush, the procedures have been in effect for us to be able to gather certain kinds of information and to do so under the powers of the President. When we are at war, he has ability to accept communications of the enemy. Nobody has to point to a section of the law that gives him some kind of search warrant authority to go to a judge and ask for the ability to do that. All Presidents have always used that authority in a time of war. The President relies upon that authority in this particular case. Members of Congress had been briefed on that for years.

Only until this New York Times article came out did Members of Congress find themselves absolutely shocked that this kind of activity might be going on and, furthermore, that it caused them to vote against consideration of the PATRIOT Act, which that has nothing to do with. I will say it again.

These stories in the media have nothing to do with the PATRIOT Act. So it seems to me that that is not a good excuse for not being able to vote on the PATRIOT Act.

The second thing I want to say with respect to that is—and I certainly do not refer to any of my colleagues in the Senate when I make this comment—but there is in the media a significant degree of hypocrisy. I note some of the stories day after day were focused on the improper disclosure of the identity of a person working for the CIA, as if this is about the worst thing that could ever occur. "How dare anybody leak classified information" was the mantra day after day. How indeed.

But have you heard anybody raise the question of the appropriateness of the leaking of this very highly classified program that is now out in the media and discussed by American citizens, about the collection of information that relates to terrorists? It is called eavesdropping on American citizens, but that is not what it is. The President made clear in his press conference this morning that we are talking about communicating with terrorists or people who have connections with known terrorists. If you call one of those people, you might expect that somebody might want to know about that. Or if they call you. In that case, I guess you might consider yourself vulnerable to the U.S. Government being interested in what you are doing talking to a terrorist. But we are not eavesdropping on American citizens.

The real question I ask is, where is the outrage with respect to the release of this classified information, disclosure of this highly classified program which, as the President noted this morning, can greatly degrade our intelligence capability and harm our ability to fight the war on terrorism? He was asked to give an example, and he did. He gave the example of how it used to be that we knew how Osama bin Laden was communicating. He was communicating pursuant to a certain device. Somebody leaked to media that we had the ability to intercept the communications from that particular device. Guess what he did. He stopped using it. He went underground, and we could no longer listen in to what he was saying. What he was saying beforehand was very helpful. Now we cannot hear anything.

The same thing is true here. Somebody, in order to hurt the administration, I gather, decided it would be a really dandy thing to leak to the public a highly sophisticated program used to gather information from terrorists, to help us protect the American people in the war on terrorism. Have you heard any condemnation of that on the Senate floor? Have you heard any condemnation of it in the mainstream media? No, they were very concerned when the identity of a CIA agent who is known anyway, I gather, was released. I guess that is high dudgeon. I have not heard a peep out of anybody in the mainstream media criticizing whoever it was that leaked this highly classified program, that is now out in the public.

Mr. President, this leaker has to be brought to justice, and the President this morning said he gathered that the usual processes in the Department of Justice to look after such things were in place and were being pursued. I certainly hope so because every time a leak such as this occurs, it degrades the country's ability to protect the citizens of the United States. Whatever this collection methodology is—and thankfully it hasn't been described in much more detail, but whatever it is, we don't want the other side to stop doing it or that is another avenue of information that is closed off to us.

So why would we want to make a big public disclosure of all of this? At a minimum, when those of us in the Congress look into this further, as we surely will, we will need to do this in a classified setting. I wonder how much of that will remain classified. I wonder whether we are able to keep a secret around here.

If we are going to fight the war on terror, let's remember, unless we want to fight it on the battlefields of Afghanistan or the streets of Baghdad, the best way to defeat the terrorists is through intelligence-gathering agencies. What that means is having the capability to find out what the other side is doing so we can try to stop it by infiltrating their organization, by compromising it in one way or another. That is critical to fighting the war on terror.

Intelligence is our main method of dealing with this war. If we keep compromising our capability because people feel compelled to breach our national security, to violate the law because they want to bring information out that will embarrass the administration or that will affect the PATRIOT Act—the article, remember, according to some was written a year before the New York Times published it on the day we had the vote on the PATRIOT Act. Perhaps coincidence. But unless we are going to start objecting to that kind of behavior, it will continue. Then we will wonder why our intelligence agencies and law enforcement agencies were not better able to protect us when there is another attack.

I urge my colleagues, as well as the American people, to consider the losses we will suffer as a result of this kind of behavior and to try to bring to account those who engage in this kind of behavior, not to condone it.

We in the Congress will do everything we can to make sure all authorities are used legally. The President can be assured of that. But in the meantime, it seems to me we ought to feel a little bit more secure that we have great capabilities collecting intelligence, and we need the ability to do that in order to protect the American people.

I hope we will have another opportunity to take a vote on the PATRIOT Act, that we can extend it, we can reauthorize it so it can again be used to protect the American people from this evil of terrorism that we face.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent that I be permitted to proceed for such time as I use.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PATRIOT ACT AND DEFENSE APPROPRIATIONS ACT

Mr. KERRY. Mr. President, I listened carefully, as others have, to the distinguished Senator from Arizona. I guess we certainly all agree with his last statement about dealing with the evil of terrorism. We are all united in that effort, and all of us are pledged to do so according to the resolution we passed in the aftermath of 9/11, giving the President extraordinary power and authority to respond to those attacks. We are united in our efforts to deal with terrorism.

What we are not evidently as united on is our efforts to protect the Constitution of the United States of America, to protect the rights of individual Americans. On that there is a division between the House and the Senate.

I remind my colleague from Arizona, I think it was a couple of hours ago when he was talking about this subject, that he talked about how we don't want to see the PATRIOT Act further degraded; in other words, somehow implying that if we go back to what we passed in the Senate unanimously, we would somehow be degrading the PATRIOT Act. We were admonished not to "hide behind the filibuster," that somehow people are hiding behind the filibuster which is the same thing as voting against the PATRIOT Act.

With all due respect, I never heard a more absurd or insulting argument to the rules of the Senate and to the nature of the Senate. In the 21 years I have been here, I have seen Jesse Helms and countless others stand up on the other side, in the minority or otherwise, and employ the rules of the Senate which allow the Senate to take a little bit longer to consider issues. That is always what has separated us from the House and, indeed, which has provided a measure of safety with respect to the legislation we pass for the country.

The fact is that what he has termed degrading the PATRIOT Act for many of us is protecting the PATRIOT Act, protecting the Constitution, protecting the country, protecting individual citizens. The fact is the Senate unanimously passed a PATRIOT Act that went over to the House with adequate, better protections for the citizens of our country.

Let me be more specific about that for a minute, if I may, and I didn't intend to speak about the PATRIOT Act. I intended to talk about this morass we find ourselves in with respect to the Defense appropriations bill and the Arctic National Wildlife Refuge, and I will talk about that in a minute. But I want to talk about the PATRIOT Act for a minute.

Every single one of us in the Senate joined together a few months ago—in July, I think, precisely—to unanimously allow the PATRIOT Act to be passed. We supported the PATRIOT Act, and we supported it because we know we need to give the President the tools to fight terror and it would be irresponsible not to do certain things in the current threat we face to respond appropriately. But we also have an obligation to protect the privacy rights of Americans.

Americans all across this country increasingly are concerned about medical records that find their way into the public sector, financial records that are lost, banking records that turn up in public, about the theft of identity, Social Security numbers that are stolen. The constant invasion on the privacy of Americans is something that ought to concern all of us, and there ought to be a balance as we fight terror.

Sure, we all want to take the maximum steps possible in order to prevent another act of terrorism. Who here in their right mind isn't going to do what is reasonable to prevent another 9/11? This is almost an absurd argument. It is the traditional sort of let's create a wedge, drive a big wedge between the American people and pretend to the American people the argument is about something that it isn't, pretend to the American people that everybody from this line in the United States over doesn't care about the security of our country and pretend that the only people who do are over there. It is ridiculous on its face. It is an insult to the American people.

We ought to be doing everything in our power to guarantee we don't engage in those kinds of silly arguments, particularly when we are stuck here 5 days before Christmas Eve struggling over reasonableness and then we have a whole bunch of unreasonably, classically political wedge-driving issues.

If the same PATRIOT bill was on the floor today that we sent off the floor, every Senator would vote for it. But it is not, and we are being told that somehow we have to rush to judgment and give away rights a lot of people here think are important and worth fighting for because the House insists they have a couple of provisions that were not in our bill.

Look at those provisions. The fact is the 215 section the Senator from Arizona was talking about—here is what it allows. It allows the Government to obtain library, medical, gun records, and other sensitive personal information on a mere showing that those records are relevant to an authorized intelligence investigation. That is it. That is all it requires.

In the Senate bill, we passed an additional test.

We said it has to be relevant, but in addition to being relevant we specifically put in the word "and." It has to be relevant, and one of the three following things has to be shown: It has to pertain to a foreign power or agent of a foreign power, it has to be relevant to the activities of a suspected agent of a foreign power, or it has to be pertinent to a particular effort that is taken against a foreign power. Those are the three tests which we added to the relevancy test. We did that specifically because we thought we ought to protect the rights of Americans.

The fact is that requiring it to be pertaining to an individual who is in contact with a foreign government is a specific test that requires either to go further than mere relevancy. It requires the Government to have a cause that is legitimate to be able to go in and invade those kinds of rights.

Every Member of the Senate decided that was a worthy test and, unfortunately, that test was dropped. So that small change will actually allow the potential invasion of the privacy of American citizens who may have no connection at all to a suspected terrorist or spy. We think that is an important restriction. That is what we are fighting about. We are not fighting about not having a PATRIOT Act; we are fighting about having the rights of Americans protected.

In addition, unlike the Senate bill, the conference report provides absolutely no mechanism for the recipient of a 215 order. In other words, if someone has received a 215 order and it is sent to them notifying them with respect to the request for that information, there is no way for them to challenge an automatic gag order on that particular requirement.

So the Foreign Intelligence Surveillance Act's court review is not sufficient. We do not think it provides adequate protection to an American. The court only has the power to review the underlying order; that is, to say whether the order was appropriately issued. They do not have the right to review whether that person has a right to challenge it, a right to speak about it. They do not have the power to make an individualized determination about whether there ought to be a gag order with respect to it. So the recipient of a 215 order is automatically silenced under any circumstances. How is that fair? How is that consistent with American democratic principles?

The conference report also does not provide judicial review of national security letters. The Senate bill did provide a judicial review. We believe judicial review is important. So what we are fighting for is not whether to have a PATRIOT Act; what we are fighting over is whether to have a PATRIOT Act that keeps faith with the Constitution that we all swore to uphold and with our interpretation of the legitimate limits of intrusion on the rights of Americans. That is what we are fighting for.

I would also mention that there are sneak-and-peek search warrants in the conference report. Unlike the Senate bill, the conference report does not include any protections against those warrants. So rather than requiring the Government to notify the target of those warrants within 7 days, as the Senate bill did, the conference report requires notification within 30 days. Now, that is a long time to go—even 7 days is a long time to go, but 30 days is a really long time to go before one is notified of a Government search.

Those are just a few of the problems.

Let us repeat—because again it is part of the game that is played—it is not a good game. A lot of folks on the other side of the aisle are trying to suggest, Well, America, there are a bunch of folks who are strong on defense and people who are weak; there are a bunch of folks who want to protect the Constitution and those who do not.

Let me say something. This is not about that. If it were, we would have passed the 3-month extension of the PATRIOT Act right away. On several different occasions, Senator REID has asked the Senate to proceed. We do not have to waste 1 day, not 1 hour, not 1 minute without a PATRIOT Act. We could extend the PATRIOT Act for 3 months right away, do it this afternoon, this evening, and then we could actually sit down and work out the differences in a reasonable way so that we provide the protections which people think are worth fighting for.

So this whole debate is just part of a larger breakdown in the Senate. The shame of what is happening with the Defense appropriations bill is that this entire debate is unnecessary, and it is also inappropriate. The fact is that the Arctic Wildlife Refuge drilling was put on the budget bill by breaking the budget rules. Everybody here knows that. The budget rules were changed so that drilling could be put on the bill because they were unable to muster enough votes to do it under the normal procedures of the Senate.

Then some courageous Republicans in the House stood up and said: This is wrong; we are not going to go along with this. All of a sudden, the first breaking-of-the-rules route was found to be unacceptable. So what is the response? To accept the rules of the Congress, to go along with the will of the Congress? Oh, no, not that. We have to go find another way to break the rules. We have to go find another way to reinterpret it. So when the Parliamentarian rules that something is not legitimately within the scope of the bill, as the rules of the Senate say it ought to be, they are going to go ahead and try to vote and say: Oh, yes, it is, we overrule the Chair, change the rules. If one does not like the rules the way they are, they change them. How many kids in American schools are taught that is the way to play? How many families teach their kids in America that what one does is break the rules if they do not like them? How many institutions in this country would get along if that is the way it is played?

The example we set is bigger than what happens on this floor or what happens to Alaska and to the oil drilling. The fact is that what is happening is, make no mistake about it, right on the Senate floor, Republicans are putting oil companies ahead of troops. They are putting oil companies ahead of the Defense bill. They are trying to hold a whole bunch of Senators hostage to the very arguments we are hearing about whether one is for defense or against defense.

My colleague, Senator LIEBERMAN, who earlier joined us at a press conference, made it very clear there is nobody with a stronger defense record in the Senate, but he is not going to stand up and be pushed around that way and be put in a corner that suggests that he does not stand for defense, and nor should any other Senator. This is wrong. It is wrong for the Senate. It is wrong for the country. It is the wrong example.

The fact is that this Defense bill could have been passed months ago. But who held it up? Do my colleagues know what held it up? What held it up was a President and a Vice President of the United States who were lobbying for torture. For months, they wanted to have the right to be able to finesse the rules and say that torture is permitted under certain circumstances. It took a Republican Senator, Mr. MCCAIN, to stand up and say that is wrong, that is not in the interest of our troops, and that is not in the interest of our country. So the Defense bill was held up for almost 3 months because folks on the other side thought we ought to torture. Now here we are holding it up because they have attached to it drilling in the Arctic Wildlife Refuge.

I will state what the Military Officers Association thinks of that: There is a possibility that negotiators might try to include a provision allowing oil drilling in the Alaska National Wildlife Refuge in the bill. We are concerned—that is, the Military Officers Association of America is concerned that insertion of any divisive nondefense-related issues at the last minute could further delay enactment of this crucial legislation. Both defense bills are urgently needed to support our military efforts. Congress is already 3 months late passing them and needs to get off the dime.

We do need to get off the dime, but it is not just the Military Officers Association that has weighed in. Yesterday, a group of five high-profile military officials sent the following letter to the Senate, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR SENATOR FRIST AND SENATOR REID: We are very concerned that the FY2006 Defense Appropriations Bill may be further delayed by attaching a controversial non-defense legislative provision to the defense appropriations conference report.

We know that you share our overarching concern for the welfare and needs of our troops. With 160,000 troops fighting in Iraq, another 18,000 in Aghanistan, and tens of thousands more around the world defending this country, Congress must finish its work and provide them the resources they need to do their job.

We believe that any effort to attach controversial legislative language authorizing drilling in the Arctic National Wildlife Refuge (ANWR) to the defense appropriations conference report will jeopardize Congress' ability to provide our troops and their families the resources they need in a timely fashion.

The passion and energy of the debate about drilling in ANWR is well known, and a testament to vibrant debate in our democracy. But it is not helpful to attach such a controversial non-defense legislative issue to a defense appropriations bill. It only invites delay for our troops as Congress debates an important but controversial non-defense issue on a vital bill providing critical funding for our nation's security.

We urge you to keep ANWR off the defense appropriations bill.

Sincerely,

JOSEPH P. HOAR,
General, U.S. Marine Corps (Ret.).
CLAUDIA J. KENNEDY,
Lieutenant General, U.S. Army (Ret.).
ANTHONY C. ZINNI,
General, U.S. Marine Corps (Ret.).
LEE F. GUNN,
Vice Admiral, U.S. Navy (Ret.).
STEPHEN A. CHENEY,
Brigadier General, U.S. Marine Corps (Ret.).

Mr. KERRY. Mr. President, we have debated for years, all the years that I have been here, the Arctic Wildlife Refuge. It is stunning that an issue as controversial, as divisive as that would be put on a bill that needs to pass by unanimous consent. I know Senator STEVENS and others have said we have had bills on which we have put a number of different items, such as the omnibus bill back in the days of President Clinton where we put seven or eight items on it—I forget exactly how many. But the difference is we did it with unanimity. We did not have a divided Senate over that issue. We did not have a vote. We all agreed all of those items ought to go into the bill.

What is different here is the disagreement, is the division over this issue. The fact is, many of us are very passionate about this issue, so much so that the Senate has been divided by one vote. A one-vote division is being disrespected in this effort because they know the rules of the Senate would prohibit them from doing it without changing and breaking those rules.

The fact is, ANWR, the Arctic National Wildlife Refuge, according to any definition I have ever seen, ceases to be a refuge. All the efforts to gloss over it do exactly that, they simply gloss over it. The fact is, we have heard arguments that you can somehow drill in the Arctic National Wildlife Refuge in an environmentally friendly manner. We have heard that drilling in the refuge is going to reduce our dependence on foreign oil. We have heard it is going to bring down gas prices at the pump. We have even heard that it belongs in the national budget because of the revenues that are going to come from the lease sales.

Every single one of those arguments fails before legitimate, honest scrutiny. First of all, by definition, an industrial zone and a wilderness cannot occupy the same space—can't do it. You can't have a wilderness and have an industrial zone. So the minute you declare "industrial zone," gone is the wilderness. What has been set aside all these years since President Eisenhower, is eradicated, gone—gone for all time.

In 1960, the Eisenhower administration first recognized the value of that area, and it was established to be a unique wildlife and landscape. Drilling proponents keep claiming we are only going to drill on 2,000 acres—the oil corporations. But the fact is, when you look at the plans and you examine how they go at it, in fact, the entire 1.5 million acres, the 102 area is going to be open to testing, to leasing, and exploration, and it does not happen in one compact area. That is because, as with the North Slope oilfields west of the Arctic refuge, you have the development sprawling over a very large area stretching across the Coastal Plain.

According to the U.S. Geological Survey, the potential oil under the Coastal Plain is not concentrated in one large reservoir. It is put in many small deposits all across the plain. So to produce oil from this vast area, you have to create a network of pipelines and a network of roads, and all of those change the habitat of the entire Coastal Plain.

I will acknowledge that new drilling technology is more efficient, and we have done wonders in many ways. It is less harmful to the environment. But the advantages with respect to this particular area have been greatly exaggerated. Even the new technology, such as directional drilling, does irrevocable damage. You have to have permanent gravel roads. You have to have busy airports for access. You have production wells that are scattered throughout the area, across more than a million acres of Coastal Plain, and you are going to have the connection of pipelines. And the entire complex is going to produce more air pollution than the city of Washington, DC.

No matter how well it is done, oil development has a lasting impact on the environment. The industry itself has told us that. None other than British Petroleum said, "We can't develop fields and keep wilderness." That is the oil company speaking for itself.

If the facts and the frank admission of an oil company are not enough, then people ought to take a look at what the National Academy of Sciences said, and the Department of the Interior, and a host of others who have come to the same conclusion.

We also hear about the dependence on foreign oil. If the Arctic Wildlife Refuge produces the maximum amount of oil they say it might be able to produce, if 20 years from now it is at maximum pumping—which does nothing, obviously, to affect prices and supply today—it is possible that at best you could reduce oil imports from 62 percent to 60 percent. That is it—62 percent to 60 percent. It is not enough to affect the price of oil. It will not affect the global supply. It will not affect our dependence on the Middle East. But it will destroy the Arctic National Wildlife Refuge and provide some profits to the companies that take it out in the meantime.

So everybody ought to understand that in its peak year for a single year, somewhere around 2020, drilling might reduce your dependency by about 2 percent. The price of oil will not drop, the price of energy will not drop, the price of gasoline will not drop, and our vulnerability to world oil prices and to world unrest and to dangerous regimes will not change. After that single year, the flow of oil from the refuge is going to start to decline as the reserves are depleted.

Also, this is a phony argument that we need to somehow be doing this now. It has nothing to do with the immediate security of our country. The fact is, 95 percent of the Alaska oil shelf is open for drilling/leasing today—95 percent of it. There are vast areas of that shelf that are open that are still not leased, still not producing. In addition, we have the largest oilfield in the world that is unexploited, which is in the Gulf of Mexico, the deepwater drilling of the Gulf of Mexico. Those leases have already been granted. They have already been environmentally permitted, but they are not being drilled.

Why? Because the price differential thus far has not brought people to do that.

If we want to do something for immediate American help, provide a subsidy, provide some assistance, do something that provides an incentive so that drilling takes place now. That would have far more effect than what is happening in this Alaska argument.

The bottom line: I said it again and again everywhere I went over the course of the last 2 years during the Presidential race. Every time I had a chance, I talked about how we only have 3 percent of the world's oil reserves. That is all we have in America—3 percent. The Saudis have 46 percent. The Middle East has 65 percent. There is absolutely nothing the United States of America can do to drill our way out of our predicament—our dependence on oil. We have to invent our way out of it, and inventing our way out of it means moving to alternative fuels, means pushing the curve of discovery, doing what America has always done in terms of creation of new jobs and new technologies. That is why it is a phony argument. That is the bottom line of why we don't have to be here pushing to do this on a defense bill which is important to our troops and to our country.

My hope is that in the next hours perhaps we can get a measure of reasonableness. But the bottom line still remains the same. There are people who believe deeply in drilling. I understand that. I respect that, and they can talk about that belief. That it not what this vote is about.

What this vote is about, in the end, is whether this effort to open the Arctic National Wildlife Refuge ought to be allowed to circumvent the rules of the Senate and whether this is the message we want to send about the rules and how the Senate works; that nothing means anything around here as long as you can change it whenever you want.

We have to remember that what goes around comes around. I don't think it is good for the Senate. I don't think this is good for this institution. I don't think it is good for a majority or a minority, one of which may be the other any day in the future, and regret this kind of this kind of effort.

When we stand up for the rules, we stand up for history, we stand up for the Constitution, and we stand up for what this Constitution gives to us as an individual responsibility—each and every one of us. And when we break the rules, we send a damaging, dangerous message to the rest of our country that looks to this place—ostensibly used to look here anyway—for leadership.

When you read the polls today about where the Congress is and the esteem of the American people, you ought to think twice about whether this is the way to proceed.

I yield the floor.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Alabama.

PATRIOT ACT

Mr. SESSIONS. Mr. President, I want to share some thoughts about the PATRIOT Act and the situation we find ourselves in now with this legislation that we passed 4 years ago that expired December 31. This legislation that passed the Senate by a vote of 80-something, with one "no" vote, all the rest of the Senate voted for it. It was made law, and we agreed to reauthorize it after 4 years. We have been involved in that process.

I wish to say this has not been a rushed-up deal. We have not gone into this without watching over it.

We have had—I am sure some of the Members may have forgotten—a host of committee hearings dealing with the PATRIOT Act. In fact, the numbers I have is that the Senate Judiciary Committee had 13 oversight hearings over the PATRIOT Act. The House Judiciary Committee had 12 oversight hearings this year alone dealing with the PATRIOT Act and our law enforcement against terrorism.

For example, I have a list of the hearings we held. On November 28, 2001, not long after the act passed, there was a hearing entitled, "Department of Justice Oversight: Preserving Our Freedom While Defending Against Terrorism," witness Michael Chertoff, then-Assistant Attorney General, Department of Justice, Chief of the Criminal Division. He is now the Department of Homeland Security Secretary.

Also on that panel were William Barr, former Attorney General of the United States; Philip Heymann, James Barr Ames, Professor of Law at Harvard Law School; Griffin Bell, senior partner at King and Spalding, a former Attorney General of the United States under President Jimmy Carter; Scott Silliman, executive director of the Center of Law, Ethics and National Security at Duke University School of Law; Kate Martin, Director of the Center for National Security Studies; Neal Katyal, visiting professor, and Yale Law School professor of law at Georgetown University.

Also, in December of 2001, another hearing: "Department of Justice Oversight, Preserving Our Freedom While Defending Against Terrorism." The primary witness was Attorney General John Ashcroft.

Oversight Hearings on Counterterrorism, June of the next year, witness list: Honorable Robert S. Mueller, III, Director of the Federal Bureau of Investigation; Honorable Glenn A. Fine, inspector general for the U.S. Department of Justice; Special Agent Colleen Crowley, chief division counsel for the FBI.

You remember she is the one who complained they did not listen to the evidence she had. And in fact, she made a lot of complaints. But if you boil it down to the bottom, the wall that had been put up, some of the rules and regulations and bureaucratic situations created by existing law at the time of 9/11, made it difficult for information to be shared. That has been fixed, in large part, by the PATRIOT Act and other acts that were passed.

Another one on oversight: Department of Justice with the Attorney General himself; then another one in September of that year, "USA PATRIOT Act In Practice: Shedding Light on the FISA Process."

Foreign Intelligence Surveillance Act, "Court and Process," had a hearing on all of that so your people understand it.

The Honorable David Kris, associate counsel, Department of Justice; Kenneth Bass, senior counsel with Sterne Kessler; William Banks, professor of law at Syracuse; Morton Halperin, director of the Open Society Institute, a true civil libertarian, he had his day to be heard.

"Tools Against Terror" was another hearing. "How the Administration is Implementing the New Laws to Protect our Homeland"—oversight on how these laws are being carried out; Glenn Fine, the inspector general, testified; Scott Hastings, associate commissioner of the Office of Information Resources Management; Alice Fisher, Deputy Assistant Attorney General; Dennis Lormel, Chief of the Financial Crimes Section.

Another one: "War Against Terror: Working Together to Protect America," Attorney General John Ashcroft; Secretary of Homeland Security Tom Ridge; Honorable Robert Mueller, Director of the FBI.

We had them there to answer how we are working better with these new laws to protect America.

Another one, oversight hearing: "Law Enforcement and Terrorism," Honorable Robert Mueller, Director of the FBI; Honorable Asa Hutchinson, Undersecretary for Border and Transportation Security.

Senator HATCH had a hearing in Utah with about 10 witnesses dealing with all of the issues related to homeland security.

Another one: "FBI Oversight, Terrorism and Other Topics"; "DOJ Oversight: Terrorism and Other Topics"; Department of Homeland Security, "Oversight, Terrorism and Other Topics."

The top people in Department of Justice—and that is in the Senate, and that does not count the Intelligence Committee that has had hearings, and it does not count the 12 or 13 or more hearings which the House Judiciary Committee has had.

First, I want to say that we spent a great deal of time 34 years ago in drafting the first PATRIOT Act. How did it pass with only one "no" vote if it was an extreme act? It passed with such an overwhelming vote because we made a commitment from the beginning that we would not undermine any of the great civil liberties that we as Americans have come to know and respect and cherish.

I remember asking witnesses. Somebody one time thought it was humorous. But I asked these witnesses: Is there anything in this PATRIOT Act that any court is going to declare to be unconstitutional? Every one of them said "no."

Why did they say that? Because the techniques that we allowed terrorism investigators to utilize have already been approved and were being utilized in other aspects of law enforcement already, but they weren't available in an effective way for these investigators.

If there was something that was expanded in any way, it was well within the principles of the law as had already been established by the Supreme Court of the United States. For example the roving wiretap—you could always get a wiretap on a specific phone of a person, and you have to have a big affidavit. It has to be monitored, and the judge has to approve it to be satisfied. You approved it in advance of that wiretap being effective, that you had probable cause to believe that it was a justified act. Those facts are reviewable. If the judge was wrong, all the evidence that was gained pursuant to that would be dismissed, would be fruit of the poisonous tree and not be admitted in a court of law.

We simply said: Wait a minute, we are seeing more and more terrorists who travel around, use one cell phone and then another cell phone, move from apartment to apartment. Why not allow the courts to have an intercept of communications based on the phones that person may use if there is sufficient evidence to show that person is connected to terrorism and it is relevant to a terrorism investigation and it meets all the standard burdens of proof that have always been used in intercepting communications?

I was a U.S. attorney for 12 years. In that 12 years, I think we did one wiretap. These are not done routinely. In a big international terrorism security case, a wiretap can be incredibly valuable. It is one thing to have a wiretap on a Mafia gang or a drug gang; it is another thing to need to know a terrorist group may be plotting to kill thousands or tens of thousands of American people. If these intercepts are lawful for a drug gang, for a group of white-collar criminals, for a Mafia group, they sure ought to be lawful for surveillance on terrorists.

We made that change and set forth all the standards, and we went through the legislation. We worked on the exact wording, word by word by word, and the bill we passed in this Senate unanimously came out of our Senate Judiciary Committee 18 to 0 a few months ago to reauthorize it. It said the order must describe a specific target with particularity so that there could not be any confusion about which person for whom the intercept is permissible.

The House bill had language they considered carefully. They came out with this language: "based on specific facts provided in the applications." Then it goes to conference. We go over the House bill and the Senate bill and try to hammer out on agreement. Many of the provisions were complementary; they were approved in both bills. Where the provisions were in conflict, the Senate language was adopted.

With regard to the roving wiretap multipoint wiretap provision, section 206 of the original PATRIOT Act, basically the Senate version prevailed. I will talk about that for a few minutes because we have Members of the Senate on the Senate Judiciary Committee who voted for the bill when it passed unanimously a few months ago. We have Members of the Senate objecting today who were part of the majority of the unanimous Senate that approved it who are contending there were big changes made in conference. These changes are why they are now opposing a bill that just a few days ago they were supporting.

They should listen to the chairman of the Judiciary Committee, Senator SPECTER. Senator SPECTER was part and parcel of all negotiations. Members contended to get their own version of things. Frankly, some Members thought the language was not clear enough, and there were some difficulties for law enforcement we would like to have seen closed because it could have led to jeopardizing national safety. We held out and held out, but at the end, basically we gave in. As Senator SPECTER said, the bill that came out of conference was 80 percent the Senate bill. The Senate prevailed time and again even though on some occasions I thought the House provisions were better. We came in and moved a bill we thought we would have bipartisan support for.

For example, there was a question about sunsets, what would be made permanent in the bill and what would have to come up for reauthorization or would sunset. The Senate bill eliminated all but two of the PATRIOT Act sunsets—the roving wiretap and the business records sunset. They were extended for 4 years. We said we will go 4 more years with these two provisions. We extended the lone wolf provision for the same period in the Senate. We passed it: 4 more years for those three provisions.

The House did not sunset the lone wolf provision but did sunset section 206 and 215, but for 10 years. They said they would be extended for 10 years. So we go to conference and we debate this issue. I thought the original agreement was we would split the difference, as is commonly done, and we would do it for 7 years. In fact, I signed the conference report at that point. I believe that is when I signed it. But Senator LEAHY and other Members of the conference did not like it and held out and held out.

We talked to Senator SPECTER and asked: Why are we coming back in 4 years again? We just had a 4-year bill.

Senator SPECTER said: Look, it is important to the Members. We want some bipartisan support, Senator SESSIONS. Would you support us on it in 3 to 4 years?

I said: All right, we will take the 4 years, the exact Senate bill language.

Senator KYL felt strongly about this also as we discussed it.

So we send that, thinking we made people happier and they would be enthusiastic supporters of a bipartisan piece of legislation important to protect the safety of the people of the United States of America.

Now, here is another example of the flap, this spasm we are having that amounts to little or nothing: the delayed notice search warrant. As a person who has been involved in supervising investigations relating to large-scale international drug smuggling groups—not terrorist groups but those kinds of conspiracies—I have been made familiar with the difficulties of law enforcement, the burdens on law enforcement, the need to do things right. Our law enforcement agencies do things right according to the instructions they are given.

There comes a time when it is important in an investigation to execute a warrant, but at the time you execute it, it is not an appropriate time to arrest the people involved. That happened a lot. Maybe it is less important in a drug case than in a terrorism case where people may have poisonous gas or biological weapons hidden in their apartment, but in a drug case this is what you come down to. The law allowed and has always allowed, to my knowledge, a warrant with specific stated facts. It could be approved, but that warrant has to be based upon the same factual proof we have always had, but you would want to ask the court to allow a search to be conducted of a house. Instead of immediately telling the person whose house or business or automobile is being searched that you searched it, you delay notifying them. You still have protected them from an unlawful search because you have gotten a lawful court order based on facts proven to a Federal judge. In the case of terrorism and these cases I dealt with, proof had to be submitted. And then you could ask the court to allow you to delay notifying the person who is searched for a period of time.

This is important because otherwise you tip off the whole group, and they will scatter like a covey of quail. They will be gone. If you do not have everybody there at the time you do that search, then they have the ability to notify one another and scram, and the whole thing can go down in a hurry. So dealing with that complex issue is an important thing.

So with regard to the delayed notice warrants, I just want to say to my colleagues and friends, I cannot tell you how important this is to our investigators, who may be out there this very moment surveilling some sleeper cells of terrorist groups and who need to obtain information that could be critically important to identifying a major organization.

Maybe the individual they have information about, and for which they have probable cause sufficient to conduct a search warrant of their house, is the only name they really have, but maybe they have good evidence this individual is talking to a number of other persons, and that they may even be planning to bring a chemical or biological weapon or some other explosive device into the country or into that house, and they want to search that house, and they have proof sufficient to allow that to occur by presenting it to a Federal judge to get approval. But they do not need to tell them right then because you are trying to penetrate the organization and get all of them, not just one or two. Maybe there are 20 or 30, and maybe you only know of 1 or 2 of them, so you conduct these warrants, and you delay notification.

So I want to point out that what the big difference fundamentally was is this: The Senate bill said the investigators who go out and conduct that warrant have to report back to the judge—in all of our legislation, they have to report back to the judge—to see what they did and how they did it and make an official report; they just don't tell the person whose house is searched. So the Senate bill said they should have an initial period of delay of 7 days. The House bill said they would have an initial period of delay of up to 180 days.

So we went to conference, and the House said: Well, we think 180 is appropriate under these circumstances. These are groups, terrorist groups, whatever. It might be really necessary to have more time. We were at 7. And then you could come back and ask the judge to extend it under either one of the bills. So we hammered around and worked around, and we agreed on 30 days—much closer to the Senate bill's version, our version, than the House bill's version.

So how is this some big deal? So we have Senators down here saying: Well, I think it is all right to have a delayed warrant for 7 days. I just don't want to have it for 30 days. So I think we need to get our act together here and try to reach some agreements and get this bill passed.

But I will say this: For those of us who believe strongly this act is important, it should not just be seen that we are now going to come back and water down this bill and erode the provisions that are in it and not have delayed warrants, not have section 215 authority, to eliminate national security letters that have been part of the law for 25 years. We cannot take these things out.

Mr. President, I urge my colleagues to study this legislation carefully. Talk to the Department of Justice attorneys, call the FBI, if you need to. They will go over it step by step, word by word, line by line. As you go through that and consider the history of law enforcement, what is allowed to be done now, how this all occurs, you are going to feel so much better about it and not just react to this unfair choice that is presented: civil liberties or protection. We gave greater protection while protecting civil liberties.

Mr. SESSIONS. Mr. President, we just go back to trying to comprehend the enormity of what has happened as Senator REID, the Democratic leader in the Senate, had a big press conference to declare victory. He said:

> We killed the PATRIOT Act.

It is not something I think is worthy of a leader of any great party in the Senate. It is the equivalent of the Democratic leader saying we have no way to win in Iraq. These are the kind of statements that are really contrary to what this Nation needs to do right now.

The PATRIOT Act is an act that we passed with one dissenting vote 4 years ago and that we passed out of this Senate unanimously and out of the Judiciary Committee unanimously just a few weeks ago and which has now come back as only a modestly modified conference report. It ought to be unanimously affirmed again.

We have ended up with a filibuster led by the Democratic leader. I am disappointed at that. I can't comprehend why it occurred and why this would happen. There were a lot of contests, let me say, in the conference committee; a lot of hard work over every single word in the bill. But our version, the one we supported in a bipartisan way, was overwhelmingly the version that was adopted. We brought it back with everyone thinking we would have a great opportunity to pass it. In fact, some of us thought we went too far and that we had weakened law enforcement in ways that were not necessary.

We tried to resist, but in the end, at the request of Senator SPECTER, in a bipartisan effort to move the bill quickly through the Senate, we dropped our objections and went along with that provision.

Lo and behold, we end up with another obstructing tactic to block one of the most important pieces of legislation we have passed in a long time. At many of the hearings I mentioned before, the witnesses testified unequivocally that this act had made America a safer place.

I mentioned earlier the sunsets. We have differences of agreement on the sunsets. The Senate version was totally adopted on the roving wiretaps. By far, the Senate version was adopted on the delayed notice search warrants. I have explained how important and critical they are. Just ask an FBI agent or talk to a Federal prosecutor who has worked on one of these cases how critically important it can be to have this delayed notification. The Senate version of the bill was 7 days, the House version 180 days, and we agreed on 30. One would have thought that would be the case.

With regard to the business records, the Senate bill had a very troubling part to it. It had a three-part relevancy test. This test required the FBI, before they could obtain these records—and these are not records in the personal dominion of a potential defendant; these are records they don't control but are in the control of a bank or telephone company. They are not the words one says in a telephone message, but the telephone toll records. These are part of the records and have always been subject to a subpoena by law enforcement. Any county attorney in America can subpoena these records.

Because we wanted to go an extra mile and deal with the question of immediate notification of the person whose records are being sought, we enhanced the requirements. So instead of issuing a subpoena, such as an IRS agent, without going to a U.S. attorney or without going to any court—an IRS agent can issue a subpoena for your income tax records to see if you paid your taxes. A DEA agent can get your bank records to determine whether a person made money selling dope. For white collar crime, Customs agents, there are about 200 or 300 provisions that allow for these kinds of records to be obtained by administrative subpoena. But we don't have that under section 215. They have to get a prior approval, and the agent has to certify it is related to a national security investigation. Only then are they able to get library records or your bookstore records.

I don't know why they think that is just so big. Pardon me if I am amused a bit. A county attorney in Illinois or Idaho can issue a subpoena right now to the library for somebody's records. What is this deal? But the association raised a ruckus, so we gave them all kinds of enhanced protections under this bill.

Again, the conference report went further than the Senate bill in many areas in the direction of civil liberties. We did have private briefings, secret briefings from Federal investigative agencies, and we learned why there were defects in the three-part relevancy test.

By the way, the average district attorney in America and, I think, the Federal attorneys, when they issue subpoenas for records, it only has to be relevant to an investigation. For a U.S. attorney, it has to be relevant to a Federal investigation. But, oh, here we go much further. You have to have a three-part test to what relevancy is in addition to certifying it is important to national security.

So we dealt with that problem. I thought we had reached an agreement in language that did not leave serious gaps in the need for records and ability to obtain records that law enforcement was concerned with. We were concerned about that, and we tried to change it, fix it. I thought we reached an agreement on it. I thought we went too far, but I agreed to sign it because we needed to do this bill. That is why I agreed to sign the conference report.

Civil liberties that were not passed by the Senate or the House were added to the conference report at the request of Senate conferees, mostly Democratic conferees. So we added some items in addition.

Under the report, the Attorney General must adopt minimization procedures within 180 days of enactment of the legislation: that is, he must create procedures that minimize any likelihood that civil liberties could be adversely affected. And he must submit an annual report to Congress which enumerates the total number of applications made under the act, the number granted, the number modified, the number denied so we can have oversight over this issue.

Who is overseeing the county attorney? Who is overseeing the U.S. attorney who may be investigating a Member of Congress or the Senate or a Governor for tax fraud or something such as that? They are issuing subpoenas every day.

This is a very responsible, fully debated, intensely discussed piece of legislation. It is important to the safety of our country. It is important that we pass it and extend this act and reauthorize it. As of January 1, the wall will go back up that would deny the right of the CIA to share foreign intelligence with the FBI that may have domestic intelligence and, therefore, be able to put the pieces together in a puzzle that will identify a criminal gang that may be intent on destroying large parts of our country.

I believe that every effort has been made to assure that all the provisions of this act are consistent with established constitutional procedures. I believe not one line of it is going to be found to be unconstitutional. I believe it has all the protections and details that are necessary for good legislation.

There are some things in it that I think hamper law enforcement more than necessary that have little or no relevancy to real civil liberties issues, but they are in there because people were concerned. People are concerned so we dealt with the concerns, but we do not need to weaken this act any more. It is time for us to pass this legislation, to reauthorize this act and not allow it to expire as of the end of this year.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank my friend from Alabama. On many issues, we are together, and that is as it should be. On other issues, we, perhaps, do not agree. But I always—I always—hold his opinions in great respect, great respect. I admire him. And I admire the heritage he brings to us from that great State of Alabama. I thank him always for his service.

ABUSES OF POWER

Mr. BYRD. Mr. President, perhaps the greatest oration ever delivered was the Oration on the Crown, delivered by Demosthenes in the year 330 B.C. In that inimitable oration, it seems to me the question was posed: Who least serves the state? And the question was answered in that oration: He who does not speak his mind.

In this day, we should remember that. And I shall attempt to honor that credo.

Mr. President, Americans have been stunned at the recent news of the abuses of power by an overzealous President. It has become apparent that this administration has engaged in a consistent and unrelenting pattern of abuse against our country's law-abiding citizens and against our Constitution.

We have been stunned to hear reports about the Pentagon gathering information and creating databases to spy on ordinary Americans whose only sin is to choose to exercise their first amendment right to peaceably assemble. Those Americans who choose to question the administration's flawed policy in Iraq are labeled by this administration as "domestic terrorists." Shame!

We now know that the FBI's use of national security letters on American citizens has increased exponentially, requiring tens of thousands of individuals to turn over personal information and records.

These letters are issued without prior judicial review, and they provide no real means for an individual to challenge a permanent gag order. And through news reports, my fellow Americans, through news reports we have been shocked to learn of the CIA's practice of rendition and the so-called black sites, secret locations—hear that, secret locations—in foreign countries where abuse and interrogations have been exported to escape the reach of U.S. laws protecting against human rights abuses.

We know that our Vice President, DICK CHENEY, has asked for exemptions for the CIA from the language maintained in the McCain torture amendment banning cruel, inhumane, and degrading treatment. Thank God, Vice President CHENEY's pleas have been rejected by this Congress.

Now comes the stomach-churning revelation, through an Executive order, that President Bush has circumvented both the Congress and the court. Get that. Shame! Shame! He has usurped the third branch of Government, the branch charged with protecting the civil liberties of our people, by directing the National Security Agency to intercept and eavesdrop on the phone conversations and e-mails of American citizens without a warrant, which is a clear violation of the fourth amendment. Get that. He has stiff-armed the people's branch of Government, this branch, the people's branch. He has rationalized the use of domestic civilian surveillance with a flimsy claim that he has such authority because we are at war.

The Executive order, which has been acknowledged by the President, is an end run around the Foreign Intelligence Surveillance Act, which makes it unlawful for any official to monitor the communications of an individual on American soil without the approval of the Foreign Intelligence Surveillance Court. What is the President thinking? What is the President thinking?

Congress has provided for the very situations which the President is blatantly exploiting. The Foreign Intelligence Surveillance Court, housed in the Department of Justice, reviews requests for warrants for domestic surveillance. The court can review these requests expeditiously and in times of great emergency. In extreme cases, where time is of the essence and national security is at stake, surveillance can be conducted before the warrant is even applied for. This secret court was established so that sensitive surveillance could be conducted and information could be gathered without compromising the security of the investigation. The purpose of the FISA Court is to balance the Government's role in fighting the war on terror with the fourth amendment rights afforded to each and every American. Yet the American public is given vague and empty assurances by the President that amount to little more than "trust me."

But we are a nation of laws and not of men. Where is the source of that authority the President claims? I defy the administration to show for the record where in the Foreign Intelligence Surveillance Act or where in the United States Constitution they are allowed to steal into the lives of innocent American citizens and spy.

When asked recently what the source of that authority was, Secretary of State Condoleezza Rice had no answer. Secretary Rice seemed to insinuate that eavesdropping on Americans was acceptable because FISA was an outdated law and could not address the needs of the Government in combating the new war on terror. This is a patent falsehood. The USA PATRIOT Act expanded FISA significantly, equipping the Government with the tools it needed to fight terrorism. Further amendments to FISA were granted under the Intelligence Authorization Act of 2002 and the Homeland Security Act of 2002. In fact, in its final report, the 9/11 Commission noted that the removal of the pre-9/11 "wall" between intelligence officials and law enforcement was significant in that it "opened up new opportunities for cooperative action."

But the President claims—hear me!—that these powers are within his role as Commander in Chief of the Army and Navy. Make no mistake, the powers granted to the Commander in Chief in this Constitution are specifically those as head of the Armed Forces.

These warrantless searches are conducted not against a foreign power but against whom? Against unsuspecting and unknowing American citizens—like you, like you, like you, and like you! They are conducted against individuals living on American soil—not in Iraq, not in Afghanistan. There is nothing within the powers granted in the Commander in Chief clause that grants the President the ability to conduct clandestine surveillance of American civilians. Nothing. We must not allow such groundless, foolish claims to stand unchallenged.

Now, the President claims boundless authority, an unlimited authority through the resolution that authorized war on those who perpetrated the September 11 attacks. But that resolution does not give the President unchecked power to spy on our own people. Read it. That resolution does not give the President unchecked power to spy on our own people. That resolution does not give the White House, this administration, the power to create covert prisons for secret prisoners. That resolution does not authorize the torture of prisoners to extract information from them. That resolution does not authorize running black hole secret prisons in foreign countries to get around U.S. law. That resolution does not give this President, or any President, the powers reserved only for kings and potentates.

I continue to be shocked and astounded by the breadth with which this administration undermines the constitutional protections afforded to the people—the people—and the raw arrogance with which it rebukes the powers held by the legislative and judicial branches. The President has cast off Federal law enacted by Congress, often bearing his own signature, as mere formality. He has rebuffed the rule of law, and he has trivialized and trampled upon, trampled under foot the prohibitions against unreasonable searches and seizures guaranteed to Americans by the United States Constitution. This Constitution still lives. This Constitution was made for all time, for all administrations, for all Presidents, for all Senators.

We are supposed to accept these dirty little secrets, and we are told that it is irresponsible to draw attention to President Bush's gross abuse of power and constitutional violations. But what is truly irresponsible is to neglect to uphold the rule of law.

We listened to the President speak last night on the potential for democracy in Iraq. The President claims to want to instill in the Iraqi people a tangible freedom and working democracy, at the same time that he violates our own U.S. laws and checks and balances. President Bush called the recent Iraqi election "a landmark day in the history of liberty." I daresay in this country we may have reached our own sort of landmark. Never have the promises and protections of liberty seemed so illusory, so fleeting. These renegade assaults on the Constitution and our system of laws strike at the very core of our values and foster a sense of mistrust and apprehension about the reach of Government.

I am reminded of Thomas Payne's famous words: "These are the times that try men's souls."

These astounding revelations about the bending, the twisting, the stretching, and contorting of the Constitution to justify a grasping, irresponsible administration under the banner of "national security" are an outrage. Congress can no longer sit on the sidelines. It is time to ask hard questions of the Attorney General. It is time to ask hard questions of the Secretary of State, of the Secretary of Defense, and of the Director of the CIA. The White House should not be allowed to exempt itself from answering the same questions simply because it might assert some kind of "executive privilege" in order to avoid further embarrassment.

The practice of domestic spying on citizens should stop immediately. Oversight hearings need to be conducted. Judicial action may be in order. We need to finally be given answers to our questions: Where is the constitutional and statutory authority for spying on American citizens? Where? Where is that authority to be found?

What is the content of these classified legal opinions asserting that there is a legality in this criminal usurpation of rights?

Who is responsible for this dangerous and unconstitutional policy?

How many American citizens' lives have been unknowingly affected?

Mr. President, fellow Senators, let us in our day remember the words of Brutus to Cicero:

> Our ancestors scorned to bear even a gentle master!

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

UNITED STATES CONSTITUTION

Mr. DURBIN. Mr. President, I come to the floor to commend my colleague from West Virginia, ROBERT C. BYRD. Some of the people who are witnessing this session of the Senate had a chance to hear this man speak just moments ago. I do not know of another Senator more dedicated to our U.S. Constitution or one who has been more fearless in attacking Presidents of both political parties when he thinks that they have gone too far. Senator BYRD's speech should be read by every American as a reminder of basic freedoms in this country that we should never, ever take for granted.

I listened to his speech as I was sitting in my office and I thought I would come to the Chamber and try to follow in his footsteps, though what I have to offer cannot possibly match what he had to say.

Several things have occurred over the last several years which are historic in nature and troubling. This administration has decided on three occasions, at least three separate occasions, to depart from the traditions of America, traditions which we have followed for generations, Presidents, Republican and Democratic alike.

It was this administration which told us we could no longer wait to be threatened by another country, we could no longer wait to be attacked by another country, we must act preemptively, we must strike first, based on intelligence and information we must attack first, and that is why we invaded Iraq. What did that intelligence lead us to believe? That Iraq had weapons of mass destruction threatening the United States and our allies; that Iraq was developing nuclear weapons that could threaten the Middle East and the United States; that Iraq was in concert in some way with al-Qaida and responsible for the 9/11 attacks; that Iraq was securing fissile material from Africa to manufacture into nuclear weapons. All of those things were told to the American people, some by the President in his State of the Union address, and every single one of them turned out to be wrong.

The President told us we needed to attack Iraq for those reasons, and it turned out none of the reasons were valid, not one. So he would change the foreign policy of the United States not to wait and carefully make a decision about whether we commit our troops and our treasure but, rather, to move preemptively—a departure from foreign policy for generations.

Secondly, this administration said that we had to depart from the traditions of the United States for generations when it came to the interrogation of prisoners. This Bush administration argued that we had to redefine torture in a way that was inconsistent with treaties the United States has accepted as law of the land. Terrible things occurred. We saw the worst of them in some of the photos from Abu Ghraib and reports from other agencies.

Thank goodness for the leadership of Senator JOHN MCCAIN, a Republican of Arizona, himself a POW in the Vietnam War, also a victim of torture in that experience, who stood up to the administration and said, You are wrong. Torture is not American. If we are fighting for values, those values cannot include torture.

He was responding to our troops who were writing to Members of Congress saying, Give us clarity, give us direction, tell us if the world has changed; soldiers, graduates of West Point, who were told we do not engage in torture as soldiers representing the flag of the United States of America. Thank goodness for the leadership of Senator MCCAIN in confronting the Bush administration and forcing them to back down when it came to this dramatic change in the standards for torture.

Now comes another chapter in changing the tradition of America under this administration relative to our right of privacy as American citizens, the PATRIOT Act, which I voted for to give this Government more powers to fight terrorism, but we said every 4 years we will look at it to make certain we have not gone too far, that we have not given up our basic rights and freedoms in the name of security and safety.

Now we are involved in a debate. My colleague from Alabama has been to the floor several times. As a former prosecutor, he argues that under the PATRIOT Act we have to trust the Government, we have to trust the prosecutors, not to go too far. Unfortunately, that is not the standard in America. The standard in America says in this Constitution, this Bill of Rights, that our basic freedoms are guaranteed to us, and before this Government takes those freedoms or infringes upon them, there must be good reason and good cause.

Last week, on a bipartisan basis, we said, Stop this version of the PATRIOT Act, make certain that changes are made so that the freedoms and rights of Americans are protected. In the midst of that debate came a revelation which is truly astounding, a revelation that for years the Bush administration, through Government agencies, has been involved in wiretaps and eavesdropping on American citizens. The reason this is of concern, of course, is that it violates a longstanding legal requirement that the Government has to obtain a court order to eavesdrop electronically on an American in the United States. We spell out with specificity what the Government must do if it is going to invade our privacy, listen to our conversations, hack into our computers, whatever it may be. The grounding for that is not just some speech on the Senate floor or the House; the grounding for that is this Constitution, where its fourth amendment makes it clear from the beginning of this Nation the standard we would use, a standard worth repeating in the fourth amendment:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

That is in our Constitution that we have sworn to uphold. And for thousands of unsuspecting Americans, their basic records, their communications, their computers have been looked at and listened to by this Government, without legal authority.

So therein lies the third dramatic departure of this administration, from a tradition which most of us assumed would never be violated, a tradition which says that our privacy can be compromised if a President assumes the power to do it. This President did not come to Congress saying, I need powers to listen to America's conversations. No. He just did it. He said he has the power to do it as Commander in Chief.

Well, there are some obvious questions that should be asked when we hear these things. Where is the concern in Congress? Where is the sense of outrage in the Senate? Where is the sense of obligation that our generation owes to our children to make certain that we are held accountable to protect their constitutional rights? I am glad that Senator SPECTER of the Judiciary Committee has said we will have a hearing on this, and we should. This is a serious matter.

Some of us saw recently a movie about Edward R. Murrow titled "Good Night and Good Luck." I remember Edward R. Murrow. As a young boy, I used to see him on television from time to time. This movie depicts the McCarthy era where the Congress in this case overstepped its authority, and one Senator from Wisconsin literally destroyed lives, literally infringed on the rights and liberties of individual citizens. The sense of outrage in America rose to such a level that eventually he was called to task and discredited for what he had done in violation of the basic rights of American citizens. It took some time. In the beginning, the red scare kept people quiet, they did not want to raise this issue.

Sadly, in this war on terrorism, we may be going through a parallel moment in history, where our fear of another 9/11 has kept us entirely too quiet and silent when this Government has gone too far. I hope what we have learned about this wiretapping and this eavesdropping, these violations of basic rights of citizens, will cause all Americans, not just those of us serving in the Senate, to stand up and speak out. If we swore to uphold this Constitution, it was not just the paper that it is written on but the spirit and values that it stands for, values of privacy and freedom which once lost may never be reclaimed.

I urge my colleagues to read carefully the earlier remarks of Senator ROBERT BYRD and consider carefully our individual responsibilities.

I yield the floor.

Mr. CRAIG. Mr. President, may I ask what the order is at this moment?

The PRESIDING OFFICER. The Senate is in morning business, with Senators permitted to speak for up to 10 minutes.

APPEALS REFORM ACT LANGUAGE

Mr. CRAIG. Mr. President, I rise today to express my concern that language was not included yet again by this Congress in the supplemental bill—which is now embodied in Defense appropriations—to clarify that categorical exclusions as used by the U.S. Forest Service under the Appeals Reform Act of 1993 are exempt from comment and appeals.

That sounds technical, doesn't it? It isn't so technical if you believe in the Healthy Forest Act and the ability of the Forest Service, as so prescribed by the Congress, to operate under that specific act. A legislative fix is desperately needed as projects continue to pile up and create additional backlog for our U.S. Forest Service.

At the heart of this issue is when, where, and how the public is included in the execution of categorical exclusions extended in the projects. By definition, categorically excluded projects are categories of action which do not individually or cumulatively have a significant effect on the human environment and therefore normally do not require further analysis in either an environmental assessment or an environmental impact statement. The Forest Service requires scoping on each and every project on Forest Service land in which they want to utilize the categorical exclusion.

Let me quote from the Forest Service Environmental Procedures Handbook:

> Scoping is required on all proposed actions, including those that would appear to be categorically excluded.

In other words, those actions the Forest Service may take on Forest Service ground in a given watershed that we have said are excluded under the Healthy Forest Act, as it relates to the National Environmental Policy

Act—meaning an environmental impact statement—we still say the Forest Service scoping is required on all proposed actions, including those that would appear not to need a categorical exclusion.

> If the responsible officials determine, based on scoping, that it is uncertain whether the proposed action may have a significant effect on the environment, prepare an EA [and that is chapter 40]. If the responsible official determines, based on scoping, that the proposed actions may have a significant environmental effect, prepare an EIS.

That is an environmental impact statement.

In other words, we have tried to be very careful within the law to make sure that happens. I am going to submit for the RECORD a much more detailed understanding of what exactly we mean because it is critically important at this moment that we allow the Forest Service to get back on track.

Having said that, I have talked legalese as it relates to a specific act of Congress and a law that is in place now for our Forest Service to act. What does it mean in real life, what does it mean on the ground? I think all of us witnessed the fires of late fall and early winter in the greater Los Angeles watershed that were burning the scrub oak in the foothill country in back of Los Angeles. In most instances, those fires in the past have not only consumed the scrub oak, they have consumed, in some instances, hundreds of beautiful and very expensive homes that are within those areas. This year, it is interesting that, of the thousands of acres that were burned, only one home was burned.

In talking to the firefighters, why were they able to control the fires in a better way and why were fewer homes lost, they said very clearly, because it was the thinning and the cleaning of the brush and undergrowth that was allowed by the categorical exclusions of the Healthy Forest Act. In other words, the fuel buildup that naturally occurs on public lands, and in this instance in urban watersheds in which the Healthy Forest Act is more specific, categorical exclusions were granted. In other words, the scoping process of the Forest Service to determine the impact that the action of cleaning and thinning would have on public lands was determined not to be of major environmental consequence, and therefore the Forest Service was allowed to proceed.

Along comes a judge just this summer and says: no no, you have to do an EA, you have to do an EIS, on all, including those provisions the Congress spoke specifically to as it related to categorical exclusions. In other words, within the category an exclusion is allowed for certain actions on forested public lands for the purpose of sustaining the quality of the watershed and the health of the forest, and so on and so forth.

What is clearly a loss now is that the Forest Service, in planning for next year's actions on the ground—the thinning and the cleaning of our forests to ensure forest health, to bring down the overall threat of fire—has been dramatically diminished by this judge's action.

We had hoped in the supplemental to gain the language necessary to reinstate the categorical exclusions, as was and as has been clearly debated as the intent of Congress. That has been denied. So when Congress reconvenes in January and early February, we are going to have to work overtime to make sure that we get this law into place.

What does it mean? It means protecting watersheds. It means protecting homes that have been built up against the forested lands, doing the right kinds of actions which result in the cleaning up of our forests and the ensuring of the vitality of the environment within.

What the judge's action means in essence is that you have to spend tens of millions of dollars perfecting an EA—or in this instance a full environmental impact statement—to be able to proceed. We believe that under certain circumstances where the health of the forest is critical, and in this instance the Los Angeles Basin, where we saw the action of being able to control fires because the overall fuel load on our public lands was dramatically reduced by the thinning and the cleaning in that region of the country—without that we simply will not be able to move forward as expeditiously as the Healthy Forest Act intended that we move. That is what is at issue here. I had hoped we would gain that. We have not gained that in the DOD appropriations and supplemental language that was applied.

Federal lands recovery work that is going on in Mississippi and Louisiana and Texas, work that was caused by the hurricanes Katrina and Rita, is now included in this problem. So are, overall, 800 planned, categorically excluded low-impact projects and hazardous fuel reduction projects affecting over 234 communities and 200 currently planned, prescribed burning projects that, if delayed, would more than likely put them beyond optimum and safe burning conditions, delayed because of the action of the judge and therefore pushed off for another year.

That is the critical nature of this issue and why I have come to the Chamber. As one of the chief cosponsors of the 1993 Appeals Reform Act, I know we had no expectation or belief that categorical exclusions placed in 1993 would be subject to the Appeals Reform Act. It is important that we move forward to clarify this language.

I understand some on this floor today think otherwise.

Perhaps it would be wise to review the amount of public participation involved in the development of the Categorical Exclusions regulations that both the Clinton administration and then the Bush administration have developed since the Appeals Reform Act was first passed in 1993.

In the mid-1990s, the Clinton administration proposed significant changes to the Categorical Exclusions. They did this through an Administrative Procedures Act—APA—rulemaking process which included both a proposed and final rulemaking, including extensive review of numerous public comments.

Those categorical exclusions withstood a number of legal challenges and remained in place until 2003.

In 2000, the Bush administration undertook extensive analysis of thousands of projects to develop a series of new categorical exclusion proposals.

After review of literally thousands of projects the Bush administration proposed a number of changes to the Clinton administration's categorical exclusions. They did this through an APA rulemaking that again included extensive public comments.

I think it is important that my fellow Senators understand that the original Heartwood II settlement agreement, which attempted to nullify categorical exclusions, was rejected by the District Court in which it was brought and the case was dismissed.

Now, the Eastern District Court of California has chosen to resurrect that settlement agreement and impose it nationally.

I know that some people in the Chamber today may still be concerned that the land managers may miss something and not realize there could be a potential problem.

Between the scoping that is required, the extraordinary assessment that is required, and the public notice requirements that will be required if this language is maintained, it is inconceivable to me that projects that might be environmentally detrimental could be carried out through the categorical exclusion process.

This body should reject the efforts of the "gum up the works" crowd who want more process to slow down more projects.

The current categorical exclusions are based on more data and analysis than anytime in history.

We have more protections to ensure they are not misused than anytime in history, and we will have more public notice on categorical exclusions than anytime in history if we adopt the language in this bill.

I hope this Congress sees fit to address this situation before it is too late. We thought we could. We will have to return early next year to get that kind of work done.

What is at stake now is the health of the forest, the health of the watershed, and literally hundreds of thousands of homes spread across the landscape that are about or near public forest, public lands, that could find themselves in a condition that would jeopardize their presence by fire, which could ensure where fuel-laden lands exist.

I thought it was important that I submit that for the RECORD because it is critically important that we move forward on that issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

THE PATRIOT ACT

Mr. DAYTON. Mr. President, last Saturday, President Bush castigated those of us who voted against cloture on the PATRIOT Act. He said:

> That decision is irresponsible and it endangers the lives of our citizens.

That is a mistaken characterization. Every Senator supported the Senate's reauthorization of the PATRIOT Act last July when it passed the Senate unanimously.

Last Friday, 47 of us said the House-Senate conference report is not yet good enough. Before we make the PATRIOT Act permanent, we must make it right.

The PATRIOT Act that we passed 4 years ago, which I supported, gave the Federal Government unprecedented powers to conduct surveillance on American citizens and demand information about their private activities, about their personal lives. We passed the PATRIOT Act hastily in the Senate 4 years ago, too hastily in retrospect. We passed it when my caucus was in the majority. So we, and I, were responsible for that haste. It seemed necessary in the immediate aftermath of 9/11.

One important consideration for this Senator, then, when we voted for the PATRIOT Act was that it would sunset in 4 years, and this Congress would take the time to review it carefully and modify it as necessary to assure the proper balance between combating terrorism and protecting the privacy of innocent Americans.

As I said 5 months ago, the Senate passed unanimously our reauthorization of the PATRIOT Act with important changes to protect constitutional rights of innocent American citizens.

The House passed its version of the new PATRIOT Act in July, also, allowing plenty of time for the House-Senate conference committee to resolve their differences in the best interests of all Americans. But the House did not appoint conferees until last month. The House leaders chose to engage in this take-it-or-leave-it brinksmanship to try to force the Senate to accept their permanent invasion of the private lives of innocent Americans.

Last Friday, 47 Senators—5 Republicans, 41 Democrats, and 1 independent—said: No, we will not accept this version of the PATRIOT Act. We do not oppose the PATRIOT Act, as the President and others have falsely charged. Most of us voted for the original law 4 years ago, and all of us in this Senate voted for the new one last July. Many of us, myself included, have proposed extending the existing law for another 3 months to give conferees time to resolve our remaining differences to design a permanent PATRIOT Act that most of us can support.

What we haven't said is there is more brinkmanship with the President and the Senate leader threatening to let the existing law expire so they can blame 47 of us for supposedly weakening the protections of the American people.

Let us be very clear. Let the American people be very clear. If the PATRIOT Act is allowed to expire, that is the choice and the responsibility of the President and the Senate majority leadership.

Today is December 19. The Senate is still in session with 12 more days until the year's end. That is enough time either to revise the conference report so that it has broad bipartisan support in the Senate or to extend the existing law.

All of us, every Member of this Senate, supported the Senate version of the new law that passed unanimously 5 months ago. It is absurd and wrong for detractors to claim that we do not support it now when we just disagree with a few but a very important few features in it.

Last Saturday, President Bush also reasserted his right to do whatever he deems necessary to protect the American people from terrorist attacks. That is an enormous responsibility, one that Congress shares with him. However, we differ in our approaches.

The President's legal counsel has opined that he has the constitutional authority as Commander in Chief and the legal authority from Congress post-9/11 to override or ignore any laws or limitations that he decides necessary to combat terrorism.

Whether Congress intended "any and all force necessary" to include that authority is highly questionable. But that is the President's operating assumption.

If the President can do whatever he wants, whether it is legal or not, and his decision to do it makes it legal, then in a sense the PATRIOT Act is not even necessary because the President can order it all done anyway.

In another sense, however, our getting the PATRIOT Act right becomes even more imperative because we are a nation of laws, laws which must be followed by everyone—even the President, even the FBI, even the National Security Agency, during good times and bad, during war and peace, because our existence as a nation, as a constitutional democracy requires it and depends upon it.

No external threat to our way of life could be so great as the danger that our rule of law not be obeyed by our most powerful institutions and individuals.

This Senate exists to make those laws. Every one of us—all 100 of us—takes that responsibility most seriously because we assume that our laws matter, that they will be honored and obeyed, or that they will be enforced so that they will define the legal courses of action that everyone in this country must follow. Otherwise, we are irrelevant and laws that we enact are meaningless.

Our operating assumption, however, continues to be that our laws will be obeyed, and, thus, our efforts in the Senate do matter. That is why we want and we deserve the time necessary to get our laws right. That is the way our process is supposed to work. All 41 or more Senators to hold up legislation in order to get it right is the way our process is supposed to work.

It is strange, to say the least, that those who assert their right to ignore our rules and our laws are vilifying us in this Senate for following them.

For people watching us today who may be unfamiliar with the details of the existing PATRIOT Act, let me give you an example of what it is that we are trying to correct.

According to the Washington Post, last year, under the PATRIOT Act, some 56 FBI field agents signed over 30,000 national security letters. That is 100 times more than before the act. They were not directed toward possible terrorists but, rather, to people, to businesses, to universities, to libraries that might have information about people who might be terrorists. The PATRIOT Act requires them to turn over the information demanded, the most personal information, including health records, Internet use, upon demand, with no recourse. It is a criminal act under the PATRIOT Act for them to tell anyone else about the Government's demands, even to consult with an attorney.

Under an Executive order which President Bush signed 2 years ago, all that private-personal information remains permanently in the Government's files and can be shared with other Government agencies even after the suspect has been determined to be completely innocent.

The new PATRIOT Act, which 100 Senators unanimously supported last July, would not prevent the Federal Government from demanding that information on some 30,000 businesses, universities, and individuals every year in order to combat terrorism. It would only provide minimal legal rights of independent judicial review of those demands when some innocent person, business, library, or university believes the Federal Government has gone too far.

No one wants to prevent the Federal Government from stopping terrorists or preventing terrorist acts against the United States. We do want to prevent some people, however well intended they believe they are, from going too far. Secret torture prisons in other countries is going too far. Spying on Americans is going too far. Denying due process, even the right to consult with an attorney, for innocent Americans, is going too far.

Former Republican Congressman Robert Barr said it well:

> Enough of this business of justifying everything as necessary for the war on terror. Either the Constitution and the laws of this country mean something or they don't. It's truly frightening what is going on in this country.

Thank you, Congressman Barr.

Those in the Senate who believe the Constitution and our laws enacted under it still mean something, we are trying to get the PATRIOT Act before we make it permanent, and we deserve our right to do so. It is an inversion and a perversion of the values of this great Nation when it becomes legitimate to set up illegal torture prisons in other countries or to conduct illegal spying in this country but illegitimate for the Senate to carry out its own due process.

This Senate must not adjourn for this year until we either extend the existing PATRIOT Act or pass a new one acceptable to a broad bipartisan majority of this Senate. Anyone who prevents Members from doing one or the other is placing their personal politics ahead of the protection of the American people. That would be dangerous and destructive personal politics. That is why we must vote on a 3-month extension of the existing PATRIOT Act or a new conference report before we adjourn this year.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006—CONFERENCE REPORT—MOTION TO PROCEED

Mr. FRIST. Mr. President, I ask unanimous consent the Senate proceed to the conference report to accompany H.R. 2863, the Defense appropriations bill.

Mr. REID. I object.

Mr. FRIST. Mr. President, I move to proceed to the conference report.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from North Carolina (Mr. BURR) and the Senator from Arizona (Mr. McCAIN).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), and the Senator from Connecticut (Mr. DODD) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 1, as follows:

[Rollcall Vote No. 359 Leg.]

YEAS—94

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—1

Jeffords

NOT VOTING—5

Biden
Burr
Corzine
Dodd
McCain

The motion was agreed to.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same. Signed by a majority of the conferees on the part of both Houses.

(The conference report is printed in the RECORD in the Proceedings of the House on Sunday, December 18, 2005.)

CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 2863, the Department of Defense Appropriations Act of 2006.

Bill Frist, John Cornyn, John Thune, Jeff Sessions, Lindsey Graham, Saxby Chambliss, Richard Shelby, Jon Kyl, Mike Crapo, Mitch McConnell, Ted Stevens, Thad Cochran, C.S. Bond, Conrad Burns, Pete Domenici, Judd Gregg, John Warner.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006—MOTION TO PROCEED

Mr. FRIST. Mr. President, I move to proceed to the conference report to accompany H.R. 1815, the Defense authorization bill.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from North Carolina (Mr. BURR) and the Senator from Arizona (Mr. McCAIN).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), and the Senator from Connecticut (Mr. DODD) are necessarily absent.

The PRESIDING OFFICER (Mr. MARTINEZ). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 360 Leg.]

YEAS—95

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye

Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—5

Biden
Burr
Corzine
Dodd
McCain

The motion was agreed to.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1815), to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is reprinted in the House proceedings of the RECORD of Sunday, December 18, 2005.)

The PRESIDING OFFICER. The majority leader.

CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 1815, the National Defense Authorization Act for fiscal year 2006.

Bill Frist, John Warner, Mel Martinez, Lisa Murkowski, Mitch McConnell, Bob Bennett, George Allen, John Thune, Michael B. Enzi, Jeff Sessions, Johnny Isakson, Judd Gregg, Tom Coburn, Ted Stevens, Conrad Burns, Kay Bailey Hutchison, Pat Roberts.

DEFICIT REDUCTION ACT OF 2005—CONFERENCE REPORT—MOTION TO PROCEED

Mr. FRIST. I ask unanimous consent to now proceed to the consideration of the conference report to S. 1932, the omnibus deficit reduction bill.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. I now move to proceed to consideration of the conference report.

Mr. CONRAD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from North Carolina (Mr. BURR) and the Senator from Arizona (Mr. McCAIN).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), and the Senator from Connecticut (Mr. DODD) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 86, nays 9, as follows:

[Rollcall Vote No. 361 Leg.]

YEAS—86

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Byrd
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dole
Domenici
Dorgan
Ensign
Enzi
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Inouye
Isakson
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McConnell
Mikulski
Murkowski
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—9

Cantwell
Clinton
Durbin
Feingold
Harkin
Jeffords
Murray
Obama
Snowe

NOT VOTING—5

Biden
Burr
Corzine
Dodd
McCain

The motion was agreed to.

DEFICIT REDUCTION ACT OF 2005—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the conference report.

The assistant legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1932), to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95), having met, have agreed that the Senate recede from its disagreement to the amendment of the House, and agree to the same with an amendment, and the House agree to the same, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of Sunday, December 18, 2005.

The PRESIDING OFFICER. Who yields time?

The Senator from New Hampshire.

Mr. GREGG. Mr. President, we are now on the deficit reduction conference report. We have 10 hours of debate, 5 hours equally divided. I know my colleague from North Dakota wants to speak tonight.

Just for the edification of our membership, we will run some time off the clock tonight—I think about 2 hours—and then come back tomorrow and continue the debate and hopefully wrap this up tomorrow.

This bill is a culmination of a lot of work done in the Congress, by the President, and by the Members of the Republican Party, to try to put some discipline into the fiscal accounts of the Federal Government. This bill represents the first time in 8 years that the Federal Government has attempted to control the rate of growth in entitlement spending. People who watch this debate understand this issue, but just to frame it again, Federal Government spending is divided into basically three different areas.

There is interest on debt, which we have virtually no control over.

There is the discretionary spending, otherwise known as the appropriations process, which means every year we spend a certain amount of money. It is really up to us how much we spend, and it is for specific programs. The majority of it goes to the defense spending, but other money goes to education, it goes to environmental issues, it goes to highways—things for which every year we appropriate, saying we are going to spend this much. We can change that number arbitrarily from year to year, and we do.

The third element of Federal spending is called mandatory entitlement spending. This spending occurs as a matter of law because certain people have come to certain situations in their life which allows them to receive a benefit from the Federal Government. They may be veterans who have served us well; they, therefore, get benefits. They may be persons of low income who need assistance, especially a child in a low-income family who needs assistance. They may be a retired citizen who paid into Social Security, who gets health care under Medicare, or a low-income person who gets health care under Medicaid, especially nursing care. These are entitlements. They make up the vast majority of Federal spending. Discretionary spending only makes up 30 percent of the Federal accounts, and half of that is defense spending.

Entitlements are also the fastest growing part of the Federal Government. We know because the baby boom generation is going to retire, and spending on entitlements, specifically on Social Security, Medicare, Medicaid, the health care accounts especially, is going to increase radically over the next generation's 30 years as the baby boom generation begins to retire. It is estimated today by the Comptroller General that there is a $44 trillion—that is trillion dollars with a "T"—$44 trillion unfunded liability, which means we don't know how we are going to pay for it. The obligation is in place already for the cost, primarily for health care programs for retired people who are going to be the baby boom generation.

The practical effect of having that high an obligation out there and unpaid for is our children are going to have to pay the price. The practical effect of that is our children and our children's children, these wonderful young people who work here as pages, when they become earners and have kids of their own are going to have to pay so much to pay for programs which are already on the books to support our generation, the baby boom generation, they are essentially not going to be able to have as high a quality of life as we have. They are not going to be as comfortable in sending their kids to college, buying a car, buying a home, or just doing the day-to-day activities of life because they are going to have to pay a huge tax burden for our generation, unless we do something about it.

That is what this bill is about. For the first time in 8 years, the Federal Government has stepped up and said: We are going try to do something—the Republican side of the aisle—about this huge burden we are going to put on our children through entitlement accounts by addressing those accounts. We have been aggressive on the discretionary side. We have essentially frozen nondiscretionary spending, but on the entitlement side it continues to grow at a dramatic rate. This bill is a step, really more than a toe, but putting our whole foot up to our ankle in the water of trying to control entitlement spending, mandatory spending. It amounts to almost $40 billion in savings in Federal spending.

If this bill passes, it will reduce the debt of the Federal Government which will be passed on to our children by $40 billion. That is a big number. It is a big number in New Hampshire, and I know it is a big number in the State of every Member of this Senate. In the context of overall Federal spending, regrettably it is not as big a number as I would like, but it is still a big step forward on the road toward fiscal responsibility, and it is the first attempt to do this in 8 years. And this is an important point to stress. This is the only opportunity any Member of this Senate is going to have in this session of this Congress to try to control spending, to try to reduce the debt of the Federal Government.

We are going to hear a lot of talk from the other side saying: Well, you have a tax relief bill out there which is being reconciled, and it is twice the size of the spending restraint here. The tax bill isn't being voted on tonight or tomorrow; the deficit reduction bill is being voted on tonight or tomorrow. If you want to reduce the deficit, if you want to reduce the debt of the Federal Government, reduce the costs that will be passed on to our children and our children's children, this is your opportunity to do it. If you want to vote against the tax relief bill, go ahead.

I note as an aside that the tax relief bill has as its major function commitments to programs which I think have vast support across this Congress. In fact, I have heard other Members on the other side of the aisle say: Why aren't we passing a patch to the AMT so 20 million people do not fall under the alternative minimum tax? That is $30 billion of the tax bill. Why aren't we extending the deductibility of State and local sales taxes? That is a big chunk of the tax bill. Why aren't we extending the R&D tax credit, which causes us to create jobs in this country by giving entrepreneurs an incentive to go out and invest in R&D?

We are hearing that from the other side of the aisle. The majority of the items in the tax relief package of $70 billion are items which have very broad support in this Congress—Democratic and Republican support. So it is a bit of a straw dog—in fact, it is a very large straw dog, maybe a Newfoundland straw dog—to claim that extension of the tax bill for some reason, the majority of which is supported on both sides the aisle, is somehow reducing the effort on the deficit in this bill.

The two don't have that much relationship, and furthermore the tax bill already has broad support on the main elements of it. The only ones at issue are dividends and capital gains, which do not even impact this year or next year because that part of the tax relief package doesn't kick in until 2009 or 2010.

This is it, folks. It is your one chance as Members of Congress, as Members of the Senate, to actually do something about the debt we are going to pass on to our children. You have an opportunity to reduce that debt by almost $40 billion.

In addition, I would note, there is a net number, the $40 billion.

There are initiatives in this bill which are fully paid for which make a lot of sense and which are pretty good policy. We decided to put them in after we had saved money to pay for them.

For example, the Pell Grant Program is expanded dramatically to low-income kids. This is a program to encourage low-income children who are especially interested in math and science to be successful in our schools. We know it is the seed corn for our productivity and our competitiveness as a Nation to promote math and science skills.

There is an expansion of Medicaid to low-income children. About 1 million—over 1 million—needy kids today who are low income, who do not have health coverage will get health coverage.

There are efforts in this bill to assist the people in the gulf coast, significant efforts. It would be very hard, I would think, if I were from the gulf coast to vote against this bill because there is a tremendous amount of funds being focused on the gulf coast, to address the needs of the gulf coast in the area of education and in the area of Medicaid. Literally billions of dollars, all paid for.

In addition, there is money for LIHEAP, $1 billion. Those from cold regions of the country know because of the runup in the price of gas and oil it will be very hard for a number of low-income families to make it through the winter. They will have to make some tough choices. We want to fund the low-income energy assistance program. This bill does it; it pays for it with spending reductions.

In addition, there is significant and positive welfare reform language which the Governors are asking for, bipartisan governorship is asking for, as well as Medicaid reform language—again, with bipartisan, strong support from the Governors—giving the Governors more flexibility and allowing them to deliver more service to more low-income people at less cost.

This bill has a lot of good policy in it as well as saving $40 billion. It is the first and only opportunity—not the first opportunity because we voted on it a few times—the last opportunity to cast a vote to save $40 billion and not pass the debt on to our children.

It is a positive bill. I hope my colleagues will support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the chairman for his spirited defense of this package. He is quite right. There are elements of this package that are positive. There are elements of this package that at some point we will adopt. Perhaps we will adopt them this year.

The chairman has left out certain chapters in the book of reconciliation.

Reconciliation was part of this year's budget process. There are three chapters in the book. The first chapter is the spending cuts that have now come back from the conference report, deliberations between the House and the Senate, that cut spending $40 billion over 5 years. That is $8 billion a year when the budget is $2.5 trillion. If my math is right, that is one three-hundred-fiftieth of the spending for a year.

But what is left out of the chairman's presentation is the other chapters of the book. Chapter No. 2 is the tax cuts. He is quite right, they are not before the Senate today, but they are coming. They are part of this package. They are part of this book. They are the second chapter. The second chapter cuts $70 billion of taxes. Put the two together, a $40 billion spending cut and a $70 billion tax cut, and guess what. You have increased the deficit, not reduced it.

This is all part of a package. It is part of the budget process, three chapters that one has to read to reach a conclusion on the meaning of the book. The third chapter is the one they really do not want you to read. The third chapter increases the debt of the country by $781 billion. That is the third chapter. We do not hear them talk about that chapter at all. There is a reason for that.

If we go back and look at what the President has said—in 2001, when we enacted his economic program, he said:

> [W]e can proceed with tax relief without fear of budget deficits, even if the economy softens.

Mr. SARBANES. Will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. SARBANES. That was in March of 2001. At that time, wasn't the Federal budget running a surplus?

Mr. CONRAD. The Senator is exactly right. The Senator from Maryland, a valued member of the Senate Committee on the Budget, remembers very well the budget was in surplus. In fact, we had a projection from the administration that we were going to have almost $6 trillion of surplus.

Mr. SARBANES. So at the time we were running this surplus—and let me just note, it had taken a lot of work to get out of an earlier deficit into surplus—and there was some concern expressed that the excessive tax cuts the President was proposing would throw us into a budget deficit and we would lose that surplus, the President told us in no uncertain terms that there was no reason to fear budget deficits; is that correct?

Mr. CONRAD. The Senator is exactly correct. The President told us there was no concern about the possibility of budget deficits. In fact, the Senator may recall this chart provided by the Congressional Budget Office and the Office of Management and Budget of the President that said this was the range of possible outcomes going forward with the fiscal affairs of the country. They adopted the midpoint of this range of possible outcomes showing very dramatic surpluses, all above the line, dramatic surpluses throughout this entire period coming to 2005.

Look what actually happened. At that time, the worse case scenario was this bottom line. We can see for the most part it was all in surplus territory. This is what they said was the best case scenario. They adopted the middle of the range of possible outcomes.

I can remember very well our Republican friends saying to me: Don't you understand, Senator, it will be way above this midrange because the tax cuts will generate greater economic activity and more revenue.

Now we can look back and test that theory and see what happened in the real world. Here is what happened in the real world: This red line, it is far below the worst case estimate of what might happen. In fact, it represents massive deficits, the biggest in our history. That is what really happened.

Then the President said the next year, in the State of the Union Address:

> . . . Our budget will run a deficit that will be small and short-term . . .

That was after saying there would not be any deficits. That proved to be wrong.

Mr. SARBANES. Will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. SARBANES. So the previous year the President was saying there would be no deficit, and a year later, in the face of what obviously would be a deficit, he said, well, it will be a small and short-term deficit.

Mr. CONRAD. That is exactly what he stated in 2002, small and short-term deficit. Now we are able to check that record.

He made that claim in 2002, the first year we were into deficit, after running surpluses in the years leading up to that.

In 2001, the first year he was in office, the budget from the previous administration had a surplus. The next year, after his policies were adopted, we plunged into deficit. Then he told us that year the deficits were small and short term.

The chart shows what has happened. The next year the deficit got much worse. In 2003, it was approaching $400 billion. In 2004, the deficits actually exceeded $400 billion. This year, the deficit is over $300 billion. Of course, much of the Katrina costs have not been included in this year's deficit because it will be coming next year.

It is very interesting, the President was wrong about saying no deficits. We saw that in 2002. So in 2002 he said they will be small and short term. He was wrong again. Instead of small and short term, they are large and long lasting; in fact, the biggest deficits we have ever had in the history of the country.

Mr. SARBANES. Will the Senator yield for a question?

Mr. CONRAD. Yes.

Mr. SARBANES. In 4 years, after the President said there would be no deficits, we have incurred deficits of, according to my quick calculation, over $1.2 trillion; is that correct?

Mr. CONRAD. The Senator is correct. If you go to the next step, what we have is a situation that is more serious even than that. The deficit does not capture the increases in the debt. The deficit last year was $319 billion. I say "last year" because we are now in Federal fiscal year 2006. That started October 1. So the 2005 deficit ending the end of September, the year ending the end of September, was $319 billion. But here is how much got added to the debt: not $319 billion but $551 billion. All of it has to be paid back.

Of course, as the Senator knows, the big difference between the two calculations—the deficit and what got added to the debt—the biggest difference is the money being taken from Social Security to pay other bills.

Last year, the last Federal fiscal year, $173 billion of Social Security money was taken to pay for other things. The result is, when you add that with the deficit and other trust funds that are being raided—another $59 billion—what got added to the debt was really $551 billion.

If we look back on the relationship between spending and revenue expressed as a share of gross domestic product—and we do it in that way because economists tell us that is the best way to make these comparisons—the red line on this chart is the spending line. You can see, the spending had come down substantially until we reached the year 2000. Spending had come down each and every year of the Clinton administration as a share of gross domestic product. Now we have had a substantial uptick because of defense costs and homeland security, rebuilding New York.

But look at the revenue line. The revenue line, which was at a peak when the President came into office—he said this was a record high. He was right—but look at how the revenue plunged with the President's policies. Most of this is tax cuts. And the other, of course, is economic slowdown. The result is, we have opened up a chasm between the revenue line of the United States and the spending line. We see that gap going forward, and really at the worst possible time because this is before the baby boomers retire.

In looking at that, the President told us—the next year, after his 2002 address—in 2003:

> [O]ur budget gap is small by historical standards.

So first he told us there would be no deficits. Then he told us the deficits would be small and short term. Both of those proved to be wrong. Then he said to us, well, they will be small by historical standards.

Let's check that assertion because here is what we see: They are not small by historical standards. In fact, they are the biggest deficits we have had in the history of the United States. I know the President likes to say, well, as a share of GDP they are not as big as the deficits in the 1980s. But that is because he excludes the money he is taking from Social Security. Back in the 1980s, there was no money to take from Social Security, or very little. Now there are large amounts to take from Social Security, and the President is taking it all, every penny; last year, $173 billion.

Over the next 10 years, under the President's plan, he is going to take $2.5 trillion of Social Security money and use it to pay for other things. This is at a time when he says there is a shortfall in Social Security. Well, he is helping create the shortfall in Social Security because he is taking the money and using it to pay for other things. Then the President told us in 2004:

> So I can say to you that the deficit will be cut in half over the next five years.

Let's review. In 2001, he told us there were going to be no deficits. He was wrong. In 2002, he said it was going to be small and short term. Wrong again. The next year he told us, in 2003, the deficits were going to be small by historical standards. Wrong again. They are the largest deficits we have ever had in dollar terms. And if you measure appropriately, as a share of GDP, it is as large as the deficits in the 1980s, when you include the money from Social Security that he is taking to pay for other things.

Now he says he is going to cut the deficit in half over the next 5 years. Well, let's examine that claim. Here is what the President says is going to happen: The deficit is going to get cut in half over the next 5 years. But he has really left out a lot of things to make that assertion. He has left out the war cost past September 30 of this year. There is nothing in his budget for that. He has left out the money to fix the alternative minimum tax, the old millionaire's tax that is rapidly becoming a middle-class tax trap. It costs $700 billion to fix. He has no money in his budget to do it. And, of course, his Social Security plan, which is the biggest budget buster of all, he has no money in his budget to do that.

When you put all those items back in, you see quite a different picture emerge. In fact, past this 5 years, you see the deficit growing dramatically. Of course, the biggest reason for that is, the cost of the President's tax cuts absolutely explodes in the second 5-year period.

Now, the President told us, back in 2001, how important it was to pay down the debt. He said at the time:

> . . . [M]y budget pays down a record amount of national debt. We will pay off $2 trillion of debt over the next decade. That will be the largest debt reduction of any country, ever. Future generations shouldn't be forced to pay back money that we have borrowed. We owe this kind of responsibility to our children and grandchildren.

So the President, back then, was telling us he was going to pay down the debt. Well, there is no paydown of debt occurring here. The debt is exploding. It was $5.7 trillion back in 2001. It is $8 trillion today. And here is where it is headed: By 2010, under the terms of the budget that we are discussing, the debt is going to reach $11.3 trillion. So on this President's watch, the debt will have doubled. All the while, he was telling us he was going to have maximum paydown of the debt, and that we owed it to future generations to pay down debt. There is no paydown of debt going on here. The debt is skyrocketing.

Mr. SARBANES. Will the Senator yield for a question?

Mr. CONRAD. I am happy to yield.

Mr. SARBANES. This reconciliation process really is a package, in which you have to consider not only the spending cuts but the tax cuts they are pushing through, as well as the increase in the debt. Am I correct that this reconciliation package includes raising the debt limit by some $800 billion?

Mr. CONRAD. The Senator is correct. This package really does have three chapters. The first chapter is the spending cuts, $40 billion over 5 years. There is only $8 billion a year in a $2.5 trillion budget. It is so insignificant. But then the second chapter is cutting taxes $70 billion, which, if you put the two together, there is no deficit reduction going on here. They are increasing the deficit. And the third chapter is extending the debt limit of the United States by $781 billion.

That is what happens if you read this whole book. It is not a pleasant ending.

Mr. SARBANES. If the Senator will yield further?

Mr. CONRAD. I am happy to.

Mr. SARBANES. I want to tell the Senator one story. I was in a shopping center over the weekend, and I saw a bumper sticker on a car. The bumper sticker said: "Mr. Bush, we will be forever in your debt." Just then, the person whose car that was came along, and I said to them: What was it you were thinking about that the President has done when you say we are going to be forever in his debt? I thought it was for something he had done. The person said: Think about it. I meant exactly what it says. Mr. Bush, we are going to be forever in your debt.

Here is the debt, which the Senator from North Dakota is pointing out. I think the person is right. We are going to be forever in this debt. This is what is being handed to this generation, the next generation, and the generation after that.

As the Senator pointed out in the previous chart, they have doubled the debt over this very short time period.

Mr. CONRAD. They have doubled it. And the amazing thing to me is our colleagues are out here with a bill that is headlined, "Deficit Reduction."

If you read the fine print and look at their own estimates of what happens if this budget is finally approved and implemented, here is what it does to the debt. Anybody see any reduction of deficit here anywhere? This is taking us from $7.9 trillion of debt at the end of fiscal year 2005 and it is going to run it up to $11.3 trillion in 5 years. Each and every year, according to their estimates of what their budget does, the debt of the country is going to increase by $600 to $700 billion a year. They are out here talking about a deficit reduction package. Please. Do words have no meaning? Do we make phrases up in order to fool people? People aren't going to be fooled because each and every year they are going to be able to see what has happened under the claims that are being made. Have the deficits been reduced? Has the debt been reduced? Or is it skyrocketing?

I make the assertion today that if this budget is actually implemented for the next 5 years, for which it has been approved, at the end of the time, the debt will be dramatically larger than the debt today. The kind of stunning result of all this is that our country is borrowing more and more money, much of it from abroad. I went and looked at the external debt of the country. It took 42 Presidents—here are their pictures, all of these Presidents—224 years to run up a trillion dollars of external debt. In fact, it was $1.01 trillion of external debt. This President has more than doubled it in 5 years. This President has run up more debt that is held by foreigners than 42 Presidents did in 224 years. That is a remarkable accomplishment. I hesitate to call it an accomplishment because accomplishment suggests something positive. There is nothing positive about it.

The result is, here are the countries to which we owe money. We owe Japan almost $700 billion. We owe China almost $250 billion. And my favorite is the Caribbean Banking Centers. We owe them over $100 billion. One would think, in the midst of all this, Congress would want to actually do something to reduce the deficit.

Mr. SARBANES. Will the Senator yield for a moment?

Mr. CONRAD. Yes.

Mr. SARBANES. Let me go back to this external debt that is being held outside the country. Isn't it important to understand, as difficult as the deficit and debt problems are, that when the debt is held internally, it is Americans owing it to Americans. But when the debt is being held externally, it means that as a nation, we have to service this debt which is being held outside of the country. So that amount becomes a charge, as it were, against our own standard of living; isn't that correct? Would not our standard of living be lowered as a consequence of having to meet this external debt-servicing requirement?

Mr. CONRAD. The Senator is exactly right. What is happening now is, we used to borrow the money largely from ourselves. Now we are borrowing from abroad. Since the President took over, the debt of the country has gone from $5.7 trillion to $8 trillion. That is a $2.3 trillion increase. Look at this: The debt has increased by $2.3 trillion, but a trillion of it has come from abroad. Over 40 percent of the debt that has been increased under this President is coming from abroad. Again, I go back to the historic record. It took 224 years and 42 Presidents to run up a trillion dollars of debt held abroad. This President has exceeded that amount in 5 years.

During the President's term, the debt has increased $2.3 trillion, a trillion of it coming from foreigners.

Mr. SARBANES. Will the Senator yield? I note from his chart, in 2001, we had $5.7 trillion in debt, of which $1 trillion was held abroad.

Mr. CONRAD. Right.

Mr. SARBANES. So about a sixth, maybe 17 or 18 percent, was being held abroad.

Mr. CONRAD. That is correct.

Mr. SARBANES. This President has added $2.3 trillion in debt, of which $1.1 trillion is being held abroad. So there has been a dramatic shift in who is holding this debt and what that represents in terms of a burden on our society.

Mr. CONRAD. It is very dramatic. You can see the trend continuing. Now, when we have a bond auction, about half of the debt is being bought by foreigners.

Mr. SARBANES. There is a wonderful line in a Tennessee Williams play where Blanche DuBois says: I have always depended on the kindness of strangers. It seems to me that is what is happening to the fiscal situation of the United States. We are becoming increasingly dependent on foreigners and in particular foreign countries, since this debt now is being purchased largely by the central banks and not by individual investors. There has been a dramatic shift in terms of who is holding our debt. We are becoming increasingly dependent on others for our fiscal survival. It is a dramatic and deeply concerning development.

Mr. CONRAD. I spoke to the student council leaders of my State. There were 900 to 1,000 of them in the room. I pointed out this fact about more and more of our debt being held externally. I asked them: How many of you think this is a sign of strength and how many think it is a sign of weakness? Some people say this is a sign of strength that people will loan us this amount of money. And I would say 98.9 percent of the students said they saw it as a sign of weakness, not a sign of strength. Maybe one reason is they realize they are the ones who will have to pay this bill.

Now we have this bill before us. Here is the total spending we are going to do over the next 5 years—$14.3 trillion. Our friends come here with $40 billion of spending cuts. That is one three-hundredth, less than one three-hundredth, in fact, one three-hundred-fiftieth of the spending that is going to occur over the next 5 years, one three-hundred-fiftieth of the spending. Of course, it is going to be completely topped by the tax cut that they are proposing, a tax cut of $70 billion that is going to occur. It is interesting. Why do we have this package before us? Here is what the chairman of the Ways and Means Committee said in the House. He told a group of lobbyists that the spending cuts are necessary to make room for tax cuts. The spending cuts are $40 billion over 5 years. The tax cuts in the Senate are $70 billion. In the House, the tax cuts are even bigger. In the House, the tax cuts over 5 years are $95 billion.

Some people have said to us: Senator, who knows what is going to happen in 5 years? How about this next year? What is the comparison in this package between the spending cuts and the tax cuts? Here you have it. In the Senate package, the spending cuts are $5 billion for the year and a $2.5 trillion budget. That is one five-hundredth of the spending. And the tax cuts are $11 billion. So in the first year, they are $6 billion under water. They are adding to the deficit, adding to the debt by $6 billion, not cutting it as they claim here in their speeches. But when you put the whole package together, they are increasing the deficit.

If you look at the House package and their proposed tax cuts, it's much worse. Five billion dollars of spending cuts, $21 billion in tax cuts in the first year. So they are adding to the deficit by $16 billion in the first year alone, adding to the debt.

(Mr. TALENT assumed the Chair.)

Mr. SARBANES. Will the Senator yield for a question on that chart?

Mr. CONRAD. I am happy to.

Mr. SARBANES. Is it not also important to ask the question, who is being affected by the spending cuts and who is benefitting from the tax cuts, because that gives you a sense of what the priorities are? It is my perception that the spending cuts are affecting those who have little—working people, or people in difficult circumstances, such as young people trying to get a college education. The tax cuts for which these spending cuts are being imposed—as the chairman of the House Ways and Means Committee said, to make room for them—are going primarily to benefit those at the upper end of the income and wealth scale. So aren't those the priorities that are being set here? People have to make the connection. They say we are doing the spending cuts to reduce the deficit. Of course, then they admit they are trying to hold the deficit down through spending cuts in order to make room for the tax cuts.

So you have to ask, who is being hit by the spending cuts? Who is getting the benefit of the tax cuts? Those priorities, it seems to me, are standing completely on their heads. They are just the wrong set of priorities. We have to make that connection, don't we, to understand what is happening?

Mr. CONRAD. We do. I have in my hand a report from the Center on Budget Policy Priorities, a group the Senator knows well, a very well respected group in this town. This is the headline: "Budget Conference Agreement Contains Substantial Cuts Aimed at Low-Income Families and Individuals."

One of the points they make is that this budget agreement increases the copayment and premiums for those who are on Medicaid. Those are the least fortunate among us. They say:

> A large body of research has found that such cost-sharing increases are likely to lead many low-income Medicaid patients to forego various health care services and medications or not to enroll in Medicaid at all.

Second, it provides for benefit reductions. They go on to report that the conference report retains about a third of the House-passed cuts that, for many Medicaid beneficiaries, would eliminate the Federal standards which assure that they receive comprehensive health care coverage.

It goes on. Some of the cuts are for, stunningly enough, child support enforcement. So they are cutting funds for child support enforcement. The CBO estimates show the conference report includes a billion and a half in cuts in Federal funding for child support enforcement efforts. That is funding that States use to track down absent parents, for child support orders, and to collect and distribute child support. The Congressional Budget Office has estimated that this loss in Federal child support funding will result in child support going uncollected over the next 5 years of $2.9 billion.

Some of those advocates for this say they are friendly to families. What is friendly about letting deadbeat dads escape their responsibilities to their kids and their families? That is part of what is done here. If this package were really reducing the deficit, that would be one thing. It doesn't reduce the deficit. This package, when you include the tax cuts, dramatically increases the deficit. When you look at this package, not only does it cut child support enforcement and Medicaid for those who are the lowest income among us, it also badly underfunds child care because also buried in the package is reform of welfare.

The Congressional Budget Office estimates that it would cost $8.4 billion for the States to meet the new work requirements. Only a billion dollars is provided. So if we are going to have these people go to work, one of the things that happens is the cost of childcare goes up. The cost of childcare goes up by $8.4 billion, and they shortfunded it by $7.4 billion. We all know who gets the benefit of the tax cut. The tax cuts on the House side go overwhelmingly to the wealthiest among us. The average tax cut just on the capital gains and dividend provisions in the House bill provides those earning over a million dollars a year a $35,000 tax cut.

I don't find this in any religious teaching that I have been exposed to. But the message is very clear. We take from the least among us to give to those who have the most among us. That is what this bill does. On top of that, when you put the whole reconciliation package together, it increases the deficit, increases the debt, and in chapter 3 expands the debt of the United States in one fell swoop by $781 billion.

Mr. SARBANES. Will the Senator yield?

Mr. CONRAD. Yes.

Mr. SARBANES. In light of what we previously looked at as to how this debt is being financed from outside the country, in effect what is happening is that in order to give tax cuts to very wealthy people, we are borrowing from Japan, China, Korea, and the Caribbean money centers, and so forth and so on. That is where we are finding the money to fund this debt that is being created and run up in order to give tax cuts to wealthy people, is it not?

Mr. CONRAD. I was speaking to people in my State, and one person in my audience said: You know, the President says that it is the people's money and we ought to give it back to the people. Well, that is absolutely true. This person in the audience said: But it is turning out that it is the Chinese people's money, the Japanese people's money. That is whose money we are giving back. We are having to borrow from them to give it back.

This is a bizarre situation that we are in, but that is what is happening. Some say, well, if you borrow the money, somehow it will pay off. Let's make sure that Chairman Greenspan doesn't believe that. He said this before the Joint Economic Committee:

> We should not be cutting taxes by borrowing.
>
> We are borrowing in huge amounts.

This is his statement on restoring the pay-go provisions that we tried hard to get restored, which say you can have additional tax cuts, but you ought to pay for them. You can have new spending, but you ought to pay for it.

He said this on March 2 before the House Budget Committee:

> All I am saying is that my general view is I like to see the tax burden as low as possible. And in that context, I would like to see tax cuts continued. But as I indicated earlier, that has got to be, in my judgment, in the context of a pay-go resolution.

That is what we offered to our colleagues, but they didn't accept it. Here are the major provisions in this package. It cuts low-income beneficiaries in Medicaid. It cuts child support. It cuts foster care. I mean, really, is this the priority of the country to cut child support enforcement, foster care, and medical help for those who have the least among us?

It delays Social Security supplementary benefit income payments for poor, disabled individuals. Now there are new work requirements imposing unfunded mandates on the States.

Mr. President, I think these are the wrong priorities for the country. The reconciliation bill unfairly targets Medicaid beneficiaries. The Senate proposed no increase in cost sharing for these very low income people. The House insisted on $2.4 billion from those same very low income people. The conference report included 80 percent of what the House proposed.

Mr. SARBANES. Will the Senator yield for a question?

Mr. CONRAD. Yes, I will be happy to yield.

Mr. SARBANES. The way the Medicaid Program is structured, as I understand it, is that in order to be a Medicaid beneficiary, in order to receive Medicaid to meet your health care needs, you have to be adjudged to be at an income level that is so low it is clear you can not afford medical care. In order to get Medicaid to begin with, don't you have to meet that requirement?

Mr. CONRAD. Absolutely. The Senator is correct.

Mr. SARBANES. And now they are proposing to take people who get Medicaid because their income is so low that they can't meet their health care needs in any other way, and they are imposing additional burdens on these Medicaid recipients.

Mr. CONRAD. I say to my colleagues, it is not just in Medicaid. They are cutting foster care. They are cutting child support enforcement. You have to ask yourself: What can they be thinking?

> The President's 2006 budget cites the child support program as one of the highest rated block/formula grants of all reviewed programs government-wide.
>
> This is a program that epitomizes the value of parental responsibility—increasing family self-sufficiency, decreasing public assistance use, reducing out-of-wedlock births and discouraging divorces.

That is what the Center for Law and Social Policy said on November 17 of this year. And we have a bill before us that cuts child support.

One has to wonder, What are they thinking? What are the priorities that are contained here, priorities that cut the spending $40 billion by targeting those who are the least fortunate among us—$40 billion over 5 years. It is only $8 billion a year. The first year it is only $5 billion of savings in a $2.5 trillion budget. That is one five-hundredth of the budget, and then they cut the taxes, especially for the wealthiest among us, much more. So, when you put the two together, they have increased the deficit, not reduced it; they have increased the debt, not reduced it at the very time the debt is exploding before the baby boomers even retire, which will put even more pressure on our budget.

This is a budget that makes no sense. It makes no sense. I have never seen this town more disconnected from reality than we are with this budget.

This bill hurts companies, farmers, and workers, repeals the antidumping provision, eliminating assistance that benefits U.S. companies, farmers, and workers who have been targets of unfair and predatory trade practices.

I conclude as I began. This package does not make sense. When you put together all of the elements of reconciliation, it increases the deficit, it increases the debt at the very time the debt has already been dramatically increased, at the very time we are borrowing more and more money from abroad to float this boat, and this budget and this budget plan pushes us down the road to more deficits and more debt, and they have labeled it deficit reduction, but nothing could be more misleading.

This is a package, when you put it all together, that increases deficits and increases debt and at the worst possible time—before the baby boomers retire—and puts even further pressure on these fiscal imbalances that are leading us to borrow more and more money from all around the world.

At some point, we have to stop and we have to get on a firmer fiscal course. We have to restore fiscal discipline to our country.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. I ask the Senator from Maryland how much time he wishes to speak?

Mr. SARBANES. Five minutes, at most.

Mr. President, I first thank and commend the very able Senator from North Dakota for a very powerful presentation and also for his work, day in and day out, as the ranking member on the Democratic side on the Budget Committee. I don't think there is anyone in the Senate who understands the fiscal situation better or has a more perceptive analysis of what has happened than the very distinguished Senator from North Dakota. I thank him for his leadership on this issue.

I will be very brief. I simply want to say that this conference report before us is worse than what the Senate passed, significantly worse. It will cut crucial assistance to working families, to students, and to the elderly, amongst others. I think these cuts will move the Nation in the wrong direction. I particularly disagree with imposing these cuts on low- and moderate-income Americans, supposedly to bring our budget deficit under control but actually to make room to give tax cuts to very wealthy people.

The budget resolution provides for reconciliation protection for both the spending bill and a tax bill. So to see the impact of the reconciliation process, one has to take the two together. Although we only have the spending bill now, the tax bill will follow along as surely as the night follows the day.

The budget resolution requires almost $40 billion in spending cuts. The same budget resolution tells the committees to report tax cuts of $70 billion. So we have a reconciliation process supposedly intended to reduce the deficit—in fact, they call it the Deficit Reduction Act; where is George Orwell when we need him?—which, when both the spending bill and the tax bill are considered, is going to increase the deficit, not reduce the deficit.

So these spending cuts are being made not to address our budget deficit, they are being made to make room for tax cuts—the quote from the chairman of the House Ways and Means Committee was absolutely on point. This legislation is a clear example of a fiscal policy that places a higher priority on tax cuts than on funding needed services and reducing the deficit. This is clearly a misplaced priority, regrettably one that has characterized this administration.

We have seen this incredible swing in our fiscal position over the last 5 years. When President Bush came into office, we were projecting, over the next 10-year period, a surplus in the Federal budget of $5.6 trillion. Today, after a series of excessive tax cuts, we are projecting a deficit over 10 years of $4.5 trillion. This is a swing in our fiscal position of $10 trillion in the wrong direction, from a $5.6 trillion projected surplus to a $4.5 trillion projected deficit.

We are risking our fiscal future. We are targeting tax cuts to those who need them the least and we are cutting programs for those who need them the most.

This is an incredibly wrong set of priorities. I am very much opposed to this conference report, and I very much urge my colleagues to reject this conference report when it comes to a vote.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from New Hampshire.

Mr. GREGG. Mr. President, I want to respond briefly to a couple of the comments that were made, and then I think what we will do—I have talked with the Senator from North Dakota and he has been very accommodating—I think we will deem 2 hours off the bill equally divided as of this evening, which means he gives up 15 minutes and I give up 45 minutes. That is how negotiations are almost every time we get together.

A couple points were made. First, that the antidumping language was taken out. Actually, the antidumping language is still in the bill.

So that item of concern by the Senator from North Dakota has been addressed, and I would think that that would cause him to vote for the bill.

The second item was the issue of child support enforcement. Now, the House bill did have some initiatives in there which the Senate spoke on relative to a motion to instruct, and the final language came very close to the Senate position on child enforcement. In fact, essentially what the bill says is that we are not going to reduce the effort on child support again. What we are not going to allow States to do, however, is game the system where they take Federal funds, use those Federal funds, claim them to be State funds and then ask for a Federal match to Federal funds when they should be using State funds. That sounds a little confusing but the way it works is this: The State has to match $100 to get $1,000 from the Federal Government. What they will do is take $100 from the Federal Government—instead of coming up with $100 from the State, they will say they got their $100 from the Federal Government and they are going to claim it is a State $100 and then they are going to match and then they ask for another $1,000. Well, that is gaming the system and it is not appropriate. I think there is general agreement that that is bad policy.

In fact, what the bill does in the area of child support is increase child support under the current TANF laws. There is welfare reform in this bill, and it is pretty positive in the area of child support, in expanding child support. So I think that, again, there is positive child support language in here. Some of the language which was referred to is reflective of the way the original House bill was but is not reflective of the conference. The same is true for the foster care area. To the extent foster care is addressed, it is addressed in a very reasonable way, dealing with Federal-eligible children who are living with unlicensed relatives in another ineligible setting or who have not yet entered foster care. So basically, again, there is an issue of gaming the system by the States, but it does not impact—and in fact, again, this bill specifically addresses, in a positive way, the foster care issue.

So those three items were raised. There were a lot more which were raised, but those three items need to be addressed. More importantly, on a broader scale, this bill, rather than, in my opinion, impacting low-income individuals in a negative way, actually has a pretty positive impact on a lot of low-income accounts. As was mentioned earlier, there is a very large expansion of the Pell grant program for low-income students. There is a very large expansion of something called the SMART Program for low-income students who are going to participate in math and science. There is a significant expansion of Medicaid assistance. Over a million children will be picked up under this bill. The Medicaid proposals which are in this bill will basically protect the integrity of the system so that it can be expanded rather than be gamed by people who spend down inappropriately and basically pass their burdens on to the Federal taxpayer when they can actually afford some of the costs of their nursing home care, and it will give the State Governors much more flexibility.

That is why I believe it was the Governor of Virginia, Governor Warner, who came out strongly for the flexibility language and the spend-down language because, and I believe I am representing this correctly, he saw this as a positive step to be able to deliver more child care to more kids who are low income by having more flexibility and doing it with less of an increase in dollars.

Remember, we are not talking about cutting anything in Medicaid. Medicaid will spend $1.2 trillion during this 5-year window. It will grow at 40 percent. We are talking about a $5 billion cut on a $1.2 trillion base. Essentially, it does not even show up if one does a chart—because the lines are so close together—as being a significant reduction in the Medicaid accounts.

What is important about Medicaid is the policy that comes with that proposal, which policy specifically will give the Governors what they have asked for in a bipartisan way. They came to the Congress and said: This is what we would like to deliver this program more effectively to more people. This bill carries that type of language with it and that is the way we should approach this. So it is a good bill relative to low-income individuals, especially those on Medicaid and those wanting to go to college.

There are initiatives in here which will benefit those people and be positive. But it is also a good bill for all Americans. The idea that we are going to actually, if we pass this bill, reduce the debt by $40 billion is a pretty good idea. Most Americans would like to see the Federal debt go down, and they would like to see us do something to discipline Federal spending in some way, and this is not a dramatic way.

The Senator from North Dakota held up a chart to point out that it was not dramatic. He made our case for us. One cannot say all of these things are egregious and then hold up a chart that says there is $14 trillion of spending that is going to occur in the next 5 years and only $40 billion of cuts and look how small that cut is—it is not a cut but a reduction in rate of growth—compared to all the spending that is going on, so it is not relevant, and then turn around and say but the $40 billion is inappropriate because it does too much.

Well, it does not do too much. It is a step forward. It has some policy which will hopefully drive the outyears in a very positive way, give the Governors more flexibility in the Medicare area, do a number of things in a number of other accounts which will be positive. As a result, most importantly, we will have for the first time put not our toes but at least up to our ankles in the waters of trying to put some fiscal responsibility into the area of mandatory and entitlement spending, which is the single largest driver of our deficits and our outyear problems relative to being able to pay the cost of the Federal Government.

So I certainly hope we will pass this bill because it is the responsible thing to do in my view.

I ask unanimous consent that we deem 2 hours have been used on the bill and that those 2 hours would be equally divided between the parties.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Mr. President, I would like 1 minute to respond to two points that were made and then I would be happy to agree.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GREGG. I will reserve until the Senator has used his 1 minute, which I hope the Chair will discipline very precisely.

Mr. CONRAD. Mr. President, on the question of foster care, the bill includes $343 million in net cuts in foster care funding, including two cuts that will make it harder for some States to provide federally funded foster care benefits to certain grandparents who are raising their grandchildren. That is not the right priority for the country.

On the question of child support enforcement, the Congressional Budget Office estimates show the conference report includes $1.5 billion cut in Federal funding for child support enforcement efforts over the next 5 years. This is funding that States use to track down absent parents, establish legally enforceable child support orders and collect and distribute child support owed to families.

CBO has estimated that this loss in Federal child support funding will result in $2.9 billion in child support going uncollected over the next 5 years. These cuts are smaller than in the House bill. It will nevertheless take billions of dollars out of the pockets of mothers and children who are owed child support.

This report goes on to say the conference agreement also contains some modest improvements in child support but the cuts in Federal support for the program and the associated loss of child support collections far outweigh the very modest benefits that some families would see as a result of a few improvements.

I ask unanimous consent that this report from the Center on Budget and Policy priorities be printed in the RECORD after my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. GREGG. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. I reserve the right to object for another 30 seconds. On the Byrd antidumping proposal, the Senator is correct that the repeal is not immediate but the repeal is still in the bill. It is postponed by 2 years. So I say on these issues we have a difference of position. I think this goes in the wrong direction. I think it expresses the wrong priorities for the country. Most seriously to me the whole reconciliation package increases the deficit and increases the debt. We ought to be doing precisely the opposite.

EXHIBIT 1

[From the Center on Budget and Policy Priorities, Dec. 18, 2005]

BUDGET CONFERENCE AGREEMENT CONTAINS SUBSTANTIAL CUTS AIMED AT LOW-INCOME FAMILIES AND INDIVIDUALS

(By Edwin Park, Sharon Parrott, and Robert Greenstein)

Some are claiming that the conference agreement on the budget reconciliation bill is closer to the Senate-passed bill in the low-income area than to the House bill and does not harm low-income Americans to any significant degree. While some low-income cuts in the House bill have been dropped, the conference agreement contains numerous cuts in various low-income areas—including Medicaid—that are much closer to those in the House-passed bill than to the provisions of the Senate bill.

Taken as a whole, the provisions in the conference agreement would cause considerable hardship among low-income families and people who are elderly or have disabilities. This is due in no small part to action by the conferees to shield certain powerful special interests—principally pharmaceutical companies and the managed care industry—and to extract deeper savings from low-income families instead.

MEDICAID

The CBO estimates show that conference agreement retains the majority of the Medicaid cuts contained in the House-passed bill that directly affect low-income beneficiaries.

According to the preliminary estimates issued by the Congressional Budget Office (no legislative language is yet available), the reconciliation conference report achieves much of its Medicaid savings by retaining a number of provisions in the House-passed reconciliation bill that would require low-income Medicaid beneficiaries to pay more out-of-pocket for health care or reduce the health care services for which many beneficiaries are covered. The conference report forgoes the Senate reconciliation bill's more balanced approach: the Senate had avoided changes that would harm low-income beneficiaries by achieving larger savings in the area of Medicaid prescription drug pricing and by reducing excessive payments made to Medicare managed care plans. Key aspects of the Medicaid component of the conference report include the following:

Increases in co-payments and premiums. The conference report leaves largely intact the House-passed cuts that would allow states to increase substantially the co-payments that many Medicaid beneficiaries are required to pay to access health care services and medications, as well as the premiums they can be charged to enroll in Medicaid in the first place. The cuts in the cost-sharing area in the conference report (i.e., the cuts resulting from increases in co-payments and premiums) are 80 percent of the size of the House-passed cuts in this area over five years, and 90 percent the size of the House cuts over ten years. A large body of research has found—and CBO has concluded—that such cost-sharing increases are likely to lead many low-income Medicaid patients to forgo various health care services and medications or not to enroll in Medicaid at all.

Altogether, the conference report includes cuts related to co-payments and premiums that total $1.9 billion over five years and $10.1 billion over ten years (as compared to $2.4 billion over five years and $11.2 billion over ten years in the House-passed reconciliation bill). The Senate bill included no increases in co-payments and premiums.

Benefit reductions. The conference report retains about one-third of the House-passed cuts that, for many Medicaid beneficiaries, would eliminate the federal standards which assure that they receive comprehensive health care coverage. Under the House bill, many beneficiaries could lose access to various medically necessary services, possibly including therapy services, personal care, eyeglasses, hearing aids, and crutches. The conference agreement includes benefit cuts of $1.3 billion over five years and $6.3 billion over ten years from a scaling back of the health care benefits that Medicaid covers. (The House bill contained $4 billion in benefit cuts over five years and $18.5 billion over ten years. The Senate included no reductions in benefit coverage in its bill.)

Overly restrictive asset transfer rules for people who need nursing home care. The conference report appears both to adopt all of the provisions in the House-passed bill to restrict eligibility for Medicaid long-term care services and to contain additional provisions not included in the House bill that would yield further savings in this area. Under the conference agreement, the savings in this area would be 11 percent larger than under the House bill, and seven times larger than under the Senate bill.

Preventing more-affluent individuals from sheltering assets that could be used to pay for their long-term care is a laudable goal. The provisions in the conference agreement, however, appear to go well beyond that. For example, one provision of the House bill that appears to have been retained in the conference report would penalize many non-affluent individuals who make modest gifts to relatives or contributions to charity, and then experience an unexpected decline in their health several years later that causes them to need long-term care. The conference agreement includes Medicaid reductions in this area of $2.4 billion over five years and $6.4 billion over ten years (higher than the $2.2 billion over five years and $5.8 billion over ten years in the House-passed bill). The Senate's more targeted and carefully designed provisions in this area would have produced savings of $335 million over five years and $890 million over ten years.

The conference report's health care provisions also move toward the House bill in another respect: they cater to powerful special interests—in particular, the pharmaceutical and managed care industries—at the expense of low-income beneficiaries.

No increase in drug manufacturer rebates. The Senate bill avoided harmful co-payment and premium increases and benefit reductions in part because it achieved much of its Medicaid savings by restraining the amounts that Medicaid pays for prescription drugs. To ensure that Medicaid gets the best prescription drug prices, the Senate bill increased the minimum rebates that drug manufacturers are required to pay the Medicaid program for drugs dispensed to Medicaid beneficiaries. The Senate bill also applied the rebates to drugs provided to Medicaid beneficiaries through managed care plans. The Senate drug rebate provisions produced Medicaid savings of $3.9 billion over five years and $10.5 billion over ten years, which helped the Senate reach its savings target without harming low-income beneficiaries.

In a victory for the powerful pharmaceutical industry, the conference agreement fails to include the Senate's significant rebate provisions. The conference agreement includes only two minor provisions related to drug rebates already included in both the House-passed and Senate-passed bills; these provisions generate savings of only $220 million over five years and $720 million over ten years.

No elimination of the Medicare stabilization fund. The conference report also protects Medicare managed care plans. It drops a Senate provision that would have eliminated a wasteful $10 billion slush fund to encourage participation in Medicare by regional Preferred Provider Organizations (PPOs). The Medicare Payment Advisory Commission (MedPAC)—the official, independent advisory body to Congress on Medicare payment policy—recommended this summer, in a nearly unanimous vote, that this fund be eliminated because it is unnecessary and unwarranted and provides an unfair competitive advantage to PPOs over traditional Medicare fee-for-service and other managed care plans such as Medicare HMOs. Nevertheless, the conference agreement leaves this fund fully intact, forgoing $5.4 billion in savings over five years (and twice that over ten years) that were contained in the Senate bill. The removal of this Senate provision likely was done at the behest of the managed care industry and the Administration, which threatened to veto the budget bill if the Senate provision was included in the final conference agreement.

Partially gutting another provision to curb overpayments to managed care plans. There is near-universal agreement among analysts that the current Medicare payment structure provides excessive payments to managed care plans, and the Administration announced earlier this year that it would act administratively to eliminate a feature of the payment formula that is responsible for a significant volume of excessive payments. MedPAC endorsed the Administration's action, and the Senate reconciliation bill wrote the Administration's planned administrative action into law, for a savings of $6.5 billion over five years and $26 billion over ten years, according to CBO. Under the conference agreement, however, the ten-year savings have been lowered from $26 billion to $4.1 billion, according to the CBO estimates. While the conference report language is not yet available, it appears that the conference agreement is written so the part of the Medicare payment formula that would be reformed would revert to its current, problematic status after five years, and after that time, managed care plans would again receive the overpayments this provision is supposed to curb.

In short, in place of the Senate's reasonable savings from eliminating the wasteful Medicare stabilization fund and lowering the prices that Medicaid pays pharmaceutical companies for prescription drugs, the conference agreement includes a hefty share of the House Medicaid provisions on cost-sharing and benefits, which the research indicates are likely to reduce the affordability and accessibility of health care for large numbers of low-income patients.

LOW-INCOME PROGRAMS OUTSIDE THE HEALTH AREA

The Senate reconciliation bill did not include cuts in any low-income program other than Medicaid, and did not seek to rewrite the welfare rules in a reconciliation bill. The conference agreement, by contrast, includes sizeable cuts in child support enforcement, SSI, and foster care, as well as highly controversial TANF provisions that would impose expensive, unfunded work requirements on states and result in the loss of child care for many low-income working families not receiving TANF cash assistance.

1. Child Support Enforcement: The CBO estimates show that the conference report includes a $1.5 billion cut in federal funding for child support enforcement efforts over the next five years and a $4.9 billion cut over the next ten years. This is funding that states use to track down absent parents, establish legally enforceable child support orders, and collect and distribute child support owed to families. CBO has estimated that this loss in federal child support funding will result in $2.9 billion in child support going uncollected over the next five years, and $8.4 billion going uncollected over the next ten years. These cuts are smaller than those in the House bill, but will nevertheless take billions of dollars out of the pockets of mothers and children who are owed child support. (The conference agreement also contains some modest improvements in the child support program. The cuts in federal support for the program and the associated loss of child support collections, however, far outweigh the very modest benefits that some families would see as a result of a few improvements in other child support provisions.)

2. TANF: Despite representing the largest change in welfare policy since 1996, the nature of the TANF provisions in the conference report has been a closely guarded secret. CBO analyses show, however, that the conference agreement would impose very expensive new work requirements on states. Moreover, in a major change in policy that goes well beyond anything in any prior TANF bill, including the House budget reconciliation bill, the conference agreement would remove from states the flexibility they now have to apply different types of work-related requirements to people receiving assistance funded entirely with state "maintenance of effort" funds. (These are state funds that a state must expend to draw down federal TANF funds.)

CBO estimates that if states attempt to meet the work requirements in the conference agreement by placing more parents in welfare-to-work programs (rather than by reducing the number of poor families receiving assistance at all), the cost to states would be $8.4 billion over the next five years, which is slightly more than the cost would have been under the House reconciliation bill. CBO projects that some states would not meet the new mandates and would face fiscal penalties as a consequence.

It is widely known that there was a concerted effort in the conference to redesign the House bill's work requirements so that the Congressional Budget Office would conclude that some states would not be able to meet the requirements and thus would be subject to fiscal penalties. This was purposefully done to get around the "Byrd rule," a procedural rule that generally prohibits the inclusion in a reconciliation bill of changes in policy that do not significantly reduce or increase federal costs or revenues. The goal here appears to have been to secure an estimate from CBO that the changes in the work requirements would, in fact, save money for the federal Treasury and to do so by making the new requirements sufficiently unrealistic that some states would not be able to meet them. (It remains unclear whether the TANF work provisions in the conference agreement succeed in meeting the Byrd rule test.)

3. Child Care: The conference report includes $1 billion in additional funding for child care, which is $7.4 billion less than CBO estimates to be the cost to states of meeting the new work requirements, and more than $11 billion less than what states will need both to meet the new work requirements and to ensure that their current child care programs for low-income working families not on TANF do not have to be scaled back as a result of the impact of inflation on child care costs. This means the conference agreement includes no new funding for states to help meet the intensified work requirements that will be imposed upon them or to provide child care for children whose parents will newly be placed in work programs.

To come up with the funds to meet the new work requirements and provide child care for the children of mothers placed in these excluded work programs, many states will have little alternative but to scale back child care slots for working poor families not on welfare and shift those slots to TANF families instead. As a result of the under-funding of child care in the conference agreement, we estimate that by 2010, some 255,000 fewer children in low-income working families not on TANF will receive child care assistance than received such assistance in 2004.

The $1 billion in child care funding in the conference agreement is higher than the $500 million in the House-passed bill. It is $5 billion lower, however, than the amount included for child care in the bipartisan TANF legislation approved by the Senate Finance Committee earlier this year.

4. SSI: Under the conference agreement, poor individuals with disabilities who have waited months for the Social Security Administration to review and approve their applications for SSI (a common occurrence in SSI), and consequently are owed more than three months of back benefits, would have to receive these benefits in installments that could stretch out over the course of a year.

The first installment would include no more than three months of back benefits. By contrast, under current law, most such disabled individuals receive their back benefits in a single lump sum payment. Individuals owed more than 12 months' worth of benefits receive benefits in installments, but the first installment is equal to 12 months of benefits.

This provision of the conference agreement means many poor SSI recipients with disabilities would have to wait longer for benefits they are owed, making it more difficult for them to pay off arrears in bills that have built up during the period when they were unable to work due to their disability and were not receiving monthly SSI benefits because SSA was still processing their application. Under the conference agreement, some poor individuals with disabilities could die before receiving the full back benefits they are owed. (With two minor exceptions, if a person dies before being paid SSI benefits they are owed, the SSI benefits are not paid to the person's relatives or estate. These back benefits are not even available to help family members pay for funeral costs.)

This SSI provision is largely a budget gimmick: it would make most of the affected beneficiaries wait longer for the benefits they are owed, thereby shifting costs from one year to the next and providing savings in the five-year budget "window." (Some "true" savings apparently would be achieved, as well, as a result of some individuals dying before receiving the back benefits they are owed.) CBO estimates the savings from this provision at $425 million over five years. This is an example of a budget gimmick with a real human cost, since many impoverished individuals with disabilities will face a more difficult time making ends meet as a result of the delays they will be forced to experience in receiving SSI payments that they are owed.

5. Foster Care: The bill includes $343 million in net cuts in foster care funding, including two cuts that will make it harder for some states to provide federally funded foster care benefits to certain grandparents who are raising their grandchildren.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor. He repeats his unanimous consent request. Without objection, it is so ordered.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON. Mr. President, I express my concerns about the fiscal year 2006 Budget Reconciliation Conference Report currently pending in the Senate. I intend to vote against the conference report because I believe it sets the wrong budget priorities for our nation.

This omnibus spending reduction bill mandates a five-year spending cut of $39.7 billion. The vast majority of the cuts enacted as a consequence of this conference report will impact poor and middle-class Americans.

While the budget reconciliation pulls out all the stops to protect the interests of insurance companies and drug manufacturers, the package makes several changes to the Medicaid program that will have a devastating impact on the health of the most vulnerable individuals in South Dakota. Low-income Medicaid recipients will see cuts in health coverage while at the same time facing increased cost-sharing through the program. Increased copayments and premiums for our poorest citizens will likely mean that many individuals will forgo necessary care until emergency services are needed, costing our health system a great deal more in the long run.

The bill also establishes very strict asset rules for seniors applying for Medicaid coverage for their nursing home care. While some adjustments to the asset tests are needed, this package goes too far and will negatively impact many average to low income earners in their final years. Finally, the payment methodology changes proposed for pharmacies are shortsighted and will reduce access to Medicaid coverage in the future. The conference package reduces reimbursements paid to pharmacies for generic drugs by approximately 40 percent by 2007. Under those circumstances, community pharmacies will have a hard time making ends meet and will lose the incentive to provide this service entirely.

I have recently received a letter signed by 142 national organizations expressing their concerns about the Medicaid provisions in this conference report. They understand the devastating impact these health care cuts will have on the poor and elderly.

The conference report also slashes funding for vital farm programs. In fact, commodity programs face the brunt of the agriculture cuts in the bill, and will be reduced by $1.7 billion over the next 5 years. In addition, the conference report cuts $934 million from conservation programs, $620 million from research, and $400 million from rural development programs.

The farm bill that was signed into law by President Bush represented a contract with rural America. Farmers have based their own financial decisions on the provisions and funding that were promised in that bill. To now make changes to the farm bill by enacting steep cuts to commodity and conservation programs undermines our family farmers and ranchers and demonstrates the administration's lack of commitment to rural economic development.

This conference report also contains $12.7 billion in cuts to the federal student loan program. Unfortunately, this marks the largest cut to student financial aid programs in history. While the legislation does contain funding for the creation of the new Academic Competitiveness Grants and the National Science and Mathematics Access to Retain Talent Grants, National SMART Grants, the Senate-passed budget reconciliation legislation contained more than $8 billion in new need-based assistance to supplement Pell Grants.

The Academic Competitiveness Grants Program would limit aid to a small subset of financially eligible students that completed a rigorous secondary school program to be defined by the Secretary of Education. I support students taking a rigorous high school curriculum, but this would be the first time the Federal Government links need-based financial aid to the academic curriculum available to a student.

The National SMART Grants Program would limit aid to only those students choosing to major in math, science, technology, engineering, computer science, or high-need foreign language. While we all want more students to study math and sciences, we also need to find additional need-based aid for students that choose other important academic fields.

Finally, this will be the fourth year in a row that Congress has failed to increase the maximum Pell Grant award from $4,050.

The Republican leadership has argued that these cuts are a necessary step toward restoring fiscal discipline. However, when these cuts are paired with the tax reconciliation bill, they will actually cause an increase in the national debt. Leaders in Congress have made it clear that after the completion of the omnibus spending bill, Congress will consider the extension of investment tax breaks geared disproportionately toward the super rich with incomes in excess of $200,000 annually. Correspondingly, the estimated cost from these tax cuts to the Treasury and the American public far outweigh the savings forecast from the omnibus spending bill. A key intent of the reconciliation process is to reign in the governmental spending or to move through the Congress changes to mandatory domestic programs.

The majority intends to pervert this process by using the omnibus spending bill as a device to free up room in the budget for costly tax cuts primarily geared toward the wealthiest two percent of taxpayers. The end result is that future generations will be saddled with higher borrowing costs and lower economic growth in order to pay off the national debt charges run up by the fiscally irresponsible tax cuts pushed by this Congress. This vote is not for fiscal discipline and reduced deficits. Instead, those pushing through today's spending cut bill are doing so to make room for further tax cuts and billions more to the national debt.

Mr. President, I recognize we must get our fiscal house in order. However, I do not believe that budget cuts should come at the expense of ordinary people and struggling family farmers when huge agribusinesses continue to reap millions without effective payment caps in place, and tax cuts for multimillionaires are being preserved. The priorities set forth in this conference report are wrong; I will vote against the conference report and urge my colleagues to do the same.

COLONEL NORM VAUGHAN

Mr. STEVENS. Mr. President, I rise in tribute to COL Norm Vaughan who accompanied ADM Richard Byrd to Antarctica. He celebrates his 100th birthday today. The Anchorage Daily News has printed an article by Carol Phillips talking about Vaughan as a great man and good friend. I ask unanimous consent to print the article in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Anchorage Daily News, Dec. 19, 2005]

VAUGHAN IS A GREAT MAN, GOOD FRIEND

(By Carol A. Phillips)

On a February day in 1964, I hurried down to the main street of my little town where the annual sled dog race was about to start. Excited about this sporting event that had always intrigued me, I lingered near the starting line as the racers made last-minute preparations and the dogs leaped and yelped their impatience to hit the trail.

Suddenly I head a voice in an accent that was music to my ears—a Bostonian here in Interior Alaska. Having emigrated recently from Maine, I was compelled to trace the source of that unmistakable accent. That was the day I met Col. Norman Vaughan, then a young 58, who was working as a handler for a New Hampshire racer. That meeting was the beginning of a beautiful friendship.

The achievements of Vaughan's extraordinary career are familiar to his legion of friends. He returned in the mid-1970s to make his home here and became such a legend in his own time that it's hard to realize he has not always been an Alaskan.

His adventures and accomplishments are diverse. He played an essential role as dog handler on the 1927 Byrd Antarctic expedition; served with distinction in the military; airlifted supplies to Dr. Wilfred Grenfell's Labrador mission; coordinated the rescue of 25 airmen stranded on the Greenland icecap; retrieved the top-secret Norden bombsight so critical-to the United States during World War II; ran in several Iditarod races; spearheaded the effort to resurrect World War II P-38s interred in Greenland's ice; drove a team of huskies in President Reagan's inaugural parade in Washington, D.C.; gave Pope John Paul II a lesson in dog mushing during the pontiff's 1981 visit to Anchorage; initiated the annual re-enactment of the 1925 Nenana-to-Nome serum run; wrote a couple of books; and ascended 10,302-foot Mount Vaughan, named for him by Adm. Richard Byrd.

Even more memorable to me are some personal experiences involving Vaughan. When my family was vacationing on a Maine island in 1966, Norman drove up from his Massachusetts home to visit us, enthralling my children with a fascinating repertoire of stories and a supply of his famous homemade root beer. When he first lived in Anchorage he walked from his tiny downtown apartment to and from his night-shift janitorial job at the university, with never a complaint.

Through his friendship with the Dr. Schultz band, I came to know those talented musicians who brightened the Anchorage scene in the late 1970s. When Joe Redington Sr. sold one-square-foot parcels of his Knik land to raise money for the creation of the now world-famous Iditarod race, Norman presented each of my four children with a landowner's deed, prompting my youngest to observe that if they pooled the deeds, "we could build a very small but very tall house."

Recently, one of my young grandsons, having seen Norman in a TV ad, was awestruck to learn that I knew Norman personally. He was further awed when I took him to visit the Vaughan home, where Norman talked with him not about his own accomplishments but about the child's interests, experiences and ambitions, encouraging him to pursue his special dreams.

Today, Col. Vaughan attains another remarkable goal—his 100th birthday. During that century he has enjoyed more spectacular adventures and significant achievements than the average person can imagine or aspire to. He had hoped to spend his 100th birthday atop his eponymous mountain in Antarctica, a lofty goal which could not be realized. It is said that when he was advised that the trip was not going to happen, his typically positive response was, "Oh well, just not this year."

It is a privilege to call this great, good man my friend. Happy birthday, Norman!

CLIMATE CHANGE NEGOTIATIONS AND IMPACTS

Mr. REID. Mr. President, with a sense of continued disappointment and dismay I read accounts of the administration's performance at the recent international climate change meetings in Montreal, Canada.

The President has been crystal clear in his complete rejection of the Kyoto Protocol treaty that all other major industrialized nations have signed, except the United States and Australia. Yet he has regularly failed to put forward a constructive alternative that will ever result in stabilizing greenhouse gas concentrations in the atmosphere. Worse, his negotiators have disrupted other nations' efforts to begin binding discussions for the post-Kyoto Protocol period.

This is not and cannot be a partisan issue. But the President's stubborn insistence on ignoring credible science and his administration's efforts to water down clear scientific evidence of manmade global warming has hobbled many Republicans' ability to act sensibly on this matter.

We have a moral obligation to take on our enormous share of responsibility for this global problem before it is too late. Ignoring the problem is madness and a luxury we do not have the time for. The scientific data continues to flow in and none of it is good.

I urge my colleagues not to fall for the temptation of the administration's voluntary "technology-only" strategy. That will fail to produce any significant reductions in the timeframe necessary. There is abundant cause for concern and for faster action.

I ask unanimous consent to print in the RECORD some of the most recent scientific information on the potential impacts of global warming on Nevada and the West, as well as the rest of the country and the world.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Potential Climate Changes Impact on Nevada:

The Scripps Institution of Oceanography found, and their findings were subsequently published in Nature that, "The warming trend already is showing effects in California's Sierra Nevada snow pack, the region's main water source. Climate models suggest average temperatures in the West will be about 1 to 3 degrees warmer by 2050 than at present. Even though total precipitation isn't expected to change by much, because of the higher temperatures more of it will come as rain rather than snow. At the same time, the spring runoff will come about one month earlier in the year." (San Francisco Chronicle, November 17, 2005—Global warming study forecasts more water shortages: Climate change already affecting Sierra snowpack.)

The National Weather Service ominously reported that "in a year of record highs across northern Nevada, conditions are on pace for this October (2005) to be the hottest on record, said Gary Barbato of the National Weather Service. During 2003, average temperatures for the months of January, June and July were all the hottest since records began in 1888, with September 2003 and September 2001 tied for the warmest average." (Reno Gazette Journal, October 21, 2003—Climate experts study global warming's impact on water supplies.)

Nevada has been blessed with a rich natural heritage. "Nevada is home to an incredible diversity of native wildlife species, including 299 birds, 123 mammals, 48 fish, 52 reptiles and 13 amphibians. Rising temperatures in the state though will likely change the makeup of entire ecosystems, forcing wildlife to shift their ranges or adapt. Loss of wildlife and habitat could mean a loss of tourism dollars. In 2001 alone, more than 657,000 people spent more than $680 million on hunting, fishing and wildlife viewing in Nevada, which in turn created more than 9,400 jobs in the state." (ESPN Outdoors, March 15, 2005—Hunters give big bucks to local economies: Pursuers of game big and small can tip the financial scale from red to black in small communities, and it underscores the fact that the sport is expensive.)

One animal that is already being impacted by climate change in Nevada is the pika. According to researchers, between the 1940s and the 1990s, six of 25 pika populations throughout the Western states disappeared, largely because of rising temperatures. When the same sites were visited again between 2003 and 2005, a research biologist found that two more pika populations had winked out of existence in that ten year period. (High Country News, October 17, 2005—In the Great Basin, scientists track global warming.).

Fire climatology—Collaborative studies involving the Desert Research Institute show that changes in relative humidity, especially drying over much of the West, are projected to increase the number of days of high fire danger by as much as 2-3 weeks throughout the Great Basin during this century.

Flood magnitude and frequency—A Desert Research Institute scientist has shown that increased sea surface temperatures in the Gulf of Mexico affect the timing of the onset of the North American monsoon, with important implications for the magnitude and frequency of heavy rainfall (and flooding) in southern Nevada.

Scientists from the Desert Research Institute, and the University of Nevada at Reno and at Las Vegas have been conducting controlled field and laboratory experiments on the effects of increased CO_2 on ecosystems, the carbon cycle, and stability of desert soils in the Mojave Desert of southern Nevada. Initial results show that elevated CO_2 has the potential to increase the productivity of invasive grasses (e.g., cheat grass) and thereby accelerate the fire cycle and reduce biodiversity in the Great Basin.

Potential Climate Change Impacts on the West:

The Pacific Northwest National Laboratory released a scientific report last February which showed "from 1950 to 1997, in Oregon, western Washington and northern California, snow pack shrank by 50 to 75 percent. Decreases in the northern Rockies during that period ranged between 15 and 30 percent. The reduction in Western mountain snow cover, from the Sierra Nevada range that feeds California in the south to the snowcapped volcanic peaks of the Cascades in the Pacific Northwest, will lead to increased fall and winter flooding, severe spring and summer drought that will play havoc with the West's agriculture, fisheries and hydropower industry." (Pacific Northwest National Laboratory, February 16, 2004—Global warming to squeeze Western mountains dry by 2050.)

At a 2004 gathering by the American Association for the Advancement of Science in Seattle, the University of Washington's Climate Impacts Group detailed that "Northwest temperatures will increase by about 3 to 6 degrees Fahrenheit by the 2040s, and the Cascades snowpack will decline by 59 percent by 2050." (AP, February 17, 2004—Warmer weather spells trouble for Northwest.)

The United States Environmental Protection Agency's website has documented how global warming and climate change are diminishing the beauty of Glacier National Park. "Today, the park's largest glaciers are only about a third of the size they were in 1850, and many small mountain glaciers have disappeared completely during the past 150 years. The area of the park covered by glaciers declined by 73 percent from 1850–1993." (United States Environmental Protection Agency, August 13, 2001—Global Warming Impacts: Western Mountains.)

In 2004, a study was published in the magazine titled Conservation Biology about the severe impacts that climate change could have on the wildfire season in Montana. "Of all the Western states, Montana's wildfire season could be most affected by the warmer temperatures associated with global climate change", according to a new report. Published in Conservation Biology magazine, the research suggests the acreage burned each summer in Montana could increase five-fold by the end of the century. Overall, the area burned by wildfires in 11 Western states could double by 2100 if the summertime climate warms by 1.6 degrees, the scientists said. (The Missoulian, September 1, 2004—Report details global warming's role in wildfire risk.)

Potential Climate Change Impacts on the Nation and the World:

The Division of Geological and Planetary Science at the California Institute of Technology, the Department of Geological Sciences at the University of Michigan, and the Department of Geology at the Occidental College recently collaborated to publish an article about Glacial Erosion. The article, which was published in the December issue of Science, found that "levels of carbon dioxide (CO_2), the principal gas that drives global warming, are now 27 pct higher than at any point in the last 650,000 years, according to research into Antarctic ice cores." (Forbes, November 24, 2005—Carbon dioxide levels highest for 650,000 years.)

On November 29, 2005, the European Environment Agency warned that "at current global warming rates, three-quarters of Switzerland's glaciers will have melted by 2050. Ten percent of Alpine glaciers disappeared during the summer of 2003." (Associated Press, November 29, 2005—Global warming set to hit Europe badly: environment agency.)

At a recent meeting (2005) of the American Geophysical Union, scientists described how "climate warming is most likely to blame for the alarmingly fast retreat of two of Greenland's largest glaciers. One of the Greenland glaciers, Kangerdlugssuaq, is currently moving at about nine miles a year compared to three miles a year in 2001, said Gordon Hamilton of the University of Maine's Climate Change Institute. The other glacier, Helheim, is speeding at about seven miles a year—up from four miles a year during the same period." In addition, "Alaska's Columbia Glacier—about the size of Los Angeles—has shrunk nine miles since the 1980s. It is expected to lose an additional nine miles in the next 15 to 20 years. (The San Jose Mercury News, December 8, 2005—Scientists: Greenland glaciers pick up speed because of warming.)

The academic journal Nature has published a scientific study indicating that the "system of circulating water currents that moderates northern Europe's weather is 30 percent slower than it was nearly 50 years ago. The slowdown is due in part to the water's declining salinity caused by the addition of less dense freshwater from melting Arctic sea ice and glaciers." Harry Bryden, an oceanography professor at Britain's University of Southampton and the paper's lead author said that "the slowing is in line with computer models that suggest that Earth's warming climate could weaken and eventually halt the conveyor belt circulation altogether, causing northern Europe to become as much as 11 degrees Fahrenheit cooler in a matter of decades." (Contra Costa Times, December 1, 2005—Scientists find ocean-current changes.)

The National Oceanic and Atmospheric Administration recorded a record twenty six named storms formed during the 2005 Atlantic hurricane season easily surpassing the previous record of twenty one in 1933. A record for the most category-five hurricanes, three, with Katrina, Rita and Wilma was also set. (CNN, November 30, 2005—It's official: 2005 hurricanes blew records away.)

CONGRESSIONAL BUDGET ACT COMPLIANCE

Mr. GREGG. Mr. President, pursuant to section 313(c) of the Congressional Budget Act of 1974, I submit for the RECORD a list of material in the conference agreement on S. 1932 considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of section 313. The inclusion or exclusion of material on the following list does not constitute a determination of extraneousness by the Presiding Officer of the Senate.

To the best of my knowledge, S. 1932, the Deficit Reduction Act of 2005, contains no material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of section 313 of the Congressional Budget Act of 1974.

HONORING SENATOR JON CORZINE

Mr. BAYH. Mr. President, I rise today to pay tribute to one of our most remarkable members, Senator JON CORZINE, who leaves us this year to continue his work on behalf of the people of New Jersey in a new capacity. Experience and leadership qualities like his are rare, and with them, he has set himself apart as a champion of the environment, a safe homeland, affordable health care, and working men and women everywhere.

After managing one of the most successful businesses in the world, JON arrived in the Senate five years ago with the negotiating skills and leadership experience that allowed him to succeed so admirably here. Most notably, JON came to Washington with an unusual and important perspective. He understands the bottom line. He understands that it is not right for our children to inherit our unpaid bills and that we have a responsibility to ensure that we leave them a safer, more secure and more compassionate America.

In pursuit of these goals and never shying from a challenge, JON CORZINE was a leader in the fight to protect Social Security from privatization and helped lead the charge to secure our chemical facilities from terrorist attacks.

However, while tackling those critical national challenges, it was obvious that his heart was with New Jersey. Over the past 6 years, JON fought hard to improve the quality of life for all of the people of his State by investing in the local economy and protecting New Jersey's natural resources.

Last month, New Jersey residents showed their gratitude and admiration for JON's service and elected him Governor of their State. With their votes, they showed that they believed in JON's quest to make New Jersey one of the best places to live, work and raise a family. As a former Governor, I know the challenges and the rewards of running a State. And from working with JON in the Senate, I know that he will help move New Jersey forward and will make sure that the State government provides people with value for their hard-earned tax dollars, while respecting the values that unite us all.

Today, the Senate loses a valued colleague. However, today, New Jersey gains a great Governor.

JON, we will miss you. Susan joins me in wishing you all the best in the future. New Jersey is lucky to have you.

Mr. NELSON of Florida. Mr. President, I rise today to congratulate my good friend, Senator JON CORZINE, on his election to the governorship of New Jersey. The Senator from New Jersey and I joined this body in the same year, 2001, and in that time, he has worked for New Jersey and the country with skill and determination.

He is a man who believes in security, whether it is securing our homeland, securing our financial future or securing our world from genocide.

Senator CORZINE recognized the deadly risk posed by lackluster protection of our Nation's chemical plants. As we debated this year's Homeland Security appropriations bill, his amendment let everyone know that we must take steps to protect against a terrorist attack on chemical facilities within the United States.

He has doggedly fought for retirement security for all Americans, helping to protect Social Security from deep benefit cuts and preventing a substantial increase in the national debt. Senator CORZINE knows that we made a promise to our seniors that they can retire with safety and dignity, and he is helping to keep that promise.

By introducing the Sudan Accountability Act, Senator CORZINE put this body on record that we cannot allow the genocide in Darfur to continue. Hundreds of thousands are already dead, and millions have been displaced by the atrocities in Sudan. He has helped push for sanctions against those committing these crimes and to put money into our efforts to stop them.

Over the past 5 years, I have had the pleasure of working closely with Senator CORZINE on important issues.

We recognized a gaping hole in benefits provided to widows of our servicemembers, and he joined me in introducing the Military Retiree Survivor Benefit Equity Act. The bill has attracted bipartisan support based on its fundamental fairness and because it is the right thing to do for America's military retirees and their survivors.

Florida and New Jersey both have beautiful shorelines that serve important economic needs for our States, and Senator CORZINE has helped me in the fight to protect these shorelines from the devastation of oil drilling. I look forward to continuing this fight with his successor, Congressman MENENDEZ.

I expect that as Governor of New Jersey, he will take with him to Trenton the same passion to protect our homeland, to protect our environment, and to protect our future that he had here in the Senate. I thank him for his service in Washington, DC, I congratulate him on his victory, and I wish him well as he continues his service for the people of New Jersey.

Mr. LIEBERMAN. Mr. President, it is my honor today to pay tribute and bid a fond farewell to my colleague and friend Senator JON S. CORZINE of New Jersey. Senator CORZINE, as we know, will be leaving the Senate next month to serve as New Jersey's Governor, and before he leaves us to begin what I can only be certain will be a wildly successful and innovative tenure as New Jersey's chief executive, I thought it appropriate to take the time to celebrate not only Mr. CORZINE's fine service in the Senate, but his inspiring life story as well.

In many ways, JON CORZINE's life is an example of the American dream fulfilled. Mr. CORZINE was born on New Year's Day, 1947, and grew up on his family's farm in Willey's Station, IL. His father ran the farm and sold insurance; his mother was a public school teacher. Through his own hard work and that of his family, Mr. CORZINE attended the University of Illinois at Urbana-Champaign, where he graduated Phi Beta Kappa in 1969. After graduating college, Mr. CORZINE served his country by enlisting in the U.S. Marine Corps Reserves, and he continued in the Reserves until 1975, rising to the rank of sergeant in his infantry unit.

After Senator CORZINE's active duty was up, he began what would become a long and successful career in the finance sector. His first job was with the Continental Illinois National Bank in Chicago, where he worked as a portfolio analyst. At the same time, Mr. CORZINE began taking night classes at the University of Chicago's Graduate School of Business, where he received his MBA in 1973.

In 1975, after working briefly at a regional bank in Ohio, Mr. CORZINE was recruited to go to work for the New York investment firm Goldman Sachs as a bond trader, beginning what would be a meteoritic rise through the company's ranks. After only 5 years, Mr. CORZINE was named a partner in the firm. In 1994, Mr. CORZINE became both the firm's chairman and chief executive officer.

But the story doesn't end there for Mr. CORZINE had a very successful tenure at the helm of Goldman Sachs. When he took over in 1994, the proud and respected firm was in a period of some decline. But Mr. CORZINE and his team turned the company's fortunes upwards. During his 5 years as chief executive, Mr. CORZINE also oversaw the firm's successful transition from a private partnership to a public company.

While serving as chief executive, Mr. CORZINE also demonstrated a passion for public service. Under his leadership, Goldman Sachs was a strong corporate citizen, expanding its community outreach and philanthropic programs. Mr. CORZINE also chaired a Presidential commission that studied how capital budgeting could be used to increase Federal investment in education.

It is this commitment to public service that I saw JON CORZINE bring to his work in the Senate every day. Elected in 2000 by the people of New Jersey, Senator CORZINE has been a tireless advocate for corporate accountability, helping coauthor the Sarbanes-Oxley Act, and has worked to protect our environment, where he has been a steadfast ally in the fights to prevent drilling in the Arctic National Wildlife Refuge and to tackle climate change. On the international front, Senator CORZINE has sponsored the Darfur Accountability act, an act I am proud to cosponsor, which seeks to address the terrible genocide currently occurring in the Darfur region of Sudan.

What I will remember most about Senator CORZINE's tenure is his commitment to strengthening our Nation's Homeland Security. Having worked with Senator CORZINE on several homeland security issues, I know firsthand that he was determined to do everything in his power to protect the American people from another terrorist attack. Senator CORZINE and I worked together in passing legislation that created the 9/11 Commission, whose service to the American people we are all well aware of. In addition, Senator CORZINE has been a leader in legislative efforts to increase security at our Nation's chemical plants, which remain vulnerable to attack. Senator CORZINE crafted strong legislation aimed at protecting these facilities, and I remain hopeful that Congress will act on this area of great vulnerability. I will continue to be inspired by the dedication Senator CORZINE applied to this critical issue.

Let me end my statement by taking the time to thank JON CORZINE, for his service in the Senate. I wish him, his daughter Jennifer, and his two sons, Josh and Jeffrey, nothing but the best for the future, and I look forward to seeing the fine things I know he will continue to do for the people of New Jersey, now as their Governor. Once again, thank you, JON CORZINE.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

Thomas Stockwell is a 21-year-old gay man. On February 25, 2005, he was walking near his home on the Chapel Hill Campus of the University of North Carolina. For no other reason than being gay, Stockwell was attacked and beaten by a group of six men. Reports account that the group of men made sexually derogatory comments while they repeatedly punched Stockwell in the face, eventually breaking his nose.

The Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.

RESPONSE TO HURRICANES KATRINA AND RITA

Mrs. LINCOLN. Mr. President, I rise today to pay tribute to the outstanding work of antihunger leaders, volunteers, and organizations throughout the gulf coast region and the Nation who have risen to the occasion and provided much needed food, support, and basic services to victims of Hurricanes Katrina and Rita. As we approach the holiday season, I want to take the opportunity to help raise awareness about the challenges the charitable food industry have met in the wake of the hurricanes as well as the increased demands on their services and food supplies.

I want to focus my remarks on food rescue and food bank organizations and antihunger advocates operating in my home State of Arkansas. I also want to highlight the amazing work done by America's Second Harvest, A2H, and its national network of food banks to bring food relief to the thousands of our fellow citizens suffering from the devastation wrought by the gulf region hurricanes.

Arkansas is fortunate to have a strong network of antihunger, food rescue, and food bank organizations that tirelessly work to feed hungry Arkansans. This dynamic network includes six A2H affiliates located across Arkansas which include the Foodbank of North Central Arkansas, Harvest Texarkana, Food Bank of Northeast Arkansas, River Valley Regional Food Bank, Arkansas Foodbank Network, and the Ozark Food Bank. Other essential partners in the network include the Arkansas Rice Depot, Potluck, Inc., Heifer International, Winrock International, local food pantries, homeless shelters, church soup kitchens, faith-based antihunger programs and advocacy groups such as the Arkansas Hunger Coalition, Arkansas Community Action Agencies, Arkansas Hunger Relief Alliance, Arkansas Advocates for Children and Families and the Interfaith Network.

I am proud of the many volunteers, employees, and financial contributors of these organizations and programs. Their commitments to feed the hungry and serve the poor is making a great difference in Arkansas for our citizens and for the thousands of hurricane victims who sought shelter in Arkansas after the hurricanes and for many that still remain.

I am also proud of America's Second Harvest national leadership to organize its network of food banks to respond to the disaster area along the gulf coast region. Within hours of Hurricane Katrina's landfall in the gulf coast, A2H food banks from around the Nation began sending truckloads of food and water to the affected areas. Volunteers and staff from the network also were dispatched to the gulf region to help with relief efforts and provide support to the food banks and food rescue organizations trying to operate in areas where many of the local food distribution agencies had been wiped out.

A2H immediately began to raise funds nationally for hurricane relief and dedicated all of these donations solely to food acquisition, transportation, storage, and distribution to the disaster victims in the gulf region. Undamaged food was rescued from the flooded New Orleans food banks and additional warehouse space was secured in other areas to ensure that the A2H network would be able to meet the dramatic increase in demand for emergency food assistance that continues to this day in the gulf region.

Staff and volunteers worked tirelessly, night and day, for weeks on end to get food and distribute it to those in need. They collected, transported, stored, and provided more than 59 million pounds of food, accounting for more than 46 million meals valued at an estimated $88 million to the gulf region. This effort is continuing as the need broadens to reach those displaced persons in other areas where so many victims have been relocated.

On Thursday, December 15, 2005, A2H released a report at a Capitol Hill press conference documenting their study on the depth and breadth of the impact of the gulf region hurricane disasters on the charitable food distribution system and the clients it serves. The study results report that there are some 40 A2H food banks located in the hurricane-impacted areas. Demands for emergency food assistance in these Gulf Coast states tripled immediately following Hurricane Katrina and continue to be more than 50 percent higher than prior to the disaster. It is clear that much more is needed to secure the basic needs of those in the gulf region. Additionally, inventories donated to the gulf region by many food banks have not been replaced and are now struggling to feed the clients and families they regularly serve.

A2H has helped shed the light on the severity of the situation that still exists for thousands of families throughout the gulf coast region. I hope that my colleagues in both the Senate and House will take a close look at these findings to reinforce the need for congressional support for our local grassroots antihunger organizations and for continued support of our vital Federal food assistance programs like Food Stamps, WIC, School Breakfast and Lunch, and Child and Adult Care Food Program.

All of these important programs and activities are essential ingredients in our Nation's battle to end hunger in America, whether it comes from natural disasters or the everyday struggles of low-income Americans to make ends meet. Thank you to America's Second Harvest and to the many antihunger volunteers and advocates throughout Arkansas and across our Nation who are making a difference.

ANWR

Mr. LIEBERMAN. Mr. President, I rise to register, in the strongest possible terms, my objection to the inclusion of provisions authorizing oil and gas drilling in the Arctic National Wildlife Reserve in the Department of Defense Appropriations conference report.

I find it outrageous—and unacceptable—that after failing in their budget reconciliation ploy to open the Arctic wilderness to oil drilling, drilling proponents would now try to tamper with the Defense spending bill at a time when we have troops in combat in Iraq and Afghanistan. Drilling in the Arctic National Wildlife Refuge is bad policy and dragging this controversy into the Senate's conscientious efforts to ensure that our military effort is adequately funded at a time of war does not do right by our fighting men and women. It is equally outrageous that drilling proponents are attempting to exploit the Katrina-relief package included in the bill. Congress has an obligation to care for the victims of that devastating natural disaster and our fellow citizens deserve better than to have congressional efforts to provide for their needs undercut by such a desperate procedural scheme.

INTERNAL REVENUE CODE SECTION 664(g)

Mr. JOHNSON. Mr. President, I have a question for the chairman and ranking democrat of the Finance Committee with respect to one special kind of retirement plan that is defined in Internal Revenue Code section 664(g) and involves qualified gratuitous transfers of employer securities. That section of the code was added in 1997 and later amended in 2001. It provides certain rules and requirements for a business owner who wants to bequeath his company to its employees through the company retirement plan.

One of the limitations in section 664(g) is that the maximum allocation that would be permitted to any participant each year is the lesser of $30,000 or 25 percent of compensation. That limitation, which is contained in code section 664(g)(7) was intended to ensure for an orderly and fair allocation of shares received by a plan in a gratuitous transfer from a charitable remainder trust.

A question has been raised with me as to the appropriate timing of valuation of the stock that is transferred to the accounts of participants for purposes of the unique section 664(g)(7) limitation. Should the stock be valued at the time the shares are transferred to the plan or on the date the shares are allocated to the accounts of participants? It is my understanding, that the clear intent of the limitation of section 664(g)(7) was to measure the value of the stock on the date it is actually allocated to the account of the participant. Any other reading could result in potential circumvention of the statutory limitation if the value of the stock were to increase during the period between the actual transfer of the stock to the plan and the subsequent allocation to the account of the participant. Put differently, when the statute says no participant shall receive more than the lesser of $30.000 or 25 percent of compensation each year, that is precisely what was intended. To be clear, this is a unique rule that is specific to section 664(g). It has no bearing on any other rules involving plans, including employee stock ownership plans (ESOPs), that are not described in section 664(g).

Mr. GRASSLEY. I thank the Senator for his careful explanation of the law. I agree completely that the intent of the Finance Committee in including the limitation of section 664(g)(7) was to provide for an orderly and fair transfer of stock received in a gratuitous transfer and that we intended the value of the stock to be determined upon allocation to the participant's account and not upon some earlier date.

Mr. BAUCUS. Yes, I agree. In applying the unique limit of Internal Revenue Code section 664(g)(7), the valuation should be determined upon allocation to the participant's account.

TECHNICAL DESCRIPTION FOR GULF OPPORTUNITY ZONE ACT OF 2005

Mr. GRASSLEY. Mr. President, I wish to submit for the record the Joint Committee's technical explanation of the Gulf Opportunity Zone Act of 2005. This explanation is of the Senate amendment to H.R. 4440. This legislation was passed by the Senate on Friday, December 16, 2005. Let me make it clear that this technical explanation was actually submitted to the Senate at the time the bill was passed to be printed in the Congressional Record. Unfortunately, due to a clerical error this did not happen. Therefore, I ask unanimous consent that the technical explanation be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

INTRODUCTION

The bill provides tax benefits for the Gulf Opportunity Zone and certain areas affected by Hurricanes Rita and Wilma. It also includes tax and trade technical corrections. Finally, the bill provides that any of its provisions causing an effect on receipts, budget authority, or outlays is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

TITLE I—ESTABLISHMENT OF GULF OPPORTUNITY ZONE

A. Tax Benefits for Gulf Opportunity Zone

1. Definitions of "Gulf Opportunity Zone," "Rita GO Zone," "Wilma GO Zone," and other definitions (new sec. 1400M of the Code)

GENERAL DEFINITIONS

Gulf Opportunity Zone

For purposes of the bill, the "Gulf Opportunity Zone" is defined as that portion of the Hurricane Katrina Disaster Area determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

Hurricane Katrina disaster area

The term "Hurricane Katrina disaster area" means an area with respect to which a major disaster has been declared by the President before September 14, 2005, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

Rita GO Zone

The term "Rita GO Zone" means that portion of the Hurricane Rita disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Rita.

Hurricane Rita disaster area

The term "Hurricane Rita disaster area" means an area with respect to which a major disaster has been declared by the President before October 6, 2005, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, by reason of Hurricane Rita.

Wilma GO Zone

The term "Wilma GO Zone" means that portion of the Hurricane Wilma disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Wilma.

Hurricane Wilma disaster area

The term "Hurricane Wilma disaster area" means an area with respect to which a major disaster has been declared by the President before November 14, 2005, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, by reason of Hurricane Wilma.

2. Tax-exempt bond financing for the Gulf Opportunity Zone (new sec. 1400N(a) of the Code)

PRESENT LAW

Rules governing issuance of tax-exempt bonds

In general

Under present law, gross income does not include interest on State or local bonds (sec. 103). State and local bonds are classified generally as either governmental bonds or private activity bonds. Governmental bonds are bonds which are primarily used to finance governmental functions or are repaid with governmental funds. Private activity bonds are bonds with respect to which the State or local government serves as a conduit providing financing to nongovernmental persons (e.g., private businesses or individuals). The exclusion from income for State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain permitted purposes ("qualified private activity bonds").

Private activities eligible for financing with tax-exempt bonds

The definition of qualified private activity bonds includes an exempt facility bond, or qualified mortgage, veterans' mortgage, small issue, redevelopment, 501(c)(3), or student loan bond (sec. 141(e)). The definition of exempt facility bond includes bonds issued to finance certain transportation facilities (airports, ports, mass commuting, and high-speed intercity rail facilities); qualified residential rental projects; privately owned and/or operated utility facilities (sewage, water, solid waste disposal, and local district heating and cooling facilities, certain private electric and gas facilities, and hydroelectric dam enhancements); public/private educational facilities; qualified green building and sustainable design projects; and qualified highway or surface freight transfer facilities (sec. 142(a)).

As noted above, subject to certain requirements, qualified private activity bonds may be issued to finance residential rental property or owner-occupied housing. Residential rental property may be financed with exempt facility bonds if the financed project is a "qualified residential rental project." A project is a qualified residential rental project if 20 percent or more of the residential units in such project are occupied by individuals whose income is 50 percent or less of area median gross income (the "20-50 test"). Alternatively, a project is a qualified residential rental project if 40 percent or more of the residential units in such project are occupied by individuals whose income is 60 percent or less of area median gross income (the "40-60 test").

Owner-occupied housing may be financed with qualified mortgage bonds. Qualified mortgage bonds are bonds issued to make mortgage loans to qualified mortgagors for the purchase, improvement, or rehabilitation of owner-occupied residences. The Code imposes several limitations on qualified mortgage bonds, including income limitations for homebuyers and purchase price limitations for the home financed with bond proceeds. The income limitations are satisfied if all financing provided by an issue is provided for mortgagors whose family income does not exceed 115 percent of the median family income for the metropolitan area or State, whichever is greater, in which the financed residences are located. The purchase price limitations provide that a residence financed with qualified mortgage bonds may not have a purchase price in excess of 90 percent of the average area purchase price for that residence. In addition to these limitations, qualified mortgage bonds generally cannot be used to finance a mortgage for a homebuyer who had an ownership interest in a principal residence in the three years preceding the execution of the mortgage (the "first-time homebuyer" requirement).

Special income and purchase price limitations apply to targeted area residences. A targeted area residence is one located in either (1) a census tract in which at least 70 percent of the families have an income which is 80 percent or less of the state-wide median income or (2) an area of chronic economic distress. For targeted area residences, the income limitation is satisfied when no more than one-third of the mortgages are made without regard to any income limits and the remainder of the mortgages are made to mortgagors whose family income is 140 percent or less of the applicable median family income. The purchase price limitation is raised from 90 percent to 110 percent of the average area purchase price for targeted area residences. In addition, the first-time homebuyer requirement does not apply to targeted area residences.

Qualified mortgage bonds also may be used to finance qualified home-improvement loans. Qualified home-improvement loans are defined as loans to finance alterations, repairs, and improvements on an existing residence, but only if such alterations, repairs, and improvements substantially protect or improve the basic livability or energy efficiency of the property. Under present law, qualified home-improvement loans may not exceed $15,000.

Issuance of most qualified private activity bonds is subject (in whole or in part) to annual State volume limitations (sec. 146)). Exceptions are provided for bonds for certain governmentally owned facilities (e.g., airports, ports, high-speed intercity rail, and solid waste disposal) and bonds which are subject to separate local, State, or national volume limits (e.g., public/private educational facility bonds, enterprise zone facility bonds, qualified green building bonds, and qualified highway or surface freight transfer facility bonds).

In addition, qualified private activity bonds generally are subject to restrictions on the use of proceeds for the acquisition of land and existing property, use of proceeds to finance certain specified facilities (e.g., airplanes, skyboxes, other luxury boxes, health club facilities, gambling facilities, and liquor stores), and use of proceeds to pay costs of issuance (e.g., bond counsel and underwriter fees). Small issue and redevelopment bonds also are subject to additional restrictions on the use of proceeds for certain facilities (e.g., golf courses and massage parlors).

Moreover, the term of qualified private activity bonds generally may not exceed 120 percent of the economic life of the property being financed and certain public approval requirements (similar to requirements that typically apply under State law to issuance of governmental debt) apply under Federal law to issuance of private activity bonds.

Liberty Zone Bonds

Present law permits an aggregate of $8 billion in exempt facility bonds for the purpose of financing the construction and rehabilitation of nonresidential real property and residential rental real property in a designated "Liberty Zone" (the "Zone") of New York City ("Liberty Zone bonds"). The Zone consists of all business addresses located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan. No more than $800 million of the authorized bond amount may be used to finance property used for retail sales of tangible property (e.g., department stores, restaurants, etc.) and functionally related and subordinate property. The $800 million limit is divided equally between the Mayor of New York City and the Governor of New York State. In addition, no more than $1.6 billion of the authorized bond amount may be used to finance residential rental property. The $1.6 billion limit also is divided equally between the Mayor of New York City and the Governor of New York State. Liberty Zone Bonds must be issued before January 1, 2010.

Property eligible for financing with these bonds includes buildings and their structural components, fixed tenant improvements, and public utility property (e.g., gas, water, electric and telecommunication lines). Fixtures and equipment that could be removed from the designated zone for use elsewhere are not eligible for financing with these bonds. Issuance of these bonds is limited to projects approved by the Mayor of New York City or the Governor of New York State, each of whom may designate up to $4 billion of the aggregate bond authority.

Arbitrage restrictions on tax-exempt bonds

To prevent States and local governments from issuing more tax-exempt bonds than necessary for the activity being financed or from issuing such bonds earlier than needed for the purpose of the borrowing, the Code includes arbitrage restrictions limiting the ability to profit from investment of tax-exempt bond proceeds. In general, arbitrage profits may be earned only during specified periods (e.g., defined "temporary periods" before funds are needed for the purpose of the borrowing) or on specified types of investments (e.g., "reasonably required reserve or replacement funds"). Subject to limited exceptions, profits that are earned during these periods or on such investments must be rebated to the Federal Government. Governmental bonds are subject to less restrictive arbitrage rules than most private activity bonds.

EXPLANATION OF PROVISION

Gulf Opportunity Zone Bonds

The provision authorizes the issuance of qualified private activity bonds to finance the construction and rehabilitation of residential and nonresidential property located in the Gulf Opportunity Zone ("Gulf Opportunity Zone Bonds"). Gulf Opportunity Zone Bonds must be issued after the date of enactment and before January 1, 2011.

Gulf Opportunity Zone Bonds may be issued by the State of Alabama, Louisiana, or Mississippi, or any political subdivision thereof. Issuance of bonds authorized under the provision is limited to projects approved by the Governor of the State (or the State bond commission in the case of a bond which is required under State law to be approved by such commission) in which the financed project shall be located. The maximum aggregate face amount of Gulf Opportunity Zone Bonds that may be issued in any State is limited to $2,500 multiplied by the population of the respective State within the Gulf Opportunity Zone. Current refundings of outstanding bonds issued under the provision do not count against the aggregate volume limit to the extent that the principal amount of the refunding bonds does not exceed the outstanding principal amount of the bonds being refunded. Gulf Opportunity Zone Bonds may not be advance refunded.

Depending on the purpose for which such bonds are issued, Gulf Opportunity Zone Bonds are treated as either exempt facility bonds or qualified mortgage bonds. Gulf Opportunity Zone Bonds are treated as exempt facility bonds if 95 percent or more of the net proceeds of such bonds are to be used for qualified project costs located in the Gulf Opportunity Zone. Qualified project costs include the cost of acquisition, construction, reconstruction, and renovation of nonresidential real property (including buildings and their structural components and fixed improvements associated with such property), qualified residential rental projects (as defined in section 142(d) with certain modifications), and public utility property. For purposes of the provision, costs associated with improving a facility (e.g., installing equipment that enhances the pollution control of a manufacturing facility) may be permitted project costs if such costs are chargeable to the capital account of the facility or would be so chargeable either with a proper election by a taxpayer or but for a proper election by a taxpayer to deduct the costs.

Bond proceeds may not be used to finance movable fixtures and equipment. The purpose of this limitation is to ensure that property financed with the bonds will remain in the Gulf Opportunity Zone. "Movable fixtures and equipment" does not include components that are assembled to construct an industrial plant. Such term also does not include consumer appliances installed in owner-occupied residences and residential rental property financed with the proceeds of Gulf Opportunity Zone Bonds.

Rather than applying the 20–50 and 40-60 test under present law, a project is a qualified residential rental project under the provision if 20 percent or more of the residential units in such project are occupied by individuals whose income is 60 percent or less of area median gross income or if 40 percent or more of the residential units in such project are occupied by individuals whose income is 70 percent or less of area median gross income.

Gulf Opportunity Zone Bonds are treated as qualified mortgage bonds if the bonds of such issue meet the requirements of a qualified mortgage issue (as defined in section 143 and modified by this provision) and the residences financed with such bonds are located in the Gulf Opportunity Zone. For these purposes, residences located in the Gulf Opportunity Zone are treated as targeted area residences. Thus, the first-time homebuyer rule is waived and purchase and income rules for targeted area residences apply to residences financed with bonds issued under the provision. Under the provision, 100 percent of the mortgages must be made to mortgagors whose family income is 140 percent or less of the applicable median family income. Thus, the present law rule allowing one-third of the mortgages to be made without regard to any income limits does not apply. In addition, the provision increases from $15,000 to $150,000 the amount of a qualified home-improvement loan that may be financed with bond proceeds.

Subject to the following exceptions and modifications, issuance of Gulf Opportunity Zone Bonds is subject to the general rules applicable to issuance of qualified private activity bonds:

(1) Except as otherwise permitted for a qualified mortgage issue, repayments of bond-financed loans may not be used to make additional loans;

(2) Issuance of the bonds is not subject to the aggregate annual State private activity bond volume limits (sec. 146);

(3) The restriction on acquisition of existing property is applied using a minimum requirement of 50 percent of the cost of acquiring the building being devoted to rehabilitation (sec. 147(d));

(4) The special arbitrage expenditure rules for certain construction bond proceeds apply to available construction proceeds of Gulf

Opportunity Zone Bonds issued to finance qualified project costs, treating such bonds as a construction issue (sec. 148(f)(4)(C));

(5) Interest on the bonds is not a preference item for purposes of the alternative minimum tax preference for private activity bond interest (sec. 57(a)(5)); and

(6) No portion of the proceeds of the bonds may be used to provide any property described in section 144(c)(6)(B) (i.e., any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal purpose of which is the sale alcoholic beverages for consumption off premises).

EFFECTIVE DATE

The provision is effective for bonds issued after the date of enactment and before January 1, 2011.

3. Advance refunding of certain tax-exempt bonds (new sec. 1400N(b) of the Code)

PRESENT LAW

In general

Interest on bonds issued by State and local governments generally is excluded from gross income for Federal income tax purposes if the proceeds of the bonds are used to finance direct activities of these governmental units or if the bonds are repaid with revenues of the governmental units ("governmental bonds"). Interest on State or local bonds to finance activities of private persons ("private activity bonds") is taxable unless a specific exception applies. Bonds issued to finance the activities of charitable organizations described in section 501(c)(3) ("qualified 501(c)(3) bonds") are one type of tax-exempt private activity bonds ("qualified private activity bonds"). Qualified private activity bonds also include exempt facility bonds. The definition of exempt facility bonds includes bonds issued to finance certain transportation facilities (e.g., airports, docks, and wharves).

Generally, qualified private activity bonds are subject to restrictions on the use of proceeds for the acquisition of land and existing property, use of proceeds to finance certain specified facilities (e.g., airplanes, skyboxes, other luxury boxes, health club facilities, gambling facilities, and liquor stores), and use of proceeds to pay costs of issuance (e.g., bond counsel and underwriter fees). Certain types of qualified private activity bonds (e.g., small issue and redevelopment bonds) also are subject to additional restrictions on the use of proceeds for certain facilities (e.g., golf courses and massage parlors). Moreover, the term of qualified private activity bonds generally may not exceed 120 percent of the economic life of the property being financed and certain public approval requirements (similar to requirements that typically apply under State law to issuance of governmental debt) apply under Federal law to issuance of private activity bonds.

Limitations on advance refundings

A refunding bond is defined as any bond used to pay principal, interest, or redemption price on a prior bond issue (the refunded bond). The Code contains different rules for "current" as opposed to "advance" refunding bonds. A current refunding occurs when the refunded bond is redeemed within 90 days of issuance of the refunding bonds. Conversely, a bond is classified as an advance refunding bond if it is issued more than 90 days before the redemption of the refunded bond (sec. 149(d)(5)). Proceeds of advance refunding bonds are generally invested in an escrow account and held until a future date when the refunded bond may be redeemed. Thus, after issuance of an advance refunding bond, there is a period of time when both the refunding bonds and the refunded bonds remain outstanding.

There is no statutory limitation on the number of times that tax-exempt bonds may be currently refunded. However, the Code limits the number of advance refundings with tax-exempt bonds. Generally, governmental bonds and qualified 501(c)(3) bonds may be advance refunded one time (sec. 149(d)(3)). Private activity bonds, other than qualified 501(c)(3) bonds, may not be advance refunded.

Under present law, certain bonds used to fund facilities located in New York City are permitted one additional advance refunding if issued before January 1, 2006. In addition to satisfying other requirements, the bond refunded must be (1) a State or local bond that is a general obligation of New York City, (2) a State or local bond issued by the New York Municipal Water Finance Authority or Metropolitan Transportation Authority of New York City, or (3) a qualified 501(c)(3) bond which is a qualified hospital bond issued by or on behalf of the State of New York or New York City. The maximum amount of additional advance refunding bonds that may be issued is $9 billion.

Arbitrage restrictions on tax-exempt bonds

To prevent States and local governments from issuing more tax-exempt bonds than is necessary for the activity being financed or from issuing such bonds earlier than needed for the purpose of the borrowing, the Code includes arbitrage restrictions limiting the ability to profit from investment of tax-exempt bond proceeds. In general, arbitrage profits may be earned only during specified periods (e.g., defined "temporary periods" before funds are needed for the purpose of the borrowing) or on specified types of investments (e.g., "reasonably required reserve or replacement funds"). Subject to limited exceptions, profits that are earned during these periods or on such investments must be rebated to the Federal Government. Governmental bonds are subject to less restrictive arbitrage rules than most private activity bonds.

EXPLANATION OF PROVISION

The provision permits an additional advance refunding of certain governmental and qualified 501(c)(3) bonds issued by the State of Alabama, Louisiana, or Mississippi, or any political subdivision thereof. The provision also permits one advance refunding of certain exempt facility bonds for airports, docks, or wharves issued by the State of Alabama, Louisiana, or Mississippi, or any political subdivision thereof, notwithstanding the general prohibition on the advance refunding of such bonds.

The advance refunding authority under this provision only applies to bonds issued by the State of Alabama, Louisiana, or Mississippi, or any political subdivision thereof, which were outstanding on August 28, 2005, and could not be advance refunded under Code restrictions in effect on that date. (Although section 1400L(e)(4)(A) refers to restrictions on advance refundings under "any provision of law," rather than under the "Code," no inference should be drawn from the use of different terms). Further, to be eligible for the additional advance refunding, the advance refunding bond must be the only other outstanding bond with respect to the refunded bond. Thus, at no time after the advance refunding authorized under the provision occurs may there be more than two sets of bonds outstanding.

The maximum amount of advance refunding bonds that may be issued pursuant to this provision is $4.5 billion in the case of Louisiana, $2.250 billion in the case of Mississippi, and $1.125 billion in the case of Alabama. Eligible advance refunding bonds must be designated as such by the governor of the respective State. Advance refunding bonds issued under the provision must satisfy present-law arbitrage restrictions and all requirements otherwise applicable to advance refunding issues (e.g., redemption requirements and prohibition on abusive transactions). Moreover, bonds may not be advance refunded under this provision if any portion of the proceeds of such bonds was used to provide any property described in section 144(c)(6)(B) (i.e., any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal purpose of which is the sale alcoholic beverages for consumption off premises).

EFFECTIVE DATE

The provision is effective for advance refunding bonds issued after the date of enactment and before January 1, 2011.

4. Increase the low-income housing credit cap and make other modifications (new sec. 1400N(c) of the Code)

PRESENT LAW

In general

The low-income housing credit may be claimed over a 10-year period for the cost of rental housing occupied by tenants having incomes below specified levels. The amount of the credit for any taxable year in the credit period is the applicable percentage of the qualified basis of each qualified low-income building. The qualified basis of any qualified low-income building for any taxable year equals the applicable fraction of the eligible basis of the building.

The credit percentage for newly constructed or substantially rehabilitated housing that is not Federally subsidized is adjusted monthly by the Internal Revenue Service so that the 10 annual installments have a present value of 70 percent of the total qualified basis. The credit percentage for newly constructed or substantially rehabilitated housing that is Federally subsidized and for existing housing that is substantially rehabilitated is calculated to have a present value of 30 percent of qualified basis. These are referred to as the 70 percent credit and 30 percent credit, respectively.

Income targeting

In order to be eligible for the low-income housing credit, a qualified low-income building must be part of a qualified low-income housing project. In general, a qualified low-income housing project is defined as a project which satisfies one of two tests at the election of the taxpayer. The first test is met if 20 percent or more of the residential units in the project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income (the "20-50 test"). The second test is met if 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income (the "40-60 test").

Credit cap

Generally, the aggregate credit authority provided annually to each State for calendar year 2006 is $1.90 per resident with a minimum annual cap of $2,180,000 for certain small population States. These amounts are indexed for inflation. These limits do not apply in the case of projects that also receive financing with proceeds of tax-exempt bonds issued subject to the private activity bond volume limit.

Basis of building eligible for the credit

Buildings located in high cost areas (i.e., qualified census tracts and difficult development areas) are eligible for an enhanced credit. Under the enhanced credit, the 70-percent and 30 percent credit is increased to a 91 percent and 39 percent credit, respectively. The mechanism for this increase is an increase from 100 to 130 percent of the otherwise applicable eligible basis of a new building or the rehabilitation expenditures of an existing building. A further requirement for the enhanced credit is that no more than 20 percent of the population of each metropolitan statistical area or nonmetropolitan statistical area may be a difficult to develop area.

Stacking rule

Authority to allocate credits remains at the State (as opposed to local) government level unless State law provides otherwise. Generally, credits may be allocated only from volume authority arising during the calendar year in which the building is placed in service, except in the case of: (1) credits claimed on additions to qualified basis; (2) credits allocated in a later year pursuant to an earlier binding commitment made no later than the year in which the building is placed in service; and (3) carryover allocations.

Each State annually receives low-income housing credit authority equal to $1.90 per State resident for allocation to qualified low-income projects. In addition to this $1.90 per resident amount, each State's "housing credit ceiling" includes the following amounts: (1) the unused State housing credit ceiling (if any) of such State for the preceding calendar year; (2) the amount of the State housing credit ceiling (if any) returned in the calendar year; and (3) the amount of the national pool (if any) allocated to such State by the Treasury Department.

The national pool consists of States' unused housing credit carryovers. For each State, the unused housing credit carryover for a calendar year consists of the excess (if any) of the unused State housing credit ceiling for such year over the excess (if any) of the aggregate housing credit dollar amount allocated for such year over the sum of $1.90 per resident and the credit returns for such year. The amounts in the national pool are allocated only to States that allocated their entire housing credit ceiling for the preceding calendar year and requested a share in the national pool not later than May 1 of the calendar year. The national pool allocation to qualified States is made on a pro rata basis equivalent to the fraction that a State's population enjoys relative to the total population of all qualified States for that year.

The present-law stacking rule provides that each State is treated as using its allocation of the unused State housing credit ceiling (if any) from the preceding calendar before the current year's allocation of credit (including any credits returned to the State) and then finally any national pool allocations.

EXPLANATION OF PROVISION

Income targeting

In the case of property placed in service during 2006, 2007, and 2008 in a nonmetropolitan area within the Gulf Opportunity Zone, the income targeting rules of the low-income housing credit are applied by replacing the area median gross income standard with a national nonmetropolitan median gross income standard. These new income targeting rules apply to all such buildings in the Gulf Opportunity Zone regardless of whether the building receives its credit allocation under the otherwise applicable low-income housing credit cap or the additional credit cap (described below). The income targeting rules are not changed for buildings in metropolitan areas in the Gulf Opportunity Zone.

Credit cap

Under the provision, the otherwise applicable housing credit ceiling amount is increased for each of the States within the Gulf Opportunity Zone. This increase applies to calendar years 2006, 2007, and 2008. The additional credit cap for each of the affected States equals $18.00 times the number of such State's residents within the Gulf Opportunity Zone. This amount is not adjusted for inflation. For purposes of this additional credit cap amount, the determination of population for any calendar year is made on the basis of the most recent census estimate of the resident population of the State in the Gulf Opportunity Zone released by the Bureau of the Census before August 28, 2005.

In addition, the otherwise applicable housing credit ceiling amount is increased for Florida and Texas by $3,500,000 per State. This increase only applies to calendar year 2006.

Basis of building eligible for the credit

Under the provision, the Gulf Opportunity Zone, the Rita Go Zone, and the Wilma Go Zone are treated as high-cost areas for purposes of the low-income housing credit for property placed-in-service in calendar years 2006, 2007, and 2008. Therefore, buildings located in the Gulf Opportunity Zone, the Rita Go Zone, and the Wilma Go Zone are eligible for the enhanced credit. Under the enhanced credit, the 70 percent and 30 percent credits are increased to 91 percent and 39 percent credits, respectively. The 20 percent of population restriction is waived for this purpose. This enhanced credit applies regardless of whether the building receives its credit allocation under the otherwise applicable low-income housing credit cap or the additional credit cap.

Carryover

The additional credit cap available for States within the Gulf Opportunity Zone for calendar years 2006, 2007 and 2008 may not be carried forward from any year to any other year. The present-law rules apply for purposes of the Rita Go Zone and the Wilma Go Zone.

Stacking rule

Within each calendar year, each applicable State within the GO Zone must treat the additional credit cap allocable under the provision to that State as allocated before any other credit cap amounts. Therefore, under the provision each applicable State within the GO Zone is treated as using credits in the following order: (1) the additional credit cap (including any such credits returned to the State) under the Gulf Opportunity Zone, then (2) its allocation of the unused State housing credit ceiling (if any) from the preceding calendar, then (3) the current year's allocation of present-law credit (including any credits returned to the State) and then (4) any national pool allocations. This generally maximizes the total amount of credit (under both otherwise applicable low income housing credit cap and the additional credit cap for the Gulf Opportunity Zone) which may be carried forward.

The present-law rules apply for purposes of the Rita Go Zone and the Wilma Go Zone.

EFFECTIVE DATE

The provisions relating to the increased credit cap, carryover and stacking rule applicable to the GO Zone are generally effective for calendar years beginning after 2005 and before 2009.

The provision relating to the increased credit cap applicable to Florida and Texas is generally effective for calendar years beginning after 2005 and before 2007.

The provision to treat the Gulf Opportunity Zone, Rita Go Zone and the Wilma Go Zone as a high-cost area is generally effective for calendar years beginning after 2005 and before 2009, and buildings placed in service during such period in the case of projects that also receive financing with the proceeds of tax-exempt bonds subject to the private activity bond volume limit which are issued during that period.

The income targeting provision is effective for property placed in service during 2006, 2007 and 2008. This provision applies to property which receives a credit allocation in any of those three years or a prior year. It also applies in the case of credit projects that receive tax-exempt bond financing subject to the private activity bond volume limit.

5. Additional first-year depreciation for Gulf Opportunity Zone property (new sec. 1400N(d) of the Code)

PRESENT LAW

A taxpayer is allowed to recover, through annual depreciation deductions, the cost of certain property used in a trade or business or for the production of income. The amount of the depreciation deduction allowed with respect to tangible property for a taxable year is determined under the modified accelerated cost recovery system ("MACRS") Under MACRS, different types of property generally are assigned applicable recovery periods and depreciation methods. The recovery periods applicable to most tangible personal property (generally tangible property other than residential rental property and nonresidential real property) range from 3 to 25 years. The depreciation methods generally applicable to tangible personal property are the 200-percent and 150-percent declining balance methods, switching to the straight-line method for the taxable year in which the depreciation deduction would be maximized.

Section 280F limits the annual depreciation deductions with respect to passenger automobiles to specified dollar amounts, indexed for inflation.

Section 167(f)(1) provides that capitalized computer software costs, other than computer software to which section 197 applies, are recovered ratably over 36 months.

In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment generally may elect to deduct the cost of qualifying property placed in service for the taxable year. (Sec. 179.) In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business.

EXPLANATION OF PROVISION

The provision allows an additional first-year depreciation deduction equal to 50 percent of the adjusted basis of qualified Gulf Opportunity Zone property. In order to qualify, property 13 generally must be placed in service on or before December 31, 2007 (December 31, 2008 in the case of nonresidential real property and residential rental property).

The additional first-year depreciation deduction is allowed for both regular tax and alternative minimum tax purposes for the taxable year in which the property is placed in service. The additional first-year depreciation deduction is subject to the general rules regarding whether an item is deductible under section 162 or subject to capitalization under section 263 or section 263A. The basis of the property and the depreciation allowances in the year of purchase and later years are appropriately adjusted to reflect the additional first-year depreciation deduction. In addition, the provision provides that there is no adjustment to the allowable amount of depreciation for purposes of computing a taxpayer's alternative minimum taxable income with respect to property to which the provision applies. A taxpayer is allowed to elect out of the additional first-year depreciation for any class of property for any taxable year.

In order for property to qualify for the additional first-year depreciation deduction, it must meet all of the following requirements. First, the property must be property to which the general rules of the Modified Accelerated Cost Recovery System ("MACRS") apply with (1) an applicable recovery period of 20 years or less, (2) computer software other than computer software covered by section 197, (3) water utility property (as defined in section 168(e)(5)), (4) certain leasehold improvement property, or (5) certain nonresidential real property and residential rental property. Second, substantially all of the use of such property must be in the Gulf Opportunity Zone and in the active conduct of a trade or business by the taxpayer in the Gulf Opportunity Zone. Third, the original use of the property in the Gulf Opportunity Zone must commence with the taxpayer on or after August 28, 2005. (Thus, used property may constitute qualified property so long as it has not previously been used within the Gulf Opportunity Zone. In addition, it is intended that additional capital expenditures incurred to recondition or rebuild property the original use of which in the Gulf Opportunity Zone began with the taxpayer would satisfy the "original use" requirement. See Treasury Regulation sec. 1.48-2 Example 5.) Finally, the property must be acquired by purchase (as defined under section 179(d)) by the taxpayer on or after August 28, 2005 and placed in service on or before December 31, 2007. For qualifying nonresidential real property and residential rental property, the property must be placed in service on or before December 31, 2008, in lieu of December 31, 2007. Property does not qualify if a binding written contract for the acquisition of such property was in effect before August 28, 2005. However, property is not precluded from qualifying for the additional first-year depreciation merely because a binding written contract to acquire a component of the property is in effect prior to August 28, 2005.

Property that is manufactured, constructed, or produced by the taxpayer for use by the taxpayer qualifies if the taxpayer begins the manufacture, construction, or production of the property on or after August 28, 2005, and the property is placed in service on or before December 31, 2007 (and all other requirements are met). In the case of qualified nonresidential real property and residential rental property, the property must be placed in service on or before December 31, 2008. Property that is manufactured, constructed, or produced for the taxpayer by another person under a contract that is entered into prior to the manufacture, construction, or production of the property is considered to be manufactured, constructed, or produced by the taxpayer.

Under a special rule, property any portion of which is financed with the proceeds of a tax-exempt obligation under section 103 is not eligible for the additional first-year depreciation deduction. Recapture rules apply under the provision if the property ceases to be qualified Gulf Opportunity Zone property.

EFFECTIVE DATE

The provision applies to property placed in service on or after August 28, 2005, in taxable years ending on or after such date.

6. Increase in expensing for Gulf Opportunity Zone property (new sec. 1400N(e) of the Code)

PRESENT LAW

In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct (or "expense") such costs. Present law provides that the maximum amount a taxpayer may expense, for taxable years beginning in 2003 through 2007, is $100,000 of the cost of qualifying property placed in service for the taxable year. Additional section 179 incentives are provided with respect to a qualified property used by a business in the New York Liberty Zone (sec. 1400L(f)), an empowerment zone (sec. 1397A), or a renewal community (sec. 1400J). In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. Off-the-shelf computer software placed in service in taxable years beginning before 2008 is treated as qualifying property. The $100,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $400,000. The $100,000 and $400,000 amounts are indexed for inflation for taxable years beginning after 2003 and before 2008.

For taxable years beginning in 2008 and thereafter, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $25,000 of the cost of qualifying property placed in service for the taxable year. The $25,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000.

The amount eligible to be expensed for a taxable year may not exceed the taxable income for a taxable year that is derived from the active conduct of a trade or business (determined without regard to this provision). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations). No general business credit under section 38 is allowed with respect to any amount for which a deduction is allowed under section 179.

An expensing election is made under rules prescribed by the Secretary (sec. 179(c)(1)). Under Treas. Reg. sec. 179–5, applicable to property placed in service in taxable years beginning after 2002 and before 2008, a taxpayer is permitted to make or revoke an election under section 179 without the consent of the Commissioner on an amended Federal tax return for that taxable year. This amended return must be filed within the time prescribed by law for filing an amended return for the taxable year. For taxable years beginning in 2008 and thereafter, an expensing election may be revoked only with consent of the Commissioner (sec. 179(c)(2)).

EXPLANATION OF PROVISION

Under the provision, the $100,000 maximum amount that a taxpayer may elect to deduct under section 179 is increased by the lesser of $100,000, or the cost of qualified section 179 Gulf Opportunity Zone property for the taxable year. The provision applies with respect to qualified section 179 Gulf Opportunity Zone property acquired on or after August 28, 2005, and placed in service on or before December 31, 2007. Thus, in addition to the $100,000 maximum cost of any section 179 property (including property that also meets the definition of qualified section 179 Gulf Opportunity Zone property) that may be deducted under present law, a taxpayer may elect to deduct a maximum $100,000 additional amount of the taxpayer's cost of qualified section 179 Gulf Opportunity Zone property, resulting in a maximum deductible amount of $200,000 of qualified section 179 Gulf Opportunity Zone property. (The $100,000 present-law portion of this amount is indexed for taxable years beginning after 2003 and before 2008, so the total may be higher than $200,000 after taking indexation of this portion into account.) The $100,000 additional amount for the cost of qualified section 179 Gulf Opportunity Zone property is not indexed.

The provision provides a special rule for the reduction in the $200,000 maximum deduction for the cost of qualified section 179 Gulf Opportunity Zone property. Under this rule, the $200,000 amount is reduced (but not below zero) by the amount by which the cost of qualified section 179 Gulf Opportunity Zone property placed in service during the taxable year exceeds a dollar cap of up to $1 million. (The $400,000 present-law portion of this amount is indexed for taxable years beginning after 2003 and before 2008, so the total may be higher than $1 million after taking indexation of this portion into account.) The dollar cap is computed by increasing the $400,000 present-law amount by the lesser of (1) $600,000, or (2) the cost of qualified section 179 Gulf Opportunity Zone property placed in service during the taxable year. The $600,000 amount is not indexed.

The operation of the reduction may be illustrated as follows. In each of the following examples, assume that the taxable income limitation of section 179(b)(3)(A) does not cause a reduction in the amount that may be expensed for the taxable year. For example, assume that in the taxable year, a taxpayer's cost of section 179 property that is qualified Gulf Opportunity Zone property is $800,000, and in that year the taxpayer acquires no other section 179 property. Under the provision, the taxpayer's deductible amount is increased by $100,000 to $200,000 (the lesser of $100,000 and cost of the taxpayer's qualified section 179 Gulf Opportunity Zone property). Under the provision, the $400,000 phase-out amount in section 179(b)(2) is increased by $600,000 (i.e., the lesser of $600,000 or the $800,000 cost of qualified section 179 Gulf Opportunity Zone property), so that the phase-out amount is $1 million. The taxpayer's cost of section 179 property is $800,000 in total (less than the $1 million phase-out amount), so no reduction is made in the $200,000 amount of qualified Gulf Opportunity Zone property that may be deducted under section 179 for the taxable year. As another example, assume for the taxable year that a taxpayer's cost of section 179 property that is qualified Gulf Opportunity Zone property is $200,000, and its cost of other section 179 property is $450,000. Under the provision, the $400,000 phase-out amount in section 179(b)(2) is increased to $600,000 by the $200,000 cost of qualified section 179 Gulf Opportunity Zone property. The taxpayer had a total $650,000 cost of section 179 property for the taxable year. The taxpayer's section 179 deduction is reduced by the $50,000 difference between $650,000 and $600,000. Thus, under the provision, the taxpayer may deduct $150,000 ($200,000 less $50,000) under section 179 for the taxable year.

Qualified section 179 Gulf Opportunity Zone property means section 179 property (as defined in section 179(d) of present law) that also meets the requirements to qualify for Gulf Opportunity Zone bonus depreciation. Specifically, for section 179 purposes, qualified Gulf Opportunity Zone property is property (1) described in section 168(k)(2)(A)(i), (2) substantially all of the use of which is in the Gulf Opportunity Zone and is in the active conduct of a trade or business by the taxpayer in that Zone, (3) the original use of which commences with the taxpayer on or after August 28, 2005, (4) which is acquired by the taxpayer by purchase on or after August 28, 2005, but only if no written binding contract for the acquisition was in effect before August 28, 2005, and (5) which is placed in service by the taxpayer on or before December 31, 2007. Such property does not include alternative depreciation property, tax-exempt bond-financed property, or qualified revitalization buildings.

The provision includes rules coordinating increased section 179 amounts provided under the bill with present-law expensing rules with respect to enterprise zone businesses in empowerment zones and with respect to renewal communities. For purposes of those rules, qualified section 179 Gulf Opportunity Zone property is not treated as qualified zone property or qualified renewal property, unless the taxpayer elects not to take such qualified section 179 Gulf Opportunity Zone property into account for purposes of this provision. Thus, a taxpayer acquiring property that could qualify as either qualified section 179 Gulf Opportunity Zone property, or qualified zone property or qualified renewal property, may elect the additional expensing provided either under this provision, or under the empowerment zone or renewal community rules, but not both, with respect to the property.

Recapture rules apply under the provision if recapture applies under section 179(d)(10) or if the property ceases to be qualified section 179 Gulf Opportunity Zone property.

EFFECTIVE DATE

The provision is effective for taxable years ending on or after August 28, 2005, for qualified section 179 Gulf Opportunity Zone property acquired after August 27, 2005, and placed in service on or before December 31, 2007.

7. Expensing for certain demolition and clean-up costs (new sec. 1400N(f) of the Code)

PRESENT LAW

Under present law, the cost of demolition of a structure is capitalized into the taxpayer's basis in the land on which the structure is located. (Sec. 280B). Land is not subject to an allowance for depreciation or amortization.

The treatment of the cost of debris removal depends on the nature of the costs incurred. For example, the cost of debris removal after a storm may in some cases constitute an ordinary and necessary business expense which is deductible in the year paid or incurred. In other cases, debris removal costs may be in the nature of replacement of part of the property that was damaged. In such cases, the costs are capitalized and added to the taxpayer's basis in the property. For example, Revenue Ruling 71-161, 1971-1 C.B. 76, permits the use of clean-up costs as a measure of casualty loss but requires that such costs be added to the post-casualty basis of the property.

EXPLANATION OF PROVISION

Under the provision, a taxpayer is permitted a deduction for 50 percent of any qualified Gulf Opportunity Zone clean-up cost paid or incurred on or after August 28, 2005, and before January 1, 2008. The remaining 50 percent is capitalized as under present law.

A qualified Gulf Opportunity Zone clean-up cost is an amount paid or incurred for the removal of debris from, or the demolition of structures on, real property located in the Gulf Opportunity Zone to the extent that the amount would otherwise be capitalized. In order to qualify, the property must be held for use in a trade or business, for the production of income, or as inventory.

EFFECTIVE DATE

The provision applies to costs paid or incurred on or after August 28, 2005 in taxable years ending on or after such date.

8. Extension of expensing for environmental remediation costs (new sec. 1400N(g) of the Code)

PRESENT LAW

Taxpayers may elect to deduct (or "expense") certain environmental remediation expenditures that would otherwise be chargeable to capital account, in the year paid or incurred (sec. 198). The deduction applies for both regular and alternative minimum tax purposes. The expenditure must be incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

A "qualified contaminated site" generally is any property that (1) is held for use in a trade or business, for the production of income, or as inventory and (2) is at a site on which there has been a release (or threat of release) or disposal of certain hazardous substances as certified by the appropriate State environmental agency (so-called "brownfields").

Section 198(d)(1) defines a "hazardous substance" as a substance which is so defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), and any substance which is administratively designated as a hazardous substance under section 102 of CERCLA. Under section 198(d)(2), however, the term "hazardous substance" does not include any substance with respect to which a removal or remediation is not permitted under section 104 of CERCLA by reason of subsection (a)(3) thereof, which exempts from the scope of such provision "the release or threat of release (A) of a naturally occurring substance in its unaltered form, or altered solely through naturally occurring processes or phenomena, from a location where it is naturally found; (B) from products which are part of the structure of, and result in exposure within, residential buildings or business or community structures; or (C) into public or private drinking water supplies due to deterioration of the system through ordinary use." However, sites which are identified on the national priorities list under CERCLA cannot qualify for expensing under section 198.

Petroleum products generally are not regarded as hazardous substances for purposes of section 198. Section 101(14) of CERCLA specifically excludes "petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph," from the definition of "hazardous substance."

Under present law, eligible expenditures are those paid or incurred before January 1, 2006.

EXPLANATION OF PROVISION

The provision extends the present-law expensing provision for two years (through December 31, 2007) for qualified contaminated sites located in the Gulf Opportunity Zone.

In addition, under the provision, petroleum products are treated as hazardous substances for purposes of applying the expensing provision (as extended) within the Gulf Opportunity Zone. Petroleum products are defined by reference to section 4612(a)(3), and include crude oil, crude oil condensates and natural gasoline. Thus, for example, the release of crude oil upon property held for use in a trade or business in the Gulf Opportunity Zone results in such property being treated as a qualified contaminated site. The present law exceptions for sites on the national priorities list under CERCLA, and for substances with respect to which a removal or remediation is not permitted under section 104 of CERCLA by reason of subsection (a)(3) thereof, would continue to apply to all hazardous substances (including petroleum products).

Expenditures paid or incurred to abate the contamination on or after August 28, 2005 and before December 31, 2007, would be eligible for expensing.

EFFECTIVE DATE

The provision is effective for taxable years ending on or after August 28, 2005.

9. Increase in rehabilitation tax credit with respect to certain buildings located in the Gulf Opportunity Zone (new sec. 1400N(h) of the Code)

PRESENT LAW

Present law provides a two-tier tax credit for rehabilitation expenditures.

A 20-percent credit is provided for qualified rehabilitation expenditures with respect to a certified historic structure. For this purpose, a certified historic structure means any building that is listed in the National Register, or that is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary of the Treasury as being of historic significance to the district.

A 10-percent credit is provided for qualified rehabilitation expenditures with respect to a qualified rehabilitated building, which generally means a building that was first placed in service before 1936. The pre-1936 building must meet requirements with respect to retention of existing external walls and internal structural framework of the building in order for expenditures with respect to it to qualify for the 10-percent credit. A building is treated as having met the substantial rehabilitation requirement under the 10-percent credit only if the rehabilitation expenditures during the 24-month period selected by the taxpayer and ending within the taxable year exceed the greater of (1) the adjusted basis of the building (and its structural components), or (2) $5,000.

The provision requires the use of straight-line depreciation or the alternative depreciation system in order for rehabilitation expenditures to be treated as qualified under the provision.

EXPLANATION OF PROVISION

The provision increases from 20 to 26 percent, and from 10 to 13 percent, respectively, the credit under section 47 with respect to any certified historic structure or qualified rehabilitated building located in the Gulf Opportunity Zone, provided the qualified rehabilitation expenditures with respect to such buildings or structures are incurred on or after August 28, 2005, and before January 1, 2009.

EFFECTIVE DATE

The provision is effective for expenditures incurred on or after August 28, 2005, and before January 1, 2009, for taxable years ending on or after August 28, 2005.

10. Increased expensing for reforestation expenditures of small timber producers (new sec. 1400N(i)(1) of the Code)

PRESENT LAW

Present law permits a taxpayer to elect to deduct (or "expense") a limited amount of certain reforestation expenditures that would otherwise be required to be capitalized, in the year paid or incurred (sec. 194(b)). No more than $10,000 of reforestation expenditures made by a taxpayer in any year can qualify for expensing with respect to each qualified timber property. The limit is reduced to $5,000 per qualified timber property for married taxpayers filing separate returns.

All members of a controlled group of corporations are treated as a single taxpayer for purposes of the $10,000 limit. A controlled group of corporations for purposes of section 194 is defined as under section 1563(a), except that the 80-percent ownership requirement is reduced to a more than 50-percent requirement. If a partnership or S corporation incurs reforestation expenditures, the $10,000 limit applies separately to the partnership or S corporation and to each partner or shareholder. For an estate with reforestation expenditures, the $10,000 limit is apportioned between the estate and its beneficiaries. Section 194(b) does not apply to trusts.

Reforestation expenditures include direct costs incurred in connection with forestation or reforestation by planting or artificial or natural seeding, including costs for site preparation, seeds and seeding, labor and tools, and depreciation on equipment used in planting or seeding. Qualified timber property means a woodlot or other site located in the United States which will contain trees in significant commercial quantities and which is held by the taxpayer for the planting, cultivating, caring for, and cutting of trees for sale or use in the commercial production of timber products (sec. 194(c)(1)).

If a taxpayer's otherwise qualifying reforestation expenditures exceed the amount permitted to be expensed under section 194, the remaining expenditures are amortized, and the taxpayer is entitled to a deduction with respect to the amortization of the amortizable basis (sec. 194(a)). Reforestation expenditures qualifying for amortization are deducted in 84 equal monthly installments starting with the seventh month of the taxable year during which the expenditures are paid or incurred. Only reforestation expenditures that would otherwise be included in the basis of qualified timber property qualify for expensing and, with respect to amounts in excess of the $10,000 limit, for amortization (however, costs that could be deducted in the absence of section 194 are not required to be amortized).

EXPLANATION OF PROVISION

The provision doubles, for certain taxpayers, the present-law expensing limit for reforestation expenditures paid or incurred by such taxpayers (i) during the period after on or August 28, 2005, and before January 1, 2008, with respect to qualified timber property any portion of which is located in the Gulf Opportunity Zone, (ii) during the period on or after September 23, 2005, and before January 1, 2008, with respect to qualified timber property any portion of which is located in the Rita Zone and no portion of which is located in the Gulf Opportunity Zone, and (iii) during the period on or after October 23, 2005, and before January 1, 2008, with respect to qualified timber property any portion of which is located in the Wilma Zone. The amount by which the expensing limit is increased, however, is limited to the amount of reforestation expenditures paid or incurred during the relevant portion of the taxable year.

For example, suppose an otherwise eligible calendar-year taxpayer incurred $20,000 of reforestation expenditures in June, 2005 (i.e., prior to the relevant period), and incurs an additional $5,000 of reforestation expenditures in October, 2005, in the Gulf Opportunity Zone; the taxpayer would be permitted to expense $15,000 of the expenditures (because the increase in the expensing limit is limited to the $5,000 of expenditures paid or incurred during the relevant period within the taxable year) and could amortize the remaining $10,000 under section 194(a). By contrast, if the taxpayer had incurred $5,000 of reforestation expenditures in June, 2005, and incurs an additional $20,000 of reforestation expenditures in October, 2005, then the taxpayer would be permitted to expense $20,000 of the expenditures, and could amortize the remaining $5,000 under section 194(a).

The provision applies to taxpayers with aggregate holdings of qualified timber property which do not exceed 500 acres at any time during the taxable year. "Qualified timber property" is defined by section 194(c)(1) as "a woodlot or other site located in the United States which will contain trees in significant commercial quantities and which is held by the taxpayer for the planting, cultivating, caring for, and cutting of trees for sale or use in the commercial production of timber products."

The provision does not apply to any taxpayer which is a corporation the stock of which is publicly traded on an established securities market, or which is a real estate investment trust.

EFFECTIVE DATE

The proposal is effective for taxable years ending on or after August 28, 2005, (i) for expenditures paid or incurred on or after August 28, 2005, and before January 1, 2008, with respect to qualified timber property any portion of which is located in the Gulf Opportunity Zone, (ii) for expenditures paid or incurred on or after September 23, 2005, and before January 1, 2008, with respect to qualified timber property any portion of which is located in the Rita Zone and no portion of which located in the Gulf Opportunity Zone, and (iii) for expenditures paid or incurred on or after October 23, 2005, and before January 1, 2008, with respect to qualified timber property any portion of which is located in the Wilma Zone.

11. Five-year NOL carryback of certain timber losses (new sec. 1400N(i)(2) of the Code)

PRESENT LAW

A net operating loss ("NOL") is, generally, the amount by which a taxpayer's business deductions exceed the taxpayer's gross income. In general, an NOL may be carried back two years and carried over 20 years to offset taxable income in these years (sec. 172). NOLs generally are first applied to the earliest of the taxable years to which the loss may be carried (sec. 172(b)(2)).

In the case of an NOL arising from a farming loss, the NOL can be carried back five years. A "farming loss" is defined as the amount of any net operating loss attributable to a farming business as defined in section 263A(e)(4). Under section 263A(e)(4), a farming business includes the trade or business of farming, as well as the trade or business of operating a nursery or sod farm, or the raising or harvesting of trees bearing fruit, nuts, or other crops, or ornamental trees. It does not include the planting, cultivating, caring for, holding or cutting of trees for sale or use in the commercial production of timber products.

A farming loss cannot exceed the taxpayer's NOL for the taxable year. In calculating the amount of a taxpayer's NOL carrybacks, the portion of the NOL that is attributable to a farming loss is treated as a separate NOL and is taken into account after the remaining portion of the NOL for the taxable year.

EXPLANATION OF PROVISION

Under the provision, for purposes of determining the farming loss (if any) of certain taxpayers, income and loss is treated as attributable to a farming business if such income and loss is attributable to qualified timber property any portion of which is located in the Gulf Opportunity Zone or in the Rita GO Zone, and if such income and loss is allocable to that portion of the taxpayer's taxable year which is (i) on or after August 28, 2005 (for qualified timber property any portion of which is located in the Gulf Opportunity Zone), on or after September 23, 2005 (for qualified timber property any portion of which is located in the Rita GO Zone and no portion of which is located in the Gulf Opportunity Zone), or on or after October 23, 2005 (for qualified timber property any portion of which is located in the Wilma Zone) and (ii) before January 1, 2007. "Qualified timber property" is defined by section 194(c)(1) as "a woodlot or other site located in the United States which will contain trees in significant commercial quantities and which is held by the taxpayer for the planting, cultivating, caring for, and cutting of trees for sale or use in the commercial production of timber products."

The provision applies to taxpayers with aggregate holdings of qualified timber property which do not exceed 500 acres at any time during the taxable year. Further, the provision only applies (i) with respect to qualified timber property any portion of which is located in the Gulf Opportunity Zone, if the taxpayer held such property on August 28, 2005, (ii) with respect to qualified timber property any portion of which is located in the Rita GO Zone and no portion of which is located in the Gulf Opportunity Zone, if the taxpayer held such property on September 23, 2005, and (iii) with respect to qualified timber property any portion of which is located in the Wilma Zone, if the taxpayer held such property on October 23, 2005.

The provision does not apply to any taxpayer which is a corporation the stock of which is publicly traded on an established securities market, or which is a real estate investment trust.

EFFECTIVE DATE

The proposal is effective for taxable years ending on or after August 28, 2005, with respect to income and loss which is allocable to that portion of the taxpayer's taxable year which is (i) on or after August 28, 2005 (for qualified timber property any portion of which is located in the Gulf Opportunity Zone), on or after September 23, 2005 (for qualified timber property any portion of which is located in the Rita Zone and no portion of which is located in the Gulf Opportunity Zone), or on or after October 23, 2005 (for qualified timber property any portion of which is located in the Wilma Zone) and (ii) before January 1, 2007.

12. Special rule for Gulf Opportunity Zone public utility casualty losses (new sec. 1400N(j) of the Code)

PRESENT LAW

In general

A net operating loss ("NOL") is, generally, the amount by which a taxpayer's allowable deductions exceed the taxpayer's gross income. A carryback of an NOL generally results in the refund of Federal income tax for the carryback year. A carryover of an NOL reduces Federal income tax for the carryover year.

In general, an NOL may be carried back two years and carried over 20 years to offset taxable income in such years. NOLs generally are first applied to the earliest of the taxable years to which the loss may be carried.

Exceptions to the general rule

Different rules apply with respect to NOLs arising in certain circumstances. For example, a three-year carryback applies with respect to NOLs (1) arising from casualty or theft losses of individuals, or (2) attributable to Presidentially declared disasters for taxpayers engaged in a farming business or a small business. A five-year carryback period applies to NOLs from a farming loss (regardless of whether the loss was incurred in a Presidentially declared disaster area). Special rules also apply to real estate investment trusts (no carryback), specified liability losses (10-year carryback), and excess interest losses (no carryback to any year preceding a corporate equity reduction transaction).

Specified liability losses

The specified liability loss rules generally apply to certain product liability losses and other liability losses. The amount of the specified liability loss cannot exceed the taxpayer's NOL for the taxable year. A specified liability loss is treated as a separate NOL for the taxable year which is eligible for a 10-year carryback period. Any remaining portion of the taxpayer's NOL is subject to the general two-year carryback period.

EXPLANATION OF PROVISION

The provision provides an election for taxpayers to treat any Gulf Opportunity Zone public utility casualty loss as a specified liability loss to which the present-law 10-year carryback period applies. A Gulf Opportunity Zone public utility casualty loss is any casualty loss of public utility property by reason of Hurricane Katrina which is allowed as a deduction under section 165. The amount of the casualty loss is reduced by the amount of any gain recognized by the taxpayer from involuntary conversions of public utility property located in the Gulf Opportunity Zone caused by Hurricane Katrina. The total amount of specified liability loss, including any amount of public utility casualty loss treated as such, is limited to the amount of the taxpayer's overall NOL for the taxable year as under present law. Taxpayers who elect the applicability of the proposed provision with respect to any loss are not eligible to also treat the loss as having occurred in any prior taxable year under section 165(i), nor may they include the casualty loss as part of the five-year NOL carryback provided under another provision of the bill.

For purposes of the proposed provision, public utility property is defined as in section 168(i)(10) to mean, generally, property used predominantly in a rate-regulated trade or business of the furnishing or sale of electrical energy, water, or sewage disposal services; gas or steam through a local distribution system; telephone services or certain other communication services; or transportation of gas or steam by pipeline.

EFFECTIVE DATE

The provision is effective for losses arising in taxable years ending on or after August 28, 2005.

13. Five-year NOL carryback for certain amounts related to Hurricane Katrina or the Gulf Opportunity Zone (new sec. 1400N(k) of the Code)

PRESENT LAW

In general

A net operating loss ("NOL") is, generally, the amount by which a taxpayer's allowable deductions exceed the taxpayer's gross income. A carryback of an NOL generally results in the refund of Federal income tax for the carryback year. A carryover of an NOL reduces Federal income tax for the carryover year.

In general, an NOL may be carried back two years and carried over 20 years to offset taxable income in such years. NOLs generally are first applied to the earliest of the taxable years to which the loss may be carried.

Different rules apply with respect to NOLs arising in certain circumstances. For example, a three-year carryback applies with respect to NOLs (1) arising from casualty or theft losses of individuals, or (2) attributable to Presidentially declared disasters for taxpayers engaged in a farming business or a small business. A five-year carryback period applies to NOLs from a farming loss (regardless of whether the loss was incurred in a Presidentially declared disaster area). Special rules also apply to real estate investment trusts (no carryback), specified liability losses (10-year carryback), and excess interest losses (no carryback to any year preceding a corporate equity reduction transaction).

Separately, under section 165(i), a taxpayer who incurs a loss attributable to a Presidentially declared disaster may elect to take such loss into account for the taxable year immediately preceding the taxable year in which the disaster occurred. This rule applies regardless of whether the taxpayer has an overall net operating loss for the relevant taxable years.

The alternative minimum tax rules provide that a taxpayer's NOL deduction cannot reduce the taxpayer's alternative minimum taxable income ("AMTI") by more than 90 percent of the AMTI. However, an NOL deduction attributable to NOL carrybacks arising in taxable years ending in 2001 and 2002, as well as NOL carryforwards to these taxable years, offset 100 percent of a taxpayer's AMTI.

EXPLANATION OF PROVISION

In general

The provision provides a special five-year carryback period for NOLs to the extent of certain specified amounts related to Hurricane Katrina or the Gulf Opportunity Zone. The amount of the NOL which is eligible for the five year carryback ("eligible NOL") is limited to the aggregate amount of the following deductions: (i) qualified Gulf Opportunity Zone casualty losses; (ii) certain moving expenses; (iii) certain temporary housing expenses; (iv) depreciation deductions with respect to qualified Gulf Opportunity Zone property for the taxable year the property is placed in service; and (v) deductions for certain repair expenses resulting from Hurricane Katrina. The provision applies for losses paid or incurred after August 27, 2005, and before January 1, 2008; however, an irrevocable election not to apply the five-year carryback under the provision may be made with respect to any taxable year.

Qualified Gulf Opportunity Zone casualty losses

The amount of qualified Gulf Opportunity Zone casualty losses which may be included in the eligible NOL is the amount of the taxpayer's casualty losses with respect to (1) property used in a trade or business, and (2) capital assets held for more than one year in connection with either a trade or business or a transaction entered into for profit. In order for a casualty loss to qualify, the property must be located in the Gulf Opportunity Zone and the loss must be attributable to Hurricane Katrina. As under present law, the amount of any casualty loss includes only the amount not compensated for by insurance or otherwise. In addition, the total amount of the casualty loss which may be included in the eligible NOL is reduced by the amount of any gain recognized by the taxpayer from involuntary conversions of property located in the Gulf Opportunity Zone caused by Hurricane Katrina.

To the extent that a casualty loss is included in the eligible NOL and carried back under the provision, the taxpayer is not eligible to also treat the loss as having occurred in the prior taxable year under section 165(i). Similarly, the five year carryback under the provision does not apply to any loss taken into account for purposes of the ten-year carryback of public utility casualty losses which is provided under another provision in the bill.

Moving expenses

Certain employee moving expenses of an employer may be included in the eligible NOL. In order to qualify, an amount must be paid or incurred after August 27, 2005, and before January 1, 2008 with respect to an employee who (i) lived in the Gulf Opportunity Zone before August 28, 2005, (ii) was displaced from their home either temporarily or permanently as a result of Hurricane Katrina, and (iii) is employed in the Gulf Opportunity Zone by the taxpayer after the expense is paid or incurred.

For this purpose, moving expenses are defined as under present law to include only the reasonable expenses of moving household goods and personal effects from the former residence to the new residence, and of traveling (including lodging) from the former residence to the new place of residence. However, for purposes of the provision, the former residence and the new residence may be the same residence if the employee initially vacated the residence as a result of Hurricane Katrina. It is not necessary for the individual with respect to whom the moving expenses are incurred to have been an employee of the taxpayer at the time the expenses were incurred. Thus, assuming the other requirements are met, a taxpayer who pays the moving expenses of a prospective employee and subsequently employs the individual in the Gulf Opportunity Zone may include such expenses in the eligible NOL.

Temporary housing expenses

Any deduction for expenses of an employer to temporarily house employees who are employed in the Gulf Opportunity Zone may be included in the eligible NOL. It is not necessary for the temporary housing to be located in the Gulf Opportunity Zone in order for such expenses to be included in the eligible NOL; however, the employee's principal place of employment with the taxpayer must be in Gulf Opportunity Zone. So, for example, if a taxpayer temporarily houses an employee at a location outside of the Gulf Opportunity Zone, and the employee commutes into the Gulf Opportunity Zone to the employee's principal place of employment, such temporary housing costs will be included in the eligible NOL (assuming all other requirements are met).

Depreciation of Gulf Opportunity Zone property

The eligible NOL includes the depreciation deduction (or amortization deduction in lieu of depreciation) with respect to qualified Gulf Opportunity Zone property placed in service during the year. The special carryback period applies to the entire allowable depreciation deduction for such property for the year in which it is placed in service, including both the regular depreciation deduction and the additional first-year depreciation deduction, if any. An election out of the additional first-year depreciation deduction for Gulf Opportunity Zone property does not preclude eligibility for the five-year carryback.

Repair expenses

The eligible NOL includes deductions for repair expenses (including the cost of removal of debris) with respect to damage caused by Hurricane Katrina. For example, expenses relating to the removal of mold and other contaminants from property located in the Gulf Opportunity Zone will be included in the eligible NOL. In order to qualify, the amount must be paid or incurred after August 27, 2005 and before January 1, 2008, and the property must be located in the Gulf Opportunity Zone.

Other rules

The amount of the NOL to which the five-year carryback period applies is limited to the amount of the corporation's overall NOL for the taxable year. Any remaining portion of the taxpayer's NOL is subject to the general two-year carryback period. Ordering rules similar to those for specified liability losses apply to losses carried back under the provision.

In addition, the general rule which limits a taxpayer's NOL deduction to 90 percent of AMTI will not apply to any NOL to which the five-year carryback period applies under the provision. Instead, a taxpayer may apply such NOL carrybacks to offset up to 100 percent of AMTI.

EFFECTIVE DATE

The provision is effective for losses arising in taxable years ending on or after August 28, 2005.

14. Gulf Tax credit bonds (new sec. 1400N(l) of the Code)

PRESENT LAW

In general

Under present law, gross income does not include interest on State or local bonds (sec. 103). State and local bonds are classified generally as either governmental bonds or private activity bonds. Governmental bonds are bonds which are primarily used to finance governmental functions or are repaid with governmental funds. Private activity bonds are bonds with respect to which the State or local government serves as a conduit providing financing to nongovernmental persons (e.g., private businesses or individuals). The exclusion from income for State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain permitted purposes ("qualified private activity bonds").

Generally, qualified private activity bonds are subject to restrictions on the use of proceeds for the acquisition of land and existing property, use of proceeds to finance certain specified facilities (e.g., airplanes, skyboxes, other luxury boxes, health club facilities, gambling facilities, and liquor stores), and use of proceeds to pay costs of issuance (e.g., bond counsel and underwriter fees). Certain types of qualified private activity bonds (e.g., small issue and redevelopment bonds) also are subject to additional restrictions on the use of proceeds for certain facilities (e.g., golf courses and massage parlors). Moreover, the term of qualified private activity bonds generally may not exceed 120 percent of the economic life of the property being financed and certain public approval requirements (similar to requirements that typically apply under State law to issuance of governmental debt) apply under Federal law to issuance of private activity bonds.

Tax-credit bonds

As an alternative to traditional tax-exempt bonds, States and local governments may issue tax-credit bonds for limited purposes. Rather than receiving interest payments, a taxpayer holding a tax-credit bond on an allowance date is entitled to a credit. Generally, the credit amount is includible in gross income (as if it were a taxable interest payment on the bond), and the credit may be claimed against regular income tax and alternative minimum tax liability. Two types of tax-credit bonds may be issued under present law, "qualified zone academy bonds," which are bonds issued for the purpose of renovating, providing equipment to, developing course materials for use at, or training teachers and other personnel at certain school facilities, and "clean renewable energy bonds," which are bonds issued to finance facilities that would qualify for the tax credit under section 45 without regard to the placed in service date requirements of that section.

Arbitrage restrictions on tax-exempt bonds

To prevent States and local governments from issuing more tax-exempt bonds than is necessary for the activity being financed or from issuing such bonds earlier than needed for the purpose of the borrowing, the Code includes arbitrage restrictions limiting the ability to profit from investment of tax-exempt bond proceeds. In general, arbitrage profits may be earned only during specified periods (e.g., defined "temporary periods" before funds are needed for the purpose of the borrowing) or on specified types of investments (e.g., "reasonably required reserve or replacement funds"). Subject to limited exceptions, profits that are earned during these periods or on such investments must be rebated to the Federal Government. Governmental bonds are subject to less restrictive arbitrage rules than most private activity bonds.

EXPLANATION OF PROVISION

The provision creates a new category of tax-credit bonds that may be issued in calendar year 2006 by the States of Louisiana, Mississippi, and Alabama ("Gulf Tax Credit Bonds"). As with present law tax-credit bonds, the taxpayer holding Gulf Tax Credit Bonds on the allowance date would be entitled to a tax credit. The amount of the credit would be determined by multiplying the bond's credit rate by the face amount on the holder's bond. The credit would be includible in gross income (as if it were an interest payment on the bond) and could be claimed against regular income tax liability and alternative minimum tax liability.

Under the provision, 95 percent or more of the proceeds of Gulf Tax Credit Bonds must be used to (i) pay principal, interest, or premium on a bond (other than a private activity bond) that was outstanding on August 28, 2005, and was issued by the State issuing the Gulf Tax Credit Bonds, or any political subdivision thereof, or (ii) make a loan to any political subdivision of such State to pay principal, interest, or premium on a bond (other than a private activity bond) issued by such political subdivision. In addition, the issuer of Gulf Tax Credit Bonds must provide additional funds to pay principal, interest, or premium on outstanding bonds equal to the amount of Gulf Tax Credit Bonds issued to repay such outstanding bonds. Gulf Tax Credit Bonds must be a general obligation of the issuing State and must be designated by the Governor of such issuing State. The maximum maturity on Gulf Tax Credit Bonds is two years. In addition, present-law arbitrage rules that restrict the ability of State and local governments to invest bond proceeds apply to Gulf Tax Credit Bonds.

The maximum amount of Gulf Tax Credit Bonds that may be issued pursuant to this provision is $200 million in the case of Louisiana, $100 million in the case of Mississippi, and $50 million in the case of Alabama. Gulf Tax Credit Bonds may not be used to pay principal, interest, or premium on any bond with respect to which there is any outstanding refunded or refunding bond. Moreover, Gulf Tax Credit Bonds may not be used to pay principal, interest, or premium on any prior bond if the proceeds of such prior bond were used to provide any property described in section 144(c)(6)(B) (i.e., any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal purpose of which is the sale alcoholic beverages for consumption off premises).

EFFECTIVE DATE

The provision is effective for bonds issued after December 31, 2005 and before January 1, 2007.

15. Additional allocation of new markets tax credit for investments that serve the Gulf Opportunity Zone (new sec. 1400N(m) of the Code)

PRESENT LAW

Section 45D provides a new markets tax credit for qualified equity investments made to acquire stock in a corporation, or a capital interest in a partnership, that is a qualified community development entity ("CDE"). The amount of the credit allowable to the investor (either the original purchaser or a subsequent holder) is (1) a five-percent credit for the year in which the equity interest is purchased from the CDE and for each of the following two years, and (2) a six-percent credit for each of the following four years. The credit is determined by applying the applicable percentage (five or six percent) to the amount paid to the CDE for the investment at its original issue, and is available for a taxable year to the taxpayer who holds the qualified equity investment on the date of the initial investment or on the respective anniversary date that occurs during the taxable year. The credit is recaptured if at any time during the seven-year period that begins on the date of the original issue of the investment the entity ceases to be a qualified CDE, the proceeds of the investment cease to be used as required, or the equity investment is redeemed.

A qualified CDE is any domestic corporation or partnership: (1) whose primary mission is serving or providing investment capital for low-income communities or low-income persons; (2) that maintains accountability to residents of low-income communities by their representation on any governing board of or any advisory board to the CDE; and (3) that is certified by the Secretary as being a qualified CDE. A qualified equity investment means stock (other than nonqualified preferred stock) in a corporation or a capital interest in a partnership that is acquired directly from a CDE for cash, and includes an investment of a subsequent purchaser if such investment was a qualified equity investment in the hands of the prior holder. Substantially all of the investment proceeds must be used by the CDE to make qualified low-income community investments. For this purpose, qualified low-income community investments include: (1) capital or equity investments in, or loans to, qualified active low-income community businesses; (2) certain financial counseling and other services to businesses and residents in low-income communities; (3) the purchase from another CDE of any loan made by such entity that is a qualified low-income community investment; or (4) an equity investment in, or loan to, another CDE.

A "low-income community" is a population census tract with either (1) a poverty rate of at least 20 percent or (2) median family income which does not exceed 80 percent of the greater of metropolitan area median family income or statewide median family income (for a non-metropolitan census tract, does not exceed 80 percent of statewide median family income). In the case of a population census tract located within a high migration rural county, low-income is defined by reference to 85 percent (rather than 80 percent) of statewide median family income. For this purpose, a high migration rural county is any county that, during the 20-year period ending with the year in which the most recent census was conducted, has a net out-migration of inhabitants from the county of at least 10 percent of the population of the county at the beginning of such period.

The Secretary has the authority to designate "targeted populations" as low-income communities for purposes of the new markets tax credit. For this purpose, a "targeted population" is defined by reference to section 103(20) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702(20)) to mean individuals, or an identifiable group of individuals, including an Indian tribe, who (A) are low-income persons; or (B) otherwise lack adequate access to loans or equity investments. Under such Act, "low-income" means (1) for a targeted population within a metropolitan area, less than 80 percent of the area median family income; and (2) for a targeted population within a non-metropolitan area, less than the greater of 80 percent of the area median family income or 80 percent of the statewide non-metropolitan area median family income (12 U.S.C. 4702(17)). Under such Act, a targeted population is not required to be within any census tract. In addition, a population census tract with a population of less than 2,000 is treated as a low-income community for purposes of the credit if such tract is within an empowerment zone, the designation of which is in effect under section 1391, and is contiguous to one or more low-income communities.

A qualified active low-income community business is defined as a business that satisfies, with respect to a taxable year, the following requirements: (1) at least 50 percent of the total gross income of the business is derived from the active conduct of trade or business activities in any low-income community; (2) a substantial portion of the tangible property of such business is used in a low-income community; (3) a substantial portion of the services performed for such business by its employees is performed in a low-income community; and (4) less than five percent of the average of the aggregate unadjusted bases of the property of such business is attributable to certain financial property or to certain collectibles.

The maximum annual amount of qualified equity investments is capped at $2.0 billion per year for calendar years 2004 and 2005, and at $3.5 billion per year for calendar years 2006 and 2007.

EXPLANATION OF PROVISION

The provision allows an additional allocation of the new markets tax credit in an amount equal to $300,000,000 for 2005 and 2006, and $400,000,000 for 2007, to be allocated among qualified CDEs to make qualified low-income community investments within the Gulf Opportunity Zone. To qualify for any such allocation, a qualified CDE must have as a significant mission the recovery and redevelopment of the Gulf Opportunity Zone. The carryover of any unused additional allocation is applied separately from the carryover with respect to allocations made under present law.

EFFECTIVE DATE

The proposal is effective on the date of enactment.

16. Representations regarding income eligibility for purposes of qualified residential rental project requirements (new sec. 1400N(n) of the Code)

PRESENT LAW

In general

Under present law, gross income does not include interest on State or local bonds (sec. 103). State and local bonds are classified generally as either governmental bonds or private activity bonds. Governmental bonds are bonds which are primarily used to finance governmental functions or are repaid with governmental funds. Private activity bonds are bonds with respect to which the State or local government serves as a conduit providing financing to nongovernmental persons (e.g., private businesses or individuals). The exclusion from income for State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain permitted purposes ("qualified private activity bonds").

Qualified private activity bonds

The definition of a qualified private activity bond includes an exempt facility bond, or qualified mortgage, veterans' mortgage, small issue, redevelopment, 501(c)(3), or student loan bond. The definition of exempt facility bond includes bonds issued to finance certain transportation facilities (airports, ports, mass commuting, and high-speed intercity rail facilities); qualified residential rental projects; privately owned and/or operated utility facilities (sewage, water, solid waste disposal, and local district heating and cooling facilities, certain private electric and gas facilities, and hydroelectric dam enhancements); public/private educational facilities; qualified green building and sustainable design projects; and qualified highway or surface freight transfer facilities.

Subject to certain requirements, qualified private activity bonds may be issued to finance residential rental property or owner-occupied housing. Residential rental property may be financed with exempt facility bonds if the financed project is a "qualified residential rental project." A project is a qualified residential rental project if 20 percent or more of the residential units in such project are occupied by individuals whose income is 50 percent or less of area median gross income (the "20-50 test"). Alternatively, a project is a qualified residential rental project if 40 percent or more of the residential units in such project are occupied by individuals whose income is 60 percent or less of area median gross income (the "40-60 test"). The issuer must elect to apply either the 20–50 test or the 40-60 test. Operators of qualified residential rental projects must annually certify that such project meets the requirements for qualification, including meeting the 20–50 test or the 40–60 test.

EXPLANATION OF PROVISION

Under the provision, the operator of a qualified residential rental project may rely on the representations of prospective tenants displaced by reason of Hurricane Katrina for purposes of determining whether such individual satisfies the income limitations for qualified residential rental projects and, thus, the project is in compliance with the 20–50 test or the 40–60 test. (For a description of modifications to the 20–50 test and the 40-60 test for qualified residential rental projects financed in the GO Zone, see I.A.2. Tax-exempt financing for the Gulf Opportunity Zone, above).

This rule only applies if the individual's tenancy begins during the six-month period beginning on the date when such individual was displaced by Hurricane Katrina.

EFFECTIVE DATE

The provision is effective on the date of enactment.

17. Treatment of public utility disaster losses (new sec. 1400N(o) of the Code)

PRESENT LAW

Under section 165(i), certain losses attributable to a disaster occurring in a Presidentially declared disaster area may, at the election of the taxpayer, be taken into account for the taxable year immediately preceding the taxable year in which the disaster occurred.

Section 6411 provides a procedure under which taxpayers may apply for tentative carryback and refund adjustments with respect to net operating losses, net capital losses, and unused business credits.

EXPLANATION OF PROVISION

The provision provides an election for taxpayers who incurred casualty losses attributable to Hurricane Katrina with respect to public utility property located in the Gulf Opportunity Zone. Under the election, such losses may be taken into account in the fifth taxable year (rather than the 1st taxable year) immediately preceding the taxable year in which the loss occurred. If the application of this provision results in the creation or increase of a net operating loss for the year in which the casualty loss is taken into account, the net operating loss may be carried back or carried over as under present law applicable to net operating losses for such year.

For this purpose, public utility property is property used predominantly in the trade or business of the furnishing or sale of electrical energy, water, or sewage disposal services; gas or steam through a local distribution system; telephone services, or other communication services if furnished or sold by the Communications Satellite Corporation for purposes authorized by the Communications Satellite Act of 1962; or transportation of gas or steam by pipeline. Such property is eligible regardless of whether the taxpayer's rates are established or approved by any regulatory body.

A taxpayer making the election under the provision is eligible to file an application for a tentative carryback adjustment of the tax for any prior taxable year affected by the election. As under present law with respect to tentative carryback and refund adjustments, the IRS generally has 90 days to act on the refund claim. Under the provision, the statute of limitations with respect to such a claim can not expire earlier than one year after the date of enactment. Also, a taxpayer making the election with respect to a loss is not entitled to interest with respect to any overpayment attributable to the loss.

EFFECTIVE DATE

The provision is effective for taxable years ending on or after August 28, 2005.

18. Tax benefits not available with respect to certain property (new sec. 1400N of the Code)

PRESENT LAW

Under present law, specific tax benefits do not apply with respect to certain types of property. For example, private activity bonds are subject to restrictions on the use of proceeds for the acquisition of land and existing property, use of proceeds to finance certain specified facilities (e.g., airplanes, skyboxes, other luxury boxes, health club facilities, gambling facilities, and liquor stores), and use of proceeds to pay costs of issuance (e.g., bond counsel and underwriter fees). Small issue and redevelopment bonds also are subject to additional restrictions on the use of proceeds for certain facilities (e.g., golf courses and massage parlors).

EXPLANATION OF PROVISION

The provisions relating to additional first-year depreciation, increased expensing under section 179, and the five-year carryback of NOLs attributable to casualty losses, depreciation, or amortization otherwise provided under new Code section 1400N do not apply with respect to certain property. Specifically, the provisions do not apply with respect to any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises. The provisions also do not apply with respect to any gambling or animal racing property.

For this purpose, gambling or animal racing property includes certain personal property and certain real property. Personal property treated as gambling or animal racing property is any equipment, furniture, software, or other property used directly in connection with gambling, the racing of animals, or the on-site (i.e., at the racetrack) viewing of such racing. Real property treated as gambling or animal racing property is the portion of any real property (determined by square footage) that is dedicated to gambling, the racing of animals, or the on-site viewing of such racing (except if the portion so dedicated is less than 100 square feet). For example, the additional first-year depreciation for a building which is used as both a casino and a hotel (and which otherwise qualifies for additional first-year depreciation under the bill) is determined without regard to the portion of the building's basis which bears the same percentage to the total basis as the percentage of square footage dedicated to gambling (i.e., the casino floor) bears to total square footage of the building.

No apportionment calculation is required with respect to real property which meets the 100-square-foot de minimis exception. Thus, for example, no apportionment calculation is required in the case of a retail store that sells lottery tickets in a less-than-100-square-foot area, nor in the case of an establishment that, while not a casino, contains a small number of gaming machines and devices in an area or areas whose aggregate size is less than 100 square feet.

EFFECTIVE DATE

The provision is effective for taxable years ending on or after August 28, 2005, except that the inapplicability of the five-year carryback of NOLs attributable to casualty losses, depreciation, or amortization, is effective for losses arising in such years.

19. Expansion of Hope Scholarship and Lifetime Learning Credit for students in the Gulf Opportunity Zone (new sec. 1400O of the Code)

PRESENT LAW

Hope credit

The Hope credit (sec. 25A) is a nonrefundable credit of up to $1,500 per student per year for qualified tuition and related expenses paid for the first two years of the student's post-secondary education in a degree or certificate program. The Hope credit rate is 100 percent on the first $1,000 of qualified tuition and related expenses, and 50 percent on the next $1,000 of qualified tuition and related expenses. The Hope credit that a taxpayer may otherwise claim is phased out ratably for taxpayers with modified adjusted gross income between $43,000 and $53,000 ($87,000 and $107,000 for married taxpayers filing a joint return) for 2005. These adjusted gross income phase-out ranges are indexed for inflation. Also, each of the $1,000 amounts of qualified tuition and related expenses to which the 100-percent credit rate and 50 percent credit rate apply are indexed for inflation, with the amount rounded down to the next lowest multiple of $100. The first adjustment to these qualified expense amounts as a result of inflation is expected in 2006. The Hope credit generally may not be claimed against a taxpayer's alternative minimum tax liability. However, the credit may be claimed against a taxpayer's alternative minimum tax liability for taxable years beginning prior to January 1, 2006.

The qualified tuition and related expenses must be incurred on behalf of the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer. The Hope credit is available with respect to an individual student for two taxable years, provided that the student has not completed the first two years of post-secondary education before the beginning of the second taxable year.

In addition, for each taxable year, a taxpayer may elect either the Hope credit, the Lifetime Learning credit (described below), or the deduction for qualified tuition and related expenses (sec. 222) with respect to an eligible student.

The Hope credit is available for "qualified tuition and related expenses," which include tuition and fees (excluding nonacademic fees) required to be paid to an eligible educational institution as a condition of enrollment or attendance of an eligible student at the institution. Charges and fees associated with meals, lodging, insurance, transportation, and similar personal, living, or family expenses are not eligible for the credit. The expenses of education involving sports, games, or hobbies are not qualified tuition and related expenses unless this education is part of the student's degree program. Total qualified tuition and related expenses are reduced by any scholarship or fellowship grants excludable from gross income under section 117 and any other tax-free educational benefits received by the student (or the taxpayer claiming the credit) during the taxable year. The Hope credit is not allowed with respect to any education expense for which a deduction is claimed under section 162 or any other section of the Code.

An eligible student for purposes of the Hope credit is an individual who is enrolled in a degree, certificate, or other program (including a program of study abroad approved for credit by the institution at which such student is enrolled) leading to a recognized educational credential at an eligible educational institution. The student must pursue a course of study on at least a half-time basis. A student is considered to pursue a course of study on at least a half-time basis if the student carries at least one half the normal full-time work load for the course of study the student is pursuing for at least one academic period that begins during the taxable year. To be eligible for the Hope credit, a student must not have been convicted of a Federal or State felony consisting of the possession or distribution of a controlled substance.

For taxable years beginning in 2004 and 2005, the Hope credit offsets the alternative minimum tax. For taxable years thereafter, the Hope credit does not offset the alternative minimum tax.

Effective for taxable years beginning after December 31, 2010, the changes to the Hope credit made by EGTRRA no longer apply. The EGTRRA change scheduled to expire is the change that permitted a taxpayer to claim a Hope credit in the same year that he or she claimed an exclusion from an education savings account. Thus, after 2010, a taxpayer cannot claim a Hope credit in the same year he or she claims an exclusion from an education savings account.

Lifetime Learning credit

Individual taxpayers are allowed to claim a nonrefundable credit, the Lifetime Learning credit, equal to 20 percent of qualified tuition and related expenses incurred during the taxable year on behalf of the taxpayer, the taxpayer's spouse, or any dependents (Sec. 25A). Up to $10,000 of qualified tuition and related expenses per taxpayer return are eligible for the Lifetime Learning credit (i.e., the maximum credit per taxpayer return is $2,000). In contrast with the Hope credit, the maximum credit amount is not indexed for inflation. The Lifetime Learning credit generally may not be claimed against a taxpayer's alternative minimum tax liability. However, the credit may be claimed against a taxpayer's alternative minimum tax liability for taxable years beginning prior to January 1, 2006.

In contrast to the Hope credit, a taxpayer may claim the Lifetime Learning credit for an unlimited number of taxable years. Also in contrast to the Hope credit, the maximum amount of the Lifetime Learning credit that may be claimed on a taxpayer's return will not vary based on the number of students in the taxpayer's family—that is, the Hope credit is computed on a per student basis, while the Lifetime Learning credit is computed on a family-wide basis. The Lifetime Learning credit amount that a taxpayer may otherwise claim is phased out ratably for taxpayers with modified adjusted gross income between $43,000 and $53,000 ($87,000 and $107,000 for married taxpayers filing a joint return) for 2005. These phaseout ranges are the same as those for the Hope credit, and are similarly indexed for inflation.

A taxpayer may claim the Lifetime Learning credit for a taxable year with respect to one or more students, even though the taxpayer also claims a Hope credit for that same taxable year with respect to other students. If, for a taxable year, a taxpayer claims a Hope credit with respect to a student, then the Lifetime Learning credit is not available with respect to that same student for that year (although the Lifetime Learning credit may be available with respect to that same student for other taxable years). As with the Hope credit, a taxpayer may not claim the Lifetime Learning credit and also claim the section 222 deduction for qualified tuition and related expenses (described below).

As with the Hope credit, the Lifetime Learning credit is available for "qualified tuition and related expenses," which include tuition and fees (excluding nonacademic fees) required to be paid to an eligible educational institution as a condition of enrollment or attendance of a student at the institution. Eligible higher education institutions are defined in the same manner for purposes of both the Hope and Lifetime Learning credits. Charges and fees associated with meals, lodging, insurance, transportation, and similar personal, living or family expenses are not eligible for the credit. The expenses of education involving sports, games, or hobbies are not qualified tuition expenses unless this education is part of the student's degree program, or the education is undertaken to acquire or improve the job skills of the student.

In contrast to the Hope credit, qualified tuition and related expenses for purposes of the Lifetime Learning credit include tuition and fees incurred with respect to undergraduate or graduate-level courses (as explained above, the Hope credit is available only with respect to the first two years of a student's undergraduate education). Additionally, in contrast to the Hope credit, the eligibility of a student for the Lifetime Learning credit does not depend on whether the student has been convicted of a Federal or State felony consisting of the possession or distribution of a controlled substance.

As under the Hope credit, total qualified tuition and fees are reduced by any scholarship or fellowship grants excludable from gross income under section 117 and any other tax-free educational benefits received by the student during the taxable year (such as employer-provided educational assistance excludable under section 127). The Lifetime Learning credit is not allowed with respect to any education expense for which a deduction is claimed under section 162 or any other section of the Code.

For taxable years beginning in 2004 and 2005, the Lifetime Learning credit offsets the alternative minimum tax. For taxable years thereafter, the credit does not offset the alternative minimum tax.

Effective for taxable years beginning after December 31, 2010, the changes to the Lifetime Learning credit made by EGTRRA no longer apply. The EGTRRA change scheduled to expire is the change that permitted a taxpayer to claim a Lifetime Learning credit in the same year that he or she claimed an exclusion from an education savings account. Thus, after 2010, taxpayers cannot claim a Lifetime Learning credit in the same year he or she claims an exclusion from an education savings account.

Definition of qualified higher education expenses for purposes of qualified tuition programs

Present law provides favorable tax treatment for qualified tuition programs that meet the requirements of section 529 of the Code. For purposes of the rules relating to qualified tuition programs, "qualified higher education expenses" means tuition, fees, books, supplies, and equipment required for the enrollment or attendance at an eligible educational institution and expenses for special needs services in the case of a special needs beneficiary which are incurred in connection with such enrollment or attendance. In addition, in the case of at least half-time students, qualified higher education expenses include certain room and board expenses.

EXPLANATION OF PROVISION

The provision temporarily expands the Hope and Lifetime Learning credits for students attending (i.e., enrolled and paying tuition at) an eligible education institution located in the Gulf Opportunity Zone.

Under the provision, the Hope credit is increased to 100 percent of the first $2,000 in qualified tuition and related expenses and 50 percent of the next $2,000 of qualified tuition and related expenses for a maximum credit of $3,000 per student. The Lifetime Learning credit rate is increased from 20 percent to 40 percent. The provision expands the definition of qualified expenses to mean qualified higher education expenses as defined under the rules relating to qualified tuition programs, including certain room and board expenses for at least half-time students.

The provision applies to taxable years beginning in 2005 or 2006.

EFFECTIVE DATE

The provision is effective on the date of enactment.

20. Housing relief for individuals affected by Hurricane Katrina (new sec. 1400P of the Code)

PRESENT LAW

Under present law, employer-provided housing is generally includible in income as compensation and is wages for purposes of social security and Medicare taxes and unemployment tax (secs. 61, 3121(a), 3306(b)). Present law provides an income and wage exclusion for the value of lodging furnished to an employee, the employee's spouse, or the employee's dependents by or on behalf of the employee's employer, but generally only if the employee is required to accept the lodging on the business premises of the employer as a condition of employment (secs. 119, 3121(a)(19), and 3306(b)(14)). Reasonable expenses for employee compensation are deductible by the employer (sec. 162(a)).

EXPLANATION OF PROVISION

The provision provides a temporary income exclusion for the value of in-kind lodging provided for a month to a qualified employee (and the employee's spouse or dependents) by or on behalf of a qualified employer. The amount of the exclusion for any month for which lodging is furnished cannot exceed $600. The exclusion does not apply for purposes of social security and Medicare taxes or unemployment tax.

The provision also provides a temporary credit to a qualified employer of 30 percent of the value of lodging excluded from the income of a qualified employee under the provision. The amount taken as a credit is not deductible by the employer.

Qualified employee means, with respect to a month, an individual who: (1) on August 28, 2005, had a principal residence in the Gulf Opportunity ("GO") Zone; and (2) performs substantially all of his or her employment services in the GO Zone for the qualified employer furnishing the lodging. Qualified employer means any employer with a trade or business located in the GO Zone.

EFFECTIVE DATE

The provision applies to lodging provided during the period beginning on the first day of the first month beginning after the date of enactment and ending on the date that is six months after such first day.

21. Special rules for mortgage revenue bonds (sec. 404 of the Katrina Emergency Tax Relief Act of 2005)

PRESENT LAW

In general

Under present law, gross income does not include interest on State or local bonds (sec. 103). State and local bonds are classified generally as either governmental bonds or private activity bonds. Governmental bonds are bonds which are primarily used to finance governmental functions or are repaid with governmental funds. Private activity bonds are bonds with respect to which the State or local government serves as a conduit providing financing to nongovernmental persons (e.g., private businesses or individuals). The exclusion from income for State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain permitted purposes ("qualified private activity bonds") (secs. 103(b)(1) and 141).

Qualified mortgage bonds

The definition of a qualified private activity bond includes a qualified mortgage bond (sec. 143). Qualified mortgage bonds are issued to make mortgage loans to qualified mortgagors for the purchase, improvement, or rehabilitation of owner-occupied residences. The Code imposes several limitations on qualified mortgage bonds, including income limitations for eligible mortgagors, purchase price limitations on the home financed with bond proceeds, and a "first-time homebuyer" requirement. The income limitations are satisfied if all financing provided by an issue is provided for mortgagors whose family income does not exceed 115 percent of the median family income for the metropolitan area or State, whichever is greater, in which the financed residences are located. The purchase price limitations provide that a residence financed with qualified mortgage bonds may not have a purchase price in excess of 90 percent of the average area purchase price for that residence. The first-time homebuyer requirement provides qualified mortgage bonds generally cannot be used to finance a mortgage for a homebuyer who had an ownership interest in a principal residence in the three years preceding the execution of the mortgage (the "first-time homebuyer" requirement).

Special income and purchase price limitations apply to targeted area residences. A targeted area residence is one located in either (1) a census tract in which at least 70 percent of the families have an income which is 80 percent or less of the state-wide median income or (2) an area of chronic economic distress. For targeted area residences, the income limitation is satisfied when no more than one-third of the mortgages are made without regard to any income limits and the remainder of the mortgages are made to mortgagors whose family income is 140 percent or less of the applicable median family income. The purchase price limitation is raised from 90 percent to 110 percent of the average area purchase price for targeted area residences. In addition, the first-time homebuyer requirement does not apply to targeted area residences.

Qualified mortgage bonds also may be used to finance qualified home-improvement loans. Qualified home-improvement loans are defined as loans to finance alterations, repairs, and improvements on an existing residence, but only if such alterations, repairs, and improvements substantially protect or improve the basic livability or energy efficiency of the property. Qualified home-improvement loans may not exceed $15,000.

A temporary provision waived the first-time homebuyer requirement for residences located in certain Presidentially declared disaster areas (sec. 143(k)(11)). In addition, residences located in such areas were treated as targeted area residences for purposes of the income and purchase price limitations. The special rule for residences located in Presidentially declared disaster areas does not apply to bonds issued after January 1, 1999.

The Katrina Emergency Tax Relief Act ("KETRA") waives the first-time homebuyer requirement with respect to certain residences located in an area with respect to which a major disaster has been declared by the President before September 14, 2005, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina (see sec. 404 of Pub. L. No. 109–73). The waiver of the first-time homebuyer requirement does not apply to financing provided after December 31, 2007. KETRA also increases to $150,000 the permitted amount of a qualified home-improvement loan with respect to residences located in the Hurricane Katrina disaster area to the extent such loan is for the repair of damage caused by Hurricane Katrina.

EXPLANATION OF PROVISION

The proposal extends the waiver of the first-time homebuyer requirement provided by KETRA to financing provided through December 31, 2010.

(For a description of additional mortgage revenue bond rules applicable to the GO Zone, the Rita GO Zone and the Wilma GO Zone, see II.H—Special Rules for Mortgage Revenue Bonds, below)

EFFECTIVE DATE

The provision is effective on the date of enactment.

22. Treasury authority to grant bonus depreciation placed-in-service date relief (sec. 168(k) of the Code)

PRESENT LAW

In general

A taxpayer is allowed to recover, through annual depreciation deductions, the cost of certain property used in a trade or business or for the production of income. The amount of the depreciation deduction allowed with respect to tangible property for a taxable year is determined under the modified accelerated cost recovery system ("MACRS"). Under MACRS, different types of property generally are assigned applicable recovery periods and depreciation methods. The recovery periods applicable to most tangible personal property range from three to 25 years. The depreciation methods generally applicable to tangible personal property are the 200-percent and 150-percent declining balance methods, switching to the straight-line method for the taxable year in which the depreciation deduction would be maximized.

Additional first year depreciation deduction

Sec. 168(k) allows an additional first-year depreciation deduction equal to 30 percent or 50 percent of the adjusted basis of qualified property. In order for property to qualify for the additional first-year depreciation deduction, it must meet all of the following requirements. First, the property must be (1) property to which MACRS applies with an applicable recovery period of 20 years or less, (2) water utility property (as defined in section 168(e)(5)), (3) computer software other than computer software covered by section 197, or (4) qualified leasehold improvement property (as defined in section 168(k)(3)). Second, the original use (the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer) of the property must commence with the taxpayer on or after September 11, 2001. Third, the taxpayer must acquire the property within the applicable time period. Finally, the property must be placed in service before January 1, 2005.

An extension of the placed-in-service date of one year (i.e., January 1, 2006) is provided for certain property with a recovery period of ten years or longer and certain transportation property. In order for property to qualify for the extended placed-in-service date, the property must be subject to section 263A and have an estimated production period exceeding two years or an estimated production period exceeding one year and a cost exceeding $1 million. Transportation property is defined as tangible personal property used in the trade or business of transporting persons or property.

The applicable time period for acquired property is (1) after September 10, 2001, and before January 1, 2005, but only if no binding written contract for the acquisition is in effect before September 11, 2001, or (2) pursuant to a binding written contract which was entered into after September 10, 2001, and before January 1, 2005. With respect to property that is manufactured, constructed, or produced by the taxpayer for use by the taxpayer, the taxpayer must begin the manufacture, construction, or production of the property after September 10, 2001. For property eligible for the extended placed-in-service date, a special rule limits the amount of costs eligible for the additional first year depreciation. With respect to such property, only the portion of the basis that is properly attributable to the costs incurred before January 1, 2005 ("progress expenditures") is eligible for the additional first-year depreciation. For purposes of determining the amount of eligible progress expenditures, rules similar to sec. 46(d)(3) as in effect prior to the Tax Reform Act of 1986 apply.

In addition, certain non-commercial aircraft can qualify for the extended placed-in-service date. Qualifying aircraft are eligible for the additional first-year depreciation deduction if placed in service before January 1, 2006. In order to qualify, the aircraft must:

1. be acquired by the taxpayer during the applicable time period as under present law;
2. meet the appropriate placed-in-service date requirements;
3. not be tangible personal property used in the trade or business of transporting persons or property (except for agricultural or fire-fighting purposes);
4. be purchased by a purchaser who, at the time of the contract for purchase, has made a nonrefundable deposit of the lesser of ten percent of the cost or $100,000; and
5. have an estimated production period exceeding four months and a cost exceeding $200,000.

Aircraft qualifying under these rules are not subject to the progress expenditures limitation.

EXPLANATION OF PROVISION

The provision provides the Secretary with authority to further extend the placed-in-service date (beyond December 31, 2005), on a case-by-case basis, for certain property eligible for the December 31, 2005 placed-in-service date under present law. The authority extends only to property placed in service or manufactured in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone. In addition, the authority extends only to circumstances in which the taxpayer was unable to meet the December 31, 2005 deadline as a result of Hurricanes Katrina, Rita, and/or Wilma. The extension should be only for such additional time as is required as a result of the hurricane(s) and in no case should extend the deadline beyond December 31, 2006.

EFFECTIVE DATE

The provision applies to property placed in service on or after August 28, 2005, in taxable years ending on or after such date.

TITLE II—TAX BENEFITS RELATED TO HURRICANES RITA AND WILMA

A. SPECIAL RULES FOR USE OF RETIREMENT FUNDS (NEW CODE SEC. 1400Q)

1. Tax-favored withdrawals from retirement plans relating to Hurricanes Rita and Wilma

PRESENT LAW

In general

Under present law, a distribution from a qualified retirement plan under section 401(a), a qualified annuity plan under section 403(a), a tax-sheltered annuity under section 403(b) (a "403(b) annuity"), an eligible deferred compensation plan maintained by a State or local government under section 457 (a "governmental 457 plan"), or an individual retirement arrangement under section 408 (an "IRA") generally is included in income for the year distributed (secs. 402(a), 403(a), 403(b), 408(d), and 457(a)). (These plans are referred to collectively as "eligible retirement plans".) In addition, a distribution from a qualified retirement or annuity plan, a 403(b) annuity, or an IRA received before age 59½, death, or disability generally is subject to a 10-percent early withdrawal tax on the amount includible in income, unless an exception applies (sec. 72(t)).

An eligible rollover distribution from a qualified retirement or annuity plan, a 403(b) annuity, or a governmental 457 plan, or a distribution from an IRA, generally can be rolled over within 60 days to another plan, annuity, or IRA. The IRS has the authority to waive the 60-day requirement if failure to waive the requirement would be against equity or good conscience, including cases of casualty, disaster, or other events beyond the reasonable control of the individual. Any amount rolled over is not includible in income (and thus also not subject to the 10-percent early withdrawal tax).

Distributions from a qualified retirement or annuity plan, 403(b) annuity, a governmental 457 plan, or an IRA are generally subject to income tax withholding unless the recipient elects otherwise. An eligible rollover distribution from a qualified retirement or annuity plan, 403(b) annuity, or governmental 457 plan is subject to income tax withholding at a 20-percent rate unless the distribution is rolled over to another plan, annuity or IRA by means of a direct transfer.

Certain amounts held in a qualified retirement plan that includes a qualified cash-or-deferred arrangement (a "401(k) plan") or in a 403(b) annuity may not be distributed before severance from employment, age 59½, death, disability, or financial hardship of the employee. Amounts deferred under a governmental 457 plan may not be distributed before severance from employment, age 70½, or an unforeseeable emergency of the employee.

Katrina Emergency Tax Relief Act of 2005

The Katrina Emergency Tax Relief Act of 2005 (Public Law 109–73) provides an exception to the 10-percent early withdrawal tax in the case of a qualified Hurricane Katrina distribution from a qualified retirement or annuity plan, a 403(b) annuity, or an IRA. In addition, as discussed more fully below, income attributable to a qualified Hurricane Katrina distribution may be included in income ratably over three years, and the amount of a qualified Hurricane Katrina distribution may be recontributed to an eligible retirement plan within three years.

A qualified Hurricane Katrina distribution is a distribution from an eligible retirement plan made on or after August 25, 2005, and before January 1, 2007, to an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina. The total amount of qualified Hurricane Katrina distributions that an individual can receive from all plans, annuities, or IRAs is $100,000. Thus, any distributions in excess of $100,000 during the applicable period are not qualified Hurricane Katrina distributions.

Any amount required to be included in income as a result of a qualified Hurricane Katrina distribution is included in income ratably over the three-year period beginning with the year of distribution unless the individual elects not to have ratable inclusion apply. Certain rules apply for purposes of the ratable inclusion provision. For example, the amount required to be included in income for any taxable year in the three-year period cannot exceed the total amount to be included in income with respect to the qualified Hurricane Katrina distribution, reduced by amounts included in income for preceding years in the period.

Any portion of a qualified Hurricane Katrina distribution may, at any time during the three-year period beginning the day after the date on which the distribution was received, be recontributed to an eligible retirement plan to which a rollover can be made. Any amount recontributed within the three-year period is treated as a rollover and thus is not includible in income. For example, if an individual receives a qualified Hurricane Katrina distribution in 2005, that amount is included in income, generally ratably over the year of the distribution and the following two years, but is not subject to the 10-percent early withdrawal tax. If, in 2007, the amount of the qualified Hurricane Katrina distribution is recontributed to an eligible retirement plan, the individual may file an amended return (or returns) to claim a refund of the tax attributable to the amount previously included in income. In addition, if, under the ratable inclusion provision, a portion of the distribution has not yet been included in income at the time of the contribution, the remaining amount is not includible in income.

A qualified Hurricane Katrina distribution is a permissible distribution from a 401(k) plan, 403(b) annuity, or governmental 457 plan, regardless of whether a distribution would otherwise be permissible. A plan is not treated as violating any Code requirement merely because it treats a distribution as a qualified Hurricane Katrina distribution, provided that the aggregate amount of such distributions from plans maintained by the employer and members of the employer's controlled group does not exceed $100,000. Thus, a plan is not treated as violating any Code requirement merely because an individual might receive total distributions in excess of $100,000, taking into account distributions from plans of other employers or IRAs.

Qualified Hurricane Katrina distributions are subject to the income tax withholding rules applicable to distributions other than eligible rollover distributions. Thus, 20-percent mandatory withholding does not apply.

EXPLANATION OF PROVISION

The provision codifies and expands the relief provided under the Katrina Emergency Tax Relief Act of 2005 in the case of qualified Hurricane Katrina distributions to any "qualified hurricane distribution," which is defined to include distributions relating to Hurricanes Rita and Wilma. Under the provision, a qualified hurricane distribution includes distributions that meet the definition of qualified Hurricane Katrina distribution under the Katrina Emergency Tax Relief Act of 2005, as well as any other distribution from an eligible retirement plan made on or after September 23, 2005, and before January 1, 2007, to an individual whose principal place of abode on September 23, 2005, is located in the Hurricane Rita disaster area and who has sustained an economic loss by reason of Hurricane Rita. A qualified hurricane distribution also includes a distribution from an eligible retirement plan made on or after October 23, 2005, and before January 1, 2007, to an individual whose principal place of abode on October 23, 2005, is located in the Hurricane Wilma disaster area and who has sustained an economic loss by reason of Hurricane Wilma.

The total amount of qualified hurricane distributions that an individual can receive from all plans, annuities, or IRAs is $100,000.

EFFECTIVE DATE

The provision is effective on the date of enactment.

2. Recontributions of withdrawals for home purchases cancelled due to Hurricanes Rita and Wilma

PRESENT LAW

In general

Under present law, a distribution from a qualified retirement plan, a tax-sheltered annuity (a "403(b) annuity"), or an individual retirement arrangement (an "IRA") generally is included in income for the year distributed (secs. 402(a), 403(b), and 408(d)). In addition, a distribution from a qualified retirement plan, a 403(b) annuity, or an IRA received before age 59½, death, or disability generally is subject to a 10-percent early withdrawal tax on the amount includible in income, unless an exception applies (sec. 72(t)). An exception to the 10-percent tax applies in the case of a qualified first-time homebuyer distribution from an IRA, i.e., a distribution (not to exceed $10,000) used within 120 days for the purchase or construction of a principal residence of a first-time homebuyer.

An eligible rollover distribution from a qualified retirement plan or a 403(b) annuity or a distribution from an IRA generally can be rolled over within 60 days to another plan, annuity, or IRA. The IRS has the authority to waive the 60-day requirement if failure to waive the requirement would be against equity or good conscience, including cases of casualty, disaster, or other events beyond the reasonable control of the individual. Any amount rolled over is not includible in income (and thus also not subject to the 10-percent early withdrawal tax).

Certain amounts held in a qualified retirement plan that includes a qualified cash-or-deferred arrangement (a "401(k) plan") or a 403(b) annuity may not be distributed before severance from employment, age 59½, death, disability, or financial hardship of the employee. For this purpose, subject to certain conditions, distributions for costs directly related to the purchase of a principal residence by an employee (excluding mortgage payments) are deemed to be distributions on account of financial hardship.

Katrina Emergency Tax Relief Act of 2005

The Katrina Emergency Tax Relief Act of 2005 generally provides that a distribution received from a 401(k) plan, 403(b) annuity, or IRA in order to purchase a home in the Hurricane Katrina disaster area may be recontributed to such a plan, annuity, or IRA in certain circumstances.

The ability to recontribute applies to an individual who receives a qualified distribution. A qualified distribution is a hardship distribution from a 401(k) plan or 403(b) annuity, or a qualified first-time homebuyer distribution from an IRA: (1) that is received after February 28, 2005, and before August 29, 2005; and (2) that was to be used to purchase or construct a principal residence in the Hurricane Katrina disaster area, but the residence is not purchased or constructed on account of Hurricane Katrina.

Any portion of a qualified distribution may, during the period beginning on August 25, 2005, and ending on February 28, 2006, be recontributed to a plan, annuity or IRA to which a rollover is permitted. Any amount recontributed is treated as a rollover. Thus, that portion of the qualified distribution is not includible in income (and also is not subject to the 10-percent early withdrawal tax).

EXPLANATION OF PROVISION

The provision codifies and expands the provision under the Katrina Emergency Tax Relief Act of 2005 allowing recontribution of certain distributions from a 401(k) plan, 403(b) annuity, or IRA to qualified Hurricane Rita distributions and to qualified Hurricane Wilma distributions.

A qualified Hurricane Rita distribution is a hardship distribution from a 401(k) plan or 403(b) annuity, or a qualified first-time homebuyer distribution from an IRA: (1) that is received after February 28, 2005, and before September 24, 2005; and (2) that was to be used to purchase or construct a principal residence in the Hurricane Rita disaster area, but the residence is not purchased or constructed on account of Hurricane Rita. Any portion of a qualified Hurricane Rita distribution may, during the period beginning on September 23, 2005, and ending on February 28, 2006, be recontributed to a plan, annuity or IRA to which a rollover is permitted.

A qualified Hurricane Wilma distribution is a hardship distribution from a 401(k) plan or 403(b) annuity, or a qualified first-time homebuyer distribution from an IRA: (1) that is received after February 28, 2005, and before October 24, 2005; and (2) that was to be used to purchase or construct a principal residence in the Hurricane Wilma disaster area, but the residence is not purchased or constructed on account of Hurricane Wilma. Any portion of a qualified Hurricane Wilma distribution may, during the period beginning on October 23, 2005, and ending on February 28, 2006, be recontributed to a plan, annuity or IRA to which a rollover is permitted.

EFFECTIVE DATE

The provision is effective on the date of enactment.

3. Loans from qualified plans to individuals sustaining an economic loss due to Hurricane Rita or Wilma

PRESENT LAW

In general

An individual is permitted to borrow from a qualified plan in which the individual participates (and to use his or her accrued benefit as security for the loan) provided the loan bears a reasonable rate of interest, is adequately secured, provides a reasonable repayment schedule, and is not made available on a basis that discriminates in favor of employees who are officers, shareholders, or highly compensated.

Subject to certain exceptions, a loan from a qualified employer plan to a plan participant is treated as a taxable distribution of plan benefits. A qualified employer plan includes a qualified retirement plan under section 401(a), a qualified annuity plan under section 403(a), a tax-deferred annuity under section 403(b), and any plan that was (or was determined to be) a qualified employer plan or a governmental plan.

An exception to this general rule of income inclusion is provided to the extent that the loan (when added to the outstanding balance of all other loans to the participant from all plans maintained by the employer) does not exceed the lesser of (1) $50,000 reduced by the excess of the highest outstanding balance of loans from such plans during the one-year period ending on the day before the date the loan is made over the outstanding balance of loans from the plan on the date the loan is made or (2) the greater of $10,000 or one half of the participant's accrued benefit under the plan (sec. 72(p)). This exception applies only if the loan is required, by its terms, to be repaid within five years. An extended repayment period is permitted for the purchase of the principal residence of the participant. Plan loan repayments (principal and interest) must be amortized in level payments and made not less frequently than quarterly, over the term of the loan.

Katrina Emergency Tax Relief Act of 2005

The Katrina Emergency Tax Relief Act of 2005 provides special rules in the case of a loan from a qualified employer plan to a qualified individual made after September 23, 2005, and before January 1, 2007. A qualified individual is an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina.

The exception to the general rule of income inclusion is provided to the extent that the loan (when added to the outstanding balance of all other loans to the participant from all plans maintained by the employer) does not exceed the lesser of (1) $100,000 reduced by the excess of the highest outstanding balance of loans from such plans during the one-year period ending on the day before the date the loan is made over the outstanding balance of loans from the plan on the date the loan is made or (2) the greater of $10,000 or the participant's accrued benefit under the plan.

In the case of a qualified individual with an outstanding loan on or after August 25, 2005, from a qualified employer plan, if the due date for any repayment with respect to such loan occurs during the period beginning on August 25, 2005, and ending on December 31, 2006, such due date is delayed for one year. Any subsequent repayments with respect to such loan shall be appropriately adjusted to reflect the delay in the due date and any interest accruing during such delay. The period during which required repayment is delayed is disregarded in complying with the requirements that the loan be repaid within five years and that level amortization payments be made.

EXPLANATION OF PROVISION

The provision codifies and expands the special rules for loans from a qualified employer plan provided under the Katrina Emergency Tax Relief Act of 2005 to loans from a qualified employer plan to a qualified Hurricane Rita or Hurricane Wilma individual made on or after the date of enactment and before January 1, 2007.

A qualified Hurricane Rita individual includes an individual whose principal place of abode on September 23, 2005, is located in a Hurricane Rita disaster area and who has sustained an economic loss by reason of Hurricane Rita. In the case of a qualified Hurricane Rita individual with an outstanding loan on or after September 23, 2005, from a qualified employer plan, if the due date for any repayment with respect to such loan occurs during the period beginning on September 23, 2005, and ending on December 31, 2006, such due date is delayed for one year.

A qualified Hurricane Wilma individual includes an individual whose principal place of abode on October 23, 2005, is located in a Hurricane Wilma disaster area and who has sustained an economic loss by reason of Hurricane Wilma. In the case of a qualified Hurricane Wilma individual with an outstanding loan on or after October 23, 2005, from a qualified employer plan, if the due date for any repayment with respect to such loan occurs during the period beginning on October 23, 2005, and ending on December 31, 2006, such due date is delayed for one year.

An individual cannot be a qualified individual with respect to more than one hurricane.

EFFECTIVE DATE

The provision is effective on the date of enactment.

4. Plan amendments relating to Hurricane Rita and Hurricane Wilma relief

PRESENT LAW

In general

Present law provides a remedial amendment period during which, under certain circumstances, a plan may be amended retroactively in order to comply with the qualification requirements (sec. 401(b)). In general, plan amendments to reflect changes in the law generally must be made by the time prescribed by law for filing the income tax return of the employer for the employer's taxable year in which the change in law occurs. The Secretary of the Treasury may extend the time by which plan amendments need to be made.

Katrina Emergency Tax Relief Act of 2005

The Katrina Emergency Tax Relief Act of 2005 permits certain plan amendments made pursuant to the changes made by the provisions of Title I of the Act, or regulations issued thereunder, to be retroactively effective. If the plan amendment meets the requirements of the Act, then the plan will be treated as being operated in accordance with its terms. In order for this treatment to apply, the plan amendment is required to be made on or before the last day of the first plan year beginning on or after January 1, 2007, or such later date as provided by the Secretary of the Treasury. Governmental plans are given an additional two years in which to make required plan amendments. If the amendment is required to be made to retain qualified status as a result of the changes made by Title I of the Act (or regulations), the amendment is required to be made retroactively effective as of the date on which the change became effective with respect to the plan, and the plan is required to be operated in compliance until the amendment is made. Amendments that are not required to retain qualified status but that are made pursuant to the changes made by Title I of the Act (or regulations) may be made retroactively effective as of the first day the plan is operated in accordance with the amendment. A plan amendment will not be considered to be pursuant to changes made by Title I of the Act (or regulations) if it has an effective date before the effective date of the provision under the Act (or regulations) to which it relates.

EXPLANATION OF PROVISION

The provision codifies and expands the ability to make retroactive plan amendments under the Katrina Emergency Tax Relief Act of 2005 to apply to changes made pursuant to new section 1400Q of the Code, or regulations issued thereunder.

EFFECTIVE DATE

The provision is effective on the date of enactment.

B. EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANES KATRINA, RITA AND WILMA (NEW SEC. 1400R OF THE CODE)

PRESENT LAW

The Katrina Emergency Tax Relief Act of 2005 provides a credit of 40 percent of the qualified wages (up to a maximum of $6,000 in qualified wages per employee) paid by an eligible employer to an eligible employee.

An eligible employer is any employer (1) that conducted an active trade or business on August 28, 2005, in the core disaster area and (2) with respect to which the trade or business described in (1) is inoperable on any day after August 28, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Katrina. An eligible employer shall not include any trade or business for any taxable year if such trade or business employed an average of more than 200 employees on business days during the taxable year.

The term "core disaster area" means that portion of the Hurricane Katrina disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act. The term "Hurricane Katrina disaster area" means an area with respect to which a major disaster has been declared by the President before September 14, 2005, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

An eligible employee is, with respect to an eligible employer, an employee whose principal place of employment on August 28, 2005, with such eligible employer was in a core disaster area. An employee may not be treated as an eligible employee for any period with respect to an employer if such employer is allowed a credit under section 51 with respect to the employee for the period.

Qualified wages are wages (as defined in section 51(c)(1) of the Code, but without regard to section 3306(b)(2)(B) of the Code) paid or incurred by an eligible employer with respect to an eligible employee on any day after August 28, 2005, and before January 1, 2006, during the period (1) beginning on the date on which the trade or business first became inoperable at the principal place of employment of the employee immediately before Hurricane Katrina, and (2) ending on the date on which such trade or business has resumed significant operations at such principal place of employment. Qualified wages include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

The credit is a part of the current year business credit under section 38(b) and therefore is subject to the tax liability limitations of section 38(c). Rules similar to sections 280C(a), 51(i)(1) and 52 apply to the credit.

EXPLANATION OF PROVISION

The provision codifies the employee retention credit provisions that were enacted in the Katrina Emergency Tax Relief Act of 2005, and eliminates the provision that restricted the credit to employers of not more than 200 employees.

The provision extends the retention credit, as modified to eliminate the employer size limitation, to employers affected by Hurricanes Rita and Wilma and located in the Rita GO Zone and Wilma GO Zone, respectively. The reference dates for employers affected by Hurricane Rita and Hurricane Wilma, comparable to the August 28, 2005 date of present law for employers affected by Hurricane Katrina, are September 23, 2005, and October 23, 2005, respectively.

EFFECTIVE DATE

The codification of the provision in the Katrina Emergency Tax Relief Act of 2005 takes effect on the date of enactment. The provision that repeals the employer size limitation is, with respect to the Hurricane Katrina retention credit, effective as if included in the Katrina Emergency Tax Relief Act of 2005. The retention credit is effective for wages paid after September 23, 2005 in the case of Hurricane Rita and after October 23, 2005 in the case of Hurricane Wilma.

C. TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS (NEW SEC. 1400S(A) OF THE CODE)

PRESENT LAW

In general

In general, an income tax deduction is permitted for charitable contributions, subject to certain limitations that depend on the type of taxpayer, the property contributed, and the donee organization (sec. 170).

Charitable contributions of cash are deductible in the amount contributed. In general, contributions of capital gain property to a qualified charity are deductible at fair market value with certain exceptions. Capital gain property means any capital asset or property used in the taxpayer's trade or business the sale of which at its fair market value, at the time of contribution, would have resulted in gain that would have been long-term capital gain. Contributions of other appreciated property generally are deductible at the donor's basis in the property. Contributions of depreciated property generally are deductible at the fair market value of the property.

Percentage limitations

Contributions by individuals

For individuals, in any taxable year, the amount deductible as a charitable contribution is limited to a percentage of the taxpayer's contribution base. The applicable percentage of the contribution base varies depending on the type of donee organization and property contributed. The contribution base is defined as the taxpayer's adjusted gross income computed without regard to any net operating loss carryback.

Contributions by an individual taxpayer of property (other than appreciated capital gain property) to a charitable organization described in section 170(b)(1)(A) (e.g., public charities, private foundations other than private non-operating foundations, and certain governmental units) may not exceed 50 percent of the taxpayer's contribution base. Contributions of this type of property to nonoperating private foundations and certain other organizations generally may be deducted up to 30 percent of the taxpayer's contribution base.

Contributions of appreciated capital gain property to charitable organizations described in section 170(b)(1)(A) generally are deductible up to 30 percent of the taxpayer's contribution base. An individual may elect, however, to bring all these contributions of appreciated capital gain property for a taxable year within the 50-percent limitation category by reducing the amount of the contribution deduction by the amount of the appreciation in the capital gain property. Contributions of appreciated capital gain property to charitable organizations described in section 170(b)(1)(B) (e.g., private nonoperating foundations) are deductible up to 20 percent of the taxpayer's contribution base.

Contributions by corporations

For corporations, in any taxable year, charitable contributions are not deductible to the extent the aggregate contributions exceed 10 percent of the corporation's taxable income computed without regard to net operating loss or capital loss carrybacks.

For purposes of determining whether a corporation's aggregate charitable contributions in a taxable year exceed the applicable percentage limitation, contributions of capital gain property are taken into account after other charitable contributions.

Carryforward of excess contributions

Charitable contributions that exceed the applicable percentage limitation may be carried forward for up to five years (sec. 170(d)). The amount that may be carried forward from a taxable year ("contribution year") to a succeeding taxable year may not exceed the applicable percentage of the contribution base for the succeeding taxable year less the sum of contributions made in the succeeding taxable year plus contributions made in taxable years prior to the contribution year and treated as paid in the succeeding taxable year under this provision.

Overall limitation on itemized deductions ("Pease" limitation)

Under present law, the total amount of otherwise allowable itemized deductions (other than medical expenses, investment interest, and casualty, theft, or wagering losses) is reduced by three percent of the amount of the taxpayer's adjusted gross income in excess of a certain threshold. The otherwise allowable itemized deductions may not be reduced by more than 80 percent. For 2005, the adjusted gross income threshold is $145,950 ($72,975 for a married taxpayer filing a joint return). These dollar amounts are adjusted for inflation.

The otherwise applicable overall limitation on itemized deductions is reduced by one-third in taxable years beginning in 2006 and 2007, and by two-thirds in taxable years beginning in 2008 and 2009. The overall limitation is repealed for taxable years beginning after December 31, 2009, and reinstated for taxable years beginning after December 31, 2010.

Katrina Emergency Tax Relief Act of 2005—Increase in percentage limitations

Under section 301 of the Katrina Emergency Tax Relief Act of 2005, in the case of an individual, the deduction for qualified contributions is allowed up to the amount by which the taxpayer's contribution base exceeds the deduction for other charitable contributions. Contributions in excess of this amount are carried over to succeeding taxable years as contributions described in 170(b)(1)(A), subject to the limitations of section 170(d)(1)(A)(i) and (ii).

In the case of a corporation, the deduction for qualified contributions is allowed up to the amount by which the corporation's taxable income (as computed under section 170(b)(2)) exceeds the deduction for other charitable contributions. Contributions in excess of this amount are carried over to succeeding taxable years, subject to the limitations of section 170(d)(2).

In applying subsections (b) and (d) of section 170 to determine the deduction for other contributions, qualified contributions are not taken into account (except to the extent qualified contributions are carried over to succeeding taxable years under the rules described above).

Qualified contributions are cash contributions made during the period beginning on August 28, 2005, and ending on December 31, 2005, to a charitable organization described in section 170(b)(1)(A) (other than a supporting organization described in section 509(a)(3)). Contributions of noncash property, such as securities, are not qualified contributions. Under the provision, qualified contributions must be to an organization described in section 170(b)(1)(A); thus, contributions to, for example, a charitable remainder trust generally are not qualified contributions, unless the charitable remainder interest is paid in cash to an eligible charity during the applicable time period. In the case of a corporation, qualified contributions must be for relief efforts related to Hurricane Katrina. A taxpayer must elect to have the contributions treated as qualified contributions.

Qualified contributions do not include a contribution if the contribution is for establishment of a new, or maintenance in an existing, segregated fund or account with respect to which the donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to distributions or investments by reason of the donor's status as a donor. For example, a segregated fund or account exists if a donor makes a charitable contribution and the donee separately identifies the donor's contribution on its books. The donor has advisory privileges with respect to such segregated fund or account if the donor, by written agreement or otherwise, reasonably expects to provide advice to the donee as to the investment or distribution of amounts from such fund or account. In addition, a segregated fund or account also includes, but is not limited to, a separate bank account or trust established or maintained by a donee; however, in order for a contribution to such account or fund necessarily to be not a qualified contribution, the donor (or a person appointed or designated by the donor) must have or reasonably expect to have advisory privileges as to the investment or distribution of amounts in such account or fund. For instance, a donor reasonably expects to have advisory privileges with respect to contributions made by the donor if the donor understands that the donee will consider advice provided by the donor (or a person appointed or designated by the donor) in making investments or distributions. It is intended that a person shall not be treated as having advisory privileges by virtue of having a legal or contractual right or obligation, or a fiduciary duty, with respect to a segregated fund or account. If a donor makes a contribution for establishment of a new, or maintenance in an existing segregated account or fund, and the donor also provides advice with respect to amounts in such account or fund by reason of the donor's position as an officer, employee, or director of the donee, and not by reason of the donor's status as a donor, then, under the provision, the donor is not treated as having or reasonably expecting to have advisory privileges with respect to such fund or account. However, if by reason of a donor's charitable contribution to a segregated account or fund, the donor secured an appointment on a committee of the donee organization that advised how to distribute or invest amounts in such account or fund, the contribution would not be a qualified contribution notwithstanding that the donor is an officer, employee, or director of the donee organization.

The Act requires that qualified contributions by a corporation be made for relief efforts related to Hurricane Katrina. Corporate taxpayers must substantiate that the contribution is made for this purpose.

Limitation on overall itemized deductions

Under the Katrina Emergency Tax Relief Act of 2005, the charitable contribution deduction up to the amount of qualified contributions (as defined above) paid during the year is not treated as an itemized deduction for purposes of the overall limitation on itemized deductions.

EXPLANATION OF PROVISION

The provision codifies the provisions in the Katrina Emergency Tax Relief Act of 2005, and extends the definition of qualified contributions (as described above), in the case of corporations, to include contributions for relief efforts related to Hurricane Rita and Hurricane Wilma.

EFFECTIVE DATE

The codification of the provision in the Katrina Emergency Tax Relief Act of 2005 takes effect on date of enactment. The expansion of the provision applies to contributions made on or after September 23, 2005.

D. SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES (NEW SEC. 1400S(b) OF THE CODE)

PRESENT LAW

In general

Under present law, a taxpayer may generally claim a deduction for any loss sustained during the taxable year and not compensated by insurance or otherwise (sec. 165). For individual taxpayers, deductible losses must be incurred in a trade or business or other profit-seeking activity or consist of property losses arising from fire, storm, shipwreck, or other casualty, or from theft. Personal casualty or theft losses are deductible only if they exceed $100 per casualty or theft. In addition, aggregate net casualty and theft losses are deductible only to the extent they exceed 10 percent of an individual taxpayer's adjusted gross income.

Hurricane Katrina

Under the Katrina Emergency Tax Relief Act of 2005, the two limitations on personal casualty or theft losses do not apply to the extent those losses arise in the Hurricane Katrina disaster area on or after August 25, 2005, and are attributable to Hurricane Katrina ("Katrina casualty losses"). Specifically, Katrina casualty losses meeting the above requirements need not exceed $100 per casualty or theft. In addition, such losses are deductible without regard to whether aggregate net losses exceed 10 percent of a taxpayer's adjusted gross income. For purposes of applying the 10 percent threshold to other personal casualty or theft losses, Katrina casualty losses are disregarded. Thus, such losses are effectively treated as a deduction separate from all other casualty losses.

For purposes of determining whether a loss is a Katrina casualty loss, the term "Hurricane Katrina disaster area" means an area with respect to which a major disaster had been declared by the President before September 14, 2005, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina. The States for which such a disaster had been declared are Alabama, Florida, Louisiana, and Mississippi.

EXPLANATION OF PROVISION

The provision codifies the Katrina Emergency Tax Relief Act of 2005 rule for Katrina casualty losses and expands it to include losses that arise in the Hurricane Rita disaster area and are attributable to Hurricane Rita and losses that arise in the Hurricane Wilma disaster area and are attributable to Hurricane Wilma.

EFFECTIVE DATE

The codification of the provision in the Katrina Emergency Tax Relief Act of 2005 takes effect on date of enactment. The expansion of the provision applies to losses related to Hurricane Rita arising on or after September 23, 2005, and to losses related to Hurricane Wilma arising on or after October 23, 2005.

E. REQUIRED EXERCISE OF IRS ADMINISTRATIVE AUTHORITY (NEW SEC. 1400S(C) OF THE CODE)

PRESENT LAW

General time limits for filing tax returns

Individuals generally must file their Federal income tax returns by April 15 of the year following the close of a taxable year. The Secretary may grant reasonable extensions of time for filing such returns. Treasury regulations provide an additional automatic two-month extension (until June 15 for calendar-year individuals) for United States citizens and residents in military or naval service on duty on April 15 of the following year (the otherwise applicable due date of the return) outside the United States. No action is necessary to apply for this extension, but taxpayers must indicate on their returns (when filed) that they are claiming this extension. Unlike most extensions of time to file, this extension applies to both filing returns and paying the tax due.

Treasury regulations also provide, upon application on the proper form, an automatic four-month extension (until August 15 for calendar-year individuals) for any individual timely filing that form and paying the amount of tax estimated to be due.

In general, individuals must make quarterly estimated tax payments by April 15, June 15, September 15, and January 15 of the following taxable year. Wage withholding is considered to be a payment of estimated taxes

Suspension of time periods

In general, the period of time for performing various acts under the Code, such as filing tax returns, paying taxes, or filing a claim for credit or refund of tax, is suspended for any individual serving in the Armed Forces of the United States in an area designated as a "combat zone" or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a "contingency operation" or that becomes a contingency operation. The suspension of time also applies to an individual serving in support of such Armed Forces in the combat zone or contingency operation, such as Red Cross personnel, accredited correspondents, and civilian personnel acting under the direction of the Armed Forces in support of those Forces. The designation of a combat zone must be made by the President in an Executive Order. A contingency operation is defined as a military operation that is designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force, or results in the call or order to (or retention of) active duty of members of the uniformed services during a war or a national emergency declared by the President or Congress.

The suspension of time encompasses the period of service in the combat zone during the period of combatant activities in the zone or while participating in a contingency operation, as well as (1) any time of continuous qualified hospitalization resulting from injury received in the combat zone or contingency operation or (2) time in missing in action status, plus the next 180 days.

The suspension of time applies to the following acts:

1. Filing any return of income, estate, gift, employment or excise taxes;
2. Payment of any income, estate, gift, employment or excise taxes;
3. Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court;
4. Allowance of a credit or refund of any tax;
5. Filing a claim for credit or refund of any tax;
6. Bringing suit upon any such claim for credit or refund;
7. Assessment of any tax;
8. Giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax;
9. Collection of the amount of any liability in respect of any tax;
10. Bringing suit by the United States in respect of any liability in respect of any tax; and
11. Any other act required or permitted under the internal revenue laws specified by the Secretary of the Treasury.

In the case of a Presidentially declared disaster or a terroristic or military action, the Secretary of the Treasury also has authority to prescribe a period of up to one year that may be disregarded for performing any of the acts listed above. The Secretary also may suspend the accrual of any interest, penalty, additional amount, or addition to tax for taxpayers in the affected areas.

EXPLANATION OF PROVISION

Under the provision, for taxpayers determined to be affected by the Presidentially declared disaster relating to Hurricanes Katrina, Rita, and Wilma, any administrative relief from required acts, such as filing tax returns, paying taxes, or filing a claim for credit or refund of tax, shall be for a period ending not earlier than February 28, 2006.

EFFECTIVE DATE

The provision is effective on the date of enactment.

F. Special Look-Back Rule for Determining Earned Income Credit and Refundable Child Credit (New sec. 1400S(d) of the Code)

PRESENT LAW

In general

Present law provides eligible taxpayers with an earned income credit and a child credit. In general, the earned income credit is a refundable credit for low-income workers (sec. 32). The amount of the credit depends on the earned income of the taxpayer and whether the taxpayer has one, more than one, or no qualifying children. Earned income generally includes wages, salaries, tips, and other employee compensation, plus net earnings from self-employment.

Taxpayers with incomes below certain threshold amounts are eligible for a $1,000 credit for each qualifying child (sec. 24). The child credit is refundable to the extent of 15 percent of the taxpayer's earned income in excess of $10,000. (The $10,000 income threshold is indexed for inflation and is currently $11,000 for 2005.) Families with three or more children are allowed a refundable credit for the amount by which the taxpayer's social security taxes exceed the taxpayer's earned income credit, if that amount is greater than the refundable credit based on the taxpayer's earned income in excess of $10,000 (indexed for inflation).

Hurricane Katrina

Certain qualified individuals affected by Hurricane Katrina may elect to calculate their earned income credit and refundable child credit for the taxable year which includes August 25, 2005, using their earned income from the prior taxable year (a "Katrina election"). Such qualified individuals are permitted to make the election only if their earned income for the taxable year which includes August 25, 2005, is less than their earned income for the preceding taxable year.

Individuals qualified to make a Katrina election are (1) individuals who on August 25, 2005, had their principal place of abode in the Hurricane Katrina "core disaster area" or (2) individuals who on such date were not in the core disaster area but lived in the Hurricane Katrina disaster area and were displaced from their homes. For purposes of this election, the term "core disaster area" means that portion of the Hurricane Katrina disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act. The term "Hurricane Katrina disaster area" means an area with respect to which a major disaster had been declared by the President before September 14, 2005, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina. The States for which such a disaster had been declared are Alabama, Florida, Louisiana, and Mississippi.

In the case of a joint return for a taxable year which includes August 25, 2005, a Katrina election may be made if either spouse is a qualified individual. In such cases, the earned income for the preceding taxable year which is attributable to the taxpayer filing the joint return is the sum of the earned income which is attributable to each spouse for such preceding taxable year.

Any Katrina election applies with respect to both the earned income credit and refundable child credit. For administrative purposes, the incorrect use on a return of earned income pursuant to a Katrina election is treated as a mathematical or clerical error. A Katrina election is disregarded for purposes of calculating gross income in the election year.

EXPLANATION OF PROVISION

The provision codifies the Katrina election. It also expands the rule governing Katrina elections to permit certain qualified individuals affected by Hurricane Rita and Hurricane Wilma to make similar elections.

In the case of Hurricane Rita certain qualified individuals may elect to calculate their earned income credit and refundable child credit for the taxable year which includes September 23, 2005, using their earned income from the prior taxable year (a "Rita election"). Qualified individuals for purposes of a Rita election are (1) individuals who on September 23, 2005, had their principal place of abode in the Rita GO Zone or (2) individuals who on such date had their principal place of abode in the Hurricane Rita disaster area but outside the Rita GO Zone and were displaced from that residence.

In the case of Hurricane Wilma certain qualified individuals may elect to calculate their earned income credit and refundable child credit for the taxable year which includes October 23, 2005, using their earned income from the prior taxable year (a "Wilma election"). Qualified individuals for purposes of a Wilma election are (1) individuals who on October 23, 2005, had their principal place of abode in the Wilma GO Zone or (2) individuals who on such date had their principal place of abode in the Hurricane Wilma disaster area but outside the Wilma GO Zone and were displaced from that residence.

Qualified individuals are permitted to make a Rita election or Wilma election only if their earned income for the taxable year which includes September 23, 2005 or October 23, 2005, respectively, is less than their earned income for the preceding taxable year.

In other respects, a Rita election or Wilma election is the same as a Katrina election under present law, except that the reference dates are September 23, 2005 for Rita and October 23, 2005 for Wilma and not August 25, 2005.

EFFECTIVE DATE

The codification of the provision in the Katrina Emergency Tax Relief Act of 2005 takes effect on date of enactment. The expansion of the provision applies to taxable years that include September 23, 2005 in the case of Hurricane Rita and October 23, 2005 in the case of Hurricane Wilma.

G. Secretarial Authority to Make Adjustments Regarding Taxpayer and Dependency Status (New sec. 1400S(e) of the Code)

PRESENT LAW

In general

In order to determine taxable income, an individual reduces adjusted gross income ("AGI") by any personal exemptions and either the standard deduction or itemized deductions. Personal exemptions generally are allowed for the taxpayer, his or her spouse, and any dependents (as defined in sec. 151). Personal exemptions are not allowed for purposes of determining a taxpayer's alternative minimum taxable income.

For 2005, the amount deductible for each personal exemption is $3,200. This amount is indexed annually for inflation. The deduction for personal exemptions is phased out ratably for taxpayers with AGI over certain thresholds. These thresholds are indexed annually for inflation. Specifically, the total amount of exemptions that may be claimed by a taxpayer is reduced by two percent for each $2,500 (or portion thereof) by which the taxpayer's AGI exceeds the applicable threshold. (The phaseout rate is two percent for each $1,250 for married taxpayers filing separate returns.) Thus, the personal exemptions claimed are phased out over a $122,500 range (which is not indexed for inflation), beginning at the applicable threshold. The applicable thresholds for 2005 are $145,900 for single individuals, $218,950 for married individuals filing a joint return, $182,450 for heads of households, and $109,475 for married individuals filing separate returns. For 2005, the point at which a taxpayer's personal exemptions are completely phased out is $268,450 for single individuals, $341,450 for married individuals filing a joint return, $304,950 for heads of households, and $170,725 for married individuals filing separate returns.

Present law provides eligible taxpayers with an earned income credit and a child credit. In general, the earned income credit is a refundable credit for low-income workers. The amount of the credit depends on the earned income of the taxpayer and whether the taxpayer has one, more than one, or no qualifying children. Earned income generally includes wages, salaries, tips, and other employee compensation, plus net earnings from self-employment.

Taxpayers with incomes below certain threshold amounts are eligible for a $1,000 credit for each qualifying child. The child credit is refundable to the extent of 15 percent of the taxpayer's earned income in excess of $10,000. (The $10,000 income threshold is indexed for inflation and is currently $11,000 for 2005.) Families with three or more children are allowed a refundable credit for the amount by which the taxpayer's social security taxes exceed the taxpayer's earned income credit, if that amount is greater than the refundable credit based on the taxpayer's earned income in excess of $10,000 (indexed for inflation).

Hurricane Katrina

With respect to taxable years beginning in 2005 and 2006, the Secretary has authority to make such adjustments in the application of the Federal tax laws as may be necessary to ensure that taxpayers do not lose any deduction or credit or experience a change of filing status by 62 reason of temporary relocations caused by Hurricane Katrina. Such adjustments may include, for example, addressing the application of the residency requirements relating to dependency exemptions in the case of relocations due to Hurricane Katrina. Any adjustments made using this authority must insure that an individual is not taken into account by more than one taxpayer with respect to the same tax benefit.

EXPLANATION OF PROVISION

The provision codifies the Secretarial authority with respect to Hurricane Katrina. The provision also expands the Secretary's authority to make adjustments in the application of the Federal tax laws with respect to Hurricane Katrina to include taxpayers affected by Hurricane Rita and Hurricane Wilma.

EFFECTIVE DATE

The provision is effective with respect to taxable years beginning in 2005 or 2006.

H. SPECIAL RULES FOR MORTGAGE REVENUE BONDS (NEW SEC. 1400T OF THE CODE)

PRESENT LAW

In general

Under present law, gross income does not include interest on State or local bonds (sec. 103). State and local bonds are classified generally as either governmental bonds or private activity bonds. Governmental bonds are bonds which are primarily used to finance governmental functions or are repaid with governmental funds. Private activity bonds are bonds with respect to which the State or local government serves as a conduit providing financing to nongovernmental persons (e.g., private businesses or individuals). The exclusion from income for State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain permitted purposes ("qualified private activity bonds") (secs. 103(b)(1) and 141).

Qualified mortgage bonds

The definition of a qualified private activity bond includes a qualified mortgage bond (sec. 143). Qualified mortgage bonds are issued to make mortgage loans to qualified mortgagors for the purchase, improvement, or rehabilitation of owner-occupied residences. The Code imposes several limitations on qualified mortgage bonds, including income limitations for eligible mortgagors, purchase price limitations on the home financed with bond proceeds, and a "first-time homebuyer" requirement. The income limitations are satisfied if all financing provided by an issue is provided for mortgagors whose family income does not exceed 115 percent of the median family income for the metropolitan area or State, whichever is greater, in which the financed residences are located. The purchase price limitations provide that a residence financed with qualified mortgage bonds may not have a purchase price in excess of 90 percent of the average area purchase price for that residence. The first-time homebuyer requirement provides qualified mortgage bonds generally cannot be used to finance a mortgage for a homebuyer who had an ownership interest in a principal residence in the three years preceding the execution of the mortgage (the "first-time homebuyer" requirement).

Special income and purchase price limitations apply to targeted area residences. A targeted area residence is one located in either (1) a census tract in which at least 70 percent of the families have an income which is 80 percent or less of the state-wide median income or (2) an area of chronic economic distress. For targeted area residences, the income limitation is satisfied when no more than one-third of the mortgages are made without regard to any income limits and the remainder of the mortgages are made to mortgagors whose family income is 140 percent or less of the applicable median family income. The purchase price limitation is raised from 90 percent to 110 percent of the average area purchase price for targeted area residences. In addition, the first-time homebuyer requirement does not apply to targeted area residences.

Qualified mortgage bonds also may be used to finance qualified home-improvement loans. Qualified home-improvement loans are defined as loans to finance alterations, repairs, and improvements on an existing residence, but only if such alterations, repairs, and improvements substantially protect or improve the basic livability or energy efficiency of the property. Qualified home-improvement loans may not exceed $15,000.

A temporary provision waived the first-time homebuyer requirement for residences located in certain Presidentially declared disaster areas (sec. 143(k)(11)). In addition, residences located in such areas were treated as targeted area residences for purposes of the income and purchase price limitations. The special rule for residences located in Presidentially declared disaster areas does not apply to bonds issued after January 1, 1999.

The Katrina Emergency Tax Relief Act ("KETRA") waives the first-time homebuyer requirement with respect to certain residences located in an area with respect to which a major disaster has been declared by the President before September 14, 2005, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina (see sec. 404 of Pub. L. 109-73). KETRA also increases to $150,000 the permitted amount of a qualified home-improvement loans with respect to residences located in the Hurricane Katrina disaster area to the extent such loan is for the repair of damage caused by Hurricane Katrina.

EXPLANATION OF PROVISION

Under the provision, residences located in the GO Zone, the Rita GO Zone, or the Wilma GO Zone are treated as targeted area residences for purposes of section 143, with the modifications described below. Thus, the first-time homebuyer rule is waived and purchase and income rules for targeted area residences apply to residences located in the specified areas that are financed with qualified mortgage bonds. For these purposes, 100 percent of the mortgages must be made to mortgagors whose family income is 140 percent or less of the applicable median family income. Thus, the present law rule allowing one-third of the mortgages to be made without regard to any income limits does not apply. In addition, the proposal increases from $15,000 to $150,000 the amount of a qualified home-improvement loan with respect to residences located in the specified disaster areas.

The provision applies to residences financed before January 1, 2011.

(For a description of the extension of KETRA mortgage revenue bond rules, see I.A.20,—Special Rules for Mortgage Revenue Bonds, above.)

EFFECTIVE DATE

The provision is effective on the date of enactment with respect to financing provided before January 1, 2011.

TITLE III—OTHER PROVISIONS

A. GULF COAST RECOVERY BONDS

PRESENT LAW

Under Title 31, the Secretary, with the approval of the President, may issue savings bonds and savings certificates of the United States Government (31 U.S.C. sec. 3105). Proceeds from the bonds and certificates are used for expenditures authorized by law. Savings bonds and certificates may be issued on an interest-bearing basis, on a discount basis, or on an interest-bearing and discount basis. The difference between the price paid and the amount received on redeeming a savings bond or certificate is interest under the Code.

EXPLANATION OF PROVISION

The provision expresses the sense of Congress that the Secretary designate one or more series of obligations issued under Title 31 as "Gulf Coast Recovery Bonds" in response to Hurricanes Katrina, Rita, and Wilma.

EFFECTIVE DATE

The provision is effective on the date of enactment.

B. ELECTION TO TREAT COMBAT PAY AS EARNED INCOME FOR PURPOSES OF THE EARNED INCOME CREDIT (SEC. 32 OF THE CODE)

PRESENT LAW

Child credit

Combat pay that is otherwise excluded from gross income under section 112 is treated as earned income which is taken into account in computing taxable income for purposes of calculating the refundable portion of the child credit.

Earned income credit

Any taxpayer may elect to treat combat pay that is otherwise excluded from gross income under section 112 as earned income for purposes of the earned income credit. This election is available with respect to any taxable year ending after the date of enactment and before January 1, 2006.

EXPLANATION OF PROVISION

The provision extends the present-law rule relating to the earned income credit for one year (through December 31, 2006).

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2005.

C. MODIFICATIONS OF SUSPENSION OF INTEREST AND PENALTIES WHERE INTERNAL REVENUE SERVICE FAILS TO CONTACT TAXPAYER (SEC. 6404(G) OF THE CODE)

PRESENT LAW

In general, interest and penalties accrue during periods for which taxes were unpaid without regard to whether the taxpayer was aware that there was tax due. The Code suspends the accrual of certain penalties and interest starting 18 months after the filing of the tax return if the IRS has not sent the taxpayer a notice specifically stating the taxpayer's liability and the basis for the liability within the specified period. If the return is filed before the due date, for this purpose it is considered to have been filed on the due date. Interest and penalties resume 21 days after the IRS sends the required notice to the taxpayer. The provision is applied separately with respect to each item or adjustment. The provision does not apply where a taxpayer has self-assessed the tax. The suspension only applies to taxpayers who file a timely tax return. The provision applies only to individuals and does not apply to the failure to pay penalty, in the case of fraud, or with respect to criminal penalties.

The suspension of interest does not apply to interest accruing after October 3, 2004 with respect to underpayments resulting from listed transactions or undisclosed reportable transactions.

On October 27, 2005, the IRS announced a settlement initiative for 21 identified transactions. (See Internal Revenue Service Announcement 2005-80.) Under the terms of the settlement initiative, participants will be required to pay 100 percent of the taxes owed, interest and, depending on the transaction, either a quarter or a half of the penalty the IRS will otherwise seek. The IRS will grant penalty relief for transactions disclosed to the IRS or where the taxpayer got a tax opinion from an independent tax advisor. Transaction costs paid by the taxpayer, including professional and promoter fees, will be allowed. The application deadline for the settlement initiative is January 23, 2006.

EXPLANATION OF PROVISION

Under the provision, the exception for listed transactions and undisclosed reportable transactions also applies to interest accruing on or before October 3, 2004. However, taxpayers remain eligible for the present-law suspension of interest if the year in which the underpayment occurred is barred by the statute of limitations (or a closing agreement) as of December 14, 2005. Taxpayers may also remain eligible with respect to any transactions if the Secretary determines that the taxpayers have acted reasonably and in good faith with respect to that transactions.

In addition, under a special rule, taxpayers may remain eligible for the present-law suspension of interest by participating in the IRS settlement initiative described above with respect to that transaction. In order to be eligible under the special rule, the taxpayer must be participating in the settlement initiative (or have entered into a settlement agreement pursuant to the initiative) as of January 23, 2006. Furthermore, a taxpayer's eligibility under the special rule is revoked if the taxpayer ceases to participate in the settlement initiative or the Treasury determines that a settlement agreement will not be reached within a reasonable period of time.

The special rule applies on a transaction-by-transaction basis. Thus, participation in the settlement initiative with respect to an individual transaction qualifies the taxpayer for the present-law suspension of interest only with respect to interest and penalties on underpayments resulting from that transaction. If the taxpayer has entered into other listed or nondisclosed reportable transactions and is not participating in the settlement initiative with respect to those transactions, the special rule does not apply to interest and penalties resulting from those transactions.

The provision also provides that, if a taxpayer files an amended return or other signed written document showing that the taxpayer owes an additional amount of tax for the taxable year, the relevant 18-month period is measured from the latest date on which such documents were provided.

EFFECTIVE DATE

The provision is effective as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates, except that the rule relating to the restart of the 18-month period is effective for documents provided on or after the date of enactment.

D. AUTHORITY FOR UNDERCOVER OPERATIONS (SEC. 7608 OF THE CODE)

PRESENT LAW

IRS undercover operations are exempt from the otherwise applicable statutory restrictions controlling the use of Government funds (which generally provide that all receipts must be deposited in the general fund of the Treasury and all expenses paid out of appropriated funds). In general, the exemption permits the IRS to use proceeds from an undercover operation to pay additional expenses incurred in the undercover operation. The IRS is required to conduct a detailed financial audit of large undercover operations in which the IRS is using proceeds from such operations and to provide an annual audit report to the Congress on all such large undercover operations.

The provision was originally enacted in The Anti-Drug Abuse Act of 1988. The exemption originally expired on December 31, 1989, and was extended by the Comprehensive Crime Control Act of 1990 to December 31, 1991. There followed a gap of approximately four and a half years during which the provision had lapsed. In the Taxpayer Bill of Rights II, the authority to use proceeds from undercover operations was extended for five years, through 2000. The Community Renewal Tax Relief Act of 2000 extended the authority of the IRS to use proceeds from undercover operations for an additional five years, through 2005.

EXPLANATION OF PROVISION

The provision extends for one year the present-law authority of the IRS to use proceeds from undercover operations to pay additional expenses incurred in conducting undercover operations (through December 31, 2006).

EFFECTIVE DATE

The provision is effective on the date of enactment.

E. DISCLOSURES OF CERTAIN TAX RETURN INFORMATION

1. Disclosure of tax information to facilitate combined employment tax reporting (sec. 6103(d)(5) of the Code)

PRESENT LAW

Traditionally, Federal tax forms are filed with the Federal government and State tax forms are filed with individual States. This necessitates duplication of items common to both returns. The Code permits the IRS to disclose taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body or commission a combined Federal and State employment tax reporting program approved by the Secretary. The Federal disclosure restrictions, safeguard requirements, and criminal penalties for unauthorized disclosure and unauthorized inspection do not apply with respect to disclosures or inspections made pursuant to this authority.

The authority for this program expires December 31, 2005.

Under section 6103(c), the IRS may disclose a taxpayer's return or return information to such person or persons as the taxpayer may designate in a request for or consent to such disclosure. Pursuant to Treasury regulations, a taxpayer's participation in a combined return filing program between the IRS and a State agency, body or commission constitutes a consent to the disclosure by the IRS to the State agency of taxpayer identity information, signature and items of common data contained on the return. No disclosures may be made under this authority unless there are provisions of State law protecting the confidentiality of such items of common data.

EXPLANATION OF PROVISION

The provision extends for one year the present-law authority for the combined employment tax reporting program (through December 31, 2006).

EFFECTIVE DATE

The provision applies to disclosures after December 31, 2005.

2. Disclosure of return information regarding terrorist activities (sec. 6103(i)(3) and (i)(7) of the Code)

PRESENT LAW

In general

Section 6103 provides that returns and return information may not be disclosed by the IRS, other Federal employees, State employees, and certain others having access to the information except as provided in the Internal Revenue Code. Section 6103 contains a number of exceptions to this general rule of nondisclosure that authorize disclosure in specifically 71 identified circumstances (including nontax criminal investigations) when certain conditions are satisfied.

Among the disclosures permitted under the Code is disclosure of returns and return information for purposes of investigating terrorist incidents, threats, or activities, and for analyzing intelligence concerning terrorist incidents, threats, or activities. The term "terrorist incident, threat, or activity" is statutorily defined to mean an incident, threat, or activity involving an act of domestic terrorism or international terrorism, as both of those terms are defined in the USA PATRIOT Act (see sec. 6103(b)(11) and 18 U.S.C. secs. 2331(1) and 2331(5)). In general, returns and taxpayer return information must be obtained pursuant to an ex parte court order. Return information, other than taxpayer return information, generally is available upon a written request meeting specific requirements. The IRS also is permitted to make limited disclosures of such information on its own initiative to the appropriate Federal law enforcement agency.

No disclosures may be made under these provisions after December 31, 2005.

Disclosure of returns and return information—by ex parte court order

Ex parte court orders sought by Federal law enforcement and Federal intelligence agencies

The Code permits, pursuant to an ex parte court order, the disclosure of returns and return information (including taxpayer return information) to certain officers and employees of a Federal law enforcement agency or Federal intelligence agency. These officers and employees are required to be personally and directly engaged in any investigation of, response to, or analysis of intelligence and counterintelligence information concerning any terrorist incident, threat, or activity. These officers and employees are permitted to use this information solely for their use in the investigation, response, or analysis, and in any judicial, administrative, or grand jury proceeding, pertaining to any such terrorist incident, threat, or activity.

The Attorney General, Deputy Attorney General, Associate Attorney General, an Assistant Attorney General, or a United States attorney, may authorize the application for the ex parte court order to be submitted to a Federal district court judge or magistrate. The Federal district court judge or magistrate would grant the order if based on the facts submitted he or she determines that: (1) there is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to a matter relating to such terrorist incident, threat, or activity; and (2) the return or return information is sought exclusively for the use in a Federal investigation, analysis, or proceeding concerning any terrorist incident, threat, or activity.

Special rule for ex parte court ordered disclosure initiated by the IRS

If the Secretary of Treasury possesses returns or return information that may be related to a terrorist incident, threat, or activity, the Secretary of the Treasury (or his delegate), may on his own initiative, authorize an application for an ex parte court order to permit disclosure to Federal law enforcement. In order to grant the order, the Federal district court judge or magistrate must determine that there is reasonable cause to believe, based upon information believed to be reliable, that the return or return information may be relevant to a matter relating to such terrorist incident, threat, or activity. The information may be disclosed only to the extent necessary to apprise the appropriate Federal law enforcement agency responsible for investigating or responding to a terrorist incident, threat, or activity and for officers and employees of that agency to investigate or respond to such terrorist incident, threat, or activity. Further, use of the information is limited to use in a Federal investigation, analysis, or proceeding concerning a terrorist incident, threat, or activity. Because the Department of Justice represents the Secretary of the Treasury in Federal district court, the Secretary is permitted to disclose returns and return information to the Department of Justice as necessary and solely for the purpose of obtaining the special IRS ex parte court order.

Disclosure of return information other than by ex parte court order

Disclosure by the IRS without a request

The Code permits the IRS to disclose return information, other than taxpayer return information, related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to such terrorist incident, threat, or activity. The IRS on its own initiative and without a written request may make this disclosure. The head of the Federal law enforcement agency may disclose information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity. A taxpayer's identity is not treated as return information supplied by the taxpayer or his or her representative.

Disclosure upon written request of a Federal law enforcement agency

The Code permits the IRS to disclose return information, other than taxpayer return information, to officers and employees of Federal law enforcement upon a written request satisfying certain requirements. The request must: (1) be made by the head of the Federal law enforcement agency (or his delegate) involved in the response to or investigation of terrorist incidents, threats, or activities, and (2) set forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity. The information is to be disclosed to officers and employees of the Federal law enforcement agency who would be personally and directly involved in the response to or investigation of terrorist incidents, threats, or activities. The information is to be used by such officers and employees solely for such response or investigation.

The Code permits the redisclosure by a Federal law enforcement agency to officers and employees of State and local law enforcement personally and directly engaged in the response to or investigation of the terrorist incident, threat, or activity. The State or local law enforcement agency must be part of an investigative or response team with the Federal law enforcement agency for these disclosures to be made.

Disclosure upon request from the Departments of Justice or Treasury for intelligence analysis of terrorist activity

Upon written request satisfying certain requirements discussed below, the IRS is to disclose return information (other than taxpayer return information) to officers and employees of the Department of Justice, Department of Treasury, and other Federal intelligence agencies, who are personally and directly engaged in the collection or analysis of intelligence and counterintelligence or investigation concerning terrorist incidents, threats, or activities. Use of the information is limited to use by such officers and employees in such investigation, collection, or analysis.

The written request is to set forth the specific reasons why the information to be disclosed is relevant to a terrorist incident, threat, or activity. The request is to be made by an individual who is: (1) an officer or employee of the Department of Justice or the Department of Treasury, (2) appointed by the President with the advice and consent of the Senate, and (3) responsible for the collection, and analysis of intelligence and counterintelligence information concerning terrorist incidents, threats, or activities. The Director of the United States Secret Service also is an authorized requester under the Act.

EXPLANATION OF PROVISION

The provision extends for one year the present-law terrorist activity disclosure provisions (through December 31, 2006).

EFFECTIVE DATE

The provision applies to disclosures after December 31, 2005.

3. Disclosure of return information to carry out income contingent repayment of student loans (sec. 6103(l)(13) of the Code)

PRESENT LAW

Present law prohibits the disclosure of returns and return information, except to the extent specifically authorized by the Code. An exception is provided for disclosure to the Department of Education (but not to contractors thereof) of a taxpayer's filing status, adjusted gross income and identity information (i.e., name, mailing address, taxpayer identifying number) to establish an appropriate repayment amount for an applicable student loan. The disclosure authority for the income-contingent loan repayment program is scheduled to expire after December 31, 2005.

The Department of Education utilizes contractors for the income-contingent loan verification program. The specific disclosure exception for the program does not permit disclosure of return information to contractors. As a result, the Department of Education obtains return information from the Internal Revenue Service by taxpayer consent (under section 6103(c)), rather than under the specific exception for the income-contingent loan verification program (sec. 6103(l)(13)).

EXPLANATION OF PROVISION

The provision extends for one year the present law authority to disclose return information for purposes of the income-contingent loan repayment program (through December 31, 2006).

EFFECTIVE DATE

The provision applies to requests made after December 31, 2005.

TITLE IV—TAX TECHNICAL CORRECTIONS

The bill includes technical corrections and other corrections to recently enacted tax legislation. Except as otherwise provided, the amendments made by the technical corrections and other corrections contained in the bill take effect as if included in the original legislation to which each amendment relates.

A. TECHNICAL CORRECTIONS

Amendments Related to the Energy Policy Act of 2005

Repeal of the Public Utility Holding Company Act of 1935 (Act sec. 1263).—The provision repeals sections 1081–1083 of the Code (relating to exchanges in obedience to SEC orders) to conform to the repeal of the Public Utility Holding Company Act of 1935. The repeal does not apply to any exchange, expenditure, investment, distribution, or sale made in obedience to an order of the Securities and Exchange Commission.

Extension and modification of renewable electricity production credit (Act sec. 1301).—The provision makes a technical amendment to Code section 45(c)(3)(A)(ii) to change the wording of the reference to "nonhazardous lignin waste material" to "lignin material" so as not to infer that lignin is hazardous or waste.

Clean renewable energy bonds (Act sec. 1303).—Section 54(l)(5) treats the credits received by a holder of clean renewable energy bonds as payments of estimated tax for purposes of sections 6654 and 6655. Under the provision, section 54(l)(5) is repealed, as it may provide a double benefit when computing the estimated tax penalty in the manner prescribed under sections 6654(f) and 6655(g). The conforming amendments to the Act section are made for taxable years beginning after 2005.

Credit for production from advanced nuclear power facilities (Act sec. 1306).—The provision clarifies the production credit for advanced nuclear power (sec. 45J) to carry out the intent that the phase-out is indexed for inflation but the credit rate is not. Specifically, it is not intended that the inflation adjustment rule referred to in section 45J(e) be interpreted to apply to the credit rate in section 45J(a)(1) as well as the phase-out referred to in section 45J(c)(2). The provision clarifies that the phase-out is indexed but the credit rate is not.

Expansion of amortization for certain atmospheric pollution control facilities in connection with plants first placed in service after 1975 (Act sec. 1309).—The provision clarifies that the 84-month amortization period only applies to facilities used in connection with a plant or other property placed in service after December 31, 1975.

Five-year net operating loss carryover for certain losses (Act sec. 1311).—A number of clerical amendments are made to section 172(b)(1)(I).

Modification of credit for producing fuel from a nonconventional source (Act sec. 1322).—The provision clarifies that the credit is allowable without the requirement to make an election.

Energy efficient commercial buildings deduction (Act sec. 1331).—The provision repeals as deadwood certain language in section 1250.

Credit for residential energy efficient property (Act sec. 1335).—The provision clarifies that the dollar limitations are applied without regard to carryovers of the credit from prior taxable years.

Under the provision, the joint occupancy rule is redrafted to apply to expenditures with respect to a dwelling unit rather than the credit allowed with respect to the unit.

The rules relating to the carryover of unused personal credits (including the new credit for residential energy efficient property) are redrafted so as to include in the Code rules for both the taxable years in which the credits are allowed against the alternative minimum tax, and the taxable years in which the credits are not so allowed. The provision is effective for taxable years beginning after 2005.

Alternative motor vehicle credit and credit for installation of alternative fueling stations (Act secs. 1341 and 1342).—Sections 30B(h)(6) and 30C(e)(2) separate business and personal credits for purposes of applying limitations on the credits. Credit property is treated as subject to the business credit limitations if it is depreciable property. Each of these rules provides that the seller of property to a tax-exempt entity can claim the credit. The provision provides that the credits for property sold to a tax-exempt entity are subject to the business credit limitations.

Expansion of research credit (Act sec. 1351).—The research credit has an explicit rule preventing amounts from being taken into account more than once under the credit (i.e., preventing double benefits). The provision clarifies that the rule preventing amounts from being taken into account more than once also applies to the provisions of the research credit relating to energy research consortia.

The provision clarifies that qualified research with respect to energy research consortia must be conducted in the United States or Puerto Rico. This conforms the treatment of such qualified research to the treatment of other qualified research under the research credit in this respect.

Amendments Related to the American Jobs Creation Act of 2004

Deduction relating to income attributable to domestic production activities (manufacturing deduction) (Act sec. 102).—With respect to the W-2 wage limitation on the allowable amount of the domestic production activities deduction, the Act does not require Forms W-2 actually to be filed, and does not specify whether the employees must be the common law employees of the taxpayer. The provision clarifies that a taxpayer may take into account only wages that are paid to the common law employees of the taxpayer and that are reported on a Form W-2 filed with the Social Security Administration no later than 60 days after the extended due date for the Form W-2. Thus, the taxpayer may not take into account wages that were not actually reported. The provision also addresses situations in which the employer uses an agent to report its wages.

The provision clarifies that, in computing qualified production activities income, the domestic production activities deduction itself is not an allocable deduction. The provision also clarifies that no inference is intended with regard to the interpretive relationship between the cost allocation rules provided with respect to the domestic production activities deduction and the cost allocation rules provided with respect to provisions elsewhere in the Act (e.g., incentives to reinvest foreign earnings in the United States). The provision also corrects a reference to "income attributable to domestic production activities" to refer to the defined term "qualified production activities income."

With regard to the definition of "domestic production gross receipts" as it relates to construction performed in the United States and engineering or architectural services performed in the United States for construction projects in the United States, the provision clarifies that the term refers only to gross receipts derived from the construction of real property by a taxpayer engaged in the active conduct of a construction trade or business, or from engineering or architectural services performed with respect to real property by a taxpayer engaged in the active conduct of an engineering or architectural services trade or business.

The provision clarifies that the term does not include gross receipts derived from the lease, rental, license, sale, exchange or other disposition of land.

The provision provides that gross receipts derived from certain contracts (or subcontracts) to manufacture or produce property for the Federal government are derived from the sale of such property and, therefore, are domestic production gross receipts. (Another section of the provision clarifies the authority of the Secretary to prescribe rules to prevent the domestic production activities deduction from being claimed by more than one taxpayer with respect to the same economic activity described in section 199(c)(4)(A)(i).)

The provision provides that, for purposes of determining the domestic production gross receipts of a partnership and its partners, provided all of the interests in the capital and profits of the partnership are owned by members of the same expanded affiliated group at all times during the taxable year of the partnership, then the partnership and all members of that expanded affiliated group are treated as a single taxpayer during such period. Thus, for example, assume such a partnership engages in an activity with respect to property manufactured by the partners that are members of the same expanded affiliated group, and the activity would be treated as a manufacturing activity, but for the fact that the partnership (rather than the partner) conducts the activity. Under this provision, then, the gross receipts derived from the activity are treated as domestic production gross receipts of the partnership for such taxable year. Once the partnership has determined its domestic production gross receipts in this manner, such receipts and the expenses, losses or deductions that are properly allocable to such receipts, and any other items that are allocated to partners, are allocated among the partners in accordance with the requirements of section 199(d)(1) (as amended). Similarly, if a partner engages in such an activity with respect to property manufactured by the partnership, then the gross receipts derived from the activity are treated as domestic production gross receipts of the partner. The treatment of the partners and the partnership as a single taxpayer under this rule is only for the purpose of determining domestic production gross receipts.

The provision clarifies that, with respect to the domestic production activities of a partnership or S corporation, the deduction under the Act is determined at the partner or shareholder level. In performing the calculation, each partner or shareholder generally will take into account such person's allocable share of the components of the calculation (including domestic production gross receipts; the cost of goods sold allocable to such receipts; and other expenses, losses, or deductions allocable to such receipts) from the partnership or S corporation as well as any items relating to the partner or shareholder's own qualified production activities, if any.

The provision clarifies the treatment provided under the Act of cooperatives and patrons with respect to the deduction under section 199. The provision clarifies that a patron who receives certain payments from an agricultural or horticultural cooperative that are attributable to qualified production activities income is allowed a deduction equal to the portion of the deduction allowed to the cooperative that is attributable to such income. The provision also clarifies that the patron's deduction is allowed in the year that the payment attributable to qualified production activities income is received. The cooperative's taxable income is not reduced under section 1382 by the portion of the payment that does not exceed the portion so deductible by the patron. For purposes of the deduction under section 199, the provision clarifies that agricultural or horticultural marketing cooperatives are treated as having manufactured, produced, grown, or extracted any qualifying production property marketed by the organization which its patrons have so manufactured, produced, grown, or extracted. For purposes of the deduction under section 199, an agricultural or horticultural cooperative is a cooperative engaged in the manufacturing, production, growth, or extraction in whole or significant part of any agricultural or horticultural products, or in the marketing of agricultural or horticultural products.

The provision clarifies the definition of an expanded affiliated group, so that a corporation eligible for the deduction with respect to income of a subsidiary must own more than 50 percent, rather than 50 percent or more, of the subsidiary's stock by vote and value.

The provision rewrites the rule that the deduction under section 199 in computing alternative minimum taxable income ("AMTI") is the same as in computing the regular tax, except that, in the case of a corporation, the taxable income limitation is the corporation's AMTI.

The provision clarifies that unrelated business taxable income, rather than taxable income, applies for purposes of section 199(a)(1)(B) in computing the unrelated business income tax under section 511. (In computing AMTI of an organization which is a corporation subject to tax under section 511(a), AMTI applies for purposes of section 199(a)(1)(B). In computing AMTI of an organization other than a corporation, the section 199 deduction is the same as for the regular tax. See sec. 199(d)(6).)

The provision clarifies that the manufacturing deduction is not taken into account in computing any net operating loss or the amount of any net operating loss carryback or carryover. Thus, the deduction under section 199 cannot create, or increase, the amount of a net operating loss deduction.

The provision clarifies the authority of the Secretary to prescribe rules to prevent the domestic production activities deduction from being claimed by more than one taxpayer with respect to the same economic activity described in section 199(c)(4)(A)(i).

The provision clarifies that the manufacturing deduction is not taken into account in determining the amount of the alternative tax net operating loss deduction. For example, assume that for the calendar year 2005, a corporation has AMTI (before the NOL deduction and before the manufacturing deduction) and qualified production activities income of $1 million, and has an alternative tax net operating loss ("ATNOL") carryover to 2005 of $5 million. Assume that the taxpayer has sufficient W-2 wages so as not to be limited under that rule. The ATNOL deduction for 2005 is $900,000 (90 percent of $1 million), reducing AMTI to $100,000. The taxpayer must then further reduce the AMTI by a manufacturing deduction of $3,000 (three percent of the lesser of $1 million or $100,000) to $97,000. The ATNOL carryover to 2006 is $4,100,000.

The provision coordinates the computation of adjusted taxable income of a corporation for purposes of computing a corporation's limitation on the deduction for interest on certain indebtedness with the deduction under section 199. The provision also coordinates the computation of taxable income for purposes of computing a corporation's charitable contribution deduction and a taxpayer's deduction for percentage depletion with respect to oil and gas wells with the deduction under section 199.

The provision clarifies that, in applying the effective date of the deduction under section 199, items arising from a taxable year of a partnership, S corporation, estate, or trust beginning before 2005 are not taken into account for purposes of the rules providing that the deduction is determined at the shareholder, partner or similar level and the application of the wage limitation with respect to such entities.

Family members treated as one shareholder of an S corporation election (Act sec. 231).—The provision repeals the requirement that a family must elect to be treated as one shareholder for purposes of determining the number of shareholders for purposes of subchapter S. The provision also provides that the determination of whether a common ancestor is more that six generations removed from the youngest generation of shareholders is made at the latest of (i) the date the subchapter S election is made; (ii) the date a family member first holds stock in the S corporation; or (iii) October 22, 2004.

The provision treats the estate of a family member as a member of the family for purposes of determining the number of shareholders.

The provision also conforms the provision relating to certain adopted individuals and foster children with the amendments made by title II of the Working Families Tax Relief Act of 2004.

Transfer of suspended losses incident to divorce (Act sec. 235).—The effective date of section 235 of the Act is corrected to provide that it is effective for transfers after December 31, 2004.

REIT provisions (Act sec. 243).—The provision clarifies that a REIT may cure de minimis failures of asset requirements (other than the requirement that the REIT may not hold more than 10 percent (five percent for certain prior years) of the value of securities of a single issuer, for which failure-specific procedures are provided) by using the same procedures as the REIT may use for larger failures of asset tests.

The provision clarifies that the new rules that permit the curing of certain REIT failures apply to failures with respect to which the requirements of the new rules are satisfied in taxable years of the REIT beginning after the date of enactment. Similarly, the provision clarifies that the new rules governing deficiency dividends that allow the taxpayer to make a determination by filing a statement with the IRS apply to statements filed in taxable years of the REIT beginning after the date of enactment.

It is intended that the provisions of the Act that allow a REIT to correct failures of REIT qualification without losing its REIT status apply to corrections of failures for which the requirements for correction are satisfied after the date of enactment, regardless of whether such failures occurred in taxable years beginning on, before, or after the date of enactment. Similarly, it is intended that the provisions of the Act that allow deficiency dividends under section 860 to correct distribution failures, provided the deficiency is identified in a statement filed after the date of enactment in accordance with the provisions of the Act, apply to failures occurring in taxable years beginning on, before, or after the date of enactment.

The provision clarifies that the new hedging rules apply to transactions entered into in taxable years beginning after the date of enactment.

The provision clarifies that securities of a partnership held by a REIT prior to the date of enactment of the Act, that would have qualified as straight debt securities if the Act had never been enacted by virtue of the prior law requirement that the REIT hold at least 20 percent of the partnership equity, will continue to qualify (regardless of whether they were disposed of before the date of enactment or whether the REIT has disposed of its interest in the partnership equity to the 1-percent-or-less interest required by the Act) while held by the REIT (or its successor) until the earlier of the disposition or the original maturity date of such securities.

Expensing of certain films and television production costs (Act sec. 244).—The provision clarifies that the $15 million production cost limitation and the 75 percent qualified compensation requirement are determined on an episode-by-episode basis (not an aggregate basis).

The provision adds rules for recapture as ordinary income of the deduction for expensing of certain films and television production costs in a manner similar to the recapture rules applicable to expensing under Code section 179.

Railroad track maintenance credit (Act sec. 245).—For purposes of the rule that prevents the claiming of the credit by more than one eligible taxpayer with respect to the same mile of track, the provision clarifies that Class II and Class III railroads that operate track under a lease are not required to obtain assignment from the track owner in order to utilize or assign the credit. Under the provision, the credit is limited in respect of the total number of miles of track (1) owned or leased by the Class II or Class III railroad and (2) assigned by the Class II or Class III railroad for purposes of the credit.

The provision clarifies that a Class I railroad is not treated as a Class II or III railroad for purposes of the credit (and it is not eligible to claim the credit with respect to track it owns) by reason of performing track maintenance services (on the same or different track) for a Class II or III railroad.

The provision also clarifies the rules governing the assignment of track by Class II or III railroads. A track mile may be assigned only once per tax year, effective at the close of the tax year, and any track mile assigned may not also be taken into account by the assignor taxpayer for the tax year. An assigned track mile is taken into account by the assignee in the tax year which includes the effective date of the assignment.

Election to determine corporate tax on certain international shipping activities using per ton rate (Act sec. 248).—The provision strikes as deadwood the rule added by the Act regarding the operation of a qualifying vessel by a non-electing corporation that is a member of an electing group.

The provision clarifies section 1354(b) to provide that an election to determine income tax on certain international shipping activities using a per ton rate is timely if made on or before the due date (including extensions) for filing the tax return for the relevant taxable year.

The provision clarifies the treatment of operating agreements under the tonnage tax rules. An operating agreement is not a charter, but is instead an agreement with an owner or charterer of a qualifying vessel to provide operating or management services in respect of a qualifying vessel, for example, crew, technical, or commercial services. The provision makes clear that a person providing services for a vessel under an operating agreement is treated as operating the vessel and may elect tonnage tax treatment, assuming the other requirements for such treatment are met. However, a subcontractor to a person providing services under an operating agreement is neither treated as providing services under an operating agreement nor as operating a vessel for purposes of the tonnage tax. The provision of equipment, tools, provisions, or supplies would not be considered an operating agreement or part of an operating agreement unless such equipment, tools, provisions, or supplies are provided by the person providing the services under the operating agreement, and such equipment, tools, provisions, or supplies are provided in connection with such services.

Present law provides that in order to elect tonnage tax treatment, a person must meet a shipping activity requirement as well as "operate" a qualifying vessel. In general, the shipping activity requirement is met for a taxable year if, on average during such year, at least 25 percent of the aggregate tonnage of qualifying vessels "used" by the corporation (or controlled group) are owned by such corporation (or controlled group) or are chartered to such corporation (or controlled group) on bareboat charter terms. It is intended that a person providing services under an operating agreement is deemed to be "using" tonnage of qualifying vessels, and the appropriate amount of such tonnage is taken into account for purposes of this test. For example, if a corporation (not a member of a controlled group) meets the shipping activity requirement by owning or bareboat chartering sufficient tonnage of other qualifying vessels, it will qualify for 82 the tonnage tax provisions in respect of any qualifying vessel that it is treated as operating by reason of providing services under an operating agreement.

The provision clarifies that interests in operating agreements are taken into account for purposes of allocating the notional shipping income from the operation of qualifying vessels among respective ownership, charter, and operating agreement interests. In addition, in the case of a partnership operating a vessel, the extent of a partner's ownership, charter, or operating agreement interest is determined on the basis of the partner's interest in the partnership.

The provision makes a clerical amendment by eliminating subparagraph (B) of section 1355(c)(3) of the Code, because the rule of subparagraph (B) is encompassed in subparagraph (A).

Computation of foreign tax credit in determining alternative minimum tax by farmers and fisherman using income averaging (Act sec. 314).—The provision clarifies that in computing the regular tax for purposes of determining the alternative minimum tax of a farmer or fisherman using income averaging, the foreign tax credit does not need to be recomputed.

Reforestation expensing recapture (Act sec. 322).—The provision clarifies that the amortization provision applies to trusts and estates, but the deduction applies to estates (and not to trusts).

The provision provides that Code section 1245 is expanded to provide recapture rules for the new expensing provisions of Code section 194(b) (reforestation).

Depreciation allowance for aircraft (Act sec. 336).—Present-law rules for additional first-year depreciation provide criteria under which certain noncommercial aircraft, and certain property having longer production periods (as described in Code section 168(k)(2)(B)), can qualify for the extended placed-in-service date. The provision clarifies that either noncommercial aircraft or property having a longer production period can qualify.

Recharacterization of overall domestic loss (Act sec. 402)—The provision clarifies that, in a case in which an overall domestic loss is used as a carryback, the requirement in Code section 904(g)(2) that the taxpayer have elected the benefits of the foreign tax credit applies to the taxable year in which the loss is used.

Look-through rules to apply to dividends from noncontrolled section 902 corporations (Act sec. 403).—The provision adds a transition rule under which a taxpayer may elect not to apply the Act's look-through rules to taxable years beginning before January 1, 2005.

Look-through treatment for sales of partnership interests (Act sec. 412).—The provision clarifies that constructive ownership is taken into account in determining whether a controlled foreign corporation is a 25-percent owner of a partnership for purposes of the rule treating a sale of a partnership interest as a sale of a proportionate share of the assets of the partnership. This provision conforms the statutory language to the legislative history of the Act.

Repeal of foreign personal holding company rules and foreign investment company rules (Act sec. 413).—The provision repeals as deadwood Code section 532(b)(2), which coordinated the foreign personal holding company and accumulated earnings tax regimes, and instead provides that in computing a corporation's accumulated taxable income, a deduction is allowed in the amount of any income of the corporation that resulted in an inclusion for a U.S. shareholder under Code section 951(a). In the case of a corporation that is otherwise subject to the accumulated earnings tax on a gross basis (under Treas. Reg. sec. 1.535-1(b)), appropriate adjustments are made to this deductible amount to take into account deductions that may have reduced the inclusion under Code section 951(a), but which would not otherwise have been allowable in computing accumulated taxable income. For example, in the case of a corporation that is generally subject to the accumulated earnings tax on a gross basis, if Code section 954(b)(5) has had the effect of reducing the amount of a subpart F inclusion, it would be appropriate to reduce accumulated taxable income by the amount that would have been included under Code section 951(a) without applying Code section 954(b)(5).

The provision also repeals as deadwood Code section 6683, which addresses the failure of a foreign corporation to file a required personal holding company return, a rule that is no longer needed in light of the provision of the Act exempting foreign corporations from the personal holding company rules.

Modifications to treatment of aircraft leasing and shipping (Act. sec. 415).—The provision clarifies that, for purposes of the foreign tax credit limitation as in effect for taxable years beginning before January 1, 2007, shipping income was defined to include income that meets the definition of foreign base company shipping income as in effect before the definition was repealed under section 415 of the Act. The repeal is effective for taxable years of foreign corporations beginning after December 31, 2004, and taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

Application of FIRPTA to distributions from REITS (Act sec. 418).—The provision clarifies that the new rules providing an exception from FIRPTA do not apply to regulated investment companies ("RICs"), but only to real estate investment trusts ("REITs").

The provision clarifies that the period of time during which a foreign shareholder may not have held more than five percent of the class of stock with respect to which the distribution is made is the one-year period ending on the date of the distribution.

The provision clarifies that the new rules apply to any distribution of a REIT that is treated as a deduction for a taxable year of the REIT beginning after the date of enactment.

The provision clarifies that the new rules also apply to deficiency dividends under section 860 that are paid after the date of enactment but that are treated as deductible in taxable years beginning on or prior to the date of enactment. Such dividends qualify for the exclusion from FIRPTA treatment under the Act if the other requirements of the Act are met.

Incentives to reinvest foreign earnings in the United States (Act sec. 422).—The provision amends Code section 965(a)(2)(B) to clarify that distributions made indirectly through tiers of controlled foreign corporations are eligible for the benefits of Code section 965 only if they originate with a dividend received by one controlled foreign corporation from another controlled foreign corporation in the same chain of ownership described in Code section 958(a). Thus, the first dividend in the sequence cannot be a portfolio dividend received by a controlled foreign corporation, for example.

The provision clarifies that for purposes of determining the amount of excess dividends eligible for the deduction, only cash dividends received during the elected taxable year are taken into account under Code section 965(b)(2)(A). (The base-period amounts described in Code section 965(b)(2)(B) include non-cash dividends, as well as cash dividends and certain other amounts.)

The provision also provides the Treasury Secretary with explicit regulatory authority to prevent the avoidance of the purposes of Code section 965(b)(3), which reduces the amount of eligible dividends in certain cases in which an increase in related-party indebtedness has occurred after October 3, 2004. Regulations issued pursuant to this authority may include rules to provide that cash dividends are not taken into account under Code section 965(a) to the extent attributable to the direct or indirect transfer of cash or other property from a related person to a controlled foreign corporation (including through the use of intervening entities or capital contributions). It is expected that this authority, which supplements existing principles relating to the treatment of circular flows of cash, would be used to prevent the application of the deduction in the case of a dividend that is effectively funded by the U.S. shareholder or its affiliates that are not controlled foreign corporations. It is anticipated that dividends would be treated as attributable to a related-party transfer of cash or other property under this authority only in cases in which the transfer is part of an arrangement undertaken with a principal purpose of avoiding the purposes of the related-party debt rule of Code section 965(b)(3).

For example, if a U.S. shareholder, as part of a plan to avoid the purposes of Code section 965(b)(3), contributes cash or other property to a controlled foreign corporation and then has the controlled foreign corporation pay a dividend to the U.S. shareholder (either to meet the base period repatriation level or as a dividend described in Code section 965(a)), or has the controlled foreign corporation lend the cash or other property to another controlled foreign corporation which then pays a dividend to the U.S. shareholder, regulations issued under this authority may require the U.S. shareholder to reduce its Code section 965(a) qualifying dividends by the amount of cash or other property contributed. In addition, if as part of a plan to avoid the purposes of Code section 965(b)(3), a U.S. shareholder makes a loan to a controlled foreign corporation after October 3, 2004, such controlled foreign corporation pays a dividend to the U.S. shareholder, and then the U.S. shareholder disposes of the stock of the controlled foreign corporation, such that the U.S. shareholder is not related to the controlled foreign corporation on the last day of the U.S. shareholder's election year, regulations issued under this authority may require the U.S. shareholder to reduce its Code section 965(a) qualifying dividends by the amount of the loan.

It is anticipated that many other transfers of cash or other property will not be regarded as effectively funding dividend repatriations for purposes of this regulatory authority. For example, if a U.S. shareholder, in the ordinary course of its trade or business, transfers cash or other property to a controlled foreign corporation in exchange for property or the provision of services, such a transfer will not be considered to have a principal purpose of avoiding the purposes of Code section 965(b)(3). Likewise, if a related person transfers cash to a controlled foreign corporation in a sale of assets by the controlled foreign corporation to the related person for non- tax business purposes, such a transfer will not be considered to have a principal purpose of avoiding the purposes of Code section 965(b)(3). Similarly, a transfer of cash or other property to a controlled foreign corporation for purposes of providing initial or ongoing working capital to the controlled foreign corporation or expanding the controlled foreign corporation's operations will not be considered to have a principal purpose of avoiding the purposes of Code section 965(b)(3). In addition, a transfer by a U.S. shareholder in repayment of an obligation owed to a controlled foreign corporation will not be considered to have a principal purpose of avoiding the purposes of Code section 965(b)(3), absent special circumstances indicating that the U.S. shareholder is using the repayment effectively to fund the dividend repatriation. It is expected that these special circumstances would not be found to exist in cases involving the repayment of short-term debt (i.e., debt with a term of no more than three years).

In light of the timing of this bill and the fact that Code section 965 will expire for many affected taxpayers at the end of 2005, it is understood that the Treasury Department in all likelihood will not issue regulations under this authority. If no such regulations are issued, it would be expected that generally applicable tax principles would be invoked to reach results consistent with the principles and examples described above.

The provision also clarifies the definition of "applicable financial statement" under Code section 965(c)(1). In the case of a U.S. shareholder that is required to file a financial statement with the Securities and Exchange Commission (or is included in such a statement filed by another person), the provision clarifies that the applicable financial statement is the most recent audited annual statement that was so filed and certified on or before June 30, 2003. For purposes of this rule, a restatement of a previously filed and certified financial statement that occurs after June 30, 2003 does not alter the statement's status as having been filed and certified on or before June 30, 2003. In addition, the provision clarifies that the term "applicable financial statement" includes the notes that form an integral part of the financial statement; other materials, including work papers or materials that may be filed for some purposes with a financial statement but that do not form an integral part of such statement, may not be relied upon for purposes of producing an earnings or tax number under the provision. For example, if a note that is an integral part of an applicable financial statement states that the U.S. shareholder has not provided for deferred taxes on $1 billion of undistributed earnings of foreign subsidiaries because such earnings are intended to be reinvested permanently (or indefinitely) abroad, the U.S. shareholder's limit under Code section 965(b)(1) is $1 billion. If an applicable financial statement does not show a specific earnings or tax amount described in Code section 965(b)(1)(B) or (C), a taxpayer cannot rely on underlying work papers or other materials that are not a part of the financial statement to derive such an amount. If an applicable financial statement states that an earnings or tax amount is indeterminate (or that determination of a specific amount of earnings or taxes is not feasible), then the earnings or tax amount so described is treated as being zero. A specific earnings or tax amount can be relied upon for purposes of Code section 965(b)(1) as long as such amount is presented on the applicable financial statement as satisfying the indefinite reversal criterion of Accounting Principles Board Opinion 23 ("APB 23") relating to deferred taxes on undistributed foreign earnings, and is disclosed as required under Financial Accounting Standards Board Statement 109 ("FAS 109"), regardless of whether the exact words "permanently reinvested" are used, and regardless of whether APB 23 or FAS 109 is cited by name.

The provision also clarifies that the expense disallowance rule of Code section 965(d)(2) applies only to deductions for expenses that are directly allocable to the deductible portion of the dividend. For these purposes, an expense is "directly allocable" if it relates directly to generating the dividend income in question. Thus, deductions for direct expenses such as certain legal and accounting fees and stewardship costs are disallowed under this provision. Deductions for indirect expenses such as interest, research and experimentation costs, sales and marketing costs, state and local taxes, general and administrative costs, and depreciation and amortization are not disallowed under this provision.

In addition, the provision clarifies that foreign taxes that are not allowed as foreign tax credits by reason of Code section 965(d) do not give rise to income inclusions under Code section 78.

The provision also clarifies that under Code section 965(e)(1), the only foreign tax credits that may be used to reduce the tax on the nondeductible portion of a dividend are credits for foreign taxes that are attributable to the nondeductible portion of the dividend. Credits for other foreign taxes cannot be used to reduce the tax on the nondeductible portion of the dividend.

The provision also clarifies Code section 965(f) to provide that an election to apply Code section 965 is timely if made on or before the due date (including extensions) for filing the tax return for the relevant taxable year.

Treatment of deduction for State and local sales taxes under the alternative minimum tax (Act sec. 501).—The provision clarifies that the itemized deduction for State and local sales taxes does not apply in calculating alternative minimum taxable income.

Naval shipbuilding (Act sec. 708).—The provision provides that the five-taxable year period for use of the 40/60 percentage-of-completion/capitalized cost method is determined with respect to the construction commencement date, not the contract commencement date. The provision further provides that any change of accounting method required by the provision is not subject to section 481.

Credit for production of refined coal (Act sec. 710).—The provision strikes the word "synthetic" from the definition of refined coal to carry out the intent that qualifying solid fuels produced from coal (including lignite) meet two new primary standards, an emissions reduction test and a value enhancement test, and not also be subject to a "chemical change" test promulgated under Treasury guidance for certain fuels from coal to qualify for credit under Code sec. 29.

Tax treatment of expatriated entities and their foreign parents (Act sec. 801).—The provision clarifies that the inversion gain rule of Code section 7874(a)(1) does not apply to an entity that is an expatriated entity with respect to an entity that is treated as a domestic corporation under Code section 7874(b).

Expatriation of individuals (Act sec. 804).—The provision clarifies that the exception to the requirement of minimal prior physical presence in the United States is both for (i) teachers, students, athletes, and foreign government individuals, and (ii) individuals receiving medical attention.

The provision clarifies that the Act does not create an additional requirement that an individual file a statement under section 6039G if such a filing was not already required under present law.

The provision clarifies that taxpayers who lose citizenship or terminate long-term resident status will continue to be treated for Federal tax purposes as citizens or long-term residents until they meet the notice and information reporting requirements of section 7701(n).

Penalty for failure to disclose reportable transactions (Act sec. 811).—The provision clarifies that the penalty for failing to disclose participation in a reportable transaction applies to returns and statements that are filed after the date of enactment, without regard to the original or extended due date for such return or statement.

Accuracy-related penalties for listed transactions and reportable transactions with a significant tax avoidance purpose (Act sec. 812).—The provision clarifies that underpayments attributable to an understatement resulting from participation in a listed transaction or a reportable transaction with a significant tax avoidance purpose are not subject to accuracy-related penalties under section 6662 to the extent that an accuracy-related penalty under section 6662A is imposed upon such underpayment. (However, in the case of underpayments resulting from substantial valuation misstatements, the accuracy-related penalty under section 6662A does not apply to the extent that the accuracy-related penalty under section 6662 is applied to such underpayments (i.e., the section 6662 penalty amount is increased under section 6662(h) because the substantial valuation misstatement is determined to be a gross valuation misstatement).) The provision clarifies that accuracy-related penalties under section 6662A do not apply to underpayments to which a fraud penalty under section 6663 is applied.

The provision clarifies that, with respect to disqualified opinions, the strengthened reasonable cause exception to section 6662A penalties does not apply to the opinion of a tax advisor if (1) the opinion was provided to the taxpayer before the date of enactment, (2) the opinion relates to a transaction entered into before the date of enactment, and (3) the tax treatment of items relating to the transaction was included on a return or statement filed by the taxpayer before the date enactment.

Statute of limitations for unreported listed transactions (Act sec. 814).—The Act provides that the statute of limitations with respect to an undisclosed listed transaction does not expire until one year after the earlier of (1) the date on which the Secretary is furnished the required information, or (2) the date on which a material advisor satisfies the list maintenance requirements with respect to a request by the Secretary. The provision clarifies that a "material advisor" for this purpose includes either a material advisor as defined in section 6111(b)(1) or, in the case of material aid, assistance, or advice rendered on or before the date of enactment, a material advisor as defined in Treasury regulations under section 6112. (See Treas Reg. sec. 301.6112-1(c)(2).)

Material advisor list maintenance requirement and penalty (Act sec. 815).—The provision clarifies that the penalty under section 6708 for failing to comply with the section 6112 list maintenance requirements applies to both (1) material advisors with respect to reportable transactions under present-law section 6112, and (2) organizers and sellers of potentially abusive 88 tax shelters under prior-law section 6112. (This provision also would clarify the determination of the date on which a material advisor satisfies the list maintenance requirements for purposes of the extended statute of limitations for undisclosed listed transactions under section 814 of the Act.)

Minimum holding period for withholding taxes on gain and income other than dividends (Act sec. 832).—The provision clarifies that the exception from the minimum holding period for certain withholding taxes paid by registered or licensed brokers and dealers on income and gain from securities also apply to gain from the sale of stock.

Disallowance of certain partnership loss transfers (Act sec. 833).—The provision redrafts the wording of the provision relating to basis adjustments to undistributed partnership property in Code section 734(b) to clarify that it applies in the case of a distribution of property to a partner by a partnership with respect to which there is a substantial basis reduction.

Repeal of special rules for FASITs and modifications to rules for REMICs (Act sec. 835).—The provision clarifies that, if more than 50 percent of the obligations transferred to, or purchased by, a REMIC are originated by a government entity and are principally secured by an interest in real property, then each obligation originated by a government entity and transferred to, or purposed by, the REMIC is treated as principally secured by an interest in real property. Thus, the provision more closely aligns this rule with the "principally secured" standard that generally is provided by the definition of a qualified mortgage, and the provision clarifies that the treatment of obligations as principally secured by an interest in real property under this rule does not extend to obligations that are not originated by a government entity.

Importation or transfer of built-in losses (Act sec. 836).—The provision provides that on the tax-free liquidation of a corporation, the fair market value basis rule applies only to property described in section 362(e)(1)(B), i.e., property which became subject to U.S. income tax on the liquidation. The provision is drafted to conform the scope of the liquidation rule to the rule applicable to transfers of property by shareholders to corporations.

The provision provides that the election under section 362(e)(2)(C) to apply the basis limitation to the transferor's stock basis is made at such time and in such form and manner as the Secretary may prescribe, and, once made, is irrevocable.

Sale of principal residence following section 1031 exchange (Act sec. 840).—The provision clarifies that the exclusion under section 121 is denied on the sale or exchange of a principal residence by a taxpayer who did not recognize gain under section 1031 on the exchange in which the residence was acquired (or a by person whose basis in the residence is determined in whole or in part with reference to the basis of the residence in the hands of that taxpayer). The provision also makes a clerical change to the numbering of paragraphs.

Limitation on deductions allocable to property used by tax-exempt entities (Act sec. 849).—The Act establishes rules to limit deductions that are allocable to tax-exempt use property. For this purpose, the Act generally defines "tax-exempt use property" by reference to the definition provided in section 168(h). Section 168(h) generally provides that tax-exempt use property includes tangible property that is leased to a tax-exempt entity, as well as certain property owned by a partnership that has a tax-exempt partner and provides for certain special allocations. The provision clarifies that the deduction limitation rules established by the Act apply without regard to whether the tax-exempt use property is treated as such by reason of a lease or otherwise (e.g., because the property is owned by a partnership that has a tax-exempt partner and provides for certain special allocations). In the case of property treated as tax-exempt use property other than by reason of a lease, the provision clarifies that the deduction limitation rules generally are effective for property acquired after March 12, 2004.

Reporting with respect to donations of motor vehicles, boats and airplanes (Act sec. 884).—The provision clarifies that the acknowledgement by the donee organization is to include whether the donee organization provided any goods or services in consideration of the vehicle, and a description and good faith estimate of the value of any such goods or services, or, if the goods or services consist solely of intangible religious benefits, a statement to that effect.

Nonqualified deferred compensation plans (Act sec. 885).—The provision clarifies that the additional tax and interest under the nonqualified deferred compensation provision of the Act are not treated as payments of regular tax for alternative minimum tax purposes. The provision also clarifies that the application of the rule providing that certain additional deferrals must be for a period of not less than five years is not limited to the first payment for which deferral is made. The provision also clarifies that Treasury Department guidance providing a limited period during which plans can conform to the requirements applies to plans adopted before January 1, 2005. The provision also clarifies that the effective date of the funding provisions relating to offshore trusts and financial triggers is January 1, 2005. Thus, for example, amounts set aside in an offshore trust before such date for the purpose of paying deferred compensation and plans providing for the restriction of assets in connection with a change in the employer's financial health are subject to the funding provisions on January 1, 2005. Under the provision, not later than 90 days after the date of enactment of this provision, the Secretary of the Treasury shall issue guidance under which a nonqualified deferred compensation plan which is in violation of the requirements of the funding provisions relating to offshore trusts and financial triggers will be treated as not violating such requirements if the plan comes into conformance with such requirements during a limited period as specified by the Secretary in guidance. For example, trusts or assets set aside outside of the United States that would otherwise result in income inclusion and interest under the provision as of January 1, 2005, may be modified to come into conformance with the provision during the limited period of time as specified by the Secretary.

Identified straddles (Act sec. 888).—The provision clarifies that taxpayers are permitted to identify a straddle as an identified straddle under section 1092(a)(2)(B) (by making a clear and unambiguous identification on their books and records) without regard to whether the Secretary has prescribed regulations under the mandate in that section. The provision provides that the Secretary's mandate under the provision is to issue guidance in the form of regulations or in another form.

Modification of treatment of transfers to creditors in divisive reorganizations (Act sec. 898).—The provision clarifies that the amount of the adjusted basis of property that is taken into account for purposes of Code section 361(b)(3) is reduced by the liabilities assumed (within the meaning of Code section 357(c)).

Nonqualified preferred stock (Act sec. 899).—The provision clarifies that the "real and meaningful likelihood" requirement under the Act (which applies so that stock shall not be treated as participating in corporate growth to any significant extent unless there is a "real and meaningful likelihood" of the shareholder actually participating in the earnings and growth of the corporation) applies also for purposes of determining whether stock is not stock that is "limited and preferred as to dividends."

Consistent amortization period for intangibles and treatment of partnership organizational expenses (Act sec. 902).—The provision corrects the reference to "taxpayers" to refer to "partnerships" in the rules relating to deduction or amortization of partnership organizational expenses.

Limitation of employer deduction for certain entertainment expenses (Act sec. 907).—Section 907 of the Act limits the deduction for certain entertainment expenses with respect to specified individuals. A specified individual is defined as any individual subject to the requirements of section 16(a) of the Securities Act of 1934 with respect to the taxpayer or who would be subject to such requirements if the taxpayer were an issuer of equity securities. The provision clarifies that a specified individual includes an individual who is subject to the requirements of section 16(a) of the Securities Act of 1934 with respect to a related entity of the taxpayer or who would be subject to such requirements if the related entity were an issuer of equity securities.

Amendment Related to the Working Families Tax Relief Act of 2004

Uniform definition of child (Act secs. 201, 203 and 207).—The provision makes conforming amendments, consistent with those enacted with respect to various other provisions, for purposes of health savings accounts, the dependent care credit, and dependent care assistance programs. Under the conforming amendments, an individual may qualify as a dependent for these limited purposes without regard to whether the individual has gross income that exceeds an otherwise applicable gross income limitation or is married and files a joint return. In addition, such an individual who is treated as a dependent under these conforming amendment provisions is not subject to the general rule that a dependent of a taxpayer shall be treated as having no dependents for the taxable year of such individual beginning in such calendar year.

The provision clarifies Code section 152(e) to permit a divorced or legally separated custodial parent to waive, by written declaration, his or her right to claim a child as a dependent for purposes of the dependency exemption and child credit (but not with respect to other child-related tax benefits). By means of the waiver, the noncustodial parent is granted the right to claim the child as a dependent for these purposes. The provision clarifies that the waiver rules under the uniform definition of qualifying child operate as under prior law.

Amendment Related to the Jobs and Growth Tax Relief Reconciliation Act of 2003

Bonus depreciation (Act sec. 201).—Present-law rules for additional first-year depreciation provide criteria under which certain noncommercial aircraft, and certain property having longer production periods (as described in Code section 168(k)(2)(B)), can qualify for the extended placed-in-service date. The provision clarifies that property acquired and placed in service during 2005 pursuant to a written binding contract which was entered into after May 5, 2003, and before January 1, 2005, is eligible for 50-percent additional first-year depreciation deduction.

The provision corrects the reference to a date in the rules applicable to qualified New York Liberty Zone property so that it refers to the January 1, 2005, date in the corresponding rule for additional first-year depreciation in Code section 168(k).

Amendments Related to the Victims of Terrorism Tax Relief Act of 2001

Rules relating to disclosure of taxpayer return information (Act sec. 201).—The provision corrects cross references within the disclosure rules (Code section 6103) relating to disclosure to the National Archives and Records Administration.

Amendments Related to the Economic Growth and Tax Relief Reconciliation Act of 2001

Option to treat elective deferral as after-tax Roth contributions (Act sec. 617).—A special rule allows employees with at least 15 years of service with certain organizations to make additional elective deferrals to a tax-deferred annuity, subject to an annual and cumulative limit. The cumulative limit is $15,000, reduced by any additional pretax elective deferrals made for preceding years. For taxable years beginning after 2005, plans may allow employees to designate pretax elective deferrals as Roth contributions. Under the provision, the $15,000 cumulative limit is reduced also by designated Roth contributions made for preceding years.

Equitable treatment for contributions to defined contribution plans (Act sec. 632).—Under the law as in effect before the Act, a special limit applied to contributions to tax-sheltered annuities for foreign missionaries with adjusted gross income not exceeding $17,000. The special limit was inadvertently dropped by the Act. The special limit was restored in a technical correction in the Job Creation and Worker Assistance Act of 2002, but did not accurately reflect the pre-Act rule. The provision revises the special limit to reflect the pre-Act rule.

Amendments Related to the Internal Revenue Service Restructuring and Reform Act of 1998

Special procedures for third-party summons (Act sec. 3415).—Code section 7609(c)(2)(F) provides that section 7609 does not apply to a summons described in subsection (f) or (g), which refers to a John Doe summons and certain emergency summonses, respectively. The provision corrects this reference, so as to make only the notice procedures of section 7609(a) inapplicable to a John Doe summons or an emergency summons, rather than making the entire section 7609 inapplicable.

Amendments Related to the Taxpayer Relief Act of 1997

Tentative carryback and refund adjustments and treatment of carrybacks or adjustments for certain unused deductions (Act sec. 1055).—The provision corrects a reference in rules relating to tentative carryback and refund adjustments to refer to coordination rules in Code section 6611(f)(4)(B). The provision also corrects a reference in rules relating to 92 carrybacks or adjustments of certain unused deductions to refer to the filing date within the meaning of Code section 6611(f)(4)(B).

Adjustments to basis of stock in controlled foreign corporations (Act sec. 1112(b)).—The provision clarifies that the basis adjustments of Code section 961(c) apply not only with respect to the stock of the controlled foreign corporation that earns the subpart F income that gives rise to the basis adjustments, but also with respect to the stock of higher-tier controlled foreign corporations in the same chain of ownership.

Notice of certain transfers to foreign persons (Act sec. 1144).—The provision corrects the omission of a conjunction in the description of transfers that are generally subject to certain information reporting requirements.

Amendment Related to the Omnibus Budget Reconciliation Act of 1990

Depreciation of certain solar- or wind-powered equipment (Act sec. 11813).—The provision clarifies that 5-year property includes certain heating, cooling, and other equipment using solar or wind (rather than solar and wind) energy.

Amendment Related to the Omnibus Budget Reconciliation Act of 1987

Clarification of earnings and profits and stock basis where LIFO recapture tax applies (Act sec. 10227).—Under present law, the LIFO recapture amount is included in the income of a C corporation that becomes an S corporation for its last taxable year that it was a C corporation (sec. 1363(d)). Any increase in tax by reason of this inclusion is payable in four equal annual installments. The provision provides that the rules relating to (1) the prohibition on adjustments of earnings and profits of an S corporation and (2) the requirement to reduce the basis of stock of the S corporation by reason of nondeductible expenses do not apply to any corporate tax imposed by reason of section 1363(d). No inference is intended as to the treatment of other corporate taxes.

Clerical amendments

The provisions include clerical and typographical amendments to the Code, which are effective upon enactment.

B. OTHER CORRECTIONS

Amendments Related to the American Jobs Creation Act of 2004

Expansion of bank S corporation eligible shareholders to include IRAs (Act sec. 233).—The provision expands the provision in the Act allowing certain bank stock to be held by an IRA (or to be sold by an IRA to the beneficiary) to include stock in a depository holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act). A depository holding company includes a bank holding company and a thrift holding company.

Exclusion of investment securities income from passive income test for bank S corporations (Act sec. 237).—The provision expands the rule in the Act which provides that, in the case of a bank, bank holding company, or financial holding company, certain interest and dividend income is not treated as passive under the S corporation passive investment income rules. Under the provision, this rule applies to a bank and to a depository holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act). A depository holding company includes a bank holding company and a thrift holding company.

Information returns for qualified subchapter S subsidiaries (Act sec. 239).—The provision provides that an S corporation and a qualified subchapter S subsidiary are recognized as separate entities for purposes of making information returns, except as otherwise provided by the Treasury Department.

ADDITIONAL STATEMENTS

NORTHWEST RESEARCH AND EDUCATION INSTITUTE

• Mr. BAUCUS. Mr. President, I rise today to comment on the long overdue establishment of a continuing medical education program in Montana. The Northwest Research and Education Institute is a joint venture of St. Vincent Healthcare and Rocky Mountain Health Network, formed to serve the research and education needs of both the Montana Region of the Sisters of Charity of Leavenworth Health System which stretches from Butte to Miles City and the nearly 500 physicians and 7 hospitals associated with Rocky Mountain Health Network in Montana and Wyoming.

As many know, for too long, Montana was the only state in the US without a continuing medical education accrediting entity. The other 49 States have been able to provide immediate continuing education programs. Montana's medical community had to go hundreds of miles out of State to further their education. The people of my great State deserve the best health care possible, and it is imperative that medical practitioners are able to continue their education. Our physicians, nurses, and pharmacists have been asking for more effective medical education services, and I am pleased to say that now they have it.

I am proud to have secured the initial $250.000 to assist the Northwest Research and Education Institute to complete the accreditation process. Securing this funding for me was a top priority as Montanans medical practitioners shouldn't have to travel hundreds, if not thousands, of miles to receive their required training.

Continuing medical education programs provide education to physicians, nurses, pharmacists, therapists, and other health care professionals to keep them up to date with the latest in medicine. This, of course, translates to better health care for patients. Rural healthcare providers have special needs for continuing education because they practice so far from each other and from centers of education. Now that education can be obtained by a health care provider in Montana.

I am particularly proud that the Northwest Research and Education Institute recently completed their application and received their accreditation. The accreditation is a stamp of quality approval that puts the Northwest Research and Education Institute in a league with medical schools, professional societies and other organizations which offer the highest standards of continuing medical education.

I am proud of the accomplishments of the Institute already and I am confident that the Institute will continue to accomplish its goals of providing quality continuing medical education programs to Montana's medical community.•

RETIREMENT OF ROBBIE CALLAWAY

• Mr. HATCH. Mr. President, after 23 years of extraordinary service to America's young people, Robbie Callaway, senior vice president of government relations at the Boys & Girls Clubs of America, is moving on. Robbie's dedication to positive change and helping others has been truly inspiring. He has been a magnificent advocate for children and for the Boys & Girls Clubs in Utah and all over the country.

Robbie's untiring commitment to youth and disadvantaged communities goes back much further and encompasses much more than just his time with the Boys & Girls Clubs of America. Beginning as a juvenile justice advocate at the National Youth Work Alliance, Robbie rose to be the executive director of that coalition of community based youth service agencies. In 1982, he cofounded the National Center for Missing and Exploited Children and continues to serve on its board of directors. He also recently assisted the Cal Ripken, Sr. Foundation in bringing baseball, America's pastime, to underprivileged children. In all of these endeavors, Robbie has left an ongoing legacy of hope and inspiration.

Today, there are probably only a handful of people in Congress who do not know Robbie Callaway. He played a pivotal role in the passage of national Amber Alert legislation. He has been instrumental in expanding both the resources and reach of the Boys & Girls Clubs of America, including increasing the number of clubs in public housing facilities and onto Indian reservations. Robbie Callaway's character, built on honesty and integrity, has earned him and the organizations he has served the trust of Congress.

Although Robbie is leaving his position with the Boys & Girls Clubs, his passion for helping others remains. In his new career, he will join with a dedicated group of individuals pursuing a cure for cancer. Having witnessed Robbie's determination, I believe he can succeed.

It was a pleasure to work with Robbie Callaway and to help the Boys & Girls Clubs of America. We will miss Robbie's passion for children and for the Boys & Girls Clubs movement. I hope to work with him in his new pursuits, and I wish him great success and happiness, now and in the future.•

TRIBUTE TO MR. ALAN NEWMAN, FOREST SUPERVISOR OF THE OUACHITA NATIONAL FOREST

• Mrs. LINCOLN. Mr. President, I rise today in tribute to Mr. Alan Newman, Forest Supervisor of the Ouachita National Forest, who will retire on January 3, 2006, after more than 32 years with the U.S. Forest Service. Prior to his 10 years of service to Ouachita National Forest, Alan worked as the Forest Supervisor and Deputy Forest Supervisor of the National Forests and Grasslands in Texas and has also served with the U.S. Forest Service in Wisconsin, Michigan, Tennessee, and Kentucky. He also served as a C–130 pilot in the Air Force for 5 years including 2 years of active duty in Vietnam.

Alan has been an asset to the Ouachita National Forest throughout his tenure as Forest Supervisor. He successfully led an effort to finalize the largest land exchange in the history of the U.S. Forest Service—the Arkansas/Oklahoma land exchange of 1996. Alan has also been extremely instrumental in the restoration of historic Camp Ouachita, a former Girl Scout Camp built by the Civilian Conservation Corps, CCC, and the Works Progress Administration, WPA, and listed on the National Historic Register. It is only through his strong commitment and leadership that Camp Ouachita is now available for public use. Restoration included restoring the Camp Ouachita lodge and facilities to usable condition, while adhering to national historic standards. Alan leaves a lasting legacy with the restoration of these structures.

In 2001, the Ouachita National Forest suffered tremendous damage due to an unprecedented ice storm. Alan led the forest through a major salvage sale program designed to restore ecological health to the forest. He has fostered strong, positive working relationships with a variety of partners across Arkansas and Oklahoma. Recently, the Ouachita National Forest Plan was successfully completed in record time and with significant public involvement.

Alan's work is testament to his commitment to natural resource management. He leaves the 1.8 million acres of the Ouachita National Forest in extremely good condition. I appreciate Alan's commitment and dedication and wish him and his family well in retirement.•

UNO MAVS WIN NCAA DIVISION II NATIONAL WOMEN'S SOCCER TITLE

• Mr. NELSON of Nebraska. Mr. President, today I want to share with my colleagues that after 4 years of earning their way to the Final Four and into two national championship matches, the University of Nebraska-Omaha Mavericks women's soccer team won their first ever national title in Wichita Falls, TX.

In their season's first overtime match, Brandi Beale scored the game-winning shot to seal the Mavs' victory. The 2005 UNO women's soccer team is the first ever Nebraska soccer team to win a national title. Meghan Pile, a senior who has played in all four final fours said it best with her statement, "It's the only way to go out."

The team is ecstatic over their victory, and so am I. On behalf of all Nebraskans and myself, I want to congratulate these women and the coaching staff for their enormous success.•

HONORING VINE DELORIA JR.

• Mr. SALAZAR. Mr. President, I rise to honor and celebrate the remarkable life and legacy of Vine Deloria, one of the most influential American Indian people of our time, who through his writings and activism reframed the social debate about the identity of Native American people.

Deloria was born in South Dakota in 1933 to a distinguished Yankton Sioux family. He served in the Marines and graduated from Iowa State University. He earned a master's degree from the Lutheran School of Theology in Chicago, initially planning to become a minister. He then went on to earn a law degree from CU in 1970. He is survived by his wife of 47 years, Barbara; two sons, Philip and Daniel; a daughter, Jeanne Deloria; a brother, Philip; a sister, Barbara Sanchez; and seven grandchildren.

Deloria began his writing and advocacy work as executive director of the National Congress of American Indians, NCAI, in 1964. The 1960s were a crucial era for American Indians, as their community leaders worked together to combat the cumulative legacy of desperate economic conditions, political disenfranchisement, and religious repression on the reservations. While at NCAI, he challenged the century-old Federal assimilation policies of termination and relocation, and helped set the foundation for the American Indian civil rights movement in the late 1960s and early 1970s. His leadership at NCAI marked a turning point in American Indian policy.

Mr. Deloria opened the Nation's eyes both to wrongs it had wrought on American Indian people and to the solutions available to mend the disparities. Among the many areas of American Indian policy issues that he influenced, he helped to craft the American Indian Religious Freedom Act, the Indian Self-Governance Act, and the Native American Graves Protection and Repatriation Act.

His political passion also drove him to write the transformative 1969 book "Custer Died for Your Sins," which helped frame the modern debate about the boundaries of sovereignty for modern Indian nations. The book also challenged the Federal Government's unjust treatment of our Nation's tribal governments. When academic critics challenged his intellect and sophistication, he responded by writing "The Metaphysics of Modern Existence." A lively discussion with Vine was an invigorating and thought-provoking sport enriched by his extraordinary and pointed sense of humor.

Deloria taught history at the University of Arizona from 1978 to 1990 and then at the University of Colorado, where he taught until his retirement in 2000.

In 2002, Deloria received the Wallace Stegner Award, the highest honor presented by CU-Boulder's Center for the American West. The inscription on Deloria's award, given to people who have made a sustained contribution to the cultural identity of the West, reads as follows:

> Always grounded in the stories told by plains and ridges of your Sioux homeland, and guided by your vision of tribal sovereignty, you have become a hero for the ages in Indian country and far beyond, you have changed the West and the world through your activism during the termination crisis, your spirited leadership ever since, your vast and influential writings, and your encompassing mind and matchless courage.

I rise today on the floor of the Senate to honor and celebrate the life's work of Vine Deloria, Jr. We are a better, stronger people for having been blessed with his wisdom.•

TRIBUTE TO DR. PHILLIP A. SINGERMAN

• Mr. SARBANES. Mr. President, I rise today to congratulate Dr. Phillip A. Singerman on his very successful tenure as executive director of the Maryland Technology Development Corporation (TEDCO). Dr. Singerman recently announced his intention to step down from this position at the end of the year.

The Maryland General Assembly created TEDCO in 1999 as a quasi-State investment corporation to facilitate business growth and foster technology transfer. When Dr. Singerman came from the U.S. Department of Commerce to lead TEDCO in 1999, its budget was approximately $650.000. Since Dr. Singerman began. TEDCO's assets have increased nearly ten fold. Through Dr. Singerman's leadership and drive, TEDCO created innovative partnerships between Maryland's large and growing high-tech Federal sector and start-up businesses that allowed the private sector to harness and grow applications for the cutting-edge technologies developed by the Federal Government. This work has also allowed Maryland businesses to work with the Federal Government to "spin-in" technology—connecting the best of the private sector's technology expertise to our Federal sector on behalf of our national interest.

Through these and other efforts, TEDCO has gained a national reputation. For the last 2 years, it has been recognized by Entrepreneur Magazine as the leading backer of seed and early stage companies in the country. In fact, TEDCO's investments have been so successful that a company receiving its seed funding now typically receives 25 times that initial amount from other venture capital firms and the Federal Government over the following 3 years. In short, Dr. Singerman has done a tremendous amount to bolster Maryland's preeminent role as a national center of excellence for high technology innovation. As Richard C. "Mike" Lewin, former head of the Maryland Department of Business and Economic Development put it in a recent Baltimore Sun article: "[h]e made TEDCO from scratch what it is today, the most effective technology development operation in the country."

Mr. President, I am proud to have worked with Dr. Singerman over the last 6 years. His contribution to the State of Maryland and to our Nation cannot be overstated, and I wish him the very best in all of his future endeavors. I ask unanimous consent to have printed in the RECORD the entire Baltimore Sun article about Dr. Singerman's tenure as executive director of TEDCO quoted above.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Dec. 14, 2005]

MD. TECH AGENCY'S DIRECTOR RESIGNS

(By Tricia Bishop and David Nitkin)

Phillip A. Singerman, who guided a quasi-state technology development agency from the dot-com bust into the era of homeland security-related startups, has resigned as its executive director.

In his six years leading the Maryland Technology Development Corp., the former assistant secretary of the U.S. Commerce Department in the Clinton administration helped TEDCO support tech companies with everything from promotion to venture capital. TEDCO is considered one of the top early-stage investors in the country.

"TEDCO's programs have now proven their effectiveness, the organization has achieved a new level of stability, and a competent and energetic staff has been put in place," Singerman wrote in a letter he submitted Monday to the agency's board of directors.

"The organizational tasks now facing TEDCO are more administrative and less, entrepreneurial. Therefore," he said, "I believe the time is now appropriate for me to seek new professional challenges."

Singerman, who was appointed to his post in August 1999 by Democratic Gov. Parris N. Glendening, did not return phone calls yesterday. His last day as executive director will be Dec. 31.

Renee M. Winsky, the group's deputy executive director, will likely step in to fill the position on an interim basis after that, although a formal announcement has yet to be made.

Because Singerman was well-respected, some of those disappointed by the resignation saw it as the result of political pressure. However, unlike, other recent turnovers at state agencies, the immediate reaction was muted.

The Maryland General Assembly created the organization in 1998, with the dot-com boom in full flower and bright kids with big ideas becoming instant millionaires. TEDCO was given the job of moving technology being developed within the state's universities and federal laboratories into the commercial world.

"It doesn't happen through osmosis. There has to be an organization that is intensely focused on making it happen," said Penny Lewandowski, an executive with the Edward Lowe Foundation in Michigan and a former executive director of the Greater Baltimore Technology Council. She was among the first people Singerman met when he took the TEDCO post.

"He had a real understanding of the mission and what they set out to do," Lewandowski said. "For somebody, to be able to pull out these companies and give them the help that they needed and really put them on the map something that we hadn't seen before."

Several TEDCO board members expressed, surprise at Singerman's resignation, although talks had been going on as to how the seven-year-old group could best progress.

"I think [TEDCO] has done an excellent job of getting us to what I will call the first phase of this commercialization effort," said Aris Melissaratos, secretary of the Department of Business and Economic Development, which oversees TEDCO. "The challenge is to take it to the next level. I've been having strategic discussions with the board over the last couple of years of how do we do that."

Part of those discussions centered on whether Singerman's contract would be renewed.

"I'm always looking for the next superstar to pop in. I don't think these government jobs should be forever," said Melissaratos, who is a member of TEDCO's board of directors. "I like Phil because he's a good guy. He did a super job. Again, even though he did a super job, I wouldn't mind finding a way to get the organization to the next level, and I've been talking to Phillip about that continuously."

Del. Kumar P. Barve, a Montgomery County Democrat who was a lead sponsor of the legislation that created the technology investment agency, said Singerman was expecting to be replaced by Gov. Robert L. Ehrlich Jr.'s administration.

State Board of Elections records show that Singerman contributed $950 in donations to former Lt. Gov. Kathleen Kennedy Townsend between December 2000 and July 2002, months before she lost the election for governor to Ehrlich. Singerman gave, $250 to Ehrlich last year.

Singerman "has pretty uniformly gotten positive reviews. But the governor wants to put his guy in charge, which is technically his right to do," said Barve, who is the House Democratic leader and a frequent critic of Ehrlich. "Phil was expecting to be replaced, and I'm sure that was part of his motivation for leaving. Who wants to get fired?"

Melissaratos and other board members, however, said, politics didn't push out Singerman.

"In no sense, in my view, should it be implied that Phillip was somehow forced out. He resigned his position in his own volition. People were trying to convince him—[board chairman] Frank [Adams] was trying to convince him—to stay," said Theodore O. Poehler, vice provost of research at the Johns Hopkins University and vice chairman of TEDCO's.

On Monday, Singerman gave his resignation to Adams, who said he reluctantly accepted it.

"When he finally told me what his reasons were, my first inclination was to talk him out of it. But as I listened carefully, it became clear as one would expect of Phillip, that he had thought this through very carefully," said Adams, who is also president and chief executive of Grotech Capital Group, a venture capital firm based in Timonium.

"He likened himself to an entrepreneur with a startup company. He'd gotten it off the ground, gotten it to the point where it's very stable," said Adams, who believes Singerman thought the time right to bring in more of a manager-type executive director to "free him up for another endeavor."

In 1999, Singerman was lured away from the U.S. Commerce Department, where he directed the Economic Development Administration and its $400 million budget, to become the, first executive director of TEDCO, with its seed budget of about $650,000. Last fiscal year, TEDCO's budget had grown to about $5.5 million.

Landing Singerman was considered a coup at the time. He has a bachelor's degree from Oberlin College and a master's and doctorate from Yale University, experience in politics and lobbying and was a former chief executive of a technology center in Pennsylvania. He also had spent a couple of years in the Peace Corps: teaching villagers in the Colombian Andes about economic development.

"He made TEDCO from scratch what it is today, the most effective technology development operation in the country," said Richard C. "Mike" Lewin, a former head of the Department of Business and Economic Development and a member of the TEDCO board. "This resignation is a real, and in my opinion, unnecessary, loss. It just didn't have to happen."

Melissaratos said the board is trying to arrange a meeting Monday to discuss how to best find a replacement for Singerman and is likely to approve deputy executive director Winsky as interim director.

"Whenever you have an organizational upheaval like this, the smart thing to do is step back and not rush into anything," said Adams, the chairman. "[I hope] to find a person who can come in with fresh eyes and say, 'You could be this' or 'You could be that' and excite the board with a new sense of vitality. That's the [silver] lining in this dark cloud."●

MESSAGE FROM THE HOUSE

At 9:03 a.m., a message from the House of Representatives, delivered by Ms. Niland, announced that the House has passed the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 275. Concurrent resolution expressing the sense of Congress regarding the education curriculum in the Kingdom of Saudi Arabia.

H. Con. Res. 284. Concurrent resolution expressing the sense of Congress with respect to the 2005 presidential and parliamentary elections in Egypt.

H. Con. Res. 326. Concurrent resolution providing for the sine die adjournment of the first session of the One Hundred Ninth Congress.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1287. An act to designate the facility of the United States Postal Service located at 312 East North Avenue in Flora, Illinois, as the "Robert T. Ferguson Post Office Building".

H.R. 2099. An act to establish the Arabia Mountain Heritage Area, and for other purposes.

H.R. 3179. An act to reauthorize and amend the Junior Duck Stamp Conservation and Design Program Act of 1994.

H.R. 4000. An act to authorize the Secretary of the Interior to revise certain repayment contract with the Bostwick Irrigation District of Nebraska, the Kansas Bostwick Irrigation District N. 2, the Frenchmans-Cambridge Irrigation District, and the Webster Irrigation District No.4, all a part of the Pick-Sloan Missouri Basin Program, and for other purposes.

H.R. 4108. An act to designate the facility of the United States Postal Service located at 3000 Homewood Avenue in Baltimore, Maryland, as the "State Senator Verda Welcome and Dr. Henry Welcome Post Office Building".

H.R. 4109. An act to designate the facility of the United States Postal Service located at 6101 Liberty Road in Baltimore, Maryland, as the "United States Representative Parren J. Mitchell Post Office".

H.R. 4246. An act to designate the facility of the United States Postal Service located at 8135 Forest Lane in Dallas, Texas, as the "Dr. Robert E. Price Post Office Building".

H.R. 4510. An act to direct the Joint Committee on the Library to accept the donation of a bust depicting Sojourner Truth and to display the bust in a suitable location in the Capitol.

H.R. 4515. An act to designate the facility of the United States Postal Service located at 4422 West Sciota Street in Scio, New York, as the "Corporal Jason L. Dunham Post Office".

H.R. 4635. An act to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2006, and for other purposes.

H.R. 4636. An act to enact the technical and conforming amendments necessary to implement the Federal Deposit Insurance Reform Act of 2005, and for other purposes.

H.R. 4637. An act to make certain technical corrections in amendments made by the Energy Policy Act of 2005.

The message also announced that the House has passed the bill (S. 205) to authorize the American Battle Monuments Commission to establish in the State of Lousiana a memorial to honor the Buffalo soldiers, without amendment.

The message further announced that the House has passed the bill (S. 652) to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin, without amendment.

The message also announced that the House has passed the bill (S. 1238) to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and for other purposes, without amendment.

The message further announced that the House has passed the bill (S. 1310) to authorize the Secretary of the Interior to allow the Columbia Gas Transmission Corporation to increase the diameter of a natural gas pipeline located in the Delaware Water Gap National Recreation Area, to allow certain commercial vehicles to continue to use Route 209 within Delaware Water Gap National Recreation Area, and to extend the termination date of the National Park System Advisory Board to January 1, 2007, without amendment.

The message also announced that the House has passed the bill (S. 1481) to amend the Indian Land Consolidation Act to provide for probate reform, without amendment.

The message further announced that the House has passed the bill (S. 1892) to amend Public Law 107-153 to modify a certain date, without amendment.

The message also announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1932) to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

The message further announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

The message also announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1815) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 467. An act to extend the applicability of the Terrorism Risk Insurance Act of 2002.

H.R. 358. An act to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes.

H.R. 797. An act to amend the Native American Housing Assistance and Self-Determination Act of 1996 and other Acts to improve housing programs for Indians.

H.R. 2520. An act to provide for the collection and maintenance of human cord blood stem cells for the treatment of patients and research, and to amend the Public Health Service Act to authorize the C.W. Bill Young Cell Transplantation Program.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 19, 2005, she had presented to the President of the United States the following enrolled bill:

S. 467. An act to extend the applicability of the Terrorism Risk Insurance Act of 2002.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5060. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to U.S. military personnel and U.S. individual civilians retained as contractors involved in the anti-narcotics campaign in Colombia; to the Committee on Foreign Relations.

EC–5061. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of major defense equipment and defense articles in the amount of $100,000,000 or more to Italy; to the Committee on Foreign Relations.

EC–5062. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report concerning an amendment to Part 126 of the International Traffic in Arms Regulations (ITAR) to reflect clarifications of coverage for the Canadian exemption; to the Committee on Foreign Relations.

EC–5063. A communication from the Secretary, Department of Agriculture, transmitting, a report of draft legislation to authorize improvements to the National Natural Resources Conservation Foundation, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5064. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the report of a rule entitled "Organization and Functions; Releasing Information; Privacy Act Regulations; Farm Credit Administration Board Meetings; and Enforcement on Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Farm Credit Administration" (RIN3052–AB82) received on December 5, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5065. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Bifenazate; Pesticide Tolerances for Emergency Exemptions" (FRL7746–5) received on December 16, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5066. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Karnal Bunt; Addition and Removal of Regulated Areas in Arizona" (Doc. No. 05–078–1) received on December 16, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5067. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Milk in the Arizona-Las Vegas Marketing Area—Final Order" (Docket No. DA–03–04–A; AO–271–A37) received on December 05, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5068. A communication from the General Counsel, Office of Compliance, transmitting, pursuant to law, the General Counsel's Report on Americans with Disabilities Act inspections conducted during the 108th Congress; to the Committee on Health, Education, Labor, and Pensions.

EC–5069. A communication from the General Counsel, Office of Compliance, transmitting, pursuant to law, the General Counsel's Report on Occupational Safety and Health Inspections for the 108th Congress; to the Committee on Health, Education, Labor, and Pensions.

EC–5070. A communication from the Acting Director, Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, a report relative to the Federal Managers Financial Integrity Act (FMFIA) for fiscal year 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–5071. A communication from the Acting Director, Emergency Preparedness and Response, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, a report that funding for the State of Tennessee as a result of the emergency conditions resulting from the influx of evacuees from areas struck by Hurricane Katrina beginning on August 29, 2005, and continuing, has exceeded $5,000,000; to the Committee on Banking, Housing, and Urban Affairs.

EC–5072. A communication from the Acting Director, Emergency Preparedness and Response, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, a report that funding for the State of Colorado as a result of the emergency conditions resulting from the influx of evacuees from areas struck by Hurricane Katrina beginning on August 29, 2005, and continuing, has exceeded $5,000,000; to the Committee on Banking, Housing, and Urban Affairs.

EC–5073. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Special Community Disaster Loan Program" (RIN1660–AA44) received on December 16, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–5074. A communication from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled "Independent Audits and Reporting Requirements (12 CFR Part 363)" (RIN3064–AC91) received on December 16, 2005; to the Committee on Banking, Housing, and Urban Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–222. A resolution adopted by the Senate of the Legislature of the State of Louisiana relative to adopting legislation that would provide funding through the Department of Housing and Urban Development in the form of Community Development Block Grants to investor owned utilities for the restoration of electric and gas service damaged by Hurricanes Katrina and Rita; to the Committee on Banking, Housing, and Urban Affairs.

SENATE RESOLUTION NO. 13

Whereas, on August 29, 2005, Hurricane Katrina, a category four storm with sustained winds of one hundred and forty miles per hour came ashore in Plaquemines Parish, Louisiana, near Buras, causing unprecedented flooding and devastation in southeastern Louisiana, including the breach of the levee system and floodwalls of the city of New Orleans, the death of more than a thousand state residents, the displacement and evacuation of hundreds of thousands more, and the widespread loss and destruction of businesses and property; and

Whereas, on September 24, 2005, Hurricane Rita, a category three storm with sustained winds of one hundred and twenty-five miles per hour came ashore near the Louisiana/Texas border, causing unprecedented flooding and devastation in southwestern Louisiana and southeastern Texas, and the widespread loss and destruction of life and property; and

Whereas, Entergy Corporation (Entergy), through its subsidiaries Entergy Louisiana (ELI), Entergy Gulf States (EGS), and Entergy New Orleans (ENO), is Louisiana's largest electric and gas utility, and the resulting wind and flooding of Hurricane Katrina significantly damaged major portions of Entergy's utility infrastructure; and

Whereas, in the aftermath of the disaster, Entergy and others worked rapidly to provide emergency and temporary services and is currently working to restore permanent service to all customers in its service territory; and

Whereas, Entergy estimates that the total restoration costs for the repair and/or replacement of Entergy's electric and gas facilities damaged by hurricanes Katrina and Rita and business continuity costs are estimated to be in the range of $1.1 to $1.4 billion; with the costs to Entergy New Orleans alone to repair its utility infrastructure exceeding four hundred million dollars, not including potential incremental losses; and

Whereas, safe and reliable electric and gas utility service is vital to the state's post-hurricane recovery efforts, and the state of Louisiana deems it essential to keep Entergy and its subsidiaries as productive and financially viable companies providing safe and reliable electric and gas utility service to the residents and businesses of Louisiana; and

Whereas, the legislature is committed to the protection of Entergy's residential and business customers from the tremendous costs associated with the necessary rebuilding efforts and in assisting Entergy and its subsidiaries, particularly Entergy New Orleans, in regaining their financial strength and stability so that they will be able to continue providing safe, and reliable service to their customers; and

Whereas, following the terrorist attacks of September 11, 2001, which caused catastrophic destruction of life and property, loss of an untold number of jobs, and the displacement of many individuals and businesses, the legislature notes that billions of dollars in funds and other forms of essential assistance was provided to the state of New York, and New York City by the federal government; and

Whereas, the state of Louisiana has suffered similar, if not greater, human and economic losses as a result of hurricanes Katrina and Rita, resulting in devastating loss of life, damage to businesses and property, and destruction of much of Entergy's utility infrastructure in Louisiana; and

Whereas, the legislature notes that Congress, in Public Law 107–206, passed on August 2, 2002, authorized the United States Department of Housing and Urban Development to provide seven hundred and eighty-three million dollars in disaster assistance for damaged properties and businesses, including the restoration of utility infrastructure, and for economic revitalization directly related to the September 11 attacks. Therefore, be it

Resolved, That the Legislature of Louisiana hereby memorializes the Congress of the United States to take all measures necessary to provide federal financial assistance to aid in rebuilding the investor-owned utility systems that are indispensable to the recovery efforts of the state of Louisiana and the city of New Orleans; and be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM–223. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to increasing the coverage limit for a single-family structure under the National Flood Insurance Program from two hundred fifty thousand dollars to five hundred thousand dollars; to the Committee on Banking, Housing, and Urban Affairs.

House Concurrent Resolution No. 23

Whereas, the National Flood Insurance Program (NFIP), administered by Federal Emergency Management Agency (FEMA), makes federally backed flood insurance available in communities that adopt and enforce floodplain management ordinances to reduce further flood losses; and

Whereas, flood damage, unlike wind damage, is not covered by homeowners' insurance policies but must be purchased separately; and

Whereas, flood insurance may be purchased through insurance companies and licensed insurance agents; and

Whereas, the maximum coverage amount for a single-family structure under NFIP is two hundred fifty thousand dollars; and

Whereas, Hurricanes Katrina and Rita struck the state of Louisiana causing unprecedented and severe flooding and damage to the southern part of the state, devastating the lives of many citizens of the state, and causing damage or destruction of their property; and

Whereas, a substantial number of those single-family structures which suffered damage or destruction from these recent hurricanes are valued well in excess of two hundred fifty thousand dollars, creating a severe gap between coverage limits and the cost of repairing or replacing such homes. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to increase the coverage limit for a single-family structure under NFIP from two hundred fifty thousand dollars to five hundred thousand dollars; and be it further

Resolved, that a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-224. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to forgive the 3.7 billion dollars that the Federal Emergency Management Agency (FEMA) estimates that Louisiana owes FEMA for hurricane relief; to the Committee on Banking, Housing, and Urban Affairs.

House Concurrent Resolution No. 49

Whereas, the Federal Emergency Management Agency (FEMA) has estimated that the state's cost for Hurricanes Katrina and Rita amount to 3.7 billion dollars; and

Whereas, Governor Kathleen Blanco has expressed her intention to seek to have this amount reduced, as it far exceeds any expectation of how much the state would be required to pay for hurricane relief; and

Whereas, Hurricane Katrina has been called the most destructive and costliest natural disaster in the history of the nation, a burden no state has ever had to bear, negatively impacting the state's economy and the earning power of the state's citizens and businesses in countless ways; and

Whereas, even as the state faces this almost insurmountable challenge, FEMA has presented the state with a bill of proportions such as no state has ever faced, and it is a financial burden that Louisiana is not equipped to handle; and

Whereas, Louisiana is already facing a tremendous budget shortfall that renders it incapable of repaying this staggering amount of debt; and

Whereas, the United States government has generously provided a great deal of money to other countries, many of whose debts have been forgiven, and it seems unjust to forgive the debts of other countries but not the debt of taxpaying American citizens; and

Whereas, in light of how this cost would greatly hinder the state's efforts towards economic recovery, it is appropriate that Congress enact legislation to forgive Louisiana's debt incurred by Hurricanes Katrina and Rita. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to forgive the 3.7 billion dollars that the Federal Emergency Management Agency (FEMA) estimates that Louisiana owes to FEMA for hurricane relief; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-225. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to create a national wind insurance program to be combined with the National Flood Insurance Program in order to create a national catastrophe insurance program; to the Committee on Banking, Housing, and Urban Affairs.

House Concurrent Resolution No. 4

Whereas, Congress created the National Flood Insurance Program (NFIP) in 1968 in response to the rising cost of taxpayer-funded disaster relief for flood victims and the increasing amount of damage caused by floods; and

Whereas, in the wake of the widespread damage and devastation caused by recent hurricanes, it is only appropriate that Congress consider a similar program that would also provide wind insurance; and

Whereas, when claim issues are addressed following a hurricane, the separation of damages between wind coverage and flood coverage is potentially contentious and difficult to resolve; and

Whereas, homeowners in areas that have been stricken by hurricanes face the possibility of being dropped by their homeowners' insurance companies and being unable to obtain future coverage to protect them in the case of future disasters; and

Whereas, it would be in the best interest of citizens living in storm-prone areas to have the opportunity to participate in a federal catastrophe insurance program. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to create a national wind insurance program to be combined with the National Flood Insurance Program in order to create a national catastrophe insurance program; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-226. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to the hydrogen shortage caused by Hurricane Katrina; to the Committee on Energy and Natural Resources.

Senate Resolution No. 169

Whereas, There are several factories located within the area devastated by Hurricane Katrina that produce hydrogen; and

Whereas, The aftermath of the hurricane has caused those factories to shut down and has triggered a hydrogen shortage; and

Whereas, The hydrogen shortage is having a substantial negative impact on the metal industry in the Commonwealth of Pennsylvania and throughout the United States, which industry relies on hydrogen for its manufacturing processes; and

Whereas, The hydrogen shortage in the United States needs to be addressed by the Congress of the United States. Therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania urge the Congress of the United States to take appropriate action to address the hydrogen shortage in the United States due to factory shutdowns caused by the devastation of Hurricane Katrina; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM-227. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to urging the Great Lakes Regional Collaboration and the United States Congress to implement the Action Plan to Restore and Protect the Great Lakes; to the Committee on Energy and Natural Resources.

Senate Resolution No. 84

Whereas, Over 40 percent of the Great Lakes are under Michigan's jurisdiction and the Great Lakes contain 95 percent of North America's fresh surface water; and

Whereas, The Great Lakes affect all aspects of life in Michigan and are inextricably linked to Michigan's history, culture, and economy. The Great Lakes have for thousands of years supported native communities' culture and way of life; and

Whereas, The Great Lakes fuel Michigan's tourism and recreation industry. Recreational fishing alone adds $1.4 billion annually to the state's economy; and

Whereas, The state of Michigan has historically been a leader in protecting the Great Lakes, including efforts to regulate ballast water discharges that could harbor invasive species and to eliminate the disposal of dangerous contaminants in the Great Lakes; and

Whereas, Despite Michigan's efforts, the Great Lakes are ailing from a multitude of stressors, including aquatic invasive species, toxic contamination of river and lake sediments, partially or inadequately treated sewage discharges, pollution from nonpoint sources, and coastal habitat loss. Combined, these stressors will have long-lasting effects on the Great Lakes, Michigan's economy, and our way of life; and

Whereas, There has been an unprecedented collaborative effort on the part of 1,500 people representing federal, state, and local governments, Native American tribes, nongovernmental entities, and private citizens to develop an Action Plan to Restore and Protect the Great Lakes; and

Whereas, Implementation of the Action Plan can restore the ecology of the Great Lakes and avert impending environmental threats to the region; and

Whereas, A recent report by the federal Great Lakes Interagency Task Force has, at the eleventh hour, attempted to change the rules that the Regional Collaboration operated under by recommending that the strategy be constrained by current budget projections; and

Whereas, The action plan previously developed through the Regional Collaboration includes recommendations that call on the states and federal government to take substantial new steps jointly in the restoration and protection of the Great Lakes; now, therefore, be it

Resolved by the Senate, That we urge the Great Lakes Regional Collaboration and the United States Congress to take prompt action to finalize, endorse, implement, and invest in the Action Plan to Restore and Protect the Great Lakes; and be it further

Resolved, That we urge the United States Congress to adopt legislation to implement and fully invest in the Action Plan; and be it further

Resolved, That we intend for the state of Michigan to continue its proud tradition of Great Lakes stewardship and fulfill its commitment to restoring the Great Lakes by taking substantial steps and, whenever practical, match federal funding to implement the Action Plan to Restore and Protect the Great Lakes; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, the Great Lakes Commission, the Great Lakes Legislative Caucus, the International Joint Commission, the Great Lakes Fishery Commission, the Michigan Office of the Great Lakes, the Michigan Department of Environmental Quality, and the Michigan Department of Natural Resources.

POM–228. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to extending Louisiana's seaward boundary in the Gulf of Mexico to twelve geographical miles; to the Committee on Energy and Natural Resources.

SENATE CONCURRENT RESOLUTION NO. 8

Whereas, Louisiana's seaward boundary in the Gulf of Mexico has been judicially determined to be three geographical miles and the United States has jurisdiction past the three geographical miles; and

Whereas, Congress has the power to amend the Submerged Lands Act of 1953 to allow for the recognition that Louisiana's seaward boundary extends twelve geographical miles into the Gulf of Mexico; and

Whereas, Louisiana acts as a significant energy corridor vital to the entire United States and provides intersections of oil and natural gas intrastate and interstate pipeline networks which serve as reference for futures markets, such as the Henry Hub for natural gas, the St. James Louisiana Light Sweet Crude Oil, and the Mars Sour Crude Oil contracts; and

Whereas, Louisiana provides storage for the nation's Strategic Petroleum Reserve and is the home of the nation's major import terminal for foreign oil, known as the Louisiana Offshore Oil Port; and

Whereas, Louisiana and its coastal wetlands provide access to nearly thirty-four percent of the U.S. natural gas supply and nearly twenty-nine percent of the U.S. oil supply; and

Whereas, the United States' economic growth depends on access to stable supplies of oil and natural gas; and

Whereas, Louisiana ranks first in crude oil production, including the outer continental shelf production, and ranks second in natural gas production, including the outer continental shelf production; and

Whereas, in 2001, the state of Louisiana received only one-half of one percent of the federal oil and gas revenues off its coast; and

Whereas, hurricanes Katrina and Rita have shown that the loss of vital oil and gas infrastructure in Louisiana and the Gulf of Mexico has an immediate and direct impact upon the economy and well-being of the entire country and its citizens; and

Whereas, the hurricanes have shut-in approximately fifty-three percent of the daily oil production in the Gulf of Mexico, and shut-in approximately forty-seven percent of the daily gas production in the Gulf of Mexico; and

Whereas, for the time period of August 26, 2005, through November 3, 2005, the cumulative shut-in of oil production is approximately fourteen percent of the yearly oil production in the Gulf of Mexico, and the cumulative shut-in of gas production is approximately eleven percent of the yearly gas production in the Gulf of Mexico; and

Whereas, due to hurricanes Katrina and Rita, Louisiana has suffered loss of life and tremendous devastation to its economy, its citizens, infrastructure, and coastal landscape; and

Whereas, Louisiana's Revenue Estimating Conference estimates the budget shortfall to be approximately nine hundred seventy million dollars, and the loss of fees and self-generated revenue could increase the shortfall to one billion five hundred million dollars; and

Whereas, the governor of Louisiana has reduced state agency spending by five hundred million dollars; and

Whereas, the state has provided ten million dollars from our Rapid Response Fund for short-term, interest-free loans to struggling businesses, and granted the full Interim Emergency Fund in the amount of sixteen million dollars to local governments in order for the governments' vital services to operate; and

Whereas, Louisiana has paid out approximately three hundred million dollars in unemployment benefits to hurricane affected employees; and

Whereas, Louisiana has established a Rainy Day Fund that is worth approximately four hundred sixty million dollars, and the state is in the process of using at least one-third of this fund to balance the state budget; and

Whereas, in this special session the Louisiana legislature along with the governor are considering other options for balancing the budget, increasing revenues, and funding the massive clean-up, rebuilding, and restoration of southern Louisiana; and

Whereas, hurricanes Katrina and Rita turned approximately one hundred square miles of southeast Louisiana coastal wetlands into open water, and destroyed more wetlands east of the Mississippi River in one month than experts estimated to be lost in over forty-five years; and

Whereas, monies are desperately needed to fund the state's clean-up, rebuilding, and restoration of southern Louisiana; and

Whereas, the state of Louisiana and its citizens are in a financial crisis; and

Whereas, in order to rebuild the state of Louisiana and protect its citizens, the state needs a significant, consistent and ongoing stream of revenue; and

Whereas, the extension of Louisiana's seaward boundary into the Gulf of Mexico for twelve geographical miles will provide such stream of revenue. Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to extend Louisiana's seaward boundary in the Gulf of Mexico to twelve geographical miles; and be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM–229. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to allow the Stafford Act to provide for payment of regular pay to essential personnel; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 28

Whereas, Hurricanes Katrina and Rita struck the state of Louisiana causing severe flooding and damage to the southern region of the state; and

Whereas, the flooding and damage have adversely affected the state and local government's fiscal budget; and

Whereas, this effect is having a direct impact on their ability to continue to pay their essential staff; and

Whereas, the employment of essential staff is necessary for the effectual running of their everyday governmental operations as well as those duties which have occurred as a result of these natural disasters; and

Whereas, the Stafford Act provides an orderly and continuing means of assistance by the federal government to state and local governments in carrying out their responsibilities to alleviate the suffering and damage resulting from Hurricanes Katrina and Rita by assisting with the payment of overtime pay. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as necessary whereby the Stafford Act will allow the payment of regular pay to essential staff; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–230. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to directing the United States Army Corps of Engineers not to engage in dredging activities on the Mississippi River Gulf Outlet and to begin the necessary process to return the waterway to wetlands marsh status; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 34

Whereas, the Mississippi River Gulf Outlet (MRGO), a seventy-six-mile, manmade navigational channel which connects the Gulf of Mexico to the Port of New Orleans along the Mississippi River, was authorized by the United States Congress under the Rivers and Harbors Act of 1956 as a channel with a surface width of six hundred fifty feet, a bottom width of five hundred feet, and a depth of thirty-six feet, and it opened in 1965; and

Whereas, MRGO, which bisects the coastal marshes of St. Bernard Parish and the Chandeleur Sound, was constructed for navigational and economic purposes as a shorter route than the Mississippi River and as an engine of industrial development for St. Bernard Parish and the city of New Orleans; and

Whereas, since MRGO was completed, the Army Corps of Engineers estimates that the area has lost nearly three thousand two hundred acres of fresh and intermediate marsh, more than ten thousand three hundred acres of brackish marsh, four thousand two hundred acres of saline marsh, and one thousand five hundred acres of cypress swamps and levee forests in addition to major habitat alterations due to saltwater intrusion from the loss of the marshes, which has resulted in dramatic declines in waterfowl and quadruped use of the marshes; and

Whereas, although the tradeoff for St. Bernard Parish's loss of marsh and habitat was anticipated to have been the resultant economic development, that development has not occurred in the forty years since MRGO opened for navigation; MRGO traffic comprises only three percent of the river traffic and is limited to only barge traffic and generally involves only four passages per day; and

Whereas, in addition to less than anticipated use of the channel, the costs of maintaining MRGO rises each year, with the cost of dredging now over twenty-five million dollars per year, or more than thirteen thousand dollars for each passage, in addition to the expenditure of millions for shoreline stabilization and marsh protection projects, with an anticipated cost increase of fifty-two percent between 1995 and 2005; and

Whereas, concerns about the environmental impact of the channel began prior to construction with other federal agencies expressing concern about hydrologic models predicting drastic salinity increases and associated loss of interior marsh, and those concerns have continued through the life of the project as indicated by the Louisiana Legislature getting involved as long ago as Senate Concurrent Resolution No. 207 of 1992 in which the legislature asked the Army Corps of Engineers to evaluate the adverse environmental impacts resulting from the operation of MRGO and to determine if there was federal interest in continuing to maintain and operate the channel; and

Whereas, concerns about the environmental impact increased through the years as evidenced by the fact that in 1998 the "Coast 2050 Report" contained closure of MRGO among the consensus recommendations, and the technical committee of the Coastal Wetland Planning, Preservation and Restoration Act Task Force listed closure as one of the highest-ranked strategies for coastal restoration; and

Whereas, with the waterway increasing from its original authorized dimensions to a surface width of twenty-two hundred feet and a depth of over forty feet, in 1998 the St. Bernard Police Jury voted unanimously to request closure of the waterway because of fears that the dramatic loss of coastal wetlands and marshes caused by MRGO exposed the parish and the communities in the parish to much more severe impacts from the hurricanes and tropical storms that regularly occur in the Gulf of Mexico; and

Whereas, those concerns were echoed and amplified by scientists, engineers, and citizens throughout the region as reflected in requests from the Louisiana Legislature to Congress in 1999 (SCR No. 266) and again in 2004 (HCR No. 35 and HCR No. 68) to close the waterway, and indeed, those concerns proved true in an extremely dramatic fashion on August 29, 2005, when Hurricane Katrina, a strong Category 5 hurricane, washed ashore on Louisiana's coast with a tidal surge well in excess of twenty feet; and

Whereas, there is a growing consensus that the flooding that occurred in St. Bernard Parish and the Lower Ninth Ward of New Orleans was a result of storm surge that flowed up the Mississippi River Gulf Outlet to the point where it converges with the Intracoastal Waterway and that the confluence created a funnel that directed the storm surges into the New Orleans Industrial Canal, where it overtopped the levees along MRGO and the Industrial Canal and eventually breached the levees and flooded into the neighborhoods that lie close to those three waterways, resulting in a yet uncounted number of deaths and rendering sixty-seven thousand residents of St. Bernard Parish and uncounted numbers in the Lower Ninth Ward of New Orleans homeless, without possessions, and unemployed; and

Whereas, only three weeks later, on September 24, 2005, storm waters from Hurricane Rita surged up the Mississippi River Gulf Outlet and caused additional flooding in St. Bernard Parish and the Lower Ninth Ward of New Orleans, exacerbating the traumatic losses in that area; and

Whereas, almost immediately after the two storm events, the United States Army Corps of Engineers indicated that it would seek funding to begin dredging MRGO to reestablish the forty-foot depth, which caused an enormous outcry of protest from the citizens and public officials from St. Bernard Parish and the Lower Ninth Ward of New Orleans, causing the Corps to postpone a decision as to what the next step would be for the Mississippi River Gulf Outlet; and

Whereas, the United States Army Corps of Engineers has stated that it has no authorization from congress to close the waterway or to make any attempt to return the coastal wetlands and marshes to their pre-waterway status or even to fill the waterway to allow for the development of marshes and wetlands. Therefore be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress and the Louisiana congressional delegation to suspend any current appropriations or authorizations for expenditure of funds to dredge the Mississippi River Gulf Outlet, to direct the United States Army Corps of Engineers not to engage in any dredging activities on the Mississippi River Gulf Outlet, and to begin the necessary process to return the waterway to wetlands marsh status as close as possible to what it was prior to establishment of the canal; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation and to the chairman of the Mississippi Valley Division of the United States Army Corps of Engineers.

POM–231. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to waive the nonfederal or local portion of any cost-sharing agreement for the funding of a levee reconstruction and improvement project; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 36

Whereas, on August 29, 2005, and on September 24, 2005, Hurricanes Katrina and Rita, respectively, swept across southeastern Louisiana, demolishing homes, schools, and businesses, obliterating entire communities, and earning their place in history amid the most destructive natural disasters ever measured; and

Whereas, those charged with the mind-boggling task of rebuilding this storm-ravaged region must essentially begin from scratch, including reworking and improving the complex levee system that will protect the region and its inhabitants from future storms such as Hurricanes Katrina and Rita; and

Whereas, Hurricane Katrina, which measured as a Category 4 storm upon landfall, made painfully clear that it is not enough to rebuild and restore the battered levees to their pre-storm Category 3 level of hurricane protection; the economic recovery of this state depends upon the construction of improved levees that will be able to withstand stronger storms; and

Whereas, the building of a strong levee and flood protection system will require an enormous investment in the infrastructure of the region, but it will also entice businesses back to the region, reassure insurers that such a disaster will not happen again, and convince residents that they will be safe; and

Whereas, the strengthening of the levees is critical to the future economic development of the region, but the level of devastation brought about by Hurricanes Katrina and Rita has depleted local resources and has initiated a financial crisis that is only expected to intensify; under these circumstances the state and local governments are unable to meet their portion of the cost-sharing agreement for the funding of the levee improvement project; and

Whereas, in any cost-sharing agreement entered into for the completion of certain projects, including flood control or hurricane protection projects, 33 USC 2213 provides that congress may reduce or offer some other form of financial relief to the nonfederal interest relative to such cost-sharing agreements, upon a determination that the nonfederal interest is not financially able to render its portion of cost-sharing responsibilities. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to waive the nonfederal or local portion of any cost-sharing agreement relative to funding of projects for the reconstruction and improvement of the levee system; and be it further

Resolved, That a suitable copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–232. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to review and consideration of revising or eliminating provisions of law which reduce social security benefits for those receiving benefits from the federal, state, or local government retirement systems; to the Committee on Finance.

SENATE CONCURRENT RESOLUTION NO. 22

Whereas, the Congress of the United States has enacted both the Government Pension Offset (GPO), reducing the spousal and survivor social security benefit and the Windfall Elimination Provision (WEP), reducing the earned social security benefit for persons who also receive federal, state, or local retirement; and

Whereas, the intent of Congress in enacting the GPO and the WEP provisions was to address concerns that a public employee who had worked primarily in federal, state, and local government employment might receive a public pension in addition to the same social security benefit as a worker who had worked only in employment covered by social security throughout his career; and

Whereas, the purpose of Congress in enacting these reduction provisions was to provide a disincentive for public employees to receive two pensions; and

Whereas, the GPO negatively affects a spouse or survivor receiving federal, state, or local government retirement benefits who would also be entitled to a social security benefit earned by a spouse; and

Whereas, the GPO formula reduces the spousal or survivor social security benefit by two-thirds of the amount of the federal, state, or local government retirement benefit received by the spouse or survivor, in many cases completely eliminating the social security benefit; and

Whereas, the WEP applies to those persons who have earned federal, state, or local government retirement benefits, in addition to working in covered employment and paying into the social security system; and

Whereas, the WEP reduces the earned social security benefit using an averaged indexed monthly earnings formula and may reduce social security benefits for such persons by as much as one-half of the uncovered public retirement benefits earned; and

Whereas, because of these calculation characteristics, the GPO and WEP have a disproportionately negative effect on employees working in lower-wage government jobs, like policemen, firefighters, teachers, and state employees; and

Whereas, these provisions also have a greater adverse effect on women than on men because of the gender differences in salary that continue to plague our Nation; and

Whereas, Louisiana is facing a herculean recovery effort which will likely require a reduction in the public workforce, requiring employees of the state and her political subdivisions to leave public service earlier than they perhaps otherwise would, further reducing the amount of money each will receive upon retirement; and

Whereas, Louisiana is making every effort to improve the quality of life of her citizens and to encourage them to live here life-long as a part of the rebuilding and revitalization of the state. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to review the GPO and WEP social security benefit reductions, and to consider amendments thereto that would lessen or eliminate their effects; and be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM-233. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to providing financial assistance to the state necessary to maintain essential public services to the people of Louisiana following the devastation caused by Hurricanes Katrina and Rita; to the Committee on Finance.

SENATE CONCURRENT RESOLUTION NO. 38

Whereas, while these events contributed to an immense loss of human life and property, the ramifications continue to affect every citizen of the state; and

Whereas, the destruction of business, industry, and infrastructure in these areas has severely reduced the state's revenue stream by over one-third; and

Whereas, the Revenue Estimating Conference projects next year's revenue forecast to show a deficit of nine hundred seventy million dollars, requiring massive budget reductions to comply with the state constitution that requires a balanced budget; and

Whereas, through executive order and legislative action, state government is making a coordinated effort to balance the budget; and

Whereas, this deficit of nearly one billion dollars severely curtails the ability of the state to provide essential public services in the areas of health care, education, and infrastructure; and

Whereas, the budget process demands debilitating cuts to higher education with a total reduction of over sixty-six million dollars of which sixty-one million dollars targets individual colleges and universities; and

Whereas, health care services such as Medicaid will lose four hundred million dollars in federal matching funds due to reductions in the state's budget, causing a total reduction in health care services for Medicaid eligibles and the uninsured of six hundred thirty-eight million dollars; and

Whereas, rebuilding state facilities carries a hefty price tag estimated at over two billion dollars; and

Whereas, the extent of the impact to self-generated revenue sources remains unclear at this time; and

Whereas, Louisiana, faced with such monumental budget cuts and slow economic recovery, may be unable to repay a staggering debt currently owed to the federal government in matching funds allegedly owed for certain FEMA assistance payments. Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to provide financial assistance and extraordinary funding to Louisiana necessary to maintain essential public services during these unfortunate times of diminished revenues and staggering debt; and be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM-234. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to encouraging the banking industry to assist senior citizens and disabled persons without identification due to Hurricanes Katrina and Rita with negotiating their Social Security Supplemental Security Income checks; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION NO. 47

Whereas, Hurricanes Katrina and Rita displaced thousands of Louisiana residents, destroyed their homes and lives, and took all of their personal belongings, including their identification; and

Whereas, senior citizens and disabled persons living in areas impacted by Hurricanes Katrina and Rita are in desperate need of their Social Security Supplemental Security Income checks to purchase basic needs of food, clothing, and shelter; and

Whereas, it has been problematic for senior citizens and disabled persons without identification due to Hurricanes Katrina and Rita to negotiate their Social Security Supplemental Security Income checks. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby urge and request congress to encourage the banking industry to assist senior citizens and I disabled persons without identification due to Hurricanes Katrina and Rita with negotiating their Social Security Supplemental Security Income checks; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-235. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to grant for distributions from DROP accounts to active state and local government employees who are members of public retirement systems similar tax relief as that provided to members of qualified retirement plans by the Katrina Emergency Tax Relief Act of 2005 and to permit such distributions from tax-qualified plans; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION NO. 15

Whereas, in response to the devastation of Hurricane Katrina and the terrible economic losses sustained by many citizens on the Gulf Coast, the United States Congress enacted the Katrina Emergency Tax Relief Act, referred to as KETRA, which granted several kinds of tax relief to Hurricane Katrina victims; and

Whereas, federal tax laws generally treat any distribution from a qualified retirement plan, a tax-sheltered annuity (403(b) annuity), an eligible deferred compensation plan maintained by a state or local government (governmental 457 plan), or an individual retirement arrangement (IRA) as income for the year distributed and provide penalties for early distributions from certain pension plans or funds in the form of a ten percent early withdrawal tax; and

Whereas, provisions of KETRA legislation include an exception to the ten percent early withdrawal tax in the case of a qualified Hurricane Katrina distribution from certain qualified retirement plans, a 403(b) annuity, or an IRA, and KETRA provides for income attributable to a qualified Hurricane Katrina distribution to be included in income ratably over three years and permits the amount of a qualified Hurricane Katrina distribution to be recontributed to an eligible retirement plan within three years; and

Whereas, provisions of KETRA do not apply to tax-qualified public retirement systems (401(a) plans) such as the state and statewide retirement systems, under which an employee's contributions are withheld from his pay and do not form a part of his taxable income; and

Whereas, many active employees of state and local governments in Louisiana are participating in or have completed participation in the deferred retirement option plan of their public retirement system, and such plans, referred to simply as "DROP", permit an employee who has reached employment eligibility to continue in employment but to "retire" and, instead of receiving his retirement benefit payments, to have such payments paid for up to three years into a designated account which is invested for him with a prohibition on receiving any payments from the account until he terminates employment; and

Whereas, just like those Hurricane Katrina victims who are permitted by KETRA to access pension funds without tax penalties in this time of dire financial need, many employees of Louisiana state and local governments who have accumulated funds in their

DROP accounts truly need to access those funds to meet the costs of devastating economic losses; and

Whereas, the Louisiana Legislature is considering legislation to allow active employees who are participating in or have completed participation in DROP and who are domiciled in the Katrina core disaster area to receive distributions from their DROP accounts, but such distributions will be subject to tax penalties unless such public employees are granted similar tax relief to that provided for other pension system members by KETRA; and

Whereas, providing DROP participants the tax relief provided to members of other pension systems would be a fair and effective way of assisting these public servants to deal with the impact Hurricane Katrina has had on their homes and families. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to grant for distributions from DROP accounts to active state and local government employees who are members of public retirement systems similar tax relief as that provided to members of qualified retirement plans by the Katrina Emergency Tax Relief Act of 2005 and to permit such distributions from tax-qualified plans; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–236. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to grant to victims of Hurricane Rita similar tax relief as that provided by the Katrina Emergency Tax Relief Act of 2005, and to include distributions from DROP accounts to active state and local government employees who are members of public retirement systems and who are victims of Hurricane Katrina or Hurricane Rita as eligible retirement plan distributions, and to permit such distributions from tax-qualified plans; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION NO. 27

Whereas, in response to the devastation of Hurricane Katrina and the terrible economic losses sustained by many citizens on the Gulf Coast, the United States Congress enacted the Katrina Emergency Tax Relief Act, referred to as KETRA, which granted several kinds of tax relief to Hurricane Katrina victims and which has been and will be of great benefit to the victims of Katrina; and

Whereas, this tax relief legislation includes provisions to allow nonrecognition of income from discharge of certain indebtedness, to remove certain penalties for early withdrawals from, certain pension plans, to provide certain tax credits for employers, to provide special rules for determining earned income when earned income for 2005 is less than the prior year, to suspend limitations on casualty losses, to extend the replacement period for nonrecognition of gain with respect to property compulsorily or involuntarily converted, to provide tax relief for persons providing housing to hurricane victims, to ease restrictions on mortgage revenue bonds, to ease restrictions on charitable contributions for Hurricane Katrina relief efforts and to give special treatment to donations of food or books, to increase the mileage rate for charitable use and to exclude certain mileage reimbursements to charitable volunteers, and to grant automatic extension of filing deadlines; and

Whereas, just as Hurricane Katrina victims will be greatly assisted along the path of recovery by these tax benefits, so, too, victims of Hurricane Rita, many of whom suffered just as significant losses, would be greatly assisted by similar tax relief; and

Whereas, concerning pension plans, federal tax laws generally treat any distribution from a qualified retirement plan, a tax-sheltered annuity (403(b) annuity), an eligible deferred compensation plan maintained by a state or local government (governmental 457 plan), or an individual retirement arrangement (IRA) as income for the year distributed and provide penalties for early distributions from certain pension plans or funds in the form of a ten percent early withdrawal tax; and

Whereas, provisions of KETRA legislation include an exception to the ten percent early withdrawal tax in the case of a qualified Hurricane Katrina distribution from certain qualified retirement plans, a 403(b) annuity, or an IRA, and KETRA provides for income attributable to a qualified Hurricane Katrina distribution to be included in income ratably over three years and permits the amount of a qualified Hurricane Katrina distribution to be recontributed to an eligible retirement plan within three years; and

Whereas, provisions of KETRA do not apply to tax-qualified public retirement systems (401(a) plans) such as the state and statewide retirement systems, under which an employee's contributions are withheld from his pay and do not form a part of his taxable income; and

Whereas, many active employees of state and local governments in Louisiana are participating in or have completed participation in the deferred retirement option plan of their public retirement system, and such plans, referred to simply as "DROP", permit an employee who has reached employment eligibility to continue in employment but to "retire" and, instead of receiving his retirement benefit payments, to have such payments paid for up to three years into a designated account which is invested for him with a prohibition on receiving any payments from the account until he terminates employment; and

Whereas, just like those Hurricane Katrina victims who are permitted by KETRA to access pension funds without tax penalties in this time of dire financial need, many employees of Louisiana state and local governments who have accumulated funds in their DROP accounts truly need to access those funds to meet the costs of devastating economic losses caused by Hurricane Katrina and Hurricane Rita;

Whereas, the Louisiana Legislature is considering legislation to allow active employees who are participating in or have completed participation in DROP and who are domiciled in the Katrina and Rita core disaster areas to receive distributions from their DROP accounts, but such distributions will be subject to tax penalties unless such public employees are granted similar tax relief to that provided for other pension system members by KETRA; and

Whereas, providing DROP participants the tax relief provided to members of other pension systems would be a fair and effective way of assisting these public servants to deal with the impact Hurricane Katrina and Hurricane Rita have had on their homes and families. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to grant to victims of Hurricane Rita similar tax relief as that provided by the Katrina Emergency Tax Relief Act of 2005 and to include distributions from DROP accounts to active state and local government employees who are members of public retirement systems and who are victims of Hurricane Katrina or Hurricane Rita as eligible retirement plan distributions and to further take such action as necessary to permit such distributions from tax-qualified plans; and Be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–237. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to amending the Social Security Act to provide for long-term caregiver benefits; to the Committee on Finance.

HOUSE RESOLUTION NO. 43

Whereas, A crisis continues to exist in the Commonwealth of Pennsylvania relating to the rapidly escalating costs of health care, especially where individuals suffer from a prolonged illness or disability requiring in-home care; and

Whereas, Housing and other assistance is often provided to sick or disabled individuals by extended family members, friends or other generous caregivers who patiently attend to them, give them a home and even pay their expenses; and

Whereas, The cost of providing housing and other assistance to loved ones puts a significant burden on caregivers, especially where caregivers assist individuals for a prolonged period of time; and

Whereas, The Social Security Act currently provides survivor benefits to retired or disabled widows, widowers, minor or disabled children and dependent parents 62 years of age or older when an individual dies; and

Whereas, Persons not deemed eligible for survivor benefits under the Social Security Act carry a financial burden after their loved one is gone; and

Whereas, Many of these caregivers and their loved ones enlisted in the ranks of the work force for many years and contributed to the Social Security Fund and accordingly would deserve their fair share. Therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Congress to amend the Social Security Act to provide benefits for long-term caregivers; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–238. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to allowing subsequent consolidation loans; to the Committee on Health, Education, Labor, and Pensions.

HOUSE RESOLUTION NO. 460

Whereas, The 1998 Amendments to the Higher Education Act of 1965 (Public Law 105–244) provided for Federal consolidation loans to help students and graduates by reducing the cost of repaying the money that they borrowed to finance their higher education; and

Whereas, The law provides that a borrower who has a Federal consolidation loan is not eligible for a subsequent Federal consolidation loan except in the narrower circumstances in which he or she has obtained another eligible loan that is to be consolidated with the existing consolidation loan; and

Whereas, Many students and graduates would benefit from the ability to refinance their student loans more than once in order to secure a lower rate of interest. Therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Congress to amend the 1998 Amendments to the Higher Education Act of 1965 to allow for subsequent Federal consolidation loans regardless of whether the borrower has obtained a new eligible loan; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–239. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to creating a task force, working with State and local government, employers and the health care industry, to develop solutions to rapidly increasing health care cost; to the Committee on Health, Education, Labor, and Pensions.

Whereas, Rapidly increasing health care costs are resulting in higher costs for government and other employers; and

Whereas, These increasing health care costs are resulting in declines in the scope of individual coverage through private plans and through programs such as Medicaid; and

Whereas, The House of Representatives of the Commonwealth of Pennsylvania recognizes the significant increase in costs to counties and employers in providing health care benefits to their employees; and

Whereas, The General Assembly of the Commonwealth of Pennsylvania recognizes the trend for many employers to reduce from the level of benefits offered to their employees, the decreasing availability of affordable health care to American families and the increased vulnerability of parts of our population as cuts are made to Medicaid budgets. Therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge the Congress of the United States to create a task force, working with State and local government, employers and the health care industry, to develop solutions to rapidly increasing health care costs; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–240. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to mandating that federal contracts awarded for reconstruction of the Gulf Coast region give a preference to local contractors and workers; to the Committee on Health, Education, Labor, and Pensions.

SENATE CONCURRENT RESOLUTION NO. 33

Whereas, the entire Gulf Coast region of the United States of America was devastated and destroyed by the awesome power of Hurricane Katrina and Hurricane Rita; and

Whereas, following the assessment of the destruction caused to the entire Gulf Coast region, President George W. Bush offered a bold and breathtaking promise to rebuild this devastated region; and

Whereas, in that speech, President George W. Bush proposed that the Congress of the United States create a "Gulf Opportunity Zone" which recognizes that the key to both immediate and long-term economic recovery is to spur Americans to invest in the affected area; and

Whereas, to date, the Congress of the United States of America has committed billions of emergency spending to the affected region, with an early estimate of $200 billion to be spent in the recovery, rebuilding, and revitalization of the entire Gulf Coast region; and

Whereas, the fruits of the recent recovery have accrued disproportionately to out-of-state corporate profits; and

Whereas, it is vital that local small businesses be given greater access to federal contracts in order to further assist the area in its economic recovery efforts. Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to mandate that federal contracts awarded for reconstruction of the Gulf Coast region give a preference to local contractors and workers; and be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM–241. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to passing the Family Education Reimbursement Act; to the Committee on Health, Education, Labor, and Pensions.

SENATE CONCURRENT RESOLUTION NO. 46

Whereas, thousands of students were forced to abandon their schools in the aftermath of hurricanes Katrina and Rita; and

Whereas, public, private and charter schools all across the state and nation enrolled these displaced students; and

Whereas, parents should be empowered to make the best choices for their children and that the communities and schools that have opened their doors to so many students should not be financially punished for that generosity; and

Whereas, the Family Education Reimbursement Act (H.R. 4097) would provide parents of children displaced by hurricanes Katrina and Rita an opportunity to register with the federal government to create an account in which the federal government would deposit $6,700; and

Whereas, these account numbers would be given to the school enrolling the displaced child so that the schools could be reimbursed for the child's education; and

Whereas, these accounts would be accessible to private and charter schools, as well as public schools, that have enrolled these displaced students, often at free or reduced tuition; and

Whereas, the Family Education Reimbursement Act (H.R. 4097) would allow schools, which welcomed these displaced students to be reimbursed easily and quickly without being forced to navigate complicated federal, state and local bureaucracies to obtain reimbursement. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to enact the Family Education Reimbursement Act (H.R. 4097); and therefore, be it further

Resolved, That a copy of this Resolution be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation of the United States Congress.

POM-242. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to voting against the repealing of the "Byrd Amendment"; to the Committee on Homeland Security and Governmental Affairs.

SENATE CONCURRENT RESOLUTION NO. 27

Whereas, the United States House Committee on Ways and Means by a recorded vote of 22 to 17 reported the Budget, Entitlement Reconciliation Recommendations for Fiscal Year 2006; and

Whereas, the committee recommended to repeal the provision of the Continued Dumping and Subsidy Offset Act, commonly known as the "Byrd Amendment," that required collected duties be distributed to eligible domestic producers; and

Whereas, these duties were collected under antidumping and countervailing duty orders and are required to be paid to eligible producers that initiated the petition which resulted in the imposition of the duties; and

Whereas, in January, the International Trade Commission ruled that the six countries of China, Ecuador, India, Thailand, Vietnam and Brazil dumped shrimp in the U.S. market at excessively low prices; and

Whereas, the duties collected from these countries ranged from 2.48 percent to 112.81 percent; and

Whereas, shrimpers and shrimp processors had until August 1, 2005, to apply for payments from the duties imposed on the six countries; and

Whereas, the shrimpers and shrimp processors will probably not get paid this year, and unfortunately will probably have to wait until next year for any payment; and

Whereas, due to hurricanes Katrina and Rita, the shrimp industry along with other seafood industries have suffered enormous economic and infrastructure losses; and

Whereas, a preliminary assessment estimates that for the shrimp industry the potential production losses at retail level due to Hurricane Katrina are approximately five hundred thirty-nine million dollars, and due to Hurricane Rita the losses are approximately three hundred eighty million dollars; and

Whereas, the preliminary assessment estimates that for the shrimp industry the total potential production losses at retail level due to both hurricanes are approximately nine hundred nineteen million dollars; and

Whereas, the repealing of the "Byrd Amendment" would cause further economic loss on the shrimp industry because the shrimpers and shrimp processors will not receive the payments from the duties. Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to vote against the repealing of the "Byrd Amendment;" and be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM–243. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to require all federal jobs that have been lost or relocated due to Hurricanes Katrina and Rita and their associated funding to be restored as soon as possible; to the Committee on Homeland Security and Governmental Affairs.

House Concurrent Resolution No. 38

Whereas, in the wake of Hurricanes Katrina and Rita and their associated funding, many employers and employees have had to be temporarily relocated because of damaged facilities; and

Whereas, it is critical that federal employers return as soon as their facilities are repaired because Louisiana citizens need these jobs, and their return would provide a much-needed boost to the economies of the affected regions; and

Whereas, such federal employers as the United States Department of Agriculture's National Finance Center and the Space and Naval Warfare Information Technology Center, a pair of federal contracting facilities that employ approximately two thousand four hundred people, have largely resumed operations in New Orleans, but they are not yet up to full capacity, and it must be ensured that they will resume full operations and restore the jobs of all of their employees; and

Whereas, it is imperative that all of the Louisiana citizens who commute to jobs at the Stennis Space Center in Mississippi be enabled to return to their jobs as quickly as possible; and

Whereas, it is also of utmost importance that the functions and operations of other significant federal entities, such as the United States Department of Agriculture's Southern Regional Research Center, the United States Marine Corps Reserve Command, the Eighth Coast District Headquarters, and the United States Army Reserve 377th Theater Army Area Command (TAACOM), are fully restored to help ensure the economic recovery of the New Orleans region; and

Whereas, as Louisiana struggles to recover and rebuild, of primary importance is the employment of its citizens, and it is therefore crucial that congress require federal jobs that have been lost or relocated due to Hurricanes Katrina and Rita and their associated funding to be restored as expeditiously as possible in order to bring about the revitalization of the economies of the regions affected by the storms. Therefore, be it

Resolved, that the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to require all federal jobs that have been lost or relocated due to Hurricanes Katrina and Rita and their associated funding to be restored as soon as possible, and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

*Andrew J. McKenna, Jr., of Illinois, to be a Member of the National Security Education Board for a term of four years.

*Dorrance Smith, of Virginia, to be an Assistant Secretary of Defense.

Air Force nomination of Brigadier General Philip M. Breedlove to be Major General.

Army nomination of Maj. Gen. Gary D. Speer to be Lieutenant General.

Army nomination of Lt. Gen. Charles C. Campbell to be Lieutenant General.

Marine Corps nomination of Brig. Gen. Andrew B. Davis to be Major General.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the Records on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nominations beginning with Jolene A. Ainsworth and ending with David C. Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record on July 28, 2005.

Air Force nominations beginning with Craig L. Adams and ending with Matthew C. Wyatt, which nominations were received by the Senate and appeared in the Congressional Record on October 17, 2005.

Air Force nominations beginning with Jay O. Aanrud and ending with Scott C. Zippwald, which nominations were received by the Senate and appeared in the Congressional Record on October 17, 2005.

Air Force nomination of Martin E. Keillor to be Lieutenant Colonel.

Air Force nominations beginning with Robert W. Desverreauz and ending with Chetan U. Kharod, which nominations were received by the Senate and appeared in the Congressional Record on December 14, 2005.

Air Force nomination of Julie S. Miller to be Major.

Air Force nomination of Kara A. Gormont to be Major.

Army nominations beginning with Deiby Acevedo and ending with David R. Zysk, which nominations were received by the Senate and appeared in the Congressional Record on December 13, 2005.

Army nominations beginning with Holtorf R. Alonso and ending with Richard M. Zygadlo, which nominations were received by the Senate and appeared in the Congressional Record on December 13, 2005.

Army nominations beginning with Thomas E. Ayres and ending with Peter C. Zolper, which nominations were received by the Senate and appeared in the Congressional Record on December 13, 2005.

Army nomination of Cindy R. Jebb to be Colonel.

Army nomination of Richard L. Chavez to be Colonel.

Army nominations beginning with Samuel Casscells and ending with Slobodan Jazarevic, which nominations were received by the Senate and appeared in the Congressional Record on December 14, 2005.

Army nominations beginning with Joseph J. Impallaria and ending with Arthur E. Lees, which nominations were received by the Senate and appeared in the Congressional Record on December 14, 2005.

Marine Corps nomination of Michelle A. Rakers to be Captain.

Navy nominations beginning with Tony C. Baker and ending with James J. Vopelius, which nominations were received by the Senate and appeared in the Congressional Record on December 13, 2005.

Navy nomination of Lloyd G. Lecain to be Captain.

By Mr. GRASSLEY for the Committee on Finance.

*Vincent J. Ventimiglia, Jr., of Maryland, to be an Assistant Secretary of Health and Human Services.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SANTORUM:

S. 2142. A bill to provide for the liquidation or reliquidation of certain entries of suit pants; to the Committee on Finance.

By Mr. FRIST:

S. 2143. A bill to increase the number of students from low-income backgrounds who are enrolled in studies leading to baccalaureate degrees in science, mathematics, technology, engineering, and critical foreign languages, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. TALENT:

S. 2144. A bill to authorize the Secretary of the Interior to conduct a study to determine the suitability and feasibility of designating the Soldiers' Memorial Military Museum located in St. Louis, Missouri, as a unit of the National Park System; to the Committee on Energy and Natural Resources.

By Ms. COLLINS (for herself, Mr. Lieberman, Mr. Coleman, Mr. Carper, and Mr. Levin):

S. 2145. A bill to enhance security and protect against terrorist attacks at chemical facilities; to the Committee on Homeland Security and Governmental Affairs.

ADDITIONAL COSPONSORS

S. 382

At the request of Mr. Ensign, the name of the Senator from Hawaii (Mr. Inouye) was added as a cosponsor of S. 382, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 908

At the request of Mr. McConnell, the name of the Senator from Georgia (Mr. Isakson) was added as a cosponsor of S. 908, a bill to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.

S. 1049

At the request of Mr. Frist, the name of the Senator from Vermont

(Mr. JEFFORDS) was added as a cosponsor of S. 1049, a bill to amend title XXI of the Social Security Act to provide grants to promote innovative outreach and enrollment under the medicaid and State children's health insurance programs, and for other purposes.

S. 1139

At the request of Mr. SANTORUM, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1139, a bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

S. 1504

At the request of Mr. ENSIGN, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1504, a bill to establish a market driven telecommunications marketplace, to eliminate government managed competition of existing communication service, and to provide parity between functionally equivalent services.

S. 1581

At the request of Mr. BINGAMAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1581, a bill to facilitate the development of science parks, and for other purposes.

S. 1620

At the request of Ms. LANDRIEU, her name was added as a cosponsor of S. 1620, a bill to provide the nonimmigrant spouses and children of nonimmigrant aliens who perished in the September 11, 2001, terrorist attacks an opportunity to adjust their status to that of an alien lawfully admitted for permanent residence, and for other purposes.

S. 1779

At the request of Mr. AKAKA, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1779, a bill to amend the Humane Methods of Livestock Slaughter Act of 1958 to ensure the humane slaughter of nonambulatory livestock, and for other purposes.

S. 1881

At the request of Mrs. FEINSTEIN, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Iowa (Mr. HARKIN) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1881, a bill to require the Secretary of the Treasury to mint coins in commemoration of the Old Mint at San Francisco otherwise known as the "Granite Lady", and for other purposes.

S. 2010

At the request of Mr. HATCH, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2010, a bill to amend the Social Security Act to enhance the Social Security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. 2019

At the request of Mr. SMITH, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 2019, a bill to provide for a research program for remediation of closed methamphetamine production laboratories, and for other purposes.

S. 2082

At the request of Mr. SUNUNU, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from New Jersey (Mr. CORZINE) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 2082, a bill to amend the USA PATRIOT Act to extend the sunset of certain provisions of that Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to March 31, 2006.

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 2082, supra.

At the request of Mr. SARBANES, his name was added as a cosponsor of S. 2082, supra.

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 2082, supra.

At the request of Mrs. LINCOLN, her name was added as a cosponsor of S. 2082, supra.

S. 2095

At the request of Mr. BIDEN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2095, a bill to ensure payment of United States assessments for United Nations peacekeeping operations in 2005 and 2006.

S. 2109

At the request of Mr. ENSIGN, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2109, a bill to provide national innovation initiative.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FRIST:

S. 2143. A bill to increase the number of students from low-income backgrounds who are enrolled in studies leading to baccalaureate degrees in science, mathematics, technology, engineering, and critical foreign languages, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Science and Mathematics Access to Retain Talent Act".

SEC. 2. NATIONAL SMART GRANTS.

Subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a) is amended by adding after section 401 the following:

"SEC. 401A. NATIONAL SMART GRANTS.

"(a) PURPOSE.—The purpose of this section is to increase the number of postsecondary students from low-income backgrounds who are enrolled in studies leading to baccalaureate degrees in physical, life, and computer sciences, mathematics, technology, engineering, and foreign languages critical to national security.

"(b) PROGRAM AUTHORIZED.—The Secretary shall award grants, in the amount specified in subsection (e), to eligible students to assist the eligible students in paying their college education expenses.

"(c) DESIGNATION.—A grant under this section shall be known as a 'National Science and Mathematics Access to Retain Talent Grant' or a 'National SMART Grant'.

"(d) DEFINITION OF ELIGIBLE STUDENT.—In this section, the term 'eligible student' means a full-time student who, for the academic year for which the determination of eligibility is made—

"(1) is a citizen of the United States;

"(2) is eligible for a Federal Pell Grant;

"(3) is enrolled or accepted for enrollment in the third or fourth academic year of a program of undergraduate education at a 4-year degree-granting institution of higher education;

"(4) is pursuing a major in—

"(A) the physical, life, or computer sciences, mathematics, technology, or engineering (as determined by the Secretary pursuant to regulations); or

"(B) a foreign language that the Secretary, in consultation with the Director of National Intelligence, determines is critical to the national security of the United States; and

"(5) has obtained a cumulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) in the coursework required for the major described in paragraph (4).

"(e) GRANT AWARD.—

"(1) AMOUNTS.—Subject to paragraphs (2) and (3), the Secretary shall award a grant under this section to an eligible student in the amount of $4,000.

"(2) SPECIAL RULES.—Notwithstanding paragraph (1)—

"(A) the amount of a grant under this section, in combination with the Federal Pell Grant assistance and other student financial assistance available to the eligible student, shall not exceed the student's cost of attendance;

"(B) if the amount made available under subsection (f) for any fiscal year is less than the amount required to provide grants to all eligible students in the amounts determined under paragraph (1) (subject to subparagraph (A)), then the amount of the grant to each eligible student shall be ratably reduced; and

"(C) if additional amounts are appropriated for a fiscal year described in subparagraph (B), such reduced grant amounts shall be increased on the same basis as they were reduced.

"(3) LIMITATIONS.—The Secretary shall not award a grant under this section—

"(A) to any eligible student for an academic year of a program of undergraduate education for which the student received credit before the date of enactment of the

National Science and Mathematics Access to Retain Talent Act; or

"(B) to any eligible student for more than 2 academic years.

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2006 and each of the succeeding 4 fiscal years.

"(2) USE OF EXCESS FUNDS.—If, at the end of a fiscal year, the funds available for awarding grants under this section exceed the amount necessary to make such grants in the amounts authorized by subsection (e), then all of the excess funds shall remain available for awarding grants under this section during the subsequent fiscal year.

"(g) SUNSET PROVISION.—The authority to make grants under this section shall expire at the end of the academic year 2009–2010.".

By Ms. COLLINS (for herself, Mr. LIEBERMAN, Mr. COLEMAN, Mr. CARPER, and Mr. LEVIN):

S. 2145. A bill to enhance security and protect against terrorist attacks at chemical facilities; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today, along with my good friend and colleague, Senator JOE LIEBERMAN, to introduce the Chemical Facility Anti-terrorism Act of 2005.

This legislation addresses one of the Nation's greatest vulnerabilities, the threat of a terrorist attack against a chemical facility.

My legislation would provide broad new authority to the Department of Homeland Security to ensure that the Nation's chemical facilities are better protected from terrorism.

This legislation would direct the Department of Homeland Security to establish criteria for evaluating the vulnerability of our Nation's chemical facilities to terrorist attack and to establish risk-based tiers for those facilities deemed in need of protection.

These regulations will require designated facilities to conduct vulnerability assessments and to create appropriate site security and emergency response plans. In addition, the Department would establish an office within the Infrastructure Protection Directorate responsible for implementing and enforcing the statute.

The bill also contains robust measures to ensure both compliance by chemical plants and effective implementation by the Department.

This legislation is strong medicine, and I do not prescribe it lightly. But the potential devastation that an attack on a chemical facility could cause, the sheer number of these facilities and the current widespread lack of security, as well as the clearly stated intent of terrorists to cause maximum harm to the American people and to our economy make these measures necessary.

The Homeland Security Committee has invested substantial effort in examining this threat and in deciding how best to respond to it. Our investigation included four hearings on this topic earlier this year.

From the horrifying chemical attacks of the First World War, and the tragic accident at Bhopal, India, in 1984, to the numerous and more recent accidental releases of hazardous chemicals in this country, we were reminded by expert after expert of the potential for useful productive chemicals to kill, if released accidentally or intentionally.

We also know that al-Qaida has a keen interest in the American chemical industry. Indeed, at our first hearing, Steven Flynn of the Council on Foreign Relations testified that the chemical industry is "at the top of the list" of al-Qaida and other terrorist groups. The chemical industry, said Commander Flynn, absolutely screams at you as essentially a weapon of mass destruction.

We should not wait until there is an attack on a chemical facility and then act after the fact. So often our security measures and our emergency legislation is passed after something horrible has already occurred and after lives have already been lost. Let us get ahead of this curve. Let us act now to address what witness after witness identified as being one of the greatest threats to our homeland.

The stakes are high and the vulnerability is widespread. The Environmental Protection Agency has cataloged some 15,000 facilities in the United States that manufacture, use, or store large quantities of hazardous chemicals for productive, legitimate purposes, but in amounts that could cause extensive harm if turned against us as weapons. And we have seen al-Qaida do this before. We have seen al-Qaida use commercial aircraft as weapons of mass destruction.

The Department of Homeland Security has identified 3,400 facilities that could affect more than 1,000 people if attacked.

According to the Government Accountability Office, tens of millions of Americans live close enough to chemical facilities to be at risk in the event of a terrorist attack. Yet despite this profound threat, only a fraction of our Nation's chemical facilities are regulated for security by the Federal Government under the Maritime Transportation Security Act of 2002, or subscribe to volunteer security standards.

While I applaud those companies that have taken voluntary measures, an unacceptable number have not. Moreover, given the severity of the threat, I believe it is a mistake in this case to rely on voluntary measures alone. The overwhelming majority of experts at our hearing testified that additional statutory authority is needed to effectively address the threat of terrorism against a chemical facility.

Leading security experts, chemical safety professionals, industry representatives, labor representatives, environmental groups, and the administration, all have testified that Federal legislation in this area is necessary, although obviously they differ considerably on the details.

The legislation I am introducing today provides that critical authority. While establishing the need for Federal legislation, our hearings stressed the importance of getting this right, of striking the right balance.

Chemical shipments in the United States approach $.5 trillion annually. The chemical industry represents our largest export sector, totaling $91.4 billion in 2003.

More than 900,000 people work directly in the American chemical industry with millions more in supplier and indirect jobs.

Chemicals are critical to our food and our water supply, our pharmaceuticals, our electronics, our clothes; in fact, just about everything.

A consistent theme that sounded throughout our hearing was that we cannot afford to drive the chemical sector out of this country in the name of security. And that is why we spent so much time in carefully crafting a bill that strikes the right balance.

Our hearings established a considerable consensus around two important concepts: First, that the legislation should be risk based. Our chemical industry is extremely diverse and any legislation must take into account that diversity. A small plant using chemicals in rural Maine faces very different risks than a major chemical manufacturing plant in the New York City area, and its security response should be structured appropriately. Security measures should be tailored to each particular facility, taking into account its vulnerabilities, its location, impact on the population, and other risk factors. High-risk facilities should undertake the strongest security precautions while obviously fewer precautions are necessary at very low-risk facilities.

Second, the legislation should be performance based. What do I mean by that? By that I mean our focus should be on having the Department establish the standards, the results, rather than prescribing exactly how a corporation should act to meet those standards, those results. Facilities should defend against particular threats. For example, the Secretary might specify that facilities should be able to protect against a hazardous release resulting from a truck bomb. Or the Secretary may mandate that every plant have a secure perimeter. Now, facilities could choose to meet those standards by building fences, erecting barriers, moving the most hazardous chemicals to a more secure area, or even switching to a less hazardous chemical altogether.

By specifying the regulations should be performance based, facilities will have the incentives to identify the most effective and cost-efficient means of increasing protection.

The legislation I am introducing today meets those fundamental criteria. It is risk based and it is performance based. This legislation is modeled, in part, on the Maritime Transportation Security Act, consequently referred to as MTSA.

During the course of our four hearings, we heard substantial testimony from security industry experts, the administration and others, that the results-based cooperative approach of MTSA is a major success story. In fact, we heard so many positive things about the law that we brought in the Coast Guard's director of port security, Admiral Bone, to testify about their experience with the current law.

The first step in improving the security of our Nation's chemical facilities is to determine which facilities should be covered by Federal regulations and to what degree. This legislation requires the Department of Homeland Security to issue within 1 year of enactment regulations establishing criteria for evaluating the types of facilities that should be covered, as well as regulations establishing risk-based tiers for the designated facilities.

Following the issuance of these regulations, the Department would designate covered facilities and place them into tiers. The designations would be based on risk factors including potential likelihood of death or illness, proximity to population centers, and the potential impact on national security, the economy, and critical infrastructure. The tier would have increasingly strict security requirements as the risk and consequences of a terrorist attack at a covered facility increase.

The Department would then set security performance standards for each tier. Every facility would be required to conduct a vulnerability assessment, establish and implement a site security plan, and create an emergency response plan or update an existing plan to include provisions for an intentional attack. Vulnerability assessments would address the threats and consequences of a terrorist attack, including vulnerabilities from the use of hazardous chemicals.

The site security plan would address the identified vulnerabilities and meet the performance standards set by the Department. The site security plan would also identify how the facility is coordinating with Federal, State, and local officials for response to a terrorist attack. The facilities would be required to drill their security plans and emergency response plans. Covered facilities would have 6 months following promulgation of regulations to certify compliance and submit their assessments and plans to the Department for approval.

If a facility fails to comply, the legislation I am introducing provides the strongest remedy to the Department. The bill gives the Secretary of Homeland Security the authority to shut down chemical facilities that are at high risk and which the Secretary believes have not adequately addressed the risk of a terrorist attack. For the highest risk facilities, the Secretary could order an immediate closure. For the other lower risk facilities, the Department could order closure but only after a process of written notification, consultation, and further time for compliance.

Now, I recognize this shutdown authority concentrates considerable power into the Secretary's hands, but the dire consequences of a terrorist attack justify giving the Secretary the authority to shut down a chemical facility that has failed to comply with the law. With hundreds of thousands of lives at stake, the Secretary must have the authority to ensure our chemical facilities have adopted security measures sufficient to reduce the risk of a terrorist attack. If a facility cannot, will not, or has not done so, it simply cannot be allowed to keep operating.

It was only after very careful consideration that I decided to include this power in my bill. I note that the Maritime Transportation Security Act provides similar authority to the Coast Guard. Admiral Bone testified since 2004 the Coast Guard has used this authority to shut down 32 facilities—three of which were chemical facilities. He testified it was imperative the Department of Homeland Security be given that closure authority.

Before closing, I will comment on a couple of very important and controversial issues. One is the issue of inherently safer technology which is often referred to as IST. My bill allows chemical facilities to choose whatever security measures best meet the performance standards required by the Department. IST is one of the recognized means of meeting a performance standard. In addition, my legislation requires the vulnerability assessment include an analysis of security measures, including vulnerabilities arising from the use, storage, and handling of dangerous chemicals. However, I make clear our legislation does not mandate IST. Not only would doing so be at odds with the performance-based approach we have endorsed in this bill, I also do not believe it is appropriate for a bill on security to dictate specific industrial processes. Such uses are outside the scope of the legislation, beyond the jurisdiction of this committee, and are not the only way to address security issues.

I fully expect some facilities will adopt inherently safer technologies. I certainly encourage them to do so if that is the best means for them. However, that should be their decision.

This legislation does not tell facilities how high to build their fences or what chemicals to use or how they may use them. It is the result that matters. I believe this bill will result in significantly enhanced security for the chemical sector. This is a Homeland Security bill. It is not an environmental regulation.

In summary, this legislation requires chemical facilities to conduct vulnerability assessments, create and implement security plans, establish emergency response plans, and to submit these plans to the Department of Homeland Security for approval or disapproval. It gives the Department broad authority to ensure that chemical facilities are addressing the risks of terrorist attacks and giving the Department the authority it needs. The legislation is risk based and performance based, and I am confident it will provide long overdue standards that will ensure stronger and more consistent security at our chemical facilities.

Before closing, I once again thank my lead cosponsor and the ranking member of the Homeland Security Committee, Senator LIEBERMAN. We have worked very hard with the members of our committee, including the Presiding Officer, all year long to explore this through a number of hearings, and we have engaged in many months of negotiations.

I also thank our cosponsors, Senator COLEMAN, Senator CARPER, and Senator LEVIN, for their hard work on this bill.

I look forward to adding additional cosponsors and working with the committee to move this vital legislation forward.

Thank you, Mr. President.

Mr. LIEBERMAN. Mr. President, I am pleased to join my colleague, Senator COLLINS, in introducing the "Chemical Facility Anti-Terrorism Act of 2005." I am also delighted that Senators COLEMAN, LEVIN, and CARPER will be joining us on this bill.

This bill is the product of extensive work in the Homeland Security and Governmental Affairs Committee to explore the risks of a possible terrorist attack on our chemical facilities, as well as the best means to guard against those risks.

Since 9/11 opened our eyes to the threats we face on U.S. soil from Islamist terrorist groups, we have moved to improve security for many of the critical elements of our society and economy. But somehow we have not yet protected one of our greatest vulnerabilities the chemical sector.

Chemicals are vital to many of the processes that feed us, heal us, and power our economy. Yet the very pervasiveness of the chemical sector makes it vulnerable to terrorism. Thousands of facilities throughout the country use or store lethal materials, often near large population centers.

We know that terrorists are interested in targeting these facilities. The Congressional Research Service reports that during the 1990s, both international and domestic terrorists attempted to use explosives to release chemicals from manufacturing and storage facilities close to population centers. The Justice Department in 2002 described the threat posed by terrorists to chemical facilities as "both real and credible," for the foreseeable future.

Former White House Homeland Security Advisor Richard Falkenrath this spring told the Homeland Security and Governmental Affairs Committee that although chemical facilities are a most serious homeland security vulnerability, the Federal Government has done almost nothing to secure them. Homeland Security expert Steve Flynn likened the Nation's 15,000 chemical facilities to "15,000 weapons of mass destruction littered around the United States."

Fortunately, the responsible players in the chemical industry have not waited for Federal legislation, and some of the leading trade groups have begun their own security programs or participated in some voluntary efforts led by DHS. Some chemical facilities are also subject to security regulation under the Maritime Transportation Security Act or the Bioterrorism Act of 2002. Yet these programs do not reach the full range of security matters addressed at the committee's hearings and in this legislation. More significant, far too many facilities that use extremely hazardous chemicals remain entirely outside the patchwork of laws, regulations, and self-protection now in place.

For several years, legislation to require security enhancements at these chemical sites has foundered in Congress, bereft of true administration support or Congressional consensus. But I am hopeful that today marks a turning point that will culminate in successful passage of a robust chemical security bill.

First, the Homeland Security and Governmental Affairs Committee has worked on a bipartisan basis to build a foundation for this effort: through four hearings that explored the issues and possible solutions regarding chemical site security and through collaboration on this legislation that has already won strong bipartisan support on our Committee.

Second, DHS has now clearly stated—in testimony to our committee—that the current voluntary efforts are not sufficient and that the Department needs new legislative authority to regulate chemical site security.

Third, responsible segments of the chemical industry—such as the American Chemistry Council—have recognized the need for a comprehensive national program to ensure adequate security across the entire chemical sector and called for Federal legislation. I welcome this engagement by industry and believe we can work together with them, as well as the administration, and all who are concerned about security, to forge an effective national program.

This legislation is a forceful but pragmatic response to the challenge of chemical site security. It directs its greatest force and focus to those facilities that pose the highest risk in terms of potential loss of human life or other catastrophic results.

It authorizes the Department of Homeland Security to initiate a thoroughgoing security program for thousands of critical chemical sites around the country.

The Secretary would identify which facilities pose a meaningful risk due to terrorism concerns, and then require these facilities to conduct a vulnerability assessment and prepare a security plan and emergency response plan to address the results of this vulnerability analysis.

Facilities within the program would submit these assessments and plans to DHS for review and approval. DHS would then work with the facilities to ensure the plans, and implementation, are adequate. Under a tiered system of requirements, those facilities that pose the greatest risk would face the most stringent security requirements as well as a speedier and more rigorous DHS review. The bill includes civil and criminal penalties for noncompliance and, ultimately, facilities may be ordered to shut down if they do not comply with DHS orders.

This legislation recognizes that facilities will need flexibility to achieve security in the most efficient and effective manner. The bill also recognizes the work of the responsible chemical companies within the chemical sector and does not force those facilities to reinvent the wheel. Instead, the bill ensures that so long as an alternative security program's assessments and plans meet the bill's core requirements for vulnerability assessments and site security plans, facilities operating under those alternative security programs can submit these assessments and plans under the DHS program. However, where the assessments and plans do not meet the bill's core requirements, the Secretary will require appropriate modifications. Finally, the Secretary will judge all assessments and plans against the regulations promulgated under this bill.

This legislation also recognizes that sometimes the best security will come not from adding guards and gates but from reexamining the way chemical operations are carried out in order to reduce the amount of hazardous substances on site, improve the way they are stored or processed or find safer substitutes for the chemicals themselves. These changes serve to make a facility less inviting as a target for terrorists, as well as limiting the loss of life or other damage if an attack does take place. They also have the added benefit of limiting the harm from an accidental release. This bill clearly requires facilities to look at the risks and consequences related to the dangerous chemicals on site and address those specific vulnerabilities in their security plan. And it includes these process changes among the menu of security measures that chemical facilities should examine when designing their security plans.

We know that many facilities, and many security experts, already look to these less dangerous technologies as a potent and cost-effective way to improve security against a possible terror attack. But we also know that, for some facilities, there can be reluctance or structural impediments to looking at these technological solutions. That is why I feel this bill should go further and include more explicit requirements for chemical facilities to consider less dangerous technologies when they make the security enhancements required under this bill. In particular, the riskier facilities—some of which could endanger tens or hundreds of thousands of lives if attacked—should have to demonstrate that they have looked closely at options that would reduce the catastrophic consequences of a possible terrorist attack. We had a powerful example of such an adjustment close by: after 9/11 focused our attention on potential targets in our midst, Washington DC's water treatment facility ended the use of its potentially deadly liquid chlorine. This is not a question of forcing industry to conduct its operations off a Government-issued playbook. Companies would analyze for themselves whether there are less dangerous ways to conduct their business and would not be forced to implement any changes that were not feasible. But given the extraordinary risks involved, it makes little sense not to require companies to at least take a long hard look at some of the commonsense solutions that have been advocated or already adopted by others within the industry. Therefore, as this bill advances, I will seek to strengthen the requirements for facilities to carefully consider these safer technologies as a means to greater security.

The bill creates structure within DHS to oversee this regulatory program and a regional network to help implement its provisions, particularly to help ensure adequate emergency response capabilities in the event of an attack on a chemical facility. There are also provisions to safeguard sensitive information that DHS receives from the chemical facilities, while at the same time requiring DHS to share and disclose information necessary for public safety and public accountability. The bill does not affect chemical facilities' obligations to make information available to the public under right-to-know laws or other regulatory programs, and it establishes a secure channel by which members of the public can submit information about potential problems regarding the security of chemical facilities.

This bill also recognizes that Congress is not the only body that can and should help ensure the safety and security of the Nation's chemical facilities. States and localities have long regulated such facilities for various safety and environmental concerns. Since 9/11, some States have also moved to require security improvements at these facilities. These State and local protections are critical adjuncts to our effort at the Federal level, and I am pleased that this bill states clearly that it does not preempt State and local laws or regulations regarding the safety and security of chemical facilities. States and localities are free to enact more stringent chemical security legislation. Only if there is an absolute conflict, such that it is impossible for a facility to comply with both the Federal law and a State or local law or regulation on chemical security, would the Federal provision take precedence. The bill would not disrupt State and local safety and environmental law regarding chemical facilities, nor does it dislodge or alter the operation of State common law with respect to such facilities.

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Monday, December 19, 2005, immediately following the next vote on the Senate Floor, in the President's Room, S-216 of the Capitol, to consider favorably reporting the nomination of Vincent J. Ventimiglia, Jr., to be Assistant Secretary of Health and Human Services for Legislation, U.S. Department of Health and Human Services, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, DECEMBER 20, 2005

Mr. GREGG. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. on Tuesday, December 20. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, the Senate then resume consideration of the conference report to accompany S. 1932, the omnibus deficit reduction bill, with 8 hours of debate equally divided remaining.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GREGG. Tomorrow, the Senate will resume consideration of the deficit reduction bill. Today we filed cloture on the Defense appropriations conference report and the Defense authorization conference report. Senators should expect a vote on the DOD appropriations cloture motion very early in the day on Wednesday. Votes can be expected on Tuesday and for the rest of the week as we finish the deficit reduction conference report, the Defense appropriations conference report, the Defense authorization conference report, the Labor-HHS conference report, and any other necessary business before we finish for the holidays.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. GREGG. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:41 p.m., adjourned until Tuesday, December 20, 2005, at 9:45 a.m.

EXTENSIONS OF REMARKS

TERRORIST REWARDS ENHANCEMENT ACT

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of Mr. KIRK's "Terrorist Rewards Enhancement Act of 2005," H.R. 2329, which would permit those eligible in certain circumstances such as an officer or employee of a foreign government to receive a cash reward under the Department of State Rewards program. The value of this rewards program in dealing with terrorists is beyond dispute.

I have introduced a bill that would use a virtually identical rewards program for dealing with commercial alien smuggling operations, the "Commercial Alien Smuggling Elimination Act of 2005," the CASE Act, H.R. 255. It would provide for cash rewards to facilitate the investigation and prosecution, or disruption, of reckless commercial alien smuggling operations.

This is not a controversial idea. The Rewards for Justice Program that was established by the 1984 Act to Combat International Terrorism, Public Law 98–533, has been very successful. The Rewards for Justice Program is administered by the U.S. Department of State's Bureau of Diplomatic Security. It authorizes the Secretary of State to offer rewards for information that prevents or favorably resolves acts of international terrorism against U.S. persons or property worldwide. Rewards also may be paid for information leading to the arrest or conviction of terrorists attempting, committing, conspiring to commit, or aiding and abetting in the commission of such acts. The USA PATRIOT Act of 2001 authorizes the Secretary to offer or pay rewards of greater than $5 million if he determines that a greater amount is necessary to combat terrorism or to defend the United States against terrorist acts.

A well known success of this program occurred a few years ago when a $30 million reward was given for critical information that led to the location of Uday and Qusay Hussein. Rewards under the CASE Act, however, would be limited to $100,000, except as personally authorized by the Secretary of the Homeland Security Department.

I urge you to expand the use of this effective tool to include cash rewards to facilitate the investigation and prosecution, or disruption, of reckless commercial alien smuggling operations.

DOMESTIC NATURAL GAS SUPPLY ACT OF 2005

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. HALL. Mr. Speaker, today I am introducing the "Domestic Natural Gas Supply Act of 2005". The purpose of this legislation is to provide adequate funding for the Ultra-deepwater and Unconventional Gas and Other Petroleum Research and Development Program that was established in the Energy Policy Act of 2005.

The rapid escalation of natural gas prices in recent months since the passage of EP Act 2005 is the most tangible evidence that a natural gas supply problem of truly crisis proportions is looming in this country.

The Congress took a major, first step when it enacted this R&D program and the President signed it into law in August. However, the agreement in the conference report cut the funding to the point that the program is barely viable.

This bill restores funding to the level contained in the House-passed version of EP Act 2005. By enacting this bill into law we will ensure that the program will go forward with the funding necessary to develop and deploy the technologies to produce the tremendous volumes of natural gas that lie underneath the Gulf of Mexico and the onshore areas of the continental United States.

I want to reiterate that this funding does not come from General Revenue. It comes from royalties collected from existing oil and natural gas production. In effect, what we are doing is reinvesting proceeds from the government's assets to produce more oil and gas. The royalties generated by this new production will far exceed the investment in this program, according the University of Texas' Bureau of Economic Geology.

I am pleased to introduce this legislation today, not only because it is good energy policy and good business, but because it will go far towards reducing the dramatic decline in domestic natural gas production that so threatens the economic health and energy security of this country.

SCIENTISTS WHO WILL RECEIVE STEM CELL RESEARCH GRANTS

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. HOLT. Mr. Speaker, yesterday, I came to the House floor to announce that New Jersey had just become the first state in the nation to distribute public funds for human embryonic stem cell research.

I wanted to include in the RECORD a list of the scientists who will receive these stem cell research grants. All grants are approximately $300,000. The scientists, work at a number of different institutions around New Jersey: Rutgers University, New Jersey Institute of Technology, The Coriell Institute for Medical Research, Princeton University, UMDNJ-RWJMS, Amorcyte, Inc.

The New Jersey Commission on Science and Technology voted in a public meeting to—award Stem Cell Research Grants to the following:

T. Arinzeh. Nanofiber Scaffold for Stem Cell Based Cartilage Repair, To test whether stem cells can be used to repair cartilage defects with the potential for providing new tissue engineering therapies that could help cancer patients who have had tumors removed from bones, osteoporosis and other cartilage and tendon damage.

R. Cohen, Training in Human Embryonic Stem Cell Biology. To provide basic and advanced training in the field of human embryonic stem cell biology and to develop a well-trained pool of scientists in New Jersey proficient in hESC culture techniques with the goal of advancing New Jersey's leadership in stem cell research.

R. Hart, Regulation of microRNA Gene Expression in Differentiating Neural Stem Cells, To understand and control differentiation of neural stem cells with the potential to produce specific cell types for therapeutic transplant in brain trauma, stroke, spinal cord injury, Parkinson's and Alzheimer's disease.

H. Houbaviy, MicroRNAs MiR–290–295 in Blastocyst-Derived Stem Cells and the Early Mouse Embryo, To understand stem cell development and lineage determination with the goal of expanding and improving knowledge of areas of stem cell biology currently not well understood.

I. Lemischka, Genome-Wide Functional Analysis of ES Cell fate Regulation, To understand human embryonic stem cell decisions such as survival/death, renewal/determination and to understand how to maintain or induce specific cell fate with the goal of applying this knowledge to patient therapies.

R. McKinnon, Gliogenic Potential of Human Placental Stem Cells, to identify mechanisms of glial cell generation from human placental cells with the goal of identifying a potential alternative to embryonic stem cells for clinical trials. In collaboration with Celgene, a New Jersey-based biotech firm ranked sixth largest internationally.

K. Moore, Interactive Mechanisms of Stem Cells and Microenvironments, to further understand the mechanisms of stem cell self-renewal and commitment toward the purpose of developing new therapies or advancing existing therapies for use in drug development and for gene and cell therapy for immunological and other diseases.

R. Nowakowski, Molecular Circuitry of "Stemness" in the Developing CNS, to learn how to reprogram or teach transplanted cells how to generate the right type and number of necessary cells for cell-replacement therapies with the potential for replacing specific brain areas damaged by disease or injury.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

R. Preti, Bone Marrow Derived CD34 Cells for Treatment of Acute Myocardial Infarction, to produce a cell therapy product using bone marrow-derived cells for treatment of coronary damage following a heart attack and advance the company's federal Food and Drug Administration-approved clinical trials with the potential for new and more effective therapy for cardiac patients.

L. Qin, PTH-Mediated AGFR Signaling in Stromal Stem Cell Growth and Multidifferentiation, to conduct fundamental research using bone marrow stem cells with the potential to develop more effective treatments for low bone mass and similar disorders.

M. Roth, Selective Gene Delivery to Human Hematopoietic Stem Cells, to apply novel genetic screening approaches to stem cells with the potential of enhancing the ability to use stem cells and gene therapy in many clinical settings, including treating hematopoietic disorders and cancer.

J. Sadoshima, Mechanisms of Mesenchymal Stem Cell Differentiation, to increase the efficiency of stem cell differentiation into cardiac myocytes by manipulating a particular signaling mechanism with the potential for developing an effective method to repair damaged heart tissues.

B. Saitta, Role of Extracellular Matrix in Cord Blood Stem Cell Response to Cardiac Injury, to use stem cells derived from umbilical cord blood to study the molecular mechanisms of stem cells in repairing damaged areas of the heart with the potential to heal damaged tissue and preserve or regain function, offering an alternative to transplants which are possible but limited by the number of donors.

M. Shen, Role of the Nodal signaling pathway in regulation of embryonic pluripotency, to enhance fundamental understanding of basic molecular functions in mice and human stem cells with the potential for improving manipulation of ES cells in culture for use in stem cell-based therapies including possible insights into the genesis and dysregulation of cancer stem cells.

T. Shenk, Isolation and Characterization of Life-Extended Human Cord Blood Cells, to produce populations of stem cells from human cord blood that can be used to study the molecular characteristics of such cells including how to modulate these growth responses in vivo and in culture with the potential to improve the clinical uses of stem cells.

Y. Shi, Immunobiology of Mesenchymal Stem Cells, to investigate the mechanisms underlying stem cell mediated immune tolerance and its use in treatment of autoimmune disorders with the potential to lead to new treatment for many human diseases in which the immune system attacks the body, including MS and asthma.

J. Tischfield, Genetic and Structural Analysis of Mouse ES Cells and their Derivatives, to study cultured ESC and confirm, monitor and regulate phenomena that would be deleterious to tissues derived from stem cells with the potential to prevent problems that could slow development of stem cell therapies.

PASSPORT SERVICES ENHANCEMENT ACT OF 2005

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the Passport Services Enhancement Act of 2005, H.R. 4501. This bill would amend the Passport Act of June 4, 1920, to authorize the Secretary of State to establish and collect a surcharge to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004. I am pleased that we will be funding this security measure required by the Intelligence Reform and Terrorism Prevention Act. I look forward to a time when all of the security measures in that Act have been funded.

The failure to fully fund the Intelligence Reform and Terrorism Prevention Act is an indication that Congress has not allotted enough resources to deal with the requirements for security in the fight against terrorism. Another example is the failure to enact my Rapid Response Border Protection Act of 2005, H.R. 4044, which would provide critical resources and support for the men and women who secure our borders, which is essential to our defense against terrorism.

The resources and support in my bill would include the addition of 15,000 Border Patrol agents over the next five years, which would increase the number of agents from 11,000 to 26,000. With more than 8,000 miles of land and coastal borders to patrol continuously, it is evident that this increase is desperately needed if any semblance of control is to be achieved. The Secretary of the Department of Homeland Security (DHS) would be required to respond rapidly to border crises by deploying up to 1,000 additional Border Patrol agents to a State in which a border security emergency has been declared by the Governor. It also would include 100,000 more detention beds to ensure that those who are apprehended entering the United States unlawfully are sent home instead of being released into our communities. It would assist in cracking down on the problem of fraudulent documents used to enter unlawfully and remain in the United States by adding specialized enforcement agents and establishing cooperative mechanisms with State and local law enforcement agencies. And it includes provisions for critical equipment and infrastructure improvements, such as additional helicopters, power boats, police-type vehicles, portable computers, reliable radio communications, handheld GPS devices, body armor, and night-vision equipment.

Those who object to the cost of such security measures need to recall the enormous costs, not just in monetary terms, of the last terrorist attacks. As Benjamin Franklin wisely noted nearly 270 years ago, "an ounce of prevention is worth a pound of cure." The total cost of my border security bill would only be a very small fraction of the amount being spent fighting terrorism overseas. If we want to prevent another terrorist attack on American soil, we must be prepared to devote whatever resources are necessary to keeping terrorists out of our country. This legislation is designed to help provide more resources for the now required greater utilization of the U.S. passport because of the 9/11 tragedy. Americans will need more passports and the State Department will need more staff. The same can be said for our border security taking short cuts and scrimping on homeland security as this only serves as an open invitation to future disastrous attacks.

TRIBUTE TO THE NATIONAL CENTER FOR SUSTAINABLE DEVELOPMENT

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. HALL. Mr. Speaker, I rise today to inform the House and to acknowledge the innovative work of the National Center for Sustainable Development (NCSD) a national 501 c 3 nonprofit corporation headquartered here in Washington, DC and doing good work in my home state of Texas through its Dallas and Austin offices to restore urban and suburban contaminated real estate to new productive use. The Center is now undertaking potentially significant initiatives involving both energy production and air quality in local communities in the recycling of waste products to biodiesel. As Texas is the historic home of innovation and creativity in the use of natural and man made resources, my purpose is to encourage the pilot initiative being undertaken by the Center in the city of Texarkana focusing on the recycling of commercial and industrial food waste products currently a significant threat to the proper maintenance and efficiency of municipal waste water treatment facilities.

The initiative which I seek recognition for will produce biodiesel from a waste stream currently which is a constraint on the development of services and small business serving the community of Texarkana and placing a burden on the infrastructure that assures proper and environmentally appropriate disposal of grease and waste oils. The undertaking of such a pilot program in Texarkana, Texas is not by chance. The operations of the pilot will be located in an industrial park next to the Red River Army Depot, the main focus of which is the refurbishment and maintenance of the Bradley Fighting Vehicle and the Humvees currently supporting our mission in Iraq. A portion of the biodiesel rendered from this initiative will be made available to RRAD for their use in testing its properties for both quality as a fuel and its properties as a cleaner burning replacement for conventional petroleum based diesel fuel.

As Chairman of the House Subcommittee on Energy and Air Quality I recognize that many are pursuing the goals of increased efficiency and air quality that biodiesel holds for helping to satisfy the domestic need for diesel fuel, now in short supply, and that many methods are being evaluated, but my hope is that NCSD can help create and encourage energy production from existing resources now perceived as obstacles to sustainable growth in my district and elsewhere.

By the House and Committee's acknowledgement of the initiative of the National Center for Sustainable Development I am asking for their report on the progress of the Texarkana facility at the milestone of their first six full months of operations. The subcommittee will be interested in the results of this initiative for both its applications for energy production and for improved air quality. I will close by reiterating my support for this worthy initiative and to follow their progress as an example for use by the subcommittee in its critical work.

EXPLANATION OF MISSED VOTES

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. BARTON of Texas. Mr. Speaker, on Thursday, December 15, 2005, I was admitted to the hospital upon suffering a heart attack. As a result, I missed three days of votes. I ask that my statement be placed in the appropriate part of the record to reflect how I would have voted on the following rollcall votes, had I been present.

THURSDAY, DECEMBER 15, 2005:

Nay: On agreeing to the Jackson-Lee (TX) amendment Failed by recorded vote: 162–252 (roll No. 639). An amendment numbered 8 printed in Part B of House Report 109–347 to provide guidelines for implementing the secured alternatives to detention provision in section 402(a).

Aye: On agreeing to the Hunter amendment Agreed to by recorded vote: 260–159 (roll No. 640). An amendment numbered 11 printed in Part B of House Report 109–347 to mandate the construction of specific security fencing, including lights and cameras, along the Southwest border for the purposes of gaining operational control of the border. Fencing has been designated in sectors that have the highest number of immigrant deaths, instances of drug smuggling and illegal border crossings. The amendment includes a requirement for the Secretary of Homeland Security to conduct a study on the use of physical barriers along the Northern border.

Aye: On motion to suspend the rules and agree to the resolution, as amended Agreed to by the Yeas and Nays: (2/3 required): 405—15 (roll No. 641).

FRIDAY, DECEMBER 16, 2005:

Aye: On motion to close portions of the conference. Agreed to by the Yeas and Nays: 409–12 (roll No. 642). National Defense Authorization Act, FY 06.

Nay: On motion that the House instruct conferees Agreed to by the Yeas and Nays: 228–187 (roll No. 643). National Defense Authorization Act, FY 06.

Aye: On ordering the previous question Agreed to by the Yeas and Nays: 221–200 (roll No. 644). Providing for consideration of the resolution (H. Res. 612) expressing the commitment of the House of Representatives to achieving victory in Iraq.

Aye: On agreeing to the resolution Agreed to by recorded vote: 217–202 (roll No. 645). Providing for consideration of the resolution (H. Res. 612) expressing the commitment of the House of Representatives to achieving victory in Iraq (roll No. 645).

Aye: On agreeing to the resolution Agreed to by the Yeas and Nays: 216–203 (roll No. 646). Providing for further consideration of the bill (H.R. 4437) to amend the Immigration and Nationality Act to strengthen enforcement of the immigration laws, to enhance border security, and for other purposes.

Aye: On motion to suspend the rules and agree to the resolution, as amended Agreed to by the Yeas and Nays: (2/3 required): 413–1 (roll No. 647). Calling on the international community to condemn the Laogai, the system of forced labor prison camps in the People's Republic of China, as a tool for suppression maintained by the Chinese Government.

Aye: On agreeing to the resolution Agreed to by the Yeas and Nays: 279–109, 34 Present (roll No. 648). Expressing the commitment of the House of Representatives to achieving victory in Iraq.

Aye: On motion to suspend the rules and agree to the resolution, as amended Agreed to by the Yeas and Nays: (2/3 required): 421–1 (roll No. 649). Condemning the Government of Zimbabwe's "Operation Murambatsvina" under which homes, businesses, religious structures, and other buildings and facilities were demolished in an effort characterized by the Government of Zimbabwe as an operation to "restore order" to the country.

Aye: On motion to suspend the rules and agree to the resolution, as amended Agreed to by the Yeas and Nays: (2/3 required): 397–17, 7 Present (roll No. 650). Providing that Hamas and other terrorist organizations should not participate in elections held by the Palestinian Authority, and for other purposes.

Aye: On motion to suspend the rules and agree to the resolution Agreed to by the Yeas and Nays: (2/3 required): 408–1 (roll No. 651). Recognizing the importance and credibility of an independent Iraqi judiciary in the formation of a new and democratic Iraq.

Nay: On motion that the House instruct conferees Agreed to by the Yeas and Nays: 246–175 (roll No. 652). Budget Reconciliation, 2006. The instructions contained in the motion seek to require the managers on the part of the House to recede to the Senate by eliminating House provisions reducing eligibility for food stamps; reducing funding for child support enforcement; repealing the Continued Dumping and Subsidy Offset; modifying the Mining Law of 1972; eliminating the sections of the House amendment that reduce Medicaid benefits and allow increases in beneficiary costs; reducing to the maximum extent possible increases in interest rates and fees paid by student and parent borrowers on student loans; adopting the Senate provision eliminating the stabilization fund that makes payments to Medicare Advantage Regional Plans; adopting the Senate provision on Medicare Advantage risk adjustment; and adopting the Senate provision on Medicare physician payments.

Aye: On agreeing to the Goodlatte amendment Agreed to by recorded vote: 273–148 (roll No. 653). An amendment numbered 1 printed in House Report 109–350 to eliminate the visa lottery program.

Aye: On agreeing to the Stearns amendment Agreed to by recorded vote: 420–0 (roll No. 654). An amendment numbered 6 printed in House Report 109–350 to prohibit Department of Homeland Security, the U.S. Attorney General, and all courts from granting any kind of legal immigration status (i.e. "benefits") to an alien until the relevant databases of criminal records and terrorist watch lists are checked.

Aye: On agreeing to the Sensenbrenner amendment Failed by recorded vote: 164–257 (roll No. 655). An amendment numbered 7 printed in House Report 109–350 to reduce the maximum sentence for illegal entry and illegal presence to six months.

Aye: On agreeing to the Norwood amendment Agreed to by recorded vote: 237–180 (roll No. 656). Clarifies federal law by explicitly stating that states and their political subdivisions have the inherent authority of a sovereign entity to investigate, identify, apprehend, arrest, detain, or transfer to federal custody aliens in the U.S. while enforcing immigration laws in the course of carrying out the routine duties.

Aye: On agreeing to the Westmoreland amendment Agreed to by recorded vote: 247–170, 1 Present (roll No. 657). An amendment numbered 15 printed in House Report 109–350 to set caps on the monetary penalties set forth in Title VII of the bill for hiring or employing unauthorized aliens of $7,500 for first time offenses, $15,000 for second offenses, and $40,000 for all subsequent offenses; Provides an exemption from penalty for initial good faith violations; and provides a safe harbor for contractors if their subcontractor employees an unauthorized alien (provided the contractor did not know the employee was an unauthorized alien).

Nay: On agreeing to the Gonzalez amendment Failed by recorded vote: 87–332 (roll No. 658). An amendment numbered 16 printed in House Report 109–350 to increase the fines on businesses for knowingly hiring unauthorized aliens to $50,000. Proceeds would be shared with state and local government and are restricted for use to help cover the costs associated with providing services to undocumented immigrants.

Aye: On agreeing to the Sullivan amendment Failed by recorded vote: 163–251, 1 Present (roll No. 659). An amendment numbered 18 printed in House Report 109–350 to require all non-citizens who enter or exit the country to be processed through the automated entry-exit control system Congress mandated in 1996.

Nay: On motion to recommit with instructions Failed by recorded vote: 198–221 (roll No. 660). The instructions contained in the motion seek to require the bill to be reported back with an amendment which inserts a complete new text entitled "Border Security and Terrorism Prevention Act of 2005".

Aye: On passage Passed by recorded vote: 239–182 (roll No. 661). Border Protection, Antiterrorism, and Illegal Immigration Control Act.

Aye: On motion to suspend the rules and agree to the resolution, as amended Agreed to by the Yeas and Nays: (2/3 required): 404–5, 1 Present (roll No. 662). Condemning actions by the Government of Syria that have hindered the investigation of the assassination of former Prime Minister of Lebanon Rafik Hariri conducted by the United Nations International Independent Investigation Commission (UNIIIC), expressing support for extending the UNIIIC's investigative mandate, etc.

SATURDAY, DECEMBER 17, 2005:

Aye: On agreeing to the resolution Agreed to by the Yeas and Nays: 213–190 (roll No. 663). Providing for consideration of motions to suspend the rules.

Aye: On motion that the House suspend the rules and agree to the Senate amendment Agreed to by the Yeas and Nays: (2/3 required): 413–0 (roll No. 664). Stem Cell Therapeutic and Research Act.

TRIBUTE TO LIEUTENANT COLONEL VICTOR SAMUEL UPON HIS RETIREMENT FROM THE UNITED STATES ARMY

HON. JOHN M. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. MCHUGH. Mr. Speaker, I rise today to pay tribute to an exceptional officer in the United States Army, Lieutenant Colonel Victor H. Samuel, upon his retirement after 20 years of distinguished service. Throughout his career, Colonel Samuel has personified the Army values of duty, integrity, and selfless service across the many missions the Army provides in defense of our Nation. As a Congressional Legislative Liaison Officer in the office of the Secretary of the Army, many of us on Capitol Hill have enjoyed the opportunity to work with Colonel Samuel on a wide variety of Army issues and programs, and it is my privilege to recognize his many accomplishments.

Lieutenant Colonel Victor H. Samuel, the son of Mr. Hasker B. and Sylvia P. Samuel of Silver Spring, Maryland attended Eleanor Roosevelt Senior High School in Greenbelt, Maryland and was commissioned as a Second Lieutenant, U.S. Army Corps of Engineers, after graduating from Hampton Institute in 1984. Colonel Samuel's first assignment was in Bad Hersfeld, Germany as an Engineer Platoon leader. He was subsequently assigned duties as the Executive Officer and Assistant G3 in the 3rd Armored Calvary Regiment that was charged with defense of the Fulda Gap in Europe during the Cold War. Colonel Samuel went on to Command an Engineer Company in the 31st Engineer Battalion at Fort Leonard Wood, Missouri. In 1992, Colonel Samuel was selected to complete advance studies in Civil Engineering at the University of Maryland where he received a Masters Degree in Civil Engineering (Construction Management).

In 1994, Lieutenant Colonel Samuel served as the Project Engineer for the Vicksburg, Mississippi District. He was subsequently assigned to the XVIII Airborne Corps, Airborne Combat Engineer Brigade, at Fort Bragg, North Carolina, where he served as the Brigade Logistics Officer and Battalion Executive Officer. Thereafter, Colonel Samuel was assigned to the Army Staff in the Office of the Deputy Chief of Staff for Personnel, where he honed his expertise in the field of personnel management.

In 2002, Lieutenant Colonel Samuel was assigned to the Office of Chief of Legislative Liaison, Programs Division where he assumed duties as a Legislative Liaison managing the Personnel and Human Resources portfolio. Colonel Samuel served as the Policy Branch Chief for Programs Division where he oversaw the promulgation of legislative policy initiatives in operations and logistics, depot maintenance, personnel, education and training, medical, and military construction.

Through these varying assignments, Lieutenant Colonel Samuel has provided outstanding leadership, advice, and sound professional judgment on numerous critical issues of enduring importance to both the Army and Congress. His actions and counsel were invaluable to Army leaders as they considered the impact of important issues. On behalf of Congress and the United States of America, I thank Colonel Samuel, his wife, Janice, and his entire family for the commitment, sacrifices, and contribution that they have made throughout his honorable military career. Congratulations on completing an exceptional and successful career.

IN RECOGNITION OF THE HAMPTON HIGH SCHOOL FOOTBALL TEAM

HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. SCOTT of Virginia. Mr. Speaker, I rise on behalf of myself, Congresswoman JO ANN DAVIS and Congresswoman THELMA DRAKE to call attention to a group of young students from Hampton, Virginia, who have distinguished themselves, their school, their community and the Commonwealth of Virginia.

The Hampton High School Crabbers football team had a remarkable season, and we believe the Crabbers deserve formal recognition for their accomplishments. On December 10, 2005, the Hampton High School Crabbers won their 17th state football championship, defeating Stone Bridge High School of Ashburn 15–8, at Todd Stadium in Newport News, Virginia.

The Crabbers finished the season with a 12–1 record. Hampton High holds a Virginia record of 17 state football championships. This is also the 12th state championship for Hampton High Head Football Coach Mike Smith.

This latest championship is just another accolade for the City of Hampton's oldest school. Hampton High School is also the direct descendent of the Syms-Eaton School, the first free school established in the American colonies. Syms Free School was founded in 1647. The school has existed in many incarnations and buildings since then, with Hampton's current school building being constructed in 1956.

The legacy of Hampton High is not limited to just the field of athletics. Under the Direction of Principal Anthony Woods, the Hampton faculty seeks to inspire students to strive for excellence and achievement in the classroom, in their extracurricular activities and in their communities. Hampton High has the second highest percentage of accredited teachers in the state of Virginia. Hampton High received the Award of Academic Excellence from the Department of Education in 1985. Hampton students meet rigorous academic requirements, and they take responsibility for their own academic progress, behavior and attendance. It is clear that this drive for excellence in academics goes hand in hand with excellence in athletics.

The Crabber's excellence in football is characteristic of the quality of athletics in the Peninsula District of Virginia. Hampton High School's championship this year marked the IOth time in the last fifteen years that a Peninsula District team has won a state title in football. To quote from our hometown newspaper, the Daily Press, "High school football on the Peninsula is championship football. "

We would like to extend our enthusiastic congratulations to Coach Mike Smith, his coaching staff and all of the players on the Hampton High School Crabbers, the 2005 Group AAA Division Virginia High School League state football champions.

RECOGNITION OF MR. CHARLES "CHUCK" KLYBER

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. LAHOOD. Mr. Speaker, I would like to offer a few words today in recognition of Mr. Charles "Chuck" Klyber, a sportsman with a high degree of cooperative spirit and exceptional athletic ability. At 68 years old, Charles competes in the Illinois Senior Olympics games alongside men and women senior athletes in many different events.

The Illinois Senior Olympic Games bring together regional athletes 50 years of age and older. The games consist of 26 different sporting events in which participants compete in traditional Olympic-style events, such as track-and-field, basketball, and cycling.

Charles celebrated a spectacular 2005 season, setting several records, and winning a combined total of 23 medals. Mr. Klyber reached Gold status in the 10K run and 5000 and 1500-meter running events. Charles also earned Silver medals in the 200, 400, 800, 1500-meter runs, discus, shot put, and javelin. Performances in the 1500-meter, Football Accuracy, discus, and shot put also earned Charles Bronze medals throughout this season. Following outstanding performances, he has been nominated for the 2005 Illinois Senior Olympic Games Athlete of the Year.

Charles has admirably demonstrated exceptional athletic ability bringing great honor and pride to the State of Illinois, the senior community, and the Illinois Senior Olympic Games of Springfield, Illinois. Continuing his lifelong athletic participation, Charles has set his sights on the 2007 National Senior Olympic Games in Lexington, Kentucky, in which he will run his last race.

I commend Charles for his admirable triumphs thus far and wish him success as he continues to complete in the future. He is an inspiration to all of us—and to quote him, "Who said getting older can't be a blast?"

TRIBUTE TO JOHN TUCKER

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to one of the National Park Service's (NPS) great treasures, John Tucker. A 35-year employee with NPS John is retiring January 3, 2006 after serving as Superintendent of the Fort Sumter National Monument for more than 15 years. I commend Mr. Tucker for his years of exemplary service and dedication to preserving and protecting our nation's treasures.

I came to know Mr. Tucker after being elected to Congress in 1992. Because of my love of history and preservation, he and I immediately found common ground. We have partnered on a number of initiatives during my tenure in Congress with the crowning achievement being the Fort Sumter Visitor Education Center. This magnificent $15 million structure educates visitors about the causes of the Civil War, and it doesn't flinch from the issue of slavery. Mr. Tucker's vision and its implementation at this site are visually stunning and historically significant.

The Fort Sumter Visitor Education Center complex is also a great example of Mr. Tucker's innovative partnership with the City of Charleston. The City built the South Carolina Aquarium adjacent to the Fort Sumter Visitor Education Center, and the NPS and the City jointly created Liberty Square, a wonderful park setting that accomodates public events and provides a respite for weary visitors to the Center complex. Mr. Tucker's creativity and willingness to bring a variety of entities to the table have resulted in a destination that visitors to the Charleston area do not want to miss.

Mr. Tucker's career with the NPS began the day after his college graduation on June 1, 1970. His first assignment was at Cades Cove in the Great Smokey Mountains National Park. The following January, he joined the U.S. Marine Corps Reserves and received his training at Parris Island. However, by July 1971, Mr. Tucker was back on the job with the NPS.

He received additional training by the NPS to become a ranger, and these skills served Mr. Tucker well as he traversed the United States serving at various parks: The Great Smoky Mountains National Park, Cades Cove sub-district: National Capital Park-East, Washington, D.C.; Ocmulgee National Monument, Macon, Georgia; and Cabrillo National Monument, San Diego, CA. From October 1977 until November 1980, Mr. Tucker served as the Chief Ranger at Fort Sumter National Monument, where he eventually became Superintendent.

Mr. Tucker's first Superintendent assignment, however, was at the Andersonville National Historic Site from 1980 to August 1989. His work there included building relationships with the American ex-prisoners of war and restoring historic prison camps. He also had the privilege of serving as Superintendent of the Jimmy Carter National Historic Site when it was established in 1988. That same year he was granted NPS's Superior Service Award.

Still the Fort Sumter National Monument beckoned him to return, and in August 1989, Mr. Tucker made his final transfer to become Superintendent of this collection of Charleston's historical treasurers. His arrival in Charleston was marked 6 weeks later by the arrival of Hurricane Hugo, another force that left its imprint on this historic city. It took him the next 2 years to repair the damage to the NPS site wrought by the hurricane's fury.

In 1990, Charles Pinckney National Historic Site became part of the NPS inventory and was put under the auspices of Mr. Tucker at Fort Sumter. He has had responsibility in Charleston for 42 historic structures, ten monuments and memorials, 182 acres comprised of cultural sites, a curatorial collection of over 250,000 objects, five historic archaeological sites, and 45 cannon tubes of which 25 are carriage-mounted. His outstanding contributions were recognized by the NPS in 2002 when Mr. Tucker received the Superintendent of the Year award.

I know firsthand of the extraordinary work John Tucker has done for the National Park Service on behalf of the American people. Mr. Speaker, I ask you and my colleagues to join me in congratulating Mr. Tucker on his tremendous career and his dedication to the preservation of our nation's historic and natural treasures. I know that his leadership at the NPS will be sorely missed, and I hope that he will continue to be involved with many projects in the Charleston area some of which both he and I share a deep and abiding passion. I wish him good luck and Godspeed.

TRIBUTE TO MATT POMMER

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Ms. BALDWIN. Mr. Speaker, I rise today to pay tribute to the work of a remarkable journalist—Matt Pommer of Madison, Wisconsin.

Matt Pommer is retiring from The Capital Times newspaper where he worked for nearly 45 years. The past 35 of those years were spent covering the State Capitol beat. During that time, he covered virtually all of the major stories in the state, including the work of seven Governors.

Matt Pommer is a true journalist, who stayed focused on the facts and worked to make certain that he got the details right. He has an extraordinary knowledge of the inner workings and history of Capitol activity which was reflected in the outstanding quality of his stories. On many issues, most notably the Wisconsin retirement system, he knew as much or more than the legislators working on the issue.

In his years covering legislation Matt was steadfast in his determination to keep the public informed of the on-goings in Wisconsin government. He devoted his energies to bringing the story to his readers without any fear or favor. He had no interest in "spin".

Mr. Speaker, over the years I have had the privilege of reading Matt Pommer's work, and interacting with him during my service as a state legislator. He is a professional in every sense of the word.

On a lighter note, Matt and I enjoyed the opportunity to work together as "extras" in the film "Chain Reaction" with Keanu Reeves and Morgan Freeman. We were told that Director Andrew Davis preferred to fill the role of "extras" with people who actually worked in the job they were portraying. When he looked for a real journalist, there is little wonder that he found Matt Pommer.

Thank you Matt, for the years of service you have provided to the citizens of the State of Wisconsin and the readers of The Capital Times.

HONORING THE SACRIFICES OF MILITARY FAMILIES

HON. ALLYSON Y. SCHWARTZ

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Ms. SCHWARTZ of Pennsylvania. Mr. Speaker, in the coming weeks, American families will come together to celebrate the holidays and the start of a new year. Together, they will reflect on the events of 2005, and prepare for the challenges of the year ahead.

Sadly, for many families, this season will be a difficult one, and I rise today to pay tribute to those American families whose lives have been personally impacted by ongoing military operations around the world.

Mr. Speaker, I offer my deepest gratitude to the families of the men and women who are currently serving our nation overseas. I add my prayers for their safety and well being. And, I extend my humblest sympathies to the families of those brave soldiers who have made the ultimate sacrifice on behalf of our country.

In particular, I would like to take this opportunity to honor four American heroes and their families who reside in the Thirteenth Congressional District of Pennsylvania.

Major Jeffrey Toczylowski, age 30, was killed during combat operations in Al Anbar Province, Iraq, on November 3, 2005. He was a dedicated soldier who had asked loved ones to remember that, if he was killed in action, that he died doing something he believed in and that he had no regrets. My thoughts and prayers are with his family in Ambler, Jenkintown, and Philadelphia, Pennsylvania.

Sergeant Francis Straub, Jr., age 24, and Specialist John Kulick, age 35, were killed when a mine detonated and their unit received small arms fire while investigating a rocket-propelled grenade incident in Bayji, Iraq on August 9, 2005. Both of these men answered the call to serve—Sergeant Straub had dreams of becoming a Philadelphia Police Officer and Specialist Kulick was the most senior member of the Whitpain Fire Department. My thoughts and prayers are with their families, who live in Philadelphia, Jenkintown, and Dillsburg, Pennsylvania.

Specialist Kurt Krout, age 43, was killed when an improvised explosive devise detonated near his military vehicle in Anaconda, Iraq on August 6, 2005. He was a committed soldier who joined the Marines at age 17. He had reenlisted as a member of the Pennsylvania National Guard in 1995, and volunteered for deployment to Iraq in June 2004. My thoughts and prayers are with his family in Lansdale and Spinnerstown, Pennsylvania.

Mr. Speaker, during this holiday season, I know the dedication of these soldiers will be remembered by their family, friends, loved-ones, and the nation. And, I ask my colleagues, and all Americans, to join me in honoring their service and sacrifice for our nation.

PERSONAL EXPLANATION

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mrs. MCCARTHY. Mr. Speaker, because of a family matter, I missed several recent votes. I would like the RECORD to reflect how I would have voted on those votes. Rollcall No. 639—Yea; Rollcall No. 640—Yea; Rollcall No. 641—Yea; Rollcall No. 642—Yea; Rollcall No. 643—Yea; Rollcall No. 644—Nay; Rollcall No. 645—No; Rollcall No. 646—Nay; Rollcall No. 647—Yea; Rollcall No. 648—Yea; Rollcall No. 649—Yea; Rollcall No. 650—Yea; Rollcall No. 651—Yea; Rollcall No. 652—Yea; Rollcall No. 653—No; Rollcall No. 654—Yea; Rollcall No. 655—Yes; Rollcall No. 656—No; Rollcall No. 657—No; Rollcall No. 658—No; Rollcall No. 659—No; Rollcall No. 660—Yes; Rollcall No. 661—No; Rollcall No. 662—Yea; Rollcall No. 663—Nay; Rollcall No. 664—Yea.

THE ARMY'S FREEDOM TEAM SALUTE PROGRAM RECOGNIZES THE VALUE OF SERVICE TO NATION

HON. STEVE BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. BUYER. Mr. Speaker, for 230 years, soldier citizens of the United States Army have answered the call to duty as guardians and defenders of America's Freedoms. Millions of these United States Army veterans selflessly served this nation. Their legacy of duty lives and grows ever more glorious in their continuing support of the United States Army mission and their service to country.

The United States Army recognizes and appreciates the sacrifices these courageous men and women have made in answering their nation's call to duty by choosing a life of service and fidelity to the values of their service. The people of the United States of America also recognize that they have incurred a great debt of gratitude to their soldier citizens, and to their spouses and families who support them as they serve us in the defense of freedom. America owes thanks to the employers who support the soldier citizens among their workforce, and to the veterans who stand by those who now wear the uniform.

General Peter J. Schoomaker, the Army's Chief of Staff, has said, "Soldiers and their families demonstrate the value of teamwork at home and in the field, ensuring that our Army is truly an Army of One."

The United States Army has created a program called Freedom Team Salute to recognize the essential contribution of these supportive spouses, families, employers, and veterans. Any soldier may nominate a spouse, family member, or employer for Freedom Team Salute recognition. This recognition includes a special Army lapel pin and decal, and a letter and certificate from the Chief of Staff and the Secretary of the Army. Veterans of Army service may also register for Freedom Team Salute recognition at the program's website: www.freedomteamsalute.army.mil.

I commend General Schoomaker and Secretary of the Army Francis J. Harvey for their leadership of our Army and for the Freedom Team Salute program. I ask all Americans to continue their support of our men and women in uniform as they defend freedom, and I commend to them the use of this excellent program as means of expressing their own gratitude.

PERSONAL EXPLANATION

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. UDALL of Colorado. Mr. Speaker, on December 13th, I was serving on a jury in Colorado and so was not able to be present for several votes.

Had I been present, I would have voted as follows: Rollcall No. 623, H. Res. 487—Supporting the goals and ideals of Korean American Day—"yes." Rollcall No. 624, S. 1047—Presidential $1 Coin Act of 2005—"yes." Rollcall No. 625, H.R. 3422—Small Public Housing Authority Act—"yes."

THOMASVILLE TOPS IN SOCCER, TOO

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. COBLE. Mr. Speaker, Thomasville High School, located in the Sixth District of North Carolina, is known as a football powerhouse in our state. The Bulldogs have captured two straight high school football championships and six overall. In fact, the school is renowned for its entire athletic program. Last year, the school won three state titles, two for men's and women's basketball and one for the football team. Now it can add another state championship trophy in its overflowing display case—the men's soccer team won the school's first-ever title in that sport. On November 19, 2005, the Bulldogs soccer team defeated Manteo 4–3 in sudden-death overtime at the SAS Soccer complex in Cary, North Carolina.

"It's just an unbelievable feeling," third-year head coach Robert Yates told The Thomasville Times. "Just to make the playoffs, and then to get to the state championship game, and then to win it like that in sudden-death overtime, it's hard to describe." The player who was a team leader all year—Walter Cruz—came through again in the sudden-death overtime period to score the game-winning goal. Cruz, who earned the Most Valuable Player award for the game, told The Thomasville Times, "I can't explain the things that I feel. We made history in Thomasville High School soccer."

Joining Cruz in the history-making march to the title were teammates Rogaciano Augilar, Danny Alvarado, Adam Beasley, Eder Calva, Miguel Chavez, Adrian Hidalgo, Ji Soo Noh, Joel Ramirez, Roman Ramos, Jose Rios, Edberg Rodriguez, Yefrey Salazar, Victor Sanchez, Daniel Sandoval, Eloi Solis, Joel Torres, Zach Upton, Lazaro Vazquez, Marco Villa, and Rich Weaver.

Congratulations to head coach Yates, his assistant coach Martin Stanich and community volunteer George Solis, athletic director Woody Huneycutt, principal Dirk Gurley, the faculty, staff, students, parents, and fans of Thomasville High School on the first-ever soccer championship in school history. Thomasville has proved that in addition to football and basketball, the Bulldogs are tops in soccer, too.

TRIBUTE TO CBO DIRECTOR, DR. DOUGLAS J. HOLTZ-EAKIN

HON. JIM NUSSLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. NUSSLE. Mr. Speaker, I rise today to honor a man who many in this body have had the distinct pleasure of working with during the past several years, and someone who has left a tremendous mark on the Congressional Budget Office. The distinguished Director of the CBO, Dr. Douglas J. Holtz-Eakin, will be leaving his position at the end of this month to take on the challenges and opportunities of his new job with the Council on Foreign Relations.

Back in 2003, I had the honor of interviewing candidates and making my recommendation on who should be the next director to lead the CBO. And while I'd interviewed several superbly qualified candidates for the position, after meeting with Dr. Holtz-Eakin, the choice was clear.

First, Doug possessed a wealth of economic and public sector experience, having served as the Chief Economist for the President's Council of Economic Advisers, a position to which he was appointed by President Bush in June 2001.

Second, based on his reputation as a man of unquestioned integrity, combined with his history of providing consistent, strong leadership, I felt confident he would effectively serve the whole of Congress in an independent, non-partisan fashion.

Last, but certainly not least, Doug is well known for his gregarious personality, and great sense of humor. And for anyone familiar with the always challenging and often thankless tasks regularly asked of CBO, these attributes are a tremendous asset to its leader.

And Doug's work these past few years has shown that my confidence in his abilities was more than justified.

During his tenure as CBO's director, he has effectively utilized the tremendous energy and talent of his staff. He has led CBO to make great strides in analyzing the impact of revenue measures on the economy. And because of his clear vision of how Congress and CBO could better work together, CBO's responsiveness and performance have improved significantly under his leadership.

I have been extremely impressed and very proud of Doug's leadership and accomplishments, and would today like to publicly thank him on behalf of this Congress.

Doug, we wish you continued success in the next chapter of your distinguished career.

STATEMENT ON FEMA'S BROKEN PROMISES

HON. AL GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. AL GREEN of Texas. Mr. Speaker, it has been more than 100 days since Hurricane Katrina devastated the gulf coast region, destroying more than 300,000 homes, taking more than 1,300 lives. FEMA promised help, yet, more than 100 days later, thousands of survivors are still living in tents and shelters. More than 100 days later, promised trailers have not arrived. More than 100 days later, a Federal judge has had to force FEMA to extend its deadline.

FEMA is now opting out of 12-month leases. What FEMA won't do, Congress can do. It is time for this Republican Congress to work with Democrats and enact legislation granting 1 year of housing assistance. It is imperative that this be done before we adjourn. Human suffering continues. I am willing to work with those who want to end this suffering.

EXPRESSING THE SENSE OF CONGRESS WITH RESPECT TO THE 2005 ELECTIONS IN EGYPT

HON. JEFF FORTENBERRY

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. FORTENBERRY. Mr. Speaker, as we consider the issue of democratic reform in Egypt, I think it is vitally important to assess progress in the context of the multifaceted cultural and philosophical challenges facing Egyptian society.

None of us would deny the benefits of freedom and democracy or choose another path to justice for our nation. Egypt has also taken its first steps on the path to democracy in a region where this concept of governance is virtually unknown and untested, despite many internal and external obstacles.

While this resolution draws attention to very legitimate and serious concerns that I share, I am concerned that as re-written, it amounts to a harsh censure that will accomplish little short of alienating the Egyptian government at a particularly volatile time in the history of the Middle East.

Mr. Speaker, would it have been better if Egypt's elections had not been held at all?

Looking at recent history, Egypt has borne significant sacrifices for the cause of peace and freedom in the Middle East. Formerly an ally of the Soviet Union, Egypt moved to establish diplomatic relations with Israel in 1978 after 30 years of hostilities. President Sadat paid a high price for Egypt's rapprochement with Israel. More recently, Ambassador Ihab al-Sherif paid with his life for daring to defy the foes of democracy in Iraq.

When I visited Sinai as an 18-year-old, I was struck by the graffiti scrawled on a twisted heap of concrete with the message: "Here was the war—Here is the peace." For close to 30 years now, Egypt has stood by a courageous choice for peace. While no government is perfect, this choice has been consistent with a move toward democratic reform, however flawed, and however tenuous.

Egypt's first contested presidential elections this September and the parliamentary elections held in December represent a significant achievement. Nevertheless, the unpleasant realities of high unemployment, threats of terrorism, internal political and religious strife, along with the vicious persecution of minority faith communities remain pressing concerns. While the state of democracy in Egypt is neither ideal nor established, we dismiss Egypt's concerns about the "slippery slope to theocracy" at our peril.

During Secretary Rice's visit to American University in Cairo this summer, she recalled the words of President Bush's Second Inaugural Address: "Our goal is to help others find their own voice, to attain their own freedom, and to make their own way." Secretary Rice went on to say that "we know these advances will not come easily, or all at once."

I appreciate and share the heartfelt concern of my colleagues who are seeking to usher Egypt along the path toward a vibrant and thriving democracy. However, I believe that we need to express this concern in a manner that acknowledges the accomplishments of the past, appreciates the challenges of the present, and carefully considers the options available to realize our hopes for the future.

EXPLANATION OF THE DEPOSIT INSURANCE REFORM LEGISLATION

HON. SPENCER BACHUS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. BACHUS. Mr. Speaker, today, we have a great opportunity to make significant improvements in our Federal Deposit Insurance system. Our position is strong, as both the insurance fund and the banking industry are extremely healthy, making this the ideal time to fine tune the system and establish a strong footing going forward.

BASIC PRINCIPLES OF REFORM: FAIRNESS AND FLEXIBILITY

The two fundamental driving principles of reform are to provide fairness to all insured depository institutions by assessing each based on risk, and to promote greater flexibility by allowing the FDIC to manage the fund differently based on existing economic conditions.

The bill provides greater fairness to insured banks in many important ways. It authorizes the FDIC to revise its risk-based formula to reflect with greater accuracy the risk each institution poses to the insurance fund. In providing this authority, our Committee looked at examples provided by the FDIC to determine how the new system might work, including FDIC representations that show about 42 percent of all banks would likely remain in the lowest risk category. Because the very nature of bank loans involves risk, we expect the FDIC to form a reasonable system that encourages appropriate risk-taking, consistent with safe and sound banking, and with premiums at a level that protect the best run banks from being overcharged but don't inadvertently stop lending. In this bill, we make explicit that the size of the financial institution should not bar an institution from being in the lowest risk category. It is risk that matters, not size. We expect the FDIC to conduct assessments in such a timely manner that banks are able to plan for such an expense, thereby avoiding unexpected or untimely costs.

Secondly, the bill recognizes that about 10 percent of institutions have never paid a premium to the FDIC to support its operations. This has put a burden on those institutions that fully capitalized the insurance funds in the mid-1990s. This legislation provides that those institutions that capitalized the fund with initial credits in proportion to each institution's financial contribution to FDIC. The credits are intended to offset premium assessments for many years to come, Those institutions that have not financially supported the FDIC would not have these credits and therefore must begin to pay premiums to the FDIC. Moreover, should the insurance fund grow to the upper regions of the normal operating range for the FDIC, banks would be entitled to a cash dividend in proportion to their historic financial contributions.

In addition to promoting fairness, the bill provides the FDIC greater flexibility to manage the insurance fund. The current law constrains the FDIC from charging most banks when the reserve ratio remained above a certain level and forces the FDIC to charge high premiums (23 basis points) at times when it makes the least sense. Our bill corrects these problems by allowing the FDIC to manage the fund within a wide range, with the intention that assessments would remain reasonably constant and predictable.

Importantly, this bill is not intended to raise more money than what the FDIC would have collected under the old law. Nor is this bill intended to encourage the FDIC to build the fund to the highest possible level. In fact, we know that each dollar sent to the FDIC means that there are fewer dollars that can support lending in our communities. As we considered this bill, we heard testimony that suggested that each dollar sent to Washington means that eight dollars of lending is lost. We cannot afford to restrict lending in our communities just to have more money added to the nearly $50 billion already in the insurance fund.

To protect against the fund growing too quickly, the legislation provides an automatic braking system that would return as a dividend 50 percent of any excess when the reserve ratio of the fund is above 1.35 percent. It also caps the fund level, providing a 100 percent dividend when the reserve ratio exceeds the upper limit of the range at 1.50 percent. This assures that money will remain in our communities. And while we provided the FDIC some authority to suspend the 50 percent dividend under extraordinary circumstances where it expects losses over a one-year timeframe to be significant, our expectation is that this authority will be used rarely and reviewed carefully each year when the new designated reserve ratio is set. This exception should be temporary and not a regular event, and the FDIC must communicate to Congress and the industry its justifications.

The FDIC's development and implementation of a new risk-based assessment system should not negatively impact the cost of homeownership or community credit by charging higher premiums to prudently managed and sufficiently capitalized institutions simply because they fund mortgages and other types of lending through advances from Federal Home Loan Banks. The Gramm-Leach-Bliley Act took great care in trying to provide adequate funding resources for community financial institutions and insured housing lenders through expanding community institutions' access to Federal Home Loan Bank advances. The FDIC shall take into consideration the goals of the Gramm-Leach-Bliley Act with respect to Federal Home Loan Bank advances and the objectives of this Act when developing a risk-based premium system.

DESIGNED FOR THE FUTURE

Not only does the legislation provide fairness and flexibility, it also anticipates needed changes in the coverage levels over time. We know that inflation has cut in half the real value of the current insurance coverage since it was last changed in 1980. We also know that, as the baby boomers move into retirement, the current coverage level was inadequate to protect their life-long savings. Thus, this bill increased to $250,000 the insurance limit on retirement accounts.

The House has repeatedly voted overwhelmingly in favor of legislation that would automatically index coverage levels based on inflation. The other body has only recently passed deposit insurance reform. The indexing language included in the Senate reconciliation bill required the FDIC to "determine whether" to increase coverage based on the amount of inflation increase plus a long list of factors. Our compromise language calls on the FDIC and NCUA to consider just three narrow factors. Those factors are: (1) the overall state of the Deposit Insurance Fund and economic conditions affecting insured depository institutions; (2) potential problems affecting insured depository institutions; and (3) whether the increase will cause the reserve ratio of the fund to fall below 1.15 percent of estimated insured deposits. If the FDIC and NCUA elect not to increase coverage, they must make their case based on these three narrow factors. The key language in the compromise is that the FDIC and NCUA, "upon determining that an inflation adjustment is appropriate, shall jointly prescribe the amount by which" coverage "shall be increased by calculating" the amount of inflation. This change in language, from "determine whether" to "shall jointly prescribe" is a clear statement that Congress is establishing a presumption that the agencies will increase coverage if warranted by past inflation.

STRONGER THAN EVER

This legislation will make the insurance fund even stronger than it already is and, in combination with the extensive regulatory and supervisory authorities of the FDIC, ensures that the fund and the banking industry will remain strong for a very long time.

EXPRESSING SUPPORT FOR THE MEMORANDUM OF UNDERSTANDING SIGNED BY THE GOVERNMENT OF THE REPUBLIC OF INDONESIA AND THE FREE ACEH MOVEMENT

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong support of H. Res. 456, "expressing support for the memorandum of understanding signed by the government of the Republic of Indonesia and the Free Aceh Movement on August 15, 2005, to end the conflict in Aceh, a province in Sumatra, Indonesia." Let us begin by first thanking Congressman CROWLEY for his tireless work and steadfast leadership on this issue.

For over thirty years there has been armed conflict in the Indonesian province of Aceh between the Indonesian military and the Free Aceh Movement. The Free Aceh Movement had demanded independence while the Indonesian government has fought to maintain their control over the region. The fighting in the region has not only devastated the landscape, but has led to an estimated 15,000 deaths in the region.

Last December's tragic tsunami killed at least 165,000 people in Aceh. If something good can be taken from the horrible disaster, it is that the tsunami's destruction led the Indonesian government and the Free Aceh Movement to set aside their three decades of fighting to enable the rebuilding of Aceh.

With the help of former President Martti Ahtisaari of Finland, the parties agreed in July to a draft memorandum of understanding to end the conflict. The memorandum of understanding not only provided a timetable for disarmament and troop withdrawal, but also granted the people of Aceh with new political powers and the right to retain much of the revenues of resources extracted from the province. The Indonesian President has also granted amnesty to hundreds of Free Aceh Movement members, and the Free Aceh movement has agreed to forgo its demand for independence.

Mr. Speaker, I am sure my colleagues can understand and respect just how difficult it can often be to reach compromises in highly charged political situations. It is precisely because of this fact that we as a Congress should whole-heartedly congratulate the Indonesian government and the Free Aceh Movement for their willingness to compromise. Their ability to compromise has made both parties better off, and perhaps can serve as an example to all of us. I sincerely hope the memorandum of understand the parties reached will stand the test of time and be the first step toward extended peace for the Aceh region.

Lastly, Mr. Speaker, I believe this country can most show its support of this peace process not only with kind and supportive words, but with kind and supporting actions. I encourage the Secretary of State and the Administrator of the United States Agency for International Development to commit resources in guaranteeing the peace and building a strong civil society in Aceh.

TRIBUTE TO THE COUNTRY OF POLAND

HON. SCOTT GARRETT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. GARRETT of New Jersey. Mr. Speaker, I rise today to recognize and congratulate the country of Poland and its citizens for their successful Presidential and Parliamentary elections.

On October 23rd, a Conservative Law and Justice candidate, Lech Kaczynski, defeated Civic Platform candidate Donald Tusk in the Presidential Election runoff. A month earlier, in the Parliamentary elections, the Law and Justice Party won a plurality by capturing 27 percent of the vote while the Civic Platform party garnered the 2nd highest amount at 24 percent.

In addition to the remarkable political reform that has swept Poland over the last 15 years, there has been considerable economic progress as well. The Polish GDP continues to grow and because of its skilled workforce and a competitive free market economy, it has received significant foreign investment.

Poland has been a strong ally to the United States in our war on terror and has provided considerable aid to the military and diplomatic efforts in Afghanistan and Iraq.

Mr. Speaker, I am confident that when President-Elect Kaczynski is sworn in on December 23rd, U.S.-Polish relations will continue to grow and prosper under his leadership.

PRESIDENTIAL AUTHORIZATION OF DOMESTIC NSA SPYING

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to discuss the recent reports, and admission by President Bush, that he authorized the National Security Agency to spy domestically, and did so without obtaining warrants. Some have noted that it is highly unusual for a President to publicly acknowledge the existence of highly classified intelligence programs. Some believe this is commendable. But Mr. Speaker, his admission was after the fact. After hundreds, possibly thousands, of Americans have had their telephone calls and e-mails monitored with little to no oversight.

After he authorized the NSA, an organization tasked with investigating foreign people and entities, to spy on American citizens and other residents living in this country. And after, Mr. Speaker, he urged the New York Times not to report the existence of this program in the first place. Hardly commendable.

Yet these facts alone, though enough to warrant grave concern, are not the end of the story. Further compounding the issue is that the President did this without even seeking warrants, or legal oversight. I wish I could say I was surprised at this, but I cannot. This Administration has pushed the envelope for power and authority at every opportunity and this is clearly no exception. If truly and absolutely necessary, they could have at the very least obtained warrants from the Foreign Intelligence Surveillance Court. As the New York Times stated today in an editorial, "The law governing the National Security Agency was written after the Vietnam War because the government had made lists of people it considered national security threats and spied on them. All the same empty points about effective intelligence gathering were offered then, just as they are now, and the Congress, the courts and the American people rejected them." In authorizing this program, this Administration has chosen to ignore precedent, wisdom, and possibly even the Constitution.

The Fourth Amendment clearly states "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." I strongly believe that spying on American citizens without first obtaining warrants, or any legal oversight, clearly violates this bedrock principle of our government and our Nation as a whole. I also believe that this program—its inception, its uses, its results, its justification for existence—needs to be thoroughly investigated. I have begun circulating a letter asking the House Permanent Select Committee on Intelligence to conduct investigations of this. I hope my letter will not be ignored.

Mr. Speaker, no doubt the Administration and its supporters will attempt to paint those questioning the wisdom of this program's existence as weakening our defenses, and undermining our Nation's security and counterterrorism efforts. This is a weak and pathetic justification. There is no question the President must have the best possible intelligence to protect our Nation and its citizens. There is no question the President must conduct programs that are hidden from the public eye in order to gather this intelligence. The question is whether or not these ends can be achieved in accordance with our Constitution, our laws, and in a manner that reflects our values as a Nation.

I hope for the sake of the country, that after the Congress investigates this program, it is not shown that the President broke the law. However, we will only know the answer to that question after Congress exercises its proper oversight responsibility. Something it has failed to do for five years. Despite what this Administration would have us believe, securing our Nation from all enemies both foreign and domestic can be achieved without violations of our civil liberties.

PERSONAL EXPLANATION

HON. MARIO DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, due to issues I had to attend to at home, I was unable to be here for the majority of this legislative week and was unable to vote on important legislation on the floor of the House. Had I been here and able to vote, I would have cast the following votes:

Rollcall vote No. 623—Yes, rollcall vote No. 624—No, rollcall vote No. 625—Yes, rollcall vote No. 626—No, rollcall vote No. 627—Yes, rollcall vote No. 628—Yes, rollcall vote No. 629—Yes, rollcall vote No. 630—Yes, rollcall vote No. 631—Yes, rollcall vote No. 632—Yes, rollcall vote No. 633—Yes, rollcall vote No. 634—No, rollcall vote No. 635—Yes, rollcall vote No. 636—Yes, rollcall vote No. 637—Yes, rollcall vote No. 638—Yes, rollcall vote No. 639—No, rollcall vote No. 640—No, rollcall vote No. 641—Yes, rollcall vote No. 642—Yes, rollcall vote No. 643—No, rollcall vote No. 644—Yes, rollcall vote No. 645—Yes, rollcall vote No. 646—Yes, rollcall vote No. 647—Yes, rollcall vote No. 648—Yes, rollcall vote No. 649—Yes, rollcall vote No. 650—Yes, rollcall vote No. 651—Yes, rollcall vote No. 652—No, rollcall vote No. 653—No, rollcall vote No. 654—Yes, rollcall vote No. 655—Yes, rollcall vote No. 656—No, rollcall vote No. 657—Yes, rollcall vote No. 658—No, rollcall vote No. 659—No, rollcall vote No. 660—No, rollcall vote No. 661—No.

HONORING THE 2005 NCAA CHAMPION UNIVERSITY OF WASHINGTON HUSKY WOMEN'S VOLLEYBALL TEAM

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 18, 2005

Mr. DICKS. Mr. Speaker, I rise to congratulate the women's volleyball team from my alma mater, the University of Washington, for winning the school's first NCAA National Championship in that sport in San Antonio on Saturday.

The Huskies finished a fantastic 32 and 1 season with the most dominating performance in the history of the NCAA Women's Volleyball National Championship Tournament, winning every game in their six tournament matches. I commend the athletes from the University of Nebraska for their excellent play in the final match, but the Huskies, led by Coach Jim McLaughlin, would not be denied this year.

I would also like to recognize the Tournment's Most Outstanding Player, Christal Morrison, for her exceptional play, as well as Courtney Thompson and Sanja Tomasevic, who deservedly made the all-Tournament team.

This talented and hard-working group of women have made this Husky very proud. So much so, that I am tempted to offer a rendition of the Husky fight song: Bow Down to Washington. But to the relief of my colleagues, I will not do so tonight.

I encourage all Members to join with me in congratulating the University of Washington's Women's Volleyball Team.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, December 20, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 9

12 noon

Judiciary

To hold hearings to examine the nomination of Samuel A. Alito, Jr., of New Jersey, to be an Associate Justice of the Supreme Court of the United States.

SH-216

FEBRUARY 9

10 a.m.

Commerce, Science, and Transportation

To hold an oversight hearing to examine commercial aviation security, focusing on Transportation Security Administration's aviation passenger screening programs, Secure Flight and Registered Traveler, to discuss issues that have prevented these programs from being launched, and to determine their future.

SD-562

2:30 p.m.

Commerce, Science, and Transportation

To continue oversight hearings to examine the commercial aviation security, focusing on physical screening of airline passengers, including issues pertaining to Transportation Security Administration's Federal passenger screener force, TSA procurement policy, air cargo screening, and the deployment of explosive detection technology.

SD-562

SENATE—*Tuesday, December 20, 2005*

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHNNY ISAKSON, a Senator from the State of Georgia.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty sovereign, You are the bright and morning star. Keep us from sleeping during Your movement in our midst. Forgive us when we fail to see You in the needs of the hungry, homeless, and hopeless. Open our eyes to Your presence among the sick and the incarcerated, and use us to bring healing and freedom to our world.

Continue to sustain the Members of this body. Let no trial blind them to Your assured presence. Inspire them to make a positive difference in a sometimes negative world. By their labors, help them to encourage those sorely tested by life's burdens.

Deliver each of us from permitting Earthly prizes to intrigue us and worldly concerns to possess us. We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHNNY ISAKSON led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, December 20, 2005.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHNNY ISAKSON, a Senator from the State of Georgia, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. ISAKSON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will resume debate on the deficit reduction conference report. There is 8 hours remaining for debate under the 10-hour time limit. If Senators desire to speak on the package, they should contact the chairman or ranking member so we can schedule an orderly debate on the pending conference report. Both parties will have their policy luncheons today, and we will recess for those meetings if Senators are not prepared to speak during that time and if we can count that time against the debate limitation.

I remind everyone that I filed two cloture motions on two conference reports yesterday—first, Defense appropriations and, second, Defense authorization. Those votes will occur tomorrow morning, and Senators can expect votes early tomorrow morning on those.

I will be talking to the Democratic leader about the timing of the vote on the deficit reduction measure. We will need to confer with those managers to see how much of the 8 hours will be necessary so we can alert Members as to when they can anticipate the vote.

Senators should be around and ready to be here on time over the next day or two as we schedule these votes. We are attempting to finish these last few items to close out the session and, therefore, Senators should not stray far. I thank everybody for their continued patience as we wrap up.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

VOTE SCHEDULE

Mr. REID. Mr. President, we have, for example, Governor-elect CORZINE who is doing work in New Jersey, and we need some notice as to when the vote will take place to get him back here. He is, of course, coming. It appears very likely that the Vice President may need to vote on this himself. From the numbers we have, it is going to be extremely close. It would be important we have some notice as to when the leader would like to handle and have that vote. If all the hours are used and even if we charged the time for debate during our caucus lunches, it would be 4 o'clock or 5 o'clock. If all time remaining is used on this, when would the vote take place if we go straight through?

The ACTING PRESIDENT pro tempore. About 6 p.m.

Mr. REID. I know the Vice President has been in Pakistan. At least I have been told he is coming back. Does the leader know when?

Mr. FRIST. Mr. President, I do not, but we will be able to decide shortly after talking among everyone when that vote will be. For sure we will have these cloture votes tomorrow morning. We need to make sure all Members are back for the postcloture votes with regard to the deficit reduction bill. If we use all time, it would be 6 o'clock, but over the course of the morning we can decide when the most appropriate time for that vote would be.

Mr. REID. One of the things that could be done to make sure everyone is here, when we move to the Defense appropriations bill we could have that cloture and point of order. I am thinking at this time, even though the leader has filed cloture on the Defense authorization, I don't think we would have to have cloture on that. We could have final passage. One of the things the leader should think about is maybe doing them all at once. We could start fairly early in the morning and try to get them all done.

If that were the case, I assume we could speed through them fairly quickly tomorrow if things turned out the way we think.

Mr. FRIST. Mr. President, a couple of things. First, we do not want to delay any votes that will delay when we finally are able to depart. Within the next 48 hours we will have a number of votes. We will work on scheduling so we can let people know with certainty. I have told our people to be around and ready to vote when we decide. I don't want Members staying in New Jersey, New York, California, or Texas waiting for us to give a final time. We need to have people accessible and ready to get back.

Having said that, let's try to consolidate these votes at a time where people can come back, can be here, and we vote all at once or in a series.

Mr. REID. Mr. President, I think I have outlined the major votes I know of. There would be some housekeeping stuff to do. Who knows, we might get lucky and be able to do some other things.

Mr. FRIST. And with regard to that, we have a number of nominations, we have a number of judges, as well, we very much would like to be able to address. There are other issues with regard to the PATRIOT Act, Labor-HHS. We have a lot to do, all of which we need to address in the next day, 2 days.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

We will maximize, from a scheduling standpoint, when everyone can be back.

Mr. REID. The other thing I mention is, in a meeting I had this morning, I think it is fairly clear it will not be necessary, even though we do not like the conference report on HHS, I don't think there will be a necessity for cloture on that. The leader should anticipate having a straight up-or-down vote on that at some time.

Mr. FRIST. Mr. President, I will speak on another issue and then we can come back and talk further.

Mr. BAUCUS. Will the leader yield for a question on the last subject of scheduling votes?

Mr. FRIST. I am happy to yield.

Mr. BAUCUS. I don't see any reason why we can't finish all our voting tomorrow. We all know what the issues are. We all know what the votes are. I don't see any reason to delay. We ought to vote.

There are so many families here, so many spouses, so many children, families want to get together. This is, after all, Christmas. I don't know why in the world we don't schedule all of our votes by tomorrow so at the very least by tomorrow we can start to head home with our loved ones. Can't the leader work that out?

Mr. FRIST. Mr. President, indeed, he is going to do his very best.

Votes tomorrow, where the other side of the aisle causes us to have rollcall votes on motions to proceed and then cause us to file cloture, make it difficult. I was ready to get out 2 days ago. If we could do the up-or-down votes instead of filing the cloture motions, I am all for it.

Mr. BAUCUS. All the cloture votes can occur tomorrow.

Mr. FRIST. Mr. President, my goal would be to be out, for sure, tomorrow. I think we can work on that. I appreciate the appeal from that side of aisle to be out tomorrow. We can't have obstruction. Getting the votes done and finishing everything tomorrow would be a good goal. I am all for it. It means we cannot have delay and obstruction.

Mrs. BOXER. Will the Senator yield?

Mr. FRIST. Let me make a statement now. I ask unanimous consent my statement be made on our time on the reconciliation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SMART GRANTS

Mr. FRIST. Mr. President, Thomas Friedman, in his book "The World Is Flat," concludes that jobs in this country—and he says this with a backdrop of global competitiveness—ultimately depend on education of our young people. More specifically, jobs of the future are going to depend on a prepared workforce of youth well educated in math, science, engineering, the sorts of fields that prepare people for the jobs of the future. He very nicely said in his book—and I wholeheartedly agree—that those jobs are going to require that preparation.

If we prepare our youth in math, science, engineering, we will prepare them for jobs for the future which will improve our global competitiveness. That means this competition will be addressed between China and India for jobs, for people who are trained or study in Virginia, in truth, will be competing with students in China and India.

In the legislation we are considering over the next 2 days, Congress is very specifically addressing this link between global competitiveness, jobs of the future, and education in this country—specifically math, science, and engineering education.

I will spend a couple of minutes on a new student aid program I created called the SMART grant. SMART grants very simply will provide $4,000 per year to eligible low-income students who are majoring in math, in science, in engineering, in technology, in foreign languages, that are critical to our national security, during the third and fourth years of their higher education, those years of college. That is $4,000 a year to eligible low-income students.

That means a low-income college student will obtain up to $8,000 to pay for the cost of college if he or she chooses to major in one of those fields, those fields that are so necessary to preparing for jobs for the future and thus our global competitiveness. SMART grants mean low-income students save an average of 52 percent on the cost of college in this legislation we will pass over the next 48 hours.

These funds will encourage more students to major in these time-intensive studies. These funds will help America produce the workforce it needs to be able to compete in that global economy.

The bill also provides academic competitiveness grants to first and second-year college students: $750 will go to first-year students who complete a rigorous high school curriculum, and $1,300 to second-year students who complete a rigorous high school curriculum and maintain a 3.0 grade average in college. These are eligible low-income students. President Bush and Representative BOEHNER in the House deserve praise and credit for creating these grants.

These SMART grants and these academic competitiveness grants are authorized at $3.7 billion over 5 years. They are paid for with program savings included in the budget deficit reduction bill we are currently debating in Congress.

Right now, America must be more competitive. We are targeting precious resources in a responsible way to meet that challenge. Indeed, these grants will sustain America's global legacy as a land of innovation, imagination, and initiative.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEFICIT REDUCTION ACT OF 2005—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the conference report.

The clerk will report.

The legislative clerk read as follows:

Conference report to accompany S. 1932, an act to provide for reconciliation pursuant to section 202(a) of the current resolution on the budget for fiscal year 2006.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Mr. President, I am not sure of the exact order of procedure on the floor, whether the ranking member is yielding time on this bill at this point.

Mr. CONRAD. That is correct.

Mr. DURBIN. I would like to be yielded 5 minutes to speak.

Mr. BAUCUS. Mr. President, I ask the leader, the ranking member, that I be recognized after that.

Mr. CONRAD. Mr. President, I would be happy to yield 5 minutes to the Senator from Illinois. And then how much time would the Senator from Montana like?

Mr. BAUCUS. About 25 minutes.

Mr. CONRAD. I ask unanimous consent that after the Senator from Illinois, we go to the Senator from Montana for 25 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none, and it is so ordered.

The Senator from Illinois is recognized for 5 minutes.

Mr. DURBIN. Mr. President, those who followed the conversation on the floor of the Senate this morning are aware of the fact we are still in session, as the House has left at least for the time being. Of course, we are close to the holiday season, when most Members assumed they would be home with their families, where we want to be. But instead we are here. I think it is worth noting why we are here.

At the risk of hurting some muscle in my body here, I want to lift what we are now considering in the Senate in the closing hours: 4,000 pages—4,000 pages—that come to us at the close of the session; 989 pages on the appropriations for the Department of Defense, about 1,628 pages on the Defense authorization bill, and roughly 1,400 pages on the Deficit Reduction Act.

I can tell you, having been around Congress for a few years, that within these pages are things which will come to embarrass us. Some of them we know. Some of them we will learn after we leave. Of course, people who are following this debate say: Well, Senator, haven't you sat down to read all this? The honest answer is, it is physically impossible because good craftsmen of legislation realize that changing punctuation in the law can change the meaning of the law, and so what appears to be just a cosmetic change on a page here turns out to have dramatic consequences. So we try our best. My staff has been working straight through since many of these bills have been produced to try to come up with an understanding of what is included in these bills.

But there are several things we do know about these bills. We know, for one thing, that the Defense bills are the last bills in the session, which is a dramatic change from the past. Historically, the Defense bills are passed early in the session, for obvious reasons. The argument is, for goodness' sake, before you get embroiled in a political controversy, take care of the troops. So historically we would pass a Defense authorization bill and a Defense appropriations bill early in the session and be done with them. That did not happen this time.

The Defense authorization bill was taken off the calendar by the Republican leadership in July so they could make room for special interest legislation from the gun lobby on the question of liability. So that bill was intentionally delayed by the Republican leadership, the bill for our troops. Now, here, in the closing hours of the session, the bill comes back in the form of an authorization bill of some 1,600 pages, at the close of the session.

The Defense appropriations bill has historically been a bill we considered first. It is the bill in which we want to make sure we take care of the troops, take care of the Department of Defense, and meet our obligation. Why is it last? Why is this 1,000-page bill coming at us at the last moment? I will tell you why. Because Senators have come to understand this bill has to pass. So they put some of the most controversial provisions, some of the most outrageous provisions in the bill for our troops and for our national defense.

There is a provision in here which is well known now and well reported, put in by the Senators from Alaska, for drilling in the Arctic National Wildlife Refuge. That is put in the Department of Defense appropriations bill. Why? Why in the world would you put that provision, that controversial provision, in a bill which has to pass for our troops? Well, it is high noon. It is a showdown. It is a question about who will flinch first. If you load up the bill that has to pass with these outrageous and controversial provisions, the Senators who put them in there are defying the membership of the Senate to stand up and say no. And they want to be prepared to say: Oh, you are going to vote against the Department of Defense appropriations bill or hold it up. That is just an outrage.

I will tell you what is an outrage. An outrage is using this bill, which is designed for our troops and our soldiers, as a political vehicle.

There are things in here which are nothing short of amazing—not only this Arctic National Wildlife Refuge drilling, which has been debated for years around here, but an allocation of the resources from that drilling to the State of Alaska, and others, in ways that are very generous to that State, at the expense of other States and at the expense of the Treasury. There is a provision in this bill about the liability of pharmaceutical companies when they manufacture vaccines. That is in the Department of Defense appropriations bill.

Of course, there are provisions in here for Katrina victims. I am glad they are in here. I thought they would be part of some emergency appropriation, but it just shows you that this bill, and all its complications, is an example of why we are still here this week. It is a failure of leadership. It is a failure to really address the issues that present themselves to the Senate in a forthright manner.

I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator's time has expired.

Under the consent agreement, the Senator from Montana is recognized for 25 minutes.

Mr. BAUCUS. Mr. President, I echo a lot of the same concerns just voiced by the Senator from Illinois. We have all been here a few years, and we see some things that are questionable. But the actions taken by the majority in this session of this Congress are beyond questionable. In many cases, I think they are outrageous, and I am very glad the Senator from Illinois brought the Senate's attention to them.

Mr. President, I am here to speak on the pending legislation, and that is the budget reconciliation bill that is before us. I oppose this budget reconciliation bill, and I do so for a couple of very basic reasons.

First of all, this bill would cause many of America's poorest citizens to go without needed medical treatment. Just think of that: some of the poorest citizens in our country to go without needed medical treatment. It would make it harder for many of America's neediest citizens to move off of welfare and on to work. It would make it harder, not easier, to get off of welfare and on to work. It would also deprive many single parents help in getting child support from their deadbeat spouses. It makes it harder to get child support from deadbeat spouses. That is what this bill does, and I will explain later why that is the case. And this bill would undercut American lumber workers in their dispute with Canadian lumber.

There is a better way. The better way is something much more similar to what the Senate passed here, although I opposed it because I thought it was so draconian, and I opposed it because I felt it would lay the seeds for just what is happening here today, and that is a conference report that is much, much worse than the Senate-passed bill.

I think the Senate should vote down this bill. We do not have to pass it this year. This is not an appropriations bill. This is not a tax bill. It does not have to be passed this year. It should be voted down so we can get to work next year and cut the budget in a more fair and more moderate way, rather than this draconian way contained in this bill.

There is a right way and a wrong way, for example, to control health care spending. We all know health care costs are high, but let's just reflect a little bit and try to figure out what is the right way to cut health care costs to address that situation and do that rather than the wrong way.

Well, I might say, we in this body included some of the right way in the Senate-passed reconciliation bill. What is that? We included provisions to put us on the road to paying for performance and quality in health care. That is the right way to control health care costs; that is, to reimburse providers—doctors and hospitals—a little bit more when they show their outcomes are a little better, they are doing a better job. That means health care costs will come down because the quality will increase and we will not be providing, in many cases, health care that is irrespective of quality. We have to start addressing quality in health care. The Senate-passed bill started to address that. The conference report hardly even touches that. I will explain that a little bit later, too.

What does this bill do? Instead, this bill merely cuts holes in the safety net. It cuts holes in the safety net. It does not shore it up and try to figure out ways to address the problems; it cuts holes and makes things worse. How? Well, it raises Medicaid copayments for those least able to pay. It raises costs for people on Medicaid. It also allows States to cut Medicaid benefits below existing minimum benefits. That is the wrong way to control health care costs. The better way is to address paid performance and quality. The wrong way is to just willy-nilly cutting expenditures for the poorest of our Americans; that is, for the Medicaid Program.

We have also seen how the wrong way works, not in theory but in practice. Increasing costs for poor people forces them not to seek health care when they need it. It has that effect. When the poor people in our country have to pay that much more for health care, what do they do? They don't get the health care. What happens? They live a little bit more with the illness they have. What is the consequence of that? They come back to the emergency room later when their condition gets worse. The system ends up spending more on health care rather than less. The burden of uncompensated care grows. You and I and all the rest of us who pay for health care end up paying still more for health care because of the increased uncompensated care because the poorer people will not be seeking the health care they need but put it off and, therefore, go to emergency rooms, and we end up paying more. That is the way the wrong way works. That is the way provided for in this bill.

Furthermore, this bill is not a moderate package. Far from it. The Senate-passed bill was more moderate. Instead, the bill before us hews largely to the House-passed bill which is not moderate. It is extreme. It is draconian. The bill before us, which hews mostly to the House side, would impose nearly $2 billion in increased cost sharing on Medicaid beneficiaries or about 80 percent of the cost-sharing increases in the House bill. What else? The bill would also allow State Medicaid Programs to offer Medicaid beneficiaries an "actuarially equivalent" benefit package. What does that mean? I will tell you what it means. It means reduced benefits. It is a fancy euphemism for reduced benefits for Medicaid beneficiaries. States will also be able to impose new premiums for coverage and to drop individuals from Medicaid if they can't pay.

Last week I offered a motion to instruct participants of this conference not to harm Medicaid beneficiaries by passing a budget reconciliation bill that resembles the House-passed bill. The Senate overwhelmingly supported that motion. The vote was 75 to 16. I was heartened. I felt good about that action. The Senate was speaking clearly and strongly not to let the conferees impose draconian cuts. Senators who supported that motion should stick to their guns. They should remain consistent in their support of Medicaid. They should vote against this reconciliation conference report in view of what the Congress has done juxtaposed to that 75-to-16 vote.

I am disappointed with many of the provisions included in this budget reconciliation bill. I am also disappointed with provisions that were not included in this bill. The conference report does not include meaningful pay-for-performance and quality provisions. We live in a country that spends twice as much as any other country on health care per capita. Yet our country ranks 37th in the world on quality. Think of that. We spend twice as much per capita as any other country in the world and yet we rank 37th in the world on quality. Our country leaves almost 16 percent of our population with no health care coverage at all.

We are not getting good value for our health care dollar. The value that each health care dollar buys varies widely from patient to patient. Consider recent research from Dartmouth that looked at large hospitals in California.

That research found that per-person Medicare spending on health care in the last 2 years of life ranged from $20,000 to almost $90,000. The more expensive patients were not sicker. That is the point. They did not receive higher quality care. That is also the point. But they cost the Medicare Program over four times more.

I was proud to work with the chairman of the Finance Committee, Mr. GRASSLEY, to write legislation bringing quality improvement and accountability to Medicare. We worked hard on that. We got a bill passed out of committee. Under our Medicare Value Purchasing Act, Medicare providers would be held accountable for the care they provide. And the best providers would be rewarded accordingly.

Doesn't that make sense, that we reward quality? Shouldn't we do that in the health care system? We don't today in America. Most every other industry is rewarded for quality, but our health care service by and large is not. The Senate included our pay-for-performance legislation in the budget reconciliation bill that passed this Chamber last month. I did not support the larger bill, but I was pleased that our Medicare quality legislation was included in the package. But our quality bill has mostly been stripped in the conference report.

The conference report expands existing quality reporting requirements for hospitals. It sets up minimal reporting requirements for some home health. The report includes a study on pay for performance in hospitals and some minimal payment changes to discourage a couple of hospital-acquired infections. These provisions are only for hospitals and are mostly at the discretion of the Secretary.

Moreover, these provisions are delayed until years after the independent Medicare Payment Advisory Commission recommended that Medicare providers would be ready to be paid for quality. I am disappointed to see Congress setting the bar so low because we have so little time in which to address the increasing costs of health care and all the problems that creates. I oppose this conference report because it doesn't begin to address what could and should be done. I remain fully committed to seeing Medicare pay-for-performance become law.

I also supported a motion to instruct conferees related to TANF, the Nation's welfare program. Offered by Senator CARPER, this motion instructed conferees not to reauthorize TANF through the budget reconciliation process. That was the motion offered by the Senator from Delaware. That passed by a large vote.

What happened? First, let's remember that Congress enacted the TANF Program back in 1996. It was enacted to help welfare recipients get work skills and to help low-income families become economically self-sufficient. I supported it in 1996. Many Democrats did not, but I thought it was a good way to get people off of welfare and a fair way to get people back to work. What has happened? Welfare reform has mostly succeeded. That 1996 bill was a good bill. States have adopted creative policies to support low-income families making the transition from welfare to work, and millions have moved to self-sufficiency. It is not great, but it is a lot better than what it was prior to 1996.

The TANF law expired in 2002. Senator GRASSLEY, chairman of the committee, and I worked diligently on the TANF reauthorization bill this year. It was a compromise that enjoyed near unanimous support in the committee. We could not get that bill up in the full Senate. There were a few willful Senators who opposed it, even though it had the near unanimous support of the Finance Committee. It was a moderate reauthorization of TANF.

Let's also remember policy changes to TANF—and they are quite pervasive and significant—do not belong in the fast-track budget reconciliation process. It does not belong there. The Presiding Officer knows that, as does everybody in this body. That process was designed to reduce the deficit, not to reauthorize important safety net programs such as TANF or other major policy issues. That is particularly true given the nature of the TANF provisions in this bill. This conference report contains strict new work requirements in TANF. Not only is it a reauthorization, it has provisions that make the program not work, make it worse. It is not moderate. It makes it worse. It is in this conference report.

This report undermines the State flexibility necessary to meet the standards of their most vulnerable citizens. This conference report provides only $1 billion in childcare funds, even though we need $12.4 billion in childcare funding to keep up with inflation. How miserly is that? Only $1 billion in childcare, when we really need 12 billion. Let's compromise, maybe 6, $7 billion; that is a compromise. That is midway between what this bill provides and what inflation calls for. But no, there is only $1 billion in this bill.

The report also foists a set of unfunded mandates on States, mandates that would harm low-income families. Let's not forget these families are playing by the rules right now. They are trying to do what is right. They are trying to work their way off of welfare and trying to get into sustainable employment. But this conference report eliminates the State flexibility that has made the TANF Program a resounding success.

We should reauthorize TANF. We should improve the program to focus on reducing poverty as well as welfare caseloads. And we should ensure that more people can leave welfare for sustainable work.

This conference report does just the opposite. More families will lose assistance. And our State partners will lose the flexibility that they need to support families in their time of need.

Speaking of families, what about the child support enforcement provisions in this bill? This conference report includes a $5 billion cut in Federal funding for child support enforcement efforts. That's right, a $5 billion cut.

States use these funds to track down absent parents, to establish legally enforceable child support orders, and to collect and distribute child support owed to families. These cuts will take billions of dollars out of the pockets of mothers and children who are owed child support. This cut is simply indefensible.

This bill also fails to adequately address the health needs of Katrina victims. It has been nearly 4 months since Katrina hit, resulting in over a thousand deaths, the displacement of over a million people, and a reconstruction bill that may exceed a couple hundred billion dollars. The Katrina disaster was unprecedented. It required an unprecedented response by Congress. That's why I worked with Chairman GRASSLEY in the days following the hurricane to write S. 1716, the Emergency Health Care Relief Act.

That bill would have provided 5 months of temporary Medicaid coverage for Katrina evacuees in poverty.

That bill would have shored up State Medicaid programs overwhelmed by Katrina evacuees. That bill would have reimbursed providers for uncompensated care provided to Katrina evacuees. And that bill would have helped States with the unprecedented burden on Gulf State welfare programs.

But the Senate did not pass that bill. The Senate could not even take it up.

We tried to take it up many times. We stood on the floor many times and asked unanimous consent to bring up the bill, but we were opposed by a band of two or three or four Senators, but we cannot understand why. I think, basically, they are doing it at the behest of the White House, the President. The President didn't want to help people down there with their health care needs, and the congressional leadership did his bidding.

I appreciate Chairman GRASSLEY's efforts to help Katrina victims. He fought to pass S. 1716 legislation against the wishes of the White House and his congressional leadership. I want him to know that I appreciate his efforts.

When the Senate eventually passed this budget reconciliation measure, it included some Katrina relief. It was an insufficient amount. And I could not support it. It was so paltry, it was an insult. As for this conference report before us today, it is still insufficient. Moreover, its Katrina funding comes in the form of a block grant.

So States affected by Katrina, as well as States treating Katrina evacuees, are given $2 billion for their Katrina health-care needs, whether that is a sufficient amount or not. Both the House and Senate bills had provided for 100 percent federal financing over the short term for all States with Katrina-related Medicaid costs.

Finally, I want to briefly mention an important trade issue. This bill repeals the Continued Dumping and Subsidy Offset Act, also known as the Byrd amendment. This repeal could not come at a worse time for the American lumber industry. The industry has recently suffered a series of setbacks in its long-running dispute with Canada on imports of Canadian softwood lumber.

The Byrd amendment is one of the few tools the industry still has to encourage Canada to settle the lumber dispute once and for all. Repealing the Byrd amendment now pulls the rug right out from under the industry. I won't do that. And I urge my colleagues who are friends of the lumber industry to join me in supporting the industry by voting against this bill.

We don't have to pass this bill this year, Mr. President. There is no need. None. So let's not pass it and do what is right in a subsequent reconciliation bill.

Mr. President, there is a great deal to be disappointed about in this spending reconciliation legislation. It does not meet the health and welfare needs of Katrina victims. It makes health care for the poorest among us more expensive and lets well-heeled people off the hook.

It puts forth an unreasonably austere welfare program in a vehicle where it doesn't belong. It fails to advance the Medicare quality agenda that many of us have worked so hard to make reality. And it undermines the U.S. lumber industry at the worst possible moment.

In short, Mr. President, the Senate should reject this bill. The Senate can do better. I urge my colleagues to do better by the American people by voting "no."

Mr. President, I ask unanimous consent to have printed in the RECORD a lengthy list of all of the groups that oppose this bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The following organizations have urged a "no" vote on the spending reconciliation bill:

AARP; Academy for Educational Development; AFL–CIO; AIDS Alliance for Children, Youth & Families; AIDS Alliance for Children, Youth, & Families; AIDS Institute; Alliance for Children and Families; Alliance for Retired Americans; Alliance of Louisiana Developmental Centers Families & Friends; American Academy of Child and Adolescent Psychiatry; American Academy of Pediatrics; American Academy of Physical Medicine and Rehabilitation; American Association of Community Colleges; American Association of People with Disabilities; American Association of State Colleges and Universities; American Association on Mental Retardation; American College of Nurse Practitioners; American Congress of Community Supports and Employment Services; American Council of the Blind; American Council on Education.

American Diabetes Association; American Federation of State, County and Municipal Employees; American Federation of Teachers; American Foundation for the Blind; American Medical Student Association; American Network of Community Options and Resources; American Nurses Association; American Public Health Association; American Therapeutic Recreation Association; Americans for Democratic Action; APSE: The Network on Employment; Asian American Justice Center; Association for the Mentally Retarded at Agnews; Association of Academic Physiatrists; Association of American Universities; Association of Community College Trusts; Association of Jesuit Colleges and Universities; Association of University Centers on Disabilities; Bazelon Center for Mental Health Law; Beatrice State Development Center Family and Friends Association.

B'nai B'rith International; Brain Injury Association of America; Catholic Charities USA; Campaign for Mental Health Reform (coalition of 16 national organizations); Center for Adolescent Health & the Law; Center for Advocacy for the Rights and Interests of the Elderly; Center for Public Policy Priorities; Center on Disability and Health; Child Welfare League of America; Child Welfare League of America; Children's Cause for Cancer Advocacy; Children's Defense Fund; Clearbrook Parents and Guardians Association; Coalition on Human Needs; Community Catalyst; Community HIV/AIDS Mobilization Project/CHAMP; Concerned Citizens For The Mentally Retarded; Consortium for Citizens with Disabilities; Consumers Union; Council for Exceptional Children.

Council for Higher Education Accreditation; Council of State Administrators of Vocational Rehabilitation; Council of Women's and Infants' Specialty Hospitals; Democratic Governors Association; Dever Association for the Retarded, Inc.; Disability Service Providers of America; District of Columbia Primary Care Association; Division for Early Childhood of the Council for Exceptional Children; Dixon Association For Retarded Citizens; Easter Seals; Epilepsy Foundation; Evangelical Lutheran Church in America; Families USA; Fight Crime: Invest in Kids (2,500 Police Chiefs, Sheriffs, and Prosecutors); Gay Men's Health Crisis; General Board of Church and Society of the United Methodist Church; Generations United; Gray Panthers California; Guttmacher Institute; Health and Disability Advocates in Chicago.

HIV Medicine Association; Housing Works, Inc.; Hudson Health Plan; Human Rights Campaign; Hyacinth AIDS Foundation;

IDEA Infant Toddler Coordinators Association; Institute for Reproductive Health Access; International Association of Business, Industry and Rehabilitation; International Union, United Automobile, Aerospace & Agricultural Implement Workers of America—UAW; Jewish Association for Services for the Aged; Jewish Council for Public Affairs; Jewish Federation of Metropolitan Chicago; Learning Disabilities Association of America; Legal Action Center; Lutheran Services in America; Massachusetts Coalition of Families and Advocates for the Retarded; Medicare Rights Center; Mental Retardation Association of Utah; Mount St. Joseph Association; National Academy of Elder Law Attorneys.

National Advocacy Center of the Sisters of the Good Shepherd; National Alliance of State and Territorial AIDS Directors; National Alliance on Mental Illness; National Alliance to End Homelessness; National Asian American Pacific Islander Mental Health Association; National Asian Pacific American Women's Forum; National Association for Children's Behavioral Health; National Association for the Advancement of Orthotics and Prosthetics; National Association of College and University Business Officers; National Association of Councils on Developmental Disabilities; National Association of County Behavioral Health and Developmental Disability Directors; National Association of Health Advocacy Programs; National Association of Independent Colleges and Universities; National Association of Mental Health Planning and Advisory Councils; National Association of Pediatric Nurse Practitioners; National Association of People with AIDS; National Association of School Psychologists; National Association of Social Workers; National Association of State Head Injury Administrators; National Association of State Long-Term Care Ombudsman Programs.

National Association of State Universities and Land-Grant Colleges; National Association of Student Financial Aid Administrators; National Citizens' Coalition for Nursing Home Reform; National Committee to Preserve Social Security and Medicare; National Council for Community Behavioral Healthcare; National Council of La Raza; National Council on Aging; National Council on Independent Living; National Disability Rights Network; National Down Syndrome Congress; National Family Planning and Reproductive Health Association; National Health Council; National Health Law Program; National Immigration Law Center; National Indian Health Board; National Latina Institute for Reproductive Health; National Mental Health Association; National Multiple Sclerosis Society; National Nursing Centers Consortium; National Organization of Social Security Claimants' Representatives.

National Partnership for Women & Families; National Partnership for Women and Families; National Respite Coalition; National Senior Citizens Law Center; National Spinal Cord Injury Association; National Women's Health Network; National Women's Law Center; NETWORK, a National Catholic Social Justice Lobby; NISH; Oregon Center for Public Policy; Paralyzed Veterans of America; Parent Hospital Association, Sonoma Developmental Center; Parents & Friends of Hammond Developmental Center Association; Physicians for Social Responsibility; Presbyterian Church (U.S.A.) Washington Office; Presbyterian Church of Christ; ProCare3; Project Inform; Protestants for the Common Good; Providence Health System.

Research Institute for Independent Living; RESULTS; San Francisco AIDS Foundation; School Social Work Association of America; Service Employees International Union; Society for Adolescent Medicine; St. Mary's Residential Training School; State Associations of Addiction Services; State PIRGs Higher Education Project; The Arc of the United States; The Episcopal Church; The Well Project; Tourette Syndrome Association; Treatment Access Expansion Project; Tuberous Sclerosis Alliance; UHCAN Ohio; United Cerebral Palsy; United Church of Christ; United Food and Commercial Workers International Union; United Methodist Church.

United Spinal Association; United States Psychiatric Rehabilitation Association; United States Conference of Catholic Bishops; USAction; Voice of the Retarded; Voices for America's Children; Volunteers of America; Welfare Law Center; YWCA USA.

The following organizations have expressed concerns about the bill:

Alzheimer's Association; Ambulatory Pediatric Association; America Dental Hygienists' Association; American Association Medical Colleges; American Baptist Churches USA; American Bar Association; American Cancer Society; American Dental Education Association; American Dental Hygienists' Association; American Friends of Service Committee; American Orthopsychiatric Association; American Pediatric Society; Association of Medical School Pediatric Department Chairs; B'nai B'rith International; Call to Renewal; Child Neurology Society; Children's Health Fund; Church Women United; Churches of the Brethren Witness/Washington Office; Council of Women's and Infants' Specialty Hospitals.

First Candle; International Hearing Society; LCCR; March of Dimes; National Academy of Elder Law Attorneys; National Assembly on School-Based Health Care; National Association for the Advancement of Colored People (NAACP); National Association of Community Health Centers (NACHC); National Association of Police Organizations (NAPO); National Council of Churches; National Council on Independent Living; National League of Cities; National Puerto Rican Coalition; Union of Reform Judaism.

Mr. BAUCUS. This is a lengthy list. I don't have time to read them all.

The groups that start with A, such as AARP, for example, are at the head of the list. This is seven pages. Let me guess how many groups per page. It is about 30 groups per page at least, in groups of seven. So 30 times 7 is a couple hundred groups that are opposed to this bill—for good reason. This is not something they willy-nilly just came up with; they have looked at this bill. They have concluded, as I have, that we should not pass this bill. We don't have to pass it now. We can do it next year. We should go home for Christmas.

This is some Christmas present. This bill cuts Medicaid to people, pulls the rug out from under the lumber industry, and it hurts low-income people trying to get to work and off of welfare. Some Christmas present. We should go home for Christmas and not pass this legislation and then come back next year and do the right thing.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I understand Senator CHAMBLISS is on his way over. I will yield when he gets here. I want to respond briefly to what the Senator from Montana said. I have respect for the Senator. He is one of the Members who is always constructive in trying to move the process forward in a way that is usually very bipartisan. But I do believe on the issue of the Medicaid accounts, he is inconsistent with where we ended up.

The Medicaid issue is really at the essence of this effort to reduce debt through this deficit reduction bill. Why is that? Well, because we know as we look into the outyears, the biggest problem we have as a Federal Government from the standpoint of fiscal policy is that we have these huge obligations. Yesterday I said it was $44 trillion. I am told by the staff that the Comptroller's office said it is $51 trillion of unfunded liability that the American people—especially our children and our children's children—are going to have to pay in order to support the retired population that is now called the baby boom generation. Of that $51 trillion—a trillion dollars is an impossible number to conceive, and $51 trillion is absolutely inconceivable. But of that number, the vast majority of it, up to $30 trillion, is health care costs in two accounts, Medicare and Medicaid.

Why is that? It is because the retiring generation is so huge that the demands it is going to put on the system are so dramatic that essentially it is going to bankrupt our children if we do not do something about addressing it. We know that by the year 2030, under the present flow of spending, the Federal Government, which today takes about 20 percent of the gross national product for everything we do—national defense, education, laying out roads, environmental protection, health care, and veterans care—because of this retiring generation, 20 percent of the gross national product will have to be spent on 3 accounts: Social Security, Medicare, and Medicaid. There is no way you can tax your way out of this unless you are willing to dramatically increase the taxes on our children and our children's children. You have to reform these programs.

This bill put our toe in the water, hopefully up to our ankles, on one of those three major entitlement accounts, specifically Medicaid. The proposals on this bill on Medicaid were proposals that essentially came to us as a Congress from the Governors in a bipartisan commission. The Governors got together and said, How can we improve the Medicaid Program? How can we give more services to more children but do it more effectively, thus costing less money and having the rate of growth of Medicaid slow a little bit. They came forward with a number of proposals which we have essentially adopted in this bill.

The practical effect of that is we will expand coverage to children. It is expected that about a million children who are not covered today under Medicaid will be picked up under this bill as a result of giving the Governors more flexibility.

As the Senator from Montana said, the concept that we are savaging the Medicaid accounts during the Christmas season is not defensible on its face. We will spend $1.2 trillion over this next 5 years on Medicaid. We are talking about reducing Medicaid spending during that period by $5 billion.

To give you a chart that reflects what type of reduction that is, the green line is Medicaid spending. The red line is Medicaid spending after this event, after this passes. There can be no difference because Medicaid spending goes up so dramatically during this period. When you reduce it by $5 billion, you literally are not dramatically reducing the Medicaid benefits—literally. The numbers still go up. You cannot even calculate it in terms of a digit. For example, Medicaid spending is going to go up 40 percent during the next 5 years. After this bill, Medicaid spending is going to go up 40 percent in the next 5 years. So this representation that we are doing some sort of terrible event to Medicaid is absurd on its face because the numbers don't defend it. What is in this bill that is important to Medicaid is the new policy which is going to give the Governors more flexibility, which is going to keep Medicaid from being abused and gamed by people, people who are worth a million dollars or hundreds of thousands of dollars, basically taking their obligations to pay for their retirement and putting it on the American taxpayer generally. That will end. Call it spend down. Governors will be given flexibility to try to reorganize their Medicaid Programs so they can deliver more services to more people.

I have to disagree strongly with the representation that somehow we have cut Medicaid. We have not cut it. The facts are that Medicaid is going to grow 40 percent over the 5-year period. I wanted to get a little more of a reduction in the rate of growth. I wanted to see us do $15 billion, but we compromised, as a result of a lot of different influences around here, at $5 billion on a $1.1 trillion base. It does not even show up as a statistical change over those 5 years.

But what is important in this bill is the policy, the policy which in later years, and hopefully as we move through this period, will allow Governors to deliver this program more effectively to more people at less of a rate of growth. We have to address this. We can continue to bury our heads in the sand, and we have done that now for 8 years. We have not addressed the entitlement accounts for 8 years. This is the first time we tried to step on this area, which represents 60 percent of Federal spending, but if we continue to bury our heads in the sand and not pass this small step forward in the area of trying to put better policy in place for these health care programs, all we are doing is saying to our children we don't have the courage to step up and try to give you a chance to have a decent lifestyle. We are going to take advantage of you. We are going to tax you so when you want to send your kids to college, you will not be able to afford it or when you want to buy a house, you won't be able to afford it because your tax burden will be so high to support this generation, it will be so huge.

It is not right for policymakers to take this position. We should step onto this turf called entitlement spending. That is what this bill does and that is why I think we should pass it.

I do not think Senator CHAMBLISS has arrived, so I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, in many ways the chairman has made my case, because the hard reality here is this bill does virtually nothing to address the deficit and debt crisis we face as a Nation. This bill has $40 billion of cuts over 5 years. The first year the cut is $5 billion in a budget of $2.5 trillion.

According to the math I learned growing up in Bismarck, ND, that is reducing the spending by 1/500 of the budget. Of course this is only chapter 1 of reconciliation. Chapter 2 is going to cut taxes, either, according to the Senate version, $70 billion, or the House version, $95 billion. In the House version in the first year they would cut the spending $5 billion and cut taxes $21 billion. Guess what. The deficit is not reduced. The deficit is increased. The deficit is increased, not reduced by this package of reconciliation.

But it is not just the first year or the 5 years; the thing nobody is paying any attention to is the growth of the debt. Last year the deficit was $319 billion, but that is not how much the debt increased. The debt increased by $551 billion. Under this budget plan over the next 5 years, the debt of this country is going up $600 or $700 billion a year, each and every year. We are going from a total debt in this country of $7.9 trillion at the end of last year to a projection, by those who are the advocates of this plan, of $11.3 trillion 5 years from now.

Is anybody paying attention? This is a budget that is going to increase the debt of the country, according to its own advocates, by $3.4 trillion. There will be $3.4 trillion of added debt. And they have a title of "deficit reduction"? No. That is not going to pass any test. It is not deficit reduction we are talking about in this budget plan we are now in the final steps of considering.

Mr. President, I notice Senator CHAMBLISS is on the floor. He is supposed to be having this time. I will alert colleagues—is Senator CHAMBLISS prepared to proceed?

Mr. CHAMBLISS. Yes. I am.

Mr. CONRAD. Why don't we go to Senator CHAMBLISS. My understanding is the Senator will take 15 minutes; is that correct?

Mr. CHAMBLISS. Probably not that long, but certainly no more than that.

Mr. CONRAD. Whatever time the Senator consumes, we will go to Senator KENNEDY for 15 minutes and then to Senator SCHUMER, so colleagues have an understanding of where we are headed. Then my understanding is we try to slot in Senator STABENOW, and then Senator ALLARD, we have been told, would like to speak at 11:30, and then Senator STEVENS at noon.

We have not gotten a formal agreement on that, but that is the informal agreement at this point. If Senator GREGG has a need to respond to something in between, he would certainly have that right.

Mr. GREGG. Mr. President, that is a good outline. I note that if Members want to speak, it would be nice if they would give us a call and tell us they want to speak, and we will make sure they have time to speak. We want to make sure everybody has the time they need to get their points across.

Do I understand that the Senator is yielding time off the bill on his side to Senator CHAMBLISS?

Mr. CONRAD. Mr. President, on his side I think will be the most appropriate.

Mr. GREGG. Mr. President, I yield whatever time Senator CHAMBLISS uses.

Mr. CHAMBLISS. Mr. President, I will say nice things about the Senator from North Dakota, so it can come from either side.

I rise in support of S. 1932, the Deficit Reduction Omnibus Reconciliation Act of 2005. Yet I must express some serious concern about the final results of the agriculture title which was negotiated by the House and Senate leadership. It was ultimately decided upon, frankly, by the leadership of the other body, but we would not be where we are today without the leadership of Senator GREGG as chairman of the Budget Committee.

This has been a long and very arduous process that we have gone through. It has taken us literally almost 12 months to get to where we are today. I think, at the end of the day, we are hopefully going to pass a meaningful deficit reduction package that, while not perfect, does move us down the road to getting our fiscal house in order.

I say to Senator CONRAD, who is a member of the Agriculture Committee, that while he didn't agree with what we were doing relative to budget reductions in the agriculture title of the bill, during the committee markup, he was very cooperative and allowed the committee to expeditiously report our title to the budget committee. That is a sign of leadership where, even when we disagree, we can still do what is best and that is bring up issues such as this for debate. For that I commend Senator CONRAD and thank him for his cooperation in that regard.

The good news is that the reductions contained in the conference report will reduce the Federal Government's overall deficit and borrowing. Unfortunately, the reductions in the agriculture title are not balanced nor fair. I stated throughout the reconciliation process that my ultimate goal was for all components of the farm bill—commodities, conservation, and nutrition—to be fairly treated. This package does not accomplish that goal.

I am pleased the final package maintained the Senate position of no reduction in the Food Stamp Program. At the end of the day, we decided that was fair and equitable because the Food Stamp Program benefits not just those people who need food stamps, but it is also extremely beneficial to farmers.

However, continued insistence of no extension of the commodity title of the farm bill by the leadership of the other body, the White House, and the U.S. Department of Agriculture has resulted in a package that now contains obvious inequities.

The Senate strived to preserve the agriculture baseline for all farm bill programs with temporary cuts over multiple years. In doing so, commodity programs, conservation, research, and rural development would have contributed in an equitable manner to deficit reduction. These options, along with the extension of the farm bill, would have protected the baseline, treated all components of the farm bill equally, and provided security for farmers in future years. However, the leadership of the other body insisted on concentrating deep temporary cuts in the 2006 crop-year only, rather than slight multiyear, across-the-board cuts to commodities which would allow us to have several options to extend the commodity program baseline as with conservation.

I cannot agree to impose such a heavy financial burden that hits producers still reeling from a season of crop loss and double costs for irrigation, fertilizer, and diesel. Until the bitter end, the leadership of the other body rejected several Senate alternatives, forcing the conference committee to drop multiple-year commodity program reductions.

The imbalance of this package is apparent on its face. While the baseline is preserved for some conservation programs through extension in the law, the House Agriculture Committee opposed similar treatment for the commodity title. This final package contains a short-term reprieve from cutting crop payments, which means commodities will not be protected like conservation during reauthorization. This will be a big problem for farmers as Congress begins to write the farm bill in 2007. The constant critics of agricultural programs will blame farmers for escaping their share of deficit reductions, as commodity support programs are about to be considered for reauthorization.

In addition, budgetary pressures on the next farm bill will be enhanced just as negotiations should be concluded in the World Trade Organization. We have already seen our trading partners and nongovernmental organizations target one commodity, cotton, which is widely grown in my home State of Georgia, with many other commodities within their target sights. With little shared sacrifice in budget reconciliation, I am concerned that critics at home and abroad will note that the United States has not moved forward on true reform and will call for deeper and more binding commitments in order to enforce the minimal amount of discipline.

We cannot say with the same vigor as we did when the Senate passed S. 1932 that the United States is already reducing the overall level of trade-distorting domestic support. Those who have successfully challenged our farm programs will be given added incentive to attack other commodities, and this may, and likely will, have an even more serious and severe impact on family farms across the country.

The conference agreement includes reductions for fiscal years 2006 through 2010 for commodities, conservation, energy, research, and rural development programs. Specifically, it includes no extension of commodity programs and no across-the-board cuts for commodity programs. It reduces direct advance payments to 40 percent for the 2006 crop-year and to 22 percent for the 2007 crop-year. The Cotton Step 2 Program is terminated effective August 1, 2006.

The Milk Income Loss Contract Program is extended for 2 years at a cost of $998 million but is not subject to the 2.5-percent reduction offered and proposed by the Senate.

The Environmental Quality Incentives Program is extended in law to 2010, but the funding is reduced $1.27 billion in fiscal years 2007 through 2009. It is increased to $1.3 billion in fiscal year 2010.

The Conservation Security Program is extended in law to 2011, but baseline funding is kept at $1.954 billion for fiscal years 2006 through 2010 and at $5.65 billion for fiscal years 2006 through 2015.

Additionally, funding for the Small Watershed Rehabilitation Program is rescinded.

The Renewable Energy Systems and Energy Efficiency Improvements Program is limited to $3 million in fiscal year 2007. Unspent obligated funds from prior years from the Value-Added Agricultural Product Market Development Grant Program and the Enhanced Access to Broadband Telecommunications Services in Rural Areas Program are rescinded.

Funding for the Rural Business Investment Program and the Rural Strategic Investment Program and the Rural Firefighters and Emergency Personnel Grant Program are also rescinded.

Authorized funding for the Initiative for Future Agriculture and Food Systems is eliminated for fiscal years 2007 through 2009.

Had the commodity title shared more equitably in the deficit reductions, these programs that are being rescinded, would not have experienced such deep cuts.

My deepest disappointment is with the lost opportunity of this negotiation. We had the opportunity to reaffirm our commitment to balancing the equities among all interests involved in the farm bill and establishing the trust that will be needed to reauthorize the farm bill in 2007. However, this process, once again, confirms my steadfast admiration for America's farmers and ranchers who are willing to share in reducing the deficit burden on their children and their grandchildren.

I want to reiterate my intent in reauthorizing the next farm bill to provide a balance to all of America's agricultural interests and end with a product that protects all of agriculture in rural America.

I close with one quick comment on the WTO negotiations which concluded in Hong Kong over the weekend but are not totally concluded at this point in time.

I commend Ambassador Rob Portman, our U.S. Trade Representative, and his staff, particularly his Chief of Staff, Rob Lehman, who have worked so hard since Ambassador Portman was appointed to this position to try to ensure that while American agriculture participated in the discussions relative to trade-distorting issues at the WTO, he never, ever made a commitment that would sacrifice the interests of American agriculture.

It is unfortunate that once Ambassador Portman put a meaningful proposal on the table to end the discussions with the European Union, the European Union made a conscience decision that they did not want to see any change in their substantive program from an agricultural perspective. Therefore, the European Union basically brought down the talks leading up to Hong Kong, and I do not think we could say in any way that anything meaningful came out of the discussions that were concluded in Hong Kong over the weekend.

It is my hope that the European Union will go back to the table and engage in meaningful discussions that hopefully will lead to some agreements that will be of benefit both to farmers in the European Union and obviously, from a parochial standpoint, farmers in the United States. I firmly believe that the future of American agriculture lies in our ability to export what we know to be the finest agricultural products grown anywhere in the world.

I yield the floor to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. How much time does the Senator from Massachusetts seek?

Mr. KENNEDY. Mr. President, I expect maybe about 12 minutes. If I could get 15 I will try and yield some back.

Mr. CONRAD. I am happy to yield 15 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator from North Dakota. I hope both our colleagues, and Americans, will have a chance to listen carefully to his assessment of the whole budget process that we have been faced with in the Senate. It has very important implications for the American people. It will impact the financial condition of our Nation and of Americans and its relationship to the world economy. Most of all, I hope our colleagues and friends have listened to him carefully, talking about what the issue is before us in the Senate today before we vote.

As I have said previously, the budget is a question of priorities. The Republican proposal is going to give $95 billion in tax giveaways, the vast majority of which will benefit the wealthiest individuals, with just crumbs for individuals who earn below the $100,000. And who is paying for it? The neediest people in our country.

The conference report leaves the tax cuts for the rich under the Christmas tree but leaves middle-class families out in the cold. This is what we are talking about: families who make over $1 million will get $32,000 and families with incomes under $100,000 will get $29.

Now we have to ask, where will we get those resources? How are we going to come up with that money? Those who have been the most vulnerable in our society are the ones who will be penalized, particularly the elderly and needy who rely on the Medicaid Program and also the young people who rely on the student financial aid program.

The portion of the Senate bill reported by the Health, Education, Labor and Pensions Committee passed on a very strong bipartisan basis, unanimous on the education features of it. The bill included $12 billion in new student aid and benefits, $8 billion of this was put to need-based aid, which would be available to young people, to effectively raise the Pell grant, which is so important for more than 5 million families in this country, from $4,050 to $4,500. The bill also provided some additional assistance for those who were focusing on the study of math, science, and high-need foreign languages, basically a recognition and a response to the need to keep America competitive with China and India, and globally, in terms of engineering and other math and science graduates. So we decided to provide some stimulus and additional help to encourage people to study math and science. But we did it in addition to providing an increase for all needy students.

Most of the hearings that we have had in our committee, under the chairmanship of Senator ENZI, have focused on college access and affordability—and I pay tribute to him both for his leadership in getting this proposal through the Senate, and also for battling for any help for students in the conference.

We passed, in the budget resolution last January, a very significant increase for education that would have helped all needy students. The Senate Republicans and Democrats went on record to say in our Nation's budget we want to allocate additional resources to education. We increased it by $5.4 billion, and that was struck down by the Republican leadership over in the House of Representatives and completely lost in the conference report to that bill. So this has been a long battle to try and provide some additional help.

What has come back from the conference in this reconciliation bill is no different. It is completely unsatisfactory. The conference completely struck our $450 increase for Pell students, putting the maximum Pell grant right back down to $4,050, where it has been for four years. The conference included some increase for individuals who are going to study math and science. As I mentioned, math and science is important, but we cannot focus on it at the expense of all other students. Most thoughtful educators believe that one has to begin with math and science in the very early grades. We are going to do something about math and science, and we have a bipartisan group that want to improve math and science education, but the approach in this legislation is not the answer to the challenge faced by our Nation.

This year, over 5 million students rely on the Pell grant to afford the cost of college. In the Senate bill, we gave additional aid to every one of those students. The bill that returned from the partisan meetings with the House takes that aid away from millions of students. In order to qualify for the additional aid in this report, students have to attend full time. Over 40 percent of the students who attend public 4-year colleges in a degree-granting program attend part time, so they will see none of the assistance that is provided in this bill. Those are hard-working students who have to work 25, 30 hours a week or more, one or two jobs, in order to put themselves through school. They will see no help from this bill.

To get any of this additional assistance, the students must maintain a B average. Is this the message we want to send to the students, that their aid disappears if they slip to a B-minus? How does this help the students? To get any additional grant aid in their junior or senior year, they must major in math, science, or engineering.

I strongly support and encourage more students to study math and science but not at the expense of other students. What does this say to the young people who want to be teachers? You are out of luck. What does it say to the millions of people we need to be nurses? You are out of luck. You do not benefit one cent with this particular program.

The Senate bill took a balanced approach, and made sure that all the children who needed our help got an increase in aid. That is not what came out of conference.

I think that is sending a message to young people: Don't bother spending your time being a teacher anymore, don't try to study to become a nurse because that extra aid and assistance will not be there.

Federal need-based aid was established to help all low-income students afford the higher education of their choice. That was the need. That was the reason for it. We said as a country that we have young people of talent and ability who can gain entrance into the best schools and colleges, but they cannot quite put it all together because their families can't afford it along with rest of their basic needs. We said, OK. They are able to gain entry into the schools and colleges of their choice, and we will help them afford it. Through a combination of the grants and aid programs, work-study programs, and their summer income, they will be able to continue through their degree. Not only did these individuals gain, but the Nation gained. The whole country reaped the benefit, because we said that every student matters and every student deserves our help. That is not what this conference report says.

During this holiday season, we should be focused on the true meaning of Christmas and the special thoughts that Americans of many faiths have at this time of year for their families, their friends and neighbors, and peoples everywhere. We're reminded that each of us as an obligation to care for one another and to help those in need—to lend a hand to the least of those in our midst. As the Bible teaches us, we should "Love thy neighbor as thyself."

But this budget reconciliation bill does the opposite. It robs from the poor to make room for tax giveaways to the rich. Wealthy Americans, banks and drug companies are big winners under this deal. Those who need hope and help are the big losers. It's a bill Scrooge would love.

Sadly, as we complete this measure at Christmastime, it will indeed be the neediest members of our society who have to tighten their belts. Republicans have decided to leave tax giveaways for the wealthy under the Christmas tree, while leaving middle-class families out in the cold. Those with incomes over $1 million will receive an average of $32,000 in tax cuts. But those with incomes under $100.000 will receive an average of only $29. Bah humbug.

Children and families struggling to pay for health care will be among those who are hurt the most, and 46 million Americans lack health insurance, but this bill will increase costs and cut health benefits for millions of low-income families. It slashes Medicaid funding by $6.9 billion over the next five years, and $28.4 billion over 10 years.

Under this administration, the number of uninsured has already risen to historic levels. But this Republican bill will send the level even higher, by raising costs and cutting benefits for low-income families who rely on Medicaid for needed health care.

The conference report is actually Worse than the Republican House bill in many respects. It would take away the guaranteed benefits for the 25 million children who receive health care through Medicaid by creating an ambiguous new state option called "flexible benefits." It hurts seniors by increasing the prescription drug co-payments beyond those in the House bill, allowing states to charge up to 20 percent of the cost of each drug, beyond the means of many low-income Medicaid families. It indexes cost-sharing to medical inflation, a much higher rate of increase than family wages. It allows states to increase cost-sharing up to four times the amount allowed under current law.

The majority of the savings from these provisions don't come from the actual co-payments and premiums paid by Medicaid enrollees. They result from families using fewer medical services, because the increased costs will put the health services they need beyond their reach.

Unlike the Senate bill, which made the majority of its cuts by reducing overpayments to drug companies and HMOs, the conference report cuts Medicaid by limiting the access of low-income families to needed health care. Instead of getting rid of the outrageous slush fund for Medicare HMOs, it cuts health care for poor children.

The Republican Congress is telling hard-working Americans everywhere that they don't care about the hardships they face. Their policies encourage failure, not hope for a better life.

This bill means that mothers trying to hold down a job and put food on their table will go without the child care assistance and child support they need and deserve.

Behind closed doors, Republicans also have added a welfare reauthorization in this bill despite their repeated efforts to block debate on the reauthorization in the Senate. Democrats supported moving forward, but Republican reluctance to spend money on our most vulnerable citizens kept the leadership from bringing the bill to the floor.

So House Republican leaders decided to avoid the standard legislative process by unfairly slipping their welfare bill into this massive budget reconciliation bill.

The bill includes new work requirements without adequate child care funding. By eliminating the current caseload reduction credit, the bill requires over half the States to increase the number of welfare recipients in federal work activities by two-thirds in 2007, unless they have a substantial drop in their welfare caseload over the next year. Despite this increase in required work, the bill fails to allow child care funds to keep pace with inflation. The bill under-funds child care by $11 billion in terms of what is needed to maintain current purchasing power and to meet the increased work requirements.

In Massachusetts alone, 13,500 children are already on waiting lists to receive these essential services. Under this bill, the situation can only get worse.

The bill will make life harder for poor children who rely on child support to survive. It greatly weakens enforcement efforts to make dead-beat dads live up to their responsibilities and provide for their children. Under the Republican plan, nearly $2.9 billion will be lost in child support payments over the next five years and $8.4 billion in over the next ten years.

In Massachusetts, $58 million in child support payments will be lost over the next five years, and $170 million over the next ten years.

These are the Nation's poorest children. They are vulnerable and in need. But the Republican plan would abandon them. Merry Christmas.

Families having to choose between putting food on the table and keeping warm this winter are also big losers under this bill.

In Massachusetts, the Low Income Home Energy Assistance Program, LIHEAP, serves 134,000 needy families. These families it will receive a maximum benefit of $765 for the current heating season. This is enough for only one tank of oil. It takes at least two to four tanks to make it through the winter.

Unfortunately, under this bill, low income families struggling to make it through the winter won't see any additional funds until fiscal year 2007. The bill cruelly ignores the obvious fact that the heating crisis is here now.

They claim that they have provided for LIHEAP in other bills. But when you add up the numbers, they've only provided $2.4 billion in regular funds and $1.6 billion in emergency funds. The emergency funds are given out at the discretion of the President, so it's possible that states will see little to none of the $1.6 billion this year. Obviously, the Republican majority had no intention of fully funding LIHEAP at its authorized level of $5.1 billion.

Republicans mouth the same old rhetoric about wanting to help our neediest citizens. But when it comes to putting their money where their mouth is they fall short—very short—and it's the nation's poor who suffer.

Students struggling to get a college degree are the big losers as well. We know that education is the key to keeping America strong, secure, and competitive. Now, more than ever, we must embrace and invest in education to advance America in the years ahead.

To do so requires a commitment to educational opportunity for all—especially for talented youth who have so much potential, but need help affording a college degree.

The cost of tuition and fees at public colleges has skyrocketed in recent years and Pell grants have fallen far behind. Under current law, this will be the fourth year in a row that the maximum Pell grant has not been increased.

For countless families, the gap is so great that college is out of reach. Over 400,000 talented, qualified students each year can't go to a 4-year college because they can't afford it, 170,000 don't attend college at all. That's unacceptable.

But in the face of this crisis, the Republican budget deal abandons the Senate provisions that increased the maximum Pell grant by $450.

It includes the biggest cuts in student loan programs ever, in order to pay for $13 billion in tax giveaways for the richest Americans.

The Senate bill included $8 billion to increase grant aid for all Pell grant recipients. In contrast, the small amount of funding for student aid included in this Conference report—$13 billion for tax cuts and only $3.75 billion for students—will only be available for a very small number of students eligible for Pell Grants.

This bill abandons the government's long-time commitment to ensuring that the neediest students get the most help. It imposes so many hurdles to new aid that it is sure to leave behind those who need our help the most to stay in school.

Under this proposal, a single mother who can attend college only part-time because she has to work 40 hours a week to put food on the table will not be eligible for a penny in new grant aid.

Under this proposal, a student who did not have the opportunity to take rigorous courses in high school because this administration underfunded the No Child Left Behind Act would not be eligible for a penny in new grant aid.

Under this proposal, a student who decides that the best road to a good job is to pursue a credential, such as a dental hygiene certificate, would not be eligible for a penny in new grant aid.

In today's global economy, we need stronger incentives for students to study math and science, and the Senate bill did that.

We also need to address the broader crisis of hundreds of thousands of qualified students who never go to college, because the costs are too high and student aid is too low. All qualified students should get the help they need to achieve the American dream.

Take the case of Carli, from Hampton, NH. She's a junior at a public college in the State, and she already has $25,000 of debt. She relies on her Pell grant, but even with that, she has to work 20 hours a week during the school year and 40 hours a week in the summer.

She writes, "This is not a question of not working hard enough. It has been an uphill battle to put myself through school. I am happy to do it, but I just want to know that when I'm through, there is a place for me in the American Dream too."

Becky, from Holyoke, MA is a junior in college and is already in $24,000 of debt. She's alarmed at how high her debt will be when she graduates.

She writes, "We students are the future of the USA. By putting us at risk and in a financial crisis, Bush and his cronies are putting the future of the USA at risk."

In addition to abandoning so many students who so desperately need our help, this bill also rejects our Senate-passed proposals to increase competition in the federal loan programs. As a result, private lenders will still have their unfair advantage over the more cost-efficient federal loan program. The end result will be increased costs to taxpayers.

The actions taken today hand the keys of the student loan program over to profit-hungry banks and lenders. Congress missed the opportunity to say students, not banks, should be given a break.

American students deserve better. America deserves better.

Mr. President, I ask unanimous consent to have printed in the RECORD this letter signed by over 146 organizations that are against the reconciliation report.

Also, I ask unanimous consent to have printed in the RECORD a letter from the U.S. Conference of Catholic Bishops that finds that this is basically an immoral, unfair, and unjust budget.

I also ask unanimous consent to have printed in the RECORD a letter from a the educational groups who oppose this report.

There are even more groups than these who have joined in to oppose this bill. I have not seen groups as united as these in their opposition to the way this report fails to prioritize the needs of the American family. And they speak loudly and clearly.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES CONFERENCE
OF CATHOLIC BISHOPS,
Washington, DC, December 13, 2005.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: Last February in my capacity as President of the United States Conference of Catholic Bishops, I wrote asking you to give priority attention to the needs of poor and vulnerable people as you developed a budget for our nation. Congress is now nearing completion of the budget with reconciliation bills that reflect not only economic policy preferences but basic moral choices as well. As Congress prepares to resolve the differences between the House and Senate versions of the spending reconciliation package, I wish to express deep concerns and disappointment on the impact of certain proposed cuts on our most vulnerable brothers and sisters. At the same time, the Bishops' Conference is grateful that both bills take steps toward helping those who have suffered due to Hurricane Katrina.

In my previous letter, I urged you on behalf of the Bishops' Conference to develop a budget plan that would guarantee adequate funding to assist those who are struggling to move beyond welfare, to educate their children, to gain access to health care or to overcome hunger and homelessness. Unfortunately, the budget proposal developed by the House of Representatives includes provisions that fall well short of that standard. We urge you to choose the Senate's approach, and not include these provisions in the final bill.

We urge you to oppose harmful cuts to the Food Stamp program included in the House bill that will result in taking food away from children and others who are being helped now. According to the Congressional Budget Office the House proposal would result in over 250,000 children and adults losing access to Food Stamps. Just under one-third of those would be legal permanent residents who will lose eligibility if the five year waiting period is extended by two years. The Bishops' Conference strongly supported President Bush's successful effort to expand access to Food Stamps for legal immigrants in the last farm bill. We strongly oppose retreating by making legal immigrants wait an additional two years for eligibility.

The Bishops' Conference strongly recognizes and affirms the sanctity of human life from conception to natural death. Access to adequate health care is a basic human right and an essential measure of respect for human life and dignity. No one should be denied access to needed health care because of the inability to pay. Allowing states to increase the burden of copayments, deductibles and premiums on Medicaid beneficiaries-including some children and pregnant women—and to erode federal standards of core benefits will have that effect. We urge you to reject including these proposals from the House bill in the final package. Attempts to save money by making it harder for low-income and vulnerable people to get the health care they need is simply unacceptable.

The House bill also includes provisions to reauthorize the Temporary Assistance for Needy Families (TANF) welfare program. The Conference has not supported earlier iterations of the House TANF proposal because of concerns about how it could impact low-income families and children, given that it increases work requirements, including for mothers of children under 6 years old; fails to provide sufficient child care funding; and fails to restore TANF benefit eligibility to recently-arrived legal immigrants. TANF reauthorization should be considered on its own terms to allow full review of these and other important policy decisions, instead of including it in a budget-cutting exercise.

The House bill, by cutting federal funding for state child support services, will make it harder for states to collect child support for low and moderate-income families and result in $21 billion less in child support being collected for children and families than under current law, according to the Congressional Budget Office. This proposal is not good for children or families, and we urge you to reject it. Child support payments are crucial to the economic viability of some families, keeping them out of poverty and off public programs. They can also encourage parental responsibility and help to maintain the connection between children and their non-custodial parent.

In addition to these areas where we ask you to follow the Senate bill, we are concerned with the approach both bills take in important areas of agriculture policy. First, the bishops have stated that protecting God's creation must be a central goal of agricultural policies, and we support programs that promote soil conservation, improve water quality, protect wildlife, and maintain biodiversity. We oppose proposals in both bills to reduce spending on key agriculture conservation programs.

Second, we are also deeply disappointed that neither bill begins the process of limiting U.S. farm supports and targeting them to those who need them the most—small and moderate-sized farms facing periodic price shocks or unpredictable natural disasters. Such a policy is needed so poor farmers around the world can sell their products and support their families, and to help family farms remain competitive in a volatile market.

Finally, the Bishops' Conference is pleased that both the House and Senate bills call for 100% federal financing for health care for victims of Katrina. The House provision goes farther than the Senate bill, providing for full federal Medicaid funding not only for Katrina victims and evacuees, wherever they now live, but for all residents of Louisiana, Mississippi and the most affected counties in Alabama. We urge you to support the more generous House language.

The federal budget is more than a matter of accounting; it reflects our values and priorities as a nation. The budget choices you make in the coming days will directly affect the lives of real people, especially "the least of these" in our midst. This is a time for a genuinely bipartisan commitment to focus on the common good of all, and on the special needs of the poor and vulnerable in particular. On behalf of the United States Conference of Catholic Bishops, I urge you to make that commitment by working for a budget that does not neglect the needs of the most vulnerable among us.

Sincerely,

Most Rev. WILLIAM S. SKYLSTAD,
Bishop of Spokane, President.

AMERICAN COUNCIL ON EDUCATION,
Washington, DC, December 19, 2005.

DEAR SENATOR: The higher education associations listed below, representing the nation's two- and four-year public and private colleges and research universities and the students who attend them, strongly oppose the conference report to S. 1932, the FY 2006 budget reconciliation legislation. The decisions made regarding federal student loans in the conference committee pay for deficit reduction by sending the bill directly to America's college students and their parents.

Fully $12.7 billion—or nearly one-third—of the $41 billion in cuts contained in the reconciliation bill are derived from the student loan programs. This is the biggest cut in the history of the federal student loan program.

In addition, the legislation creates a new source of competition for scarce Pell Grant and campus-based aid grant funds, while simultaneously destabilizing the delivery of the federal student loan funds. This happens as a result of the bill's transfer of the "Section 458" administrative funds from the mandatory to the discretionary portion of the budget, a $600 million annual expenditure.

On the plus side, the bill uses a small portion of the student loan cuts to create two new grants for students majoring in math, science, and foreign languages; reduce loan origination fees; provide a modest increase in borrowing limits; and make improvements in the need analysis system. Ultimately, however, these provisions are too small, and in the case of one of the grant programs, far too complex and restrictive to offset the damaging consequences of the cuts to student loans. We are also extremely disappointed that the Senate's "ProGAP" program, which stood a real chance to expand college access by increasing need-based grant aid funding, was dropped in the conference agreement.

At a time when the nation's future economic prospects are tied more closely than ever before to a college-educated and highly-skilled workforce, it is shortsighted to ask college students and their families to bear so much of the burden of deficit reduction. Student aid programs, including student loans, are an investment in America's future workforce, and now is the time when our nation should be investing more in the higher education of its citizens.

We urge you to vote against the budget reconciliation conference report.

Sincerely,

DAVID WARD,
President.

On behalf of: American Association of Community Colleges, American Association of State Colleges and Universities, American Council on Education, Association of American Universities, Association of Community College Trustees, Association of Jesuit Colleges and Universities, Council for Higher Education Accreditation, National Association of College and University Business Officers, National Association of Independent Colleges and Universities, National Association of State Universities and Land-Grant Colleges, National Association of Student Financial Aid Administrators, The State PIRGs Higher Education Project.

DECEMBER 19, 2005.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: The undersigned organizations are writing to voice our concern about provisions in the conference report on the reconciliation bill. On behalf of the 53 million Americans who rely on Medicaid for their health and long-term care supports and services, we urge the Senate to reject the conference report. In particular, we strongly oppose the provisions of the conference report that would result in higher cost-sharing and fewer benefits for low-income Medicaid beneficiaries.

Congress now has the opportunity to take a stand for America's most vulnerable populations and reject the conference report because it harms low-income beneficiaries. The needs of millions of low-income children, seniors, people with disabilities and working families hang in the balance. We are depending on you to vote "no" on the conference report in order to keep health care accessible, affordable and comprehensive for Medicaid beneficiaries.

Sincerely,

AFL-CIO, AIDS Alliance for Children, Youth & Families, Alliance for Children and Families, Alliance for Retired Americans, Alliance of Louisiana Developmental Centers Families & Friends, American Academy of Child and Adolescent Psychiatry, American Academy of Pediatrics, American Academy of Physical Medicine and Rehabilitation, American Association of People with Disabilities, American Association on Mental Retardation, American College of Nurse Practitioners, American Congress of Community Supports and Employment Services, American Federation of State, County and Municipal Employees, American Federation of Teachers, American Medical Student Association, American Network of Community Options and Resources, American Nurses Association, American Public Health Association, American Therapeutic Recreation Association, Americans for Democratic Action.

Asian American Justice Center, Association for the Mentally Retarded at Agnews, Association of Academic Physiatrists, Association of University Centers on Disabilities, Bazelon Center for Mental Health Law, Beatrice State Development Center Family and Friends Association, B'nai B'rith International, Brain Injury Association, Center for Adolescent Health & the Law, Center for Advocacy for the Rights and Interests of the Elderly, Center for Public Policy Priorities, Center on Disability and Health, Child Welfare League of America, Children's Cause for Cancer Advocacy, Children's Defense Fund, Clearbrook Parents and Guardians Association, Coalition on Human Needs, Community Catalyst, Community HIV/AIDS Mobilization Project/CHAMP, Concerned Citizens For The Mentally Retarded.

Consumers Union, Council for Exceptional Children, Council of Women's and Infants' Specialty Hospitals, Dever Association for the Retarded, Inc., Disability Service Providers of America, District of Columbia Primary Care Association, Division for Early Childhood of the Council for Exceptional Children, Dixon Association For Retarded Citizens, Easter Seals, Epilepsy Foundation, Families USA, Gay Men's Health Crisis, General Board of Church and Society of the United Methodist Church, Generations United, Gray Panthers California, Guttmacher Institute, Health and Disability Advocates in Chicago, HIV Medicine Association, Housing Works, Inc., Hudson Health Plan.

Human Rights Campaign, Hyacinth AIDS Foundation, IDEA Infant Toddler Coordinators Association, Institute for Reproductive Health Access, Jewish Association for Services for the Aged, Jewish Council for Public Affairs, Jewish Federation of Metropolitan Chicago, Learning Disabilities Association of America, Legal Action Center, Lutheran Services in America, Massachusetts Coalition of Families and Advocates for the Retarded, Medicare Rights Center, Mental Retardation Association of Utah, Mount St. Joseph Association, National Advocacy Center of the Sisters of the Good Shepherd, National Alliance of State and Territorial AIDS Directors, National Alliance to End Homelessness, National Asian American Pacific Islander Mental Health Association, National Asian Pacific American Women's Forum, National Association for Children's Behavioral Health.

National Association for the Advancement of Orthotics and Prosthetics, National Association of Councils on Developmental Disabilities, National Association of County Behavioral Health and Developmental Disability Directors, National Association of Health Advocacy Programs, National Association of Mental Health Planning and Advisory Councils, National Association of Pediatric Nurse Practitioners, National Association of People with AIDS, National Association of School Psychologists, National Association of Social Workers, National Association of State Head Injury Administrators, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Council for Community Behavioral Healthcare, National Council of La Raza, National Council on Aging, National Council on Independent Living, National Disability Rights Network, National Down Syndrome Congress, National Family Planning and Reproductive Health Association, National Health Council.

National Health Law Program, National Immigration Law Center, National Indian Health Board, National Latina Institute for Reproductive Health, National Mental Health Association, National Multiple Sclerosis Society, National Nursing Centers Consortium, National Partnership for Women & Families, National Respite Coalition, National Senior Citizens Law Center, National Women's Health Network, National Women's Law Center Network, a National Catholic Social Justice Lobby, Oregon Center for Public Policy, Parent Hospital Association, Sonoma Developmental Center, Parents & Friends of Hammond Developmental Center Association, Physicians for Social Responsibility, Presbyterian Church (U.S.A.) Washington Office, ProCare3, Project Inform.

Protestants for the Common Good, Providence Health System, RESULTS, San Francisco AIDS Foundation, School Social Work Association of America, Service Employees International Union, Society for Adolescent Medicine, St. Mary's Residential Training School, State Associations of Addiction Services, The Arc of the United States, The Well Project, Tourette Syndrome Association, Treatment Access Expansion Project, U.S. Psychiatric Rehabilitation Association, UHCAN Ohio, United Cerebral Palsy, United Food and Commercial Workers International Union, USAction, Voice of the Retarded, Voices for America's Children, YWCA USA, Welfare Law Center.

AARP,
DECEMBER 19, 2005.

Hon. BILL FRIST,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MAJORITY LEADER FRIST: AARP strongly opposes the budget reconciliation conference agreement scheduled to come before the Senate for a vote today. Rather than reflecting the rational provisions of the Senate reconciliation bill, the final conference agreement is irresponsible policy.

The final conference agreement does not ask for shared sacrifice to achieve budgetary savings. Rather it protects the pharmaceutical industry, the managed care industry, and other providers at the expense of low-income Medicaid beneficiaries and Medicare beneficiaries who will foot the bill.

AARP members and your other constituents will question why members of the Senate would vote for a bill that would:

Make it harder for Americans needing long-term care to qualify for Medicaid;

Force some Americans to forfeit their homes in order to pay for long-term care services;

Require all Medicare Part B beneficiaries to pay higher premiums;

Reopen the MMA, not to make improvements in the new drug benefit, but to require those with more income to pay higher Part B premiums sooner; and

Force low-income Medicaid recipients to pay more for their care—and if they cannot afford to do so—to potentially be denied care entirely.

The conference agreement systematically undermines the critical protections built into both the Medicaid and Medicare programs. If the conference agreement becomes law, then over the course of the next few weeks and months we will make sure that our members across the country fully understand the impact of this conference agreement on them and on their families.

We urge the Senate to oppose the reconciliation conference package and urge Congress to instead return to the fair and responsible policies of the original Senate package.

Sincerely,

WILLIAM D. NOVELLI.

Mr. KENNEDY. If you are concerned about children, the children's groups are strongly opposed to this. If you are concerned about education, virtually the whole education community is strongly opposed to it.

If you care about those in poverty and the problems our needy families face, all those groups that combat poverty are strongly opposed to it.

I hope my colleagues will look at what is in this report, listen to the grave concerns of all of these organizations, and join me in strongly opposing this legislation. I hope my colleagues will stand up for the American family and vote against this conference report.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, we are going have a series of speakers.

I wish to respond quickly to the point of the Senator from Massachusetts on a couple of areas.

First, the purpose of the deficit reduction bill is to slow the rate of growth of entitlement programs. It is a net bill. In this bill, there are very major initiatives, especially in the area of education, which are new and fully paid for. There is $40 billion in debt reduction, but the actual reductions in the bill exceed that by a considerable amount.

The new programmatic activity which is fully paid for in the student area is $9 billion of additional funds for student activity.

The Senator from Massachusetts says we should have the best and the brightest have an opportunity to participate and go to good colleges. We agree with that. In fact, we are doing something about it. We are following the proposals of John Adams, a Massachusetts individual of note who helped our country get started and who considered public education and education generally to be the essence of how the American dream is going to be fulfilled. He was totally committed to a meritocracy.

We are essentially saying in this bill, by creating this new program called SMART, if you are a low-income student and you are focusing on math and science, we are going to give you a lot of help. If you can perform well in those two areas, you are going to get an opportunity to really succeed in this country. But we are going to give you the support you need to succeed. We are going to give you $4,000 a year on top of your Pell grant, on top of scholarships, on top of your borrowing capabilities. You are potentially getting $4,000 a year in college if you study math and science and have a low income.

We forgive $4 billion in student loans. We are going to reduce student loan taxes and fees by $4 billion, and we are going to provide $1.9 billion of loan forgiveness for people who go into special areas that we consider important, specifically teaching, primarily in these special education areas. This bill structures a $17,500 loan forgiveness program for people who go into special education teaching. We recognize special education teachers are, first, needed, and second, they are put under tremendous stress. If we can encourage people to go into that field, we want to.

This bill has some very good policy in the area of education. Sure, it isn't as strong as what left the Senate, which was actually worked out within the HELP Committee. That happened with the House. The House was zero, we were at eight, and we ended up essentially at four. This so-called compromise in that $4 billion is a lot of good initiatives in the area of the SMART Program.

I yield to the Senator if he has a question. For the purposes of a question, I will yield time off his time, of course.

Mr. KENNEDY. Mr. President, I reclaim a minute of my time.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KENNEDY. Mr. President, if the Senator would outline the $9 billion of additional aid and assistance to students, if he would outline those figures, they are in complete conflict with the information we have about what is and what is not in this bill. I hope he's not referring to the higher loan limits that students have been given which will result in increased profits for the banks. Is he taking into account the higher origination fees that students in the Direct Loan program may have to pay under this proposal? What about the fact that only 10 percent of the total need-based population is going to benefit at all from the math and science program? If he wants to provide it sometime, or list it, we would be enormously grateful. That's not what our calculations say.

Mr. GREGG. Should I charge this to the Senator's time? Essentially, I am clarifying the Senator's point. I will do this on my time.

Essentially, the origination fees are being eliminated under this bill.

I point out that the initiatives which are in this bill are initiatives which had bipartisan support, the SMART Program specifically. But the new grant and aid for low-income college students is about $3.7 billion in this bill. Lower fees charged to students will cause students to gain about $4 billion in this bill. The program which extends the loan forgiveness program, as I just mentioned, to a number of different categories will generate about $1.9 billion in this bill. That adds up to about $9 billion of initiative in this bill.

We think this bill has some pretty positive initiatives.

As to the loan rates, I didn't insist on staying at this loan rate. I think that came from the other side of the aisle. Did it not? I believe it did. I think the Senator from Massachusetts is the person who basically has locked us into this fixed rate when it should be a variable rate. The variable rate would save our students a lot more money. Unfortunately, my idea of going to the variable rate was rejected in committee by, I believe, the Senator from Massachusetts, who wanted to stay at the fixed rate. That costs how many billions? Over $5 billion, according to my staff. Now, that is a back-of-the-envelope guess, but that is probably in the ballpark.

As to rates, I note to the Senator from Massachusetts, I disagree with the policy in the bill, yes. I wish we had gone to my policy and saved another $5 billion. That would be up to $14 billion to save students.

Mr. KENNEDY. I will include it in the RECORD at the appropriate time. I thank the Senator for trying to make a good case of a bad record. I will include the responses to each of those areas in my remarks.

I thank the Senator.

Mr. GREGG. Does the Senator want to outline who he thinks is speaking next?

Mr. CONRAD. Mr. President, we have Senator SCHUMER next, who will consume 10 minutes. Then we have Senator ALLARD, who probably will be here at that point. We will go to Senator ALLARD for half an hour. Then we would like to go to Senator STABENOW for 10 minutes. At approximately noon, Senator STEVENS for half an hour, followed by Senator MURKOWSKI from 12:30 to 12:50. We hope to slot Senator HARKIN from 12:50 to approximately 1:30.

Mr. GREGG. And Senator COBURN.

Mr. CONRAD. And Senator COBURN after that.

We are trying to put colleagues on notice. That is basically the speaking order.

At this point we yield 10 minutes to the Senator from New York, Senator SCHUMER.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from New York.

UNANIMOUS CONSENT REQUEST—S. 2082

Mr. SCHUMER. Mr. President, I thank my colleague from North Dakota for extending the courtesy to me.

I rise today to talk about the U.S. PATRIOT Act. There has been a lot of talk on the subject. With all the smoke and mirrors, let's go to the simple facts.

First, every single Democratic Senator wants to extend the present PATRIOT Act for 3 months. Every single Democratic Senator, in fact, has cosponsored or supports—everyone but one, and Senator FEINGOLD supports—the legislation introduced by the Presiding Officer, the Senator from New Hampshire, that extends the PATRIOT Act by 3 months. We also have a number of Republican Senators, led by Senator SUNUNU of New Hampshire, who also want to extend the act for 3 months. In fact, no Member of the Senate wants the PATRIOT Act to expire. That is why 100 Senators supported a measure to reauthorize the act this summer. It spanned the gap from the most conservative Republican to the most liberal Democrat, which shows the consensus on this very important issue is very achievable.

The simple fact is if we extend the PATRIOT Act for 3 months, it won't end. So the act's fate is in the President's hands. We say to the President: Extend it, don't end it. It is as simple as that. Let me repeat: Extend it, don't end it. That is our position on the PATRIOT Act.

Lately, based on the comments of some of my friends across the aisle, I feel we are characters in the book "1984." It is vintage Orwellian doublespeak to say when 49 Senators from both parties, a near majority, are eager to extend the PATRIOT Act, that they are causing it to expire. In fact, if either the President or the majority leader of the Senate today were to say they are for extending the act for 3 months, my guess is it would get an overwhelming majority of both parties in the Senate.

These Senators have agreed to extend the PATRIOT Act in its current form so we can take 3 months to get it in better form. On the one hand, I want to give a lot of credit to my colleagues from Pennsylvania and Vermont. Their compromise and the bill before the Senate is an improvement over present law. It is a significant improvement over the House bill. It comes a lot closer to the Senate bill than many of my colleagues even on my side of the aisle, at least in my opinion, are giving it credit for.

I have two principal problems related to the conference report. First and foremost, I have real concerns we did not correct the formula in terms of distributing aid, which hurts my State of New York. We have to give law enforcement not just judicial tools and prosecutorial tools but financial tools, as well. Every day when I ride over the Brooklyn Bridge, whether by car or on my bicycle, I see police cars at either end. New York has an undue burden in terms of security. New York and other places that are at greater risk should get a greater share of the funding. The House bill readjusted the formula, much to the relief of New Yorkers, but the Senate bill did not.

If we took 3 months, we could keep the present PATRIOT Act on the books and make a real attempt to adjust the formula on the basis of need.

Second, the revelations from last week about warrantless wiretapping have also given me pause. If this Government will discard a law that has worked well for over 30 years without a whit of discussion or notice, for sure we better be certain we have safeguards on that Government. I am extremely troubled the administration, which claims to value strict construction of the laws and Constitution, has used the September 11, 2001, congressional resolution authorizing the use of military force to justify secret wiretapping of Americans.

I have not read the whole record, but I daresay the word "wiretapping" never came up in that debate. Certainly I, who voted for that resolution, never thought it applied to wiretapping. I don't think anyone else did as well. To say when we authorized the President to use force, that allows him to wiretap American citizens without a warrant is stretching it, to say the least.

The balance between security and liberty is a delicate one. I agree with the President. Most Americans put security first. It has to be. But liberty and privacy, in particular, are very important to Americans, as well. It is very high on the list. Therefore, this Senate and the Government should make every effort to have both security and liberty.

We came very close. The Senate bill, as I said, had a 100-to-0 vote, from the most liberal Democrat to the most conservative Republican. The compromise Senator SPECTER shepherded through was a good attempt. But in these crucial areas we can do better. If we simply extend the PATRIOT Act—not end it, extend it—we can try to make it better.

I tend to be fairly hawkish on these types of things. However, there is one thing for sure: When you are dealing with the delicate balance between liberty and security, there ought to be discussion. There ought to be debate. The President, whether he be a Democrat or a Republican, should not simply appropriate it to himself to change the law with the flick of a pen. That is what our Nation stands for.

In light of these problems and concerns, let me say again, when it comes to the PATRIOT Act, my position and that of every Member of the Democratic Party in the Senate and a good number of our Republican colleagues is extend it, don't end it.

Why are we talking about ending it if we have so many people who want to extend it? The majority leader has opposed extending the present PATRIOT Act. The President has threatened to veto an extension of the PATRIOT Act.

So here we are, on the brink, with 16 important provisions about to sunset. If that happens, make no mistake about it, it will be because the distinguished Republican leader has allowed it to happen. It will be because the President has allowed it to happen. The choice is not the present compromise or no PATRIOT Act. There are three choices: The present compromise, which does not have enough support in the Senate to pass as of now, with bipartisan opposition, letting it lapse, or extending it for 3 months.

If even in the President's and the majority leader's eyes, they cannot get the first, isn't extending it better than ending it? The choice is in their hands. So if it does happen, if the PATRIOT Act is allowed to sunset, despite unanimous support for its extension in one form or another, I would ask the President to explain why we are without the PATRIOT Act, why he would not allow a bipartisan measure to extend it. It is almost surreal.

Can it be that the majority leader of the Senate, the President of the United States, who at every turn has talked about the importance of security, who has talked about the importance of the sunsetting PATRIOT Act provisions, will force its expiration?

Certainly, they have the option of extending it for 3 months so that disagreements, which I say can be resolved, will be. And if they then persist in opposition to the 3-month extension and complain, it will be similar to the child who killed his parents and then complained that he was an orphan.

So let us all be reasonable for a day, as we approach our citizens' most sacred time of year, and do the mature thing, the logical thing, the right thing.

Therefore, Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 2082, the 3-month extension of the PATRIOT Act, that the Senate proceed to its immediate consideration, the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object, is it the Senator's position that if the unanimous consent request was amended to be a 1-year extension, the Senator would support that unanimous consent request?

Mr. SCHUMER. Well, it is something I would consider. I think 1 month would be—right now we have support—

Mr. GREGG. One year.

Mr. SCHUMER. I understand. Right now we have support for 3 months. It is something that could probably be negotiated. My point is, we should extend it.

Mr. GREGG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Reserving the right to object, if there is an orphan on the floor today, or in this city today, I would suggest it is the Senator from New York. As I made the point yesterday, if he wished to get to a vote on the PATRIOT Act it could have occurred. But the Senator from New York would not allow cloture to be invoked. And now the Senator from New York and the leadership of the Democratic Party are coming to the floor claiming that because they would not allow the PATRIOT Act to be voted on, they are prejudiced and that they should not be accused of killing the PATRIOT Act.

Well, obviously they killed the PATRIOT Act when they did not allow it to be voted on. That is a situation such as you referred to, where the individual killed his parents and then threw himself on the mercy of the court claiming he was an orphan. So if the Senator does not wish to extend the act for a year, then I would say his statements are Pyrrhic.

Mr. SCHUMER. Will my colleague yield?

Mr. GREGG. First, I am going to object, and then I will yield. But I will not yield on my time. I will yield on the time of the Senator from North Dakota.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. There is an objection.

The PRESIDING OFFICER. Objection is heard.

Under the previous order, the Senator's time has expired, and the Senator from Colorado——

Mr. SCHUMER. Mr. President, I ask unanimous consent that I be given 1 minute to respond to my colleague from New Hampshire.

The PRESIDING OFFICER. Is there objection?

The Senator from New Hampshire.

Mr. GREGG. As long as the time comes off the bill on the Democratic side.

Mr. CONRAD. I am happy to yield the minute.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for 1 minute.

Mr. SCHUMER. Thank you, Mr. President.

The point is, we do have large numbers of people who want to extend the PATRIOT Act, not end it, whether it is 3 months or something more than 3 months. That is the point that I think is salient. I would hope my colleague would support 3 months, as his colleague from New Hampshire—he and his colleague from New Hampshire generally see things the same way—has asked for. But the idea stated by the President and the majority leader, that they would not be for any extension—1 year, 3 months or anything in between—is what is stymieing us here.

The bottom line is very simple. The choice is a simple one. Right now we cannot get the PATRIOT Act through the way the Senator from New Hampshire would like it. There are not enough votes by the rules of the Senate. Do you take your marbles and go home and let it expire or do you try to work out an extension, as opposed to saying: I am upset. I am going to end it. We are urging an extension. Right now, the Senator from New Hampshire, who has led the charge on this—not my colleague who is managing this bill, but the Presiding Officer, Senator SUNUNU—has suggested 3 months. I, for one, am not locked into a specific time. But I am locked in and very eager to see us extend the act, not kill it, simply because the compromise does not have the votes to prevail.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, at this point, I will yield to the Senator from Colorado.

Mr. CONRAD. Mr. Chairman, I ask unanimous consent for 30 seconds on this subject.

Mr. GREGG. Well, I guess we can certainly give you 30 seconds. But I may take a minute and a half back.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The Senator is recognized for 30 seconds.

Mr. CONRAD. Mr. President, it has been suggested that the PATRIOT Act has been killed. The PATRIOT Act has not been killed. The PATRIOT Act is alive and well until December 31. So the fact is, we have time to get this right. And if we cannot get it right before December 31, then we have the potential to extend it, whether it is 3 months or 6 months or 9 months or some other time.

The point is, no one has killed the PATRIOT Act. The PATRIOT Act is still on the books. It is alive and well until December 31. So this issue has not yet been decided.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, prior to yielding to the Senator from Colorado, I am going to take a minute and a half, which would be the minute Senator SCHUMER had and the half minute which we so graciously gave the Senator from North Dakota.

I would simply point out that the Democratic leader said:

> We killed the Patriot Act.

So that is where the body lies. It does not lie on this side of the aisle. It does not lie at the White House. The body lies right there because of the fact that we were not allowed to go to a vote on final passage. That is the way the institution works. The Senator from New York said: Well, we are taking our marbles and leaving. We are not taking our marbles and leaving. We had 50-plus votes willing to continue the PATRIOT Act under the new law, as it has been drafted, as it has gone through the committee process. Fifty-plus votes, that is a majority.

What happened, however, was the other side of the aisle did not get it exactly the way they wanted it, so they are going to kill it. That is where the body lies.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. GREGG. I think we have continued this long enough. We actually do not have the PATRIOT Act inside the Deficit Reduction Act yet, but it is possible we could end up there before we finish.

Senator ALLARD has been very gracious in allowing us to take from his time. I yield to Senator ALLARD as much time as he may use.

The PRESIDING OFFICER. The Senator from Colorado is recognized for as much time as he may consume.

Mr. ALLARD. Mr. President, thank you very much.

Mr. President, I thank the chairman of the Budget Committee for yielding and also express my appreciation for his leadership.

Through these budget issues, there has been delay and obstruction all along the route. We are seeing delay and obstruction at the end of the session. We have just seen some of the debate going on as it applies to the PATRIOT Act. I do not want to debate the PATRIOT Act. But what I would like to do is talk about the budget because this is very important. It is a very critical piece of legislation.

This is the first time in 8 years Congress has attempted to control the rate of growth in entitlement spending. I have had an opportunity to deal with budget issues, both here and as a Member of the House. I was elected to the House of Representatives in 1990. Shortly thereafter, I was able to get on the Budget Committee.

I was fortunate enough to get on the Budget Committee when I came over to the Senate. I have seen a disturbing trend in our spending habits in the Congress. If we look at the 1990 fiscal year, when I first began to really look at the budget seriously as a policymaker, we had 48 percent in entitlement and mandatory spending. Another 23 percent was defense discretionary, and then we had some 29 percent or so that fell into interest, as well as nondefense discretionary. As the years have gone by, in 2000 we find our entitlements and mandatory spending are up to 55 percent from 48 percent in 1990. We see that defense discretionary is actually down to 19 percent from 23 percent. We see that our nondefense discretionary net interest rates are staying close to the same.

The real problem is in the future. As we look at 2010, we see that our entitlements are projected to go up to 58 percent—with another 17 percent on defense discretionary and nondefense discretionary and net interest is staying pretty close to the same range. This spells out problems for future generations. I want my children, who are now in their thirties, as well as my grandkids, to have an opportunity for economic growth. If we continue to push these obligations back and continue to allow entitlement spending to grow, it is going to take away from their discretionary spending. They are not going to have the opportunities my generation had. My wife and I have had wonderful opportunities. We were able to start a small business by ourselves. We were able to see our local community grow and the State grow, and we grew with them. If we continue to spend in the Federal budget as we are now, that opportunity is going to go away.

The budget reconciliation passed by the Congress earlier this year had a requirement of $34.7 billion in savings over 5 years. That is not much of a reduction in the rate of increase. Remember, these are all still increases that are happening. We only have reductions in the rate of increase.

Finally, we have a bill before us that is looking to save close to $40 billion. We have improved it. But you have to remember that this is actually just a reduction in the rate of increase. We are not cutting or eliminating any programs; we are just reducing the rate of increases. Only in Washington, DC, is a reduction in the rate of growth called a cut. In reality, year after year, you see spending increase. I have seen that happen in my experience in the House and now in the Senate. We have Members complaining about the cuts that are happening in the budget. Yet you look at all these budgets year after year, and they gradually increase. They are just not increasing as much as some Members want. It is like a kid saying, I want to have my allowance increased from $1 a week to $1.50 a week, and you say, No, I will increase it from $1 to $1.25. They would say that is a 25-percent cut. In reality, it is a 25-percent increase in the amount of money they are going to receive to spend. So the Senate needs to bring common sense to the budget process.

Mr. CONRAD. Will the Senator yield for an inquiry?

Mr. ALLARD. Yes, on the Senator's time.

Mr. CONRAD. Yes, sir. For management of the floor purposes—and I apologize to the Senator for interrupting him—it would be helpful for us to know, because of the time constraints, does the Senator intend to take about 30 minutes?

Mr. ALLARD. I have probably about 15 more minutes or so.

Mr. CONRAD. That is very helpful.

I indicate to the Chair and all colleagues, the intention would be to go to Senator STABENOW next. There is not a formal agreement in place, but that is the informal understanding, that after Senator ALLARD, Senator STABENOW would be next.

I thank the Senator very much. Again, I apologize for interrupting.

Mr. ALLARD. I thank the Senator. I certainly don't mind working with him in lining up speakers as they come down. It is important to give Members adequate notice.

So, again, only in Washington is a reduction in the rate of growth actually called a cut. The conference report we have before us suggests that we reduce spending by some $40 billion. This is a reduction in the rate of increase over a 5-year period. For too long the Government has been on automatic pilot for mandatory programs. We have done a few things in an attempt to reduce spending in some of the entitlement programs—a very small amount. These entitlement programs are going to continue to grow, at least at the rate of inflation. We have begun to address the rate of spending and brought it down so that the rate of increase will be less.

If we look at the total budget, the entitlements take up a large percentage of the budget. Discretionary spending—it gets a lot of attention in the media, I might add—that part of the budget only runs close to 30 percent. Sixty percent or so—better than 60 percent is going into entitlement spending. Mainly, that is Medicare and Medicaid. I was astounded by the figure that Chairman GREGG put out in his comments when he was opening the debate this morning on the Senate floor. He noted that we have $51 trillion in unfunded liability. Much of that is Medicaid and Medicare. This doesn't paint a good picture for my grandkids when they are going to grow up and look at starting a business.

One of the big costs I had as an employer was the amount of taxes I had to pay toward Medicare and Medicaid and Social Security. As these costs get higher and higher—and they are going to if we don't control spending—it is going to be more difficult for small businesspeople like myself to get started in business. It will be more difficult for them to prosper and grow and to create an opportunity for their kids and generation after generation. So we need to make some decisions.

I don't think these are tough decisions, by the way. These decisions should be relatively easy. We have a large budget that we passed, and a $40 billion reduction over 5 years is a very small amount of reduction in the rate of increase. Mandatory spending is growing at an unsustainable rate.

Entitlements are the fastest growing part of the Federal Government. Unless Congress takes steps to address mandatory spending, future generations will be left with an unsustainable program. The Comptroller General estimated unfunded liability somewhere around $51 trillion, as I mentioned.

The Deficit Reduction Act provides a downpayment toward hurricane and recovery costs.

The act also takes steps to reform outdated, inefficient, and overly costly entitlement programs.

Medicaid is reformed to expand flexibility of State Medicaid benefit packages, expanded home and community-based services, and expanded services for disabled children.

Education for low-income students is strengthened through new grant aid for low-income students and extending certain loan forgiveness.

The point is that we have to set priorities, and I think one of the top priorities of this Congress should be an attempt to reduce the ever-escalating costs in spending, particularly on the mandatory entitlement spending side.

We need to work on all areas, by the way. In discretionary spending, there are things we can do to bring in more efficiency. But the areas where we are seeing the greatest growth, and the areas that are going to cause the greatest liability for generations, is the growth in entitlement spending.

The other side is constantly complaining about not doing enough to hold down spending. Here is an opportunity to hold down spending. I hope they will join the Republican side in getting the Deficit Reduction Act passed, the bill we have before us right now.

The argument that comes from the other side is basically that they want to increase taxes, they want to increase Federal spending, and they believe that we will all be better off. But that doesn't work. We have seen the President's economic plan work very well in the last few years. We have seen the economy rebound. You can look at all the economic figures you want, but you have to come to the conclusion, whether you look at employment or growth of the economy, interest rates, or disposable income, it has all been a good picture. The President's economic growth package has worked, which says that we cut back on taxes.

The reason that works is because we allow small businesses, similar to what I had, or individuals to keep more money in their pocket. More money in their pocket means they can buy cars, they will buy homes, they will buy whatever disposable items they have. This keeps our economy turning. If you take that away from them, then it slows economic growth.

Time and time again, we have seen in our country's history, whether it started with President John F. Kennedy, Ronald Reagan, or now President Bush, that when we have a high tax burden, and we reduce that tax burden, it is going to cause economic growth. In return that means more money coming in to State and local governments, and it means more money coming in to the Federal Government.

State and local governments around the country are now experiencing an unexpected return in revenues, and that means they can begin to address the needs of their communities and State.

We are seeing that there is an increase in the amount of revenue coming in to the Federal Government. Revenue is increasing because we cut taxes to keep the economy going. In spite of the fact we have had high energy costs, the economy is strong. When it has had to deal with high energy costs and the cost of the war, it is still showing growth figures, which is remarkable. It speaks strongly of an economic package that has been passed out of this Senate, out of the Congress, and pushed by President Bush.

We need to continue that effort. We should not backtrack. This bill keeps us on track. It says we have to look at holding down spending. The Federal Government doesn't create jobs. It does not create new wealth in this country. New wealth comes mainly from the small business sector. It comes from families who own businesses. It comes from individuals who own businesses who are innovative, who try to develop new ways to get into the market. That is where all our new technology comes from. We need to make sure we do everything possible to give them an opportunity to do that. When we increase the burden of Government on small business, we make it more difficult for them to make the investment they need to grow. When they grow, they pay more taxes, and that is going to mean more revenue to Government.

The problem is not tax cuts but spending. Tax receipts are growing. Yet we continue to have deficits because spending is growing even faster. The current Federal deficit is too high and out of control. Mandatory spending is threatening the economic security of future generations. This conference report will help keep the U.S. economy strong and growing. I urge my colleagues to join me in voting for the Deficit Reduction Act of 2005 conference report. It will make a difference. It is a step in the right direction.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I ask unanimous consent to speak for up to 10 minutes off the time on the Democratic side, as agreed to before.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATRIOT ACT

Ms. STABENOW. Mr. President, I rise today to discuss the PATRIOT Act reauthorization. Our Nation's Founding Fathers could never have foreseen the kinds of threats we face today from America's enemies, nor could they have imagined the technologies we use to anticipate attacks on our country and to prevent them with cell phones, computers, electronic bank reports, and other kinds of efforts. But they did foresee the threats of unchecked Government power on the civil liberties of each of us as Americans.

The fourth amendment was adopted as a protection against the widespread invasions of privacy experienced by American colonists at the hands of the British Government. That is part of our history. That is why this debate is so important. That is why we are standing in this Chamber, just 11 days before the PATRIOT Act expires, to debate this reauthorization. And that is why my colleagues and I on both sides of the aisle are fighting to extend the current PATRIOT Act for 3 months while we work to get agreement on the right balance between our security and our right to privacy and due process.

I want to particularly say congratulations and lend my admiration to the Senator currently occupying the Chair in this Chamber and thank him for his leadership on this issue. We have come together in a bipartisan way under his leadership and other colleagues on both sides of the aisle. I am very grateful for the Chair's leadership.

We all agree that we need to protect our homeland, but we also have an obligation to protect the civil liberties that are the birthright of every American. It is important that we get the PATRIOT Act right, not just insist on getting it done right now. That is why we say extend it, don't end it. Extend it, don't end it.

This is a critical debate. The terrorist threat to our country is very real, and it is vital that we provide the Government with the law enforcement tools necessary to protect our Nation, to protect our families.

I am proud to have offered provisions in the PATRIOT Act to protect against money laundering. My provision, section 325, gives the Treasury Department the ability to better monitor anonymous bank accounts which can be used to move terrorist funds. This is an important provision that can be used to prevent terrorist attacks in the United States.

We need to use every tool possible to fight terrorism and to protect our citizens at home. At the same time, the threat to civil liberties is also very real in America today. Last week we were alarmed to learn that under a secret order signed by the President of the United States, the Government has been monitoring the international telephone calls and e-mail messages from people inside the United States, American citizens, without court approval. This is not something that is authorized by the PATRIOT Act or by any act of Congress but, instead, is being conducted under a secret Presidential order.

This debate is not about whether the Government should have the tools that it needs to protect the American people. Of course, it should. Nobody in this Chamber disagrees with that. That is why the PATRIOT Act passed overwhelmingly 4 years ago.

The Senate's bipartisan reauthorization bill passed unanimously in July. It was an extraordinary effort by leaders on both sides of the aisle. I am very proud of what we did back in July in unanimously passing an improved version of the PATRIOT Act.

This debate is not about whether the PATRIOT Act should suddenly expire. Of course, it should not. That is why we say, "Extend it, don't end it." That is why we have offered a bipartisan bill to extend the PATRIOT Act for 3 months to give Congress time to reach a bipartisan compromise—again, authored by the Senator from New Hampshire, who is currently chairing this August body.

This extension has 47 cosponsors and counting from both sides of the aisle. This debate is about balance. It is about ensuring the safety of the American people while at the same time protecting our rights and keeping the Government accountable for its actions. These are not mutually exclusive goals. Again, we need to amend the PATRIOT Act, not end it.

The PATRIOT Act reauthorization conference report does make some important improvements and I want to thank Senator SPECTER and Senator LEAHY for their hard work and leadership on this bill. The conference report contains the 4-year sunsets in the Senate bill instead of the original 10 years in the House bill. It no longer contains a provision that would have made it a crime merely to disclose the receipt of a national security letter. However, there is a lot more to be done before we should be passing this bill and sending it to the President.

Under section 215 of the PATRIOT Act, known as the library provision, the Government can obtain a secret order to access personal records of Americans without probable cause of a crime. That means the Government can get copies of Americans' medical or financial records, library records, gun ownership records, purchase records. It also prohibits the keeper of this information, such as a librarian, from telling anyone that they have handed over these records to the Government. Before the PATRIOT Act, the FBI had access only to certain kinds of business records such as hotel and rental car receipts and they had to meet a higher legal standards before a court in order to obtain this information.

The PATRIOT Act did away with these limitations and lowered the standard for obtaining these personal records. The Senate version of the reauthorization bill reestablished a significant check on this power, and that is very important. Under the Senate bill, relevance to an authorized investigation is not enough. The Government must also show some connection between the records they are seeking and a suspected terrorist or spy. Unfortunately, this basic protection is not in the final conference report. The Senate bill also included basic protections for the recipients of a section 215 letter to allow them to challenge the automatic permanent gag order and these protections were left out of the conference report.

The conference report's treatment of national security letters, or NSLs, also needs significant improvement. NSLs are documents issued by the Federal Government that allow the Government to seize a wide variety of business and financial records without the approval of a judge, a grand jury, or a prosecutor. This has been raised as a concern by the U.S. Chamber, other business organizations and others throughout the country. Like section 215, a person who receives an NSL is under a permanent gag order without any judicial review.

Last month, The Washington Post reported that the FBI issues more than 30,000 NSLs per year. That is a hundredfold increase over past practices.

Lastly, the conference report weakened the critical sneak-and-peek protections that were in the Senate bill. Under section 213 of the PATRIOT Act, the Government can conduct secret searches in criminal investigations. With a section 213 warrant, investigators can enter someone's home or their office, conduct a search, take pictures, seize items, without telling the person for weeks, months, or in some cases more than a year. The Senate bill replaced this standard with a 7-day rule, permitting the Government to obtain additional 90-day extensions when necessary. The conference committee changed that.

Our Founding Fathers may not have foreseen the threats we face from our enemies today, but they did foresee the threats of unchecked Government power on the civil liberties and freedoms of all Americans. Protecting Americans from unlawful search and seizure is one of the Nation's founding principles. To ignore that is to undermine our identity as Americans and our American Constitution. We owe it to the people of America to get this right, and that is why I support an extension.

UNANIMOUS-CONSENT REQUEST

That is why I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senator SUNUNU's bill, S. 2082, extending the PATRIOT Act for 3 months; that the Senate proceed to its immediate consideration; that the bill be read a third time and be passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I move to amend the unanimous consent request as follows: That we call up the PATRIOT Act which is pending at the desk, have 2 hours of debate, and go to final passage.

The PRESIDING OFFICER. Does the Senator from Michigan consent?

Ms. STABENOW. I would object.

The PRESIDING OFFICER. Objection is heard to the modification.

Is there objection to the consent request?

Mr. GREGG. Mr. President, reserving the right to object, I notice that in the middle of the debate on the deficit reduction bill we are hearing a number of people debating what has been debated to a considerable degree, which is the issue of the fact that the PATRIOT Act, which is pending at the desk, will not be allowed to go to a final vote by the Democratic membership of the Senate. I would simply say this, that I guess it brings to mind the Shakespearean line, I think it was from "Julius Caesar"—it might have been one of his other wonderful plays—methinks he doth protest too much.

The corpse lies on their side of the aisle. They are the ones who have killed the PATRIOT Act, if they do not agree to vote it, which is sitting at the desk, which has gone through the committee process, which has been amended, which has been brought forward, and which has a majority of the Senate in favor of it. So I suppose it is a diversion from the deficit bill, which we should be debating, to bring these items up, but I think it is more simply an attempt to try to move the blame for the responsibility for what looks like is going to be the ending of the PATRIOT Act at the end of this year. I think that is unfortunate.

The PRESIDING OFFICER. Is there objection?

Ms. STABENOW. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, in response to my colleague, I simply say we have unanimous support on this side of the aisle to extend the PATRIOT Act for 3 months while working out the areas of concern to millions of Americans. I also find it rather curious, in watching this debate with the distinguished Senator, one distinguished Senator from New Hampshire speaking to another distinguished Senator from New Hampshire, who is in the chair, who is a Republican author, with another also distinguished colleague from Idaho who is another author of the extension. This is clearly a bipartisan effort on our part to do the right thing, to create the right balance to extend, not end, the PATRIOT Act at the end of the year. The choice is in the majority as to whether to join us to extend the PATRIOT Act, not end it.

I would object to bringing up the bill one more time that, in fact, has been voted on at this point. Procedurally, we have said no to this conference report. We want to extend the PATRIOT Act for 3 months, not end it, so that we can go back to the great work done unanimously by the Senate, unanimously by this body.

Mr. GREGG. Reserving the right to object.

The PRESIDING OFFICER. A consent request has been made. Is there objection?

Mr. GREGG. Reserving the right to object, which is my right.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. I am reserving my right to object.

The PRESIDING OFFICER. Under the rules, there is no formal right to object. The Senator from New Hampshire has been heard. Does he wish to be heard further on the point?

Mr. GREGG. The Chair has an obligation, I believe, to allow me to speak.

The PRESIDING OFFICER. The Senator is recognized to speak further on the point, without objection.

Mr. GREGG. I will object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Michigan has the floor. Has she concluded her remarks? Has she yielded the floor?

Ms. STABENOW. Mr. President, in conclusion, we have an opportunity to reinforce the great work done back in July by the unanimous Senate. We have bipartisan agreement that this conference report does not include the balance necessary and we have come together in a bipartisan way, with every single person on our side of the aisle and great leadership on the other side of the aisle, to say: Extend the PATRIOT Act, don't end it. We know we can work together to get this right on behalf of the American people.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, the PATRIOT Act has been inserted into this debate, which is unfortunate, but I do think it is important to make a couple of points in response to the Senator from Michigan because there is misrepresentation here, in my opinion, as to the characterization of the activity.

The majority of the Senate has said it wants to pass the PATRIOT Act which is at the desk. The Senator from Michigan has refused to allow us to take up that act, as has the vast majority of her party—although there were a couple of folks on our side who I believe voted that way. So the issue is not that the majority of the Senate is opposed to the PATRIOT Act at the desk; the issue is the minority of the Senate is not going to allow the PATRIOT Act to come to a vote in the Senate and thus the PATRIOT Act will expire. The only reasonable analysis of that situation is the expiration is a result of the minority of the Senate, led by a fairly large number of the Democratic membership of the Senate, desiring to put form over substance and not allow the PATRIOT Act to a final vote and, as a result, forcing the expiration of the PATRIOT Act.

They cannot now come to the floor and say, Oh, but we didn't mean it. We killed the PATRIOT Act, but we didn't mean it.

The fact is, this bill which is at the desk has bipartisan support, has gone through the committee process, and is the proper way to deal with the PATRIOT Act.

I suppose we can stay here all day and debate the PATRIOT Act, but actually this is a deficit reduction act and I hope we will get back to it.

At this point, do you have any speakers?

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. GREGG. Mr. President, I have not yielded the floor yet.

The PRESIDING OFFICER. The Senator from New Hampshire retains the floor.

Mr. GREGG. I ask if we are going to return to speakers?

Mr. CONRAD. I was going to take some time at this moment on the same subject. I, too, regret we have gotten onto the PATRIOT Act, but since we have, I feel a need to take on a couple of these points.

Mr. GREGG. Senator STEVENS is here to speak. How much time do you require?

Mr. CONRAD. I will not take long.

Mr. GREGG. So we can get it fixed up so we can get a time agreement?

Mr. CONRAD. No, no. I will be very brief and then we will go to Senator STEVENS.

Mr. GREGG. All right.

Mr. CONRAD. Mr. President, we are on the budget.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. We are on the Budget Reconciliation Act. But people have come to the floor, as is their right, to discuss other issues. Now we have gotten into a discussion of the PATRIOT Act.

I have great respect for the chairman of the Budget Committee, but I must say on this issue I profoundly disagree. The Senator from New Hampshire says there is a majority in the Senate who support the PATRIOT Act provisions that have come back from conference committee. That is true.

It is also true that earlier this year on a unanimous vote the Senate version of the PATRIOT Act was approved. The House had very different provisions, and when the conference between the House and the Senate was concluded, they came back with PATRIOT Act provisions that could not command the votes necessary to pass the PATRIOT Act. That is a fact. There are not sufficient votes to pass the version of the PATRIOT Act that came back from the conference between the House and the Senate, and on a bipartisan basis—there were those who supported that version of the PATRIOT Act and on a bipartisan basis there were votes against that version of the PATRIOT Act. So let's be very clear.

Now we may face a circumstance in which the PATRIOT Act would fail, would not be extended. It is still alive today. It is alive until the 31st of this month, so all the talk that we killed the PATRIOT Act—no, the PATRIOT Act has not been killed. The PATRIOT Act is still in force. If we cannot reach agreement on something to make permanent, for goodness sake, in the Nation's security interest we should be able to agree on a time of extension.

The Senator from Michigan has offered 3 months. The Senator from New York, Senator SCHUMER, earlier offered 3 months. The Senator from New Hampshire has talked about a year. I don't know which is exactly right. I frankly think 3 months may be too little; I think a year may be too long because we do want to keep pressuring our colleagues to actually reach agreement on something that might be more long lasting. But the one thing on which we should all agree, since every single one of us voted on the PATRIOT Act provisions that passed the Senate back in July—the one thing on which we should absolutely be able to agree is we do not allow the PATRIOT Act to lapse. That is one thing in this Chamber, deeply divided, that we certainly should be able to agree on. I hope before this week is ended we have found a way to extend the PATRIOT Act for some amount of time.

Let's be clear. There are not the votes sufficient to pass the version of the PATRIOT Act that came back from the House. That is clear. It is also clear that earlier this year this body, on a unanimous vote, approved the Senate version of the PATRIOT Act and that every single Member of this body now wants some version of the PATRIOT Act to go forward. The details have not yet been agreed to. So there is an opportunity in these final hours to either get the PATRIOT Act in a fashion that can command sufficient votes to pass or that we extend the PATRIOT Act for some period of time so this Nation remains protected.

I hope very much the cooler heads are going to prevail here and that we are going to find a way to keep the PATRIOT Act in force—modified, to be certain; that is what happens in the legislative process. None of us quite gets all he wants. But we should not be in a circumstance in which it is allowed to lapse completely.

With that, Senator STEVENS is waiting to speak. We are ready to turn to the Senator from Alaska.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Alaska.

Mr. STEVENS. Mr. President, I am sure it will come to no one's surprise that I desire to use this time to discuss the appropriations bill, the Defense appropriations bill that is before the Senate in the form of a conference report.

Over the night I have been thinking—as a matter of fact, too many nights I have been thinking about this conference report. As I thought about it, I thought about some of the comments that have been made that this is something new; that people should not put—I should not put a nongermane portion into this conference report because it is a violation of the rules.

I remember the times we discussed Senator BYRD's steel loan guarantees or the mountaintop mining problem. I remember Senator CONRAD coming to me in a conference report dealing with the great problems of disaster funding in South Dakota and the Devils Lake issue. I remember Senator DORGAN on that one, too. I remember Senator HARKIN coming to me and asking me to deal with the multibillion-dollar environmental program and agriculture authorization program in an appropriations bill. I remember Senators JEFFORDS, KOHL, and LEAHY asking me to deal with the Northeast dairy compact. I remember Senator BILL NELSON telling me about the terrible problems of the shuttle disaster and ensuring key operations at the Kennedy Space Center.

For Northeast Senators on LIHEAP, in this bill, at my urging, there is a provision for $2 billion as emergency funds for LIHEAP. The House was further reluctant to agree to that until we worked out the funding mechanisms for repayment of that money on an emergency basis when the funds come in from the sale of spectrum.

Similarly, it went to the Budget Committee. They agreed that the estimate in the bill for ANWR of $2.5 billion for revenues from bidding was low and they, in fact, have agreed that there will be approximately $5 billion coming in.

But they can't, under the procedures, change the estimate under the Budget Act.

In this bill, we have allocated that money to repay emergency funding for other programs, emergency funding that the House would not agree to before including the $1.1 billion for homeland security.

Some people say to me: What you are doing is dragging this in front of people. You want them to vote with you. I haven't talked to anyone in connection with what I have done in this bill and said I will do this if you will vote for this bill. I have done it because I believe those things are right to do. If the Senate believes they are right to do, they are going to vote for cloture on the conference report. If they want to send it back to the House, they will vote against the cloture on the conference report or they will vote in favor of a point of order against the conference report. And then it goes back to the House, the House has to reconstitute itself, and we have to appoint new conferees.

The House has sent word this morning to forget about that. They heard what I said, and they said we will ask for a continuing resolution for the Defense Department appropriations until we all come back. Our people have gone home for Christmas, they say. I don't know whether they will.

But all I know is we are at a crucial juncture of a series of things, and one of them is, in fact, the subject I have dealt with now for 25 years since Senator Jackson and Senator Tsongas came to me and said stop the filibuster against the bill called ANILCA in 1980. President Clinton wanted it very much. And they said we will set aside 1.5 million acres of the Arctic as you have requested, and it will be open to oil and gas development until that process is finished. It will not became part of the Arctic National Wildlife Refuge until that is over.

For 25 years now, I have tried to get that commitment fulfilled. We passed a bill and Clinton vetoed it. We have had it before several Senate sessions, and it has always been filibustered on the other side. This year, we are successful in getting it in the reconciliation bill, which is the bill before the Senate right now, at urging of a bipartisan group in the House. They urged me to allow them to defeat that so there would be easy passage for this bill over there. It was passed very quickly, and it is before us now. They said put the amendment on the Defense appropriations bill and we will help you get it passed in the House. They did that. An overwhelming majority voted for it.

Now we hear all sorts of things—I am getting tired of being accused of so many things—outrageous, cantankerous Senator who is responsible for the bridges. I wasn't responsible for the bridges. They arose in the House. But I did defend them here in the Senate.

As a practical matter, history is behind us now, and we have before us a bill which is the Defense bill.

I have managed this bill, or the Senator from Hawaii has managed this bill, since 1981. I don't think there are any two Senators who know any more about funding for the Department of Defense than the two of us. We pride ourselves in doing a good job, and we have done the best possible job we can now. We have I think two of the best staff directors in the Senate. Sid Ashworth sits beside me now and Charles Houy is always beside Senator INOUYE.

We have a bill before the Senate now and a conference report that provides $446.7 billion to the Department of Defense. It has a $50 billion contingency for Defense. It is a conference report which should be voted on.

I hear some people say they are going to oppose cloture on the conference report. I can't imagine anyone voting against cloture on a conference report for Defense. You can argue about some of the amendments that were attached to it. That is fine. They can be voted on individually by points of order. But the conference report on Defense is for the troops. The conference report on Defense really goes far beyond the amendments that are on this bill.

Those who vote against this conference report must know that what they are doing is they are setting up a delay in the process of getting money to the troops.

I have argued since July that this bill should not be delayed. I am not responsible for the delay. What I am responsible for now, since this the last bill, is attaching three important amendments to it.

One deals with Avian flu. That issue was raised by Senator HARKIN. When I managed the bill on the floor, I first said that is extraneous, and we shouldn't put it in the bill. The more I thought about it, I went to him and said: You are right. Let us take this to conference and see what we can do.

We took it to conference and what resulted was not only money for avian flu, but the money for avian flu was approximately the same as Senator HARKIN sought.

But we have added liability compensation provisions to it. This is a stronger amendment now than Senator HARKIN asked me to add to the bill.

I ask: Are we going to vote against getting ready for the pandemic? If this bill falls, we will go back into conference. But a point of order against this bill under rule XXVIII, as I understand it—I will explain that in a minute—will take all of those, and it is a matter for the Senate to decide.

If a rule XXVIII point of order is raised against the conference report, the conference report in its entirety collapses. Rule XXVIII does not act similar to the Byrd rule and the offending provisions are taken out of the bill. A brandnew conference will have to be convened and new conferees will have to be appointed by each House. When the conference convenes, the conferees have to be circumspect about including any matter not committed to the bill by each bill from the House.

In other words, we will go back and be in conference, and we will come back and still be right where we are now. The items for the avian flu would be added. It may be that ANWR would be deleted.

I have to tell you, if we are going to a new conference, I am going to argue to put it back in. It should be there, and the votes in the conference are there to put it back in.

We are going to face up to ANWR either now, or Christmas Day, or New Year's Eve, or sometime—however long we stay in. We are going to face the question of should we keep the commitment made by Senator Jackson and Senator Tsongas.

This bill goes beyond, though, in terms of the subject matter that should be discussed.

We have to realize that ANWR is germane to the bill. Nothing is more germane and essential to national defense than energy. Our Department of Defense consumes 110 to 112 million barrels of oil. I have a chart concerning that. That is the consumption of Department of Defense.

The consumption during this global war on terror has risen to 133 million barrels of oil. This is a 20-percent increase in demand due to the general war on terror.

ANWR supports national security because it unquestionably will increase the national supply.

So when you vote on the question of whether this is beyond the scope, sure it was not in either bill, but is it germane?

Is it part of national defense? Listen to what Senator Jackson said at the time we debated the oil pipeline amendment, which Senators will remember was passed by one vote when the Vice President of the United States broke the tie.

In almost every issue I have been involved in since I have been here about Alaska, it has been a narrow vote. Why? Because extreme environmentalists think it is their playground, that they should set the policies for Alaska.

Here is what Senator Jackson said as chairman of the Energy Committee. This involves national security. It is a national security issue. He said this:

> It involves national security. There is no serious question today that it is urgently in the national interest to start North Slope oil flowing to markets. Today we have a pipeline. I ask unanimous consent this report be printed in the RECORD following my remarks. It is titled "Prudhoe Decline Highlights U.S. Oil Dependence."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1)

Mr. STEVENS. It shows Alaska's oil has decreased. Here are the figures. At one time we went up to 1.885 million. We actually have an ultimate capacity of 2.1 million. There were some surges where we transported more than 2 million barrels a day. Its design capacity is more than 2 million barrels a day. Now, throughput is 935,000. I was informed recently that the amount going through at this time, the average production, is down to 381,000. We have a pipeline designed to carry 2 million barrels of oil and it is running at a little over 30 percent throughput.

Where is the oil to come from? ANWR. It should have come from ANWR. If President Clinton had not vetoed our bill in 1995, it would be coming through now.

I urge my colleagues to think about what ANWR means and why we are here. We are here because every time we have been here, we have been frustrated by filibuster. Is it unethical to try to find a way around a filibuster, to try and find a way so we can fulfill our constitutional right—that is, to have an issue decided by a majority vote? All I am asking is to have an issue decided by majority vote.

Cloture is a creature of the Senate. The concept of unlimited debate is a creature of the Senate. I abide by it. I believe in it. However, we also have the process to curb that; that is, to have cloture on a bill. Now it is cloture on a Defense bill. I don't ever recall having to get cloture on a Defense appropriations bill.

As I said, in the 1973 timeframe when we had the Alaska oil pipeline built, a most controversial bill at that time, there was not one Senator who suggested a filibuster. We all knew oil was a matter of national security. It was agreed it would be an up-or-down vote. As a matter of fact, we had two votes. We had the first vote, and because one person was off the floor, we then had a second vote. That person came back to the Senate. He was standing right outside the door. When he voted, it created a tie. The Vice President then broke the tie.

We are at the point now where we should recognize what we have done is to finally have found a way to get a vote on the basic issue in the Senate in a way that will take the bill to the President. It is a DOD bill. It is a bill the President will sign, I am certain. But keep in mind what else is in this bill.

Before I get to that, I have to remember my good friend Judge James Buckley. I said before in the Senate, he was one of the first ones to oppose drilling in the Arctic Wildlife Refuge. In January of this year he sent me a letter, unsolicited. He says this in the final paragraph:

> Having visited the Arctic on nine occasions over the past 13 years (including a recent camping trip to Alaska's North Slope), I don't think I can be accused of being insensitive to the charms of the Arctic qua Arctic. I just don't see any threat to the values I cherish.

He changed his mind. He said, do your best to get it drilled.

I ask unanimous consent to have his letter printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2)

Mr. STEVENS. Mr. President, beyond that, we have a series of problems I would like to mention in closing. Then I will be back. That is the question of the point of order.

In 1996, we overturned a point of order on the aviation bill. It was a question of the FAA conference report, conference on the FAA. Senator Hollings, my great friend, Fritz Hollings, offered an amendment to that bill. The Chair ruled that Senator Hollings' amendment exceeded the scope of the conference. The Senate voted 56 to 39 to overturn the ruling of the Chair. I was part of that debate and in support of Senator Hollings. There are still in the Senate a series of people who voted to overturn that Chair. Senator CHAFEE's father, the former Senator Chafee did, Senator CONRAD did, Senator DEWINE did, Senator DOMENICI did, Senator FEINSTEIN did. We have a whole series of people. My great friend, brother, Senator INOUYE did, Senator JEFFORDS did. We have a series of Members who did. Senator MCCONNELL did. Senator PRYOR's father did. Senator REID did. So did several other Members here today.

I am making the point it is not something new to ask the ruling of the Chair be disagreed with. We seek to settle the disagreement over whether the amendments are within the scope—they technically are beyond the scope—but should the scope be adhered to in the circumstances today? Should they be adhered to for avian flu? Is there any Senator who wants to protest against that? Should they be adhered to on Katrina? Sure, if there is advance appropriations on Katrina, I found ways to advance moneys to the people in those disaster areas and repay them with future income.

The House of Representatives has approved that. The Committee on the Budget says if you make the assumptions I make, it is a fair way to do things. No, they did not say "fair way" but a way to do things.

When you look at it right now, the issue comes down to my amendment and that is ANWR. ANWR, to me, is the most significant thing we can do today because we are down now to importing almost 60 percent of our oil. No matter what anyone says, that is an enormous burden on our economy. It is such a great burden that the scope of it has to be detailed in order to find the solutions for the problems we face.

Remember, in defense now, 7 of the 10 suppliers of this country for petroleum for defense are not U.S. suppliers. Did you know that? Of the 10 suppliers of petroleum to defense, 7 are foreign countries. Twenty percent of the petroleum the DOD purchases comes from Middle East countries that embargoed our oil in the past.

We are dealing with a matter of security to increase our domestic supply. Our State not only produces oil, we refine in Alaska a considerable amount of the jet fuel used by our military. A considerable portion of our military comes to Alaska each year: 52 million gallons in Elmendorf, 21 million gallons in Eielson, 3.5 million gallons for Coast Guard, 76.5 million gallons in terms of our total purchases from our refined oil.

I do believe we have more than doubled our energy imports since 1969 and we are exporting now approximately half a billion a day for foreign oil. If that money were spent in the United States—we only spent $1 billion of it in the United States—it would produce 12,500 jobs. In 2003, we outsourced 1.3 million jobs by importing oil rather than producing it in the United States.

In the area where the distinguished occupant of the Chair comes from, Louisiana produces a substantial portion of this oil, but many of the facilities down there have been damaged or are in need of repair.

We should be doing everything we can to diversify the sources of our energy supplies. By developing the coastal plain, we will create between 700,000 and 1 million jobs. We will put $60 million back into the economy each day, money that will be paid to U.S. employees and paid to the United States, which will increase the flow of taxes into our Treasury.

I apologize for being slightly tired and sort of disconnected in terms of how I deal with this process, but I summarize by this: We have disaster assistance, we have home energy assistance, LIHEAP, we have interoperable equipment for the first responders, we have emergency preparedness for the cities and the States, we have border security, 1.1 billion of real money, 1996 money. There is no other money available for 2006. It includes money for infrastructure and border assistance. And we also have money for agricultural assistance.

The amendment of the chairman of the Appropriations Committee, Senator COCHRAN, really does a tremendous job in meeting some of the disaster needs beyond those which will be met by my amendment.

I will have more to say later. But, Mr. President, I urge the Senate to think. We can either pass this bill soon and do our job and fulfill the demands and desires of millions of people, or we can pull this bill down, the conference report down, and ask the House to reconstitute another committee, a conference committee, and go back into the conference committee with approximately the same conferees and try to reach a different result.

I, frankly, do not see there would be much difference. As a matter of fact, if I am a member of that conference committee, it will produce the same result. So face up to the issue now and decide whether you want to provide for energy independence in the future, whether you want to provide for LIHEAP, for disaster, for first responders, for border security, or whether you just want to continue debating ANWR.

Thank you very much.

EXHIBIT 1

PRUDHOE DECLINE HIGHLIGHTS U.S. OIL DEPENDENCE

(By Tarek El-Tablawy)

NEW YORK.—Alaska North Slope crude oil production, once heralded as a domestic mother lode, has hit a new output low—embodying the precarious balance confronting the United States as it struggles for energy security in an era of volatility in the international oil market.

The decline in Alaska is led by a slump in output from the once-mammoth Prudhoe Bay field, which has been producing since 1969. At its height in fiscal 1988, the field produced an average of 1.6 million barrels per day. In fiscal 2005, it was down to 381,000 barrels per day. Overall production in the North Slope has dropped to an average of 916,000 barrels per day from 2.01 million barrels in the same period.

In Alaska, re-boosting output is as much dictated by politics as it is by geology.

While the Bush administration has pushed for opening a pristine Alaskan refuge believed to hold about 10 billion barrels of recoverable crude oil, environmentalists argue such a move would only temporarily delay the inevitable while ruining the delicate arctic habitat.

For Alaskans, Prudhoe's decline in particular, and the North Slope's in general, transcends politics and raises fiscal and emotional issues. Each year, state residents receive a substantial dividend from an investment account built over the year by a portion of oil tax revenues.

Those dividends, based on market investment performance, have ranged from a record $1,964 per resident in 2000 to $845 in 2005. But dividends are estimated to rise over the next decade, as returns on investments take the place of declining oil royalties and taxes that go into the fund.

"The word I would use is concern," said Michael Williams, the Alaska Department of Revenue's chief economist. North Slope crude ":represents a substantial portion of income for the state. The issue is: What's going to happen when it goes very low, or runs out?"

State officials are negotiating with three major oil producers to build a North Slope natural gas pipeline to markets in the Midwest they hope will compensate for losses from the decline in oil. State officials say oil is expected to account for at least 74 percent of Alaska's unrestricted general purpose revenue through 2013.

The history of Prudhoe, and the several fields discovered later that once helped buoy the state's oil daily production to over 2 million barrels, offers a window into the dichotomy of the energy security debate in the United States as oil prices hover tenaciously around $60 per barrel.

The fall in the North Slope comes even with the startup of the Northstar and Alpine fields which, with a combined projected output of over 200,000 barrels per day, many hoped would partially offset the decline in Prudhoe Bay.

Prudhoe "was one of the last great fields in America," said Bill Samuelson, an analyst with the Houston-based consultancy, Purvin & Gertz.

"When you have such a large field that is declining so steeply, it's hard to offset that decline," he said. "It's inevitable."

Projections for new fields slated to come on-stream over the next 10 years are expected to do little but temporarily offset the steady decline. North Slope output, according to the state, is projected to drop to about 833,000 barrels per day by 2015, with 50 percent of that production coming from new fields.

Inevitability is an immediate issue across the country. U.S. domestic crude production, currently estimated at 5.4 million barrels per day, is slated to peak at 5.9 million barrels per day in 2014 before starting a steady decline to an estimated 4.99 million barrels in 2025, according to the Annual Energy Outlook, 2006, issued Monday by the Department of Energy's Energy Information Administration.

High crude prices have allowed small producers to restart "stripper wells"—fields that were otherwise economically unfeasible because of recovery costs and minuscule reservoir pools. Such activity has increased in states like Kansas and Kentucky.

EXHIBIT 2

SHARON, CT, JANUARY 24, 2005.

Hon. TED STEVENS,
Hart Senate Office Building,
Washington, DC.

DEAR TED: Twenty-six years ago, after leaving the Senate, I was a lead signatory in full-page ads opposing oil exploration in the Arctic National Wildlife Reserve that appeared in the New York Times and the Washington Post. I opposed it because, based on the information then available, I believed that it would threaten the survival of the Porcupine caribou herd and leave huge, long-lasting scars on fragile Arctic lands. Since then, caribou populations in the areas of Prudhoe Bay and the Alaskan pipeline have increased, which demonstrates that the Porcupine herd would not be threatened, and new regulations limiting activities to the winter months and mandating the use of ice roads and directional drilling have vastly reduced the impact of oil operations on the Arctic landscape.

In light of the above, I have revised my views and now urge approval of oil development in the 1002 Study Area for the following reasons:

1. With proper management, I don't see that any significant damage to arctic wildlife would result, and none that wouldn't rapidly be repaired once operation ceased.

2. While I don't buy the oil companies' claim that only 2,000 acres would be affected, even if all of the 1.5 million-acre Study Area were to lose its pristine quality (it wouldn't), that would still leave 18.1 million acres of the ANWR untouched plus another five million acres in two adjoining Canadian wildlife refuges, or an area about equal to that of the States of Connecticut, Massachusetts, Vermont, and New Hampshire combined. In other words, it is simply preposterous to claim that oil development in the Study Area would "destroy" the critical values that ANWR is intended to serve.

3. In light of the above, it is economic and (to a much lesser degree) strategic masochism to deny ourselves access to what could prove our largest source of a vital resource.

Having visited the Arctic on nine occasions over the past 13 years (including a recent camping trip on Alaska's North Slope), I don't think I can be accused of being insensitive to the charms of the Arctic qua Arctic. I just don't see the threat to values I cherish.

With best regards.

Sincerely,

JAMES L. BUCKLEY.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we do not have a formal agreement but an informal agreement. We would go to Senator MURKOWSKI for her remarks.

Can the Senator give us an idea, roughly, how long she might proceed?

Ms. MURKOWSKI. Mr. President, just approximately 15 minutes.

Mr. CONRAD. Fifteen minutes. All right. Then on our side, it would be Senator HARKIN for approximately 30 minutes.

Mr. GREGG. Then we come back to Senator COBURN.

Mr. CONRAD. I think we have some others in between to fill out the time. I think Senator COBURN is not until 2:15, so we have some others to fill in so we use the time as efficiently as we can during the period.

With that, I think, Mr. President, the next person to be recognized would be Senator MURKOWSKI.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Thank you, Mr. President.

Mr. President, I wish to acknowledge the comments of my colleague and my friend, the senior Senator from Alaska, giving us some of the historical perspective about some of the process we have seen in the Senate.

As we take up the issue of the Defense appropriations bill and as it contains within it the issue of energy exploration in the Arctic National Wildlife Refuge, it is fair to say there has been a hue and cry of "This can't be done. We can't have this included in it," and almost a sense of outrage that such a controversial issue would be inserted in a bill that truly our troops, our national security depends on.

We know this is not a new issue in the Senate. This is not a new issue in the Congress. The Alaska delegation has been fighting this issue for just about three decades now. Senator STEVENS has indicated that for 25 years he has been working on this issue. My father, who held this office before me, spent the 22 years of his career working to advance ANWR; trying to get our colleagues here in the Senate to understand the issue and to move it through the process, to convince the Congress of the merits of opening the Coastal Plain to environmentally sensitive energy development. We have debated this issue so many times on this floor, I have some of my colleagues saying: Can't we just pass ANWR so we don't have to keep hearing this debate year after year after year? And we have been successful, twice here on the Senate side and numerous times on the House side, where the measure has moved through. We were successful in moving the ANWR provision through the Congress, both Houses, in 1995, only to have President Clinton veto it, and we were successful just several months ago in passing the ANWR measure through on the reconciliation bill. So this is not new debate. This should not come as a surprise that this is a priority, not just for the Alaska Senators, but a priority for the Congress, a priority for this country.

Senator STEVENS spoke to the issue of national security and how ANWR can assist us in that.

When we talk about the "whys," why we should open ANWR to limited exploration and development, what we are talking about with ANWR is not an insignificant quantity of oil. It is not the "drop in the bucket" that some people suggest. It is not the "mere months of supply" that some people suggest. At predicted prices, at what we are seeing today, we recognize that the expectation out of ANWR is between about 6 billion barrels of oil and 14.65 billion barrels of oil. So the mean figure that we use, a conservative figure, is about 10 billion barrels of oil for this country. This is by far the largest known source of domestic onshore oil in this country today. The estimates lead us to make the statement that we believe that the ANWR field, or oil find, could rival that of Prudhoe Bay, which has been supplying this country with about 20 percent of our domestic needs for about the past 25 years.

Now, when we recognize what high oil prices are doing to this country in terms of the health of our economy, in terms of our ability to travel. Face it, the energy costs this country are facing are a burden on hard-working Americans. And what is the expectation? Do we expect the price of oil is going to be dropping? Right now, we are looking at future prices in the area of $60-a-barrel oil. The Energy Information Administration, EIA, 2006 forecast has predicted the price of oil is going to remain between $50 and $55 a barrel for the next couple decades. We have to recognize that everything we can do to bring down that cost of oil through increased production domestically is going to help us.

We have always talked about the jobs, the jobs aspect that ANWR will help bring about. It will bring about hundreds of thousands of jobs, not just in my State of Alaska, but all around the country.

And as we talk about these issues we must remember the deficit we face as a nation and the balance of payments deficit that we face. This especially is where ANWR development can make a dramatic improvement in reducing our balance of payments deficit. If we are at peak production with ANWR, anticipating 1 million barrels a day, this will reduce our country's balance of payment deficit by just about $20 billion annually. This is significant, folks. This oil is coming from the United States. This is domestic production.

Now, the big debate today, of course, is the fact that this provision, the ANWR provision, has been included in the Defense appropriations bill. Is this the perfect place for this? Well, when we started several months back, at the beginning of the year, it was not in this bill. It was in the reconciliation bill. We took criticism, great criticism, at the time for inserting it in that legislation as well. But let's talk about why it makes sense, why it is not illogical to place the ANWR provision in the Department of Defense appropriations bill.

My colleague from Alaska made mention that there is a great tie-in between ANWR and our national security and meeting the needs of our military.

We have direct benefit through increased domestic oil production because we help our military to strengthen our national security by becoming less reliant on foreign sources. Sufficient reliable energy supplies are vital to our military. That is absolutely the bottom line. Consider that it takes eight times more oil today to meet the needs of the average soldier than it did decades ago during World War II. Our military today consumes on average about 4 percent of the oil we as a nation consume daily about 800,000 barrels per day. This is a reality. This is what we are dealing with.

Right now, the military accounts for about 80 percent of all the oil that our Government consumes daily. So when we look at what we can anticipate from ANWR—about a million barrels a day at peak production—that development will help us to fully meet our military's total fuel needs. This fact alone makes ANWR a worthy candidate for inclusion in the Defense appropriations bill.

Really what we need to be focused on is what ANWR does for us, how it helps facilitate our energy security and, in turn, our national security. Opening ANWR offers America the best chance for finding a secure supply of oil that helps to reduce our dependence on OPEC, on other nations; and it does this for decades.

You all heard that we are 58 percent dependent today as a nation on foreign sources of oil. We are expected to pass the two-thirds mark within about 20 years. When you put that into perspective and you recognize that such a quantity of our energy—more than half of our energy comes from elsewhere—particularly from OPEC or unstable Mideast regimes, that we have a vulnerability. Think back to some of the statements made earlier this year coming out of Venezuela, one of our leading sources of imported oil. Again, this should remind us that we need to do all that we can responsibly do to increase our domestic energy production. Look at the world picture—what is happening with China and India and a host of developing nations and their need for supplies of oil. That makes it all the more important to make sure we are doing what we can at home.

So we need to increase our energy independence, but we also need to do it in balance with our environment and diversifying energy supplies. I wish to talk about the environmental perspective for a minute because this is important. We just cannot develop for development's sake without a corresponding obligation to balance our environmental needs and requirements. But this bill containing the ANWR provision actually lets us address the environmental issues that have been raised about ANWR for years.

When the reconciliation bill was going through, because of procedural issues—notably the Byrd rule—we were not able to include, for instance, all the environmental safeguards in that that we might have liked. It could plain and simply only open ANWR. But contained within this Defense appropriations bill are the environmental safeguards, the provisions that we have been discussing for decades. It also has provisions that will require the best technology. We are talking about directional drilling to limit the surface disruption. It requires industry to maintain winter exploration drilling schedules, a technique of using ice roads so the wildlife isn't disturbed. The tundra remains protected. It includes the provision that we voted on not too terribly long ago that would limit ANWR oil from export, from going outside this country. There is an export ban that would be in place contained within this legislation.

For Alaska Natives, it finally allows them to develop their lands as long as the total disruption doesn't exceed 2,000 acres of the surface of the coastal plain. That is another point that needs to be made. We are not talking about disturbing the surface of the entire 1.5 million acres of Coastal Plain; we are asking for permission to explore and drill in the entire plain, but not to impact more than 2,000 acres in the process. For some in rural areas, that is the size of a small farm. For some in urban centers, this is size of your airports. That is what we are talking about. This bill allows us to place this language in it.

There was mention in the Washington Post this morning that somehow or other the language contained in the bill allows for an even greater area to be opened for oil exploration and development. That is not the case. The case is that the 2,000-acre limitation covers both federal and Native and state lands. What it does allow for is for Alaskan Natives who live up there to have the ability to gain their final land selections, but any development from those lands are subject to the 2,000-acre limitation. It is a 2,000-acre limitation in total.

We also require the Department of the Interior to consult with the Natives so that their local knowledge is considered to reduce the impact on the environment and their subsistence lifestyles. We have the support of those Natives who live there, work there, and send their children to school there, who want to see good infrastructure in terms of health facilities and schools. They support opening ANWR, but they want to do it in a responsible manner and in consultation, so that they know their voices are heard. We have put language in this bill that speaks directly to those wishes.

We have also included a provision that provides for local impact aid for any of the communities that may be subject to oil development impacts. These include the Inupiat of the North Slope, the Gwich'in south of the Brooks Range, and the municipalities and Native Corporation lands that border the Trans-Alaska Pipeline corridor.

And we included language that encourages project labor agreement talks and local hire provisions.

So we have been able in this legislation to take the concerns of some of our friends and colleagues who have been working with us—our friends from Hawaii wanted to make sure we had Native consultation provisions included. We have been able to add that in this Defense appropriations bill along with the environmental provisions that have been discussed for decades, ensuring that when we move forward with opening ANWR to responsible oil exploration and development, we have all of these provisions in place. This is key to us in the Senate, and it is certainly key to the Alaskans whom I represent, and most certainly to those who live and work on the Coastal Plain.

Now, I have to comment very quickly about a remark that was made yesterday by my colleague from Washington. In her argument against opening ANWR, she talked about "toxic" spills on the North Slope, and essentially argued that Alaskans are not being responsible somehow with our oil development. That does require a response.

Opponents have claimed there have been a high number of spills. But they fail to mention that the companies who operate on Alaska's North Slope have to report spills of most any substance that is more than a gallon in size, whether it is pure water, salt water, oil, or chemicals; whatever it is, it has to be reported if it is over a gallon in size.

According to the Alaska Department of Environmental Conservation, there has been an average of 263 spills on the North Slope yearly, seven times less than in the rest of the state yearly. The average oil spill, however, was just 89 gallons—that is about 2 barrels of oil—and 94 percent of that was totally cleaned up. Most spills are of water used in making ice roads.

According to the National Academy of Sciences's 2003 study, if you look at all the spills from 1977 through 1999, 84 percent of all those spills were less than 2 barrels in size. Only 454 barrels of oil per year have been released into the environment, compared to the 378,000 barrels of oil that enter North American waters yearly as a result of urban runoff, the drips we see at filling stations and other spills. That may be less oil than enters the Alaska environment naturally because of the oil seeps that come up from under the ground on the North Slope.

I wanted to take a second to correct the record on other point.

Senator STEVENS spoke in his comments previously about how including ANWR in the Defense appropriations bill not only helps Alaskans in getting the pipeline from a status of half full, or less than half full, to full; but it is also important to point out how adding ANWR to the Defense bill is going to help Americans overall.

I have mentioned national security. I have mentioned the jobs. I have mentioned the economic security and the reduction in the overall trade deficit.

What we will also be able to do as a result of the ANWR proceeds and the revenues that will come forth is to aid Americans who have been impacted by the disaster on the Gulf Coast. The bill also allocates 5 percent of the revenues to go to fund increases in money for the program that will also help Americans with their energy costs. This is the LIHEAP program, the Low-Income Home Energy Assistance Program. We know here it is getting cold, and it is going to be a colder winter as we move into January and February. Americans are looking at their home heating bills. They are looking at their utility bills, and they are seeing increases of 30 to 40 percent. We are going to see natural gas increases in our utility bills in excess of that.

This is a huge consideration for us as we try to balance our budgets within our own homes. So the ability to share with those who have been impacted by Katrina, helping to provide financing, if you will, for Gulf Coast rebuilding is a key of this bill. Under the Gulf Coast Recovery and Disaster Prevention and Assistance Fund about 25 percent of the total ANWR revenues will go into the fund—80 percent of the bonus and 20 percent of the longer-term royalties from ANWR production will go to the Gulf Coast States to help them recover from the effects of Katrina, Rita, and Wilma.

Also, we are talking about the reduction of the Nation's budget deficit over the life of the field—tens of billions of dollars to reduce the budget deficit will come from the proceeds from ANWR.

What is coming from ANWR is not something that only benefits Alaskans, and there have been those who have suggested that. It is not something that benefits only oil companies, and there are some who have mentioned that. The proceeds from ANWR and what we will be able to do in terms of providing for jobs, for energy security, national security, funding programs such as LIHEAP, funding to the States of Louisiana, Mississippi, Alabama, Texas, and Florida in the restoration fund, are significant; it is important, and it is appropriate that all are included in the legislation before us.

I, too, join my colleague, my senior Senator from Alaska, in asking our colleagues to end this debate once and for all, after the 25, 30 years we have been debating, arguing, and talking, and allow America to finally use its own resources to help our economy and protect our security.

Mr. President, I have several letters and resolutions I would like printed in the RECORD. These are a letter from the mayor and city council of the city of Kaktovik, addressed to Members of Congress; a board resolution from the Alaska Federation of Natives in support of opening ANWR; letters of support from unions; from the Chamber of Commerce; from Americans for Tax Reform; from the American Gas Association, as well as the Alliance for Energy and Economic Growth. I ask unanimous consent they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CITY OF KAKTOVIK, AK.,
December 2005.

DEAR MEMBER OF CONGRESS: If ever there was an issue that cried out for a fresh infusion of truth, reason and balance, it is oil and gas leasing in the Arctic National Wildlife Refuge. The fact is: a vote to support oil and gas exploration within the 1002 section of ANWR more than meets the criteria for thoughtful, far-reaching policy-making in the national interest.

Many of the Republican Main Street members of the House of Representatives have come under intense pressure to remove the provision for oil and gas leasing within ANWR from the budget reconciliation bill. In most cases this pressure comes from people who neither live on the Arctic Coastal Plain nor have ever set foot in our community.

We, the people of Kaktovik, Alaska—the only people directly affected by leasing on the coastal plain—understanding the pressure you are under, respectfully request that you consider the following important facts about this issue.

The homelands of the Kaktovikmiut Inupiat encompass the coastal plain and much of the refuge to the Continental Divide. These homelands define who we are as a people, they feed us and they are part of the legacy we leave for our children.

Despite how things may appear to outsiders, this is not empty country. We have lived here for millennia and will continue to do so. Our collective memory, the spirits of our ancestors, our place names, our dreams for the future, fill this place.

Protection and survival of our culture depends on nurturing new economic activity that allows our young people to remain and thrive here in their own country.

Although the Arctic National Wildlife Refuge was established without our consultation or consent, we have tried hard to adjust to this regime superimposed on our homeland—and not without considerable hardship. But there remains a critical fact: It is a matter of explicit and settled Congressional policy that we retain ownership of lands on the coastal plain and have been granted permission to help build a viable future for our children. There is an issue of fundamental fairness and of Native rights to be considered here.

Despite much rhetoric, oil development here offers real benefits to the nation as part of a responsible comprehensive strategy to develop diverse energy sources to help build and sustain a strong and secure economic future.

Most importantly to us, and to the majority of Americans, these benefits will NOT sacrifice the values the refuge was created to protect, in particular the wildlife and ecosystem on which they depend. Claims to the contrary are simply not supported by the facts.

We not only live in this country, we're intensely protective of it. We would not have agreed to the idea of oil leasing if we did not have assurances of the most rigorous stipulations to protect our lands, the animals on which we depend, the culture and values that guide us to the future.

These assurances are contained in a bipartisan bill, S. 1891, the Arctic Coastal Plain Domestic Energy Security Act, introduced by Sens. Stevens, Murkowski, Inouye and Akaka. This bill sets very high standards for the leasing process, holding industry and government accountable for doing it right. Key to our concerns, it gives Kaktovik an explicit role in monitoring and helping shape the leasing process so there is no lasting negative effect on the lands, waters and wildlife of this country.

We have lived in respectful and intimate association with this land for a very long time. We know with a sensitivity and a depth of practical ecological understanding—an understanding that deserves far greater recognition and respect in this debate—that under our watchful eye leasing on the coastal plain will be a safe, responsible undertaking.

You have the power to make a dramatic positive impact on the security of the nation's energy supplies while protecting our wildlife, our people and our cultural heritage. We respectfully ask that you join with your colleagues in the Senate and support the inclusion of language opening the Arctic Coastal Plain as a part of the 2005 Budget Reconciliation.

Sincerely,

Lon Sonsalla, Mayor; George Tagarook, City Council; Norah Jane Burns, City Council; Ida Angasan, City Council; Sherry Wolf, City Council; Richard Holschen, City Council; Joseph Kaleak, Vice-Mayor; Phillip Tikluk, Jr., President, Kaktovik Inupiat Corporation (Tribe); Annie Tikluk, Board Member, Native Village of Kaktovik; Adam Linn, Administrator, Kaktovik Inupiat Corporation; Isaac Akootchook, President, Native Village of Kaktovik.

ALASKA FEDERATION OF NATIVES, INC., ANCHORAGE, AK, BOARD OF DIRECTORS

BOARD RESOLUTION 05–01

Title: Alaska Federation of Natives (AFN) Support of Opening of the Alaska National Wildife Refuge (ANWR) to Oil and Gas Development

Whereas: The delegates of the Annual Convention of Alaska Federation of Natives of 1995 are on record in supporting the opening of Arctic National Wildlife Refuge (ANWR) for oil and gas development; and,

Whereas: The opening of the Arctic Wildlife Refuge (ANWR) to oil and gas development will bring considerable economic benefits to the State of Alaska; and

Whereas: The Alaska Natives should be assured of sharing in such economic benefits; and

Whereas: The Alaska Native Communities lack many basic infrastructure and economic opportunities and energy costs are extraordinary; and

Whereas: The Native Corporations created under the Alaska Native Claims Settlement Act (ANCSA) are charged by Congress with promoting the economic and social welfare of the Alaska Natives; and now therefore be it

Resolved by the Board of Directors of the Alaska Federation of Natives, that in the consideration of the economic wealth that will be generated by the development of ANWR that the Alaska Federation of Natives request Alaska's Congressional Delegation to pursue federal legislation that will include:

Federal support to fully fund the Power Cost Equalization Endowment Fund;

Measures that ensure ANCSA corporations with an opportunity to participate in the ANWR development activities;

Measures providing the ANCSA corporations with the opportunity of ownership interests in the development of ANWR; and

A 20 percent Alaska Native employment requirement in the authorizing legislation leading to the development of ANWR; and, be it further

Resolved that AFN also pursues legislation that will include revenue sharing of two percent (2%) of federal or state royalties from any oil and gas development of ANWR be earmarked for the tribal governments and non-profit organizations.

U.S. CHAMBER OF COMMERCE,
Washington, DC, December 16, 2005.

TO MEMBERS OF THE UNITED STATES SENATE: The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region, strongly supports legislation which may be considered in the coming days that would authorize the much needed energy exploration in the Arctic National Wildlife Refuge (ANWR). The Chamber urges you to support passage of this important legislation.

As one of America's greatest prospects for domestic oil exploration, ANWR is conservatively estimated to contain 10.4 billion barrels of recoverable crude oil. According to the U.S. Energy Information Administration, ANWR would provide the United States with approximately one million barrels of oil each day for the next 30 years. This additional production would decrease oil imports from the Persian Gulf region by 40%, which would strengthen national security by making the United States less dependent on oil from politically unstable regions.

In addition, ANWR exploration makes sense because of its potential to raise substantial revenues. Recently, the Congressional Budget Office (CBO) released a recalculation of the amount of revenue that may be generated through lease sales in ANWR. Using a $50 per barrel long-term price for oil, as opposed to the $25–$35 per barrel used earlier this year, ANWR exploration would generate more than $10 billion in revenue by 2010.

Important policy objectives, such as energy security and fiscal responsibility, are placed at risk when substantial domestic energy resources remain off limits. The provisions in H. Res. 315 are an important step toward providing an affordable and reliable supply of domestically-produced energy.

The Chamber urges you to support passage of legislation that would authorize much needed energy exploration in ANWR. The Chamber will consider including votes on or in relation to this measure in our annual "How They Voted" scorecard.

Sincerely,

R. BRUCE JOSTEN.

MEMO: UNIONS SUPPORTING RESPONSIBLE ANWR DEVELOPMENT

DECEMBER 17, 2005.

Within the next few days, you will be asked to vote on legislation making appropriations for the Department of Defense and other vital government programs. One of these important policies is the authority to develop vast oil resources in the Arctic National Wildlife Refuge, popularly known as

ANWR. This is a jobs issue for our unions and our members.

On December 7, 2005 the Congressional Budget Office wrote Senator TED STEVENS and responded to the Senator's inquiry that ANWR bonus bid receipts "might total at least $10 billion—roughly double CBO's official estimate." That means it also increases the federal revenue to a total of $5 billion, as the state of Alaska and the federal government will share bonus bid receipts on a 50/50 basis. In the Defense appropriations legislation, the conferees have dedicated a significant portion of those additional revenues for funding future federal disaster relief programs. As we understand it, these sums will also be used as collateral for immediate relief for damage caused in the Katrina, Rita and Wilma disaster areas.

We also see all of this as an affirmation of the progressive jobs policies generated by ANWR production.

Again, we urge you to support this legislation, because ANWR will create thousands of jobs for our members for many years. The bill assures ANWR work is protected by a project labor agreement. You will hear strident calls from opponents who claim opening ANWR will degrade the environment. We have heard their arguments, discussed them and made reasonable adjustments. They remain unyielding. Their baseless slogans can no longer be used as impediments to creating jobs or frustrating reasonable energy development.

When the question is called on the Defense Appropriations bill, it will be framed as one of process—to invoke cloture on the bill.

For us, process is policy.

The choice is clear. We can either continue to be hamstrung by the exaggerations of obstructionists, or be guided by policies that create jobs and assure a secure energy future.

Please support the Conference Report and oppose procedural devices that would delay this important legislation.

Thank you for your consideration.

International Union of Operating Engineers, AFL-CIO.

Seafarers International Union, AFL-CIO.

International Brotherhood of Teamsters, Change to Win Federation.

United Association of Plumbers & Pipefitters, AFL-CIO.

Laborers' International Union of North America, AFL-CIO.

United Brotherhood of Carpenters and Joiners of America, Change to Win Federation.

Building & Construction Trades Department, AFL-CIO.

AMERICANS FOR TAX REFORMS,
Washington, DC, December 12, 2005.

Hon. WILLIAM FRIST, MD,
Majority Leader, United States Senate.
Hon. J. DENNIS HASTERT,
Speaker, House of Representatives.

DEAR MAJORITY LEADER FRIST AND SPEAKER HASTERT: On behalf of Americans for Tax Reform (ATR), I am writing to express this organization's strong support for ensuring the Arctic National Wildlife Refuge (ANWR) provision, included in the Senate version of the budget reconciliation package, is included in the final Senate/House conference agreement.

In the wake of Hurricane Katrina, it has became increasingly evident that America must begin to increase its own domestic oil production. Requiring more domestic energy will create new jobs, lower prices, and boost the economy.

The ANWR provision in the Senate reconciliation package is expected to raise $2.4 billion by producing more than 10.4 billion barrels of oil in ANWR. Obviously, this is a win-win situation as the provision will increase future energy supplies, reduce American's dependence on foreign oil and help lower oil prices in the future.

Once again, I urge you to ensure the ANWR provision is included in the final Senate/House Conference Agreement of the Deficit Reduction Act of 2005.

Onward,

GROVER NORQUIST.

AMERICAN GAS ASSOCIATION,
Washington, DC, December 16, 2005.

DEAR MEMBERS OF CONGRESS: On behalf of the 195 local energy utility members of the American Gas Association, which deliver natural gas to more than 56 million homes, businesses and industries throughout the United States, I urge you to support legislation that would open the Alaska Arctic National Wildlife Refuge (ANWR) to energy production, which will be included in the FY-06 defense appropriations bill scheduled to be voted on by Congress this weekend.

Allowing energy production in ANWR is a vital component to addressing one of our nation's more urgent public policy issues, namely the imbalance between energy demand and available supply, and the resulting high and volatile energy prices that America is experiencing. Increasing our access to domestic energy supplies is critical to enhancing America's energy security, sustaining America's economy and providing the American consumer with relief from ever spiraling energy costs.

AGA speaks on this matter not only as the representative of natural gas utility companies, but also as a voice for their customers who have been hit so hard financially because of higher natural gas prices. Whether it's a homeowner struggling to pay the heating bill, a small business facing significantly increased energy-related business costs or an industry being forced to move overseas in order to compete in the global marketplace, soaring energy prices have been a severe detriment to America's quality of life.

Thanks to new technological developments energy can now be produced without undue harm to the surrounding environment. Hopefully, this vote will be the beginning of a trend that recognizes America's energy needs can be met with adequate environmental protections.

Again, we urge you to support passage of legislation containing the provisions to finally open ANWR.

Sincerely,

DAVID N. PARKER.

ALLIANCE FOR ENERGY AND
ECONOMIC GROWTH,
December 16, 2005.

TO ALL MEMBERS OF THE UNITED STATES CONGRESS: We are writing to you again in strong support for legislation to open the Arctic National Wildlife Refuge (ANWR) to energy production, which is now being moved in the defense appropriations legislation. This is an issue of both national and economic security for America. Our country depends on foreign sources for almost 60 percent of the oil Americans consume. In a world that continues to be plagued by instability in many of the oil-producing regions, this type of dependency should be of concern to all of us.

The Alliance for Energy and Economic Growth (AEEG) is a broad-based coalition whose members develop, deliver, or consume energy from all sources. With more than 1,200 member organizations and businesses, AEEG is seeking to build a national consensus for a comprehensive U.S. energy strategy that balances supply and demand, without compromising environmental safeguards, so that we can fuel America's dynamic economy and support our quality of life.

Our members believe that ANWR is one more critical part of securing America's energy future. While ANWR alone can't provide us with all the domestic energy we need, combined with the rapid development of other domestic oil and natural gas supplies ANWR would make a tremendous difference, especially when coupled with greater energy efficiency, conservation and diversification. In addition, we must protect those Americans most at risk by supporting full funding of the Low Income Home Energy Assistance Program (LIHEAP).

ANWR's Coastal Plain holds the nation's greatest potential for another Prudhoe Bay-size discovery. Conservative estimates from both the U.S. Geological Survey and U.S. Energy Information Administration peg technically recoverable crude oil reserves at approximately 10 billion barrels. That is enough to provide the United States with 1 million barrels of oil a day for 30 years.

Oil production on the North Slope of Alaska is handled with the greatest care possible for the environment and with the least possible disturbance of wildlife. To ensure continued environmental protection, House and Senate language on ANWR development requires the application of the best commercially available technology for oil and gas exploration, development, and production.

Now more than ever, it is time to increase access to areas containing vast domestic reserves of energy-such as ANWR. As we have stated in the past, energy is the lifeblood of our nation's economy. While Congress has taken a number of steps over the past two years to improve the nation's energy policy, we still urgently need to increase domestic supplies of oil and natural gas. Our members, who represent the agricultural community, manufacturers, small and large businesses, labor and the energy industry, all recognize that additional supplies of oil and natural gas are critical to this nation's energy security and more affordable energy is needed to support economic growth.

We urge you to support the bill and the rule (in the House) that contains legislation to open ANWR.

Sincerely,

THE MANAGEMENT COMMITTEE.

Ms. MURKOWSKI. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CHAFEE.) Who yields time?

The Senator from Iowa.

Mr. HARKIN. Mr. President, I understand the ranking member was going to yield me 30 minutes of time.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. Mr. President, last week this story, "Prayers Made to Protest Budget Cuts," appeared in the Quad-City Times in my State of Iowa. Ollie Finn of Bettendorf said:

> We're concerned about the budget cuts and that's why we're having the prayer vigil. We wanted to bring awareness to the community about how horrible these budget cuts are. . . .

The Rev. Roger Butts, pastor of the Unitarian Church of Davenport, asked people to determine whether the Fiscal Year 2006 budget serves the common good. "I've come simply to pray with you and to stand with you for those whose voices are easy to ignore," he said.

I ask unanimous consent that this article from the Quad-City Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRAYERS MADE TO PROTEST BUDGET CSUTS

(By Mary Louise Spear)

People representing faith and social action organizations gathered together Wednesday to protest federal budget cuts that will affect low-income families.

The group prayed together at the building that houses the Social Security office in downtown Davenport. They presented petitions with 438 signatures protesting the cuts to representatives from U.S. Sens. Tom Harkin and Charles Grassley of Iowa and U.S. Rep. Jim Nussle's offices. The group also plans to present copies to U.S. Sens. Dick Durbin and Barack Obama and U.S. Rep. Lane Evans, of Illinois.

"We're concerned about the budget cuts and that's why we're having the prayer vigil. We wanted to bring awareness to the community about how horrible these budget cuts are," said organizer Ollie Finn of Bettendorf.

People at the vigil represented Pax Christi, Progressive Action for the Common Good, Churches United of the Quad-City Area, Sisters of Humility and Carmelite order.

The majority in Congress are proposing $60 billion in tax cuts which includes extending the capital gains and dividend tax cuts through 2010 according to information from Harkin's office. He opposes the cuts. Senate Republicans are also looking at taking $35 billion out of entitlement programs which help working Americans, he said.

The U.S. House of Representatives has called for $50 billion in cuts to food assistance, support for children in foster care, Medicaid and enforcement of child support payments.

The Rev. Roger Butts, pastor of the Unitarian Church of Davenport, asked people to determine whether the Fiscal Year 2006 budget serves the common good. "I've come simply to pray with you and to stand with you for those whose voices are easy to ignore," he said.

"The group is hoping legislators respond to their concerns about the proposed cuts.

"We are working to at least restore the additional $15 billion in cuts. We feel this will have a strong effect on the poor," said Rick Schloemer of Rapids City, Ill.

The Wednesday vigil coincided with members of the U.S. Senate showing their support for a motion from Harkin. He asked members of the joint House-Senate conference committee to reject the House's proposal for food assistance cuts.

"The number of Americans who are food-insecure has been steadily rising over the past few years, and it's critical that conferees reject any attempts to scale back food assistance that will make this problem even worse," he said.

Single mothers living in Humility of Mary Housing Inc. transitional housing program would certainly feel the impact, said Sr. Pat Miller of Humility of Mary and a board director. They have 57 apartments in Davenport and about half of their budget for programs and housing comes from the federal government, she said. These women also depend on food stamps and assistance to help with heating bills.

The budget cuts "will particularly affect the poor we serve," agreed Sr. Michelle Schiffgens of Humility of Mary. "We have many single moms with kids living in those apartments and they are greatly concerned about what could happen to them."

Mr. HARKIN. Mr. President, I know that people of faith held many events in Iowa, Washington, and many other places around the country last week on this very topic. Unfortunately, their prayers were not enough. Their prayers were not enough because yesterday we awakened to the flurry of late-night activities in the House of Representatives. House Republicans waited until the middle of the night Sunday, less than a week before Christmas, to order deep cuts to health care initiatives and farm programs and to sneak through blanket protections for the pharmaceutical industry.

It is not an accident these House votes occurred in the dead of night. There are now only 5 days until Christmas. Throughout much of the world, it is the season of giving, but here in Congress, it is the season of taking away—taking away education programs, taking away job training, taking away health care from low-income families, taking away money for needed medical research, taking away from farmers and rural communities and, worst of all, taking away hope from so many. This is a cruel holiday surprise for many American families.

Why are we doing this? Not for deficit reduction, but to provide tens of billions of dollars in tax giveaways for the wealthiest in our society. Forty percent of the benefits in the House tax bill go to those making more than $1 million a year.

Seventy-eight percent go to those making over $100,000 a year. Only 8 percent go to those making under $50,000 a year. So, again, those in the bottom of the ladder get some crumbs from the table. So while the wealthiest in our society unwrap Christmas presents, while the wealthiest in our society are hanging their Christmas stockings and getting thousands of dollars of tax giveaways stuffed in their stockings, for the poor and low income, Congress has come with a couple of lumps of coal for their stockings.

Take a look at some of the provisions I am talking about. Take the provision of the child support enforcement. This is essential to helping families achieve self-sufficiency. For families in poverty who receive child support, those payments account for an average of about 30 percent of their income. Next to a mother's earnings, child support is the largest income source for poor families receiving assistance. Child support payments are used to pay for food, child care, shelter, and the most basic essentials of life. The bill slashes funding for these child support enforcement efforts.

The Congressional Budget Office estimates that as a result of the cuts, more than $8.4 billion in delinquent payments will go uncollected in the coming 10 years. The biggest negative impact will be by children living in poverty and low-income households. One hundred seventy-six thousand children benefit from child support payments in my State of Iowa alone. In the past, President Bush himself praised the program, calling it one of our highest performing social services programs, and he is right. For every dollar in Government spending, $4.38 is recovered for families in child support payments.

Since 1996, there has been an 82-percent increase in collections, from $12 billion to $22 billion. If we were smart, if we were compassionate, if we were looking at ways to get the most bang for the taxpayers' dollar, we would be increasing funding for the child support enforcement program. The bill before us cuts this program in order to make way for more tax cuts for the wealthiest. It is simply unconscionable.

Let us take a look at Medicaid. I am very concerned about the cuts to Medicaid in this bill. I have said all along, if one wants to do something about Medicaid we ought to have a fair, honest, open debate about reforming Medicaid. We should do so in a way that does no harm to the beneficiaries because who are the beneficiaries of Medicaid? The poorest among us, poor women and children, the disabled, low-income elderly who need access to long-term care.

This bill before us today makes two changes that are permanent changes. One, under this bill, States can now alter or eliminate services to individuals. They can do it on their own. Secondly, the bill allows States to charge fees—sometimes it could be exorbitant fees—on many services where there were no fees before. Again, this could limit access to care for so many.

For example, States may provide any child, even those whose families have the lowest incomes, with a smaller benefit package than they have today. That means that low-income children, no matter how poor, are no longer guaranteed, as they are now, vision screening; no longer guaranteed coverage for eyeglasses; no longer guaranteed therapy services, medical equipment or any other benefit.

This bill would allow States to charge up to 20 percent of the cost of each medication that an individual gets in Medicaid. For individuals who take multiple drugs, this is 20 percent for each medication, so an individual who has multiple drugs or maybe an individual who needs expensive medication, these provisions could, in effect, eliminate access to needed medicines.

Keep in mind these are people who qualify for Medicaid. That means they are poor, by definition. They do not have money. So now we are going to ask them to pay more for services? Now we may ask them to pay for eyeglasses for their kids. Well, their kid needs eyeglasses, they do not have any money, they cannot pay for it, tough. That is the way it was 50 years ago in our country.

I suppose they can go get charity, can they not? I forget about that. That is right. I suppose they could go to their local church or their local synagogue maybe, local mosque, and maybe they will pay for all the eyeglasses for all the poor kids in our country now.

Under the bill, medical care providers can deny medical care if the patient has no ability to pay the charges at the time the care is needed. States can terminate coverage if the family cannot pay the monthly premiums. Again, these changes were made despite a large body of evidence, research, and studies that determined that such cost-sharing increases are likely to lead many low-income Medicaid patients to forgo various health care services and medications or not to enroll in Medicaid.

Guess what. When they do not take their needed medications, when they forgo needed health services, when they do not sign up for Medicaid, guess where they are seen. They are in the emergency room, and we are paying three, four, five times as much to help them. So much for the health care safety net that we have worked so many years to provide for low-income Americans.

Let us look at education, student loans. The reconciliation bill increases the interest rates paid by the parents of students who are taking out loans to help their kids. Merry Christmas; you are going to get higher interest payments.

It also creates a potential problem for the federally operated direct loan program. This is a direct loan program utilized by many schools. The University of Iowa, UNI, Iowa State University in my State all use it. This bill before us says the accounting of the administrative costs for the direct loan program now goes to Labor and Health and Human Services rather than being automatic. That means it is subject to a cut. This year's Labor-HHS-Education bill has been cut this year. And, I expect next year could be very difficult.

Let's look at agriculture and rural development, so important in my State and so many other States. I have long believed that there was really no justification for making budget cuts in the area of agriculture and rural development programs. Commodity prices are down. Prices for energy and fertilizer and other goods and services that farmers buy are sharply higher. Rural communities are struggling to hold onto jobs, to survive.

Keep in mind, when we wrote the 2002 farm bill—I happened to be chairman at that time—we stayed within the budget allocation we were given. In fact, the commodity programs in that bill have cost us $14 billion less than what we were allocated. That is $14 billion that we saved the taxpayers of this country.

There were commitments made in the farm bill, but this reconciliation bill reneges on those commitments. In agriculture and rural programs, again, the sacrifice is being imposed on those least able to bear it. It is hard to understand what they have in mind for our farmers or rural communities.

Secretary Johanns and the President and others have been going around the country saying the future of farm policy lies in less emphasis on the traditional commodity programs and greater focus on conservation, renewable energy, agricultural development, and agricultural research. You cannot argue with that. It all sounds good. That is what we did in the 2002 farm bill because these types of assistance are all allowed under the WTO trade agreements. We put those in the farm bill. We put a tremendous focus on conservation in the farm bill.

President Bush, when he signed it, touted it and said oh, this is wonderful. There is a lot of good conservation. We put in for the first time ever an energy title in the farm bill. It came out of the Senate, not the House, with an energy title to get farmers—to get us all focused on energy.

Rural economic development and new rural investment-type programs for rural development, we put in money for broadband extension to small communities all over America. Guess what they are cutting in the reconciliation bill: conservation, renewable energy, rural economic development, agricultural research—all being cut. Conservation suffers the largest funding cuts of all, and the Conservation Security Program is hit the worst. The Conservation Security Program is a voluntary program of incentive payments for farm and ranch conservation practices, exactly the kind of program that Secretary Johannes and the administration are talking about as they go around the country. Yet the Conservation Security Program is virtually demolished in the bill before us. It is cut back so far that there will probably be few enrollments next year. The damage to the CSP is only a part of the serious cuts to a number of farm conservation programs in this bill.

Some argue that in the Defense appropriations bill there will be some money to make up for cuts in conservation. Don't be misled. Defense appropriations funds are not even available until 2008, and then only if Congress doesn't take them out later on, as they have done year after year. What is going on here? Why are drastic cuts conservation being made in one bill and then we have a restoration a few years later in another bill?

The DOD bill is going to come before us, and you will hear some talk about: "There is money in there. We have some money for conservation." There is money in there for 2008 but, guess what, next year they may come and say we need that money, we will make up for it in 2009. They may keep doing this every year to us, the old shell game.

The bill takes away rural development funding to expand high-speed broadband access in rural communities. President Bush set a goal. He set it in Des Moines, IA. We are going to have broadband in all rural communities by 2007. Yet they are cutting the funding in the reconciliation bill for that very purpose. Do I hear anything from the President about it? Not a peep.

The bill takes away $20 million of $23 million for an innovative program to help farmers and rural businesses adopt renewable energy systems and energy efficiencies and improvements. When you take $20 million out of a $23 million fund, that kills it. Let's face it. I guess the $3 million they are leaving is for some bureaucrats so they can sit at their desks and twiddle their thumbs because and little else.

The bill cuts $760 million, almost three-quarters of a billion dollars, out of funding that we had in the farm bill that goes to agricultural research.

Again, the administration has just been in Hong Kong saying we have to push for cuts to farm income and commodity programs to make them combined with WTO. But at the same time they are in Hong Kong, they are here in the House and Senate cutting the very programs to sustain farmers, to sustain rural communities, and provide for rural economic development that will be consistent with WTO provisions.

I said all along the reason they are doing this is not to cut the deficit. The deficit actually goes up under this bill. I think of the word, "reconciliation." We have before us the reconciliation bill. "Reconciliation"—nice word: to reconcile, to make things even. To reconcile things. To make them fit.

When we passed the Budget Act 30 years ago we put in this reconciliation process so that the budget would come out, the Appropriations Committee would do their work, and then after they did all their work they would reconcile the spending with the budget, so as to keep the deficit under control. That is the way it is supposed to work.

We had a budget. We did all of our appropriations work. We have the reconciliation bills. Does the reconciliation bills make the deficit come down? Not on your life. This reconciliation bill actually is the first in a pair of reconciliation bills that increases the deficit so it has the reverse effect of what reconciliation bills were supposed to be. They may use that word, but this is a deficit-increasing process.

This is one of a pair of bills to provide tax giveaways to the wealthy and increase the deficit. It sure cannot properly be called a reconciliation bill.

So they cut child support enforcement, foster care benefits, cut Medicaid, make students pay more interest on their loans for going to college. But we get to ram through $70 billion in more tax giveaways mostly for the most privileged. Not only is this fiscally irresponsible, it is the wrong priorities. It is the wrong values for America.

The two main tax provisions we are considering in this process are, No. 1, the extension of the dividends and capital gains cuts and No, 2, the alternative minimum tax. The extension of the dividends and capital gains tax cuts for just 2 years will cost the Treasury $50 billion. Because of it, 40 percent of the benefits of the House Reconciliation Tax bill will go to individuals making over $1 million a year.

Back in 2001, when they rammed through the first year's tax giveaway bill, they purposely doubled the number of taxpayers who would pay higher taxes because of the alternative minimum tax, but then they delayed the impact for the first few years. Now we have to pay the Piper to the tune of $30 billion just to fix it for 2006.

This chart is a little hard to read. It is from the official Congressional Joint Tax Committee explaining the bill written at the time. Basically, under the old law before the tax cuts of 2001, by 2010 there would be 17.5 million Americans paying the alternative minimum tax. When they passed the tax giveaway program of 2001, it doubled it to 35.5 million. Many of these are basically middle-income people. Now we all want to fix it. To fix it costs $30 billion for just 2006.

Again, the Republicans will argue that everyone benefits from the 2001 and 2003 tax cuts. I guess that is true. Everyone benefits. Even when you get crumbs from the table, you get food. Even when some crumbs fall off the table, you can say: Well, the people on the floor got some food. The same with tax cuts.

Look at the chart. The bottom fifth of taxpayers, individuals and families making under $13,500 a year, gain an average of $23 a year. This is the bottom 20 percent. These are the one out of every five Americans.

I know it is almost hard to believe that for people around here when you are making $157,000 a year, and out of 100 Senators you have some who are megamillionaires. It is hard to imagine one out of five people outside this building, outside of these hallowed halls, one out of five making less than $13,478 a year. They got 23 bucks. You can say: Well, they got a break—23 bucks. Will that buy 8 gallons of gasoline? Well, maybe—7 or 8 gallons of gasoline. It will not even fill up your tank. That is for 1 year.

People in the middle 20 percent who make between $25,847 and $44,451, they got $618 a year. It is not bad. But you spread that over a year's time, that is a tax cut of about $26 a paycheck.

That is why, when you ask your typical middle-income American, Did you see any gain from this tax cut, they will say, Are you kidding? They might have gotten $26 a paycheck. Guess what. It went out in higher taxes for their property taxes. Why? Because we have cut back funding for No Child Left Behind and for education and for special education which means that middle-income families have to pay more on their property taxes for education and that chewed up more than $26 a paycheck which they got back. Again, a good old Republican tax shell game.

Where did the money go? The top one-tenth of 1 percent of income earners, people making over $1,589,000 a year—yes, there are people in America who make that kind of money. I don't hold that against them. That is fine. It is part of the American dream—to make money. But it is not the whole American dream. Over the last 4 years, $1.7 billion in tax cuts, 145,000 people with incomes over $1.59 million a year got $195,762 a year. I will bet they noticed that.

Again, the old trickle-down capitalism. All you have to do is give more money to the top and it all kind of trickles down. The best way to help the poor at the bottom is set a lavish table with all the finest foods and let the people at top eat the best, drink the best and the crumbs will fall off and the poor will get help. Trickle-down economics, trickle-down capitalism.

There is another form of capitalism. It is called percolate-up capitalism. It is where you invest in education, it is where you get people decent jobs and job training. It is where you provide decent housing and health care so people are able to work and keep their families together. It is a kind of a capitalism that understands you don't eat your seed corn. You invest in people, and these people then became better educated, healthier, more productive citizens, and they make the pot grow.

Other examples of the difference between trickle-down capitalism and percolate-up capitalism. Sure. Look at the 1981 tax cut when Reagan came in, big, massive tax cuts, again, mostly for the wealthy. We lost 3.5 million jobs in the 18 months after it passed. Guess what. Later, we saw employment rise. But, that followed several tax increases.

The Democratic administration came in, in 1993. Yes. We had a responsible tax increase in large part on the wealthy to help eliminate the huge deficits. Many on the other side predicted economic disaster. Look at what happened. We got 4.4 million new jobs in the following 18 months. That is percolate up. That is giving people hope, giving people jobs. Guess what. Everybody did better. The rising tide lifted all the boats.

Then we come back in 2001. Again, similar to 1981, we had not learned our lesson, massive tax giveaways for the wealthiest, large increases the deficit, we lost 2.7 million jobs.

We keep doing trickle-down economics. We tried it under Reagan. We tried it under Bush. The same thing happened: less new jobs. But there is something about a belief system and trickle-down economics. I will tell you what that belief is. Their wealthy friends made out like bandits. That is exactly what happened.

Simply put, what we have before us is not a reconciliation bill. What we have before us is a bill that turns topsy-turvy what we are supposed to be about, in terms of providing for justice in our society, a fair shot at the American dream to ensure that people have a decent safety net when things happen beyond their control; when they become disabled, when they get sick, when families split up, and the father deserts and isn't paying child support any longer.

We need to pay attention.

In terms of topsy-turvy, what we are supposed to do at this time of the year—we all remember Charles Dickens' classic tale of "A Christmas Carol," the story of Ebenezer Scrooge. He learns the true meaning of Christmas at the end and opens his heart to those less fortunate than he.

Unfortunately, in the Congress, life does not imitate art.

Less than a week before Christmas, Congress is poised to deliver a cruel blow to the most underprivileged and disadvantaged in our society. Unlike Dickens' tale, no remorse at the end, no nagging conscience, no change of heart at the end of the day. In this Congress, in this Senate, Scrooge would feel right at home. This is Scrooge's domicile. Scrooge lives in the Senate and in the House.

That is why we need to reject this proposal. We need to reject it. We need to have the spirit of Christmas to understand that there are less fortunate in our society. They need hope. They need a hand up. They need the Government to make sure that their kids can get a decent education and housing and health care, that they will get their child support payment, that they will invest in medical research.

That is what we ought to be doing. That is why we have to defeat this conference report under the so-called reconciliation process. We do need to extend some tax provisions, but they should be progressively paid for.

Send this bill back. Let us be similar to Scrooge at the end, when we look upon the poor family and we have a change of heart and we realize that what we have done before we can't keep doing. Let us have the change of heart and defeat this so-called reconciliation bill. Let us have a continuing resolution, let us come back after the first of the year and do the right thing for the American people.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. CORNYN. Mr. President, what is the regular order?

The PRESIDING OFFICER. The Senate is considering the conference report to accompany S. 1932. The majority has 2 hours 24 minutes remaining.

Mr. CORNYN. Mr. President, I would like to speak on the PATRIOT Act and on the National Security Agency story in the New York Times for approximately 20 minutes. Is there any limitation on my ability to do so?

The PRESIDING OFFICER. Without objection, it is so ordered.

PATRIOT ACT AND NATIONAL SECURITY AGENCY STORY

Mr. CORNYN. Mr. President, since the New York Times revealed the existence of a classified program whereby the National Security Agency was conducting intelligence operations on al-Qaida and terrorist-related operatives here in the United States and overseas, there has been a lot of reaction to that revelation.

First of all, we know the New York Times had been sitting on that story for approximately a year, and then for some unstated reason decided to release the story the day we were supposed to vote on the reauthorization of the PATRIOT Act. As a result of a variety of circumstances, but I believe in part that story, we find ourselves in the very strange position of not having reauthorized the PATRIOT Act and having the PATRIOT Act expire—16 provisions of it at least—on December 31, 2005.

There are some who said when they heard about the National Security Agency's surveillance of foreign terrorist suspects that this was an illegal usurpation of congressional authority by the President, or otherwise improper. Others have asked questions about the propriety of the program.

Frankly, I do think there has been more heat than light generated on this subject, and what I would like to do is spend a few minutes sharing with my colleagues some of the research I have been able to do over the past few days to try to understand exactly what the President's authority is and what procedures apply to the collection of signals intelligence, telephone communications between terrorist suspects in America and abroad.

The fact is that previous Presidents have also argued that they had authority that the President of the United States claims to have under the provisions of the Constitution. In fact, in 1981, President Ronald Reagan signed Executive order 12333, which provided for warrantless searches directed against a foreign power or agent of a foreign power. That was in 1981.

So it perhaps should be no surprise the President who immediately preceded the current President, President Bill Clinton, his administration, also argued specifically in testimony provided by Jamie Gorelick, Deputy Attorney General, on July 14, 1994, before the Intelligence Committees, that the Clinton administration believes and the case law supports that the President has inherent authority to conduct warrantless searches for foreign intelligence purposes and that the President may, as has been done, delegate this authority to the Attorney General.

So we see there is historical precedent for the argument made by President Bush, our current President, that Presidents have some authority to act even without employing the use of the Foreign Intelligence Surveillance Act to protect American lives and to save us against the designs of terrorists who would kill innocent American citizens.

It also appears that the U.S. Supreme Court has spoken on a related issue that could be interpreted to confer authority on the President of the United States. My colleagues recall that in 2001, after the terrorist attacks that occurred in Washington and in New York City and which was thwarted in the fields of Pennsylvania, this body passed a use-of-force resolution authorizing approval of the President and the executive branch's use of force to combat and win the global war on terrorism.

We recall that not too long ago, when trying to determine the extent to which the President's powers extended, the United States Supreme Court decided a case called Hamdi v. Rumsfeld. This involved Yaser Hamdi, who was being held as an enemy combatant, and claimed that his detention violated 18 U.S.C. 4001. Section 4001(a) states that "[n]o citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress."

This is analogous to the Foreign Intelligence Surveillance Act, which claims that it is the exclusive method by which foreign intelligence may be obtained by use of signals intelligence.

Justice O'Connor's plurality opinion, joined by Chief Justice Rehnquist, Justice Kennedy, and Justice Breyer, concluded that the use-of-force resolution was "an act of Congress" that authorized Hamdi's detention, notwithstanding the argument that it violated 18 U.S.C. 4001.

Her rationale, as I understand the opinion, was that because the detention was meant to prevent a combatant's return to the battlefield, it was a fundamental incident of waging war in permitting the use of necessary and appropriate force.

Justice O'Connor, in the plurality opinion, concluded that Congress had clearly and unmistakably authorized detention in the narrow circumstances considered here. Thus, the question seems to me to be, by analogy, whether this use-of-force resolution, which authorizes American troops and our military to search out and to detain and, if necessary, to kill terrorists before they come to our shores and kill us—the question is, is the intelligence gathered by the use of this surveillance a fundamental incident of waging the war on terror? And it strikes me that it is.

Inherent in waging war is obtaining actionable intelligence from our enemy or on our enemy. Certainly, I would believe, under the rationale in the Hamdi v. Rumsfeld case, that this would be a fundamental incident in waging the war on terror and one authorized by the use-of-force resolution in 2001.

So we see that President Clinton believed, as did President Reagan, that the President had authority, even outside of the Foreign Intelligence Surveillance Act, but another arguable basis of that authority is the resolution that Congress itself passed in 2001.

Now, there is one other authority that I think bears on this issue that is important. When the Congress created the Foreign Intelligence Surveillance Act in 1978, it created a special court to consider ex parte—that is, "without the benefit of the other side being there"—applications for orders to get electronic surveillance.

Now, people have thought: Well, this must be similar to other courts. But the truth is, it is not an adversarial process because we do not let our enemies know we are going to the Foreign Intelligence Surveillance Court to get an order so we can find out what they are doing. But, nevertheless, Congress did create this, what we call a court, for the purpose of considering those applications.

But more to the point, the Congress also created an appeals court called the U.S. Foreign Intelligence Surveillance Court of Review. Now, granted, most of the time the Foreign Intelligence Surveillance Court operates in secret and does so for the obvious reasons that these are classified operations. We cannot let our enemies know what we know, so we can discover their attempts to hurt innocent American civilians.

The Congress understands, and certainly the Intelligence Committees and all the Members of Congress understand, that most, if not all, of this has to operate in confidential or classified circumstances.

But in November of 2002, the Foreign Intelligence Surveillance Court of Review—this appellate court created by

Congress under the Foreign Intelligence Surveillance Act—actually issued a public opinion, which was extraordinary. It is the first time since the creation of FISA, the Foreign Intelligence Surveillance Act, that an appeal was actually brought and that the court actually issued a written opinion.

Now, notwithstanding the fact that there is not an adversarial process—again, it is a one-sided process by the Government seeking permission from the judges to conduct this important surveillance against foreign agents and international terrorists—notwithstanding that fact, the court invited the American Civil Liberties Union and the National Association of Criminal Defense Lawyers to submit briefs so they might consider their decision with the additional input of these organizations that, by their nature, would argue perhaps a more limited approach to Government power.

Well, all of that I say to point out that in the absence of a controlling U.S. Supreme Court decision—and I mentioned the Hamdi case which is applicable by analogy to this situation when it comes to the authorization of the use of force—in the absence of a controlling decision on the President's inherent power to conduct these operations through a warrantless surveillance, the court created by Congress to be the authoritative decisionmaker of these matters, in 2002, said, on page 48 of this opinion:

> We take for granted that the President does have that Authority [that is, to conduct warrantless searches to obtain foreign intelligence information] and, assuming that is so, FISA could not encroach on the President's constitutional power.

Now, concededly, that is what lawyers like to call "dicta." It is perhaps not essential to the decision of the specific issues that came before the FISA Court of Review, but it does recognize that the case law and precedent supports the President's authority to conduct warrantless surveillance in foreign intelligence and international conspiracies against the United States because of the power conferred on him under article II of the Constitution.

So in summary, we see that not only did the Clinton administration believe the President had that authority, the Reagan administration believed the President had that constitutional authority under article II and, by analogy, that the U.S. Supreme Court has suggested that the use-of-force resolution would authorize surveillance as a fundamental incident of waging the war on terror.

So these are helpful in shedding some light on exactly what authority the President had during the course of this surveillance, which he says was essential to protecting American lives against foreign agents bent on doing Americans harm.

It seems reasonable to me that the President ought to be able to rely on the Foreign Intelligence Surveillance Court of Review's opinion that has stated that every court that has reviewed this or similar questions has found inherent authority to conduct this type of intelligence.

Certainly, I agree that it is appropriate for Congress and this Senate to have oversight hearings. I know Senator SPECTER has indicated his interest in doing so; Senator ROBERTS, chairman of the Intelligence Committee, likewise. But we have to understand, as I know my colleagues do, that this is a classified program. There are limits to what we can talk about in public without putting in jeopardy our methods and sources of obtaining information against those people who are bent on our destruction and certainly the destruction of innocent American lives.

So it is appropriate to have a hearing. But it is not appropriate for anyone, including a Member of the Congress, to leak classified information about the existence of this program.

Now, some have said: Well, it is not illegal nor unconstitutional for the New York Times to write about it. And I will leave that for some court sometime, someplace. But we know for a fact it is a violation of the criminal law of the United States to leak classified information. My hope is that the Justice Department and the appropriate authorities will conduct a prompt and thorough investigation into how this information was leaked because, as a result, our enemies now know what we are doing and, to some extent, how we are doing it, in a way that undermines our ability to fight and win the global war on terror.

It strikes me, when you are trying to be analytical about this, trying to figure out why is it important that the President have this authority—that the Foreign Intelligence Surveillance Court of Review has assumed the President has and that President Reagan and President Clinton claimed to have—why is it important that authority exists outside of a typical law enforcement or criminal prosecution context?

Well, of course, in an intelligence-gathering mode, we may not have a target per se of that intelligence-gathering activity. There may not really be knowledge that a crime has actually yet been committed but, rather, a reasonable belief that there are individuals who are plotting, conspiring to do innocent American civilians harm. So it is impossible to do in that context what we would ordinarily do in a criminal prosecution context, which would be to have an affidavit filed by an FBI agent in support of a petition for an issuance of a warrant, which would then be filed as a public record for everybody to see.

If we have learned anything as a result of 9/11, it is that we must break out of this pre-9/11 mindset, which says that terrorism must be combated as a criminal law violation alone. It is true that terrorist activity could be a crime, but our main goal is to detect and disrupt terrorist activity before people in this country or our friends and allies across the globe are injured or killed. So the fundamental goals of our national policy have to be to disrupt the information, discover it, disrupt these cells, and protect Americans in the process.

So I wanted to come to the Chamber and say a few words about this issue because there have been some who have, in breathless tones, said that this is a great travesty, they cannot believe it has happened, and some have even gone so far as to suggest the President has acted illegally. I would say that, on balance, my conclusion is, based on historical precedent and based on the authorities that are invested with the power to render legal decisions on such matters, the President probably did act within his authority, but we should proceed to have hearings to further flesh that out so Congress can understand exactly what is going on.

Finally, I wish to say a couple of words about the Senate's failure to reauthorize the PATRIOT Act. I believe the PATRIOT Act has been one of those things that have made America safer and prevented terrorists from executing another attack on our own soil. If you look from September 11 up until this date, thank goodness, the United States of America has not suffered another attack on our own soil. We do know there have been terrorist attacks that have been disrupted but were planned in the style of 9/11 against American civilians by terrorists who care nothing about our laws or our way of life but care only for their misguided ideology and are willing to do anything, including kill innocent people, in order to accomplish their goals.

It is only reasonable to assume that the PATRIOT Act has played an important part in our safety in the United States. The reason I say that is if you look out across the world, we have seen terrorist attacks in London, Madrid, Bali, and in other places around the world. I can only conclude that the PATRIOT Act has played an important role—perhaps not the exclusive role but an important role in combating global terrorism and making sure they are not successful in attacking or killing or injuring Americans on our own soil.

It is with that in mind that I am at a loss to explain how some of our colleagues could prevent a bipartisan majority in the Senate from voting on the reauthorization of the PATRIOT Act. The fact is that some of them have said we didn't get everything we wanted in the negotiations. Well, the news is that nobody does. But the fact is the PATRIOT Act passed 98 to 1 roughly 6 weeks after the attacks of September 11. It was a bipartisan bill, obviously, because it enjoyed overwhelming support on both sides of the aisle. There is literally nothing that has changed other than additional concessions being made to address the concerns of those who claim there are civil liberty concerns in the PATRIOT Act.

Rather than allow us to have that vote, unfortunately, there is a minority in the Senate that is filibustering and preventing us from having an up-or-down vote. Ultimately, in the interest of the safety of the country, I ask my colleagues to reconsider their obstruction and denial of our ability to have that vote. We know that 16 provisions are going to expire December 31 unless we do.

There are those who say that what we need is a 3-month extension. Well, that is a phony deal, Mr. President, I suggest. We have been debating this PATRIOT Act since it was originally passed in October 2001. I think everybody has a pretty good idea where they stand. I believe every issue that could be debated has been debated, and every issue that could be negotiated has been negotiated. There has been an attempt to reach out and define common ground. Indeed, I believe the conference between the House and Senate did exactly that. It would be a terrible shame under the guise of, Well, we just need 3 more months to further dilute the provisions of the PATRIOT Act that have made America safer. Unfortunately, that is what I see happening with the unwillingness of the minority Senators to have that up-or-down vote and reauthorize the PATRIOT Act.

So I implore them not to make these offers of just 3 more months because we know all they are trying to do is use that for additional leverage to water down the strong protections of the PATRIOT Act. What they ought to do is reconcile themselves to the fact that they are not going to get everything they want, just as I didn't get everything I wanted. I would like to strike all sunsets in the PATRIOT Act and make it permanent. I advocated for provisions for administrative subpoenas, and that didn't make it into the bill. There are other things I would have liked to see in the bill that are not in the bill, but in the interest of trying to find common ground and in the interest of trying to pass a bill that will keep America safe, I have been willing to make those concessions.

I ask all of our colleagues, when it comes to passing this legislation, to try to find a way to allow us to have that up- or-down vote so we can reauthorize the PATRIOT Act and the American people will know we have done everything within our power to try to keep them safe, which is, in fact, the No. 1 obligation of the Federal Government—our national security.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I ask unanimous consent under our allocation of time to speak until 2:15.

The PRESIDING OFFICER. Please repeat the request.

Mr. DORGAN. I ask unanimous consent that under our allocation of time I be allowed to speak until 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, there is a lot happening in the final days of this Congress. One might ask, What on Earth are we doing here days before Christmas? We are doing the work that should have been done in March, April, May, June, July, and August, work that wasn't done then for a number of reasons. But now we come to a number of important issues and this is reconciliation, budget cuts, and we have a tax cut bill ricocheting around. We have the PATRIOT Act that my colleague just described. We have the Defense appropriations bill. That has now been burdened with an amendment that calls for drilling in ANWR.

It is an interesting time, but one that is frustrating for some of us in the Senate. I will give you a description of that frustration.

On Sunday, we met at 12 o'clock—this past Sunday—on a conference, a very large conference dealing with the Defense appropriations bill. I was a conferee. We started at 12, and I left at 5 or 5:30 in the afternoon. We finished the work on that conference report. I opposed a number of things that happened on Sunday. The Defense appropriations bill was before us. They added drilling for oil in Alaska, the ANWR provision, having nothing to do with the bill. They added it because they thought they had the votes to add it.

Well, we finished the conference, and I left here at 5:30 on Sunday, and I discovered they added another provision. There wasn't a conference still going on at that point. A bunch of folks got in a room and decided what they were going to stick in the conference report.

I told my colleagues I grew up in a small town of about 350 people. When I was a kid, I used to go and watch the blacksmith. We had a blacksmith in my hometown. It was kind of fun to go and watch the blacksmith work. He would take a piece of metal, put it in a tong, stick it in heat, in hot coals until it turned white hot, and then he would put it on an anvil, take a big old hammer and beat it. That is how he shaped metal. Heat it and beat it with an old hammer. I watched that guy with dirty clothes, sweating all day long. He would heat that metal and beat that metal. Some people think apparently that is the way the Senate should work—heat it and beat it. Get hold of a big old hammer and pound ANWR through here. It doesn't matter the rules don't permit it; pound it through here. In fact, change the rules if they get in your way. It doesn't matter. Don't like the rules? Change them.

I am usually an optimist. They say a pessimist is someone who smells flowers and looks around for a casket and a body, and an optimist is someone who sees a manure pile and looks for a pony. I am an optimist, usually, looking for good things in what we are doing and where we are heading. But this notion that we live in a special place on this Earth and somehow we don't have to care about nurturing it to make sure it remains special, that it will all work out is a notion devoid of leadership.

The fact is, we are off track in this country. We are No. 1 in exports in waste paper. Did my colleagues know that? The largest volume of export in America is waste paper to China. Unbelievable. Yes, we are No. 1 in exporting waste paper.

And, oh, by the way, in the last 4 years, we also sent about 3 to 4 million jobs to Asia, mostly to China. We have the largest trade deficit in the history of humankind. This past year on the budget deficit, we will borrow $550-plus billion, nearly $570 billion. So we have a budget deficit that is way out of control, a trade deficit that is way off the charts, and we are shipping jobs overseas. Our No. 1 export now is waste paper, and you think things are going great. Suck it up, they say, it is a great place, things are going fine.

I don't think things are going fine. The question is where is the leadership here? David McCullough wrote a book about Adams. It is a wonderful book. He is a great historian. He wrote this book about Adams. I have told this story before. In this book, he described John Adams as representing this country's interests in Europe. Adams would write back to his wife Abigail as they were trying to put this new country together, and he would say: Where will the leadership emerge to help frame and start this new country of ours? Then he would say: There is really only us. There is me and there is Thomas Jefferson and there is George Washington and there is Ben Franklin and there is Madison and there is Mason. There is only us.

Now, of course, we know in the rear-view mirror of history that the "only us" is some of the greatest human talent ever assembled, and they built a very extraordinary place, a very special country, with a Constitution that says "We the People." The first 3 words, we the people.

But the current leadership in the White House and Congress says we don't have to worry too much about deficits. We are going to cut some spending but, oh, by the way, even though we are up to our neck in deficits, we want to cut taxes, and, oh, by the way, we still want to cut taxes mostly for upper income people. The second part of this reconciliation document is still in the House of Representatives, the tax side. It is very important to say that capital gains and dividends, normally called unearned income, capital and dividends—be given preferential tax rates. That is the most important thing. Warren Buffett, the world's second richest man, said when all this is phased in, he will pay a lower tax rate than his receptionist in his office. Tax work, they say, tax work but exempt investment. That is the mantra around here.

What is the most important thing? Drive down the taxes on dividends and capital gains; drive them down. It doesn't matter, we don't need the revenue. Deficits don't matter, Vice President CHENEY said. Deficits don't matter.

They now come to the floor of the Senate with a proposal that says, by the way, let's cut some spending. Guess whose spending is going to get cut. Is it a surprise that the most vulnerable among us get cut? Is it a surprise the proposal is to decide there should not be enough money in Medicaid, that which delivers health care to America's poor, to provide the kind of funding that is necessary in Medicaid?

It is said by some, and I believe it, that budgets are moral documents as well. Someone once asked the question: If you were required to write an obituary for someone you had never met and the only information you had was that person's check register, what would it tell you about the obituary you would write?

What if all you knew about this country was its Federal budget and that is all the information you had as a moral document, but what was important? What mattered to this country? What did this country believe represented the most important areas of investment, expenditure to build on the successes of this country? Would it be, for example, that you decided tax cuts for wealthy Americans are the most important?

Let me show you a picture. I showed it yesterday, but I think it is important. This is a picture of a five-story building on Church Street in the Cayman Islands. Some people would just as soon you didn't this picture. But On Church Street in the Cayman Islands, there is a five-story building called the Ugland House. Do you know what is inside this building? This building is the official address for 12,748 corporations. Impossible, you say? No, it is not impossible. It is not impossible. We are running an economy now and, by the way, with the advice and consent of those in the Congress and in the Senate who voted for it—we are running one that says to businesses: Go ahead, get rid of your American jobs, move them to China, ship the products back to this country to sell them, and run your business through a mailbox in the Grand Cayman Islands so you don't have to pay taxes. That is what this building is about. And, oh, by the way, many of the companies that have this building as their address in the Cayman Islands to avoid paying U.S. taxes got a gift from this Congress—not with my vote—that is the equivalent of a $60 billion tax break—a $60 billion tax break.

In the past year and a half, a bill was passed called the JOBS Act to create new jobs. Of course, it didn't. It cost jobs. It gave a very fat tax break to the largest corporations in our country that do business here and overseas. It said, if you repatriate your income from overseas, because some day you are going to and when you do, you have to pay the 35-percent corporate rate, if you do it now, we will give you a special deal that we won't give to any other Americans: You pay a 5.25-percent tax rate. There is not one American living in Ohio, North Dakota, Oklahoma, or any other State represented in this Chamber who is told in law that they get to pay an income tax of 5.25 percent.

This Congress told the largest companies in this country, we will give you a 5.25-percent tax rate. That was a priority. My colleague who sat in this desk behind me, Senator Fritz Hollings, offered the amendment to strip it. I voted for it. I spoke for it. But, no, we could not strip that out because too many Members of this Congress believed it was important, a priority, to provide a big fat $60 billion tax break to the largest corporations in this country, with a 5.25-percent tax rate.

Compare that to the proposition we are offered today by people who come to the floor breathlessly saying we have to cut spending to reduce the deficit. Did they care about reducing the deficit when they gift-wrapped a $60 billion tax cut package for the biggest companies by giving them a 5.25-percent tax rate? No. It did not matter. It did not matter then. They just promised that it would create new jobs.

Interestingly enough, the very companies repatriating income to take advantage of this bargain basement tax rate are cutting jobs. This is not just me saying it. This is from the Wall Street Journal and other newspapers that describe exactly what is happening.

So today we have the breathless chant about let us cut funds for the Child Support Enforcement Program, which, it is estimated by the Congressional Budget Office, will result in $2.9 billion in child support going uncollected. Let us cut funding $12.7 billion for the student loan programs. Let us cut funding from family farmers—by the way, many of whom faced some disaster this year; the worst drought since 1895 in Illinois, Missouri, Iowa. One million acres could not be planted in North Dakota.

Those farmers are not going to get disaster help, but the leadership had no reservations about allowing a situation where 12,748 corporations establish their address in one five-story building in the Cayman Islands, for the purpose of not paying taxes in this country. It is all perfectly legal because this Congress believes it ought to continue to happen.

We have had vote after vote on my amendment to try to shut this down. Cannot do it. So in terms of priorities I think it is important to ask the question, on whose behalf are we legislating? I happen to believe we ought to cut the deficit. In fact, in January and February I am going to be offering a very specific set of plans on how you cut spending in a real way. We have very large agencies in our Government, and unlike businesses that have overhead expenditures and then direct expenditures there is no distinction between our overhead expenditures. In fact, they cannot even separate out overhead expenditures.

The first thing one should cut back on is overhead and travel and those kinds of things, but it cannot even be separated out in these agencies. We ought to take a whack at that. I am going to propose that.

I support some of these issues, but let me mention a number of issues that are attendant to this as well. There is a provision buried in this huge reconciliation bill, as is always the case in these things that come to our desk—my colleagues can see the size of this legislation. There is a provision repealing something called the Byrd law that I want to talk about just for a moment.

When American enterprises, American companies, are the victims of unfair trade—and there is a lot of it—our government sometimes imposes antidumping and countervailing duties. The Byrd amendment, which I supported, says that U.S. producers who have been injured by unfair trade should receive those duty revenues.

But the WTO stepped in and said: Well, it is not right that you would recompense your victims of trade who have been injured by unfair trade. So the WTO ruled against us, and we have our colleagues in the Senate and in the House who have been very anxious to overturn the Byrd rule. Sure enough, they do it in this bill.

They cannot run to the bank fast enough, in my judgment. Those who want to do this sort of damage to us cannot run to the bank fast enough to deal with all of these issues. We have the biggest trade deficit in history. We have jobs flowing out of this country. We have a country that does not have the spine, the backbone, the will to stand up for our producers on unfair trade. Those who have been victimized, those who have been hurt by unfair trade, ought to receive the benefits of the tariffs. Now the majority says that is not true; we are going to take it away.

I do not understand that. I do not have the foggiest idea where the Senate's priorities are.

We are right at the end of the session, a couple of days left, and the Defense appropriations bill was not passed this year. Now it is about to be passed, except they load on one of the most controversial issues called drilling for oil in ANWR. Under any other circumstance, one would be laughed out of the Chamber for that. Yet we have people come here—I heard a colleague of mine yesterday say: Well, let us all be bipartisan.

I am all for being bipartisan. Let us also be fair and let us legislate the right way. Let us not stick these unrelated issues on this legislation and then say: By the way, it does violate the rules, but we will change the rules and we will change it only for this purpose and change it right back, and never mind.

Do they think that we cannot see, hear, or think? Is that what this arrogance is born of? I do not understand it. We are close enough to the end of this session, and this country is in deep enough trouble with trade and budget deficits and a range of other issues that we ought to find a way to work together.

This is not about bending steel. This is about compromise, working together to do the right thing for this country. There is no Republican or Democrat way to go off track on trade or on the budget. It just hurts our country. Together, we ought to be able to do better for America.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from New Hampshire.

Mr. GREGG. The Senator from North Dakota has risen and spoken, obviously, with enthusiasm and energy about his position. But I think that there are a couple of points which need to be made.

First of all, on this Byrd issue, the Byrd trade rule issue, let us talk about what that really is. Where did it come from to begin with? It came in the middle of the night. It was put in an appropriations bill a few years ago. Who does it benefit? It benefits a very few specific industries in this country that get the windfall from an unfair trade practice. In other words, what happens under this rule is that $3.2 billion is paid to a few specific industries. In fact, one specific company got 39 percent of the funds up until this year. Who would get it if it were not in place? The American taxpayer would get that money. That money would go to the Treasury.

It is not about cutting that money out of the budget; it is about having that money flow to the Treasury so the American taxpayer has the right to that money so it can be used either to reduce the debt or it can be used for programmatic activity that is necessary, such as national defense, instead of having it be a special interest event which goes to benefit very few industries in this country and a very specific number of companies within those industries. Quite honestly, I would not be surprised if some of those companies did not have some sort of headquarters in this building right here that get that $3 billion.

In addition to that, this $3.2 billion, because of the insistence of a couple of Members in this Senate, has been kept in, so it is still flowing to those specific companies. So the taxpayer is still not getting the benefit of that money that the taxpayer should get.

Prospectively, the rule has been changed, as it should be changed. Why should it be changed? Well, the Senator from North Dakota sort of passed over this a little quickly. The WTO ruled against us. It said: You cannot give that money to specific industries and specific companies. It said: You cannot do that.

Maybe the Senator from North Dakota does not want us to be a member of the WTO, but we are a member of the WTO. We use the WTO aggressively to try to defend our trade interests around the globe. They are the arbiter. They are the ones we go to when something goes wrong and our companies get maltreated. So it is a little hard to say to the WTO: We want to use you to enforce a dumping procedure against Japan, China or Singapore, but when you find that we have violated the World Trade Organization's laws because we are giving money specifically to one or two companies in this country in violation of those laws, well, you cannot do that. You cannot tell us how to do things.

So what does the WTO do? The WTO now assesses fines against other American companies—I think it totals to something over $100 million annually—which American products, produced in this country, are now having to pay, which make those products less competitive, because we continue to violate the WTO and give this money, instead of to the taxpayers of America, instead of putting it in the Treasury where it should be, thus reducing the debt, to a couple of companies that have the influence to get it across this floor.

I do not find a whole lot of persuasiveness in the argument of the Senator from North Dakota on this point, but he won. The $3.2 billion is going to flow out of the door to specific companies, in violation of WTO rules, will stay in place, and other American manufacturers will be prejudiced because they will be hit with a fine by the WTO, which is a legitimate fine.

The second point the Senator makes is, he says, Oh, we are cutting the subsidies to students. I think he said $12 billion. That also is inaccurate. There is no reduction of subsidies to students. In fact, we expand the programs, the Pell grant program, and we create a new program for math and science. What we do is what we should do, and we need to do it before the end of the year, and that is we reduce the windfall that is coming to lenders because of the way the rules are presently set up. That is $12 billion.

Again, I wouldn't be at all surprised if some of those lender companies had clearinghouses down in the Cayman Islands that he is complaining about. But he is defending them now because he is saying we should not make that change.

If, by the end of this year, we do not change the rules as to how we calculate the lender activity to students in this country, lenders will get I think it is a $7 billion windfall. It might be more, actually. It does not go to the students. It will not help the students. All it does is help a group of lenders because the law is structured in a way which basically benefits them. We tried to change it. We were not able to permanently change it last year, but we now do have the permanent change in this bill. And, by the way, it was bipartisan. That proposal, because it is so obviously fair and the right thing to do, was reported out of the HELP Committee unanimously. This alleged $12 billion event that the Senator from North Dakota has decided to highlight as a corporate subsidy to the disadvantage of students is just the opposite. We are cutting a corporate subsidy to advantage students. The only debate between myself and Senator KENNEDY, who was actually supportive to the policy relative to the reduction of the subsidy to the lenders, is how the money that is raised from that subsidy should be spent. We believe it should go to debt reduction, and we believe it should go to the expansion of student loans. He wants more money to student loans. We want to have a balance and we have a balance.

On both those policy points, the Senator from North Dakota, in my humble opinion, has misrepresented the character of the bill—$3.2 billion is flowing to special corporations for a special interest benefit under this bill. It should be going to the taxpayers. But the policy which energized that is at least being changed so at least prospectively that is not going to happen, and other companies in this country that are being fined by the WTO because of violations of the WTO standard will actually have that relief in the outyears. And the subsidies which, if we do not act before the end of this year, are flowing to corporate lenders are going to be moved over to students, to benefit students, or to deficit reduction.

I yield to the Senator from Oklahoma.

Mr. DORGAN. Mr. President, I ask the Senator from Oklahoma if he would mind if I take a minute and half off our side to respond, at which point the Senator from Oklahoma will be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, let me say my colleague from New Hampshire, while interesting and articulate, stops a couple of pages short of good research. First, my colleague talks at length about the WTO. I am not sure which direction we would be required to bow to the WTO. Is it the east or the west? The WTO, of course, does not run or manage American public policy and trade.

But I do want to say this with respect to the Byrd law. My colleague said "just a few companies" benefit from it. The fact is, well over 700 companies benefit from it. So, when one talks about misrepresentation, I will ascribe that, I guess, to a mistake.

Mr. GREGG. Will the Senator yield?

Mr. DORGAN. No, I only have a minute and a half. Several hundred companies have benefited, not just a few.

If one wants to run America's trade policy exclusively through the sieve of the World Trade Organization, I will say get a big armchair, sit back, have a good time, and say: Whatever you want, WTO.

That is not my belief. My belief is we ought to invest in this country's strength. When American companies are victimized by unfair trade, we ought to in my judgment have the good sense, as we have in this legislation we call the Byrd law, to use the tariff to recompense them.

Mr. GREGG. Mr. President, 39 percent of this benefit went to 1 company, 39 percent; and $2 billion of the $3 billion that is going to go out of this is going to go to a small group of companies that deal in lumber. Those dollars belong to the American taxpayer. They should be in the Federal Government's Treasury. They should be used for deficit reduction. They should be used for initiatives here at the Federal level that are important.

The WTO ruled against us, and if the Senator doesn't like the WTO and doesn't want to be part of the World Trade Organization—we are. It is called a treaty. We have to live by treaties. It is called the rule of law.

Mr. DORGAN. It is not a treaty.

Mr. GREGG. And the treaty says we submit issues to the WTO, we debate them. We win sometimes; we lose sometimes. On this issue, the WTO ruled that because we specifically send this money out to specific corporations—and there is only one that got 39 percent. I don't care if there are 700 that maybe got a dollar, there is one that got 39 percent of the benefit—then you are violating the rules of the WTO, and then they assessed us with a fine and our companies now pay that fine and make our goods less competitive.

So not only are our taxpayers losing out because of this language, but the companies that have to compete in the world are losing out. The attack of the Senator from North Dakota on the bill on that point doesn't hold water.

I yield to the Senator from Oklahoma such time as he needs.

Mr. COBURN. It is my understanding I am allotted 30 minutes. I would appreciate it if the Chair will let me know when I have 10 minutes left.

The PRESIDING OFFICER. The Chair will notify the Senator.

Mr. COBURN. Mr. President, I come to the floor first to meet those two who were just debating to wish them a Merry Christmas and a happy holiday season. This is a season, a time about giving. When you give something, most often it costs you. It is called sacrifice. It is what our Nation was built on. It is the very heritage that we have as a nation, that we sacrifice to do what is in the best long-term interests of our country.

The chairman outlined the unfunded liability that is facing this Nation between now and 2070. He gave a figure of $51 trillion. That is an underestimate of what the true unfunded liability is for our country. We just added $8.7 trillion with the Medicare Part D Program. But it is such a large number we have a hard time getting our hands on it.

One of the ways to get our hands on it is to think about what it means per individual, and $51 trillion in unfunded liabilities means every man, woman, and child in this country today is responsible for $171,000. Think about that. That is more than the net worth of the country.

Why do I raise that? Because the debate we are having about this bill and movement forward and the comments about how you judge whether somebody is compassionate is based on how you treat those less than you and those who are going to follow you. I believe everybody in the Senate would agree that leaving $171,000 worth of obligation for every man, woman, and child in this country is inappropriate. It belies the heritage of this country.

If you think about the great generations that have come before us—the greatest generation, the World War II generation—those who have sacrificed in this country and those who are sacrificing today in the war on terrorism, it is inconceivable to me that we will not start doing some of the small things we can do, with the bills that are going to be before us today and tomorrow, to assure a Christmas gift to every American.

Some say, How can you do that and still be compassionate? My argument is, if we don't start doing it, we are not going to be able to be compassionate at all.

I would like to put up a couple of charts.

The first is from the Government Accountability Office. It shows where we are going if we freeze discretionary spending in this country. If we absolutely freeze discretionary spending, what will happen is between now and 2040, there is no increase in any discretionary spending whatsoever. You did see how our growth and expenditures take place. You can see that the vast majority of that is Medicare, Medicaid, Social Security, and all other spending, of which the largest proportion in 2040 won't be on any program but will be interest on the national debt.

I am also struck by the inconsistency that I hear in this body when one group of Senators has offered over $400 billion in new spending this year—$400 billion in new spending proposals this year.

If you think about why this is important, this line is represented as a percentage of our gross domestic product. All we have to do is look at the country of Germany today to see where we are going and what is going to happen to us. They have unemployment of 13 percent. Their growth is minimal in terms of their gross domestic product. Why? Because 40 percent of their gross domestic product is taken up by the Government. This only goes to 2040.

At 2050 and 2075, we are at 40 percent of our gross domestic product. That means money that could be invested in new jobs, in capital, in future opportunities for our children, won't be there because we will be consuming.

Now let's look at if we just have the Government grow at the rate of inflation. What do we see? By 2040, we are above 40 percent.

So the questions before this body and the criticisms of the bills on the floor don't make any sense if we are going to give a Christmas gift of a future to our children. This is unsustainable. The Government Accountability Office has said we are on an unsustainable course. It is impossible.

The Senator from North Dakota earlier said he is going to bring a spending reduction bill to the floor. I embrace that. There is no question that I am known in this body to try to restrain our spending. But if we don't, we belie the very heritage this country has stood for since its inception; that is, one generation sacrificing for the next so opportunities and a bright future will be there.

How have we done that? Because we are more interested in the next election than the next generation. We are more interested in making the easy choice, the expedient choice, rather than the difficult choice.

The choice is this. The way things are set up now, there is no way we can keep our obligations to you if you are dependent on the Federal Government. What is compassionate about that? What message do we send to those who truly are dependent upon us if we will not make the hard choices to make sure anybody is in a position to help them in the future?

I will talk about some specific things.

This reconciliation bill didn't go nearly far enough in terms of reducing spending. Let me give you a couple of examples.

The Federal Financial Oversight Subcommittee which I chair had a hearing on inappropriate payments. There is an Improper Payment Act which is law that the Center for Medicare and Medicaid Services has failed to enforce on Medicaid alone. But let us talk about Medicare, and then we will talk about Medicaid.

In Medicare alone, it is estimated that over 10 percent of the payments that are made by Medicare are inappropriate. Of that, 90 percent are overpayments. What do I mean, overpayments? I mean fraud. I mean abuse. I mean cheating the Federal Government. And as a physician, I am talking about some of my peers and others in the health care industry, whether they are in durable medical equipment, in the pharmaceutical industry, or others who are taking advantage of the bureaucracy of the program. But this bill saves a small amount of money over the next 5 years. The total is under 8-point-some billion dollars. Less than half of that comes from Medicare and Medicaid. Think about 90 percent of $21.7 billion. That is $19 billion a year in Medicare fraud, and $19 billion a year times 5 years comes up to $95 billion. This bill doesn't even save $40 billion over the next 5 years.

If we want to be serious about giving a Christmas gift of opportunity and future and making the sacrifices, it starts in this Chamber. That sacrifice is, there is no excuse for us not to rid Medicare of the fraud that is in it today, an estimated $19 billion a year. If, in fact, we rid Medicare of the $19 billion and we rid Medicaid, which is $18 billion worth of fraud—that is estimated because they have not followed the law and reported improper payments.

I ask unanimous consent to have printed in the RECORD an article from New York Times that outlines some of the Medicare fraud issues in New York State.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 19, 2005]

AS MEDICAID BALLOONS, WATCHDOG FORCE SHRINKS

(By Michael Luo and Clifford J. Levy)

New York's Medicaid program pays more than a million claims a day, feeding a $44.5 billion river of checks to radiologists and ambulance drivers, brain surgeons and orderlies, medical centers and corner pharmacies. Many who get those checks pocket more money than they deserve, and millions of taxpayer dollars are believed to be lost every day to theft and waste.

Yet the state, charged with protecting those dollars, has done little to stop them from draining away.

A yearlong New York Times investigation found only a thin, overburdened security force standing between this enormous program and the unending attempts to steal from it. Even as spending by New York Medicaid has more than tripled since the late 1980's, the number of fraud investigators who guard its cash register has fallen by half, and several of their leaders have quit or retired in disillusionment.

Of the 400 million claims that Medicaid paid last year, Health Department regulators uncovered just 37 cases of suspected fraud, far fewer than their counterparts in any other large state, even though New York's Medicaid budget is by far the largest in the nation. Many experts say that it is likely that at least 10 percent and probably more of New York Medicaid dollars are stolen or wasted.

In dozens of interviews, prosecutors, lawmakers and former regulators said the program paid for almost everything and scrutinized almost nothing, in large part because its primary mission has been to ensure that there are enough health care providers in the system to address the needs of the poor. It often appears that the Health Department is barely even looking: There are more than 140,000 hospitals, nursing homes, doctors and other health care providers in the system, but the department visited just 95 in the 2004 fiscal year to audit their billings.

Analyzing Medicaid data obtained under the state's Freedom of Information Law, The New York Times identified scores of instances in which the claims of health care providers jumped markedly in a single year. These spikes are a classic indication of possible improper billing, yet few of those providers had even part of their billings audited by the department, state records show. New York's Medicaid program, once the pride of the Great Society era, has become a system "that almost begs people to steal," said Michael A. Zegarelli, a senior New York Medicaid regulator until 2003 and a past president of the national association of Medicaid oversight officials.

Meanwhile, other states, including California and Texas, have increased their antifraud efforts and discovered what seems a simple truth: The effort to seek out theft and unnecessary spending can more than pay for itself, just as a parking violations bureau brings in revenue. Workers assigned to Medicaid fraud prosecution units around the nation help bring in an average of $200,000 each in recoveries, according to federal statistics.

Twenty-five years ago, New York was in the vanguard of fraud prevention. But over the decades it has failed to maintain the investment in employees necessary to close the door on thievery and abuse. Repeated delays stretched the replacement of a 1970's-era computer system that could barely detect fraud into a seven-year ordeal, allowing billions to slip by with little scrutiny.

As dozens of former employees describe it, the state's antifraud effort has been plagued by the same gridlock that has stifled innovation in Albany for years: bureaucratic infighting, allegiance to campaign contributors from the health care field, reliance on public indifference.

In an interview, Dennis P. Whalen, executive deputy commissioner of the Health Department, said combating fraud remained a major goal. He denied that the department had been lax in policing Medicaid and excluding providers who had cheated the program, saying that new computer systems have improved the state's detection efforts.

But State Senator Kemp Hannon, a Nassau County Republican who is chairman of the Senate Health Committee, called The Times's findings deeply troubling, and said they showed that the Medicaid fraud detection system was broken. Mr. Hannon said the Health Department, run by a fellow Republican, Gov. George E. Pataki, was failing to oversee the system.

"This is a red flag for them," Mr. Hannon said. "I have not seen anything that would indicate that there has been any sort of focus at all from the department."

New York's failures have come at a high price, according to advocates for the program's recipients.

"There is all this money that is being drained away and not being spent on care for the poor people who need it," said Elisabeth Benjamin, who spent eight years as a lawyer at the Legal Aid Society specializing in Medicaid. "It's analogous to the $5,000 toilet seat in the military."

INVESTIGATION STAFF IS CUT

More than a dozen years ago, in the heyday of the unit charged with fighting Medicaid fraud and abuse in New York City, dozens of state employees would troop out to locations throughout the city for a regular ritual. With reporters in tow, they would serve papers on scores of shady doctors operating low-quality, high-volume clinics known as "Medicaid mills," said James Mehmet, who retired from the State Health Department in 2001. Mr. Mehmet was the unit's chief of investigators in New York City.

Most days, more than a dozen investigators went undercover as patients to see how they were treated by a doctor or a pharmacist, and then how their visit was billed. In the office, they worked alongside auditors and lawyers, as well as nurses, dentists and doctors—a full medical review staff.

But the energy and ambition of the office have dissipated along with the staff, Mr. Mehmet said. By the time he retired, he said, the 15 lawyers in the office had been reduced to one. The medical review staff was gone. And with the Medicaid budget growing rapidly, it was not the fraud that had diminished, he said, but the will to pursue it.

"The volume of work was so much different," Mr. Mehmet said, recalling earlier days. "The caliber of work was so much different. There was much more emphasis on going after people that were committing fraud and abuse."

Mr. Mehmet and other frustrated former regulators say the drop in the New York City office mirrors the statewide decline in staffing over the last decade, at a time when thieves have become more sophisticated.

In the late 1980's, more than 200 people in the New York Medicaid bureaucracy were devoted to fighting fraud and abuse, said Philip J. Natcharian, who directed those efforts until 1990. Now only 50 people, including clerical staff, have that job, along with a few dozen outside contractors, said Mr. Zegarelli, who worked at the Health Department's headquarters in Albany until his retirement. He said that was far too few to be effective, an assessment echoed by four other former senior department officials.

The former officials said reducing the fraud force made little sense to them, given the huge increase in Medicaid spending in recent years, which has brought the program to more than 40 percent of the state budget.

"How do you not increase the staff to monitor the largest expenditure in New York

State?" said **Mark J. Ives**, who directed the state's fraud and abuse efforts until he retired in 1998.

One likely result of the staffing decline is that since 2000, the amount of money the Health Department has recovered from fraud investigations has fallen by 70 percent, according to data compiled by federal regulators.

At the same time, the state has virtually stopped excluding doctors from Medicaid for violating its rules, excluding only eight out of the 43,000 doctors enrolled in the program last year, a Times analysis shows.

"I think the department's reached the point of Smokey the Bear with a shovel," Mr. Zegarelli said. "They're just running around putting out fires."

The former regulators said they did not believe there had been a deliberate decision in Albany to loosen enforcement. Instead, they described a gradual move away from regulation as Albany focused on expanding and plugging holes in the program.

"They want recipients to get medical care," said Michael P. Sofarelli, who retired as a Medicaid prosecutor in the attorney general's office in 2003 after handling some of the state's biggest Medicaid fraud cases. "Investigating is a small part of the job."

The Health Department reports to Governor Pataki, and in recent years, his budget aides have actually reduced goals for recouping money from Medicaid providers for improper billing.

The decline of fraud control in New York contrasts sharply with the situation in other states. In 1998, California, which had several high-profile Medicaid fraud cases in the 1990's, added about 400 employees to an existing staff of about 40 charged with rooting out abuse. The number of fraud cases referred to prosecutors has since doubled.

Officials in Illinois and Ohio, where the Medicaid budgets are roughly a quarter the size of New York's, visited more than three times as many health care providers in the 2004 fiscal year to audit their billings.

Mr. Whalen, the executive deputy commissioner of the Health Department, said it frequently stopped Medicaid payments it considered questionable. He acknowledged that the staffing for fraud prevention had dropped, but described the change as insignificant, saying the state employed roughly 400 workers whose jobs involve fighting Medicaid fraud and abuse, supplemented by 200 outside contractors.

"The number, in terms of a pure number, has declined, but I would say that it has not been a huge decline," he said.

"Every agency, I am sure, would love to have more staff, and we are no different," he said. "But we are also realistic about the state's fiscal situation."

But former senior department officials said most of the workers cited by Mr. Whalen are not actually investigating fraud. They are accountants, nurses, computer analysts, clerks and others doing administrative jobs, making sure basic regulations are followed, leaving only about 50 state employees dedicated to fraud work.

Mr. Whalen and his aides said new computers and software were helping the department shift its focus from reviewing Medicaid claims already paid to preventing questionable claims from being paid in the first place.

But state statistics show that the department rejected a much smaller percentage of claims in the 2004 fiscal year than its counterparts in California, Florida or Pennsylvania.

Asked to list cases that they developed that led to arrests and prosecutions, Health Department officials could point to only a handful in the last two years.

The result of the cuts is evident in case after case that the state simply missed. The billings of a Queens pharmacist, Newton Igbinaduwa, rose to more than $1.4 million in 2002 from $78,000 in 1998, according to billing records analyzed by The Times. But the department never referred the case to the state attorney general's office.

It was only when prosecutors in the attorney general's office got a tip through another case that they found out about Mr. Igbinaduwa, who pleaded guilty last year to grand larceny after billing for drugs he never dispensed.

PROSECUTION UNIT SHRINKS

The Health Department is only half of the dwindling security force posted outside Medicaid's gate. The responsibility for prosecuting Medicaid fraud lies with the state attorney general, Eliot Spitzer, who runs the Medicaid Fraud Control Unit. And in the attorney general's office, too, Medicaid abuse has had a reduced priority for more than 15 years, with far fewer prosecutors than it had in the days when Medicaid was a much leaner program.

Though New York has the largest Medicaid fraud prosecution staff in the country, several other states have fraud offices that are larger in proportion to the size of their Medicaid budgets, and they recover a larger percentage from fraud prosecutions. As a percentage of the overall Medicaid budget, New York's 301 employees won less than half as much as those in Texas, Florida and New Jersey, according to statistics compiled by the federal government for its 2003 fiscal year.

Mr. Spitzer's office said New York used a more conservative method of calculating recoveries than other states, but even using that method, New York still fails to make the nation's top 15 states in the amount recovered as a percentage of the overall Medicaid budget, going back as far as 1999.

Mr. Spitzer's zeal in fighting corporate abuses has not been matched by his efforts in fighting Medicaid fraud, former employees say.

"I didn't think there was that much focus at the main office," said John M. Meekins, who retired in 2003 as the director of the Albany regional office of the Medicaid Fraud Control Unit. Referring to Mr. Spitzer, he added: "I'm not faulting the man. His focus was on Wall Street."

Mr. Spitzer said his office had made strides, especially in investigating the abuse of nursing home residents. The fraud unit's prosecutors have made a philosophical shift, he said, cutting back on the number of inquiries to concentrate on what they consider cases with bigger impact, which could lead to industrywide changes.

"The strategies that we have pursued have made sense and have been successful," Mr. Spitzer said.

However, the attorney general's office has had few such breakthroughs. None have shaken the health care industry in the manner of his successes on Wall Street and in the insurance industry, or the inquiries into nursing homes conducted by his predecessors in the 1970's.

The relatively low profile given to antifraud efforts dates to before Mr. Spitzer's term in office. The size of the fraud control unit dropped by more than 40 percent between 1979 and the early 1990's. Even after Mr. Spitzer became attorney general in 1999, the size of the fraud unit remained about 300 workers, the same as in the early 1990's. Back then, though, Medicaid cost about $14 billion a year, and its cost has since more than tripled.

The state could have a much larger prosecution force with a relatively small investment, because the federal government has made a standing offer to pay three-fourths of the cost, and New York's current allotment is well under the maximum. If the state spent an additional $24 million on its fraud prosecution unit, the unit's current budget of $45.7 million would more than triple to $148 million, mostly from the federal match.

Mr. Spitzer said state budget officials had repeatedly demanded hiring freezes for his office.

"The possibility of increasing simply has not been presented by the Department of Budget," he said, emphasizing that he believed that hiring more staff members made sense.

Last year, Mr. Spitzer said, the fraud unit recovered a record amount in overpayments: $62.5 million, up from $40 million in 2003. But the higher figure includes $30.8 million that was New York's share of a major nationwide settlement with two pharmaceutical companies over drug pricing. That case was spearheaded by federal prosecutors, not New York officials.

BEHIND THE SCENES, TURF BATTLES

The Health Department and the attorney general's office must contend not only with growing fraud and depleted resources but also with another opposing force: each other. Over the years, they have accused each other of foot-dragging, incompetence, or resistance to change. Their mutual animosity and suspicion have come at the expense of the battle against fraud.

By law, it is the Health Department, not the attorney general's office, that is primarily responsible for identifying fraud. But the department's principal task is to keep the huge flow of payments moving swiftly, and at this point, with its shrunken enforcement bureau, the department sends very few cases to prosecutors.

Former officials of both departments say their different missions have left them clashing instead of cooperating.

Former prosecutors complained that Medicaid regulators often crippled their criminal cases by suing those they suspected of overbilling in civil court, hoping to get some money back to the system before the attorney general filed criminal charges. In those cases, prosecutors said, the state would often settle a case quickly for only a fraction of the amount overbilled.

Mr. Spitzer, a Democratic candidate for governor, said his prosecutors could not depend on the Health Department.

"They are just not a useful resource for us in the sense of providing us with ideas, places to look, referrals," he said.

Asked about Mr. Spitzer's criticism, a department spokesman, William C. Van Slyke, said, "We believe that his political ambitions are the motivation for his comments, as opposed to the facts."

Former Health Department officials said that when they turned over evidence of fraud to the attorney general's office, the prosecutors often took months or even years to piece together a case, all while the fraudulent activity continued to siphon money from the system. Medicaid officials said they preferred a civil case to stop the fraud immediately.

"They were malingerers," said Mr. Ives, former director of the department's fraud section. "They would take forever and ever to process a case."

Mr. Van Slyke said 70 percent of the cases the department referred to the attorney general's office since 2000 were still open. The office responded that many of those cases were fully investigated but just not technically closed.

Whatever the cause of the tensions, the department refers far fewer cases to prosecutors than its counterparts in other large states. Texas referred nearly seven times as many cases to its Medicaid prosecutors as New York did in the last fiscal year. California referred nearly four times as many, and Ohio more than three times as many.

RESISTING REFORM

In the fight against fraud, New York's inadequate arsenal is not an accident. In Albany, reformers have repeatedly been outspent and outmaneuvered by the health care industry.

Several large states, including California, Florida and Illinois, have laws that encourage whistleblowers to come forward with information about fraud schemes, offering them a portion of any money recovered. There is a similar federal law to fight fraud in Medicare, the program for the elderly and disabled.

But when Mr. Spitzer has had this type of bill, called a false claims act, introduced in New York, it has died. The bill was denounced by the Healthcare Association of New York State, which represents hospitals, nursing homes and other providers, as well as the State Medical Society, which represents doctors. The groups, which spend millions annually on lobbying and campaign contributions, predicted that the bill would lead to an epidemic of frivolous allegations.

"New York State's health care provider community has faced unprecedented, overzealous investigations by regulators and law enforcement officials," the association said in a memo.

Daniel Sisto, president of the association, said that its members believed that federal officials had used inappropriate tactics to crack down on fraud, and that they had fought the whistleblower law out of fear that the state would follow suit. He said the group's members faced a raft of different requirements from Medicaid, Medicare and numerous private insurance companies, and as a result made billing mistakes that were wrongly criminalized.

"What concerns me from our past experiences is that there is overzealousness in the interpretations of any overpayments as fraud and abuse," Mr. Sisto said.

In May, the Republican-controlled State Senate approved legislation, sponsored by Senator Dean G. Skelos of Nassau County, that would create an independent Medicaid inspector general. The measure would take away some of the responsibility for combating fraud from the Health Department and the attorney general's office and give it to the new agency and to local prosecutors.

Mr. Pataki and Mr. Spitzer opposed the measure, as did the Democratic majority in the State Assembly, which has long allied itself with large health care lobbies and unions. Assemblyman Richard N. Gottfried, a Manhattan Democrat who is chairman of the Health Committee, said he did not believe that the system needed to be changed.

Asked whether the Democrats would take any action on the issue, Mr. Gottfried said, "Maybe that would be a good one for us to hold hearings on in the fall."

Mr. COBURN. Mr. President, it is estimated that the fraud in New York State is $14 billion a year in Medicaid alone, of which the Federal Government pays two-thirds. In 5 years, solving the Medicaid fraud in New York would pay for every savings we have claimed in this whole bill for the next 5 years.

Examples: St. Barnabas Health Care System agreed to settle $3.9 million in claims it overcharged Medicare; the Premium Health Care Group, $1.6 million for fraudulent wound-care claims; Michael Clemens, FBI special agent—$1 billion in Medicare fraud in south Florida alone.

If you add up what is going on in Medicare and Medicaid, $37.5 billion a year at a minimum is fraud and yet we are trying to save a measly two-tenths of 1 percent in terms of slowing the growth.

We haven't gone far enough. For somebody to reject this bill on the fact that we might not meet our obligations on Medicare and Medicaid—the obligation isn't being met in terms of the oversight of these programs.

I wish to spend a few moments talking about Medicaid fraud because it is important for people to know what a poor job we are doing in terms of oversight.

Investigators estimate that as much as $18 billion worth of fraud occurs every year in New York alone on Medicaid. That is 5 percent of the total national spending on Medicaid in one State. One New York dentist, Dr. Dolly Rosen, claimed to have performed 991 procedures a day in 2003—991 procedures a day. The New York Medicaid Program consumes $44.5 billion. It is the most costly and generous in the Nation. In the article that I mentioned, James Mehmet, the retired chief investigator of Medicaid fraud in New York City, says that at least 10 percent of that was spent on fraudulent claims.

We can, if we will do the oversight, accomplish what we need to in terms of doing the hard work, and the reductions in the expenditures won't have any impact on those who are truly needy for Medicare and Medicaid. What they will have an impact on is the criminals who are defrauding the American taxpayers by billing for services they have not performed.

Other examples: Schering-Plough agreed to pay $335.5 million back to Medicaid this last year on the basis of fraud and an elevated billing process.

The other thing estimated in New York, to build the case a little further, this same James Mehmet estimates as much as 30 percent of the budget—10 percent of it is fraud; 30 percent of it is abuse. If only half of that is inappropriate payments, we are up to 25 percent or up to $12 billion a year. Again, that is in one State. If we did the oversight, changed the rules, increased the punishment, held people accountable, every bit of savings in this bill could be paid for by Medicaid fraud in New York State alone.

The question is, are we going to do what we need to do as a Senate, in the future? This bill is a first good step. It does a lot of things in terms of Medicaid, of creating a new Medicaid task force to go after fraud.

We can do much more. To do less says we do not have the Christmas spirit, the spirit of giving, the spirit of sacrifice.

I close on this one note. Most everyone listening out there has children and grandchildren. When you think about your grandchildren, what do you think? What is it you desire for them? What is it you want for them? When we hear the rhetoric—whether it is from the AARP or other groups—discounting the fact that we are going to slow down the growth in Medicare and Medicaid, and doing it not by taking away benefits for those who are truly needy but by doing the job we should be doing, when we do that, we give a gift to our children and to our grandchildren.

I want opportunity for my grandchildren. I don't want them to be given anything. I want them to be given the gift of having an opportunity to attain it. I want to create an economic environment in the future that is sustainable. We are not sustainable today. I want every grandparent out there to think, do they want something for themselves today that is going to be paid for by their grandchildren 20 years from now?

That is the real issue. That is the whole center of the entire debate in Congress today as we debate these contentious issues on how we spend or do not spend money. It is a simple question. Take now and charge it to your grandchildren. Take now and take away their opportunity for homeownership. Don't do anything now because it might not be politically popular, but undermine any future your children and grandchildren have. That is described as selfishness. That is the exact opposite of the spirit of giving.

America is better than that. America's heritage is better than that. The American people are better than that. The problem is, we do not understand what is before the Senate, the obligations and the great responsibilities before us. We were sent here to make the hard choices. If you are listening today, listen to the rumble, the rumble that is out there in the American public. They want us to do the hard work of trimming the waste, of trimming the fraud, of trimming the abuse. They want us to eliminate our political earmarks to pay for the things that are necessary for this country—not pay for the things that get us reelected. There is a rumble. The rumble is real. The American people are paying attention that we should be doing the hard and heavy lifting of making the tough choices.

This bill is a start. It should go much further. It should be $100 to $200 billion of reduced spending through fraud. If there is truly $35 billion a year in wasteful, fraudulent, improper payments for Medicare and Medicaid, that is $18 billion for Medicaid, $19 billion for Medicare. That is $37 billion a year. In 10 years we can save $370 billion. This chart I had up will show a better future for our children and our grandchildren.

I ask the Members of the Senate to make sure we pass this bill. This is a start. It does not have anything to do with the tax cut. There is not going to be any tax cut unless we get spending under control. To not want to get spending under control means Members do not want to give an opportunity for advancement in the future for our children and grandchildren.

Grandparents, this is about our grandkids. I have four grandchildren. I wish I had 20. But more than that, I wish for them the same opportunities that have been there for us, the same opportunities that the great generation fought for and gave us such wonderful blessings. The same opportunities for every veteran we have had who has fought and died and been injured and the sacrifices they have made—are they in vain if we do not have the same type of courage, the same type of commitment that those who serve our country in our armed services have?

We can do no less than to start down the hard road of making difficult choices. This is the first one. They are going to get harder as we face the economic perils in front of us and the commitments we have made that right now we cannot keep. We either change them or the American people are going to change us.

Mr. McCAIN. Will the Senator yield?

Mr. COBURN. I am happy to yield.

Mr. McCAIN. I applaud the Senator from Oklahoma for not only his statement but also for his continued commitment to fiscal discipline here and in trying to identify much of the wasteful and unnecessary spending.

I wonder if the Senator from Oklahoma has had a chance to look at the Defense appropriations bill we are going to consider tomorrow and see some examples of the interesting earmarks out of a conference report. Is the Senator aware of $500,000 to teach science to grade school students in Pennsylvania or $3.85 million for the Intrepid Sea-Air-Space Foundation or $4.4 million for a Technology Center in Missouri or $1 million to a Civil War Center in Richmond, VA, or $850,000 for an education center and public park in Des Moines, Iowa, or $2 million for a public park in San Francisco or $500,000 for the Arctic Winter Games, an international athletic competition held this year in Alaska?

Museums are popular this year, including $1.5 million for an aviation museum in Seattle, $1.35 million for an aviation museum in Hawaii, $1 million for a museum in Pennsylvania, $3 million for a museum in Fort Belvoir.

There are more, I say to my friend from Oklahoma, and we are at war. I wonder how many MREs, flak vests, or bullets we could buy with all this money.

I appreciate the Senator's support for this budgetary measure, but how do we tell people we are going to cut food stamps and reduce eligibility for welfare while we are taking the money that is for defense, in the tens of millions of dollars on this Defense appropriations bill, put in a conference report that none of us ever saw or read until right now, I ask the Senator from Oklahoma.

Mr. COBURN. I am happy to respond. As the Senator knows, on the conference report I am unable to offer amendments to eliminate those things. As the Senator well knows, also, I have started down a track where I am going to confront earmarks in the Senate or we are going to change that.

With that, I offered on almost every appropriations bill what was called a sunshine amendment. That will be offered again in the House next year, and when we come to conferences, the ability to put in extraneous earmarks has got to be limited.

I would, however, answer the Senator. Having had an oversight hearing on food stamps, we spend $1.6 billion in giving food stamps to people who do not qualify, who have more than the capability to take care of themselves. That is at a rate of 6.9 percent of every person who comes to attest for food stamps.

So I believe the same thing can be said for the Food Stamp Program that we can say about Medicare and Medicaid, that we need to run a bill. We need to have better oversight. We need to check it so the fraud and abuse is out of it.

As the Senator knows, I do not like earmarks because I believe they compromise the operation of good government. I think they buy votes when votes would not be there. I think the Government has grown because of the force of earmarks.

So I am not aware of those specific things. I have not looked at it, to answer the Senator's question. But I am not happy they are there.

Mr. McCAIN. Will the Senator yield for one more question?

Mr. COBURN. I will.

Mr. McCAIN. Not only do we have the earmarks in outrageous and disgraceful pork-barreling on this bill—again, that none of us ever saw until my staff went through this bill—but there is also a great deal of legislation. Remember, this is the Department of Defense appropriations bill. So it is not just the money, it is also policies and major policy decisions.

There are avian flu vaccine limitation of liability provisions. I tell the Senator from Oklahoma, I do not know if that is worthwhile or not, but it has been jammed into a Department of Defense appropriations bill.

There is funding for farm conservation. There is a provision protecting jobs in—guess where—Hawaii and Alaska. And there is a provision that transfers, as a direct lump-sum payment to the University of Alaska, the unobligated and unexpended balances appropriated to the United States-Canada Railroad Commission.

Does the Senator from Oklahoma have a clue what that is all about?

Mr. COBURN. No, I do not.

Mr. McCAIN. Here we are again, I say to my colleague from Oklahoma, when everybody wants to get out of town examining bills that have all kinds of things in them that we never saw or heard of.

In the Statement of Managers, there is $1.6 million for the Lewis and Clark bicentennial activities. The list goes on. There is $7 million for the Alaska Land Mobile Radio.

I ask my friend from Oklahoma, don't you think the American people are fed up with this kind of stuff? And don't you think it is time a group of us, who have been meeting and talking about eliminating some of these practices, get together and make things tough on the floor of this Senate next year to reign in this out-of-control, disgraceful, obscene conduct that goes on on these appropriation bills?

Mr. COBURN. As the Senator knows, I believe we do a disservice to our country in the way we manipulate appropriations. I have been very vocal on that. But I also know it requires courage to stand up. And the American people are expecting that. They are going to see that this next year on the floor of the Senate. They are going to see a process by which every earmark is challenged in the bills that come before us and in the bills that come out of conference.

What I do know—and I will finish my statement with this—is every economist and every elected official in this country, in this body, knows we are on an unsustainable course. Everybody knows that. Everybody is aware of that. Slowing the rate of growth of programs is compassionate. It is not lacking in compassion. If you do not slow the rate of growth, the very people you want to help will not be helped in the future. It is compassionate to keep your obligations. The way to keep your obligations is to change the programs so we pay for them out of the waste, fraud, and abuse that is involved.

Most people who oppose this bill do not have a good alternative. They do not have a good alternative. The plan of never-ending expansion, unsustainable commitments, is the surest way to deny benefits and coverage to the very people we want to help in the long run. It is the only way we are going to be able to do it. We cannot continue to avoid the tough choices, and we cannot continue to avoid prioritizing and to grow government as we like. We cannot do what we have done in the past. The economic conditions will not allow it. The American people are not going to allow it.

It is time, and it starts January first—it starts here with this bill, but it starts in the next session of Congress. It is going to be different. It is going to be difficult. But we are going to make the tough choices.

With that, I yield my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I just want to note that the exchange, which was very informative, between the Senator from Arizona and the Senator from Oklahoma was in relationship to the Defense bill, and we are on the deficit reduction bill. Those items which the Senator from Arizona raised—he certainly has a legitimate right to raise them—are not applicable to this bill but applicable to the Defense appropriations conference report. This bill actually reduces the deficit by $40 billion, which is a very positive event.

Mr. McCAIN. If I may continue, Mr. President, America is at war. We all know that, and that is why the measure we are debating today, the conference report to H.R. 2863, the 2006 Defense appropriations bill, is so very important. This conference report provides critical financing for our fighting men and women, the brave individuals we sent to fight in our name. We must support them, and, for that reason, I will vote in favor of its passage. But I do so under protest.

The conference report appropriates nearly $408 billion, plus an additional $50 billion in emergency funding for operations in Iraq and Afghanistan. The non-emergency portion is approximately $4.5 billion under the administration's request, but is several billions higher than the Senate bill. As is the case with so many of the appropriations bills that come to the floor, this conference report and the joint explanatory statement contain earmarks and pork projects that were neither requested nor authorized.

War means sacrifice—any student of history knows that—and Americans have sacrificed throughout our efforts in Iraq and Afghanistan. Our soldiers and their families have sacrificed, and this year other costs have spread throughout the Nation. Whether it is the victims of Hurricane Katrina, or those that have come to their aid or simply all those Americans who are paying higher gasoline prices, we see sacrifices of many kinds. And so in these difficult times, the American people are right to expect their elected leaders to sacrifice as well.

But then we see a bill like the one on the floor today, and I am sure many Americans wonder if the spirit of sacrifice stops on the steps of the U.S. Capitol. During a war, in a measure designed to give our fighting men and women the funds they need, the Congress has given in to its worst pork-barrel instincts.

Let's take a look at some of the earmarks that are in this Defense appropriations conference report: $500,000 to teach science to grade school students in Pennsylvania; $3.85 million for the Intrepid Sea-Air-Space Foundation; $4.4 million for a technology center in Missouri; $1 million to an Civil War center in Richmond, VA; $850,000 for an education center and public park in Des Moines, IA; $2 million for a public park in San Francisco; and $500,000 for the Arctic Winter Games, an international athletic competition held this year in Alaska. And museums are popular this year. There is $1.5 million for an aviation museum in Seattle, $1.35 million for an aviation museum in Hawaii, $1 million for a museum in Pennsylvania, and $3 million for the museum at Fort Belvoir. There is also $1.5 million for restoring the battleship *Texas*.

We are at war. How many MREs, flak-vests, or bullets could we buy with all this money? How many dollars could we return to the taxpayers? I would note that these are just a small sampling of the many, many unrequested earmarks that fill this bill.

But perhaps we are being too hard on ourselves. After all, the conference report includes a number of provisions that will rescind unobligated balances in Federal accounts, so we are offsetting a small portion of some of these needless costs. But wait a minute. There is always a catch. While the conference report rescinds $10 million from the Natural Resources Conservation Service Operations account, it also includes language to prevent any cuts to the projects and activities identified on pages 84 to 87 of the House report that accompanies the Agriculture appropriations bill. And if you review that report, you will find 108 earmarked projects totaling more than $103 million. A few examples of the projects that the appropriators are committed to protecting from any reductions, even for the sake of fiscal responsibility, include:

$242,000 for a wildlife habitat education program in conjunction with the National Wild Turkey Federation in Illinois, which is dedicated to conserving wild turkeys and preserving our Nation's hunting heritage.

$100,000 for the Trees Forever Program in Iowa—an organization with a laudable mission statement—it claims to be an organization that not only plants and cares for trees, but also addresses the challenges facing our communities and the environment—but hardly one that should be funded in a Defense appropriations bill.

$400,000 for dairy waste remediation in Louisiana.

$600,000 for conservation related to cranberry production in Massachusetts and Wisconsin. Conservation related to cranberry production. Remarkable.

$200,000 for Weed It Now—Taconic Mountains—MA/NY/CT. Weed It Now, I am told, is an effort to remove invasive plants from the forest habitat of the Berkshire Taconic plateau. I am a strong supporter of the global war on weeds, Mr. President, but this earmark does not belong in this bill.

Clearly, such projects should not be asked to spare a dime.

Beyond the earmarks, Mr. President, it is a violation of Senate rules to legislate on an appropriation bill, unless, as is the case with several sections of the detainee provisions in title 10, they are added pursuant to a rule 16 defense of germaneness. And yet this rule is flouted far too often. This bill not only contains numerous authorizing provisions, but it also features dozens of provisions, both authorizing and appropriating, that are wholly outside of the scope of defense policy. Some of these are included to pursue laudable policy objectives; some are not. A sampling of the non-germane provisions includes: the hurricane supplemental: $29 billion for hurricane victims; the Gulf Coast Recovery Fund; avian flu vaccine limitation of liability provisions; a provision that directs funds from the Digital Transition and Public Safety Fund that are in excess of $12 billion to be spent on, among other things, the Tucson, Arizona Border Patrol sector, $30 million, the San Diego sector fence, $20 million, and to carry out the North American Wetlands Conservation Act, $50 million; 1.5 billion for home heating energy assistance; funding for farm conservation; a provision protecting jobs in Hawaii and Alaska; a provision transferring as a direct lump sum payment to the University of Alaska the unobligated and unexpended balances appropriated to the United States-Canada Railroad Commission; and, of course, the ANWR provisions, which I will discuss in a moment.

Mr. President, some of these provisions are very important. Others clearly are not. But whether or not they are important, we should follow the standing rules of the Senate. We should debate these provisions and have the opportunity to offer amendments.

Division C of this conference report authorizes the exploration, leasing, development, production, and transportation of oil and gas in and from the Arctic National Wildlife Refuge, ANWR. This provision does not belong in an appropriations bill to fund our troops who are fighting the war on terror.

Drilling in ANWR is, of course, the reason we are here today. When conferees tried to add these provisions to the reconciliation measure, they could not get the votes to include it in the final agreement without putting passage of the whole package in jeopardy. So instead the conference managers have circumvented Senate rules and added this unrelated and controversial measure to the Defense conference report.

Thanks to this additional language, enactment of the Defense funding bill has been needlessly delayed and continues at this moment to be the target of a filibuster. I strongly oppose this inclusion of this language in the DOD appropriations conference report, and I am appalled by the tactics that have been used to arm-twist and pressure Senators to choose between a drilling provision that they know is wrong and providing desperately needed funding for our Nation's troops.

And the ANWR provisions didn't come free, of course. The proponents had to come up with a slew of sweeteners in an effort to win support for drilling in the Arctic. Let's look at a few of these.

Division D directs an additional $1.5 billion, designated as emergency spending, for Low-Income Home Energy Assistance. The same division establishes a Gulf Coast Recovery and Disaster Prevention and Assistance Fund, which would be funded largely through ANWR oil and gas revenues. Another set of provisions addresses the Digital Transition and Public Safety Fund, established by the budget reconciliation conference report. The CBO estimates that this "spectrum fund" will generate $10 billion, but the conference report we are debating today figures out how to spend revenues in excess of $10 billion. After $10 billion, the next $2 billion will be directed to the Gulf Coast Fund. Already planning how to spend money that exceeds the level the CBO projects we will have. Sound familiar, Mr. President?

So CBO says we can plan on $10 billion from the spectrum fund. If we somehow get to $12 billion in revenue, the excess goes to the Gulf Coast. So you think we would stop there. But, no, we go further, planning how to spend the next $4 billion on the chance that the spectrum fund generates still more money. The conference report directs that distributions over $12 billion be earmarked as: $900 million for conservation programs through the Department of Agriculture; $50 million to carry out the North American Wetlands Conservation Act; $50 million to protect grassland and wetland habitats; $1 billion for Interoperable Communications Equipment to assist State and local government preparation for a natural disaster or terrorist attack; $1 billion to assist State and local government preparation for a natural disaster or terrorist attack; $80 million to the Department of Homeland Security to replace and upgrade law enforcement communications; $30 million to replace Border Patrol vehicles; $490 million for Air and Marine Interdiction, Operations, Maintenance and Procurement to replace air assets, including $40 million for helicopter replacement; $372 million for Air and Marine Interdiction, Operations, Maintenance and Procurement to construct and renovate air facilities; $30 million for Tucson, AZ Border Patrol sector for tactical infrastructure; $20 million for San Diego, CA Border Patrol sector for the sector conference; $30 million for Immigration and Customs Enforcement to replace detention and removal vehicles; and $17.9 million for Federal Law Enforcement Training Center for construction of a language training facility.

While the border security projects I have just mentioned are important, will they come to fruition? Not until the spectrum revenues exceed the CBO's estimate—first by $2 billion, and then by $4 billion on top of that. So only when the fund hits $16 billion would all these funds actually be distributed. This entire scheme reminds me of the saying by Wimpy, the hamburger-obsessed character from the Popeye comic, "I'll gladly pay you Tuesday for a hamburger today."

In addition to everything I have described in the conference report, the statement of managers that accompanies it also includes hundreds of earmarks and questionable projects. Here are just a few examples: $1.6 million for Lewis and Clark Bicentennial Activities; $30 million for continued development of the Joint Common Missile—a program that DOD cancelled this year; $10 million to restructure the Advanced SEAL Delivery System—over half a billion dollars has been spent over the last 9 years, with no deployable vehicles yet fielded. U.S. Special Operations Command has cancelled plans for future boats; $3.2 million for Handheld High Intensity Searchlights; and $7 million for the Alaska Land Mobile Radio.

Mr. President, despite high gas prices, despite a swelling budget deficit, despite our military operations overseas, and despite our domestic emergencies, pork continues to thrive in good times and bad. The cumulative effect of these earmarks is the erosion of the integrity of the appropriations process, and by extension, our responsibility to the taxpayer. We must do better, for our soldiers and for the American people.

We have to fix this system, Mr. President. Our system is broken if we cannot pass a Defense bill in wartime without billions of dollars in pork. Our system is broken if we cannot fund our troops without tacking on legislation that opens ANWR to drilling. Our system is broken if our national security is at stake and we carry on spending for the special interests as if nothing were wrong. But there is something wrong, something very wrong. We want to have it all without making any sacrifices, so we simply borrow the money, pushing off the obligations to our children and our grandchildren. ANWR is a perfect example of that. We drill today in the false hope that doing so will solve our energy problems, but in doing so we leave future generations with a degraded environment and the same dependence on oil that we have today.

In his farewell address, President Dwight D. Eisenhower reflected on the spending he believed to be excessive. His words then are all the more powerful in today's out of control environment: "As we peer into society's future," he said, "we—you and I, and our government—must avoid the impulse to live only for today, plundering, for our own ease and convenience, the precious resources of tomorrow. We cannot mortgage the material assets of our grandchildren without risking the loss also of their political and spiritual heritage. We want democracy to survive for all generations to come, not to become the insolvent phantom of tomorrow."

And yet, I say to my colleagues, if we cannot change, if we will not change, we risk precisely that—becoming the insolvent phantom of tomorrow. I wonder what President Eisenhower would think of this mess. But, then, perhaps others have contemplated the same question. After all, this bill includes a $1.7 million earmark for a memorial on the National Mall that would honor none other than Dwight D. Eisenhower.

Mr. GREGG. Mr. President, we are going back and forth. And I think there was a tacit understanding Senator SALAZAR would be next.

Mr. McCAIN. Mr. President, will the Senator from Colorado yield me 30 seconds after he is recognized?

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I yield 30 seconds to my friend from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent for the Senator from Colorado to yield me 30 seconds.

The PRESIDING OFFICER. He has yielded you 30 seconds.

Mr. McCAIN. Mr. President, I have brought it up, I say to my friend from New Hampshire, because you cannot take away with one hand and give with the other. What we are doing in this very vital Defense appropriations bill, again, is larded down with unnecessary, unwanted, unessential, disgraceful spending that I find unacceptable. As the Senator from Oklahoma said, we are going to start doing something about it, and the sooner the better.

I thank my friend from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, let me at the outset say to my friend from Arizona and my friend from Oklahoma that I think in the years ahead, hopefully, we can embark on programs such as pay-go to make sure that both on the revenue side and the expenditure side of the program we are able to bring our budget into balance. I look forward to working with them on those issues in the future.

Mr. President, I rise this afternoon to speak briefly, first, about the spending reconciliation conference report. The spending reconciliation conference report, from my point of view, falls short of making sure we are funding the most significant priorities of the American people.

Now, today, there will be debate about many of the points over which there is disagreement. I wish to focus, very briefly, on two things that, to me, are very essential in terms of what we prioritize and fund in this Government for the American people.

First, with respect to the forgotten America—with respect to agriculture, with respect to those counties and communities that are out there in every one of our States all across this great land of America, those communities that are mostly dependent on agriculture, where rural economic development means one job at a time and sometimes losing one or two jobs at a time, those communities that are withering on the vine—when I look at this reconciliation measure, what we have here is a $934 million cut for Conservation Programs. I do not think that is standing up for the farmers who are so dependent on these very important programs across America.

Secondly, we have a cut of roughly $100 million for rural development. We think about counties such as some counties in my State. In fact, my native county has an unemployment rate of close to 12 percent. We look at creating economic opportunities for those communities. It is, from my point of view, a step in the wrong direction to be taking money from rural development.

I think we, as a Senate, as a Congress, and the President of the United States, should be putting more of a focus on these communities that have been forgotten decade after decade. My hope is we are able to change course on the future agenda for rural America.

Secondly, I wish to briefly comment on student programs. Student programs in this budget we have before us are going to be cut $12 billion. Some of us understand the importance of what student programs have done for all of us. I come from a family where we have eight first-generation college graduates. Born, like some other Members of this Chamber, into humble circumstances, we did not have electricity and we did not have telephones when we were growing up. But we had parents who strongly believed in education, and we had an America that said: There is an America of opportunity for everyone regardless of your background. The result of that was that all eight of us became first-generation college graduates.

Yet when you look at this budget that is before us today, it will cut $12 billion from student programs. To me, that is a disinvestment in America's future. It is something that causes me to say I will vote against this reconciliation measure that is before us today.

Mr. President, in the time remaining, many comments have been made on the PATRIOT Act. I will make a few brief comments on that this afternoon. I see my great friend from Pennsylvania, Senator SPECTER, who has labored on this matter for a long time.

I step aside to no one in my own desire to fight the terrorist threat that we face in America and in my support for giving my brothers and sisters in law enforcement and our Federal agencies, including the FBI, all the authority they must have in order to keep America safe. We need to reauthorize the PATRIOT Act. That is my goal. I believe that is our responsibility as a Congress.

Mr. President, I believe that the political games surrounding the debate over the last several weeks are not worthy of this body, not worthy of America. Instead of a reasonable debate between patriots on how best to reauthorize the PATRIOT Act, we get political threats and our patriotism is questioned. The President of the United States says that Senators wanting to protect the Constitution are acting irresponsibly. These assertions, in my view, are wrong. The Constitution still matters today. Our liberties still matter. If someone does not believe these things, I believe they are wrong. There can be no greater patriot than the Republicans and Democrats who come together to fight for upholding principles of our Constitution and giving law enforcement the tools they need to protect our homeland.

Senator GREGG, one of the fiercest defenders of the second amendment in this Senate is a true patriot. Senator HAGEL, one of this body's distinguished military veterans, is a true patriot and I am proud of him. Senators MURKOWSKI, SUNUNU, FEINGOLD, and DURBIN are all good patriots. All of my colleagues who have been working to try to come to some resolution, I believe, are doing the right thing because they are standing up to protect America's freedoms as enshrined in our Constitution.

Mr. President, I believe we can do what is the responsible thing, and with the potential expiration of the PATRIOT Act at the end of 2005 under current law, the responsibility lays with the White House and with this body to make sure we extend the PATRIOT Act so we can continue to come to a conclusion with respect to a PATRIOT Act that both protects the civil liberties of Americans and at the same time gives law enforcement the tools they need.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has spoken for 7 minutes. The Senator has 3 minutes remaining.

Mr. SALAZAR. Let me point to two provisions that have been debated widely in this body on the PATRIOT Act. The first is section 215 of the PATRIOT Act, which deals with firearms, business records, and medical records. The conference report that came out basically set a standard that says it is the relevance. My view and legal reading of that provision of the statute is that it would allow for fishing expeditions into your private records, into your business records, into the records of gun owners and gunshops.

For example, in my State, I think about a business named The Rocky Mountain Gun and Ammo Shop. Well, if you have a business record by having conducted some transaction with that particular shop, then those business records become available to the Federal Government without you ever having any knowledge that in fact the Federal Government has gone after those records. In addition to that, besides having the opportunity to access those records——

Mr. SPECTER. Will the Senator from Colorado yield for a question?

Mr. SALAZAR. I only have 2 minutes left. Through the Chair, I will make my 2 remaining points and I will yield for a question.

That Rocky Mountain gun shop business would also be subjected to a permanent gag order, and there is jurisprudence in our case law that says that those permanent gag orders in fact are violative of the first amendment.

I believe in the Senate legislation that we approved unanimously with 100 Senators, Republicans and Democrats, that moved those issues forward in a manner that would have protected the civil liberties of Americans under the section 215 provisions of the PATRIOT Act.

With respect to national security letters, I have the same concerns, and that is with respect to the 30,000 national security letters that go out—the question and the reality that there is currently no court review of those national security letters. Second of all, there is no avenue for relief with a permanent gag order that applies to the recipients of the permanent gag order.

With that, I yield to my friend from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that I might be permitted to speak for 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Mr. President, let me say, reserving the right to object, we had made a commitment to other Senators in terms of an order here. The next Senator to be recognized is Senator BYRD on our side. I am informed that he is on his way here. I would be constrained to object. I would be happy to work with the leader on that side to work out an order.

Mr. SPECTER. Mr. President, I ask unanimous consent to speak until Senator BYRD arrives.

Mr. CONRAD. I have no objection.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I had sought to discuss with the Senator from Colorado some of the provisions of the PATRIOT Act. In view of the limited time, I will make a few comments.

It is my hope that we can yet pass the conference report and the PATRIOT Act. When cloture was turned down on Friday, I reached out on Saturday to see if we could find some way to come to some agreements while the House was in town where we could have gotten some modifications on the conference report. That is not possible now; the House is out of session. There was no one in the House to have an extension of time. Senator FRIST has said publicly, again, within the hour, that he is not going to agree to an extension of time. The President said he is not going to sign an extension of time. So I think what we are faced with at the moment is that we can either sign the conference report, pass the conference report or the act is going to expire.

That is not my wish. I have made every effort to turn, twist, and go sideways and backward and forward to get it worked out. I think where we are now is that it is going to take this conference report or it is going to expire.

I talked to the majority leader about having another cloture vote. If there would be 7 more Senators who would join the 53 who voted for cloture, we could get it done. I don't disagree with the Senator from Colorado who says that what has gone on here is, in some respect, unworthy of the Senate. The matter has spiraled out of control to where we are.

I came to the Chamber to quote from Benjamin Franklin when he addressed the Constitutional Convention in 1787. We are about to have the 300th anniversary of his birth. America is very proud of Ben Franklin—Philadelphia especially. He came from Boston to Philadelphia. I came from Russell, Kansas, to Philadelphia. That is where the similarities end. We are both carpetbaggers who came to Philadelphia. Franklin had a message for the delegates to the Constitutional Convention, and I am going to read only part of it because I know Senator BYRD is on his way, and I am constrained to stop when he arrives.

This is what Benjamin Franklin said to the delegates at the Constitutional Convention, and it applies to the PATRIOT Act. His message is that it is not perfect, it hasn't satisfied everybody, but it is the best we can do, so let's do it. This is what he said:

> Mr. President, I confess that there are several parts of this Constitution which I do not at present approve. But I am not sure I shall never approve them; for having lived long, I have experienced many instances of being obliged by better information, or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise. It is therefore that the older I grow, the more apt I am to doubt my own judgment, and to pay more respect to the judgment of others.

Franklin goes on to say:

> I doubt too whether any other Convention we can obtain, may be able to make a better Constitution. For when you assemble the number of men to have the advantage of their joint wisdom, you inevitably assemble with those men, all their prejudices, their passions, their errors of opinion, their local interests, their selfish views. From such an assembly can a perfect production be expected? It therefore astonishes me, Sir, to find this system approaching so near to perfection as it does;

Then he concludes with this paragraph:

> On the whole, Sir, I can not help expressing a wish that every member of the Convention who may still have objections to it, would with me, on this occasion doubt a little of his own infallibility, and to make manifest our unanimity, put his name to this instrument.

It is not exactly the same. The Senator from Minnesota, who is presiding, is not George Washington, and I am not Benjamin Franklin. But these are very wise words. I would ask if there are any of our colleagues who are listening or any of our staff members of our colleagues who are listening who would be willing to take up the question of changing a vote. They might have to eat a little crow. They might have to lose a little face. Maybe it is worth it for the welfare of the country.

There can always be amendments to the act. I am not making any commitments to any changes, but the Judiciary Committee will consider them. This act will not be engraved in granite. There will be an opportunity for changes to be made—again, no commitments—but when we are faced with the alternative of either having the conference report or no act, I think it is pretty clear what the conclusion ought to be. I have talked to some of my colleagues earlier today who don't like where we stand now, who don't want the responsibility for not having an act. So it takes seven. I will be around all day, all day tomorrow. We could vote, as the majority leader has said, on a motion for reconsideration if the body is inclined to do so, if there is some opportunity to adopt the conference report.

Mr. President, I ask unanimous consent that the full text of Franklin's statement be printed in the RECORD.

BENJAMIN FRANKLIN: ON THE CONSTITUTION

(1787)

> Mr. President: I confess that there are several parts of this constitution which I do not at present approve, but I am not sure I shall never approve them; for having lived long, I have experienced many instances of being obliged by better information, or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise. It is therefore that the older I grow, the more apt I am to doubt my own judgment, and to pay more respect to the judgment of others.
>
> Most men indeed as well as most sects in Religion, think themselves in possession of all truth, and that wherever others differ from them it is so far error. Steele a Protestant in a Dedication tells the Pope, that the only difference between our Churches in their opinions of the certainty of their doctrines is, the Church of Rome is infallible and the Church of England is never in the wrong. But though many private persons think almost as highly of their own infallibility as of that of their sect, few express it so naturally as a certain French lady, who in a dispute with her sister, said "I don't know how it happens, Sister but I meet with no body but myself, that's always in the right. "Je ne trouve que moi qui aie toujours raison."
>
> In these sentiments, Sir, I agree to this Constitution with all its faults, if they are such; because I think a general Government necessary for us, and there is no form of Government but what may be a blessing to the people if well administered, and believe farther that this is likely to be well administered for a course of years, and can only end in Despotism, as other forms have done before it, when the people shall become so corrupted as to need despotic Government, being incapable of any other.
>
> (I doubt too whether any other Convention we can obtain, may be able to make a better Constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men, all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an assembly can a perfect production be expected? It therefore astonishes me, Sir, to find this system approaching so near to perfection as it does;) and I think it will astonish our enemies, who are waiting with confidence to hear that our councils are confounded like those of the Builders of Babel; and that our States are on the point of separation, only to meet hereafter for the purpose of cutting one another's throats.
>
> Thus I consent, Sir, to this Constitution because I expect no better, and because I am not sure, that it is not the best. The opinions I have had of its errors, I sacrifice to the public good. I have never whispered a syllable of them abroad. Within these walls they were born, and here they shall die. If every one of us in returning to our Constituents were to report the objections he has had to it, and endeavor to gain partisans in support of them, we might prevent its being generally received, and thereby lose all the salutary effects and great advantages resulting naturally in our favor among foreign Nations as well as among ourselves, from our real or apparent unanimity.
>
> Much of the strength and efficiency of any Government in procuring and securing happiness to the people, depends, on opinion, on the general opinion of the goodness of the Government, as well as of the wisdom and integrity of its Governors. I hope therefore that for our own sakes as a part of the people, and for the sake of posterity, we shall act heartily and unanimously in recommending this Constitution (if approved by Congress and confirmed by the Conventions) wherever our influence may extend, and turn

our future thoughts and endeavors to the means of having it well administered.

On the whole, Sir, I can not help expressing a wish that every member of the Convention who may still have objections to it, would with me, on this occasion doubt a little of his own infallibility, and to make manifest our unanimity, put his name to this instrument.

Mr. SPECTER. Mr. President, I see Senator BYRD entering the Chamber, so I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask for regular order, that we return to the bill. As I understand it, Senator SPECTER was speaking in morning business.

The PRESIDING OFFICER. Time was charged from the majority's time on the bill. There was no consent request to do otherwise.

Mr. GREGG. My understanding is that Senator SPECTER asked to speak as in morning business; am I incorrect in that?

Mr. SPECTER. That was my intention, Mr. President.

The PRESIDING OFFICER. The Senator asked to speak until Senator BYRD arrived.

Mr. SPECTER. I did ask to speak, and it was my intention to have it in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, the time is charged in morning business.

Mr. GREGG. It is my understanding that we are now going to Senator BYRD, then Senator ENSIGN, and then going back to the other side.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, for the interest of colleagues, Senator BYRD will be speaking for 15 minutes. Then we will go back to the majority side. Then we will come back to this side with Senator LAUTENBERG for 10 minutes, and then Senator CLINTON for 10 minutes, and then Senator TALENT. This is not, I want to make clear, a unanimous consent request. This is an advisory to our colleagues so that we can manage this time efficiently.

Mr. GREGG. Mr. President, what is the time, if the Chair will advise the majority and the minority?

The PRESIDING OFFICER. The majority has 1 hour 21 minutes remaining. The minority has 1 hour 33 minutes remaining.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, last week, I was pleased to join a strong bipartisan majority of the Senate in support of a motion that instructed budget conferees to strike an ill-conceived House provision from the budget reconciliation bill. That provision sought to repeal the Continued Dumping and Subsidy Offset Act, also known as CDSOA. Last Thursday, the Senate voted overwhelmingly—overwhelmingly—by a vote of 71 to 20 to strike any repeal of CDSOA from the budget reconciliation bill.

The Senate supported CDSOA. Why? Because the Senate recognized that any repeal or attempt to abandon this trade law would be a travesty—a travesty—on justice. The House agreed, and last Friday the House passed a similar motion to instruct which contained, among other things, language to strike repeal of CDSOA from the House-passed bill.

The vote on that successful House motion to instruct was 246 to 175. What could be clearer than that? The House vote on that motion was 246 to 175. And yet—get this, hear me now—over the weekend—yes, over the weekend literally in the dead of night when all was still, nothing was stirring, in the dead of night—a small number of misguided House and Senate conferees decided to turn their backs—turn their backs, on the American worker.

Hear me out there, the American workers all over this country. Hear me, hear me out there on the Great Plains. Hear me out there in the river valleys. Hear me out there in the mountains of West Virginia. Hear me out there in the great Rocky Mountains. Hear me out there on the west coast, the American workers, the American workers.

So this small group decided to ignore the will—hear me—ignore the will of both Houses of Congress. That was blatant, was it not? They decided to repeal CDSOA after 2 years. What arrogance, what sheer, unmitigated, raw arrogance. Fie on you. Shame, shame, shame. CDSOA was enacted to save American manufacturing and our agricultural producers from wave after wave after wave of unfairly traded foreign imports. Let me say that again. Hear it again. Hear me again. CDSOA was enacted. Why? To save American manufacturing and American agricultural producers from wave after wave after wave of unfairly traded foreign imports. It is one of the most successful trade programs ever enacted. Alleluia. It enables small and medium-sized businesses and family-owned businesses to invest in their futures.

This law preserves an increasingly rare commodity in these United States, a vanishing breed, the American worker. Five years ago, a bipartisan majority of the Senate approved this provision to reimburse U.S. companies injured by unfair foreign trade. Let me say that again. Five years ago, a bipartisan majority, Republican and Democrat, of the Senate approved this provision to reimburse U.S. companies injured by unfair foreign trade.

Under the law, each year Customs distributes duties collected from unfair imports to American companies, to American workers, who can prove they have been materially injured by unfair trade. What could be better than that? What could be more fair? What could be more just than that? Under the law, each year Customs distributes duties collected from unfair imports to American companies and workers who can prove that they—these American companies and workers—have been materially injured by unfair trade.

CDSOA was enacted to restore conditions of fair trade so that jobs that should stay in the United States are not destroyed by unfair foreign competition. What is wrong with that? What is wrong with that? Hear me.

While the amounts distributed under the program are not large, from a budget perspective, approximately $226 million for fiscal year 2005, the law has been critically important—hear me—the law has been critically important to American companies and American workers hurt by dumped and unfairly subsidized imports. I am speaking on behalf of American companies and American workers who have been injured by these unfair imports, these subsidized imports.

To receive reimbursement under the law, companies certify in writing that they have made qualifying expenditures in support of their workers and their facilities. The law reimburses them only for those expenditures. I will say that again. The law reimburses them only for those expenditures in support of their workers and facilities. The Customs Service verifies any claims submitted to make certain that requests for reimbursement are valid. Consequently, there are stringent safeguards in place under the law to make certain that funds are distributed under the law legally, honestly, and fairly.

Critics of the law—yes, listen to them, critics of the law—argue that the WTO has ruled against it so we should abandon it. Shame. But the WTO had no legal authority to rule against this law.

This means that the WTO's ruling was beyond the scope of its legal mandate, and to this day, Tuesday, the 20th day of December in the year of our Lord 2005, the WTO has never articulated a legitimate argument justifying any need for the United States to repeal this law. They have not done it. They cannot do it. They cannot do it. They have not done it.

Nearly 800 American companies and workers in nearly every State of the Nation—not just in West Virginia, not just in the steel trade in West Virginia or Pennsylvania or Kentucky or Ohio, workers in nearly every State of the Nation receive distributions under this law's provisions. It is critical to family-owned businesses such as Warwood Tools in Wheeling, WV, and to Wheeling-Pittsburgh Steel and to Weirton, WV. It is equally important to the thousands of steelworkers in Alabama, Arkansas, Connecticut, Illinois, Indiana, Kentucky, Louisiana, Michigan, Nebraska, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, Utah, Washington, Wisconsin, and elsewhere across the Nation. They, and all hard-working Americans, deserve to continue to receive these funds so long as foreign traders keep on dumping illegally. Illegally. If our trading partners do not like this trade law, the solution is easy. The solution is not to repeal the law. If our trading partners are offended by the law, I have only two words for them. Hear me, only two words for them: Stop dumping. It is that simple: two little words: Stop dumping. If you, our trading partners, are offended by the law, bless your hearts, I have two words for you, our trading partners that are dumping: Stop dumping.

The United States is working to complete negotiations in the Doha Round of trade talks. What kind of leverage can we maintain over other countries in those talks if we meekly agree unilaterally to disarm, to repeal one of the strongest and most successful trade remedy laws ever enacted in the United States? What a foolhardy, what a simple-minded stunt.

Why don't we hand them a sharp stick to poke our eyes out?

That would make about as much sense as repealing our trade laws. Now is the time to hold foreign unfair traders more accountable, not less—more accountable, not less.

I urge my fellow Senators, I urge my colleagues in the Senate to join me in voting against this budget bill which contains language that would repeal this critical trade law.

While the drafters of the repeal of this law argue that it will permit certain duty distributions to continue—at least for the next 2 years—the text is not exactly clear on this point. So I ask my colleagues: Why tamper with a law that works? There is no reason to undermine the statute as it is now written. There is no need to repeal the law today. There is no need to repeal the law 2 years from now, or ever.

Therefore, with all my heart, I urge my colleagues to join me in voting against the budget reconciliation bill, to make certain that one of America's most successful trade laws stays on the books as it is currently written.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I rise to speak in favor of the deficit reduction bill that we have before us after many hours of people working together, compromising. You could go through the bill and pick out parts that you like and you don't like, so I want to put this in a bigger picture. I want to step back and look at what we are dealing with as a country.

Over the next 5 years, we were slated to spend, before this bill, and if this bill does not go into effect, we will spend $13.8 trillion. If we pass this bill, this deficit reduction bill, we will still spend $13.76 trillion. Those numbers are impossible to understand. Impossible. They are too big. Let's try to get our arms around a little bit of a number.

I always like to talk about $1 trillion with high school kids so they can understand it. I always ask them: Do you think a million dollars is a lot of money? And of course a lot of us think a million dollars is a lot of money. I ask them: If you spent a million dollars a day, do you think you would be spending a lot of money? And the unanimous answer of high school kids is: Of course that is a lot of money. I tell them that to get to $1 trillion, not $13.76 trillion but just $1 trillion, you would have to start spending a million dollars a day, start at the time Jesus was born, go until today and you still would not be at $1 trillion.

What we are trying to do is to shave and slow the rate of growth of spending a tiny bit. It is almost insignificant.

But what is significant in the bill is that we are starting to take on entitlement spending. Entitlement spending now is two-thirds of the Federal budget, and it is slated to grow into an ever-increasing share of the Federal budget in the future. We all know that. Republicans, Democrats, it doesn't matter who looks at the numbers, entitlements will gobble up the entire Federal budget.

If you study democratic forms of government—and I know Senator BYRD, who has spoken, has done a lot of this—if you study democratic forms of government, they always collapse due to two reasons, and they happen in a particular order. The first thing that happens is there is a moral collapse in the country, and it is always followed by an economic collapse.

If you think about it, it makes sense that it happens in that order. You see, if you have people who are not moral enough to think about the next generation, what they do is they elect people to office who will give them what they want by borrowing from the Treasury; in other words, borrowing from the next generations. When the debt gets too large, this debt gets so large the economy cannot handle it and you end up with all kinds of economic problems and finally an economic collapse.

We are headed for that if we do not get entitlements under control. That is why this bill, even though it is a small amount of money—if you listen to the other side, you would think the sky is falling, as far as spending is concerned.

This is a tiny, insignificant almost, amount of money. But it is significant in that we are finally starting to tackle entitlement spending. That is why this bill is so important.

So when we hear the debate on both sides, boil it down to this very simple thing. Are we going to care enough about the next generation to finally start saying no to some of this big Federal Government spending? I believe it is time this body stands up. Instead of being selfish, instead of giving our voters what they want so they keep sending us back here, let's stand up and do what is right and think about future generations.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, for the information of my colleagues, Senator WYDEN is next. We have been told he is on his way. We hope he will appear shortly. Then we will have Senator GRASSLEY at approximately 4 o'clock. He will go for 20 or 30 minutes, or something like that.

At this point, maybe it is an appropriate time to try to sum up some of the arguments we have tried to make with respect to this budget.

The matter before us reduces spending by $40 billion over a 5-year period. During that period, we will be spending $14.3 trillion.

In the first year, this package saves $5 billion. The tax cuts the House wants to apply in that same period are $21 billion. That doesn't reduce the deficit. It increases the deficit.

The thing that is I think most disturbing about this budget plan is, according to its advocates, the debt of the country increases by $600 billion or $700 billion a year, each and every year of the 5 years of this budget. That is unsustainable. We are not making any serious progress. In fact, this package makes things worse.

I see Senator WYDEN is here.

I yield up to 15 minutes to Senator WYDEN.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, I thank the distinguished Senator from North Dakota.

I have come to the floor this afternoon to bring to the Senate's attention a new development with respect to the Arctic Refuge—a development that has taken place in the last 24 hours that I think has great implications for the budget work the Senate is doing here this week. It also speaks volumes about the lack of consumer protection we are seeing in our country generally.

We have heard a lot in the past few days——

Mr. GREGG. Mr. President, will the Senator yield for a question? I want the body to know, to the extent people are listening outside, the ANWR language is not in this bill. The Senator is speaking to another bill which will follow. Is that correct?

Mr. WYDEN. Mr. President, the distinguished Senator from New Hampshire is correct in a technical sense. But I am going to discuss something that will have, in my view, great ramifications for the Federal budget generally, and I am going to outline that briefly this afternoon.

We have heard a lot during the past few days about the rights of Alaskans as an argument to justify drilling for oil in the Arctic National Wildlife Refuge. But yesterday, the Alaska Gasline Port Authority, an Alaska state-chartered agency, charged two of the companies that have drilling rights in the Arctic Refuge with conspiring to manipulate the State of Alaska's energy market. The Alaska Gasline lawsuit charges that ExxonMobil and BP withheld supplies of natural gas to gain market power over supply. This is a very significant development with, in my view, great implications for Arctic oil drilling.

If these allegations are correct—that ExxonMobil and BP withheld Alaskan gas supplies from the market—what would stop these companies from withholding oil from Arctic drilling from the market? If Alaskan oil supplies are withheld from the market, that does nothing to reduce our Nation's dependence on foreign oil. It also produces no revenue to the Federal Treasury that supporters of Arctic oil drilling claim fund hurricane relief and other programs.

These serious charges about oil company manipulation of Alaska's energy supplies are not made by some leftwing group but by an agency chartered by the State of Alaska.

An article in today's Wall Street Journal quotes Walter Hickel, a former Republican Governor of Alaska, as saying the lawsuit against these major oil companies "reveals a story of extreme corporate greed that has abused Alaska and punished the American consumer."

I ask unanimous consent that a copy of this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

An Alaska state authority charged that BP PLC and Exxon Mobil Corp., the world's largest publicly traded oil companies, are conspiring to withhold natural gas from U.S. markets and reinforce their market power over North Slope supplies.

In an antitrust suit filed late yesterday in federal court in Fairbanks, the Alaska Gasline Port Authority alleged that a series of illegal agreements and acquisitions by the companies has choked the flow of the state's vast gas reserves. It seeks to stop the companies' alleged collusion through a court injunction and unspecified damages.

Exxon and BP spokesman both denied the accusations that the companies were trying to delay exports of gas from Alaska. "This is another sobering reminder of our litigation-crazed society. This suit is frivolous and it's totally without merit," says Exxon spokesman Russ Roberts.

The lawsuit is the latest twist in a 30-year effort to move the estimated 37 trillion cubic feet of natural gas within Alaska's sprawling oil field, enough to satisfy two year's worth of U.S. demand. There is currently no significant natural-gas production in the North Slope; gas now produced by oil wells is injected into underground reservoirs. The dispute comes at a time when U.S. natural-gas prices are soaring.

The port authority, created in 1999 to build a gas pipeline, says it has $18 billion in federal guarantees and the permits to build a pipeline from the North Slope to Valdez in the southern part of the state, where gas would be liquefied and loaded onto tankers. But BP and Exxon favor an alternative, longer pipeline through Canada, a pipeline over which they would have more control, the authority charges.

Talks between the state and producers on building the longer pipeline have stalled. BP and Exxon Mobil, which produced a combined 1.7 trillion cubic feet of gas last year in the U.S., about 9% of the domestic total, have balked at the state's terms; a third producer ConocoPhillips, agreed to the state's basic terms in October. The natural-gas pipeline disputes aren't related to the battle in Congress over opening the Arctic National Wildlife Refuge to oil and gas exploration.

The Alaska Gasline Port Authority said that BP's refusal to agree to ship its natural gas and Exxon Mobil's failure to develop its huge fields amounts to "warehousing" a desperately needed resource in an effort to drive up prices. "Gas prices are at record highs, and big oil companies still won't move the gas to market," authority Chairman Jim Whitaker said in a statement.

BP and Exxon Mobil argue a pipeline through Canada to the Midwest would increase the value of the gas by delivering it directly to gas-hungry markets. They say that the alternative, shorter route to Valdez—which allows for a spur to send gas through Canada—would generate less revenue and expose the $20 billion project to greater risk. BP and Exxon also expect to have a bigger financial stake in the longer pipeline than the one favored by the Alaska Gasline Port Authority.

BP spokesman David MacDowell said, "We are working as fast as we can to get a clear and durable fiscal contract with the state of Alaska so that this natural-gas project can move forward to the next stage." As for the Valdez option, he said, "we've spent millions of dollars over the years trying to make an Alaskan LNG [liquefied natural gas] project work, but it doesn't work."

He defended producers' ownership of pipelines, saying that "no one else is as motivated as the resource owners to build the lowest cost, most efficient transportation system possible."

Exxon says negotiations have been continuing for months and are in an advanced stage. "This is one of the largest, most complex industrial projects ever considered by any industry," says Mr. Roberts, the Exxon spokesman, and negotiations over the voluminous details should run their course, rather than be litigated in the courts.

The delays in exploiting Alaska's natural gas have become a political issue from Alaska to Washington. Walter Hickel, a former Republican governor of Alaska and former U.S. Secretary of the Interior, said the authority's suit "reveals a story of extreme corporate greed that has abused Alaska and punished the American consumer."

Mr. Hickel, a longtime supporter of Alaska gas development, said that "the producers have conspired for years to delay the export of Alaska liquefied natural gas."

House Speaker Dennis Hastert has said he expected energy companies to "do their part to help ease the pain" of high oil and gas prices, and specifically cited BP and Exxon Mobil's failure to come to terms with Alaska over the proposed pipeline.

The authority's legal team includes David Boies, of Boies Schiller & Flexner in New York, and Charles Cole of Fairbanks, the former Alaska attorney general.

In a news conference last night, Mr. Boies said the two companies had illegally conspired to refuse to deal with the authority, as part of a broad effort "to preserve the scarcity that has driven natural-gas prices to historic highs."

Mr. WYDEN. Mr. President, the legislative rider attached to the Defense appropriations conference report that would open the Arctic Wildlife Refuge to drilling gives the same two companies the Alaska Gasline Port Authority charges with colluding to withhold Alaskan gas supplies a tremendous sweetheart economic deal.

In addition to being an abuse of the legislative process, attaching this rider to the Defense appropriations bill, in my view, is bad environmental policy, bad budget policy, and most particularly bad energy policy. As a result of this rider, the Defense spending bill, which contains money critical for our troops, is getting held hostage for special interest legislation for the oil industry. The rider that was grafted onto the Defense bill provides unprecedented waivers for Federal environmental and other laws, including the National Wildlife Refuge Act, the National Environmental Policy Act, and the Federal Mineral Leasing Act.

The Arctic drilling legislation also overrides current law to reduce the State of Alaska's share of the revenue produced by Arctic oil drilling.

Under current law, 90 percent of those receipts would be paid to the State of Alaska and the remaining 10 percent to the U.S. Treasury.

The rider that was plucked from the budget reconciliation spending bill and grafted onto the Defense appropriations conference report changes the allocation in current law to permit the Federal Government to retain 50 percent of the receipts. The State of Alaska has threatened to sue to get the full 90 percent of the revenues. If that lawsuit succeeds, then 40 percent of the revenues that the Defense spending bill assumes will be available for hurricane recovery, LIHEAP, and other purposes will not be there at all. If the State loses, then its rights will have successfully been overridden. One way or another, either the State of Alaska or the Federal taxpayer is going to end up getting shortchanged.

Most importantly, if the charges we have heard in the last 24 hours of withholding gas supply are true, there would be nothing to stop the same oil companies the Alaska Gasline Port Authority is charging with gas market manipulation from manipulating Alaskan oil markets. Nothing in the rider on the Defense bill would in any way prevent the companies from engaging in the same conduct they have been charged with by an Alaska-chartered agency with respect to oil drilling in the Arctic.

The actions of the Alaska Gasline Port Authority this week against

ExxonMobil and BP, in my view, raise a host of fundamental questions. First, whose rights is the Arctic drilling rider supposed to uphold? The State of Alaska? Or the major oil companies? How will drilling in the Arctic truly affect our Nation's energy security? What are the real budget revenues that Arctic drilling will produce?

The Congressional Budget Office's revenue estimates for Arctic oil drilling assume that the oil companies will move quickly to develop oilfields in the Arctic Refuge. These assumptions do not factor in the prospect of oil companies choking off the flow of oil, as the Alaska Gasline Port Authority alleged is being done by ExxonMobil and BP now with Alaskan gas supplies.

The other question that begs to be asked about the Alaska Gasline lawsuit is where in the world was the Federal Government, particularly the consumer protection regulators, who are supposed to be policing the kind of collusion that is alleged in the lawsuit of the Alaska Gasline Port Authority this week? What has the Federal Trade Commission, the so-called consumer watchdog agency, done to stop what former Alaska Governor Hickel has called "extreme corporate greed that has abused Alaska and punished the American consumer."

The response is, unfortunately, the same as what we have seen from the Federal Trade Commission over the last few years when it comes to oil company mega mergers, price gouging at the gas pump and other anticompetitive practices. The consumer watchdog seems to be taking a long winter nap when it comes to energy. This is yet another example of the Federal Trade Commission's perpetual hibernation when it comes to protecting the consumer who is getting clobbered by escalating energy costs.

If an agency of the State of Alaska, with no more than a handful of lawyers, is able to take action against collusion by the world's largest oil companies, why isn't the Federal Government's premier consumer protection agency, with scores of lawyers, able to protect consumers?

Last week I spoke at length on this issue. In fact, the distinguished Presiding Officer of the Senate was in the chair at that time. He is very much aware I intend to continue to raise my concerns about why the Federal Trade Commission keeps ducking this critical consumer protection issue.

This latest news about the Alaska Gasline Port Authority bringing an antitrust action against major oil company collusion in energy markets, in my view, is especially troubling. It calls out for further investigation by both the Congress and the Federal Trade Commission. In my view, it is the Congress's job to investigate whether the claims made by the advocates of Arctic oil drilling hold up, given what the Alaska Gasline Port Authority is alleging this week about two of the oil companies that hold Arctic drilling rights.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield myself such time as I may consume but not more than 30 minutes.

The PRESIDING OFFICER (Mr. THUNE). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, before I comment on the Senate Committee on Finance portion of the Deficit Reduction Act, I will go over some ground that has been covered by other Members on our side of the aisle through this chart or similar charts, to point out how three entitlement programs—Social Security, Medicare, and Medicaid—as a percentage of the gross domestic product are going to continue to grow and grow and grow until reaching a point where it squeezes out almost everything else in the Federal budget.

This is already legislated. The red on the chart, if we do nothing, is where we end up.

This bill is doing something about that problem. But we ought to be doing a lot more.

I start out by saying what we are doing in this entire deficit reduction package is reducing expenditures of the Federal Government over the next 5 years. Five years is the length of the budget reconciliation changes that we are making. During that 5-year period of time, the Federal Government will spend about $12.5 trillion. We are cutting out of that $12.5 trillion, a 5-year figure, about $10 billion as shown in the red part of the chart.

The reason I try to put that in perspective, one-quarter of 1 percent is at $40 billion, compared to the $12.5 trillion. That is a spit in the ocean compared to what the problem is.

I point out two things. We will hear from Members of this Senate, mostly from the other side of the aisle, that it is catastrophic we are making changes to one-quarter of 1 percent in all the money the Federal Government is going to spend over the next 5 years. It is catastrophic. The world is coming to an end, we will hear.

Then, from the other point of view, considering what these problems are that we know we face today—and no Republican or Democrat disagrees with that—for what we are doing we ought to be somewhat ashamed we cannot do more than one-quarter of 1 percent of all the money the Federal Government is going to spend in the next 5 years.

For the average American who votes and thinks that Washington, DC, is on some other land from the standpoint of what we do in the Congress, they would say to both sides of the argument that the world is coming to an end, that we are going to eliminate or reduce one-quarter of 1 percent or to those that are bragging—I will be in that category of bragging—about doing something about one-quarter of 1 percent, they are going to say, you guys have to be crazy if you cannot find in all the money that the Federal Government spends, some way of saving more than one-quarter of 1 percent of the $12.5 trillion that will be spent over the next 5 years. They would probably say you ought to go out and find some other work where you can accomplish something.

Those are the extreme points of view. That is what I think the public is probably going to say to us at our town meetings when we go back home if we are going to brag about this, or maybe to the people that are going to complain about it, asking if we are really doing much. It is similar to all the labor that an elephant will go through to give birth and then give birth to a mouse. That is what we have here, a mouse compared to the elephant of a problem.

I take an opportunity to explain what is in the Senate Committee on Finance portion of this bill. Senator GREGG needs to be complimented for getting us where we are today on this conference agreement. What I described, one-quarter of 1 percent of all money over the next 5 years, $12.5 trillion worth, this is the first time we have gone through this process in almost 10 years.

So we do not do this every year. And the public watching would say: Why don't you do it every year? I wish I had a responsible answer for that. But I think we ought to recognize Senator GREGG's involvement and the involvement of all the chairmen of the committees in putting together, over several months, this budget reconciliation package for spending to achieve this goal, and achieving this goal regardless of how small it might be.

It is important for the reason I have given you, that by all accounts, the growth in entitlement spending has monumental implications for our Nation's economic and financial strength.

The chart I just spoke about shows the Congressional Budget Office's projections for mandatory spending, including Social Security, Medicare, and Medicaid. According to this chart, by 2050 mandatory spending will approach 30 percent of the Nation's gross domestic product. That is 30 percent by 2050. This would push Federal spending well above the levels that it has been throughout much of the post-World War II period, as evidenced by that straight line that goes across that chart.

This might be, hopefully, a worst case scenario, but it is a plausible scenario. The agreement that we are going to be voting on, called the budget reconciliation package, begins to get at this situation—the red on this chart—

by achieving nearly $40 billion in savings over the next 5 years. That includes $6.4 billion in net Medicare savings and $4.7 billion in net Medicaid savings.

I actually hesitate to mention those amounts because for many of our constituents it is hard to get past the numbers. To them, any reduction—any reduction—even if it is only one-fourth of 1 percent, is a bad reduction. But the policy—and we ought to be making decisions in this body based upon sound policy—the policy behind these reductions is sound, just as the policy behind the numerous spending provisions in this entire package is sound.

Throughout this process I have sought to reduce wasteful spending, eliminate loopholes, and pay providers more accurately. I have sought to advance policies that will ensure the availability of important health care and social services, to update these programs to reflect our Nation's changing needs, and also to promote the delivery of high-quality health care services.

The agreement makes some important improvements in the Medicare Program, not the least of which is addressing a scheduled reduction in payments to physicians, which could have led to access problems for beneficiaries. The agreement builds on progress made 3 years ago that linked increases in Medicare payments to hospitals to the reporting of quality data.

I actually would have preferred to do more in the area of pay for performance, and I will continue to push further for changes because we just cannot sit back on this issue, as the private sector is moving much faster than Government, particularly the major corporations of America, in making sure they do their health care business with people in the health care profession and institutions in the health care profession that are going to deliver quality care. We have to be more concerned about this than we have in the past in the Federal Government.

Medicare is the single largest payer of health care in the Nation. Taxpayers and beneficiaries deserve to get the highest value for every Medicare dollar spent. Unfortunately, there is no question that today we are not getting the most value for the taxpayer dollar.

The bill also takes steps to ensure access to quality care in rural communities. It does this by reinstating special payment programs, such as a 5-percent add-on for rural home health providers, the Medicare dependent hospital program, and the hold-harmless payments for small rural hospitals.

The conference agreement also includes coverage of valuable preventive benefits not covered by Medicare. These preventive benefits are important to prevent illnesses and to keep beneficiaries healthy.

This bill also saves beneficiaries and Medicare money by changing the payment structure for durable medical equipment.

Now Medicare will only pay for DME services that are needed; that is, after we get this passed.

I would like to look at Medicaid changes.

In our efforts to reform the Medicaid Program, we take some very important steps, many of them recommended by a bipartisan group of our Nation's Governors. Eventually, all 50 Governors made suggestions to us in a unanimous agreement.

Let's just look at long-term care. In the very near future, a lot of older people are going to need long-term care. Right now, Medicaid is a primary payer for long-term care services. The Deficit Reduction Act expands the Long-Term Care Partnership Program and will promote awareness about long-term care insurance.

We combine that with a policy to tighten restrictions on seniors' ability to transfer or hide assets with the intention of qualifying for Medicaid. These policies protect the integrity of Medicaid and create an incentive for seniors to explore new long-term care options.

The agreement will ensure accurate payments to pharmacies for the cost of drugs, and it has little effect on the market.

We give States the ability to offer Medicaid beneficiaries coverage more consistent with coverage typically offered by employers, while at the same time guaranteeing that children do not lose any benefits currently provided under Medicaid.

We include protections for preventive services and treatment for children. This bill continues to require States which cover early, periodic, screening, diagnosis, and treatment services to continue to do that. The language of the bill is very clear.

Mr. President, on that very point, I ask unanimous consent to have printed in the RECORD a statement by Dr. McClellan, Administrator of CMS, supporting our interpretation of the provisions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY MARK B. MCCLELLAN, M.D., PH.D, ADMINISTRATOR, CENTERS FOR MEDICARE & MEDICAID SERVICES

Questions have been raised about the new section 1937 of the Social Security Act (SSA) (as added by the Deficit Reduction Act of 2005) that permits states to provide Medicaid benefits to children through benchmark coverage or benchmark equivalent coverage. If a state chooses to exercise this option, the specific issue has been raised as to whether children under 19 will still be entitled to receive EPSDT benefits in addition to the benefits provided by the benchmark coverage or benchmark equivalent coverage. The short answer is: children under 19 will receive EPSDT benefits.

After a careful review, including consultation with the Office of General Counsel, CMS has determined that children under 19 will still be entitled to receive EPSDT benefits if enrolled in benchmark coverage or benchmark equivalent coverage under the new section 1937. CMS will review each State plan amendment (SPA) submitted under the new section 1937 and will not approve any SPA that does not include the provision of EPSDT services for children under 19 as defined in section 1905(r) of the SSA.

In the case of children under the age of 19, new section 1937 (a)(1) is clear that a state may exercise the option to provide Medicaid benefits through enrollment in coverage that at a minimum has two parts. The first part of the coverage will be benchmark coverage or benchmark equivalent coverage, as required by subsection (a)(1)(A)(i), and the second part of the coverage will be wrap-around coverage of EPDST services as defined in section 1905(r) of the SSA, as required by subsection (a)(1)(A)(ii). A State cannot exercise the option under section 1937 with respect to children under 19 if EPSDT services are not included in the total coverage provided to such children.

Subparagraph (C) of section 1937 (a)(1) permits states to also add wrap-around or additional benefits. In the case of children under 19, wrap-around or additional benefits that a state could choose to provide under subparagraph (C) must be a benefit in addition to the benchmark coverage or benchmark equivalent coverage and the EPSDT services that the state is already required to provide under subparagraph (A) of that section. Subparagraph (C) does not in any way give a state the flexibility to fail to provide the EPSDT services required by subparagraph (A)(ii) of section I 937(a)(1).

Mr. GRASSLEY. We also include policies that give States the option of asking for a limited set of Medicaid beneficiaries to share in the cost of their care.

The cost-sharing policy excludes anyone under the Federal poverty level, mandatory children, adoption or foster care children, preventative care and immunizations for all children, pregnancy-related services, hospice residents, and women who qualify for Medicaid under the breast and cervical cancer eligibility group.

It is a reasonable, responsible policy that I encourage my colleagues to support. These are all modifications of what the House of Representatives did in their provisions in this area.

These are important, measured first steps that our Governors, in this communication to the Congress to which I previously referred, have asked for, on a bipartisan basis, to reform the Medicaid Program.

Now, the Medicaid Program is a Federal-State program. It is a big cost to the Governors. If we have Governors, 50 of them, of both political parties, coming to us and saying: We can tell you how to spend your taxpayers' dollars more wisely, and we will save some money at the State level, and we will be able to serve more people—they came to us and said that to us. And this document responds to that.

I don't know how 100 Senators can put their judgment—just in case they disagree with what we are trying to do.

I suppose if they agree, this doesn't apply to them. I don't know how those Senators who disagree with what we are doing on a Federal-State program can put their judgment above that of 50 Governors who are almost equally divided between Republicans and Democrats.

This bill also dramatically increases funding to protect Medicaid from fraud and abuse. It does so by creating a Medicaid integrity program that mirrors a similar program already in place in the sister program of Medicare.

The agreement incorporates the Family Opportunity Act. This is a major improvement in Medicaid. This is a program that Senator KENNEDY and I have been working on for 7 years. These provisions will help families meet the needs of their children with disabilities. Right now, these parents, if they have a child with disabilities, face difficult decisions. I can document this among my own constituents in Iowa, that time and time again, many parents of disabled children tell me of their struggles getting health care for their children with costly special needs.

Many parents have been effectively forced to quit their jobs, to take low-paying jobs so this child with costly medical care can qualify for Medicaid. Why? Because the services their child needs are not available with private health insurance. So they need the assistance of Medicaid.

This policy we presently have in place and in the Family Opportunity Act turns by 180 degrees; it is totally backward.

This agreement allows States to give these parents in this situation the option to buy into Medicaid while continuing to work and probably in most cases continuing to pay taxes. These are folks who want to work and can work, and we should not have a disincentive to productive employment in America just because some family has a child with special very expensive health needs.

Moving on, the agreement also fills shortfalls in funding of their State children's health insurance programs that States would have experienced just next year.

We also include $2 billion to assist Louisiana, Alabama, and Mississippi, as well as other States to meet health care needs of people whose lives were devastated by Katrina. It extends TANF Programs with a few minor improvements. It closes several loopholes in TANF and in child support, while providing funding for childcare, child welfare, and allowing more child support to go directly to families.

For nearly 4 years, I have tried to reauthorize TANF in the regular order. Without any help from Democrats, I reported a bill out of the last Congress on a partisan basis. That year, Senator FRIST devoted a week for the consideration of welfare. The first floor amendment offered on behalf of Senator SNOWE would have increased childcare spending by $6 billion—I voted for it—bringing the total childcare money to $7 billion. That passed with 78 votes. Unfortunately, even with that victory which they won, Democrats blocked it.

I kept trying, and this year I worked out a bipartisan bill with Senator BAUCUS that the committee reported out on a voice vote. But again, efforts to reauthorize welfare in regular order have stalled. If we don't pass the Deficit Reduction Act, we will have to extend TANF for a 12th time. That is an unconscionable way to legislate. States cannot continue operating their welfare programs unsure of what the next reauthorization will bring.

Advocates complain that the $1 billion is not enough childcare money. But I say to them, where were you over the past year when there was $6 billion on the table and I was committed to bringing that $6 billion out of conference or we would not have had a conference report on TANF?

There has never been enough childcare money to satisfy those on the far left—$5.5 billion wasn't enough; $7 billion wasn't enough. I don't even know if $20 billion would have been enough. The fact remains that there hasn't been an increase in childcare for 4 years, and if we persist in passing extension after extension, there won't be any new childcare money at all.

As I said in the beginning, it is difficult for many folks to get beyond the numbers. But as I laid out here, this agreement includes many provisions to provide services that better meet people's needs, and it does so by getting rid of waste and abuse in the programs.

These are dollars that right now we are simply throwing away. They get taxpayers and beneficiaries nothing. Without some changes, these important programs of Medicare, Medicaid, and TANF will be driven into the ground. That some folks don't support these changes—well, to me, I believe they cannot see the forest for the trees.

The agreement before us includes sound policies. It achieves savings by reducing wasteful spending, closing loopholes, and taking steps to pay providers more accurately. It improves oversight of Medicaid to crack down on fraud and wasteful spending. It establishes policies to help families and beneficiaries and to ensure long-term viability of these programs. I urge my colleagues to support it.

I yield the floor and reserve the remainder of the time for Senator GREGG.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. CLINTON. Mr. President, last week, I came to the floor to speak against the proposed reconciliation bill, and I used the analogy of the Grinch who stole Christmas. At that time, we did not have a conference report yet before us, and I hoped that we might make some significant changes in what would be sent to us after the House acted.

Unfortunately, although there were some changes, the overall impact of what has been sent to the Senate for action is disappointing and deeply disturbing. While the Grinch stole the gifts, the decorations, and even the Christmas tree, this budget slashes hope. It slashes opportunity. It slashes support that the least among us need in order to be as productive and healthy as possible. This Republican budget slashes child support enforcement, Medicaid benefits, student loans, and so much else.

Now, the story of the Grinch who stole Christmas actually has a happy ending, because the Grinch, seeing the error of his ways, returned what he had taken. Unfortunately, I fear the budget before the Senate today does not have a happy ending. It represents a monumental failure by the Republicans in Congress to recognize the real priorities that the people of America—working families, students, seniors, and particularly children—need.

The Republican priorities are crystal clear in this bill. The Republican majority chose $2.6 billion in new tax breaks for oil companies. I don't know how that is a priority. I don't even know how that is understandable. The oil companies could not be doing any better than they are doing, and we are still giving them more tax breaks from hard-working American taxes. We still prohibit the Government from negotiating for prescription drugs to lower the cost to Medicare beneficiaries, which could save $100 billion for taxpayers. The Republicans decided not to eliminate the $5.4 billion Medicare insurance company slush fund and, instead, chose to cut home health care, hospital quality improvements, imaging services, medical equipment, and hospital payments. And as usual, with the Republican majority, they decided against cracking down on abusive corporate tax shelters such as mailbox headquarters and other loopholes.

We have heard a lot of this from the eloquent, persuasive argumentation by the Democratic ranking member on the Budget Committee, the Senator from North Dakota. We have heard from others of our colleagues raising the alarm about this ill-conceived budget. But one issue that has not yet been raised that I would like to highlight is that I think this bill may very well increase the number of unintended pregnancies and abortions in our country.

Why, you might ask? Today contraception and other family planning services are provided as a matter of course under Medicaid. We do this because it is good for women to have access to such treatments and medications. It also prevents unintended pregnancies and, therefore, prevents abortions and, therefore, saves money. For every dollar Medicaid spends on family planning, the Government saves $3. But this bill eliminates the guarantee.

I don't understand this. We obviously have very strong opinions and deeply held convictions about abortion, but are we also divided about contraception and family planning? Are we not in this body committed to reducing the number of abortions?

Apparently, we are not because the provision in this reconciliation budget that eliminates family planning for Medicaid recipients makes it very clear that the majority opposes contraception and family planning, which reduces unwanted pregnancies and abortions.

It makes no sense to me. I thought we were working toward a bipartisan agreement that we would try to prevent unwanted pregnancies and, therefore, reduce the need for abortion. I sadly predict that if this measure stays in the bill, which apparently it is going to because we expect to vote on it in the next several hours, the number of abortions will go up, the human and financial costs will go up, and many women will really be out of luck.

The other piece that is so troubling to me is young people aging out of foster care. These are young people for whom we try to provide some support services by continuing their access to Medicaid. They, too, will not have access to family planning.

This is all about misplaced priorities, choices that do not serve our Nation's future and puts the burden of balancing the budget on the backs of working families, college students, seniors, single moms, and the middle class.

Consider who is bearing the costs because we know there are winners and there are losers. Certainly, the winners will be oil companies, drug companies, corporate freeloaders, and deadbeat parents. That is a wonderful list of whom we are helping in this Christmas season.

Despite rising medical expenses that burden middle-class and low-income Americans, this bill cuts $6.9 billion from Medicaid by slashing benefits and increasing costs to beneficiaries. We know there is a considerable body of research from RAND to the Urban Institute and many others that have found if you increase copays and premium costs, beneficiaries will skip needed care and may lose coverage entirely.

This bill also, for some reason, has it out for college students, the very people we should encourage to get their education, to become productive citizens, to have competitive jobs in a global economy. The bill cuts over $12.7 billion from student loan programs, resulting in higher payments for 472,000 New Yorkers today and millions more in the years to come.

The bill also undermines the Direct Loan Program which has been shown by every independent analysis to cost as much as 12 times less than the private loan program. So I guess we should put the banks on the list of winners along with the corporate freeloaders and the deadbeat parents and the oil companies.

As millions of seniors struggle with medical bills, this bill slashes $6.4 billion from Medicare over the next 5 years, including a $1.6 billion increase in Medicare Part B premiums, making it more expensive for their seniors to visit their doctor this year instead of last.

The thing I am still totally amazed by is cutting $4.9 billion in child enforcement, eliminating $343 million from foster care programs, undermining childcare for working families and TANF that rewards and enables work.

I don't know, Mr. President, I guess there are different priorities between us in this Chamber, and I am disappointed in that. Given that 1.1 million more Americans fell into poverty last year, and over 37 million Americans, including 13 million children, live in poverty today, we are headed in the wrong direction.

I guess the Republican majority can brag about $2.6 billion in new tax cuts for oil companies, $6.9 billion in Medicaid cuts, and cuts to foster children, the most vulnerable of all of our citizens. Corporate welfare was saved. Student loans were cut. I don't know how you can, with a straight face, say that is the kind of priorities we should be having at any time but particularly in the Christmas season. But I suppose the folks who find these great big tax breaks under their tree are going to be grateful.

The ultimate irony is that this bill is being called deficit reduction. We know how to do deficit reduction. We did it in the 1990s. We did it by making hard choices. We did it by making it clear that nobody was going to get off scot-free, that everybody would have to pay their fair share. Tough decisions would be made on both the revenue and the spending side.

This bill doesn't reduce the deficit at all. In fact, it worsens the deficit outlook by at least $30 billion. That is going to become even more clear when we come back after the first of the year and the Republicans give us $70 billion in additional tax cuts. Let's tell everybody those tax cuts are, once again, going to help people who have been helped already, quite substantially, over the last 5 years.

It is not doing much for the average American, it is not doing anything for some of the poorest of Americans, other than telling them they are on their own.

In a time of war, with the third largest budget shortfall in our Nation's history, when we have rising poverty again, the call for financial sacrifice by the White House and the Republican Congress falls only on families struggling to make ends meet. It falls on our children particularly, the poorest of our children, foster care children, children whose parents are not providing support for them. It doesn't fall on oil companies reaping record profits, not on the drug companies, not on the corporate freeloaders, not on the deadbeat parents.

This bill is not in keeping with the spirit of this season or the priorities of the American people. I hope that we will do better next year. I hope that people will realize, as the Grinch did, that we don't need to act in a way that is playing to the lowest common denominator, that takes care of the privileged at the expense of everybody else. I do think it is fair to say that this bill is unprecedented. Never has so much been done for so few who need it so little.

This is a very sad day in the Senate. I hope we can do better in the future on a bipartisan basis, and I hope that the real values of America once again are put into action in the Congress.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I understand that we would go to Senator ROCKEFELLER next, but in an aside, I simply want to address one or two of the points made by the Senator from New York, who always makes excellent points and is a very constructive member of the HELP Committee. When I was chairman, I enjoyed working with her and I have enjoyed working with her ever since. In fact, as I recall, she actually voted for the language which was reported from the HELP Committee which essentially accomplished what it appears she is concerned about now, which was to take the corporate subsidy that lenders get today under the student loan program and reduce it.

As I have discussed before and discussed with Senator KENNEDY, and I think he appreciates this issue, and some of the other folks who brought this issue up, there is no student loan reduction in this bill. Student loans are expanded. We create a whole new program for low-income students who are interested in math and science and we expand the money going into Pell grants. Where there is a reduction in this bill is in the corporate subsidy area for lenders. If we do not pass this bill, as I said earlier, there would be a windfall to corporate lenders of about $7 billion. That is why I said my staff corrected me. They estimate the windfall to lenders would be closer to $18 billion if we do not pass this bill this year and that is a function of the fact that the lenders are getting an artificially high interest rate. We are taking that down. With the money we receive from that—and it comes out of the corporate lenders, not out of the students—we are taking part of this and we are putting it into helping more students, especially low-income students, be able to go to college.

If a teacher teaches special needs kids under IDEA, they can have $17,500 of their loans forgiven under this bill—$17,500 will be forgiven if they go into teaching special needs students because we think that is important. If one is a low-income individual who has done well in high school in math and science and they decide when they go to college that they want to pursue math and science on top of their Pell grant, on top of their student loans, they are going to get a $4,000-a-year grant for the last 2 years they are in college, a big boost for low-income students who pursue math and science. That is where the money has been directed. I think it is the right priority. I suspect that is why the Senator from New York voted for the bill when it passed out of the committee.

What is the order now? Do we go to Senator TALENT and then Senator ROCKEFELLER, or Senator ROCKEFELLER and then Senator TALENT?

Mr. CONRAD. Senator TALENT is up.

Mr. GREGG. If Senator ROCKEFELLER is ready, why not have the Senator proceed and then we will go to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. GREGG. The Senator from West Virginia is recognized on Democratic time.

The PRESIDING OFFICER. The Senator from North Dakota will yield time on his side to the Senator from West Virginia when he is recognized.

Mr. CONRAD. If we could have Mr. TALENT go first, we have a bit of a logjam we need to work out on this side. I ask Senator ROCKEFELLER to withhold for one moment. The problem is there are multiple Members who wish to speak on a matter unrelated to the budget at this moment on this side. We have to work that out, so it will take a moment.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. I yield to the Senator from Missouri 10 minutes.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 10 minutes.

Mr. TALENT. Mr. President, as we debate the very important issue of deficit reduction, I want to take a few minutes to discuss a provision included in the Deficit Reduction Act. It is an issue of great importance and one that many Senators have been working on for more than 3 years, the reauthorization of TANF, the Temporary Assistance for Needy Families Program.

As a freshman Member of the House, I introduced the welfare reform legislation that subsequently became the basis for the historic bipartisan welfare reform bill, the Personal Responsibility Act of 1996. Since that time I have viewed welfare reform as a priority issue, an issue of great significance to millions of Americans.

Welfare reform has been one of the most successful social policy reforms in U.S. history. The 1996 welfare reform legislation made remarkable headway in helping welfare dependents move toward self-sufficiency. It dramatically reduced State welfare caseloads and child poverty, and it increased welfare recipient employment.

Welfare reform is based on the understanding that the two best anti-poverty programs are work and marriage. The old welfare system seduced millions of people into poverty by offering assistance on the condition that they not get a job, not get married, and have children anyway. It measured success by how many people it was able to get on welfare. The new system measures success by how many people get off welfare, or never have to go on welfare.

The welfare reform bill has been an astounding success. Since 1996, cash welfare caseloads have fallen by more than 50 percent nationwide. The caseload in the former Aid to Families with Dependent Children program, AFDC, now TANF, has fallen from 4.3 million families in August 1996 to fewer than 2 million in March 2005.

States have overhauled their welfare programs to stress work, as required by the reform, and as a result the percentage of working welfare recipients has more than doubled since 1996. The poorest 20 percent of single mother families reported a 67 percent increase in their earnings between 1995 and 2002, after adjusting for inflation, and the next quintile of single mothers saw their average earnings grow by more than $4,000 between 1995 and 2002. The Urban Institute reported earlier this year that single mothers' real wages continued to increase during the 2000–2004 period despite the 2001 recession and terrorist attacks. It is better from every perspective for able bodied people to bring home a paycheck rather than a welfare check.

If we fail to pass welfare reauthorization and are forced to extend the 1996 law for the 12th time, millions of families will remain on the welfare rolls rather than engaged in productive and self-sufficient jobs. Because most States have met the targets of the 1996 law, they now have no incentive to extend the benefits of work to able bodied people still on the rolls. This reauthorization increases the effective welfare work rate target from zero percent to 50 percent in fiscal year 2007 through fiscal year 2010. It achieves this by rebasing the caseload reduction credit to provide credit only for future caseload declines.

The reauthorization also contains important provisions encouraging health marriages. Marriage is the cornerstone of the family. The decline of marriage since the 1960's has been accompanied by a rise in a number of serious social problems. Children born out-of-wedlock are more likely to experience poverty, abuse, and behavioral and emotional problems, to have lower academic achievement, and to use drugs more often. Single mother are much more likely to be victims of domestic violence. On the other hand, children whose parents choose marriage, and learn how to form and sustain healthy marriages, are less likely to be depressed, repeat a grade in school, and have fewer developmental problems. Not only are healthy marriages good for the family, they are good for society and our economy.

Supporting healthy marriage is essential to continuing the success of the original welfare reform. This reauthorization provides $500 million for healthy marriage promotion over the next 5 years. These dollars will be used to fund community-based programs to counsel young women about the benefits of healthy marriage and help them and their children's father build relationship, parenting and communications skills. This program will not just seek to increase marriage rates among target couples, but also will provide ongoing support to help at-risk couples maintain healthy marriages over time and reduce the likelihood of divorce.

Although the welfare reauthorization included in the Deficit Reduction Act does not include every provision I had hoped would be included in the reauthorization of the 1996 law, it has a number of important provisions. Welfare reauthorization has been a long time coming. We are rapidly approaching the end of the eleventh extension to the welfare bill on December 31, 2005, and will need to pass a twelfth extension before we leave for the year if we fail to pass the Deficit Reduction Act. This reauthorization contains many of the provisions I included in S. 105, the sonal Responsibility, Work, and Family Promotion Act of 2005. Most importantly it strengthens the work and marriage provisions, the two best anti-poverty programs. I hope my colleagues will support this measure which will provide many Americans with the resources they need to go from welfare dependency to self-sufficiency.

The PRESIDING OFFICER. Who yields time? The Senator from New Hampshire.

Mr. GREGG. Mr. President, is the time running against both sides?

The PRESIDING OFFICER. If time is not yielded, it will be charged equally against both sides.

Mr. GREGG. Mr. President, are we in a quorum call?

The PRESIDING OFFICER. Not at the moment.

Mr. GREGG. I make a point of order a quorum is not present.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Will the Chair inform us, before we go into the quorum call, how much time is left on both sides?

The PRESIDING OFFICER. The majority controls 46 minutes and the minority 49 minutes.

Mr. GREGG. Mr. President, I ask during the quorum call the time be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I ask unanimous consent that we permit the Senator from West Virginia to speak as if in morning business for a period not to exceed 15 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CONRAD. At the end of that time, I further ask unanimous consent that the Senator from West Virginia offer a quorum call to be equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, time will be equally divided.

The Senator from West Virginia.

Mr. ROCKEFELLER. Thank you, Mr. President. I thank the distinguished Senator from North Dakota.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2006

Mr. ROCKEFELLER. Mr. President, I have asked to address the Senate on a national security matter of great concern to me. I call my colleagues' attention to the Senate's inexplicable failure to pass the fiscal year 2006 Intelligence authorization bill.

The bill was approved and reported by the Intelligence Committee on September 29, and it has been available for Senate action since November 16. This legislation is too important to be allowed to languish in legislative limbo. That is where it is. I am at a loss to understand why the Senate cannot complete action before we adjourn on a matter of national security that is this important.

As I understand the current parliamentary situation, the Intelligence authorization bill cannot be brought up or be passed under unanimous consent because of Republican objection, and the majority leader has decided that it does not merit the minimal amount of floor time needed to approve the bill, which would pass quickly.

I am informed that one or more Republican Senators object to the inclusion of amendments offered by Democratic Senators even though Chairman ROBERTS has accepted those amendments—and those amendments were agreed to by the full committee. If there is opposition to these provisions, I urge the majority leader to allow us to bring up the bill, debate, and vote on the amendments. Our side is willing to agree to very short time agreements to each of the three amendments.

The unwillingness to consider this bill is more puzzling because of the bipartisan effort that has gone into the development of this bill.

The Republican objection is preventing us from considering this critical national security legislation. The Intelligence Committee is, after all, an exceedingly important committee which is burdened with heavy responsibilities and which needs to have an authorizing piece of legislation underneath it. I hope, whatever the objection is, the majority leader and Senator ROBERTS can find a way to overcome it before we finish our business for this session.

The recent revelations related to surveillance and intelligence collection within the United States and the lack of effective congressional oversight of that program make passage of this legislation even more critical. One of the important themes of the bill is the improvement of oversight, both within the intelligence community and by Congress itself. That would include the Intelligence Committee, which needs to be having intelligence oversight hearings on a number of matters, which it is not now doing. This theme is embodied in several sections of the legislation—in the classified annex and specifically amendments offered specifically by Senators KENNEDY and KERRY.

In both the public text of our bill and the associated classified annex, the committee also has included language requiring the provision of information to the Intelligence Committees, specifically about something called detention and interrogation, which has a fair share of public attention. Additionally, the amendments offered by Senators KENNEDY and KERRY, each of which has been agreed to, as I have indicated, by Chairman ROBERTS and the full committee, also will require additional information Congress needs in order to oversee detention and interrogation programs, something the Intelligence Committee should be doing.

The Kerry amendment, my colleagues will recall, was added to the Defense authorization bill without objection, only to be dropped in conference.

Finally, an amendment offered by Senator KENNEDY and accepted by Chairman ROBERTS will require the Director of National Intelligence to provide the congressional Intelligence Committee all Presidential daily briefs, or portions of them, from the beginning of President Clinton's second term in January of 1997 until March 19, 2003, when our troops actually crossed into Iraq on that day, which refer to Iraq or otherwise address Iraq in any way, shape, or form. This information will fill an important gap in the Intelligence Committee's access to all intelligence available prior to the war in Iraq.

If we do not act on this legislation, it will be an unprecedented failure.

Since the Intelligence Committee was created, we have had an unblemished record of 27 years of completing work with this critical authorizing legislation. Never once have we failed. The annual Intelligence authorization bill has rightly been considered "must pass" legislation. That is exactly how we should view it.

I call upon the President to weigh in and break this impasse. The President has been critical of bipartisan concerns voiced about the PATRIOT Act conference report but has been curiously silent about the Republican roadblocks preventing passage of this critical piece of national security legislation.

If the Republican objection to the unanimous consent agreement cannot be overcome, I hope the majority leader will change his mind and allow the Senate to consider the bill under a short time agreement with votes on any issues in contention.

Mr. KENNEDY. Mr. President, many of us had hoped the Senate would take up the Intelligence authorization bill and allow us to offer an amendment to require the Director of National Intelligence to make the presidential daily briefs on Iraq available to the Intelligence Committees of the Senate and House, beginning with the last term of the Clinton administration and ending on the first day of the war in Iraq in 2003.

Unfortunately, an unidentified Republican has a hold on the bill to prevent Senate action unless the amendment is withdrawn along with two other amendments on secret detention facilities.

It is obvious that some of our Republican colleagues are bent on avoiding the truth about the war. To prevent debate on this all-important issue, the Republican majority is apparently willing to let the whole intelligence bill fail. I don't agree with that tactic. It is a blatant coverup.

President Bush has repeatedly claimed in recent weeks that Congress had access to the same intelligence he did in deciding to go to war in Iraq. As President Bush specifically stated in his Veterans Day address in Pennsylvania last month, ". . . more than a hundred Democrats in the House and Senate—who had access to the same intelligence—voted to support removing Saddam Hussein from power."

He repeated the claim on November 14, November 17, and again in his December 14 address to the Nation on the war in Iraq. In fact, he had made the same statement 98 times between March and October 2004, when his decision to go to war was under serious challenge in the presidential election that year. It is hardly surprising, therefore, that the President is now dusting off the same talking points today, when his decision to go to war is again under serious challenge.

Vice President CHENEY and National Security Advisor Hadley have made similar claims.

How they could all make such an obvious false claim is beyond belief. It is bad enough that they distorted the intelligence on the need for the war. Now they are blatantly distorting the facts about how much access Congress had to the intelligence.

Someone on the White House staff obviously needs to correct the President's talking points before he parrots them in another speech.

President Bush should have taken a close and comprehensive look at the intelligence, rather than building a case for war based on cherry-picked intelligence It is not enough to recognize now that the intelligence was not accurate. Whatever flaws existed in the intelligence were far outweighed by the devious way the administration manipulated the intelligence to support its preconceived desire for war and ignored the serious doubts that we now know undermined the intelligence.

The administration claims the intelligence wasn't deliberately distorted to justify the war. But how can they possibly pretend that Congress had access to that intelligence?

The White House has access to thousands of intelligence documents that Congress never sees. According to a December 14 report by the Congressional Research Service, "The President, and a small number of presidentially-designated Cabinet-level officials, including the Vice President—in contrast to Members of Congress—have access to a far greater overall volume of intelligence and to more sensitive intelligence information, including information regarding intelligence sources and methods. They, unlike Members of Congress, also have the authority to more extensively task the intelligence community, and its extensive cadre of analysts for follow-up information."

But, the principal document that Congress doesn't see is the presidential daily brief, the so-called PDB, which is prepared specifically for the President. It contains very important classified intelligence, and equally important information about the credibility of the intelligence. It is therefore an extremely valuable document.

President Bush receives the PDB every morning and is given an oral briefing on it by top intelligence officials. The practice began in the Johnson administration and is intended to give each President a detailed overall view of national security concerns, including terrorist threats against the United States.

As the administration well knows, Members of Congress certainly do not receive this daily briefing document. In fact, when Congress has sought copies of PDBs, the requests have been denied.

In the case of Iraq, as part of its investigation of the pre-war intelligence, the Senate Intelligence Committee specifically asked to review the PDBs relevant to the key issues of Iraq's weapons of mass destruction and Saddam Hussein's links to terrorists. The White House flatly denied the request.

The committee is now working on the second phase of its investigation, which is whether the administration distorted the intelligence on Iraq in order to strengthen the case for war.

So far, however, instead of providing the PDBs as part of an effort to find the truth, the White House continues to hide behind a veil of secrecy by refusing to disclose these briefs. It is difficult to believe that there is any sound national security reason for the administration to continue stonewalling Congress by denying access to these PDBs. The obvious explanation is coverup.

Members of the Silberman-Robb Commission appointed by the President to examine pre-war intelligence were given access to articles within PDBs on Iraq's weapons of mass destruction programs. Four of the 10 members of the 9-11 Commission were given PDB articles they requested. If these commissioners were given access, Congress should have been given access as well for its own investigation of the all-important questions about why we went to war and the way we went to war.

The administration's drumbeat for war in Iraq began at the end of the summer in 2002. It was carefully staged. As White House Chief of Staff Andrew Card said on September that year about the plan for war, "From a marketing point of view, you don't introduce new products in August."

Hardly by coincidence, the timing of the war also coincided with the final phase of the congressional election campaigns that year.

One further point deserves mention. Initially, in the run-up to the war in 2002, the Administration did not produce and give Congress a National Intelligence Estimate—a document summarizing the collective expert wisdom of the intelligence community—to support its claims about Iraq's involvement with al-Qaida and its development of nuclear, chemical, and biological weapons of mass destruction. When Democrats on the Senate Intelligence Committee insisted that an estimate be produced, it was finally provided on October 1, 2002, 2 days before the congressional resolution authorizing the war was brought before the Senate for debate. The estimate itself buried important dissenting views in the footnotes.

The Senate adopted the war resolution on October 11, the day after it passed the House of Representatives—and after 6 weeks of an aggressive White House campaign replete with images of mushroom clouds over America, in a brazen attempt to pressure Congress to give the President the blank check he wanted for the war, and to do so before adjourning for the November elections.

As we now know all too well, Saddam had no weapons of mass destruction and no ties to al-Qaida; 150,000 American troops are bogged down in a quagmire in Iraq in a war that America never should have fought, that has seriously undermined our respect in the world, and that has made the real war on terrorism far harder to win.

It is time for the administration to come clean and provide the PDBs to the Congress.

This is not a meaningless debate about documents. The issue is the quality and quantity of intelligence the President was looking at when he made the decision to go to war.

It's essential to get to the bottom of the rush to war—not only to get the truth, but also because there are other threats on the horizon as well—in Iran, North Korea and elsewhere. America must get it right next time, and access to the PDBs is an essential part of doing so.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate go into a quorum and that the time be equally divided between both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MARTINEZ). Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I ask unanimous consent the Senator from Massachusetts be recognized as in morning business for up to 15 minutes. I ask at the end of the Senator's remarks, a quorum call be put in, and the quorum call be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The quorum call will be charged equally.

Mr. CONRAD. What would occur if there was an objection to the quorum call?

Mr. GREGG. Mr. President, I ask to amend the unanimous consent request that Senator STEVENS be allowed to proceed, as Senator KERRY, in morning business, and not charged to the bill.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Reserving the right to object, with the understanding then a quorum call be put in, and the quorum be charged equally.

The PRESIDING OFFICER. If a quorum call is entered, at that point it will be charged equally, without objection.

Mr. CONRAD. I thank the Chair. We will proceed with Senator KERRY for up to 15 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I thank the Chair, and I thank the managers.

CLANDESTINE PRISON FACILITIES

Mr. President, more than a month ago we learned of the possible existence of clandestine prison facilities operated around the world by the Central Intelligence Agency. This revelation caused serious problems with some of our most important allies in the war on terror, and it raised important questions about the Congress's ability and willingness to perform oversight.

Before the Thanksgiving break, the Senate came together in a bipartisan fashion to pass an amendment to the Defense Authorization Act which would have required a report on alleged clandestine detention facilities operated by our own Government. I was glad to be able to work with Senator ROBERTS and Senator ROCKEFELLER to craft language that would make it possible for Congress to do this job. It was a successful effort. It was a remarkably bipartisan effort.

On November 10, 2005, the Senate voted 82 to 9 for the amendment we worked out. That amendment required the Director of National Intelligence to provide a classified report to the members of the Intelligence Committees of both the House and the Senate which would set forth basic information, including the location and size of such facilities, the number of detainees held, and the explanation of what we intend to do with those detainees. For example, will they face military tribunals? What will be the consequences and manner of their detention?

Finally, consistent with the McCain antitorture amendment, my amendment would require a description of the interrogation procedures used on detainees in such facilities and a determination of whether those procedures were in compliance with America's obligations under the Geneva Conventions and the Convention Against Torture. The House endorsed that amendment with a bipartisan vote just last week.

Now, not surprisingly, given that this was an intelligence provision on a DOD bill, the amendment to the Defense authorization bill fell out in the conference—not on the merits, on procedure. We anticipated that, and we worked with the Intelligence Committee in order to attach it to the intelligence authorization bill.

Here we are, and the intelligence authorization bill is stalled in the Senate. This important amendment is in limbo because an extreme minority objects to an amendment with strong bipartisan support from Members in both Chambers of the Congress. More than 80 Senators voted for this amendment about a month ago. The chairman of the Senate Select Committee on Intelligence supports it. The vice chairman supports it. But the bill and this amendment will not move.

All here believe in what we are trying to do to win the war on terror. Everyone here accepts this is a war we need to win. We do not underestimate, any of us, the depravity and viciousness of our enemies or of what is at stake. We have absolute confidence in the desire and the determination of the American people to join in doing anything necessary in order to win. But we also believe the informed consent of the American public is crucial to that success.

As I said more than a month ago when we first debated this issue, in an issue as sensitive as this, one which challenges the basic value systems by which we operate, the informed consent that allows you to do what you need to do will only come through the Congress itself, through our active understanding and involvement in these issues. That requires information. It requires cooperation from the administration so we in Congress can provide effective and informed oversight.

I find it very difficult to understand why anyone would hold up legislation as important as the Intelligence Authorization Act, to object to an amendment that has such strong bipartisan support in the Senate, to delay an amendment that does not pass any judgment on the merits or the value of those facilities but simply informs the Senate about where, what, and how those facilities may or may not be operated.

To frustrate an effort that seeks only to help Congress have information with which to do its job seems to be an extreme position, indeed. In this case, our job is oversight. Our job is to make sure we are not violating laws. Our job is to make sure we are living up to our standards and our values.

I thank Senator ROBERTS, and I thank Senator ROCKEFELLER for their hard work and their diligence on this issue. I hope we can find a resolution and pass the Intelligence Authorization Act this week. This is an important bill. At a time when a lot of the debate in the Senate is involved with matters of urgency for troops and urgency for national security, and where the President is holding press conferences and attacking individual Senators for their interference in the war on terror, and so on and so forth, it seems to me to not move forward on the intelligence authorization bill is to, in a concrete way, be standing in the way of doing the very things the President is talking about. I hope we can find a way to move that.

Under the rule, I see the Senator from Kansas wants to speak. But if I recall, there is an understanding that Senator STEVENS was going to speak.

The PRESIDING OFFICER. The Senator is correct.

Mr. KERRY. I don't yield the floor yet. I am happy to yield for a question.

Mr. BROWNBACK. If I could ask the Senator from Massachusetts a question, as I understand, under the previous agreement, Senator STEVENS was to go next and is not ready. I ask if I could get the floor to ask unanimous consent to proceed ahead of Senator STEVENS.

Mr. KERRY. Reserving the right to object, I will not object, providing that the same agreement stands with respect to the quorum call that the Senator from North Dakota put into place with respect to my agreement and the agreement for Senator STEVENS.

Mr. GREGG. Mr. President, all we are trying to do is get people to have time to speak. Senator BROWNBACK was to go next, and Senator STEVENS, and when we go into a quorum call the time comes off the bill in an equal way, equal time. That is my understanding.

Mr. CONRAD. Reserving the right to object, could I be advised of what the unanimous consent request was?

Mr. GREGG. That Senator BROWNBACK be allowed to speak.

Mr. BROWNBACK. I was requesting unanimous consent to be able to speak at this point in time on the discussion. As I understood, it was locked in for Senator STEVENS to speak at this point. I was asking for that.

Mr. CONRAD. How long will the Senator seek to speak?

Mr. BROWNBACK. I anticipate under 15 minutes.

Mr. CONRAD. And Senator STEVENS would like to go after that.

Mr. STEVENS. I thought I had time, but I am happy to yield to anyone.

Mr. CONRAD. We are happy to have you go, Senator. We are just trying to make certain we know the times.

Could we modify the unanimous consent request in this respect: the Senator from Kansas be recognized for up to 15 minutes off the bill?

Mr. BROWNBACK. On the bill.

Mr. CONRAD. On the bill on the majority side.

Mr. GREGG. The Senator is going to speak as if in morning business, I believe, but on the bill.

Mr. CONRAD. You would like him to speak in morning business rather than—all right. So the Senator will speak as in morning business for up to 15 minutes, and then the Senator from Alaska, Mr. STEVENS, will be recognized for up to 15 minutes, again as in morning business, and then at that time a quorum call will be put in that is equally charged.

The PRESIDING OFFICER. The Senator cannot enter a quorum call at this time by unanimous consent. If a quorum call is later entered, it will be charged equally.

Mr. CONRAD. Mr. President, I would like to further modify my request because I understand there are other Senators who also would like to speak as in morning business.

I ask Senator DURBIN, how much time would you like?

Mr. DURBIN. Fifteen minutes.

Mr. CONRAD. Fifteen minutes. I ask that Senator DURBIN be recognized for 15 minutes as in morning business. And for Senator BOXER, how much time? She would like up to 30 minutes as in morning business. Could we get those agreed to as well, with the additional understanding that we go into a quorum call at that point and that it be equally charged.

Mr. GREGG. Mr. President, reserving the right to object, I would presume they would be speaking after Senator STEVENS.

Mr. CONRAD. That is correct.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CONRAD. I thank very much the Chair. I thank also the chairman of the committee for continuing to work in this cooperative way to use the time efficiently. And we thank all of our colleagues for their patience.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Thank you very much, Mr. President. I thank my colleagues for allowing me this opportunity to speak as if in morning business on the bill. I think it is important in morning business to be able to talk about the bill. This is an important bill, and it is a key piece of legislation. I think it is an important thing for us to move forward.

On the basic facts on the federal budget, which have been covered a lot, we are hearing a lot about this across the country. We are spending too much money, and we are driving the deficit up too big. It is just the basic facts.

We have a $319 billion budget deficit for fiscal year 2005. It is time—past time—that we start addressing this issue. I came to the House of Representatives with the class of 1994. The lead issue we were talking about at that point in time was balancing the budget. We had not had a balanced budget since Dwight Eisenhower was President of the United States in the 1950s. It was past time. We were in trillions of dollars of debt. Now we are at over $8 trillion of debt.

So we pushed and we pushed and we pushed, and we, in that class, with many others working with us, got together to balance the budget. We did it with a simple formula. You have to get the economy growing rapidly. It has to be moving forward, churning out for the economy and churning out a number of tax receipts. Then you have to restrain your growth of Federal spending so your growth in the country and its economy exceeds the growth rate of your Federal spending. That is how we got to a balanced budget for 3 years, for the first time since Eisenhower. It was a big push by that class, by many people at that point in time, to get us to a balanced budget. And we did it.

And while the President—at that time President Clinton—may have taken a lot of credit for it, the credit belongs to the Congress. The Congress is the one that spends the money, the one that authorizes the spending of money. We are the ones who restrained that growth of Federal spending, where it was slower than the overall growth rate of the economy. That got us to a balance. We have to do the same now.

The economy is growing. Last quarter, it grew at about a 4.4-percent annual growth rate. It was good, solid growth taking place. Now we have to restrain the growth of Federal spending so we can get to a balance. This effort, this reconciliation package, starts us down that road. We need to get to balance, I think, in 5 years. We need to have a balance in the budget in a 5-year time frame. This starts with us. It certainly does not get us there, but it does start us in the process of restraining that growth of Federal spending. It is absolutely essential that we do this.

We have to reach across the board at all places of Federal spending to be able to get that sort of reduction to take place.

I want to put forward, too, in front of my colleagues, a chart. I don't know if people follow these charts very well. The Government actually scores the effectiveness of Government spending. We look to see whether a program is meeting its targeted goals. These are scored by the Office of Management and Budget. It is a set review. It is an objective set of standards. Then the Department, the agency, the entity, or the particular program is actually given a letter grade score on its effectiveness for doing what it was targeted to do.

I want to show my colleagues some of these program reviews that have taken place. Under the heading "Department/Agency," Transportation gets the highest score for effectiveness in hitting the target of the program. I don't think anyone wants wasteful spending. They want the spending to be something that is going to real programs and helping real people. The Department of Transportation had 10 programs reviewed, had a median score of 78.1, and got a C+ grade average. Now, if my kids came home from school with a C+, I would say: Well, OK, you tried hard, but we need to get that up. We need to work harder to have a higher level of effectiveness score for you.

The problem is, the Department of Transportation had the high score. That was the high score in the class. It was at a C+ level. You can look down here: The State Department had a C; a C- for Energy, Treasury; D+ for NASA, Commerce, Defense, USAID; D for the Small Business Administration. Then you go on down to a number of programs that actually received a failing score for effectiveness in hitting this objective set target.

The reason I point this out is to say that we have to do more to review our agencies to make sure hard-earned taxpayer dollars are being well spent.

One of the things we put forward that I think is needed is a systems change on how we spend money. We are making a cut here, a reduction in the growth rate, that is taking place overall. We are making that cut here. But what we need to do is go through the full set of Federal programs and ask: Which ones are effective and which ones are not? Which ones maybe have been effective in the past, but the programs have actually accomplished their mission? Which ones duplicate other programs that already exist in the Federal Government? Frankly, there are many. But we have not found ways or systems to change this, so we keep on spending. The spending continues to grow.

So we put forward a bill called the Commission on the Accountability and Review of Federal Agencies, CARFA, on the process of a system-wide review of effectiveness and eliminating those programs that are not effective.

We have 25 Senate cosponsors. The program roughly works similar to the BRAC commission, the Base Realignment and Closure Commission. It works along the lines of saying: OK, let's look at all of Government, every bit of Government. If a program is duplicative, if a program has accomplished its purpose, if a program is scoring very low on its effectiveness, then it is put into a group of programs by the Commission. There could be 50—it might be 500—submitted to the President. He or she then either approves, disapproves, and sends it to the Congress. Then the Congress has to vote on whether to keep the whole package of programs or to eliminate the whole package of programs. It is a systems review, a process of pulling out programs, which we have not been able to find a way to do.

This model is along what we do with base closings because we, prior to the base-closing commission process, did not have an effective base closing process and were not able to close a military base. Any time one would get challenged, Senators, Congressmen, Congresswomen in that particular State would defend that base, no matter how irrelevant it may have grown to the current mission of the military. They were defending it for their home team and home turf, and we could not eliminate a single program.

Through BRAC we closed or realigned nearly 100 military bases. The rest of Government needs a "BRAC." We need it desperately. I think we need it not only to control the spending but also to be able to put spending in higher priority areas: to reduce the deficit and to regain the credibility of the American people, showing that we are actually monitoring and working to make sure Federal spending is in priority areas and is not wasted.

It drives people crazy that money is wasted in Federal programs. It drives me crazy. People tell me time and again: I am willing to spend the money, but don't waste it. Don't shoot it somewhere.

That irritates people and it irritates me. Yet, we have not found an effective way to get at Government spending. Here is the process. It has been approved by Congress, used by Congress, and it has been effective in eliminating the marginal military bases. It needs to be employed for the rest of Government now.

I put this forward here because we are talking now about trying to get Federal spending under control, to get back to a balanced budget, which we need to do. Let's change the system. At the end of the process here or next year, let's start changing the system so we can effectively get at this. We have to do this. It is inappropriate for us to leave these kinds of deficits for our children. It is wrong. I campaigned on this when I first came into the Congress, and I have consistently said we need to balance the budget. It is wrong to leave a bigger mortgage on the farm for your children than the one you had. That is philosophically wrong. That is putting your burden on future generations when you should have taken care of it yourself. We can do better, but the system has to change in the process.

I am pleased we are moving forward on this particular bill. I strongly support it. I think it is important for the country, and I think it is an important statement. Having said that, I think this is a step in a process that we have got to use to get this spending under control. We can do better and we can have more effective Federal spending, and that will build support among people, not diminish it. When people see us actually prioritizing spending and eliminating wasteful spending taking place, it will build more confidence in the governmental system and the way things should be and the way things need to move on forward. I think that is important.

On a separate issue that will come up shortly, I think it is very important for us to get our energy security needs addressed. We are not in an energy-secure position now. We are very dependent upon a number of places overseas that are volatile. We are dependent, as we have seen ourselves in places in our country where severe weather patterns could be harmful, such as the oil production shutdown during Katrina. A number of us are working on a bipartisan bill to get more and more of our fleet of cars off of gasoline, by using hybrids and plug-in technology to move our car fleet into electric. A fact a lot of people don't know about is that half of Americans actually drive about 20 miles a day. If we can get those 20 miles from electric instead of gasoline, our demand and dependency on foreign oil plummets.

This is a bipartisan bill. Senator LIEBERMAN and I are leading on this. I hope we can move forward on this next year. In the meantime, we have to get more oil domestically, and the place for us to do that is ANWR. We can do it effectively and in an environmentally sound way. It is important that we do it for our own people and our own security. We cannot afford to continue this energy vulnerability that we have. I think our conscience and soul were shaken when we saw the prices get to where they did, at $3 a gallon and above—saying this situation is not sustainable. We need to address this. I know it is a difficult topic for a number of people, but we need to do this for our own energy security and for the security of this Nation. It is an important thing for us to do. That is why I strongly support the ANWR provision. Doing this in an environmentally sound fashion, yet reducing our dependency level and increasing our energy security in a minor way, but doing it and moving forward with that. I think it is important to do that.

We are here late in the year and I think everybody would much rather be at home with family or doing things in other places than here. But these are important pieces of legislation. Balancing the budget is very important for our future and our children, and a good Christmas present. Energy security is important for our Nation and for our children, an important Christmas present we can give them as well—to build a more secure future for this Nation.

I thank the Chair. With that, I yield the remainder of my time and yield the floor. I suggest the absence of a quorum and ask unanimous consent that it be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I have asked for this time to share with the Senate the letters of support I have received as chairman of the Defense Subcommittee in support of the Department of Defense appropriations conference report. These groups include public safety groups, including: Association of Public Safety Communications Officials International, called APCO; Congressional Fire Services Institute; International Association of Chiefs of Police; International Association of Fire Chiefs; Major Cities Chiefs Association; Major Counties Sheriffs' Association; National League of Cities; and National Association of Counties.

In addition to that list, there are letters from labor: Veterans of Foreign War; Naval Reserve Association; American Legion; American Petroleum Institute; Competitive Enterprise Institute; Ducks Unlimited; National Association of Manufacturers; Campaign for Home Energy Assistance; National Defense Council; Edison Electric Institute; Reserve Officers Association; and Chamber of Commerce.

Also in support are the Air Transport Association and the American Gas Association.

Having read that list, I want to read from some of those letters, which I consider to be very significant. Before getting to that, however, I have just received an announcement from the chairman of the House Appropriations Committee that if this conference report is not approved, the House believes that a continuing resolution should fund the Government. I do believe we ought to listen to the voices from the House concerning what is going to happen if this conference report is not approved.

The Association of Public Safety Communications Officials International, which includes all of these people I have talked about now, in terms of all of the associations with regard to public safety, has said they support this measure, that it can provide $1 billion for the Department of Homeland Security. There is $1 billion in State and local governments preparedness grants.

I have the letter from American Legion which specifically points out that they have reviewed the conference report and support its enactment. It states specifically:

> The American Legion continues to support the further development of domestic sources of energy to include increasing petroleum exploration and production in an environmentally sensible manner so as to reduce America's reliance on foreign petroleum.

That is a very positive statement concerning the ANWR provisions.

Veterans of Foreign War have written to me saying they believe this conference report should be approved as quickly as possible. I will ask to have their letter printed in the RECORD.

The Competitive Enterprise Institute says that, yes, there should be a vote now on this conference report. They specifically applaud the provision that will provide for initiating exploration and development of the Arctic plain and states that environmental groups have spread misinformation about ANWR for years. I will ask for that to be printed in the RECORD. It points out the legislation passed by the House will limit oil and gas drilling only to involve 2,000 acres of the 1.5 million acres of the Coastal Plain and states there is strong support for this provision.

I have a memo from Unions Responsible for ANWR Development. It specifically urges support of this legislation because ANWR will create thousands of jobs to the members of America's union organizations. It is signed by the International Union of Operating Engineers, AFL–CIO; the Seafarers International Union, AFL–CIO; the International Brotherhood of Teamsters, Change to Win Federation; the United Association of Plumbers & Pipefitters, AFL–CIO; Laborers' International Union of North America, AFL–CIO; United Brotherhood of Carpenters and Joiners of America, Change to Win Federation; and the Building & Construction Trades Department, AFL–CIO.

It specifically includes a letter from John Engler, who is the head of the Nation's largest industrial trade association representing large and small manufacturers in every industrial sector. It specifically says:

> We simply cannot afford to pass up this opportunity. The NAM will consider as possible Key Manufacturing Votes in the 109th Congress NAM voting record all votes—including points of order, cloture and/or other procedure votes—

on this bill.

The Naval Reserve Association has written to me indicating that they, too, would like to have this spending bill to provide assistance for Guard and Reserve members passed as soon as possible.

The American Legion, as I said, has indicated their support for this bill.

Ducks Unlimited has sent out a release that indicates that $1 billion for conservation funding will be dedicated to voluntary, private, landowner-friendly programs administered by the U.S. Fish and Wildlife Service, and they ask for the immediate approval of this bill. They sent a similar release to the House of Representatives expressing their overwhelming support for this bill. I think this is one of the great organizations of the United States with over a million supporters that ought to be listened to.

The Edison Electronic Institute also supports this bill. They state:

> [This] conference report that was approved in the House earlier this week provides a total of $2.5 billion in base funding and $1.7 billion in emergency assistance funding for a total of $4.2 billion for the LIHEAP . . . double the highest funding level ever achieved—

for this program, and it is due to the ever-increasing cost of energy. This assistance is necessary. Particularly, this assistance is necessary for the States and local governments affected by Hurricanes Katrina, Rita, and Wilma.

There is also a letter from the Campaign for Home Energy Assistance. This is really a copy of their release. It says:

> The Defense appropriations bill appears to be our best and possibly last opportunity for an increase for this vital program.

They have issued a call to action.

> The Campaign for Home Energy Assistance urges you to call your Senators today and ask them to vote for this Defense appropriations bill. . . .

The National Defense Council likewise has written to us urging that after decades of debate concerning energy resource issues, this bill be passed. They have a fairly long statement on their position. Unquestionably, this is very important support for the bill from the National Defense Council Foundation.

The Reserve Officers Association of America issued a call to action asking for support for this bill, for passage of this conference report. I urge Members to consider their support.

I have a letter from the American Gas Association written to us, sent out as a release urging support of this legislation to finally approve the provisions that have been passed not only by the House but by the Senate in this calendar year.

There is almost an unlimited number of letters that have been coming into our office urging support. As I indicated in my opening comments, the Air Transport Association sent a letter also. They sent a copy of that letter to me urging that the enactment of this bill be swift. I think it is very interesting that the Air Transport Association, representing the U.S. airline industry which has taken such a hard hit on the increase in gas prices, should show overwhelming support for this bill.

I have sent every Member a letter outlining what is coming with regard to the rule XXVIII point of order. I wish to put that letter in the RECORD so there is no mistake about what I have told the Members concerning our position on this potential rule XXVIII point of order.

My chief of staff points out to me the items in Congressman JERRY LEWIS's release. As I understand, it is not proper under the rules to announce the vote in the House; therefore, I will not disclose it. I am sure it is proper to say the House overwhelmingly passed this bill. It urges a vote now on the conference report and wants this conference report to be passed. It does not want to be forced to rely on a continuing resolution to support the Department of Defense.

Mr. President, I have tried to outline some of these items. I will be bringing more before the Senate as they are received.

I again repeat my request that the letters I read be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
December 20, 2005.

Hon. TED STEVENS,
Chairman, Subcommittee on Defense,
Committee on Appropriations, U.S. Senate,
Washington, DC.

DEAR SENATOR STEVENS: On behalf of the men and women of the Veterans of Foreign Wars of the U.S., I would like to offer our strong support for the Conference Agreement for the Defense Appropriations Bill. The bill honors this Nation's commitment to taking care of those in uniform, and greatly improves the quality of life for our Nation's fighting forces. We urge passage of this bill, and the pay and benefits it bestows on our service members.

The bill includes a 3.1% across-the-board pay increase and helps to eliminate the out-of-pocket housing expense for military personnel. It also provides increased funding for body armor, personal protection equipment, as well as increased armor for vehicles—all which greatly improve the personal safety of those fighting in this Nation's vital yet dangerous war on terrorism.

This important legislation lets our brave men and women know that this Nation will be there for them, giving them every advantage they need to win the war and suffer as few casualties as possible. These brave men and women have our strong, undivided and unwavering support. It is for this reason that we thank you for your efforts in shepherding the legislation to this point, and we urge the entire Senate to quickly approve this bill for the good of all who serve.

Sincerely,

ROBERT E. WALLACE,
Executive Director.

COMPETITIVE ENTERPRISE INSTITUTE

VOTE YES ON ANWR NOW

As gas prices remain above two dollars a gallon and most Americans are looking at sky-high heating bills this winter, the Competitive Enterprise Institute urges the U.S. Senate to pass legislation that would open a small portion of the Arctic National Wildlife Refuge (ANWR) in Alaska to oil and gas exploration.

"The ANWR provision in the defense appropriations bill is the only legislation currently before the Senate that would address America's long-term energy needs. Authorization for opening ANWR has already passed both the House and the Senate this year," said Myron Ebell, Director of Global Warming & International Environmental Policy at CEI.

"Senate Majority Leader Frist should keep the Senate in session as long as it takes to gain cloture on the defense appropriations bill and enact the ANWR provision," Ebell continued. "If Senator Frist is unwilling to disrupt Senators" holiday plans, then President Bush should use his constitutional authority to call them back into session."

"The American people are looking for long-term policies that will increase our energy supplies and make energy more affordable," said Ebell. "The Senate should stop listening to an obstructionist minority who think that energy prices are not high enough and vote to open ANWR now."

"Environmental groups have spread misinformation about ANWR for years. Their latest soundbite is to claim that this is a payoff to big oil companies. That is the exact opposite of the truth. Any oil produced will be subject to a 12½% royalty paid to the federal Treasury and the State of Alaska," Ebell continued. "Compare those royalty payments to the vast array of federal subsidies paid by tax dollars for alternative energy sources favored by the environmental movement."

The legislation already passed by the House will limit oil and gas drilling to disturbing 2000 acres in the 1.5 million acre Coastal Plain, which is not a Wilderness Area. No drilling will be permitted in the vast areas of the 19 million acre refuge that have been designated as Wilderness Areas. According to estimates by the U.S. Geological Survey, the amount of economically recoverable oil in ANWR will increase America's proven reserves by approximately fifty percent, which is equivalent to thirty years of current imports from Saudi Arabia, one of the nation's biggest foreign suppliers.

There is strong support among Alaskans for opening ANWR. Polls consistently show three quarters of Alaskans in support. The Inuit village of Kaktovik, in Alaska's Coastal Plain, also officially supports oil and gas exploration. "Alaskans put a high value on protecting the natural splendors of their State, and they support opening the Coastal Plain because they know that the advanced technology now being used to produce oil will not harm the caribou herds or damage the environment. Oil has been pumped at Prudhoe Bay west of ANWR for three decades using 1970s technology and the caribou herd there has increased from 6,000 to 32,000," said CEI Adjunct Scholar R.J. Smith.

ASSOCIATION OF PUBLIC-SAFETY COMMUNICATIONS OFFICIALS—INTERNATIONAL, CONGRESSIONAL FIRE SERVICES INSTITUTE, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, INTERNATIONAL ASSOCIATION OF FIRE CHIEFS, MAJOR CITIES CHIEFS ASSOCIATION, MAJOR COUNTY SHERIFFS' ASSOCIATION, NATIONAL SHERIFFS' ASSOCIATION, NATIONAL LEAGUE OF CITIES, NATIONAL ASSOCIATION OF COUNTIES,

December 19, 2005.

Re Support of Funding for Public Safety in Defense Appropriation Conference Report

Hon. TED STEVENS,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.

We applaud you for including a measure in the Department of Defense Appropriations Act of 2006 to fund state and local government efforts to prepare for natural disaster and/or terrorist attacks. The measure provides $1 billion to the Department of Homeland Security's Office for Domestic Preparedness to make grants to state and local governments for interoperable communications equipment. The measure also provides an additional $1 billion for state and local government preparedness grants that can be used for training, evacuation plans, and the acquisition of equipment and medical supplies.

State and local governments desperately need additional funding to improve their radio communications equipment and to plan, train and prepare for natural disasters and terrorist attacks. Public safety fully supports these measures.

MEMO: UNIONS SUPPORTING RESPONSIBLE ANWR DEVELOPMENT

DECEMBER 17, 2005.

Within the next few days, you will be asked to vote on legislation making appropriations for the Department of Defense and other vital government programs. One of these important policies is the authority to develop vast oil resources in the Arctic National Wildlife Refuge, popularly known as ANWR. This is a jobs issue for our unions and our members.

On December 7, 2005 the Congressional Budget Office wrote Senator TED STEVENS and responded to the Senator's inquiry that ANWR bonus bid receipts "might total at least $10 billion—roughly double CBO's official estimate." That means it also increases the Federal revenue to a total of $5 billion, as the state of Alaska and the Federal Government will share bonus bid receipts on a 50/50 basis. In the Defense appropriations legislation, the conferees have dedicated a significant portion of those additional revenues for funding future Federal disaster relief programs. As we understand it, these sums will also be used as collateral for immediate relief for damage caused in the Katrina, Rita and Wilma disaster areas.

We also see all of this as an affirmation of the progressive jobs policies generated by ANWR production.

Again, we urge you to support this legislation, because ANWR will create thousands of jobs for our members for many years. The bill assures ANWR work is protected by a project labor agreement. You will hear strident calls from opponents who claim opening ANWR will degrade the environment. We have heard their arguments, discussed them and made reasonable adjustments. They remain unyielding. Their baseless slogans can no longer be used as impediments to creating jobs or frustrating reasonable energy development.

When the question is called on the Defense Appropriations bill, it will be framed as one of process—to invoke cloture on the bill.

For us, process is policy.

The choice is clear. We can either continue to be hamstrung by the exaggerations of obstructionists, or be guided by policies that create jobs and assure a secure energy future.

Please support the Conference Report and oppose procedural devices that would delay this important legislation.

Thank you for your consideration.

International Union of Operating Engineers, AFL-CIO.

Seafarers International Union, AFL-CIO.

International Brotherhood of Teamsters, Change to Win Federation.

United Association of Plumbers & Pipefitters, AFL-CIO.

Laborers' International Union of North America, AFL-CIO.

United Brotherhood of Carpenters and Joiners of America, Change to Win Federation.

Building & Construction Trades Department, AFL-CIO.

KEEP ANWR PROVISIONS IN DEFENSE SPENDING BILL

DECEMBER 19, 2005.

DEAR SENATOR: On behalf of the National Association of Manufacturers (NAM), I urge you to support final passage of the conference report to H.R. 2963, the Defense appropriations bill, and oppose all efforts to remove provisions related to oil and natural gas development in ANWR. Our Nation's economic and national security depend, in part, on adequate, affordable, and reliable energy supplies. U.S. manufacturing—which uses one-third of our nation's energy—is facing the most severe energy price spikes in history due in large part to government policy decisions and a fundamental imbalance in our domestic energy supply. This is serious enough to have the potential to cause an economic downturn and the loss of thousands of high-paying manufacturing jobs.

Opening such a small portion of ANWR would have a powerful effect on our economy, creating thousands of new high-paying jobs, preserving thousands of U.S. manufacturing jobs and reducing our dependence on foreign energy sources. Estimates from both the U.S. Geological Survey and the U.S. Energy Information Administration state that ANWR development would generate 70 trillion cubic feet (TCF) of natural gas and roughly 10 billion barrels of oil or 1 million barrels of oil per day for 30 years.

We simply cannot afford to pass up this opportunity. The NAM will consider as possible Key Manufacturing Votes in the 109th Congress NAM voting record all votes including points of order, cloture and/or other procedural votes—that attempt to weaken or delete provisions related to ANWR in the conference report to H.R. 2863.

Sincerely,

JOHN ENGLER,
President.

NAVAL RESERVE ASSOCIATION
Alexandria, VA, December 20, 2005.

Hon. TED STEVENS,
Defense Appropriations Committee,
Washington, DC.
Hon. DANIEL INOUYE,
Defense Appropriations Committee,
Washington, DC.

DEAR CHAIRMAN STEVENS AND SENATOR INOUYE: I am writing you on behalf of the members of the Naval Reserve Association, members of the Navy Reserve, their families, and survivors. I'm writing to express our strongest support for passage of the FY 2006 Defense Appropriations Bill as soon as possible.

Members of the Guard and Reserve comprise over 45 percent of all U.S. personnel in Afghanistan and Iraq. Since September 11, 2001, our nation has deployed over 500,000 Guard and Reserve members for operational missions all over the world. Additionally, during any month, approximately 25 percent of the Navy Reserve force is doing some type of operational support to the fleet for operational mission requirements. Our nation is using our Guard and Reserve Force at increasing rates.

Unfortunately many of the Navy Reserve members have endured a shrinking Naval Reserve Force over the last few years. Nevertheless, our country owes it to those that serve to provide them with the operational, training funds, and benefits required to maintain them fully ready for our national needs, including Guard and Reserve Equipment. We urge you to fund Navy Reserve equipment in the same manner that you fund other Reserve Components. This bill contains critical funding for important issues for the Global War on Terror, and our Naval Reserve members are fully engaged in providing the support our nation needs at this time.

Today's guardsmen and reservists are professionals. They are the best that we have had and they are answering the call on a routine basis not envisioned during the Cold War. We need to ensure that political rhetoric does not get in their way in fighting the war on terrorism and providing homeland security. Passing the FY 2006 Defense Spending Bill will provide Guard and Reserve members an important tool to bolster recruitment, retention, family morale and overall readiness. We urge you to pass this bill as soon as possible. I look forward to working together in support of a strong and viable Navy Reserve.

Naval Reserve equipment, and all reserve components. Thank you for all your hard work on their behalf.

Respectfully,

CASEY W. COANE,
RADM USN (Ret), *Executive Director.*

THE AMERICAN LEGION,
Washington DC, December 20, 2005.

Hon. TED STEVENS,
Chairman, Subcommittee on Defense, Committee on Appropriations, U.S. Senate, 119 Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: As you and your colleagues debate final passage of the Department of Defense (DoD) appropriations bill for FY 2006, The American Legion continues its steadfast commitment to assure a strong national defense as well as the fulfillment of promises made to America's veterans on behalf of a grateful Nation.

The American Legion has reviewed the Conference Report and supports its enactment. As a nation at war, it is imperative that the men and women of the armed forces know defense spending is indeed a national priority. This funding measure provides $453.3 billion to meet the fundamental needs of DoD its military components and several domestic needs outside the scope of national defense, such as disaster recovery efforts and avian flu protection.

The American Legion continues to support the further development of domestic sources of energy to include increasing petroleum exploration and production in an environmentally sensible manner so as to reduce America's reliance on foreign petroleum. The nation's continued reliance on foreign sources of energy places its national security and economic well-being at risk during times of crisis. The War on Terrorism and the continuing conflict in the volatile Middle East has brought into sharp focus the nation's heavy reliance on imported foreign oil that necessitates a re-evaluation of current and long-range energy policies.

Thank you for your continued leadership and support of America' s service members, veterans, and their families.

Sincerely,

STEVE ROBERTSON, DIRECTOR,
National Legislative Commission.

DUCKS UNLIMITED,
Memphis, TN.

$1 BILLION IN CONSERVATION FUNDING APPROVED BY U.S. HOUSE OF REPRESENTATIVES FUNDING BILL AWAITS A VOTE IN THE U.S. SENATE

WASHINGTON, DC, DEC. 19, 2005.—The U.S. House of Representatives overwhelmingly approved $1 billion for conservation programs in the Defense Appropriations bill today. A number of conservation provisions were added to the bill. Ducks Unlimited (DU) worked with Congressional leaders to include funding for several critical programs that benefit waterfowl, other wildlife and people. A vote on the bill by the U.S. Senate is expected soon.

The $1 billion in conservation funding would be dedicated to voluntary, private landowner friendly programs administered by the U.S. Fish and Wildlife Service and the U.S. Department of Agriculture (USDA). The increased funding for these programs is important for America's farmers, ranchers, sportsmen and for waterfowl, wetlands and the environment.

"Congress is right to recognize the value and importance of results-oriented and cost effective conservation programs," said DU's Director of Governmental Affairs Scott Sutherland. "This funding will help farmers and other private landowners conserve wildlife habitat and improve water quality and quantity while providing aesthetic, recreational and other economic benefits to their local communities."

Key agricultural conservation programs such as the Conservation Reserve Program (CRP) and Wetlands Reserve Program (WRP) will share $900 million. CRP is credited with increasing waterfowl populations by 46 percent. It plays a critical role in landscape level conservation of soil, water and wildlife on marginal farmland while offering producers a significant and stable source of income.

WRP is the most successful USDA program for wetlands conservation, providing a way for farmers and ranchers to transition marginally productive or flood-prone lands into more appropriate uses. WRP lands provide wintering habitat in the Lower Mississippi Alluvial Valley for more than 5 million ducks and geese annually.

The Grassland Reserve Program, Environmental Quality Incentives Program and Conservation Security Program will also receive a share of the $900 million.

The bill includes $50 million for the North American Wetlands Conservation Act (NAWCA). NAWCA fosters public-private partnerships to restore, conserve and protect wetlands associated habitats for waterfowl and other migratory birds. Another $50 million would go toward wetland and grassland protection programs administered by the U.S. Fish and Wildlife Service.

Among many other provisions included in the legislation are separate requirements that would provide heating assistance to low income Americans and allow exploratory oil drilling in a portion of the Arctic National Wildlife Refuge.

With more than a million supporters, Ducks Unlimited is the world's largest and most effective wetland and waterfowl conservation organization. The United States alone has lost more than half of its original wetlands—nature's most productive ecosystem—and continues to lose more than 100,000 wetland acres each year.

EDISON ELECTRIC INSTITUTE,
Washington, DC, December 20, 2005.

TO MEMBERS OF THE UNITED STATES SENATE: On behalf of the Edison Electric Institute (EEI), the association of United States shareholder-owned electric companies, international affiliates, and industry associates worldwide, I urge you to support the FY06 Defense Appropriations bill, which includes several provisions that are of critical importance to our members and their customers.

Our U.S. members serve 97 percent of the ultimate customers in the shareholder owned segment of the industry, and 71 percent of all electric utility ultimate customers in the nation. They generate almost 60 percent of the electricity produced by U.S. electric generators. Our member companies are working closely with the states to help those who need assistance with their energy bills this winter; however, even with unprecedented private/public partnerships around the country, the federally funded LIHEAP Program has been inundated with requests for assistance. State energy assistance directors are reporting that their funds for this vital but under-funded program are likely to run out in February. At a time when applications for assistance have increased up to 40 percent in many states, thousands of elderly, fixed income and working-poor families with small children will be turned away, receiving no assistance at all.

The FY06 Defense Appropriations Conference report that was approved in the House earlier this week provides a total of $2.5 billion in base funding, and $ 1.7 billion in emergency assistance funding for a total $4.2 billion for LIHEAP in FY06—double the highest funding level ever achieved. Importantly, base funding for the program is above the $1.975 billion trigger for the first time since 1986 (at $2.5 billion), which provides funding for both heating and cooling assistance in the months ahead. Furthermore, the ANWR provision provides a mechanism for LIHEAP funding in the future.

In addition, the FY06 Defense Appropriations bill creates a Gulf Coast Recovery Fund which dedicates 80% of initial bonus bids (lease sales) and rentals to the Fund for states and local governments affected by Hurricanes Katrina, Rita and Wilma. The bill also dedicates 20% royalties to the Fund states and local governments affected by Hurricanes Katrina, Rita and Wilma beginning in FY15. This funding will be critical to the rebuilding and future prosperity of the cities and states that were decimated by these storms last summer.

Given the critical need for LIHEAP funding and hurricane recovery assistance in the months ahead, the Edison Electric Institute considers this to be a key vote in the United States Senate. We urge you to support all efforts to pass legislation that will provide an unprecedented level of aid and support to those most in need in our country.

Sincerely,

THOMAS R. KUHN,
President.

TO MEMBERS AND SUPPORTERS OF THE CAMPAIGN FOR HOME ENERGY ASSISTANCE: The Senate is expected to vote early tomorrow (Wednesday) morning on the Defense appropriations bill, which includes a provision that would increase funding for the Low Income Home Energy Assistance Program by $2 billion for Fiscal Year 2006.

The most recent short-term forecast from the Energy Information Administration states that heating costs are likely to be 7 to 38 percent higher this winter: a 38 percent increase for natural gas, 21 percent for heating oil, 15 percent for propane and 7 percent for electricity. It is urgent, therefore, for Congress to provide additional funding for LIHEAP.

The Defense appropriations bill appears to be our best and possibly last opportunity to provide an increase for this vital program. The measure would add $500 million to the LIHEAP state block grant program and provide $1.5 billion in contingency funds. When combined with the LIHEAP allocations provided in the Labor/Health & Human Services/Education appropriations bill ($2 billion for the block grant program and $183 million in contingency funds), the program would be funded at its highest total ever: $4.141 billion.

URGENT! Call to Action: The Campaign for Home Energy Assistance urges you to call your senators today and ask them to vote for the Defense appropriations bill when it is considered tomorrow morning.

DAVID FOX,
Executive Director,
Campaign for Home Energy Assistance.

DECEMBER 20, 2005.

Hon. TED STEVENS,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR STEVENS: I am writing you concerning the importance of developing the oil resources of Alaska's Arctic National Wildlife Refuge for national defense.

As you may be aware, our organization has been actively involved in issues related to energy security and national defense for more than two decades. We have conducted more than 120 studies on this subject, including a substantial number specifically concerned with Alaskan natural resources. I should also note that our work has enjoyed broad bi-partisan support, and has been cited by private groups as diverse as the Energy and Environmental Study Institute, the Clean Fuels Vehicles Coalition and the Institute for the Analysis of Global Security; and by government institutions including the United States Department of Energy and House Resources Committee.

After more than three decades of considering energy security issues and almost a quarter century of studying the role of Alaskan oil, we find that we can come to only one conclusion:

The development of ANWR is a vital national defense priority. There are a number of reasons why this is the case.

First, energy, and specifically energy from petroleum is among the most critical defense commodities.

At the time of Operation Desert Storm, the first Persian Gulf War, a U.S. Army Heavy Division, comprised of 17,500 soldiers, used as much oil as four World War II Field Armies which would have comprised over 400,000 troops. To illustrate this point further, the 528,000 U.S. troops that participated in Operation Desert Storm used more than four times as much oil on a daily basis as the entire 2-million man Allied Expeditionary Force that liberated Europe during World War II.

But even these stunning comparisons do not tell the full story.

The petroleum requirement per deployed soldier has increased by roughly 20% between Operation Desert Storm, the first Persian Gulf War and Operation Iraqi Freedom.

Moreover, as the process of "Defense Transformation" proceeds and a greater emphasis is placed on fuel-intensive units such as the Stryker Brigade Combat Teams, the fuel per deployed soldier required for military operations will increase even more.

Second, our access to petroleum on the world market will become increasingly constrained. The competition for oil on the world market has greatly intensified over the past decade and in the future will become even more intense.

According to the IMF the Chinese economy has been growing at an average of 9% since 1978, and has exceeded 13% in some years. Most recently China's economic growth has averaged between 9% and 10%, fueled in large part by a massive program of industrial modernization. Included among its stated economic goals is the addition of some 120 million automobiles to its domestic fleet over the next decade. This change alone will increase China's oil import requirements by more than 9 million barrels per day. India, too, has experienced extremely high growth rates, as have some of the newly independent states that formerly comprised the Soviet Union. What all of this means is that global demand for oil is going to rise sharply at a time when the addition of new global supplies simply cannot keep pace.

We cannot, therefore, be sure that we will enjoy access to foreign oil supplies to provide essential petroleum in time of conflict.

A third factor is the insecurity of foreign sources of oil.

Even if the amount of oil available on the world market were sufficient to meet our needs, there is no guarantee that it would be available for our use. Of the top ten sources of U.S. oil imports, at least four are of questionable security. Venezuela, our third ranking supplier, provides 11.1% of U.S. oil imports, constituting 6.7% of total supply. It is ruled by an individual who is openly hostile to the United States and who has threatened to cut off oil exports to the U.S. Saudi Arabia, our second largest source of imports, contributing 6.8% of total supplies and a little more than 11.1% of imports, has had its oil infrastructure targeted in a recent fatwa from al-Qaeda. Nigeria, which provides 8.6% of imports and accounts for 5.2% of domestic oil supplies, is fraught with civil unrest and banditry. It loses 135,000 b/d of crude oil to theft. Iraq, which accounts for 3.7% of our imports and 2.3% of domestic supplies, has an ongoing insurgency that has attacked oil pipelines more than 100 times in the past year and is also targeted in the al-Qaeda fatwa.

Moreover, even relatively secure suppliers such as Canada and Mexico are being approached by China with investment proposals that might earmark segments of their production for exclusive Chinese use.

Fourth, even domestic sources may be vulnerable to disruption.

The recent experience with hurricanes Katrina and Rita underscored the vulnerability of domestic production in the Gulf of Mexico. We are entering a long-term weather pattern that will be characterized by increased hurricane activity. Therefore, the potential for disruption of Gulf of Mexico production, as occurred this fall, is substantial.

When all of the factors are taken into account, it becomes evident that the development of ANWR's oil and gas resources is an urgent defense priority. Failure to do so can only serve to undermine the ability of America's armed forces to operate.

Sincerely,

MILTON R. COPULOS,
President,
National Defense Council Foundation.

[From the Weekly E. Newsletter, Dec. 20, 2005]

THE DEFENSE APPROPRIATIONS BILL OF 2006—CALL FOR ACTION

The Anti-Lobbying Act prohibits military and civilian government workers from using federal assets to lobby Congress. Any action taken on this Call to Action should not be done during duty hours. Please use your home computer or phone to contact Congress.

ROA wants you to call your U.S. Senators TODAY! Ask them to pass the Defense Spending Appropriations Bill (H.R. 2863) now! In a time of war, the goal should be passage.

The House has voted its support of the Defense Spending Appropriations Bill, but the Senate vote could be delayed. This is one of the last remaining appropriations bills.

Don't let a filibuster stop the needed action. The debate and vote could be today or tomorrow. Make your voice heard now!

Key elements of the Defense spending bill includes money to:

Fund TRICARE Reserve Select.

Provide $1 billion for equipment for shortfalls in the Army/Air National Guard and Army Reserve.

Fully fund acquisition of 15 C–17 transports and approves multiyear procurement authority.

Add $180 million for the National Guard and Reserve Equipment Allowance.

Provide pay and allowances for Reserve and Guard personnel mobilized in support of the Global War on Terror (GWOT).

Include $681.5 million to support additional recruiting and retention incentives.

Provide $50 billion for contingency operations related to the GWOT.

Realign C–130J/ KC–130 to support program sustainment.

Provide $8.8 billion for shipbuilding programs.

Add $473 million for Army medical research.

Support incremental wartime costs for military personnel.

Increase pay by 3.1 percent.

We need maximum, immediate effort to call, e-mail, or fax your senators (too late for "snail mail") urging them to bring the Defense spending bill to the floor and vote yes as the bill is scheduled for debate and vote today or tomorrow.

Contact: Call, fax, or e-mail.

Use ROA's toll-free hotline to call your senator on Capitol Hill. The toll-free number to call your legislator in Washington is (888) 762–8760. Please call! When you reach the Capitol switchboard, just ask for the office of your senator. The Grassroots Advocacy page under legislative affairs/grassroots on the ROA Web site can help identify your elected official.

When you contact your senator's office, you can say: "I am calling to encourage my senator to vote yes on H.R. 2863, the Defense Spending Appropriations Bill"

Or, you can fax or e-mail your elected official. See a sample letter on the ROA Web Site.

E-mails should use the subject line: Subject: Vote Yes on H.R. 2863, the Defense Spending Appropriations Bill"

If not passed, the National Defense Authorization Act (NDAA) H.R. 1815 could go unfunded.

The NDAA includes:

Enhanced TRICARE for drilling Reservists.

Elimination of BAH II for those mobilized on orders over 30 days.

Civilian pay differential for Reservists with over 18 months of deployment.

Retention and recruitment bonuses.

Tactical wheeled vehicle recapitalization.

Continued Humvee uparmoring.

$114.7 million for enhanced body armor.

Improvised Explosive Device (IED) jammers.

Increases of 10,000 Army and 1,000 Marine active duty end-strengths.

Increased hardship pay from $300 to $750.

A permanent death gratuity pay of $100,000.

The NDAA, H.R. 1815, will go to the Senate for a vote on Wednesday and is expected to pass without controversy. But if the Defense Spending Appropriations bill isn't passed, the NOAA is hollowed out, as it doesn't provide funds.

The National Defense Authorization Act (NDAA) authorizes benefits, equipment and programs. The Defense Spending Appropriations Bill provides the money to pay for this equipment and these programs.

AMERICAN GAS ASSOCIATION,
December 16, 2005.

DEAR MEMBERS OF CONGRESS: On behalf of the 195 local energy utility members of the American Gas Association, which deliver natural gas to more than 56 million homes, businesses and industries throughout the United States, I urge you to support legislation that would open the Alaska Arctic National Wildlife Refuge (ANWR) to energy production, which will be included in the

FY-06 defense appropriations bill scheduled to be voted on by Congress this weekend.

Allowing energy production in ANWR is a vital component to addressing one of our nation's more urgent public policy issues, namely the imbalance between energy demand and available supply, and the resulting high and volatile energy prices that America is experiencing. Increasing our access to domestic energy supplies is critical to enhancing America's energy security, sustaining America's economy and providing the American consumer with relief from ever spiraling energy costs.

AGA speaks on this matter not only as the representative of natural gas utility companies, but also as a voice for their customers who have been hit so hard financially because of higher natural gas prices. Whether it's a homeowner struggling to pay the heating bill, a small business facing significantly increased energy-related business costs or an industry being forced to move overseas in order to compete in the global marketplace, soaring energy prices have been a severe detriment to America's quality of life.

Thanks to new technological developments energy can now be produced without undue harm to the surrounding environment. Hopefully, this vote will be the beginning of a trend that recognizes America's energy needs can be met with adequate environmental protections.

Again, we urge you to support passage of legislation containing the provisions to finally open ANWR.

Sincerely,

DAVID N. PARKER
President and CEO.

AIR TRANSPORT ASSOCIATION,
Washington, DC, December 9, 2005.

DEAR: Airlines are one of the primary and most significant purchasers of refined crude oil. We anticipate that U.S. airlines alone will consume approximately 19 billion gallons of fuel in their worldwide operations this year. Maintaining existing oil production and developing new resources to supply our nation's increasing need for refined product is indispensable to the economic health of the U.S. airline industry and our ability to provide the frequency and reliability of air service that passengers and shippers demand.

The airline industry has taken extraordinary conservation measures since the early 1970s and has improved fuel efficiency threefold. In addition to the introduction of more fuel-efficient aircraft, the industry has initiated a number of new operational practices to conserve fuel and has gone as far as considering how much additional weight magazines and silverware add to an aircraft.

The intensity and pace of these measures have further accelerated during the recent run-up in oil prices. Nevertheless, conservation and efficiency efforts in such a fuel-intensive industry as ours have their limitations. New sources of petroleum must be found.

The Air Transport Association of America, Inc., strongly supports the enactment of a federal energy policy that allows for greater access to domestic sources of oil for environmentally responsible production, particularly within "Area 1002" of the Arctic National Wildlife Refuge (ANWR). Area 1002 was recognized in 1980 by Congress and President Carter as a potentially significant oil and natural gas reserve, and was distinguished by law from the rest of the refuge as a site for possible future energy production.

The Air Transport Association believes that the time has come to open Area 1002 to environmentally responsible energy production, and we ask for your full support of legislation to accomplish this goal. While not a magic fix to the problem of high oil prices that have added billions of dollars of unbearable costs to an already ailing airline industry, opening Area 1002 is an important component in a comprehensive national energy policy that utilizes not only efficiency and conservation, but also the strength of our precious domestic resources.

Thank you for your consideration of this important matter and please feel free to call on me with any questions or concerns.

Sincerely,

JAMES C. MAY,
President and CEO.

U.S. SENATE,
Washington, DC, December 19, 2005.

DEAR MEMBER: A Rule 28 point of order against the Defense Appropriations Conference Report may be raised. I ask you to think very carefully about your position on this issue because vital funding and programs are at stake in this decision.

A Rule 28 point of order will apply to *all* provisions in the bill that are beyond the authority of the conferees. These provisions include:

The Hurricane Supplemental, which contains $29 billion for hurricane victims. Included in this supplemental is funding for education expenses, housing, and reconstruction efforts in the disaster areas.

The Gulf Coast Recovery Fund provides short and long-term disaster relief funding for Louisiana, Mississippi, Alabama, Texas, and Florida.

Avian Flu Liability language included with funding that will encourage the vaccine industry to return to the United States, so that we may be able to create Avian Flu vaccines here at home.

The Low Income Home Energy Assistance Program (LIHEAP) is funded on an emergency basis in FY06 with $2 billion for home heating assistance.

$3.1 billion is included in the bill for homeland security. Included is funding for Interoperable Communications Equipment Grants to state and local governments, which will help first responders communicate in the event of a natural disaster or terrorist attack.

Emergency Preparedness Grants to state and local governments. All states are assured a certain level of funding. Funds will be allocated based on threat and risk levels.

Funds for increased border security, helicopter replacement, and security infrastructure, which is funded on an emergency basis.

An additional $1 billion for farm bill conservation programs, which will help farmers and ranchers meet current challenges and ensure the productivity of their land for future generations.

If a Rule 28 point of order is sustained, the entire Defense Appropriations Conference Report will fall. Rule 28 does not allow us to strike specific provisions from a conference report; it kills the conference report altogether. Since the House has voted, it will be necessary to appoint new conferees in the House and the Senate, and we will have to start over.

Some Members have suggested that we could simply return to conference with the House, strip the provision regarding development on the Arctic Coastal Plain, and pass the bill with the provisions listed above. This is simply not possible. A portion of the funding for these initiatives and programs comes from the revenue ANWR will provide.

We tried to pass bills that funded these priorities, but we could not find an agreement to do so on an emergency basis. These provisions were included in this bill because we were able to generate additional federal revenues, including revenue generated by development on the Arctic Coastal Plain, which will provide the funds we need and repay emergency spending. If a Rule 28 point of order is sustained, forcing us to begin a new conference, many of the items listed above will need to be stripped from the bill as well. We cannot pay for them without the additional revenue ANWR will provide.

With best wishes,

Cordially,

TED STEVENS.

APPROPRIATIONS CHAIRMAN JERRY LEWIS URGES SENATE PASSAGE OF DEFENSE SPENDING BILL

WASHINGTON.—The Hurricane Katrina recovery, increased funding for low-income heating needs, protection against avian flu and many other programs that were added to the Defense Appropriations Bill are at risk if the Senate does not approve the package this week, House Appropriations Chairman Jerry Lewis said Tuesday.

"If the Senate will not approve this bill, we will be forced to rely on a continuing resolution to fund the Department of Defense, which will mean all of the additional spending the House approved last week will be lost," Lewis said. "Continuing resolutions will fund the government, but only at last year's level and with none of these programs that are so urgently needed."

"Clearly, the Senate does not want to do that, and I'm sure they don't want to jeopardize the funding for our troops during time of war," Lewis said. "It is time to stop the partisan debates and approve the final two appropriations bills."

The House last week passed the Defense Appropriations bill for Fiscal Year 2006 by a resounding 308–106 vote, with 106 Democrats supporting the bill and only 89 opposed, Lewis noted. It is strongly supported by President Bush, and contains many new Pentagon spending levels that would not be funded under a continuing resolution.

"This was not even close to being a party-line vote in the House, which should be a message to the Senate that it is time to finish our work and put funding in place for the new fiscal year," Lewis said. "It is irresponsible for a minority of Senators to impede the will of the President, the House and the American people and put all of these urgently needed programs at risk."

Mr. STEVENS. Mr. President, I don't know how many more times I will be before the Senate before this matter comes up tomorrow. I do hope it will come to the floor early tomorrow because we need time to consider the points of order that will lie against the conference report.

To me, approval of the conference report really means we are putting aside the debate that might take place on the individual items that may be raised here. The conference report is not subject to amendment, but it is possible to have almost unending delay on the points of order. They are debatable and, therefore, the reason for the cloture motion is primarily to reduce debate on these various points of order we will have and find some way to assure there will be an early passage of the conference report.

This is a conference report providing enormous assistance to the Department of Defense, particularly the $50 billion in emergency funding that is primarily required to support those who are in our uniform defending the Nation in terms of their activities in the war on terror. I urge the Senate to vote cloture to limit that debate. We will have the points of order. We will have the points of order under the Budget Act under rule XXVIII, but there is no reason to have unlimited debate on those points or order.

The cloture motion is for the best interest of the Department of Defense to get this bill to the Department of Defense as quickly as possible. If those points of order are sustained, obviously, we will have to go back to conference, have a new conference, and we will have to appoint new conferees. The House is spread all over the country. How quickly we can do that, I don't know.

I do believe that it is in the best interest of the Nation to adopt this conference report. It does not contain items, as far as this subject, ANWR, is concerned, that have not passed before. We have approved ANWR before in this Reconciliation Act, and the House has passed the act before. We have added provisions I described dealing with the funding that will come in from ANWR. But otherwise it was considered before and passed by the House of Representatives previously.

I don't know how much more time I have. Has my time expired?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. STEVENS. Mr. President, I yield the floor. I don't know who is to come next. I don't want to charge any time to the pending measure. That was the understanding. So I will just let the time run for a minute.

I will again remind the Senate that the money that is in the bill that is before us, the conference report that is before us, that its emergency funding will not survive another conference. It will only survive this conference because the money that was predicted to be available from income from the sale of oil and gas leases in ANWR—and the OMB did increase its estimate from $2.5 billion to $5 billion. However, they did not increase that for budget purposes. They confirmed the fact that it would come in. So we have allocated that money under this bill, particularly to LIHEAP, to low-income housing assistance. That cannot survive another conference if ANWR is deleted.

So for those people who want that money, and it has been pointed out that is an enormous increase due to the situation that exists because of the fantastic increase in home heating costs, it does not have to be spent. It is there in reserve to be spent. We do not mandate that they spend that money. We make it available to them on an emergency basis if it is necessary, and it may well be necessary through the balance of this winter.

So I do urge the Members of the Senate to vote for the conference report, vote for cloture on the conference report, and help us prepare for the points of order that may be raised after the cloture motion has been approved. I am getting tired, and I apologize.

Now is my time expired?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STEVENS. I yield the floor.

Mr. GREGG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEFENSE APPROPRIATIONS

Mr. DURBIN. Mr. President, tomorrow we are going to have some significant votes in the Senate on issues of great importance, not the least of which is the Defense appropriations bill, one of the most important bills we consider in the course of our calendar year. This is the bill to provide the resources for our troops—literally, their pay, the equipment they need, the training they need, new weapons they need, the fundamentals we need to keep our Nation safe.

This has usually been a very bipartisan bill. Having served on the Appropriations Committee, I have seen it in the past with strong support from both sides of the aisle and rarely a real partisan issue. This time, however, this bill has been modified and changed. Added to this bill are provisions which have nothing to do with our Nation's defense. They are provisions that have been debated at length for many years in the Senate relative to controversial issues on many fronts. The most controversial, the lead issue, the one that has been spoken to time and again on the Senate floor over the last several days, is the authorization for drilling for oil in the Arctic National Wildlife Refuge. Some may remember that at the time of the invasion of Iraq, then Republican House whip TOM DELAY gave a speech in which he said, "Nothing is more important in the face of a war than cutting taxes." That is what he said. Tens of thousands of American troops were gathered in the Kuwait desert waiting for the command to go to war, being warned they might face weapons of mass destruction, and the then majority leader of the House of Representatives TOM DELAY said, "Nothing is more important in the face of a war than cutting taxes."

Here we are a thousand days later still at war. We have lost over 2,150 American soldiers, over 15,000 have been seriously wounded, and 150,000-plus soldiers now risk their lives in Iraq today as we stand in the safety of this Chamber and in this country.

As we consider this important bill to fund this war and to stand behind our troops, it turns out we learned nothing is more important to some Members of the Senate than to make sure that we take care of the oil and gas companies before we take care of the troops. How else can one explain it? How else can we have reached the point where the Arctic National Wildlife Refuge oil drilling is so critically important to America that we would jeopardize the passage of the Department of Defense appropriations bill in order to pass it? This is the kind of thing that gives the Senate a bad name.

How many times have we heard people ask—I have heard it many times—why do you let this happen? Why would you let a bill be amended at the end to contain things which have nothing to do with it?

We have some 4,000 pages of bills before us today, almost 1,000 pages in this Defense appropriations bill. In it are critically important items for our troops, but also in it is this permission to go into an Arctic National Wildlife Refuge to drill for oil. Who wants this? Well, there are two groups that certainly want it. First, the oil companies. They are going to make money on this, as if they had not made enough. This year, with their kiting of gasoline and energy prices across America they have already had $100 billion in new profits. Well, here they come again. They want more and more. Some believe their profit margin is at least as important as providing the basic funds for our troops. That is why they would put that amendment in this bill.

How can it have reached this point, where the Senate will have walked away from its basic obligation to our men and women in uniform and said we are going to allow the use of an appropriations bill for this drilling for oil in the Arctic National Wildlife Refuge? Well, the people who crafted this brought in a number of Senators and Congressmen to support them by promising that some of the revenue from the drilling in Alaska would go to fund other programs and purposes. Relief for victims of Hurricane Katrina was one of the things that was also being promised. There are many other elements that are being talked about—LIHEAP, the low-income home energy assistance program. It is promised that they will have some money as a result of this. So many people have decided they can look at this positively because there is something in it for them.

How important is this bill and this vote to the Bush administration? So important that Vice President CHENEY cut short his trip overseas to make sure that he is here tomorrow, if necessary, to cast the deciding vote for the drilling for oil in the Arctic National Wildlife Refuge and the passage of this bill.

I think it tells us why it is important. Threatening to withhold funding for American troops during wartime and for Katrina victims in order to push through ANWR drilling has to rank as one of the lowest moments in the history of the Senate.

Let us put aside for a minute whether the ANWR language ought to be in this bill. Let us look at the language itself. This language has never been examined or closely debated by any committee, neither the House nor the Senate. According to the Congressional Budget Office, the specific ANWR language in this bill is different in several critical ways from any other ANWR drilling proposal considered by Congress, and one of the most important elements is the inclusion of a provision known as severability. One would have to go searching long and hard, but they will find on page 406 of the electronic version of this Department of Defense appropriations bill this severability provision. Here is what it means: If the State of Alaska decides to sue to have the 50/50 split of ANWR revenues called for in this bill declared illegal, then money this bill seems to promise for Katrina relief and low-income heating energy assistance and many other worthy causes could simply disappear.

It is a bait and switch. The proponents of this amendment lured supporters by saying, come on along for the ride. We are going to drill in ANWR and we are going to give you some money. We will give it to the Katrina victims and we will also give it to the poor people in America trying to heat their homes. So stick with us. Then they put in this provision. The money that would have gone primarily for those purposes could be removed almost entirely. How could it happen? It could happen by the State of Alaska asserting that instead of 50 percent, they want 90 percent of the revenues that come out of this bill.

Think about that for a moment. The big oil companies make their profits, the State of Alaska takes away virtually all the money, and all these other good causes find themselves with little or nothing to show for it.

You see, the Alaska Statehood Act already provides that any revenue from Alaska oil sales must be split 90-10, 90 percent to Alaska and 10 percent to the Federal Government. And what did the lone Congressman from Alaska, Don Young, say today in the Anchorage Daily News?

> As for the revenue split, Young said he thinks the Governor (of Alaska) would sue to get the 90/10 split promised by the Alaska Statehood Act.

So in order to get extra votes for this provision, the sponsors offered to others in Congress this lure of money from the drilling that they can use for their purposes. It turns out, as soon as it is passed, we have the State's Alaskan Congressman saying the Governor is going to take away the money, virtually all of it.

In addition, Alaska State officials have made it clear that they intend to fight for 90 percent of the ANWR revenues. They passed a resolution signed by their Governor that said just that, they are not going to take anything less than 90 percent.

So the big winners from this ANWR provision in the bill will be the oil companies and the State of Alaska. They are prepared to jeopardize the passage of the Department of Defense appropriations bill because there is so much money on the table, so much to be made from the revenues from the drilling for this oil. Whoever drafted this language knew what they were doing by putting in this severability clause, which basically says we can switch after we baited you into this trap, and you can't do a darned thing about it. This could end up being one of the biggest bait-and-switch deals in the history of the Senate.

There is another reason to be skeptical about Katrina relief in this bill and other promises that are being made around the Capitol. According to the nonpartisan Congressional Research Service, the revenues this bill assumes from ANWR drilling are wildly inflated. For example, this bill assumes lease bonus revenue from ANWR will total $10 billion. For that amount of money to be raised, every single one of ANWR's 1.5 million acres would have to produce an average of $6,666 in lease income. Since 1980, the average that has been produced is $60 an acre, less than one-hundredth of what has been promised.

Moreover, between 2001 and 2005, that average dropped to $45 per leased acre, despite record increases during that time in the price of oil.

Now look at the estimated royalties. The bill says 20 percent of these estimated royalties will be used to help Hurricane Katrina victims. To generate the $40 billion ANWR supporters are promising for the Katrina relief fund, oil prices would have to average $89 a barrel between 2015 and 2044. The U.S. Energy Information Administration's annual energy outlook projects a 1.3-percent annual increase in the price of oil between now and 2025. They can never reach the numbers that they are projecting to come up with this money.

The revenues in this bill supposedly promised for LIHEAP will also fall short for the same reasons.

The conclusion is this: For reasons I cannot explain, the Republican leadership in the Senate today has departed from the accepted practice of the Senate. There was a time when this bill was considered something special, a bill to appropriate money for our men and women in uniform and for our Department of Defense. It was the first priority in appropriations, the first passed, and the first to be signed by the President year after year after year. But this year, in order to accommodate the political agenda of some Members of the Senate, it is the last bill—second to the last bill that we will consider. Why did we wait so long? So that this bill could be a vehicle for a political agenda for the drilling in the Arctic National Wildlife Refuge.

To think that we would in any way jeopardize this bill for our men and women in uniform for this political deal at the close of the session is just something that the Senate cannot be proud of.

I urge my colleagues, stand up for the men and women in uniform. But stand up for the integrity of the Senate. It is about time that we made it clear that this kind of political horse trading that goes on at the close of the session, for an issue that has been debated for years on Capitol Hill, has to come to an end. This bill, the Department of Defense bill, should be a bill that is not the proving grounds or testing grounds for great political ideas. Let's focus on the men and women in uniform.

I urge my colleagues to do two things. First, defeat cloture. Let the Senator from Alaska know that this is not appropriate on this bill.

Second, hold him to his word that once we defeat cloture, he will move to strike this provision from the bill on ANWR, and we can move forward to funding our troops. The senior Senator from Alaska has said, both in his State and on the Senate floor, that if he can't clear this procedurally, that will be the end of the debate. We will then go to the Defense appropriations bill, as we should. Then let's pass this with a strong bipartisan rollcall, having taken out this politically unacceptable provision on ANWR.

This is one of the biggest bait-and-switch deals we have seen on the floor of the Senate. Back-room promises have brought this today to the Senate for a vote which we will face in the morning. Enough is enough. The Senate should reject this. The Senate should demand that ANWR be voted on the merits, and we should immediately pass a bill that does the right thing not only for our troops but for the Katrina victims and also to protect Americans from the threat of avian flu.

This Defense appropriations bill is a test. It is a test of whether this Senate has lost its way entirely; whether one Senator from one State can dominate a major piece of legislation, can put in a provision totally unrelated to our troops and their welfare, and can push a provision which provides greater profits for oil companies and great revenues for his home State of Alaska at the expense of taxpayers in the United States and at the expense of a wildlife refuge created over 50 years ago by President Eisenhower.

I urge my colleagues tomorrow, when we vote, vote against the motion for cloture. Let this Senator know, and others who are pushing this proposal, that we have reached the end of our rope in terms of allowing this kind of political back-room deal to come forward. It is unacceptable, and it should be rejected by the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, my understanding is I am now recognized for 30 minutes; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mrs. BOXER. I ask unanimous consent that following my remarks, Senator KYL be recognized for up to 15 minutes, to be followed by Senator BOND for up to 15 minutes, Senator FEINSTEIN for up to 20 minutes as in morning business, and that the time not be charged against the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. At that point, that a quorum call be entered and that the quorum call be evenly charged.

Mrs. BOXER. I would add that.

The PRESIDING OFFICER. A quorum call cannot be requested now. It has to be requested at that time.

Mr. CONRAD. It is very important that we go back to this formulation, I say to the Chair. That when all of these speeches have been given, there will be a request for a quorum call, and that quorum call will be equally charged.

The PRESIDING OFFICER. The Senator cannot lock in at this time a unanimous consent for a quorum call at a future time.

Mr. CONRAD. That is not what I am seeking to do. I am seeking to do what we have done repeatedly here. I don't understand why all of sudden this is a difficult thing. We have done this repeatedly.

When the last speaker is concluded, that if they ask to go into a quorum call, the quorum call be equally charged. We have done this repeatedly, and this is important to our understanding, so we have to get this right. We have done this repeatedly throughout the afternoon.

Mrs. BOXER. Mr. President, I believe my unanimous consent is pending, and it does include the request of the Senator from North Dakota.

The PRESIDING OFFICER. It is provided that any quorum call will be divided equally.

Mrs. BOXER. Thank you very much.

Mr. SESSIONS. Reserving the right to object.

Mrs. BOXER. Mr. President, I would like to go back to the order, if we can. I was about to speak for 30 minutes as was already agreed to by the Senate. I would like to proceed.

Mr. SESSIONS. I understand the Senator is recognized?

Mrs. BOXER. Does the Senator want me to yield for purposes of a parliamentary inquiry? I yield, without losing my right to the floor, for a parliamentary inquiry.

Mr. SESSIONS. I was just curious about what the unanimous consent agreement was that was just entered. I was not on the floor at that time and would be interested in having an opportunity to speak later. Was there unanimous consent on procedure?

Mrs. BOXER. Mr. President. I am happy to tell the Senator. I asked for time, on the completion of my 30 minutes, for Senator KYL to speak for up to 15 minutes, followed by Senator BOND for up to 15 minutes, followed by Senator FEINSTEIN for up to 20 minutes as in morning business, and that the time not be charged against the bill, and at that time the time would be charged equally.

Mr. SESSIONS. I have no objection.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mr. SESSIONS. I have no objection.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mrs. BOXER. Thank you, Mr. President.

PATRIOT ACT

Mr. President, folks are watching us so close to Christmas, so close to Hanukkah time and wondering why we are here so late in the year. It is very unusual for this to happen. I would like to say that we are here, in my view, because there is a disinclination on the part of the Republican leadership to sit down with the Democrats on the PATRIOT Act, fix two provisions of that act, fix it so our constituents don't have to worry that their library records will be sought, if there is no reason to do that, or their bookstore records or their health records or their financial records without a check and balance on that power; and that if their home is searched they would be so advised within a 7-day period.

But Senator FRIST, at this point, seems to keep this issue alive. I hope we can resolve that by a short-term extension of the act.

Every single Member who voted to stop the final vote voted with the understanding that we would, in fact, extend the PATRIOT Act for 3 months. I am hoping that will happen so we can get done with that without a vote, as far as I understand it. Everyone wants to continue the PATRIOT Act, but there is a majority, I believe, who wants to fix these two provisions out of the many provisions.

We are also here because one Senator has gotten drilling in the Arctic National Wildlife Refuge in the conference report on the military bill, on the Defense appropriations bill. That bill funds our troops. It is very important. Instead of allowing that to just go forward—and again that would go forward probably without even a minute's debate, and we could finish that up quickly—instead, this Senator wants to give a very special gift this Christmas season to the oil companies. We know, if anything, they don't deserve a gift. They are laughing all the way to the bank. But this one Senator wants to give them another gift, a really special one with an enormous bow on top.

I hope that will happen. But that is another reason we are here.

We are here because this is a budget-cutting bill that is so onerous—it is on the floor right now—that the Republicans aren't even sure they have the votes to pass it because of what it does to student loans, to Medicare, to things that our people need. They have to fly the Vice President back in order to have him in the Chair because it might be that close. And he may have to cast the deciding vote to cut student loans, to cut Medicare, to cut Medicaid, to cut health to our middle-class families, as well as our working poor families. If that happens, that will be an image all American families will see, the Vice President in the Chair. They couldn't even get their own party to vote for this bill, and it will say more than I ever could on the subject.

IRAQ

Mrs. BOXER. Mr. President, today, I had hoped to be in California working in the State. I had a very important speech to give on Iraq to a very important group in Los Angeles. Instead I am going to give that talk here for the next few minutes so that my constituents will get the views that I have at this moment in time on that war.

In 1968, Martin Luther King told us:

> If we do not act, we shall surely be dragged down the long, dark and shameful corridors of time reserved for those who possess . . . strength without sight.

Dr. King was talking about ending the Vietnam war. But 40 years later his warning is increasingly relevant to the Iraq war.

Strength without sight has now led us into a war based on mistaken intelligence, and down a thorny path of pain for far too long. None of us can afford to be silent.

Again, I want to quote Martin Luther King who said:

> Our lives begin to end the day we become silent about things that matter.

Martin Luther King said:

> Our lives begin to end the day we become silent about things that matter.

We must have the courage to speak out about things that matter, and, if we disagree about things that matter, that is part of the process. But let us heed Dr. King's words. It matters that 2,158 service men and women have given their lives in Iraq, leaving their families grieving. It matters that 16,155 have been wounded, many with scars that will last a lifetime.

It matters that the majority of the American people are demanding a new strategy so that we do not have a war without an end.

We saw 79 Senators from both political parties recently back an amendment saying that it is the Iraqis who should take the lead in providing their own security next year. Next year is a few days away.

I think it matters if 79 Senators vote for that amendment.

I see Senator LEVIN on the Senate floor. I thank him for that work he put into that amendment because it says very clearly that next year the Iraqis have to take charge of their own destiny.

We heard Congressman JACK MURTHA's brave statement against this war, calling it a "flawed policy wrapped in illusion."

JACK MURTHA is a decorated marine, a war hero who bled on the battlefield, the military's best friend.

Now he advocates redeploying U.S. forces at the earliest possible date—not tomorrow, not in 2 weeks. Estimates are that it will take 6 months to a year—while maintaining a quick-reaction force in the region to be called upon when necessary.

How did the administration and its supporters respond to this hero, JACK MURTHA's thoughtful proposal? Congressman MURTHA, with his two Purple Hearts and his Bronze Star, was insulted by the White House Press Secretary and branded a coward by the newest Republican Member of the House; branded a coward by the newest Republican Member of the House, a shameful display of partisanship.

People who never bled on the battlefield tried to demean a war hero. That is what we see again and again in this debate.

Instead of thoughtful dialogue about the life-and-death issues in Iraq, the administration lashes out at those who dare disagree with them.

Recently, the Republican National Committee issued a video news release attacking Democrats, including me. I want to thank Senators on the other side of the aisle who said that was wrong. I am used to being attacked, and I normally just ignore these attacks. As a matter of fact, I wear them as badge of honor. But this one was so incendiary that I have to respond.

The ad said Democrats were waving a white flag of surrender in Iraq. And their evidence? One of their pieces of evidence was my statement that we should start reducing our troop strength in Iraq after the Iraqi election.

Guess who else said that very same thing this last weekend: the U.S. Ambassador to Iraq, Zalmay Khalilzad, appointed by President Bush. Listen to what he said. President Bush's Ambassador in Iraq said:

> We can begin to draw down our forces in the aftermath of the elections.

That is exactly what I said. Are they going to run an ad against George Bush's hand-picked Ambassador to Iraq who said the same thing that Senator BOXER said?

Democrats aren't waving any white flags, and neither is the Ambassador waving a white flag. We are doing the job that we were elected to do. We have a right and a responsibility to tell the truth, whether the topic is Iraq or any other policy. We have a right—and a responsibility—to wave a warning flag about a war that is making our Nation less secure.

Regardless of how many times I am attacked, I will continue to speak out just as I am doing today.

I have four points to make: First, we must restore our credibility. Our credibility is at almost an all-time low in the world.

If we want the American people to be optimistic, and if we want the nations of the world to consider us a leader to be trusted, our motives must be clear, always; our justifications must be sound; and our policies must reflect our ideals. Our policies must reflect our ideals.

During the Cuban missile crisis, Secretary of State Dean Acheson offered to show Charles de Gaulle of France satellite images of Soviet missiles in Cuba as proof of their existence. President de Gaulle responded by saying:

> The word of the President of the United States is good enough to me.

Today, the word of this President and his administration has been called into question. Frankly, it is hard to believe those words myself when the President or the Secretary of State or the Vice President start to tell their expectations about Iraq. It is very hard for me to believe them. Why is that? I want to believe them. I have served with four Presidents, three of them Republican Presidents. I have never felt like this. I never felt I had to doubt what they were saying when it came to foreign policy.

Here is the reason. Remember all the false expectations the Bush administration pedals? Remember when Secretary Rumsfeld said that the war "could last six days, six weeks. I doubt six months"? . . . Or that we knew exactly where to find the weapons of mass destruction.

I was sitting 10 feet from the Secretary of Defense when he said: I know exactly where those weapons are. I know the streets they are on. They are right there in Baghdad.

Remember when Vice President CHENEY predicted:

> . . . my belief is we will, in fact, be greeted as liberators.

Remember when White House Budget Director Mitch Daniels said Iraq will be "an affordable endeavor" and it "will not require sustained aid"?

Remember when the case for weapons of mass destruction was called a "slam dunk"? Remember Vice President CHENEY's now famous assessment that the insurgency was in its "last throes"? Remember when the President told us about the yellow cake from Niger in a State of the Union Address? Remember when we were told "mission accomplished"? We weren't told it; it was scrawled on a banner behind the President of the United States as he stood in his Air Force gear. Who can ever forget that moment?

Remember when we were told that Iraqi oil would pay for the war? And when Secretary Rice said she didn't want the smoking gun to be a mushroom cloud? And when Colin Powell made his forceful presentation before the U.N. Security Council proving the case to the world, proving the case that Saddam Hussein had chemical weapons? He now calls that moment a blot on his record.

I gave you what the members of this administration have told the American people to expect in Iraq. They are zero for 10. I have not even gone through the entire list.

Yet even today, in the light of all this history, the Bush administration refuses to do more than a perfunctory mea culpa. In his last speech, the President took responsibility for going into the war on false intelligence. It took him 2 years to say that. He is 2 years behind the American people who figured that out a long time ago. But I will take it. I will take it.

The President keeps repeating the false statement that Congress saw the same intelligence that he did, even though the CRS, the Congressional Research Service, did a very important study on this matter. They said that is not true. It is a false statement to say that Congress saw the same intelligence he did. The report found that the administration had access to more information than was shared by us.

And the President still does not answer the central question, was the intelligence cherry-picked? In other words, did he pick out the parts of the intelligence that made the case for war? And he hasn't answered whether any of that intelligence was manipulated.

Democrats are insisting we complete the Senate investigation into this matter. Senator REID actually put the Senate into closed session to insist the Senate Intelligence Committee complete the investigation into whether the President actually misused intelligence or cherry-picked intelligence.

It is important we complete this investigation. It is not about politics. If the intelligence was cherry-picked by this President or manipulated, the

American people deserve to know. The Congress will need to act. Why? Because the next time we need to convince the world of an imminent threat, it will be far more difficult unless we clear the air and restore our credibility.

America is more than an economic and a military power. Our ideals have made us a shining light throughout the world for all of those seeking freedom, democracy, and human rights. I believe that moral standing is at risk today. We all saw the horrific photos of Abu Ghraib, which were at odds with everything for which this country stands. I went up to that room to look at those pictures to bear witness. It was one of the most painful experiences I have never had.

We all know what we saw there—and the American people haven't seen half of what we saw; they have only seen a fraction of what we saw. The abuse was disgusting and was at odds with everything for which this country stands. We all know that torture does not produce accurate intelligence or make us more safe. Listen to Senator McCAIN, who is an expert on this issue. He says torture "is killing us." Amazingly, banning torture was extremely controversial for this administration. DICK CHENEY even worked nonstop to exempt the CIA from the torture ban passed by the Congress. Fortunately, we won this one. Again, I say to my Senate colleagues, thank you for standing up, for standing behind Senator McCAIN on this.

However, we still do not know everything about the secret prisons or secret spying on Americans, all of which chips away at our reputation as a great beacon of freedom and gives us an eerie sense of a secret government. We must not have a secret government. We must not walk away from checks and balances. We now face this issue of our Government spying on Americans without a warrant. This is serious. It must be investigated to restore our credibility.

The other day I was at a forum with John Dean, the former White House counsel to President Nixon during Watergate. When we were asked a question as to whether we believe this President investigating and wiretapping American citizens without a warrant was legal, my remark was: I'm not sure about that. I'm very worried about that. I don't think it is. But I want a hearing. I applauded ARLEN SPECTER, chairman of the Judiciary Committee, for saying we would have it.

This is what John Dean said on videotape and he has since confirmed it: This was the first time he ever heard a President admit to an impeachable offense. That comment by John Dean, who knows more than any other lawyer in this country about an excessive abuse of power by the Executive is very serious. I sent a letter to four scholars, asking them to please tell me if they think John Dean is on the right track or on the wrong track.

Clearly, we must restore our credibility. Second and third, we must reverse the strain on our military and get our budget priorities straight.

This administration says dissent hurts our military. Let me tell you what hurts our military. Our military is fighting so that the Iraqi people have the right to dissent. So to say that our military gets hurt when we dissent makes no sense at all. How proud they must be that they come from a country where people who love the troops on both sides of the aisle are in a rigorous debate. That is what our military wants. They do not want to see a country where we all dance to the same tune.

And they must think it is interesting that even within the parties there are disagreements, that a Joe Lieberman disagrees with a Barbara Boxer, or a Chuck Hagel disagrees with an Orrin Hatch. That is what life in America is about. So when the President or his allies right here say, How dare people dissent, I say, How dare we not, if we believe the path we are on is wrong.

Let me tell you what hurts our military: sending men and women to war without a plan for victory and without the necessary armor and equipment. What hurts our military is stretching it to the breaking point and deploying our soldiers for third and fourth tours of duty. What hurts our military is a lack of candor.

Our men and women in the military serve bravely and skillfully in Iraq. They have sacrificed so much since this war began. We need to honor their sacrifices, not with words but with actions. That means treating their caskets and their families with the respect they deserve.

I want to publicly thank my staff in San Diego who stopped a horrible situation from happening, when a military man in a coffin, slain in Iraq, arrived in San Diego aboard a civilian aircraft, a commercial aircraft. When the plane landed, he was not going to be greeted by his unit. No one was going to be there. And the airline was going to keep him with the cargo, off-loaded with no ceremony, no greeting.

Thank God, his parents—military people—saw this and called us. We stopped it from happening, and we made sure that casket was greeted by his unit.

That is what we need to do. We need to honor our military. It means opening up our eyes to their injuries and getting them the help they need. Medical studies reveal that 17 percent of soldiers returning from Iraq are suffering from mental health problems, including depression, anxiety, and post-traumatic stress disorder. The VA says that 17,000 Iraq and Afghanistan vets have been diagnosed with mental disorders through February.

I have heard from military people who tell me their loved ones were sent back on to the field of battle when they were diagnosed with post-traumatic stress, and the doctor said: Don't send them back.

Now, 17,000 Iraq and Afghanistan vets have been diagnosed with mental disorders, just through last February. But despite this huge problem, the American Legion—the American Legion—says that mental health programs are being underfunded by $500 million a year.

I offered an amendment to provide these critical resources by canceling future tax cuts for millionaires who have already gotten back tens of thousands of dollars in tax cuts. It sounds reasonable that we would ask a millionaire to help give a veteran the assistance that he or she needs because of mental problems.

Well, my amendment failed. The President says he loves our military, but he loves tax cuts for millionaires as much or more. They did not weigh in. They did not help us. We could not get it passed.

Let's be clear. To finance a war that has already cost $251 billion, this administration did not ask the wealthiest to do one thing to sacrifice. Under the Bush tax cuts, millionaires got—and listen to this number—$242 billion back. They have gotten it back over the past 5 years.

In the first 2 years of the Iraq war, the average millionaire received $112,000 in tax cuts. And we cannot afford to give a soldier treatment when he comes home, and he is so sick that he might even turn on his own family and hurt them?

This makes me sick, Mr. President. This makes me sick.

The President did not secure enough real financial commitments from other countries. Instead, our needs are being sacrificed and our children and seniors are paying the price.

Talk about waving the white flag of surrender. I want to talk about it. The Republican Congress and this administration are waving a white flag over our children, cutting their afterschool programs. No Child Left Behind. They have underfunded their own program by $13 billion.

They are waving a white flag of surrender over our seniors, causing them anxiety and threatening their Social Security.

They are waving a white flag over fiscal responsibility, by creating a debt that is more than $8 trillion. That means that approximately $92 billion is leaving this country every year to pay off the interest on the debt that foreign countries own.

And they are waving a white flag over our homeland security. The administration says all the right things about the terror threat. But they shortchange homeland defense.

It has been 4 years since 9/11. We are getting failing grades. We need $555 million this year to better secure our ports, $14 billion so that our first responders can communicate with one another. It is a disgrace that firefighters cannot talk to police officers and health care providers in our communities. Oh, no, oh, we couldn't ask the people who make over $1 million a year to help us.

And we are waving the white flag—we are—this Congress and this administration.

Fourth, and finally, we need to change course in Iraq. The President presents a false choice between leaving immediately and staying indefinitely. He says: Stay the course, stay the course. The course has to be changed. Frankly, the President, in every speech, connects this war in Iraq to 9/11, even though the 9/11 Commission said there was no connection and the President's own documents show there is no connection. As a matter of fact, it was a diversion from our fight against al-Qaida and bin Laden.

Do you know what? We are not any safer. Worldwide terrorism is up and increased by more than 1,200 terror attacks last year.

Even the President's own Director of Central Intelligence, Porter Goss, says:

> Those jihadists who survive will leave Iraq experienced in and focused on acts of urban terrorism.

Now, I agree with the President about importing democracy. But as Robert Pape of the University of Chicago has written:

> . . . spreading democracy at the barrel of a gun in the Persian Gulf is not likely to lead to a lasting solution against suicide terrorism.

Last week's election in Iraq was an important step forward. And I pray that country will put together the kind of coalition that is necessary. But either way, it is time for the Iraqis to control their own destiny. Each election they have had, it seems to me, should be a step in our recognizing their right to run their own country. Their running their own country is a sign of success, not failure. Our long-term presence is viewed as open-ended, and it is fueling the insurgency.

Too many Iraqis believe that the United States has no intention to leave Iraq and with good reason. Every time the President is asked for benchmarks, he says we will be there as long as it takes, even though general Casey made it clear to me, when I was in Iraq, again, that our long-term presence is counterproductive.

And two-thirds of Iraqis oppose the presence of U.S. troops, at least two-thirds. In some polls, it is 80 percent. They do not want us there. They want to run their own country. That is not failure. That is not a white flag. That is not defeat. That is success, when we can redeploy our troops, so if the government there needs us, we are nearby.

We must accelerate the training of the Iraqi troops. I am glad the President admitted it has gone far too slowly. But enough with the excuses. They have to get out there and defend themselves. And we need to take the help that is being offered from around the world, around the region. The Egyptian Ambassador lamented the fact that so few troops have been trained in his country. He has offered to help, and we have not taken it.

Mr. President, in conclusion, it does not matter if you voted for the war or against the war at this point. We need now to take action. None of us can remain silent.

As a Senator, I feel obligated to tell the people of my State how I feel. It is time for a new policy. It is time for a new strategy that makes us safer and more secure. It is time to put to rest the notion that to speak out for a new strategy in Iraq is unpatriotic. It is time to realize that turning Iraq over to the Iraqis is what they expect and what we should do. That is what success is. It is time for a real strategy to stop the spread of terrorism and prevent the proliferation of WMDs, not go forward with preemptive wars that isolate America.

It is time for a real strategy to stop the spread of terrorism. It is time to remember that a strong America begins at home and that we can't have real security if we abandon our children and our families, our fiscal responsibility, or if we cannot prepare for a terrorist strike or an emergency such as Katrina. It is time for America to once again be a shining example for the rest of the world. We can do it.

Again, let's be honest about the past and restore our credibility. Let's honor our military with a clear plan. Let's get our priorities straight. Let's get Iraq right by working in a bipartisan way, not running ugly 30-second commercials while our soldiers die and get wounded. We can do better. We must do better. With the wisdom of the American people, we will do better.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). Under the previous agreement, the Senator from Arizona is recognized for 15 minutes.

PATRIOT ACT REAUTHORIZATION

Mr. KYL. Mr. President, one of the key items of business that we have to do before Christmas is to reauthorize the PATRIOT Act. I know there is some confusion about exactly where we stand on that. Let me clarify that right now.

First, where are we with respect to the reauthorization of the PATRIOT Act? Why? And what can we do to move forward? I think most folks by now appreciate the fact that after September 11, we understood there were significant problems with our law and we needed to make some changes to fill in some loopholes and to make changes that would give our law enforcement and intelligence agencies the tools they needed to fight this new enemy, the terrorists. As a result, we passed the PATRIOT Act. But we said we wanted to sunset provisions of the PATRIOT Act so that we would have to revisit them before they would become permanent law. We are now at that point. The law will expire on December 31 unless we reauthorize it.

So the Senate worked on it for about 8 months. We passed a version of the PATRIOT Act to be reauthorized. The House of Representatives did the same thing. There were some modest differences between the two bodies. We created a conference committee to iron out the differences, and I served on that committee. The Senate got most of its way in the conference committee. Most people have said about 80 percent of the compromising was done by the House. Nonetheless, the version we have before us is a version that I support. It is a good version, as the House of Representatives found when it passed overwhelmingly before the House recessed and left Washington, DC. In fact, I believe 44 Democrats supported the reauthorization of the PATRIOT Act in the House. Now it is up to us to approve it as well and then send it on to the President for signature.

Once a conference report is completed, it is no longer amendable. We all understand that. But some Members of the Senate decided they wanted to amend it, even though there is no procedure for amending it. So they decided to filibuster the bill. When we took a vote on it, it had majority support. There were over 50 Senators who wanted to reauthorize the PATRIOT Act, but the minority of Senators wouldn't let us vote on it. They successfully filibustered it. They said: We are not going to let you vote on reauthorizing the PATRIOT Act because we would like to make some more changes.

The time for making changes is up. You can't make any more changes once a conference report has been filed. They know that. So it is a little curious to me why they keep saying, we want to extend it so we can make some more changes. That is not the procedure of the Senate, and it can't be done. The conference has been discharged. The House of Representatives has gone home. Even if we wanted to go back into the conference and make changes, we couldn't do it.

There is a way we can accommodate those who wish to make further changes to the PATRIOT Act, but it is not by filibustering. It is by allowing us to have the vote, pass the PATRIOT Act reauthorization, and then introduce those changes you would like to make in it, and we will deal with those in the regular process of hearings and presenting the matter to the floor. As a matter of fact, I would like to do that myself. There are some things I would like to add to the PATRIOT Act, and I fully intend, after we reauthorize it, to introduce that either as an amendment to a bill next year or as a separate bill, and to seek hearings in the Judiciary Committee so we can try to move the additional things I would like to see in the act.

My colleagues are certainly welcome to do the exact same thing. We might even get together and try to have one hearing at which that is done. That is the regular order. That is the way we could make the changes they are talking about, if a majority of Senators agree. But I think that is the rub. I suspect they can't get a majority of the Senators to agree to the changes they would like to make. They couldn't get a majority of the conference committee in the House or the Senate to agree. So they would now like to try to use pure force rather than logic to get their changes.

If they have the confidence that their changes make sense, then why wouldn't they want to simply offer them next year and let's vote on them? If they have 51 votes, they become law. Instead, they want to somehow pressure us at this point into letting the PATRIOT Act expire, and then everyone feels we have to do something so we accept their unreasonable demands.

That is not the way to legislate, and it is not a responsible action. We should defeat the filibuster, not allow the PATRIOT Act to expire but to extend it for the period of time that the conference agreed, which is a period of 4 years. And if additional changes are to be made, they can be made starting as soon as we come back here next January. That is the way to do business.

There are those who have said: Let's extend it for a few months. As I said, you can't extend it for a few months. There is no legislative way to do that. It expires December 31. The conference committee is closed down. The House has gone home. We are going to finish up in another day or two here. So you simply can't snap your fingers and extend a law. You have to pass it. It has to be signed into law by the President. He said, no, we are not going to have any short-term extension. We have a long-term extension right in front of us. It is called reauthorization. Allow the Senate to vote. If you do, they will vote with a majority vote to reauthorize the act. Then it is done. If you then want to make changes, you are welcome to do that.

What are these big changes that have been talked about? The only ones I have heard about are two that were mentioned by the Senator from California who spoke before I did. I don't understand either one of them. She said we have to make changes, some checks and balances, with regard to these library records or bookstore records. Secondly, if you have your house searched, you need notice within 30 days.

That is what the compromise provides. The conference committee provided a 30-day notice if your house is searched, so that instead of the reasonable standard, which is what exists today, you would have to be notified in 30 days. By the way, why aren't you notified immediately? In most cases, you are. But there are some cases where you are not notified of a warrant that has been issued. Why is that so? Suppose you are a couple of gangsters and the prosecutor wants to tap your telephone to find out if you are making illegal deals about drug running. He goes to the court and gets a warrant to tap your phone. Are you told about that? No, of course not. Sometimes a warrant is obtained and you are not told about it. You are not told if your house is searched or if your telephone is tapped because to do so would allow a witness to be compromised or a party of interest to escape the country or the information not to be obtained because you know that you are under the watchful eye of the prosecutor at the time. So sometimes you are not told about a warrant. But there is always a limit on that timewise.

In the PATRIOT Act, the House had something like, I believe, 150 days or 180 days. The compromise was 30 days, which is exactly what the Senator from California said we needed. I don't understand what the problem is there.

With respect to libraries, this is the section 215 we have talked about forever and ever. This is simply the business records administrative subpoena for which 335 examples exist in our books on the law today. If you are investigating somebody for Medicare fraud, you can get one of these subpoenas. A subpoena is not a warrant. A subpoena is a request for information. If you suspect somebody of fraud on the IRS, the IRS can get one of these administrative subpoenas. It is a request for information. Do you have to have a judge authorize that request? Not for 335 of these. There is only one that you have to have a judge for, and that is if you are investigating terrorism. The one that ought to be the easiest is the hardest because we are so concerned about protecting civil liberties that we say under the PATRIOT Act, you have to go to a judge first, even for a subpoena—not just a warrant, for a subpoena.

So it has all the protection I think one would want. But we say we need a standard. So what is the standard the courts have applied? A relevancy standard. We will put that in, too. That is still not enough. We want a three-part test that ties it into international terrorism. Fine, we put that in. And one more thing; we want to make sure any records are destroyed within a reasonable time and that people are not told of this information. We said the Justice Department has to set that up. That is still not good enough. We want to make sure it is not abused. Fine. We will have a report from the executive branch every 6 months to Congress explaining in great detail how many subpoenas were issued, what the problems were with them, if any, and anything else that Congress wants to know about the use of these so we can have oversight.

There is not much more you could do and still have an effective section 215. Why is section 215 used? As we know, two of the hijackers, al-Mihdhar and al-Hazmi, the two who were on the plane that came into the Pentagon and killed 125 people there, as well as the people on that flight from Dulles Airport, their airline reservations for September 11 were checked on August 31 on a computer at a library, and had we had the PATRIOT Act library record ability to check that out, and had we known of those two people who I am talking about here, we could possibly have known they were checking reservations for September 11 and intercepted them and prevented them from getting on that airplane.

The bottom line is there are circumstances in which you want business records. Libraries have business records the same as any other kinds of entities. There is nothing wrong.

This has been the law forever. We have built in a lot of protections. I don't know what more anybody would want with respect to protections for these particular records.

So even if you assume that there is more to be done, my question is, how much more? The differences have been characterized from the other side as minuscule. They have said let's extend this and a couple of other changes we want to make. If that is the case, then why is the other side willing to let the entire act expire? We don't have the protections of the PATRIOT Act over provisions that are not that important, especially since they could be offered next year in an amendment to any bill. We could have hearings for them in the Judiciary Committee. There would be no problem considering these kinds of requests.

If it expires, the PATRIOT Act's provisions no longer protect us. One of those is to allow the FBI and the CIA to talk to each other. Let me explain why this is important. This wall that used to exist was torn down by the PATRIOT Act. Patrick Fitzgerald, who is the U.S. attorney who is currently a special prosecutor, as we know, looking into another matter, testified how the wall worked in practice.

He said:

> I was on a prosecution team in New York that began a criminal investigation of

> Osama bin Laden in early 1996. The team . . . had access to a number of sources. We can talk to citizens. We could talk to local police officers. We could talk to other U.S. Government agencies. We could talk to foreign police officers. Even foreign intelligence personnel. And foreign citizens. . . . We could even talk to al-Qaida members—and we did. But there was one group of people we were not permitted to talk to. Who? The FBI agents across the street from us in lower Manhattan assigned to a parallel intelligence investigation of Osama bin Laden and al-Qaida. We could not learn what information they had fathered. That was "the wall."

The "wall" had deadly consequences. The 9/11 Commission report contained detailed examples of how the wall prevented them from cooperating, the FBI and CIA, prior to 9/11—and perhaps the biggest example is the one I cited in which Khalid al-Midhdar and Nawaf al-Hazmi, two of the hijackers, were known to the CIA and that they were connected to terrorism. They had been connected to the Cole bombing and they were in the United States. The CIA refused to give the FBI the information because of this wall.

I mentioned the fact that we later learned they had actually checked their September 11 airline reservations on a library computer. The FBI agent working on the case in Washington, DC, after being unable to communicate with the CIA, said this:

> Whatever has happened to this—some day someone will die—and wall or not—the public will not understand why we were not more effective in throwing every resource we had at certain "problems."

That agent was right, and thousands did die. That wall is going to go back up if the PATRIOT Act is not reauthorized. So those people who have filibustered the PATRIOT Act and prevented us from voting on it, prevented the will of the majority from prevailing in this body. Since a majority of both House of Representatives and the Senate favors reauthorization of the PATRIOT Act, those people will have prevented us from having in place the PATRIOT Act to protect us from the terrorists. They will have allowed this wall to be resurrected to prevent the FBI and the CIA from talking to each other and we are going to be right back where we were before September 11.

Again, I say, as the FBI agent did, what happens if some terrorists should strike us and we could have prevented that had the PATRIOT Act been in effect? Those who filibuster this act had better ask themselves that question. They have a very simple way to get around the answer; that is, allow us to have our vote. It will take 20 minutes. We can reauthorize the PATRIOT Act and it is back in force and then any other little changes you want to make to it, we will consider them next January, next February. What is wrong with that offer, considering what is at stake.

I urge my colleagues again that the PATRIOT Act needs to be reauthorized. All it takes is for the other side to stop its filibuster, allow us to take the vote and, by a majority vote, we will reauthorize it, thus giving the American people the protection we deserve from the law enforcement and intelligence agencies who need this vital tool.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

MEASURES BEFORE THE SENATE

Mr. BOND. Mr. President, there are a number of subjects I want to address tonight. I appreciate the time. First, the Defense appropriations bill that is before us that is going to have to be clotured is very important. I want to make sure everybody understands what we are talking about. There are some very important things in there, including relief for the Katrina victims, and all of the victims of the hurricanes in the gulf coast over to Florida. These are important funds that need to be provided.

It also includes the opening up of ANWR, which will provide revenues that will help us meet the needs of LIHEAP and also of the hurricane victims. Beyond that, it is going to help us meet needs that all Americans have for an adequate energy supply. Nine hundred thousand barrels of oil would have been coming out of the coastal regions of northern Alaska above the Arctic Circle had the previous approval of this bill by the Congress in 1995 not been vetoed. So ANWR is necessary if we are going to bring supply up to help meet the demand for energy.

But most important, this provides $50 billion to support our troops in the war on terror. We have heard remarks recently on the floor about what our troops want. I can tell you one thing our troops want is to have the bullets, the supplies, the reinforcements, and the assistance they need to conduct the war. Our troops, by and large, are very enthusiastic about continuing to finish the job. What bothers them is to hear people in this body and in the media say that the President has failed and we ought to impeach him. Their Commander in Chief, they believe, has done the right thing in helping us clean out the murderous tyrant Saddam Hussein and carry the war on terror to the hotbed of terrorism that was and would be Iraq if we left. They are concerned that if we try to pull out the troops before they finish the job, it is going to be a disaster. I am going to talk more about that later on, but the people who claim to be supporting the troops should not be filibustering the Defense appropriations bill.

Speaking of the related subject, let me turn now to electronic surveillance of suspected terrorists' conversations with al-Qaida abroad. That is a vitally important area that has been substantially mischaracterized by recent remarks on the floor. The National Security Act of 1947 requires the President to keep Congress fully and currently informed on U.S. intelligence activities to the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods.

This statutory requirement recognizes that some of the programs or activities may be so sensitive that the information is provided only to a few Members of Congress.

Regrettably, a very effective program that the President authorized has now been fully exposed. I hope there will be a full investigation by the Department of Justice and appropriate prosecutions of those found to have leaked that information.

Recognizing the need to protect sensitive programs and activities, Congress created the Intelligence Committee and worked with the President to balance the Congress's constitutional need for information and the President's constitutional responsibility to protect national security.

Before we start calling the President's efforts illegal or unconstitutional, maybe people ought to take a look at the law and the Constitution. The President has the constitutional authority to conduct warrantless electronic surveillance for foreign intelligence purposes. This is what the President stated he has done. It was for foreign intelligence purposes.

In the most recent definitive case addressing this issue, the 1980 Truong case from the Fourth Circuit, the Court upheld the Executive's warrantless electronic surveillance of U.S. persons for foreign intelligence purposes. The Court explicitly recognized a foreign intelligence exception to the warrant requirement based on the President's constitutional authority and responsibility to protect national security.

Incidentally, the President, under whose authority that warrantless search—eavesdropping—was conducted was Jimmy Carter.

The FISA statute that has been passed works with the President's constitutional authorities. It is one way to conduct foreign intelligence surveillance, but it is not the only way. You see, Congress cannot get rid of a President's constitutional authority by passing a law. The President can conduct warrantless foreign intelligence surveillance because he is charged under the Constitution with protecting our Nation and conducting foreign relations.

Under the fourth amendment, the surveillance still has to be reasonable; it just doesn't require a warrant. In the context of the war against al-Qaida and worldwide terrorism, the constitutional resolution authorizing the use of all necessary and appropriate force to prevent future attacks makes it clear that the President's determination of what is and isn't reasonable is entitled to some deference. When you are fighting a war, you have to be able to move quickly to respond to threats. The President has said he exercised the authority to maintain speed and flexibility to target terrorists when they are about to harm our country. If the Constitution provides for that agility, the President should use it.

As the 9/11 Commission has pointed out, it was clear that enemy communications were made from the United States prior to the September 11 attacks. The Commission criticized our inability to link things happening in the United States with things that were happening elsewhere. We know, for example, that Nawaf al Hazmi and Khalid al Midhar, two terrorists who flew a jet into the Pentagon, communicated overseas to other members of al-Qaida while they were in the United States. We knew they were terrorists, but we did not know they were here until it was too late. Reflecting his constitutional responsibilities and authorities, the activities authorized by the President make it far more likely that such killers can be identified and located in time in the future to prevent that tragic occurrence from recurring.

The lawful activity conducted under this authorization has given the United States a proven ability to detect and prevent terrorist attacks. It enables us to learn more about those who have a link to al-Qaida in a way that is agile and timely enough to prevent and detect further attacks.

The program has been successful, but continuing public discussion of the nature and use of the capability simply will arm our enemies with the knowledge they need to prevent detection and will increase the danger to our country, our citizens, and our values.

Speaking of giving the necessary tools to our law enforcement and intelligence agencies, there is the PATRIOT Act, which, again, is being filibustered by those on the other side. Over the past few days, opponents have raised a number of arguments and charges against two controversial provisions from the original PATRIOT Act—FISA business records and national security letters. Unfortunately, many of the arguments have been inaccurate and misleading, particularly the allegations that the conference report does not fix alleged problems with these investigative tools.

Let me be clear, as my colleague from Arizona just pointed out, if the USA PATRIOT Act is not reauthorized, we will have done a grave disservice to our Nation's security. That is your and my safety, Mr. President, and the safety of our families, of our communities, of our country. We will be sending the wrong message to terrorists and spies who threaten our national security that we will not use every constitutional tool available. I don't want to send that message.

It is far too easy 4 years after September 11 to put restrictions on the intelligence community that are not necessary or appropriate. When we needlessly restrict intelligence investigations, we increase the possibility that the next attack will succeed.

The arguments of those who seek further to restrict the PATRIOT Act tools are not based on any factual allegations of abuse but, rather, on unsubstantiated allegations, inaccurate and misleading press accounts, and hypotheticals. To adopt their position and to reject the conference report is to legislate to the possible rogue FBI agent, the one-tenth of 1 percent who might go beyond the law and should be prosecuted if he or she does. If we take that step, we will deprive the other 99.9 percent of FBI agents of lawful investigative tools.

Rather than basing their votes on inaccurate media reports or hypotheticals, I urge my colleagues to base their position on this important legislation on facts: the fact that terrorists continue to seek to kill Americans; the fact they continue to plot attacks; the fact they are determined to continue the war against us; the fact that this conference report provides significant increased protections for privacy and civil liberties; and the fact that our national security investigations have not abused the authorities provided under the original act.

This bill is a compromise. Over the past days, many who have opposed the conference report have suggested we can quickly solve the matter by simply adopting the original Senate bill. They pointed to the Senate passage of this bill by unanimous consent. We did not object to the bill because it needed to proceed to conference quickly. If the Senate bill had been submitted to the conferees for signature, there are some who would not have signed it. That bill went too far, in my view. This conference report strikes the appropriate balance, and just barely.

That said, the conferees considered the bill adopted by the Senate and the Senate position on NSLs and FISA business records. All of that has been debated and negotiated. In short, the legislative process resulted in the conference report presented to us.

Many opposed to the conference report have made a great deal about what this bill is not. Well, I have a list of thing the bill is not as well. This bill does not place national security investigators on a par with their counterparts investigating criminal cases, regrettably, and it doesn't give them the same access criminal investigators have to our records. Unfortunately, we could not get that done. But neither does it compromise any American civil rights.

Speaking, as I was, of the war in Iraq, let me point out that we have had a tremendous milestone. Last Thursday, there was a 70-percent voter turnout, the highest thus far.

I ask unanimous consent to print in the RECORD an op-ed piece by a marine who spoke very eloquently about the reasons why he is signing up, why he is going back to Iraq, why significant numbers of people are reenlisting because they know we are making progress in the war on terror.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> When I told people that I was getting ready to head back to Iraq for my third tour, the usual response was a frown, a somber head shake and even the occasional "I'm sorry." When I told them that I was glad to be going back, the response was awkward disbelief, a fake smile and a change of subject. The common wisdom seems to be that Iraq is an unwinnable war and a quagmire and that the only thing left to decide is how quickly we withdraw. Depending on which poll you believe, about 60 percent of Americans think it's time to pull out of Iraq. How is it, then, that 64 percent of U.S. military officers think we will succeed if we are allowed to continue our work? Why is there such a dramatic divergence between American public opinion and the upbeat assessment of the men and women doing the fighting?

Mr. BOND. Mr. President, our efforts in Iraq are pivotal to our strategic interests in the Middle East and throughout the world. This past Wednesday, Osama Bin Ladin's principal deputy, Aman al-Zawahiri, in his latest video on the internet called for the insurgent groups in Iraq to unite in order to drive out the Americans. Zawahiri has stated consistently that the war in Iraq is his holy jihad and the battleground for establishing a worldwide, Islamo-fascist state. Terrorists like Zawahiri are clear on their goals for Iraq, let us be clear and steadfast in our resolve to defeat their diabolical plans and lay the foundation for a peaceful, free Iraq.

As I outlined on the Senate floor earlier this year, Southeast Asia is of vital importance to the economic health and the security of the United States—and I have urged active engagement. Home to over 500 million people and two Muslim democracies, U.S. engagement is essential for strategic, economic and security reasons.

I have just returned from my second trip to the region this year. In January of this year, I visited Malaysia, Singapore, and Indonesia, including a tour of Aceh in the wake of the devastating tsunami that hit that part of the country. I have just returned from a trip to the Philippines, Indonesia and Thailand. Throughout Southeast Asia, I spread the message that America has vital interests in the region and that we will continue to cultivate economic and security ties.

Foremost, however, I made it known that the United States wants to participate in this and any future East Asian summits. The summit was initially billed as a meeting of East Asian countries, but it continued to expand until it was a meeting of ASEAN countries plus Japan, Korea, China, India, Australia and New Zealand—it has started to look like everyone but the United States.

I can understand China wanting to take this opportunity to marginalize the United States while pressing aggressively their priorities in the region. However, I pointed out to the leaders with whom I visited in Southeast Asia that the United States was in Asia during World War II to liberate the region from Japanese aggression; we were in Asia to prevent the region from being taken over from the communists, and we are in the region to fight Islamic fascists bent in turning the region into part of an Islamic caliphate. We were in the region immediately to provide resources to save thousands of lives in Aceh and begin the rebuilding process. We have made a valuable contribution to the quality of life in Asia and we should not be excluded from such an important summit.

The Philippines has a population of 87 million people and population is expected to double in the next 30 years. I saw a startling statistic that showed in the same time that median income increased over 2,000 percent in Korea, increased over 900 percent in Thailand and almost 700 percent in Indonesia, median income increased only 90 percent in the Philippines.

Despite its longstanding ties to the United States and the presence of an English speaking population, the country has not advanced economically to the level it should have. The corruption of Marcos was a terrible setback but it is time to move ahead. The country is in need of U.S. Foreign Direct Investment but I heard from the American Chamber of Commerce that reforms are needed before more investment will flow, especially in area of judicial reform and intellectual property protection. We do have extensive U.S. Government presence that is actively working with the government on these and many important reforms.

In an excellent meeting I had with President Arroyo, I commended her on the leadership role the Philippines has taken to pushing ASEAN finally to get tough on Myanmar. It is long past time for that country to improve its human rights record and move towards installing the popularly elected government. We also discussed and I thanked her for her support of our objective to advance free trade in Asia.

Despite the massive undertaking, the rebuilding of Aceh is progressing. The U.S. remains involved, notably we have been integral to building a 60 mile road to cross the island of Sumatra, an essential artery to rebuilding the country. Between our efforts and between the waiver of military sanctions by the President, our standing in the United States is on the rise.

Reviving military to military relations will pay more dividends than support for the United States. The reform-minded President of Indonesia is a graduate of Webster University in St. Louis, MO, but he is also a graduate of the IMET program. While his tasks are immense, he is committed to reform and he has taken on corruption in the government and needed structural reforms in the military. Change will never happen at a pace that will satisfy some in this Congress, but important reforms are advancing and I believe we should seize the opportunity to influence further the professionalism of the Indonesian military through more IMET participation.

I also had the opportunity to dine with some very engaging, forward-looking members of the Indonesian parliament. They share my concern in the limitations of the Indonesian education system and the holes in curriculum that may be exploited by the paesantrans that are Saudi funded and teach an extreme version of Islam.

President Bush has identified an important goal, improving the education system in Indonesia, and has proposed a four year, $157 million education program for Indonesia. USAID is implementing the program that will work on curriculum issues and train teachers. This program is targeted at introducing basic education and the teaching of skills to young Indonesians, so that they will leave school with the ability to find work—creating a capable Indonesian labor force in the process.

Finally, I had an excellent visit to Thailand, a great and longstanding ally of the United States. Like the other countries in the region, we have active ties with Thailand on a number of levels. We are presently negotiating a FTA with the Thais, successful completion of an FTA will make Thailand our second free trade partner in Asia.

But there is also a great deal of success in the region in the war on terrorism and many of the countries in Southeast Asia have been valuable partners. As I have stated on this floor, Southeast Asia has opened up as a second front on the war on terrorism. It is home to its own terrorist network, Jemaah Islamiyah, that has made a number of successful and deadly attacks, including the two devastating bombings in Bali.

There have been numerous victories over terrorism in the past 3 years in the Indonesia, Thailand and the Philippines. For example, last month on November 9, 2005, in Indonesia, Indonesian police tracked down and killed Dr. Azahari bin Husin, the Jemaah Islamiyah bomb expert who was known as the most feared terrorist in Asia. Azahari was responsible for the two Bali bombings, an attack on the Australian embassy in Jakarta, and the bombing of the JW Marriott Hotel in Jakarta, among others. He was in the midst of planning a string of terrorist attacks when police assaulted his safe house in East Java. The termination of his terror campaign was the result of a culmination of numerous entities working together to fight terrorism in the region. U.S. assistance was and remains paramount to such efforts and is having great effect.

In Thailand on August 11, 2003, Riduan Isamuddin, aka Hambali, was arrested by Thai authorities near Bangkok, Thailand, after extensive coordination between multiple agencies and authorities. The capture of Hambali truly is a testament to the effectiveness that we and the allies we support are having in the global war on terror. When the details of this operation are declassified in the future, the phenomenal tale of his capture should make for a dynamic, nonfiction movie. President Bush described Hambali as "one of the world's most lethal terrorists" and a key figure in al Qaeda's global operations. Hambali was a close associate of September 11 mastermind Khalid Shaikh Mohammed, KSM, and it is no coincidence that the information we have gleaned from detainees like KSM has led to captures like that of Hambali.

In the Philippines, a great success in the war on terror has taken place over the past year on the southern Philippine island of Basilan. I met with the Commander of the Joint Special Operations Task Force Philippines, JSOTF-P, and he briefed me on this tremendous success. One of the primary terrorist organizations in the Philippines is the Abu Sayyaf Group, ASG. The ASG is primarily a small, violent Muslim terrorist group operating in the southern Philippines. The group split from the much larger Moro National Liberation Front in the early 1990s under the leadership of Abdurajak Abubakar Janjalani, who was killed in a clash with Philippine police in December 1998. His younger brother, Khadaffy Janjalani, replaced him as the nominal leader of the group. The group's goal is to promote an independent Islamic state in western Mindanao and the Sulu Archipelago, area in the southern Philippines heavily populated by Muslims. In April 2000, an ASG faction kidnapped 21 persons, including 10 Western tourists, from a resort in Malaysia. On May 27, 2001, the ASG kidnapped three U.S. citizens and 17 Filipinos from a tourist resort in Palawan, Philippines. Several of the hostages, including U.S. citizen Guillermo Sobero, were murdered. Philippine authorities say that the ASG had a role in the bombing near a Philippine military base in Zamboanga in October 2002 that killed a U.S. serviceman. In February 2004, Khadaffy Janjalani's faction bombed SuperFerry 14 in Manila Bay, killing approximately 132, and in March, Philippine authorities arrested an ASG cell whose bombing targets included the U.S. Embassy in Manila.

Today, however, after a year of joint operations between U.S. and Phillipine personnel consisting of combat patrols, civil affairs assistance, and local interaction with the citizens on the island, the majority of ASG personnel and other terrorist groups have been squeezed out of the island. Not only have most of the nefarious characters departed, but as our troops built wells and provided educational assistance they gained the trust of the inhabitants. They showed them a better way of life and thus ensured that once they left the terrorists would not be welcomed back. Thus far the method has worked, and a haven for terrorism has been eliminated. Through establishing security, building infrastructure and winning the confidence of the locals, Basilan Island has transformed into a place where terrorists are no longer welcome, and although U.S. and Philippine forces have largely left, the terrorists have not returned.

RAJADAMRI COMPOUND

Mr. President, on a number of occasions this session, I have addressed my colleagues about the critical importance of engagement and maintaining strong relationships with our allies in Southeast Asia. As I have described, an active U.S. presence is essential for a number of vital economic, security and strategic reasons. The United States has a number of strong allies in the region and these relationships are very important for promoting our policies pursuing peace, stability and prosperity in Southeast Asia. I remind my colleagues that the United States and the Kingdom of Thailand will soon celebrate 175 years of formal relations between the two countries, which makes Thailand our foremost and longest standing ally in Asia. It is in this context that I rise to address the significance of the Rajadamri Diplomatic Compound occupied by the U.S. Embassy in Thailand.

After the end of World War II, the U.S. Government intervened with the Government of the United Kingdom on behalf of the Kingdom of Thailand. The United Kingdom was demanding war reparations from the Kingdom of Thailand, which was nominally allied with Japan during the war. However, the United States argued that during the war the Allies received very meaningful assistance from the Free Thai movement, which was composed of a significant number of the Thai leadership. In 1949, in acknowledgment of the U.S. role in assisting the Free Thai movement and in persuading the United Kingdom to forego pursuit of war reparations, the Royal Thai Government sold Rajadamri to the United States for a nominal sum and transferred title to the 17 acre compound.

Rajadamri is a beautiful piece of property. Located in the heart of bustling Bangkok, around the corner from the U.S. Embassy and across from the famous Peace Park, Rajadamri is a magnificent setting where a visitor can simultaneously admire the imposing modern towers of downtown Bangkok and feed a Mekong catfish or pet the good-natured Chihuahua that lives on the grounds. The tranquil compound also houses three historic Thai homes that were built by the king for favored members of the royal family. Rajadamri represents a true gesture of friendship from the Thai Government and the people of Thailand. The granting of these royal residences to the U.S. Government is unprecedented and emphasizes even more so that this gift is a true symbol of the gratitude of the Thai people.

This compound has played a significant role in the long relationship with our stalwart Thai allies. In addition to the close cooperation between U.S. Forces and the Free Thai during WWII, the Thai Government has stood by the United States during Korean, Vietnam, Gulf, Afghanistan and Iraq wars. The Thais remain a very close friend in Southeast Asia and provide a variety of assistance beyond military, including delivering important assistance to Indonesia, Sri Lanka and other countries affected by the tsunami of 2004; and serving as the strategic center for our efforts to deal with Avian influenza and other pandemic risks. During the Vietnam War, the morgue used for transferring soldiers killed in action from Vietnam to the U.S. was initially located on this compound. Rajadamri has served as a base for regional U.S. financial operations. Rajadamri also continues to house numerous embassy support elements, along with other facilities supporting assistance programs, our war against terrorism, operations to eliminate trafficking in humans and drugs, and our operations to promote peace and stability in the region.

As the Rajadamri compound was essentially a gift to the United States by a grateful Royal Thai Government, I believe it is our obligation to continue to use the compound in a manner that is consistent with the spirit in which it was given to the United States. The Kingdom of Thailand is one of the United States true friends in the world. In honor of that friendship, in an effort to strengthen our warm relations and in hopes that the relationship will grow as we continue to meet challenges in the region and the world, we must maintain Rajadamri as a centerpiece of our mission to Thailand. I urge my colleagues to support me on this point.

The PRESIDING OFFICER (Mr. COBURN). The Senator from New York is recognized.

Mr. SCHUMER. I ask unanimous consent that I be recognized for up to 10 minutes as in morning business and that following my remarks Senator LEVIN be recognized for up to 10 minutes and that the time not be charged against the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

WIRETAP

Mr. SCHUMER. Mr. President, I rise to read a quote that I thought my colleagues might be interested in. Let me first read the quote. It says:

> Secondly, there are such things as roving wiretaps. Now, by the way, any time you hear the United States government talking about wiretap, it requires—a wiretap requires a court order. Nothing has changed, by the way. So when we're talking about chasing down terrorists, we're talking about getting a court order before we do so. It's important for our fellow citizens to understand, when you think Patriot Act, constitutional guarantees are in place when it comes to doing what is necessary to protect our homeland, because we value the Constitution.

Now, that sounds like something that would come from somebody saying, of course, we ought to have court orders before we wiretap our citizens. Well, let me tell my colleagues who made this statement. It was President Bush in 2004, on April 20, in my home State of New York, in the great city of Buffalo.

Let me read what the President said while we are talking about this new revelation about wiretaps. He says again, this is a quote from President Bush, April 20, 2004:

> . . . any time you hear the United States government talking about wiretap, it requires—a wiretap requires a court order. Nothing has changed, by the way. When we're talking about chasing down terrorists, we're talking about getting a court order before we do so. It's important for our fellow citizens to understand, when you think Patriot Act, constitutional guarantees are in place when it comes to doing what is necessary to protect our homeland, because we value the Constitution.

So I have a question for the President: Sir, with all due respect, what has changed? If, on April 20, 2004, you said we needed a court order to do wiretaps when we listen in on our citizens, why is it now that you are out there busy saying we do not need a court order; that the law does not require it?

On April 20, 2004, I would say to the President, you obviously knew that this program of wiretapping citizens was in effect. Why did you say we always need a court order, that that is what the Constitution says, "because we value the Constitution," "constitutional guarantees," your words?

I think this shows the speciousness of the argument that has been made by those in the White House, including the President, that, of course, wiretapping citizens without a court order is perfectly allowed by the law. The President himself stated something that you learn in law school, that you probably even learn in a civics class in high school or a constitutional law class in college, that a wiretap for an American citizen requires a court order.

The President of the United States stated:

> . . . any time you hear the United States government talking about wiretap, it requires—a wiretap requires a court order . . .

I could not have stated it any better myself. That is the law. That has been the law for a long time in this country and many believe that the Constitution, the fourth amendment, so requires.

So I would ask the President now to admit that in the heat of the aftermath of 9/11, something we all felt, that a mistake was made; that the Government went ahead and wiretapped American citizens without a court order. That was a mistake and should not be repeated or defended. We Americans realize that we need security as well as liberty and, in fact, in the Pantheon of values, I guess security might come a little bit above liberty, but as the President is implying, when it comes to wiretaps we can have both. So for all the sturm und drang, for all the fuss that has been made, oh, of course, everyone knows the law does not require us to get a court order for wiretaps, the President's basic knowledge—and by the way, from what I am told, this is from the President's archives. He went off the script and just said this on his own, that he knew that a wiretap requires a court order.

So I would ask the President to reconsider his words of the last few days. I would ask the President to join the vast majority of Americans who know that if you are going to wiretap an American citizen, of course, you have to go to court. And if it is unwieldy to do so, that you go to Congress and change the law. You do not change it with the flick of a pen.

You compare this statement, what the President said in Buffalo, NY, on April 20, 2004, to what the President is saying in the last few days, it is a 180-degree turn.

Mr. President, which one do you really mean? Which one do you really believe? Please, no one should be playing political games on something as serious as the delicate balance between security and liberty.

So I ask my colleagues, as we consider possibly renewing the PATRIOT Act, to read what the President has said. The view that we have had on this side of the aisle, that it was sort of beyond discussion; that if one is going to wiretap an American citizen, they needed court permission—in emergencies, of course, it is allowed 72 hours after it is done—that that was more or less the consensus in this country, and it was a consensus the President was part of at least as of a year and a half ago.

What made the President change his views? What made him reverse the universally accepted view that a wiretap requires a court order is beyond me. But let us move forward here. Let us come together, realize that we must protect ourselves but that we can protect ourselves and protect our liberties at the same time.

I urge the President to explain why he said what he did on April 20 and why what he is saying now is so different and to return to the position that most Americans accept, the position he had on April 20 but has since vanished, and that is that to wiretap an American citizen requires a court order.

I yield my remaining time and yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 10 minutes.

Mr. LEVIN. I ask unanimous consent that Senator CANTWELL be recognized immediately after I conclude, for 10 minutes under the same conditions as I am speaking under.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEFENSE APPROPRIATIONS

Mr. LEVIN. Mr. President, a totally extraneous provision allowing for oil and gas drilling in Alaska's Arctic National Wildlife Refuge—ANWR—has been inserted in the Defense Appropriations Conference Report. The provision was in neither the House or Senate bill which went to conference. This provision clearly violates Senate Rule 28 which states:

> Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses. If new matter is inserted in the report, or if matter which was agreed to by both Houses is stricken from the bill, a point of order may be made against the report, and if the point of order is sustained, the report is rejected or shall be recommitted to the committee of conference if the House of Representatives has not already acted thereon.

It is clear that the ANWR provision violates Rule 28 and that the Presiding Officer will, on the advice of the Parliamentarian, so rule. The sponsors have indicated that they will appeal such a ruling of the Presiding Officer and seek to overrule it. If they are successful, this would, in effect, eliminate enforcement of Rule 28.

That is why language has been inserted in the Defense Appropriations Conference Report which would, upon the signing of the legislation into law, attempt to reinstate Rule 28's effectiveness. That provision states:

> Effective immediately, the presiding officer shall apply all the precedents of the Senate under Rule 28 in effect at the beginning of the 109th Congress.

Playing ping pong with the Senate rules is an outrageous process. Violating a Senate rule and restoring it, all in the same bill, if permitted to occur, means the rules of the Senate are subject to the whim of conference committees. Rules will exist or can be ignored, violated, or reinstated at the whim of the conferees. Conference reports could be used by a Senate majority to circumvent any Senate rule. Each conference committee becomes a Rules Committee—every conference report can accomplish anything the majority wants regardless of the Standing Rules of the Senate. Senators should play by the rules, not play with the rules. Do we care if the Senate rules take a massive blow? Why are we contemplating destroying our process this way?

The majority has cited as a precedent the 1996 Federal Aviation Authorization Conference Report. A Rule 28 point of order was raised against that bill because of out of scope matters which were added in conference. The ruling of the Chair was overturned by the Senate, creating a precedent that the Senate so regretted that, by bipartisan agreement, 4 years later, the Senate restored the enforcement of the rule.

The trashing of our rules proposed in this Defense Appropriations bill in order to get an unrelated provision passed, is far worse than the mistake we made in 1996. The effort to combine the destruction of a rule and its restoration all in the same legislative act would create a precedent which could lead to the routine circumvention of any Senate rule by conference committees. Is this what we want to do in the Senate—to leave ourselves without rules we can rely on?

If the suspension of a rule has merit, the Senate has a process under its rules to suspend it. Suspension of a rule simply requires a 1-day advance notice and a ⅔ vote. This is the proper way to proceed under the rules, not abusing the conference committee process to allow the majority to change the rules at any time for any purpose by adding language to a conference report.

So what can a minority do in response to protect itself in the future against this trashing of the rules? The minority would presumably never agree to allowing the Senate to appoint conferees. Since the steps leading to conference require the cooperation of the minority party in most instances, why would the minority leave itself vulnerable to losing the protections of 200 years of Senate rules, precedents, and history? My colleagues, walking down this road leads us to an abyss. Why are we doing this to the Senate? I am afraid it is because some have the power to do it and get their legislative goal accomplished.

Arthur Vandenberg, one of my predecessors from Michigan is one of the giants of Senate history. His portrait was recently added to the Senate Reception Room outside of this chamber where he joined six other greats of the Senate. Senator Vandenberg back in 1949 said:

> I continue to believe that the rules of the Senate are as important to equity and order in the Senate as is the Constitution to the life of the Republic, and that those rules should never be changed except by the Senate itself, in the direct fashion prescribed by the rules themselves.

Senator Vandenberg added that when:

> . . . we fit the rules to the occasion, instead of fitting the occasion to the rules . . . in the final analysis, under such circumstances, there are no rules except the transient, unregulated wishes of a majority of whatever quorum is temporarily in control of the Senate. That, Mr. President, is not my idea of the greatest deliberative body in the world. . . . No matter how important [the pending issue's] immediate incidence may seem to many today, the integrity of the Senate's rules is our paramount concern, today, tomorrow, and so long as this great institution lives.

No Senator, no matter how he or she feels about ANWR, should accept the abuse of power which is incorporated in the ANWR add-on to the Defense Appropriations bill. That bill, so important to our troops and our national security should not be misused in this way.

Mr. President, I yield the floor. I notice that Senator CANTWELL is on the floor.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. REID. I would say to the Senator from Washington, Senator FRIST will be here shortly to do maybe, I hope, a unanimous consent request. If that is the case, I ask the Senator from Washington to allow us to interrupt.

Ms. CANTWELL. I am happy to.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, many of my colleagues have been on the floor talking about the importance of the votes tomorrow, and I want to remind my colleagues that I do think that these votes are important for the Senate process. I am very disturbed, as are many of my colleagues, that we have moved forward with the Department of Defense appropriations bill that includes language to open up drilling in the Arctic National Wildlife Refuge as well as a provision allowing drug manufacturers to be protected from liability from lawsuits for vaccines that they make.

I think most of my colleagues thought we were going to vote on a Department of Defense appropriations bill tomorrow that was going to help our troops and give military pay raises and help provide security for our Nation. The last thing I think many Americans think is a nexus to that is drilling in the Arctic Refuge, particularly when many Americans believe we don't have enough energy independence and need to get over our over dependence on fossil fuels.

I hope my colleagues understand how important this issue is. We have been contacted by military leaders, retired military leaders who have said:

> . . . any effort to attach controversial legislative language authorizing drilling in ANWR to the defense appropriations conference report will jeopardize Congress' ability to provide our troops and their families the resources they need. . . .

This coming from retired military personnel who thought it was so important they actually sent a letter saying they were concerned that this legislation would hold up funding for our troops. That letter has previously been printed in its entirety in the RECORD.

We have also been contacted by the Retired Military Officers Association. These are individuals, too, who want to see legislation go through because they want to make sure the men and women in the military receive their increase in pay and take care of the troops overseas and get all the enforcements they need in a Defense bill. But they also wrote to us saying:

> We are concerned that the insertion of any divisive, non-defense related issues at the last minute could further delay the enactment of this crucial legislation.

So military leaders from around our country are saying they do not like the antics of putting ANWR drilling, a very divisive issue that has been debated for 25 years, into a Defense appropriations bill. This is coming from the military men and women who want to see a clean defense appropriations bill.

I should say to my colleagues that there are other people watching this issue as well. We have newspapers across the country that are also calling out for Congress to be more responsible on this legislation. They are hearing the complaint, as I am, from many parts of the country about this legislation and the way it has been put together.

The Statesman Journal in Salem, OR, states that some U.S. lawmakers are still trying to scheme and allow oil drilling in the Arctic National Wildlife Refuge.

I heard my colleague talk about the vote tomorrow and the process. I just wish to emphasize that while there will be points of order as it relates to the budget and the budget process allowing for a budget point of order and the rules of the budget as it relates to this bill, the Defense appropriations bill, there is language in here that I believe is outside the scope of this legislation and should not be allowed.

I hope my colleagues understand that is one of the possible votes tomorrow—on whether this language on the Arctic National Wildlife Refuge, as my colleague from Michigan said, has no inclusion, neither in the House nor Senate original proposal, has no place showing up in a conference report in the eleventh hour. That is why we are hearing from people all over the country about how absurd it is to include this in the legislation.

I hope, if my colleagues are forced to have a vote on upholding the ruling of the Chair, that they will realize they are really overturning the Senate rules if you disagree with the ruling of the Chair on this issue. This is not the same as the budget process. It is part of our Senate rules. The Senate rules, as the Senator from Michigan read, are very clear. You can't include things in a conference report that were in neither House nor Senate version. But that is exactly what the Senator from Alaska has tried to do.

Alaska will likely get, from drilling in the Arctic National Wildlife Refuge, $5 billion in bid bonuses. I actually think that this proposal, even for an Alaskan, is shortsighted.

America needs to be diversifying into alternative fuels like biofuels, and be focusing on lightweight materials that help us be efficient.

I think that is why this newspaper in Oregon calls this plan shortsighted, that it is disgusting that lawmakers would try to equate oil profits with the Nation's true defense needs. That is what newspapers across the country are saying about this legislation. I believe they are right because we are doing a great disservice to the men and women in the military by continuing to talk about this issue without being specific to the fact that we are adding something that should never have been put in this legislation.

Another Oregon newspaper, the Oregonian also said that Arctic drilling has been thrown into the Defense bill, and it is an emotionally charged matter of supporting the troops at a time of war, and it does not belong there.

This is from another newspaper: It doesn't belong there.

Americans are watching and paying attention to the fact that this legislation was thrown in at the eleventh hour. I believe we should pull it out and get on about our business of passing a Defense appropriations bill.

Let me mention another issue that I am sorry is in this legislation.

I have for the RECORD several editorials that I would also like to submit for the RECORD on this issue of immunity for drug and vaccine manufacturers. There are several here that deserve being a part of the RECORD. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times Dec. 14, 2005.]

THE STEALTH LIABILITY PROVISION

Republicans are using the last days of this Congressional session to try to grant extraordinary liability protection to the drug companies that will make the vaccines and other medicines to combat a possible influenza pandemic. But they have been slow to mount a comparable effort to help the people who may be harmed by adverse side effects.

Although liability protection is being portrayed as a vital step in carrying out the president's $7 billion flu pandemic plan, it serves a political purpose as well. The insulation against liability looks suspiciously like an effort to reward the drug companies, which help bankroll Republicans, and punish the trial lawyers, who help bankroll Democrats.

Some form of liability protection is clearly needed, if only to allay the concerns of drug company executives worried about lawsuits. We know how to provide sensible liability protection and have done so for routine childhood immunizations, and for the national swine flu vaccination campaign of 1976 and the smallpox vaccination effort two years ago. But each time individuals had a mechanism to seek compensation, and often, if warranted, the government could sue the manufacturers.

For a pandemic, however, Republican leaders would allow suits only if there was willful misconduct. The companies could be reckless or grossly negligent and escape responsibility. As for victims' compensation, the Republicans have been vague and secretive, but claim that they will produce a fair and robust compensation system. Their provision is expected to be attached to a defense appropriations bill that is now before a conference committee and, once approved, cannot be amended on the floor.

The conferees ought to shun that provision and leave the complexities to fuller discussion early next year.

[From the Des Moines Register, Dec. 9, 2005.]

DRUG MAKERS DON'T NEED GIFT

President Bush and Congress are trying to give a Christmas present to one of their favorite industries—the drugmakers. Senate legislation seeks to create a new government division within the Department of Health and Human Services with the power to shield drug companies from lawsuits.

The legislation would allow drug makers to create a product with no threat of civil accountability—even if they're negligent.

That's wrong on its face. But there's also no reason for doing it. The motivation appears to be based on an untruth repeated recently by President Bush.

Last month, when he outlined a prevention plan for an avian-flu outbreak, he also called on Congress to "remove one of the greatest obstacles to domestic vaccine production: the growing burden of litigation." He said the industry had been "flooded" with lawsuits.

In an independent review of jury verdicts and judicial decisions for cases involving flu vaccine, two Harvard researchers found 10 suits in the past 20 years. Just 10.

The industry doesn't need protection from litigation—or any more gifts from its friends in Washington.

[From the Detroit Free Press, Dec. 16, 2005.]

VACCINE MAKERS: LAWMAKERS SERVICE PEOPLE, NOT DRUG COMPANIES

As panicky as Americans may some day become about getting vaccinated against bird flu, that urgency does not translate into walling off vaccine makers from lawsuits or invoking secrecy around medical research.

Attempts to add those measures to year-end bills piling up in Congress are subterfuges to dodge the full debate that would probably sink them.

Some vaccines do come with risks. The best model so far for addressing them is the one used for children's immunizations, which includes a fund to reimburse anyone harmed by a vaccine.

Shielding drug companies completely could undermine confidence in the vaccines they do develop for an epidemic, which would heighten the risk if bird flu mutates into a form easily transmitted from human to human.

Managing public fears—whether of the illness or the preventive measures or both—is an essential part of any health strategy.

In that context, how to handle a rush vaccination program merits serious debate.

Shoehorning industry favors into other bills, such as the defense spending bill, does not meet the threshold.

Another potential stealth insert is a plan to create a biomedical research agency that would not have to answer Freedom of Information Act requests or follow other accountability rules normally applied to federal agencies.

The vaccine shield was part of that plan; groups allied against it wonder whether some of the secrecy provisions also could get slipped into a spending bill.

The research agency bill allows more information to be hidden than any current law, according to analyses by journalists' associations lined up in opposition.

Public health programs work best when they live up to that name by operating in the open and serving the common good.

Congress needs to remember that its first responsibility is to the health of people in this country, not to the companies that get contracts to help protect it.

Ms. CANTWELL. For example, the Register-Guard—I don't know why Oregon is paying so much attention to what is happening, but they are on top of things—says in an editorial, "Unjustifiable protection against lawsuits," making sure to protect the drug companies is an immunity deal for vaccine makers that has been slipped into the Defense bill.

They think it is unjustifiable.

Another paper, the Vindicator, a Youngstown, OH, newspaper with the headline: "Trading on fear by passing legislation is wrong."

It says that when legislators begin attaching complex legislation with far-reaching effects to must-pass bills, a tactic designed to grease the way for passage with virtually no debate, people should be alarmed.

I ask unanimous consent these articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Register Guard, Dec. 14, 2005]

VACCINES COME WITH RISK

President Bush and Republican leaders in Congress are right to focus special attention on improving the nation's capacity to develop and distribute vaccines quickly. No response to a bioterrorism attack or influenza pandemic would save more lives than rapid, widespread immunization of healthy people.

But it's inexcusable to exploit public fears of a flu pandemic as a means to grant the drug industry unjustifiable protection against lawsuits filed by injured patients. Senate Majority Leader BILL FRIST is attempting to slip immunity for drug and vaccine makers into a defense spending bill without debate.

It's not just unseemly to concoct such a blatant Christmas giveaway for the pharmaceutical industry. Barring injured patients from seeking compensation undermines the very public health goals an effective vaccination program seeks to promote. Case in point: the Bush administration's 2003 effort to have health professionals and first-responders immunized against smallpox.

Some military personnel and others who received the smallpox vaccine suffered heart attacks and neurological disorders. When other first-responders were told there would be no compensation for anyone who experienced adverse reactions, the backlash stopped the program in its tracks.

President Bush would have Americans believe that greedy trial lawyers and runaway jury verdicts have crippled vaccine makers. Hogwash. The idea that U.S. vaccine production has suffered as a result of product liability lawsuits is a Trojan horse designed to sneak the administration's tort reform agenda into must-pass public health legislation.

Here are the facts: A study of "Legal Concerns and the Influenza Vaccine Shortage" by two Harvard University School of Public Health professors found only 10 lawsuits against the manufacturers of flu vaccine during the past 20 years. Moreover, pharmaceutical companies have been making heavy recent investment in vaccine R&D without any additional liability protection.

The common-sense solution to this issue has existed since 1986. It's called the Vaccine Injury Compensation Program, a no-fault fund that shields drug manufacturers from most lawsuits by compensating patients who can prove they were injured by a vaccine.

All Congress needs to do is extend the VIC plan to any new federal flu pandemic vaccine. That solves the problem without creating the first blanket industry product liability immunity in the nation's history.

[From the Vindicator, Dec. 13, 2005]

TRADING ON FEAR TO PASS VACCINE LEGISLATION IS WRONG

When legislators start playing on the worst fears of people, the people should be worried. And when legislators begin attaching complex legislation with far reaching effects to must-pass bills—a tactic designed to grease the way for passage with virtually no debate—people should be alarmed.

The American people should be both worried and alarmed by the efforts of Senate Majority Leader Bill Frist to ram through legislation in the name of protecting the nation from a bird flu epidemic. The bill would not only indemnify the pharmaceutical industry from suits involving death, disability or sickness resulting from the use of pandemic flu vaccines, but would create a new secret bureaucracy to shield the government's health decisions from public scrutiny.

The need to provide some sort of protection to pharmaceutical and biotechnology companies that provide life-saving vaccines is arguably necessary.

Even though a study by Harvard public health professors reported in the October 2005 Journal of the American Medical Association concluded that there were only 10 vaccine-related civil lawsuits brought in the United States in the last 20 years, wariness by pharmaceutical companies in pursuing new vaccines is understandable. In today's litigious climate, it only takes one big mistake to bankrupt a company.

VIGOROUS DEBATE NECESSARY

But the need to protect vaccine providers from unreasonable risks should be vigorously and openly debated in Congress. If companies are to be indemnified against potential catastrophic losses by the federal government, should the federal government share in any extraordinary profits a company makes when its vaccine is a market success?

But there will be no such discussion of hypotheticals if FRIST has his way. He is attempting to attach the liability shield bill of Sen. Richard Burr, R–NC, onto a must-pass defense spending bill.

Even more troubling, S.B 1873 would establish the Biomedical Advanced Research and

Development Agency within the Department of Health and Human Services. BARDA would be presided over by a presidential appointee and would assume many of the functions of the U.S. Centers for Disease Control and Prevention and the National Institutes of Health.

But unlike the CDC and NIH, BARDA would be exempt from the Freedom of Information Act.

Ms. CANTWELL. The Toledo Blade editorial said:

> Congress and President Bush have acted sluggishly in protecting the nation from public health emergencies, but they can move at lightning speed when it comes to helping their friends in the pharmaceutical industry.

I ask unanimous consent to have that printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Toledo Blade Editorial, Dec. 16, 2005]

CONGRESS, ON DRUGS

HELPING THEIR FRIENDS IN THE PHARMACEUTICAL INDUSTRY

One example: A Senate bill aimed at creating a stealthy new federal agency to shepherd rapid development of drugs and vaccines to be used against bio-terrorism and pandemic disease.

Against the backdrop of potentially deadly bird flu outbreaks worldwide, it sounds like a good idea, but a closer look reveals a plan for blanket immunity for industry against legal action by anyone hurt or killed by defective drugs or vaccines. Worse, the agency's activities would be shielded from public view by an exemption from the federal Freedom of Information Act, broader even than the CIA enjoys.

The bill, introduced in mid-October by Sen. Richard Burr, Republican of North Carolina, reportedly is set to be attached to a defense appropriations bill that Congress must pass this month before lawmakers leave town for the holidays. That means there would be little or no debate.

The legislation would be welcomed at the White House, which has demonstrated repeatedly that it wants to govern with the least amount of public input and as much secrecy as possible.

Not surprisingly, the action is being taken in the wake of two reports that give the Bush Administration low marks for emergency preparedness.

First, the 9/11 commission gave the government an F for lackluster homeland security efforts since the terrorist attacks more than four years ago. That was followed by a stinging D+ from Trust for America's Health, a nonprofit, nonpartisan Washington organization that graded the administration's overall public health capability in the event of a disaster.

Senator Burr has been quoted as saying the legislation is necessary to provide "the incentives and protections necessary to bring more and better drugs and vaccines to market faster." Experts, however, say the industry is doing just fine and doesn't need special treatment. Moreover, despite claims to the contrary, there has been no disruptive wave of lawsuits against drug manufacturers.

And, working in secrecy, BARDA would have the sole authority to determine what medical equipment, drugs and vaccines would be shielded from civil lawsuits.

We have editorialized before about the penchant for the Bush administration, which backs S.B. 1873, to try to expand the secrecy under which government operates. It began long before the threat of avian flu, even before Sept. 11, 2001. But the administration and its supporters have not been shy about using fears of disease or terrorism or national security to further a goal of being able to operate with less and less public oversight.

If Burr's bill is a good one, it should be able to survive the healthy debate that is supposed to be a part of the legislative process.

Likewise, if bureaucrats are making life and death decisions regarding the medical care that is available to the American people, they should be subject to the same Freedom of Information law that existing public health agencies work under.

Ms. CANTWELL. The St. Louis-Dispatch, "Vaccines: Shot in the dark."

> Nor is there any reason to provide extraordinary liability protection for drug companies making bird flu vaccine.
>
> It may be attached to a defense appropriations bill . . . that would be a big mistake.

I ask unanimous consent that be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the St. Louis Post-Dispatch, Editorial, Dec. 15, 2005]

VACCINES: SHOT IN THE DARK

Shielding vaccine makers from accountability won't speed the development of new drugs to fight bioterrorism. But that's the approach some in Congress seem bent on taking.

Rushing to get home for Christmas vacation, Congress is poised to approve an ill-considered bill introduced by Senate Majority Leader Bill Frist, R-Tenn. The bill would create a new bureaucracy, the Biomedical Advanced Research and Development Agency, that would perform many of the functions now carried out by the U.S. Centers for Disease Control and Prevention and the National Institutes of Health.

It's being sold as an essential step in President George W. Bush's pandemic flu plan, and a short-cut to the development of vaccines for other diseases that could be used in a bioterror attack. It is neither.

The new agency would be exempt from the federal Freedom of Information Act. And it would have the authority to block civil actions on drugs, vaccines and other medical devices developed for it. That means patients would have no right to compensation if they were harmed, and professional groups could be blocked from getting information about things like complication rates.

The foundation of public health is sharing information, making it as widely available to individuals and local governments as possible. Arguing that an agency designed to help combat bird flu or bioterror should work in extraordinary secrecy is as puzzling as it is wrong-headed.

Nor is there any reason to provide extraordinary liability protection for drug companies making bird flu vaccine. For 20 years, America has had a vaccine injury compensation fund that helps people injured by side-effects of inoculations and protects vaccine makers from excessive liability. It works fine, so why tamper with it?

Most analysts say that recent reductions in the number of vaccine makers are tied to low profit margins and uncertain markets, not to the fear of lawsuits. Now, with guarantees of massive government purchases, the industry is gearing up research and production. It doesn't need these new protections.

Dr. Frist's bill could be voted on by the end of the week. It may be attached to a defense appropriation bill that would be the last thing Congress votes on this year. That would be a big mistake.

Ms. CANTWELL. The Times-Tribune of Scranton, PA, said:

> . . . the prospect of a pandemic is being used by Congress to pander to the pharmaceutical industry.

And:

> Congress should not use legitimate concerns about a flu epidemic as a wedge to protect the manufacturers from liability.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Times-Tribune, Dec. 12, 2005]

PANDERING PANDEMIC

Fear of an avian flue pandemic has driven the government to find ways to increase the production of vaccines while improving monitoring and detection technology. Unfortunately, the prospect of a pandemic also is being used in Congress to pander to the pharmaceutical industry.

The Biodefense and Pandemic Vaccine and Drug Development Act of 2005 would create a new federal agency that would be exempt from public disclosure laws, while superseding many of the functions now handled by public agencies such as the National Institutes of Health and the Centers for Disease Control and Prevention. It would have the power to designate certain drugs as exempt from civil liability litigation.

That measure cannot be directed at vaccines. According to a study of recent flu vaccine shortages by the Harvard School of Public Health, only 10 liability suits have been filed against vaccine manufacturers over the last 20 years. Most such claims are handled under the National Vaccine Injury Compensation Program.

Economic factors produce vaccine shortages. Vaccines are difficult and costly to produce, and unlike for prescription drugs, there is no definitive long-term market. That's why the federal government, quite rightly, has begun to subsidize vaccine production.

Members should get a copy of the most recent issue of the New England Journal of Medicine, which accuses Merck of misrepresenting the results of clinical trials of Vioxx, the anti-inflammatory medicine that was pulled from the market this year.

Ms. CANTWELL. Several other articles that I will go through include the Roanoke Times, that this legislation is in pursuit of secrecy around this issue.

The Orlando Sentinel: Drug firms don't deserve virtually unlimited protection against vaccines lawsuits that would shield manufacturers.

The Raleigh, NC newspaper: Wrong way immunity.

One more, the Las Vegas Sun, titled "Vaccines and accountability: Bush's proposal to shield avian-flu vaccine makers from liability invites health problems."

I ask unanimous consent to have those printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the World News, Dec. 11, 2005]

NAUGHTY PURSUIT OF SECRECY

(By Tommy Denton)

As is his custom this time of year, Santa's been making a list and checking it twice, finding out who's been naughty and nice.

President Bush and other perpetrators of the nefarious "Black Drug Act" should consider themselves in the "naughty" column.

OK, the "Black Drug Act" slightly overstates the nefariousness of the Biodefense and Pandemic Vaccine and Drug Development Act of 2005, its formal title, but not all that much.

Introduced in October in response to natural and potentially terrorist-induced pandemics, the bill would create a new federal bureaucracy under a presidential appointee charged with overseeing a vast new initiative to develop remedies for such events.

Skeptics might wonder why the administration supports creating another agency that effectively duplicates the functions currently assigned to the highly capable U.S. Centers for Disease Control and Prevention, the National Institutes of Health and other federal public health operations.

The answer, for those untutored in the ways of Washington in general and the Bush administration in particular, lies in the proposed agency's license to operate under smothering secrecy.

That's where the "black" comes in under the legislation's informal title, as in the "black" operations of the military that are exempt from public awareness or exposure.

The same would apply for the Biomedical Advanced Research and Development Agency, which, with its extra-judicial powers and supervision by a political appointee, would be cloaked in official secrecy while ensuring that remedies for fighting a biological outbreak or attack would remain equally "black."

Translated into operational terms, that means BARDA would grant astounding levels of secrecy and legal immunity from civil lawsuits filed by persons harmed by the products of the drug companies overseen by the agency.

Even the business of the agency would be exempt from the public protections of the federal Freedom of Information Act. The Defense Department and Central Intelligence Agency are required to meet the accountability standards of such scrutiny, for goodness' sake, so the shield provided to BARDA and its clients in the pharmaceutical industry should elicit a public denunciation of epic proportions.

Yet, under the president's eager support, a squadron of Republican senators has been shoving the bill closer to passage with a frightening lack of public attention to its perils.

Bush pleaded early last month: "One of the greatest obstacles to domestic vaccine production [is] the growing burden of litigation. In the past three decades, the number of vaccine manufacturers has plummeted, as the industry has been flooded with lawsuits."

Oh? According to a study published in October of 2004 in the Journal of the American Medical Association by Michelle Mello and Troyan Brennan, Harvard University School of Public Health professors, only 10 lawsuits were filed against makers of flu vaccine in the last 20 years.

And the president's alleged flood of lawsuits apparently has not seriously discouraged such manufacturers of vaccines for influenza and other infectious diseases as Merck, Wyeth, GlaxoSmithKline, Novartis and the Swiss company Roche.

Sanofi-Pasteur, the nation's largest flu vaccine maker, already has invested $150 million to double its production capacity in response to the likely demand for its products, according to a recent report on National Public Radio.

The key for the White House and congressional leadership in this effort to invoke official secrecy and stymie the civil justice system in the event of malpractice and negligence is, simply, fear.

Never mind that sound, cutting-edge medical science—indeed, all science—and responsive public policy work best under the confidence-building conditions of public transparency.

If you have no concern for science or the patience for transparency, then raise the specter of bio-terrorists preying on a vulnerable nation, invoke the need to work in secret to repel that peril, and you're halfway home.

Boogy, boogy, boogy!
Killer viruses!
Hide, take refuge in secrecy, hide!
Boogy, boogy, boogy!

Under such fear-inspired secrecy, the public would be stripped of the very openness and accountability required to acknowledge, assess and overcome threats to public health and safety—processes essential in a democratic republic.

No, the Black Drug Act has precious little to do with much of anything other than securing an expanded sphere of official secrecy in which the administration and its favored corporate benefactors can exploit the fruits of fear.

Santa's still making his list, and he's not amused.

[From the Orlando Sentinel, Dec. 13, 2005]

LEARN FROM PAST VACCINES: DRUG FIRMS DON'T DESERVE VIRTUALLY UNLIMITED PROTECTION AGAINST VACCINE LAWSUITS

Even with the threat of a worldwide bird-flu pandemic, U.S. vaccine manufacturers might be unwilling to respond without protection from lawsuits. Protection is fine but it needs limits and some recourse for victims.

The leading proposal in Congress, from Senate Majority Leader Bill Frist, would bar lawsuits except where a manufacturer's willful misconduct caused injuries or deaths. That standard is much too permissive; it would shield manufacturers in cases of gross negligence, such as failing to follow normal safety procedures.

Yet Mr. Frist's proposal would not set up an alternative system to compensate victims of severe reactions, which are inevitable in any mass vaccination. Congress made the same mistake preparing for a swine flu pandemic in 1976. That program collapsed amid widespread fears about harm from the vaccine. The country was lucky the pandemic never materialized.

Congress gave lawsuit protections to childhood-vaccine manufacturers in 1986, but wisely created a compensation system for severe reactions. Rep. Dave Weldon, a Palm Bay Republican and doctor, is rightly concerned that the lack of a system for a bird-flu vaccine could deter doctors and others on the front lines in a pandemic from getting vaccinated.

Mr. Weldon also sensibly proposes an independent review of the safety of a bird-flu vaccine, to anticipate problems and build public confidence in the program.

Without limits and the kind of measures Mr. Weldon advocates, lawsuit protection for flu-vaccine manufacturers could backfire.

[From the News and Observer, Dec. 16, 2005]

WRONG-WAY IMMUNITY

It's understandable why the Bush administration and its Capitol Hill allies are trying to speed up the production of vaccines and drugs to combat pandemics and bioterrorist attacks. But in that effort, the administration and Republican Sen. Richard Burr of North Carolina have gone off course.

A bill introduced by Burr has come under wide criticism because of its intended formation of a large new bureaucracy wrapped in secrecy and its lack of accountability to the citizens it is designed to protect. With the measure stalled in the Senate, the sponsors appear intent on trying to pass it as a rider to the defense appropriations bill.

This kind of end run around fuller consideration would be a mistake. The Senate especially needs a more complete exposition of the Burr bill's proposal that the Biomedical Advanced Research and Development Agency (BARDA) be exempt from the Freedom of Information Act.

Even more sweeping is a provision empowering the new agency to shield from any legal action those producing vaccines, drugs, medical equipment or other products turned out to combat pandemics or bioterrorism. Such a broad exemption from liability is hardly justified on the record.

A study reported by the Journal of the American Medical Association found, for example, that there had been only 10 lawsuits in 20 years over flu vaccines. Drug companies don't get out of the vaccine business because of liability, the study's authors said, but because of low profit margins and unpredictable demand.

These are two factors that clearly should be more fully dealt with in any legislation to spur the production of vaccines, for instance, for an avian-flu pandemic.

There is another major question hanging over Burr's bill: Is it desirable to form within the Department of Health and Human Services a new supersecret agency?

Already in place are the U.S. Centers for Disease Control and Prevention, the Department of Homeland Security and the National Institutes of Health. Such programs ought to provide more than enough federal firepower to encourage and monitor the steps being taken to prevent or counter pandemics or bioterror attacks. The forming of a large new agency that would be all but shielded from public and even congressional scrutiny can hardly be the right answer for Americans.

[From the Las Vegas Sun, Nov. 2, 2005]

VACCINES AND ACCOUNTABILITY: BUSH'S PROPOSAL TO SHIELD AVIAN-FLU VACCINE MAKERS FROM LIABILITY INVITES HEALTH PROBLEMS

The Bush administration is planning today to release a detailed proposal of its plan to thwart an avian flu pandemic. Scientists say the flu, now present in Asia and parts of Europe, could develop into a worldwide crisis if the virus causing it mutates into a form that makes people, and not just birds, contagious.

President Bush spoke Tuesday in general terms of his plan, most of which we believe is well thought out. The plan would provide funding for developing a new technology for producing vaccines. It would commit the country to a continued partnership with the World Health Organization. It calls for helping to fund the people and agencies in other countries who are now battling the virus. It would provide funding for states to develop emergency plans in the event of a pandemic. It also calls for manufacturing and stockpiling supplies of a flu vaccine that shows promise of being effective.

These points are all worthy of congressional approval. We do have reservations, however, about another point in Bush's plan. He is asking Congress to absolve the manufacturers of vaccines from all legal liability, meaning they couldn't be sued if people who took the vaccines died or suffered physical harm. We believe this aspect of the plan needs a hard look by Congress.

Is there really a good reason to remove accountability from manufacturers of drugs that are intended to safeguard the whole country, if not the whole world? We believe that a solid shield against legal action could lead to a lowering of safety standards by manufacturing executives, who will be under pressure to rush vaccines into production. If the manufacturers want protection from widespread bad outcomes, let them buy insurance.

Ms. CANTWELL. We can see from the editorials there are many people paying attention to what is in this Department of Defense appropriations bill. I should say, because my colleagues all have a copy of the legislation on their desk but they may not have dug deep into these many pages to see, that they should pay special attention to language starting on page 434 about a liability provision exempting drug manufacturers.

It was alarming enough to me to have the ANWR language, but certainly to have additional language that is thrown into this bill as these various editorials have said, at a time without the review and the complexity of the legislation being discussed is wrong.

I hope my colleagues tomorrow will think about their votes on this process and to say that the Defense bill and appropriations should be about the troops. It should be about protecting our country. It is about giving them resources. It should not be about backdoor attempts or legislative blackmail to say force Members to vote for drilling in the Arctic National Wildlife Refuge or this drug liability provision.

I hope my colleagues will read this legislation carefully.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to speak up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I don't know what the parliamentary situation is, if my time is not to be charged to the bill or charged to the bill. Could the Presiding Officer inform me?

The PRESIDING OFFICER. The last two speakers have asked their time not be charged. They were speaking as if in morning business. The Chair would honor the request that the Senator's time not be charged against the bill.

Mrs. HUTCHISON. That would be my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEFENSE APPROPRIATIONS

Mrs. HUTCHISON. Mr. President, I am rising to say we now know we will get the votes on the reconciliation and we are going to have a vote on the Defense appropriations bill which includes the ANWR legislation as well as the Katrina hurricane relief and the Rita hurricane relief.

I rise tonight because I hope we now see the pathway to finishing a very productive year in the Senate. It is never easy to pass legislation in the Senate. We all know that. We have 100 Senators representing 50 States and everyone has a different idea. What we have to do is come together for the good of our country.

If ever there was a time when important legislation for the families of our country, for the military men and women of our country, for the children of our country, for the future, to have energy independence for America, this is the time when we must say, even if I don't like everything in this bill we must pass it. I don't like everything in this bill. Not one Member would say we liked everything in this bill.

However, what we have pending in the appropriations bill for our Department of Defense and regarding ANWR is essential for the future of our country. I hope my colleagues will look at this last opportunity we have this year to do what is right for our country.

On the appropriations bill, the chairman of the committee has done an incredible job. We are going to have a budget to which we will adhere. It is going to have an across-the-board cut to pay for the Katrina relief we all are seeking. We are trying to do the responsible thing. That is to meet the crises facing our country, the war on terror, doing what is right for our military men and women with boots on the ground as we speak, helping to make sure terrorists are stopped from disrupting Iraq and Afghanistan and coming back to America.

We are trying to do those things. We are trying to help the victims of Katrina, Rita, and Wilma. We are trying to make these important new expenditures in a responsible way with an offset of an across-the-board 1-percent cut in discretionary expenditures with the exception of veterans' health benefits. We are not going to cut those. We know the Veterans' Administration was running out of health care money, so we gave them an emergency supplemental to make sure veterans' health care needs are addressed.

Other than that, we have a 1-percent across-the-board cut in discretionary spending as an offset, because that is the responsible way to help rebuild the gulf coast that has been hit so hard this year.

We are taking up the Defense appropriations bill along with ANWR. Sometimes I hear on the other side of the aisle arguments as if we had not passed ANWR in the Senate. We have passed drilling in ANWR in the Senate because we know we must have an energy policy in this country that will produce more energy, more types of energy.

We have to employ conservation to conserve energy. At the same time, we have to promote solar energy; renewable sources, such as wind energy; research into other types of new fuels, which we are doing every day, so we have new sources; and increasing our domestic supply of oil and gas, which is the bread and butter of our energy needs for this country.

We are over 50 percent dependent on foreign sources for our energy needs in America. That is not a position in which the strongest Nation on Earth should find itself. We should have the capability to provide our own energy and depend on no one.

Drilling in ANWR would give us the amount of oil that we get from Saudi Arabia every day. We are looking at 4 billion to 11 billion barrels of recoverable oil and gas in this area.

I will never understand why the people who are so opposed to this will not go and look at it. The Wildlife Refuge is an area the size of the State of South Carolina. The area to be drilled is under 2,000 acres. Because we have new technologies, you can now drill for miles underground without ever marring the surface.

So we are talking about an area the size of Dulles Airport that would be the drilling site in an area the size of South Carolina.

Are there trees in this area? No. There is not a tree in this area. It is grassy plains. Drilling is not going to harm the environment. It is going to be done in an environmentally safe way. It will increase the energy supply in our country. The people of Alaska, where this is to be done, want it. They have overwhelmingly supported it time and time and time again. They have supported it in polls. They have supported it in coming to Washington to seek the approval of Congress because they want the jobs. They want the economic boost. So this is something that is good for everyone, and it is the right thing to do for our country.

So I hope, as we start voting on these very important bills and finish the business of this year—I hope very soon because so many of our Members want to be with their families at this time of year, just like everyone in America does—I hope we will do the responsible thing.

We were elected to represent the people and to stay here as long as it takes. I hope we do that tomorrow and we deliver to the American people a reconciliation bill that sets the budget on a path to lower our deficit by half, as the President has asked us to do, over the next 5 years; a Defense appropriations bill that will give the Katrina and Rita victims the help they need and deserve, and to be able to drill in ANWR so we will be able to add one more new source of energy for our country that we control, that we do not depend on foreign sources to produce for us. That is another vote for the stability of the economy and the national security of our country.

I urge my colleagues to do the right thing as we start these important votes tomorrow.

Thank you, Mr. President. I yield the floor.

Mr. DURBIN. I rise today to talk about a few of the many ways that this spending reconciliation bill reinforces the misplaced priorities of the Republican leadership of this Congress.

With the 2 reconciliation bills—the bill that we are considering today that cuts services for the poor and the bill that we will see again in January that cuts taxes for the wealthy—we again are saying to the American people that we believe in shared sacrifice . . . so long as this sacrifice is made only by those who can least afford it. Especially in a time of war, this is wrong.

I didn't vote for the Senate version of the spending reconciliation bill a few weeks ago because I didn't think that it was right to try to reduce our huge budget deficit by cutting funding for those who need it most while cutting taxes for those who need it least.

Never mind, of course, that these two bills would actually increase the deficit, and therefore not even meet the purpose they were meant to serve.

Now we have received the conference report on the spending reconciliation bill, after the House passed this report late last night with almost no review or debate. The report cuts funding for the needy far more than the original Senate bill did, and therefore is even worse than the bill we saw a few weeks ago.

I will attempt to address 6 of the many areas in which this bill cuts services to those who need these services most: Medicaid, Child Support Enforcement, Child Care, Supplemental Security Income for the Disabled, Foster Care, and Higher Education.

First, this conference report asks for more from those who need Medicaid services while asking nothing of pharmaceutical companies and HMOs. In fact, this bill was a victory for big business.

This conference report allows States to increase the Medicaid copayments that many beneficiaries must pay in order to receive health care services and medications. The original Senate bill included no increases in copayments or premiums.

This conference report, however, reflects the House cuts, which overwhelmingly impact beneficiaries.

The House and Senate conferees also chose to leave a $10 billion Medicare slush fund for managed care companies intact.

The Medicare Payment Advisory Commission, MedPAC, an independent commission appointed to advise Congress on Medicare spending, found that the $10 billion slush fund was unnecessary and unwarranted, and recommended its elimination.

The Senate included its elimination in the Senate-passed budget bill, but the managed care companies and the administration went to work on the conferees, and the slush fund lives.

That means the Secretary of Health and Human Services will have $10 billion to dole out to multimillion dollar managed care companies while States will be allowed to increase the copayments of patients making below the Federal poverty level, which is slightly more than $19,000 per year for a family of four.

The average compensation of the highest paid executive in each of the 11 largest managed care companies in America was approximately $15 million in 2002. These companies are not the ones in need of Government subsidies.

Another example of this conference agreement's choice of big business over working Americans is the giveaway to pharmaceutical companies while punishing poor seniors who need nursing home care.

The Senate version of this bill insisted that Medicaid get the best pharmaceutical prices by increasing the minimum rebates drug manufacturers are required to pay the Medicaid program.

In a victory for the pharmaceutical industry, this provision was stripped. Meanwhile, provisions that would substantially impact middle-income seniors in need of nursing home care were maintained.

Medicaid was not meant for people who have enough money to afford their own nursing home care, and rules restricting the transfer of assets to qualify for Medicaid are necessary.

However, the rules adopted by the conferees are overly restrictive and punish middle-income seniors.

Under the rules outlined in this conference report: A woman who helped her granddaughter with her college tuition 5 years ago would be penalized.

A widow who doesn't know what her husband spent their money on before he died 4 years ago would be penalized.

A senior whose home appreciated during the housing boom to $500,000 would be refused Medicaid, even if her house is modest. Medicaid has always had the right to collect from the home of a beneficiary through a lien. Now, we are going to deny coverage altogether to a senior who happens to live in an active real estate market.

The typical nursing home resident is a widow in her 80s with 3 to 5 medical diagnoses who needs help with most daily activities. Almost half have Alzheimer's disease or another dementia. Many have no immediate family. Why are we punishing them and rewarding HMOs and pharmaceutical companies?

A budget is more than a collection of numbers; it is a reflection of values. We should all value health care for the least among us.

This conference report makes many more cuts beyond the cuts to Medicaid.

Many low-income mothers cannot afford to lose the child support payments to which they are legally entitled simply because deadbeat dads can get away with not paying to support their children. Yet the House has created a conference report that cuts $1.5 billion over the next 5 years and $4.9 billion over the next 10 years from the funding for child support enforcement.

The CBO estimates that this will result in $8.4 billion being taken out of the pockets of mothers who are owed child support over the next 10 years.

This conference report includes $1 billion in additional funding for childcare. That sounds pretty good. But since the report would dramatically change the way the Temporary Assistance for Needy Families program works, the negative effects on childcare of the conference report as a whole are simply huge.

The Congressional Budget Office estimates that this conference report provides $11 billion less than what States would need in order to support the new TANF work requirements that this bill requires and to maintain the existing childcare programs for low-income working families not on TANF.

Because of this shortfall in funding, many States will likely be forced to reduce the number of childcare slots available for TANF families. According to the Center on Budget and Policy Priorities, an estimated 255,000 fewer low-income children will receive childcare assistance by 2010 compared to the children who received it in 2004.

This conference report also uses a budget gimmick to make it appear that the bill saves more money that it actually does. Shamefully, this gimmick comes at the expense of poor people who need supplemental security income.

Let me explain. Today, when disabled people are forced to wait for many months to be approved for supplemental security income by the Social Security Administration—and unfortunately this seems to happen quite often—the money that these disabled individuals are owed is paid in one lump sum once these folks are approved for this supplemental income.

Under this conference report, however, these people would instead receive the support for which they are eligible in installments.

Why? So that when the savings of this conference report are calculated, it will appear that the savings are bigger than they really are, since some of these payments will be pushed outside of the 5-year "budget window." But this accounting gimmick comes with a real cost: the disabled have to wait longer for the help that they need. That is just shameful.

The conference report also cuts $343 million in foster care funding, including cuts that will make it more difficult for some grandparents to raise their own grandchildren.

Finally, much has been said already about the $13 billion cut in Federal financial aid for college students in this bill. About one-third of the total cost-savings in the budget reconciliation bill come from the student loan program.

This bill dramatically increases the cost to middle-income families of borrowing money to send their kids to school.

The PLUS program, Parent Loans for Undergraduate Students, is available to families who have exhausted their Stafford loan eligibility, are credit worthy, but have run out of money for college before their kids are done with school.

Today, PLUS loans are made to parents at an interest rate of 6.1 percent. This conference report hikes that interest rate to 8.5 percent. For the 800,000 families with a PLUS loan, that is an average increase of $550 per year. Instead of paying $989 in interest, they will pay $1,541.

At a time when we should be doing everything we can to prepare our students to compete in the economy of the 21st century, it simply makes no sense whatsoever to make it harder for low- and middle-income students to go to college.

In summary, there is simply no reason why we should support this conference report which goes much farther in cutting support for the needy than the bill that we barely passed by a vote of 52 to 47 a few weeks ago. If we are going to ask some Americans to share in the sacrifice that wartime requires, we should ask all Americans to share in that sacrifice, not only those who are most in need.

Mr. ENZI. Mr. President, I rise today to discuss the Deficit Reduction and Omnibus Reconciliation Act of 2005.

The purpose of this bill is deficit reduction. We did it without taking anything away from students. In fact, we gave new money and a new program to college students. Let me summarize some of the things we did.

Academic Competitiveness and SMART grants: Creates new grant programs that award academic competitiveness grants and SMART grants to Pell-eligible students in an undergraduate program of study. Students in their first and second years may receive awards of $750 and $1300 respectively, provided they have completed a rigorous program of study at the secondary level. Undergraduate students in their third and fourth year may receive up to $4,000 in grant aid if they major in math, science, technology, engineering or critical foreign languages and make progress toward a degree. Students at both 2-year and 4-year academic colleges will be eligible for the academic competitiveness grants.

Increase loan limits: Increases loan limits for first- and second-year students to $3,500 and $4,500 respectively and increases graduate borrowing limits to $12,000 per year for unsubsidized loans. In addition, the bill permits graduate students to borrow PLUS loans.

Interest rates: Reduces the cap on student loan interest rates from where they are currently capped at 8.25 percent and stabilizes them at 6.8 percent. The interest rate on parent loans, currently capped at 9.0 percent, would be fixed at 8.5 percent.

Lender payment cap: Requires lenders to rebate to the Federal Government the difference between the borrower rate and the lender rate when the borrower rate exceeds the lender rate.

Reduction of work penalty: Reduces the work penalty by increasing the income protection allowance for students and encourages saving for college by reducing the percent of savings that are assessed.

Simplified needs analysis: Simplifies the application process for student aid by permitting students and families who are receiving means-tested assistance to file a shorter form and raises the "auto-zero" amount to $20,000 so that families with income levels below that amount are automatically determined to have zero expected family contribution.

Reduction of origination fees: Reduces origination fees charged to borrowers by 1 percentage point immediately and by half of a percentage point for each year beginning July 1, 2007, and continuing through July 1, 2010.

Distance learning: Eliminates the "50 percent" rules for institutions offering distance education programs. One 50 percent rule limits the percentage of courses offered through distance learning and the other rule limits the percent of an institution's students that may be enrolled in distance education courses.

School as Lender Program: Imposes a moratorium on the School as Lender Program effective April 1, 2006. To be grandfathered, schools must be making loans prior to or on April 1. In addition, the bill requires that the proceeds of the sale of loans, in addition to any interest and special allowance payments, must be used for need-based student assistance programs at the school. Limits expenses to reasonable administrative expenses.

Extension of loan foregiveness: Permanently extends teacher loan forgiveness up to $17,500 to math, science, and special education teachers in low-income schools. Private school teachers become eligible for loan foregiveness.

9.5 percent loans: Eliminates the recycling of 9.5 loans and extends the limitations already in effect under the Taxpayer-Teacher Protection Act. Provides a 5-year extension for the smallest of the non profit lenders.

Over the past year, I have worked to reauthorize the Higher Education Act. I worked closely with my colleague and good friend from Massachusetts to develop legislation that would provide students with access to postsecondary education, make it more affordable for students to get to college, and provide them with new opportunities.

In March of this year, the Senate adopted a budget resolution that included reconciliation instructions for several committees, including mine. The Senate HELP Committee was given a target that represented 40 percent of the total deficit reduction package. In conference, the Senate HELP Committee again was given the heaviest lift. We were given a target that made up an even higher percentage, saving $16.1 billion of the $39 billion total.

One of the principles that guided the committee's efforts to achieve the savings was ensuring that a significant portion of the savings would be used to provide student benefits. In September, the committee approved bipartisan legislation unanimously that included several provisions designed to help students, including $8 billion in need-based grant aid. Of that $8 billion, over $2 billion was targeted to encourage students in their junior and senior year to major in math, science, and critical foreign languages. In November, the Senate approved this program as part of the larger reconciliation bill.

While the conference report is less generous to students than what the Senate had agreed to, the reconciliation bill we are considering provides $10 billion in spending on student benefits. First among these, the bill creates a new academic competitiveness program that provides grant aid to low-income students. Students eligible for Pell grants are able to receive up to $700 in additional grant aid their first year of college, and $1,300 in their second year. Students majoring in math, science, and critical foreign language programs in their third and fourth years are eligible for up to $4,000 in additional grant aid.

This report dedicates $3.75 billion to grant aid for the next 5 years. This is an extraordinary commitment and a larger increase in grant aid than we have seen in the last 5 years under Pell or any other Federal student aid source. This is real money that will help today's students enter and succeed in college. It will also help support students in programs of study critical to our national security and economy and create a strong incentive for more students to enter these fields.

The $3.75 billion grant program is smaller than this body approved in November. This is a first step, and the first step is a critical step to take, but it is often the most difficult and misunderstood. I believe this is a good start, but we must continue to work toward what it takes to ensure this Nation's competitiveness. Access to postsecondary education is critical to this effort, and we cannot lose sight of the goal of a strong and competitive American economy.

The reconciliation conference report also includes provisions to reduce borrower origination fees in both major Federal student loan programs. Borrowers currently pay origination fees of up to 3 percent when they take out their loans. The conference report provides for the reduction of these fees, so that students will not pay more than 1 percent in either program.

These fees cost students millions of dollars every year, and they don't provide any benefit. They make college more expensive, and students typically end up paying interest on these fees for 10 years or longer. The reduction of these fees will save individual students hundreds of dollars over the life of their loans.

The bill allows current law to take effect on schedule, setting borrower interest rates at 6.8 percent. Many people have suggested that the 6.8 percent rate will cost students more over the life of their loans. They don't realize that this provision is already part of current law. Four years ago, when Congress approved the fixed interest rate for borrowers, students supported this change because they had paid interest rates of up to 8.25 percent for years. Now, after 4 years of historically low interest rates, the 6.8-percent fixed rate doesn't seem as attractive.

I want to point out, however, that current trends and projections don't support the conclusion that the 6.8 percent interest rate will cost students more in the long run. At each of the last 13 meetings, the Federal Reserve Board has voted to increase interest rates. The historic lows that interest rates have been set will not continue and will likely to continue to go up. The rate increases accounted for a nearly 2 percent increase in borrower interest rates in 1 year. By setting the student loan interest rate at a set rate we will save future interest rate increases from effecting student lending. This is the same interest rate policy that passed the Senate HELP Committee unanimously.

Only 5 years ago, borrower interest rates exceeded 8 percent. At the current rate of increases, students would be paying more than 6.8 percent by July 1, 2006. That is before the next school year. In fact, they would be paying more than 7.3 percent if we had kept the current interest rate structure. The same can be said of the parent loan provisions. Parent loans are currently capped at 9 percent. At the current rate of increase, parent borrowers would be paying more than 8.5 percent by July 1, 2006. This is the same rate that passed the HELP Committee unanimously.

The bill that initially established the 6.8-percent fixed interest rate was passed by unanimous consent over 4 years ago. In September, the HELP Committee voted unanimously in support of these provisions. In October, the HELP Committee, with the support of five Democrats, voted again to allow the scheduled interest rate change to take effect.

The conference report also provides for increased loan limits for students. This has been criticized as a provision that will only encourage more students to take out increased loans. However, since 1994, many students have been taking out significantly more private loans to meet their education expenses. Many of these loans have interest rates of up to 18 percent or more. The difference between a $10,000 private loan at the 18-percent rate and a federally guaranteed loan at a rate of 6.8 percent would save a student almost $8,000 over the life of the loan. As the cost of college across the country has skyrocketed, this provision will help more students afford the increased cost of tuition and subsidize their interest, so they don't have to take out private high-interest student loans.

As I said earlier, this bill provides almost $10 billion in student benefits over 5 years and significantly more over the long term. At the same time, we have been able to additionally net more than $12 billion from Federal loan programs to make them operate more efficiently, which contributes to reducing the deficit.

While I am very disappointed that the conference report does not include broader-based grant aid to improve access to and persistence in postsecondary education, I am pleased that the report includes the grant funding that it does. These are funds that will benefit low-income students and will help our country and its economy to remain competitive by ensuring that tomorrow's workforce has the skills necessary to compete in the global economy. I will continue to work next year and in the coming years on legislation to further our goal to provide the opportunity for all Americans to go to college if they choose.

There were a number of provisions important to students included in the conference report provided to the Budget Committee that were stripped from the final language due to Senate procedural rules. Among these provisions was one that would have clarified the purpose of the new grant program. That section used to read: "The purpose of this section is to increase the number of postsecondary students from low-income backgrounds who are enrolled in studies leading to baccalaureate degrees in physical, life, and computer sciences, mathematics, technology, engineering, and foreign languages critical to national security." This language was removed from the conference report because of potential conflicts with the "Byrd rule." It is my hope that the Department of Education will consider this language when they promulgate the appropriate regulations on the administration of this program.

Another important provision that was stripped from the report was language to repeal the so-called single holder rule, which limits the ability of students to consolidate their loans with the lender of their choice. I hope the Senate will take action on this important issue quickly and permit students to take advantage of this additional flexibility.

I will continue to work toward the goals we held for the reauthorization of the Higher Education Act. I hope that this process can continue in a bipartisan way, because ultimately, it is about students, it is about the economy, and it is about our national security.

With respect to pensions, the conference report also adjusted premiums payable to the Pension Benefit Guaranty Corporation, PBGC, and will save a total of $3.6 billion. These savings will be achieved by a series of increases to pension insurance premiums.

The per-person premium for single employer plans will rise from $19 to $30 and will be indexed; the per-person premium payable for multiemployer plans will rise from $2.60 to $8 and will be indexed; and a new premium will be charged against underfunded, terminated plans of $1.250 per person and will be payable for the first 3 years after the sponsor emerges from bankruptcy. This "termination premium" will apply to plans of sponsors whose parent company filed for protection under Chapter 11 after October 18, 2005. This increase in premiums payable by plan sponsors to the PBGC is long overdue. Single-employer premiums have not been increased since the early 1990s. This conference report marks the first instance in which multiemployer plan premiums have been increased since 1980. Now, all of the language in the pension part of this bill will be superceded when the full pension bills passed by the House and by the Senate are conferenced to one bill to provide full pension reform to protect the pensions of all hard-working Americans who were promised a defined benefit plan.

This bill meets the goal of deficit reduction, and it does so by taking the money from corporate windfalls, not students. It protects current student programs. It adds a new student grant program to the tune of $3.75 billion. Much of what is in the education part passed the Senate Health, Education, Labor, and Pensions Committee unanimously. That means that Republicans and Democrats voted for it. We did not get all the money we wanted for students. We got more than they had before. We had to settle for some limitations—but limitations that will improve America's competitiveness. In legislation you seldom get all that you would like to have. We can be proud of what we have done for students—and for people on pensions.

Overall, the bill provides significant saving measures while at the same time providing billions of dollars in new student grant aid. In addition, this bill will help to stabilize our Nation's defined benefit pension system.

Mr. OBAMA. Mr. President, I rise today to speak in opposition to the spending reconciliation conference report.

The Federal budget should reflect the Nation's priorities. Unfortunately, the priorities on display in this year's budget reconciliation process are out of touch with those of the American people. Worse yet, the rhetoric we hear about fiscal responsibility is at odds with the reality of the pending legislation.

This bill cuts deeply into programs that serve our country's most vulnerable citizens in order to fund tax breaks for those who need them the least. I support lower taxes. I also support lower Government spending. Most Americans do. But at what cost, and for what purpose?

What sacrifices in our domestic priorities, our economic security and independence, our humanity are we asking the American people to endure so that the wealthiest can pocket a little more income each year, even as working class Americans—facing rising fuel prices and health care costs—are pocketing a lot less?

And it is not even as if the spending cuts here will fully pay for the tax breaks. The majority's campaign to do away with pay-as-you-go rules has meant that the tax breaks over the past 4 years have been financed by debt. Debt that now exceeds $8 trillion and keeps rising.

Debt, not discipline, has been the hallmark of the majority's fiscal strategy. They want us to believe that we can't afford the Government we need. But funding our domestic priorities like education, health care, and equal opportunity for America's children is not inconsistent with budget discipline. In fact, a responsible fiscal policy is a prerequisite to tackling the challenges of a relentlessly competitive global economy.

First, ensuring access to basic health care is critical to our Nation's productivity. But this bill undermines Medicaid and essential health services for the poor, cutting benefits by $6.3 billion over 10 years.

Second, education is the key to economic competitiveness. But this bill cuts student loans by $12.7 billion, the largest cut in history. I don't understand how the majority expects middle-class American families to make it in the 21st century workforce if we turn our backs on students.

Third, helping people move from dependence to independence, from poverty to prosperity is in all of our best interests. And many States have made great progress implementing TANF requirements and moving people from welfare to work. But this bill deprives States of the flexibility they need to set realistic and meaningful work targets for their caseloads. It also dramatically underfunds childcare, thus assuring that it will be even more difficult for States and families to fulfill the Federal mandates.

The TANF program affects millions of American children and families and deserves a full and fair debate. Under the rules, the reconciliation process does not permit that debate. Reconciliation is therefore the wrong place for policy changes and the wrong place for the proposed changes to the TANF program.

In short, the reconciliation process appears to have lost its proper meaning. A vehicle designed for deficit reduction and fiscal responsibility has been hijacked to facilitate reckless deficits and unsustainable debt. Instead of being a tool to get us back on track to deal with our serious economic challenges, reconciliation has become a tool for enacting tax cuts for the wealthy while punishing the poor.

This is a profound disappointment to me. Indeed the entire 2006 budget process has been a disappointment.

Mr. President, as we wrap up this session and look towards next year, I hope we will find ways to work in a bipartisan manner on the issues and choices that really matter to American families. The importance of our task and the demand for responsible leadership will only grow in the years ahead.

I urge my colleagues to vote against the conference report on spending reconciliation.

Mrs. FEINSTEIN. Mr. President, I rise today to oppose the budget reconciliation conference report. The conference report cuts total $39.7 billion versus the Senate proposed $34.6 billion. It reduces mandatory outlays for entitlement programs by relying heavily on added financial burdens on poor, working Americans.

This "deficit-reduction" effort of cuts in vital programs is offset by provisions soon to come which will provide $95 billion in additional tax cuts—including cuts to capital gains and dividends rates. The conference report will raise $39.7 billion while capital gains and dividends tax cuts passed by the House will reduce revenues by $20 billion over 5 years and $50 billion over 10 years. This strategy is clearly not reducing the deficit, and it does not justify cutting programs for the poor to benefit the wealthy.

This bill is just another step to further the Republican agenda of severely cutting benefits to working-class families while handing out tax cuts to the wealthy. The fiscal year 2006 Department of Defense appropriations conference report is another illustration of this—this bill contains a 1 percent across-the-board cut to discretionary programs totaling $8.6 billion in fiscal year 2006.

While Republican leaders had the opportunity to create significant savings in the conference report by reducing prescription drug costs and eliminating unnecessary payments to HMOs, they chose not to. This bill provides relief for special interests in exchange for greater burdens on poor, working families, welfare recipients, and children.

Here is an overview of who wins and who loses in this conference report.

The conference report fails to include provisions in the Senate bill that would have limited what Medicaid pays for prescription drugs. The Senate bill increased the minimum rebates that drug manufacturers are required to pay the Medicaid Program for drugs provided to Medicaid beneficiaries. The Senate bill also applied the rebates to drugs provided to Medicaid beneficiaries in managed care plans. In total, the prescription drug provisions in the Senate bill would have saved $3.9 billion over 5 years and $10.5 billion over 10 years. The conference report eliminates all but a few hundred million of these cuts.

Although not in this bill, the drug industry scored another major victory in the fiscal year 2006 Department of Defense conference report by being handed broad liability protection even in instances of reckless disregard or gross negligence. This egregious provision protects drug companies even when there are criminal violations of FDA standards.

I think we can safely say this holiday season will be a merry one for the drug industry. Unfortunately, the same cannot be said for poor and working Americans on Medicaid under this bill.

The conference report maintains the $10 billion Preferred Provider Organization, PPO, stabilization fund even though 52 Senators voted to eliminate it and the extremely strong showing of private health insurance participation in the Medicare prescription drug benefit obviates the need for it.

Even the independent, non-partisan Medicare Payment Advisory Commission, MedPAC, recommended, nearly unanimously, that the $10 billion stabilization fund be eliminated because it is unnecessary and unwarranted and provides an unfair competitive advantage to PPOs.

In total, the conference report contains $1.9 billion in increased copays and premiums for poor families and children in Medicaid. That is over 5 years. If you look at the 10-year figure, that amount jumps to $10.1 billion.

The Senate bill contained no such increases in premiums and copays.

In total, the conference report cuts $3 billion that will directly impact Medicaid beneficiaries.

What is going to happen to these families once they are required to pay possibly as much as 20 percent of the cost of each medication they take or 20 percent for each doctor visit with no annual limit on how much they have to pay out-of-pocket? They simply won't go to the doctor, they won't take their medications, or they will simply not enroll in Medicaid at all.

For those Medicaid beneficiaries who can no longer afford to stay enrolled in Medicaid or choose not to enroll, who wind up in an emergency room for their medical care, under this bill there is no limit on what they may be charged, other than a 10-percent limit of the cost of service for those who are between 100 percent and 150 percent of poverty, which is equivalent to between $9,570 and $14,355 of individual annual income.

As under the House-passed spending reconciliation bill, the conference report allows providers to deny a service if the patient has no ability to pay the charges at the time of services and States can terminate Medicaid coverage if the family cannot pay premiums.

The conference report allows States to provide any child, without regard to income, a lower benefits package than they have today. That means low-income children, no matter how poor they are, are no longer guaranteed vision screenings, eyeglass coverage, therapy services, and medical equipment that would allow them to attend school.

I am disappointed that the conference report eliminates a provision that Senator HUTCHISON and I worked hard to get included in the Senate bill which protects Medicaid adult day health care services in eight States: California, Texas, New York, New Jersey, Maryland, Massachusetts, New Hampshire, and Washington. In California alone, the elimination of this provision means that 47,000 seniors and disabled people are at risk of losing community-based health care services.

And why are they at risk? They are at risk because of aggressive actions by this administration to force California's adult day health care program into a 1915(c) Medicaid waiver which the State of California estimates will make 40 percent of currently eligible program participants ineligible for the services they receive today. These services include skilled nursing care, physical, occupational, and speech therapy, and nutrition services for low-income, frail elders and disabled adults.

The administration is pursuing this despite vocal, bipartisan opposition from California's Congressional Delegation. I ask unanimous consent to enter into the record two letters from the California delegation to the administration opposing a waiver.

Cuts to Federal student loan programs in the conference report will push college out of reach for many middle- and low-income families. The $12.7 billion reduction over 5 years, nearly one-third of the conference report's total cuts, will be the largest cut to student aid ever enacted.

This conference report makes it more expensive for students and their parents to borrow for college by increasing the interest rates and fees they pay on loans. At the same time, this bill protects private lenders at a higher cost to the Government.

This is being done as students and families are struggling to pay skyrocketing college costs. The average cost of attending a public university for 1 year in our country has increased 66 percent within the last decade.

Students will be forced to take out more loans to meet the cost of increasing tuition. This will only drive them greater into debt, making it even more expensive for students to pursue a college degree.

The conference report reauthorizes the TANF Program for 5 years despite overwhelming opposition in the Senate to including TANF reauthorization in budget reconciliation. The conference report contains drastically inadequate child care funding and will cost California approximately $350 million more annually as a result of changes to work participation requirements.

Lastly, I am deeply concerned about the impact this conference report will have on child welfare in California. This bill, like the House-passed bill, reduces Federal foster care supports that help grandparents and other relatives care for abused and neglected children. It also contains a provision overturning a 2003 Ninth Circuit Court of Appeals decision in Rosales v. Thompson that may harm more than 4,400 foster kids in California alone.

Mr. President, the bill before us today represents a victory for special interests over the interests of our nation's poorest and most vulnerable citizens. I urge my colleagues to join me in rejecting this bill.

I ask unanimous consent that two letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 29, 2005.

Hon. MICHAEL O. LEAVITT,
Secretary, Department of Health and Human Services, Washington, DC.

DEAR SECRETARY LEAVITT: As Senators representing California, we are very concerned about the future of adult day health care (ADHC) in California due to the recent requirement imposed by the Centers for Medicare and Medicaid Services (CMS) to convert the ADHC program to a 1915(c) waiver. If implemented, this proposal would radically diminish what services are provided, how the services are delivered, and to which populations the services are provided.

As you know, ADHC services manage disease and chronic conditions; prevent and reduce hospitalizations, physician and emergency department visits; and maintain or improve health status while permitting the individual to retain important community and familial contacts. The provision of these services is qualitatively equivalent to those provided in institutional long term care environments but less costly than when the same services are provided in such settings.

California and seven other states have long been innovators in providing ADHC services as an alternative to institutional long-term care for the frail elderly and disabled. ADHC services have been offered in California and the other states as an optional state plan benefit under Medicaid since the 1970's, prior to the introduction of the 1915(c) home and community based services waiver.

ADHC services are currently provided to 47,000 participants in California, including the frail elderly, persons with disabilities, persons with Alzheimer's disease and related dementia, persons with developmental disabilities, persons with psychological disabilities and those infected with HIV.

In 2003, CMS ordered California to remove ADHC services from the state plan as an optional benefit and offer the services through a 1915(c) waiver. CMS's stated rationale for taking this action is that, despite the provision of these services under Medicaid for more than two decades, they are not defined in the federal statute and therefore must be stopped.

Unfortunately, transposing ADHC into a waiver would deny access to these services to many of those within the currently served populations. It is estimated that the transition to a waiver would leave approximately 40 percent without ADHC services in California due to the restrictive rules governing 1915(c) waivers.

While seven other states also offer ADHC services as an optional state plan benefit under Medicaid, it is our understanding that to date none of those states have been requested to transform their ADHC services into a waiver. Yet the policies your agency is pursuing make those states vulnerable to the same consequences that are anticipated in California.

The action by CMS, attempting to reinvent a program that has worked for more than 25 years and saves the Medicaid program money, is totally contrary to your own stated interest in reducing the institutional bias in Medicaid and encouraging the use of community-based services. Further, it occurs as CMS is launching a new demonstration program in Medicare to allow beneficiaries access to ADHC under the home health benefit.

At a time when both your Administration and the National Governors' Association have identified Medicaid's institutional bias as a serious policy problem and are examining options for enhancing home and community-based care, it is puzzling that CMS's

Medicaid program is moving in the opposite direction by proposing to dismantle existing ADHC programs and force them into waivers, thereby undermining their effectiveness. Maintaining ADHC services as an optional Medicaid benefit would be consistent with the Administration's New Freedom Initiative and the United States Supreme Court's Olmstead decision, which give priority to the provision of services at home and in the community.

We urge you to withdraw CMS's attempt to overturn existing Medicaid policy and thus continue Medicaid beneficiaries' uninterrupted access to ADHC services in California and other affected states. We look forward to your response.

Sincerely,

DIANNE FEINSTEIN.
BARBARA BOXER.

CONGRESS OF THE UNITED STATES,
Washington, DC, July 29, 2005.

MICHAEL O. LEAVITT,
Secretary, Department of Health and Human Services, Washington, DC.

Re Adult Day Health Care

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At a time when both your Administration and the National Governors' Association have identified Medicaid's institutional bias as a serious policy problem and are examining options for enhancing home and community-based care, it is puzzling that CMS's Medicaid program is moving in the opposite direction by proposing to dismantle existing ADHC programs and force them into waivers, thereby undermining their effectiveness. Maintaining ADHC services as an optional Medicaid benefit would be consistent with the Administration's New Freedom Initiative and the United States Supreme Court's Olmstead decision, which give priority to the provision of services at home and in the community.

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Sincerely,

Mary Bono, Jerry Lewis, Henry A. Waxman, Anna Eshoo, Randy "Duke" Cunningham, Darrell Issa, Elton Gallegly, John T. Doolittle, Howard P. "Buck" McKeon, Gary Miller, Lois Capps, Pete Stark, Howard Berman, Adam B. Schiff, Linda T. Sánchez, Joe Lofgren, Tom Lantos, Hilda L. Solis, Doris O. Matsui, Lucille Roybal-Allard, Xavier Becerra, Jane Harman, Bob Filner.

Mr. REED. Mr. President, I strongly oppose the Deficit Reduction Act of 2005 Conference Report. This conference report and the Administration's budget are fiscally irresponsible and reflect misguided priorities.

The dual reconciliation process this year illustrates these misplaced priorities, as middle- and low-income families are being asked to pay the price for tax cuts for the wealthiest. The second reconciliation bill, which will soon be negotiated by the House and the Senate, will contain a reduction of as much as $70 billion in tax revenue that will more than eliminate the effect of the spending cuts to critical programs in the conference report that we are considering today. With the enactment of the two reconciliation bills, there is a real effort by this administration and the majority to perform a bait and switch on the American people and at the end of the day the "so-called" deficit reduction bill along with the tax reconciliation bill will further increase the deficit by as much as $30 billion over the next 5 years.

The President's claim at his news conference yesterday that his policies are focused on the priorities of average Americans belies the experience of most working families. The economy has grown this year, but the benefits of that growth continue to show up in the bottom lines of companies rather than in the paychecks of workers. The Minority Views of the Joint Economic Committee 2005 Annual Report released yesterday finds that in the recovery from the 2001 recession, working families have been left behind from the start, and they continue to be left behind today.

The unemployment rate is nearly a full percentage point higher than when President Bush took office, about 5 million fewer jobs have been created in this recovery than at this point after the 1990–91 recession, and millions of Americans who want to work do not have jobs.

Higher prices for gasoline, home heating fuel, and medical care are also squeezing the take-home pay of workers. In the past year, average hourly earnings are down, after adjusting for inflation. Moreover, wage growth has been uneven, with low-earning workers hit hardest by sluggish wage gains and more recently by declining real wages.

The signature policies of the administration and the majority have not addressed the problems facing ordinary American families. Successive rounds of tax cuts were poorly designed to stimulate job creation and produced a legacy of large budget deficits. Those large and persistent budget deficits contributed to an ever-widening trade deficit and massive borrowing from abroad.

Most of the benefits of the tax cuts accrued to very high-income taxpayers, while—as this reconciliation bill shows—cuts in programs that benefit middle- and lower-income families are viewed as the best way to pay for those tax cuts.

As far as health and human service programs go, this bill has gone from bad to worse as compared to the Senate-passed bill. As expected, significant portions of the reduction that are achieved in this reconciliation bill are achieved by cuts in programs that low- and moderate income Americans rely on. The reconciliation package before us includes roughly $40 billion in spending cuts over 5 years, of which $11.2 billion will come from Medicaid and Medicare.

Included among these 'savings' are new copayments on Medicaid beneficiaries and additional flexibility to States to scale back coverage for certain vulnerable populations. It also tightens rules designed to limit the ability of elderly people to shed assets in order to qualify for nursing home care. And, for the first time, people with home equity of $500,000 or greater would be ineligible for nursing home care under Medicaid.

During Senate consideration of the reconciliation bill, I offered an amendment to restore targeted case management services, TCM, to assist eligible high-need Medicaid beneficiaries gain access to needed medical, social, educational, and other services. Despite promises that this provision would be corrected, the conference report jeopardizes an essential bridge to services for these populations.

While low-income Medicaid beneficiaries are bearing the brunt of budget cuts, drug companies and Medicare managed care plans emerged virtually unscathed in the conference report. Specifically, the report drops a Senate provision that would have eliminated the $10 billion slush fund to health insurers a key recommendation of the Medicare Payment Advisory Commission, MedPAC, because it is unnecessary, unwarranted, and provides an unfair competitive advantage to private health plans over traditional Medicare. Nevertheless, under veto threat by the President, the conference report leaves this fund fully intact, forgoing $5.4 billion in savings over 5 years and twice that amount over 10 years.

The bill also shed most of the drug rebate provisions contained in the Senate-passed bill and includes only two minor provisions that generate savings of only $220 million over 5 years and $720 million over 10 years.

I would remind my colleagues that this body passed by a vote of 75 to 16 a Baucus motion to instruct conferees to reject provisions that would undermine Medicaid coverage for pregnant women, the disabled, low-income children, the elderly, or other vulnerable populations. Yet, this conference report entirely ignores the will of the majority of the Senate in this area.

At the same time, this conference report strikes yet another blow to community health care providers who serve Medicare and Medicaid recipients. On the Medicaid side, pharmacy payment reform provisions contained in this bill will be devastating to the Nation's community retail pharmacies and could significantly reduce Medicaid recipients' access to their essential services. The provisions cut $6.3 billion out of community retail pharmacies payments over the next 5 years by reducing the amount that Medicaid pays for generic medications at a time when the program should be doing everything it can to encourage utilization of generic medications. Every time a pharmacy dispenses a generic medication, Medicaid saves about $100, but this report drives pharmacies to either dispense more expensive medications or simply not serve Medicaid customers at all.

The conference committee also included cuts to Medicare providers that were not included in either the House- or Senate-passed bills. Under the conference report, home health care providers will see their reimbursement rates frozen in 2006, in addition to the already scheduled .8 percent reduction implemented as part of the Medicare Modernization Act of 2003. Again, this conference report puts into effect the exact opposite policy at a time when the administration and States have made access to home- and community-based care a priority. I, along with Senator COLLINS, had urged the conferees to not consider such cuts, and I am disappointed that is exactly what the conference did.

Another unfortunate provision in this conference report will impact individuals with disabilities who have languished for months waiting for the Social Security Administration to review and approve their applications for Social Security Supplemental Income, SSI, and are owed back benefits as a result of these delays. They will now have to wait even longer under this package. Instead of receiving a single lump sum payment as they do under current law, SSI beneficiaries will receive back benefits in installments that could stretch out over the course of a year.

This provision means many poor SSI recipients with disabilities who have been unable to work and who have probably been unable to pay their mortgage, heating, and other bills will be forced to endure financial destitution even longer.

Another area of concern is the inclusion of the House reauthorization for Temporary Assistance for Needy Families, TANF. This bill adds tough new requirements on States and recipients with no additional funding for child care. The Congressional Budget Office, CBO, has estimated that an additional $11 billion in childcare funding is needed to meet these requirements. Unfortunately, this bill only provides $1 billion in additional childcare funding.

If my Republican colleagues were truly committed to helping families break the cycle of poverty, they would not create tough new requirements that States and recipients will be challenged to meet and then provide no additional childcare funding to help them do so.

Moreover, the policy goals of this conference report are quite detrimental to States like my home State of Rhode Island. We are a leader among States in providing childcare assistance to low-income families. We recognize that all working families need help paying for childcare and that high quality early care is the key to the healthy development of our children. Rhode Island has made a commitment to help all low-income families pay for childcare, giving equal treatment to families on welfare and those who are working but cannot afford the high cost of childcare. In Rhode Island, we have seen childcare budgets rise as Federal investments have remained stagnant. The new TANF work requirements, coupled with inadequate funding for childcare, jeopardizes my State's commitment to assure that all children have safe, nurturing, and enriching childcare.

New harsh requirements will now apply to separate State programs as well, hurting States that have been successful in helping families transition to work through other State initiatives. The Congressional Budget Office, CBO, has estimated a cost to States of $8.4 billion over the next 5 years in order to meet these work requirements. This amounts to a higher cost to States than even the controversial House-passed bill.

I want to take this opportunity to remind my colleagues that last week Senator CARPER introduced and this body approved by a vote of 64 to 27 a motion to instruct conferees not to include the reauthorization for Temporary Assistance for Needy Families in this reconciliation package. I am most troubled that such a vote was ignored, and we now face the reauthorization of TANF without allowing the Senate to put forth its own bill and have a fair debate on this issue.

The reconciliation conference report also includes a $1.5 billion cut in Federal funding for child support enforcement efforts over the next 5 years and $4.9 billion cut over the next 10 years. Some of my colleagues on the other side of the aisle might suggest that these child support cuts are modest, but the fact remains that the CBO has estimated that, as a result of these cuts, $2.9 billion in child support will go uncollected over the next 5 years.

In my home State of Rhode Island, 45,000 families rely on the Office of Child Support Services for help in securing and maintaining child support payments. This is an agency that needs more not fewer resources in order to continue to make collections efficient. I am baffled that the leadership of this Chamber would cut a program that is cost effective, promotes responsibility, and helps families. This program has garnered strong bipartisan support because of its cost effectiveness.

During consideration of S. 1932, the Budget Deficit Reduction Act, the Senate approved a sense-of-the-Senate amendment offered by Senator HARKIN, stating that the Senate should not accept any cuts to the child support enforcement program during this Congress. In addition, last week Senator KOHL introduced and this Chamber passed by a vote of 75 to 16 a motion to instruct conferees not to include any provisions that would reduce funding for the child support program. How can a program that has this level of bipartisan support receive a $1.5 billion dollar cut?

This reconciliation conference report also hurts college students by eliminating the Pro-Gap Program that would have provided $6.5 billion in much-needed aid for college students. In its place is a single modest math/science initiative. While I fully support initiatives that boost our global competitiveness through encouraging study of math and science, I am dismayed that this bill compromises the successful and important Pell grant program to do so. For the first time need-based financial aid under the Pell grant program is tied to curriculum, essentially stifling academic freedom for low-income students.

Again, I remind my colleagues that last week Senator KENNEDY introduced and this Chamber passed by 83 to 8 a motion to instruct conferees to insist that the Senate provisions increasing need-based financial aid, which were fully offset by savings in S. 1932, be included in the final conference report. I am disappointed that such a vote was ignored.

In the wake of Hurricanes Katrina and Rita, escalating home energy prices, and stagnant wage growth, taking money from important Federal programs in order to pave the way for billions of dollars in tax cuts shows how out of touch the majority and administration are with hard-working Americans.

Unfortunately, there has been no change in the priorities or policies of the administration and the majority to address the problems facing the country's most disadvantaged citizens or to help ordinary working families.

And instead of sound budget policies aimed at preparing for the imminent retirement of the baby boom generation, this administration and this majority have refused to adopt the kinds of budget enforcement rules that helped achieve fiscal discipline in the 1990s and have remained committed to extending tax cuts that will add further to the budget deficit.

The end result is that policy priorities are distorted and programs that help working families cope in a difficult economy have become candidates for budget cutting in order to fund tax cuts for the wealthiest. Meanwhile the problems of large budget and trade deficits and the economic insecurity felt by many American families remain unaddressed.

Mr. AKAKA. Mr. President, I express deep concern about the conference report for S. 1932, the Deficit Reduction bill. Like many of my colleagues, I too have called for fiscal responsibility and restraint in government spending. However, my opposition to this conference report is not just based on fiscal restraint, but also against misplaced priorities. I voted against the bill when it first passed the Senate because of the draconian message that it sent to the American people, and now we face a package that is worse.

We are all conscious that we are heading into the holidays—a time for celebration and reflection. Unfortunately, this is not true for some of us, especially for certain low-income families and individuals affected by this reconciliation package. While families who are well off sit at their lavishly decorated dining room tables, calculating the largess they enjoy as a result of tax cut extensions advocated by the majority party, other families will sit in stark contrast with spare fixings, worry, anxiety, and fear that comes with not knowing how they will survive.

The package before us will hit families across the country right in the wallet. The cuts in the conference agreement decrease Medicaid benefits and increase Medicaid copayments and premiums. According to the Center on Budget and Policy Priorities, people living just above the poverty line may experience the most hardship, finding that they need to pay $20 to $100 for health care services that now cost no more than $3. These Medicaid changes, which total roughly $16 billion over the next 10 years, were not included in the original Senate bill.

Welfare reform has been pending for several years now, but that is because the issues are complicated and there exists great contention in how far we want to go to ensure that welfare recipients are fully-participating members of the workforce. The approach in my State of Hawaii has been a kinder, realistic approach that works to ensure that recipients have the education, training, and other tools that they need to become and remain self-sufficient, for their own good and the good of their children. However, the provisions in the reconciliation conference report deny the Senate's balanced view on welfare reform and instead adopt some of the most controversial policy changes that will impose major unfunded mandates on States.

It makes no sense to eliminate the flexibility States have to design work requirements for those families served wholly by State funds. According to preliminary estimates, Hawaii would have to increase its work participation rate by 16 percent or bring another 1,600 families into work from FY 2007 and beyond to meet the new standard, or face severe penalties. It also makes no sense to bring more welfare parents into the workforce without ensuring that their children will be adequately cared for through appropriate and adequate childcare assistance. According to CBPP, under this package, childcare would be available to an estimated 255,000 fewer children in low-income working families not receiving cash welfare assistance than in 2004. It is unconscionable to do this to our low-income families, particularly without giving Senators the opportunity for further and adequate deliberation.

The conference agreement does not include cuts in food stamps, but that is one of the few bright lights in this package for vulnerable families. It also makes significant cuts in child support enforcement funding, Supplemental Security Income, and foster care assistance—none of which were included in the original Senate bill. These are clearly misplaced priorities. The better choice would have been to achieve savings by going after special interests catered to by the health care industry, but we are again seeking spending cuts on the backs of low-income families and individuals in our country.

Finally, we may say that we are for increasing higher education opportunities, but this reconciliation conference report includes the largest cuts to student loan programs in history, a total of $12.7 billion. Some additional assistance is provided for certain students who are eligible for Pell grants, but the most needy students are not prioritized and additional hurdles make it difficult to apply for aid in the first place. The general Pell population—including about 14,000 students in my state of Hawaii—have been waiting for an increase in the base grant for several years now, but will have to wait longer because this conference report does not include that additional help for them to stay in school.

For these and other reasons, I strongly oppose the conference report before us. I cannot vote in favor of a package with such harmful cuts—particularly not this close to Christmas, and particularly not to impact those that need our help the most. Human kindness should abide throughout the year, but particularly at this time of year. This conference report simply embodies the opposite message.

Mr. ROCKEFELLER. Mr. President, there are many provisions within this reconciliation conference report that are deeply troubling to me, but at this point, I want to focus my concerns on provisions that undermine the historic 1996 welfare reform bill. That bill changed the old broken welfare system into a new program that encouraged people to work their way into self-sufficiency.

In 1996, I was an active participant in the controversial but bipartisan negotiations to boldly change our outdated welfare system, known then as the Aid to Families with Dependent Children, AFDC. Under the old rules, parents were discouraged and penalized from trying to work. In 1996, after contentious but full bipartisan debate by the House and Senate, we passed a bold new program called Temporary Assistance for Needy Families, TANF.

The new rules encouraged and required parents to move from welfare to work, but there were incentives to help parents, and billions of new dollars in childcare so parents could work with the knowledge that their child had childcare. Such supports are essential so that parents can make a successful transition.

The historic reform of 1996 also made changes in the child support enforcement programs, and further enhancements were made in 1998 to improve child support enforcement. While progress has been made on both programs, the child support enforcement has been a real success story. In 1996, child support enforcement collected $12 billion. Thanks to the changes in welfare reform, child support enforcement is now collecting $21.9 billion. In the President's fiscal year 2006 budget, the Office of Management and Budget, OMB, rated the Federal child support enforcement programs among the highest, most efficient programs in all of the Federal Government.

Despite this record of success, the reconciliation conference cuts child support enforcement by $1.5 billion over the next 5 years and a $4.9 billion cut over the next 10 years. These cuts are outrageous because States use this funding to track down absent parents, establish legally enforceable child support orders, and collect and distribute child support owed to families. CBO has estimated that this loss in Federal child support funding will result in $2.9 billion in child support going uncollected over the next 5 years and $8.4 billion going uncollected over the next 10 years. The reality is that children and families will be shortchanged. How, in any way, does this lack of investment promote personal responsibility? The answer is that it does not—in fact, this provision actually undermines past reforms.

I want to express my appreciation to Chairman GRASSLEY for his effort in forging a bipartisan welfare reform reauthorization bill during recent debates. In March, the Senate Finance Committee secured such consensus that it was able to move the TANF reauthorization package on a voice vote. On December 14, the Senate voted 64 to 27 on a motion by Senator CARPER not to include TANF in reconciliation. This amendment was a clear sense of the Senate about the importance of investing in childcare as an essential support for families making the transition from welfare to work.

Despite this bipartisan discussion in the Senate, the welfare reform authorization has been sandwiched into a massive reconciliation conference report that we have been given only 10 hours to debate. We have 10 hours to debate on a whole host of issues, many of which, including welfare reforms, have serious problems that were not part of the original Senate bill.

Previous Republican proposals were designed to pressure the States to have at least 50 percent of their TANF families in work activities, but, under these earlier discussions, States would have 5 years to achieve these new, tougher standards. The reconciliation package that we are forced to vote on now would impose this new, tougher participation rate by 2007. And it gets even worse. Under the conference report, the Department of Health and Human Services will issue new regulations to re-define work activities and how States will be required to verify the hours and activities to avoid serious financial penalties. These new regulations will be issued in June of 2006, just a few months before new, tougher standards are imposed. Adding insult to injury, very little childcare money is provided—only $1 billion over 5 years. The Congressional Budget Office reports that the cost to States of this new bill would be $8.4 billion over the next 5 years, which is slightly more than the cost would have been under the House reconciliation bill. CBO projects that some States would not meet the new mandates and would face fiscal penalties as a consequence. This is not fair because it essentially sets up States to fail. It will not promote work and self-sufficiency among welfare parents. It will encourage States to push families off the welfare rolls.

West Virginia currently has a 27 percent participation rate. Under these new rules, it would have to reach 50 percent in 2007, and State officials do not even know, at this point, what the rules will be. In my own State of West Virginia, Gov. Joe Manchin has said, "The proposed Federal funding cuts in TANF will greatly impact the families and children who depend upon the childcare, transportation assistance and welfare-to-work transitional periods. I urge Congress and the President to reconsider this action. We cannot lose sight of the fact that the individuals affected are those who are the neediest." I wholeheartedly agree with West Virginia Governor Manchin.

In addition to policy concerns raised by this conference report, the process has been equally unfair. The 774-page conference report on the reconciliation spending cut bill was filed in the House of Representatives at 1:12 a.m. on Monday, December 19. Four hours later, after less than 40 minutes of debate on the measure, the House began the final vote on the reconciliation spending cut bill. Now the Senate has only 10 hours to debate this package with no ability to make changes.

This package is patently unfair to our children. It will hinder the effort to move parents from welfare to work. It will undermine efforts to promote personal responsibility and ensure that parents pay the child support they owe their children.

It is unfair to our States to change the rules on welfare reform. Even worse, they will be changed just months before States have to meet these new standards.

This reconciliation conference report turns its back on bipartisanship.

It turns its back on needy children and families.

It turns its back on personal responsibility.

It is the wrong approach to welfare reform, and it should be rejected along with the other cuts in reconciliation.

Mr. BINGAMAN. Mr. President, the budget conference report that is about to be voted on by the Senate decreases access to and affordability of needed health care through the Medicaid Program for low-income children, parents, seniors, and people with disabilities while protecting a $10 billion fund for Medicare private health plans that are already acknowledged to receive payments far in excess of Medicare fee-for-service.

Clearly, the conferees made the choice to protect private health plan overpayments in Medicare while cutting access to care for some of our most vulnerable citizens enrolled in the Medicaid Program.

The conference report permit States to cut back on benefits for nearly all of the 27 million low-income children enrolled in Medicaid, including allowing States to restrict and limit benefits even for those with little or no income. The language is ambiguous about whether Early Periodic Screening Diagnostic and Treatment, EPSDT, services, which are critical to ensuring that children have access to all medically necessary services they need, will continue to be provided. Benefits that could be lost include comprehensive developmental assessments, assessment and treatment for elevated blood lead levels, eyeglasses, dental care, hearing aids, wheelchairs and crutches, respiratory treatment, comprehensive mental health services, prescription drugs, and speech and therapy services.

While certain populations, like pregnant women, people with disabilities, dual eligibles, and people with long-term care needs, are explicitly protected from benefit reductions, all other children enrolled in Medicaid, with the exception of children in foster care, are no longer ensured such protections.

The conference report also permits, States to reduce Medicaid benefits for many low-income parents and some people with disabilities to something called a benchmark package, even if it is bare-bones coverage with minimal benefits. The Congressional Budget Office, CBO, had previously written that it expected a reduction in benefits by 15 percent to 35 percent due to this provision. The conference report estimates that over $6 billion in cuts will occur to benefits for low-income people in Medicaid.

The conference report also allows States to impose substantial cost-sharing charges upon Medicaid beneficiaries that will impact millions of low-income beneficiaries. Currently, States can generally charge no more than $3 for copayments per service or prescription drugs with groups like children entirely exempt. That is all changed by the conference report.

For very low-income people, the Secretary would increase the nominal copayments of $3 by the medical portion of the Consumer Price Index, or M-CPI, which rises twice as fast as inflation generally. Of course, it will result in sharp rises in cost-sharing for our Nation's most vulnerable citizens, which a large body of research indicates will result in having people forgo needed health care services and prescription drugs.

Meanwhile, beneficiaries with income between 100 and 150 percent of poverty could be charged copayments up to 10 percent, and beneficiaries with income over 150 percent of poverty could be charged copayments of up to 20 percent of the cost of medically necessary care.

Furthermore, providers are allowed to deny care to anyone that cannot afford such cost-sharing. There are not even protections for children facing life-threatening conditions and in dire need of medically necessary care, as the language states that it would be incumbent upon the provider to waive the copayment in this case and only if the State allows it.

It should be further noted that there really are no statutory limitations because even those protections or limitations on cost-sharing that I have cited may be waived by the Secretary under the conference report.

CBO estimates that the conference report will result in $10.1 billion in cuts over 10 years resulting from increases in beneficiary copayments and premiums and these reductions are about 90 percent of the size of the cuts in the House package that they previous analyzed. It is important to remind my colleagues what the CBO said about the House bill, as it so closely mirrors what came out of the conference.

As CBO's analysis of the House bill states, "We estimate that the number of affected enrollees [due to increased cost-sharing requirements] would increase from 7 million in 2010 to 11 million by 2015, and that about half of those enrollees would be children."

CBO added that, due to added premiums, "about 70,000 enrollees would lose coverage in fiscal year 2010 and that 110,000 would lose coverage in fiscal year 2015 because of the imposition of premiums."

In sharp contrast, the Senate bill had nothing that increased premiums or cost-sharing.

Without the Medicaid Program, the number of children without health insurance—8.3 million in 2004—would be substantially higher. In fact, the number of uninsured children has dropped by over 300,000 children over the past 4 years due in large part to Medicaid and the State Children's Health Insurance Program, or SCHIP. We should not at this time be taking steps backward by reducing coverage for low-income and vulnerable populations, including children.

Senators need to fully recognize, understand, and reject what the House of Representatives and conferees have done with respect to the health and well-being of children, seniors, and the disabled in their budget reconciliation bill. Our Nation's most vulnerable citizens should not be asked to bear the burden of billions of dollars in budget cuts—cuts that are not even being used to reduce the deficit but, rather, to help pay for tax cuts.

There is also the fact that the conference report will significantly restrict eligibility for nursing home care under Medicaid. The conference report adopts most of the punitive provisions in the House-passed bill to limit eligibility for long-term care services, but adds additional restrictions so that savings in this area would actually be 11 percent larger than the House bill and 7 times larger than the Senate bill.

There are numerous problems with the provisions in this section that I do not have time to address today, but I would like to ask unanimous consent to place into the RECORD a letter from AARP expressing concern about these provisions, that CBO estimates will cut $6.5 billion out of nursing home spending over the next 10 years. It should be noted that these figures are just Federal amounts and that if you add State cuts in spending that there are billions and billions more in cuts to eligibility and services to Medicaid beneficiaries.

In addition, I also want to raise another major problem that I asked conferees to address and was highlighted by my introduction of S. 2074, the Medicaid Indian Health Act. That legislation would have exempted American Indians and Alaska Natives, AI/ANs, and Indian health programs from those provisions and changes being proposed to Medicaid that will all have devastating consequences for Native Americans.

Unfortunately, the conference report failed mightily in this regard. In fact, there is not even a mention of Native Americans or Indian health program in the legislation despite the fact the Federal Government's responsibility for Indian health, the uniqueness of the Indian health care system, and the serious health problems of Indian people require that protection of access to health care services for Native Americans be reflected in Federal Medicaid policy. Failure of the conferees to address this fact will have significant harmful consequences for American Indians and Alaska Natives.

For example, the budget conference report would allow States to impose cost-sharing on Medicaid beneficiaries similar to and at even higher levels than those allowed under the SCHIP program, with the stated policy objective of achieving more appropriate utilization of cored services. This objective, however, would not be achieved at Indian Health Service, IHS, or Indian tribal health facilities, as these programs do not charge their American Indian and Alaska Native patients for health care. Rather, imposition of premiums and copays would produce the following unintended—and very harmful impact—on the Indian health system:

Medicaid enrollment of AI/ANs who are eligible for coverage is already low, since the IHS user population receives health care without charge at IHS and tribal facilities. The financial barriers imposed by assessment of Medicaid premiums would further depress AI/AN enrollment. Decreases in Medicaid enrollment would deprive already-underfunded Indian health programs of vital Medicaid revenues on which they are heavily dependent.

The imposition of copayments will not change utilization habits of Indian Medicaid beneficiaries because IHS and tribal providers do not charge copays to their Indian patients. Copay amounts would be simply cost-shifted to the Indian health programs, causing a further reduction in the services they can offer, and reducing the resources they need to purchase contract health care.

These reductions in resources available to the Indian health system will decrease the health services they can provide and cause further decline in the health status of Indian populations. Everybody voting on today's package should be fully aware of that fact.

In addition, the budget reconciliation bill would, for the first time, allow States to offer different Medicaid benefit packages to "individuals within one or more groups of individuals" in the State by requiring enrollment in "benchmark" or "benchmark-equivalent" Medicaid coverage. This authority would allow a State to reduce the amount, duration and scope of Medicaid benefits to many beneficiaries. The Indian Health Service, which is now funded at less than 60% of need and is heavily dependent on Medicaid payments, would be decimated by any reductions in Medicaid-covered services.

While States receive 100% FMAP for Medicaid services provided in an IHS or tribal facility, those facilities have limited capabilities and are not able to directly supply all needed care. When the IHS or tribal facility must refer an Indian Medicaid beneficiary to a private or public provider, the State must pay the regular State Medicaid match. Thus, States would have an incentive to limit the benefits AI/ANs referred to outside providers could receive under the State Medicaid plan.

If Native Americans stay within the IHS system and the benefits are not covered, this is simply yet another cost shift to Indian health care programs.

As part of the Indian Health Care Improvement Act of 1976 report, the Congress said, "The most basic human right must be the right to enjoy decent health. Certainly, any effort to fulfill Federal responsibilities to the Indian people must begin with the provision of health services. In fact, health services must be the cornerstone upon which rest all the other Federal programs for the benefit of Indians. Without a proper health status, the Indian people will be unable to fully avail themselves of the many economic, educational, and social programs already directed to them or which this Congress and future Congresses will provide them."

The Federal Government has a "Federal trust responsibility" to Indian people that it is simply not fulfilling. This budget conference agreement is yet another example of this failure and should be rejected for this reason, as well as the negative consequences that it will have on low-income children, senior citizens, and people with disabilities across this Nation.

Finally, although I do not have the time today to talk at length about the problems with the Medicare provisions, I will say that I am very disappointed and deeply concerned about the $8.1 billion in home health cuts that have been included in the conference report. It is also disturbing that the conferees would choose to add a provision that was in neither the House nor Senate bills to cut $3 billion out of the Medicare disproportionate share hospital, DSH Program, which provides financial assistance to our Nation's safety net hospitals. These cuts will undoubtedly have negative consequences on safety net hospitals across the country. With 46 million uninsured people in our country, it makes little sense to be cutting our Nation's safety net providers at this time.

This is all about choices. The Senate reconciliation bill contained the same level of savings in Medicaid and Medicare without all of these provisions that will certainly have negative consequences on millions of people served by Medicaid and Medicare. The conferees had before them the choice of protecting vulnerable, low-income citizens or to do things such as protecting the interests of private health plans.

For example, such cuts were added in conference to help pay for decisions such as the dropping of savings that had been obtained in the Senate bill by such things as elimination of what is known as the health plan "slush fund." This $10 billion fund was created in the Medicare prescription drug bill to encourage participation by private health plans, but the Medicare Payment Advisory Commission, MedPAC, almost unanimously recommended its elimination and the Senate bill had included such savings.

The dropping of such reasonable cost savings out of the conference report has clearly left low income people to pay the price through cost-sharing increases and benefit restrictions that will undoubtedly have negative consequences on the health and well-being of our Nation's most vulnerable citizens enrolled in Medicaid.

I would also like to express my opposition to section 1101 of this budget reconciliation conference report the Senate is now considering.

I am disappointed the budget reconciliation bill includes a 2-year extension of the Milk Income Loss Contract, or MILC, a wasteful subsidy that primarily benefits dairy farmers in only a few states. I helped lead the opposition in the Senate in 2002 when this new dairy subsidy program was created as part of the farm bill. The MILC program has already cost taxpayers over $2 billion. I strongly oppose extending it further.

The Milk Income Loss Contract Program expired on September 30, but this conference report extends it for 2 years at a cost to the taxpayers of almost $1 billion. I oppose the extension because I believe this MILC Program is basically unfair and unnecessary.

Since the subsidy payments began in 2002, almost half the MILC payments—about $950 million—has gone to producers in only four States, Wisconsin, New York, Pennsylvania, and Minnesota. In fact, 20 percent of the payments, over $410 million, went to producers in just a single state, Wisconsin. The other half of the Federal payments is shared among all the remaining 46 States.

California, on the other hand, by far the nation's largest dairy state, isn't even among the top four in Federal MILC payments. California's dairies produce 20 percent of the nation's milk but get only about 7 percent of the payments. Idaho is 4th in dairy production, but 12th in MILC payments. How can anyone say that is a fair and equitable use of the taxpayers' dollars? Dairy producers my State of New Mexico rank 7th in the Nation in milk production but are 28th in Federal MILC payments.

Some of the supporters of this $1 billion boondoggle say that dairy farmers need a safety net. However, I hope all Senators know dairy producers already have a safety net, one that has been in place for over 50 years. It's called the Federal Price Support Program, and it was extended in the 2002 farm bill. So this $1 billion program subsidy program is really just a case of some dairy farmers trying to double dip at the taxpayers' expense.

Another argument I have heard is that MILC helps the family farms. Nearly all dairies in this country, regardless of size, are family farms; that is, owned and run by families. The families who run New Mexico's dairies are strongly opposed to extending MILC.

Finally, a recent study by the U.S. Department of Agriculture shows the MILC program actually lowers prices paid to diary farmers. This shouldn't be a surprise to anyone, it is just basic economics. Taxpayer subsidies invariable lead to excess production, which pushes prices down. In my opinion, this is a simple case of an unnecessary and counterproductive program that should have been left to die.

I understand President Bush made a campaign promise last year to support extending the MILC Program. But at hearing on October 27 in the Senate Finance Subcommittee on International Trade, where I am a member, the deputy trade representative, Ambassador Allgeier, stated the administration would prefer MILC not be extended because of the possible impact on the President's ongoing world trade negotiations. MILC is a huge trade-distorting subsidy, and extending it now sends the wrong signals to our trading partners.

I didn't sign the conference report, and I plan to vote against this budget reconciliation bill because I do believe this bill is a missed opportunity to establish spending priorities and deal with the nation's burgeoning deficit.

This bill sets aside $1 billion for an unnecessary subsidy to benefit mainly Northeast and Midwest dairy farmers, while at the same time making deep cuts to essential health care and housing initiatives. Agriculture spending for farmers and ranchers has had to be cut an extra $1 billion to pay for the MILC subsidy. Our country is in deep financial trouble which requires us to make difficult choices and set priorities. In my view, we have laid out the wrong priorities in this bill.

Decisions that cost the taxpayers a billion dollars shouldn't be made on the basis of partisan politics. Section 1101 in this reconciliation bill will cost taxpayers $1 billion over the next 3 years. That means $1 billion more that has to be borrowed; another $1 billion added to the deficit.

New Mexico's family-owned dairies are some of the most efficient in the Nation, and they should be free to compete without this costly and totally unnecessary subsidy program. I do believe it is bad policy to put an extra $1 billion of the taxpayers' money into this unnecessary MILC subsidy.

Groups that oppose this 2-year extension of the MILC subsidy include the International Dairy Foods Association, the American Conservative Union, Americans for Tax Reform, Citizens against Government Waste, Freedom Works, and the National Taxpayers Union.

In addition to the letter from AARP previously mentioned, I ask that letters expressing major concerns and opposition to the conference report from 35 organizations that are part of the Consortium for Citizens with Disabilities, the American Cancer Society, the National Council of La Raza, and an organization representing 2,500 police chiefs and other law enforcement leaders be printed in the RECORD.

I also ask unanimous consent that a recent article opposing extending MILC by Thomas Schatz, president of the Council for Citizens Against Government Waste, and John Berthoud, president of the National Taxpayers Union, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AARP,
December 19, 2005.

Hon. BILL FRIST,
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR MAJORITY LEADER FRIST: AARP strongly opposes the budget reconciliation conference agreement scheduled to come before the Senate for a vote today. Rather than reflecting the rational provisions of the Senate reconciliation bill, the final conference agreement is irresponsible policy.

The final conference agreement does not ask for shared sacrifice to achieve budgetary savings. Rather it protects the pharmaceutical industry, the managed care industry, and other providers at the expense of low-income Medicaid beneficiaries and Medicare beneficiaries who will foot the bill.

AARP members and your other constituents will question why members of the Senate would vote for a bill that would:

Make it harder for Americans needing long-term care to qualify for Medicaid;

Force some Americans to forfeit their homes in order to pay for long-term care services;

Require all Medicare Part B beneficiaries to pay higher premiums;

Reopen the MMA, not to make improvements in the new drug benefit, but to require those with more income to pay higher Part B premiums sooner; and

Force low-income Medicaid recipients to pay more for their care—and if they cannot afford to do so—to potentially be denied care entirely.

The conference agreement systematically undermines the critical protections built into both the Medicaid and Medicare programs. If the conference agreement becomes law, then over the course of the next few weeks and months we will make sure that our members across the country fully understand the impact of this conference agreement on them and on their families.

We urge the Senate to oppose the reconciliation conference package and urge Congress to instead return to the fair and responsible policies of the original Senate package.

Sincerely,

WILLIAM D. NOVELLI.

CONSORTIUM FOR CITIZENS
WITH DISABILITIES,
December 20, 2005.

DEAR SENATOR: We are writing as members of the Consortium for Citizens with Disabilities (CCD). We strongly urge you to opposes the budget reconciliation conference report because of the serious harm it would cause the 9.2 million children and adults with disabilities and others who rely on Medicaid for essential health and long-term services. Unlike the Senate-passed budget reconciliation package, the conference report achieves budget savings in ways that would weaken critical Medicaid protections upon which people with disabilities and other low-income beneficiaries rely. This includes cost-sharing provisions that will only lead to necessary services being denied and effectively punishing people with disabilities who have extensive health and long-term services needs. Changes to the EPSDT requirement can only lead to a bifurcated system that will impose formidable barriers for children in Medicaid trying to access the full range of covered services. The home- and community-based services provisions permit enrollment caps and waiting lists—the very policies that currently prevent Medicaid from meeting the needs of all people with disabilities otherwise eligible for community services. The asset transfer policies also go beyond the consensus reforms in the Senate bill and will make it harder for some seniors with disabilities to qualify for Medicaid—even if they do not have substantial incomes or were not purposefully divesting assets to qualify for Medicaid.

CCD is also very concerned about the negative impact of the TANF provisions on people with disabilities and oppose the inclusion of these provisions in the conference report.

While we are supportive of the Family Opportunity Act and the Money Follows the Person demonstration, these provisions alone do not justify supporting a Medicaid and TANF reform package that is excessively harmful to people with disabilities.

Sincerely,

Academy for Educational Development
American Association on Mental Retardation
American Association of People with Disabilities
American Foundation for the Blind
American Congress of Community Supports and Employment Services
American Council of the Blind
American Network of Community Options and Resources
American Therapeutic Recreation Association
APSE: The Network on Employment
Association of University Centers on Disabilities
Brain Injury Association of America
Council of State Administrators of Vocational Rehabilitation
Easter Seals
Epilepsy Foundation
International Association of Business, Industry and Rehabilitation
LDA, Learning Disabilities Association of America
Lutheran Services in America
National Alliance on Mental Illness
National Association for the Advancement of Orthotics and Prosthetics
National Association of Social Workers
National Association of School Psychologists
National Association of State Head Injury Administrators
National Disability Rights Network
National Down Syndrome Congress
National Mental Health Association
National Organization of Social Security Claimants' Representatives
National Spinal Cord Injury Association
NISH
Paralyzed Veterans of America
Research Institute for Independent Living
The Arc of the United States
Tuberous Sclerosis Alliance
United Cerebral Palsy
United Spinal Association
Volunteers of America.

AMERICAN CANCER SOCIETY SPEAKS OUT AGAINST CONFERENCE REPORT PROVISIONS THAT INCREASE COST SHARING AND LIMIT BENEFITS IN MEDICAID PROGRAM

DECEMBER 19, 2005

DEAR SENATOR: The American Cancer Society is disappointed in House passage of provisions in the Reconciliation Spending Cuts Act Conference Report (H.R. 4241) that will have an adverse impact on access to care for Medicaid beneficiaries who have cancer or are at high risk for cancer. Specifically, we are deeply concerned about the provisions which achieve budget savings by increasing cost sharing and putting benefits packages at risk. We urge the Senate to stand up for a reconciliation package that minimizes the negative impact on beneficiaries by deleting these provisions, as reflected in the Senate bill (S. 1932).

Cancer is a disease where up front financial costs are substantial, timely treatment is absolutely critical upon diagnosis, and treatment modalities vary widely. We know that access to screening and quality cancer care can have a substantial impact on outcomes. Therefore policy changes, such as imposing undue financial barriers or reducing benefits that inadvertently limit Medicaid beneficiary access to screening, treatment, and follow up care can be a particular problem for those with cancer.

The Society is greatly concerned about cost-saving provisions in the conference report that seek to secure most of its required savings by eliminating the guarantee of coverage, increasing cost sharing and allowing for changes in benefits packages that could negatively impact those who are most vulnerable—particularly low-income individuals with or at greatest risk of chronic diseases such as cancer. We believe that Medicaid beneficiaries' existing access to specialty services and covered cancer protections, including "optional" benefits like screenings, cessation services, and prescription drug coverage, should be protected, and not diminished.

The Congressional Budget Office estimated that much of the savings from these provisions in the conference report would be achieved by beneficiaries foregoing critical health services or participation in coverage altogether. The Senate has voted in the past to achieve its savings through both the Medicare and Medicaid programs by limiting fraud, waste, and abuse, and by reducing drug prices and other payments—savings which are less likely to hurt beneficiaries. The Senate again expressed its intent to protect beneficiaries in overwhelmingly passing a Motion to Instruct on Medicaid last week. The Society stands in support of this bipartisan approach for achieving cost-savings while protecting access to care for Medicaid beneficiaries.

The Medicaid program plays a significant role in providing access to cancer prevention, screening and early detection, treatment, and follow up care for the nation's most vulnerable populations, and we applaud Congress for providing this safety net for Hurricane survivors.

While we recognize the fiscal constraints faced by states and the federal government in controlling overall health care costs in addition to administering the Medicaid program, we believe that reforms must be achieved while continuing quality coverage and comprehensive access for cancer patients and those at risk for cancer in the Medicaid program. Therefore, we ask that you support provisions that maximize protection of Medicaid beneficiaries and delete provisions that increase cost sharing, jeopardize benefits, and eliminate the guarantee of coverage. If you have any questions, please contact Kelly Green Kahn, Senior Federal Representative at 202-661-5718.

Sincerely,

DANIEL E. SMITH.

National Vice President, Federal and State Government Relations.
WENDY K. D. SELIG,
Vice President, Legislative Affairs.

NATIONAL COUNCIL OF LA RAZA,
December 19, 2005.

DEAR SENATOR: On behalf of the National Council of La Raza (NCLR), the largest national Hispanic civil rights and advocacy organization in the United States, I write to strongly urge you to oppose current budget reconciliation legislation, the "Deficit Control Act of 2005" (S. 1932). This budget reconciliation would cut vital programs that were established to protect the economic security of low-income families, including Latinos.

S. 1932 will move our nation in the wrong direction. In the past, when hardworking Latino families faced economic hardship, they could count on temporary relief such as Medicaid or Temporary Assistance for Needy Families (TANF) to sustain their households until they could "get back on their feet." The reconciliation package would weaken the ability of federal programs to provide effective services that help Americans move up the economic ladder by cutting services, increasing costs to beneficiaries, or severely compromising program structure.

Today there are more than 41 million Hispanics in the U.S.; more than 19 million are in the labor force making contributions to the nation's prosperity and economic growth. With respect to federal budget and tax priorities, six in ten (61%) of registered Latino voters say they would rather pay higher taxes for a government to provide more services. Three-quarters (74%) say the government is spending too little on education and a similar share (76%) say we as a country should spend more to provide health insurance for everyone who needs it, even if it means raising taxes. Yet, Congress is following the opposite route. In addition, this proposal would bring us no closer to a balanced budget.

More troubling, the budget reconciliation proposals continue to be described, in some cases, as an effort to pay for disaster relief and in others as must-do legislation to reduce the federal budget deficit. While NCLR agrees that providing relief to disaster victims and improving the budget deficit are critical, we believe that the budget reconciliation package would shift the burden to other low-income families while failing to balance our nation's budget. To close the deficit gap, Congress should seriously consider strategies to raise revenues. Tax cuts increased the budget deficit; low-income families should not now have to pay for them.

Much is at stake for Latinos in this budget reconciliation. We hope that the Senate will send a clear message to Latinos and all Americans that Congress is serious about enhancing life opportunities for working families. This budget reconciliation package fails to send that message. Thus, NCLR urges you to VOTE "NO" on the budget reconciliation package. NCLR will recommend that the National Hispanic Leadership Agenda include votes associated with this legislation in its Congressional Scorecard.

Sincerely,

JANET MURGUÍA,
President and CEO.

FIGHT CRIME: INVEST IN KIDS,
Washington, DC, December 19, 2005.

DEAR SENATOR: On behalf of the 2,500 police chiefs, sheriffs, prosecutors, and victims of violence who constitute the anticrime group, FIGHT CRIME: INVEST IN KIDS, we urge you to support investments in kids proven to reduce crime, and reject proposed bills—which may be considered sometime today—that would reduce those investments. The research confirms what the law enforcement leaders of FIGHT CRIME: INVEST IN KIDS have seen on the front lines; investments in kids like safe foster care homes for abused and neglected children, high-quality early care and education, and comprehensive screenings and treatment through Medicaid help prevent later crime and violence.

We thus urge you to reject the House/Senate Conference Report on Reconciliation (S. 1932), expected to be considered later today by the U.S. Senate, which—unlike the original Senate-passed S. 1932—would cut low-income, at-risk kids' access to Medicaid, foster care and child care assistance.

Also, we urge you to reject the Defense Appropriations conference report—to be considered by the Senate in the next day or two—which would make indiscriminate (so-called "across-the-board") cuts that would, in 2006, leave 25,000 more low-income at-risk children out of Head Start, and would deny 11,000 more low-income at-risk kids the assistance their parents need to access quality child care.

Please reject these two fiscally-shortsighted conference reports, which would reduce children's access to proven programs that cut crime, save lives and save money.

Medicaid

Unlike the original Senate-passed S. 1932, the Reconciliation Conference Report would cut many low-income children from the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program that can help reduce later delinquency. Currently, EPSDT provides comprehensive early screening and treatment to help identify and treat behavioral and emotional problems and mental illnesses while children are young, preventing more serious problems later that increase a child's risk of involvement with the juvenile justice system. Studies show that behavior problems in young children are linked to later antisocial behavior. For example, an estimated 7 percent or more of preschoolers have levels of disruptive, aggressive behaviors severe enough to qualify for a mental health diagnosis and approximately 60% of these children will later manifest high levels of antisocial and delinquent behavior. Eliminating the state requirement to offer EPSDT services would limit at-risk kids' access to proven treatment that can help keep them on the right track and away from the road to crime.

The Reconciliation Conference Report would limit kids' access to mental health treatment that can reduce the risk of repeat involvement with the juvenile justice system. Medicaid pays for over 50% of public mental health services, helping cover evidence-based, intensive individual and family therapy programs. For example, Functional Family Therapy (FFT) works individually with troubled, delinquent youths to change their behavior and break the peer connections that lead to crime. FFT cuts re-arrest rates in half, while saving money; the public saves over $26,000 for each youth treated. By eliminating the EPSDT benefit guarantee for many low-income children, the Reconciliation Conference Report would also allow states to adopt benefits packages that would clearly be inadequate for many at-risk children in need of intense mental health intervention. For example, in Colorado, kids could be limited to 20 outpatient mental health visits per year. Mental health treatment under Medicaid helps kids get the care they need, while making our communities safer.

Unlike Senate-passed S. 1932, the Reconciliation Conference Report would eliminate affordability guarantees for millions of children on Medicaid (those with incomes just above the poverty line), leaving low-income children subject to new and sometimes unaffordable costs that experts expect will prevent these children from receiving necessary care. Currently, federal law exempts Medicaid-eligible children from cost-sharing and premiums. As a result, low-income children covered by Medicaid are even more likely than low-income children with private insurance to have a well-child visit, helping ensure that children get off to a good start in life. Participation in health insurance programs has been shown to drop to fewer than one in five eligible people when premiums reach the levels allowed under this proposal) however, suggesting that fewer children would receive needed care—care that prevents crime and saves money.

Foster Care

Unlike Senate-passed S. 1932, the Reconciliation Conference Report would limit the ability of relatives to care for abused and neglected children in need of a safe foster care home, increasing pressure on the already inadequate number of non-relative foster care homes and potentially leaving more children in dangerous homes. Reversing the Rosales court decision would limit federally IV–E foster care reimbursement to some relatives who can now receive these reimbursements. The proposal would also limit federal Title IV–E funds for case management and other services for children living with relatives under certain circumstances. This cut in federal foster care support will decrease the likelihood of safe foster care homes being available for all of the abused and neglected children who need them, resulting in re-abuse and later crime.

The Reconciliation Conference Report would put new limits on funding that would restrict states' ability to support prevention services for kids "at imminent risk of removal from the home" and limit caseworkers' ability to perform crucial case management roles. Limiting the ability of states (under certain circumstances) to support prevention services for kids at high risk of entering the foster care system would increase child abuse and neglect and foster care placements, as well as later crime. Restricting caseworkers' ability to help with family reunification and other case management when children are transitioning between foster care and juvenile institutional placements would place an additional burden on the already underfunded juvenile justice system, diverting funding that would otherwise support effective violence prevention programs for at-risk kids and intervention programs for kids who have already committed a criminal or delinquent act.

Early Care and Education

Unlike the original S. 1932, the Reconciliation Conference Report "Child Care and Development Block Grant" (CCDBG) provisions would cut 255,000 low-income children from child care in 2010 (compared to 2004). The Defense Conference Report would, this year alone, deny tens of thousands of low-income at-risk kids access to CCDBG and Head Start. CCDBG and Head Start support the type of quality early childhood care and education programs that have been proven to prevent children from turning to crime. For example, a study of the High/Scope Perry Preschool program showed that three- and four-year-olds from low-income families who were left out of the program were five times more likely to become chronic offenders by age 27 than those who were in the program, and the program saved $17 for every $1 invested. The Reconciliation Conference report provides such a small increase in CCDBG funding over five years that it doesn't account for: (1) inflation; (2) increased work requirements in the proposed Temporary Assistance to Needy Families reauthorization; (3) the need to increase quality; or (4) current unmet need (only 1 in 7 eligible children is now served). The two Conference Reports, together, would limit CCDBG and Head Start funding, thus preventing hundreds of thousands of children from receiving quality early childhood care that can help them become productive citizens rather than criminals.

We urge you to reject conference reports that include any of these harmful provisions. Cutting Medicaid, foster care and early care and education now will only lead to higher crime rates and far greater criminal justice system expenditures down the road. The United States Senate must not allow a rush-to-adjournment to result in enactment of bad laws. Your constituents—and the Nation—deserve better.

Sincerely,

MIRIAM A. ROLLIN,
Vice President.

DEAL MILKS TAXPAYERS DRY

(By Thomas A. Schatz and John Berthoud)

The dairy-farm lobby is at it again. With the assistance of several key lawmakers, the industry is using must-pass year-end legislation to gain additional subsidies.

The latest shenanigans involve the milk income-loss contract (MILC), a costly program that expired Sept. 30.

The dairy lobby's objective is to resurrect the MILC program by attaching it to the Deficit Reduction Act of 2005, which is supposed to reduce spending by about $50 billion over the next five years. Adding insult to injury, the House Republican leadership is making back-room deals to help the dairy lobby secure its subsidy.

To garner the votes necessary to pass the Deficit Reduction Act, Speaker of the House Dennis Hastert (R-Ill.) promised a number of Republican lawmakers that he would "instruct House conferees to secure an extension of a MILC program through September 2007." This would be accomplished by receding to the Senate, which included a renewal of the MILC program in its version of the Deficit Reduction Act. The failure to vote upon down on the program in the House is a betrayal of the taxpayers.

Congress did the right thing when it allowed the MILC program to expire at the end of September. During its existence, the MILC scheme perpetuated economic distortions, created inefficient markets and unnecessarily harmed taxpayers and consumers.

When MILC was created as part of the 2002 farm bill, the Congressional Budget Office (CBO) estimated that the four-year price tag would be "only" $1.3 billion. Since the program's inception, however, taxpayers have been tapped for more than $2 billion. Now, the estimate for a scaled-back, two-year version of MILC is $998 million. If the CBO is as wrong now as it was in 2002, this new two-year concoction will cost taxpayers closer to $1.5 billion.

Whether the actual cost turns out to be $1 billion or $1.5 billion or even more, there is no justification for bringing the MILC program back to life, particularly as part of the Deficit Reduction Act. Taxpayers have already taken too many forced trips to this milking machine.

The industry is currently subsidized through the dairy-price support program, which cost taxpayers an average of $500 million per year from fiscal year 1999 to fiscal year 2004 for the purchase of surplus products.

The absurdity of MILC is evident in its own past history. Even the U.S. Department of Agriculture (USDA), which oversees the program, agrees that the costly subsidies simply aren't working and have produced unfortunate and unintended consequences.

A comprehensive study released by the USDA last year concluded that the MILC program leads to expanded output through production-linked subsidies. Then, incongruously, the federal government purchases the surplus milk production caused by the MILC program through the price supports. In short, taxpayers shell out for the same unneeded milk not once but twice.

The MILC program was based on the failed Northeast Dairy Compact, which was also the product of a back-room deal, and, like the late price cartel, MILC primarily benefits certain, less efficient dairy farms.

In rewarding and perpetuating such inefficiency, the MILC program is not just expensive for taxpayers but at the end of the day is simply bad, backward policy. Particularly at a time of staggering federal deficits, it would seem hard to justify spending an additional $1 billion to resuscitate a program that never worked in the first place.

Aside from the problems inherent in the program itself, using the Deficit Reduction Act to reconstitute MILC is another example of the way in which Washington has grown ever more beholden to special interests. After all, legislation that would have extended the MILC program failed to move ahead earlier this year in either the House or the Senate. Attempting furtively to funnel MILC into legislation that is meant to save tax dollars, not squander them, is deplorable and pathetic.

After more than 70 years of meddling in the U.S. dairy industry, Congress was right to begin phasing out our convoluted system of antiquated subsidies by allowing the MILC program to sunset. They ought at least to protect this victory for taxpayers by keeping the menace of MILC out of the Deficit Reduction Act.

More important, the House leadership ought to show taxpayers respect, rather than using deficit-reduction legislation to create new government programs and making back-room deals that milk the taxpayers dry.

REVISIONS TO PAYMENTS FOR THERAPY SERVICES

Mr. ENSIGN. Mr. President, I would like to raise an issue of clarification regarding section 5107, Revisions to Payments for Therapy Services. It is my understanding that this provision retains the therapy limitation of $1.740 for outpatient physical therapy and speech-language pathology and $1.740 for outpatient occupation therapy but provides an exception process for services that are needed by a beneficiary over this amount. This exception process is expressly to permit services above the cap that are medically necessary. Mr. President, I ask the Chairman of the Senate Finance Committee whether this interpretation is correct.

Mr. GRASSLEY. Mr. President, this is correct.

Mr. ENSIGN. In addition, there should be no delay in implementing the exceptions process. CMS should work diligently to develop a process to determine whether a service is medically necessary. This process could include a "code modifier" and standard audit review of medical necessity and reflect similar processes that currently exist. It is my understanding, based on the language, that if CMS does not develop a process, a request for therapy services will be deemed medically necessary if CMS does not act on the request within 10 business days. Further, the language also appears to permit a beneficiary to request medically necessary coverage outside the caps at the outset of treatment. If CMS does not develop a process and fails to act within 10 business days, then the beneficiary can receive covered therapy services in excess of the cap. I would hope that further information from CMS regarding the exceptions process is laid out as we approach January 1, 2006, when the therapy caps go into effect. Senator GRASSLEY, do you agree with these statements?

Mr. GRASSLEY. I agree that CMS needs to develop a process to permit medically necessary Part B therapy services that exceed the cap in a timely manner. I also believe that this process should not result in the delay of needed therapy services. I would hope that CMS would provide an outline as to how they envision the exceptions process to work so that beneficiaries needing therapy services beyond the $1.740 caps receive the therapy they need if medically necessary.

Mr. KENNEDY. Mr. President, in follow-up with respect to the education provisions in the conference report on the pending bill, it is important to note that the Senate bill included $6 billion for Pell grants, to do more to ensure that every talented student who has the opportunity to go to college can afford to do so. In addition, the Senate bill included a further $2 billion for college students studying math and science.

By contrast, the conferees' bill reduces spending in the student loan programs by $13 billion and allocates only $3.75 billion to new grant aid. That's $13 billion in tax giveaways for the wealthy and only a meager $3.75 billion increase in grants to help students go to college.

It gets worse. In order to receive the funds that are available, students must jump through multiple hoops. As a result, only a very small percentage of students will ever see the aid. In fact, based on an analysis by the Congressional Budget Office, our estimates show only about 10 percent of the students who currently receive Pell grants will receive additional assistance under this bill—hardly a commitment to educational opportunity for all students.

We need to provide incentives for students to study math and science. But it makes no sense to do so at the expense of other students. As the cost of college rises and Pell grants remain stagnant, it's wrong to take $13 billion in savings from the student loan program and not give a single penny to 90 percent of the students struggling to make it through college.

Senator GREGG pointed to the loan forgiveness provisions in this conference report. I strongly support those provisions and urged their inclusion in the Senate bill. But these provisions are merely an extension of current law. They ensure that we won't now eliminate the incentive we've been providing for teachers who agree to teach in high-need fields in high-poverty schools. Loan forgiveness is an extremely important program, but it does nothing for the almost 170,000 college-ready students, who each year fail to go to college because they can't afford the upfront costs of doing so. These students need additional grant aid—even if they choose to be teachers and not scientists and engineers.

Senator GREGG also said that the fixed interest rate structure in this conference report will cost students $5 billion. In fact, the fixed interest rate structure actually saves about $6 billion more than the variable rate structure proposed by Senator GREGG and included in the House bill.

Instead of the variable interest rate capped at 8.25 percent, as proposed by Senator GREGG, the Senate bill kept the current law structure of 6.8 percent fixed rate, which is obviously better for students than an 8.25 percent rate. The Federal Reserve has increased interest rates in each of its last 13 meetings. The Senate bill was designed to protect more students from the current trend of increasing rates.

I had proposed a variable rate capped at 6.8 percent—the option supported by the student groups. But our Republican colleagues refused to accept this option.

Many of us wanted to do even more for students than we achieved in the Senate bill. Instead, we were forced to find $7 billion in savings—now $13 billion in this final version—so that this Republican Congress and the Bush administration can provide greater tax giveaways to the wealthy.

Our Senate bill opened the doors of opportunity for many more young people. We took the fat out of bank profits and put most of it back where it belongs—helping the nation's neediest students. This conference report puts an additional $6 billion into tax cuts for the wealthy—on top of the $7 billion in the Senate bill—while doing nothing for 90 percent of those struggling to pay for college. Those are the wrong priorities, Mr. President, and I very much regret that our Republican colleagues have insisted on turning a good Senate bill into a shameful retreat on aid to college education.

UNANIMOUS-CONSENT AGREEMENT

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate convenes on Wednesday, December 21, it immediately resume debate on the conference report to accompany S. 1932; provided further that all time be considered expired under the statute other than 5 minutes each for the chairman and ranking member; further, that following that time, Senator CONRAD be recognized in order to raise a Budget Act point of order against the conference report and that immediately after the point of order is raised Senator GREGG be recognized in order to make a motion to waive.

I further ask unanimous consent that following the vote on the waiver, Senator CONRAD be recognized to make a further point of order and Senator GREGG be recognized immediately in order to move to waive for his point of order; provided that the only Byrd rule points of order in order be from the list that is currently at the desk and that if both points of order are waived, the Senate proceed to a vote on the adoption of the conference report, with no intervening action or debate; further, that if either motion to waive is rejected and the Chair sustains either point of order following the votes on the motions to waive, the Senate then immediately vote on the motion to concur in the House amendment with the Senate amendment as provided under the Budget Act, again with no further intervening action or debate, and that there be 4 minutes equally divided before each point of order vote.

Mr. REID. Mr. President, reserving the right to object, I direct these remarks as much to myself as to all other Senators.

Tomorrow is an extremely important and very difficult day. I ask all Senators to be patient, not be upset if things don't go the way they think they should. It is going to be a hard day tomorrow. With a little bit of good luck, we should be able to finish everything tomorrow. But I hope all Senators would understand that getting to the point where we are is very difficult. And tomorrow, I hope everyone will, as I have said, be considerate of others and try to move through this with the understanding that we are all trying to get out of here. Everyone understands that there are a lot of things going on. We are also doing the people's business, and we need to focus attention on that.

I have no objection.

Mr. CONRAD. Mr. President, reserving the right to object, just on the one point we probably need to clarify, that after the point of order I make, Senator GREGG be recognized to make a motion to waive, that our understanding is that would be a motion to waive on the specific items which I have raised.

Mr. GREGG. That is correct.

Mr. CONRAD. I thank my colleague, and I thank the Chair. I will not object.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The majority leader.

Mr. FRIST. Mr. President, I will return later tonight to make further announcements about the schedule for tomorrow. I wish to emphasize what the distinguished minority leader has said. There will be a lot of votes tomorrow. We will begin voting around 10 minutes after 9 tomorrow. Thereafter, we are going to have a whole series of votes, with the goal of getting people out sometime tomorrow. It is going to take everybody's patience and cooperation. We will start bright and early. I will have more to say on that later.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEFENSE APPROPRIATIONS

Mr. DURBIN. Mr. President, tomorrow morning we will consider the Defense appropriations conference report with very little debate. It is an important measure. Earlier I came to the floor to speak about one aspect of the bill which relates to drilling in the Arctic National Wildlife Refuge. It is a large bill, about 1,000 pages. It contains many things. I would like to address the other elements that are included in that bill.

This conference report provides $453 billion in defense spending, money for body armor, armored vehicles, protective equipment for our troops that they need and haven't always had. The conference reports includes $1 billion for equipment for National Guard and Reserve units.

In Illinois, our National Guard units have been forced to leave their equipment behind in Iraq for use by the units that follow. Other States' National Guard and Reserve units have done the same. Leaving their equipment thousands of miles away makes it difficult to train our guardsmen in my State and many others. It also makes it harder for Guard and Reserve units to respond to civilian disasters here at home. We saw that in Hurricane Katrina. I voted for the Leahy amendment, offered by the Senator from Vermont, to increase funding for Guard and Reserve equipment by $1.3 billion. I am pleased that most of this funding is included in this final conference report.

The bill also adds $10 million for the Rock Island Arsenal to ensure that this important military-owned-and-operated facility is ready to make the equipment our troops need when they need it. That Rock Island Arsenal proved its value to America when we needed to retrofit the humvees with armor plating to protect our troops. The men and women of the Rock Island Arsenal worked 24/7 to meet that need. It provides $20 million to purchase or refurbish the heavy construction equipment needed by the Navy Seabees and Army Guard and Reserve engineer units. I am proud that we make this gear in Illinois.

It includes more than $20 million for upgrades to Navy and Marine Corps FA–18 fighter aircraft because our pilots deserve the best equipment there is. This conference reports also includes $29 billion for Katrina disaster relief. It is important to note that not one dime of this $29 billion is new money; $5.1 billion is from the 1-percent across-the-board cuts in this bill as well as other rescissions. The rest, $23.4 of the $29 billion total, was already earmarked for FEMA. FEMA programs are being cut to pay for Katrina relief. Would you believe that this conference reports actually cuts FEMA's preparedness, mitigation, recovery, and response programs by $2 million? It cuts Federal programs, funds for programs such as catastrophic planning and planning for mass evacuations. It is hard to imagine, in the wake of Hurricane Katrina, that we are reducing spending in this bill for planning for mass evacuations. God forbid we face another one in the near future.

Inadequate resources clearly was not the only reason FEMA was overwhelmed by Katrina. The main reason was cronyism and incompetence at the top. But does anyone seriously believe that cutting FEMA's disaster prevention and preparedness programs is the right way to respond to Katrina? It isn't. Of the $29 billion for Katrina relief, one-tenth of that total, $2.9 billion, is for Army Corps of Engineers projects including levee repairs. I am glad the administration has acknowledged the need for the Federal Government to take the lead to rebuild the levees. Homeowners can't rebuild, business owners won't relocate until New Orleans' levees are safe and rebuilt.

Let's be clear. $2.9 billion is a very small downpayment on what is needed to rebuild the levees and restore the wetlands. Estimates of what it will cost range from $18 billion to $32 billion to reach category 5 hurricane protection. Restoring the wetlands could cost an additional $18 billion. As any good environmental engineer will tell you, strong levees and restored wetlands are needed to fully protect New Orleans and the surrounding areas. In his nationally televised speech from New Orleans' Jackson Square in mid-September, President Bush promised the Federal Government would help New Orleans and Louisiana make the flood protection system stronger than it has ever been. The $2.9 billion in this bill is a small downpayment on that promise. We will look for the next installment next year.

The President should also make it clear right now that New Orleans' levees will be rebuilt to withstand a category 5 hurricane. If we don't want New Orleans to turn into a permanent ghost town, the people have to know that it is safe to return. Assurance from the President would make that difference.

What is missing in this bill? Unfortunately, several critically important provisions have been stripped out behind the closed doors of the conference committee. Let me tell you one that has become a perennial. The Reservist Pay Security Act, which the Senate has now passed four different times—I have sponsored this bill and it passed in the Senate four different times—is one of the measures that should be in this bill but always gets stripped out in conference. The same Senators who stand here and vote proudly for it can't wait to get behind closed doors and strip it out. Four straight years. What is it about? When Guard and Reserve members of top companies such as Sears, GM, and Home Depot are called to active duty, companies they work for make up their difference in pay. They can worry about defeating terrorism and don't have to worry about missing mortgage payments.

Thirty State governments do the same thing. They believe their workers who sacrifice to defend America are worth a helping hand. I introduced the Reservist Pay Security Act with a bipartisan team of Republicans and Democrats in the Senate, including my lead cosponsors Senator BARBARA MIKULSKI of Maryland, Senator GEORGE ALLEN of Virginia, LINDSEY GRAHAM of South Carolina, and others who believe the Federal Government should make the same commitment to the troops that other employers make. One out of every ten Guard and Reserve members is a Federal employee. Yet they don't have the same salary and income protection as those in the private sector. How can you possibly explain that? How can we say, as a Federal Government, we won't stand behind our troops when the private sector does, when State governments do, when local governments do?

Again and again that is passed on the Senate floor. We pat ourselves on the back and it heads to the conference committee and disappears. Think about this: The Department of Defense hands out awards to companies that stand behind the Guard and Reserve. The Federal Government should hand out a demotion to those in the Senate who consistently vote for this on the floor with a big smile on their faces, head to the conference committee and kill it every time. If they think they are getting even with me, that isn't what it is about. It is about helping our troops.

On a bipartisan basis, Members of the Senate have said it is time to get this done. This bill doesn't do it. The Department of Defense claims that it would cause disparity and discord if an activated reservist is being paid more than an Active-Duty soldier. Active-Duty soldiers don't stand around comparing pay stubs and what they are making back home. The Reservist Pay Disparity Act doesn't create disparities, it reduces them, by ensuring fewer soldiers have to sacrifice a substantial part of their income to serve the Nation. We talk all the time about supporting our troops. It is interesting, we support it when there is a rollcall on the floor. When it gets to the darkness of a conference committee, that support has been taken out time and time again.

I hope we will have a chance to pass this in the next session. I will offer it again. This time I hope the conference committee will give us a helping hand instead of turning its back on our guardsmen and reservists.

I am also deeply disappointed this defense conference report contains no relief funds for farmers who suffered serious income losses this year because of drought and other natural disasters. The year 2005 was a tough year for farmers from coast to coast. Hurricanes Katrina and Rita, the drought in the Midwest, the flooding in the upper Midwest, all of these things have taken their toll on my State and so many others. Year in and year out we have had a disaster assistance program for farmers. This year we need it and we need it badly in Illinois and many other States. When Senator BYRON DORGAN of North Dakota offered a $1.6 billion amendment in the conference committee to restore the disaster assistance program, it was defeated on the House side. The House Republican leadership refused to agree to an agriculture disaster assistance relief program. That is unfortunate. I hope that the Congressmen who represent farming areas will come back to Washington after the first of the year and encourage their colleagues to pass this.

We need it so a lot of farmers will have the resources they need to get back to work and back to farming this next year. What is also missing is this: At least 300,000 innocent people have died in the genocide in Sudan. The number may be 400,000. Nobody knows for sure. Two million people have been driven from their homes and 500 people die every day in refugee camps. We missed an important opportunity to stop or slow down that genocide in this conference report. We refused to help the work of the African Union Mission in Sudan in this bill. The United States provides approximately $8 million a month in support of the African Union Mission in Sudan. That amounts to one-third of their total funding. These funds are vital to the African Union peacekeeping troops in Darfur.

The Senate included $50 million in our version of the bill, the Foreign Operations appropriations bill, to support the African Union, which was dropped in conference. Secretary Rice said these funds are critical. She requested they be included in this Defense appropriations bill. The Secretary noted the State Department already had to reprogram $13 million that was intended to train the new Afghan Army and use it instead for our commitments in Africa.

United States funds for Africa will run out January 1. Without additional funding, the State Department will have to choose between diverting funds from other important priorities and making this genocide situation worse in Darfur. I will quote from Secretary Rice in a letter she sent to Congress:

> We now face a critical juncture in supporting the African Union Mission in Sudan. . . . Through reprogramming of other peacekeeping monies, the administration has found a way to fund our contribution to AMIS through the end of this year. But the FY2006 Foreign Operations Appropriations Act provided no funding for this peacekeeping mission. We are in critical need of funding to continue this mission at a robust level into 2006.

She continued:

> To meet ongoing operational costs and to provide adequate logistical and communications support, we are seeking at least $50 million for AMIS.

She went on to say:

> I have discussed this matter with others in the administration and can assure you that taking immediate action to meet this unanticipated expense is of the highest priority.

Those are her words—"highest priority."

Despite the urgency of the situation, the House Republican leaders removed the funds for the African Union Mission in Sudan from this conference report.

Just a few weeks ago, I was with Senator SAM BROWNBACK of Kansas in Rwanda. We stayed in that hotel in the movie "Hotel Rwanda." That was the hotel that 11 years ago was a refuge for Rwandan victims of the genocide. At the direction of the manager of that hotel, he managed to secrete away and protect hundreds of people who otherwise would have been hacked to death and killed in the Rwanda genocide.

I remember that genocide as a Member of the House of Representatives, because my senior Senator and close friend, the late Paul Simon, was one of the few Senators to speak out. He said to the Clinton administration: What is going on in Rwanda is terrible. Whether you call it a genocide or not, with a few American troops, we can bring stability to the area and save innocent lives. Senator Simon's request fell on deaf ears. The Clinton administration did not respond and the genocide continued.

The death toll, when it was all over, is estimated at 800,000 people. I went to a Catholic church a few blocks away from this hotel in Rwanda. The church looked like an ordinary church, filled with people who came to worship at 6 a.m. in the morning. I learned later that a thousand people were hacked to death in that church. They came in there for refuge. They were, unfortunately, turned over to the rebels and killed on the spot. They thought they were saving a church.

That is what genocide is all about, the wanton killing of people. President Bill Clinton, when he does his assessment of his administration and lists the liabilities or negatives, is usually going to put at the top of the list his failure to respond to the Rwanda genocide. He deeply regrets the fact that our Nation didn't speak up and stand up to stop that genocide.

Fast forward now 9 or 10 years to the situation in Darfur in Sudan. We have a new President, George W. Bush; we had a new Secretary of State, Colin Powell; and now it is Condoleezza Rice. They were able to say the word about Darfur in Sudan which the Clinton administration would not say about Rwanda. They said we are dealing with a "genocide." That is a word you have to use very carefully. It has happened rarely in the history of the world, but when it has, it has had cataclysmic consequences. So our administration, our Government, our country has declared that a genocide is occurring in Darfur in Sudan. The obvious question to us and those people around the world who care is: What are we going to do? We have not committed any American troops. Maybe we never will, but at the least we should be supporting the African Union troops who are trying to bring order there on the ground.

This bill we are going to consider tomorrow took out the money for these African Union troops, despite the pleas of Secretary of State Rice, despite the knowledge that we are dealing with a genuine genocide where innocent people are being killed, raped, and displaced every day. We could not find $50 million in a multibillion dollar budget to keep these troops there to protect the poor people in this region. It is unthinkable, yet it is a fact.

Earlier this year, the Senate unanimously approved the Darfur Peace and Accountability Act, calling for the rapid expansion of the African Union force. That legislation stated that if the AU Mission fails to stop the ongoing genocide, "the international community should take additional . . . measures to prevent and suppress acts of genocide in the Darfur region."

In recent months, the violence has worsened. Some aid groups are leaving the region because of security concerns. Even the African Union troops have been the target of violence.

With the resurgent violence of Darfur, the Sudanese Government and its partners, the jingaweit militias, appear to be testing the resolve of the African Union, the West, and the United States of America. Not providing these funds—$50 million for troops to protect these innocent people—is inexcusable. It is a signal to the perpetrators of these atrocities that we cannot be bothered. We cannot afford to come up with $50 million to stop a genocide.

Mr. President, $50 million for AMIS won't resolve the crisis there, but it will enable the African Union to maintain its current size and scope of operations. It would allow this Nation, America, to stand on the right side of history against the repression and genocide in Darfur.

How can we in good conscience vow "never again" and then cut the funds needed to keep that promise? How can we watch genocide in our own time and refuse to do what is needed to stop it? What if a God-fearing, caring Nation such as America declares there is a genocide and does nothing? That is what we are up against in this bill.

I hope that men and women of conscience in the Senate on both sides of the aisle, as soon as we return in January, will do something immediately to provide the assistance they need in Darfur to provide the African Union the support they need.

I spoke earlier about ANWR. I will not go into that any further, other than to say it is truly unfortunate that a bill of this importance and this magnitude is being dragged down the road in an effort to provide this giveaway to the State of Alaska and to oil companies. Of all of the things we should be doing, this is the last—to be drilling for oil in a wildlife refuge set aside almost 50 years ago to be protected for generations, so some oil company can make a profit and the State of Alaska can end up benefiting.

This conference report contains also a huge gift of nearly unlimited immunity for the pharmaceutical industry, one of the wealthiest industries in America. When I first came to Congress, I would have to say the strongest lobby on Capitol Hill in the 1980s was the tobacco lobby. You could not beat them. I know because I tried several times unsuccessfully before I passed a bill banning smoking on airplanes. It was the first real loss they ever had on the floor of the House. And when it came to the Senate, Senator LAUTENBERG led the fight here and we won. It made the news because nobody beat them. The tobacco lobby was unbeatable. Now they have been replaced as the king of K Street. That distinction now goes to the pharmaceutical industry. Hardly a bill passes through here where the pharmaceutical industry and drug companies don't end up getting some little favor that has been offered by the majority in the Senate.

The Republican leaders in Congress exploited in this bill a real need to push through a big favor for wealthy special interests. To prepare for a potentially deadly breakout of avian flu, Senate Democrats, including Senators OBAMA, HARKIN, REID, KENNEDY, and others, sought twice to add as much as $7.9 billion for the avian flu prevention and response efforts.

In response, the President requested $7.1 billion for avian flu. This conference report provides $3.8 billion for avian flu, a little bit over half of what the President requested. How in the world will we answer our critics when they come forward and say, Did anyone speak out here in the face of this potential devastation from avian flu, that the funding in this bill was inadequate to the task? We know it is in Congress; the President knows it is. But when it comes to the conferees, they have decided: Let's save some money here. It is a false savings if this pandemic strikes the United States and endangers the lives of innocent citizens.

It also includes something that was not in the President's plan nor in the Senate Democrats' plans, and that is where the pharmaceutical companies come in again. It includes sweeping immunity protections that would shield pharmaceutical companies from legal responsibility, even when their mistakes result in injury and death.

In the middle of the night, after conferees were assured that the controversial liability immunity provision would not be included in the bill, after the report had been signed, after all of that, the Republican leadership added 47 new pages to the bill.

These new liability protections are not limited to avian flu vaccine, which is what the press releases said. Oh, it is all about creating a market for new vaccines to be made. Nope. These immunity provisions are so broad that they include drugs such as Tylenol, Advil, even Vioxx.

The Republican proposal would shield the drug industry from legal accountability for sickness, disability, and even death resulting from vaccines, drugs, and other products. The only exception is in cases of willful misconduct. Do you know what it takes to prove willful misconduct? You have to prove a drug company knew its product would injure or kill someone and went ahead and sold it anyway.

That is an unrealistically high standard, and it just means fewer people will have a day in court. If that is not bad enough, even if a drug company acts with willful misconduct, it is still shielded from immunity unless the Secretary of Health and Human Services or the Attorney General initiates an enforcement action. If no such action is taken, a drug company could knowingly kill hundreds or thousands of Americans and still not be held liable.

There are other loopholes. The Secretary of Health and Human Services can declare an emergency at any time. These declarations would also shield drug companies from legal accountability. They are not subject to appeal or to independent judicial review. This bill overrides State laws.

Supporters of this proposal claim it establishes a compensation fund for victims. However, the fund is operated under regulations established by the Secretary alone. It includes caps on compensation. There is no guarantee Congress will provide sufficient funds to make certain that victims receive any compensation. It could turn out to be nothing more than empty promises.

Think about the fact that virtually anyone in America, with two exceptions now, is held responsible for the products they sell. And if those products cause harm to individuals, they can be held accountable. That kind of standard is used for all of America and for all businesses, for the products, the goods and services they sell.

Just a few months ago, we decided to create the first exception. We decided that people who manufacture firearms should not be held responsible if those firearms injure someone or kill them. That is right, firearms. The gun lobby came in here, pushed the bill through, and the President signed it gleefully. Now comes the next one, the pharmaceutical industry, that they will not be held liable for the drugs and vaccines they sell in the ordinary course of business if they have been negligent in preparing those drugs or misrepresenting what those drugs will do to the American public.

Let's get down to business. None of these protections in this bill are really needed. The Federal Government already has authority to waive liability during a public health crisis. That authority is part of the President's pandemic influenza plans. These protections are not needed to lure drug companies into the vaccine. This is a lucrative market. Roche, the company that makes Tamiflu, estimates that sales of its antiviral will reach $1 billion this year, four times the 2004 level—$1 billion. And we are building into this law protections for drug companies that are so profitable when, in fact, they are not being held as accountable as other businesses.

Other biotech firms are competing to develop improved vaccines and see their stock value soar in the process. The most profitable sector in the American economy has scored another big one. It is Christmas on K Street for drug company lobbyists. I am sure there are big parties this week as they can't wait for this bill to be signed into law and escape liability.

Why has this bill been stuck into this conference report at the last minute? Here is a hint. Big PhRMA, the pharmaceutical companies, is the single largest influence operation in Washington today. They spent $123 million lobbying Congress in 2004, according to the Center for Public Integrity. Since 1998, pharmaceutical companies have contributed $87 million to Federal candidates, nearly all Republicans, but not exclusively, according to the same center. This is the worst kind of special interest dealmaking.

It is unfortunate that, once again, we are saying to the American people that we are creating a special class in America—a class of businesses that cannot be held accountable for their wrongdoing.

We are also saying to the victims of their wrongdoing: Sorry, you can't go to a jury in your neighborhood and in your community and ask them to judge whether you have been wronged improperly.

A third provision that ought not to be included in this bill is in the Katrina relief package. It would create the first national education voucher program. Under this proposal, a disproportionate share of school funding would go to private and religious schools at the expense of public education. At the same time, the bill removes all prohibitions against using Federal money for religious education and sectarian activity.

Using public education dollars for religious purposes is contrary to our Constitution, it is contrary to the feelings of most Americans, and it is contrary usually to the will of the Senate. The Senate version of the Katrina education proposal, which I supported, and I know Senator LANDRIEU supported it as well, contained assurances that Government funds would not be used "for religious instruction, proselytization, or worship." That language was stripped out of the House bill.

This is a sad pattern in Congress. For example, the House version of Head Start reauthorization would repeal the longstanding civil rights protections that prohibited Head Start teachers and staff from being discriminated against based on their personal religious belief.

House amendments to the Workforce Investment Act would also repeal the important civil rights protections that prevent employment discrimination based on religion.

In the same manner, there is no language in the House conference report that bans schools that receive these funds under the Katrina relief provisions from practicing employment discrimination. If the private and religious schools refuse to hire people who don't share their religious belief, according to this bill, that is just fine.

The bill also says if your family is forced from your home because of Hurricane Katrina, and your child is now attending a religious school because it is the only option available where you are now living, your child will receive religious instruction unless you opt out. It places the burden on the parents. Yet there is no language in this bill requiring that parents and students be notified of the right to opt out of religious instruction.

We can have a debate about using public school dollars for private and religious schools, but to use an unprecedented disaster to in a backhanded way include religious school vouchers in the Federal budget without adequate public debate is just wrong. When you combine these back-door cuts to public schools, the 1-percent across-the-board reductions in educational programs designed to help poor children and children with disabilities, this bill makes a mockery of the promise to leave no child behind.

There was recently an editorial, a column in the Chicago Tribune on Monday, written by Dennis Burns, in which he was arguing for the teaching of intelligent design in public schools. He believes Government should require that to be taught. He argued that faith-based belief is not inconsistent with science, and he felt the Government should step in and make it clear that you can include religious education as part of a public school curriculum.

What was interesting was the column next to it. It was a column by Charles Krauthammer, and it was about the President of Iran. If you have been following the lunatic ravings of the President of Iran about the fact that he believes there was no Holocaust and he believes that the Israelis have no right to their own homeland, you will find that his crazed beliefs are grounded in his strong religious convictions.

That tells us for a moment of the wisdom of our Founding Fathers, who understood the important necessity of separating church and state in America.

Our Constitution is explicit. It says that one has the right to believe what they want to believe, and if they want to believe in no God, they have that right in America, too. It is a matter of personal conscience. I believe they were absolutely right in that regard.

The second thing they said is this Government will not choose a religion, this Government will not have an official religion. That, too, was a very incisive and wise observation by those who founded this country.

I hope that many people who are now trying to force religious issues into appropriation after appropriation and issue after issue should consider for just one moment what they are doing. This time of year, when many of us turn to our religious belief to enrich this holiday season, I hope that everyone will say a little prayer that the intelligent design of the Constitution of the United States of America will be respected by the Congress.

Finally, this conference report includes a 1-percent across-the-board cut in all Federal programs except veterans and spending on the wars in Iraq and Afghanistan. Managing the Federal budget is supposed to be about making responsible and moral choices. A calculator can cut everything by 1 percent, but not every line item in the budget is of equal importance. We have been sent here to use some judgment. Cutting every program is an abdication of responsibility and no way to manage a budget.

We could spend hours listing examples of why this thoughtless approach to budgeting is bad government, but in the interest of time, I will simply highlight a few, based on the Center on Budget and Policy Priorities.

To really understand what these across-the-board cuts mean to the people and the programs, we need to compare this year's funding with the 1-percent cut to the funding level in 2005 adjusted for inflation. That is the budgetary baseline of the Congressional Budget Office.

When we look at the funding levels we have already appropriated and in some cases already cut for each program in 2006 and then impose an additional 1-percent cut, the results are troubling. Let me go through them quickly. In education, a 1-percent cut in elementary and secondary education amounts to $1.2 billion cut in education for poor children, special education, school improvement efforts, and vocational and adult education. Senator TOM HARKIN of Iowa today told us that this is the first time we have lost ground in special education in recent memory. We will have less money to educate the children who are born with special needs and disabilities. In my State of Illinois, we will lose $49 million for those kids.

A 1-percent cut in child and family services means $350 million less for Head Start, less for services for abused and neglected kids, less for adoption-related services, less for abstinence education, less for services for homeless children and other programs. Funding for early education and health care through Head Start will be cut by $195 million, and that means 25,000 more children will not be included in Head Start next year. Childcare development block grants helping lower and moderate-income families afford childcare face a 1-percent cut, meaning 11,000 fewer children from low-income families, working families, trying to make sure their kids are in a safe environment, will not be helped because of this 1-percent cut. In my State of Illinois, we will lose $16 million.

In housing, the section 8 Housing Choice Voucher Program is the Federal Government's main rental assistance program for low-income families. A 1-percent across-the-board cut means approximately 65,000 fewer low-income households receive rental assistance next year. Think of the struggle of working families in lower income categories to find decent housing. Section 8 is one of the fewer programs that helps them. We are going to make sure that 65,000 fewer people are helped next year. In my State of Illinois, we will lose 3,300 vouchers.

Community development block grant—a 1-percent across-the-board cut means $777 million lost. That is nearly 16 percent below this year's funding level. Illinois losses $24 million.

The Environmental Protection Agency provides Federal funding to States to improve water quality to construct and improve drinking and wastewater treatment. If we cut these programs by 1 percent, or $243 million, it means we are cutting them 12 percent below current levels. Illinois loses $11 million.

These examples are only the beginning. If one thinks these cuts are absolutely essential, remember that we will come back next year and consider another bill by this administration and by the Republican leadership in this Congress to give tax cuts to the wealthiest people in America. In the midst of a war, facing the biggest deficit in our history, with Hurricane Katrina and its responsibilities looming over us, we are cutting basic programs for education, health care, childcare, and environmental protection to provide tax cuts for the wealthy. Those are the priorities of the Republican leadership, priorities reflected in this bill. Real fiscal discipline requires thoughtful choices. Across-the-board cuts simply hack away indiscriminately at all programs.

I know the hour is late, and I thank my colleagues for their patience. I thank those in the Senate, the staff in particular, as we draw closer to the holiday season, and they are all wishing they could go home, and I am, too. I hope we will consider these bills tomorrow. I hope the votes in the Senate will reflect the priorities and values of America.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING THE CARROLL COLLEGE FIGHTING SAINTS

Mr. BAUCUS. Mr. President, I rise today to express a little hometown pride.

Last Saturday, I had the great opportunity to watch history in the making in Savannah, TN, as the Carroll College Fighting Saints from Helena, MT, marched to victory over the St. Francis Cougars from Fort Wayne, ID.

Carroll College is a private, Catholic college in my hometown of Helena, MT. Carroll is home to 1,500 students and enjoys a host of outstanding accomplishments in its nationally award-winning academic and pre-professional programs. Carroll is especially known for its flagship pre-medical, engineering and nursing programs.

The Carroll Talking Saints Forensics Team is ranked in the top five in the Nation and has reigned as Northwest Regional Champions for the past 15 years. It is a small school, with a huge record of accomplishment.

The Carroll College Fighting Saints are the only team on any level of college football in the modern era to win four national titles in a row.

They only gave up 9 points per game this season, adding to their outstanding national accomplishments.

Led by Tyler Emmer, who claimed the NAIA player of the year for the second time, the Saints offensive attack has piled up impressive numbers this season. The Saints can stretch the field with long passes or they can use their short passing game to keep the chains moving, as they did last Saturday.

It was wonderful to be there and watch, as the PA kept saying, "Move those chains, move those chains," as Carroll kept scoring on the first down.

Emmert has thrown for 3,039 yards and 33 touchdowns this season. He owns a career record of 50-to-3 wins as a starter for the Saints. Emmert and his teammate Jeff Shirley were named Frontier Conference Players of the Year. A class act, Tyler is the first to credit his teammates for his success.

To win Saturday, putting the Carroll College Fighting Saints in the record book, is more than just about football. It is about hard work, dedication, competitiveness, leadership, friendship, and family.

In his 7-year career at Carroll, head coach Mike Van Diest led his team to four national championships. Mike again was named Frontier Conference Coach of the Year. He is a class act.

Working tirelessly to inspire these young athletes, Mike has created more than a championship football team. He has taught them the value of a quality education, the strength of teamwork, and the importance of giving back to the community and those in need. Coach Van Diest defines what it is to be a true Montanan. I commend him for setting such high standards for all of us.

Also, congratulations go to Carroll College athletic director Bruce Parker and his staff.

I recognize Carroll College President Tom Trebon for his leadership and commitment to Carroll College.

Finally, I want to commend my good friend from Indiana, Senator EVAN BAYH. The Senator and I had a little wager on the game. We went double or nothing on a bet from last year—Montana-brewed beer against Indiana-grown popcorn. I look forward to the popcorn. We appreciate the Senator being such a good sport.

Carroll College is more than a 4-year experience; it is for life. As the 17 senior players complete their football careers, they begin life's journey more equipped to meet the challenges of their new lives. I am confident the Saints will continue to march on to many more victories. They are a wonderful bunch of guys and gals at Carroll College, a great team, a great coach. I was there Saturday to watch the game. I was so pleased to be part of the Carroll family, and I cannot commend all of them enough for what they do in the best sense of the term, all the values that mean so much to basic America. I thank Carroll College for what you do.

I yield the floor.

INTELLIGENCE AUTHORIZATION

Mr. REID. Mr. President, I rise today to speak on the fiscal year 2006 Intelligence authorization bill.

As every American knows, we are a nation at war—at war in Iraq and at war against radical terrorists. These are wars Democrats and Republicans agree we cannot afford to lose. These wars have demanded a great deal from our troops and our taxpayers and will require much more sacrifice before they are over.

Given the stakes involved and the sacrifices required of so many, you would think that funding our troops and our intelligence community would be this Republican controlled Congress's top priority. You would think that our friends on the other side of the aisle would take up this must do legislation at the start of the Congress not at the end.

Unfortunately, while the Republican leadership is fond of stating the importance of prevailing in these wars and taking care of our troops, they have not matched those words with action. In fact, the hypocrisy demonstrated by the Republicans in this Congress on national security matters is astounding. How else to explain that with less than a week to go before Christmas, in the waning hours of this session of Congress, our Republican friends have yet to complete action on three major pieces of national security legislation—the fiscal year 2006 Defense authorization bill, the fiscal year 2006 Defense appropriations bill, and the fiscal year 2006 Intelligence authorization bill.

In recent times, Republicans have been extremely fond of painting themselves as patriots and extremely quick to brand those who challenge their policies as traitors. Given the callous way Republicans have treated our national security and our troops, I feel I must speak out on the Republicans' hypocrisy.

Although this point could be made with respect to each of the unfinished national security bills bottled up in this Congress, right now, I want to focus my remarks on the Intelligence authorization bill—a bill Republicans have not even seen fit to bring to the Senate floor despite the fact that the bill was reported out unanimously by the Senate Intelligence Committee.

This bill should have been taken up months ago. And Democrats would have been more than willing to quickly debate and pass this legislation once it reached the Senate floor so it could go to a conference with the House. Democrats know that it is essential that we permit the men and women of the intelligence agencies to continue their critical work on the front lines of the war in Iraq and the war on terror.

Unfortunately, our colleagues on the other side of the aisle apparently don't share that view. Republicans have taken months to move this bill through the legislative process. Once the committee acted and the bill was ready for the floor, an anonymous Republican placed a hold on the bill and prevented the Senate from working its will. As a result, the bill can't go forward. Vital intelligence operations are on hold while the bill languishes. And the men and women who selflessly serve are left wondering whether the Congress understands how vital their work is to this Nation's security.

I hope the Republican-led Congress will eventually get its act together and get this bill passed before we adjourn for the year.

In the meantime, to the men and women of the intelligence agencies, I say: Senate Democrats stand with you. We are proud of your bravery and your patriotism, and we thank you for your sacrifice working in silence and in the shadows against the threats America faces.

USA PATRIOT ACT

Mr. SALAZAR. Mr. President, I wanted to take this opportunity today to speak yet again on reauthorization of the PATRIOT Act.

I spoke earlier in the day on my dedication to fighting terrorism and in my support for giving law enforcement the tools to fight terrorism, the need and desire to reauthorize the PATRIOT Act, the political games surrounding extension of the PATRIOT Act, and the true patriotism of my colleagues in striving to uphold the Constitution and its liberties.

The President acts irresponsibly when he refuses—for purely political purposes—to allow the extension of the PATRIOT Act.

If the PATRIOT Act expires at the end of 2005, the responsibility lies with the President alone and with those Members of the Senate and the House who rubberstamp his irresponsible direction.

We can act today to resolve this impasse over the PATRIOT Act. It simply requires good faith. Surely in the final few days before Christmas we can come together, set aside political posturing, and pass another extension of the PATRIOT Act so that we can continue in good faith to fix it.

But what we are witnessing with the PATRIOT Act is something more troubling—the abuse of absolute power.

It is an age-old self-portrait of America that we are a nation and people governed by the "rule of law."

Since before the American Revolution, we have held ourselves out to the world as a country and as a people different from all others. We have rejected for our country the tyranny of the powerful, the despotic kingships and the dictatorships that have oppressed mankind throughout its history.

The "rule of law" also of course includes the "rules of law"—how we create laws at every level of government.

In our country, the rule of law protects the rights of those not in control of the levers of power—from the Bill of Rights to the rules of the Senate, our laws and rules aim to protect those out of power from the abuses of those who are in power.

But notwithstanding the ideal of our Nation—that we are governed by the rule of law and not by the whims of the powerful—all too often in our history the convictions that "might makes right" degrades the rule of law.

Earlier this year, those in power threatened to break the rules of the Senate to force their will on the Senate. It is happening again this week.

I have witnessed over the last few days the naked display of "might makes right" and the corrupting influence of absolute power.

Instead of an honest debate on differences of opinion between patriots on the reauthorization of the PATRIOT Act, our commitment to fighting terrorism is questioned.

In the closing hours of the session of Congress, we witness the amazing switch of ANWR from the budget reconciliation bill to the Defense Appropriations bill and the trashing of Senate rules. And why? Simply because those in power believe that might makes right.

We have an administration that has admitted it ignored our intelligence surveillance laws because it found them to be inconvenient.

When people dare to question the legality of these actions, they are called unpatriotic and obstructionist.

That is wrong.

Now Mr. President, let me turn my attention in more detail to the PATRIOT Act.

In March of this year, I joined a group of three Republicans and three Democrats in introducing legislation known as the SAFE Act. This legislation would have extended every single one of the expiring portions of the PATRIOT Act, while at the same time imposing reasonable checks on those powers.

In keeping with that spirit of compromise, the Senate Judiciary Committee worked tirelessly this spring and summer to draft a reauthorization bill that could garner broad support. With the participation of two of the original cosponsors of the SAFE Act, members of that committee, in conjunction with our colleagues on the Senate Intelligence Committee, worked together to make tough choices and hammer out a bipartisan compromise.

The legislation passed unanimously out of the Judiciary Committee—a group not known for its ability to achieve complete consensus on many issues—and it passed the Senate with the support of all 100 Senators—Republicans, Democrats, and Independents alike.

We stood together behind the principle that we can give law enforcement officers the tools they need without sacrificing our basic freedoms—freedoms that Americans are fighting and dying for in Iraq and Afghanistan, freedoms that Americans have fought and died to establish and preserve throughout our history.

But, once again, we were faced with the need to find compromise—this time, with the House. And again, my colleagues and I did not expect to get everything we wanted.

It is worth repeating that the Senate bill passed with the support of all 100 Senators, while the House bill passed in the face of stiff opposition.

It is also worth noting that, in separate votes, a bipartisan majority in the House supported stronger civil liberties protections than were included in the final conference report.

Unfortunately, after the House delayed for months in appointing conferees, the conference committee filed legislation that failed to provide the modest—but critical—civil liberties protections that Americans deserve.

Once again, I joined with the cosponsors of the SAFE Act—this time in a final effort to bring the conference committee back from the brink and to pass reauthorization legislation worthy of broad, bipartisan support.

Our requests were modest. We asked the conference committee to address four specific provisions: section 215 of the PATRIOT Act itself, which allows the government to obtain sensitive personal and business records without any meaningful limitation and no ability to challenge the permanent automatic gag order; national security letters, which allow the government to obtain certain categories of records without prior judicial approval, again without the ability to challenge the gag order; the need for periodic congressional review of these authorities; and sneak-and-peek searches, where the government can wait up to 30 days before notifying the target of a property search.

Last week, my colleagues and I introduced legislation to extend the PATRIOT Act by three months to give Congress time to make the final changes to the conference report necessary to protect civil liberties.

That proposal was summarily rejected by the majority leadership and by the White House.

When we have repeatedly this week attempted to propose extending the PATRIOT Act to allow for necessary improvements, those efforts have been again summarily rejected.

When the minority leader even attempted yesterday to propose the Senate simply re-pass its version of the PATRIOT Act reauthorization, that effort was rejected by the very same Senators who supposedly supported the Senate version the first time around.

It is eminently clear that those of us who have worked to improve the PATRIOT Act over the course of the past days, weeks, and months are entirely focused on extending these important powers as we continue to fight the war on terror. But, given that we have been labeled "obstructionists" and told that we are putting the nation at greater risk, it is worth examining some of the arguments over the bill's substance in greater detail.

Over the past few days, some on the other side of this debate have asserted that the changes we have proposed are unnecessary, because intelligence investigations authorized under the PATRIOT Act are no different from the routine law enforcement investigative activities that occur throughout our Nation thousands of times a day.

At the heart of this disagreement is section 215 of the PATRIOT Act, which revises substantially the authority under the Foreign Intelligence Surveillance Act, FISA, for seizure of business records, including third party records of individuals' transactions and activities.

Section 215 broadened the authority to seize business records under FISA in two ways. First, it expanded the scope of the kinds of records the government may obtain using this authority from "records" to "any tangible things." Second, it eased the requirements for obtaining an order. Previously, FISA required the government to present to the secret FISA court "specific articulable facts giving reason to believe" that the subject of an investigation was a "foreign power or the agent of a foreign power." Under section 215, the government is required only to assert that the records or things sought are needed "to protect against" international terrorism—in effect, that they are relevant in some way to a terrorist investigation. There is no requirement for an evidentiary or factual showing and the judge has no real discretion in reviewing an application. If the judge finds that "the application meets the requirements" of the section, he or she must issue an order as requested "or as modified." In addition, section 215 prevented the recipient of a search order from disclosing the fact that the FBI has sought or obtained records, and prohibited the recipient from challenging that gag order.

Both the SAFE Act and the Senate reauthorization bill retained the PATRIOT Act's expanded scope of the FISA records provision, but both restored a standard of individualized suspicion, and permitted the recipient of a search order to challenge that order in court.

National security letters have also been at the center of this debate. NSLs allow the government to obtain certain narrow categories of records without the prior approval of a judge. The PATRIOT Act expanded the use of national security letters, and authorized a much larger number of government officials to issue them. It has been asserted that the number of NSLs has exploded since passage of the PATRIOT Act, possibly by as many as 30,000 a year. In addition, as with section 215 orders, the act prohibited the recipient of an NSL from disclosing information about the order, and from challenging that order in court.

In contrast, the Senate bill would have permitted recipients of an NSL to challenge the gag order and to receive meaningful review of that order in court. Although many of my colleagues and I would have preferred to require a standard of individualized suspicion before an NSL was issued—as would have been required by the SAFE Act—we understood that NSLs are distinct from section 215 orders in that they are much more limited in scope, and supported the Senate compromise.

As I mentioned previously, supporters of the conference report have argued against the changes in the Senate bill on the grounds that the government already has the authority to obtain broad categories of third-party records without the prior approval of a judge, and without having to demonstrate even relevance to an investigation, let alone individualized suspicion.

In fact, it has been asserted that there are 335 specific cases in which the government is authorized to subpoena information without the prior approval of a judge.

It is important to point out that a vast majority of the administrative subpoena powers the government possesses are related to the ability of regulatory agencies to obtain records to ensure compliance by the industry being regulated. This is vastly different than government intelligence agents seeking information about U.S. citizens engaged in lawful activities. Moreover, the administrative subpoena powers not related to regulatory enforcement are far narrower than the authorities provided by the PATRIOT Act.

Secondly, and more importantly, intelligence investigations are inherently different from criminal investigations, because criminal investigations are limited to cases involving unlawful conduct.

In contrast, intelligence investigations may focus on lawful activity by law-abiding Americans.

Accordingly, it is inappropriate—and just plain wrong—to compare the authority provided to the government for intelligence investigations with the subpoena powers the government currently possesses with respect to regulatory enforcement, or under the criminal code.

Mr. President, there is still time to get this right. I am confident that, by working in the same spirit of bipartisanship and compromise that the cosponsors of the SAFE Act have exemplified all year, we will get this right.

That, Mr. President, is my goal.

Mr. BAUCUS. Mr. President, I rise today to speak briefly about the PATRIOT Act. I voted against cloture for the PATRIOT Act because I do not feel that this bill is good for our country. The conference report invades our most treasured civil liberties—the right to be left alone without the Government invading our personal space. I know the people of Montana value this freedom. So does the rest of the country. We can be safe from terrorism and at the same time be free from Government restrictions on our basic civil liberties. The conference report does not strike this essential balance. Instead, it infringes on the rights we hold most dear.

The Senate bill I supported in July was a joint effort, between Republicans and Democrats, which took important steps to protect the freedoms of innocent Americans. At the same time, the Senate bill made sure that the Government had the power it needed to investigate potential terrorists and terrorist activities. I am deeply disappointed in the conference report which retreats too far from the bill I supported in the Senate. The conference report fails to make some vitally important reforms to the PATRIOT Act that we, in Senate, agreed to in July. My colleagues have spoken at length about the broad, intrusive powers of section 215. I share these concerns on the expansive powers given to the Government in the conference report. I am also seriously disturbed by the recent news of the Government's ability to spy on innocent U.S. citizens and listen to our private conversations.

This conference report is flawed. And it needs work. Let me make myself clear. I am not opposed to reauthorization of the PATRIOT Act.

We need to work together to make the necessary improvements on this very important piece of legislation. We must put aside our party lines and come to an agreement that gives our law enforcement officers the ability to do their jobs. But we must also preserve our freedoms in the process. We can protect the country from terrorism while at the same time protecting all innocent Americans from unnecessary Government intrusion. The safety of our country depends on it.

Mr. JEFFORDS. Mr. President, I rise today to make some comments and share my concerns about the provisions of the Department of Defense appropriations conference report that open the Arctic National Wildlife Refuge to oil drilling. I do not support drilling in the Refuge. But even if I did, I would not support the language in this bill. It is inappropriate to make management decisions regarding one of our Nation's largest and most ecologically important wildlife refuges in a closed conference. Doing so restricts the ability of the Senate and the administration to ensure that drilling is done in an environmentally sound way. It is particularly troubling that a military spending conference report is being used as the vehicle to sneak this unrelated, controversial, and reckless legislation through the Senate.

As ranking member of Environment and Public Works Committee, I feel I must make clear to the Senate that the language in that this conference report has not passed the Senate before. It does not just open the Refuge to oil drilling, it does so in the least environmentally sensitive way possible. And, Mr. President, it does so in a manner that treats the Arctic Refuge differently than any other Federal lands or wildlife refuges.

Arctic Refuge drilling proponents repeatedly profess that oil development in the Refuge would be done in an environmentally sensitive way. As the ranking member of the Environment and Public Works Committee, I want to inform the Senate that this bill is actually riddled with clauses that weaken existing environmental standards, exempt drilling from key rules, or otherwise allow oil development activities to sidestep environmental protection laws. First, for example, the conference report exempts parts of the proposed Arctic oil and gas leasing program from environmental review requirements. In particular, it declares that the Department of Interior's Environmental Impact Statement EIS prepared in 1987 satisfies the requirements of the National Environmental Policy Act, NEPA, for preparation of the regulations that will guide the leasing program and any preleasing exploration or other activities. NEPA is supposed to ensure that public and Federal decisionmakers have the most recent, accurate information concerning the environmental impacts of projects, but this clause seems to ensure the opposite. In fact, as long ago as 1991, a Federal court found that due to new scientific information, Interior should have supplemented this very same 1987 EIS analysis before recommending to Congress that it allow development on the Coastal Plain.

In 2002, some 15 years after the 1987 EIS, the U.S. Geological Survey released a significant report detailing 12 years of study about the potential impacts of oil drilling on the wildlife of the Arctic Refuge. This information can, and should, be incorporated as the Interior Department's consideration of drilling.

Many now question whether the existing final legislative environmental impact statement, prepared in 1987 to comply with the National Environmental Policy Act, NEPA, is adequate to support development now or whether a Supplement or a new EIS should be prepared. As I mentioned, a court in a declaratory judgment action in 1991 held that the Interior Department should have prepared a supplemental environmental impact statement SEIS at that time to encompass new information about the Coastal Plain in connection with the Department's recommendation that Congress legislate to permit development. Therefore, without the language of this bill, it seems clear that either an SEIS or a new EIS would have to be prepared before drilling could begin.

But, in this provision, we change the law and the legal precedent. The bill before us states that the Congress finds the 1987 EIS adequate to satisfy the legal and procedural requirements of NEPA with respect to the actions authorized to be taken by the Secretary of the Interior in developing and promulgating the regulations for the establishment of the leasing program. This language explicitly eliminates the need to redo or update the EIS for the leasing regulations.

The Secretary is only directed to prepare an EIS with respect to actions other than the preparation of the regulations. This is noteworthy because only the smaller document, an environmental assessment, might not normally be sufficient, given on the magnitude of the action involved. The rest of that paragraph sets out limitations on the alternatives that the Secretary must consider as to leasing, as though this paragraph relates only to the leasing stage, rather than to all actions. But, the language is unclear and may curtain environmental review at all stages. The section goes on to say that the Secretary is to identify only a preferred action for leasing and a single alternative and analyze only those two choices and to consider public comment only on the preferred alternative. Public comments must be submitted within 20 days of publication of the environmental analysis, and the Secretary may only consider public comments that specifically address the preferred action. Compliance with this law is stated as satisfying all requirements for consideration and analysis of environmental effects.

There is no question that this language substantially weakens environmental review requirements. It significantly diminishes the comprehensive analysis traditionally required by NEPA, by stating that the Secretary of Interior need consider only its preferred action and a single leasing alternative. The "alternatives analysis," which is all but eliminated by this section of the bill, is the heart of NEPA. Senators supporting this provision should be fully aware that these limitations strike at the core of our country's environmental review process and requirements.

Further, this language undermines the U.S. Fish and Wildlife Service's authority to impose conditions on leases. It states that the oil and gas leasing program are "deemed to be compatible" with the purposes of the Arctic Refuge. According to the Congressional Research Service, this provision "appears to eliminate the usual compatibility determination process for purposes of refuge management." CRS notes that without the compatibility process, the authority of the Fish and Wildlife Service to impose conditions on leases is called into question.

Finally, this language changes judicial review of leasing decisions. Judicial review is limited to "whether the Secretary has complied" with this legislation. It also states the only appropriate legal venue is the DC Circuit Court of Appeals. The judicial review provisions undermine drilling proponents' claims that the language will result in sufficient environmental protection. A leasing program that is truly "environmentally sound" would be at no risk from judicial review.

We can do better, and we should. This debate will never lead us to actually fix these problems because a conference report cannot be amended. And putting this provision in a conference report constrains the way in which Senators who are concerned about these issues and who do not serve on the Appropriations Committee are able to address those issues on the floor.

I would caution all Members of the Senate who have committed to support Arctic drilling only in certain cases, or only if certain other legislative or regulatory actions take place, to closely examine the language in this conference report.

Finally, I oppose including this in a conference report because I believe it is being used to limit consideration of a controversial issue. The American people have strongly held views on drilling in the Refuge, and they want to know that the Senate is working to pass legislation to manage the area appropriately in a forthright and open process.

Mrs. FEINSTEIN. Mr. President, I rise today to state my opposition to this cynical effort to add a very controversial provision to allow drilling in the Arctic National Wildlife Refuge and also adds a provision to grant unprecedented liability protection to vaccine manufacturers to a critical Defense appropriations bill.

Holding funding for our troops and relief for Hurricane Katrina victims hostage in this manner is just plain wrong and a violation of at least two Senate rules—XXVIII and a budget point of order—and cynical.

Rule XXVII prevents Senators from adding provisions that have not been included in either the House or Senate bill from being added to the conference report. Neither the House nor the Senate included any language on ANWR, so according to the Senate rules, it should not have been included in the conference report.

The provision also appears to violate section 311 of the Budget Act. The budget resolution which we passed in April assumed that the Treasury Department would raise about $2 billion from opening the Arctic for drilling. Yet the appropriations bill spends $5 billion of revenue from ANWR.

As far as I know, opening ANWR to drilling has not been rescored, so the score from earlier this year is still in effect. As a result, this provision is subject to a budget point of order.

It makes a mockery of the rules and procedures of the Senate and strikes a blow at the heart of collegiality.

The ANWR provision was originally added to the budget reconciliation bill. Courageous House Republicans stood up and said no. So when this route was closed, it was added to this important appropriations bill, in violation of at least one Senate Rule and the Budget Act.

To make matters worse, the vaccine proposal was added to the bill after the House-Senate Conference Committee concluded its meeting. This is outrageous.

I believe it is all being done with a cynical attitude that says unless we accept it, we are going to run the risk that we will vote against a major bill which funds all military operations at a critical time in our history.

ANWR is an issue that arouses great passion on both sides of the issue. There are strong arguments that underlie the belief that the opening of these critical 1.5 million acres of pristine wilderness is small from an oil production perspective and damaging environmentally.

First, the Artic Refuge's Coastal Plain, where the drilling would occur, is the ecological heart of the refuge.

It is the center of wildlife activity and the home of nearly 200 wildlife species, including polar bears, musk oxen, and porcupine caribou.

If ANWR were opened up for drilling, the wilderness would be crisscrossed by roads, pipelines, power plants, and other infrastructure.

In fact, the Department of the Interior estimated that 12,500 acres would be directly impacted by drilling.

I believe that destroying this wilderness does very little to reduce energy costs, nor does it do it very much for oil independence.

I also believe deeply that we cannot drill our way out of our Nation's over dependence on oil.

ANWR will produce too little oil to have a real impact on prices or overall supply. And it would offer a number of false hopes:

First, to those seeking lower gasoline prices: opening the Refuge would only lower gasoline prices only 1 cent per gallon 20 years from now.

Second, to those seeking a major boost in oil supply: the United States now consumes 20 million barrels of oil per day, a number that will climb every year unless we learn to conserve and recognize that we must find alternatives to fossil fuels.

On average, ANWR is expected to produce about 800,000 barrels per day. And in 2025, this 800,000 barrels per day would represent only 3 percent of the projected 25 million barrel a day U.S. daily consumption.

So, in essence, we would be sacrificing this cherished wilderness to obtain about 10.4 billion barrels of oil over the 35-year projected ANWR lifetime. This amounts to a little more than one year's supply of oil for the United States.

There are other things we can do to meet our energy needs, including raising fuel economy standards and drilling at alternative sites.

First, just changing the mileage of SUVs and light trucks from 21 to 27.5 miles per gallon would save the United States 1 million barrels of oil a day and reduce our dependence on oil imports by 10 percent.

This would save more oil in 1 day—1 million barrels—than ANWR would produce in one day 800,000 barrels.

Second, there are other important supplies of domestically produced oil.

The Minerals Management Service, MMS, has reported that there are 36.9 billion barrels of undiscovered, technically recoverable oil that exists in the Gulf of Mexico, much of which would likely be found under the 8,043 already leased blocks in the Gulf.

These already leased blocks can be drilled right now, without delay, if the oil companies were willing.

In addition, there are new technologies to produce oil from "depleted" oil fields throughout the United States.

According to scientists, using enhanced oil recovery could allow the United States to produce an additional 32 billion barrels of technically recoverable oil from already existing wells.

The bottom line is that it is hardly worthwhile to damage the Nation's only refuge that encompasses a complete range of arctic ecosystems and provides an essential habitat for many species for less than 1 percent of the world's oil output.

Drilling will not give us more energy security, but it will carry huge environmental costs.

We can start to address high energy prices, energy security and global warming by increasing fuel economy standards, encouraging energy efficiency, promoting the development of new and alternative fuels, and supporting the invention and commercialization of new vehicle technologies. Drilling in ANWR is not the answer.

Before I close, I also want to say a few words about another problematic provision in the bill.

I was quite surprised to discover yesterday that after the conference on Sunday had been closed, new liability protections for pharmaceutical companies were added to the conference report.

Over 30 pages of new language were included that provide essentially complete immunity from civil liability for drug companies and medical device manufacturers even when there is reckless disregard or gross negligence in developing or manufacturing these products—so long as the Secretary of HHS has made a "Declaration."

In addition, pharmaceutical and medical device companies are protected even when there are criminal violations of FDA standards so long as the administration has not taken action to enforce the violations.

The bill does appear to allow for a lawsuit if an injured patient can demonstrate willful misconduct on the part of the company.

However, the language is unclear as to whether the Secretary has to first approve regulations before even these suits may go forward.

In addition, the bill literally directs the Secretary to promulgate regulations to further restrict the definition of willful misconduct—a decision that is usually left up to a court.

Even more disturbing is that none of the Secretary's decisions are subject to review by a court, essentially wiping out individual's access to an impartial forum.

I am also concerned that this legislation preempts State laws. If States have stronger laws to protect consumers from defective drugs or devices those laws are pre-empted, as we do in California, those laws are wiped out.

Finally, the bill does create a trust fund to pay patients who cannot meet these severely restrictive standards based on the Smallpox Emergency Personnel Protection Act.

However, that act is meant as a supplemental benefits program for health care workers administering the potentially deadly smallpox vaccine. And more importantly, there is no money for the trust.

I am very disturbed that this egregious provision was added to the conference report. I am disturbed both by the process in which it was added, and by the substantive impact it could have if enacted into law.

It is with a heavy heart that I will vote against cloture on this bill. I support the military 100 percent. I support our efforts to help the victims of Hurricane Katrina 100 percent. But I cannot support the manner in which this important bill was hijacked in an effort to get several very controversial provisions enacted despite widespread opposition.

In an article that appeared in the Fairbanks Daily News-Miner, Senator STEVENS was quoted saying that if a Senate filibuster over ANWR stops this bill, the legislation can be modified and passed so it has no impact on military finances. He said, "If we lose, then we'll reconstitute the conference and ANWR will be out." I would hope that is the result. It would be the best course for this Congress and the Nation.

Mr. KENNEDY. Mr. President, I support the Defense authorization bill as a strong expression of our support in the Senate for our Armed Forces at this difficult point in our history. We are proud of the courage of our troops in Iraq and their extraordinary dedication in carrying out their mission.

But I strongly object to the action of the conferees in including a last-minute rider to the bill that received little debate and that would drastically restrict the fundamental right to habeas corpus for aliens detained by the Department of Defense at Guantanamo Bay, Cuba. Section 1405 of the bill amends the habeas corpus statute in the U.S. Code by adding these words: "Except as provided in section 1405 of the National Defense Authorization Act for Fiscal Year 2006, no court, justice, or judge shall have jurisdiction to hear" any habeas corpus claim or any other action relating to the detention of an alien at Guantanamo.

For centuries, the writ of habeas corpus has been a cornerstone of the rule of law in Anglo-American jurisprudence. Since the Second Magna Carta in 1679, it has served as the primary means to challenge unlawful government detention. Literally, the writ means "have the body," i.e. the person detained, brought before a court or judge to consider the legality of detention. The writ was used to prevent indefinite detention, and ensured that individuals could be held no longer than 3 to 6 months without indictment or trial for felony or treason. In other words, it requires the Government to provide a court with a legal basis for its decision to deprive persons of their liberty.

This provision strikes at one of the basic principles of liberty enshrined in the Anglo-Saxon system of government that the executive may not arbitrarily deprive persons of liberty for an indefinite period. As Blackstone wrote in his commentaries:

> To bereave a man of life, or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism as must at once convey the alarm or tyranny throughout the whole kingdom. But confinement of a person, by secretly hurrying him to gaol, where his sufferings are unknown or forgotten, is a less public, a less striking, and therefore a more dangerous engine of arbitrary government.

This principle was so important to the Framers that "the great writ" was the only common law writ enshrined in the Constitution. Article I, section 9 of the Constitution states, that "The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in cases of Rebellion or Invasion the public safety may require it."

Any changes to the writ of habeas corpus, this most fundamental of rights, should be made carefully, through open debate, and with a full understanding of the implications of the change. The Senate did not hold a single hearing on the need for this drastic change. In fact, the sponsor of the amendment, Senator GRAHAM, admitted that some of his comments during the debate were not accurate statements of law. Senator SPECTER, the chairman of the Judiciary Committee, opposed the provision, and spoke eloquently on the lack of appropriate process for its consideration. The provision was adopted by the Senate with less than 2 hours of debate. Since its passage, all negotiations on this provision have occurred in back rooms, without the involvement of the vast majority of Congress, and without even consulting most of the conferees. Such a cavalier treatment of the basic right to habeas corpus is appalling.

The constitutional writ of habeas corpus deserves better than that. Justices Scalia and Stevens, dissenting in the recent case of Hamdi v. Rumsfeld, acknowledged the power of Congress to suspend the writ of habeas corpus, but they noted the limits on that power embedded in the Constitution. In this dissent, they said:

> To be sure, suspension is limited by the Constitution to cases of rebellion or invasion. But whether the attacks of September 11, 2001, constitute an "invasion," and whether those attacks still justify suspension several years later, are questions for Congress.

Here, neither the legislation nor the report language makes any findings that would satisfy the requirements of the Suspension clause. Without such a record, it would be preposterous for Senators to claim that somehow their actions fulfilled the constitutional requirement for suspending habeas corpus. Section 1405, therefore, can be treated only as a modification of the statutory provisions for habeas corpus in the U.S. Code. In Rasul v. Bush, for example, decided last year, the Supreme Court made clear that it was considering the statutory right to habeas corpus, not the constitutional right. They did not determine whether the constitutional right to habeas corpus was reached. Since Congress cannot act in violation of the Constitution to prohibit judicial review, the courts still have the power to determine whether the constitutional right of habeas corpus is available in cases where section 1405 deprives a detainee of the statutory right. So this unseemly action may well not have achieved its purpose.

Some may claim that the right of habeas corpus does not apply to Guantanamo because Section 1405 defines the United States specifically to exclude Guatanamo Bay, Cuba. But as the Supreme Court found in Rasul, the common law right of habeas corpus is not limited to the formal territorial boundaries of a nation, but is defined by "the practical question of 'the exact extent and nature of the jurisdiction or dominion exercised in fact by the Crown.' " It is this common law right which our founders enshrined in the Constitution. Thus, the scope of the constitutional right to corpus habeas is the same as the common law right. In Rasul, the Supreme Court stated that the United States "exercises 'complete jurisdiction and control' over Guanatanamo Naval Base, and may continue to exercise such control permanently. . ."

Supporters of this provision argue that after stripping the courts of jurisdiction for habeas corpus claims, the provision adds back limited appeal rights for detainees in two classes: No. 1, those who have had a Combatant Status Review Tribunal, which serves as an initial designation of enemy combatant status but is not a final judgment; and No. 2, those who have received a final decision from a military commission. Over 500 detainees in the first category, those who have had a CSRT—many of them have already filed a petition to challenge their designation as enemy combatants. We are not aware of any detainees in the second category.

For the first category, section 1405 does not apply the habeas-stripping provision to pending cases, so the courts retain jurisdiction to consider these petitions—in addition to pending military commission cases—consistent with Lindh v. Murphy. During deliberations on the floor for this provision, the Senate specifically rejected language from the original Graham amendment, which would have brought these categories of cases within its reach.

Section 1405 also leaves completely undisturbed a challenge to the military commission process now pending in the Supreme Court in the case of Hamdan v. Rumsfeld. The sponsors of the original amendment made it clear on the floor of the Senate that the provision has prospective application only, which is what my colleagues and I understood to be the drafters' intent.

When Congress authorizes a procedure to challenge military commissions or the tribunals, Congress is clearly not endorsing or authorizing the use of commissions or tribunals themselves. The Senate has numerous bills before it to authorize military commissions, and it has not acted on any of them.

In addition, section 1405 in no way endorses the amorphous and unlimited definition of enemy combatant currently used by the Bush administration. We all hope that the administration will soon provide Congress and the American people with a definition of who is an "enemy combatant," with clear limits on who is subject to such a designation and is subject to indefinite detention as a result.

Sadly, section 1405 also undermines the giant step forward we took in giving such overwhelming support to the McCain amendment and its prohibitions on abusive interrogation techniques. Yet section 1405 appears to undermine that amendment. We have established clear rules, but the Graham amendment is a flagrant attempt to prevent their enforcement. That is not what we intended when nearly all of us voted for Senator MCCAIN's prohibition and that is not the message we intend to send to the world when we did so. In this devious maneuver, Congress has slammed the front door on torture, then surreptitiously opened a back door to it. This legislation obviously raises larger policy concerns in addition to its ambiguous statutory language and the constitutional concerns. America was founded on the principle that no one, especially not the President, is above the law.

Section 1405, however, sends exactly the wrong message. By barring claims from the detainees, it creates a legal black hole in Guantnanamo where detainees can be abused and tortured. We can't continue to turn a blind eye to the treatment of detainees at Guantanamo. The actions of our Government, wherever they are taken, should be limited by the rule of law.

Yet this provision attempts to put Guantanamo above the rule of law. As we try to build democratic societies in Iraq and Afghanistan, how can we possibly prove to them that arbitrary imprisonment is wrong and that all persons are entitled to humane treatment, when Congress so blatantly refuses to practice what it preaches? The hypocrisy is as breathtaking as it is shameful.

It is an outrage that the conferees have included this irresponsible provision in this must-pass bill, and I hope the Senate will do all it can to remove it in the new session that begins in January.

DEFENSE CONTRACTING

Mr. KENNEDY. Mr. President, I commend the House and Senate conferees for their agreement to extend the Defense Department program to prevent defense contracting firms supporting or subsidizing the kind of discrimination that has long been a problem in such contracting. The extension through September 2009 is clearly needed to achieve that important goal.

Defense contracting has long been dominated by old-boy networks that make it very difficult for African-Americans, Latinos, Asians, and Native Americans to participate fairly in these opportunities, or even obtain information about them. Minorities historically have been excluded from both public and private construction contracts in general, and from Federal defense contracts in particular. Since its adoption, the Defense Department's effort, called the 1207 program, has helped level the playing field for minority contractors. Extending the program was a priority, since it's clear there is much more to do.

Since the program was first enacted in 1986, racial and ethnic discrimination has continued to be a substantial obstacle to minority participation in Federal contracts. In some cases, overt discrimination prevents minority-owned businesses from obtaining needed loans and bonds. Prime contractors, unions, and suppliers of goods and materials have consistently preferred to do business with white contractors rather than minority firms.

Minorities have been consistently underutilized in government contracting. In 1996, the Urban Institute released a report documenting minority firms received only 57 cents in government contracts for every dollar they should have received based upon their eligibility.

For specific racial groups and women, the disparities were even greater. African-American owned firms received only 49 cents on the dollar; Latino-owned firms, 44 cents; Asian-American owned firms, 39 cents; Native American-owned firms, 18 cents.

These statistics are particularly troubling, because they exist despite affirmative action programs in many jurisdictions. Without such programs, the problem would be worse. The Urban Institute report found that disparities for minority- and women-owned firms were greatest in the areas where no affirmative action program was in place. For African Americans, the percentage dropped from 49 percent to 22 percent, for Latinos from 44 percent to 26 percent, for Asians from 39 percent to 13 percent, and for Native Americans from 18 percent to 4 percent. These figures show that affirmative action is not only effective, but still urgently needed.

We've also seen repeated reports of bid shopping and of minority businesses being denied contracts despite submitting the lowest bid.

Also, the Department's decision to award a growing number of defense contracts noncompetitively has excluded minority-owned businesses from a significant number of contracting opportunities. No-bid contracts also hurt white-owned businesses, but they disadvantage minority-owned firms in particular.

These problems affect a wide variety of areas in which the Department offers contracts, and the problems are detailed in recent studies.

A 2002 Dallas study found that minority business enterprises were significantly disadvantaged in obtaining contract work. Evidence in that report also suggests that discrimination takes place in subtle ways, such as by making unrealistic demands on minority contractors, or refusing to pay them on time. A Hispanic-American contractor noted that on several occasions, he and other minority contractors were not informed of bid opportunities with government agencies, even though they performed services in the field. A Native American contractor in goods and other services noted that some customers visit his company and walk out, once they see the owner is not a white man. Many minority firms reported being consistently underestimated by white prime contractors who assume they are not capable of doing the work because they are minority-owned. Minority firms expressed concern that they will never become large enough to compete for larger contracts if they are denied a chance to prove themselves on smaller contracts.

In Cincinnati, a 2002 study found that "bid shopping" by prime contractors continues to harm minority firms. The firms also reported numerous obstacles in seeking work in the city, such as denial of opportunities to bid, lack of response to minority presentations for bidding, limited financing, problems obtaining bonds, slow pay, predatory business practices, and stereotypical attitudes that minorities are incapable of performing good work.

A 2003 study of contracting in Ohio found racial prejudice in both the public and private sectors. A State inspector was alleged to have expressed hatred for African Americans in ugly terms. An African-American professional service contractor said that his prime contractor deliberately sabotaged his work by breaking his equipment. A state inspector conceded to an African-American contractor that he was requiring him to do more expensive work than he would have required of a large white-owned contractor doing an identical job nearby. Banks and unions sometimes contribute to the obstacles by discriminating against minorities in awarding financing.

A 2004 study in Alameda, CA, also found significant underutilization of minority-owned firms.

I have received a letter from an African-American business owner, Mr. John McDonald, explaining the difficulties minority firms face in the contracting business and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 18, 2005.

Senator EDWARD M. KENNEDY,
Senate Armed Services Committee,
U.S. Senate, Washington DC.

DEAR SENATOR KENNEDY: My name is John McDonald and I am an African-American business owner. I understand that the Senate will soon consider the reauthorization of the Department of Defense's 1207 program. I want to urge you to make sure that program continues. As my own experience over the last few years makes clear, discrimination is still a serious and pervasive problem for business owners in America. The unfortunate reality today is that the playing field is still not level for businessmen like me.

I work in the fields of institutional real estate acquisition, development and construction. I am very good at what I do and very proud of the quality of my work. Like most businesspeople, I want to grow my company and succeed. This desire comes both from pride in my business and from my desire to give my family, that includes my five beautiful children the best opportunity to succeed in life. I know that the Department of Defense has spent millions of dollars on contracts for the type of work that I do and while I have not worked for DOD in the past, I would welcome the chance to do so.

The problem for me, and many businesspeople like me, is that discrimination often stands in our way. I would like to share with you just one example of the seriousness of discrimination against minority business people. A few years ago, I entered into four triple net leases with Domino's Pizza to purchase land and build four prototype corporate leased stores in Las Vegas, Nevada. I purchased the sites they selected, and spent hundreds of thousands of dollars towards completing these stores based on a 30 year, triple net lease. The money was from loans and personal funds invested in my company it also included bank financing which I personally guaranteed. The restaurants were beautiful, top of the line establishments and Domino's even featured my work at their convection in Las Vegas that year. I admit that I was startled to find that I was the only African-American in attendance at the convention, but I was so proud of my work that I didn't think much of it at the time. That was soon to change.

Soon after the convention, a senior Domino's official, Debbie Pear called me and told me we had to amend our leases in a way that no businessman in my position could do. She wanted me to give Domino's the right to opt out of the lease with a simple 30 day notice, reneging on the initial 30 year obligation. In my field this is unheard of. When I refused to do this, she made clear she wasn't very concerned at my objections and she said frankly "I don't like doing business with you people. anyway". It was her position that I would make the change as I couldn't afford not to. Domino's had more money and could tie the matter up in court and I would either be forced to make the change, or loose my business, either way they would prevail. Sadly, that is exactly what they did.

Domino's stopped paying rent to me on the very profitable stores that were built by my company. They stifled construction on stores by removing my name as landowner with local county municipalities. They blocked financing as well as the sale of these properties, making my company income void. Within months, I had to file for bankruptcy. Domino's slandered my name in an organized effort to have a Trustee appointed to the case, who intentionally settled the company claim with Domino's for a mere $45,000. As you could imagine these tactics hit my business hard, and caused emotional and financial trauma for me and my family. The fact is, big corporate conglomerates such as Domino's Pizza, make fairness in business impossible. As Americans, where free enterprise is suppose to prevail, we cannot allow these businesses to put small business out of business.

I am not a man who stands still in the face of injustice. I have filed a lawsuit and my chum has been litigated all the way to the U.S. Supreme Court which beard oral argument in my case on December 6, 2005. The problem is that I do not want to be in court while I am willing to stand up and fight for my rights, I would rather spend my time building a business, doing high quality work and providing for my family. Unfortunately in my case, ongoing discrimination has made that impossible.

Hopefully my story has made it clear how important these types of programs are. There is such pervasive discrimination in the private markets that we must have assistance from programs like the 1207 program. Help us help all minority and small business survive and fulfill the American dream. Please ensure that this important program is continued.

Sincerely,

JOHN MCDONALD.

Mr. KENNEDY. One of the purposes of this program is to ensure that government contracting does not subsidize—even indirectly—private discrimination. Because discrimination affects contracting by private firms as well as State and local governments, and all contractors bid in for these contracts as well as for Federal defense contracts, it is important to ensure a level playing field in Federal contracting.

Finally, the data in the Department of Commerce benchmark study supports the need to improve contracting opportunities for minority-owned businesses.

The 1207 program helps to correct these pervasive problems of discrimination without imposing an undue burden on white-owned businesses. Small businesses owned by white contractors are eligible to receive the benefits of the program if they are socially or economically disadvantaged.

All of us benefit when recipients of Federal opportunities reflect America's diversity, and I'm proud to support the reauthorization of the 1207 program.

CLIMATE NEGOTIATIONS IN MONTREAL

Mr. JEFFORDS. Mr. President, I rise to speak on behalf of myself and Senators LIEBERMAN, BIDEN, CARPER, FEINGOLD, FEINSTEIN, KERRY, LAUTENBERG, OBAMA, REED, REID, SARBANES, and WYDEN.

Over the last 2 weeks, 189 countries, including the United States, met in Montreal, Canada, to discuss the issue of global climate change. These countries are all signatories to the United Nations Framework Convention on Climate Change. The Montreal talks also included discussions by the 157 countries that are signatories to the Kyoto Protocol.

A key topic of the discussion was whether future talks could include discussions of additional commitments under the Framework Convention or the Kyoto Protocol. The Bush administration's position from the outset was that such discussions were a "non-starter" and that the United States would not engage in any such talks.

On December 5, 2005, 24 members of the Senate wrote to the Bush administration to note that the United States remains a signatory to the Framework Convention and thus is obligated to take actions to "prevent dangerous anthropogenic interference with the climate system." In the view of those Senators and others, blocking such talks would be inconsistent with the international obligations of the United States under the Framework Treaty.

The letter, which I submit for the RECORD, also noted that in June of 2005, a bi-partisan majority of the Senate approved a resolution calling for domestic legislation to achieve mandatory reductions in greenhouse gas, GHG, emissions and recognizing the need for comparable action by major GHG emitters nations worldwide. It urged the Bush administration to be mindful of this fact and to conduct its negotiations accordingly. The signers of this letter hoped that it would be useful in making clear that many in the United States, including a majority of members of the Senate, do not agree with the Bush administration's position.

Despite the letter, the Bush delegation did their best to block and stall the negotiations and to send the message that the United States will not take mandatory action to reduce greenhouse gas emissions for many years to come. When it was time to actually negotiate about further commitment discussions, the chief negotiator of the United States bluntly indicated that such discussions were unacceptable and abruptly walked away from the negotiating table.

The good news is that the rest of the countries involved were not deterred by the U.S. walkout and ultimately reached agreement on a set of decisions that will allow initiation of further talks next year. Only when confronted with this agreement in a public way did the United States ultimately accept a version of those agreements.

This means that we have made progress and that further discussions will take place under both the Framework Treaty and the Kyoto Treaty about additional commitments. The clear message from the rest of the world to the Bush administration is that we are moving forward. Such progress can take place with or without the United States at the table.

The results of these negotiations are encouraging and open a variety of pathways to future U.S. engagement. The developments expand the opportunities available to the U.S. to fulfill its Framework Convention obligations to engage the international community prior to the Framework Convention and Kyoto Protocol meetings in 2006—in meeting the Convention's goal of "preventing dangerous anthropogenic interference with the climate system."

Even without the United States, those nations that are parties to the Kyoto protocol have agreed to initiate a process by which commitments will be established for the period following 2012, when the first commitment phase of the Protocol ends. Contrary to the claims of some, the Framework Convention process and the Kyoto process remain as viable legal vehicles for future reductions of greenhouse gases.

It is also worth noting that the parties to the Framework Convention, including the United States, also agreed to initiate a process for considering reductions in greenhouse gas emissions through avoided deforestation. As much as 25 percent of global GHG emissions are generated by tropical deforestation. The avoided deforestation initiative, prompted by the efforts of Papua New Guinea and Costa Rica and endorsed by the G77 Group of Developing Nations and China, means that developing countries are open to ways in which they could reduce their greenhouse gases emissions, consistent with the Framework Convention principle of "common but differentiated responsibilities and respective capabilities."

The United States is the largest emitter of greenhouse gases and has been for some time. We have an obligation to be a leader in the fight to reduce greenhouse gases. We have an obligation under the Framework Convention to take actions to "prevent dangerous anthropogenic interference with the climate system." We have not yet honored those obligations, even as other countries, including developing countries, move forward.

A majority of Americans support taking some form of action on climate change. A recent poll by the Program on International Policy Attitudes, sponsored by the Center for International and Security Studies at the University of Maryland, found that 86 percent of Americans think that President Bush should act to limit greenhouse gases in the United States if the G–8 countries are willing to act to reduce such gases. All the G–8 countries except the United States are signatories to the Kyoto Treaty. Finally, the study found that 83 percent of Americans favor "legislation requiring large companies to reduce greenhouse gas emissions to 2000 levels by 2010 and to 1990 levels by 2020."

We cannot afford further delay on climate change, which appears to be the desired outcome of the Bush administration policy. The Montreal talks are a positive step forward, but we need to do much more, much faster. Climate change is here and it will accelerate the longer we wait. The time has come for the United States to adopt mandatory legislation to reduce greenhouse gases and for the United States to reengage in the international negotiation process in a constructive way.

I ask unanimous consent that the letter to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, December 5, 2005.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT, as you know, one of the most pressing issues facing humankind is the problem of human-induced global climate change. Between November 28 and December 9, 2005, 189 countries, including the United States, are meeting in Montreal, Canada to discuss future actions that can be taken under the United Nations Framework Convention on Climate Change (UNFCCC). That conference will be the 11th UNFCCC Conference of the Parties (COP 11). Simultaneously, 157 parties to the Kyoto Protocol, an extension of the UNFCCC, will be meeting and the United States will participate as an observer in that process, which will be the first Meeting of the Parties (MOP1).

The United States is a signatory to the UNFCCC treaty, which the Senate ratified in 1992 and which entered into force in 1994. Article 2 of that Convention commits the parties to achieving "stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system." In addition, Article 4.2(d) requires that the parties review the adequacy of measures relating to the mitigation of climate change, beginning in 1998 and "thereafter at regular intervals."

We are writing to remind the Administration of its continuing legal obligation to participate in the COP negotiations in a constructive way that will aid in meeting the agreed-upon goal of "preventing dangerous anthropogenic interference with the climate system." In our view, a deliberate decision by the Administration not to engage in such discussions, solely because they may include the topic of future binding emissions reductions requirements, is inconsistent with the obligations of the United States as set forth in the UNFCCC treaty. In any event, the United States should, at a minimum, refrain from blocking or obstructing such discussions amongst parties to the Convention, since that would be inconsistent with its ongoing treaty obligations.

We would also like you to be aware that a bipartisan majority of the United States Senate has now agreed that human-induced climate change is real and that "mandatory steps will be required to slow or stop the growth of greenhouse gas emissions into the atmosphere." On June 22, 2005, the Senate went on Record for the first time in support of mandatory limits on greenhouse gases by a vote of 53-44. The Resolution states that:

"It is the sense of the Senate that Congress should enact a comprehensive and effective national program of mandatory, market-based limits and incentives on emissions of greenhouse gases that slow, stop, and reverse the growth of such emissions at a rate and in a manner that—

(1) will not significantly harm the United States economy; and

(2) will encourage comparable action by other nations that are major trading partners and key contributors to global emissions."

As this Sense of the Senate Resolution makes clear, the Senate intends, at some future date, to require a program of mandatory greenhouse gas limits and incentives for the United States. Moreover, that system will be designed to ensure comparable action by other nations that trade with the United States. This system, therefore, will build on the actions of the United States and other countries in implementing the UNFCCC. It is only a matter of time before Congress takes such action.

The United States Senate is on the path towards requiring mandatory commitments and reductions of greenhouse gases and supports working through and alongside the Framework Convention process. The Administration should remain mindful of that key fact in its negotiations with all Parties and comport any discussions about future obligations accordingly.

Sincerely,

Olympia Snowe, Jim Jeffords, John McCain, Jeff Bingaman, Susan M. Collins, Lincoln D. Chafee, Tom Carper, Chris Dodd, Daniel Inouye, Charles Schumer, Frank R. Lautenberg, Paul Sarbanes, Ken Salazar, Hillary Rodham Clinton, Joe Biden, Carl Levin, Jack Reed, Joe Lieberman, Maria Cantwell, Russell D. Feingold, Dick Durbin, Dianne Feinstein, Tom Harkin, John F. Kerry.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On Aug. 17, 2001 in Reno, NV, police and the F.B.I. arrested Adam Ezerksi for the murders of several gay men in Florida and San Francisco, CA. Ezerksi, a teenager, was suspected of being a serial killer of gay men. He confessed to the murder of Anthony Martilotto, a gay man in Weston, FL, who was found dead in a Fort Lauderdale hotel room. Police have linked Ezerksi to another murder of a gay man in Florida. Ezerksi was discovered while the police and the F.B.I. were pursuing another serial killer of gay men in the San Francisco area.

Our Government's first duty is to defend its citizens, in all circumstances, from threats to them at home. The Local Law Enforcement Enhancement Act is a major step forward in achieving that goal. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

VIOLENCE AGAINST WOMEN ACT

Mrs. MURRAY. Mr. President, I rise today to speak about the Violence Against Women Act, which Congress has finally reauthorized after many delays. As my colleagues know, the final bill passed the Senate on Friday, it passed the House on Saturday, and it is now headed to the President for his signature.

As domestic violence leaders in my home State of Washington will tell you, this reauthorization is long overdue. VAWA has been a critical tool for fighting domestic violence, and it should have never been allowed to expire. The Republican leadership finally recognized that, and now we will strengthen and expand that critical law.

Today I want to discuss some of the improvements we have passed—including new tools related to health care, housing, and abuse that involves police officers. I also want to share my disappointment that the economic protections I have worked to include were removed when this bill was considered by the Senate Judiciary Committee.

I have tried to advance critical economic protections at every turn, and I want to update my colleagues—and advocates in Washington State—about where those efforts stand. I do want to thank several of my colleagues for their hard work on this bill, including Senators LEAHY, SPECTER, BIDEN, HATCH, and KENNEDY.

The original Violence Against Women Act, VAWA, created a national strategy for dealing with domestic violence. And that strategy has been very successful. VAWA brought together victims' advocates, social service providers, and law enforcement professionals to meet the immediate challenges of domestic violence. This bill reauthorizes and strengthens those core programs.

This bill also creates new programs that represent important steps forward in areas such as health care, housing and officer-involved abuse.

The first new step concerns health care. For the first time, VAWA includes a national health care response to domestic violence, dating violence, sexual assault and stalking. It authorizes new grants to train health care providers to recognize and respond to domestic or sexual violence. These grants will help establish partnerships between victims service providers and health care providers in State hospitals and public health departments. It also provides funding for direct services for sexual assault victims, including 24-hour emergency and support services.

Second, this law now addresses housing inequities for victims by providing new grants to help victims find long-term housing. It also protects the confidentiality of victims who are receiving assistance from Department of Housing and Urban Development-funded programs. VAWA also now includes provisions to protect mail-order brides and expands protections for immigrant victims.

This legislation also addresses the issue of police officer-involved domestic violence. I have spoken about this issue on the Senate floor before because of a terrifying case in Washington state. In April 2003, Tacoma police chief David Brame shot and killed his wife, Crystal Judson Brame. Then he took his own life, all while their two young children watched. The final tragic act was the last in a long history of abusive events.

In response to this incident, the City of Tacoma, the Tacoma Police Department, and others formed a task force to examine officer-involved domestic violence. They created a new policy for the Tacoma Police Department, and they helped pass a State law which requires that departments have policies on officer-involved abuse.

This VAWA bill gives local communities new resources to deal with abuse that involves police officers. It funds the Crystal Judson Domestic Violence Protocol Program. It allows law enforcement agencies, victim service providers, and Federal, State and local governments to use STOP grant funds to create new protocols for handling officer-involved domestic violence.

What happened in Tacoma is a tragedy that cannot be weighed. Out of that tragedy, Washington State changed its laws, and now the Federal Government is giving communities across the country new tools to address officer-involved abuse. So that new provision—along with the healthcare and housing measures—represent new progress in fighting domestic violence. But frankly, we have got a lot more work to do. I am deeply disappointment that the economic protections I have been fighting for since 1998 were not included in this reauthorization—despite some early progress.

If we are going to break the cycle of violence, we need to address the economic barriers that trap victims in abusive relationships.

We know that financial insecurity is a major factor in ongoing domestic violence. Too often, victims don't have the financial strength to leave a violent relationship. As a result, they are forced to choose between protecting themselves and keeping a roof over their heads. When a victim cannot afford to move out, or cannot afford to pay the rent, or has lost a job because of abuse, that person is trapped, and Congress needs to help free them from that trap.

In this bill, we had an opportunity to help victims. In the Senate version of the bill, I worked to include an unpaid leave provision. It was in the Senate version, but it was dropped by the Senate Judiciary Committee.

In my view, that was wrong. It is like leaving someone trapped in a burning building. We should have knocked down the barriers and thrown open the exit doors, but the Senate failed and that will have a real impact on people trapped in abusive relationships.

The protections I sought were reasonable. It would have allowed victims to take up to 10 days of unpaid leave per year to address domestic violence. Over 40 percent of American workers get no paid time off. They cannot use vacation time to address abuse, and missing work puts them in danger of losing their job. My provision would have allowed victims to take unpaid leave to get a protective order, see a doctor, or make a safety plan.

But unfortunately, there was opposition and complaints about jurisdiction, and these protections were stripped from the bill during consideration in the Judiciary Committee.

Once those protections were dropped, I kept fighting. I offered another tool to help victims escape abusive relationships. I asked the managers of the bill to include a provision on unemployment insurance. I asked them to provide victims of domestic violence, dating violence, sexual assault, or stalking with unemployment insurance if they have to leave their job or are fired because of abuse.

We know that a job is often the only way for victims to build up the resources to leave a violent relationship, but abuse and stalking can make it impossible for a victim to keep a job.

Many of my colleagues may recall the story of Yvette Cade, of Maryland. As reported in the Washington Post, Ms. Cade's estranged husband showed up at her job at a wireless phone store, threw gasoline on her, and lit her on fire. A restraining order against her estranged husband had been dropped shortly before the incident, even though she had indicated he was still threatening her.

Ms. Cade was burned over 60 percent of her body and remains in the hospital.

There are many more cases of abusers who deliberately sabotage a victim's ability to work, placing harassing phone calls, cutting off their transportation, and showing up at the workplace and threatening other employees. When a victim loses a job because of violence, that victim should have access to unemployment compensation benefits.

Some people might claim that it is too expensive to allow victims to access unpaid leave. But I would remind my colleagues that domestic violence imposes costs on a workplace too. When violence follows victims into the workplace, it doesn't just hurt victims—it hurts their employers. It means less productivity and higher insurance costs.

So anyone who says it is too expensive to provide unpaid leave should also remember that domestic violence is expensive to businesses to in both lives and dollars. Providing the tools that will allow abused women to escape abusive relationships can help offset billions of dollars in costs that domestic violence imposes on businesses.

Unfortunately, my efforts to include unpaid leave provisions were rejected as well. But I am not giving up. I have been at this since 1998 and I know who I am fighting for. I have been to the shelters in my State, and I have talked with the victims. I have met with their advocates, and I am not giving up on them.

I am going to keep pushing for my SAFE Act, which stands for the Security and Financial Empowerment Act. It contains the protections victims need to break the cycle of violence. I thank Senators LEAHY, CORZINE, DAYTON and DODD for signing on as original cosponsors, and would invite all of my colleagues to sign on as well.

I am going to continue to tell their stories because we need to hear their voices here in the Senate. It is easy to argue about jurisdiction, but that doesn't mean anything to someone who is getting beaten up every night. It is easy to argue about the cost of unpaid leave—but that doesn't mean anything to someone who needs to get a protective order so they can escape a violent relationship.

This Congress has a lot of work to do to help victims, and I will come to this Senate floor as many times as it takes, until we finally give victims the help they need and deserve.

IRAQ

Mr. INOUYE. Mr. President I ask that the following editorial which was written by my good friend, former Senator Fritz Hollings, and published in the Charleston Post and Courier on October 27, 2005, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MISLED ABOUT IRAQ. SECURE IT OR LEAVE

A G.I. with his legs blown away in Iraq asks, "Senator, why did we go into Iraq?" Answer: "to secure Israel by democratizing the Mideast." Immediately my over-sensitive Jewish friends withdraw in horror: "There you go, blaming Israel." Not at all. The fact is that Israel opposed the plan. Now, with our unwarranted invasion and al-Jazeera reporting daily on U.S. "atrocities," we are spreading terrorism and have damaged the security of Israel.

In 1996, incoming Prime Minister Benjamin Netanyahu of Israel commissioned a think-tank headed by Richard Pearle, Douglas Feith and David Wurmser. The three submitted the plan "Clean Break": Negotiating with Arafat is futile. Instead, secure Israel by democratizing the Middle East.

First bomb Lebanon. Next invade Syria on the pretext of it possessing weapons of mass destruction. Then replace Saddam with a Hashemite ruler favorable to Israel. Netanyahu rejected "Clean Break."

Determined, Pearle, Feith and Wurmser returned to the United States and joined in the Project for the New American Century with Dick Cheney, Paul Wolfowitz, Donald Rumsfeld and Scooter Libby, among others. In 1998, the group prevailed on Congress for regime change in Iraq, and the Senate by a voice vote adopted such a resolution. At the time, no senator thought we were endorsing an invasion—just encouraging resistance in Iraq. But when George W. Bush was elected president "Clean Break" hit pay dirt.

The Project for the New American Century crowd took office. Richard Cheney became vice president, Rumsfeld, Wolfowitz and Feith took the number first, second and third positions in the Department of Defense. Richard Pearle became chairman of the Defense Advisory Board. "Scooter" Libby and David Wurmser were advising Cheney.

President Bush, days before taking office in 2001, sought a briefing on, of all things, Iraq from then Secretary of Defense William Cohen.

Secretary of Treasury Paul O'Neill tells in "The Price of Loyalty" how he was astonished at the first meeting of the National Security Council. He went to discuss the recession but all talk was about Iraq. The day after 9/11, President Bush turned to Secretary of Defense Donald Rumsfeld, requesting a plan to invade Iraq even though Iraq had nothing to do with 9/11. The administration was determined to invade Iraq.

Jason Leopold and Larisa Alexandrovna in "Raw Story" now report: "Although the CIA documents that Wurmser and his staff pored over showed Iraq as being an immediate threat, Wurmser was dead-set on finding and presenting evidence to Vice President Dick Cheney that suggested as much, even if the veracity of such intelligence was questionable.

"Wurmser helped Cheney's office, particularly "Scooter" Libby, construct a case for war. He met frequently with Cheney, Libby, Feith and Richard Pearle, the former head of the Defense Policy Board, to go over the "evidence" of the threat posed by Saddam Hussein that could then be used by the White House to build public support. Wurmser routinely butted heads with the CIA over the veracity of the intelligence he was providing to Cheney's office."

In short, the invasion of Iraq was not based on intelligence but was contrived. "But Senator why did you vote to go into Iraq?" Answer: I followed the rationale of the White House for invasion carefully. Having served on the Hoover Commission investigating the intelligence activities of the United States with Gen. Mark Clark, I learned that Israel's intelligence, Mossad, is the best on the Middle East. As an island of democracy in a sea of hostility, Israel has to know what is going on in Baghdad. Israel has no time to call for a summit meeting or to go to the United Nations. Any real threat must be knocked out immediately.

This is why Israel knocked out Iraq's nuclear facility without warning in 1981. Days before we voted, President Bush said, "Facing clear evidence of peril, we cannot wait until the smoking gun is a mushroom cloud." When the commander-in-chief says this, he's got my vote.

I was sure Mossad had found nuclear weapons and we were knocking them out and eliminating Saddam.

Now we're waiting for Iraqis to do what we've never done—secure Iraq; secure the Syrian and Iranian borders immediately; and clean out the Sunni triangle. It would cause casualties but to fight a war you have to fight a war. Either get in or get out.

If we're not going to secure Iraq, then the next best thing is to get Ayatollah Ali al-Sistani to ask us to leave.

Ernest F. Hollings, a Democrat, served as a U.S. senator for South Carolina from 1966 to 2003.

CONGRESSMAN MURTHA

Mr. KERRY. Mr. President, one of the reasons I love and respect my wife Teresa Heinz Kerry so very much is because she has always maintained the strength of her convictions. She speaks her mind, and she speaks the truth. I am especially proud of her passionate defense of her fellow Pennsylvanian—the decorated veteran and respected military expert, Representative JACK MURTHA. In a recent essay, Teresa's powerful words spoke of JACK MURTHA's courage and integrity rose above the disparaging and unconscionable words of those who smeared him. As I read what she wrote, I realized why this issue had struck such a chord with her—and why she was able to speak with such incredible clarity—because, as someone who grew up under a dictatorship, Teresa believes deeply in the freedom of every American to speak their mind without fear of condemnation.

The characteristics we all admire in Representative MURTHA—honesty, compassion, strength and patriotism—are the characteristics that make Teresa such an incredible citizen. I am glad she spoke out, and for that reason, I ask that her words be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From CNHI News Service]

(By Teresa Heinz Kerry)

ASSAULT ON MURTHA SHOULD ALARM US ALL

"Because we in Congress are charged with sending our sons and daughters into battle, it is our responsibility, our obligation, to speak out for them. That's why I am speaking out."

U.S. Rep. John Murtha, Nov. 17, "War in Iraq."

U.S. Rep. John Murtha completely changed the public debate in our country by calling for an immediate redeployment of our troops in Iraq. Whether you agree or disagree with his specific proposal is not the point—but his critics' words demand a response. Murtha speaks with special authority.

His national security credentials are impeccable. His patriotism is unwavering. His influence on national defense is unsurpassed. None in Congress spends as much time as Murtha with the wounded from the Iraq war. His voice on matters of national defense deserves—indeed, commands—great respect. This is why his political opponents think him so dangerous. The orchestrated assault on Murtha should alarm us all. Just when you thought the debate could sink no lower, the politicians committed to staying the course in Iraq turned the fire hoses of smear and intimidation on this icon of national security. Listen to what they said:

They said he had given aid and comfort to the enemy. They accused him of abandoning the troops. And one rookie representative, the most junior member in the House, so lost any decency or sense of decorum that she called Murtha a coward.

I think they smeared the wrong representative. Murtha's history is one of heroism and leadership. He served in the Marine Corps from 1952 to 1955. He served as a Marine Corps drill instructor and a reservist. He re-upped so he could serve in Vietnam. He was wounded twice while serving as a Marine intelligence officer, and then went back into the reserves from 1967 to 1990. He was the first Vietnam veteran elected to the Congress, where he has served with honor and distinction as a bipartisan advocate of national defense ever since.

How bipartisan? When President Reagan wanted to build the MX missile, Murtha broke with his party to fight for what Reagan called the "peacekeeper." Reagan sent him to El Salvador and the Philippines as an election observer and, as an official representative of the United States, to Pakistan to attend President Zia's funeral. When President George H.W. Bush said of the Iraqi invasion of Kuwait, "this will not stand," Murtha stood with him and voted to use military force to drive Iraq out.

His credentials on national defense are unimpeachable. He has been named Minuteman of the Year by the Reserve Officers Association of the United States. He has been honored by the Blinded American Veterans Foundation. He is a winner of the Henry M. Jackson Distinguished Service Award, and an honoree of the Association of the United States Army. When Murtha received the distinguished public service award from the American Legion, he was praised by the national commander as a veteran, supporter of a strong national defense and holder of an outstanding track record on veterans' issues.

That is Jack Murtha's history, and the summer soldiers and the sunshine patriots who attack him cannot rewrite it. That's why they resort instead to the most reprehensible type of personal attacks. We've seen this before. I know and love another Vietnam veteran who served our country with distinction and honor—who suffered the slings and arrows of distortions, half-truths and falsehoods.

Scoundrels who would stifle debate and smear dissenters weaken our democracy and diminish our Nation's ability to make decisions and change course when circumstances demand.

This war is hard—hard to win, hard to support, and for most, hard to figure out. We all want the best for our troops, our country, the Iraqi people and what is best for the Middle East. Much is at stake.

But if we want the best outcome, the best minds we have must be free to express their strongest beliefs and best advice. Murtha has earned our respect. His right to speak out is an intrinsic component of our democracy. It should be honored—we should hold that right sacred—even if his words deviate from the party line, the president's talking points, or public opinion.

I think Murtha did our country an enormous public service for speaking out as he did, and I support for him for exercising his right. A courageous person is always to be admired.

HUGS NOT BULLETS CAMPAIGN 2006

Mr. LEVIN. Mr. President, I would like to commend an outstanding group of young people in Detroit, MI, for their efforts to reduce gun violence as part of the Neighborhood Service Organization's Youth Initiatives Project. Their dedication to this admirable cause is certainly worthy of our recognition and appreciation.

The Youth Initiatives Project was created in 1999 to address growing community issues including violence and substance abuse in Detroit. For 6 years, students, community organizations, and local police have been involved in a coordinated effort to accomplish the goals of the project. Many of these goals are centered on the need to reduce gun violence.

Hundreds of Detroit teenagers have been involved in the Youth Initiatives Project through activities such as afterschool programs to reduce gun violence, gun buybacks, anti-violence rallies, and gun safety workshops. As part of these activities, the Youth Initiatives Project has been responsible in the last 3 years for handing out more than 5,000 free trigger locks to Detroit gun owners.

The Youth Initiatives Project's "Hugs Not Bullets" campaign for 2005 built upon their overall theme of reducing gun violence, while also putting a specific focus on the use of firearms during the celebration of the New Year's holiday. In addition to hosting a number of public forums and rallies, the Hugs Not Bullets campaign used several 4-foot by 8-foot cards to collect signatures of those who pledge not to engage in gun violence. To date, more than 3,000 Detroiters have signed these cards. These cards serve as a powerful symbol of the community's determination to fight gun violence.

For 2006, the Youth Initiatives Project plans to expand the Hugs Not Bullets campaign into a comprehensive grass roots and media campaign against gun violence. This year, more than 200 Youth Initiatives Project participants will reach out to their peers by visiting community centers, schools, and churches, as well as social clubs and events widely attended by other teenagers. In addition, the Hugs Not Bullets campaign will amplify its antigun violence message through public service announcements and appearances on local television and radio. This is an ambitious next step, which will build upon the previous success of the campaign.

It is important to also recognize the contributions these young people are making in their communities outside of their official participation in the Youth Initiatives Project. The Youth Initiatives Project gives young people valuable knowledge and experience, thereby enabling them to push for change in their own neighborhoods and communities on a daily basis. For the rest of their lives, these teenagers will be able to draw on the communications and conflict resolution skills they have gained through the Youth Initiatives Project to make a difference in their own lives and those around them.

I know my colleagues will join me in thanking the participants, organizers, and supporters of the Youth Initiatives Project for their outstanding dedication to the worthwhile goal of reducing gun violence. This is a program which can serve as an appropriate model to be followed in many cities across the Nation. I hope my colleagues will also join me in working to pass commonsense gun safety legislation to more adequately support their efforts.

POPULATION EXPLOSION

Mrs. MURRAY. Mr. President, I rise today to speak about developing countries around the world that are dealing with population explosions. As we near the end of the year, we are trying to wrap things up before the Senate goes out of session. But we continue to ignore this important issue.

This topic does not get very much attention here on the Senate floor, but in the developing world, there is a population explosion. Some experts believe that the population of Earth may top 9 billion by 2050. Eighty-eight percent of Americans believe that international population growth is either a major problem right now or that it will become one in the future. Almost all of the growth is occurring in countries that are the least able to govern, ensure jobs for, and care for their citizens.

But this is also about safe access to health care for women. Even though these countries are experiencing huge population growths, hundreds of thousands of women are dying each year from complications from pregnancy. These women do not have access to the health care that they need, especially reproductive health care.

In many poor countries around the world, nongovernmental organizations and medical professionals are working to make things better. They have set up clinics and reached out to the women and families in poor communities. They are doing great work. But their hands are tied because the Bush administration has imposed a political ideology on the world.

When President Bush took office in 2001, he signed an Executive order known as the global gag rule. It denies U.S. funds to any overseas health clinic unless it agrees not to use its own private, non-U.S. funds for anything related to abortion. What that means, is that if you are a medical professional living in an impoverished country trying to help people and save their lives, you are gagged from even talking about certain reproductive health services. The gag rule places limits on women and doctors that we would never accept here in the United States.

Earlier this year, the Senate passed an amendment to the Foreign Affairs Authorization Act to reverse the President's policy and ensure that health care clinics for women and families receive this much-needed funding. Unfortunately, this legislation has not passed by the full Senate. I am pleased that the Foreign Operations appropriations bill contains $34 million for the United Nations Populations Fund, UNPA, for this purpose. But in order to ensure that this money goes toward funding health care clinics for women and families in poor countries, we must overturn this global gag rule.

In closing, I would like to share the following article, which ran on December 3, 2005, with my colleagues because I believe that it provides some important food for thought as we continue to work on this important issue.

I ask unanimous consent that my remarks and the following article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DOES POPULATION EXPLOSION THREATEN U.S.?

(By David Horsey)

Flying in or out of Mexico City, the traveler can look down on the human sprawl metastasizing in every direction. The Mexican megalopolis is now home to 25 million people and vies for first place among the world's most gigantic cities. From a bird's eye view, it's easy to conclude that the planet has more than enough homo sapiens taking up space.

Having just flown back from a study tour in Mexico that focused on issues of overpopulation, family planning and development, I can report positive news on the population front. In the developed world, population growth has been put in check. Birth rates are roughly at replacement levels and no higher.

An even better story is Mexico. Not that long ago, the Mexican population was spiraling out of control with an average seven children per family. The population doubled between 1950 and 1970 and doubled again by the end of the 20th century. Today, though, thanks in large part to government commitment and successful family-planning measures, the fertility rate has dropped to about

2.1, putting Mexico on track to see a leveling off of population by 2015.

However, this good news is qualified by a disturbing caveat. The successes of recent years have created complacency. Some people think the population bomb has been defused while in reality only the easier part of the job has been done.

In the developing world, the numbers continue to explode. Earth's current human population of 6.5 billion may top 9 billion by 2050 and 99 percent of the growth will be in the least developed nations. If these countries fail to follow Mexico's path, calamity may be just around the corner. In the regions of the world that are the most poor and the least able to care for, employ or govern their rapidly expanding populations, widespread famine, environmental destruction and social collapse are inevitable.

Most countries have reached agreement on what needs to be done to avert such disaster, but, in recent years, the United States has been a maverick on the population issue. The politics of abortion and religion have given current leaders reason to act as if it is not our problem.

Is this an area where self-interest and traditional values dictate that we let less fortunate countries find a way to cope on their own? Here's my Burning Question:

Is the developing world's population explosion a threat to America?

PAKISTAN EARTHQUAKE RELIEF

Mr. ALLEN. Mr. President, I rise today to salute the outstanding ambassadors for our enduring principles of freedom, justice, and individual rights—our brave men and women in uniform who show the heart of America by their good deeds.

As the Iraqi people slowly count the ballots from their historic parliamentary election, we are reminded once again of America's far-reaching power to be a force for good in this world. Over the past 2½ years, our brave soldiers have fought courageously and nobly sacrificed to extend the sphere of liberty into what was—up until their arrival—one of the darkest, most despotic alleys on Earth. Their heroic work has helped deliver a new free and just country into the family of nations.

We here at home watch the developments in Iraq with a feeling of pride. We are proud of our troops who have borne so much to advance the cause of freedom. We are proud of the Iraqi people, who risked their own lives to cast ballots three times this year for a better future. And we are proud of the heritage of our country—from the American Revolutionary secession from the British monarchy to the Second World War against fascism to the Cold War against imperial communism to today's fight against global terrorists. America has been the shining city on a hill—an ally to all men and women—on every continent, in every country—who yearn to breathe free.

In addition to Iraq, we have extended our hand of friendship to the people of Pakistan. A little more than 2 months ago, a devastating earthquake ripped through northern Pakistan. The toll from this tragedy is almost impossible to comprehend: 79,000 men and women lost their lives, an additional 72,000 were injured, and a total of 2.9 million people are now homeless.

Last month, my wife Susan cochaired a charity event near our home in Virginia to raise money for the earthquake victims. She then joined me when I traveled to Pakistan to visit some of the victims, and the 1,200 U.S. troops who are now stationed in Pakistan to assist in the recovery.

We presented a check to the Citizens Foundations charity, which will use the money to rebuild the Bagh School for Girls and other schools. When we visited a Pakistani classroom for children needing medical treatment, we saw children on the floor, singing in English, learning new words, and painting artwork as well. On the wall behind the teacher was a drawing of a green Chinook helicopter and on the side of the helicopter was a big painted smile across the length of the helicopter.

That is the way these young people look at the United States. They are looking at these vessels of our military not as weapons of war but as machines that bring relief, and help. Later, Susan and I had supper with our troops there at the airfield. We told them how proud we are of their outstanding relief effort, about what great ambassadors they are, not just for the strength of America but also for the caring heart of America.

Today, in Pakistan, the heart of America is needed more than ever. As international attention fades and funds dry up, millions of earthquake survivors are now facing a harsh, cold winter. In the remote Himalayan region, villages at altitudes of 5,000 to 7,000 feet will soon be covered in snow. By leaving the earthquake victims exposed to the Himalayan winter, there is the real risk of seeing perhaps hundreds of thousands of preventable deaths.

We should not let such deaths happen. And thankfully, avoiding this tragic scenario is in our power. Our U.S. administration has pledged over $500 million in aid, but these funds are urgently needed today and must reach the devastated people of Pakistan as soon as possible.

During this holiday season, and beyond, we should continue to help Americans in Louisiana and Mississippi and extend our arms to the people of Pakistan. By saving hundreds of thousands of lives during the harsh Himalayan winter, we can transform this tragic event into a story of hope, courage and perseverance.

INDIAN HEALTH CARE IMPROVEMENT ACT

Mr. GRASSLEY. Mr. President, I would like to explain my action today related to S. 1057, a bill to amend the Indian Health Care Improvement Act. I requested that Leader FRIST inform me prior to entering into any unanimous consent agreement relating to any amendments, motions, or any other actions relating to consideration of this bill.

This legislation exempts American Indians/Alaskan Natives from being charged a deductible, copayment, or coinsurance for an item or service for which payment may be made under the Medicaid or SCHIP programs in the Social Security Act. I am reluctant to treat one group differently from other groups. In my opinion, this is a precedent setting change. If we start by exempting one group from costsharing, then many other groups may start asking for the same exemption.

This legislation also exempts several types of property from being considered in Medicaid eligibility. We understand that there may be special circumstances that may necessitate the need for these provisions. We have requested additional information from the Indian Affairs Committee to facilitate our understanding of these exemptions. However, we have not yet received the requested information. In my opinion, without further information, these provisions send the message that resources are irrelevant to a determination of Medicaid eligibility. I don't believe that individuals should have significant resources and still be eligible for Medicaid. These provisions would create an imbalance by allowing a loophole solely for one group.

I want to be clear: it is not that I am concerned about making these changes for American Indians/Alaskan Natives. I am concerned about making these changes for any group. I welcome the opportunity to continue to work with the sponsors of this legislation, Senators McCAIN and DORGAN, and with members of the Indian Affairs Committee on this matter. My staff has been working with staff from the Indian Affairs Committee, but they have not yet resolved my concerns.

ADDITIONAL STATEMENTS

COMMENDING THE SERVICE OF JAMES D.E. JONES

• Mr. LAUTENBERG. Mr. President, I rise to speak about the departure of Mr. James D.E. Jones from the Port Authority of New York and New Jersey. A native of Morristown, NJ, Mr. Jones has served with the Port Authority for 20 years, 19 of them in the Washington, DC, office. During this time, he served as liaison with Congress and several administrations on issues involving aviation, surface transportation, economic development, and public finance. I know Mr. Jones primarily for his efforts and expertise on aviation matters.

As a former Port Authority commissioner, I can tell you that the Port Authority is the most complex regional transportation agency in the country. It runs three major airports where almost 100 million passengers traveled in and out of last year. It operates the largest seaport on east coast of the United States and the second largest container port in the country. It runs a bistate mass transit system and maintains under its care and responsibility such landmark assets as the Lincoln Tunnel, the Holland Tunnel, the Bayonne Bridge, the George Washington Bridge, and the World Trade Center complex in lower Manhattan.

During his service at the Port Authority, Mr. Jones assisted policymakers in Washington as our country debated such ideas as deregulation of the airline industry to responding to the 9/11 terror attacks, which involved a substantial modification of how we provide for aviation security in our country.

Previously, Mr. Jones served as a senior staff member in the U.S. Department of Transportation's Office of the Secretary, where he focused on policy development and international agreements. In that capacity, he represented the U.S. Secretary of Transportation in dozens of bilateral international negotiations on aviation, taking him to 20 foreign countries.

Mr. Jones completed his undergraduate work at Howard University and received his MBA degree from Harvard University Business School. His accomplishments are evidence that his skills have certainly served him well throughout his career.

I am thankful for Mr. Jones' service at the Port Authority. His talents were a great asset to policymakers and lawmakers throughout the Federal Government, and his services helped shape policies for our country that make our aviation system the envy of the world.

On behalf of many New Jersey travelers, I thank Mr. Jones, and I wish him continued success.●

CONGRATULATING THE UNIVERSITY OF WASHINGTON WOMEN'S VOLLEYBALL TEAM

● Mrs. MURRAY. Mr. President, I am excited to congratulate the women Huskies on their terrific win in the NCAA Championships. Not only has UW's women's volleyball team given the University a new championship trophy, but they have given young girls across our State new role-models and proof that they can reach their dreams.

We need to ensure that any young girl who dreams of making the team, wearing a sports jersey or winning a college championship has the opportunity to succeed. That's why—as a Congress—we need to protect Title IX and the future of every girl in Washington State and around the country who wants to play sports.

For the past 33 years, Title IX has opened doors to athletics, education and success for millions of young women across America. Title IX is not about politics, it is about helping young women—like the members of UW's women's volleyball team—achieve their dreams.

I am proud of the UW women's volleyball team, their 32–1 record, and the fact that they became the first team in a 64-team NCAA tournament format to win all six matches by a sweep. I know I join volleyball fans statewide—and young female athletes everywhere—in congratulating them on their accomplishment.●

TRIBUTE TO STAN AND EUNICE KIMMITT

● Mr. BAUCUS. Mr. President, I rise today to honor the lives of two people very close to me, Montana, and the Senate. Stan and Eunice Kimmitt were both remarkable individuals and touched many lives over the years. In an effort to preserve their memory, I think it is fitting that I share the kind remarks made at their funerals with the full Senate.

Mr. President, I ask unanimous consent that the material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EULOGY TO J. STANLEY KIMMITT

(December 21, 2004, Ft. Myer Memorial Chapel)

The poet and dramatist William Butler Yeats once wrote: "Being Irish, you know that in times of great joy you're comforted by the thought that tragedy lurks around the corner." Stan Kimmitt had a lot of Irishman in him. On March 20, 1972, my siblings and I threw a surprise 25th wedding anniversary reception for my parents, during which I said a few words. Driving to dinner that evening, my father was as happy as I had ever seen him, so he returned to his Irish roots and said, "Let's talk about my funeral." "Bob," he said, "I really liked your words today. For my funeral Mass, I would like you to write the eulogy—but have your brother Tom deliver it." In the ensuing 32 years, I never mustered enough courage to ask what my delivery deficiencies were on that March day long ago. But, since Dr. Tom is watching today with Dad and our sisters Kathy and Margaret from premier upper deck seats, the honor of both composing and delivering brief remarks falls to me.

The first thing Dad would want me to do is to thank all of you for joining us today. He would be humbled, but also very pleased, by this turnout. Second, he would ask me to thank all those who are involved in today's events, especially the soldiers of the Old Guard, the Congressional Chorus, his partner Deacon Vinnie Coates, and especially Archbishop Edwin O'Brien of the Military Archdiocese. Archbishop O'Brien first met my dad when serving as a young priest at West Point during my years as a cadet. The Archbishop later volunteered for military service himself, went to jump school, and served as a combat chaplain in Vietnam with many of us in attendance today in the 173rd Airborne Brigade and 1st Cavalry Division. What a wonderful person not only to celebrate today's Mass, but also to help provide spiritual direction to our brave young servicewomen and men both at home and abroad.

We Catholics use the term "celebrate" even for funeral Masses. We celebrate, because we firmly believe that our father Stan is now in a better, more peaceful place. And that is how I think of today, celebrating an extraordinary man and the exemplary life of service he lived.

Dad did not come from a government or service background, far from it. He was born in 1918 in Lewistown, Montana, the son of a prosperous wheat farmer who was the largest landowner in the fertile Judith Basin, and he later moved to Great Falls. With the Great Depression, however, all material wealth was lost, and his family's life story went from riches to rags. However, he was firmly determined to be the first in his family to attend college, which he did at the University of Montana in Missoula. He admitted that he majored in football and minored in bartending, but fortunately for his later career, one class he did attend was an Asian History course taught by a young professor named Mike Mansfield.

Dad was drafted in 1941 and was assigned to the mule-drawn pack artillery of what would become the 10th Mountain Division. Not wanting, as he said, to "spend the war on the south end of a mule," he went to Officer Candidate School at Fort Sill and then trained and led Battery C, 309th Field Artillery of the 78th "Lightning" Division from 1942 to 1945. Sixty years ago today, the battery was fighting in the Battle of the Bulge, then proceeded to the Hürtgen Forest, crossed the Rhine River at Remagen, and became the first American division to occupy Berlin. Alongside him throughout was then Colonel, later Major General Bob Schellman, my parents' best man and my namesake and godfather, whose widow Helen and son Jim are here today. In the recently written words of Len Cravath, one of Dad's soldiers: "Stan Kimmitt was my Captain, our leader, and our inspiration." Lewis Guidry, another soldier, called me and said: "Your father took a bunch of boys and turned us into men. We will never forget him."

In the Korean War, Dad commanded the 48th Field Artillery Battalion of the 7th Infantry Division. His bravery during the Battle of Pork Chop Hill was immortalized in S.L.A. Marshall's book of the same name. Less well known is an incident recounted in a recently-published book called "On Hallowed Ground, the Last Battle for Pork Chop Hill:" "Lieutenant Colonel Kimmitt was an aggressive, hard-charging artillery commander who always worked closely with the infantry. He was at the infantry battalion CP when the personnel carrier brought Ray Barry . . . to the nearby battalion aid station. Kimmitt went into the aid station, and saw his former battery commander, Ray Barry, on a table, obviously critically wounded and near death. . . . A few minutes earlier, the 7th Division G–2 had arrived by helicopter. Kimmitt, seeing the severity of Barry's wounds, went immediately to the helicopter and told the waiting pilot to fly the wounded officer to the MASH. . . . At first the pilot balked, and told Kimmitt the helicopter belonged to the division G–2. With a few choice, sharp words Kimmitt said he did not give a damn who it belonged to, the pilot would fly the wounded Ray Barry to a MASH, right now. When Kimmitt told the battalion surgeon who examined Barry he had a helicopter to evacuate him, the doctor's words were less than encouraging. 'He won't make it to the MASH. He's lost too much blood.'" Ray Barry, who won a Silver Star for his bravery that day, is today alive, well, and a retired Colonel in Texas.

In 1955, Dad was assigned to the Office of the Chief of Legislative Liaison, "Army L&L," where he reacquainted himself with Mike Mansfield and befriended such titans as Richard Russell, John Stennis, Everett Dirksen, John Pastore, Theodore Francis Green, Stuart Symington, and Scoop Jackson. In 1960 we moved to Germany, first to Heidelberg then to Baumholder. In August 1961, he was with the battle group of the 8th Infantry Division that drove from the Soviet checkpoint at Helmstedt to Berlin shortly after the Wall went up to assert Allied transit rights. He later commanded the 8th Division Artillery, which included an Airborne Artillery Battalion, so he started the family's airborne heritage by going to jump school at age 44.

In 1966 he accepted Mike Mansfield's offer to retire from the Army to become Secretary for the Majority, where he served for 11 years; then he won a contested vote and was Secretary of the Senate from 1977 to 1981. The Wall Street Journal wrote a piece during this time, describing him as "The Man at the Senate's Back Door," and, though always a loyal Democrat, his approach to his work in the Senate was nicely summarized in a letter Bob Dole sent to my mother: "So sorry to learn of Stan's passing. I need not tell you what a good man he was. I can tell you he was loved and respected by all the 'Senate family' regardless of party."

One of Dad's proudest achievements in the Senate was when he, together with Senators Warner and Mathias, got all 100 Senators to sponsor the bill granting land on the Mall for the Vietnam Veterans Memorial. Next time you are there, please look for the small brass marker at the back of the Wall's apex and you will see Dad's name. He was particularly pleased that the Vietnam Memorial helped pave the way for his generation's memorials: Korean War, FDR, and World War II, the dedication of which he attended with our son Mac, who was born on his grandfather's birthday. Mac told us later that his grandfather asked if it were OK to leave the ceremony a bit early, because Dad was embarrassed by so many people thanking him for his service. (He probably also wanted to beat the traffic!)

Dad's third career, as a company Washington representative, lasted 10 years, during which time he worked on the Apache attack helicopter and other programs for Hughes Helicopter Company, which was acquired by McDonnell Douglas and later by The Boeing Company. In 1991, he then started the consulting firm of Kimmitt, Coates & McCarthy with his friends George McCarthy and Vinnie Coates, and after George's death, Dad and Vinnie joined David Senter and John Weinfurter in forming Kimmitt, Senter, Coates & Weinfurter, for which he was Chairman until the day he died.

To give you an idea of the pace at which Dad lived his life, I would note that this year alone, at age 86, he had visited his beloved Montana seven times, including just two weeks before he died. He had also traveled in August to Belgium to celebrate with his friend, U.S. Ambassador Tom Korologos, the 60th anniversary of the liberation of Hoeselt, a small town east of Brussels, and in November he attended the 78th Division Reunion in Biloxi, Mississippi. On the last day of his life, December 7, he organized his desk, stopped in at Boeing, dropped by the Senate Democratic cloakroom, shopped at the Ft. Myer Commissary for my mother, went by his office, then went to a farewell reception for Senator John Breaux, whom Dad admired from the day he arrived in the Senate. If Dad could not be with his natural family at his death, he would have wanted to go just as he did—surrounded by Democrats, with no pain or struggle, with his boots on.

Debbie Boylan, of the Democratic Leadership Council, wrote: "I was with him on Tuesday at the party for Senator Breaux, and thought you'd like to know that he seemed like a very happy man that night: He was the first to arrive, had a smile and a chuckle for everyone he met, and—as he put it, 'as the senior Democrat in the room'—made short, eloquent remarks about the Senate and Senator Breaux. Please know this: On that night, as I'm sure on many others, he was surrounded by people who loved him." Jodi Bannerman, who was also there that evening, wrote: "Stan told an anecdote to the DLC and its guests of Russell Long, saying Long once said: 'When I have a friend, I have a friend. I'll fight for him or her until hell freezes over. And then, I'll fight on the ice.'"

And Dad fought on the ice for many people. If you were down, in trouble, or just in need of a friendly, non-judgmental listener, he was your man. He looked up to many, down to none, and right in the eye to all. Even after almost 50 years in Washington, he never looked over your shoulder to see if someone "more important" were approaching. At a 78th Division reunion in Pittsburgh several years ago, he was with his friend and divisionmate, former Congressman Lionel Van Deerlin and his daughters. Liz Van Deerlin recounted in a recent note: "My sister, my dad, and I walked Stan back to his hotel which was about 6 blocks away. There was a guy on crutches with one leg who had a cup out for some cash. Stan was ahead of us in his stride and he went right up to this guy, gave him some money and they talked a bit, but I was moved at how Stan treated him. He didn't avoid eye contact and hurriedly drop cash into his cup, he lingered a while and had somewhat of a conversation with this man, who thanked him heartily. If I didn't know better, I would have thought they knew one another."

My wife Holly captured this sentiment when discussing which photograph we should use for Dad's obituary in the Washington Post, one from his younger days or a more recent one: "I would not use the younger one. That was definitely Stan, but of a younger, different time, at the height of his professional prime. I like the older one because, to me, that is who he really was. He came into his own as an older man, still busy, productive, and effective, but he had a more loving and lovable way about him, a person who knows how great his life has been, how good he has it, has taken the sadness in stride and still looked forward to every moment of every day and reveled in contact with every person he met."

In the hundreds of cards, e-mails, phone messages, and visits since Dad's death, the most heartwarming and humbling words have been how his family—children, grandchildren, great grandson—are reflections of his life well lived. I know how very proud Dad was that government service was and is an essential element of the professional careers of his children. He was very proud of Judy's long service in the Senate, most recently with Senator CARPER; Mary's time with both the National Park Service and now ministering to the health needs of the women and men and families of the 1st Infantry Division as an Army Physician's Assistant in Bamberg, Germany; Mark's military career and especially his recent service in Iraq and the Gulf; Jay's time both in the House and Senate and the Army; and my service in the Army and the White House and several departments—even in Republican Administrations! Dad's pride in his children knew no political boundaries.

Dad was a man of character, but no eulogy would be complete without mentioning that he also was a character. Just saying the following words will bring smiles to many faces here today: gutters; leg wrestling; frequent flyer miles; tennis shorts & black socks; large paper napkins, especially if embossed; and Unterberg. And several of you have shared some of the phrases we heard so often from him:

"Enunciate !"
"Wheels rolling."
"Plan your work and work your plan!"
"Do something, even if it's wrong!"
"You decide what you want to be in life; then be the best at it."
"Into every life a little rain must fall, but we don't have to be drenched by it."
And, the one all the grandchildren know by heart: "An excuse is an opiate
administered by nature to deaden the pain of mediocrity."

Archbishop, two days before Dad died, he went to his last Mass at the Chapel at Georgetown University Hospital. Why, you might ask, would he drive from McLean to the District for Mass? Well, the Mass at Georgetown Hospital is never more than 35 minutes long; there is no music and no collection; and they validate your parking ticket. That was his kind of Mass. And, in another vein, I am sure that I know my Dad's last two thoughts before dying. One would surely have been of Mom and the family, but I am equally sure the other would have been: "Thank God I mailed the Christmas letters!"

My brother Jay asked me to note that the vast majority of the Washington legislative community treated Dad with respect and inclusion to the day he passed. As we all know, one becomes less relevant the longer one is away from positions of power in I this town. On the day Dad died, he was leaving Boeing and he turned to a receptionist and said, "Thanks for putting up with an old soldier." Actually, Dad may have used a noun other than "soldier." The Kimmitt family would like to thank the entire legislative community for their kindness to and respect for Dad over all these years.

Let me close with one final anecdote. In 1978, at the peak of Dad's career in the Senate, Holly and I were introduced to Congressman and Mrs. Lucien Nedzi at a Christmas party. Mrs. Nedzi's eyes lit up, and she asked, "Are you related to . . . Eunice Kimmitt, the school bus driver?" No one would have been more pleased than Dad to hear Mom's service as a St. John's School bus driver in the 1950's recognized. In discussing preparations for his funeral after my brother Tom's interment last December, he said he had only three requests: (1) to be buried in Arlington Cemetery at the site where our sister Margaret was buried in 1959; (2) to have "Oh, Shenandoah" sung during the service, as was done so splendidly by the members of the Congressional Chorus as we entered the chapel; and (3) to make sure that Mom as well as he was recognized in these remarks.

Eunice Wegener Kimmitt also led a life of service, both as a young Red Cross girl in Europe during World War II and as an Army wife and mother who sent her husband and sons off to wars in Korea, Vietnam, and Iraq. But even more, she was and is the firm foundation of our family—no matter how many times we moved to new houses, we always knew that home was where Mom was. Dad would have said that this eulogy is as much about Mom's service and contributions as his—and he felt that way for all their nearly six decades together. Mom, thanks for what you meant to Dad and still mean to all of us.

Please note in your program that you are welcome either to join us at the graveside service immediately following this Mass or to proceed directly to the Officers Club, where the family looks forward to greeting you after the interment. Whether you are at the gravesite today or later, you will see that there is a clear view of the Capitol Building from the site, which was selected serendipitously 45 years ago when our sister died. We will also be burying with Dad soil from Lewistown and Great Falls, Montana; Baumholder, Germany; and the Capitol grounds. Only symbols, but powerful symbols, of the life and life of service you have kindly allowed me to share with you today.

I can almost hear Dad tapping his feet and saying: "Let's get moving so these good people can get back to work!" In such moments, there is just one reply: "Yes, sir, Colonel!" Dad, thank you for the life of service you lived and for the example that will inspire many more such lives in generations today and to come. We love you, we miss you, we will see you again.

Well done, Soldier. Be thou at peace.

EULOGY TO EUNICE L. KIMMITT

(December 3, 2005, St. Agnes Catholic Church, Arlington, Virginia)

Shortly after Mom and Dad were married, she wrote in their brand new family album that her favorite poem was entitled "If" by Rudyard Kipling. That poem, which is printed in full on the back of your program, captures the spirit of the mother, grandmother, and friend whom we remember today. Let me read just several lines from the poem:

If you can keep your head when all about you
Are losing theirs and blaming it on you

If you can meet with Triumph and Disaster
And treat those two imposters just the same

If you can force your heart and nerve and sinew
To serve your turn long after they are gone

If you can talk with crowds and keep your virtue
Or walk with kings—nor lose the common touch

Yours is the Earth and everything that's in it

The earth was Mom's, and now so much more.

Even though Mom was among the first in her family to go to college and had worked both at home and abroad for six years before she was married, she wrote in that same album that her goal in life was "to be a good wife and mother." She achieved that goal, and so much more.

In the words of the Old Testament, our mother was "a wife of noble character"—and she lived with a noble character. No man ever had a more faithful, hardworking, and devoted spouse than did our father, even though he delighted in expressing his respect and appreciation in unusual ways. Though she had to call the Senate Cloakroom most nights to overcome the uncertainty of when he would be home, there was no uncertainty when he called to ask, "Old Mother, do you have any steaks defrosted?" That meant at least one, and more likely a half dozen, Montanans were about to descend on Mom for the evening. Once there, they got a great steak dinner (2½″ New York strips, specially cut at Safeway). Drinks continued after dinner, but only with Mom—since Dad would have left her and his friends as soon as his steak was down.

It is a great honor to us, but especially to Mom, that the senior Montanan in Washington, Senator Max Baucus, is with us today. Senator, thank you for your service to our country and your friendship to our family.

But it wasn't just Montanans. Former Senator Fritz Hollings from South Carolina was among the many Senators who called to express his condolences, and he related the following about his first night in Washington as a new Senator forty years ago, "Your Daddy asked me what I was doing for dinner, and an hour later I was eating a big Montana steak with him and that dear, strong Eunice." On our honeymoon a decade later, Holly and I stayed with friends of my parents in Dublin. On arrival—I think even before hello—Frank Fitzpatrick said, "My God, we're still talking about those steaks."

Senator and Mrs. Hollings were with Mom and Dad on their trip to Paris, mentioned in the obituary in The Washington Post, during which Mom injured herself in a fall. To paraphrase Paul Harvey, you will now know the rest of the story. Mom and Dad had gone to Mass at Sacre Coeur on the Montmarte one rainy evening, and, because Dad was not one to take a cab, they were hustling (he was always hustling) down wet, steep, centuries-old steps to the Metro, and my mother took a hard fall, breaking her upper arm and knee. When we saw her at Walter Reed after her Medevac trip home, Dad was at her bedside and, in his most compassionate and understanding way, said, "Well, they told me Paris would cost me an arm and a leg, but I didn't believe that till now." Mom's reaction to hearing this comment, I am sure not for the first time, was a wan smile through her casts and bandages.

Everyone who knew my mother knew how much she loved sports. She herself played basketball, tennis, and golf when she was younger, and she swatted a mean ping pong paddle later in life. While she loved any sport on television, watching her beloved Redskins was her real passion. Once in the 1970's, during the Redskins' heyday, she and Dad were in Europe when the Redskins were playing an important Monday night game. My Dad awoke about 5 a.m. on the Tuesday morning—11 p.m. Monday night Washington time—to find Mom lying very still on the floor next to their bed. Alarmed, he called out to her, only to be told to "Be quiet, Stan!"—because she was listening to the 'Skins on the Armed Forces Network using a transistor radio she brought for the occasion, and reception was better on the floor.

But, as much as we laugh about those stories now, the most remarkable thing is that Mom's role as spouse never once kept her from performing well her other life's goal as a mother. In the first twenty years of their marriage, the family lived in ten different houses, in four states, and on two continents. Change was a constant in our lives, as it was for all service families of that era and today. But no matter where we were or what house we were in, we always knew that home was where Mom was. Dad traveled or was deployed frequently in those years, and though his strong persona was never far from our thoughts, Mom was never far from our sides—and always on our side. I remember Dad at many of my Little League games, but I remember Mom at all of them, and I can still see her, vividly, running along the fence with her arms held high as I circled the bases after my first home run at the McLean Little League fields.

But one thing Mom left out of the album those many years ago was a goal she achieved nonetheless—world's greatest grandmother. While I do not recall a lot of gum, candy, soft drinks, or Pringles in our home growing up, there were entire shelves—lower shelves, of course—and a separate refrigerator filled with whatever her grandchildren's little hearts desired. For those who can join us at our home for the reception after Mass, you will be treated to a Eunice Kimmitt menu that will include these and many more of her favorites. What a gift it was and is that the grandchildren and she—as well as my Dad—got to know each other so well. And she was so very proud of her grandchildren, and fiercely protective of each of them.

Mom was a person of deep and abiding faith. She was raised Methodist in Napoleon, Missouri, in a church whose hymnals were in German, so it was big news in that small town when she returned from Germany in 1947 as a pregnant Catholic married to an Irishman from Montana. And, just like naturalized American citizenship, no one appreciates the Catholic faith like a convert who embraces the faith later in life on their own initiative. From weekly confession—even when my Dad was in Korea and the confessional sessions must have been brief—through weekly Holy Communion when she was homebound, and then Last Rites just before she died, Mom's faith was an integral part of her being and thus the legacy she leaves to all of us.

Indeed, I am firmly of the view that my mother was and is a saint. I am as sure of that fact as I am of any tenet of my faith. For 16 of the 18 years our brother Tom lived after his accident in 1985, Mom spent an average of six hours a day with him, every day of every year, whether in Arlington, Washington, Alexandria, or Richmond, as we, led by her, sought the best possible care for Tom. That is over 35,000 hours, or 4 full years, at Tom's side. Many in the Church today visited Mom and Tom at some point during that period, and I am sure felt, as did I, that we were privileged to be in the presence of two of God's most blessed children, now reunited by and with Him. And I would like to offer particular thanks to Father Roos and the St. Agnes community, who were so attentive to Tom and Mom during those many years when Tom was just down the road at Cherrydale Nursing Home.

So, if Holly is right—that Dad met Mom at the Pearly Gates last Friday with a cigarette, glass of wine, and a to-do list—I am pretty sure that Mom told Dad, after hugging him, Kathy, Margaret, and Joe, that sitting down to continue her personal Scrabble tournament with Tom was at the top of her to-do list. And as they sat down for their first game after a twenty-year break, I know Tom's first words to her were, "Mom, thanks. I always knew you were there."

And I also know that at 2:30 p.m. this afternoon, they and Dad will all say, as they did so many years in person, "Go Army, Beat Navy!"●

COMMENDING THE SERVICE OF PAUL H. BEA, JR.

• Mr. LAUTENBERG. Mr. President, I rise to thank a dedicated public servant for his service to the people of New Jersey. Mr. Paul H. Bea, Jr., has been Washington representative for the Port Authority of New York and New Jersey for over 25 years, serving as a voice of the Port Authority here in Washington, DC.

As a former Port Authority Commissioner, I can tell you that this agency is the most complex regional transportation agency in the country. It runs three major airports that handled almost 100 million passengers last year. It operates the largest seaport on the east coast of the United States and the second largest container gateway in the country. It runs a bi-state mass transit system and maintains under its care and responsibility such landmark assets as the Lincoln Tunnel, the Holland Tunnel, the Bayonne Bridge, the George Washington Bridge, and the World Trade Center complex in lower Manhattan.

Mr. Bea has provided lawmakers and policy makers advice and information on a variety of topics including the Federal budget, aviation, surface transportation, tax, and trade issues, but he has developed a particular expertise in the field of maritime, port security, and environmental matters. Through Paul's work with the New Jersey and New York congressional delegations on behalf of the Port of New York-New Jersey, he has contributed to the improvement of both the underwater infrastructure and the Hudson-Raritan estuary.

In 2002, Paul became chairman of the Coastwise Coalition, a public-private sector partnership that works to educate policy makers on the potential of domestic waterborne transportation to enhance the capacity of the national transportation system.

In 2004, he was invited by the U.S. Secretary of Transportation, Norman Y. Mineta serve on the Maritime Transportation System National Advisory Council. His principal efforts on that panel involve coastwise shipping, intermodal freight transportation, and waterway issues.

Mr. Bea's experience in Washington dates back to 1970, when he arrived to work on the staff of the late Congressman Edward J. Patten from New Jersey. He was responsible for Federal budget, appropriations, energy, environment, transportation and other issue areas.

In 1978, Mr. Bea went to work as a Washington representative for New Jersey Governor Brendan T. Byrne on environmental and energy concerns, which were a focus of President Carter's administration at the time.

I am very grateful for Mr. Bea's service at the Port Authority. His capable representation has helped the Federal Government navigate through some very tumultuous times for our country, including the 9/11 terror attack on the World Trade Center, and the bombings at the same location in 1993.

On behalf of the people of New Jersey, I thank Mr. Bea for all he has done and will continue to do to make our country a safer, more secure, and efficient place to live and conduct business, and I wish him well.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5075. A communication from the Director, Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Veterans Recruitment Appointments" (RIN3206-AJ90) received on December 12, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-5076. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report regarding accounts containing unvouchered expenditures that are potentially subject to audit; to the Committee on Homeland Security and Governmental Affairs.

EC-5077. A communication from the Chairman, U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report entitled "Reference Checking in Federal Hiring: Making the Call" to the Committee on Homeland Security and Governmental Affairs.

EC-5078. A communication from the Chairman, Appraisal Subcommittee, Federal Financial Institutions Examination Council, transmitting, pursuant to law, the report of the Office of the Inspector General and the Council's combined annual report; to the Committee on Homeland Security and Governmental Affairs.

EC-5079. A communication from the Acting Administrator, General Service Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1, 2005 through September 30, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-5080. A communication from the Attorney General, transmitting, pursuant to law, the report of the Office of the Inspector General and the Attorney General's Semiannual Report for the period of April 1, 2005 through September 30, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-5081. A communication from the Administrator, United States Agency for International Development, transmitting, pursuant to law, the report of the Office of the Inspector General for the period of April 1, 2005 through September 30, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-5082. A communication from the Chairman, National Labor Relations Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period of April 1, 2005 through September 30, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-5083. A communication from the Assistant Administrator, Bureau for Legislative and Public Affairs, Agency for International Development, transmitting, pursuant to law, the Fiscal Year 2005 Performance and Accountability Report; to the Committee on Homeland Security and Governmental Affairs.

EC-5084. A communication from the General Counsel, Office of Compliance, transmitting, pursuant to law, the Counsel's Report on Occupational Safety and Health Inspections for the 108th Congress; to the Committee on Homeland Security and Governmental Affairs.

EC-5085. A communication from the General Counsel, Office of Compliance, transmitting, pursuant to law, the Counsel's Report on Americans with Disabilities Act inspections conducted during the 108th Congress; to the Committee on Homeland Security and Governmental Affairs.

EC-5086. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, the report for 2004 as required by Public Law 106-107; to the Committee on Armed Services.

EC-5087. A communication from the Acting Director, Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Contract Period for Task and Delivery Order Contracts" (DFARS Case 2003-D097 2004-D023) received on December 8, 2005; to the Committee on Armed Services.

EC-5088. A communication from the Acting Director, Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Environment, Occupational Safety, and Drug-Free Workplace" (DFARS Case 2003-D039) received on December 8, 2005; to the Committee on Armed Services.

EC-5089. A communication from the Acting Director, Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Free Trade Agreements—Australia and Morocco" (DFARS Case 2004-D013) received on December 8, 2005; to the Committee on Armed Services.

EC-5090. A communication from the Acting Director, Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Foreign Acquisition" (DFARS Case 2003-D008) received on December 8, 2005; to the Committee on Armed Services.

EC-5091. A communication from the Acting Director, Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Socioeconomic Programs" (DFARS Case

2003–D029) received on December 8, 2005; to the Committee on Armed Services.

EC–5092. A communication from the Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Munitions Response Site Prioritization Protocol" (RIN0790–AG94) received on December 8, 2005; to the Committee on Armed Services.

EC–5093. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: British Aerospace Model HS 748 Airplanes" (RIN2120–AA64) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5094. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McCauley Propeller Systems Five-Blade Propeller Assemblies" (RIN2120–AA64) received on December 8, 2005 to the Committee on Commerce, Science, and Transportation.

EC–5095. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McCauley Propeller Assemblies Models 2D34C53/74E–X; D2A34C58/90AT–X; 3AF32C87/82NC–X; D3AF3C87/82NC–X; D2A32C88/82NC–X; D3A32C90/82NC–X; and 3AF34C92/90LF–X" (RIN2120–AA64) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5096. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A340–200 and A340–300 Series Airplanes" (RIN2120–AA64) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5097. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class D Airspace: Eau Claire, WI" (RIN2120–AA66) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5098. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (69)" (RIN–AA65) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5099. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (45)" (RIN2120–AA65) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5100. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "IFR Altitude; Miscellaneous Amendments (20)" (RIN2120–AA63) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5101. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Temporary Rule; Closure (Massachusetts Summer Flounder Commercial Fishery Closure—2005 Fishing Year)" received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5102. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closure of the Commercial Fishery for King Mackerel in the Exclusive Economic Zone in the Western Zone of the Gulf of Mexico" received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5103. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the 2005 Tilefish Commercial Fishery" received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5104. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "International Fisheries; Pacific Tuna Fisheries; Restriction for 2005 and 2006 Purse Seine and Longline Fisheries in the Eastern Tropical Pacific Ocean" received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5105. A communication from the Assistant Administrator Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Atlantic Shark Quotas and Season Lengths" (RIN0648–AT74) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5106. A communication from the Director, Industry Programs International Trade Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Steel Import Licensing and Surge Monitoring" (RIN0625–AA64) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5107. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Import Certificate Requirements in the Export Administration Regulations" (RIN0694–AD50) received on December 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–5108. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, the report on ethanol market concentration; to the Committee on Commerce, Science, and Transportation.

EC–5109. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, a report concerning the effectiveness and enforcement of the CAN-SPAM Act; to the Committee on Commerce, Science, and Transportation.

EC–5110. A communication from the Director, Regulations Policy and Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Additives Permitted for Direct Addition to Food for Human Consumption; Vitamin D3" (Doc. No. 2004F–0374) received on December 8, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–5111. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Community Services Block Grant Statistical Report and Report on Performance Outcomes for Fiscal Years 2000–2003; to the Committee on Health Education, Labor, and Pensions.

EC–5112. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report regarding an Accountability Review Board concerning Iraq; to the Committee on Foreign Relations.

EC–5113. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–5114. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Classification of Certain Foreign Entities" ((RIN1545–BD77) (TD9235)) received on December 8, 2005; to the Committee on Finance.

EC–5115. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Final Regulations Providing Guidance on the FICA Treatment of Accident or Disability Payments" ((RIN1545–BC69) (TD9233)) received on December 8, 2005; to the Committee on Finance.

EC–5116. A communication from the Deputy General Counsel, Office of Size Standards, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "Small Business Size Standards; Gulf Opportunity Pilot Loan Program" (RIN3245–AF43) received on December 8, 2005; to the Committee on Small Business and Entrepreneurship.

EC–5117. A communication from the Deputy General Counsel, Office of Size Standards, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "Small Business Size Standard; Surety Bond Guarantee Program" (RIN3245–AE81) received on December 8, 2005; to the Committee on Small Business and Entrepreneurship.

EC–5118. A communication from the Attorney, Office of Procurement and Assistance Management, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Acquisition Regulation: Work for Others" (RIN1991–AB64) received on December 8, 2005; to the Committee on Energy and Natural Resources.

EC–5119. A communication from the Director, Supplemental Food Programs Division, Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Vendor Cost Containment" (RIN0584–AD71) received on December 8, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–244. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to enjoin the Federal Emergency Management Agency from mandating that structures rebuilt in the New Orleans area after Hurricane Katrina be elevated; to the Committee on Banking, Housing, and Urban Affairs.

House Concurrent Resolution No. 41

Whereas, the system of levees meant to protect the greater New Orleans area has been deemed deficient, such levees having been constructed using standards developed to protect farmland rather than extensive residential and commercial development with millions of inhabitants; and

Whereas, it is the consensus opinion of experts in the engineering field across the United States that the safety factors considered by government agencies in the design of these levees were minimal, resulting in poor design and the resulting catastrophic failures of the levee systems around the New Orleans area; and

Whereas, the Federal Emergency Management Agency may mandate through administrative law, rule, or other fashion that structures rebuilt in the New Orleans area be constructed in an elevated manner, so as to be less vulnerable to flooding in the future; and

Whereas, the property owners in the flooded areas were not responsible for the levee failures, nor the resulting flooding, and as they begin to rebuild their homes and businesses they should not be further burdened and penalized by impossibly cumbersome and aesthetically displeasing requirements for rebuilding their structures in an elevated manner: therefore, be it

Resolved, that the Legislature of Louisiana does hereby memorialize the United States Congress take such actions as are necessary to enjoin the Federal Emergency Management Agency from mandating through administrative law, rule or other fashion that structures rebuilt in the New Orleans area be constructed in an elevated manner and to assure that residents and homeowners be allowed to retain flood insurance coverage at pre-Hurricane Katrina rates: and be it further

Resolved, that a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–245. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as necessary to develop and provide innovative solutions for financing housing in parishes in Louisiana devastated by Hurricanes Katrina and Rita; to the Committee on Banking, Housing, and Urban Affairs.

House Concurrent Resolution No. 42

Whereas, Hurricanes Katrina and Rita displaced an unprecedented number of people and caused physical and economic devastation of such a magnitude that it will take many months and in some cases years before the affected region can be rebuilt and many of those displaced can return home; and

Whereas, following Hurricanes Katrina and Rita, many property owners in Louisiana face uncertainty about whether they can or should rebuild their homes; and

Whereas, many residents have lost jobs as a direct result of the storms, and a large percentage of them have little or no income and few assets on which they can rely to pay for housing over the coming months; and

Whereas, it is becoming increasingly clear that housing initiatives of the Federal Emergency Management Agency (FEMA) and the United States Department of Housing and Urban Development (HUD) are falling short in providing for lowest income households to afford safe and decent housing; and

Whereas, the primary mission of any redevelopment plan must be the economic stabilization and redevelopment of areas within Louisiana that were devastated or significantly distressed by the storms: and

Whereas, any comprehensive redevelopment plan must provide innovative solutions to financing homes for low-income families that are located in close proximity to viable transportation systems that provide easy access to jobs, schools, and other services: and

Whereas, any comprehensive redevelopment plan must clearly indicate that no powers of eminent domain shall be granted; and

Whereas, an effective redevelopment plan must assure that all efforts will be made in consultation with state and local officials in order to provide for the protection and preservation of historical and other sites of cultural significance in such a manner that promotes local heritage and interest: and

Whereas, investment in intelligent, thoughtful, and inclusive planning will pay off in permanent communities of high quality and economic sustainability: therefore, be it

Resolved, that the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to develop and provide innovative solutions for financing housing in parishes in Louisiana devastated by Hurricanes Katrina and Rita; and be it further

Resolved, that a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–246. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to enacting comprehensive natural disaster insurance legislation affecting financial capacity that will address, encourage, and support insurance company reserving for future catastrophes by making such reserves deductible for federal income tax purposes: to the Committee on Banking, Housing, and Urban Affairs.

House Concurrent Resolution No. 43

Whereas, the loss of life and property from severe natural disasters, as evidenced by recent Hurricanes Katrina, Rita, and Wilma, represents a major national problem: and

Whereas, severe natural disasters, including but not limited to damages caused by windstorm and earthquake, can strike any state or several states at any time, with the potential of threatening large segments of the population of the United States; and

Whereas, severe natural disasters can cause losses in the tens of billions of dollars or more, threatening the solvency of insurers and the viability of insurance markets on a local, regional, and national level; and

Whereas, individual state responses are appropriate but limited in protecting against disasters, as state and private insurers lack the resources to cover catastrophic disasters; and

Whereas, the existing federal disaster programs rely a great degree on the congressional appropriation of disaster relief dollars on an ad hoc basis and at great and unnecessary cost to taxpayers; and

Whereas, states have documented that problems in the current insurance market are rooted in and exacerbated by federal tax policy which discourages reserving for future catastrophes; and

Whereas, federal tax laws and accounting principles do not permit deduction of reserves for future natural disaster losses and discourages insurers from accumulating assets to pay for future catastrophic losses; and

Whereas, some non-United States insurers are able to deduct reserves for future catastrophe losses free of tax, giving those insurers a competitive advantage over United States insurers by enabling them to attract insurance and reinsurance business that would otherwise be written by United States insurers; and

Whereas, the 1997 Coopers & Lybrand report entitled Analysis of Pre-Event Tax-Deductible Catastrophe Reserves underscored the following projections if congress were to enact legislation to encourage the use of pre-event tax deductible catastrophe reserves: that the property and casualty industry would build substantial catastrophe reserve funds; that overall industry assets would increase substantially: that the number of insolvencies taking place after a catastrophic disaster would significantly decrease, and that the magnitude of insolvencies taking place after a catastrophic disaster would significantly decrease; and

Whereas, the same Coopers & Lybrand report also underscored the further projections if congress were to enact legislation to encourage the use of pre-event tax deductible catastrophe reserves: that United States reinsurers would become more competitive in the global reinsurance marketplace: that United States insurers would likely cede monies to United States reinsurers rather than to foreign reinsurers; that federal tax receipts could dramatically increase due to increased tax revenue from underwriting profits associated with retained United States premium, investment income earned on that same premium, and profits from additional foreign premiums that would come onshore as United States reinsurers seek to diversify their catastrophic losses: and that the number of policyholders who lose insurance after a major event could decrease: therefore, be it

Resolved, that the Legislature of Louisiana does hereby memorialize the United States Congress to enact comprehensive natural disaster insurance legislation affecting financial capacity that will address, encourage, and support insurance company reserving for future catastrophes by making such reserves deductible for federal income tax purposes; and be it further

Resolved, that a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–247. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to enacting a health insurance premium reimbursement program and a federal income tax credit for the health insurance premiums for affected victims of Hurricanes Katrina and Rita; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE CONCURRENT RESOLUTION NO. 44

Whereas, the destruction left in the wake of Hurricanes Katrina and Rita poses a growing risk that hundreds of thousands of people in the most severely affected areas will soon lose their privately paid access to health care benefits; and

Whereas, this is particularly true for those individuals who work for small businesses facing financial difficulties and for those who have lost or are about to lose their jobs; and

Whereas, the Gulf Coast's health care system as a whole is already under considerable stress with few health care facilities in operation and thousands of medical professionals currently displaced; and

Whereas, if returning residents are not able to pay for required medical services after the current grace period instituted by the commissioner of insurance for payment of health insurance premiums in Louisiana which ends on November 30, 2005, the system could deteriorate further in the most severely affected areas; and

Whereas, a two-component program to provide interim support to those who are most at risk of losing their private health benefits coverage is needed; and

Whereas, the program would apply only to certain parishes within the Federal Emergency Management Agency (FEMA) orange zone in Louisiana for both Hurricane Katrina, specifically Orleans, St. Bernard, Plaquemines, Jefferson, St. Tammany, and Washington, and for Hurricane Rita, specifically Cameron, Vermilion, and Calcasieu; and

Whereas, the first component could be a federal premium reimbursement program to pay the premiums of individuals with personal policies and of small employers, those with fifty or fewer employees, with group policies by paying to insurers the premium amount fixed for August 2005 for the months of September, October, and November 2005; and

Whereas, the program could cover both paid and unpaid premiums to provide the same benefits to all defined individuals and small businesses, such that if a reimbursement payment duplicates a premium actually paid, that amount could be applied to future premiums or refunded to the insured upon request; and

Whereas, definitions of eligible individuals and small employers, along with administrative provisions, could be the same or similar to those in S. 1769; and

Whereas, the second component could be a federal income tax credit for eligible individuals who are unemployed due to Hurricane Katrina or Rita; and

Whereas, the tax credit could be sixty-five percent of premiums actually paid by eligible unemployed individuals to health insurers for the twelve months from December 2005 through November 2006; and

Whereas, the tax credit could be eighty percent for individuals who are at or below three hundred percent of the federal poverty level; and

Whereas, an eligible individual could be defined as a person who worked in one of the affected parishes at the time of the hurricane, was covered by health insurance at the time of the hurricane, and is determined to be unemployed during a premium period as a result of the hurricane; and

Whereas, former employees of companies of all sizes could be eligible, not just small businesses and individuals purchasing their own insurance; and

Whereas, the credit mechanism could be structured like the trade adjustment credit in Internal Revenue Code Section 35, which is applied to make federal payments directly to the health insurance company for individuals eligible for the credit: Therefore, be it

Resolved, that the Legislature of Louisiana does hereby memorialize the United States Congress to enact a health insurance premium reimbursement program and a federal income tax credit for the health insurance premiums for affected victims of Hurricanes Katrina and Rita; and be it further

Resolved, that a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-248. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to forgive the debt of Louisiana's local governments resulting from seven hundred fifty million dollars in loans made available to them as disaster relief; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE CONCURRENT RESOLUTION NO. 50

Whereas, the United States Congress has enacted legislation that allows seven hundred fifty million dollars to be transferred from the Federal Emergency Management Agency (FEMA) Disaster Relief Fund to the Community Disaster Loan Program to assist parish governments in Louisiana that have suffered the effects of Hurricane Katrina and Hurricane Rita; and

Whereas, the parishes most severely affected by the hurricanes were left with little, if any, local tax revenue for the foreseeable future, and such revenue is normally used to pay the salaries of parish employees, such as law enforcement officers, firefighters, and other essential employees; and

Whereas, Community Disaster Loans apply to localities suffering decreased tax revenue as the result of a disaster, and FEMA is authorized to reallocate seven hundred fifty million dollars to this program to keep local governments operating and to help them avoid layoffs; and

Whereas, it is unfair to put the burden of a seven hundred fifty million dollar debt on local Louisiana governments that are struggling to recover economically while meeting the enormous costs of replacing infrastructure and such debt will not serve the purpose of achieving recovery, and thus it is only fitting that the seven hundred fifty million dollars be allocated as a grant program rather than a loan program and that measures be taken to forgive these loans; and

Whereas, local governments in other states who have received similar loans following disasters have done so with the option that such loans might be forgiven, and it is only appropriate that the local governments of Louisiana be given the same option: therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to forgive the debt resulting from the seven hundred fifty million dollars in loans made available to Louisiana's local governments as disaster relief; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-249. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or suspend provisions thereof, with respect to the requirement that the state of Louisiana reimburse the Federal Emergency Management Agency for a portion of the other assistance payments made to citizens of Louisiana due to Hurricanes Katrina and Rita; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE CONCURRENT RESOLUTION NO. 53

Whereas, the state of Louisiana has experienced in Hurricanes Katrina and Rita natural disaster of unprecedented proportions in American history; and

Whereas, the citizens and communities of Louisiana have suffered tremendous personal and economic loss, as reflected in an economic downturn which has affected the state fisc such that the state is experiencing nearly a one billion dollar operating deficit; and

Whereas, the Federal Emergency Management Agency expects to provide in excess of forty billion dollars of disaster relief payments for citizens of Louisiana; and

Whereas, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act the state of Louisiana would owe the federal government approximately three billion seven hundred million dollars as its portion of responsibility for the disaster relief assistance provided by the Federal Emergency Management Agency; and

Whereas, the largest portion of federal assistance for which the state is being held responsible for reimbursing the Federal Emergency Management Agency is that for other assistance payments, over which the state has no control whatsoever in the granting or amount of payments; and

Whereas, the citizens of Louisiana certainly should enjoy the benefit of assistance from the federal government during a crises such as Hurricane Katrina or Rita, and such benefit should be provided by the federal government without a requirement that the state provide reimbursement for provision of such federal benefits; therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or suspend provisions thereof, with respect to the requirement that the state of Louisiana reimburse the Federal Emergency Management Agency for a portion of the other assistance payments made to citizens of Louisiana due to Hurricanes Katrina and Rita; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-250. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to provide federal financial assistance to aid in rebuilding the investor-owned utility systems that are indispensable to the recovery efforts of the state of Louisiana and the city of New Orleans, including but not limited to providing funding through the United States Department of Housing and Urban Development in the form of Community Development Block Grants to investor-owned utilities for the restoration of electric and gas service damaged by Hurricanes Katrina and

Rita; to the Committee on Banking, Housing, and Urban Affairs.

House Concurrent Resolution No. 69

Whereas, on August 29, 2005, Hurricane Katrina, a category four storm with sustained winds of one hundred forty miles per hour, came ashore in Plaquemines Parish, Louisiana, near the city of Buras, causing unprecedented flooding and devastation in southeastern Louisiana, including breaches of the levee system and flood walls of the city of New Orleans, the death of more than one thousand state residents, the displacement and evacuation of hundreds of thousands more, and the widespread loss and destruction of businesses and property; and

Whereas, on September 24, 2005, Hurricane Rita, a category four storm with sustained winds of one hundred twenty-five miles per hour, came ashore near the Louisiana/Texas border, causing unprecedented flooding and devastation in southwestern Louisiana and southeastern Texas, the widespread loss and destruction of property, and total disruption of the lives of thousands, many of whom have no homes to which they may return; and

Whereas, Entergy Corporation (Entergy), through its subsidiaries, Entergy Louisiana (ELI), Entergy Gulf States (EGS), and Entergy New Orleans (ENO), is Louisiana's largest electric and gas utility, and the resulting wind and flooding of Hurricane Katrina significantly damaged major portions of Entergy's utility infrastructure; and

Whereas, in the aftermath of the disaster, Entergy and others worked rapidly to provide emergency and temporary services, and Entergy is currently working to restore permanent service to all customers in its service territory; and

Whereas, Entergy estimates that the total restoration costs for the repair or replacement of Entergy's electric and gas facilities damaged by Hurricanes Katrina and Rita and business continuity costs are in the range of 1.1 to 1.4 billion dollars and that the costs to Entergy New Orleans alone to repair its utility infrastructure exceed four hundred million dollars, not including potential incremental losses; and

Whereas, safe and reliable electric and gas utility service is vital to the state's post-hurricane recovery efforts, and the state of Louisiana deems it essential to keep Entergy and its subsidiaries as productive and financially viable companies that provide safe and reliable electric and gas utility service to the residents and businesses of Louisiana; and

Whereas, the legislature is committed to the protection of Entergy's residential and business customers from the tremendous costs associated with the necessary rebuilding efforts and in assisting Entergy and its subsidiaries, particularly Entergy New Orleans, in regaining their financial strength and stability so that they will be able to continue providing safe and reliable service to their customers; and

Whereas, the legislature notes that following the terrorist attacks of September 11, 2001, which caused catastrophic destruction of life and property, the loss of an untold number of jobs, and the displacement of many individuals and businesses, billions of dollars in funds and other forms of essential assistance were provided to the state of New York and New York City by the federal government; and

Whereas, the legislature notes that congress, in Public Law 107-206, passed on August 2, 2002, authorized the United States Department of Housing and Urban Development to provide seven hundred eighty-three million dollars in disaster assistance for damaged properties and businesses, including the restoration of utility infrastructure, and for economic revitalization directly related to the September 11, 2001, attacks; and

Whereas, the state of Louisiana has suffered similar if not greater human and economic losses as a result of Hurricanes Katrina and Rita, resulting in devastating loss of life, damage to businesses and property, and destruction of much of Entergy's utility infrastructure in Louisiana: Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States of America to take all measures necessary to provide federal financial assistance to aid in rebuilding the investor-owned utility systems that are indispensable to the recovery efforts of the state of Louisiana and the city of New Orleans, including but not limited to providing funding through the United States Department of Housing and Urban Development in the form of Community Development Block Grants to investor-owned utilities for the restoration of electric and gas service damaged by Hurricanes Katrina and Rita; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-251. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to tasking the Government Accountability Office with a complete audit of expenditures by the Federal Emergency Management Agency on Katrina and Rita recovery efforts in Louisiana; to the Committee on Banking, Housing, and Urban Affairs.

House Concurrent Resolution No. 72

Whereas, Louisiana is struggling to recover from the worst natural disaster ever to be endured by citizens of the United States, a disaster that left no aspect of life unscathed and shredded large swaths of the social fabric of the society of our state; and

Whereas, the challenges we face are so numerous and complex because the destruction was so complete and the diaspora of citizens so extensive; and

Whereas, the depth of the economic crisis alone is unimaginable, not only because of the need to pay for the extraordinary expenses associated with the storm, but also due to the decline of revenue from the economic center of the state, the New Orleans metropolitan area; and

Whereas, beyond our own economic crisis, the Federal Emergency Management Agency (FEMA) has submitted a request for the state to reimburse the agency for a significant portion of its Katrina and Rita recovery expenditures; and

Whereas, FEMA's initial estimates were that it would spend over $41 billion in Louisiana and that the state was obligated to pay more than $3.7 billion of that amount; and

Whereas, there is a prevailing perception among Louisiana leaders and citizens that FEMA has not spent money efficiently as there are reports of contract abuse in which contractors subcontracted for work for pennies on the dollar of what the prime contractor was being paid by FEMA, renting expensive cruise ships when other entities offered to loan ships, and more personal assistance checks being sent to a parish than the number of households in the parish; and

Whereas, not long after FEMA submitted its request for payment to the state, it was revealed that there were accounting errors in the agency's calculations resulting in significant overestimation of its expenditures; and

Whereas, in light of apparent inefficiencies and accounting errors, it is appropriate that the expenditures by FEMA on hurricane recovery in Louisiana be closely audited so as to instill confidence that the amounts Louisiana is expected to pay are fair and reasonable and to evaluate whether proper controls were in place regarding FEMA practices and expenditures; and

Whereas, the Government Accountability Office (GAO) is an independent and nonpartisan agency of the United States Congress that is responsible for evaluating federal government programs and auditing agency expenditures in order to ensure the efficiency of government operations, and the GAO is the appropriate agency to audit FEMA's hurricane recovery expenditures in Louisiana: Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to task the Government Accountability Office with a complete audit of expenditures, and the appropriateness and reasonableness thereof, and by the Federal Emergency Management Agency on Katrina and Rita recovery efforts in Louisiana; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-252. A resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to enjoining the United States Army Corps of Engineers from engaging any contractor in the reconstruction of the levees in the New Orleans area if investigations of levee failures during Hurricanes Katrina and Rita indicate that such contractor performed substandard design or construction work on a portion of a levee that failed; to the Committee on Environment and Public Works.

House Resolution No. 18

Whereas, the catastrophic flooding of the city of New Orleans and the surrounding area has had a staggering human and economic impact on not only that region, but the entire state of Louisiana; and

Whereas, the areas which flooded were within a system of levees which ostensibly served to protect the citizens and property within them from flooding; and

Whereas, the American Society of Civil Engineers reported to the United States Congress with respect to poor design and construction of the levee systems in the New Orleans area; and

Whereas, the United States Army Corps of Engineers will be entering into many contracts to rebuild substantial portions of the levee system that protect the New Orleans area; and

Whereas, given the noted inadequacies in design and construction of those parts of the levees that failed, caution should be exercised so that those contractors who performed the work to build the deficient portions are not engaged again in the rebuilding efforts: Therefore, be it

Resolved, that the House of Representatives of the Legislature of Louisiana does hereby memorialize the United States Congress to enjoin the United States Army Corps of Engineers from engaging any contractor in the reconstruction of the levees in the New Orleans area if investigations of levee failures during Hurricanes Katrina and Rita indicate that such contractor performed substandard design or construction work on a portion of a levee that failed; and be it further

Resolved, that a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-253. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to adopting S520 and HR 1070, the Constitution Restoration Act of 2005, which will limit the jurisdiction of the federal courts and preserve the right to acknowledge God to the states and to the people and resolve the issue of improper judicial intervention in matters relating to the acknowledgment of God; to the Committee on the Judiciary.

SENATE CONCURRENT RESOLUTION NO. 30

Whereas, on Monday, June 27, 2005, the U.S. Supreme Court in two razor thin majorities of 5-4 in Van Orden v. Perry (Texas) and ACLU v. McCreary County (Kentucky), concluded that it is consistent with the First Amendment to display the Ten Commandments in an outdoor public square in Texas, but not on the courthouse walls of two counties in Kentucky; and

Whereas, American citizens are concerned that the court has produced two opposite results involving the same Ten Commandments leading to the conclusion that, based on the Kentucky decision, the Ten Commandments may be displayed in a county courthouse provided it is not backed by a belief in God; and

Whereas, Supreme Justice Scalia emphasized the importance of the Ten Commandments when he stated in the Kentucky case "The three most popular religions in the United States, Christianity, Judaism, and Islam which combined account for 97.7% of all believers are monotheistic. All of them, moreover, believe that the Ten Commandments were given by God to Moses, and are divine prescriptions for a virtuous life"; and

Whereas, Chief Justice Rehnquist in the Texas case referred to the duplicity of the United States Supreme Court in telling local governments in America that they may not display the Ten Commandments in public buildings in their communities while at the same time allowing these same Ten Commandments to be presented on these specific places on the building housing the U.S. Supreme Court stating "Since 1935, Moses has stood, holding two tablets that reveal portions of the Ten Commandments written in Hebrew, among other lawgivers in the south frieze. Representations of the Ten Commandments adorn the metal gates lining the north and south sides of the courtroom as well as the doors leading into the courtroom. Moses also sits on the exterior east facade of the building holding the Ten Commandments tablets"; and

Whereas, a recent poll by the First Amendment Center revealed that seventy percent of Americans would have no objection to posting the Ten Commandments in government buildings and eighty-five percent would approve if the Ten Commandments were included as one document among many historical documents when displayed in public buildings; and

Whereas, the First Amendment of the United States Constitution, which provides in part that "Congress shall make no law respecting an establishment of religion" is a specific and unequivocal instruction to only the United States Congress and the United States Constitution makes no restriction on the ability of states to acknowledge God, the Supreme Ruler of the Universe; and

Whereas, the federal judiciary has overstepped its constitutional boundaries and ruled against the acknowledgment of God as the sovereign source of law, liberty, and government by local and state officers and other state institutions, including state schools; and

Whereas, there is concern that recent decisions of the court will be used by litigants in an effort to remove God from the public square in America, including public buildings and public parks; and

Whereas, there is pending before the 1st Session of the 109th Congress the Constitution Restoration Act of 2005, which will limit the jurisdiction of the federal courts and preserve the right to acknowledge God to the states and to the people and resolve the issue of improper judicial intervention in matters relating to the acknowledgment of God: Therefore, be it

Resolved, that the Legislature of Louisiana memorializes the Congress of the United States to adopt S520 and HR 1070, the Constitution Restoration Act of 2005 and in doing so protecting the ability of the people of Louisiana to display the Ten Commandments in public placs, to express their faith in public, to retain God in the Pledge of Allegiance, to retain "In God We Trust" as our national motto, and to use Article III, Section 2.2 of the United States Constitution to except these areas from the jurisdiction of the United States Supreme Court: Therefore, be it

Resolved, that a copy of this Resolution shall be transmitted to the administrator of the General Services, Washington, D.C., to the secretary of the United States Senate and the clerk of the United States House of Representatives, and each member of the Louisiana delegation to the United States Congress.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 967. A bill to amend the Communications Act of 1934 to ensure that prepackaged news stories contain announcements that inform viewers that the information within was provided by the United States Government, and for other purposes (Rept. No. 109-210).

S. 1063. A bill to promote and enhance public safety and to encourage the rapid deployment of IP-enabled voice services (Rept. No. 109-211).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. COLLINS (for herself, Mr. LIEBERMAN, and Mr. AKAKA):

S. 2146. A bill to extend relocation expenses test programs for Federal employees; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. MURRAY:

S. 2147. A bill to extend the period of time which a veteran's multiple sclerosis is to be considered to have been incurred in, or aggravated by, military service during a period of war; to the Committee on Veterans' Affairs.

By Mr. SESSIONS:

S. 2148. A bill to direct the Secretary of the Interior to study the suitability and feasibility of establishing the Chattahoochee Trace National Heritage Corridor in Alabama and Georgia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. OBAMA (for himself and Ms. MIKULSKI):

S. 2149. A bill to authorize resources to provide students with opportunities for summer learning through summer learning grants; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WYDEN (for himself and Mr. SMITH):

S. 2150. A bill to direct the Secretary of the Interior to convey certain Bureau of Land Management Land to the City of Eugene, Oregon; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 2151. A bill to authorize full funding of payments for eligible federally connected children under title VIII of the Elementary and Secondary Education Act of 1965 by fiscal year 2011, to the Committee on Health, Education, Labor, and Pensions.

By Mr. ENZI:

S. 2152. A bill to promote simplification and fairness in the administration and collection of sales and use taxes; to the Committee on Finance.

By Mr. DORGAN:

S. 2153. A bill to promote simplification and fairness in the administration and collection of sales and use taxes; to the Committee on Finance.

By Mr. OBAMA (for himself, Mr. KERRY, Ms. STABENOW, Mr. KENNEDY, Mr. WYDEN, Ms. MIKULSKI, and Mr. DURBIN):

S. 2154. A bill to provide for the issuance of a commemorative postage stamp in honor of Rosa Parks; to the Committee on Homeland Security and Governmental Affairs.

By Mr. KERRY (for himself and Mr. ISAKSON):

S. 2155. A bill to provide meaningful civil remedies for victims of the sexual exploitation of children; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. LANDRIEU:

S. Res. 340. A resolution expressing the sense of the Senate that lenders holding mortgages on homes in communities of Louisiana devastated by Hurricanes Katrina and Rita should extend current mortgage payment forbearance periods and not foreclose on properties in those communities until such time that Congress can consider legislation to provide relief to those homeowners; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GREGG (for himself, Mr. FRIST, Mr. REID, and Mr. CONRAD):

S. Res. 341. A resolution commending Dr. Douglas Holtz-Eakin for his dedicated, faithful, and outstanding service to his country and to the Senate; considered and agreed to.

ADDITIONAL COSPONSORS

S. 211

At the request of Mrs. DOLE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 424

At the request of Mr. BOND, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 512

At the request of Mr. SANTORUM, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 512, a bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation.

S. 566

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 566, a bill to continue State coverage of medicaid prescription drug coverage to medicare dual eligible beneficiaries for 6 months while still allowing the medicare part D benefit to be implemented as scheduled.

S. 769

At the request of Ms. SNOWE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 769, a bill to enhance compliance assistance for small businesses.

S. 1139

At the request of Mr. SANTORUM, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Maine (Ms. SNOWE) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 1139, a bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

S. 1376

At the request of Mr. COCHRAN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1376, a bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education.

S. 1440

At the request of Mr. CRAPO, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1440, a bill to amend title XVIII of the Social Security Act to provide coverage for cardiac rehabilitation and pulmonary rehabilitation services.

S. 1780

At the request of Mr. SANTORUM, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1780, a bill to amend the Internal Revenue Code of 1986 to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

S. 1800

At the request of Ms. SNOWE, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 1800, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit.

S. 1840

At the request of Mr. THUNE, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1840, a bill to amend section 340B of the Public Health Service Act to increase the affordability of inpatient drugs for Medicaid and safety net hospitals.

S. 1948

At the request of Mr. SUNUNU, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 1948, a bill to direct the Secretary of Transportation to issue regulations to reduce the incidence of child injury and death occurring inside or outside of passenger motor vehicles, and for other purposes.

S. 1956

At the request of Mr. BROWNBACK, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1956, a bill to amend the Federal Food, Drug, and Cosmetic Act to create a new three-tiered approval system for drugs, biological products, and devices that is responsive to the needs of seriously ill patients, and for other purposes.

S. 1964

At the request of Ms. SNOWE, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1964, a bill to amend the Internal Revenue Code of 1986 to modify the determination and deduction of interest on qualified education loans.

S. 2075

At the request of Mr. DURBIN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 2075, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes.

S.J. RES. 2

At the request of Mr. CRAIG, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S.J. Res. 2, a joint resolution proposing an amendment to the Constitution of the United States relative to require a balanced budget and protect Social Security surpluses.

S. RES. 253

At the request of Mr. SCHUMER, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. Res. 253, a resolution designating October 7, 2005, as "National 'It's Academic' Television Quiz Show Day".

S. RES. 320

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Res. 320, a resolution calling the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 340—EXPRESSING THE SENSE OF THE SENATE THAT LENDERS HOLDING MORTGAGES ON HOMES IN COMMUNITIES OF LOUISIANA DEVASTATED BY HURRICANES KATRINA AND RITA SHOULD EXTEND CURRENT MORTGAGE PAYMENT FORBEARANCE PERIODS AND NOT FORECLOSE ON PROPERTIES IN THOSE COMMUNITIES UNTIL SUCH TIME THAT CONGRESS CAN CONSIDER LEGISLATION TO PROVIDE RELIEF TO THOSE HOMEOWNERS

Ms. LANDRIEU submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. RES. 340

Whereas the Gulf Coast of the United States has experienced one of the worst hurricane seasons on record;

Whereas Hurricane Katrina and multiple levee breaks destroyed an estimated 205,330 homes in Louisiana;

Whereas 18,752 businesses in Louisiana, 41 percent of the overall number of businesses in the State, sustained catastrophic damage from Hurricane Katrina and Hurricane Rita;

Whereas according to the Bureau of Economic Analysis at the Department of Commerce, personal income has fallen more than 25 percent in Louisiana in the third quarter of 2005;

Whereas in the time since Hurricanes Katrina and Rita, the Small Business Administration has only approved 20 percent of disaster loan applications for homeowners in Louisiana and has a backlog of more than 101,400 applications for this assistance as of December 20, 2005;

Whereas of the 11,644 homeowner disaster loan applications that have been approved in Louisiana by the Small Business Administration, only 835 have been fully disbursed;

Whereas, in response to these circumstances, commercial banks, mortgage banks, credit unions, and other mortgage lenders instituted 90-day loan forbearance periods after Hurricane Katrina and did not require home owners in Louisiana to make mortgage payments until on or about December 1, 2005;

Whereas after the termination of the 90-day forbearance period, many home and business owners have received notice from their lenders that they face foreclosure unless they make a lump sum balloon payment in the amount of the mortgage payments previously subject to forbearance; and

Whereas foreclosure on homes and businesses in Louisiana will have a detrimental impact on the economy of the State, will deprive property owners of their equity at a time when they can least afford it, and will have a negative impact on lenders who will be holding properties that may not be readily saleable on the open market: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Congress should consider legislation to provide relief to homeowners in Louisiana whose properties were devastated by Hurricanes Katrina and Rita; and

(2) commercial banks, mortgage banks, credit unions, and other mortgage lenders should extend mortgage payment forbearance to March 31, 2006, in order to allow Congress the time to consider such legislation.

Ms. LANDRIEU. Mr. President, right after Katrina hit the financial services industry responded with compassion to their customers in Louisiana. Every bank, credit union, mortgage broker, and other mortgage holders instituted a 90 day forbearance period during which they did not collect mortgage payments. They deserve to be commended for this policy. They gave peace of mind to the thousands of families who lost their homes to Katrina and Rita, or whose homes were damaged by the storms.

Many of these forbearance periods have now ended, most effective December 1st. I have heard from homeowners throughout the state who are now being told by their lenders that in addition to making December's mortgage payment, they now also have to come up with a lump sum payment for the payments they missed. A lot of these people were under the impression that their loans would be restructured to add the three months on to the end of the loan term. Instead, they are getting a bill for thousands of dollars.

Can you imagine what it must be like for a person in New Orleans or St. Bernard Parish to get this notice from their lender? Their home is gone. Their community has been wiped out. We have lost over 200,000 homes in Louisiana to these storms and more than 18,000 businesses have been destroyed. Personal income in Louisiana has fallen by more than 25 percent in the third quarter of 2005. And now these homeowners—in this kind of situation—face foreclosure.

People in Louisiana are hard working and want to pay what they owe. Most lenders have reported that even with the forbearance period, close to 80 percent of borrowers continued to make their mortgage payments. People who have called my office have said that they can make the monthly payment, but the balloon payment is out of reach and will be for some time.

I was hoping that Congress could pass legislation before we adjourned to establish a Louisiana Recovery Corporation that would bring some stability and guide the redevelopment of the state after these storms. It would create an entity that will give homeowners the opportunity to sell destroyed properties if they feel that it would be in their best interest. The bill that we were working on with the leaders of the Senate Banking Committee—Chairman SHELBY and Ranking Member SARBANES—as well as Congressman BAKER in the House of Representatives, still needed a lot of work. We simply were not going to have time to complete the bill before the holidays. It will be one of my top priorities when we return in the Second Session.

In the meantime, homeowners in Louisiana need more time before they can begin making mortgage payments. Today I am submitting a sense of the Senate Resolution calling on mortgage lenders to continue their forbearance periods through March 31, 2006. This will give the Congress more time to consider and develop legislation to restore peace of mind to our homeowners.

It is my hope that this resolution will prompt the Senate to make passing legislation to give our homeowners peace of mind a priority when we return next year.

SENATE RESOLUTION 341—COMMENDING DR. DOUGLAS HOLTZ-EAKIN FOR HIS DEDICATED, FAITHFUL, AND OUTSTANDING SERVICE TO HIS COUNTRY AND TO THE SENATE

Mr. GREGG (for himself, Mr. FRIST, Mr. CONRAD) submitted the following resolution; which was considered and agreed to:

S. RES. 341

Whereas Dr. Douglas Holtz-Eakin has served as the sixth Director of the Congressional Budget Office since February 4, 2003 and will end his service on December 29, 2005;

Whereas during his tenure as Director, he has continued to encourage the highest standards of analytical excellence within the staff of the Congressional Budget Office while maintaining the independent and nonpartisan character of the organization;

Whereas during his tenure as Director, he has expanded and improved the accessibility of the Congressional Budget Office's work products to the Congress and the public;

Whereas he has expanded and enhanced the agency's macroeconomic analyses of the range of negative and positive feedbacks on the economy and budget from fiscal policy changes; and

Whereas he has earned the respect and esteem of the United States Senate: Now, therefore, be it

Resolved, That the Senate of the United States commends Dr. Douglas Holtz-Eakin for his dedicated, faithful, and outstanding service to his country and to the Senate.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. OBAMA (for himself and Ms. MIKULSKI):

S. 2149. A bill to authorize resources to provide students with opportunities for summer learning through summer learning grants; to the Committee on Health, Education, Labor, and Pensions.

Mr. OBAMA. Mr. President, I rise today to introduce a bill—the "STEP UP Act"—to establish grants for summer school enrichment programs to increase the academic skills of students in need.

According to the 2005 Nation's Report Card of Educational Progress, the gap in reading scores between fourth grade children in poverty and their more affluent peers did not decrease between 1998 and 2005. Fewer than half of the fourth graders eligible for free or reduced priced lunch are able to read at even the basic level—a level attained by more than three-quarters of wealthier students. This data confirms that too many of our children are not attaining skills at levels that will lead to success, and too often, it is the children most in need who are left behind by the educational system.

Teachers understand that students return to school in the fall at levels below their performance of the previous spring. Educators know this as summer learning loss. Research has shown that students, on average, lose more than one month of reading skills and two months of math skills over the summer. That is the average.

But the impact of summer learning loss is greatest for children living in poverty, children with learning disabilities, and children who do not speak English at home. Achievement levels for such children often plummet during the summer, so that that the reading skills of disadvantaged students can fall more that three months behind the scores of their more affluent peers. The summer learning losses for children in poverty accumulate over the elementary school years, so these students end up falling further and further behind in school.

Several programs have been successful in countering summer learning loss. The BELL programs and the Teach Baltimore Summer Academy provide evidence that students can achieve months of progress, rather than months of decline, when they participate in structured enrichment and education programs for several weeks during the summer. These programs are successful but reach too few of the students who need them.

The bill I am introducing today establishes a grant program for states to support summer learning in selected local districts. These grants would be used to help students in the early elementary grades who are living in poverty, by supporting their participation in six weeks of summer school. These summer opportunities could be offered by a variety of providers, including the public schools, but also by other community organizations that have shown success in providing educational enrichment, such as youth development organizations, nonprofits, and summer enrichment camps. These summer programs would be aligned with the school year curriculum to increase the reading and math skills of students in need and to provide them with learning opportunities to avoid a path that might otherwise lead to failure in school—a path that too often ends, years later, with these students dropping out of the educational system.

The achievement gap in education begins in the early grades and remains a burden for too many throughout their time in school. It is becoming increasingly clear that much of this early difference can be combated by structured summer learning opportunities. That is the purpose of this bill, and I hope my colleagues will support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Summer Term Education Programs for Upward Performance Act of 2005" or the "STEP UP Act of 2005".

SEC. 2. FINDINGS.

Congress finds the following:

(1) All students experience learning losses when they do not engage in educational activities during the summer.

(2) Students on average lose more than 1 month's worth of reading skills, and 2 months or more in mathematics facts and skills, during the summer.

(3) The impact of summer learning loss is greatest for children living in poverty, for children with learning disabilities, and for children who do not speak English at home.

(4) While middle-class children's test scores plateau or even rise during the summer months, scores plummet for children living in poverty. Disparities grow, so that reading scores of disadvantaged students can fall more than 3 months behind the scores of their middle-class peers.

(5) Summer learning losses by children living in poverty accumulate over the elementary school years, so that their achievement scores fall further and further behind the scores of their more advantaged peers as the children progress through school.

(6) This summer slide is costly for American education. Analysis by Professor Harris Cooper and his colleagues finds that 2 months of the school year are lost: 1 month spent in reteaching and 1 month spent not providing new instruction.

(7) Analysis of summer learning programs has demonstrated their effectiveness. In the BELL programs in Boston, New York, and Washington, DC, students gained several months' worth of reading and mathematics skills in 6 weeks, with a majority of those students moving to a higher performance category, as assessed by standardized mathematics and reading tests. In the Center for Summer Learning's Teach Baltimore Summer Academy, randomized studies show that students who regularly attended the program for not less than 2 summers gained advantages of 70 to 80 percent of 1 full grade level in reading over control-group peers who did not attend summer school.

(8) Summer learning programs are proven to remedy, reinforce, and accelerate learning, and can serve to close the achievement gap in education.

SEC. 3. PURPOSE.

The purpose of this Act is to create opportunities for summer learning by providing summer learning grants to eligible students, in order to—

(1) provide the students with access to summer learning;

(2) facilitate the enrollment of students in elementary schools or youth development organizations during the summer;

(3) promote collaboration between teachers and youth development professionals in order to bridge gaps between schools and youth programs; and

(4) encourage teachers to try new techniques, acquire new skills, and mentor new colleagues.

SEC. 4. DEFINITIONS.

In this Act:

(1) EDUCATIONAL SERVICE AGENCY.—The term "educational service agency" has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) ELIGIBLE ENTITY.—The term "eligible entity" means an entity that—

(A) desires to participate in a summer learning grant program under this Act by providing summer learning opportunities described in section 6(d)(1)(B) to eligible students; and

(B) is—

(i) a local educational agency;

(ii) a for-profit educational provider, nonprofit organization, or summer enrichment camp, that has been approved by the State educational agency to provide the summer learning opportunity described in section 6(d)(1)(B), including an entity that is in good standing that has been previously approved by a State educational agency to provide supplemental educational services; or

(iii) a consortium consisting of a local educational agency and 1 or more of the following entities:

(I) Another local educational agency.

(II) A community-based youth development organization with a demonstrated record of effectiveness in helping students learn.

(III) An institution of higher education.

(IV) An educational service agency.

(V) A for-profit educational provider described in clause (ii).

(VI) A nonprofit organization described in clause (ii).

(VII) A summer enrichment camp described in clause (ii)

(3) ELIGIBLE STUDENT.—The term "eligible student" means a student who—

(A) is eligible for a free lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(B) is served by a local educational agency identified by the State educational agency in the application described in section 5(b); or

(C)(i) in the case of a summer learning grant program authorized under this Act for fiscal year 2006, 2007, or 2008, is eligible to enroll in any of the grades kindergarten through grade 3 for the school year following participation in the program; or

(ii) in the case of a summer learning grant program authorized under this Act for fiscal year 2009 or 2010, is eligible to enroll in any of the grades kindergarten through grade 5 for the school year following participation in the program.

(4) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(5) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(6) SECRETARY.—The term "Secretary" means the Secretary of Education.

(7) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(8) STATE EDUCATIONAL AGENCY.—The term "State educational agency" has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

SEC. 5. DEMONSTRATION GRANT PROGRAM.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—From the funds appropriated under section 8 for a fiscal year, the Secretary shall carry out a demonstration grant program in which the Secretary awards grants, on a competitive basis, to State educational agencies to enable the State educational agencies to pay the Federal share of summer learning grants for eligible students.

(2) NUMBER OF GRANTS.—For each fiscal year, the Secretary shall award not more than 5 grants under this section.

(b) APPLICATION.—A State educational agency that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Such application shall identify the areas in the State where the summer learning grant program will be offered and the local educational agencies that serve such areas.

(c) AWARD BASIS.—In awarding grants under this section, the Secretary shall take into consideration an equitable geographic distribution of the grants.

SEC. 6. SUMMER LEARNING GRANTS.

(a) USE OF GRANTS FOR SUMMER LEARNING GRANTS.—

(1) IN GENERAL.—Each State educational agency that receives a grant under section 5 for a fiscal year shall use the grant funds to

provide summer learning grants for the fiscal year to eligible students in the State who desire to attend a summer learning opportunity offered by an eligible entity that enters into an agreement with the State educational agency under subsection (d)(1).

(2) AMOUNT; FEDERAL AND NON-FEDERAL SHARES.—

(A) AMOUNT.—The amount of a summer learning grant provided under this Act shall be—

(i) for each of the fiscal years 2006 through 2009, $1,600; and

(ii) for fiscal year 2010, $1,800.

(B) FEDERAL SHARE.—The Federal share of each summer learning grant shall be not more than 50 percent of the amount of the summer learning grant determined under subparagraph (A).

(C) NON-FEDERAL SHARE.—The non-Federal share of each summer learning grant shall be not less than 50 percent of the amount of the summer learning grant determined under subparagraph (A), and shall be provided from non-Federal sources, such as State or local sources.

(b) DESIGNATION OF SUMMER SCHOLARS.—Eligible students who receive summer learning grants under this Act shall be known as "summer scholars".

(c) SELECTION OF SUMMER LEARNING OPPORTUNITY.—

(1) DISSEMINATION OF INFORMATION.—A State educational agency that receives a grant under section 5 shall disseminate information about summer learning opportunities and summer learning grants to the families of eligible students in the State.

(2) APPLICATION.—The parents of an eligible student who are interested in having their child participate in a summer learning opportunity and receive a summer learning grant shall submit an application to the State educational agency that includes a ranked list of preferred summer learning opportunities.

(3) PROCESS.—A State educational agency that receives an application under paragraph (2) shall—

(A) process such application;

(B) determine whether the eligible student shall receive a summer learning grant;

(C) coordinate the assignment of eligible students receiving summer learning grants with summer learning opportunities; and

(D) if demand for a summer learning opportunity exceeds capacity—

(i) in a case where information on the school readiness (based on school records and assessments of student achievement) of the eligible students is available, give priority for the summer learning opportunity to eligible students with low levels of school readiness; or

(ii) in a case where such information on school readiness is not available, rely on randomization to assign the eligible students.

(4) FLEXIBILITY.—A State educational agency may assign a summer scholar to a summer learning opportunity program that is offered in an area served by a local educational agency that is not the local educational agency serving the area where such scholar resides.

(5) REQUIREMENT OF ACCEPTANCE.—An eligible entity shall accept, enroll, and provide the summer learning opportunity of such entity to, any summer scholar assigned to such summer learning opportunity by a State educational agency pursuant to this subsection.

(d) AGREEMENT WITH ELIGIBLE ENTITY.—

(1) IN GENERAL.—A State educational agency shall enter into an agreement with the eligible entity offering a summer learning opportunity, under which—

(A) the State educational agency shall agree to make payments to the eligible entity, in accordance with paragraph (2), for a summer scholar; and

(B) the eligible entity shall agree to provide the summer scholar with a summer learning opportunity that—

(i) provides a total of not less than the equivalent of 30 full days of instruction (or not less than the equivalent of 25 full days of instruction, if the equivalent of an additional 5 days is devoted to field trips or other enrichment opportunities) to the summer scholar;

(ii) employs small-group, research-based educational programs, materials, curricula, and practices;

(iii) provides a curriculum that—

(I) emphasizes reading and mathematics;

(II) is primarily designed to increase the literacy and numeracy of the summer scholar; and

(III) is aligned with the standards and goals of the school year curriculum of the local educational agency serving the summer scholar;

(iv) applies assessments to measure the skills taught in the summer learning opportunity and disaggregates the results of the assessments for summer scholars by race and ethnicity, economic status, limited English proficiency status, and disability category, in order to determine the opportunity's impact on each subgroup of summer scholars;

(v) collects daily attendance data on each summer scholar; and

(vi) meets all applicable Federal, State, and local civil rights laws.

(2) AMOUNT OF PAYMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a State educational agency shall make a payment to an eligible entity for a summer scholar in the amount determined under subsection (a)(2)(A).

(B) ADJUSTMENT.—In the case in which a summer scholar does not attend the full summer learning opportunity, the State educational agency shall reduce the amount provided to the eligible entity pursuant to subparagraph (A) by a percentage that is equal to the percentage of the summer learning opportunity not attended by such scholar.

(e) USE OF SCHOOL FACILITIES.—State educational agencies are encouraged to require local educational agencies in the State to allow eligible entities, in offering summer learning opportunities, to make use of school facilities in schools served by such local educational agencies at reasonable or no cost.

(f) ACCESS OF RECORDS.—An eligible entity offering a summer learning opportunity under this Act is eligible to receive, upon request, the school records and any previous supplemental educational services assessment records of a summer scholar served by such entity.

(g) ADMINISTRATIVE COSTS.—A State educational agency or eligible entity receiving funding under this Act may use not more than 5 percent of such funding for administrative costs associated with carrying out this Act.

SEC. 7. EVALUATIONS; REPORT; WEBSITE.

(a) EVALUATION AND ASSESSMENT.—For each year that an eligible entity enters into an agreement under section 6(d), the eligible entity shall prepare and submit to the Secretary a report on the activities and outcomes of each summer learning opportunity that enrolled a summer scholar, including—

(1) information on the design of the summer learning opportunity;

(2) the alignment of the summer learning opportunity with State standards; and

(3) data from assessments of student mathematics and reading skills for the summer scholars and on the attendance of the scholars, disaggregated by the subgroups described in section 6(d)(1)(B)(iv).

(b) REPORT.—For each year funds are appropriated under section 8 for this Act, the Secretary shall prepare and submit a report to Congress on the summer learning grant programs, including the effectiveness of the summer learning opportunities in improving student achievement.

(c) SUMMER LEARNING GRANTS WEBSITE.—The Secretary shall make accessible, on the Department of Education website, information for parents and school personnel on successful programs and curricula, and best practices, for summer learning opportunities.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $100,000,000 for fiscal year 2006 and such sums as may be necessary for each of the fiscal years 2007 through 2010.

By Mr. WYDEN (for himself and Mr. SMITH):

S. 2150. A bill to direct the Secretary of the Interior to convey certain Bureau of Land Management Land to the City of Eugene, Oregon; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today I introduce, with my friend and colleague from Oregon, Senator SMITH, a small bill that should pack a big score for ecological education in the City of Eugene. This bill authorizes the transfer of 12 acres from the Bureau of Land Management (BLM) to the City of Eugene on which the City of Eugene plans to construct the West Eugene Environmental Education Center (WEEEC). The WEEEC is a planned campus that will eventually hold laboratories, greenhouses, a reference library, and public gathering places including an exhibit hall, auditorium, and three classrooms. Transfer of this acreage by this bill is the first step towards making the promise of this educational center a reality.

The WEEEC and this bill are supported by the West Eugene Wetland Partnership (Partnership). The Partnership is made up of the BLM, Eugene School Districts, Northwest Youth Corp, and the Willamette Resources and Educational Network (WREN) which was formed to assist in planning, funding, building, and operating portions of this education center. This bill is also supported by the Oregon and California Counties (O&C counties) who originally had issue with the land transfer because they opposed loss of the 12 acres from the BLM land base. They are now in support of this bill because the City of Eugene has stepped up to the plate and is transferring land they currently own to the BLM to keep the public land roles consistent.

The WEEEC will be the culmination of over a decade of work on the part of local folks to preserve the West Eugene Wetlands. I urge its swift passage.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Eugene Land Conveyance Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) CITY.—The term "City" means the city of Eugene, Oregon.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. CONVEYANCE TO THE CITY OF EUGENE, OREGON.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall convey to the City, without consideration and subject to all valid existing rights, all right, title, and interest of the United States in and to the land described in subsection (b)(1) for the purposes of—

(1) establishing a wildlife viewing area; and

(2) the construction and operation of an environmental education center.

(b) DESCRIPTION OF LAND.—

(1) IN GENERAL.—The land referred to in subsection (a) is the parcel of approximately 12 acres of land under the administrative jurisdiction of the Bureau of Land Management in Lane County, Oregon, as depicted on the map entitled "Red House Property" and dated April 11, 2005.

(2) SURVEY.—

(A) IN GENERAL.—The exact acreage and legal description of the land described in paragraph (1) shall be determined by a survey acceptable to the Secretary, including an existing survey.

(B) COST.—If the Secretary determines that a new survey of the land is required, the City shall be responsible for paying the cost of the survey.

(c) REVERSION.—

(1) IN GENERAL.—If the Secretary determines that the land conveyed under subsection (a) is not being used for the purposes described in that subsection—

(A) all right, title, and interest in and to the land (including any improvements to the land) shall revert to the United States; and

(B) the United States shall have the right of immediate entry to the land.

(2) HEARING.—Any determination of the Secretary under paragraph (1) shall be made on the record after an opportunity for a hearing.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions for the conveyance under subsection (a) as the Secretary determines to be appropriate to protect the interests of the United States.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 2151. A bill to authorize full funding of payments for eligible federally connected children under title VIII of the Elementary and Secondary Education Act of 1965 by fiscal year 2011; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Share for Military Children in Public Schools Act".

SEC. 2. PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN UNDER TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

Section 8014(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7714(b)) is amended to read as follows:

"(b) BASIC PAYMENTS; PAYMENTS FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—For the purpose of making payments under section 8003(b), there are authorized to be appropriated—

"(1) for fiscal year 2007, such sums as may be necessary to pay to each local educational agency for such fiscal year 70.4 percent of the full amount computed for such agency for such fiscal year under paragraphs (1) and (2) of section 8003(b);

"(2) for fiscal year 2008, such sums as may be necessary to pay to each local educational agency for such fiscal year 77.8 percent of the full amount computed for such agency for such fiscal year under paragraphs (1) and (2) of section 8003(b);

"(3) for fiscal year 2009, such sums as may be necessary to pay to each local educational agency for such fiscal year 85.2 percent of the full amount computed for such agency for such fiscal year under paragraphs (1) and (2) of section 8003(b);

"(4) for fiscal year 2010, such sums as may be necessary to pay to each local educational agency for such fiscal year 92.6 percent of the full amount computed for such agency for such fiscal year under paragraphs (1) and (2) of section 8003(b); and

"(5) for fiscal year 2011, such sums as may be necessary to pay to each local educational agency for such fiscal year the full amount computed for such agency for such fiscal year under paragraphs (1) and (2) of section 8003(b).".

Mr. ENZI:

S. 2152. A bill to promote simplification and fairness in the administration and collection of sales and use taxes; to the Committee on Finance.

Mr. ENZI. Mr. President, I rise today to introduce the Sales Tax Fairness and Simplification Act, a bill that will level the playing field for all retailers—in-store, catalog, and online—so each retailer has the same sales tax collection responsibility. All retail sales should be treated equally. The bill will also help States begin to recover from years of budgetary shortfalls.

This bill is not a disguised attempt to increase taxes or put a new tax on the Internet. Consumers are already supposed to pay sales and use taxes in most States for purchases made over the phone, by mail, or via the Internet. Unfortunately, most consumers are unaware they are required to pay this use tax on purchases the retailer does not choose to collect sales tax on at the time of purchase.

That means consumers who buy products online are required to keep track of their purchases and then pay the outstanding use tax obligation on their State tax forms. This has proven to be unrealistic, but what is real is most people do not know this or do not comply with the requirement. As such, States are losing billions of dollars in annual revenue. This legislation will help both consumers and States by reducing the burden on consumers and providing a mechanism that will allow States to systematically and fairly collect the taxes already owed to them.

This bill is not about new taxes. Simply put, if Congress continues to allow remote sales taxes to go uncollected and electronic commerce continues to grow as predicted, other taxes—such as income or property taxes—will have to be increased to offset the lost revenue. I want to avoid that. That is why we need to implement a plan that will allow States to generate revenue using mechanisms already approved by their local leaders.

This bill is about economic growth. Sales and use taxes provide critical revenue to pay for our schools, our police officers, firefighters, road construction, and more. It will bring more money—money that is already owed—into rural areas that are struggling economically. It will also help businesses comply with the complicated State sales tax systems. That means the business resources that have historically been spent on tax compliance could be used, among other things, to hire new people and buy new equipment.

This bill is about tax simplification. As the Supreme Court identified in the Quill versus North Dakota decision in 1992, the complicated State and local sales tax systems across this country have created an undue burden on sellers. The Quill decision stated that a multitude of complicated and diverse State sales tax rules made it too onerous to require retailers to collect sales taxes unless they had a physical presence in the State of the buyer. Local brick-and-mortar retailers collect sales taxes, while many online and catalog retailers are exempt from collecting the same taxes. This is not only fundamentally unfair to Main Street retailers, but it is costing States and localities billions in lost revenue.

The bill will help relieve this burden by requiring States to meet the simplification standards outlined in the Streamlined Sales and Use Tax Agreement. Working with the business community, the States developed the Agreement to harmonize State sales tax rules, bring uniformity to definitions of items in the sales tax base, significantly reduce the paperwork burden on retailers, and incorporate new technology to modernize many administrative procedures. This unprecedented Agreement will increase our Nation's economic efficiency and facilitate the growth of commerce by dramatically reducing red-tape and administrative burdens on all businesses and consumers. However, most importantly, the Agreement removes the liability for collection errors from the retailer and places it with the State. This historic Agreement was approved by 34 States and the District of Columbia on November 12, 2002.

The States have made tremendous progress in changing their State tax laws to become compliant with the Agreement. Already, 19 States have enacted legislation to change their tax laws and implement the requirements of the Agreement. On October 3, 2005, the Streamlined Sales and Use Tax Agreement became effective.

This bill requires States to implement and maintain these simplification measures before they can require any seller to collect and remit sales tax. The Streamlined Sales and Use Tax Agreement includes dramatic simplification in almost every aspect of sales and use tax collection and administration, especially for the sellers who sell their products in more than one State. Areas of simplification include exemption processing, uniform definitions, State level administration of local taxes, a reduced number of sales tax rates, determining the appropriate tax rate, and reduced audit burdens for sellers using the State-certified technology.

While the States have made great progress, the Quill decision held that allowing States to require collection is an issue that, "Congress may be better qualified to resolve, and one that it has the ultimate power to resolve." The States have acted. It is now time for Congress to provide States that enact the Streamlined Sales and Use Tax Agreement with the authority to require remote retailers to collect sales taxes just as Main Street retailers do today.

Congress needs to "level the playing field" for all retailers—in-store, catalog, and online—so each has the same sales tax collection responsibility. All retail sales should be treated equally. I believe Congressional action is needed to provide States that implement the Streamlined Sales and Use Tax Agreement with the authority to collect sales and use taxes from remote retailers. Adoption of the Agreement and Congressional authorization will provide a level playing field for brick and mortar and remote retailers.

Senator BYRON DORGAN of North Dakota and I have worked tirelessly to assist sellers and State and local governments to find true simplification in almost every aspect of sales and use tax collection and administration. I want to thank Senator DORGAN for working with me on this policy issue for so many years. We have been successful in moving this issue forward from discussing it at the Federal level with Members of Congress to the drafting of the Streamlined Sales and Use Tax Agreement to approving the Governing Board this year to push forward with implementation.

For the past eleven months, Senator DORGAN and I have worked with all interested parties to try to find a mutually agreeable legislative package to introduce this year. Many hours have been dedicated in trying to find the right solution to address all concerns. I appreciate everyone's hard work on this piece of legislation and believe it is time to introduce the bill before the end of the year.

Senator DORGAN and I will be introducing two separate bills this year, but will continue to work with each other and all interested parties to find compromise on the outstanding policy issues of concern to the stakeholders. Some of the issues that will be further discussed include, but are not limited to, modifications to the small business exception language, inclusion of tribal governments language, and modifications to the language about transactional taxes on telecommunications services. Bill introduction does not stop us from negotiating and working together to improve the final product that should be enacted into public law. I look forward to working with Senator DORGAN and all interested parties to produce a compromise bill in 2006 that addresses all concerns raised over the past year.

The Sales Tax Fairness and Simplification Act provides States that implement the Streamlined Sales and Use Tax Agreement with the authority to collect sales or use taxes equally from all retailers. Adoption of the Agreement and Congressional authorization will provide a level playing field for brick and mortar and remote retailers.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sales Tax Fairness and Simplification Act".

SEC. 2. CONSENT OF CONGRESS.

The Congress consents to the Streamlined Sales and Use Tax Agreement.

SEC. 3. SENSE OF THE CONGRESS.

(a) SALES AND USE TAX SYSTEM.—It is the sense of the Congress that the sales and use tax system established by the Streamlined Sales and Use Tax Agreement, to the extent that it meets the minimum simplification requirements of section 6, provides sufficient simplification and uniformity to warrant Federal authorization to Member States that are parties to the Agreement to require remote sellers, subject to the conditions provided in this Act, to collect and remit the sales and use taxes of such Member States and of local taxing jurisdictions of such Member States.

(b) PURPOSE.—The purpose of this Act is to—

(1) effectuate the limited authority granted to Member States under the Streamlined Sales and Use Tax Agreement; and

(2) not grant additional authority unrelated to the accomplishment of the purpose described in paragraph (1).

SEC. 4. AUTHORIZATION TO REQUIRE COLLECTION OF SALES AND USE TAXES.

(a) GRANT OF AUTHORITY.—

(1) IN GENERAL.—Each Member State under the Streamlined Sales and Use Tax Agreement is authorized, subject to the requirements of this section, to require all sellers not qualifying for the small business exception provided under subsection (d) to collect and remit sales and use taxes with respect to remote sales sourced to that Member State under the Agreement.

(2) REQUIREMENTS FOR AUTHORITY.—The authorization provided under paragraph (1) shall be granted once all of the following have occurred:

(A) 10 States comprising at least 20 percent of the total population of all States imposing a sales tax, as determined by the 2000 Federal census, have petitioned for membership and have become Member States under the Agreement.

(B) The following necessary operational aspects of the Agreement have been implemented by the Governing Board:

(i) Provider and system certification.

(ii) Setting of monetary allowance by contract with providers.

(iii) Implementation of an on-line multistate registration system.

(iv) Adoption of a standard form for claiming exemptions electronically.

(v) Establishment of advisory councils.

(vi) Promulgation of rules and procedures for dispute resolution.

(vii) Promulgation of rules and procedures for audits.

(viii) Provisions for funding and staffing the Governing Board.

(C) Each Member State has met the requirements to provide and maintain the databases and the taxability matrix described in the Agreement, pursuant to requirements of the Governing Board.

(3) LIMITATION OF AUTHORITY.—The authorization provided under paragraph (1)—

(A) shall be granted notwithstanding any other provision of law; and

(B) is dependent upon the Agreement, as amended, meeting the minimum simplification requirements of section 6.

(b) TERMINATION OF AUTHORITY.—

(1) IN GENERAL.—The authorization provided under subsection (a) shall terminate for all States if—

(A) the requirements contained in subsection (a) cease to be satisfied; or

(B) any amendment adopted to the Agreement after the date of enactment of this Act is not within the scope of the administration of sales and use taxes or taxes on telecommunications services by the Member States.

(2) LOSS OF MEMBER STATE STATUS.—The authorization provided under subsection (a) shall terminate for a Member State, if such Member State no longer meets the requirements for Member State status under the terms of the Agreement.

(c) DETERMINATION OF STATUS.—

(1) IN GENERAL.—The Governing Board shall determine if Member States are in

compliance with the requirements of subsections (a) and (b).

(2) COMPLIANCE DETERMINATION.—Upon the determination of the Governing Board that all the requirements of subsection (a) have been satisfied, the authority of each Member State to require a seller to collect and remit sales and use taxes shall commence on the first day of a calendar quarter at least 6 months after the date the Governing Board makes its determination.

(d) SMALL BUSINESS EXCEPTION.—No seller shall be subject to a requirement of any State to collect and remit sales and use taxes with respect to a remote sale if—

(1) the seller and its affiliates collectively had gross remote taxable sales nationwide of less than $5,000,000 in the calendar year preceding the date of such sale; or

(2) the seller and its affiliates collectively meet the $5,000,000 threshold of this subsection but the seller has less than $100,000 in gross remote taxable sales nationwide.

SEC. 5. DETERMINATIONS BY GOVERNING BOARD AND JUDICIAL REVIEW OF SUCH DETERMINATIONS.

(a) PETITION.—At any time after the Governing Board has made the determination required under section 4(c)(2), any person who may be affected by the Agreement may petition the Governing Board for a determination on any issue relating to the implementation of the Agreement.

(b) REVIEW IN COURT OF FEDERAL CLAIMS.—Any person who submits a petition under subsection (a) may bring an action against the Governing Board in the United States Court of Federal Claims for judicial review of the action of the Governing Board on that petition if—

(1) the petition relates to an issue of whether—

(A) a Member State has satisfied or continues to satisfy the requirements for Member State status under the Agreement;

(B) the Governing Board has performed a nondiscretionary duty of the Governing Board under the Agreement;

(C) the Agreement continues to satisfy the minimum simplification requirements set forth in section 6; or

(D) any other requirement of section 4 has been satisfied; and

(2) the petition is denied by the Governing Board in whole or in part with respect to that issue, or the Governing Board fails to act on the petition with respect to that issue not later than 6 months after the date on which the petition is submitted.

(c) TIMING OF ACTION FOR REVIEW.—An action for review under this section shall be initiated not later than 60 days after the denial of the petition by the Governing Board, or, if the Governing Board failed to act on the petition, not later than 60 days after the end of the 6-month period beginning on the day after the date on which the petition was submitted.

(d) STANDARD OF REVIEW.—

(1) IN GENERAL.—In any action for review under this section, the court shall set aside the actions, findings, and conclusions of the Governing Board found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(2) REMAND.—If the court sets aside any action, finding, or conclusion of the Governing Board under paragraph (1), the court shall remand the case to the Governing Board for further action consistent with the decision of the court.

(e) JURISDICTION.—

(1) GENERALLY.—Chapter 91 of title 28, United States Code, is amended by adding at the end the following:

"§ 1510. Jurisdiction regarding the Streamlined Sales and Use Tax Agreement

"The United States Court of Federal Claims shall have exclusive jurisdiction over actions for judicial review of determinations of the Governing Board of the Streamlined Sales and Use Tax Agreement under the terms and conditions provided in section 5 of the Sales Tax Fairness and Simplification Act.".

(2) CONFORMING AMENDMENT TO TABLE OF SECTIONS.—The table of sections at the beginning of chapter 91 of title 28, United States Code, is amended by adding at the end the following new item:

"1510. Jurisdiction regarding the streamlined sales and use tax agreement.".

SEC. 6. MINIMUM SIMPLIFICATION REQUIREMENTS.

(a) IN GENERAL.—The minimum simplification requirements for the Agreement, which shall relate to the conduct of Member States under the Agreement and to the administration and supervision of such conduct, are as follows:

(1) A centralized, one-stop, multistate registration system that a seller may elect to use to register with the Member States, provided a seller may also elect to register directly with a Member State, and further provided that privacy and confidentiality controls shall be placed on the multistate registration system so that it may not be used for any purpose other than the administration of sales and use taxes. Furthermore, no taxing authority within a Member State or a Member State that has withdrawn or been expelled from the Agreement may use registration with the centralized registration system for the purpose of, or as a factor in determining, whether a seller has a nexus with that Member State for any tax at any time.

(2) Uniform definitions of products and product-based exemptions from which a Member State may choose its individual tax base, provided, however, that all local jurisdictions in that Member State shall have a common tax base identical to the State tax base of that Member State. A Member State may enact other product-based exemptions without restriction if the Agreement does not have a definition for the product or for a term that includes the product. A Member State shall relax the good faith requirement for acceptance of exemption certificates in accordance with section 317 of the Agreement, as amended through the date of enactment of this Act.

(3) Uniform rules for sourcing and attributing transactions to particular taxing jurisdictions.

(4) Uniform procedures for the certification of service providers and software on which a seller may elect to rely in order to determine Member State sales and use tax rates and taxability.

(5) Uniform rules for bad debts and rounding.

(6) Uniform requirements for tax returns and remittances.

(7) Consistent electronic filing and remittance methods.

(8) Single, State-level administration of all Member State and local sales and use taxes, including a requirement for a State-level filing of tax returns in each Member State.

(9) A single sales and use tax rate per taxing jurisdiction, except that a State may impose a single additional rate, which may be zero, on food, food ingredients, and drugs, provided that this limitation does not apply to the items identified in section 308 C of the Agreement, as amended through the date of enactment of this Act.

(10) A Member State shall eliminate caps and thresholds on the application of sales and use tax rates and exemptions based on value, provided that this limitation does not apply to the items identified in section 308 C of the Agreement, as amended through the date of enactment of this Act.

(11) A provision requiring each Member State to complete a taxability matrix, as adopted by the Governing Board. The matrix shall include information regarding terms defined by the Agreement in the Library of Definitions. The matrix shall also include, pursuant to the requirements of the Governing Board, information on use, entity, and product based exemptions.

(12) A provision requiring that each Member State relieves a seller or service provider from liability to that Member State and local jurisdiction for collection of the incorrect amount of sales or use tax, and relieves the purchaser from penalties stemming from such liability, provided that collection of the improper amount is the result of relying on information provided by that Member State regarding tax rates, boundaries, or taxing jurisdiction assignments, or in the taxability matrix regarding terms defined by the Agreement in the Library of Definitions.

(13) Audit procedures for sellers, including an option under which a seller not qualifying for the small business exception in section 4(d) may request, by notifying the Governing Board, to be subject to a single audit on behalf of all Member States for sales and use taxes (other than use taxes on goods and services purchased for the consumption of the seller). The Governing Board, in its discretion, shall authorize such a single audit.

(14) As of the day that authority to require collection commences under section 4, each Member State shall provide reasonable compensation for expenses incurred by a seller directly in administering, collecting, and remitting sales and use taxes (other than use taxes on goods and services purchased for the consumption of the seller) to that Member State. Such compensation may vary in each Member State depending on the complexity of the sales and use tax laws in that Member State and may vary by the characteristics of sellers in order to reflect differences in collection costs. Such compensation may be provided to a seller or a third party service provider whom a seller has contracted with to perform all the sales and use tax responsibilities of a seller.

(15) Appropriate protections for consumer privacy.

(16) Governance procedures and mechanisms to ensure timely, consistent, and uniform implementation and adherence to the principles of the streamlined system and the terms of the Agreement.

(17) Each Member State shall apply the simplification requirements of the Agreement to taxes on telecommunications services, except as provided herein. This requirement is applicable to Member States as of July 1, 2008, except that sales and use taxes on telecommunications services shall be subject to the Agreement and the authority granted to the Member States when the requirements of section 4(a) are met. On or after July 1, 2008, for those Member States which meet the requirements of this paragraph, the authority granted such Member States under section 4 may be exercised by such Member States, pursuant to the terms of section 4 and section 5, with respect to taxes on telecommunications services other than sales and use taxes on such services.

The following are exceptions to the requirement established under this paragraph:

(A) The requirement for one uniform return shall not apply, provided, however, there shall be one uniform return for each type of tax on telecommunications services within a State.

(B) The requirements for rate simplification are modified to require that each taxing jurisdiction shall have only one rate for each type of tax on telecommunications services.

(C) The requirements for tax base uniformity in section 302 of the Agreement shall apply to each type of tax on telecommunications services within a State, but shall not be construed to require that the tax base for different types of taxes on telecommunications services must be identical to the tax base for sales and use taxes imposed on telecommunications services.

(18) Uniform rules and procedures for "sales tax holidays".

(19) Uniform rules and procedures to address refunds and credits for sales taxes relating to customer returns, restocking fees, discounts and coupons, and rules to address allocations of shipping and handling and discounts applied to multiple item and multiple seller orders.

(b) REQUIREMENT TO PROVIDE SIMPLIFIED TAX SYSTEMS.—

(1) IN GENERAL.—The requirements of this section are intended to ensure that each Member State provides and maintains the necessary simplifications to its sales and use tax system to warrant the collection authority granted to it in section 4.

(2) REDUCTION OF ADMINISTRATIVE BURDENS.—The requirements of this section should be construed—

(A) to require each Member State to substantially reduce the administrative burdens associated with sales and use taxes; and

(B) as allowing each Member State to exercise flexibility in how these requirements are satisfied.

(3) EXCEPTION.—In instances where exceptions to the requirements of this section can be exercised in a manner that does not materially increase the administrative burden on a seller obligated to collect or pay the taxes, such exceptions are permissible.

SEC. 7. LIMITATION.

(a) IN GENERAL.—Nothing in this Act shall be construed as—

(1) subjecting a seller to franchise taxes, income taxes, or licensing requirements of a Member State or political subdivision thereof; or

(2) affecting the application of such taxes or requirements or enlarging or reducing the authority of any Member State to impose such taxes or requirements.

(b) NO EFFECT ON NEXUS, ETC.—

(1) IN GENERAL.—No obligation imposed by virtue of the authority granted by section 4 shall be considered in determining whether a seller has a nexus with any Member State for any other tax purpose.

(2) PERMISSIBLE MEMBER STATE AUTHORITY.—Except as provided in subsection (a), and in section 4, nothing in this Act permits or prohibits a Member State from—

(A) licensing or regulating any person;

(B) requiring any person to qualify to transact intrastate business;

(C) subjecting any person to State taxes not related to the sale of goods or services; or

(D) exercising authority over matters of interstate commerce.

SEC. 8. EXPEDITED JUDICIAL REVIEW.

(a) THREE-JUDGE DISTRICT COURT HEARING.—Notwithstanding any other provision of law, any civil action challenging the constitutionality of this Act, or any provision thereof, shall be heard by a district court of three judges convened pursuant to the provisions of section 2284 of title 28, United States Code.

(b) APPELLATE REVIEW.—

(1) IN GENERAL.—Notwithstanding any other provision of law, an interlocutory or final judgment, decree, or order of the court of three judges in an action under subsection (a) holding this Act, or any provision thereof, unconstitutional shall be reviewable as a matter of right by direct appeal to the Supreme Court.

(2) 30-DAY TIME LIMIT.—Any appeal under paragraph (1) shall be filed not more than 30 days after the date of entry of such judgment, decree, or order.

SEC. 9. DEFINITIONS.

For the purposes of this Act the following definitions apply:

(1) AFFILIATE.—The term "affiliate" means any entity that controls, is controlled by, or is under common control with a seller.

(2) GOVERNING BOARD.—The term "Governing Board" means the governing board established by the Streamlined Sales and Use Tax Agreement.

(3) MEMBER STATE.—The term "Member State"—

(A) means a Member State as that term is used under the Streamlined Sales and Use Tax Agreement as of the date of enactment of this Act; and

(B) does not include associate members under the Agreement.

(4) NATIONWIDE.—The term "nationwide" means throughout each of the several States and the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and any other territory or possession of the United States.

(5) NONDISCRETIONARY DUTY OF THE GOVERNING BOARD.—The phrase "nondiscretionary duty of the Governing Board" means any duty of the Governing Board specified in the Agreement as a requirement for action by use of the term "shall", "will", or "is required to".

(6) PERSON.—The term "person" means an individual, trust, estate, fiduciary, partnership, corporation, or any other legal entity, and includes a State or local government.

(7) REMOTE SALE.—The term "remote sale" refers to a sale of goods or services attributed to a particular Member State with respect to which a seller does not have adequate physical presence to establish nexus under the law existing on the day before the date of enactment of this Act so as to allow such Member State to require, without regard to the authority granted by this Act, the seller to collect and remit sales or use taxes with respect to such sale.

(8) REMOTE SELLER.—The term "remote seller" means any seller who makes a remote sale.

(9) STATE.—The term "State" means any State of the United States of America and includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States.

(10) STREAMLINED SALES AND USE TAX AGREEMENT.—The term "Streamlined Sales and Use Tax Agreement" (or "the Agreement") means the multistate agreement with that title adopted on November 12, 2002, as amended through the date of enactment of this Act and unless the context otherwise indicates as further amended from time to time.

(11) TAX ON TELECOMMUNICATIONS SERVICES.—The term "tax on telecommunications services" or "taxes on telecommunication services" shall encompass the same taxes, charges, or fees as are included in section 116 of title 4, United States Code, except that "telecommunication services" shall replace "mobile telecommunications services" whenever such term appears.

(12) TELECOMMUNICATIONS SERVICE.—

(A) IN GENERAL.—The term "telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points.

(B) INCLUSION.—The term "telecommunication service"—

(i) includes transmission services in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such services are referred to as voice over Internet protocol services or are classified by the Federal Communications Commission as enhanced or value added services; and

(ii) does not include the data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where the primary purpose of such purchaser for the underlying transaction is the processed data or information.

SEC. 10. SENSE OF THE CONGRESS ON DIGITAL GOODS AND SERVICES.

It is the sense of the Congress that each State that is a party to the Agreement should work with other States that are also party to the Agreement to prevent double taxation in situations where a foreign country has imposed a transaction tax on a digital good or service.

By Mr. DORGAN:

S. 2153. A bill to promote simplification and fairness in the administration and colleciton of sales and use taxes; to the Committee on Finance.

Mr. DORGAN. Mr. President, I have been working closely with Senator MIKE ENZI of Wyoming for several years now on Federal legislation that encourages and rewards State and local governments that radically simplify their sales tax systems by granting them authority to require large sellers to collect taxes on remote sales after substantial simplifications are implemented. This year we have delayed reintroducing related legislation that we cosponsored in the last Congress, S. 1736, primarily due to concerns that some parties have raised about the bill's small business exemption language.

After months of negotiation, there's still disagreement among the stakeholders about how the bill should define small remote sellers who would be exempted from the bill's sales tax collection requirements. Regrettably, the small business exemption issues have not been resolved to the satisfaction of all parties and Senator ENZI is re-introducing essentially our same proposal from the 108th Congress as he promised. I certainly respect his right and decision to do so.

However. I have been working on small business language that I think is a fair approach and will greatly improve the odds that this bill will become law.

The bill I am introducing today is identical to the bill that Senator ENZI is introducing today in every respect—except one. Instead of putting a small business exemption in the bill with a specific dollar threshold, my proposal sets up a process that I believe will help us get to the right answer. Under my proposal, the Small Business Administration (SBA) is required, after considering all relevant factors and soliciting input from the Treasury Department, the Streamlined Sales Tax Governing Board and others, to develop a rulemaking and propose to Congress a definition of those small sellers, including small businesses, which would not be required to collect and remit sales and use taxes. My bill provides for the expedited consideration of SBA's proposal by the U.S. House and Senate and takes steps to ensure that a small sellers' exemption will ultimately be approved by Congress. States would be allowed to require impacted remote sellers to collect sales taxes only after federally mandated simplification is accomplished and a small business exemption is approved by Congress.

All of the other parts of my bill are identical to those included in Senator ENZI's bill. These provisions also deserve our immediate attention. There are over 7,000 tax jurisdictions across the country that rely on sales taxes to fund a range of local activities, from education and fire suppression to police protection and road construction. But billions of dollars in needed sales tax revenues go uncollected year after year in many jurisdictions due to a ruling by the U.S. Supreme Court in 1992 that said current State and local sales tax systems impose an undue burden on sellers without a physical presence in each State.

Internet and catalog sellers have argued that collecting and remitting sales taxes for thousands of different tax authorities is exceedingly complex. This is a legitimate complaint. And I understand why the U.S. Supreme Court in its Quill decision said that States and localities could not require sellers to collect sales tax on remote sales until the States and localities have first dramatically reduced the complexity and burden of collecting sales taxes.

The States and localities have stepped up to the challenge outlined in the Quill decision. For five years now, the States have been working with the retail community and local governments to develop a streamlined and uniform sales tax system agreement that will alleviate the burden of sales tax collection on local retailers and remote sellers.

The Streamlined Sales and Use Tax Agreement, which was approved by 34 States and the District of Columbia in November 2002, requires participating States to comply with dozens of stringent simplification requirements that streamline how State sales and use taxes are identified and collected. By early next year, 19 States will have enacted legislation to bring them into compliance with the Agreement and will be members of its Governing Board.

By harmonizing their State sales and use tax rules, bringing uniformity to definitions in the sales tax base, significantly reducing the paperwork burden on retailers, and incorporating a seamless electronic reporting process, compliance with the Agreement will result in a significantly reduced tax collection burden on all sellers.

As the volume of remote on-line retail sales grow, states are losing more and more sales tax revenues. An estimated $15 billion in sales and use taxes will go uncollected in 2005. This threatens the future ability of states and localities, to make critical investments in even the most basic community services, while forcing local retailers who are required to collect sales taxes today to compete with large remote competitors who are not. Senator ENZI and I are determined to address this problem.

I think that the legislation I am introducing today strikes a reasonable balance between the interests of consumers, local retailers, remote sellers and the states. Having said that, I will be working with Senator ENZI early in the next session to see if we can put together a single approach that would address any remaining concerns about the small business exemption and help us move this legislative effort forward in the next session.

We will also have an opportunity to more fully examine some issues raised by the representatives of local governments and some Indian tribes about the impact of our initiative on their constituencies.

By Mr. KERRY (for himself and Mr. ISAKSON):

S. 2155. A bill to provide meaningful civil remedies for victims of the sexual exploitation of children; to the Committee on the Judiciary.

Mr. KERRY. Mr. President, today Senator ISAKSON and I introduce legislation to increase civil penalties for child exploitation. Our legislation is a small piece of a larger battle that we believe will stop would-be child predators and protect our children. Predators like the ones who exploited Masha, a little girl who was featured on Prime Time Live a few weeks ago, and the thousands of other children who are victims of these horrific crimes.

According to the National Center for Missing and Exploited Children, child pornography has become a multi-billion dollar internet business. With the increasingly sophisticated technology of digital media, child pornography has become easier to produce and purchase. Countless people around the world have instant access to pictures and videos posted on the Internet and, unfortunately, millions of these images are pornographic depictions of infants and children. Masha is one of these children, whose images—hundreds of them—are on the Internet and being downloaded around the world. And while the man who sexually abused Masha and posted the pictures on the web is in jail, the damage has been done and will continue until people stop downloading pictures of her off the internet.

Under current law, a victim of child exploitation is entitled to civil statutory damages in U.S. District Court in the amount of $50,000—less than the civil penalty for illegally downloading music off the internet. This penalty is far too low to effectively deter would-be child pornographers. This legislation increases the civil penalties recoverable by victims of child sexual exploitation, including internet child pornography, to at least $150,000. This increased penalty will serve as a deterrent to those who disseminate and possess child pornography, as well as a means of compensating victims of this terrible abuse. If someone downloads a song off the Internet, Federal copyright law provides for statutory damages to be awarded to the copyright holder in the amount of $150,000. Downloading child pornography is far more detrimental to the victim than downloading copyrighted music and, as a result, the penalty should reflect that.

But it is not only the statutory damages that are flawed. The current statute states that "Any minor who is a victim of a violation [of the act] may sue in United States District Court". This language has been interpreted literally by a Federal district court to restrict recovery to plaintiffs whose injuries occurred while they were minors. Thus, when victims turn 18 they cannot recover against their perpetrators even if pornographic images of them as children are still distributed via the internet. Our legislation would clarify the statute to include victims of child pornography who are injured as adults by the downloading of their pornographic images.

This bill takes an important step towards ensuring justice for victims of child exploitation. I would urge speedy passage of this legislation as a stand alone bill or encourage its inclusion in a larger child protection package. It is the very least Congress can do for Masha and the thousands of children like her who have suffered at the hands of these criminals. I thank Senator ISAKSON for his co-sponsorship, and I look forward to working with him and all my colleagues to see that it passes the Senate.

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Dr. Marlene Watson and Dr. Gordon Day, fellows in the office of Senator ROCKEFELLER, be granted the privilege of the floor during the Senate's proceedings today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I ask unanimous consent the following Senate Committee on Finance interns and fellows be granted floor privileges during the consideration of the conference report to accompany S. 1932, the Deficit Reduction Act: Melissa Atkinson, Brad Behan, and Amber Mackenzie.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING DR. DOUGLAS HOLTZ-EAKIN

Mr. FRIST. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. Res. 341, which was submitted earlier today. I ask the resolution be read.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 341) commending Dr. Douglas Holtz-Eakin for his dedicated, faithful, and outstanding service to his country and to the Senate.

S. RES. 341

Whereas Dr. Douglas Holtz-Eakin has served as the sixth Director of the Congressional Budget Office since February 4, 2003 and will end his service on December 29, 2005;

Whereas during his tenure as Director, he has continued to encourage the highest standards of analytical excellence within the staff of the Congressional Budget Office while maintaining the independent and nonpartisan character of the organization;

Whereas during his tenure as Director, he has expanded and improved the accessibility of the Congressional Budget Office's work products to the Congress and the public;

Whereas he has expanded and enhanced the agency's macroeconomic analyses of the range of negative and positive feedbacks on the economy and budget from fiscal policy changes; and

Whereas he has earned the respect and esteem of the United States Senate: Now, therefore, be it

Resolved, That the Senate of the United States commends Dr. Douglas Holtz-Eakin for his dedicated, faithful, and outstanding service to his country and to the Senate.

There being no objection the Senate proceeded to consider the resolution.

Mr. GREGG. Mr. President, the executive branch agencies have many programs to recognize performance and talent. In the legislative branch, we too often take personal effort and hard work for granted. Unfortunately, the Senate does not possess many ways to recognize excellence, and thank the people who make this institution function so well.

Today, I would like to take a little time to mention something that is not debatable. I think this is simply stating something that all Members, on both sides of the aisle, know only too well.

In the three years that Dr. Douglas Holtz-Eakin has been Director of the Congressional Budget Office, he has led with dedication and integrity. He has provided the Members of Congress with impartial analyses of a wide array of budgetary and economic issues. He has never hesitated to meet with Members and staff regarding any issue. Douglas has always approached his responsibilities with enthusiasm and a desire to make sure that the information CBO provides leads decisionmakers to create better public policy outcomes.

Douglas Holtz-Eakin is the sixth Director of the Congressional Budget Office. He was appointed to that position on February 4, 2003; following an 18-month stint as chief economist for the President's Council of Economic Advisers.

During his tenure, he has certainly made an impression on CBO; leaving behind a legacy that Congress will benefit from for years to come. He has strengthened and improved the transparency of CBO's analytical methods by convening an annual Director's Conference to bring in outside experts to assist the agency in tackling complex economic issues. He also has enhanced the publication production effort by publishing background papers that explain CBO's models and methods, working papers that discuss new analytical developments and improvements, and issue briefs that communicate analyses in a concise manner for those unable to commit the time to more indepth research. Dr. Holtz-Eakin has devoted a great amount of attention to improving the clarity of CBO's work to make it more accessible to policymakers, professional analysts, and the public.

Under Doug's guidance, CBO extended its modeling and analytic capacity; most notably in the critical areas of dynamic analysis and long-term microsimulation. CBO also has begun to apply the tools of modern financial analysis to improve budgetary and economic cost measures.

Prior to his appointment as CBO Director, Dr. Holtz-Eakin already had a remarkable career, distinguishing himself in academia and as a public servant. He is a trustee professor of economics at the Maxwell School of Syracuse University, where he also served as chairman of the Department of Economics and as associate director of the Center for Policy Research. He held positions as editor of the National Tax Journal, associate editor of the Journal of Human Resources, and as a member of the editorial board for Public Budgeting & Finance, Economics and Politics, Journal of Sports Economics, Regional Science and Urban Economics, and Public Works Management and Policy.

Earlier in his career, he held academic appointments at Columbia University and at Princeton University. Since 1985, he has served as a faculty research fellow and research associate for the National Bureau of Economic Research. He has been a consultant to the New Jersey State and Local Expenditure and Revenue Policy Commission, the State of Arizona Joint Select Committee on State Revenues and Expenditures, and the New York State Office for the Aging. He also has served as the Executive Director, Tax Study Commission, New York State Assembly.

Dr. Holtz-Eakin's remarkable career in public service will not end with CBO. He will continue making positive contributions to public policy research as the next Paul A. Volcker fellow in international economics and as the director of the Maurice R. Greenberg Center for Geoeconomic Studies at the Council on Foreign Relations. The council is a nonpartisan research organization that is national in scope and global in its reach.

Doug's quick wit and sense of humor will be sorely missed in the Halls of the Capitol and on the fourth floor of the Ford House Office Building. We wish him good luck in his new endeavors and are grateful for his contributions and work on our behalf. He leaves behind a first-rate professional staff with high morale, testimony to his excellence in leadership. We wish him well.

Mr. CONRAD. Mr. President, I want to join Senator GREGG in commending the public service of Congressional Budget Office, CBO, Director Douglas Holtz-Eakin. Congress will lose a valuable member of the budget community when he leaves CBO at the end of this year to join the Council on Foreign Relations. He has been an exemplary leader for the agency and deserves to be recognized for his outstanding performance.

Director Holtz-Eakin has lived up to the high standards set by his predecessors at CBO. He will be remembered for leading the agency in an open, straightforward, professional, and nonpartisan manner. From day 1, Director Holtz-Eakin has been responsive and helpful on a wide range of requests. And he has repeatedly shown his considerable knowledge of the budget and economic affairs of the Nation.

I was initially concerned about Director Holtz-Eakin's appointment in 2003 to the nonpartisan CBO, because he was coming directly from an administration position, as the chief economist of the President's Council of Economic Advisers. However, Director Holtz-Eakin put my concerns to rest by demonstrating his desire and ability to rise above political pressures and focus on the best interests of the American people.

Notably, Director Holtz-Eakin took a balanced and scientific approach regarding the issue of dynamic scoring.

Ultimately, he concluded that the dynamic impact of various fiscal policies could include a range of positive and negative effects and, in any case, was likely to be small.

Although we have faced difficult times for our Nation's budget, Director Holtz-Eakin has provided Congress with crucial information and insight. His expertise, honesty, and good humor will be missed. I commend Director Holtz-Eakin for his public service and wish him the best of luck in his new position.

Mr. FRIST. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 341), was agreed to.

The preamble was agreed to.

ORDERS FOR WEDNESDAY, DECEMBER 21, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. on Wednesday, December 21. I further ask that following the prayer and pledge the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of the conference report to accompany S. 1932 as under the previous order. I further ask consent that there be 10 minutes for each leader prior to the vote on the final action on S. 1932.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I further ask consent that following the disposition of S. 1932, there then be 1 hour of debate equally divided between the two leaders or their designees for debate only and that following that time the Senate proceed to a vote on the motion to invoke cloture on the conference report to accompany H.R. 2863, the Defense appropriations bill; provided further that the live quorum be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow we are moving to finish our final business. We have several critical matters to dispose of before we break for the holidays, and there will be, as we said earlier, a series of rollcall votes on the deficit reduction conference report starting sometime around 9:15 in the morning. Senators should be prepared for votes throughout the day on the deficit reduction bill, the remaining appropriations conference reports, and other legislative and executive matters which must be disposed of before we adjourn.

Again, as we have said earlier, Senators should stay close to the Chamber throughout the day. It will be a very busy day, and I thank all of my colleagues in advance for their patience. I know this is a very challenging time of year as we juggle planning for the holidays, constituent work, as well as completing our business here.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. REID. Mr. President, I ask unanimous consent in the hour that has been specified for debate following disposition of S. 1932 that the 30 minutes under the control of the Democrats be divided as follows: 2 minutes each for Senators FEINGOLD and BOXER, 3 minutes each for Senators BINGAMAN and LIEBERMAN; that Senator BYRD be extended 7½ minutes; Senator CANTWELL would have 12½ minutes under her control. That uses our 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I ask unanimous consent the Senator from Louisiana be given 20 minutes, after which I will come back and close.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana is recognized for 20 minutes.

HURRICANE KATRINA RELIEF

Ms. LANDRIEU. Mr. President, we do have some important work to finish tomorrow. That is why I thought I would spend a few minutes tonight reminding my colleagues of a very significant part of that work.

Before I came to work this morning, I spent a little time with our two children, our 8-year-old precious little angel girl, Mary Shannon, and our 12-year-old little boy. We spent some time at breakfast, and then we started doing what a lot of families do around this holiday, and that is listen to some Christmas music and some holiday music and wrap a few gifts that they had actually, amazingly picked out themselves for their Kris Kringles. We talked about how important it was going to be to see family over the holidays. As they struggled to wrap the gifts, with their tape and their scissors, we tried to spend a little family time together before I came to work today.

It reminded me of how simple but wonderfully special those moments are with families at this time of year, as moms and dads make their regular cookies and traditional dinners and recipes and wrap packages the same way and decorate the trees the same way and put out the nativity scenes. And all over the country that is happening.

There is one place that that is not happening the way it usually does and that is along the gulf coast of this country, and particularly in Louisiana.

About 3 months ago, two fierce storms hit our coast. We basically survived through the night, only to wake up the next morning and find the levees had broken, and 200,000-plus homes and 18,000 businesses were destroyed literally in a matter of a few hours.

The devastation was so great and so expansive and so unprecedented that it has literally taken the Nation and this Congress and even officials in the region, major business operations in the region, 3 months or more to actually realize the extent of the devastation.

I have spent a lot of time on the Senate floor with my colleague, Senator VITTER, showing pictures and graphs to try to explain what actually happened. This one isn't fancy. It is simple, but it is pretty clear. When we come down here to try to explain how much help the people of Louisiana need, the people of Mississippi, and to some extent a little bit in Alabama and Texas because of two killer storms, Katrina and Rita, and the multiple levee breaks that ensued, one figure that helped my staff and our people to understand is this chart that shows Hurricane Andrew as the most expensive storm ever to hit the coast of the United States in 1992. They are still recovering from it in Florida.

In that massive storm, 28,000 homes were destroyed—28,000, in Homestead, FL, and in places around. People are still living in trailers after 10-plus, 14 years.

But I have to show my colleagues right here, in Katrina, 3 months ago, a storm and levee break came through and around 275,000 homes, 10 times the amount of Hurricane Andrew, 10 times the amount of destruction.

I was sitting in my home just a few blocks from here with my children this morning, with three rolls of wrapping paper and a couple of pairs of scissors. And, thank goodness, we could find the Scotch tape which is always a challenge when you are wrapping gifts. I had to close my eyes and think about my mother's house that is not occupied now after 45 years of raising 9 children and 37 grandchildren. It had 7 feet of water in it.

And my sisters and our friends and people from all walks of life, rich and poor, Black and White, senior citizens and moms and dads who are looking forward to having their children and grandchildren with them, there are no homes to wrap these gifts or to put the tree or to hang the lights.

I just came tonight to tell my colleagues that while this bill looks like just sort of a regular package of lots of words and lines and fine print, what is in one of these bills tomorrow is a package of hope for the 275,000 families who lived in those homes that were completely destroyed—not a roof damaged, not a porch falling over, not a few steps missing but homes completely destroyed.

I want to show you what a home completely destroyed looks like; 275,000 homes along the gulf coast look something like this. Some of them look worse.

This picture was in the National Geographic a couple of weeks ago. This is what the homes along the gulf coast look like.

That is why I am not going home this Christmas while we will be working as many hours and days as it takes until people like this have some hope that they can get back to their home. It is not just Christmas, which would be impossible in this situation, but at least by next Christmas.

I am going to say again, for the one-hundredth time, FEMA is not sufficient to get us back to our homes, to build our churches again, to rebuild our schools and to rebuild our communities. It is an insufficient mechanism, and on its best day it could not accomplish this goal.

In this package tomorrow in the Defense appropriations bill, because of political concerns of the Congress, we find our $29 billion hope package in there that finally moves money from an agency that can't manage to spend it well into the hands of competent local officials and local entities and private businesses and faith-based organizations and individual Americans who show a lot of grit and a lot of heart to build their State and their community again.

We are not going home without the hope package. It is not fair and America can do better.

This is what the inside of many homes in New Orleans looks like because the water was so high in many of our neighborhoods, even neighborhoods that had never flooded, neighborhoods that had never had a drop of water before. After several weeks and finally the water went down, this is what families saw all throughout south Louisiana and in New Orleans, St. Bernard Parish, parts of Jefferson Parish, in neighborhoods in some places where the average home is valued at $50,000 to $75,000. But there are also some neighborhoods where the average home is worth $1 million.

In all homes, large and small, rich and poor, this is what families are doing this holiday season. They come up here to Senator VITTER's office and to my office. "Senator, does anybody know we are down here? Does anybody know we have lost our churches, our schools, our community? Does anybody care? What is Congress doing?"

Because of the good work of many Members of this body, particularly I have to say Senator THAD COCHRAN from Mississippi, who basically refused to accept an anemic and incomplete proposal from the administration that basically sent money to fix a few Federal buildings—I don't see a Federal building anywhere in this picture. I see a family's home. I see everything that they owned destroyed, impossible to reclaim. While you can buy a few sofas—let me assure you that there are many you can choose from—I promise you that the wedding album which was lost is irreplaceable. The pictures of the children are irreplaceable. The special mementos handed down from grandmother to mother to daughter are gone, are priceless and can't be replaced. And no insurance company can provide you sufficient funding for those things that have been lost.

This is what 250,000 homes in Louisiana look like. It is bad enough to lose your home. But I also want to try to impress upon the Members of Congress that losing your home is pretty bad because it is where most people have equity. Most of the net worth of Americans is in their homes. We pride ourselves on being homeowners and a nation of homeowners and middle-class families.

But let me show you what this hurricane and flood did. It destroyed 18,752 businesses, catastrophically destroyed, gone in Louisiana, compared to 1,912 in Mississippi, 295 in Texas, and 20 in Alabama; 18,700 businesses gone, no more; restaurants, cleaners, manufacturers, law firms, doctors' offices, clinics, just gone.

People who are cleaning out their houses are also cleaning out their businesses, and insurance checks are slow to come, and this hope package is stuck right here in Congress.

Last week we had some, I guess, good news about the economic front in America. I think you can read statistics many different ways. But for the RECORD tonight—this came out yesterday—I saw one or two submitted for the RECORD. The Bureau of Economic Analysis in the U.S. Department of Commerce, which issued the growth rate of State personal income, says the hurricane slowed personal income growth.

You can see in a different case, but there is an absolutely dead, stop, halt, reverse taking place in Louisiana. There is a 25 percent reduction in personal income growth in Louisiana. There is no State in the Nation even close.

Mississippi was hard hit, and I do not underestimate the destruction along that gulf coast which we love, as I have said as many times as I can, almost as much as we love Louisiana because many people in Louisiana grew up on the gulf coast and spent many happy days on those beaches. Mississippi has grown .8 percent. The national average was something closer to 1.8 percent. Look at the dramatic fall in Louisiana. There is nothing close: 25 percent reduction.

What we are trying to say is it was not just a regular hurricane. It was not just the second hurricane. It was a multiple break of Federal levees that this Congress had the responsibility to build, to design, and to maintain, which we utterly failed to do, and we lost 250,000 homes.

What do we tell those people? You are on your own? Go gather up your church members and see if you can raise a roof? The churches are not there, either. Go to your school and gather up your community and let's just be self-reliant and raise ourselves up by our bootstraps. The school is gone. There is no cafeteria. There is no multipurpose room. There is no auditorium.

Least week, I went home and attended a church service briefly. It was amazing to walk into a church where the roof was still sort of caved in halfway—not dangerous but hanging; you could see the top of the roof, the inside of the roof was damaged—with 1,500 people in this church. You look out the front door of the church, and there are no homes anywhere around that are inhabitable. You wonder, Where did the people come from? People drove, from what Father Vien told me, 2 and 3 hours to come to Mass. People are driving half a day to go back to their church to say Mass and to be in church with their community—that is how meaningful it is—with the hope that maybe someday they can get back to their neighborhood.

I am not saying that Members of this Congress individually have not tried. There have been heroic efforts made, I believe, with what Senator ENZI has done in our education package; Senator KENNEDY, Senator COCHRAN and Senator LOTT have worked tirelessly. Senator VITTER has been in this Senate and in many meetings and has taken Senators to Louisiana.

We cannot go home without help. We cannot go home without help. If this package is not passed tomorrow—and I didn't package it in the bill it is packaged in, which is Defense—we cannot go home without our $29 billion hope package, moving money from FEMA, finally, thank goodness; not adding money to the deficit but moving that money to community development block grants to use in an expanded way; $3 billion to protect our levee system, to give people hope and security that as we begin the plan for rebuilding, they will not be flooded again; help for our universities; help for our medical schools; help for the infrastructure, the major highways that have been destroyed. We cannot go home without that hope package.

I hope my colleagues know what is at stake. I know everyone is anxious to get home to their families and to their children. I am looking forward to spending some off time with my family. We cannot leave without passing that package of hope for the people on the gulf coast. I am prepared to work through Thursday, Friday, Saturday, and into Christmas on Sunday if we have to until we can get this package done. If I thought we could wait until January, we could take a break and come back—we cannot. People are holding on by a thread.

Banks are threatening to foreclose on people's houses. Having given them forbearance for 3 months, they are now sending people notices that they will have to pay their mortgage in January. But not just the January mortgage: they have to pay four mortgages in the month of January. So the people who have lost 1 of the 18,000 businesses, the people whose homes look like this, they are being asked to pay 4 months of a mortgage on this home. This family is having trouble getting a trailer to live in. Meanwhile, they have to pay mortgages on this home. If not, they will be foreclosed. All the equity they built up, which could be considerable—several hundred thousand in some cases, sometimes more, maybe even over $1 billion of equity—lost, not because there isn't a solution to their dilemma but because this Congress and this administration haven't figured out, haven't worked hard enough to give them a helping hand.

These people aren't looking for charity. They give to charity. Most of the people in Louisiana who have lost their homes have never asked for a penny from anybody. All they have been doing is digging in their pocket for the last 50 years as a family. They make a little bit of money and give to people in more need. Now the middle-class families who never asked for a thing need help from us, and we can't figure out how to get their hope package through?

I express that I am prepared to stay through Christmas day, if need be, and beyond, to get this package through. I will read into the record a beautifully written paragraph from a new book that is out which is written by Tom Piazza, "Why New Orleans Matters."

I am the Senator for the whole State, and I love all 64 parishes. It is quite a special place and one we will fight hard to restore. The southern part of our State has been very hard hit. Thank goodness our capital city of Baton Rouge is standing up very strongly. They have grown from a city of 350,000 to a city of 500,000 over the weekend, 3 months ago. The mayor of that city, "Kip" Holden, has now had to take on an additional 150,000 citizens and is managing very well under the circumstances. Lafayette is in the southwest and is part of Cajun Country. They have probably increased 50,000 or 60,000. New Orleans is my hometown, and it is something we will fight hard to restore. It is representative of the spirit of all of Louisiana.

I will read into the record in closing why this fight is worth having and why we are not going to give up until we get the help, the money, the tools, and the support.

He writes:

> New Orleans is not just a list of attractions or restaurants or ceremonies, no matter how sublime and subtle. New Orleans is the interaction among all these things and countless more. It gains its character from the spirit that is summoned, like a hologram, in the midst all these elements, and that comes, ultimately, from the people who live there, and from those whose parents and grandparents and ancestors lived there. That spirit, as much as, or more than, the city's physical and economic infrastructure, is what is in jeopardy right now. In the wake of the worst natural disaster in this country's history, one from which New Orleans, and the rest of the country, will be digging out for years, it may be good to remember what has been lost, and to think hard about what is worth fighting to save.

I plan to fight with all of my strength and energy and commitment to save this wonderful city, to save south Louisiana, which has given so much, and to fight hard for people who only ever expected their Government to meet them halfway, for this Federal Government to be what it was created to be, which is a help to people in time of need. We are going to be here through Christmas if we have to.

I thank all of my colleagues for their patience and forbearance. Many of them have stepped up beyond the call of duty to help a State they do not even represent. But, of course, as Senators, they know the need of people in times like these.

I look forward to the debate tomorrow.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. The Senate stands in adjournment until 9 a.m. tomorrow.

Thereupon, the Senate, at 8:59 p.m., adjourned until Wednesday, December 21, 2005, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate December 20, 2005:

DEPARTMENT OF DEFENSE

JAMES I. FINLEY, OF MINNESOTA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY, VICE MICHAEL W. WYNNE.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

STEPHEN GOLDSMITH, OF INDIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2010. (REAPPOINTMENT)

DEPARTMENT OF JUSTICE

SHAREE M. FREEMAN, OF VIRGINIA, TO BE DIRECTOR, COMMUNITY RELATIONS SERVICE, FOR A TERM OF FOUR YEARS. (REAPPOINTMENT)

IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant commander

CONNIE M. ROOKE, 4089

THE FOLLOWING NAMED OFFICER OF THE UNITED STATES COAST GUARD TO BE A MEMBER OF THE PERMANENT COMMISSIONED TEACHING STAFF OF THE COAST GUARD ACADEMY IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 188:

To be lieutenant

JOSEPH T. BENIN, 6446

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

MICHAEL J. OSBURN, 0220

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

MARGARETT E. BARNES, 5587
DAVID E. UPCHURCH, 2784

SENATE—*Wednesday, December 21, 2005*

The Senate met at 9 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, direct our efforts so that our labors may honor You. Let our toil bring a harvest that will benefit others. Give us opportunities to live with such integrity that our lives will be living sermons.

Bless our lawmakers. Lead them into a knowledge of Your compassion. Each day, bring them new aspirations and fresh wisdom.

When disappointment comes, may they turn to You for direction. Raise them step by step above temptation until they are determined to never deviate from the right path.

Keep each of us faithful even in little things so that You can use us for Your glory.

We pray in Your wonderful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, December 21, 2005.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. BROWNBACK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, in a few moments we will begin the final 10 minutes of debate before proceeding to the final votes with respect to the deficit reduction conference report. Two points of order are possible under the agreement and we will vote on the respective motions to waive. Senators, therefore, can expect us to begin voting in 15 to 20 minutes.

Following those two votes—it may be one vote but one or two votes—on the motions to waive, we will proceed to a vote on final passage on the deficit reduction measure.

After that vote, we will have 1 hour before the cloture vote on the Defense appropriations conference report. Additional votes will occur following that vote. I hope we are able to get cloture on the Defense bill and wrap up the remaining business during today's session.

As we mentioned yesterday, it is likely to be a long session. It could be short, but it could be a long session over the course of the morning and early afternoon with a number of votes.

We have asked Senators to stay close to the Chamber so that when we do have votes, we can complete them in a timely fashion.

I will yield to the Democratic leader for any comments on the course of the day.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

PATIENCE AND UNDERSTANDING

Mr. REID. Mr. President, I was in my office early this morning, and Gary Myrick, who works for me, came in and said, Is there anything you need? I said yes, patience.

I mentioned that to the distinguished Republican leader a few minutes ago. I think everyone needs that today. It is going to be a difficult day.

I hope we will all have patience and understanding, recognizing that these are tense times—not only because of the legislation we are dealing with but also the holidays. We are all anxious to get back to our families, but we have work to do. I hope we all have patience.

Mr. FRIST. Mr. President, I will make a final statement on the deficit reduction act. The Democratic leader also will, and then there will be 10 minutes after that before we begin to vote.

DEFICIT REDUCTION

Mr. FRIST. Mr. President, like everyone else in America, we need to tighten our belts and learn how to do more with less. For the first time in over 8 years in the Senate, we will reduce spending in an area of the budget known as entitlement spending—for the first time in 8 years.

As we all know, entitlement spending represents over 54 percent of total Federal spending today. It is going to continue to grow steadily in the years ahead.

The infrequency with which this body addresses entitlement legislation underscores the importance of the bill we are about to vote upon.

For the first time since 1997, this body, the Senate, is taking action to reduce or slow that growth in Federal entitlement spending. The legislation before us today will reduce spending nearly $40 billion over the next 5 years. If you extrapolate that out to 10 years, it is about $100 billion.

For some, particularly on the other side of the aisle, this legislation—and I want to put that in quotation marks—"cuts too much."

Let me respond by saying entitlement spending is projected to grow from $1.3 trillion to over $1.7 trillion in 2010—$1.3 trillion to over $1.7 trillion over the next 5 years. If you add that up, over the next 5 years, the cumulative entitlement spending will top $7.8 trillion.

The bill we have before us reduces that figure, the $7.8 trillion, by a total amount of $40 billion. That is about a half of 1 percent.

"Cuts too much?"

Furthermore, the bill doesn't—that is why I put it in quotation marks—cut entitlement spending, spending which, if we don't pass this bill, will grow at 5.4 percent. Once we pass this bill, it will be slowed to 5.4 percent. That is not a cut. The legislation, as tough as it has been to negotiate—and much of it has played out on the floor of Senate itself—reflects tremendous work over the past several months. It is a small downpayment against greater challenges that confront our country in the years ahead.

Last week, the Congressional Budget Office issued a report entitled "The Long-Term Budget Outlook." Let me read the very first line of that report.

> As health care costs continue to grow faster than the economy and the babyboom generation nears entitlement for Social Security and Medicare, the United States faces inevitable decisions about the fundamentals of its spending policies and its means of financing those policies.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

What it boils down to is the entitlement spending path we are on is simply not sustainable. The legislation we are about to vote on is a good first step on putting us back on a sustainable glidepath. But it is only the first step.

I am proud of the work on this bill to control Federal spending. I congratulate the chairman of the Senate Budget Committee, Senator GREGG, who worked nearly 9 months ago on passage of the budget resolution. The 2006 budget resolution that put in motion this process has brought us to this point of deficit reduction in this reconciliation bill today. Indeed, this final conference bill exceeds the goals set out last spring in that resolution by nearly $6 billion.

I also thank the chairmen of the reconciliation committees and the many staff who have worked so hard in putting this bill together.

It is time we bring this year's budget process to an end with passage of this legislation today. With the New Year only a couple of weeks away, it is time for us to prepare and actually renew our focus on the continued challenges that lie ahead.

The bill shows fiscal restraint. It shows we are going to cut wasteful Washington spending. A "yes" vote demonstrates we are governing with meaningful solutions to ensure America's long-term prosperity.

The ACTING PRESIDENT pro tempore. The Democratic leader.

BUDGET RECONCILIATION

Mr. REID. Mr. President, the matter now before the Senate of the United States is a budget. But it isn't a budget based on mainstream American values: it is an ideologically driven, extreme, radical budget. It caters to lobbyists and an elite group of ultraconservative ideologues here in Washington, all at the expense of middle Americans, those with the greatest of needs, and future generations.

I rise today to express my strong opposition to the budget reconciliation conference report before this body. Rather than sharing the sacrifices needed to get this Nation's fiscal house in order, this Republican budget and this legislation target ordinary Americans by cutting programs such as student aid, Medicare, Medicaid—all to pay for another round of budget-busting tax breaks for special interests and multimillionaires. This budget is an attack on the middle class and those in greatest need on behalf of lobbyists for the powerful. This budget is un-American. In fact, as the leading clergy of Protestants in this country has said, it is immoral.

It is important to consider what is happening in America today. Of course, we know there needs to be fiscal constraint in this country. We are spending $2 billion a day in Iraq alone. Middle-class Americans are being squeezed. Their wages have been stagnant now for several years. Meanwhile, their costs are increasing for everything from a visit to the family physician—if, in fact, they are fortunate enough to be able to get in to one—to college tuition, home heating, gasoline for their cars. As a result, more Americans are struggling to make ends meet.

This administration and this Congress should be helping middle-class families deal with these family issues. Democrats have developed a variety of proposals to do so. Unfortunately, every one of our proposals has been repeatedly blocked by the Republican majority.

We are debating a reconciliation bill, the centerpiece of a Republican budget that not only fails to address the middle-class squeeze but makes it worse and saddles our children—my 5 children and my 15 grandchildren—with billions and billions of dollars in additional debt.

This budget which is before the Senate has a name. Every piece of legislation that comes before this body has a name. The name given to this piece of legislation by the Republican majority is the Budget Deficit Reduction Act of 2005. Try that one on. The Budget Deficit Reduction Act of 2005. It increases the deficit of this country because of the tax cuts they are giving to those who don't need them by some $50 billion over and above these cuts. Budget Deficit Reduction Act? Is that Orwellian doublespeak?

This legislation includes the largest student aid cut in this Nation's history. We have read all the articles about the costs of college increasing. You go to a State university now in Nevada. They are considering that everyone can go to school at the University of Nevada—Reno or UNLV—or the community college system. There were no basic academic requirements. If you graduate from high school, you can go to college. They are considering raising qualifications to get in those schools to a B average—eliminating people like me from being able to go to college. That is wrong. That is what this legislation is doing. A child's ability to be educated should not be dependent upon how much money their parents have.

This legislation, instead of helping middle-class families struggling with these increased burdens, simply increases their costs and makes it even worse for them. Rather than opening doors of opportunity to all Americans, this bill will close the doors for many. Higher fees on students increase the rate of interest on student loans, weaken the financial foundation of higher education, and, I submit, weaken our country. Forcing middle-class families to pay more for college in order to partially pay for another fiscally irresponsible round of special interest tax breaks is not fair. It is bad economic policy.

In today's global and high-tech economy, America's competitive edge depends increasingly on our commitment to education. It used to be that we could go to India and grab all the engineers and bring them here. India needs them now. We cannot do that anymore. We need to educate our own students. We should be increasing a commitment to educating our children. Instead, this bill goes in the opposite direction.

Beyond the cuts in student aid, this bill also contained harmful health care cuts that will increase costs and deny access to millions of Americans. For example, Part B premiums for Medicare will go up, up for all seniors. Home health services are cut. I can remember 20 years ago, I went—a physician asked me to—to Las Vegas to visit his patients who were in hospitals. He said: They shouldn't be here, but under the rules we have, I cannot give them their medication at home. He said: Think how much money this is costing the Federal Government.

We changed it so that people could stay home and be taken care of. We are changing that. We do not save money, we lose money.

While at the last minute the Republican leadership decided under certain provisions to protect certain favored health care interests, they did not provide such protections for ordinary American seniors.

Even more troubling than the cuts in Medicare are the cuts in Medicaid. Medicaid—health care for the neediest of all Americans. This bill targets Americans with the greatest needs and the fewest resources by forcing them to pay more for health care, cutting benefits, and making it harder for them to get the prescription drugs they need. Many of these people are hurricane survivors. We saw the huddled masses on television. We saw them in New Orleans because of the disaster, but there are many communities all over America, and the huddled masses are there, also. We just did not see them on TV. What do we do to help them? Nothing. Nothing.

Many people in America are struggling to survive. These people need more help with their health care, not less. This bill cuts what little health coverage they have, if any, and increases their costs. For what? To pay for another round of tax breaks for special interests, multimillionaires, and billionaires. That is immoral.

This legislation rips and tears at Medicare and Medicaid. This bill's cuts to Medicare and Medicaid are largely why this legislation is strongly opposed by all seniors. The largest seniors organization in America, the American Association for Retired Persons, does not like this legislation. Their chief executive officer, Bill Novelli, writes the following:

> The final conference agreement does not ask for shared sacrifices to achieve budgetary savings. Rather it protects the pharmaceutical industry, the managed care industry, and other providers at the expense of low-income Medicaid beneficiaries and Medicare beneficiaries who will foot this bill.

That is not Senator REID speaking, that is Bill Novelli, CEO of the AARP.

Unfortunately, this bill's Medicare and Medicaid reductions are not the only cuts to this Nation's safety net. The bill cuts funding for child support enforcement.

When I was a young lawyer, I went after some deadbeat dads. Oh, they were hard to trap. They would move from jobs, move from towns. They could always get ahead of their children. But we changed the law so that now we have law enforcement provisions to go after these deadbeats. My son-in-law's sister, in the District Attorney's Office in Las Vegas, spends her full time going after these deadbeat dads. Well, we are going to cut back on this.

This legislation cuts foster care—foster care. Think about that. We all know of people who are foster parents. They have big hearts. They have big needs. And we are going to cut them back.

This legislation cuts back programs for low-income seniors and people with disabilities. I see the Senator from Illinois is in the Chamber. We were together in Arizona. I don't remember the man's name, but there was a man who was an Indian. He testified before us and he talked about how little money he made. He was handicapped. But he worked. And he ended his presentation by saying: I am a proud American. He had a little difficulty of speech, but it was clear what he said. There are many proud Americans who are people with disabilities and low incomes. They need our help. This legislation cuts the ability to help them.

It reduces the availability of housing for families in need. It eliminates FHA's ability to rehabilitate housing. The legislation before this body also badly weakens the Temporary Assistance for Needy Families programs which help move low-income Americans from welfare to work. There was an overwhelming bipartisan consensus in the Senate that we should not change TANF in this fast track. But the Republican leadership ignored that and decided, in the dead of the night, to make the most significant change to welfare policy in a decade.

The bill apparently includes very expensive and unfunded new requirements on States, reducing their already limited flexibility. Meanwhile, the legislation badly underfunds the childcare that parents will need to move from welfare to work. The majority is happy to harm those with the greatest needs. They have gone out of their way to accommodate lobbyists for special interests. For example, lobbyists for HMOs won a huge victory when the conferees rejected the Senate's proposal to eliminate the discredited HMO slush fund. Lobbyists for the pharmaceutical industry saved the industry from adjustments in Medicaid rebates. And lobbyists for certain types of medical equipment won special accommodations as well.

All these favors for special interests should not come as a surprise. After all, that is what we have come to expect from this Congress. The policies being pursued by this Congress are a corruption of our Nation's values. How can it be that we are about to cut student loans, Medicare and Medicaid, and then turn around and provide even more tax breaks to special interests and multimillionaires? Have they no sense of decency? Have they no sense of shame?

The capital gains and dividend tax breaks called for in the Republican budget that are so important to President Bush and this leadership would provide almost half their benefits to those with incomes of more than $1 million. They will get a tax break of more than $30,000 a year.

Meanwhile, the losers won't just be the ordinary Americans who will suffer cuts in student loans, Medicaid and Medicare, all Americans will lose because the tax breaks backed by the Republican leadership will cost substantially more than their spending cuts will save. As a result, the deficit will go up, interest rates will rise, the economy will suffer, and the burdens on our children and grandchildren will increase.

Finally, this budget is wrong for many other reasons and in many other dimensions. It is wrong to target middle-class families already struggling to send their kids to college. It is wrong to target Medicare and Medicaid, which serve seniors and Americans with the greatest needs. It is wrong to use these cuts to help pay for tax breaks that largely benefit those with incomes over $1 million. It is wrong to do all this while handing out favors to special interests and their lobbyists. And it is wrong to approve a budget that will increase the deficit and burden future generations.

This is not a budget based on mainstream American values. It is an ideologically driven, extreme budget that caters to lobbyists and an elite group of ultra-conservative ideologues in Washington, all at the expense of middle-class Americans, those with the greatest needs.

This budget will be approved unless enough reasonable Senators on the other side stand up and do the right thing. I hope they will. And I hope we can finally persuade the leadership in this body, the Republican leadership, that it is time—it is long past time—to stop catering to special interests and to start putting the American people first.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEFICIT REDUCTION ACT OF 2005—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the conference report to accompany S. 1932, which the clerk will report.

The legislative clerk read as follows:

> Conference report to accompany S. 1932, an act to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 5 minutes each for the Senator from New Hampshire and the Senator from North Dakota.

The Senator from the great State of North Dakota.

Mr. CONRAD. Mr. President, the legislation before us suggests that it is deficit reduction. There are three chapters to this book on reconciliation. You have to read all three chapters to understand the meaning of the book. The first chapter provides spending cuts of $40 billion over 5 years. Those spending cuts disproportionately take from those who have the least among us. Chapter 2 provides $70 billion of tax cuts. So the combined effect of chapters 1 and 2 is not to reduce the deficit, it increases the deficit. And the tax cuts give to those who have the most among us.

The Chaplain, in his prayer this morning, asked us to lead lives that will be living sermons—lives that will be living sermons. I do not know of any church that teaches to take from those who have the least among us to give to those who have the most among us.

The third chapter in this book provides for a debt limit increase of $781 billion—one of the largest increases in the debt of our country, in the history of our country.

This first chapter, as I have indicated, contains $40 billion of spending cuts over 5 years. But the second chapter will cut taxes by $70 billion over that same period. The net result is not deficit reduction; it is an increase in the deficit.

If we are to focus just on this first chapter, and put it into perspective, here is what we see: spending cuts of $40 billion. It is almost indecipherable how much that is in relationship to what we will be spending over the next 5 years. We will be spending $14.3 trillion over the next 5 years. So our colleagues on the other side have managed to cut one three-hundred fiftieth—one three-hundred fiftieth—of the spending. But then in chapter 2 they are going to come here and eliminate that deficit reduction by the tax cuts—again, spending reductions from those who have the least among us to give to those who have the most among us. And the extraordinary irony of all of this is that all of this—if this is implemented, the budget that is being passed—is building a wall of debt that is unprecedented in the history of our country.

If this budget is actually implemented over the next 5 years, it will increase the debt of our country from $7.9 trillion to $11.3 trillion. This is not just my estimate, this is the estimate of the people who have written this package.

This is from their own document. They say the debt of the country will increase each and every year by over $600 billion. This is before the baby boomers retire. If you like deficits and debt, if you want to pass on a massive debt to our children, this is your chance. Vote for this package.

It took 42 Presidents 224 years to run up a trillion dollars of external debt, debt held by foreigners. This President has more than doubled that amount in 5 years. This is going in the wrong direction. The result is, we now owe Japan over $680 billion. We owe China almost $250 billion. We owe the "Caribbean Banking Centers" more than $100 billion.

In addition to the explosion of deficits and debt, these provisions in this chapter of the book are unfair to those who have the least among us: Medicaid cuts targeting low-income beneficiaries, child support enforcement cuts, foster care cuts, on and on it goes. The spending cuts are being done to make room for more tax cuts. House Ways and Means Committee Chairman BILL THOMAS told a group of GOP lobbyists the spending cuts are necessary to make room for the tax-cutting legislation.

I will be making points of order against this bill because we believe this bill has violated the rules of this body in instance after instance after instance, repeated violations of the rules. At the appropriate time, I will bring a point of order.

I conclude as I began: This legislation, taken as a whole, all of the chapters of reconciliation, will increase the deficit and debt of our country, will have one of the largest increases in debt, $781 billion, in our Nation's history. In addition to that, this has the wrong priorities, taking from the least among us to give to those who have the most among us. That is wrong.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. GREGG. What is the time situation?

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire has 5 minutes.

Mr. GREGG. Mr. President, every so often in this body—and it is quite rare—we come to a point where a vote must be cast in order to determine whether the words you speak are going to be complied with. That is this vote. All of us in this Congress tend to talk about fiscal responsibility. We all are concerned about our children and the type of Nation we are going to leave them. We know that because of the retirement of the baby boom generation, our children will face huge financial stress from the costs of Government. We know that we have on the books approximately $44 to $55 trillion of unfunded liability in the area of Medicaid, Medicare, and Social Security accounts that benefit seniors. That huge number is a result of the fact that there is a huge generation about to retire called the postwar baby boom generation.

The question for us, as stewards of this Nation and as stewards of our children and our grandchildren's future, is whether we are going to pass on to them this type of debt or whether we are going to step on to the turf of trying to address that issue before it overwhelms us. Whether our children have an opportunity to live as good as our generation has, to send their children to college, to own a home, to be able to live in an America which is prosperous, will be determined by whether we, as a government, are responsible in what debt and obligations we pass on to them.

For 8 years, we have ignored this problem. Today we have an opportunity to address it. This will be the first time that this Congress in 8 years has stepped onto the turf, put our toe in the water—actually, we are going up to our ankles—to address the issue of future responsibilities and how we control the spending of the Federal Government in the outyears.

We have addressed the issues on the appropriations side, discretionary spending, but we have refused, over the last 8 years, to address the issue of mandatory spending or entitlement programs. This is not a major step forward. I wish it was bigger. The Senator from North Dakota held up charts which show how unfortunate it is in its size, that it is not larger. He has pointed out that it is $40 billion on $14 trillion of spending. He calls that one three hundred fiftieth of a percent. It is actually about a half a percent of the spending during that period. But the point is, if we do not proceed at this time, if we do not go forward, it is still going to be $40 billion of debt that we pass on to our children. That is what this vote is about.

It is not about the tax issue. This isn't a tax bill. It is not about the debt issue in the sense that it is not the debt extension vote. It is the one vote that we will have as a Congress to try to control the outyear debt of this country through restraining spending. It will be the first time that we have stepped forward on the issue of one of the major entitlements, specifically Medicaid. We don't do a great deal on the numbers side of Medicaid. I wish we had done a lot more, and I tried to do a lot more. But we do take significant steps in the area of policy, on how we address Medicaid by essentially taking what the Governors have proposed, in a bipartisan approach, and putting that language into this bill to give the Governors more flexibility as to how they deliver Medicaid in the States, thus allowing them to deliver more services to more people at less of a rate of growth.

That is reflected in this chart. We can see that dedicated spending is going to go up 40 percent under this bill. It would go up 40 percent under the law, generally. We essentially reduce the rate of growth, not dramatically, but we put in place policies which will allow us to improve the system and care for more children more effectively.

This is it, folks. This is the only chance we are going to have this year. It is the only chance in the last 8 years to actually step forward and do something about deficit spending on the entitlement side.

This is our responsibility to our children. We should pass this bill, or else we should ask ourselves what type of public policy are we pursuing and what type of stewards are we of our children's future. This is the one vote we will have to reduce the rate of growth of the Federal Government.

I believe we have now used the 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. GREGG. On both sides?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. GREGG. I ask unanimous consent that as we debate the issue of points of order, which the Senator from North Dakota is going to make, we have 4 minutes on both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from North Dakota.

Mr. CONRAD. Has the Senator yielded?

Mr. GREGG. Yes.

Mr. CONRAD. Mr. President, could the Chair advise us, what is the parliamentary circumstance we confront? My understanding is I am to be recognized to make a point of order at this point.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. CONRAD. I thank the Chair.

Mr. President, this bill contains many violations of the rules. We are here because the majority insisted on ramming through bad legislation at the last moment with little or no public scrutiny. This 774-page bill was written behind closed doors with no input from the minority. It was filed in the dead of night and voted on in the House at the crack of dawn. Then House Members left town.

Let's remember that reconciliation is a special parliamentary process that allows legislation to be passed with fast-track procedures that restrict a Senator's right to debate and amend. Because of these fast-track procedures, the Byrd rule was adopted to prohibit extraneous, nonbudget-related provisions from being included.

The points of order that I am raising are all violations of the Byrd rule. I now raise these three points of order:

One, striking the Medicaid medical liability provision, which allows hospitals to deny treatment to low-income individuals who are unable to pay. Not only is the majority raising copayments on low-income Medicaid beneficiaries, but they are shielding hospitals from medical liability if they refuse to treat those low-income people who are unable to pay. That is wrong.

Two, striking the foster care provision that would prohibit grandparents from receiving foster care payments. The conference report includes a provision to overturn a Ninth Circuit Court case that allowed grandparents with limited incomes to receive foster care payments when parenting vulnerable children. That is as mean spirited as it is ill-conceived. We know that placing foster kids with their grandparents puts them in the most stable and healthy environment. Prohibiting support for grandparents who take in foster children is wrong.

Three, I am also raising points of order against reports focusing on policy matters that do not belong in a reconciliation bill. These reports have no budgetary effect whatsoever and should not be here.

I hope my colleagues will support these points of order so we can send this bill back to House. Let's use this opportunity to create a better product for the American people.

Mr. President, I raise the point of order pursuant——

Mr. GREGG. Will the Senator yield?

Mr. CONRAD. Let me conclude first.

Mr. GREGG. My question is whether I should make my statement before the Senator makes the point of order.

Mr. CONRAD. That is fine.

Mr. GREGG. Mr. President, the Senator from North Dakota has been cooperative and very fair, as he always has been when proceeding on these bills. He is a true professional. I know the Chair has been advised as to what the four points of order are.

I have a parliamentary inquiry: Does the Chair deem the foster care point of order to be well taken if that question is put to the Chair?

The ACTING PRESIDENT pro tempore. The Chair does not believe that particular point of order is well taken.

Mr. GREGG. Basically, if I may continue, we would be dealing with three points of order as being well taken if they are put to the Chair?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. CONRAD. Mr. President, might I inquire, on the other three points of order that I have raised, would the Chair rule that those points of order are in fact in order and appropriate?

Mr. GREGG. Not at this time is the question.

Mr. CONRAD. Yes.

The ACTING PRESIDENT pro tempore. When it is time, under the rule, the Chair will in fact so rule.

Mr. CONRAD. I thank the Chair. I thank my colleague. We have worked in a professional and cooperative way. I thank the Chairman for his inquiry.

Mr. GREGG. Mr. President, the Democratic leader on the bill has every right to make a point of order. Clearly, the Chair will rule they are well taken. Let's talk about the substance quickly.

They are essentially technical points of order. Two deal with reports and the other with an issue of liability which is very narrow, dealing with what people are told when they come into an emergency room. Essentially, the practical effect of doing these technical attacks on this bill will be that the bill must go back to the House of Representatives and the House of Representatives is going to agree and knock that language out. But the House is not here.

So what is the real practical effect of this? It is that the Katrina money in this bill will not be spent. The TANF Program, the welfare program, will lapse. The Medicare physicians payments increase, which basically makes Medicare physicians whole, will not occur. Transitional medical assistance for families who worked their way off welfare will be lost. And the therapy caps for seniors who suffer strokes will be lost during this interim period.

Why would we want to do that simply to go through a technical exercise? It makes no sense at all, other than the fact that the other side of the aisle wants to delay the process. But in the process of delaying for purely technical reasons—I mean, two reports are being challenged. We get thousands of reports in this institution. To delay the Katrina benefits for the people in the gulf coast region who have suffered is outrageous, over two reports.

To potentially stop welfare payments for up to a month because the House cannot get back here is outrageous, over two reports. To stop transitional medical assistance is outrageous, over two reports. To say nothing of the other reports. I realize if we don't enact this bill by the end of this year, there are $18 billion worth of subsidies that are going to flow to corporate lenders which are totally inappropriate, which the HELP Committee has said we have to stop. But those subsidies will go to those lenders. The money will potentially be lost, and that money that was going to be used to reduce debt and give students more loans will be lost, potentially, unless we get this bill done by the end of the year.

We have serious issues that have to be addressed. They should not be tied up over technicalities. That is what these points of order are about.

Mr. BAUCUS. Mr. President, I support the point of order raised by Senator CONRAD on the budget reconciliation bill. Under the Byrd rule, any provisions in a final budget reconciliation bill that are extraneous to changing the budget can be stricken. Section 6043, the emergency room copayments for non-emergency care provisions, clearly violates the Byrd rule.

Section 6043 makes far-reaching policy changes never debated in the Senate that have no place in a budge reconciliation bill. Although the provision makes major changes to Medicaid, the Emergency Medical Treatment and Labor Act, EMTALA, and even State medical malpractice liability policy, it only generates net savings of $11 million over 5 years, one-tenth of a percent of the original budget target.

Section 6043 allows States to impose new higher costs for Medicaid patients seeking emergency room care and allows hospitals to turn patients away if they cannot pay when the hospital says there is no emergency. Under current law, Medicaid requires hospitals to provide access to emergency care when it is medically needed. In fact, Medicaid HMOs are required to cover care in cases where the individual reasonably believes there is an emergency, even when no emergency exists. And Federal law requires hospitals to screen and stabilize patients regardless of their ability to pay.

Section 6043 turns current law on its head. It will deter emergency room use by Medicaid beneficiaries and make it harder to enforce the Federal guarantee of access to emergency care for all.

The provision also includes language that makes it harder for patients to sue hospitals and doctors for poor treatment decisions about whether they need emergency care. This language would tip the burden of proof from a "preponderance of the evidence" to a "clear and convincing" evidence standard. The "preponderance" standard is the usual standard in State medical malpractice claims. It is a standard that strikes the balance between the patient and the provider. The "clear and convincing" standard tips the burden of proof toward the patient and makes it more difficult for a patient to prove his or her claim.

Similarly, the provision also changes the standard of liability from the usual State standard of "negligence" to a heightened standard of "gross negligence." It is more difficult for a patient to prove "gross negligence" than "negligence." Thus, the language changes the standard of liability to impose greater burdens on the injured patient and less accountability for the providers. This actually makes an end run around State medical malpractice liability law, lowering the standard of liability.

Neither State medical malpractice law nor EMTALA standards were the subject of this bill. Neither was discussed in the Senate, even though both are of great concern to many in the Senate. This provision was never discussed or considered at any point in the Senate debate, in committee or on the floor. It was omitted from the Senate version.

Given this section's extremely small pricetag and its oversize policy effect, this provision is ripe for exclusion under the Byrd rule. For these reasons, I support Senator CONRAD's point of order to strike section 6043.

Mr. CONRAD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. There is 1 minute 29 seconds.

Mr. CONRAD. Mr. President, some of these matters are technical matters. But we have rules in this body for a reason. This legislation has many violations of the rules. I have chosen a few to raise today. Why? Because, colleagues, we could be voting all day on my points of order against this bill. I have tried to reduce it to one vote to accommodate colleagues. I could be here raising 12 or 15 points of order and ask for a vote on every single one of them. I have not done that. Yes, some of these matters are technical, but they are because we have rules.

I would say that the question of Medicaid liability is not a technicality. This is a question that allows hospitals to deny treatment to low-income individuals who are unable to pay. Not only is the majority raising copayments on low-income Medicaid beneficiaries, but they are shielding hospitals from medical liability if they refuse to treat those low-income people who are unable to pay. That is wrong.

Let me just say, on the foster care matter, we have a difference with the Parliamentarian. I believe there is a violation.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. CONRAD. Again, I believe the foster care question that prohibits grandparents from receiving foster care payments is also well taken, but we understand there is a difference.

I raise the point of order pursuant to section 313(b)(1)(A) of the Congressional Budget Act of 1974 against section 5001(b)(3) and section 5001(b)(4) of the conference report because those provisions of title V regarding Medicaid produce no budgetary changes in outlays or revenues; and pursuant to section 313(b)(1)(D) of the Congressional Budget Act of 1974 against section 7404 regarding foster care, and the portion of section 6043 beginning on page 92, line 19, through page 93, line 2, which relates to the negligent standard for hospitals and physicians who treat Medicaid patients because any changes in outlays or revenues associated with those two provisions are merely incidental to the nonbudgetary components of those provisions.

I hope my colleagues will vote to sustain this point of order.

Mr. GREGG. Mr. President, I move to waive section 313 of the Congressional Budget Act for consideration of sections 5001(b)(3), 5001(b)(4), and the relevant sections of 6043 of the conference report to accompany S. 1932.

I understand the Chair is going to rule that the fourth point of order relative to foster care is not well taken.

I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 52, nays 48, as follows:

[Rollcall Vote No. 362 Leg.]

YEAS—52

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—48

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Smith
Snowe
Stabenow
Wyden

The PRESIDING OFFICER (Mr. MARTINEZ). On this vote, the yeas are 52, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. CONRAD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, am I recorded?

The PRESIDING OFFICER. The Senator is recorded.

Mr. CONRAD. Mr. President, could we have order in the Chamber?

The PRESIDING OFFICER. The Chamber will please be in order. Senators will please take their conversations off the floor.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, it is my understanding I would now have the right to offer a second point of order.

The PRESIDING OFFICER. The unanimous consent agreement did authorize that.

Mr. CONRAD. Has the Chair ruled on the point of order?

The PRESIDING OFFICER. The Chair is about to do so.

Mr. GREGG. Mr. President, the Chair is about to rule on the points of order which were just offered, is that correct?

The PRESIDING OFFICER. Correct. The point of order is sustained against section 5001(b)(3), section 5001(b)(4), and that portion of section 6043(a) proposing a new subsection (e)(4) to section 1916A of the Social Security Act as added by section 6041 and as amended by section 6042 of this act. The point of order is not sustained against section 7404.

Mr. CONRAD. I thank the Chair. I now ask if it is in order that I would offer a second point of order under the unanimous consent agreement.

The PRESIDING OFFICER. The unanimous consent agreement did so authorize.

Mr. CONRAD. Mr. President, colleagues, I see no need to ask colleagues to cast another vote. Therefore, I will withhold on the second point of order and we could go right to passage of the reconciliation conference report.

Mr. GREGG. I suggest that is a good approach.

THIRD-PARTY PAYORS

Mr. BOND. Mr. President, I rise to engage the chairman of the Finance Committee in colloquy regarding clarification of some Medicaid provisions relating to strengthening the government's ability to identify and collect payment from liable third party payors.

Under current law, Medicaid is the payor of last resort. In general, federal law requires available third parties must meet their legal obligation to pay claims before the Medicaid program pays for the care of an individual.

The conference report amends the list of third parties named in section 1902(a)(25) of the Social Security Act for which States must take all reasonable measures to ascertain the legal liability to include, among others, pharmacy benefits managers.

Once only the back office to health plans, employers, and State governments, pharmacy benefit managers have expanded their business model to include serving as risk-bearing entities under the Medicare Part D program.

I would like to clarify that the addition of pharmacy benefit managers to the definition of liable third parties is in the instance when they are at risk for the underlying benefit, such as operating as a plan sponsor for purposes of providing health benefits or as a riskbearing entity under the new Medicare Part D program as a stand-alone PDP. This addition is not meant to make pharmacy benefit managers liable when they are acting merely in an administrative capacity on behalf of a liable third party.

Mr. GRASSLEY. I thank the Senator from Missouri. Yes, I want to clarify the intent is not to create an additional liability where none exists today. Pharmacy benefit managers mayor may not be liable third parties. It is dependent upon whether they are ultimately responsible for the payment of a claim. It is my understanding that the health plan or employer contracting with the pharmacy benefit manager is ultimately at risk for the underlying claim, so it is my belief this will not create new liability for the pharmacy benefit manager.

Mr. BOND. I thank the Chairman.

BONA FIDE SERVICES—CLARIFYING THE TREATMENT OF DISTRIBUTOR SERVICE FEES UNDER THE NEW MEDICAID PHARMACY REIMBURSEMENT METRIC

Mr. LOTT. Mr. President, I again commend Chairman GRASSLEY for the leadership role he has taken in crafting much needed reductions in the mandatory spending programs that fall under his jurisdiction as chairman of the Senate Finance Committee. Regarding the changes to the Medicaid pharmacy reimbursement formula, we both share a strong commitment to ensuring that the Federal dollar is spent in a wise and proper manner while maintaining patient access to their medicines.

I do want to take this opportunity to clarify specifically how bona fide services fees, which are negotiated between a manufacturer and pharmaceutical distributor, should be treated under the new Medicaid pharmacy reimbursement metric.

Manufacturers pay bona fide service fees for specific services provided by the distributor. Service fees are a relatively new business model to the pharmaceutical distribution industry and how they should be treated under Federal reimbursement programs first came into question as the new Average Sales Price, ASP, metric under the Medicare Modernization Act was being implemented. I am pleased to note that Congress specifically did not include service fees as a price concession to be incorporated into the ASP calculation and CMS subsequently confirmed that, "Bona fide service fees that are paid by a manufacturer to an entity, that represent fair market value for bona-fide service provided by the entity, and are not passed on in whole or in part to a client or customer of the entity should not be included in the calculation of ASP."

In light of this, I wanted to make it clear that it was not the Chairman's intent to have manufacturers include such bona fide services fees in the new Medicaid pharmacy reimbursement equation.

Mr. GRASSLEY. The Senator from Mississippi is correct. It was not the intent of the conferees to suggest that by dropping bona fide services fees from the final agreement that those service fees should be included in the calculation of the Medicaid Average Manufacturer Price, AMP, based reimbursement methodology as established in the pharmacy reimbursement provisions of the conference agreement.

I thank my colleague from Mississippi for seeking this clarification.

CONTINUED DUMPING SUBSIDY OFFSET ACT

Mr. CRAIG. Mr. President, I rise to commend Chairman GREGG on his leadership regarding the Deficit Reduction Act. The Budget Committee has had to make hard decisions and has labored to do so fairly. I have seen first-hand and appreciate the Chairman's dedication to the integrity of this process.

On behalf of myself and Senator BURNS, I would like to state for the record our understanding of the effect of the language in the bill regarding repeal of the Continued Dumping Subsidy Offset Act CDSOA.

We understand that the bill requires distribution of all antidumping and countervailing duties finally determined, ultimately assessed on any and all imports of merchandise that are entered, or withdrawn from warehouse, for consumption by the deadline of October 1, 2007.

Further, we understand that liquidation or assessment of duties need not occur prior to the deadline of October 1, 2007, as a condition of distribution and that the duties ultimately assessed will be distributed regardless of the date on which they are finally determined and collected.

In other words, while appeals to U.S. courts or NAFTA panels or other proceedings at administrative agencies may prevent final assessment and collection of the duties owed until after the deadline of October 1, 2007, so long as the imports are entered, or withdrawn from warehouse, for consumption by that date, the duties ultimately assessed will be distributed annually under the processes currently specified in law.

Finally, we understand that subsection (b) specifies that the CDSOA shall operate "as if" there had been no repeal; meaning that Customs will maintain all existing aspects of the program codified at 19 U.S.C. §1675c, and contained in accompanying regulations, including all accounting procedures, all administrative and other mechanisms, and all infrastructure in place to collect, account for, track, and distribute duties on merchandise entered, or withdrawn from warehouse, for consumption by the deadline of October 1, 2007. And at all times we would expect that collections of duties are to be pursued aggressively by U.S. Customs and Border Protection.

Mr. FRIST. It is my understanding that my colleague is correct in his interpretation of the language agreed to by the conferees. In essence, the Continued Dumping Subsidy Offset Act will remain in effect for all imports of merchandise that are entered, or withdrawn from warehouse, for consumption by the deadline of October 1, 2007. However, duties collected on products entering on or after October 1, 2007, will be deposited with the U.S. Treasury. Since the WTO has declared the CDSOA as putting us out of compliance with our WTO obligations, other nations have begun to retaliate against our exports. This will bring us into compliance with that ruling and hopefully will bring to an end the sanctions U.S. companies are currently facing.

Mr. CRAIG. I thank the leader for that clarification and I appreciate all of his hard work in reaching this compromise language.

Mr. SANTORUM. Mr. President, I rise today in support of S. 1932, the Deficit Reduction Act of 2005, but I want to take a few minutes to discuss a specific aspect of that bill—the reauthorization of the welfare reform law. As many of my colleagues have heard me say, I believe the 1996 welfare reform law is one of the great legislative successes during my time in the U.S. Senate. Since the bill's enactment, welfare caseloads have been cut in half, more than 7 million individuals and 2 million families have exchanged a welfare check for a paycheck, and welfare reform has lifted 2.3 million children out of poverty.

We must build upon this success to move the 2 million families that remain on welfare into the workforce by ending the Practice of simply extending the program and passing a legislative reauthorization of the welfare reform law. On January 24, 2005, I introduced S.6, the MORE Act, that included a reauthorization of TANF. A bipartisan reauthorization bill, S. 667, passed the Senate Finance Committee with my support on March 9, 2005. While I continue to believe that such reauthorization would have been best suited by moving the Senate Finance Committee reported bill, S. 667, under regular order; we unfortunately have been unable to reach an agreement with our colleagues on the other side of the aisle to bring this bill to the floor.

After over 3 years of trying to move forward on this reauthorization, our colleagues in the House have included TANF reauthorization in their budget reconciliation bill. Going into this process, I was concerned that some provisions in the House legislation regarding work hours, participation rates, child support enforcement and access to child care did not strike the appropriate balance needed to meet the needs of these families as they strive to move from welfare to work. I was pleased that the House had included provisions to encourage healthy marriages, promote responsible fatherhood, and support strong families. At the end of the day, the Deficit Reduction Act is not my preferred vehicle, but I am glad we are making some improvements in the program without upsetting the necessary balance.

The conference report reauthorizes the welfare program—the Temporary Assistance for Needy Families program or TANF—through fiscal year 2010 at its current funding level of $16.9 billion annually. The bill provides an additional $1 billion for child care over 5 years for a total of $2.917 billion annually. While I understand and have heard from many that they want a higher amount for child care, this bill will increase the investment in child care for working families by $1 billion, and if we don't do this bill there will be no increase in child care at all. It is important to get this increase done this year.

I am very pleased that the conference report provides $100 million annually for healthy marriage promotion, and $50 million annually for the promotion of responsible fatherhood. The need for these programs is clear. Children growing up in married, two-parent homes are less likely to be victims of abuse, engage in high risk behaviors, and suffer from emotional problems. Children who live absent their biological fathers are, on average, five times more likely to be poor, and at least two to three times more likely to use drugs, to experience educational, health, emotional and behavioral problems, to be victims of child abuse, and to engage in criminal behavior than their peers who live with both parents.

However the benefits are also clear. Married families are 5 times less likely to be in poverty than are single-parent families. Adults benefit from marriage through lower mortality rates, better health, greater financial well-being, less suicide, greater happiness, and suffer less violence by intimate partners. Children with involved, loving fathers are significantly more likely to do well in school, have healthy self-esteem, exhibit empathy and pro-social behavior, and avoid high-risk behaviors such as drug use, truancy, and criminal activity compared to children who have uninvolved fathers. These grants can be used to provide information on the value of marriage, conflict resolution, relationship skills and financial management. Increasing healthy two-parent marriages is a proven means to reduce poverty and improve child well-being.

This conference report also makes modest changes in the implementation of the TANF program. First, it updates work participation rates. The 1996 Welfare Reform Act, P.L. 104–193, contemplated that all states would meet a 50-percent participation rate by 2002. Because the current caseload reduction credit is based on the 1995 caseload level, most States—including my home State of Pennsylvania—have an actual participation rate standard of zero. States currently achieve their credit because of their ability to count a decade-old caseload decline. The conference report updates the credit to the more relevant date of 2005, thereby ensuring that the intent of the 1996 welfare reform act is realized.

The bill also closes a loophole on work participation rates. To avoid having to meet caseload requirements, some states set up separate programs and moved their harder-to-place clients to those programs to avoid the work requirements. The bill removes the ability to game the system by including these separate state programs in the work calculation, closing a loophole.

I have seen a number of reports that indicate that this bill changes work requirements, narrows what is considered work, et cetera. I want to be clear that this bill maintains the current work requirements. The bill does not change the current-law standard of 30 hours and maintains the separate 20-hour standard for adults with a child six years of age and under. It also maintains current-law activities that count as work, including allowing 12 months for education and training. The measure leaves it to the states to determine whether activities may be counted as work activities, and how to count and verify reported hours of work.

I have heard a number of my colleagues say that this bill "cuts" money from child support enforcement. I hope they go back and read the bill. The change in child support actually increase child support enforcement and gets support to the families. The conference report includes provisions that increase States' ability to improve child support collection. Under current law, much of the child support that is owed to families on welfare is assigned to the State. The conference agreement would allow $423 million owed to families on welfare and those who have left welfare to go directly to those families—a significant improvement over current law.

The supposed "cut" is a restoration of the current state-matching requirement. Currently, States are required to match certain Federal funds with state funds, showing a State investment in the child support enforcement program. However, States have been taking Federal funds from one grant and then using them as the "Federal" matching funds rather than using State funds. The conference report prevents States from "double dipping" by using Federal funds to draw down additional matching federal funds for child support enforcement.

Additionally, the conference report provides $100 million for grants to ensure that the safety, permanence and well-being needs of children are met in a timely manner. The funds may also be used for the training of judges, attorneys, and other legal personnel in child welfare cases.

The measure also provides an increase of $200 million for the Safe and Stable Families program. The purpose of this program is to enable States to develop, expand or operate coordinated programs of community-based family support services for family preservation services, family reunification services, and adoption promotion.

A number of organizations may have misunderstood the changes relating to the alleged "cuts" in foster care. There are two provisions relating to foster care that might have led to this misperception, so let me speak on them for a minute.

First, the conference agreement restores long-standing foster care eligibility criteria relating to the Rosales v. Thompson decision. That decision from the Ninth Circuit Court of Appeals broadened eligibility for Federal foster care benefits to include almost every child in foster care in the nine affected States—California, Oregon, Washington, Arizona, Montana, Idaho, Nevada, Alaska and Hawaii—instead of only children removed from low-income homes that TANF is intended to help. The conference agreement again ensures the same policy applies nationwide. As this decision did not apply in Pennsylvania, this change does not affect my home State.

Second, the bill limits the amount of administrative expenses when States are slow to place children in safe and suitable situations. I should be clear that this proposal does not reduce foster care benefits because the funds in question do not support payments to families. Instead, the proposal addresses how much Federal funding States may claim to operate their foster care programs and under what circumstances Federal funding may be claimed. Current law requires the placement of a child in a licensed foster family home or a child care institution as a condition of eligibility for federal foster care maintenance payments. As part of meeting this duty, States may make certain administrative claims on behalf of "candidates" for federal foster care. "Candidates" are children who have not been removed from their homes but are at imminent risk of removal.

The proposal allows the State to claim Federal administrative funds for up to 12 months while children are "candidates" for Federal foster care and the State is working to license the home as safe and appropriate for the child. In January 2005, the Department of Health and Human Services, HHS, issued a proposed regulation making this change. So States have been on notice that this issue was of concern for almost a year. Fourteen States have indicated that they would be affected by the proposed regulation; however Pennsylvania was not one of those States.

In summary, millions of our fellow citizens have replaced the dependency on government handouts with the dignity and opportunity of work. Children and families will now have opportunities to strengthen their families through programs to support marriage and responsible fatherhood. Thousands of children will have access to childcare through the $1 billion in new funding. And we have strengthened our child welfare programs. On balance, I think the reconciliation bill, as it relates to welfare reform, is a step in the right direction. I remain committed to ensuring that work remains a gateway to opportunity for all Americans and urge my colleagues to support passage of S. 1932, the Deficit Reduction Act of 2005.

Mr. KOHL. Mr. President, I once again rise to reluctantly, but adamantly, oppose the budget reconciliation bill before us today. I say reluctantly because the Senate ought to use the reconciliation procedure for the purposes for which it was intended: making difficult choices to reduce spending. We have an obligation to bring our Nation's budget back into balance so we don't saddle future generations with endless debt and economic ruin. However, this budget fails on every level to achieve this goal. And even worse, the budget cuts that this bill does make fall squarely on lower-income Americans who can least afford them.

One provision in this conference agreement that I support relates to extension of the Milk Income Lost Contract, MILC, program. MILC, which expired at the end of the last fiscal year, provides countercyclical support for the Nation's dairy sector. It is targeted. It is fair. It is essential. Moreover, it enjoys the President's support. It makes sense as part of the balanced Agriculture package in this bill.

But even this one bright spot is not enough to save this bill or the budget plan of which it is a part. This bill is just one piece of a fraudulent, fiscally, and morally bankrupt budget which I cannot endorse. While the conference agreement we are now voting on cuts almost $40 billion in spending, waiting in the wings is a tax-cut bill that will likely cost more than $70 billion in tax cuts for the wealthy. The math simply doesn't add up. You can't pass a bill to cut spending by $40 billion and follow it up with a tax bill that will cost more than $70 billion and claim you are reducing the deficit it's simply untrue and irresponsible.

I am willing to make the hard choices to bring our budget deficit down, but this conference agreement does not reflect our Nation's priorities. I cannot support taking vital services away from families that need them the most—and use those cuts as a fig leaf to hide tax breaks for those who need them the least.

I am particularly disappointed that the House and Senate conference committee has come back with an agreement that is actually worse than the original Senate-passed bill. This so-called compromise causes more harm to low-income Americans while shielding powerful special interests, such as pharmaceutical companies and the managed care industry, from any sacrifice.

This conference report achieves much of its savings by requiring low-income Medicaid beneficiaries to pay more out-of-pocket for health care, and taking away health care services for which many beneficiaries are currently covered. Even more egregious, negotiators dropped a common-sense provision in the Senate-passed bill that would have saved billions of dollars by eliminating a slush fund for private insurance companies in the Medicare prescription drug program.

This bill before us also fails our Nation's students who are struggling to pay for college. Student loans help to ensure that every student in America can choose higher education regardless of his or her financial or social background. These programs are an investment in our future and an investment in a diverse, educated population who will lead this country in the 21st century.

At a time of rising tuition costs, this conference report would actually make college less affordable. It would establish a fixed interest rate instead of maintaining today's lower variable rates—leaving the typical student borrower, who has $17,500 in student loan debt, having to pay up to an additional $5,800 in order to repay his or her college loans. It is simply unacceptable to make the largest raid on the student aid program in history at a time when millions of families are struggling to keep up with skyrocketing tuition costs. And it is inexcusable to do this in order to pay for tax breaks for the wealthiest in our society.

I urge my colleagues to reject this bill—and the irresponsible and cruel budget of which it is a part. It does not reflect the right budget priorities, and it certainly does not reflect the values of American families. And adding insult to injury, these harmful cuts will not even help our country dig its way out of a large and growing budget deficit. This bill will soon be combined with tax breaks for the wealthiest Americans that exceed, by tens of billions of dollars, the value of the cuts themselves, and leave our fiscal situation in even worse shape than before. We should reject this reckless budget plan and instead work to make the responsible choices that the American people expect.

EXPIRING TAX PROVISIONS

Mr. BAUCUS. Mr. President, the Senate is wrapping up legislative business shortly, but there are a few expiring tax provisions that have unfortunately not been extended yet. Chief among them is the protection from the onerous alternative minimum tax, or AMT. Both the higher exemption level and the protection for personal nonrefundable credits expire on December 31, and because of this, 17 million taxpayers face a tax increase next year if we fail to act. Further, a great number of U.S. businesses rely on important tax credits, such as the research and development tax credit and the work opportunity tax credit, both of which expire at the end of the year. This is not the first time this unfortunate situation has occurred, but it is my hope and intention that as soon as the Senate reconvenes next year, that we would take up these items and ensure that they are extended without any intervening lapse. Is that also the intention of my good friend from Iowa, Chairman GRASSLEY?

Mr. GRASSLEY. I thank you, Senator BAUCUS for raising the issue. Providing relief from the alternative minimum tax for millions of American families is critically important. The alternative minimum tax is badly in need of reform and I know he is anxious to work with me on that important task. Until such time, we must provide annual relief to prevent further expansion of that tax's reach. I was proud that we were able to accomplish that objective as part of the tax reconciliation bill that passed the Finance Committee and the Senate at the end of November. I remain committed to seeing that AMT relief enacted into law. In addition, we should act quickly on other expiring tax provisions to provide simplification and certainty for individuals and businesses, alike.

Mr. BAUCUS. I thank the Chairman for his statement. I look forward to working with him to pass legislation as quickly as possible to provide a seamless extension of these provisions. This will ensure the fewest disruptions for taxpayers and administrative problems for the IRS.

Mr. HATCH. Mr. President, I rise today to express my support for the budget reconciliation bill conference report. As I have stated here during the different stages of debate on this year's budget, the most notable thing about this reconciliation bill is not the size of the reduction of the spending growth but rather the fact that it effectively takes the foot off the accelerator of spending growth and begins to touch on the brakes.

But to get us there, the conferees had to make some hard choices. I will be frank—I would prefer that we pass a bill similar to the one the Senate passed in November. That bill met our budgetary goals, and it struck the right balance. The conference report changes some social programs, and I understand the concerns many throughout Utah have expressed about how these changes will impact care.

That is why I spoke with Health and Human Services Secretary Michael Leavitt last night to discuss how this bill might affect social services in Utah. His assurances that the budget bill will not hurt our more vulnerable citizens were key to my decision to support S. 1932. Secretary Leavitt, who spent more than a decade serving as Utah's Governor, also committed to maintaining a watchful eye over implementation of this law to make sure that all Utahns' interests are protected.

So despite this, my paramount concern was that we act now to curb the growth in entitlement spending because it threatens every one of our children and grandchildren with an unbearable tax burden. This conference report marks the beginning of a much needed change—a change that must occur if we are to gain control of the fiscal future of this country. As many of my colleagues have pointed out, this conference report, if enacted, will represent the first time since 1997 that we have been able to reduce spending growth in entitlement programs.

The conference report before us includes a reduction in Federal outlays totaling almost $40 billion over the next 5 fiscal years. This, I am pleased to see, is nearly $5 billion more than the Senate version of the bill that we passed last month. While I am certainly not happy with all of the individual changes in the conference report, I do like its direction toward more savings growth.

One reason I am so anxious to turn the comer in slowing spending growth on these entitlement programs is that the long-term projections for Federal spending on the three largest entitlement programs—Social Security, Medicare, and Medicaid—are truly alarming. In fact, a new report released last month by the Heritage Foundation states that fully funding these three programs will force Federal spending, as a share of GDP, to increase from today's level of 20 percent to almost 33 percent by 2050.

Moreover, according to the report, the cost of these three programs alone could jump from 8.4 percent of GDP today to 18.9 percent of GDP by 2050. Failing to curb the growth in these programs leaves us with three very unattractive and dangerous alternatives. The first would be to raise taxes dramatically. As we know, such a move would choke off economic growth and leave us vulnerable to economic recessions which would exacerbate rather than help the problem.

The second alternative is equally untenable—eliminate all other spending, eventually to include all discretionary spending. This, of course, is absurd since our defense, homeland security, and other vital spending is included in this category. The final alternative is to continue to allow the deficits to continue to build up as we try to keep on financing the growing debt with loans from other countries.

Therefore, our only real choice is to begin to slow down the growth in these programs. This conference reports does start us on this path.

However, I acknowledge this conference report is far from perfect. It retains some flaws from the Senate version of the bill, and it came back from conference with some new flaws.

That being said, I believe this legislation is a step in the right direction. The Medicare provisions are more in line with the Senate version, and overall it targets Medicare's resources to better serve our seniors and disabled. The conference report ensures that beneficiaries don't lose their doctors because of budget cuts, and it expands services while making significant budget savings in noncritical areas.

While I do not agree with everything in this bill, I am pleased that the legislation restores the stabilization fund for the Medicare Advantage regional PPOs and allows the Medicare Part B penalty to be waived for international missionaries. It also will expand the Program of All Inclusive Care for the Elderly, PACE, to beneficiaries living in rural areas. PACE offers alternative services to individuals who may need nursing home care but want to live at home if possible. This provision will provide another important choice for long-term care services for beneficiaries in rural areas. I filed all three of these policies as amendments when the Finance Committee considered the budget reconciliation bill.

For Medicare beneficiaries this legislation encourages preventive care for seniors and the disabled. Some of the important provisions in this area include the following: preventive screening tests for abdominal aortic aneurysm; exemption for colorectal cancer screening tests from the Medicare deductible; a 1.6-percent update to the composite rate for end stage renal disease, ESRD, services in 2006; and an expansion of Medicare reimbursement for services at federally qualified health centers, FQHC, by allowing them to provide diabetes self-management training services and medical nutrition therapy services.

In addition, this legislation makes needed reforms to home health payments in order to reduce disparities in provider payment and improve quality and transparency. First, the bill calls for a 1-year, 5-percent add-on payment for home health agencies that serve rural beneficiaries which will help many home health agencies in Utah. Rural home health agencies have much lower Medicare margins than urban home health agencies, and as a Senator who represents a primarily rural State, I believe that this needs to be addressed. The legislation freezes home health payments in 2006. In its March 2005 report to Congress, the Medicare Payment Advisory Commission recommended this freeze in home health payments because Medicare pays home health agencies approximately 17 percent more than it costs agencies to provide home health services. Finally, the legislation also provides financial incentives to home health agencies that report quality data beginning in 2007.

One of the most important provisions in this legislation protects physicians from a 4.4-percent scheduled reduction beginning on January 1, 2006 and, instead, allowed the 2005 payment rates to continue through 2006. I am still committed to fixing this problem once and for all, and I hope that we may accomplish this in 2006 since this issue will need to be addressed once again since physicians are estimated to continue to receive negative cuts of approximately 5 percent from 2006 to 2011. Congress needs to enact a long-term solution as quickly as possible.

With regard to therapy services, for years Congress has worked to find a permanent solution to the problem of overutilization of therapy services. Although I have consistently supported a moratorium on therapy caps, this bill leaves a January 2006 expiration of the moratorium in tact, and I am committed to continue encouraging my colleagues to reinstate this important moratorium.

Now, let me turn to Medicaid. This has been a tremendously successful program but also a very costly one. We have a responsibility to address the dramatic growth in spending, but I was not happy that some of the key provisions have not been considered thoroughly by the Senate. Given expressions of concern voiced to me by my constituents, I only reluctantly give my support to the overall measure.

I would have preferred the Senate language, which did not change the law with respect to beneficiary eligibility. That is why I will be working closely with Secretary Leavitt and other Cabinet-level officials to ensure Utah is treated fairly as this law is implemented.

I would like to take a couple of minutes to share my thoughts on some aspects of the Medicaid portion of this bill. One issue that was debated in both the House and the Senate was the real asset transfer rules. Under current law, Medicaid asset transfer rules are easily skirted—courses are offered to teach attorneys how to circumvent the law. This is plain wrong. The reforms in the Deficit Reduction Omnibus Reconciliation Act will make it more difficult for these transfers to occur and will allow more Medicaid resources to go to those who are in genuine need.

Our current asset transfer policy is flawed. The policy not only allows for exploitation, it encourages it. The current statute has loopholes that allow wealthy seniors to qualify for Medicaid. Let me make one point clear—Medicaid exists to protect the most vulnerable, not the most wealthy.

We need a fair, equitable policy. We need to protect the Medicaid Program for those who need it most. The legislation before us today addresses this situation by closing the loopholes in Medicaid. First, it prevents seniors from intentionally protecting their assets—people should not be allowed to hide their money in order to receive Medicaid nursing home coverage. Second, the bill changes the lookback period as well as the penalty period. Today, an older American can shelter half of his or her assets the day before applying for Medicaid.

The conference report starts the penalty period clock when a senior applies for Medicaid, and the lookback period is changed from 3 years to 5 years. Currently, an older person will face a penalty if assets are transferred for the purposes of qualifying for Medicaid within 5 years of applying for Medicaid. This provision significantly strengthens the asset transfer policy.

The new law does not allow an individual with more than $500,000 in home equity to be able to qualify for Medicaid. It does provide State flexibility to increase the cap to $750,000. This is sound policy. Those with home equity over $500,000 should not take Medicaid money from those for whom the Medicaid Program was designed: low-income children, pregnant women, and individuals with disabilities. Also, the policy only applies to individuals. It does not apply to applicants who have a spouse or a dependent child at home. In theory, the State is supposed to be able to put a lien on that home anyway.

Finally, seniors who have a hardship can apply for a waiver. The policy strengthens protections for seniors seeking an undue hardship waiver beyond current law or the Senate-passed version. I don't want to make it harder for people who really need the Government's help. But I do want to prevent seniors from intentionally taking advantage of the system. We need to protect Medicaid for those who need it most.

I discussed this matter in great detail with the Utah Medicaid Director and was assured that, in my home State of Utah, individuals who are under suspicion for transferring assets inappropriately are always given the right to appeal if their request for Medicaid coverage is in question. I understand there are several States, such as Utah, who handle this matter in fair and thoughtful way.

The budget reconciliation conference agreement also makes existing Federal reimbursement rates for drugs more accurate. It makes the average manufacturer price, AMP, of drugs available to the public so that pharmacists and wholesalers will get lower prices through greater competition, and excludes prompt pay discounts paid to wholesalers from the new pharmacy reimbursement rates.

AMP is the average price at which manufacturers sell their drugs to wholesalers, but starting in 2007, the Federal Government will not pay more than 250 percent of the AMP of the lowest cost version of a generic drug. Under current law, the Federal upper limit is 150 percent of the lowest published price. The new payment rates are based on the existing rules governing generic drugs.

The AMP data will also be made available to States and the public. This will create more transparency and competition in drug pricing. CBO has estimated that transparency will help reduce drug costs by hundreds of millions of dollars. Competition and transparency will bring prices down for consumers and protect the taxpayer from needless waste.

The final bill also requires the Secretary to work with private companies that routinely monitor and track drug payment rates for private health plans. The Secretary will then be required to share this information, known as retail sales prices, with States. This will provide State officials with better information about actual market-based prices, such as the rates paid by the Federal Employee Health Benefit Plans pay for prescription drugs. All of this information will provide greater accountability and ensure that Medicaid is paying pharmacists fairly for all drugs, and I am pleased that these provisions were included in the legislation.

The Deficit Reduction Omnibus Reconciliation Act also contains important reforms that will provide Medicare beneficiaries, seniors, and the disabled with better options to manage their care. Under the Deficit Reduction Omnibus Reconciliation Act, States will now be able to provide home and community-based services as an optional benefit to seniors, the disabled, persons with a developmental disability, mental retardation, or a related condition. Coverage of these services will allow more individuals to receive better health care and other assistance. These services will also mean that more persons can remain in their homes, without needing to go into nursing homes. These reforms will help reduce spending by allowing individuals to receive the kinds of care they want, in the settings they prefer, at prices far below what Medicaid usually pays for nursing home care. In addition, no one who currently is receiving care through an institution will be forced to leave that institution in order to receive community-based care.

The final conference report also will allow every State to establish a Long-Term Care Partnership Program. Long Term Care Partnership Programs allow individuals to protect a portion of their assets from Medicaid recoveries if they purchase long-term care insurance. Currently only four States (California, Connecticut, Indiana and New York) are allowed to have these programs. By expanding access to these programs, the new law will help create incentives for people to purchase long term-care insurance. Encouraging the purchase of long-term care insurance will mean that more people will be able to pay for their own nursing care, and fewer will have to rely on Medicaid as a safety net to meet their long-term care needs.

Another area that is addressed in this legislation is Medicaid beneficiary cost-sharing. There is a lot of misinformation about this provision, and I would like to explain this provision in more detail. Under current law, States may require cost-sharing but it is not enforceable. In other words, if a beneficiary does not pay his or her copayment, the health care provider is forced to absorb the beneficiary's copayment. This is why we have such difficulty encouraging providers to participate in the Medicaid Program. Many will not, and all Medicaid beneficiaries suffer as a result.

I believe that the conference report includes reasonable policy that allows States to ask beneficiaries over the poverty line to participate in the cost of their own care. Let me make one clarification—the House-passed legislation required States to impose cost-share requirements on beneficiaries with no income. I do not agree with that policy, and it is included in this bill.

A beneficiary who is above the poverty line may pay up to percent of his or her monthly income to the cost of their care, but that is only if the State decides to impose additional cost-sharing requirements. And let me assure my colleagues that no state is required to impose cost-sharing requirements on these beneficiaries. I will add that even the National Governors Association support reasonable responsible cost-sharing. In fact, Governors testified before the Senate Finance Committee earlier this year and told committee members that they support this policy.

I am aware that substantial concerns have been raised about the provision permitting States to provide Medicaid coverage to children under age 19 through "benchmark" or "benchmark equivalent" coverage. In short, some fear this language might abrogate the right of those children to receive Early Periodic Screening, Diagnostic and Testing, EPSDT, benefits.

For the benefit of my colleagues, I will ask unanimous consent that a statement just issued by Centers for Medicare and Medicaid Services Administration, Mark McClellan, M.D., Ph.D., be printed in the RECORD

As Dr. McClellan has made quite clear, children through age 18 will continue to receive EPSDT. It is my hope this assurance will make many child advocates more comfortable with this bill.

With regard to the welfare portion of the conference report, I was disappointed to see Congress's efforts to reduce the budget contain limitations on welfare, childcare, and child support policy. These vital programs should have been reauthorized through the normal legislative process, not tucked away in a protected budget reconciliation bill which is designed to reduce the Federal deficit. The welfare, childcare, and child support language included in the budget reconciliation bill has almost nothing to do with reducing the deficit and everything to do with changing the rules of these important programs without proper legislative scrutiny or debate.

While I am completely frustrated with the Senate's inability to reauthorize the Temporary Assistance for Needy Families, TANF, legislation using the normal legislative process, I do not believe it is in the best interest of the participants of these programs to include sweeping policy changes in a bill designed to reduce the deficit.

However, I am appreciative of Chairman GRASSLEY's efforts to ensure that childcare funding was increased. Although the increase is limited to $1 billion over the next 5 years, I am hopeful we will be able to secure even larger increases in childcare funding in the near future. Providing quality childcare to low-income families is crucial when we are scrambling to help families become self-sufficient, and I am committed to ensuring the Federal Government continues to help these children and families.

As well, I am appreciative of the chairman's efforts to secure 3 years of supplement TANF grants. The State of Utah has been a large beneficiary of these grants, and as we work to meet the stricter TANF work requirements outlined in this bill, we will continue to have supplemental grants from HHS to help us train and prepare our TANF recipients.

Now I would like to discuss the portion of the deficit reduction conference report that addresses the Continued Dumping and Subsidy Offset Act, which is commonly refereed to as the Byrd amendment. The Byrd amendment amended the Tariff Act of 1930 to require that duties, collected as a result of antidumping and countervailing duty laws, be distributed to the affected entities. At the time it was introduced, I supported this measure as a commonsense proposal.

However, since that time, the World Trade Organization has allowed our trading partners to impose tariffs on various U.S. goods, and the Byrd amendment has gone from a commonsense solution to an impediment to U.S. companies' ability to sell their goods abroad.

First, I must reemphasize my strong support for laws that not only make trade free but fair. Accordingly, I have spoken directly to the Secretary of Commerce, Carlos Gutierrez, and United States Trade Representative, Ambassador Rob Portman, about the vital importance of vigorous enforcement of our trade laws.

Though I have never and will never advocate modifying our laws because of outside pressure, American companies and employees in Utah and all over the country have come to me and asked for my help in repealing the Byrd amendment. Currently, the United States is negotiating, as part of the Doha Round talks, a new trade regime in which international markets would become even more open to U.S. goods and services. If completely successful, the Institute for International Economics estimates that American households could gain as much as an additional $5,000 per year. If today's international trade barriers were reduced by just a third, the average American family of four would enjoy $2,500 per year in additional income, according to a University of Michigan study.

Freer trade helps more than just Americans. The poorest countries stand to gain considerably. According to a Center for Global Development study, a successful conclusion to the Doha Round would result in an additional $200 billion flowing to developing nations, reducing poverty and economic hardship. Not to mention, the Institute for International Economics estimates that trade liberalization over the last 50 years has brought an additional $10,000 per year to the typical American household.

In order to achieve our objectives in the Doha Round, many of our trading partners will be required to make substantial concessions on import duties and subsidies. However, those who oppose our noble goals could use our refusal to repeal the Byrd amendment as a means to hinder our negotiating strategy. Simply put, these opponents will state that if the United States cannot follow the existing rules of trade, rules which our Nation largely crafted and implemented, how can we be trusted if most trade barriers are repealed?

Therefore, as I said before, I admire the Byrd amendment's commonsense approach, but I believe under the present circumstances the time has come for this legislation to be modified, in order to strengthen the ability of our Nation to achieve the larger goal of bringing down foreign barriers to U.S. goods and services.

Therefore, I support the changes incorporated in the Deficit Reduction Conference Report. This legislation achieves a fair compromise by repealing the Byrd amendment; however, at the same it would permit Byrd amendment payments to U.S. companies through October 1, 2007. This should provide an adequate time for companies to plan for the future while preserving a strong negotiating position for U.S. interests.

Despite its shortcomings in some areas, this reconciliation package contains several very important provisions in the intellectual property area that benefit the Nation and my home State of Utah.

I am pleased that a hard date for the transition from analog to digital television was included in the final package. This important provision will free up crucial radio spectrum that is currently occupied by broadcaster's analog television signals. Although the digital transition inevitably resolves a number of difficult issues, it also has several important benefits. It is my understanding that over $7 billion of the proceeds from the eventual auction of spectrum licenses is expected to be used for deficit reduction. Perhaps more importantly, the transition will provide both the necessary funding and available spectrum for public safety officials and emergency personnel across the country to upgrade their communications infrastructure. And, finally, a portion of the anticipated proceeds will be used for various programs intended to minimize any negative financial impact on consumers, rural broadcasters, and others affected by the transition.

I am particularly pleased that a provision setting aside a small fraction of the proceeds to help fund the upgrade of television translator stations was included. This provision responds to a serious concern that I have had regarding the financial viability of upgrading the network of translator stations across Utah that are used to serve many of the rural communities in my home State. In the context of the debate over the digital transition, it came to my attention that upgrading these translators, which retransmit television signals to communities beyond the reach of the primary broadcast towers, would impose a substantial—and disproportionate—financial burden on broadcasters that were primarily located in mountainous western States. Due to the vast area covered by the Salt Lake City television market and the high concentration of translator stations in the State, there was a substantial concern that upgrading the cost of these translators would be prohibitive. The approach taken in the reconciliation package is similar to the proposal contained in S. 1600, which I cosponsored with Senator SNOWE, and I would like to take this opportunity to thank Senators SNOWE, STEVENS, and INOUYE—and their respective staffs—for their help on this issue.

As with other portions of this bill, there are aspects to the education provisions I support and others I don't. However, I am pleased overall with the significant amount of savings while still allowing for spending on important programs.

The major area of savings comes from the reduction in corporate lender profits on student loans, in the form of a requirement that lenders rebate the Federal Government the difference between the borrower rate and the lender rate when the borrower rate exceeds the lender rate. In addition, guaranty agencies are required to deposit 1 percent of their collections in the Federal Reserve Fund; there is a reduction of borrower origination fees by .50 percent for each award, and there is an elimination of the recycling of 9.5 percent loans.

Even with these much needed savings, I disagreed with fixing the interest rate for undergraduate and graduate nonconsolidation borrowing at 6.8 percent, preferring a choice of a fixed or variable rate.

However, I am very pleased with increasing grant aid for students studying math and science, named SMART grants. I was involved in the original creation of the SMART Grants Program through my work on the HELP Committee. These grants will give first year students awards of $700 and $1,300 for second year students, provided they have completed rigorous programs at the secondary level. Third and fourth year students may receive up to $4,000 in grant aid if they major in math, science, or foreign language.

I know these programs will give Utah students, particularly those of low or moderate means, greater access to a college education and will boost our local and national economy as we seek to meet the demands of the 21st century workforce.

Again, this legislation is not perfect. It is not a perfect answer to several of the social policy problems that confront our Nation. It is not a perfect answer to the growing Federal budget deficit either. It is not Draconian and it is not mean-hearted. This deficit reduction conference report is merely a good first step in stemming the tide of red ink that runs down the pages of the Federal budget, stealing taxpayer dollars to service a monstrous Federal debt and robbing our children of a safe and secure financial future. For these important and self evident reasons, I support this bill.

I ask unanimous consent the statement issued by the Centers for Medicare and Medicaid Services Administration to which I referred earlier be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY MARK B. MCCLELLAN, M.D., PH.D, ADMINISTRATOR, CENTERS FOR MEDICARE & MEDICAID SERVICES

Questions have been raised about the new section 1937 of the Social Security Act (SSA) (as added by the Deficit Reduction Act of 2005) that permits states to provide Medicaid benefits to children through benchmark coverage or benchmark equivalent coverage. If a state chooses to exercise this option, the specific issue has been raised as to whether children under 19 will still be entitled to receive EPSDT benefits in addition to the benefits provided by the benchmark coverage or benchmark equivalent coverage. The short answer is: children under 19 will receive EPSDT benefits.

After a careful review, including consultation with the Office of General Counsel, CMS has determined that children under 19 will still be entitled to receive EPSDT benefits if enrolled in benchmark coverage or benchmark equivalent coverage under the new section 1937. CMS will review each State plan amendment (SPA) submitted under the new section 1937 and will not approve any SPA that does not include the provision of EPSDT services for children under 19 as defined in section 1905(r) of the SSA.

In the case of children under the age of 19, new section 1937(a)(1) is clear that a state may exercise the option to provide Medicaid benefits through enrollment in coverage that at a minimum has two parts. The first part of the coverage will be benchmark coverage or benchmark equivalent coverage, as required by subsection (a)(1)(A)(i), and the second part of the coverage will be wrap-around coverage of EPDST services as defined in section 1905(r) of the SSA, as required by subsection (a)(1)(A)(ii). A State cannot exercise the option under section 1937 with respect to children under 19 if EPSDT services are not included in the total coverage provided to such children.

Subparagraph (C) of section 1937(a)(1) permits states to also add wrap-around or additional benefits. In the case of children under 19, wrap-around or additional benefits that a state could choose to provide under subparagraph (C) must be a benefit in addition to the benchmark coverage or benchmark equivalent coverage and the EPSDT services that the state is already required to provide under subparagraph (A) of that section. Subparagraph (C) does not in any way give a state the flexibility to fail to provide the EPSDT services required by subparagraph (A)(ii) of section 1937(a)(1).

Mr. BINGAMAN. Mr. President, across the country, more than 6 million children live with relatives, and of those, 4.5 million live with grandparents. A majority of relatives providing care for children are not part of the child welfare system. In fact, only a quarter of all relatives caring for a child receive either a foster care payment or another source of payment. Most relatives do not receive any Federal financial support, and sadly, nearly 20 percent of all grandparents raising their grandchildren live in poverty.

Unfortunately, the conference agreement on the Deficit Reduction Act of 2005 severely cuts Federal assistance to foster care funding and makes it significantly harder for relatives to provide care for a child. I believe this is a step in the wrong direction, and I oppose these cuts.

Kinship care is an important option for permanency for children in the child welfare system and often appropriate when adoption is not possible. Subsidized guardianship makes it possible for a relative to step in and care for a child. In my State of New Mexico, subsidized guardianship is available, and nearly 10 percent of children live with nonparent relatives. Grandparents and other relative caregivers are often the best chance for a loving and stable childhood for a child in their care, and it is important that we acknowledge their hard work and dedication.

I commend grandparents and other relatives who step forward to care for a child. Their efforts help keep children out of foster care and provide safe, permanent and stable homes, often at great personal sacrifice. Supportive programs like subsidized guardianship allow caring relatives to provide care that they may not otherwise be able to give, and help children exit foster care into the care of nurturing relatives. I would like to express my gratitude and appreciation for the invaluable care provided by relatives for children in need.

Mr. KOHL. Mr. President, I join many of my colleagues today in expressing sincere disappointment in the conference report to the budget reconciliation legislation. I could certainly echo the sentiments that we have already heard regarding the Medicaid and TANF provisions included in this conference report—two sections that will directly penalize hard working families, and prevent many from moving towards self-sufficiency. Or I could repeat the comments that this report represents not a compromise between the House and Senate bills, but an abuse of power that will harm rather than help, millions of families.

While I share my colleagues' dissatisfaction with this conference report, I would like to highlight a section that may have been overlooked. The conferees made interesting decisions in the area of child support—they chose to include provisions that would allow States to "pass through" child support payments to families, provisions that I have fought to pass for several years. Yet in the same conference report, they chose to make deep cuts to the Child Support Enforcement Program, cuts that may inhibit States ability from actually passing through those child support dollars.

I believe the inclusion of the child support "pass through" provisions is one of the few successes of this legislation. These provisions are similar to those included in S. 321, the Child Support Distribution Act. Senator SNOWE and I have worked together for the past several years on this legislation, which allows States to "pass through" more child support collections to the families that need them, rather than send those dollars to the Federal Government.

Specifically, the conference report has three major provisions related to the Child Support Distribution Act. The conference report eliminates pre-assistance assignment rules—families applying for the Temporary Assistance to Needy Families program would no longer be required to turn over their right to child support that accrues before they are receiving assistance. In addition, the Conference Report gives states the option to distribute more child support to families who have left assistance. Finally, for families currently receiving assistance, it allows States to let families keep more child support, rather than sending it to the Federal Government.

These changes were included in the bipartisan, Senate Finance Committee-passed welfare reauthorization legislation. It is unfortunate, given the wide support for these provisions, that the cuts contained in this bill will place such a financial burden on the States that they will unlikely be able to actually pass through the funding to the families.

The original House bill included a 40-percent cut to Federal child support funding. Thus, it would seem that the $5 billion cut included in the conference report before us is somehow less significant. This could not be further from the truth. According to the Congressional Budget Office, this conference report would mean that more than $8 billion in child support payments would go uncollected over the next 10 years. I will say that again so that my colleagues are clear: $8 billion in funds will not go to hardworking, single parent families; $8 billion that is owed to these families, that they rely on to meet their children's needs.

These payments would go uncollected because the conference report retains a provision that 74 of my colleagues voted against last week. I offered a motion to instruct that asked conferees to reject the provisions in the House bill that would restrict the ability of States to draw down matching funds on child support incentive payments. In addition, I sent a letter to conferees that was signed by 49 Senators asking that this restriction not be included in the conference report.

I have heard some of my colleagues argue that this is simply closing a loophole, that this funding source was not what Congress intended. I say to my colleagues that this is not the case. The reforms made to the child support system in 1998 created the performance-based system that has been proven to be so successful. Since this system was put in place, States have doubled their collection rates and have significantly improved their performance on every other measure.

The changes in this conference report would undo these successes. In fact, the cuts will actually drive up costs in other programs, such as TANF, food stamps, and Medicaid. That is why these cuts are opposed by the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislatures, among others.

It is highly ironic that the conference report gives States the option to pass through more child support to families that deserve it, while also passing on a financial burden that will directly restrict their ability to do so. This bill will hurt millions of families, and it should have been defeated.

Mr. LEVIN. Mr. President, we all know that times have been getting tougher for low- and middle-income working families. Compared to 5 years ago, more Americans now live in poverty, the median household income has dropped, and more live without the security of health insurance. Clearly, Congress should be adopting budget policies aimed at improving these troubling trends. But instead, this misguided budget reconciliation conference report would make things worse.

This legislation takes funds from important programs like Medicaid, student loans, child support enforcement, foster care assistance, and Supplemental Security Income for the elderly and disabled poor. The stated purpose of these nearly $40 billion in cuts and harmful program changes is to trim the deficit, but we all know that these savings will not ultimately be used toward that goal; they are designed to pave the way for the $50 billion to $100 billion in new tax cuts that the majority will attempt to push through early next year. We should not be making cuts to vital services simply so the President and the majority can finance more tax cuts that mainly benefit the wealthiest among us.

Under this bill, families that rely on Medicaid will face significant increases in the costs for access to health care services and medications, which will lead many of our most vulnerable citizens to forgo needed care. The Congressional Budget Office, CBO, estimates that the increases in Medicaid copayments and premiums and the reductions in Medicaid benefits will total $16 billion over the next 10 years. Also of particular concern to Michigan is a provision that eliminates the State's provider managed care assessment. When that provision goes into effect, it will cost Michigan $280 million per year.

The conference agreement also makes things worse for those who use student loans. Despite already soaring education costs, this conference report cuts funding for student loan programs by $12.7 billion over 5 years, nearly one-third of the total cuts imposed by this legislation. Most of these reductions are achieved by increasing interest rates and fees paid by students and parents. In the fight for global competitiveness, a highly educated workforce is one of America's best assets. It is shortsighted to cut investments in education.

This legislation will make also substantial changes to the Temporary Assistance for Needy Families, TANF, program. The changes include imposing harsh new work requirements without providing nearly enough childcare assistance. The CBO estimates that States will need over $12 billion in new funding over the next 5 years to maintain current childcare programs and meet the new work requirements by increasing participation in welfare-to-work programs. The conference agreement, however, includes just $1 billion in childcare funding over the next 5 years. The shortfall means that many States will need to scale back childcare slots for poor working families not on welfare, forcing families to choose between lower quality, less stable childcare or not working at all.

Unfortunately, this conference agreement also contains a House provision that would repeal the Continued Dumping and Subsidy Offset Act, CDSOA, of 2000, despite an overwhelming 71 to 20 Senate vote instructing conferees to reject the provision. The CDSOA was enacted in 2000 to enable U.S. businesses and workers to survive in the face of continued unfair trade by allowing Customs to distribute duties collected on unfairly traded imports to those U.S. companies and workers injured by continued dumped and unfairly subsidized imports. I do not believe we should repeal this law, nor do a bipartisan majority of Senators.

Additionally, under this bill, Federal funding for child support enforcement will be cut about $1.5 billion over the next 5 years. As a result, the CBO estimates that $2.9 billion in child support owed to children will go uncollected over 5 years.

The hardships that will be caused by this legislation are significant and broad-reaching. Yet the three-part budget reconciliation package that includes this conference report will not even make a dent in our deficits. Both the House and Senate have passed tax reconciliation bills that cut revenues far more than this bill cuts spending. As most grade school math students can tell you, when you bring in less money than you spend, you will end up in trouble. And that is where the President's tax policies have put us today.

We have got over $8 trillion in debt. Financing further tax cuts with debt is simply fiscally irresponsible. In the most recent fiscal year, we spent over $350 billion just to pay the interest on our debt. That is 14 percent of the Federal Government's spending last year. We simply cannot afford to continue building up this massive debt.

One of a few positive aspects about this conference report is the inclusion of an extension of the Milk Income Loss Compensation, MILC, Program, which was set to expire this year. Milk is Michigan's largest agricultural commodity, and the MILC Program has been essential in preserving our dairy farms in times of dairy price declines.

Mr. President, the reconciliation process is supposed to bring Government programs and tax policies passed over the years in line with the broader budgetary goals of the Congress. It should be a fiscal sanity check, making sure our policies support our goals. At a time when one in six American children lives in poverty, our budget goals should be to help, not hurt, the neediest among us. Our goals should also focus on reducing the mountain of debt that we are leaving for our children and grandchildren. Unfortunately, by cutting vital programs to finance tax cuts that mainly benefit the wealthy, this legislation moves us in the wrong direction on both counts. I will oppose this conference report.

Mr. ALEXANDER. Mr. President, today the Senate approved the Deficit Reduction Omnibus Reconciliation Act of 2005. I voted in favor of this bill because it is the first comprehensive deficit reduction legislation approved by the Senate since 1997, and it will save $39.7 billion over the next 5 years. This is an important first step toward containing the unsustainable growth of entitlement programs and putting us on the road to a balanced budget.

None of us is happy about everything that is included in a big bill like this. One area in which I am disappointed is language reauthorizing the welfare reform program, also known as Temporary Assistance for Needy Families, TANF. This is a program that needs to be reauthorized on a more permanent basis, instead of the temporary extensions that have been approved year after year.

In thinking about reauthorization of welfare reform, I believe three things need to happen. First, States need more authority to decide what will work best in their State. Second, States need more flexibility to allow educational activities to count toward work hours. I have been told by TANF offices in Tennessee that if they can get TANF recipients into school, they do not see them on the welfare rolls again. Third, we need more money for child care. If the TANF program is going to require poor parents—including single mothers—to work, these parents must have safe child care for their children. Last year, I supported—and the Senate passed by a vote of 78 to 20—an amendment to increase child care funding by $6 billion. This bill only includes a $1 billion increase for child care.

Unfortunately, the welfare reform language included in the deficit reduction bill falls short in all three of these areas. I would have preferred that the Senate hold a full debate on TANF reauthorization, with Senators able to offer amendments. However, I understand that the Senate conferees felt that the deficit reduction bill represented the best chance of reauthorization after years of delay and temporary extensions.

In the coming year, I look forward to working with Chairman GRASSLEY and other colleagues to craft legislation that addresses some of these shortcomings and continues the successful transformation of the TANF program that began with enactment of the landmark welfare reform law in 1996.

Mr. FEINGOLD. Mr. President, this budget reconciliation package that arrived from the House-Senate conference will leave our country's budget and the American people in a far worse state of affairs than they are today. I am disappointed that congressional leaders have chosen to use the budget reconciliation process to achieve controversial goals that will make life harder for those Americans in greatest need of help, and I will oppose this legislation.

As I stated when this bill passed the Senate, using reconciliation to push through legislation that will worsen our budget deficit and add billions more to the mountain of debt our children and grandchildren will have to pay is a perversion of a process designed to expedite measures to reduce the deficit.

Reconciliation was intended to help facilitate the enactment of measures to reduce the deficit and therefore secure the Nation's financial stability. It is ironic that it should be used to enact measures that not only aggravate our budget deficits and increase our massive debt, but also makes cuts to programs that help many Americans maintain their financial security.

There are substantial and unprecedented changes to the Medicaid program included in this bill. Rather than cut the wasteful, $10 billion Medicare Advantage slush fund that gives superfluous payments to insurance companies, conferees have chosen to cut benefits and shift costs onto the poorest in America. Usage of Medicaid is expected to drop significantly, forcing beneficiaries to become sicker and eventually utilize emergency room care. In fact, the Congressional Budget Office estimates that 17 million people will pay more for health services under Medicaid over 10 years, half of whom would be children. Is this how we want to take care of the needy in our society? This will be harmful not only to those in need of health care, but also to our hospitals, which will be burdened with more patients who are unable to pay. This shift of health care costs from the Government to Medicaid beneficiaries will only cost our hospitals and taxpayers more money in the long run—and this is being done under the guise of saving money and balancing our budget.

Perhaps the most worrying changes to our health care programs are the statutory changes to Medicaid and Medicare. This conference agreement institutes systemic limitations on services that will have effects for decades to come. Included in the bill are provisions that will force unlimited charges onto the poor for their health care where previously there were protections for those in near poverty. As if loss of these protections were not enough, this will also allow health care providers to deny health care to people too poor to afford these charges.

This legislation also freezes Medicare payments to home health care providers. Home health is the most cost-efficient and comfortable way to provide long term care. By freezing home health care payments, access will drop, and many of the sickest in our country will be denied this option.

In addition to cutting into people's health care, this report cuts into welfare and child care funding on which many American families depend. Last week, the Senate passed a motion to instruct conferees that urged welfare reauthorization to be removed from the budget package. I voted for this motion, which passed overwhelmingly. Despite the success, the House chose to include welfare reauthorization anyway. This was done under the radar in a move that was largely unseen by people who will be affected by the changes. And the changes are significant. This reauthorization represents the largest change in welfare policy since 1996, and it will impose expensive new work requirements on states with no additional funding provided. So those on welfare will be working more hours, and what will they do with their children? Child care funds have been cut by $1 billion in this bill. This is $7.4 billion less than CBO estimates to be the cost to states of meeting the new work requirements, and more than $11 billion less than what states will need to ensure that their current child care programs can stay afloat through all the additional changes in the budget package. These are unconscionable cuts to programs that serve as safety nets for the most vulnerable.

I am also deeply troubled that almost one-third of the savings in the budget reconciliation bill come at the expense of the student loan program. I regret that a portion of the savings within the student loan program is achieved by increasing fees paid by student and parent borrowers. While I may support provisions in this agreement that eliminate unnecessary subsidies for lenders, the money saved through this elimination should go toward making college more affordable and increase grant aid such as Pell Grants. I regret that this money is not funneled back towards increased aid for America's students.

This agreement also increases the maximum subsidized loan amounts that first and second year students can borrow and increases the maximum amount of unsubsidized loans that graduate students can borrow. While increasing loan limits will help students cover the costs of their education. I find it disheartening that we as a Congress are pushing more of a financial burden on these students as tuition rates around the country increase. Rather than cutting money from the student loan program and requiring students to borrow more and pay more in fees, we should instead be working to find ways to make a college education affordable to all students.

While I welcome the addition of some new grant aid for Pell-eligible students, I have heard concerns from my constituents in Wisconsin that the requirements accompanying the increased aid will make the program difficult to administer and could exclude many of the Pell-eligible students from receiving this aid. One requirement for freshman and sophomore Pell-eligible students to receive this aid is the condition that the student must have completed a "rigorous secondary school program". Under the agreement, the Secretary of Education determines whether or not the student has fulfilled that requirement. What is not clear, however, is how the Secretary will actually measure which programs are deemed rigorous and therefore which students will receive the aid. I am concerned that students who attend disadvantaged schools will not be eligible for the aid under the wording in this agreement.

Another troubling aspect of the new grant aid is the requirement that students attend school full-time during their first year of college. This provision would eliminate many Pell-eligible students who attend school part-time and work part-time. Again, I think this sends the wrong message to our youth who are considering attending college and attempting to finance their education.

We can do better for young Americans in Wisconsin and around the nation by working to increase aid in an inclusive manner and working to make a college education more affordable to all. These cuts to the student loan program are another reason that I will vote to oppose this conference agreement.

If there is a silver lining to this sham of a budget reconciliation package, it is the conference committee's decision to retain the Senate's extension of the Milk Income Loss Contract, MILC, program and reject cuts to Food Stamps. Even this support for these two vital programs is tempered by short-sighted cuts to other agriculture programs such as the limits placed on conservation programs that assist farmers in their stewardship of the land.

I will not support using reconciliation to enact harmful, controversial policies that will worsen budget deficits and increase the debt. No matter how many pieces you slice it into, the reconciliation instruction in the budget resolution will leave us with bigger deficits, not smaller ones.

This budget sends the message that those living in poverty are Congress' lowest priority: and this reveals a profound lack of empathy and kindness for the most defenseless in our society. When Congress and the White House become serious about cleaning up the fiscal mess they created, and when they are willing to spread the burden of that clean up across all programs—defense and non-defense discretionary programs, entitlements, and the spending done through the Tax Code—I am ready to help. But so long as we see reconciliation measures that cut aid to those most vulnerable, and cuts to Government spending is done on the backs of the poor. I must oppose them.

Mr. SPECTER. On a close call I have decided to vote for the conference report on the reconciliation bill because the benefits slightly outweigh the disadvantages in evaluating the tradeoffs.

I start with the proposition that the savings of $40 billion over 5 years in the conference report is closer to the $35 billion passed by the Senate than to the $50 billion cuts passed by the House of Representatives. This deficit reduction amounts to less than one-half of 1 percent of total Federal spending, an estimated $13.8 trillion over the next 5 years.

Medicaid was a special concern where the conference report of a $4.8 billion reduction was much closer to the Senate figure of $4.3 billion than to the House cut of $11 billion. While I would have preferred targeting different reductions, the conference report does give the States flexibility in the use of Medicaid funds so that the States will be in a position to ameliorate hardships resulting from the proposed reductions.

It was important that the conference report included $1 billion in additional budget authority in fiscal year '07 for the Low Income Home Energy Assistance Program, LIHEAP, which the Congressional Budget Office estimates will result in $625 million in outlays as we approach the fiscal year 07 winter season which is likely to be very harsh. It is anticipated that there will be an additional $2 billion for fiscal year '06 added to LIHEAP in the Defense appropriations bill although that is not a certainty because the Senate will not act on that bill until after the vote on reconciliation.

I am further encouraged by the elimination of some $700 million on cuts for the Food Stamp Program and the rejection of the House passed $5 billion reduction in child support enforcement to aid local governments which finally came in at a $1.5 billion cut.

After visiting many first responders around the State, I was pleased to see the reconciliation bill add $1 billion for first responders who will be very important in any prospective emergency situation.

I was also pleased to see the one year moratorium on inpatient rehabilitation hospital provisions which require 50 percent of Medicare beneficiaries to meet certain ailment criteria for 2 years.

I was opposed to the repeal of the Continued Dumping and Subsidiary Offset Act, CDSOA, program but there was finally a compromise to give the program 2 more years.

Of special significance to Pennsylvania was the addition of $998 million for the Milk Income Loss Compensation, MILC, Program which is very important to the financial status of nearly 9,000 dairy farms in the State.

In making judgments on legislation like the reconciliation bill, we are really faced with a Hobson's choice. None of the options is desirable. We are constantly choosing among the lesser of the evils.

In the overall context of discretionary spending which is involved in the reconciliation bill and in the appropriations bill for Labor, Health and Human Services and Education, there are palpably insufficient funds available for such domestic programs. As chairman of the Subcommittee on Labor, Health and Human Services and Education, it was my responsibility to structure legislation that came within the allocations approved by the Budget Committee and Appropriations Committee.

With a 1-percent cut at the outset and another projected one percent across the board cut and the failure to keep up with inflation, the subcommittee sustained a cut in real dollars approaching $7 billion. At the conference on the bill for the Departments of Labor, Health and Human Services, and Education, I said publicly that I would not support the bill unless my vote was indispensable for its passage. If the bill is not passed, we face the alternative of a continuing resolution which will be $3 billion less than the bill, so there is no alternative, as a matter of basic arithmetic, but to support the bill.

I have already put my Senate colleagues on notice, including the leadership, that I will not support next year's budget unless there is adequate funding for domestic discretionary programs with special emphasis on Labor, Health and Human Services, and Education. I will also work to correct any inequities or hardships which result from the reconciliation bill.

Mr. WYDEN. Mr. President, I cannot support the devastating cuts to health care that are in the budget reconciliation conference report. I have fought to slow health care spending, but that is not what is in this conference report. This conference report slashes and burns the health care countryside like the barbarians descending on Rome. This conference report is not about reform or creating a decent health system for the poor and for seniors—it is about dismantling the system as we know it.

For starters, the Senate-passed bill increased drug rebates so that Medicaid beneficiaries would get better prices on their drugs. The Senate bill increased the minimum rebates that drug manufacturers are required to pay the Medicaid Program for drugs. The Senate package also contained a provision that would have expanded the rebate to include managed care drug plans. None of these improvements, which would have produced savings of $10.5 billion over 10 years and have helped ensure Medicaid participants get better prescription drug prices, is included in the conference report.

The conference report reopens the Medicare Modernization Act, MMA,—not to make improvements in the drug benefit but to push those with a little more income to pay higher Part B premiums sooner. It seems to me that given the confusion, the unhappiness, the need for more and better counseling for seniors on their choices, and the need to assure cost containment in the Part D drug benefit, you should have gone farther than what is in the product before us and made real improvements. One improvement that won a majority of 51 votes on the Senate floor was an amendment I offered with Senator SNOWE to allow Medicare to use its purchasing power to benefit seniors. Giving Medicare that power would have produced a real benefit for seniors, but that is not included here. "

The home health cuts in this conference report will hurt a service that is vital to seniors. The conference report freezes home health payments for a year. Home health care has been demonstrated to be cost effective alternative to institutional care in both the Medicare and Medicaid Programs. In Oregon, what is proposed here will compound the negative impact of other cuts. Since 1997, when Congress first enacted cuts in home health, Oregon has lost 30 home health agencies. Oregon's home health agencies' profit margins are already at a negative 21.75 percent, and 33 of 60 home health agencies are in rural areas. I fear what will happen to Oregon's seniors when home health agencies' payments are frozen, but their costs keep going up.

The conference report increases copayments and premiums for the poor. I happen to believe that everyone should pay something on the spot for care unless they destitute, but the increases required here will force people who can get care today to for go care tomorrow. Oregon has learned from experience in this area. When Oregon instituted strict copayment and premium payment policies 55,000 people dropped off Medicaid, and most of those were people with chronic health problems, like high blood pressure and diabetes. The reconciliation bill says States can increase substantially the copayments that many Medicaid beneficiaries are required to pay to access health services and medications. Sure, there will be savings, but they will be achieved because people just won't get care or just won't seek care. That is not, in my view, good public health policy, and completely undermines the purpose of Medicaid.

The conference report makes it harder for people to qualify for Medicaid long-term care. The conference report embraces the House provisions that restrict eligibility for Medicaid long-term care services and squeeze more savings out of those who need Medicaid. These provisions are far more onerous than the Senate passed bill, casting a wide net that will force every applicant to prove they had not transferred assets years before a disabling accident, stroke, heart attack, broken hip, or diagnosis of Alzheimer's disease simply in order to catch a few who intentionally transfer assets. These provisions even go after to middle-class Americans who make modest gifts to relatives like their grandchildren or who contribute to charity. How can anyone expect the average American who experiences a decline in their health years after having made a contribution to charity or given their grandchild some money toward a college fund to keep records on all of this? People won't be able to document many of the things they will be required to so that families or nursing homes will end up eating the money during the period in which their loved ones are not qualified.

Lastly, the conference report negates a court decision concerning disproportionate share payments. One of the lawsuits brought on this issue was brought by a number of Oregon hospitals. The result of orturning the decision in this case is that many hospitals will be harmed because those people who are part section 1115 waivers as an "expansion population" would no longer be counted for the purposes of calculating Medicare disproportionate share payments. This harms safety net hospitals.

There are many other reasons to reject this conference report, but the truly harmful health care provisions stand out starkly among a sea of damaging provisions. These, alone, are reason enough to reject this budget document.

Mr. CORZINE. Mr. President, I rise today to pay tribute to the 2½ million grandparents acting as primary caregivers to their grandchildren. The situation may occur as a result of a death in the family, a parent being away in the military, or the effect of abuse and neglect.

I commend grandparents and other relatives who step forward to care for these children, often at great personal sacrifice, providing an alternative to foster care and giving them a safe, stable home. Supportive programs like subsidized guardianship help children exit foster care into the permanent care of caring and nurturing relatives.

In my State of New Jersey, 8 percent of the children live with nonparent relatives. Grandparents and other relative caregivers are often the best chance for a loving and stable childhood for the children in their care, but their hard work and dedication often go unnoticed.

I am deeply saddened that today the Senate made cuts in the budget that would deprive so many kinship caregivers of critical Federal support. We should be expanding support for these caregivers, not reducing it.

Mr. President, today I offer my formal acknowledgement and deepest appreciation for the ongoing service of these caregivers to our country and our Nation's most valuable asset, our children. I commend Generations United for their hard work in helping improve the lives of our children.

Mr. LEAHY. Mr. President, it has been said that a great test of morality is what people do when they have power. The fast-track budget reconciliation rules mean that the majority party can essentially do whatever it wants in a reconciliation bill if they act in lockstep. The reason is simple. Reconciliation debates in the Senate can only last 20 hours and the final version of the bill—a reconciliation conference report—only can be debated for 10 hours.

The majority party can even orchestrate a single meeting with conferees and immediately gavel it over almost when it starts, doing everything behind the scenes with no consultation and without sharing drafts of even sweeping policy changes in proposed major laws.

They not only can do such things, they just did them.

But let me start at the beginning. The President's budget proposal for programs under the oversight of the Judiciary Committee, issued in February of this year, called for a user fee on the manufacture and importation of gunpowder and other explosives of two cents per pound. The President requested that Congress enact these user fees—some called it a tax—to raise $600 million over the next five years. Because of that White House proposal on gunpowder and other explosives, the budget resolution of the other body called for the Judiciary Committee to meet a target of $600 million.

The Senate-passed budget resolution did not require any cuts to be made by the Judiciary Committee. This is the usual approach for the Judiciary Committee since the Committee controls few, yet very important, mandatory spending programs. For example, it is difficult to make significant reductions to mandatory programs, including: pensions for U.S. Judges; the Crime Victim's Trust Fund; salaries of U.S. Marshals; the Radiation Exposure Compensation Trust Fund; the Copyright Owners' Fund; the diversion control fee account of the Drug Enforcement Agency; border patrol salaries and expenses; the assets forfeiture fund for U.S. Marshals, and other sources. It is also difficult to increase Patent and Trademark Office fees or Copyright Office fees since there is not a compelling reason to do so.

In the end, in order to comply with the budget resolution, the Judiciary Committee of the Senate and the Judiciary Committee of the other body were required to come up with $300 million in revenue or to make $300 million in cuts.

The first casualty in this process was the White House proposal to tax gunpowder and other explosives. There was little support by the majority party for even making half the President's proposed increases in the gunpowder tax. Many other alternatives were considered by the majority party.

Finally, a proposal was worked out in the Judiciary Committee that had my support, and the strong support of universities and many business leaders. For example, the National Association of State Universities and Land-Grant Colleges, Motorola, Oracle, Sun Microsystems, Texas Instruments, Intel, Microsoft, Hewlett-Packard, Qualcomm, for high-tech workers. The House also included immigration fees in their proposal.

However, after an aborted conference meeting which started at 9 p.m. last Friday night, and ended a few minutes later, what has the Majority party proposed as a compromise on the immigration fees? They came up with increasing fees on all citizens to get into federal courts and into bankruptcy court. The bankruptcy fee increase raises some ironies. The increase in fees for citizens trying to seek judicial relief narrows access to courts.

So we have gone from the President's proposal to tax gunpowder and other explosives and mysteriously ended up with a tax on citizens to get into federal court and bankruptcy court. Nevertheless, the majority party—as long as they are in lockstep together—has nearly absolute power in a reconciliation bill that enjoys only limited debate. History will record what they have done with that power.

What is especially unfortunate is that the version of the reconciliation bill reported out by the Senate Judiciary Committee, and approved by the full Senate by unanimous consent to the Budget Reconciliation Act, was a bipartisan amendment offered by Senator SPECTER and myself to allocate the extra $278,000,000 in revenue provided from the Judiciary Committee markup on reconciliation to supplement funding that is demonstrably needed for the Bulletproof Vest Partnership Fund, programs authorized by the Justice For All Act, and a Copyright Royalty Judges Program.

The Judiciary Committee markup on its reconciliation title provided $278,000,000 more in revenue than was mandated by the Budget Resolution instructions.

The Specter-Leahy Senate proposal approved by the full Senate—would have provided $60,000,000 over the next five years for such initiatives as the Bulletproof Vest Partnership Program, to help law enforcement agencies purchase or replace body armor for their rank-and-file officers.

Recently, concerns over body armor safety surfaced when a Pennsylvania police officer was shot and critically wounded through his new vest outfitted with a material called Zylon, which is a registered trademark. The Justice Department has since announced that Zylon fails to provide the intended level of ballistic resistance.

Unfortunately, an estimated 200,000 vests outfitted with that material have been purchased—many with Bulletproof Vest Partnership funds—and now must be replaced. Law enforcement agencies nationwide are struggling to find the funds necessary to replace defective vests with ones that will actually stop bullets and save lives. Our Senate Judiciary provisions would have funded those efforts. Unfortunately, the majority party dropped this language.

Our Senate Judiciary language—approved by the full Senate—also provided more than $216,000,000 for programs authorized by the Justice For All Act of 2004, a landmark law that enhances protections for victims of Federal crimes, increases Federal resources available to State and local governments to combat crimes with DNA technology, and provides safeguards to prevent wrongful convictions and executions.

The Senate Judiciary Committee language also would have funded training of criminal justice and medical personnel in the use of DNA evidence, including evidence for post-conviction DNA testing. It would have promoted the use of DNA technology to identify missing persons. With these funds, State and local authorities would have been better able to implement and enforce crime victims' rights laws, including Federal victim and witness assistance programs.

State and local governments would have been able to apply for grants to develop and implement victim notification systems to share information on criminal proceedings in a timely and efficient manner. That language would have helped improve the quality of legal representation provided to both indigent defendants and the public in State capital cases.

Last, but certainly not least, our amendment provided $6,500,000 over five years for the Copyright Royalty Judges Program at the Library of Congress. The Copyright Royalty Distribution Reform Act of 2004 created a new program in the Library to replace most of the current statutory responsibilities of the Copyright Arbitration Royalty Panels program. The Copyright Royalty Judges Program was supposed to determine distributions of royalties that are disputed and set or adjust royalty rates, terms and conditions, with the exception of satellite carriers' compulsory licenses. The Senate-passed language would have helped pay the salaries and related expenses of the three royalty judges and three administrative staff required by law to support this program.

Unfortunately, instead of raising more funds than we needed through widely supported increases in immigration fees and using them for these law-enforcement and other programs we are instead going to increase the cost of access to federal courts and not fund any of these other priorities.

What may be the most troubling aspect of this abuse of power is that by substantially increasing fees to get into federal courts the majority party raised $253 million more in revenue than it needed to meet the reconciliation target. That means that all the above priorities in the Senate-passed bill including bulletproof vests for law enforcement, use of DNA technology to identify missing persons, and better enforcement of crime victims' rights laws could have been included at only slightly reduced levels of support.

The Republican Congress has missed a great opportunity in this abuse of power.

Mr. LEAHY. Mr. President, I also must express my opposition to the irresponsible domestic budget policy that has been forwarded by the majority party. The Senate is being asked to approve spending and budget bills that make deep cuts to programs that serve some of our country's neediest citizens. A time of year typically signified by wishes of goodwill towards all, it is difficult to be anything but outraged by this attack on critical components of our social safety net.

While many in the majority party have claimed that these bills are needed in order to reduce the deficit, with the knowledge that the leadership will make passing massive tax cuts benefiting some of the wealthiest among us a priority during the next session, this argument is simply disingenuous.

Instead of putting the country on the road to fiscal security, these bills expose the agenda of the majority that blatantly undermines American families and make clear where the priorities of the majority party lie. It is not with the family that relies on Medicaid for their health insurance, the student who, without student aid, cannot afford to attend college, or the mother who needs childcare so that she can go to work and put food on the table for her family. Nor is it with the single mother who has been abandoned without child support, the grandparent raising their grandchild on a fixed income, or the worker who has lost his or her job and is trying to be retrained.

No, the priorities of this majority party consistently lie with the powerful special interests and big drug companies. At every opportunity the Republican leadership has had to choose between supporting the American people or wealthy corporate interests, and they have sided with the corporate interests. Even by the standards of this first session of the 109th Congress, with the consistent erosion of consumer protections and support for American working families, these bills sink to new lows. As a result, dozens of health, education, labor, and human services programs will be cut and millions of people who rely on these programs will suffer.

Some of the most egregious policies in these bills expose the disparity between the treatment of big drug companies and those individuals who must rely on Medicaid as their primary form of health care. With numerous options on the table, the Republican leadership chose to use the budget reconciliation bill to increase Medicaid co-payments and premiums, potentially eliminated federal standards for comprehensive Medicaid care, and created highly restrictive rules governing the transfer of assets for those who require care in a nursing home. Rather than do away with an unnecessary multi-billion dollar slush fund for insurers and drug companies, a small group of Congressional budget writers has chosen to freeze home health payments that ensure seniors are able to receive care in the comfort of their own homes.

In addition, this year's Labor, Health and Human Services, Labor-HHS, appropriations bill shortchanges our country's rural health programs. For instance, the bill eliminates five programs, including funding for Rural EMS and Health Education Training Centers, which are critical to the fragile network of the rural health care infrastructure.

One of the most disappointing aspects of the Labor-HHS Bill was the treatment of the National Institutes of Health, NIH. Not since 1970 has the NIH been provided an increase as small as the one contained in this bill. As a result, the vital medical research being done around the country, including in my home state at the University of Vermont, will suffer. The search for cures to innumerable diseases will be slowed and foreign competitors will be given a chance to exploit our shortsightedness.

Not only will this Congress take the step of cutting education for the first time in ten years, these will be the biggest cuts in history to student loan programs. A remarkable $12.7 billion will be cut from student aid programs so that there will be no increase to the Pell Grant for an astonishing fourth year in a row. While making changes to eliminate loopholes in student loan lending laws, it appears that small lenders that specialize in providing comprehensive loan counseling to students have been given short-shrift. It appears that from almost every angle, students are assaulted by these policies.

For those education programs that are lucky enough to escape the knife, they will either be frozen or given minimal increases. I am curious to know how our Nation's schools can be expected to meet and exceed the standards set forth in the No Child Left Behind Act, when Congress is content to slash funding by three percent, leaving these programs to sink more than $13 billion below their authorized levels. It has been almost 5 years since Congress passed this legislation, and we have consistently failed to meet our commitment to students, parents and teachers.

In what is becoming a hallmark of this Republican leadership, these conference reports are loaded down with controversial legislation approved by neither body. Despite bipartisan support for legislation approved by the Senate Finance Committee earlier this year, Senators are being asked to approve a five-year reauthorization of the Temporary Assistance to Needy Families Program that would impose strict new working requirements with only nominal new funding for child care support. At the same time Congress asks single mothers to work longer hours, it cuts money for child support enforcement, dollars that are used to track down deadbeat dads.

Though it is a sad commentary on the current state of affairs when one of the lone bright spots for health and human service programs is that this bill includes no cuts to the Food Stamp program, I would be remiss if I did not mention my appreciation that this program remained unscathed. While protecting Food Stamps should be hailed as a victory, the Community Food and Nutrition Program, a modestly sized program that helps support anti-hunger advocacy groups, was not so fortunate. The work being done on the local levels by these groups is extremely important, and it is my hope that these funds will be restored next year.

The programs and services I have mentioned are but a few of the dozens of cuts that will negatively impact families across the country. As we usher out the final days of 2005 and the 1st Session of the 109th Congress, I am saddened that the last actions of this body will be to pass such harmful bills. After more than 30 years in the Senate, I know that we can do better and it is my sincere hope that when we return next year, we will reverse the wayward direction set by such policies and implemented by such legislation.

Mr. DODD. Mr. President, for most Americans, the holiday season is a time for giving. But for the Congress, it seems, the holiday season is also a time for taking, at least judging by the budget reconciliation legislation before this body.

Americans around the country, are concerned about their economic security. Whether they work in a factory or behind a desk, they are feeling increasingly vulnerable to the volatilities of the global economy. While American families are concerned about economic security, this budget reconciliation legislation would cut the safety net that protects them. The burden would fall most heavily on working Americans, in particular, on low-income parents and children, the elderly, and people with disabilities. Moreover, while supporters of this bill cite fiscal discipline as the rationale for making harmful cuts, when this bill is considered in combination with its companion tax reconciliation legislation, the total package would increase the deficit rather than reduce it. For these reasons I cannot support this funding cut reconciliation bill.

I have been a strong proponent of fiscal responsibility throughout my service in this body. I have introduced and supported pay-as-you go budget rules; supported the landmark Gramm-Rudman-Hollings budget process reforms; and, during the 1990's, voted to balance the budget for the first time in 30 years. This budget reconciliation legislation, does not advance the cause of fiscal responsibility. Every penny saved in funding cuts and then some will be spent on new tax breaks, most of which will benefit a small number of affluent individuals who neither need nor seek such reckless largesse from their leaders in Washington. The Senate has already approved $60 billion worth of tax cuts over the next 5 years, and the House has approved more than $90 billion.

Under the Bush administration, our National debt has grown from $5.7 trillion to more than $8 trillion. The portion of that debt held by foreign creditors has more than doubled. And our

Federal budget has fallen from a $236 billion surplus in 2000 to a $319 billion deficit in 2005. The Republican budget reconciliation package would only make this record of fiscal recklessness worse.

The cuts in this bill, if enacted, would make it harder for working Americans to find a job and afford such basic needs as health care and child care. At a time when international competition demands that we invest in our people and our society, this bill radically scales back our Nation's crucial commitments. At a time when we should be expanding access to higher education for all Americans, this bill puts college further out of reach for many students. And at a time when many businesses and millions of Americans cannot afford even the most basic health care coverage, this bill passes the buck, and the burden of paying, onto those who are already struggling to afford care. Instead of offering solutions, this bill offers more lip service to a failed, partisan ideological agenda that weakens our Nation's long-term strength.

Perhaps most controversially, the bill before us would make the biggest changes to Temporary Assistance to Needy Families, TANF, policy since 1996, going even beyond the provisions in the House-passed reconciliation bill. The Republican majority hopes to ram through these changes without any debate or consideration by this body. This is no way to run a country by not just ignoring those in the minority, but actively trampling over dissenting views.

Children in low-income families will suffer the most. This section of the bill creates new, unrealistic work requirements for TANF recipients that would effectively amount to a backdoor way of cutting funds. It authorizes $2.5 billion less this year for child care than what is necessary to keep pace with inflation, which, over the next 10 years, will create a more than $11 billion shortfall and cause an estimated 255,000 children to lose care. It cuts child support enforcement, which will reduce child support collections by $8.4 billion over 10 years. And it completely eliminates Federal foster care support for grandparents and other relatives who care for children who have been abused or neglected and removed from their parents.

These cuts reflect a fundamental lack of understanding by the Republican majority of the struggles most Americans face every day. Moreover, they are based upon a faulty economic rationale. Though our overall economy grew somewhat between 2000 and 2004, those who benefited from that growth are mostly at the top of the income pyramid. Indeed, the number of children living below one-half of the poverty line rose by nearly 1.5 million. Somewhere, the link has been broken, and not all families are sharing in our Nation's economic growth. Instead of looking for solutions, the cuts in this bill would exacerbate the problems faced with courage every day by American families. If history is any guide, the families forced off of TANF would be those who, without a lifeline, are the most likely to fall into deep poverty. Child care assistance helps working parents keep their jobs and parents who have lost their jobs find new ones. If adequate child care and other supports are not available to low-income workers, the TANF rolls will increase again. We would be taking a step backward in helping people move from welfare to work. We should be constantly innovating and strengthening our policies in this area, not blindly cutting them in favor of unaffordable tax policies, as this reconciliation package would do.

In addition, this reconciliation bill would also reduce health care coverage and increase costs for some of the most vulnerable members of our society. Most troublingly, this conference agreement proposes to increase co-payments and premiums for Americans who rely on Medicaid for their health care. Under this agreement, low-income Medicaid beneficiaries would be forced to pay more for their needed health care services and medicines. This, despite the fact that a recognized and growing body of evidence demonstrates that ill Medicaid beneficiaries will likely forego medical treatment in the face of increases in co-payments. Such decisions often lead to greater health problems, and larger health care costs, later on. On top of these co-payment increases, this package will additionally allow States to increase the premiums that Medicaid beneficiaries must pay to enroll in the program in the first place.

Also deeply troubling about this agreement is its granting to States the ability to decrease the scope of their Medicaid programs. The Federal Government currently requires State Medicaid programs to adhere to a set of standards that ensure comprehensive health care coverage for Medicaid beneficiaries. This agreement will significantly lower these standards and will allow States to lessen needed coverage for those most in need.

As alarming as these provisions are, just as galling is what this bill lacks. The Senate-passed reconciliation package rightly contained two significant and cost-saving provisions that are absent from the package currently before us. First, the Senate bill sought to increase the rebates that pharmaceutical manufacturers must pay the Federal Government for medicines provided to Medicaid beneficiaries. Second, the same bill achieved $10 billion in savings by eliminating the so-called "stabilization" fund designed to encourage preferred provider organizations to participate in the Medicare program. Both of these valuable provisions have gone missing in this conference agreement.

Finally, in addition to weakening the safety net that allows Americans to weather tough times, this budget reconciliation legislation also shortchanges the millions of families trying to send their children to college. It provides no general increase in need-based aid. Instead, it limits the increase to a narrowly defined subset of students who may or may not demonstrate as much need as their peers. In fact, there are so many restrictions on who qualifies for the increased Pell funds that I question how many students will actually receive it.

This version of reconciliation also ignores a number of other provisions that were important to the Senate: loan forgiveness for child care workers, protections as we open up distance learning, and more consumer information for students that are consolidating loans. All of these provisions have disappeared. Instead we are left with a narrowly crafted bill that does not help all students achieve their college dreams. In my opinion, this bill represents a lost opportunity for students and a lost opportunity for this body to assist them.

The conference agreement before us today ignores the values and concerns of ordinary Americans. Instead of investing our resources intelligently in the priorities that will make America strong and secure into the future like education, health care and the fight against terrorism it weakens important safety net provisions, decreases health care coverage and increases cost burdens, and reduces access to higher education. America needs priorities that reflect our values as a country and that prepare our people, especially our children, for a future of freedom, prosperity and security. Regrettably, this reconciliation legislation falls far short.

Ms. MIKULSKI. Mr. President, the spending cut bill before us is shameful. I have always said that it is my job to look out for the day-to-day needs of Marylanders and the long-term needs of the Nation. I am sorry to say this bill does neither. In the holiday season, this bill makes draconian spending cuts in critically important programs. This is not done for balancing the budget, which I support. It is done to pay for more tax cuts to the super-wealthy.

These spending cuts don't only hurt hard-working Americans. They chip away at the very foundation of the American dream and do so at the worst possible time. For example, we face unprecedented challenges from increased global competition. Our country has always had the ability to rise above these challenges because of America's incredible capacity to innovate. It is our responsibility to empower Americans to innovate. Unfortunately, this bill represents the wrong priorities for this country, not those held by the vast majority of Americans.

Nowhere do individual and national priorities more closely converge than funding for education. Education has always been our country's greatest engine for climbing the ladder of opportunity. It is also the greatest engine for our national aspiration: that each generation will have a better life than the one that came before. International trade and outsourcing have already shuttered several of our industries and threaten to do the same to others. Other countries are investing heavily to train and educate their people. They are manufacturing products less expensively than could be done here at home, often due to their weak labor and environmental protections. That is why we must preserve America's remarkable lead in the amazing race to innovate. To do this, we must realize that innovation starts with a well-educated population.

Unfortunately, this bill makes the biggest cuts to student loan programs in history. For the fourth year in a row, the maximum Pell grant will remain the same. And while Pell grants stagnate, interest rates for student loans will increase. Republicans have also made it more difficult for students to consolidate their loans so that they will end up paying more for college. So not only is there less student aid available but this bill actually makes it tougher to qualify for need-based aid so that it will only go to a small group of students, decreasing the number of low-income people who are eligible to receive aid. It also gives private lenders and banks an unfair advantage over more cost efficient Federal loan programs, which increases costs for taxpayers.

These cuts couldn't come at a worse time. College tuition is on the rise and financial aid isn't keeping up. Pell grants cover only 40 percent of average costs at a 4-year public college. Twenty years ago, they covered 80 percent. Our students are graduating with so much debt it is like their first mortgage. College is part of the American dream: it shouldn't be part of the American financial nightmare. Families are looking for help. And I am sad to say the Republicans don't offer them much hope. This bill has all the wrong priorities. Instead of easing the burden on middle-class families and increasing student aid for all students, they want to help out big business cronies with lavish tax breaks.

We need to do more to help middle-class families afford college. We need to increase the maximum Pell grant to $4,500 and double it over the next 6 years. We need to make sure student loans are affordable. And we need a bigger tuition tax credit for the families in the middle who aren't eligible for Pell grants but still can't afford college.

My family believed in the American dream. They believed there is no barrier to having hopes. Through hard work and sacrifice, everyone should be able to pursue a higher education. But belief in the American dream is shrinking. There is not a dream deficit, there is a wallet deficit. There is not a talent deficit, there is an opportunity deficit. And at a time when the opportunity ladder is already creaky and shaky, the Republicans are trying to tear down this ladder by making massive cuts to student aid. Sadly, this will cripple our Nation's ability to innovate and compete in the global market.

Those aren't the only bad things in this bill. It also slashes health care. I believe that every American should have the right to affordable health care, especially as they get old and need it the most. Unfortunately, this conference report cuts a net $6.9 billion in existing Medicaid spending. This will force beneficiaries to pay higher premiums and receive less health care coverage.

I am particularly alarmed by the bill's changes to eligibility for long-term care coverage for elderly Americans needing care. This bill would require the government to look back at a senior's assets for the past 5 years and consider the value of their home to be eligible for long-term care. This is unfair. We should be supporting our elders, not punishing them.

And that is not all. As temperatures drop and heating prices rise, this bill will literally leave Marylanders and Americans in the cold. Oil companies are now making record profits. Republicans beat back each of our attempts to eliminate tax giveaways to these same companies. Now energy prices are soaring and the bill falls $1.3 billion short in funding the Low-Income Home Energy Assistance Program. LIHEAP helps hard-working Americans afford to stay warm. But it won't have enough funds to do this next year.

The reconciliation bill also suspends important Federal housing programs that preserve affordable housing. Republicans are prioritizing additional tax cuts for the superwealthy by killing a program to preserve affordable housing for working families. They too will be left out in the cold. The Millennium Housing Commission cited a lack of affordable housing as the primary cause of homelessness. So here again, the spending cut bill serves to squash our aspirations.

When many of our families first moved to the United States, they were drawn to the promise of a better life—the "American dream." They could aspire to a better life for themselves, their families, and their kids. They knew that hard work could make that dream a reality. For many generations, this country allowed each generation to be better off than the one before it. If we follow the course laid out before us today, our children are not going to be able to say the same thing.

Mr. President, America can do better. We must look out for both the day-to-day needs of those who have elected us and also the Nation's long-term interests. This bill does neither. I strongly oppose this bill and urge my colleagues to do the same.

Mr. KENNEDY. Mr. President, as we all know, the Budget Reconciliation Act contains an appalling number of devastating cuts that will hurt millions of Americans. But I do commend the conferees for including the Family Opportunity Act, which will remove the barriers in current law that penalize families struggling to stay together and make ends meet when their children have high health costs because of disabilities.

For the past 6 years, Senator GRASSLEY and I have worked with many parents and leaders in communities across the country to reach this milestone. Countless parents, family members, citizens, friends, neighbors, and colleagues face this problem today. As they make very clear, the Nation is failing families with severely disabled children by not giving them access to the health care they need to stay home and live in their communities. Many of them have been on the front lines in raising the Nation's awareness of their plight, and they have been fearless and tireless warriors for justice, and this legislation could not have happened without them. Today, their long wait is nearly over.

The Family Opportunity Act is for them. It allows families of children with severe disabilities to purchase health care coverage under Medicaid, without first having to impoverish themselves or give up custody of their disabled children.

Almost 1 in 10 children in America has significant disabilities. But many do not have access to even the most basic health care they need, because their private health insurance won't cover them. Often, their needs are treated as "exclusions" in their policies—no coverage for hearing aids, for services related to mental retardation, for physical therapy, for services at school, and on and on.

That is why this legislation is so important—these children will now have access to these needed services and have a genuine opportunity at least to achieve full potential.

When we think of disabled children, we tend to think of them as disabled from birth. But fewer than 10 percent of such children are born with their disabilities. A bicycle accident or a serious fall or illness can suddenly disable even the healthiest of children. Many of them with significant disabilities do not have access to even the most basic health services, because their families can't afford them.

No longer will these families be forced to become poor, stay poor, or even do the unthinkable by putting their children in institutions or giving up custody of them, so that their children can qualify for Medicaid.

Families of special needs children often have to turn down jobs, turn down raises, or turn down overtime pay to keep a child eligible for benefits under Medicaid.

No longer will parents be forced to give up their children or give up being part of our Nation's economy.

This bill will change the life of 13-year-old Alice in Oklahoma, who was disabled because of multiple dystrophy. Under this bill, she will be able to have a personal assistant living at home with her family. She will be able to go to her neighborhood school.

This bill will change the life of Johnny in Indiana, who has a severe mental illness and needs numerous mental health therapies and drugs. His mother will no longer be forced to give up custody of him in order to obtain the treatment he needs. Her goal of being a productive citizen and keeping her son at home will no longer be denied because her son will now have the health care and support he needs.

This bill will transform the life of Abby in Massachusetts, who is 6 years old and has multiple disabilities. Her parents are deeply concerned about her future if the existing buy-in State program for Medicaid is weakened. Without the buy-in, her parents would be bankrupted by her current medical bills. Now Abby and her family will have real opportunity to grow and work and prosper.

The legislation also gives States greater flexibility to enable children with mental health disabilities to obtain the health care they need in order to live at home and in their communities, instead of being placed in institutions.

It establishes Family to Family Information Centers in each State to help parents find the resources they need to meet the unique health care requests of their disabled children.

Six years ago this week, President Clinton signed the Ticket to Work Act into law. That legislation demonstrates our commitment to give adults with disabilities the right to lead independent and productive lives, without giving up their health care.

Today we make the same commitment to children with disabilities and their families.

These provisions will undoubtedly be among the most important bills passed by this Senate. It closes the health care gap for the Nation's most vulnerable population, and enables families of disabled children to be equal participants in the American dream. It will truly change lives, and I commend my colleagues in both the House and the Senate on both sides of the aisle for their dedicated and their leadership that have made this day possible at long last.

Mr. ROCKEFELLER. Mr. President, last week I came before this body to highlight the potentially harmful effects of budget reconciliation on our Nation's working families. I asked my colleagues to hold firm against the special interests in order to protect the Federal guarantee of Medicaid benefits for the 50 million Americans who depend on this vital program for health care. When the Medicaid motion to instruct conferees passed by a vote of 75 to 16, I thought the Senate was serious about preserving access to health coverage for children, pregnant women, the elderly, and disabled across our country.

However, my hope quickly faded when the budget reconciliation conference report was released earlier this week. Instead of providing more assistance to families in need, the reconciliation conference report includes even greater cuts than those passed in the House of Representatives to vital safety net programs like Medicaid.

Under this conference bill, the early and periodic screening, diagnostic, and treatment, EPSDT, benefit, which provides children with access to necessary immunizations, checkups, and preventive services, is eliminated. This means that low-income children—no matter how poor—will no longer be guaranteed vision, hearing and dental screenings; coverage for eyeglasses; therapy services, medical equipment that will allow them to attend school; or any other Medicaid services. Without access to this comprehensive benefit, many children will not get the vital medical care they need and will develop medical conditions that could have been prevented.

The reconciliation language also begins to erode Federal laws protecting Medicaid recipients from burdensome cost-sharing. Under this bill, States would be allowed to index nominal cost sharing amounts by medical inflation, which grows at least twice as fast as wages. States would also be allowed to charge co-insurance up to four times higher than the 5 percent co-insurance allowed today. This means that Medicaid beneficiaries could pay as much as 20 percent of the cost of any Medicaid service—which for some would consume their entire monthly income. Such cost-sharing requirements are unacceptable for a safety-net program designed to help working families when times get tough.

This bill gives States the green light to vary benefit packages based on factors such as geography and disease. If enacted, Medicaid recipients will no longer have equal protection under the law. Instead, residents in rural areas of a State could receive fewer Medicaid benefits than those living in more populated, urban areas. Individuals with diseases that are expensive to treat may receive a narrower set of benefits than those with diseases that are less expensive to treat. And, if residents and diseases are treated differently in a State, then providers can also be reimbursed differently depending on their geographic location and the types of patients they treat. Such a haphazard benefit system will lead to more emergency room visits by beneficiaries and decreased provider participation in the Medicaid program. It would appear that, for some of my colleagues on the other side of the aisle, the vote in favor of the motion to instruct conferees was nothing more than a procedural motion—more rhetoric than substance, more posturing than true concern—because many of the Medicaid provisions included in the budget reconciliation package got even worse after the Senate voted overwhelmingly in opposition to increased beneficiary cost-sharing, barriers to eligibility and enrollment, and any other provisions that would undermine the Federal guarantee of Medicaid coverage.

In all my time in the Senate, I cannot remember a time when we have considered such drastic cuts to safety-net programs that threaten to devastate working families. These are families who struggle to eat and pay their bills, let alone pay for much needed health care services; families of limited means who have done their best to contribute to a system that is now essentially turning its back on them. The cuts contained in this budget reconciliation conference report are reprehensible.

This country has a moral obligation to help our fellow Americans in their time of need. We should not offer billions of dollars in additional giveaways to the wealthiest Americans and special interests at the expense of working families already struggling to make ends meet.

I believe we can do better. Hard-working Americans deserve better; low-income children deserve better; the elderly, the disabled and parents who want to see their children go to college and succeed deserve better. We have a responsibility, Mr. President, and I would hope we would live up to that responsibility.

Mr. VITTER. Mr. President, I am pleased that we have passed the Deficit Reduction Act today. It is a good first step to curbing run away spending in our entitlement programs, and it provides essential Medicaid relief to hurricane victims in my state.

However, I am deeply concerned with the provision in the bill that repeals the Continued Dumping and Subsidy Offset Act, also known as the Byrd amendment. Many of my colleague and I signed a letter to the conferees urging that this repeal be excluded from the final bill. This important law helps counter unfair trade practices of other countries by using revenues from duties collected to compensate injured industries. In Louisiana, most of our seafood industries have been severely affected by illegal dumping from China and other nations, and the Byrd amendment is one of the few things that could effective help the families in these industries, who are now also reeling from Hurricanes Katrina and Rita, to survive in their business and maintain our unique culture and way of life.

I have been very frustrated with the Commerce Department and the Customs Department efforts to comply with the Byrd amendment as it stands now. Commerce does not properly set the duty collection rates, and Customs is severely lax in collecting tariffs that are due. Seafood tariffs uncollected stand at over $200 million from China alone right now. As these tariffs are not collected as they should be, illegal dumping continues, and our seafood and other industries are not being paid what they are due under the law.

This bill supposedly has a phase out of CDSOA for 2 years, in which pending cases are supposed to be paid. I fear with the current record of collections and distribution, this 2 year phaseout won't give much relief. I do not feel that this phaseout is adequate, and the repeal this important law should not have been included in this bill. It is not right to use industries that are victims of illegal trade practices to carry a large burden of balancing the budget.

I urge my colleagues to help me force the bureaucrats to do their work, collect these tariffs, and make the already due payments under the Byrd amendment. While the law may be unwisely repealed in this bill, the previously due payment should be paid and paid quickly.

Mr. GREGG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to concur in the House amendment with the Senate amendment.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 50, nays 50, as follows:

[Rollcall Vote No. 363 Leg.]

YEAS—50

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Coleman
Cornyn
Craig
Crapo
DeMint
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—50

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Collins
Conrad
Corzine
Dayton
DeWine
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Smith
Snowe
Stabenow
Wyden

The VICE PRESIDENT. On this vote, the yeas are 50, the nays are 50. The Senate being equally divided, the Vice President votes in the affirmative, and the motion to concur in the House amendment with a further amendment is agreed to.

Mr. FRIST. I move to reconsider the vote.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, the next hour, we will spend in our precloture period before proceeding to the cloture vote on the Defense appropriations bill. I believe the Democrat leader spelled out how that time will be used.

At this point, I ask unanimous consent that the time on our side be divided as follows: Senator MURKOWSKI, 5 minutes; Senator COCHRAN, 2 minutes; Senator LOTT, 3 minutes; Senator DOMENICI, 5 minutes; Senator GREGG, 5 minutes; Senator STEVENS be given the last 5 minutes of the debate; and 5 minutes to be designated by Senator STEVENS.

The VICE PRESIDENT. Without objection, it is so ordered.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank colleagues for their cooperation during the consideration of budget reconciliation. I especially thank the staffs on both sides, who spent several sleepless nights working on this matter. I very much thank my staff director, Mary Naylor, and all of my staff for their extraordinary effort.

I also salute my colleague, the chairman of the Committee on the Budget, for his professionalism as we considered the matter. Special thanks to his staff, as well. I know this has been an extraordinarily trying period. We appreciate so much the effort and work they put into it.

The PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I join the Senator from North Dakota in especially thanking our staffs, most of whom have not slept for a series of nights. They have done an exceptional job, led by Scott Gudes on our side and, obviously, Mary on the Democrat side. We have staff who put in huge hours to make us look effective and efficient around here, and they do an extraordinary job on our behalf.

I also thank the Senator from North Dakota. This bill has reappeared in the Senate sort of like Haley's Comet: it comes through about every 3 months as we try to deal with it and move forward in the reconciliation budget process. In each instance, the Senator from North Dakota has been extraordinarily professional, has moved forward in what I consider to be the tradition of this Senate, which is comity and cooperation, in order to make the Senate accomplish its business. I only wish he had more charts.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006—CONFERENCE REPORT—Resumed

The PRESIDENT pro tempore. Under the previous order, there will now be 1 hour of debate equally divided between the two leaders or their designees on H.R. 2863. The time has been allocated by the two leaders. The first will be designated to Senator FEINGOLD who is recognized for 2 minutes.

Mr. FEINGOLD. Mr. President, I hope today the Senate will side with rules, history, and future when it is time for this Senate to go on record as to whether it is okay to break the rules to do something you cannot otherwise get done.

My colleagues know I do not support drilling in the Arctic Refuge. But this is not simply a debate about oil, wildlife, and energy policy. The debate we are having and the vote we are about to have is about how this institution and this democracy operate. Some have said there is precedent for violating rule XXVIII. My response is simple: Abusing the process and breaking the rules in the past does not justify doing so now, especially knowing it was a mistake.

We worked in a bipartisan fashion to reinstate these very rules in 2000. We did this because these rules are designed to protect all of us against abuses of power. If Senators do not stand up to the current and very troubling tactics we are seeing, what hope is there of stopping future attempts to hijack other legislation to pass proposals that cannot stand on their own merits?

There are clearly Members who are determined to open the Arctic Refuge to drilling. I suspect every Member also has a couple of things we desperately want signed into law. However, we have a responsibility to respect the rules and traditions of the Senate. I urge my colleagues to vote against cloture and to vote to uphold the rules of this institution in which we are honored to serve.

I yield the floor.

The PRESIDENT pro tempore. Senator BOXER is recognized for 2 minutes.

Mrs. BOXER. Mr. President, if this Senate is going to operate and function, it has to follow its own rules. It is very obvious that including drilling in a wildlife refuge in a military bill is not following our own rules. It is no wonder the people in the country are cynical. It is wrong to do this.

Members should stand on line, do it the right way. If Members want a bill passed, do it the right way. This is not a Senate where one person can dictate how things get done.

I hope the Senate would understand when you are discussing a wildlife refuge, which was first set aside by President Eisenhower, that we would do better than putting it into a military bill that is a must-pass piece of legislation. I am very pleased that Senator STEVENS said if he does not get his way on this, and the Senate decides not to include it here, that we will be able to strip that provision and get those funds where they need to go, to our troops.

I am very pleased about that. I hope the Senate will speak strongly in a bipartisan way and vote "no" on cloture.

I yield the floor.

The PRESIDENT pro tempore. The Senator from New Mexico, Mr. BINGAMAN, is recognized for 3 minutes.

Mr. BINGAMAN. Mr. President. I speak briefly in opposition to the motion to invoke cloture.

The point I want to make, which has not been made to an adequate extent here, is that the provisions to open the Arctic Wildlife Refuge that are contained in this conference report are very different from what the Senate adopted in the budget reconciliation. In fact, the version of the legislation that is before us has never passed the House. It has never passed the Senate. It has been substantially changed from what we previously sought.

First, the Department of Defense conference report language limits the ability of the Secretary to protect environmentally sensitive areas in the Coastal Plain to only 45,000 acres out of the 1.5 million-acre Coastal Plain. It cuts off the ability of the Secretary to withhold lands from leasing under other authority.

In addition, the language that is before us requires the Secretary to offer for lease no less than 200,000 acres of the Coastal Plain within 22 months of the date of enactment. That is new.

In addition, there are provisions with regard to judicial review that are new and unprecedented. Unlike the budget reconciliation language, the conference report prohibits review of a secretarial action in a civil or criminal enforcement proceeding of any action that the Secretary takes subject to judicial review under these provisions.

In addition, there is a new presumption put forth in this language that the Secretary's preferred action related to any lease sale is correct unless otherwise provided by clear and convincing evidence.

We should not be taking this action. We should clearly not be taking this action as part of a Defense appropriations bill, which is very much needed in order to provide the resources for our troops in harm's way today. I urge my colleagues to oppose cloture on this provision, on this conference report as it is currently constituted. We can come back at a time when we can actually look at the provisions we are being forced to vote on and consider them on their merits.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. Senator LIEBERMAN is recognized for 3 minutes.

Since he is not here, who seeks recognition?

Mr. REID. Mr. President, is there a quorum call in effect?

The PRESIDENT pro tempore. No, there is not.

Mr. REID. Whose time is running now?

The PRESIDENT pro tempore. The minority has one-half hour, as we understand it, and the time is running against that one-half hour.

Ms. CANTWELL. Mr. President, parliamentary inquiry.

The PRESIDENT pro tempore. Will the Senator repeat herself, please.

Ms. CANTWELL. Parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Washington.

Ms. CANTWELL. Is the agreement to have the time evenly divided between both sides and no specific request for how the sequencing of time is allocated under the order?

The PRESIDENT pro tempore. Under the previous order, there is an hour divided between the two leaders. The leader had designated that time. The first designation was made, but it is not—it is equally divided. There is no sequence.

Mr. REID. Mr. President, if the Senator from Washington will yield, I think what we would like is maybe to have some back-and-forth debate here. I am wondering if there is someone on the majority side who wishes to speak at this time and can use their time. There is somebody here who could yield that time, I am sure.

The PRESIDENT pro tempore. The Senator from Alaska is recognized for 5 minutes.

Ms. MURKOWSKI. Mr. President, thank you.

It is December 21. This is the shortest day of the year. On Alaska's North Slope today, it is pretty dark. The Sun went down, I was told, November 18 at 1:40 p.m. It is not going to rise again until January 23 at 1:01 p.m. Today's weather forecast on the North Slope is for it to be about 30 degrees below zero. Most of us would be hunkering down and hiding out from the cold and the dark. But right now Alaska's North Slope and the oil activities are humming because this is the time of year we do our work up there. And why do we do it? Do we do it because we like the cold, we like to be in the cold and in the dark? No. We do it because this is how we provide for the protections for the area. We explore and we work when the tundra is frozen. This is when we build the ice bridges. This is when we do the exploration. We do it because we care for the environment up there.

It hurts to hear some of the discussion and some of the argument and some of the misinformation about how we in Alaska derive our resources, how we pull the oil from the ground up North. We have been providing about 20 percent of this Nation's domestic oil from Prudhoe Bay for the past 30 years, and we have been doing a good job of it. We have been providing not only for the environment, we have been providing the jobs, and we have been providing the revenues. We have been helping this country in an effort to keep our balance of payments from booming even more than they already are. We are doing what this country needs when it comes to domestic production. We need the authorization of the Congress to do more, to open this small area up on the Coastal Plain to oil exploration and development.

There has been some discussion that in this bill, in the Defense bill, we are opening up in excess of the 2,000 acres we have agreed upon. The language is very clear. It says: 2,000 acres. It does not allow for the Natives to add additional acreage on top of the 2,000. It is a 2,000-acre limitation.

There has also been some challenge or some suggestion by the minority leader that somehow with this legislation the judicial review has been changed or altered in some way that would lesson the judicial review. That is absolutely not correct. There have been technical corrections in this legislation that differ from the earlier legislation that was introduced, but the judicial review remains in place.

There has been some suggestion that the State of Alaska will sue for a 90-percent share of the revenues rather than the 50-50 share.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter signed by the Attorney General of the State of Alaska that clearly provides that the issue has been settled in terms of the 50-50 split because the issue has been appealed all the way to the U.S. Supreme Court. The State considers the decision by the U.S. Court of Federal Claims to be settled law. So those arguments people will make that we should not move forward with opening ANWR at this point in time are simply not true.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF ALASKA, DEPARTMENT OF LAW, OFFICE OF THE ATTORNEY GENERAL

Anchorage, AK, December 20, 2005.

Senator TED STEVENS,
Hart Building,
Washington, DC.

DEAR SENATOR STEVENS: You have requested our response to a question that has arisen regarding the State of Alaska's previous claims against the federal government over oil revenues due to the State under the Alaska Statehood Act.

In 1993, the State sued the federal government over the right arising out of the Alaska Statehood Act to mineral revenues from federal leases. The State argued that the Statehood Act constituted a contract that entitled Alaska to 90% of gross mineral leasing revenues from federal mineral leases in Alaska. This issue was litigated in the United States Court of Federal Claims. *State of Alaska* v. *United States*, 35 Fed. Cl. 685 (1996). In 1996, the court found against Alaska. It stated that "there was no promise on the part of the Federal Government to pay Alaska, in perpetuity, 90 percent of gross mineral leasing revenue from federal mineral leases in Alaska." Id. at 704.

The State then appealed this decision to the United States Court of Appeals for the Federal Circuit, which affirmed the Court of Claims decision discussed above. *State of Alaska* v. *United States*, 1997 WL 382032 at *1 (Fed. Cir. July 8, 1997). Finally, the State petitioned the United States Supreme Court, which denied certiorari. *State of Alaska* v. *United States*, 522 U.S. 1108, 118 S. Ct. 1035 (1998).

Because the issue has been appealed all the way to the United States Supreme Court, the State considers the decision by the United States Court of Claims to be settled law.

Additionally, I would like to clarify an issue raised in the press and the Congress regarding the State's role, if any, in the lawsuit filed on December 19, 2005 by the Alaska Gasline Port Authority against ExxonMobil Corp. and BP P.L.C. et al, alleging violations of numerous laws, including the Sherman Act. The State of Alaska is not a party to this lawsuit.

If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

DAVID W. MÁRQUEZ,
Attorney General.

Ms. MURKOWSKI. Mr. President, what ANWR represents to this country is energy security, national security, from the perspective of reducing our vulnerability on foreign sources of oil. When we talk about vulnerability in this country, and recognizing the vulnerability and the exposure of our men and women who are serving us over in Iraq, over in Afghanistan, we have to do everything we possibly can in this country to provide for their protection. Eighty percent of the Government's oil consumption is by our military. We need to keep this in mind. If we can do anything more to help with our domestic production so that we can decrease this reliance, we need to do so.

What ANWR offers to us is energy security, domestic security in the sense of jobs, and truly environmental security. I need to stress that. We have been doing a responsible job up North for the past 30 years. We want to continue that, to fill the pipeline that is now about half capacity.

Let me amplify a bit on why ANWR is so important for this Nation.

Since we debated ANWR during the budget resolution process this spring, we have finished a 14-year-effort to craft a new comprehensive energy bill. In that bill we have provided incentives and tax breaks to increase renewable energy: wind, solar, biomass, geothermal, ocean energy supplies. We promoted, by tax breaks, the purchase of hybrid and alternate clean cars to cut fuel consumption. We also mandated a doubling of the production of ethanol to help displace foreign oil.

We hiked the efficiency standards for a host of appliances to reduce electricity demand—hopefully by 40 percent, saving enough electricity to equal the output of 170 new 300-megawatt power plants. We promoted new technology, proposing to spend $3 billion to develop new hydrogen-fueled cars and to perfect the next generation of nuclear power.

We also made it easier to import more natural gas to ease our pending supply shortage. We approved $5.6 billion in tax breaks to promote energy efficiency and the growth of alternative fuels—more than twice what we spent to promote oil and gas production.

But outside of some minor changes that may speed oil leasing in the National Petroleum Reserve in Alaska—the Nation's last designated place for petroleum production—and a few very minor regulatory changes, we did little to directly increase domestic oil and gas production.

We delayed that action until now, when we hopefully will permit oil development from a tiny portion of the Arctic coastal plain in my home State of Alaska.

ANWR oil will certainly help stabilize our energy prices while generating more than $36 billion in Federal revenues within 20 years—$2.5 billion according to this reconciliation bill—money that is vital given our $319 billion deficit for fiscal year 2005 and the recent CBO forecast that we will still face a $314 billion deficit this year, not counting spending to counter the effects of Hurricanes Katrina, Rita and Wilma. While both numbers are down, we clearly need more revenues.

ANWR will reduce our balance of payments deficit because we won't be buying as much oil overseas. Last year we paid $166 billion to buy oil overseas—a quarter of our ballooning trade deficit. We are paying even more this year. Keeping those billions a year in America that ANWR oil production will equal at current prices is important.

It will produce hundreds of thousands of American jobs in most every State, with estimates ranging from a high of over 1 million total jobs to a low of 735,000.

These are jobs mostly in the lower 48 States; 12,000 jobs in Washington State; 80,000 jobs in California; 48,000 jobs in New York; 34,200 in Pennsylvania; 34,000 jobs in Florida, 5,500 jobs in Arkansas, even 2,700 jobs in Hawaii, our fellow non-contiguous sister State to the south, according to forecasts by Wharton Econometrics Forecasting Associates.

It is because of these jobs and the other economic benefits, that so many groups support ANWR development, from many in organized labor to farmers, and from truckers to manufacturers, all of whom know that ANWR oil will help stabilize everything from the cost of spring planting and fall harvesting to the thousands of products made from oil: from antihistamines to compact discs and from heart replacement valves to shampoo.

That is why groups from the U.S. Chamber of Commerce to the Americans for Tax Reform, from the Alaska Gas Association to the Alliance for Energy and Economic Growth, and unions such as the International Union of Operating Engineers, the Seafarers International Union, the Teamsters, the United Association of Plumbers and Pipefitters, the Laborers' International Union, the United Brotherhood of Carpenters and Joiners, and the Building and Construction Trades Department all are supporting ANWR's opening.

According to USGS estimates, ANWR's Coastal Plain has an even chance containing the second largest oil field in North America. During this debate opponents may well again repeat that there isn't enough oil there to be worth developing, that it only represents a tiny supply or only will decrease our dependence on foreign oil by a few percent.

Those arguments are utter nonsense. It is like saying we should never have produced the East Texas oil fields since the area only contained 5.3 billion barrels—a half to a third of ANWR's likely production. East Texas has produced oil, created jobs and protected our national security the past 75 years of through WWII, and Korea, Vietnam, and the Persian Gulf.

ANWR production is likely to provide all the oil that South Dakota will need for 499 years. It is likely to provide all the oil that Minnesota will need for 84 years, for New York for 34 years, for California for 16 years. That is a lot of oil.

When you consider that the American Farm Bureau Federation reports that American farmers in the 2003–2004 planting season lost $6.2 billion in income because of higher fuel and fertilizer costs—farmers facing an even bleaker price picture this fall given high prices and drought—then it's clear that all the oil and gas ANWR may produce will be precious to help hold down or reduce those costs in the future.

Remember that ANWR's oil would have offset the oil that we lost in the Gulf of Mexico because of hurricane damage—oil that could well have prevented prices from skyrocketing at the pump this summer and fall.

Discounting ANWR's likely oil is also like saying we as a nation should never have opened the neighboring Prudhoe Bay oil field in Alaska because Prudhoe Bay would only supply us with a 3-year supply of oil. Prudhoe Bay has provided America with up to a quarter of our domestic oil supply for the past 28 years. It has already saved us from spending more than $200 billion to buy imported oil and new technology has consistently raised the amount of oil the field will produce.

Initially Prudhoe was expected to produce only 35 percent of its oil. Now it's likely to produce more than 16.5 billion barrels—65 percent of its oil in place. The same increase in production might occur at ANWR and could raise production totals to between 10 and 27 billion barrels—the mean being nearly 18 billion barrels, if it happens.

We know industry has spent about $40 billion on the trans-Alaska oil pipeline and the wells and production facilities at Prudhoe Bay in the past three decades—78 percent of that spending going to states in the lower 48.

From just 1980 to 1994 California businesses received $3.2 billion in work because of Alaska oil development, Washington State firms $1.7 billion, New York $680 million, Minnesota businesses $100 million.

There is no question that ANWR oil development will be good for the country's economy and its national security. But it also will be good for the global environment and it won't harm Alaska's environment, wildlife or beautiful landscape.

Let me shock those on the other side of this issue. As a life-long Alaskan, a mother with two sons with a family that loves the outdoors, let me say again I would be the first to oppose ANWR's opening if I had any concerns about what oil development will do to our landscape, our air, our water and our wildlife. But I don't.

I have been to Prudhoe Bay, have seen the impacts of oil there and know that Prudhoe's development has not damaged Alaska's environment.

And I know that by using 21st century technology and advanced engineering that has been perfected since the field's construction 30 years ago, that ANWR can be developed safely and the environment even better protected.

First let's look again at Prudhoe's experience. There was much concern that development there would harm the environment and damage the Central Arctic Caribou herd that lives in the field. Neither happened.

The Central Arctic herd continues to calve and nurse their young in the area's oil fields. The herd has grown from 3,000 animals in 1974 to nearly 32,000 today. This 10-fold increase shows that caribou and oil production can co-exist quite nicely, thank you.

Wildlife studies have shown that several bird species have grown since the field was built—specifically brant, snow geese and spectacled eiders, although as the National Academy of Sciences reported last year some nesting distributions may have changed and brant and eiders in general are having problems, perhaps because of reach warmer climate conditions.

I'm sure someone will mention polar bears. I am quite prepared to talk about the very healthy condition of Alaska polar bear stocks. For the moment let me say that only two bears over the past 38 years have been harmed in Alaska because of oil development and with new infrared detection equipment, we can make sure that no bears will be disturbed during denning by ANWR's development.

Americans can be assured that opening the coastal plain will have even less impact on Alaska's environment. That is because new technology has reduced the impact on the environment and the footprint of development.

3–D and 4–D seismic that I mentioned earlier now allow us to locate oil without surface disruption.

Underground directional drilling allow us to recover oil 4 miles away and hopefully up to 8 miles away within a few years, meaning that only a tiny portion of surface habitat will be disturbed between drill sites.

The size of so-called well pads has decreased 70 percent to 88 percent since Prudhoe Bay. The proof can be seen in that the Tarn field was opened in 1998 disturbing just 6.7 acres. Not the 65 acres for a well-pad at Prudhoe Bay. The Alpine field that we in the Senate visited in March, today produces 120,000 barrels a day from a central well pad that is just 43 acres in size—67 if you count the attached air strip.

Ice roads today are used for winter drilling—roads that melt without any disturbance to the tundra in summer when the animals arrive on the coastal plain. New composite mats also can be used to reduce gravel fill and dust. And pipelines technically can be placed underground to prevent any surface disturbance to animals or birdlife, although there are no problems with above ground pipelines. There won't be a "spider web" of development as some have claimed.

Drilling restrictions will prevent noise in summer that might scare a mother caribou, and as insurance, development can be barred by the Secretary of the Interior to guarantee habitat for a core caribou caving area or for bird nesting areas.

Opponents often say that development will destroy "America's Serengeti." We are proposing to limit the "footprint" of development to just 2,000 acres of Federal land. That is no more land than a moderately-sized American farm—the average farm in North Dakota is 1,400 acres—while an area larger than all of South Carolina will remain wild and protected. With the new technology it will be possible to leave nearly 100 square miles of undisturbed habitat between well sites. The animals of the African veld in Tanzania should be so lucky.

Opponents of opening ANWR always address two more issues: that oil spills on the North Slope of Alaska has shown that development should not be allowed, and that air quality from energy production should also prevent development. Let me briefly respond to both concerns.

Concerning oil spills opponents list numbers claiming a high number of spills, but fail to mention that companies have to report spills of most any substance more than a gallon in size, whether of water, or oil or chemicals.

According to the Alaska Department Environmental Conservation, there have been an average of 263 spills on the North Slope yearly during the past decade, but the average oil spill was just 89 gallons—2 barrels of oil—and that 94 percent of that oil was totally cleaned up. By comparison the rest of the state had seven times more spills per year than the Prudhoe Bay oil field.

According to the National Academy of Science's 2003 study, if you look at all oil spills from 1977 through 1999, 84 percent of all spills were less than 2 barrels in size and only 454 barrels of oil per year may have been released to the environment, compared to 378,000 barrels of oil that enter North American waters as a result of just urban runoff—those drips at filling stations and other spills. That may be less oil than enters the Alaska environment naturally because of oil seeps on the North Slope.

Concerning air quality, we have heard mention that Prudhoe Bay has destroyed the air quality. There is no truth to those claims.

It is true that the nation's largest oil field does add emissions into the air, mostly nitrogen dioxide and larger particulate matter. But field meets the stringent air quality standards in place for Class II attainment areas—areas where Congress has set higher standards to prevent any Significant Deterioration (PSD) of air quality.

Looking at nitrogen dioxide, in its worse year, 2000, such emissions were only a quarter of the public health standard for the area. For sulfur dioxide, in its worse year 1997, the Prudhoe Bay field emitted 16 times less sulfur dioxide than the public health standard and only a quarter of the tough standards for a Class II area.

For carbon monoxide, during its worse period, one eight-hour period in

1991 near Kuparuk, the field was 35 times lower than the public health standard. I could continue with particulate matter but the story is the same.

The truth is that the Prudhoe Bay area—the nation's largest oil field—releases eight times less nitrogen dioxide into the air than the metropolitan Washington area does per year, according to the Metropolitan Washington Council of Governments.

More important the releases have no impacts on the environment. There is no evidence that the releases are affecting the Arctic environment or the environment downwind. The air quality complaints are groundless.

To environmentalists who say we are harming Alaska, please remember that an area of more than 192 million acres, the size of all the states that stretch from Maine to Orlando, Fla.—almost the entire East Coast—are already protected in parks, refuges and forests in Alaska. We aren't proposing to touch any of those areas.

Now let me explain why I suggested that ANWR development is actually good for the global environment.

Right now America is using about 20 million barrels of oil a day and importing more than 11 million barrels of that oil. That oil is increasingly coming from countries with less stringent environmental standards than America. America has the toughest environmental standards in the world. We should be doing all we can to satisfy our oil needs at home, not exporting environmental issues overseas to Russia or Colombia or Venezuela.

Secondly, even with greater efforts at conservation—efforts that I strongly supported in the just-passed comprehensive energy bill—we are still going to need oil.

We could park every car and truck in America tomorrow and we still will need ANWR's oil to meet our needs for plastics, road construction materials, roofing materials, and those petrochemical feed stocks that are the stuff of everything from soft contact lenses to aspirin and from house paint to toothpaste.

And in case anyone tries to argue that opening ANWR will somehow increase carbon dioxide and maybe, perhaps, increase global warming, let me say that if we don't open ANWR we will need to import ever more oil to America in foreign tankers. Those tankers will need to travel tens of thousands of miles farther to reach American shores. They run on diesel fuel and will produce far more carbon dioxide than transporting Alaskan oil to lower 48 ports will.

Thirdly, if we don't open ANWR we will need to import ever more oil. When we reach 68 percent dependency we will need the equivalent of 30 giant super tankers, each loaded with 500,000 barrels of crude oil a day, to dock at U.S. ports. That will be more than 10,000 shiploads of oil a year, most likely foreign-flagged and foreign-crewed tankers passing our rocky coastlines and entering our crowded harbors. Those ships create many more times the environmental risk to America's coasts than developing our own energy, using American technology, American doubled-hulled ships, whose performance is governed by American law.

For years the mantra of environmentalists has been "Think globally, act locally." The best action we can take locally is to produce more of the oil we consume every day.

Let me briefly touch on whether Alaska Natives continue to support oil development on the coastal plain. Earlier this spring some questioned that support because of a petition that was signed by some in Kaktovik—the only village directly in the ANWR area, an area where 78 percent of residents, 2 years ago supported oil development, according to a community poll. While I have letters signed by a number of those who signed the anti-development petition—letters saying they were misled by the petition sponsor and that they do still support ANWR's on-shore oil development—let me just reassure my colleagues that Alaska Natives clearly support oil development in my State.

I have a letter from all members of the Kaktovik City Council and from its Mayor sporting oil development.

The latest statewide public opinion poll in Alaska by Dittman Research finds that only 23 percent of Alaskans oppose ANWR development. In this day and age, getting more than 70 percent of any body anywhere in support of anything is a major achievement.

The Alaska Federation of Natives—that is the umbrella for all Native groups in the State—is clearly on record supporting ANWR development.

I visited Kaktovik during August to see for myself the current level of support or concern with development in the coastal plain. I can say clearly that while villagers would like us to solve their Native land allotment concerns by next year—the 100th anniversary of when the land allotments were authorized and want us in Congress to protect subsistence whaling—and while they clearly want to be consulted on development and aided to avoid any impacts—that they generally support environmentally sensitive development onshore on the coastal plain.

Natives on the North Slope of Alaska have seen for themselves the impacts of oil development and have seen the benefits that oil can bring: good jobs, better schools, improved health care, modern water and sewer systems, adequate housing and better opportunities for their children and their grandchildren.

Natives who have lived in the area for thousands of years simply want to be consulted and to have their wisdom reflected in the regulatory decisions made to control energy development. That is a perfectly reasonable position for local residents to take and I certainly will support them to make sure their knowledge and wisdom are listened to.

They simply want respect and we in government clearly should respect their knowledge as oil development proceeds.

As long as we include reasonable environmental and regulatory protections, Alaska Natives support responsible oil development on the Arctic coastal plain.

And this bill provides $35 million in impact aid, money that hopefully will alleviate any impacts from ANWR development and assist Alaska Native Corporations and their members who live along the Trans-Alaska oil pipeline corridor.

This amendment is largely based on an ANWR stand-alone-bill, S. 1891, that I introduced this fall. So that there is no mistaking the clear intent of this legislation as it is considered for final passage, let me state the following:

After 18 years of debate since release of the final environmental impact statement covering Arctic oil development in 1987, more than 50 hearings, dozens of field trips, passage of ANWR legislation in the 106th Congress, and passage of ANWR-opening legislation by the House in the 108th Congress and by both the House and Senate in the reconciliation act process in the 109th Congress, it is absolutely clear that it is the intent of Congress—should this bill pass—that oil and gas development be permitted in the entire ANWR coastal plain on an expedited basis. That means that development should be permitted on the Federal lands as permitted by this legislation without delay in order to be producing revenues within 5 years.

It is clearly the intent of Congress as spelled out in the provision, that the existing LEIS is sufficient to cover new preleasing activities and that it is the intent of Congress that the LEIS is still sufficient to govern oil development with modest updating.

Concerning the 92,000 acres of native-owned lands, lands owned by the Arctic Slope Regional Corporation and the Kaktovik Inupiat Corporation, Congress by this division in the Defense appropriations bill is authorizing immediate development as allowed by the 1983 land trade that allowed Natives to select lands in the coastal plain and as allowed by the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act.

Specifically, there should be no question that it is the intent of Congress that the phrase "prelease activity" is intended to include all activities that normally take place prior to a lease sale, including surface geological exploration or seismic exploration. The

Secretary has promulgated regulations governing surface geological and geophysical exploration programs for the refuge's coastal plain pursuant to Section 1002 of ANILCA. These regulations, set out at Part 37 of Title 50 of the Code of Federal Regulations, are consistent with the LEIS and include adequate environmental safeguards. Although the primary purpose of those regulations was to governor the exploration necessary to produce the "1002" report to Congress, they include provision for additional surface geological and geophysical exploration "if necessary to correct data deficiencies or to refine or improve data or information already gathered." 50 CFR Section 37.11.

This authority is adequate for the Secretary to process any requests for permits for prelease surface exploration, but is not the exclusive authority for processing such requests. This amendment provides independent and sufficient authority for the Secretary, acting through the Bureau of Land Management, to issue prelease permits for surface geological exploration or seismic exploration. Permits for prelease surface exploration, whether or not pursuant to Part 37 of Title 50, that incorporate environmental safeguards similar to those in Part 37 of Title 50 are consistent with the LEIS and the requirements of this section.

Another area I would like to clarify is relating to the provision that allows the Arctic Slope Regional Corporation to begin oil production from their lands. It should be clear that the section in this bill removes the prohibition in Section 1003 of ANILCA against the production of oil and gas and leasing or other development leading to production of oil and gas for lands within the "1002" Coastal Plain Area, as depicted on the map prepared by the U.S. Geological Survey entitled "Arctic National Wildlife Refuge 1002 Coastal Plain Area," dated September 2005, including both Federal lands private lands, primarily owned by Alaska Native corporations, and now or hereafter acquired within the 1002 Coastal Plain Area and preserves all rights of access to those lands, including for oil and gas pipelines, provided for in Sections 1110 and 1111 of ANILCA.

There is much more that I can say. For now let me just say that both Republicans and Democrats agree that American independence on foreign oil threatens our national security, and yet, we continue to import over half of our oil needs. And we haven't yet done enough to reverse that trend.

Only by passing ANWR, in conjunction with the other environmental steps we have already taken in the energy bill, can we produce more oil from American soil, with American workers; oil that will be used to heat American homes and power America's farms and industries.

In a sentence, ANWR is a part of the solution to America's dependence on foreign energy sources. Not the entire solution, but one real part of it. The one part not yet addressed by Congress this year.

ANWR is the place and the time is now.

I yield the floor.

The PRESIDENT pro tempore. Who yields time?

Senator COCHRAN is recognized for 4 minutes.

Mr. COCHRAN. Mr. President, I understood I had 2 minutes under the order.

The PRESIDENT pro tempore. The occupant of the Chair has additional time and is yielding the additional 2 minutes.

Mr. COCHRAN. I appreciate the generosity of the Presiding Officer.

I am pleased to advise the Senate that after a great deal of hard work, including Senators on both sides of the aisle, Members of the other body, we have been successful in adding to this conference report as an amendment a disaster assistance provision that makes money available now to those in the Gulf States region who have been seriously harmed, hurt, devastated by Hurricane Katrina and Hurricane Rita.

The Senators from Louisiana and Mississippi, of course, have been probably the most directly affected in terms of the demands being made on the Federal Government now for a sensitive and generous response to the needs of our region. We are very grateful to those who have joined with us and supported the addition of these funds, $29 billion in total amount in this bill, to provide disaster assistance to that region.

We appreciate the administration's sensitivity to this and the request that the President made for a reallocation of previously appropriated funds in the amount of $17 billion. We urged that be increased. The House agreed. The Senate agreed to support this. Our committee did. Now it is before this body. I hope all Senators will support this conference report. It is very important that this money be given to the region now. Any further delays are going to be not just frustrating but devastating to the economic well-being, the emotional stability of that region of our country that has been so harmed, in an unprecedented way, by this disaster. We appreciate the support of all Senators.

I thank the Chair.

The PRESIDENT pro tempore. The Senator from Louisiana is recognized for 4 of the minutes designated to me.

Mr. VITTER. I thank the Chair.

Mr. President, I stand in strong support of the motion to invoke cloture, and I ask all of my colleagues to come together, put the interests of the country, including the interests of the citizens of the gulf coast, first, ahead of politics, ahead of partisanship, and move this important legislation forward.

In the last 48 hours, we have heard a whole lot about this package and about this upcoming vote. So much of it has been about partisan ideology and politics and procedure. Let me tell you what this vote is about in my home in Louisiana. It is about another "P" word. It is about people, real people trying to live and survive and rebuild in the real world. Nearly 4 months ago, 1,000 people, my fellow Louisiana citizens, were killed during the devastation of Katrina. Today, 4 months later, nearly a million people are still reeling. They remain lost because of our continuing delay and inaction, people who have no homes, no cars, no jobs, in many cases all of their personal possessions gone.

My hometown was flooded. The city of New Orleans, once a thriving city of 450,000 people, is today, almost 4 months later, under 100,000 people. My neighbors want to come home. We want to rebuild in earnest. Tens of thousands of businesses want to reestablish themselves and offer jobs again to their hundreds of thousands of employees. This vote is crucial for that to happen. That is why it is not about partisan ideology and politics and procedure that we have heard about for so many days; it is about people, real people with enormous and real challenges in the real world.

The question is simple. It is, in Louisiana, whether those people will be flooded a third time. Why do I say a third time? The first time was because of mother nature, because of the ferocity of Hurricane Katrina causing untold flooding and damage in southeast Louisiana. But the second time was the day after Hurricane Katrina when the levees broke. That wasn't the biggest natural disaster in American history. That was the biggest manmade disaster in American history because of fundamental design flaws in that system.

Now we are on the Senate floor debating whether those same people will be flooded a third time, flooded by inaction, flooded by the results of partisan ideology and politics and getting all tangled up in arcane procedure. Let's not flood these good people a third time. Let's act—yes, late, but not too late—to give them a clear vision forward so they can rebuild their lives.

I urge all of my Senate colleagues to put real people, facing real challenges, the biggest of their lives in the real world, ahead of partisan ideology and politics and procedure. I urge my colleagues to vote yes on cloture.

I yield back my time.

The PRESIDENT pro tempore. The Senator from Washington is recognized for 12½ minutes.

Ms. CANTWELL. Mr. President, I yield 2 minutes of my time to the Senator from California.

The PRESIDENT pro tempore. The Senator from California is recognized for 2 minutes.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Washington, and I thank the Chair.

ANWR is an issue that arouses great passion on both sides of this issue, but there are strong arguments that underlie the belief that the opening of these critical 1½ million acres of pristine wilderness is small, from an oil production perspective, and very damaging environmentally.

First, the Arctic Refuge Coastal Plain, where the drilling would occur, is the ecological heart of the Refuge. It is the center of wildlife activity. If ANWR were opened for drilling, the wilderness would be crisscrossed by roads, pipelines, powerplants, and other infrastructure. The Department of Interior estimates that 12,500 acres would be directly impacted by drilling. I strongly believe that destroying this wilderness does very little to reduce energy costs, nor does it do very much for oil independence. It will produce too little oil to have a real impact on prices or overall supply, and it would offer a number of false hopes.

On average, ANWR is expected to produce about 800,000 barrels of oil a day and, in 2025, these 800,000 barrels per day would represent but 3 percent of the projected 25 million barrels of oil a day of U.S. consumption. By changing SUV mileage requirements to equal sedans, we produce a million barrels of oil a day savings.

I don't believe we can drill our way to energy independence. I urge a "no" vote.

The PRESIDENT pro tempore. Who yields time? The Senator from Washington was yielded 12½ minutes and has yielded 2½ minutes of that.

Ms. CANTWELL. Mr. President, I reserve the balance of my time. I see the Senator from New Mexico seeks recognition.

The PRESIDENT pro tempore. The Senator from New Mexico is recognized for 5 minutes.

Mr. DOMENICI. Mr. President, I rise today to talk about the bill before us in one respect. I want to talk about ANWR. Actually, ANWR has been waiting too long to become part of the United States of America's inventory of reserves of crude oil for our people and for our future.

I had the luxury of going up there in the extreme cold to see what this is all about. I want to share with my fellow Senators a couple of facts that seem to be unnoticed. First of all, all of the activity that takes place with reference to drilling, takes place with reference to preparing, takes place with getting the oil ready to put into a pipeline—all of that activity takes place in the dead of winter. That means the roads are built on ice. That means the holes are drilled in the ice. That means the oil comes to the surface to be put into pipelines while it is below zero and everything is frozen.

So when Senators or visitors are taken there in the warm climate and they see the soft ground that you cannot hardly put a truck on, the marshes that everybody wants to preserve, everybody should understand that there is no activity taking place under those conditions. Everything is done—the drilling, the preparation, the production—while it is all frozen. When the warmth comes, the activity disappears. What is left are a very few small signs of the activity of man that has produced oil.

I saw 60 acres of the Alaskan frozen tundra—60 acres—upon which an entire drilling operation took place, all in winter. That 60 acres was producing 150,000 barrels of oil a day. All that will be there are wellheads. Actually, as you drill, they look like little outhouses very close together, in which a well is drilled, and scores of underground wells are drilled from it, vertical and horizontal, taking the oil out of the ground, with no new holes. When you are finished, there will be the plugs on top of that and a station that pulls it together, and everything else will disappear, and out comes 150,000 barrels of oil.

Can you envision in this 1.5 million acres 2,000 acres of it being used in multiples of 60 acres to produce what is expected from ANWR? How will that harm anything—that 1.5 million acres? They always quote President Eisenhower. It was set aside and designated, written there that this might be important for our future because it has in it and under it petroleum and petroleum products. That was known when it was set aside. We have been sitting around waiting, this great country, to produce it.

The last point, they say it is not very important in terms of size. Mr. President, the reserves on that property, at $30 a barrel, were calculated to be the equivalent of the reserves in the State of Texas. Now we understand that at $60 a barrel it has probably doubled. That means it is more than the State of Texas. So for everyone who talks about a 1-cent impact on gasoline, maybe we could also say it is not very important, so why don't we close down all the wells in Texas; they are not very important. And they have a lot of environmental problems. They were drilled in a different era. If you are worried about the environment, take a flight over Texas—no aspersions on Texas because it is my State also. But that is a lot of oil, the equivalent of Texas, and to run around America and say it is not important is economic arrogance.

The United States needs oil that belongs to itself. We own it. I honestly believe, having seen it and studied it, that those who say we will destroy that part of the beauty of Alaska are missing the point. It will not even be seen. You will not be able to locate——

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. DOMENICI. You won't be able to see or locate what transpired. Yet America will be safer. I hope we do this. This is the appropriate vehicle. I hope cloture is imposed.

The PRESIDING OFFICER (Ms. MURKOWSKI). The majority has 16 minutes and the minority has 22 minutes left. Who yields time?

The Senator from West Virginia is recognized.

Mr. BYRD. Madam President, the issue of drilling in the Arctic National Wildlife Reserve is close to the heart, dear to the heart of the senior Senator from Alaska. I love him. I admire his unyielding commitment to the people of his State. I honor him for that. I consider him a dear friend, a friend over a long period of time, a friend who is close to my heart.

My remarks today do not reflect upon him or upon his efforts in regard to the people he represents. My concern is with the rules of the Senate. My concern is with the Senate rules in this book and how the rules are threatened—threatened—by what has been unfolding in recent days.

If cloture is invoked on the conference report, Senators have discussed raising a rule XXVIII point of order—that is what we hear—against the conference report. That point of order is expected to be sustained by the Chair. The question may then be put to the Senate to overturn the ruling of the Chair and, in effect, to negate—get this—in effect to negate rule XXVIII in order to retain ANWR provisions in the conference report.

It has been noted that if the Senate negates the rule, language included in the conference report would restore rule XXVIII by directing the Presiding Officer to apply the precedents of the Senate in effect at the beginning of the 109th Congress.

It is true that noncontroversial, extraneous matter is often included in conference reports. There is no doubt about that. It is true that Senators acquiesce on many occasions, choosing not to invoke rule XXVIII. That is true. That is a fact. It is also true that the Senate can reinterpret and set new precedents for the application of its rules whenever it pleases. The Senate can do that. That is as it ought to be. But what has been discussed in recent days is very different—hear me—very different.

It will allow a simple majority of Senators, as opposed to the two-thirds majority required by Senate rule V, to effectively suspend rule XXVIII by negating it and then restoring it so that the rule cannot be used to prevent the passage of the ANWR provisions that have been inserted into the conference report.

I say to my colleagues—hear me, hear me, my colleagues on both sides of the aisle—that I abhor, I abhor, I abhor this idea. Shame.

If such a scheme were carried into effect, it could seriously impair the Senate rules. Hear me. I know about the rules. I spent years in using the rules. Nothing would stand in the way of a majority—nothing—nothing would stand in the way of a majority, be it Republican or be it Democrat, from routinely negating and replacing Senate rule XXVIII in order to insert controversial legislation into a conference report. This is a very clever, a very clever, a very clever thing that is being put forth here.

Today, this process could be employed to suspend rule XXVIII, but tomorrow, it could be employed to suspend the rule XVI prohibition against legislation on appropriations bills, and the day after that, it could be used to suspend who knows whatever rules.

Mr. STEVENS. Will the Senator yield?

Mr. BYRD. Not yet. I will be happy to yield to my friend. He is my friend. I love him. I told him that, but I love the Senate better. I love the Senate more. I love this man from Alaska. I do, I love him. I feel my blood in my veins is with his blood. I love him, but I love the Senate more. I came here and swore an oath to uphold the Constitution of the United States, and I would die upholding that oath, just as the Romans honored an oath. And I feel the same about that. I love my friend from Alaska. I say, I love him, but I cannot go down that road. I have told him so. I love him, but I love the Senate more.

I know he is going to speak, and I would love to follow him, but I won't be able to, so let my words stand. The record stands.

If permitted today, the process could be utilized again and again and again, with terrible consequences for the Senate rules. I understand that Senators are working to avoid this scenario. I hope that effort is successful. Allowing this process to continue unfolding as it has in recent days would cause significant harm to the Senate as an institution.

Senators should realize that if negated in the next hour, rule XXVIII would not be restored in its current form until the President signs into law the Defense appropriations conference report, which could take as long as 10 days. In that time, any remaining conference reports, whether a rewritten PATRIOT Act or a continuing resolution, could include almost any—almost any—nongermane provisions without being subject to a rule XXVIII point of order.

It is ironic—oh, it is ironic.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD. May I have 5 more minutes?

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I would not object as long as the majority's time is extended the same period of time.

Mr. REID. I don't think we will ask the time be extended. Madam President, does Senator CANTWELL have 5 minutes for him?

Ms. CANTWELL. Did I understand—

Mr. REID. Senator BYRD has asked for 5 more minutes out of the time of the Senator from Washington. Madam President, does she have it?

Ms. CANTWELL. I think I understand that the Senator from Alaska asked for additional time.

Mr. STEVENS. I did not hear the Senator.

Mr. REID. Madam President, I ask unanimous consent that the time for the majority and minority be extended 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, it is ironic that the Senator from Alaska and I find ourselves on opposite sides of this issue. In the year 2000, we worked together to restore rule XXVIII after it had been negated 4 years earlier. We agreed that it ought to be restored to try to facilitate a return to the regular order in the Senate. My friend remembers as I do the yearend Omnibus appropriations bills that would come back from conference where conferees had to accept all sorts of new matter never before considered by the House or Senate. We included an amendment in the fiscal year 2001 Consolidated Appropriations Act to restore rule XXVIII, with the support of the majority and the minority leaders. Now the question may be put to the Senate to negate rule XXVIII again.

I understand the passions surrounding the issue of ANWR, and I honor my friend from Alaska. He is standing up for his State, but I am standing for the Senate. I am standing for the Senate, the Senate's rules under the Constitution of the United States. I understand the passions surrounding the issue of ANWR, but we abandon and undermine these rules at a terrible, terrible price. What a price. This institution and the liberties that its rules protect must come first—must come first—before political party, whatever it be, Republican or Democrat, and before legislative maneuvering. Those battles are fleeting, but the Senate must stand forever.

I do not want to see the Senate, the forum of the States and the last exalted refuge that guarantees a voice to the minority among the din of an overwhelming majority. I do not want to see the Senate take the position that a majority of Senators are entitled to suspend the Senate rules whenever they prove inconvenient. So I urge my colleagues—please, listen, my friends on both sides of the aisle, Democrats and Republicans—I urge my colleagues to think carefully about this issue. The powerful abolitionist Senator Charles Sumner called the Senate rules the very temple, the very temple of constitutional liberty, and he was right. I plead with my colleagues to not dismantle that temple of constitutional liberty. I urge my colleagues to preserve rule XXVIII in its current form and, if raised, to oppose any motion to overturn the ruling of the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire has 5 minutes.

Mr. GREGG. Madam President, I rise to praise the Senator from Alaska for bringing this bill forward. This bill has a lot of very important language in it obviously dealing with our national defense, dealing with our ability to be energy independent. But there are two items I wish to focus on because if this bill fails, if the cloture motion does not occur, they are going to be dramatically impacted.

The first is the Low-Income Home Energy Assistance Program. There has been a lot of grandstanding in the Chamber over the last few months, with Members coming down here and offering proposals for how they were going to fund Low-Income Home Energy Assistance, otherwise known as LIHEAP.

Most of those proposals have come forward without any offsets, have added to the deficit and, therefore, have been subject to a 60-vote point of order, and the people offering them knew they were not going to pass, but they wanted to take a position.

This is the first bill that will increase LIHEAP, low-income energy assistance, and allow those people who are going to have a very tough winter to be able to pay for their energy costs. This bill has 2 billion additional dollars for low-income energy assistance in it, and it is paid for. It is done in a fiscally responsible way.

Without that money, we will go back to the LIHEAP funding levels which are traditional here, and we will not be able to pick up the extra costs of LIHEAP, which is low-income energy assistance, which is a function of increased oil costs—a very serious problem for a lot of low income people who are trying to figure out how they are going to be able to heat their homes this winter.

So if this bill goes down under the cloture motion, we lose the LIHEAP dollars, and all those folks who have come to the Chamber and claimed they were for LIHEAP will have to explain that.

Secondly, this bill has in it a major initiative in the area of defending our borders; $1.1 billion is put into this bill to upgrade the capabilities of the Border Patrol. The Border Patrol needs to be dramatically expanded as to personnel and detention facilities, but neither of those events can happen until the capital needs of the Border Patrol are improved so that the additional agents can be taken care of.

We as a Congress have increased the number of agents by 1,500 in the last year, the number of detention beds by 1,000, but we have not addressed the capital needs. They need new helicopters, new cars, new buildings and facilities to house people. They need some issues relative to their training facilities so that we can train more border patrol. All that money is right here.

Everybody who has come to this Chamber talking about the need for a better Border Patrol and better capacity to monitor who is coming into our country, well, it cannot be done without a strong Border Patrol, and this bill commits to that.

I congratulate the Senator from Alaska for putting in that money. We need to get it in the pipeline. We need to get it in the pipeline now so that the Border Patrol will have the capital resources it needs to make sure they can move forward with our goal, which is to secure the border so we know who is coming across the border and the people who are coming across the border illegally are apprehended.

It is a good bill. There are a lot of good proposals in this bill. But those two items—getting energy assistance money out to low-income individuals who need it, and as we head further into this winter, it is going to be critical that we have that money; and supporting the Border Patrol effort and making sure that our borders are secure through expanding the capital commitment to the Border Patrol with additional helicopters, additional housing, additional motor vehicles, and other physical activity they need down there, training facilities—are very critical elements of policy in this bill which will be lost potentially and most likely actually if this cloture motion is not agreed to.

Therefore, I strongly encourage our colleagues to vote for cloture.

I reserve the remainder of my time and yield it to the senior Senator from Alaska.

The PRESIDING OFFICER. Who yields time?

Mr. LOTT. Could I inquire about the time remaining so we can keep some balance about how the time is divided?

The PRESIDING OFFICER. The majority has 16 minutes remaining, and the minority has 15 minutes remaining.

Mr. LOTT. Madam President, then I will take advantage of this time.

The PRESIDING OFFICER. The Senator is recognized for 4 minutes.

Mr. LOTT. Madam President, I say to my colleagues, so many of them have worked hard on this. They have produced a product that has some very important things in it. I know some people will be concerned about the process, as I am. I have been concerned, and I have been on both sides of the process question. But this is probably the biggest, most important bill of this year. We need to realize that.

Some people say: Oh, this is so unprecedented, and why are we here? I have been here a while—not as long as the distinguished Senator from West Virginia—but this is not unprecedented. This is where we are just about every year. Almost every year, we get down to the end and we have some sort of omnibus or combination of bills, and so there is nothing so unusual or outlandish about all of this.

I wish to take just a minute to thank all who have been involved in putting this legislation together, particularly my senior colleague from Mississippi, Senator COCHRAN. He held the line. He insisted on some reprogramming of the money that had been approved by the Senate earlier for installations that were damaged by the hurricane and to also include additional money when some people did not want to include the money that was needed for our people who are so desperate in the Katrina and Rita devastated areas. But he held the line, and he came up with a bill that has $29 billion in reprogrammed money out of money that was already there—this is reprogramming, not adding to the deficit—plus some funds for restoration of our eroding lands in Louisiana and Mississippi. This is so vitally important to our region.

I have hesitated speaking because I am concerned I am going to get emotional and not be able to get through this without showing the same feeling I hear from my constituents in Mississippi, people in Louisiana and Texas. We need this so desperately, and we need it now.

I know we have been arguing for years about ANWR. I am not going to rehash the merits of it. I think it is time we do this. We need the energy. I think a lot of the alarms that are expressed about it are not accurate. I admire Senator STEVENS for his tenacity and the leadership of Senator MURKOWSKI for trying to get this done. It is an awfully small piece of land. It is something we really need. I hope we would not allow this big, important bill to be defeated on this point.

The most important thing I wish to say today is how badly we need this help. There are people right now literally living in tents, small trailers, and double-wides who do not know what they are going to do with their lives. There are people living with their relatives miles and States away because they lost their home. They have a slab, a mortgage, no insurance. Many of them lost their job. Some of them lost loved ones. Some of them lost their truck and their dog.

I talked to a man yesterday who cried twice on the phone, pleading with me to tell him what he could do. They have hit the wall. Right now, they are at that moment of exhaustion, frustration, and decision. If we do not provide this help now, if it is put off another month or 2 months or 3 months, Heaven help us.

So I plead with my colleagues. I know we might not have designed this bill this way in a different time or a different set of circumstances. I do not begrudge anybody for what they have done, but I cannot let this day go without pleading that we get this done and get it done now.

I am scheduled to go home tonight to make a speech in the morning to the Biloxi, MS, Chamber of Commerce, an area that was devastated by this hurricane. I have done this for 32 years in a row. If we do not get this bill done, I cannot go home and face those people. Please help us, and I will help my colleagues as long as I can avoid this sort of situation in the future.

I thank my colleagues for their time and for the support they have already given us.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Louisiana.

Ms. LANDRIEU. I ask unanimous consent to speak for 1 minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I rise following my colleague from Mississippi, to associate myself with his remarks. I see my colleague, Senator VITTER, on the Senate floor, and Senator COCHRAN is not too far away. This is a crucial vote for those of us along the gulf coast who have faced not just two killer storms but multiple levee breaks that have put this great economy of the Nation's only energy coast at risk. While we would not design the bill this way if left up to the four of us who have been negotiating this package with the help of many of our colleagues through the process, I add my voice to say it is imperative that we get this $29 billion of direct aid, not to FEMA but directly to our Governors and to our people to give them hope that this region can be rebuilt. Without this, it will be impossible, and they cannot wait another day.

I thank my Senate colleagues.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Madam President, is there time left? What is the situation with the time?

The PRESIDING OFFICER. The minority has 15 minutes. The majority has 12 minutes remaining.

The Senator from Washington.

Mr. REID. I ask unanimous consent the Senator from Alaska be given the last speech on this matter.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. I yield to the Senator from Massachusetts 3 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I have as passionate a feeling against the Arctic Refuge drilling as I know the Presiding Officer and the Senator from Alaska, the senior Senator, have for it. I do not believe, when you look at the facts dispassionately, on their face, that it is going to do any of the things that are promised. On its face, drilling in the Alaska National Wildlife Refuge does not help solve America's drilling problem. We are overly dependent. We have only 3 percent of the oil reserves in the world. There is no way for this to make a dent in the world oil supplies, in the supply or price of gasoline or America's energy independence. But that is not the debate today. The debate today is what the Senator from West Virginia was talking about.

Every so often in the Senate we have a gut check about what it means to be a Senator and why we are here and what our duty is—our duty. The arguments we have just heard from the Senator from New Hampshire and the Senator from Mississippi—we all agree we want border money. We all agree we want the money for our troops. We agree we want the money for those hurricane victims. Every single one of us in the Senate knows how this place works. If we say no to this breaking of the rules, which is what is creating this impasse, within hours we can pass this bill with the border money, with our troop money, and with the hurricane money. We can do that.

There is only one thing stopping us. What is stopping us is the fact that in an effort to do what they could not do by following the rules, they are now going to break the Senate rules for a matter of expediency.

Mr. BYRD. Shame.

Mr. KERRY. That is what is at stake. That is the vote.

Mr. BYRD. Shame.

Mr. KERRY. The whole reason this is being put on DOD is to make it tough on Senators. And it is tough—

Mr. BYRD. Yes.

Mr. KERRY. Because they fear going home and somebody says: You voted against the troops.

This is not about the troops. We are all supportive of the troops, and we can have the money for the Defense bill, but we should do it according to the rules of the Senate.

Mr. BYRD. Right.

Mr. KERRY. That is what we are here for. That is what this is about. There is not one Senator here who does not understand that if we say no to cloture now, this can be stripped out. The Senator from Alaska himself has said he would strip it out, that if it does not happen they can take it out, reconvene the conference, we come back, and if it means an extra day to preserve the rules of the Senate, we ought to take that extra day.

The fact is, this bill could have been passed 3 months ago, and it was held up because of a stubborn insistence on the issue of torture. Now it is being held up in order to break the rules in order to be able to do ANWR. I hope our colleagues will stand up for the Senate. It is not pro-ANWR or against ANWR. It is not protroops or against troops. It is for the Senate.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. I yield 1 minute to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. I thank my friend and colleague who has done such a wonderful job on this issue, the Senator from Washington.

I rise to oppose this motion and to clearly state, along with my colleagues, that we all support funding our troops. We support helping those in the gulf who have been hurt and are in such difficult times. We all support the Low-Income Home Energy Assistance Program. We have had the opportunity to vote on these. This is a question of whether something that cannot pass following the rules gets put into a bill that we all support on behalf of our troops, and somehow we are blackmailed into passing that in order to get the funding for the troops that we all want and that we all support.

I oppose this tactic. I appreciate that there are people on both sides of the aisle, well-meaning people who disagree on whether we should drill in the Alaska National Wildlife Reserve. I say no. But this is about whether we will support our troops and not allow the process to be hijacked. Let's vote no and get on about the business of funding our troops.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Washington.

Ms. CANTWELL. Madam President, if I could be notified when I have used 5 minutes.

I rise today to ask my colleagues to reject this cynical ploy that has brought us to this point today. Just a few days before the holidays, we are presented with this Defense bill that has become a Christmas tree. It is a Christmas tree decorated with giveaways and back-door exemptions, and special rules for the oil industry.

We have been debating the topic of ANWR for 25 years. No one should condone such a blatant maneuver as taking the bill that provides funding for our men and women in uniform, and stuffing into it a provision that was in neither the House nor Senate bills; a provision that gives away to the oil industry the ability to drill in the Arctic National Wildlife Refuge; a provision that hasn't gone through the normal rules and processes that any other business in the Senate would have to go through.

This Senator strongly objects to these provisions for Arctic drilling on the merits of the issue. I welcome a debate on the merits of the issue. But regardless of those issues, my colleagues should understand that every Member of this institution should object to the way this provision has been added to this legislation. These measures were slipped into the Defense spending bill, and they are a violation of the Senate rules. What is more, these provisions were changed after the bill was voted out of conference. After my colleagues had signed the conference report, the language related to ANWR was changed. So not only was it not in the House or Senate conference bills, it was changed after members had signed their names to the conference report.

Madam President, this is a frontal assault, as my colleague, the Senator from West Virginia said, on the institution, on the Senate, and I ask my colleagues to consider, what is next? If we are to allow legislation like this to move forward, what do we have to look forward to in the future? Will we be drilling off the coast of Florida? Will we be drilling in the Great Lakes? Will we be drilling anywhere, just because it can be put in a defense measure?

I ask my colleagues to make sure that we send a message that is loud and clear, that we are not for breaking Senate rules.

Over the last week or so there have been more than 20 different editorials from papers across the country, from New Hampshire to Oregon, from Minnesota to Florida and elsewhere around the country, talking about these issues and why we should not be in this situation.

From the Oregon newspaper—basically it said this is a shortsighted plan, and it is "disgusting that lawmakers would try to equate oil profits with our Nation's true defense needs."

Another newspaper in New York said it was an eleventh hour ploy in Congress by Republican leadership, lowering the bar and slapping Alaskan oil drilling onto a must-pass bill to pay for the Iraq war.

Another criticism from the Oregonian:

> A vote for the Arctic is not a vote against our Nation's military.

We are not going to be blackmailed into passing this legislation, just because someone at the eleventh hour sticks this language in.

I saw in a news commentary, the Scarborough Report—this from somebody who supports drilling in Alaska—who basically said that this provision is a "politically toxic rider to funding our troops in Badhdad, in Iraq, in Afghanistan, and across the world. It is unforgivable," this tactic.

And the military, retired leaders sent a letter saying:

. . . any effort to attach this controversial legislative language authorizing drilling to the Defense appropriations conference report will jeopardize Congress' ability to provide our troops and their families with the resources they need in a timely fashion.

We did not have to get to this point. We did not have to get to this point today, where Members are being forced to vote on drilling in the Arctic just because we have to pass a Defense appropriations bill.

I ask my colleagues to consider this. I do believe in a different view than this legislation when it comes to energy independence. I do believe that being dependent on foreign oil at more than 50 percent today is too much. There is no way we are going to drill our way to energy independence in the United States. God only gave the United States 3 percent of the world's oil reserves, so we should move off of that and on to other supply.

Today we are here as Senators to say whether we are going to allow the Senate rules to be broken; whether we are going to try to pass some language that never appeared in any Senate bill, but mysteriously appeared in this conference report at the eleventh hour.

I do not think we should give a green light to oil companies in this fashion, giving them the ability to circumvent seven Federal laws and countless regulations, regulations with which every other business in America has to comply.

The PRESIDING OFFICER. The Senator has consumed 5 minutes.

Ms. CANTWELL. I thank the Chair. I will consume another minute.

I hope the Senate will turn down this language, that we will make sure we do not give an exemption to oil companies from all these laws, and that we certainly do not do so on the backs of our military men and women.

I yield the floor and yield 3 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, when I first ran for the Senate in 1988, the question of whether to allow drilling for oil in the Arctic Refuge was an important choice before the voters of Connecticut. My opponent supported it. I opposed it. I opposed it because I wanted to protect this magnificent piece of America's land and life forever, pretty much as nature's God, as our Founders would have said, created it.

Second, I thought drilling for oil in the Arctic Refuge perpetuated a dangerous myth that we could drill our way out of energy dependence on foreign oil.

When I came to the Senate, I found, of course, many people who supported drilling for oil in ANWR as strongly as I opposed it. Over the last 17 years, we have had, almost every year, good, fair fights on this issue according to the rules. In most of them, those of us who oppose oil drilling in the Arctic Refuge have prevailed because the proponents have not been able to achieve the 60 votes necessary under the Senate rules. What they have done in the last year or so is attempted to suspend and circumvent those rules, first on the budget matters, circumventing the Byrd rule. In the Senate, they prevailed. In the House, a very courageous band of Republicans and Democrats stood up and said no.

At the eleventh hour, the proponents of oil drilling in ANWR have attached this provision where it does not belong—on the Department of Defense appropriations bill—in the hope that we will be intimidated into voting for something we don't believe is right because we don't want to be accused of threatening support for our troops. I have too much of a sense of responsibility, too much respect for the Senate, and too much respect for my constituents to be intimidated to support something I believe is wrong and clearly in contravention of our rules.

Somebody said to me the other day: Senator LIEBERMAN, you are such a strong supporter of the military. How can you intend to cast this vote which will threaten funding for our troops in the middle of a war?

My answer is: I am not the one threatening support for our military in the middle of the war. It is those who have had the audacity and disrespect for our rules to attach this provision to funding for our troops who are endangering it.

Second, if we yield to this tactic this time on ANWR, next year it will be someone else's pet policy attached to the Department of Defense appropriations bill, and the year after, yet another.

In my opinion, if you support our military and you want security of funding, particularly in time of war, you will vote against cloture to protect the sanctity, if you will, the primacy of this funding for the military.

Finally, if, as I hope and believe, the Senate rises up and denies cloture, our troops will not lose their funding. Members of Congress of both parties and the President will not allow that to happen. My dear friend, the senior Senator from Alaska, is too much of a patriot, no matter how disappointed he is if cloture is denied, to take that anger out on our troops.

I appeal to my colleagues to vote against cloture. I am going to do it, not just because I am opposed to drilling for oil in the Arctic Refuge but because I support the U.S. military, and I refuse to have the military and its funding held hostage to this move in violation of the Senate rules.

I yield the floor.

Ms. CANTWELL. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. Two minutes.

Ms. CANTWELL. I yield the remaining 2 minutes to the Senator from Illinois, who has been hard working on this subject.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 2 minutes.

Mr. DURBIN. Madam President, I thank the Senator from Washington for her leadership, along with Senator LIEBERMAN, Senator KERRY, and others.

This vote on cloture comes down to two basic issues. The first is the issue of energy.

Fifty years ago, President Eisenhower set this land aside. He said this Wildlife Refuge will be here for future generations. We ought to protect it and preserve it. Now we are be being told that in the name of energy, we have no choice but to drill in this Wildlife Refuge.

What are we saying to Americans? What are we saying to our children? That we are so bereft of ideas, that we are so devoid of leadership, that we are so self-consumed, the only thing we can do to provide energy for America is to break our promise to future generations to protect this important piece of our heritage? I think not. The alternative is innovation. The alternative is conservation. The alternative is a real energy policy—not drilling in a wildlife refuge.

To think that we are bringing up this issue on the Defense appropriations bill—there was a time when this bill was considered in a sacred manner. It was usually the first appropriations bill. It was very rarely ever embroiled in a political controversy not directly related to the military. But this time, it is the second-to-last appropriations bill. It has become the vehicle for a variety of controversial political issues.

We show no respect for our men and women in uniform by taking this bill to this point in history where it becomes the showplace and the forum for all of these political squabbles. We should show respect for our men and women in uniform by defeating this cloture motion, by taking out this objectionable provision, and by quickly moving to pass this bill so we fully fund all that is necessary to help or men and women in uniform. The senior Senator from Alaska promised it, said that is what will occur.

I hope we prevail on the motion against cloture, that we can move very quickly to pass a clean Defense appropriations.

The PRESIDING OFFICER. The minority leader.

Mr. REID. Madam President, Senator FRIST and I have spoken. After the distinguished Senator from Alaska gives the closing statement, Senator FRIST will speak, and then I will speak. We will use leader time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I hope the good Lord will help me hold my temper, and I think that will be the case.

The Senator from Illinois said some things that were not true. I have not promised him one single thing. As a matter of fact, I asked for his apology once; I wouldn't accept it now.

I wish to tell the Senator that I first went to the North Slope—and there are people from the North Slope right up in the gallery—I went to the North Slope first in 1953 as a young U.S. attorney. I have been going there ever since. My best friends in Alaska are up there. My first wife used to go up there and go on whaling trips and spend days with them. We know this Arctic. You don't know the Arctic at all. They will tell you, as I will tell you, that it is 2,000 acres of Arctic. Is that worth this fight? Did I bring this fight on? It was the minority in the House that refused to vote for the rule that we passed on the reconciliation bill. This provision was in the reconciliation bill. The majority voted for it. Every other time it has been brought up, except once, the minority has filibustered keeping the commitment made to me by two Democratic Senators in 1980, Senator Jackson and Senator Tsongas. They wrote the amendment; I didn't. They wrote the amendment that kept this area open for oil and gas leases.

I tell the Senator from Illinois that I was the one who drew the order that was issued creating an Arctic wildlife range in 1958 in which oil and gas leasing was specifically permitted. It has never been closed. The Jackson-Tsongas amendment kept it open for oil and gas exploration and development subject to an environmental impact statement being approved by both Congress and the President. But we are here today now.

As my good friend from West Virginia says, we are in the temple. I have lived in the temple now for 37 years. I have studied beside my friend from West Virginia. But I will tell him he is wrong. Nothing in this bill will allow the majority to go amok. No majority could do anything.

In the spirit of trying to prevent what happened before when the Chair was overruled in 1996—and it took 4 years before we restored rule XXVIII—in the spirit of that, we put a provision in this bill, at the suggestion of the former Parliamentarian, that we assured there would not be that hiatus. Should someone raise a point of order against this and the Chair would be overruled, we put a provision in it that would prevent rule XXVIII from being suspended again.

I have been called a lot of things in the last few weeks. I didn't think of putting this in the Defense bill. It was a group from the House, Members of the minority, who came to me and asked me to do this, put it in the Defense appropriations bill. I have managed the Defense appropriations bill, or my good friend from Hawaii now has managed it, since 1981. I challenge anyone in the Senate to say they have greater commitment to the military than the two of us.

As a matter of fact, as I look at the minority, I ask any one of you, has anyone ever come to me as chairman of the appropriations or any other function and told me that you needed help for your State, that I have turned you down? I have fought with you. I don't care whether it was Senator HARKIN, Senator BYRD, every Member. I have probably been the most bipartisan Senator on this side of the aisle in history other than Arthur Vandenberg.

Now, once again, let me say this. Every time this subject has come up—living up to the commitment of Senator Tsongas and Senator Jackson—but once, the minority has filibustered. That once we did get it passed and President Clinton vetoed it. So here I am now, after 25 years, and my two friends—they were friends, Senator Tsongas and Senator Jackson—they were friends so close that it caused people at home to place full-page ads in the paper saying: TED STEVENS, come home. You don't represent us. We believe the Congress will keep this commitment.

That was made in 1980. I have labored here and I have never violated the rules. There is nothing I have done here that has violated the rules. Nothing in the bill before us violates the rules. I have lived by the rules.

Now I find myself second in age and second in seniority to my friend from West Virginia—at least I am the senior one on this side.

I will talk about this amendment. First, we cannot change the judicial review provision.

Mr. KERRY. Will the Senator yield?

Mr. STEVENS. I will not yield. No one yielded to me.

The impact of what I am saying is, we needed a new income stream.

I went to New Orleans with my friend Senator VITTER, and I sought Senator LANDRIEU's people down there. I saw the Gulf Coast States. They have lost everything. I have never seen a disaster such as that. I was faced with a question of how to find a revenue stream to help my friends. I know they are my friends. I know disasters when I see them.

I also was faced with a question from the border security people saying, they have to have money this year. We could not get it. We could not get approval of emergencies.

So I met with the Congressional Budget Office. I said, I think you have underestimated the income from ANWR, you have underestimated income from spectrum sales. I have a letter from CBO somewhere. I will be glad to put it in the RECORD. They said, yes, we did underestimate revenues from ANWR. It will be at least twice as much as estimated, but we cannot change it now. But it is true. They also agreed with me, making the assumptions I made, that there will be more money from spectrum. We allocated the spectrum money in the bill in excess to the amount committed in the bill just passed. We take care of those needs.

The first responders is the first group. When you look at the first responders group, they need equipment. There are people involved in homeland security. This bill has $3.1 billion for them in terms of the border security. There is $1.1 billion in emergency funds offset by future revenues from ANWR.

The second group deals with the first responders, particularly in New York and throughout the country. That tragedy made us aware that first responders could not communicate with one another. In this bill, we have allocated $1 billion for first responders. That is interoperable communications, equipment, grants. We know if that is there, they will be able to communicate with one another if, in fact, there is such a disaster.

We have also public safety people. They have come to me in the last week—this is a list of all the groups that have come to me now—in support of this bill. They need money to train and respond in the event we have another terrorist attack.

Also in this bill is money for home heating. Part of the income from ANWR is dedicated to home heating. The bill provides $2 billion in emergency money—yes, I said emergency—for 2006 in this bill.

If you take out ANWR, you take out that money. If you take out that money, you do not have money for LIHEAP this year other than what is in the bill just passed and that is what was available last year. As we all know, the price of energy has gone up.

Yes, a vote for this bill—and to bring cloture to this bill—helps our Nation's farmers—our State does not have many farmers. We have some great people out there trying to farm. They do a good job, but they do not have the problems of what I call the south 48. Their problems are high fuel prices, which we are paying, but also fertilizer. Fertilizer prices are off the wall. We do not have that.

We are able to get the money for disaster funding in this bill for farmers in dealing with the conservation programs that are so necessary to ensure productivity for the lands of our country for generations to come.

Some Members of the minority have challenged my sincerity with regard to this. I lived through an earthquake. I lived through the flood in Fairbanks in 1966. This vote is a vote for the people of Louisiana, Alabama, Texas, Florida, and Mississippi. As I said, I went down there. I viewed the damage of that city. I saw devastation in China in World War II where the Japanese wiped out cities, but I never saw devastation like I saw in New Orleans. It was mile after mile after mile of homes of ordinary people, not just damaged, but just not there. Not there.

When I came back, I made a commitment to the two Senators that I would help them. I have tried to keep that promise.

This bill provides on the Katrina side $29 billion for education, housing, reconstruction of disaster areas. It is very needed. The people of New Orleans cannot go home for Christmas. I cannot go home for Christmas. I have already canceled my trip. I spent one time before in the chair on New Year's Eve. I don't look forward to it. I want Members to know we will be here until we settle this problem. The severability clause in this bill is not new. It has been there before.

I am not a fair-weather friend. I have not turned down one person on that side of the aisle in my life without trying to help. I did not even go to you and say, Please help me. I did talk to one or more of you about the fact that I thought this was the thing to do. I don't deserve some of the comments that have been made by some Senators in this Senate right now.

We are going to stay here until this is finished. As I said, a vote for cloture is a vote for the troops. The Senator from Massachusetts says it is not. But the easiest way to get the money to troops is to vote for cloture. We will be home for Christmas if we do.

The PRESIDING OFFICER. The Senator has 30 seconds remaining.

Mr. STEVENS. I say this to my friend from West Virginia: In all the time we have worked together I have great admiration for you and studied at your feet, but I do not believe I deserved that speech on the rules. I have not violated the rules. I do not ask the Senate to violate the rules. I ask them to vote for cloture, which is part of the rules, and see where we go from there.

Mr. REID. All time is expired; is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I claim my leader time.

The PRESIDING OFFICER (Mr. ALEXANDER). The minority leader.

Mr. REID. Mr. President, the Senate is a body of process and a body of order. We have rules. These rules separate us from the House of Representatives. The Founding Fathers, visionary as they were, recognized that. That is why this Senate has worked so well, the Constitution. These rules separate us from the House of Representatives. The House is subject to partisan desires of the majority. We are not.

For more than 200 years, through Democratic majorities and Republican majorities, the Senate has lived by these rules. But twice this year—once this spring and now today—the Republican majority has shown us how far they are willing to go outside the rules to get what they want.

The first attempt to flex their muscle, to show their power and change the Senate rules, was the so-called nuclear option. This was stopped when courageous Senators, Democrats and Republicans, from both sides of the aisle stood against it.

We need to see this same bipartisan courage today. The majority is threatening to break the rules again—that is what this is all about—but this time they are holding the U.S. military—yes, those men and women, as we stand here, are standing up in Iraq and Afghanistan—our military is being held hostage by this issue, Arctic drilling.

Senator STEVENS is violating rule XXVIII in order to pass ANWR. The Senator knows he lacks the votes to get this boon for special interests passed the right way, so he is willing to break the rules to jam it through.

Yes, I have worked with Senator STEVENS all the time I have been in the Senate. I have great admiration and respect for the Senator from Alaska. But the bill does not leave just the ANWR provision standing out there like a sore thumb. Another gift to special interests is the drug immunity provision. The legislation was not included in either the House or the Senate versions of the Senate appropriations bill, and conferees were given written assurances it would not appear in the conference report. Yet here it is because House and Senate leaders, in the middle of the night, insisted that the rules be broken to include it.

This process is not fair to the Senate, and certainly not fair to the U.S. military, and certainly—certainly—not fair to the American people. It is time we said no to an abuse of power, no to those who seek to abuse the rules in the name of special interests, and no to turning the Senate into the House of Representatives.

We have rules for a reason. We have rules in the Senate for a reason. Why? To create stability. It creates certainty. These rules serve the majority, and they serve the minority, and they should not be broken because of special interests. They should not be broken because of the powerful.

I am going to vote against cloture today. Now, I know there are some in the majority who have threatened various things if cloture is not invoked. But I say, Mr. President, thankfully, we have Senator STEVENS' own words to tell us what will happen. Here is what the distinguished Senator from Alaska said, the bill manager. He told the Fairbanks Daily News-Miner, this past Sunday:

> If a Senate filibuster over ANWR stops the defense bill, the legislation can be quickly modified and passed so there is no impact on the military's finances.

He went on to say:

> If we lose, then . . . ANWR will be out.

It is that simple. Senator STEVENS is a man of his word, as he stated on the floor today. And he said if we don't get cloture, the bill goes back to the conferees. Mr. President, I do not know how this vote is going to turn out. We all know it is very close. But I hope ANWR gets taken out. All of us stand with our troops. And all of us want to do what is right for the Senate and for our country. That is why our best course of action is to vote "no" on cloture and follow the roadmap Senator STEVENS himself has provided.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. America is watching what this body does. And America tells us to win the war on terror. Do not accept retreat and defeat. America is watching this body, and they are telling us to do something about energy prices, that of home heating oil and gasoline prices, and to increase the energy supply in this country.

America tells us to strengthen our porous borders, to enforce the laws of the land. We are a nation of laws. Yes, we are a nation of immigrants, a wonderful nation of immigrants, but a nation of laws.

America tells us to support the victims of Hurricanes Rita and Katrina, and what we are about to vote on in this bill is all of the above. The Democrats should not filibuster our Defense appropriations bill. And that is what we will be voting on in a few minutes.

We are a nation at war. Right now, our troops are engaged on the battlefield with a determined enemy. The consequences of failure to invoke cloture on this Defense appropriations bill, when we have troops in the field, are grave. We have a responsibility not only to fully support our troops when they are at war but a responsibility also to secure our economic viability. We need to reduce that dependence—that dangerous dependence—on foreign sources of oil.

The ANWR provision promises to unlock up to 14 billion barrels of oil, nearly 1 million barrels a day at full production. ANWR has been determined by experts to be the single largest and most promising onshore oil reserve in North America. We need to put these energy resources to work for America to reduce those prices, which every American feels, for our economic security and, indeed, for our national security.

The ANWR provision is responsible. It is reasonable. It is critical to meeting our economic and security priorities.

And then we have the victims of Hurricanes Rita and Katrina. They have suffered terrible loss—we have suffered with them—and devastation. This bill, the bill we are about to vote upon, includes a long-term funding stream for gulf coast recovery, as well as the most significant Katrina aid recovery package that Congress has yet allocated, including funds to immediately strengthen and repair the New Orleans levees.

The Defense bill provides $3 billion for border security to tighten those borders. We are a nation of laws. It is time to enforce them. There is $1 billion for interoperable communications equipment, the first priority of the 9/11 Commission.

We have long-term funding, as Senator GREGG has spoken to, to help low-income Americans pay their heating bills this winter. I am disturbed—disturbed—that there are Senators who believe it is a victory to kill, to filibuster, to stop, to block this bill.

I urge my colleagues to carefully consider the consequences of the vote they are about to cast and the profound reverberations it will have on America's economic and national security.

A vote for cloture is, indeed, a vote for our troops.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 2863, the Department of Defense Appropriations Act of 2006.

Bill Frist, John Cornyn, John Thune, Jeff Sessions, Lindsey Graham, Saxby Chambliss, Richard Shelby, Jon Kyl, Mike Crapo, Mitch McConnell, Ted Stevens, Thad Cochran, C.S. Bond, Conrad Burns, Pete Domenici, Judd Gregg, John Warner.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the conference report to accompany H.R. 2863, the Department of Defense Appropriations Act of 2006, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 56, nays 44, as follows:

[Rollcall Vote No. 364 Leg.]

YEAS—56

Akaka
Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
Dole
Domenici
Ensign
Enzi
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Inouye
Isakson
Kyl
Landrieu
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—44

Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Corzine
Dayton
DeWine
Dodd
Dorgan
Durbin
Feingold
Feinstein
Frist
Harkin
Jeffords
Johnson
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

The PRESIDING OFFICER. On this vote, the yeas are 56 and the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader is recognized.

Mr. FRIST. I enter a motion to reconsider the previous vote.

The PRESIDING OFFICER. The motion is entered.

Mr. FRIST. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURR). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

CORRECTING THE ENROLLMENT OF H.R. 2863

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the concurrent resolution correcting the enrollment of H.R. 2863 which is at the desk and was introduced by Senator CANTWELL and relates to the conference report to accompany the Defense appropriations bill; I further ask consent that there be 30 minutes for debate equally divided between the two leaders or their designees; that no amendments or motions be in order, and that following that time the Senate proceed to a vote on the adoption of the resolution; I further ask that immediately following that vote the Senate proceed to a vote on the adoption of the conference report to accompany H.R. 2863; provided further that the cloture vote with respect to the Defense authorization be vitiated and the Senate proceed to an immediate vote on adoption of that conference report following the vote on the Defense appropriations measure; I further ask consent that once the House has agreed to the concurrent resolution without amendment, then the Labor-HHS conference report be considered adopted; further that if the concurrent resolution that corrects the enrollment of the Defense bill is not agreed to tomorrow, then passage of the Defense appropriations bill is vitiated.

Finally, I ask consent that if the House has not adopted the resolution, then, notwithstanding the adoption of the adjournment resolution, the Senate would reconvene Thursday, December 22, at 8 p.m.

I further ask consent that following the above action, the Senate proceed to a bill at the desk relating to the extension of the PATRIOT Act, the bill be considered read three times and passed, and the motion to reconsider be laid on the table.

Mr. STEVENS. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. STEVENS. If the Leader's unanimous consent request is granted, the bill is thus sent to the House. Will that bill violate rule XXVIII? I am talking about the conference report. Will that conference report violate rule XXVIII?

The PRESIDING OFFICER. The Senator would have to specify a specific provision.

Mr. STEVENS. I am speaking of the ANWR provisions and Katrina provisions and avian flu provisions. Will they violate rule XXVIII?

The PRESIDING OFFICER. In the opinion of the Chair, those provisions violate rule XXVIII.

Mr. STEVENS. I can't hear the Chair.

The PRESIDING OFFICER. Those provisions do violate rule XXVIII.

Mr. STEVENS. So if this consent is granted, rule XXVIII is violated by this conference report; is that correct? Is that my understanding?

The PRESIDING OFFICER. That issue has not been clearly joined by this agreement.

Mr. STEVENS. How do I join it? I want an agreement that this bill violates rule XXVIII.

The PRESIDING OFFICER. The Senator would need to raise a point of order when the measure is pending.

Mr. STEVENS. I suggest the absence of a quorum. I do suggest the absence of a quorum.

The PRESIDING OFFICER The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAMBLISS). Without objection, it is so ordered.

Mr. STEVENS. There has been some confusion. Let me restate my parliamentary inquiry. If sections C and E are removed, would the conference report as thus constituted contain violations of rule XXVIII?

The PRESIDING OFFICER. The Chair is of the opinion that there would be at least one violation of rule XXVIII.

Mr. STEVENS. I can assure you there are many more.

Thank you very much.

Mr. LEVIN. Mr. President, parliamentary inquiry: Has the point of order been raised against any provision that would be left in this bill?

The PRESIDING OFFICER. No, it hasn't.

Mr. LEVIN. I thank the Chair.

Mr. STEVENS. Wait. I will be glad to make a point of order, if you wish me to do it. Just so I understand the ruling, parliamentary inquiry: Did the Chair just say there is no point of order against this bill?

The PRESIDING OFFICER. The majority leader is recognized.

Mr. STEVENS. I want to make sure I understand this. I would be pleased to make a point of order so the Chair will rule, if you want me to do it. We have an understanding that there are violations of rule XXVIII in this bill.

Mr. REID. Yes, there are.

Mr. STEVENS. Thank you.

Mr. FRIST. Mr. President, I renew my unanimous consent request.

Mr. KENNEDY. Mr. President, reserving the right to object, I had requested in the time that was requested 15 minutes. That is clear. Furthermore, reserving the right to object, I ask unanimous consent to amend the resolution to strike division E, the Public Readiness and Emergency Preparedness Act. This is the provision that provides drug companies with unprecedented immunity from liability which was added to the Defense appropriations bill in the conference during the middle of the night. It does not belong in this bill. I ask unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. FRIST. Mr. President, I object.

The PRESIDING OFFICER. There is objection.

Is there objection to the unanimous consent request?

Mrs. FEINSTEIN. Mr. President, reserving the right to object, it is my understanding—I ask that it be confirmed—that titles III and VII of the conference report to accompany H.R. 3122 concerning port security and the Combat Meth Act are not in this unanimous consent agreement. Is that correct?

Mr. FRIST. Mr. President, that is correct.

Mrs. FEINSTEIN. Mr. President, let me ask this question. The question is whether I can have such a commitment from the majority leader, since these are both bills that have passed this body unanimously and have also been conferenced by the House, if we could consider them when we come back in January to be the first order of business?

Mr. FRIST. Mr. President, responding to the Senator from California, both of these issues—port security, as well as the methamphetamine—are very important issues that I believe this body unanimously will support. And after consultation with the Democratic leader, we will address those very early when we come back in January or February. They are both very important bills.

Mrs. FEINSTEIN. Does the minority leader concur in that?

Mr. REID. Without reservation.

Mrs. FEINSTEIN. Thank you. January or February. Thank you very much.

The PRESIDING OFFICER. Is there objection to the unanimous consent?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, real quickly, this means that we will have 30 minutes of total debate followed by the concurrent resolution, followed immediately by Defense appropriations, followed by the authorization by voice. That is my understanding.

Mr. LEVIN. Mr. President, reserving the right to object, I don't plan to, and I want to make sure no one needs a rollcall vote—I do not—on the authorization bill. I want to doublecheck with a few people on this side.

Mr. FRIST. We already have unanimous consent, and I believe we will do that.

Mr. LEAHY. Mr. President, might I direct a question to the distinguished majority leader through the Chair?

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, if I could have the attention of the majority leader, am I correct in my understanding that the Sununu-Leahy et al 6-month extension of the PATRIOT Act has been included? And that is where we are with the conference report still on the calendar, but the 6 months will be passed?

Mr. FRIST. Mr. President, as part of the unanimous consent is the 6-month extension on the PATRIOT Act.

Mr. LEAHY. Sununu-Leahy et al. Thank you. I thank the Chair. I thank the two distinguished leaders.

If I might note for a moment, both the distinguished Republican leader and the Democratic leader have worked extremely hard on this, as has the Senator from New Hampshire, Mr. SUNUNU, and Mr. GREGG and others, and, of course, the distinguished chairman of the committee, Senator SPECTER.

I think this is a reasonable conclusion that will allow the Judiciary Committee to look at some of the questions which have legitimately been raised and would not have been heard had this gone through otherwise.

Mr. REID. Mr. President, I yield 15 minutes to Senator KENNEDY.

The PRESIDING OFFICER. The clerk will report the concurrent resolution.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 74) correcting the enrollment of H.R. 2863.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, I yield 15 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, will the Chair remind me when I have 3 minutes remaining?

Mr. President, over these last several months in the Senate we have addressed the issue of a potential epidemic, the pandemic flu. There have been two areas of leadership. One has been in our HELP Committee under the chairmanship of Senator ENZI and Senator BURR, where we have tried to work out a whole approach to deal with the area of epidemics and bioterrorist attacks, and another with the leadership of Senator HARKIN, who had asked that we commit some $8 billion to be able to purchase vaccines and also antiviral drugs for influenza.

I attended the NIH announcement by the President of the United States when he actually requested $7.1 billion to prepare for a flu pandemic. Those funds were going to be used for public health, first of all, to be able to detect flu outbreaks overseas; secondly, to be able to detect them here at home; then to be able to build containment capacities, what we call "surge" capacity; and, also to have a generously funded vaccine program, and also an antiviral program.

That is really where we were before the Defense appropriations bill.

A number of us on the HELP Committee had a series of negotiations to try to make a bipartisan recommendation to the Senate. We did so on pensions, on higher education, on workforce, and on Head Start. We were able to do so in a number of different areas. And we were moving ahead toward making a recommendation in issues related to the purchase of vaccines and antivirals. There are two important issues to consider with the purchase of pandemic influenza vaccine and antivirals. One is the danger to an individual that is going to take those vaccines or antivirals; and the other is the risk those dangers raise for the companies that produce them. One is the compensation issue, and the other is the liability issue.

We have dealt with these issues on several occasions. We dealt with them with respect to the swine flu. We dealt with these issues with smallpox. We dealt with these issues for childhood vaccines.

One thing we know from experience is, if you do not have an adequate compensation program, no matter how much money you put in for the purchase of vaccines or of antivirals, the program is not going to work. There has to be an assurance that, if first responders and others are going to go out there and take their chance with these new vaccines or other drugs, that if they become grievously ill or sick or even die there will be some compensation for them and for their families for lost wages and medical costs and the like. And there has to be the assurance to the first responders and others that those vaccines are not going to be produced negligently. Otherwise, they will not take the risk of using the vaccines or drugs. That is the framework.

We have to ask ourselves, for the liability and compensation provisions that have been put in the Defense appropriations bill, how do they line up with what has been successful in the past, with bipartisan efforts? These provisions fail in every respect of the word.

First, there is a compensation program that is not funded. It is not funded. It will depend upon future appropriations. If you want to buy a pig in a poke, buy that particular provision. All you have to do is ask my friend from Utah, Senator HATCH, how we have funded the compensation program for the downwinders. Over a long period of time, we did not have the required payments for them, when we know, as a direct result of governmental action, we adversely affected tens, even hundreds, of thousands of downwinders in the State of Utah and in the West more broadly. We have not measured up to our responsibilities to them, and the compensation program before us now is no more adequate. And as a consequence, this compensation program is not going to work.

Not only that, what have we done with regard to the manufacturers? What kind of immunity have we given to them? It's really extraordinarily broad, effectively complete. What they call the "bad actor" provision describes the circumstances in which the immunity from liability fails. And it's really very narrow, because a company's actions have to meet a very narrow definition of willful misconduct.

Page 12 of this 40-page liability section says in order to have any kind of liability, you have to have willful misconduct. This is an act or omission that is taken intentionally to achieve a wrongful purpose; knowingly without legal or factual justification; and in disregard of a known or obvious risk that is so great as to make it highly probable that the harm will outweigh the benefit.

As if that isn't clear, and narrow, enough, on the same page, underneath this language, is a rule of construction. This rule says that this language establishes a standard for liability more stringent than a standard of negligence in any form or recklessness. So companies are not deterred from acting recklessly, or with gross negligence.

Now that is pretty narrow, but apparently it isn't narrow enough. Right here on page 12, it says that the Secretary of Health and Human Services, in consultation with the Attorney General, must issue regulations that further restrict the scope of actions or omissions that may qualify as willful misconduct.

So "willful misconduct," which should just mean intentional, isn't good enough.

Well, at least we have solved that, right, to make it as narrow as possible? Wrong. Go down to the standard of evidence. The bill changes the standard of evidence in the various trials, to "clear and convincing evidence." That is at the bottom of page 13.

The bill defines a very narrow standard of willful misconduct, and it sets a very high standard of evidence. Shouldn't that be enough? Wrong. You don't have a case against a company under these provisions unless the FDA begins an enforcement case against that company. So if FDA goes ahead and begins the case, you have a chance, right? Wrong again. FDA has to bring it and conclude it successfully before you have any right to proceed with your case.

A person might think, I am not very satisfied with how this liability provision has worked, maybe I will appeal to the courts of this country, right? Wrong. There is absolutely no, no, no, no judicial review when the Secretary of Health and Human Services grants a company immunity by issuing a declaration. No judicial review of that. And there is no judicial review of FDA's decision not to bring an enforcement action. So it is whatever the administration says, whatever the Secretary says, whatever the head of the FDA says, with changed and gimmick rules. This is a sham. There is no possibility of liability here.

Now, we would say, OK, this is bad, but this liability protection is limited to just a few products, right, products that few of us will ever have to use? It actually applies to products—vaccines, drugs, diagnostic tests—for epidemics. We rarely have to worry about epidemics, right? Well, who defines "epidemics"? It is rather interesting who defines epidemics. Senator DOMENICI says diabetes is an epidemic. Senator FRIST himself says meth abuse is an epidemic. BILL FRIST himself said obesity is an epidemic. Senator BOND says arthritis is an epidemic.

This week in Newsweek Magazine, the Secretary of Health and Human Services, who is going to enforce this provision, says this:

> We're seeing an epidemic of chronic diseases. Obesity is just one example.

So how many diseases are going to be considered epidemics? A lot, perhaps, but at least we say that is all right, because it is just going to apply to drugs for that particular epidemic disease, right? Wrong again. This provides the same kind of liability protections for any of the drugs or anything else that deals with the side effects of the products for that epidemic disease.

My goodness. Generally around here we measure who the winners are and who the losers are. And we have seen over the last year and a half how the drug companies come out on top, time and time and time and time again. But never, never, never, ever, ever like they have with this sweetheart deal that was stuck into this conference report after the assurances had been given to the conferees that there were no provisions in it with regard to liability.

The Medicare drug law made it illegal for the Government to negotiate prescription drug discounts for seniors. They do it in the VA system, and drug prices for the VA are lower. But we weren't able to permit the government to negotiate drug prices for seniors. The Republican Congress blocked legislation to allow importation of safe and less expensive drugs.

And now we find in this biodefense and pandemic flu provision liability shields for companies that make dangerous drugs, with no compensation for injured patients.

That is a scandal. It has no business being in this bill. The Judiciary Committee requested an opportunity to examine it. It was rejected. We have had no hearings on this particular provision. It is the wrong thing to include in this legislation.

Let me share what one of our colleagues has said about childhood obesity:

> The responsibility for this growing epidemic rests with us—the American consumer. We need to get serious about fighting fat.

Let me cite you the language of the provision, the broad definition on page 31 of what gets liability protections under this bill. It says: "Qualified pandemic or epidemic product" means any drug, biological product, any device to diagnose, mitigate, prevent, treat, or cure a pandemic or epidemic or limit harm from the pandemic or epidemic. And the term includes not only those products, but any other product, any other product that is produced to deal with the side effects of those products.

This is a scandal. It is a giveaway. It is outrageous. It is rare, if ever, that we give this kind of privileged status to any industry in the country, and give this kind of authority and power solely to one branch of the Government. There is no second guessing. There is no judicial review. There is no further involvement of the Congress. That is basically and fundamentally wrong and we are asking and committing $3.7 billion to go down this road. It is outrageous and it is wrong.

I am sure that as soon as the Secretary of Health and Human Services issues what is called a declaration for a pandemic or epidemic to give immunity from liability to vaccines or other products, there is going to be a charge to the courts. The constitutionality of this provision is going to go into the Federal district courts and the circuit courts of appeal.

Included in the RECORD is legal authority that I believe shows that this provision, the way it is drafted, is absolutely unconstitutional because of the indefiniteness of the criteria under which the executive branch makes decisions and because there is the real possibility and likelihood of serious injury to individuals without any right to go to court or for judicial review of declarations.

This provision is going to be challenged along the way. We want to tell those in the bio industry—and they are healthy in my State and I have worked with them—if you want to work with us to get an effective compensation program, as we did in the past with smallpox or childhood vaccines, if you want to get an effective provision to deal with liability, one that is responsible and that responsible drug manufacturers will welcome, then we are more than willing to welcome you and to work with you.

But I think we can be certain that this provision will not be effective, and it is misleading the American people to say we are making a downpayment in the development of vaccines for the reasons I have mentioned this evening.

Slipping a provision into a major spending bill late at night at the end of Congressional session is a trick to shield from public debate a provision that is so wrongheaded that it would never stand public scrutiny.

The Republican congressional leadership has snuck yet another special favor to drug companies into the defense appropriations bill.

It is an outrageous provision that has nothing to do with protecting our troops, and it should be dropped from the bill.

This provision allows drug companies to flagrantly disregard basic safety measures in making a broad range of drugs or vaccines, while giving patients who are injured by shoddy products only an empty promise of compensation.

It is cynical to claim that this is what is needed to deal with avian flu.

Drug industry advocates will say that this debate is about trial lawyers, and we have heard phrases like "jackpot justice" and "runaway juries," and tales of endless lawsuits against the firms that make the vaccines. But that couldn't be further from the truth: Senator DODD and I offered a plan that included important legal protections for drug companies that make experimental flu vaccines and other drugs needed to respond to a pandemic or a bioterrorism attack as well as a compensation program modeled after the Vaccine Injury Compensation Program that already works well for childhood vaccines.

Our proposal follows the successful examples of the past. For swine flu, for the smallpox vaccine and for childhood vaccines, the Government has set up a way to compensate the injured. Whenever Congress has provided an alternative to liability in the past, there has always been an assured means for patients to receive compensation.

The current proposal violates that past practice.

It twists and turns the law to stack the deck against patients, and abrogates basic principles of judicial review. It is no wonder the provision's authors hid it from public debate and didn't let the Senate Judiciary Committee even look at the proposal before it was jammed into the massive conference report.

If they had allowed our Judiciary Committee to examine this proposal, we would have quickly seen its constitutional flaws. I received a detailed analysis of this provision from Professor Erwin Chemerinsky, who is the Alston and Bird Professor of Law and Political Science at the Duke University School of Law.

According to his analysis, the provision gives the Secretary of HHS "unfettered discretion . . . to grant complete immunity from liability" while also "depriving all courts of jurisdiction to review those decisions."

Professor Chemerinsky has found three areas in which the provision infringes the Constitution.

First, the provision delegates powers to the executive branch without the limitation of a prescribed standard. It is an extraordinarily broad delegation—the Secretary decides when to declare emergencies, what diseases or threats to health are covered, which drugs or products will be immunized, which individual citizens lose their right to go to court and recover for injuries caused by the drugs or products, the geographic area in which these rules will apply and the length of time they will apply. This violates the nondelegation doctrine, which says that Congress my not delegate its legislative authority to the executive branch without clear guidelines.

Second, it violates federalism principles by improperly intertwining Federal and State law, making a new Federal cause of action that depends on State law. It also makes the Federal cause of action depend on the FDA or the Attorney General taking an enforcement action. It is a violation of due process, however, to allow official inaction to prevent a person from pursuing his or her rights in court.

Third, the provision completely prohibits judicial review of declarations that provide drug companies with immunity.

The U.S. Supreme Court has repeatedly stressed that the preclusion of all judicial review raises "serious questions" concerning separation of powers and due process of law. Judicial review of government actions has long regarded as "an important part of our constitutional tradition" and an indispensable feature of that system.

I reserve whatever time I have remaining.

Mr. HATCH. Mr. President, I rise to make a few remarks concerning the Public Health and Emergency Preparedness Act of 2006 which was inserted in a year-end appropriations vehicle, the Department of Defense Appropriations Act.

Protecting the American public against acts of bioterrorism like the 2001 anthrax attacks and natural disease outbreaks such as the risk posed by the avian flu is an important national security priority.

For 4 years, I have worked in a bipartisan manner with my friend from Connecticut, Senator LIEBERMAN, on comprehensive legislation to address this concern.

We have vetted our proposal with literally hundreds of experts over the last 4 years.

We understand full well that our proposal contains a number of bold proposals that challenge our colleagues to make fundamental changes in our biomedical research, public health management, regulatory, antitrust, intellectual property, tax and civil liability systems toward the end of materially increasing our Nation's public/private sector capacity to design, develop and distribute hopefully hundreds of new products to counter the effects for the dozens of known biological, chemical or nuclear threat agents for which we today literally have no diagnostics, vaccines or therapeutic responses.

This is a tall order.

It will likely take 20 or more years to build this capacity to the level we will need to discourage our enemies from attacking us in this manner or, if they do so, to be able to respond in the way that the public will expect to ensure the strength of American society.

We have made some progress in recent years but we have to do much more in this area.

This is the type of issue that takes time, money, creative energy and patience.

We need a Manhattan Project type of effort, and we needed it 4 years ago.

Throughout my years in the Senate, I have worked on dozens of important public health bills.

In my experience, public health bills go better if they are done on a bipartisan basis.

I have also observed over time that, generally speaking, good public health policy turns out to be good politics. I know of no disease or condition that chooses its victims along party lines.

I am pleased that a key concept of the legislation that we introduced in 2002, the "guaranteed market" for those firms that successfully develop certain bioterrorism countermeasures was finally adopted in the Bioshield I legislation passed in the 108th Congress.

In the first session of the current 109th Congress, there has been a great deal of interest in bioterrorism and pandemic diseases. This is good for the American public.

In the Senate, the HELP Committee was infused with new leadership on this issue in the persons of our new chairman, Senator ENZI, and the chairman of the new Bioterrorism and Public Health Preparedness Subcommittee, Senator BURR. Majority Leader FRIST and former Chairman GREGG have continued their longstanding involvement on these issues.

Across the aisle, led by a veteran leader in public health issues who has been on the HELP Committee or its predecessors for 43 years, Senator KENNEDY and others including Senators Harkin, Dodd and Clinton have been interested in these issues.

Throughout the Spring of this year the Bioterrorism Subcommittee held a series of bipartisan hearings and discussion roundtables that were attended by leading experts. Throughout the August recess the staffs of the committee members worked on various drafts of bioterrorism legislation that culminated in a markup in September.

Unfortunately, from my perspective, the bill that resulted from the HELP markup did not contain the intellectual property and tax provisions that Senator LIEBERMAN and I have long advocated. Such is the reality of the dance of legislation. But, as has developed in the provisions related to the guaranteed market, liability, and compensation, we believe that the day will come when these ideas from our original legislation are also seen as meritorious.

Subsequent to that markup, the Bush administration unveiled its comprehensive plan to prevent and respond to the potential catastrophic outbreak of human-to-human avian flu transmission.

Throughout the Fall, many Members of Congress, the administration, industry, the public health community and other interested parties worked on various pieces of legislation to respond to these threats. Unfortunately, as sometimes happens at the end of very busy congressional sessions, not everyone was able to work together at the same time.

For a variety of factors, we have now arrived at a point where a potentially integral piece of an effective legislative response to bioterrorism and pandemic threats has been inserted into the Department of Defense appropriations bill. Using year-end appropriations bills as vehicles can be an opportunity to solve important problems but, sometimes, can pose a risk that an inadequately vetted measure becomes law.

As many who are not members of the esteemed Appropriations Committee, I have a preference for the regular order of the authorization process. In all candor, from time to time in my career, I have availed myself of appropriations vehicles to move authorization bills that I desired to see passed. Sometimes, as shocking as it sounds, there is gambling in Casablanca.

Comes now the newly drafted, and redrafted and redrafted, Public Readiness and Emergency Preparedness Act.

Both Senators FRIST and GREGG must be singled out in the Senate for their efforts to develop and move this new bill. In the House, I understand that Speaker HASTERT and Chairman BARTON, even as he was hospitalized, are largely responsible for this effort.

All of these good and earnest members should be recognized for attempting to tackle two of the most vexatious policy and legal issues confronting us in this critical area: liability; and compensation reform.

We need to encourage the private sector to work vigorously on scores of new, potentially dangerous drugs and biological products designed to counter both natural and bioterroist threat agents. That is what liability reform is all about.

At the same time, if some of these products—some of which will never be tested in human clinical trials since it would be unethical to infect a patient with a microbe like the Ebola virus just to see if a potential treatment were safe and effective—turn out to injure and even kill patients, there must be a fair and funded system of compensation.

Some critics are already falsely charging that these new provisions are nothing but a Republican gift to the drug industry during the Christmas season.

Hogwash.

There should be no doubt that the sole intention of the principal drafters of this legislation is to help devise a system that will increase the readiness of our country to respond to bioterrorist or natural public health threats.

I also think it is way past time that Members of this body and others stop unjustifiably vilifying the pharmaceutical industry. Due in large part to the unique partnership between the public and private sector biomedical research enterprise—undergirded by the substantial annual $28 billion taxpayer investment in the National Institutes of Health—we are on the verge of a revolution in our understanding of human health and disease. Let's just hope that neither the avian flu not the bioterrorists strike before we have developed the means to defeat these threats.

We will not defeat biological enemies with bullets or battleships. It will be accomplished with basic biological knowledge and the applied know-how required to translate ideas from the lab to the patient's bedside.

Integral to this system and to our national security is the too often-maligned pharmaceutical industry.

They are tough, profit seeking companies. They are often their own worst enemies. They are not always right.

But nor are they always wrong. The products they produce are aimed at preventing and treating diseases and reducing suffering. And that is not the worst business to be in by any means.

The situation is that we are confronting an enormous chicken-and-egg problem in developing new vaccines and countermeasures due to the fact that in the last several decades product liability exposure has drastically reduced our domestic vaccine production capability. I understand that in 1976, 26 companies produced vaccines for the U.S. market. This year, only five companies produce vaccines sold in the U.S. and only three have U.S. production facilities.

This constitutes both a public health and national security challenge that must be addressed.

While I have concerns about many of the precise provisions in this new language, I recognize and commend my colleagues for attempting to solve a problem that needs solving.

I have great respect for the majority leader, especially as he attempts to navigate this year's exceedingly complex package of pending bills which include the budget reconciliation bill—the first such measure in nearly 10 years—the PATRIOT Act, the Labor-HHS appropriations bill, as well as the Department of Defense authorization and appropriations bills. This is a tall order by any standard.

Although I urged the Leader not to include this new bill in the year-end legislation, I told him that I would not vote against this measure if it were part of one of the year end, must pass vehicles.

I did this largely out of deference to our majority leader.

For reasons that I will explain, if it came to a simple up-or-down vote on this measure as currently drafted, I could not yet support it and would vote no.

If this measure does in fact become enacted into law, I will be open to considering further modifications in this language should our study of this new language indicate that changes are advisable.

Many will question whether this bill, in its current form, contains too much indemnification and not enough compensation. This is a fair question.

For example, the funding mechanism in the bill does not appear to be guaranteed.

I have been down the hard road of discretionary funding with respect to the Radiation Exposure Compensation Act, which I authored, and I cannot say that I would recommend such an important program to be subject to the uncertainties of less than stable, certain funding.

Still others will question why the bill provides for no judicial review, apparently even by the United States Supreme Court, for certain actions by the Secretary of Health and Human Services?

There will be concern that the bill does not allow adequate judicial review to assure that the Secretary has not acted either arbitrarily or capriciously in certain circumstances.

Because of the great significance of this measure, I suggest that Chairmen ENZI and SPECTER hold hearings on this language once the Congress reconvenes after the holidays.

It is, for example, important to learn what the administration thinks about this new bill and whether, upon reflection, it would urge some refinements.

I have not seen a Statement of Administration Policy on this measure.

Nor have I seen a Congressional Budget Office score so it is a little unclear to me how much this new section would cost.

The administration will be called upon to administer a new compensation program and we need to know how they plan to implement this program and whether they have any suggestions to improve the operation of this program.

As well, I would not be surprised if more Members and other interested parties will want to weigh in on the structure of the new compensation program, which is based in large part, on the current smallpox vaccine injury compensation program.

As our experience with the asbestos legislation teaches us, there is always great interest in the level of compensation injured citizens may receive, especially if they give up their possible tort remedies.

I note that there is a higher standard imposed upon the Secretary in constructing an injury table under this new bill than must be met under the current smallpox vaccine injury compensation law. Many will want to know exactly what is intended and what the practical effect of this new standard will be on the health experts who will advise the Secretary in this critical area.

There are also many questions that must be explored with respect to how the liability shield will operate in practice.

Let me state clearly that I favor a strong liability shield so that many pharmaceutical and biotechnology firms will enter this critically important field of research and development. The fact is today that there exists a pervasive climate of apprehension about product liability and litigation exposure and this is chilling the necessary private sector activity.

Clearly something must be done. It is not so clear that the new liability language is yet as good as it needs to be. For example, the way in which the willful misconduct and FDA defense provisions operate together in the context to potential court challenges merit particular attention. As well, the policy and business-behavioral ramifications of drawing a hard line between all forms of negligence and wilful misconduct deserve careful thought and analysis.

In the case of dual use products, such as antibiotics, it appears that, should a bad batch of drugs be made due to ordinary negligence, a patient injured when taking the product for a normal, garden-variety infection will have a much greater range of legal remedies than a person who took a pill from the same adulterated production batch but under a Secretarial declaration of a public health remedy. It is not readily apparent why this should be the case.

There may be ways to further improve and refine these provisions and other parts of the bill as well. For example, consideration is warranted with respect to whether there ought to be a subrogration provision in certain cases when the Federal Government must compensate patients for injuries caused by negligent or grossly-negligent actions of manufacturers, distributors, or others connected with developing the drug or delivering it to patients.

In any event, I think we should keep an open mind to viewing this new language as something as a work in progress.

Rather than embarking down a path of political who-struck-John on how this new section got into the bill and who drafted this provision or that provision, I think the public will be better served if we focus our future efforts on evaluating what the bill does and deciding whether there are ways we can make it better.

One thing is certain. If we do not find a better way to unleash the creative efforts of the private sector in researching and developing a panoply of new products designed to diagnose, prevent and treat bioterrorist and natural threats, the health and welfare of our Nation cannot be secure.

We have a big job ahead of us.

I urge that we move forward in a constructive, bipartisan effort to further improve the Public Readiness and Emergency Preparedness Act that has been placed in the DOD appropriations bill conference report. If others are willing to proceed in this fashion, I am certain that Senator LIEBERMAN and I, and many others, stand ready to discuss and refine this and any other piece of related legislation.

The PRESIDING OFFICER (Mr. VOINOVICH). Who yields time?

The Senator From Alaska.

Mr. STEVENS. Mr. President, I want to make sure everyone understands what we have done. I worked 3 months of my life on this bill, primarily to find a way to help the people whom I saw in New Orleans. But this unanimous consent agreement strips sections C and D out of the bill. That section D allocated the funds that were to be received from the development of ANWR and the spectrum money that we expect to come into the Treasury in excess of what was estimated in the budget and earmarked it to a gulf recovery fund and earmarked it to the LIHEAP program under a different formula than the existing formula.

The net result is that those who are going to vote for the separate resolution—and I shall vote against it—will be taking money from the first responders. Let me go through that. There was $3.1 billion for our first responders, for homeland security needs. We had $1 billion for our farmers and ranchers for farm conservation programs. The gulf coast recovery fund was estimated to have $5 billion in bonus bids and $40 billion in royalties over the total production years of ANWR. It would have committed 50 percent to Louisiana, 25 percent to Mississippi, 10 percent to Alabama, 10 percent to Texas, and 5 percent to Florida.

When we remove that, we do remove the $2 billion emergency spending for LIHEAP, and we remove the $3.1 billion for border security. That is money that was there. It was not funny money. It was money for this year.

So when you go back to New York, will you tell them why? That first responder money was $1,750,000,000 for the cities of New York, Los Angeles, San Francisco, Miami, Boston, Washington, DC, Chicago, Philadelphia, and Houston. I showed before the list of all the people who supported that.

In terms of the preparedness grants for avian flu response, and for evacuation routes, refugee feeding and housing in the event of another disaster: $1 billion. But above all, the $1.1 billion in 2006 money for border security for the Northern border and the Southern border, we were overwhelmed with support for that. By voting for this, you will take it out. You are taking out C and D. You are taking out all the funding.

Now, what does that mean? It means that next year when we get the budget they will pick up the estimates we were able to make. The money for ANWR will next year be, I believe, estimated—I am sure it will; I have a letter—at $10 billion. This year it was $5 billion. That $5 billion that was in the budget will not be available to Louisiana. It will not be available to the disaster area. The $10 billion we estimated in addition to the $10 billion that is already in the budget for spectrum auctions will take place in 2008 and 2009. Actually, the FCC believes it is going to be $28 billion. We had used $8 billion in addition to the $10 billion that is in the budget. That, next year, will also be estimated, and it will be used by the budget. So that money is not going to be available for these things that Senator CANTWELL's resolution will deny.

Senator CANTWELL has authored this resolution to take out of the bill all of this money that we worked so hard to find a way to justify. We took future revenues coming into the Treasury, held them in the Treasury and earmarked them for specific purposes when they would arrive. We were told to have every reason to expect that money would come in. And the House agreed with us and allowed two separate emergency things to take place. One was $1.1 billion for border security. The other was $2 billion for LIHEAP for those who are in States that are affected by the current formula. That is primarily the Midwestern States and Maine.

But I want the Senate to know the work we did in finding this money and finding a way to hold it in the Treasury, it will not be held any more. This amendment takes out of the bill sections C and D. That means next year you will not find money on this approach for the help for the disaster areas or to deal with LIHEAP or to deal with homeland security. And $3 billion was earmarked in that fund when the money came in. It was to go to homeland security. We earmarked it. No future budget could use it.

By taking C and D out, by voting for it—all of you—I am going to go to every one of your States, and I am going to tell them what you have done. You have taken away from homeland security the one source of revenue that was new revenue. It was money that should have been used for disaster. It should have been used for homeland security. And I am sure that the Senator from Washington will enjoy my visits to Washington because I am going to visit there often.

This was wrong. We should have kept sections C and D in this bill. This was something that we studied. We went with CBO. We talked to everyone possible. Everyone understood it in the House, what we did. The Senate refused to even look at it. I think most of you voted for it without even looking at it. California has lost its money for disasters in the future from that revenue source. It will have to find some way through the budget to compete with everybody else next year in a declining budget year. Because as the interest on the national debt goes up, there is less money to allocate for existing programs. I predict next year will be the toughest budget year in history.

But we took money from 2008, 2009, 2010, and we earmarked it. One thing you did not notice, we put in borrowing authority. In the event there is a disaster, the Secretary could go to Treasury and say: Mr. Secretary of Treasury, I exercise the borrowing authority and get that money right now. Did you know that? I bet half of you—none of you—read the bill, none of you read the bill. But I am going to explain the bill to everyone in the country—the homeland security bill, the first responders, the interoperability part of it, the part of equipment for first responders.

The total amount of this bill has been destroyed by the Cantwell amendment. And I want to make sure everyone understands it. Emergency assistance for seniors and low-income Americans: That $2 billion was at a different theory, different formula than the existing law. We made it available to those in great need this winter. By this amendment, by voting for it, you take it away. Go ahead and vote for it. I am going to vote against it because I know what I did. I found and spent a lot of time with those who handle budget matters and particularly the CBO. Ask them. I will show you the letters. They said I was right, that was new revenue coming into the Federal Government. Everyone expects it, and we earmarked it for those things that we all believe in now.

Next year, are you going to give it to homeland security? Are you going to give it to border security? Are you going to give them $2 billion for LIHEAP? By the way, it did not have to be spent this year. It could carry over. It is to be used when needed, by higher prices. OK? It was not something that was total spending this year.

I do think the hurricane areas are the ones that lost most. There is a $14 billion estimate in C and D for the hurricane area: $7 billion for Louisiana, $3.5 billion for Mississippi, $1.4 billion for Texas, $1.4 billion for Alabama, and $1.2 billion for Florida.

Mr. President, this Senator has tried to do what is right. In the last month or 2 months, I have been pilloried by almost every newspaper in this country because of what has been said on this floor and what has been said by Members on the other side of this body. I have been called a liar. I have been told that I violated the rules. I have been told I did things in the middle of the night when no one knew it. I have been told almost everything. Even my grandchildren asked my son: Is that right?

I ask the Senate: Is that right? Should I lose the reputation I have gotten for 37 years in the Senate? No one has ever questioned my integrity before this year. Well, we had one little thing—I see an action from the Chair—about an ethics matter in my State, but that, too, was misunderstood. And I am glad to see that—I hope that has been put to rest. But in any event, no one has really questioned my actions here on the floor.

But they have been. People I have known on the other side, on a first-name basis, have come to me and talked to me about their problems—each one of you. Many of you have spoken here and said things that are not true, and you know they are not true. As I said, one Senator said something so bad, I asked for an apology. I would not accept his apology now.

Mr. President, I am going to go home, and I am going to think about this, and I am going to try to figure out what to do next year. But I know one thing, the 3 months I spent on this to try and help the people in the disaster area, with the sincere belief in the—how many of you have been to the disaster area? Did you spend a couple of days down there, as I did? Did you go and look at it? Did you see the miles and miles of homes that are gone? Did you see a great big barge, bigger than this room, on top of a schoolhouse? Did you see miles and miles of levees just laid down? Did you see the devastation as that tsunami came up that channel that man dug from New Orleans to the gulf?

Did you see that? Did you see how it devastated the land, and all the plant life is now dying because it was inundated in saltwater?

The earthquake in my State did that. I saw one town disappear. I saw a third of my city, Anchorage, disappear. You have to have had that experience to understand how I felt when I went to New Orleans.

You people didn't believe it. Many of you said I did this for political reasons, just a crass thing, pick up some money and give it away for votes. I never asked one of you for a vote. I talked to some of you about how you should vote, but I never went to you and said: You have to vote for me. You wouldn't be voting for me; it was voting for the people who would have been helped.

This has been the saddest day of my life. It is a day I don't want to remember, and I am sorry to see it come to an end. Because I am drawing the line now with a lot of people I have worked with before. I really am. I can't put in my mind the amount of time, the days I have spent with you working on your problems, and to know you said about me the things you said in the last 2 months. I say goodbye to the Senate tonight. Thank you very much.

The PRESIDING OFFICER. Who yields time?

Mr. REID. I yield back the time on this side.

Mr. FRIST. I yield back the time on our side.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution, S. Con. Res. 74.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from South Carolina (Mr. DEMINT), the Senator from New Hampshire (Mr. GREGG), the Senator from Arizona (Mr. MCCAIN), and the Senator from Rhode Island (Mr. CHAFEE).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted "nay."

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE), the Senator from Connecticut (Mr. DODD), and the Senator from Indiana (Mr. HARKIN) are necessarily absent.

The PRESIDING OFFICER (Mr. BURR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 45, as follows:

[Rollcall Vote No. 365 Leg.]

YEAS—48

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Coleman
Collins
Conrad
Dayton
DeWine
Dorgan
Durbin
Feingold
Feinstein
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Smith
Snowe
Specter
Stabenow
Wyden

NAYS—45

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Cornyn
Craig
Crapo
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Landrieu
Lott
Martinez
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—7

Chafee
Corzine
DeMint
Dodd
Gregg
Harkin
McCain

The concurrent resolution (S. Con. Res. 74) was agreed to, as follows:

S. CON. RES. 74

Resolved in the Senate (the House of Representatives Concurring), That, in the enrollment of the bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

Strike Division C, the American Energy Independence and Security Act of 2005 and Division D, the Distribution of Revenues and Disaster Assistance.

Mrs. BOXER. I move to reconsider the vote.

Mrs. FEINSTEIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the clerk will report the conference report to accompany H.R. 2863.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of December 18, 2005.)

Mr. McCONNELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?S0634

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I would like to speak for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, I know everyone is anxious to vote. In this underlying bill on defense, I just wish to say that there is $29 billion for coastal restoration, hurricane protection, housing, and business help for the gulf coast. I know it has been a tough, long day, but in this bill there is $29 billion because of the hard work by both sides of the aisle. We are very grateful for the help on this bill.

Mr. BIDEN. Mr. President, I rise to express my surprise and deep-seated opposition to the so-called Public Readiness and Emergency Preparedness Act, which is included in the Defense Department Appropriations bill.

This provision would give the Secretary of Health and Human Services authority to provide almost total immunity from liability to the makers of almost any drug, and to those who administer it.

While the measure's proponents portray it as a simple tool to make sure we have sufficient vaccine available in the case of an avian flu pandemic, the actual language of the provision is far broader than that, and it therefore poses a danger to all Americans.

The actual provision permits immunity for the makers of virtually any drug or medical treatment. All the secretary need do is declare that it is a "countermeasure" used to fight an epidemic. One solitary person gets to decide what is a countermeasure and what is an epidemic. There is nothing to prevent the declaration of immunity for, say, Tylenol. There is nothing to prevent a declaration that, say, arthritis is an epidemic.

What's more, this is no typical grant of immunity. No, the breadth of this provision is staggering. A drug maker can be grossly negligent in making or distributing a drug, and still escape liability. It can even make that drug with wanton recklessness and escape scot-free after harming thousands of people.

In fact, under this provision, the only way a victim could still recover compensation from a drug maker for a dangerous drug or vaccine would be to prove "willful misconduct," and then only by "clear and convincing evidence." What this means is that, for a victim to be able to be compensated by the company that harmed him, he must prove that they committed a crime. And even if he can do that, the company can still avoid liability simply by notifying the authorities within 7 days that someone was harmed by their product. In other words, so as long as you "confess" to your bad behavior, you can get away with it!

Is this the sort of justice system that Americans desire?

The answer to this question seems clear from the way this provision was inserted in the larger bill. No hearings were held on this language; no Committee vote was taken; no bill passed the House or the Senate. Not even the House and Senate conferees had a chance to give input on this provision. Indeed, I'm told it was inserted in the dead of night, after conferees had already signed the conference report!

Perhaps the folks who secretly inserted this provision in the dead of night knew that it was overly broad, as I've discussed; perhaps they knew that it was constitutionally suspect, as has been noted by at least one prominent law professor; or perhaps they just knew that, if this provision ever saw the light of day, the American people would not stand for such secrecy and injustice.

This should not be how we conduct the business of the American people, and we will all suffer if this provision is permitted to go forward.

Mr. BYRD. Mr. President, the Senate is now on its way to passing the Defense appropriations bill, which will provide essential funds to our troops. The U.S. Armed Forces are comprised of some of the finest men and women our country has to offer. Each of these brave individuals has made the commitment to serve our country, during times of war or peace, and each is deserving of the support of a grateful nation.

I particularly wish to salute the fine members of the West Virginia National Guard who have time and again demonstrated their commitment to serving our State and our Nation. These citizen-soldiers have served in all corners of the world while balancing their obligations to their families, to their employers, and to their communities. The Defense appropriations bill is important to our National Guard and all the members of our military. I am proud to have worked with my colleagues to expedite passage of this essential legislation.

The Senate is proceeding in a wise course after the cloture vote this morning. The most controversial part of the conference report will be removed, clearing the way for the Defense appropriations bill to pass the Senate and be sent on its way to the White House. It is unfortunate that the deletion of the most controversial provision that was attached to the bill in conference will also result in eliminating needed funds for hurricane relief, LIHEAP, homeland security, and border security. Congress should not delay in providing additional funds for these purposes. There are emergency needs in each of these areas that must be met with quick action.

While the ANWR provision will be removed from the bill, I continue to have serious concerns about the avian flu-related liability provisions that were slipped into the conference report without debate. These liability provisions did not appear in either the House- or the Senate-passed bill. These provisions were not in the materials presented to the conference committee during its deliberations. It was not until the dead of night on this past Sunday, after signatures had already been collected on the conference report, that the Republican majority slipped these provisions into the bill before the Senate today. What an insult to the legislative process.

It makes sense for Congress to take steps to encourage companies to develop and manufacture lifesaving flu vaccines. Manufacturers and health professionals acting in good faith to protect the public health, by developing and distributing critical vaccines, should not be unfairly penalized for their efforts to protect the American people from the horrors of a pandemic disease.

However, our country has a moral obligation to look out for those who may become seriously ill as a result of these vaccines. We are talking about the lives of real American people. There ought to be compensation available to those persons who may suffer adverse effects from these kinds of vaccines.

But the liability amendment slipped into the bill does not contain any meaningful provisions establishing a fair compensation system to protect vaccine recipients. Americans who pull up their sleeves to receive an emergency flu vaccine must be provided with some assurance that they would not face economic catastrophe should they be harmed.

All of this comes as our country is coming to grips with the threat that the avian flu might spread to our shores. A flu pandemic is one of the most dangerous threats the United States faces today. Medical experts warn that a global, cataclysmic pandemic is not a question of if but when. Like any natural disaster, it could hit at anytime. And when it does, it could take the lives of tens of millions of people.

According to the Congressional Budget Office, an avian flu pandemic would deliver a devastating $675 billion blow to the U.S. economy. This administration has failed to adequately respond to safeguard the American people and limit the human and economic cost of such a pandemic.

In the event of a flu pandemic, hundreds of millions of Americans will need to be vaccinated as quickly as possible. Yet our current public health infrastructure is alarmingly ill-equipped for this threat. This administration and the Republican-led Congress have weakened the health care infrastructure of this country by starving it of needed funding. The administration has been engaged in a relentless campaign to arbitrarily cut Medicaid and other vital safety-net programs that protect the health of the poor and disabled.

I am also disappointed that the majority chose to limit funds for vaccines, medicines, and other tools to combat the avian flu to just $3.8 billion. That level of funding is $4.3 billion below the level that the Senate approved just 2 months ago.

The American people deserve better from their elected representatives. They deserve a coherent plan to combat the looming threat of a flu pandemic with significant resources devoted to protecting the public's health.

Finally, Mr. President, I regret that so little attention has been paid during the recent debate on this bill to the most important issue facing our country. The ongoing war in Iraq has so far cost the lives of 2,155 members of the U.S. Armed Forces. Including the so-called "bridge fund" of $50 billion that is appropriated in this bill, our Nation will have dedicated $259 billion to carry out the war in Iraq. What an enormous sum. More than a quarter of a trillion dollars has been spent on this war that should never have begun.

What is more, the newspapers are full of stories that the President is going to ask Congress for another $100 billion in the coming months to pay for the wars in Iraq and Afghanistan.

These huge sums of money are being requested and spent for the war in Iraq with no idea of how the White House intends to get our troops out of that country. The President has taken to the speaking circuit to try to rally support for the war, but his statements are simply variations on a theme: stay the course, stay the course, stay the course.

Americans are asking questions that the White House has so far refused to address. How much longer will our troops be in Iraq? How many more Americas will perish in this costly war? How many more billions will be spent to support the administration's misguided policies in Iraq?

Instead of getting answers to these questions, and instead of changing course in the war in Iraq, this appropriations bill includes $50 billion to continue the wars in Iraq and Afghanistan, despite the fact that the President did not request a single dime in his budget for these costs. Let me say again: the Congress is appropriating billions more for the war in Iraq without a request from the President. Is this any way to pay for a war?

Although Senators must do our part in providing for our troops serving in harm's way, I do not think that our troops are served by having Congress appropriate funds for the war in Iraq without any explanation by the President or the Secretary of Defense about how these funds are to be used. If the administration wants additional funds to prosecute the war in Iraq, the administration should answer the tough questions about its policy for getting our country out of Iraq.

Mrs. CLINTON. Mr. President, I would like to take this opportunity to object to insertion of a provision in the Department of Defense appropriations bill that would provide sweeping immunity protections to pharmaceutical manufacturers. I know that this provision is being billed as a simple liability protection to help those who would manufacture avian flu vaccine, but it is nothing of the sort. I support limited liability protections for manufacturers to help cover their risks in developing products that our Nation will need in case of emergency. However, this provision would grant immunity to all claims of loss, including death and disability, for a broad range of products, including any drug that the Secretary designated as one that would limit the harm caused by a pandemic—a definition so broad as to encompass nearly any drug.

This immunity is not subject to judicial review. It preempts any State laws that provide different liability protections or that may provide stronger consumer safety protections for pharmaceutical products. In fact, the only exception to this immunity is for actions of "willful misconduct," which is so narrowly defined that it would only apply to cases where a company intentionally set out "to achieve a wrongful purpose . . . in disregard of a known or obvious risk that is so great as to make it highly probable that the harm will outweigh the benefit." The provision requires the Secretary and the Attorney General to narrow the scope of willful misconduct even further and states that for any FDA-approved product, willful misconduct will not apply unless the Government is already taking action against the manufacturer for such misconduct.

If the Government is providing complete immunity to manufacturers, how are those who may be injured to seek compensation in case of injury? This provision sets up a "Covered Countermeasure Process Fund," but fails to provide any money for this fund. We all recognize that in a public health emergency, we may need to seek whatever protections we can find to prevent widespread death and disease—but those who are asked to take these products are told that if they are injured, their only recourse is to seek compensation from a fund which currently has no money to award.

I am also gravely concerned by the fact that this provision was included in the appropriations bill without following the process for passing legislation used by this Chamber. This authorizing—authorizing, not appropriating—language was never considered, let alone agreed to by the Senate. It was never agreed to by the HELP or Judiciary Committees, which have jurisdiction over this matter. It is a mockery of the legislative process. I believe that the American people are ill-served by Congress when controversial and potentially harmful provisions can simply be inserted without undergoing the open deliberations and debate that are fundamental to the democratic process and are designed to protect our citizens from special interests and back-room dealings. This provision should be stripped from the bill.

Mr. DODD. Mr. President, this week, the Senate considers conference reports on two pieces of legislation—the Defense Authorization and Appropriations Acts that are critical to the security of our Nation. These conference reports contain important measures for keeping our troops safe and secure, particularly provisions to upgrade body armor and protective equipment, resources to ramp-up vital construction of U.S. military ships, aircraft, and ground vehicles, and funding for research on vital defense technologies of the future.

The conference agreements also promote important quality-of-life improvements for our troops and their families, including a 3.1 percent pay raise for all military personnel and increases in compensation for survivors of military personnel killed since the onset of the wars in Afghanistan and Iraq.

These two bills could not come before the Senate at a more urgent time. Our Nation is at war, and our troops desperately need these resources to complete their missions in Iraq and Afghanistan.

This Congress owes America's fighting men and women its unconditional support for these critical defense priorities. But this year, the administration and Members of the majority in Congress have fallen far short of meeting this responsibility. They have allowed a handful of powerful special interests to impede the critically important process of funding our national defense, including America's highest security priorities. The Republican leadership's decisions to open up the Arctic National Wildlife Refuge for oil companies' exploitation and to shield drug and vaccine makers from any accountability have absolutely nothing to do with national security and have no place in bills like the defense appropriations conference report. Their willingness to risk funding for our troops in favor of these parochial priorities is indefensible.

Let me say a few words about these two specific measures.

I have consistently opposed opening the Arctic National Wildlife Refuge, ANWR, to oil drilling because I am unconvinced that the small amount of recoverable oil there outweighs the permanent damage that we would do to the area and the nearly 200 species of wildlife that live there. The process entails a web of oil platforms, pipelines, production facilities, power facilities, support structures, and roads across the entire area. I strongly believe we need to ensure our Nation's economic and energy security, but any recoverable oil in the Refuge would not begin flowing for at least 10 years. What is the urgency to include this legislation now in a bill it has no business being part—of especially when the impact of such a measure could be so remote and so damaging? There is significantly less job creation than proponents would have us believe, there is minimal recoverable oil available, drilling in ANWR would have no impact on current energy prices or supply or even on our foreign oil dependence, and it would leave a web of infrastructure that would permanently ruin the pristine nature of the land and habitat. Moreover, if we took just a few modest steps to use energy more efficiently—such as properly inflating vehicle tires or raising engines' fuel efficiency—we would save more oil than currently exists in the ANWR. It is simply irresponsible to move forward with this legislation.

Just as irresponsible is an equally non-germane provision shielding vaccine producers from liability. This language provides sweeping legal immunity to a few companies, and relieves them of responsibility for their reckless and negligent actions. Rather than encouraging companies to make safe and effective medicines, it will provide a perverse incentive by protecting those companies that make ineffective or harmful products. That is unwise—not to mention unfair—to companies that strive for excellence, a number of which are located in Connecticut. And rather than encouraging Americans to be vaccinated or to take needed medication, it will discourage them from doing so by failing to provide even rudimentary compensation for the few who will inevitably be injured by these products. Make no mistake about it: this plan fails to protect the American people from the risk of a flu pandemic or from other biohazards.

Senator KENNEDY and I spent the past several months negotiating with Senators ENZI, BURR, GREGG, FRIST, and others on the Health, Education, Labor, and Pensions Committee to try to reach a bipartisan compromise on this issue. Senator KENNEDY and I made several proposals, modeled on past Congressional action, to protect manufacturers from frivolous lawsuits while providing fair and adequate compensation to those who are injured. Both sides worked in good faith, and we made significant progress.

Unfortunately, my understanding is that a decision was made by leaders of the Republican caucus to forego this bipartisan process. Instead, this nongermane provision was slipped in the final hours of this session of Congress into the Defense Appropriations Conference Report. Furthermore, it is my understanding that this language was inserted after members had agreed to the Conference Report with the understanding that this language was not included. I am disturbed and disappointed by this blatant abuse of power and disregard for Senate procedures. I can only assume that the supporters of this provision are using this tactic because they know that their plan would not stand up to public scrutiny and Senate debate.

In terms of some of the germane provisions of this bill, I must also express my disappointment with the conferees' decisions to weaken important measures that were actually inserted in the Senate's defense bills to support and protect our troops. For example, I originally authored amendments to both of these bills that would ensure that our troops would be reimbursed for purchasing their own critical safety and protective gear that the Defense Department failed to provide for use in Iraq and Afghanistan. The Senate approved this measure without any dissent, having recognized the administration's inadequate compliance with current law. After failing to implement a program under a law enacted last year, the Pentagon only established the reimbursement initiative as this body considered the new provisions to extend this benefit to all military personnel deployed to Iraq and Afghanistan. Most appalling to me is that there remains little evidence that the Pentagon has acted to ensure that our soldiers, sailors, airmen, and marines receive the information that they need to take advantage of this important program. Given that the Defense Department is failing to meet its commitment to adequately equip our military personnel, the least that it can do is inform our brave men and women of the compensation due to them. In the end, I was deeply troubled that the final version of this legislation did not include adequate language to address many of the concerns originally raised on this floor just two months ago. In particular, as part of an agreement worked out with both Chairmen of the Defense Appropriations Subcommittee and Senate Armed Services Committee, we had agreed to extend the reimbursement program to troops who made purchases up until the end of the 2006 fiscal year. In both final conference reports, this deadline was cut short to April 1, 2006.

In the final analysis of the underlying bills, I can only take solace in the fact that other critically important measures in these conference reports could have been weakened even further. We in this body managed to avert grave problems posed by misplaced priorities by the administration and the Republican leadership. For example, it is my understanding that the administration's allies in the House actually attempted to slip another measure—this time, related to campaign finance—into the Defense Authorization Act after the conferees had already signed the conference report—without any hearing or public review by the appropriate committees of jurisdiction. It was only after the chairman and ranking member of the Senate Armed Services Committee intervened that this utter abuse of power was averted.

In another case, the administration and its allies in Congress sought to thwart the final approval of Senator MCCAIN's amendment that would set standards for the interrogation of detainees in the custody of the United States, and prohibit the cruel, inhuman, or degrading treatment of these detainees. I strongly support Senator MCCAIN's amendment because it upholds the values on which our country is based, it helps strengthen the rule of law, and most importantly, it serves to protect American troops and civilians who are currently serving and living abroad.

I regret, however, that the Bush administration attempted for so long to block adoption of this amendment. Indeed, the administration only accepted it in the face of overwhelming congressional support and in the wake of international condemnation resulting from allegations of secret CIA prisons in Europe. While I am certainly pleased that the McCain amendment was included in this conference report, I hope that the administration's stonewalling has not undermined the very things that this amendment aims to protect—American values and American lives.

In the end, it is our solemn duty as members of this institution to promote policies that will safeguard America's critical security interests. That is why I am so deeply offended by the tactics which the majority used to weaken many of these efforts. After all, most of the germane provisions of these two Defense-related conference reports will support our defense needs and protect U.S. military personnel deployed in harm's way. For example, within these germane provisions, I am particularly proud that the bills build on Connecticut's unique strengths in contributing to America's defense needs. From increases in Black Hawk helicopters to production of a new Virginia Class submarine, our troops will be better prepared to meet the security challenges of the 21st century.

Under these bills, the Army and Navy will receive 83 much needed Black Hawk helicopters to perform a variety of critical missions including medical evacuations, air assaults, and special operations. In the shipbuilding accounts, in addition to funding the procurement of another Virginia submarine, these bills will ensure that the Navy remains committed to developing new undersea technologies—including development of new submarine designs—an important element of our nation's pertinent efforts to maintain undersea dominance as countries such as China and Russia expand their own submarine fleets.

To address immediate concerns for our soldiers and marines, these bills finally contribute meaningful resources for countering the most serious threats facing our troops in Iraq—the so-called improvised explosive devices or IEDs. Devoting $1 billion to the Joint Improvised Device Defeat Task Force will help accelerate American development of new technologies and tactics for detecting, jamming, or de-activating these roadside bombs which continue to plague U.S. combat operations in Iraq. In addition, I am truly pleased with the conferees' decision to add an additional $610 million to the Administration's otherwise slow attempts at reinforcing American ground vehicles in Iraq with state-of-the-art body armor and other protective gear. This Congress has few higher priorities than the safety and wellbeing of our troops deployed in harm's way. And I believe these measures truly are steps in the right direction.

But we must remain dedicated to such critical force protection measures, particularly as our forces battle insurgents in Iraq and Afghanistan. The Republican majority's attempts to ensnare these defense bills with unrelated political schemes gravely threatened our ability to meet this commitment and amounted to an utter abuse of power.

The United States is at war. Our troops and the American people expect that our nation's defense policy will be unfettered by special interests and untainted by political gamesmanship. I can only hope that, as we return to Capitol Hill to begin the New Year a few weeks from today, the leaders of the majority party will resolve to put national interests over narrow interests.

Mr. LEAHY. When the Department of Defense authorization bill passed the Senate on November 15, I spoke of my concerns about an amendment that limits the rights of detainees in U.S. custody at Guantanamo Bay, Cuba, to file habeas corpus petitions in federal court. That amendment was modified in conference to further erode these rights, and then identical text was added to the conference report on Defense appropriations to ensure that the language was enacted into law in one bill or the other.

Debates over the treatment of detainees have dominated our discussions of both the Defense authorization and appropriations bills. Senator MCCAIN waged a battle with the White House and his own party to ensure that his amendment requiring the humane treatment of detainees was retained in the conference reports. I commend Senator MCCAIN and the members of the Congress who have fought to address these issues. Despite calls from many of us over recent years, the legislative branch has not met its obligation of oversight and policymaking in this area. I am encouraged that more than 18 months after the revelation of atrocities at Abu Ghraib, we are finally willing to confront this issue.

The administration fought this provision for months, with the President vowing to veto any bill that contained it. But after months of threats and backdoor lobbying, the White House finally recognized that it could not win with a policy that granted itself the authority to use torture or cruel and inhumane treatment in interrogations.

Unfortunately, the positive steps we take today in adopting the McCain amendment are undercut by the modified Graham-Levin amendment in the conference report. As I just noted, I expressed concerns about the Graham-Levin text, and voted against it, when it passed the Senate. At that time, it reflected a modest improvement over an earlier version offered by Senator GRAHAM. Now, it has come almost full circle, and is deeply troubling.

The Graham-Levin amendment as it passed the Senate would deny prisoners that the administration claims are unlawful combatants the right to challenge their detention in a petition for a writ of habeas corpus. At no time in the history of this Nation have habeas rights been permanently cut off from a group of prisoners. Even President Lincoln's suspension of habeas was temporary. The Supreme Court has held numerous times that enemy combatants can challenge their detention. The new version of this text, the text that was added to the conference report, goes even further. It prohibits any lawsuit against the United States brought by a Guantanamo detainee for any reason. This means that while the McCain Amendment requires humane treatment of detainees, the substituted text of the Graham-Levin Amendment provides no remedy whatsoever when detainees are mistreated. The result is that Guantanamo could become the legal black hole that the administration has long argued it should be. The Supreme Court rejected that argument in Rasul v. Bush in 2004.

I am also deeply troubled by other provisions added in conference. The conference report allows a combatant status review tribunal, an administrative review board, or a similar tribunal to consider statements obtained as a result of coercive interrogation, so long as the tribunal assesses the "probative value" of the statement. With the passage of the McCain amendment, I had hoped that the Congress was finally prepared to acknowledge that statements obtained by coercion have no value.

A prime example of how abusive interrogation techniques elicit bad intelligence was reported on December 9, 2005, in The New York Times. The article states that the "administration based a crucial prewar assertion about ties between Iraq and al Qaida on detailed statements made by a prisoner while in Egyptian custody who later said he had fabricated them to escape harsh treatment." Just last week, at a speech in Philadelphia, a member of the audience asked the President why the administration continually seeks to link the 9/11 attacks with the invasion of Iraq in spite of the fact that Iraq was not involved in the events of 9/11.

It is beneath the values of this Nation to allow the use of coerced statements in the trials or review panels conducted on the status of detainees. It is also beneath us to strip detainees of habeas rights. Filing a petition for a writ of habeas corpus is often the detainee's only opportunity to openly challenge the basis for his detention. Providing detainees this right is not about coddling terrorists. It is about showing the world that we are a nation of laws and that that we uphold the principles that we urge other nations to follow. It is about honoring and respecting the values that are part of our heritage as Americans and that have shone as a beacon to the rest of the world. Allowing a detainee to file a habeas petition provides legitimacy to our detention system and quells speculation that we are holding innocent people in secret prisons without any right to due process.

Some members of the Senate have argued that these prisoners should be tried in the military justice system. I think that we could all agree on such a course if the administration had worked with Congress from the start and established with our approval procedures that are fair and consistent with our tradition of military justice. The Graham-Levin amendment does allow the Court of Appeals for the District of Columbia to review some of the military commission's final decisions. I am in favor of Federal court review, but Congress seems to have missed the critical step of authorizing the administration to use military commissions. I introduced a bill in the 107th Congress to do just that. So did Chairman SPECTER. If the administration wanted to use military commissions to try detainees, it should have sought and obtained the explicit authorization of Congress. It did not do so. The system that has been established by the administration to try individuals held at Guantanamo does not provide due process or independent review. It is not a system that reflects our tradition of justice.

Since the Graham-Levin amendment would not retroactively apply to pending cases, the Supreme Court will still have the opportunity to determine the legitimacy of the military commissions, as being litigated in case of Hamdan v. Rumsfeld. If the military commission process is rejected by the Court, I hope that the administration will work with Congress to establish a fair system for trying suspects who are captured in the war on terror. Working in this way, we can restore the reputation of our Nation for upholding the rule of law.

Everyone in Congress agrees that we must capture and detain terrorist suspects, but it can and should be done in accord with the laws of war and in a manner that upholds our commitment to the rule of law. The Judiciary Committee held a hearing on detainee issues in June. At that hearing, Senator GRAHAM said that once enemy combatant status has been conferred upon someone, "it is almost impossible not to envision that some form of prosecution would follow." He continued, "We can do this and be a rule of law nation. We can prove to the world that even among the worst people in the world, the rule of law is not an inconsistent concept." I agree with Senator GRAHAM, but I strongly believe that in order to uphold our commitment to the rule of law, we must allow detainees the right to challenge their detention in Federal court.

As Chairman SPECTER noted on the floor last month, there are existing procedures under habeas corpus that have been upheld by the Supreme Court that do not invite frivolous claims and that are appropriate. The Graham-Levin amendment would not only restrict habeas in a manner never done before in our Nation, but, as the chairman of the Judiciary Committee said last week, it would open a Pandora's box.

The chairman is right. We must not rush to change a legal right that predates our Constitution. Creating one exemption to the Great Writ only invites more. The Judiciary Committee has jurisdiction over habeas corpus, and it should have the first opportunity to review any proposed changes carefully and thoroughly. Although congressional action on the issue of foreign detainees is long overdue, we must not act hastily when the Great Writ—something that protects us all—is at stake.

I ask unanimous consent to place in the RECORD an article entitled, "Qaeda-Iraq Link U.S. Cited Is Tied to Coercion Claim," from the December 9, 2005, New York Times.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 9, 2005]

QAEDA-IRAQ LINK U.S. CITED IS TIED TO COERCION CLAIM

(By Douglas Jehl)

WASHINGTON.—The Bush administration based a crucial prewar assertion about ties between Iraq and Al Qaeda on detailed statements made by a prisoner while in Egyptian custody who later said he had fabricated them to escape harsh treatment, according to current and former government officials.

The officials said the captive, Ibn al-Shaykh al-Libi, provided his most specific and elaborate accounts about ties between Iraq and Al Qaeda only after he was secretly handed over to Egypt by the United States in January 2002, in a process known as rendition.

The new disclosure provides the first public evidence that bad intelligence on Iraq may have resulted partly from the administration's heavy reliance on third countries to carry out interrogations of Qaeda members and others detained as part of American counterterrorism efforts. The Bush administration used Mr. Libi's accounts as the basis for its prewar claims, now discredited, that ties between Iraq and Al Qaeda included training in explosives and chemical weapons.

The fact that Mr. Libi recanted after the American invasion of Iraq and that intelligence based on his remarks was withdrawn by the C.I.A. in March 2004 has been public for more than a year. But American officials had not previously acknowledged either that Mr. Libi made the false statements in foreign custody or that Mr. Libi contended that his statements had been coerced.

A government official said that some intelligence provided by Mr. Libi about Al Qaeda had been accurate, and that Mr. Libi's claims that he had been treated harshly in Egyptian custody had not been corroborated.

A classified Defense Intelligence Agency report issued in February 2002 that expressed skepticism about Mr. Libi's credibility on questions related to Iraq and Al Qaeda was based in part on the knowledge that he was no longer in American custody when he made the detailed statements, and that he might have been subjected to harsh treatment, the officials said. They said the C.I.A.'s decision to withdraw the intelligence based on Mr. Libi's claims had been made because of his later assertions, beginning in January 2004, that he had fabricated them to obtain better treatment from his captors.

At the time of his capture in Pakistan in late 2001, Mr. Libi, a Libyan, was the highest-ranking Qaeda leader in American custody. A Nov. 6 report in The New York

Times, citing the Defense Intelligence Agency document, said he had made the assertions about ties between Iraq and Al Qaeda involving illicit weapons while in American custody.

Mr. Libi was indeed initially held by the United States military in Afghanistan, and was debriefed there by C.I.A. officers, according to the new account provided by the current and former government officials. But despite his high rank, he was transferred to Egypt for further interrogation in January 2002 because the White House had not yet provided detailed authorization for the C.I.A. to hold him.

While he made some statements about Iraq and Al Qaeda when in American custody, the officials said, it was not until after he was handed over to Egypt that he made the most specific assertions, which were later used by the Bush administration as the foundation for its claims that Iraq trained Qaeda members to use biological and chemical weapons.

Beginning in March 2002, with the capture of al Qaeda operative named Abu Zubaydah, the C.I.A. adopted a practice of maintaining custody itself of the highest-ranking captives, a practice that became the main focus of recent controversy related to detention of suspected terrorists.

The agency currently holds between two and three dozen high-ranking terrorist suspects in secret prisons around the world. Reports that the prisons have included locations in Eastern Europe have stirred intense discomfort on the continent and have dogged Secretary of State Condoleezza Rice during her visit there this week.

Mr. Libi was returned to American custody in February 2003, when he was transferred to the American detention center in Guantánamo Bay, Cuba, according to the current and former government officials. He withdrew his claims about ties between Iraq and Al Qaeda in January 2004, and his current location is not known. A C.I.A. spokesman refused Thursday to comment on Mr. Libi's case. The current and former government officials who agreed to discuss the case were granted anonymity because most details surrounding Mr. Libi's case remain classified.

During his time in Egyptian custody, Mr. Libi was among a group of what American officials have described as about 150 prisoners sent by the United States from one foreign country to another since the Sept. 11, 2001 attacks for the purposes of interrogation. American officials including Ms. Rice have defended the practice, saying it draws on language and cultural expertise of American allies, particularly in the Middle East, and provides an important tool for interrogation. They have said that the United States carries out the renditions only after obtaining explicit assurances from the receiving countries that the prisoners will not be tortured.

Nabil Fahmy, the Egyptian ambassador to the United States, said in a telephone interview on Thursday that he had no specific knowledge of Mr. Libi's case. Mr. Fahmy acknowledged that some prisoners had been sent to Egypt by mutual agreement between the United States and Egypt. "We do interrogations based on our understanding of the culture," Mr. Fahmy said. "We're not in the business of torturing anyone."

In statements before the war, and without mentioning him by name, President Bush, Vice President Dick Cheney, Colin L. Powell, then the secretary of state, and other officials repeatedly cited the information provided by Mr. Libi as "credible" evidence that Iraq was training Qaeda members in the use of explosives and illicit weapons. Among the first and most prominent assertions was one by Mr. Bush, who said in a major speech in Cincinnati in October 2002 that "we've learned that Iraq has trained Al Qaeda members in bomb making and poisons and gases."

The question of why the administration relied so heavily on the statements by Mr. Libi has long been a subject of contention. Senator Carl Levin of Michigan, the top Democrat on the Senate Armed Services Committee, made public last month unclassified passages from the February 2002 document, which said it was probable that Mr. Libi "was intentionally misleading the debriefers."

The document showed that the Defense Intelligence Agency had identified Mr. Libi as a probable fabricator months before the Bush administration began to use his statements as the foundation for its claims about ties between Iraq and Al Qaeda involving illicit weapons.

Mr. Levin has since asked the agency to declassify four other intelligence reports, three of them from February 2002, to see if they also expressed skepticism about Mr. Libi's credibility. On Thursday, a spokesman for Mr. Levin said he could not comment on the circumstances surrounding Mr. Libi's detention because the matter was classified.

Mr. LEAHY. Late Sunday night, Republican leadership slipped language into a lengthy appropriations conference report that will immunize drug companies against reckless misconduct and will impede our ability to protect our citizens from the threatened avian flu pandemic. This provision is a gift to the drug manufacturers and will likely have a devastating effect on our ability to protect our constituents.

Under the guise of a threatened pandemic, this legislation goes far beyond the scope of vaccine preparedness and includes language that is far more sweeping than any language previously passed by the House or the Senate. Instead of focusing on protecting American families from avian flu or ensuring that victims of any untested vaccine will be compensated for their injuries, the provision simply shields drug companies from any culpability for injuries caused by its actions. The scope of this immunity is so expansive that once the Secretary of Health and Human Services has declared a public health emergency even for a future threat, drug companies would not be held accountable for any injuries or deaths caused by the drugs they manufacture, including drugs that are not specifically used in a pandemic context. This is disgraceful and will deter Americans from taking vaccines and drugs if we ever experience a health crisis.

The only exception to the broad immunity given to drug companies in this proposal is the possibility that a victim could prove that the company acted with "willful misconduct." Knowingly committing health violations would not even suffice to state a claim. Knowing violations as well as gross negligence would be immunized from accountability. Even if the drug company acted with the intent to harm people, it would nevertheless be immune from criminal conduct unless the Attorney General or Secretary of Health and Human Services initiates an enforcement action against a drug company that is still pending at the time a personal claim is filed. That is unbelievable. I question whether such a role for the Secretary of HHS is even constitutional. Since when do we in Congress allow a political appointee of the administration to determine when, and if, someone injured by willful misconduct can be compensated for their injuries? Professor Erwin Chemerinsky sent a letter yesterday that outlines his concerns regarding the constitutionality of the provision and I ask that his letter be made part of the RECORD.

Passage of the Defense appropriations bill is of vital importance to all of us, but the inclusion of provisions that excuse even gross and deadly negligence on the part of drug companies makes it impossible for many of us to vote for this bill in good conscience. I urge my colleagues to strike the unjustified and extraneous provisions from the Defense appropriations bill in order to act quickly on this important bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 20, 2005.

DEAR SENATOR: I understand that the Congress is considering legislation that has been denominated as the "Public Readiness and Emergency Preparedness Act." This legislation would give the Secretary of Health and Human Services extraordinary authority to designate a threat or potential threat to health as constituting a public health emergency and authorizing the design, development, and implementation of countermeasures, while providing total immunity for liability to all those involved in its development and administration. In addition to according unfettered discretion to the Secretary to grant complete immunity from liability, the bill also deprives all courts of jurisdiction to review those decisions. Sec. (a)(7). I write to alert the Congress to the serious constitutional issues that the legislation raises.

First, the bill is of questionable constitutionality because of its broad, unfettered delegation of legislative power by Congress to the executive branch of government. Under the nondelegation doctrine, Congress may provide another branch of government with authority over a subject matter, but "cannot delegate any part of its legislative power except under the limitation of a prescribed standard." *United States v. Chicago, M., St. P. & P.R. Co.*, 282 U.S. 311, 324 (1931). Recently, the Supreme Court endorsed Chief Justice Taft's description of the doctrine: "the Constitution permits only those delegations where Congress 'shall lay down by legislative act an intelligible principle to which the person or body authorized to [act] is directed to conform.'" *Clinton v. City of New York*, 524 U.S. 417, 484 (1998)(emphasis in original), quoting *J.W. Hampton, Jr., & Co. v. United States*, 276 U.S. 394, 409 (1928). The breadth of authority granted the Secretary without workable guidelines from Congress appears to be the type of "delegation running riot" that grants the Secretary a "roving commission to inquire into evils and upon discovery correct them" of the type condemned by Justice Cardozo in *A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495, 553 (1935)(Cardozo, J., concurring).

Second, the bill raises important federalism issues because it sets up an odd form of federal preemption of state law. All relevant state laws are preempted. Sec. (a)(8). However, for the extremely narrow instance of willful (knowing) misconduct by someone in the stream of commerce for a countermeasure, the bill establishes that the substantive law is the law of the state where the injury occurred, unless preempted. Sec. (e)(2). The sponsors appear to be trying to have it both ways, which may not be constitutionally possible. The bill anticipates what is called express preemption, because the scope of any permissible lawsuits is changed from a state-based to a federally based cause of action. See *Beneficial Nat'l Bank v. Anderson*, 539 U.S. 1, 8 (2003).

Usually, that type of "unusually 'powerful'" preemptive statute provides a remedy for any plaintiff's claim to the exclusion of state remedies. *Id.* at 7 (citation omitted). Here, rather than displace state law in such instances, the bill adopts the different individual laws of the various states, but amends them to include a willful misconduct standard that can only be invoked if the Secretary or Attorney General initiates an enforcement action against those involved in the countermeasure and that action is either pending at the time a claim is filed or concluded with some form of punishment ordered.

Such a provision raises two important constitutional concerns. One problem is that this hybrid form of preemption looks less like an attempt to create a federal cause of action than an direct attempt by Congress to amend state law in violation of *Erie Railroad Co.* v. *Tompkins*, 304 U.S. 64 (1938) and basic principles of federalism. Although Congress may preempt state law under the Supremacy Clause by creating a different and separate federal rule, see *Crosby* v. *Nat'l Foreign Trade Counc.*, 530 U.S. 363, 372 (2000), it may not directly alter, amend, or negate the content of state law as state law. That power, the Erie Court declared, "reserved by the Constitution to the several States." 304 U.S. at 80. It becomes clear that the bill attempts to amend state law, rather than preempt it with a federal alternative, when one realizes that States will retain the power to enact new applicable laws or amend existing ones with a federal overlay that such an action may only be commenced in light of a federal enforcement action and can only succeed when willful misconduct exists. The type of back and forth authority between the federal and state governments authorized by the bill fails to constitute a form of constitutionally authorized preemption.

The other problem with this provision is that the unfettered and unreviewable discretion accorded the Secretary or Attorney General to prosecute an enforcement action as a prerequisite for any action for willful misconduct violates the constitutional guarantee of access to justice, secured under both the First Amendment's Petition Clause and the Fifth Amendment's Due Process Clause. See *Christopher* v. *Harbury*, 536 U.S. 403, 415 n.12 (2002). In fact, the Court has repeatedly recognized that "the right of access to the courts is an aspect of the First Amendment right to petition the Government for redress of grievances." *Bill Johnson's Restaurants* v. *NLRB*, 461 U.S. 731, 741 (1983), citing *California Motor Transport Co.* v. *Trucking Unlimited*, 404 U.S. 508, 510 (1972). First Amendment rights, the Supreme Court has said in a long line of precedent, cannot be dependent on the "unbridled discretion" of government officials or agencies. See, e.g., *City of Lakewood* v. *Plain Dealer Pub. Co.*, 486 U.S. 750, 757 (1988). At the same time, the Due Process Clause guarantees a claimant an opportunity to be heard "at a meaningful time and in a meaningful manner." *Armstrong* v. *Manzo*, 380 U.S. 545, 552 (1965). The obstacles placed before a claimant, including the insuperable one of inaction by the Secretary or Attorney General, raise significant due process issues. The Supreme Court has recognized that official inaction cannot prevent a claimant from being able to go forth with a legitimate lawsuit. See *Logan* v. *Zimmerman Brush Co.*, 455 U.S. 422 (1982). The proposed bill seems to reverse that constitutional imperative.

Third, the complete preclusion of judicial review raises serious constitutional issues. The Act, through Sec. 319F-3(b)(7), expressly abolishes judicial review of the Secretary's actions, ordaining that "[n]o court of the United States, or of any State, shall have subject matter jurisdiction," i.e., the power, "to review . . . any action of the Secretary regarding" the declaration of emergencies, as well as the determination of which diseases or threats to health are covered, which individual citizens are protected, which geographic areas are covered, when an emergency begins, how long it lasts, which state laws shall be preempted, and when or if he shall report to Congress .

The United States Supreme Court has repeatedly stressed that the preclusion of all judicial review raises "serious questions" concerning separation of powers and due process of law. See, e.g., *Johnson* v. *Robison*, 415 U.S. 361 (1974); see also, *Oestereich* v. *Selective Service System Local Board No. 14*, 393 U.S. 233 (1968); *McNary* v. *Haitian Refugee Center, Inc.*, 498 U.S. 479 (1991); *Reno* v. *Catholic Social Services*, 509 U.S. 43 (1993). Judicial review of government actions has long regarded as "an important part of our constitutional tradition" and an indispensable feature of that system, *Lehnhausen* v. *Lake Shore Auto Parts Co.*, 410 U.S. 356, 365 (1973).

The serious constitutional issues raised by this legislation deserve a full airing and counsels against any rush to judgment by the Congress. Whatever the merits of the bill's purposes, they may only be accomplished by consideration that assures its constitutionality.

ERWIN CHEMERINSKY.

Mr. DORGAN. Mr. President, the conference report on the Defense appropriations bill contains $29 billion in disaster relief funding related to hurricanes Katrina and Rita. As part of that emergency package, $49 million is being made available to the National Park Service and the U.S. Fish and Wildlife Service to reimburse cleanup costs and facility repair and restoration costs arising from the hurricanes. As the ranking member of the Interior and Related Agencies Subcommittee, which has jurisdiction over these agencies, I fully support this appropriation. There are, however, two aspects of the funding provision which concern me.

First, the $49 million being provided is less than a quarter of the $220 million in damages suffered by our gulf coast parks and refuges. But not funding these expenses does not make them go away. What I fear will end up happening is that every other park and every other refuge in the Nation is going to have its 2006 budget reduced as a way of making up the $170 million Congress is not providing. Every park superintendent and every refuge manager in this Nation is struggling to keep up with fixed costs and working to address the maintenance backlog. Taking more money away from them is simply not helpful.

Secondly, I strongly disagree with the instructions that are being given to the National Park Service and the Fish and Wildlife Service with respect to how these funds are to be spent. The funding in this bill is provided through each Agency's construction account. Under Federal law, that is the only purpose for which those funds can be used. They cannot legally be spent on operational expenses, which are funded through different accounts. However, the Statement of Managers, which is the report that accompanies the bill and explains in detail how all of the appropriated dollars are to be spent, explicitly says that the money is available for "un—reimbursed overtime [pay] and operational costs."

I think it was a mistake for the administration to forgo asking for reimbursement of operational expenses. Both agencies have incurred substantial costs in that area that must be paid for. But the administration's error should not be compounded by having Congress encourage a Federal agency to violate the law. We could have very easily divided the funding between the operational accounts and the construction accounts, which would have allowed the agencies to properly and legally repay some of their operational costs. But that idea was soundly rejected by the majority in the House of Representatives. And so we are left with a situation where we are explicitly encouraging Federal agencies to use appropriated dollars for purposes other than what they were intended. That, Mr. President, is simply the wrong thing to do.

Mr. KOHL. Mr. President, today I joined many of my colleagues in opposing cloture on the Defense appropriations bill. Regrettably, I was forced to try and slow this bill down because language unrelated to our Nation's defense was inserted into the bill. In a cynical attempt to authorize drilling in the Arctic National Wildlife Refuge, language that in the past has been filibustered, was included in the Defense bill. Using our men and women in the military as a shield, the ANWR bill was put in the Defense bill in a parliamentary game of chicken. Supporters of drilling in ANWR believed that if they included this language in the Defense bill, opponents of drilling in ANWR would never vote to hold up the Defense bill. They were wrong.

I do not enjoy opposing a Defense bill while we have troops in harm's way, but the principle at stake here was too important. We will be sorry if we set the precedent that unpopular provisions can just be rolled into the bill that funds our defense. In the long run, letting that cynical strategy proliferate will hurt our country and the institution of the Senate.

So today, when I opposed cloture, it was not a reflection of my support of our military. I believe in our men and women in uniform and believe that this bill should have been passed months ago. Instead, I opposed cloture because I believe that we should not use the Defense bill as a Trojan Horse to slip through legislation that would not be able to survive under the normal rules of the Senate.

Mr. OBAMA. Mr. President, I rise to speak about the bill before us today.

If any of you are wondering why the American people are so frustrated with the legislative process, why they believe that politics always trumps substance and nothing ever gets done in Washington, this is what they are talking about.

Every single member of this body wants our military to have the funding and the resources it needs to fight the war in Iraq and the war on terror. We all agree on that.

Yet somehow an otherwise noncontroversial bill gets bogged down because some have chosen to use it as a political opportunity to slip in proposals they couldn't get passed through the normal channels of debate and deliberation. The idea here is to add anything you want to a Defense bill, no matter how surprising or controversial, figuring that it will pass since no one would dare cast a vote against our troops.

They may think this is shrewd politics, but it is terrible policy, and it is disrespectful to both our brave men and women in the field and the American people back home.

Now, I have great respect for the Senator from Alaska, and I also respect his passion towards the ANWR debate, even if I disagree with his position. But I strongly believe that if he and other ANWR supporters wish to convince us of that position, they should do so by arguing the merits of the proposal itself, not by sneaking it into a bill none of us want to vote against. Not only does that go against the best traditions of the United States Senate, it goes against the best expectations of the American people when they sent us here.

Aside from critical defense funding for our troops, there are other elements of this bill that this country desperately needs to have passed. There is funding for gulf coast recovery efforts and resources that will help our Nation prepare for a possible avian flu pandemic. I am also pleased that Senator MCCAIN's amendment opposing torture, which was overwhelmingly passed by the Senate, appears in this bill.

Unfortunately, all of this critical funding is being jeopardized by one Senator's desire to ram through a provision that is personally important to him. That is not the way Congress should be conducting its business.

There will be a time and a place for debate on this topic as there has been before. But now is not that time. Not with 180,000 troops in harm's way who need important resources and supplies; not with families from the gulf coast who want a place to go home to; not with the danger of pandemic influenza threatening our shores. Now is the time to respect the legislative process and pass a bill that does not play politics with our troops, so that we can finally return home to our constituents and let them know that we truly did the people's work.

Mr. President, I want to express my strong support for the reauthorization of the Department of Defense, DOD, 1207 program. The 1207 program is designed to ensure that the DOD Federal contracting process does not support or subsidize discrimination. This program must be extended through September 2009 so that the tremendous progress we have made in leveling some of the playing ground for Federal contracting is not lost.

We here in Congress know that there is a long history of keeping out the little guys in government contracting. In the aftermath of Hurricane Katrina, minority-owned and economically disadvantaged companies have had a near impossible time trying to secure some of the billions of dollars of gulf coast reconstruction contracts. Meanwhile, big multinational contractors were given no-bid contracts in the weeks immediately following the hurricane. This double standard is unfortunately all too common, and it is the duty of Congress to ensure that this discrimination does not continue.

Ever since the DOD's 1207 program was first adopted in 1986, racial and ethnic discrimination—both overt and subtle—have continued to erect significant barriers to minority participation in Federal contracting, but the 1207 program helps to correct the problems of discrimination without imposing an undue burden on larger businesses. Without programs like the 1207 program, many contractors would simply revert to their old practices, denying contracts to small companies owned by minorities or the economically disadvantaged. It is clear that the 1207 program is still needed to monitor and secure the gains made and perhaps encourage even greater opportunity for these small businesses.

I am pleased that this bill includes an extension of this important program. I have a letter from a minority-woman owned business detailing some of her experiences with the Department of Defense, and I ask that this letter also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ELYON INTERNATIONAL,
Vancouver, WA, December 20, 2005.

DEAR SENATOR, My name is Carmen Nazario. I am a Hispanic woman business owner and Veteran, working in the Information Technology industry. I have been in business for more than eight years and our company has successfully completed contracts in the private and public sector. I personally have worked in this industry as a practicing professional for over 30 years. My initial entry into the computer technology profession commenced while serving in the army during the Vietnam-era war. I graduated as an honor student from the Adjutant General School on two different occasions while attending various types of computer training and continued in that career path after leaving the military.

I am writing to you because I believe that it is terribly important that you understand that discrimination is still pervasive in the contracting markets across this country. Where I live in Washington State I confront discrimination on a regular basis as I attempt to run my business and earn a living.

I understand that Congress is currently reauthorizing the Department of Defense's 1207 program. This program is of special interest to me because I have attempted to get work with the Defense Department over the past several years to no avail. I feel strongly that discrimination and stereotyping are part of the reason that it is difficult for me, and for other minority business owners, to fully participate in our nation's economy.

I would like to give you some examples of the types of discrimination I have confronted just in the last few years. For the past eight years I have engaged tirelessly in marketing the services of ELYON International. I have experienced an unfavorable business climate towards a Hispanic woman professional, both in the public and private sector in spite of the fact that I have wonderful references and the clients I have previously supported have been very happy with our services.

I have been trying to work with Washington State agencies for over seven years and find it very difficult because Washington State has no minority procurement goals. Although we have been on board with various agencies as pre-qualified vendors by way of the RFP process, I find that the state tends to award contracts to large firms and companies they have been working with for years. As an example, I submitted a well qualified candidate, a minority, who was interviewed as a finalist but not selected and I found out that the work was awarded to another company who had an established track record with the state. (I requested the winning bid.) Washington State's procurement awards to minority companies has drastically decreased to less that 1 percent since implementation of the 1–200 initiative which removed minority procurement goals from State government purchasing. I find this discriminatory in the sense that 99 percent of contracting opportunities are going to nonminority companies. The state is not distributing its wealth to its constituents.

This year we submitted a response to a small business set-aside for Tactical Network Services at Fort Lewis, WA. We had Microsoft as a sub-contractor and used some of their past performance as well as ours. Much of the technology for this response involved Microsoft products. When I requested the winning vendor information I found out it was awarded to a newly formed company, service disabled, who had only been in existence for a few months and whose owners had been previously employed by the incumbent and were partnering with BAE who had acquired the incumbent, DigitalNet (a large company).

Deployable Data Systems, who won the bid, priced it at $2,468,075 and ours was $2,298,107. Ours was $169,968 lower. I requested a debriefing but was given bogus reasons and I also requested a copy of the winning solicitation response but was denied any further information other than price and name of company that received the award. I find these actions totally discriminatory . . . Ft Lewis decision makers knew all along who they where going to award that contract to.

MBEs are being squeezed out of the supply chain for larger deals. Many government contracting opportunities have now been bundled making it only possible for primary suppliers to respond to these larger long-term contract opportunities. In the past I have also proposed to establish a working relationship as a subcontractor to IBM, Anteon, Unisys, Best Consulting, Anderson Consulting (for GSA contract), DMO, Emerald Solutions and many other large established computer technology firms.

A scenario where I proposed to establish a working relationship as a subcontractor, involved IBM. In September of 2002 I requested a list of companies planning to bid on ACES RFP 2002–035–9275, a multi-million dollar RFP, that was up for re-compete for a maximum period of 10 years (IBM previously held contract). I contacted Mary Brennan, Washington's State Department of Social & Health Services RFP coordinator. She first did not want to release the names of the companies bidding and I called the DSHS's Office of Equal Opportunity to express my concern that a 10 year RFP was being released and I wanted to have an opportunity to contact vendors bidding and propose subcontracting services as a MWBE IT vendor. Mary Brennan finally released the information and I contacted all of the companies planning to bid on this RFP (there were only three, primarily out of state companies). IBM was the only one potentially interested in working with my company. They released an email request for me to provide information and resumes of candidates with the requirements that they needed to satisfy. After much effort on my part to coordindate available candidates and submit their information, I received an email from Jack Tompkins dated October 21, with the following message:

"Carmen, I wanted to thank for you responsiveness to our requests for a WebSphere Administrator and Data Manager. For now, we have filled the requirements we had for our proposal. I do not have an immediate need for any of your candidates, but was pleased to see some promising resumes. As we fill positions in the future I'll make certain that you are made aware of our openings.

"Thank again,

"Jack A. Tompkins

"IBM Global Services—State of Washington"

IBM submitted the proposal to the state, but my company was not included as one of its subcontractors even though I received very positive feedback. Of course the State of Washington had no MBE/WBE requirements in the RFP, nor language encouraging prospective bidders to utilize minority firms. Because of the scope of work involved with this RFP and the number of years (ten)—this procurement probably will hit triple digit multi-million dollar expenditure by the State of Washington, yet there was no opportunity for companies such as mine to participate in the state expenditure. The State of WA ended up awarding this multi-million dollar contract to IBM in 2003 and the winning bid had no minority participation. As of today, we have never been contacted by IBM for any sub-contracting work.

This experience as well as several others I had with large Defense/Federal vendors has led me to believe that perhaps it looks good for them on paper to submit information on their MWBE subcontractor utilization (to comply with minority goals) but their intent may not be to really give us subcontract work.

I appreciate the opportunity to share my stories with you. I know that many, many business owners in similar situations confront very similar problems. Still, many business owners are afraid to speak out for fear of losing business or other types of retaliation. Sadly, discrimination is not yet a part of the past in the United States. Until it is, it is very important that you continue to support and enforce programs intended to level the playing field for women and minority contractors.

Thank you for your time and attention.

Sincerely,

CARMEN NAZARIO,
President.

Mr. BROWNBACK. Mr. President, I rise to speak to speak on a free-standing provision in title IV of the pending DOD appropriations bill, subtitle A, the Hurricane Education Recovery Act, which prohibits discrimination "on the basis of . . . sex." (Section 107(m)(1)(A)). I want to ensure that this provision will be applied in an abortion-neutral manner—such as parallel provisions that have long governed all educational institutions receiving Federal funds—even though it contains no explicit clarifying language.

Over two decades ago, Federal regulators and others misused statutory language against "discrimination on the basis of sex" to argue that procedures, such as abortion, which apply only to women must be treated like any routine health procedure. To end this misinterpretation, abortion-neutral language amending title IX of the Education Amendments of 1972 was enacted as part of the Civil Rights Restoration Act in 1988, 20 U.S.C §1688. When Congress passed the D.C. School Choice Incentive Act of 2003 in January, it incorporated this clarification by reference, Sec. 308(b)(3) of Pub. L. 108–199.

It is therefore important to be clear that nothing in this bill is designed to change this legal status quo in any way. At a time when schoolchildren in so many States are in desperate need of temporary assistance to continue their educations, no one should be seizing upon this emergency legislation as a vehicle for changing current law on abortion. Nor should the devastation wrought by Hurricane Katrina and other disasters be used to justify filing sex discrimination suits against private and public schools that do not facilitate abortions for minor children in their charge. I am confident that Congress had no such intent in crafting this bill and that the U.S. Department of Education will not construe the bill's provision on discrimination "on the basis of sex" to require any new policy or practice on abortion in schools.

Mr. NELSON of Florida. Mr. President, while I wholeheartedly support robust funding for our troops, several measures slipped into the Defense appropriations bill were totally extraneous to our military missions. Two such provisions—oil drilling in the Arctic National Wildlife Refuge and complete liability protection for drug companies that manufacture vaccines—were added to this bill behind closed doors and in the dead of the night.

If unrelated and unpopular measures can be slipped into our Nation's military spending bill at the last moment, without being included in either the House or Senate, open debate on issues and all control over spending has been lost. Lawmakers behind this move held funding for our troops hostage to achieve the interests of the oil and drug industries.

Largely for this reason, dozens of Senators voted for more debate on the Defense appropriations conference report. We hope these unwanted and extraneous provisions will be removed.

As I have stated, I voted to oppose closing off debate on the Defense appropriations bill for several reasons—including the bill's insertion of oil drilling in the Arctic National Wildlife Refuge and liability protection for drug companies that manufacture vaccines. In addition, to my opposition to these specific provisions, I believe the disaster relief provided for in the bill is woefully inadequate for Florida.

Florida was hit by four hurricanes again in 2005. Hurricanes Dennis, Katrina, Rita and Wilma wreaked havoc in South Florida, the Panhandle and even parts of central Florida. These storms caused over $2 billion in agricultural losses. That surpasses the losses from the 2004 hurricane season.

Florida's Agriculture Commissioner, Charles Bronson, said that he has "never witnessed such extensive devastation to our state's agriculture sectors as that caused by Hurricane Wilma."

Despite this devastation, the disaster relief in the Defense appropriations bill fails to provide any financial relief to the citrus, sugar, vegetable, tropical fruit or livestock industry.

It is estimated that Florida lost 47 percent of the grapefruit crop and 15 percent of the orange crop—for a total loss of $180 million.

The vegetable industry took a $311 million hit because the fall and winter vegetable crops were growing when Wilma hit.

The sugar industry suffered more than $370 million in losses. One-hundred mile per hour winds not only flattened the cane, but also caused significant structural damage to critical infrastructure such as storage bins and the mill.

Literally, millions of Floridians are still struggling due to these hurricanes; and this bill does little to help them recover.

When this bill goes back to the conference committee, I hope this disaster relief package can be reworked to provide relief for all those who suffered damage in this year's hurricanes.

Mr. KERRY. Mr. President, the fiscal year 2006 Defense Appropriations Act is a vitally important piece of legislation. It funds the operations of the Department of Defense and, in this particular case, the wars in Iraq and Afghanistan.

It is disgraceful that this bill was delayed until the end of the year by an administration that was more interested in lobbying for the right to torture than in meeting the needs of our troops. Now at this late hour, it was further delayed by those who sought to take a bill they knew people would support—funding our troops—and load it up with favors for special interests. With these issues resolved, I am pleased this important legislation has finally passed.

The fiscal year 2006 Defense Appropriations Act includes funding for everything from boots to beans to bullets—everything our Armed Forces need to keep America safe. This bill funds the national defense program at $453.28 billion, including $50 billion in emergency appropriations for on going operations in Iraq and the war on terror.

The legislation funds recent and pending increases in Army end strength, provides a 3.1 percent pay raise to all members of the U.S. military, and increases housing allowances.

It funds the readiness programs that maintain our military's ability to conduct operations around the world, whether that means flying hours for pilots, steaming days for Navy crews, spare parts, training, or maintenance.

The legislation funds major acquisition programs in every service—whether the C–17, PAC–3 missiles, the Army's Stryker, or the Navy's DD–X program. It also funds $72.1 billion in research development test and evaluation. That includes future systems—whether air, land, space or sea systems—as well as important medical research that will bring our soldiers the most advanced medical treatment on future battlefields. The future American military, its capabilities, and its personnel are all funded in this legislation.

The $50 billion emergency appropriation included in this legislation funds on going operations in Iraq, Afghanistan, and wherever the war on terror takes American forces. That total includes money for combat pay, death gratuities, and other allowances. It includes $142.8 million for body armor and other personal protection equipment and $1.4 billion for the Joint Improvised Explosive Device Task Force. It funds important programs to replace lost or damaged helicopters and ground vehicles and restocks ordinances used in operations. It also includes $1 billion to meet immediate equipment deficiencies in the National Guard and Reserves.

The Defense appropriations bill is one of the most important pieces of legislation the Congress enacts each year. It is always tempting to some to try to attach riders to it that have nothing to do with the defense of our country or the courageous Americans who make up the U.S. military. I am pleased that, at long last, the Senate finally moved this vital legislation that is so important to our troops.

Mr. President, I know there will be some who criticize this legislation because of the way it was ultimately enacted. I share those frustrations. I wish that we could have passed a clean defense appropriations act 3 or 4 months ago to avoid the challenges we have seen in the last days. It is regrettable that we did not, but I am happy that this legislation has finally passed so that our troops receive the resources they need to protect this country.

Mr. LIEBERMAN. Mr. President, we are in a period of extended debate to resolve the remaining issues related to the Defense appropriations bill, so I wanted to take a minute to address the serious avian flu issue that is before us. While I am concerned that we will need the full funding request the administration sought, if we approve the avian flu proposal, we will at least be advancing some $3 billion. I want to stress the importance of global wild bird surveillance systems as part of my comprehensive flu plan.

I am pleased that the avian flu provisions include authorizing language and funds to set up a wild bird surveillance network as well as other essential elements of avian flu public health preparedness. If passed by Congress and signed by the President, this will assure that we have a comprehensive approach to what may become a real world threat. We do not want to have piecemeal solutions or be simplistically reactive when it comes to the public's health.

The avian flu provision we have been considering today states that part of $150 million is designated to carry out global and domestic disease surveillance, which includes international surveillance to track influenza strains as a way of focusing limited resources on at-risk populations. The conferees have pointed out specifically the importance of migratory bird tracking in predicting the spread of avian influenza and encourage the CDC to ensure that this important activity is part of its surveillance activities. I am pleased with this language that acknowledges a key part of the preparedness puzzle to which, frankly, few people have given attention—wild bird sentinels and the intimate connection between animal and human health. We cannot separate the two.

As we all know, the potential for an influenza pandemic is increasing as the H5N1 virus has now moved swiftly across Asia, Russia, Turkey, and now the EU, killing millions of domestic poultry and over 60 humans to date. History and science tell us that wild birds and movements of poultry have the potential to spread deadly avian influenza viruses. The 1918 influenza epidemic that killed an estimated 40 million people worldwide was an avian-origin viral strain. We must act now to ensure that this does not happen again. We have the tools to track the movement of this virus. We just need to increase and strengthen them.

In October, I introduced a bill, S. 1912, to do exactly this. This month, Representatives DELAURO and LOWEY, with the cosponsorship of Representative CASE, introduced an identical bill in the House of Representatives, H.R. 4476, to provide funds supporting an early warning system and real-time data network for global avian influenza surveillance. Senator BROWNBACK has also been supportive of these efforts to urge Congress to examine ways to boost our prevention and preparedness efforts via an international surveillance network.

In fact, the Senate passed appropriations for such an effort in the Senate Labor-HHS appropriations bill for fiscal year 2006. This was work from our colleagues Senators SPECTER and HARKIN, who again realized the importance of fighting the threat of avian flu from multiple fronts including funds for vaccines and antivirals but also with the establishment of an international wild bird surveillance network.

The surveillance network contemplated by the avian flu proposals we have been considering should be designed to be an early warning and tracking system to monitor avian viruses and their mutations and reassortments, as carried by wild birds. The provision would require expansion the Centers for Disease Control and Prevention's Influenza Branch's wild bird surveillance program, which currently is small. Specifically, it is our intent that the Centers for Disease Control and Prevention's Influenza Branch, CDC, with expertise in analyzing ornithological and animal samples for infectious diseases, and other national partners, such as the US Agency for International Development, USAID, with expertise in working with international partners and coalitions, would partner with one or more nongovernmental organizations that meet the following criteria: have extensive global wildlife health experience in tracking disease in wild birds, including free-ranging, captive, and wild-bird species using an international and extensive field program and network with projects in 50 or more countries to allow for the collection and dissemination of data around the world; have proven ability in identifying avian influenza, specifically H5N1 and other infectious diseases, in wild birds; and have accredited zoological facilities in the United States, with the capacity to analyze, store, and interpret samples and compile data.

Such tracking allows us to predict the spread of the virus and then to focus limited resources and prepare communities in the flight path of wild birds, as the conference report notes. Potential interventions include providing available antivirals or vaccines to those at-risk, enhancing biosecurity at poultry farms, and even keeping people indoors should surveillance information warrant it. By tracking wild birds, as these provisions require, we may even be able to produce an avian flu vaccine faster by understanding which variant of avian influenza virus is the killer. The current H5N1 virus is potentially not the one that could cause widespread devastation to humans. Again, the conference report recognizes the importance of tracking viral strains and has provided the CDC with funding to do so.

Just as we track hurricanes as they begin as a tropical storm, we must track wild birds and the viral storms they carry over oceans and continents and share that data with the world.

At least $10 million of the funds available in this proposal in 2006 should be available to the CDC to work with a national partner such as USAID and one or more eligible NGOs with the expertise and the criteria previously outlined and other supporting international partners to establish a strong global wild bird surveillance system.

This proposal would help ensure we have an organized, near real-time, virtual library that would allow U.S. Government agencies, wildlife conservation organizations, and public health organizations to track both the spread of avian viruses and their reassortments and mutations, which are integral to understanding how a virus might change to permit human to human transfer.

Ten million dollars is a small sum in comparison to the tens of billions of dollars required for vaccine research and antiviral stockpiling. Vaccines and stockpiling are our current focus and we should be thinking about them—but it is equally important to think about being prepared for outbreaks and preventing a pandemic from ever becoming a reality.

As we speak, information is being collected and analyzed all over the United States and the world. But while we are collecting piles of data, it is not being stored in the kind of organized manner needed to make it available for easy study and response. The information we have, I fear, is scattered like books with no library to contain them and no librarian to locate them.

Again, I would like to thank leaders in the Senate and the House, including Senators SPECTER, HARKIN, and BROWNBACK, and Representatives DELAURO, LOWEY, and CASE, for their work in preparing our Nation for a possible pandemic. We must address the treatment, surveillance, and prevention but, also, critically the global wildfowl surveillance; this addresses a big gap that is easy to forget about. It is the big bird in the room.

Wild birds can spread this virus and could potentially carry it to the United States. I thank and urge my colleagues to continue supporting flu legislation with essential provisions such as this one, which surveys wild birds with NGOs who have the international networks and the capacity to connect all the dots, so when a flu pandemic does or does not happen, we are better prepared.

Mr. DURBIN. Mr. President, I rise to speak about the Detainee Treatment Act of 2005, which is included in the Defense Appropriations conference report.

I will submit a similar statement into the RECORD for the Defense authorization conference report because the Detainee Treatment Act of 2005 is also included in the Defense authorization bill.

The Detainee Treatment Act includes two provisions that were adopted in the Senate version of the Defense Authorization bill: the McCain Antitorture amendment and the Graham-Levin Detainee amendment.

I was an original cosponsor of the McCain Antitorture amendment. I have spoken at length about the vital importance of this amendment on several other occasions. At this time, I simply want to reiterate a couple of points.

Twice in the last year and a half, I have authored amendments to affirm our Nation's longstanding position that torture and cruel, inhuman, or degrading treatment are illegal. Twice, the Senate unanimously approved my amendments. Both times, the amendments were killed behind the closed doors of a conference committee—at the insistence of the Bush administration.

I am pleased that the administration has changed its position. As a result, it will now be absolutely clear that under U.S. law all U.S. personnel are prohibited from subjecting any detainee anywhere in the world to torture or cruel, inhuman, or degrading treatment.

The amendment defines cruel, inhuman, or degrading treatment as any conduct that would constitute the cruel, unusual, and inhumane treatment or punishment prohibited by the U.S. Constitution if the conduct took place in the United States. Under this standard, abusive treatment that would be unconstitutional in American prisons will not permissible anywhere in the world.

Let me give you some examples of conduct that is clearly prohibited by the McCain amendment.

"Waterboarding" or simulated drowning is a technique that was used during the Spanish Inquisition. It is clearly a form of torture. It creates an overwhelming sense of imminent death. It amounts to a clear-cut threat of death akin to a mock execution, which is expressly called "mental torture" in the U.S. Army Field Manual.

Sleep deprivation is another classic form of torture which is explicitly called "mental torture" in the U.S. Army Field Manual. It has been banned in the United Kingdom and by a unanimous Israeli Supreme Court, and the U.S. Supreme Court has repeatedly declared it unconstitutional, once citing a report that called it "the most effective form of torture".

The amendment also clearly bans so-called stress positions or painful, prolonged forced standing or shackling. Again, the U.S. Army Field Manual expressly calls these techniques "physical torture." Moreover, one of the most recent Supreme Court cases on the extent of the prohibitions on "cruel and unusual" punishments expressly outlawed the use of painful stress positions, denouncing their "obvious cruelty" as "antithetical to human dignity."

The amendment bans the use of extreme cold, or hypothermia, as an interrogation tactic. Hypothermia can be deadly. Clearly it is capable of causing severe and lasting harm, if not death, and consequently is banned by both the Field Manual and the Constitution.

The amendment bans punching, striking, violently shaking or beating detainees. Striking prisoners is a criminal offense and clearly unconstitutional. Moreover, while assaults like slapping and violent shaking, may not seem as dangerous as beatings, shaking did, in fact, kill a prisoner in Israel, and the tactic has been banned by the Israeli Supreme Court. Numerous U.S. Supreme Court cases likewise prohibited striking prisoners.

The amendment bans the use of dogs in interrogation and the use of nakedness and sexual humiliation for the purpose of degrading prisoners.

No reasonable person, given the text of the amendment, the judicial precedents, and common sense, would consider these techniques to be permitted. Any U.S. official or employee who receives legal advice to the contrary should think twice before defying the will of the Congress on this issue.

The McCain antitorture amendment will make the rules for the treatment of detainees clear to our troops and will send a signal to the world about our Nation's commitment to the humane treatment of detainees.

I want to express again my opposition to the Graham-Levin amendment.

The amendment would essentially eliminate habeas corpus for detainees at Guantanamo Bay. In so doing, it would apparently overturn the Supreme Court's landmark decision in Rasul v. Bush.

No one questions the fact that the United States has the power to hold battlefield combatants for the duration of an armed conflict. That is a fundamental premise of the law of war.

However, over the objections of then-Secretary of State Colin Powell and military lawyers, the Bush administration has created a new detention policy that goes far beyond the traditional law of war. The administration claims the right to seize anyone, including an American citizen, anywhere in the world, including in the United States, and to hold him until the end of the war on terrorism, whenever that may be. They claim that a person detained in the war on terrorism has no legal rights. That means no right to a lawyer, no right to see the evidence against him, and no right to challenge his detention. In fact, the Government has argued in court that detainees would have no right to challenge their detentions even if they claimed they were being tortured or summarily executed.

U.S. military lawyers have called this detention system "a legal black hole."

Defense Secretary Rumsfeld has described the detainees as "the hardest of the hard core" and "among the most dangerous, best trained, vicious killers on the face of the Earth." However, the administration now acknowledges that innocent people are held at Guantanamo Bay. In late 2003, the Pentagon reportedly determined that 15 Chinese Muslims held at Guantanamo are not enemy combatants and were mistakenly detained. Almost 2 years later, those individuals remain in Guantanamo Bay.

Last year, in the Rasul decision, the Supreme Court rejected the administration's detention policy. The Court held that detainees at Guantanamo have the right to habeas corpus to challenge their detentions in Federal court. The Court held that the detainees' claims that they were detained for years without charge and without access to counsel "unquestionably describe custody in violation of the Constitution, or laws or treaties of the United States."

The Graham amendment would protect the Bush administration's detention system from legal challenge. It would effectively overturn the Supreme Court's decision. It would prevent innocent detainees, like the Chinese Muslims, from challenging their detention.

However, I do want to note some limitations on the scope of the Graham-Levin amendment.

A critical feature of this legislation is that it is forward looking. A law purporting to require a Federal court to give up its jurisdiction over a case that is submitted and awaiting decision would raise grave constitutional questions. The amendment's jurisdiction-stripping provisions clearly do not apply to pending cases, including the Hamdan v. Rumsfeld case, which is currently pending before the Supreme Court. In accordance with our traditions, this amendment does not apply retroactively to revoke the jurisdiction of the courts to consider pending claims invoking the Great Writ of Habeas Corpus challenging past enemy combatant determinations reached without the safeguards this amendment requires for future determinations. The amendment alters the original language introduced by Senator GRAHAM so that those pending cases are not affected by this provision.

The amendment also does not legislate an exhaustion requirement for those who have already filed military commission challenges. As such, nothing in the legislation alters or impacts the jurisdiction or merits of the Hamdan case.

Nothing in the legislation affirmatively authorizes, or even recognizes, the legal status of the military commissions at issue in Hamdan. That is the precise question that the Supreme Court will decide in the next months. Right now, the military commissions are legal under a decision of the DC Circuit, and this amendment reflects, but in no way endorses that present status. It would be a grave mistake for our allies around the world to think that we are endorsing this system at Guantanamo Bay—a system that has produced not a single conviction in the 4 years since the horrible attacks of September 11, 2001.

This provision attempts to address problems that have occurred in the determinations of the status of people detained by the military at Guantanamo Bay and elsewhere. It recognizes that the Combatant Status Review Tribunal, CSRT, procedures applied in the past were inadequate and must be changed going forward. As the former chief judge of the U.S. Foreign Intelligence Surveillance Court found, in In Re Guantanamo Detainee Cases, the past CSRT procedures "deprive[d] the detainees of sufficient notice of the factual bases for their detention and den[ied] them a fair opportunity to challenge their incarceration," and allowed "reliance on statements possibly obtained through torture or other coercion." Her review "call[ed] into serious question the nature and thoroughness" of the past CSRT process. The former CSRT procedures were not issued by the Secretary of Defense, were not reported to or approved by Congress, did not provide for final determinations by a civilian official answerable to Congress, did not provide for the consideration of new evidence, and did not address the use of statements possibly obtained through coercion.

To address these problems, this provision requires the Secretary of Defense to issue new CSRT procedures and report those procedures to the appropriate committees of Congress; it requires that going forward the determinations be made by a Designated Civilian Official who is answerable to Congress; it provides for the periodic review of new evidence; it provides for future CSRTs to assess whether statements were derived from coercion and their probative value; and it provides for review in the D.C. Circuit Court of Appeals for these future CSRT determinations.

Mr. FEINGOLD. Mr. President, the annual Defense Appropriations bill is rightly considered a priority most years, and Congress typically completes its work on this important bill early in the year. This year, however, progress on this bill was suspended largely because of Republican political maneuvering. I supported the Senate version of this bill, but a very different bill emerged from conference. That conference report was hijacked by the Republican leadership in a cynical effort to try to pass controversial provisions that have nothing to do with our defense. By jeopardizing funding for our brave men and women in uniform, and attempting to circumvent the rules that govern the Senate, those leaders placed their own narrow interests above those of the country and this institution.

The most blatant abuse was the insertion into the conference report of a provision that appeared in neither bill to open the Arctic National Wildlife Refuge to drilling. I have already addressed the Senate twice this week on why that provision had no place in this conference report and I am pleased that my colleagues have joined me in sending a clear message that we will not tolerate attempts to hold vital funding hostage to unrelated special interest provisions.

While we were successful in removing the Arctic provisions, I remain very troubled about provisions included in the emergency funds slated for pandemic influenza preparedness. While I have long advocated for pandemic influenza preparedness funding, and while I am pleased that $3.8 billion is provided for this purpose, I am deeply concerned about the inclusion of far-reaching liability protections for health care providers and vaccine manufacturers in this conference report. It is an abuse of the appropriations process to incorporate such sweeping legal protections into a measure providing funds for the military.

The provisions inserted in the conference report would exempt vaccine producers from civil liability for injuries caused by vaccines, unless the health care provider or vaccine manufacturer acted with willful misconduct. This language is extremely far-reaching. Plaintiffs would need to prove that the health care providers or vaccine manufacturers acted intentionally, acted without justification, and disregarded known or obvious risks that the harm would outweigh the benefit. This will be extremely difficult for plaintiffs to establish. Furthermore, disregarding the advice of public health experts, the language fails to provide meaningful injury compensation provisions to help those injured by vaccines. These protections for health care providers and vaccine manufacturers are unparalleled, and it is painfully clear that our leadership in Congress and in the White House is not listening to the concerns of first responders, families, or public and global health experts. They are listening only to the businesses and industries that would use the threat of pandemic influenza as an opportunity to help their own profit margins.

Mr. President, I also object to the inclusion of certain provisions of the Hurricane Education Recovery Act in the Department of Defense Appropriations bill. More than 370,000 elementary and secondary students have been displaced as a result of Hurricane Katrina. Schools across the country, including some in Wisconsin, have opened their doors to these students. I strongly support efforts to assist the schools that are welcoming these students as they continue to work to make this transition and school year go as smoothly as possible.

But I am troubled by key provisions of the legislation. For example, Section 107 of the Act would allocate Federal funding to go directly through State agencies to local school districts where displaced students have enrolled in public or private schools. The local school districts, which are government agencies, would then be responsible for issuing direct payments to public and private schools educating displaced students. Earlier this year, the Senate soundly defeated a proposal to provide vouchers directly to parents with little in the way of civil rights protections. The Senate subsequently passed a measure that, like the measure now before this body, would have passed taxpayer money to private schools through local public school districts. I had grave concerns about that provision, and I am even more troubled that the provisions before us do not include even the modest attempts at civil rights and other protections that were included in the Senate passed language. While I believe the supporters of this act are well-intentioned, I am concerned that Senate passage of this measure would create a troubling precedent with regard to taxpayer-funded school vouchers.

I oppose school vouchers because such programs funnel taxpayer money away from the public schools that this funding is intended to support and instead direct this funding to private schools that do not have to adhere to the same Federal, State, and local accountability and civil rights laws and regulations that apply to public schools. I strongly support providing assistance to the students and schools that have been affected by Hurricane Katrina, but we should do so within existing Federal laws that allow local public school districts to provide specific educational services—rather than direct funding—to private schools.

Mr. President, I also object to the across-the-board cut to discretionary programs, including education programs, that was inserted in this conference report. The Labor-HHS-Education appropriations bill already cuts or allows for only nominal increases in funding for education. This across-the-board cut would magnify the damage done by that appropriations bill, which awaits final action. If both the across-the-board cut and the Labor-HHS-Ed appropriations bill are adopted, total Federal education funding would be cut for the first time in a decade. Funding would be cut for No Child Left Behind, at a time that we are still requiring States to comply with testing all students in reading and math in grades 3–8 for the first time this school year. Title I funding would be cut for the first time in 13 years, hurting children that are currently eligible to receive Title I services. The Federal share of special education costs would be cut for the first time in a decade, forcing States and local school districts to pick up the slack. And I regret that the maximum Pell Grant award would be frozen for the fourth year in a row at $4,050.

Mr. President, reducing funding for our nation's schools is not the message we should be sending to our youth. We need to find ways to provide an excellent K-12 education for all of America's children and find ways to make college more affordable for young people now and in the future. Cutting funding for these various programs is not the answer and this across-the-board cut is particularly regrettable. I strongly support reducing our budget deficit and have long promoted measures, such as PAYGO, that would help us toward that goal. But cutting funding for those most in need is not the solution.

I am pleased that the conference report sends such a strong message to the administration about the treatment of detainees by adopting the amendment of the senior Senator from Arizona. The lack of a clear policy regarding the treatment of detainees has been confusing and counterproductive. It has left our men and women in uniform in the lurch with no clear direction about what is and is not permissible. This failure on the part of the administration has sullied our reputation as a nation, and hurt our efforts to promote democracy and human rights in the Arab and Muslim worlds. I have been proud to support Senator MCCAIN's amendment on interrogation policy because it should help to bring back some accountability to the process and restore our great Nation's reputation as the world's leading advocate for human rights.

I am disappointed with the mixed messages that the Senate continues to send to the administration and the country on issues related to the detainees held at Guantanamo Bay. In addition to the important McCain amendment on torture, the conference report also includes the Graham amendment, which remains deeply troubling because of the restrictions it places on judicial review of detainees held at Guantanamo. However, it is important to note that the provision is limited in critical ways. The provision on judicial review of military commissions covers only "final decisions" of military commissions, and only governs challenges brought under that provision. In addition, the language in Section 1405(e)(2) that prohibits "any other action against the United States" applies only to suits brought relating to an "aspect of detention by the Department of Defense." Therefore, it is my understanding that this provision would not affect the ongoing litigation in Hamdan v. Rumsfeld before the Supreme Court because that case involves a challenge to trial by military commission, not to an aspect of a detention, and of course was not brought under this provision. Furthermore, it is important to make clear that this provision should not be read to endorse the current system of trial by military commission for those at Guantanamo Bay. This provision reflects, but certainly does not endorse, the existing status of those military commissions, which is that they are currently legal under a decision of the D.C. Circuit. However, the Supreme Court has not yet addressed the legality of such military commissions, and this amendment should not be read as any indication that Congress is weighing in on that issue. While I would have strongly preferred that this amendment not be included in the conference report, I think it is important to note these limitations on its practical effect.

In closing, Mr. President, I am pleased that I was able to vote for a bill to provide our brave men and women in uniform with the funding they need. But I am disappointed with the long and winding road that it took to get to this point. I hope that Republican leaders are on notice that the Senate will not turn a blind eye when they break the rules and put their own narrow interests above those of the country and the troops.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Arizona (Mr. CHAFEE), the Senator from South Carolina (Mr. DEMINT), the Senator from New Hampshire (Mr. GREGG), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT), would have voted "yea."

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE), the Senator from Connecticut (Mr. DODD), and the Senator from Iowa (Mr. HARKIN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 366 Leg.]

YEAS—93

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeWine
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Hagel
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—7

Chafee
Corzine
DeMint
Dodd
Gregg
Harkin
McCain

The conference report was agreed to.

VITIATION OF VOTE—H.R. 1815

The PRESIDING OFFICER. Under the previous order, the cloture vote on the conference report on H.R. 1815 is vitiated.

Mr. WARNER. Mr. President, I am proud to bring the Conference Report on the National Defense Authorization Act for Fiscal Year 2006 before the Senate for final passage. This has been a long and difficult conference, but we have achieved our goal of providing the necessary authorities and resources for our men and women in uniform to defend the freedom of America.

I thank my colleague and partner for these 27 years we have served together in the Senate, the senior Senator from Michigan, CARL LEVIN, for his consistently constructive help and leadership in bringing this important legislation to the floor.

An undertaking of this magnitude is ultimately a bipartisan, bicameral effort. Consequently, there are many people deserving of recognition. I want to thank all of our subcommittee chairs and ranking members for their tireless efforts. I also want to thank Chairman DUNCAN HUNTER and Congressman IKE SKELTON for their leadership and teamwork in producing this conference agreement.

This conference agreement could not have been reached without our dedicated, professional staff. I especially want to recognize the unwavering leadership of the Committee Staff Director, Charlie Abell and the Democratic Staff Director, Rick DeBobes, together with their staff, in bringing this process to a successful conclusion.

As we consider this legislation, we remain a nation at war. This year marks the fourth year in the global war on terrorism. On September 11, 2001, our Nation awakened to a terrorist attack. From this dark hour, our Nation quickly emerged stronger and more united because our Armed Forces, like the generations that preceded them, responded to the call of duty in Operation Enduring Freedom, Operation Iraqi Freedom, and elsewhere around the world in the cause of freedom.

Hundreds of thousands of soldiers, sailors, airmen, marines, active and Reserve components, and countless civilians continue to serve valiantly around the world—from Iraq and Afghanistan to the Persian Gulf, Europe, Africa, and Korea—to secure peace and freedom. All Americans are proud of what our military has accomplished. Their sacrifices and service have removed obstacles to freedom and democracy in the regions of the Middle East and Asia.

We remain mindful that the defense of our homeland begins on distant battlefields. To the extent that we can prevent or contain the threats on these battlefields or potential battlefields, the less likely that we will experience a threat here at home. The threats to our Nation and the ongoing war on terrorism demand increased investment in our national security.

As we begin this debate, I remain mindful that no military victory is gained without significant sacrifice. I ask that we pause to remember those who died in the defense of our freedom, and the many others who were wounded. We honor their sacrifices and service. On behalf of a grateful Nation, we salute you. They and their families deserve our gratitude and unwavering support.

This year, the House and Senate conferees confronted especially difficult challenges affecting our Nation's security. These issues included U.S. policy on Iraq, detainee policy, and the Navy shipbuilding budget. With respect to these issues, I believe that the conferees reached a balanced agreement.

Overall, the conferees authorized funding of $441.5 billion in budget authority for defense programs in fiscal year 2006, an increase of $20.9 billion—or 3.1 percent in real terms—above the amount authorized by the Congress for fiscal year 2005.

The conference report underscores some key defense priorities critical to our national security, including authorities and resources to win the global war on terrorism and support for the men and women of the Armed Forces who are fighting so bravely in the global war on terrorism. Specifically, the conferees added $586.4 million over the President's budget request for combating terrorism. The conferees also authorized $50.0 billion in emergency supplemental funding for fiscal year 2006 for activities in support of operations in Iraq, Afghanistan, and the global war on terrorism.

The conferees further agreed to enhance congressional oversight of ongoing military operations in Iraq, Afghanistan, and the global war on terrorism, including uniform standards for interrogation operations, while removing the burden of litigation from vital intelligence activities. The conference report also includes a 3.1 percent pay raise for all military personnel.

In addition, the conference report contains some provisions of which I am very proud that emphasizes our commitment to homeland defense, force protection, recruiting and retention of military personnel, quality of life programs, and modernization and transformation efforts.

To enhance the ability of the Department of Defense to fulfill its homeland defense responsibilities, the conferees agreed to: authorize $115.2 million for homeland defense and counterterrorism, including $19.8 million for specially trained and equipped teams to support civil or military authorities in the event of a chemical, biological, radiological, nuclear or high-explosive attack or event; and enhance the Department's working relationship with the Department of Homeland Security for purposes of leveraging dual-use assets in conducting homeland defense and homeland security missions.

To rapidly deploy and acquire the full range of force protection capabilities for deployed forces, the conferees agreed to authorize an additional $610.0 million for up-armored high mobility multipurpose wheeled vehicles and wheeled vehicle add-on ballistic protection to provide force protection for soldiers in Iraq and Afghanistan; designate an executive agent for a joint research and treatment effort to treat combat blast injuries resulting from IEDs, rocket propelled grenades, and other attacks; and facilitate the rapid deployment of new technology and tactics and the rapid deployment of equipment to counter the threat of improvised explosive devices.

To improve recruiting goals and retention of military personnel, the conferees agreed to create new and better incentives to meet the challenge of recruiting for the All Volunteer Force; and ensure the retention of experienced personnel in the active-duty ranks, in the Reserve, and in the National Guard.

To continue its commitment to quality health care for all beneficiaries, the conferees agreed to enhance access to health care coverage under TRICARE for every member of the Selected Reserve and their families, with Government subsidies based on new categories of eligibility.

To continue necessary modernization and transformation efforts, the conferees agreed to authorize an increase of $159.5 million for Navy Shipbuilding to accelerate the CVN-78 aircraft carrier, the LHA (R) amphibious ship, and the second DD(X) destroyer of the class. Much more must be done, however, to achieve stability in the Navy's shipbuilding budget and to protect this fragile sector of our industrial base.

I have a list of some of the highlights of this conference report that I ask unanimous consent to be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. Each year since 1961, the House and Senate have reached a conference agreement on, and the President has signed into law, a National Defense Authorization Act. I now call upon my colleagues in this chamber to fulfill our responsibility and pass the annual Defense authorization bill, as has been the tradition of the Senate for each of the past 45 years. This is the 27th year that I have had the privilege of working on this important legislation.

I believe this conference report is a strong bipartisan bill that serves the interests of the men and women of our Armed Forces and of our Nation today. We must send a strong message of support to the men and women in uniform serving on the distant outposts throughout the world. I can think of no better way to honor their sacrifices and service, and that of their families than with the passage of the National Defense Authorization bill. This conference report provides the authorities and resources to win the global war on terrorism, while safeguarding Americans at home. It sustains the current readiness of the Armed Forces and provides the resources to prepare them for the future.

I yield the floor.

EXHIBIT 1

APPENDIX A: KEY MILITARY PERSONNEL PROVISIONS—CONFERENCE AGREEMENT NDAA 2006 (H.R. 1815)

Active End Strength:

Increases Army end strength by 10,000 to 512,400.

Increases USMC end strength by 1,000 to 179,000.

Pay Raise: Provides 3.1 percent pay raise. The raise is .5 percent above private sector raises and reduces the pay gap to 4.6 percent from 13.5 percent in fiscal year 1999 culminating seven years of enhanced pay raises.

Hardship Duty Pay: Increases maximum monthly rate from $300 to $750.

Assignment Incentive Pay: Increases the maximum monthly rate from $1,500 to $3,000.

Servicemembers' Group Life Insurance (SGLI): Requires the Secretary of Defense to pay the premium for a minimum coverage of $150,000 while members who participate in the SGU program are assigned to the other OIF/OEF theater. Also authorizes the Secretary to pay for a larger amount of coverage.

Active Duty Recruiting and Retention Initiatives:

Enlistment bonus—Increases maximum from $20,000 to $40,000.

Reenlistment bonus—Increases maximum active duty from $60,000 to $90,000.

New recruiting incentive programs—Authorizes Army to develop and implement programs following 45 days notice to Congress.

Recruit referral bonus—Authorizes Army (active duty, reserve, and National Guard) to pay $1,000 to service members who refer recruit candidates for enlistment and those candidates complete technical training.

Enlistment age—Increases the maximum from 35 years of age to 42.

Service transfer bonus—Authorizes a new maximum bonus of $2,500 for service members who transfer to armed services requiring skills and experience.

Thrift Savings Plan (TSP)—Authorizes service secretaries to enter agreement with new recruits to pay matching contributions to the TSP and directs the Army to conduct a pilot program on the attractiveness of matching TSP contributions to new recruits.

Weight allowances for shipping household goods—Increases allowances for noncommissioned officers in grades E-7 and above.

Reserve Compensation and Benefits:

Income Replacement—Authorizes the Secretary of Defense to pay involuntarily mobilized reserve members on a monthly basis the amount necessary to replace the income differential between their military compensation and the average monthly income received by the member during the twelve months preceding mobilization. Reserve members would be eligible for the income replacement payment for any full month following the date that the member completes 18 continuous months of service on active duty or 24 months on active duty during the previous 60 months, or for any month during a mobilization that occurs within 6 months of the member's last active duty tour. Payments would be limited to a maximum of $3,000 each month.

Basic allowance for housing (BAH)—Eliminates an inequity in BAH payments for reservists mobilized for less than 140 days by authorizing reservists to receive the same BAH as active duty members when mobilized for periods greater than 30 days.

Critical skill retention bonus—Authorizes reservists to be paid under the active duty program up to a maximum of $100,000 over the course of a career.

Enlistment and affiliation bonus—Increases the maximum amount from $15,000 to $20,000.

Reenlistment bonus—Extends the period during which bonuses may be paid from 16 years of service to 20 years of service with enlistments continuing till 24 years of service.

Survivor Benefits:

Death Gratuity—Extends an increase to $100,000 to all military deaths—(not just combat-related deaths as contemplated in the Tsunami Emergency Supplemental, 2005). Makes payment of the $100,000 amount retroactive to include all military deaths that occurred on or after October 7, 2001. Makes additional retroactive death gratuity payments of $150,000 to survivors of all military deaths, not just combat-related deaths, to compensate for the increase in Servicemembers' Group Life Insurance coverage from $250,000 to $400,000 that became effective for all military members on May 11, 2005.

Survivors in Family Housing—Extends the period that survivors of members who die on active duty may remain in family housing or received basic allowance for housing from 180 days to 365 days.

Survivors home of selection move—Extends the period of time allowed for surviving family members of members who die on active duty to select a permanent residence from one year to three years.

Wounded Member Benefits:

Special pay during medical rehabilitation—Authorizes the secretary concerned to pay $430 per month to a service member with an injury or illness sustained in a combat operation or zone designated by the Secretary of Defense. The pay would terminate at the end of the first month which the member is paid a benefit under the traumatic injury rider of the Servicemembers' Group Life Insurance (SGLI) or is no longer hospitalized in a military treatment facility or in a facility under the auspices of the military health care system.

Payment for meals while receiving medical care—Extends the authority for members to not pay for meals received at military treatment facilities while undergoing medical care, including outpatient care, for an injury, illness, or disease incurred while serving in support of OIF/OEF, or other combat operation designated by the Secretary of Defense.

Family travel to visit wounded/injured members—Expands the authority for payment of travel and transportation allowances for family members to visit service members hospitalized in the United States to include members who are not considered seriously ill or injured, but who have incurred injuries in a combat operation or combat zone designated by the Secretary of Defense.

Retirees:

Concurrent receipt—Reduces from 10 years to just over 4 years the phased implementation of full concurrent receipt of veterans disability compensation and military retired pay for military retirees receiving veterans disability compensation at the rate payable for 100 percent disability by reason of a determination of individual unemployability. Would authorize such retirees to receive full concurrent receipt of veterans disability compensation and military retired pay on October 1, 2009.

Reserve Health Care:

Provides eligibility for TRICARE to all reservists and their families who continue service in the Selected Reserve. Estimated cost: 5-yr: $880M; 10-yr: $2.3B (Compared to Taylor-Graham proposal: 5-yr: $3.8B: 10-yr: $12B). Three eligibility categories:

Involuntarily mobilized reservists (as in current law): 1 year TRICARE eligibility for every 90 days of mobilized service. DOD cost share: 72 percent.

Persons without employer provided health care, unemployed, self-employed. DOD cost share: 50 percent.

Any person not meeting the above criteria. DOD cost share: 15 percent.

Uniform Code of Military Justice:

Strengthens the Uniform Code of Military Justice by revising the offenses relating to rape, sexual assault, and other sexual misconduct and setting interim maximum punishments for the respective offenses.

Also establishes and defines stalking as a separate offense under UCMJ.

Mr. WARNER. I thank our respective leaders, the majority leader and the distinguished Senator from Nevada, and my good friend and partner, our dear Senator LEVIN, and all members of the Armed Services Committee, and particularly our staff that made this bill possible. It has had a long journey. But we are here.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the conference report.

The assistant legislative clerk read as follows.

A conference report to accompany H.R. 1815 to authorize appropriations for the fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 18, 2005.)

Mr. WARNER. Mr. President, will the Chair advise the Senate with regard to any time allocation for remarks in connection with the pending matter?

The PRESIDING OFFICER. There was not a time allocation.

Mr. LEVIN. Mr. President, I congratulate Senator WARNER. Without his leadership we would not be here. We had a record number of amendments which we had to deal with in a record short period of time. He showed incredible tenacity and patience and wisdom, as he always does in bipartisanship. I commend him and particularly our staffs.

Mr. President, I thank our leadership as well for their staying with us on this one. There was a time earlier this year when we didn't think we were going to get an authorization bill, and except for the efforts of our leaders we would not be here either. I want to particularly thank them.

Mr. President, I am pleased to join my good friend and colleague, Senator WARNER, the Chairman of the Senate Armed Services Committee, in urging the adoption of the conference report on H.R. 1815, the National Defense Authorization Act for Fiscal Year 2006. Getting this conference report to the Senate required the labors of Hercules, the patience of Job and the magic of Merlin. We would not have been able to complete conference on this important bill—made so very urgent by the fact that we are nation at war—without the tireless efforts of Senator WARNER.

First, a word on the extraordinary events of the last few days.

On the Senate side, every one of our conferees—including all 11 Democrats on the Armed Services Committee—signed the conference report. Each of these Senators signed on the basis of the text of the conference report that was agreed to between the Senate and House conferees.

As is our usual practice, we delivered our Senate signature sheets to the House on Friday afternoon, with the understanding that the conference report would be filed first in the House and acted upon first by that body. The Senate stood ready to take up the conference report as soon as it came over from the House and to pass it after 1 hour of debate.

Unfortunately, the conference report was not filed on either Friday or Saturday, because the House Republican leadership was considering adding an extraneous bill to the conference report. This bill was not a part of our conference, is not in the jurisdiction of our committee, and was never considered by any of the conferees. The bill was not a part of the conference report that was agreed to by our conferees on either side of the aisle.

Senator WARNER and I strongly objected to a procedure so totally destructive of bedrock legislative process. When we learned that such an attempt might be made, we joined together and retrieved the Senate signature sheets from the House. Only after we were assured on Sunday afternoon that the conference report would be voted on in the House of Representatives as agreed, with no effort to insert additional material, did we return the Senate signature sheets to the House.

I will ask unanimous consent that a copy of the cover letter that we sent to the House be inserted in the RECORD. I would also make reference to Senator WARNER'S remarks in the RECORD on this subject last Friday, and my remarks last Saturday.

Even before the events of the last weekend, the Armed Services Committee faced obstacles and hurdles in completing this bill that we have never faced before. For example:

It took us over 2 months from the time we reported the bill to the Senate on May 15 to the time debate initially began on July 20.

Then, after only 5 days of debate, our bill was pulled down by the majority leader on July 26 when the Senate failed to invoke cloture on the bill. We had to wait over 3 months and negotiate a very complicated unanimous consent agreement which limited the number of amendments before we were able to resume debate on the bill on November 4.

We debated the bill for an additional 7 days and finally passed it by a unanimous 98 to 0 vote on November 15, but not before disposing of a total of 261 amendments—more amendments ever considered to any Defense authorization bill since Congress passed the first annual Defense authorization bill back in 1961.

As far as completing conference this session, there were a lot of people who doubted it could be done because of the sheer size and complexity of this legislation, leaving aside some of its very contentious issues. Over the past 10 years, we have averaged a total of 70 days in conference with the House on this massive bill. Last year alone, we were in conference with the House for a total of 85 days. We completed this conference in under 1 month—29 days, to be exact. We compromised on a lot of issues, but we didn't compromise the quality of this legislation just for the sake of getting it done quickly. In short, we did it right and we are very proud of that. This year, we have produced a true holiday gift for our troops and our Nation.

This conference report contains provisions that provide well-deserved support for our military personnel and their families. In particular, the conference report will:

Increase basic pay by 3.1 percent, a half percent higher than inflation;

Increase the death gratuity for all active duty deaths from $12,400 to $100,000, retroactive to the beginning of Operation Enduring Freedom;

Authorize a new special pay of $430 a month during hospitalization for service members while rehabilitating from an injury or disease incurred in a combat zone;

Authorize a new leave of up to 21 days when adopting a child;

Provide $30 million in impact aid to local school districts, including a new

$10 million authorization for schools that have a large increase or decrease in students due to rebasing, activation of new military units, or base realignment and closure;

Increase funding for military childcare services by $50 million, and for family assistance services by $10 million; and

Create a mental health task force to help military members and families deal with an increasing number of mental health issues.

The bill also contains several provisions especially designed to benefit our National Guard and Reserve personnel and their families:

Every member of the Selected Reserve will have access to government-subsidized health care under the military TRICARE Standard medical program for themselves and their families.

Tier 1 is the TRICARE Reserve Select program that we authorized last year. National Guard and Reserve personnel who are mobilized can use this benefit for a year for each period of mobilized service, as long as they remain in the Selected Reserve. The Government pays 72 percent of their health care premium—they pay only 28 percent.

Tier II includes members of the Selected Reserve who do not have access to health insurance through their civilian employment. The Government pays 50 percent of their premium; and

Tier III includes members of the Selected Reserve who have access to health insurance through their employer but choose TRICARE. The Government pays 15 percent of their premium, they pay the remaining 85 percent.

National Guard and Reserve members who suffer an income loss when mobilized will be paid an income replacement payment after 18 months of active duty, upon completion of 24 months of active duty in a 5-year period, or when mobilized within 180 days of an earlier mobilization.

Reservists who are ordered to active duty for more than 30 days will receive a full housing allowance rather than the current 140 days.

In the bill we authorize the following end strengths for our active-duty forces: Army—512,400, an increase of 10,000 soldiers from last year's authorized end strength; Navy—352,700, 13,200 less than last year, in accordance with the Department's request; Marine Corps—179,000, an increase of 1,000 Marines; and Air Force—357,400, 2,300 less than last year's authorization, again in accordance with the Department's request.

We are very concerned about the Army's ability to recruit enough enlistees to make the end strength that we authorized. This bill gives the Army new tools to help it meet its recruiting goals:

A new bonus of up to $1000 for soldiers who refer a successful recruit to the Army;

New authority to experiment with innovative recruiting incentives;

Authorization for matching contributions to the Thrift Savings Plan during a service member's initial enlistment; and

An increased maximum enlistment bonus of up to $40,000.

This bill does not include everything that I fought for. For example, I am very disappointed that we were not able to eliminate the requirement that survivor benefit plan annuity payments be reduced by the amount of dependency and idemnity compensation received from the Veterans' Administration. I am also disappointed that we were not able to immediately repeal the 10-year phase-in of the concurrent receipt of military retired pay and VA disability compensation for military retirees with less than a 100 percent disability who are considered "totally disabled" because their disability renders them unemployable.

Before I comment further on a number of other issues in the conference report relating to support for our men and women in uniform, weapons systems and nonproliferation programs, I want to comment on provisions relating to the treatment of detainees and the sense of the Congress on United States policy on Iraq.

I am pleased that the conference report contains the full text of the McCain amendment on torture, without change. This language firmly establishes in law that the United States will not subject any individual in our custody, regardless of nationality or physical location, to cruel, inhuman, or degrading treatment or punishment. The amendment provides a single standard—"cruel, inhuman, or degrading treatment or punishment"—without regard to what agency holds a detainee, what the nationality of the detainee is, or where the detainee is held. With the enactment of this amendment, the United States will put itself on record as rejecting any effort to claim that these words have one meaning as they apply to the Department of Defense and another meaning as they apply to the CIA; one meaning as they apply to Americans and another meaning as they apply to our enemies; or one meaning as they apply in the United States and another meaning as they apply elsewhere in the world.

The McCain amendment is not only an important statement of law, it is a reaffirmation of one of the core values of our system of government and a restatement of who we are as Americans. I would not have signed or supported any conference report that did not include these provisions.

Despite repeated efforts by administration officials and their allies in the House of Representatives to amend this language, the conference report does not allow the President to authorize actions that violate the standards in the McCain amendment, or to immunize individuals who engage in such actions from either criminal prosecution or civil suit. Despite repeated efforts by administration officials and their allies in the House, the conference report does not authorize the U.S. government to indemnify individuals who are found to be liable for violating the standards in the McCain amendment, and it does not make reckless or wanton behavior a prerequisite to such liability.

The conference report would add a new section establishing a defense in any legal action against a person who engages in specific operational detention and interrogation practices that were officially authorized at the time that they were conducted, if the defendant did not know that the practices were unlawful and a person of ordinary sense and understanding would not have known that they were unlawful. This is not a new defense: it is virtually identical to the defense already available under the Manual for Courts-Martial for military members who act in reliance upon lawful orders.

It has never been my understanding that the McCain amendment would, by itself, create a private right of action. I do not believe that the amendment was intended either to create such a private right of action, or to eliminate or undercut any private right of action—such as a claim under the alien tort satute—that is otherwise available to an alien detainee. Rather, the McCain amendment would establish a legal standard applicable to any criminal prosecution or a private right of action that is otherwise available under law. That would not be changed in any way by the affirmative defense added in the new section. Nor would the McCain amendment be undermined in any way by any of the other detainee provisions in the conference report.

I opposed the initial amendment addressing the legal rights of Department of Defense detainees at Guantanamo Bay, Cuba when Senator GRAHAM offered it on the Senate floor, because it would have stripped federal courts of jurisdiction to hear habeas corpus challenges—including pending cases—brought by Guantanamo detainees. Unfortunately, the Senate approved that amendment by a 49-to-42 vote.

Following the Senate vote, I worked with Senator GRAHAM to build back protection into his amendment. We did so in three ways:

First, the jurisdiction-stripping provision in the initial Graham amendment would have applied retroactively to all pending cases in Federal court—stripping the Federal courts of jurisdiction to consider pending cases, including the Hamdan case now pending in the Supreme Court. The revised amendment adopted by the Senate—the so-called Graham-Levin-Kyl amendment—does not apply to or alter any habeas case pending in the courts at the time of enactment.

Under the Supreme Court's ruling in *Lindh* v. *Murphy*, 521 U.S. 320, the fact that Congress has chosen not to apply the habeas-stripping provision to pending cases means that the courts retain jurisdiction to consider these appeals. Again, the Senate voted affirmatively to remove language from the original Graham amendment that would have applied this provision to pending cases. The conference report retains the same effective date as the Senate bill, thereby adopting the Senate position that this provision will not strip the courts of jurisdiction in pending cases.

Let me be specific.

The original Graham amendment approved by the Senate contained language stating that the habeas-stripping provision "shall apply to any application or other action that is pending on or after the date of the enactment of this Act." We objected to this language and it was not included in the Senate passed bill.

An early draft of the Graham-Levin-Kyl amendment contained language stating that the habeas-stripping provision "shall apply to any application or other action that is pending on or after the date of the enactment of this Act, except that the Supreme Court of the United States shall have jurisdiction to determine the lawfulness of the removal, pursuant to such amendment, of its jurisdiction to hear any case in which certiorari has been granted as of such date." We objected to this language and it was not included in the Senate-passed bill.

A House proposal during the conference contained language stating that the habeas-stripping provision "shall apply to any application or other action that is pending on or after the date of enactment of this Act." We objected to this language and it was not included in the conference report.

Rather, the conference report states that the provision "shall take effect on the date of the enactment of this Act." These words have their ordinary meaning—that the provision is prospective in its application, and does not apply to pending cases. By taking this position, we preserve comity between the judicial and legislative branches and avoid repeating the unfortunate precedent in Ex parte McCardle, in which Congress intervened to strip the Supreme Court of jurisdiction over a case which was pending before that Court.

Second, the initial Graham amendment would have provided for direct judicial review only of status determinations by Combat Status Review Tribunals, CSRTs. By contrast, the revised Graham-Levin-Kyl amendment adopted by the Senate provided for direct judicial review of both status determinations by CSRTs and convictions by military commissions. The amendment does not affirmatively authorize either CSRTs or military commissions—instead, it establishes a judicial procedure for determining the constitutionality of such processes.

Again, this improvement is preserved in the conference report, which retains the Senate language authorizing direct review of both status determinations by CSRTs and convictions by military commissions.

Third, the initial Graham amendment would have provided only for review of whether a tribunal complied with the Department's own standards and procedures. By contrast, the revised amendment adopted by the Senate would authorize courts to determine whether the standards and procedures used by CSRTs and military commissions are consistent with the Constitution and laws of the United States.

This language has been revised in conference only to state what the intent of the amendment already was—that it was not intended to grant to an alien detainee any rights under the Constitution and laws of the United States that the detainee does not already have. Otherwise, the improved language remains intact in the conference report: The courts would be expressly authorized to determine whether the standards and procedures used in a status determination or the trial of an alien detainee at the Guantanamo are consistent with the Constitution and laws of the United States, as they apply to that detainee.

We expect that final decisions in both the CSRT process and under the military order for trials will be reached in an expeditious manner to ensure judicial review within a reasonable period of time. The statement of managers makes this point expressly with regard to CSRT determinations, because the amendment requires that CSRT procedures be submitted to Congress. The statement of managers does not make this point with regard to military commissions only because the procedures for military commissions are not in any way addressed in the conference report.

The Senate bill also contained a provision that would require the Secretary of Defense to submit to Congress a report on the procedures used by combat status review tribunals and administrative review boards for determining the status of the detainees held at Guantanamo Bay and the need to continue to hold such detainees. This provision has been expanded in the conference report to require that the report also address procedures in operation in Afghanistan and Iraq for a determination of the status of aliens detained in the custody or under the physical control of the Department of Defense.

Nothing in the conference report is intended to in any way authorize, endorse or approve either these procedures or Military Commission Order No. 1, which establishes Department of Defense procedures for the trial of detainees. Nor does anything in the conference report authorize, endorse or approve the administration's position on the President's authority to treat any alien or category of aliens as "enemy combatants" or "unlawful combatants". All that it does is to require that certain DOD procedures be submitted to the Congress and establishes an orderly process for the review of those procedures in the courts to determine whether they are consistent with the Constitution and laws of the United States. The conference report does not attempt to prejudge the outcome of that review.

Throughout the conference, we were pressed by administration officials and their allies in the House to make changes to the Senate language. We were asked to strip the courts of jurisdiction over pending cases; to eliminate any review of the constitutionality of procedures established by the Department of Defense; to expand the habeas limitations to detainees held anywhere in the world; to expand these provisions to strip legal rights from detainees held by the CIA and other agencies; to bar detainees from ever bringing any legal action challenging any aspect of their detention; to prohibit the courts from providing legal relief for detainees who are found to be improperly held; and to grant immunity to individuals engaged in detention and interrogation operations. We successfully opposed all of these changes.

The conference report does make two changes to the Senate language which are more complex.

First, the Senate-passed provision would have established an exclusionary rule prohibiting CSRTs from considering evidence obtained through "undue coercion". I was troubled by the phrase "undue coercion", because of the implication that there might be such a thing as "due"—or appropriate—coercion. I do not believe that coerced testimony is ever appropriate.

We were able to modify the provision in the conference report to eliminate the word "undue", an improvement over the Senate language. At the same time, however, the provision was modified so that it only provides for an "assessment" of whether the testimony was obtained through cruel, inhuman or degrading treatment and, if so, requires the tribunal to decide if there is any probative value to the testimony. We do not authorize such testimony to be used: a reviewing court will make that determination.

It is a centuries-old principle of Anglo-American law, enshrined in the fifth amendment to the Constitution, that no person shall be compelled to be a witness against himself. Regardless whether this rule of law is expressly incorporated into CSRT procedures, I hope and believe that the courts will enforce the generally accepted rule of law and ensure that evidence obtained through coercion is excluded from any administrative or judicial proceedings.

Second, while the Senate-passed provision would have eliminated federal court jurisdiction only for habeas corpus actions, the conference report would eliminate such jurisdiction for "any other action against the United States or its agents" relating to detention at Guantanamo Bay, Cuba. This new language is limited to detainees who either: (1) remain in military custody at Guantanamo; or (2) although they have been released from Guantanamo, have been determined by the United States Court of Appeals (subject to Supreme Court review) to have been properly detained as enemy combatants. This language places a limitation on legal recourse available to detainees. While we do not know whether any legal remedies other than habeas corpus actions would have been available to detainees, I would have preferred not to have this limitation in the bill.

In sum, administration officials and their allies in the House have sought at every turn to deny legal rights or recourse to detainees at Guantanamo and elsewhere. I do not believe that we should have gone down the road of limiting legal remedies for detainees in the manner that we did. However, once the Senate voted over my objection to eliminate habeas corpus relief, my effort turned toward: (1) building back access to the courts on direct appeal of administrative determinations of status or criminal conduct; (2) avoiding stripping the courts of jurisdiction over pending cases; and (3) ensuring that the provisions on detainee rights would not be used to undermine the McCain amendment.

I believe that we succeeded on all three issues. The conference report preserves a meaningful opportunity for detainees to challenge the legality of their detention or any criminal conviction in federal court. It ensures that the provisions eliminating habeas corpus jurisdiction will be prospective in their application and will not apply to pending cases. And of course we worked with Senator MCCAIN to preserve his amendment intact and to shape the Graham-Levin language so as to avoid undermining the McCain amendment.

The conferees endorsed with minimal change the provision on United States policy on Iraq which garnered overwhelming bipartisan support from over three-quarters of the Senate. This provision shows that both houses of Congress, and both political parties, have come together with a common message to our troops, to the administration, to the American people, and, most importantly, to the Iraqi people.

Expressing the heartfelt gratitude of the American people to our troops and their families for their unwavering devotion to duty, service to the Nation, and selfless sacrifice, Congress in this conference report reiterates its support for them and for a successful conclusion to their mission.

Congress, in the provision in the conference report, notes that calendar year 2006 should be a period of significant transition to full Iraqi sovereignty, with Iraqi security forces taking the lead for the security of a free and sovereign Iraq, thereby creating the conditions for the phased redeployment of United States forces from Iraq.

Congress expresses its view that the administration should tell the leaders of all groups and political parties in Iraq that they need to make the compromises necessary to achieve the broad-based and sustainable political settlement that is essential for defeating the insurgency in Iraq, within the schedules they set for themselves.

Congress directs the administration to provide Congress and the American people specific information on its strategy in Iraq, principally the diplomatic, political, economic, and military measures that are being undertaken; whether the Iraqis have made the compromises necessary to achieve the broad-based and sustainable political settlement that is essential for defeating the insurgency; and the conditions that must be met in order to provide for the transition of additional security responsibility to Iraqi security forces, along with a plan for meeting such conditions, and an assessment of the extent to which such conditions have been met.

This provision, which has garnered broad bipartisan support, is a significant win for the American people, and a large step forward for policy for Iraq. The messages that it sends are important, and the information it demands is crucial, for establishing and advancing a strategy for completing the mission in Iraq successfully, for beginning the process of redeployment of our military forces, and for doing so in a manner that will hopefully enhance U.S. national security.

The conference report also authorizes $50 billion in supplemental funding for fiscal year 2006 to support our troops on the ground in Iraq and Afghanistan. This is consistent with the budget resolution. Included in this $50 billion is funding to support increased Army and Marine Corps personnel, funding to buy additional armor for their vehicles and to repair or replace the equipment that our troops rely on. It also includes $1 billion for our No. 1 force protection priority, the Joint Improvised Explosive Device or IED Task Force.

This bill authorizes military construction and family housing projects that will improve the quality of life of our men and women in uniform and their families. It also authorizes $1.5 billion to begin implementing the decisions of the 2005 base realignment and closure round. These funding authorizations are consistent with the military construction appropriations enacted in November and will allow those projects to proceed.

The conferees agreed to the Army's request to relax the punitive restrictions on military construction at Fort Buchanan, Puerto Rico that were enacted 5 years ago in light of the protests over Vieques. The Army activities at Fort Buchanan are not now and never were related to the Navy's activities at Vieques, and I am pleased that the conferees agreed to address these unjust restrictions.

With respect to nonproliferation programs, although I would have preferred the amendment that Senator LUGAR added to the Senate-passed bill, which would have repealed all of the various conditions that the Cooperative Threat Reduction, CTR, program must meet before spending money in any given year, I am pleased that we have included permanent authority to waive on an annual basis the requirement to certify that the various conditions have been met by each country recipient of CTR funds.

The CTR program and the nonproliferation programs at the Department of Energy are all funded at the budget request. Within the Department programs we were able to address some urgent requirements by providing additional funds to accelerate the shutdown of the last plutonium-producing reactor in Russia and to accelerate the security of nuclear weapons storage at key Russian sites.

The agreement includes $4.0 million in Air Force accounts that the Air Force and the Department of Defense have the option to use to study and improve the performance of conventional, nonnuclear, penetrator weapons. I hope and urge the Department to use at least the $4.0 million to support conventional, nonnuclear weapons development.

The conference report includes a series of provisions designed to improve the management of the Department of Defense. These include provisions that would:

Help protect the Federal employee workforce from unfair competition by codifying an important set of historic precedents and commonsense principles for public-private competition;

Improve the management of DOD's major defense acquisition programs by requiring the Department to establish more realistic and achievable cost and performance estimates and tighten oversight requirements for programs that are experiencing problematic cost growth;

Improve the management of $70 billion a year of DOD contracts for services by requiring the Department to establish a new management structure for such contracts and requiring strict review of interagency contracting mechanisms that have been abused in the past;

Reduce the risk of abusive acquisition practices like those seen in the proposed tanker lease contract by requiring the Secretary of Defense or the Deputy Secretary of Defense to personally approve any proposal to purchase a major weapon system as a commercial item; and

Prohibit the Department from wasting hundreds of millions of dollars on unneeded audits of financial management systems that must be replaced because they are incapable of producing timely, accurate and complete financial data for management purposes.

I am particularly pleased that the conference report also includes a provision for disaster relief for small business concerns damaged by drought. In the same way that floods, hailstorms, tornadoes, and other natural phenomena can devastate small businesses, the harm caused by unusually low water levels on the Great Lakes can be irreparable to businesses that depend on the waterways. The Small Business Act already provides disaster assistance to businesses have been victim to a number of natural disasters, so I am grateful that we have been able to broaden eligibility for that assistance to include businesses that have been hurt by below-average water levels on the Great Lakes.

With respect to the Navy's shipbuilding accounts, the conference agreement incorporates reasonable cost caps on Virginia-class attack submarines in the Future Years Defense Program, the fifth DD(X) land attack destroyer, to be bought in 2010, and the fifth and sixth littoral combat ships, to be bought in 2008 or 2009. The conferees did not include a cost cap on the LHA because too little is known yet about the final design. The conference agreement also reflects the fact that the House has agreed to the Senate provision preventing the Navy from conducting a winner-take-all competition for the next generation destroyer program called the DD(X). Finally, the conferees agreed to a provision requiring the Navy to maintain 12 aircraft carriers and provided funding to overhaul the USS *John F. Kennedy* that the Navy had planned to retire.

The conferees dealt with the Navy's program to buy a new presidential helicopter, called the VXX, by adopting compromise language that would: (1) allow production of the pilot production helicopters to go forward; and (2) require that the Secretary of the Navy submit an acquisition strategy for the full rate production aircraft, Increment Two, by March 15, 2006. This strategy would be required to include one phase of operational testing before initiation of full rate production for VXX. The agreement would fence 25 percent of the Fiscal Year 2006 R&D funding until the Secretary submits that strategy.

The conferees also dealt with the Army's future combat systems by agreeing that the entire Army future combat systems program, including the manned ground vehicles project, should remain in system development and demonstration, rather than having large portions revert to the technical base. This is a recognition of the importance of the Army's only modernization program to both the future Army, and to the spinout of FCS technologies to the current force, as well as a recognition of the need for the future combat systems to be developed as an integrated system of systems as quickly as possible.

The bill also demonstrates the conferees continued strong support for the Department's special operations, counterdrug and humanitarian operations. In particular the conferees enhanced DOD's ability to combat terrorism and the production and trafficking of illegal drugs, including: authorizing and funding five additional National Guard Chemical, Biological, Radiological, Nuclear and High Yield Explosive (CBRNE) Enhanced Response Force Package teams, in addition to sustaining the existing 12 teams—which provide support to civilian authorities in the aftermath of a WMD incident; directing the Department to report on the use of DOD aerial reconnaissance assets to support the Department of Homeland Security; authorizing use of counterdrug funding for 2 years for joint task forces combating terrorism and narcotics production and trafficking, and; designating the Chairman of the Joint Chiefs of Staff as the principal military advisor to the Homeland Security Council. The conferees also agreed to authorize increased funding for humanitarian operations, including $40 million in a future supplemental for Pakistan, and expanding the medical assistance to include related education, training, and technical assistance.

In science and technology, this year's conference report includes a number of provisions and funding measures that support the transformation of our military while improving our ability to rapidly move new technologies out of the laboratory and onto the battlefield. The conference report authorizes over $11.3 billion for science and technology research programs, an increase of $840 million over the President's budget request. It also makes permanent the SMART, Science, Math, and Research for Transformation, Scholarship for Service Program to help the DoD educate, train, and employ the highest quality technical workforce. In order to better utilize the innovative talents of our nation's small businesses, the bill establishes a pilot program to promote the transition of technologies from the Small Business Innovative Research program into DoD acquisition programs. Finally, the conference report increases funding for and establishes mechanisms to accelerate and better coordinate research in a number of priority areas including robotics, unmanned ground vehicles, IED detection and defeat, the diagnosis and treatment of blast injuries, semiconductor microelectronics, and the development and deployment of advanced fuel cell vehicles.

I ask unanimous consent that the letter I referred to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, December 18, 2005.

Hon. DUNCAN HUNTER,
Chairman, Armed Services Committee, and National Defense Authorization Act for Fiscal Year 2006 Conference, House of Representatives, Washington, DC.

DEAR DUNCAN: On Friday, December 16, we joined you and Ike Skelton in conducting the final meeting of the conferees along with other Members of the Senate and House.

At the conclusion of the meeting, the "base bill" was agreed upon and signatures of Republican and Democratic Committee Members were requested and affixed to the Conference Report with the expectation that the House, following the customary procedure, would be the first chamber to file. It was our further understanding that this would be done Friday evening.

We are returning to you the signatures of the Senate conferees on the condition that there are no changes made in the "base bill" and Conference Report and that the House obtain a Rule which precludes any further amendment.

You have shown strong leadership during this very brief and unusual conference period and we have confidence that you can achieve passage in the House of the "base bill". We believe it is in the interest of the Nation and the men and women of the Armed Forces that our Conference Report as agreed to on December 16 becomes law.

Sincerely,

CARL LEVIN,
Ranking Member.
JOHN WARNER,
Chairman.

Mr. LEVIN. My particular thanks to my staff for their extraordinary work:

Rick DeBobes, Peter Levine, Jon Clark, Chris Cowart, Dan Cox, Madelyn Creedon, Brie Eisen, Evelyn Farkas, Richard Fieldhouse, Creighton Greene, Bridget Higgins, Mike Kuiken, Gary Leeling, Mark McCord, Bill Monahan, Arun Seraphin.

Also to Charlie Abell and others of Senator WARNER's staff.

COMMENTS ON FINAL PASSAGE

Mr. KYL. I would like to say a few words about the now-completed National Defense Authorization Act for fiscal year 2006, and in particular about section 1405 of that act, which expels lawsuits brought by enemy combatants from United States courts. I see that my colleague, the senior Senator from South Carolina, is also on the floor.

I would like to begin by commenting on the need for this legislation. This provision originally was added to the bill in an amendment that was offered by Senator GRAHAM and of which I was a cosponsor, as well as Senator CHAMBLISS.

Keeping war-on-terror detainees out of the court system is a prerequisite for conducting effective and productive interrogation, and interrogation has proved to be an important source of critical intelligence that has saved American lives.

In Rasul v. Bush, the U.S. Supreme Court interpreted section 2241 of title 28 to authorize enemy combatants held outside of the United States to file habeas-corpus petitions challenging their status in federal courts. Such a process is both without precedent and is utterly impractical.

Giving detainees access to federal judicial proceedings threatens to seriously undermine vital U.S. intelligence-gathering activities. Under the new Rasul-imposed system, shortly after al-Qaida and Taliban detainees arrive at Guantanamo Bay, they are informed that they have the right to challenge their detention in Federal court and the right to see a lawyer. Detainees overwhelmingly have exercised both rights. The lawyers inevitably tell detainees not to talk to interrogators. Also, mere notice of the availability of these proceedings gives detainees hope that they can win release through adversary litigation—rather than by cooperating with their captors. Effective interrogation requires the detainee to develop a relationship of trust and dependency with his interrogator. The system imposed last year as a result of Rasul—access to adversary litigation and a lawyer—completely undermines these preconditions for successful interrogation.

Navy VADM Lowell Jacoby expounded on the preconditions for effective interrogation in a declaration attached to the United States' brief in the Padilla litigation in the Southern District of New York. Vice Admiral Jacoby at the time was the Director of the Defense Intelligence Agency. He noted in the Declaration that:

> DIA's approach to interrogation is largely dependent upon creating an atmosphere of dependency and trust between the subject and the interrogator. Developing the kind of relationship of trust and dependency necessary for effective interrogations is a process that can take a significant amount of time. There are numerous examples of situations where interrogators have been unable to obtain valuable intelligence from a subject until months, or, even years, after the interrogation process began.
>
> Anything that threatens the perceived dependency and trust between the subject and interrogator directly threatens the value of interrogation as an intelligence gathering tool. Even seemingly minor interruptions can have profound psychological impacts on the delicate subject-interrogator relationship. Any insertion of counsel into the subject-interrogator relationship, for example—even if only for a limited duration or for a specific purpose—can undo months of work and may permanently shut down the interrogation process.

Specifically with regard to Jose Padilla, Vice Admiral Jacoby also noted in his Declaration that:

> Providing [Padilla] access to counsel now would create expectations by Padilla that his ultimate release may be obtained through an adversarial civil litigation process. This would break—probably irreparably—the sense of dependency and trust that the interrogators are attempting to create.

The system of litigation that Rasul has wrought is unacceptable.

Mr. GRAHAM. I agree entirely. If I could add one thing on this point: perhaps the best evidence that the current Rasul system undermines effective interrogation is that even the detainees' lawyers are bragging about their lawsuits' having that effect. Michael Ratner, a lawyer who has filed lawsuits on behalf of numerous enemy combatants held at Guantanamo Bay, boasted in a recent magazine interview about how he has made it harder for the military to do its job. He particularly emphasized that the litigation interferes with interrogation of enemy combatants. Ratner stated:

> The litigation is brutal for [the United States]. It's huge. We have over one hundred lawyers now from big and small firms working to represent these detainees. Every time an attorney goes down there, it makes it that much harder [for the U.S. military] to do what they're doing. You can't run an interrogation . . . with attorneys. What are they going to do now that we're getting court orders to get more lawyers down there?

When I read that quote, that for me was the last straw. I knew that something had to be done. On this issue, both the detainees' lawyers and the Defense Department seem to agree: involving enemy combatants in adversarial litigation in U.S. courts undermines effective interrogation of those detainees.

Mr. KYL. I am glad that we have been able to work together on this issue. I would add that interrogation of these detainees is important. In his Declaration to the Southern District of New York, DIA Director Jacoby described how interrogation has proven to be a critical intelligence tool—indeed, our most important intelligence tool—in past conflicts and in the current war on terror. Interrogation was our most valuable source of information in World War II and the gulf war, and has played a key role in stopping numerous terrorist attacks in the present conflict. Vice Admiral Jacoby stated in that declaration:

> Interrogations are vital in all combat operations, regardless of the intensity of the conflict. Interrogation permits the collection of information from sources with direct knowledge of, among other things, plans, locations, and persons seeking to do harm to the United States and its citizens. When done effectively, interrogation provides information that likely could not be gained from any other source.
>
> The Department of the Army's Field Manual governing Intelligence Interrogation, FM 34-52, dated 28 September 1992, provides several examples of the importance of interrogations in gathering intelligence. The Manual cites, for example, the United States General Board on Intelligence survey of nearly 80 intelligence units after World War II. Based upon those surveys, the Board estimated that 43 percent of all intelligence produced in the European theater of operations was from HUMINT, and 84 percent of the HUMINT was from interrogation. The majority of those surveyed agreed that interrogation was the most valuable of all collection operations.
>
> The Army Field Manual also notes that during OPERATION DESERT STORM, DoD interrogators collected information that, among other things, helped to: develop a plan to breach Iraqi defensive belts; confirm Iraqi supply-line interdiction by coalition air strikes; identify diminishing Iraqi troop morale; and identify a United States Prisoner of War captured during the battle of Kafji.

Vice Admiral Jacoby also noted that interrogations of enemy combatants captured in the War on Terror have played a vital role in preventing numerous terrorist attacks. Again, quoting from his declaration in the Padilla litigation, Jacoby noted that interrogations of combatants such as those held at Guantanamo Bay have:

> . . . provided vital information to the President, military commanders, and others involved in the war on Terrorism. It is estimated that more than 100 additional attacks on the United States and its interests have been thwarted since 11 September 2001 by the effective intelligence gathering efforts of the Intelligence Community and others.
>
> In fact, Padilla's capture and detention were the direct result of such effective intelligence gathering efforts. The information leading to Padilla's capture came from a variety of sources over time, including the interrogation of other detainees. Knowledge and disruption of Al Qaida's plot to detonate a 'dirty bomb' or arrange for other attacks within the United States may not have occurred absent the interrogation techniques described above.

There are other examples of the importance of intelligence obtained from interrogation. In a recent new release, the Defense Department described valuable information that was obtained from interrogation of Mohamed al Kahtani, an enemy combatant being held at Guantanamo Bay. The Pentagon release noted that interrogation of Kahtani has yielded information that:

> Clarified Jose Padilla's and Richard Reid's relationship with al-Qaida and their activities in Afghanistan; provided infiltration routes and methods used by al-Qaida to cross borders undetected; explained how Osama Bin Laden evaded capture by U.S. forces, as well as provided important information on his health; and provided detailed information about 30 of Osama Bin Laden's bodyguards who are also held at Guantanamo.

The Pentagon's news release concluded: "the result of those interrogations [at Guantanamo Bay] has undoubtedly produced information that has saved the lives of U.S. and coalition forces in the field."

Let me cite another example: a June 27, 2004 Washington Post story notes that on November 11, 2001, Pakistani forces captured Ibn al-Shaykh al-Libi, a Libyan national who ran the Khaldan paramilitary camp in Afghanistan. In January 2002, al-Libi was handed over to U.S. forces and interrogated. According the Post, interrogation of al-Libi:

> . . . provided the CIA with intelligence about an alleged plot to blow up the U.S. Embassy in Yemen with a truck bomb and pointed officials in the direction of Abu Zubaida, a top al Qaeda leader know to have been involved in the September 11 plot. In March 2002, Abu Zubaida was captured. . . . [Interrogation of Zubaida] led to the apprehension of other al Qaeda members, including Ramzi Binalshibh, also in Pakistan. The capture of Binalshibh and other al Qaeda leaders—Omar al-Faruq in Indonesia, Rahim al-Nashiri in Kuwait, and Muhammad al Darbi in Yemen—were all partly the result of information gained during interrogations, according to U.S. intelligence and national security officials.

The bottom line is that keeping detainees out of court makes effective interrogation possible, and interrogation has proved to be an invaluable source of intelligence, allowing the United States to capture important terrorists, prevent future terrorist attacks, and save the lives of American soldiers in the field.

I should also say a few words about some of the attacks that have been made against our amendment. For example, some critics have suggested that our amendment is inconsistent with the McCain amendment—that it prevents detainees from suing to enforce the McCain amendment. The response to this criticism is relatively straightforward: our amendment does not take anything away because the McCain amendment does not create a private cause of action in the first place. That amendment directly regulates military officers and is enforced through the usual mechanisms of military discipline.

Mr. GRAHAM. You are absolutely correct Senator KYL. I must admit, I'm a bit baffled by the assertion that our amendment is somehow internally inconsistent, that our provisions interfere with the McCain provisions in some way.

While we must ensure that detainees are treated humanely, and that is what we addressed so well with the McCain portion of our total package, directing our departments and agencies to refrain from cruel, inhumane, or degrading treatment; we also don't want to give these detainees the right to abuse our courts by going after our soldiers, sailors, airmen and marines based on how we have decided to treat them. In fact, while it is true that some physical abuses have occurred, we know that members of al-Qaida are trained to claim mistreatment to manipulate public opinion of the war.

I would like to remind all of my colleagues of some of the most egregious cases that prompted our amendments. For instance, a detainee who threw a grenade that killed an Army medic, a medic—someone trying to render medical assistance, and who often treats our enemies on the battlefield as well as our own troops.

In any event, the detainee who threw the grenade that killed an Army medic in a firefight, and who comes from a family with longstanding al-Qaida ties, filed for an injunction forbidding anyone from interrogating him or engaging in "cruel, inhuman, or degrading" treatment of him.

Now clearly, our reaffirmation of America's policy against treating anyone in a cruel, inhuman, or degrading way tells the world that we are not like our enemy. We do not allow our departments or agencies to treat people like that. And if our people do abuse people, we prosecute them to the fullest extent of the law.

However, to allow a detainee access to our courts to contest every aspect of his detention, a person who has fought against the very system he now seeks to make use of, is ludicrous. And for anyone to say that somehow our provisions undermine the McCain provisions or our overall amendment is just as wrong.

Senator MCCAIN, due to his service in our Nation's military, is uniquely qualified to take the lead on these issues. The McCain provisions are about us. How we behave. How we administer justice. It is another affirmative statement that the United States of America is that "Shining City on the Hill" President Reagan referred to. I am very proud to have been part of Senator MCCAIN's effort to retake the moral high ground in the war on terror.

The Graham-Kyl provisions are about them, the detainees, and what rights they do and, most importantly, do not have. And I am proud of the provisions we have made for the detainee's status to be reviewed by the Federal courts on the one time direct appeal. We allow for a just process, in the form of military tribunals and boards and commissions, a process based on Supreme Court precedent, modeled on the tribunals we have used in the past and created in accordance with Geneva Convention requirements. That is the process we have established for determining the status of detainees.

But I have gotten a little far afield here, let's get back to the lawsuits. Here is another of the crazy lawsuits out there: there's a suit out there by a detainee accusing military health professionals of "gross and intentional medical malpractice" in alleged violation of the 4th, 5th, 8th, and 14th Amendments, 42 U.S.C. 1981, and other, unspecified, international agreements. Now I don't know about the rest of you, but a detainee has no business in our courts suing the individual doctors and nurses that are making sure that that detainee is in good health.

Here is another one. There is one guy down there that we are trying to send home, and he's suing to keep us from sending him home. Imagine that, he is trying to stay.

One high level al-Qaida detainee lawsuit complains about the base security procedures, the speed of the mail, and his medical treatment. He is asking the courts to order the marines to transfer him into the "least onerous conditions" at Guantanamo and allow him to keep any books and reading material sent to him.

I think this one is the one that makes me the maddest. A high level al-Qaida member, who probably has the blood of 9/11 on his hands, complaining about the speed of his mail delivery. Complaining about how onerous the conditions are at Guantanamo.

With the McCain provisions of our amendment, we have, in addition to the President's order and other regulations already in place, directed the Department of Defense to treat him humanely. But under our provisions, he will receive the justice he deserves.

As you can see, these cases have nothing to do with cruel or inhumane treatment. They are abuses of our courts by the very people who are trying to kill Americans here and abroad. I don't know about you, Senator KYL, but I believe that when you raise arms against the United States, you should not be surprised when you lose the privilege of our court system. As the McCain amendment provisions state very clearly, we are not going to treat people inappropriately. And, Senator KYL, as our provisions state very clearly, we are not going to allow them to make a mockery of our courts, standing beside our own citizens at the courthouse door.

We have provided a fair alternative judicial process for the detainees with our provisions. In fact, we have been more than fair. We have given them more process than our own soldiers and marines would enjoy under the Geneva Convention. This in no way undermines the McCain provisions about how we will treat them and I would challenge anyone who thinks so to come to the Senate floor and debate us on that point.

Mr. KYL. To be clear, neither the CSRT nor the ARB process is designed to entertain grievance about the conditions of confinement. Is that your understanding as well?

Mr. GRAHAM. And those are the only channels that have been created where the detainee himself can pursue a remedy on his own in a semi-adversarial forum. These complaints about conditions of confinement, these are for the military itself to enforce through its own procedures and systems of accountability for monitoring its soldiers. And we have no reason to believe that those systems are not adequate to investigate and remedy abuses. For all the attention to cases such as Abu Ghraib, one thing that deserves emphasis is that it was our own military that discovered, investigated, and punished those abuses. That is as it should be. These standards of treatment are important, but they need to be enforced through the military's internal systems of accountability and Congressional oversight, not through lawsuits and adversarial proceedings brought by detainees. The military's own accountability systems ultimately, I think, will be more effective in monitoring our detention centers and in remedying abuses. All that litigation would do—letting these detainees into court—is undermine intelligence gathering through interrogation.

Mr. BROWNBACK. If I might interrupt, I would like to add that I share the understanding of my colleagues from Arizona and South Carolina. I supported the McCain amendments—I think that it is important to ensure that detainees are treated humanely. But I would not support allowing those detainees to file lawsuits against our armed forces, and I wasn't aware that anyone had even suggested that the McCain amendments allow detainees to file Bivens-type actions.

Mr. KYL. No one really argued that the McCain amendments do create a private cause of action, except that some groups have suggested that the Graham/Kyl amendment is somehow inconsistent with the McCain amendments, the implication being that the Graham amendment wiped out the forum for bringing some cause of action that otherwise was created. Obviously, if the McCain amendment did create a private right of action, our amendment would bar the courts from entertaining that action. But the fact alone that the same Congress that adopted the McCain amendment also adopted the Graham/Kyl amendment tends to confirm, I would think, that the McCain amendments never were intended to create a private right of action in the first place.

As a matter of fact, the Supreme Court recently has tightened the standards for spontaneously recognizing such actions in cases where Congress is silent on the matter—I believe it was in the recent case of Alexander against Sandoval. The McCain amendments do not state that they create a private cause of action. They regulate the conduct our troops rather than creating rights. And we have alternative means of their enforcement—as my colleague mentioned, through the system of military discipline—and thus we do not need a private cause of action to be implemented. I would be pretty surprised if, under those circumstances, anyone were to argue that the McCain amendment created a private right of action. So the senior Senator from South Carolina is correct, the Graham-Levin-Kyl amendment does not take away any cause of action created elsewhere in this bill, because the bill does not create any rights of action. Some members have been arguing that the McCain amendment will establish a standard that perhaps could be employed in another cause of action. That is, of course, true. But if such a cause of action is to exist, Congress will have to create it in the future. No cause of action currently available could serve as a vehicle for enforcing the McCain amendment in a private lawsuit, and I think that all the backers of that amendment consistently agree that the McCain amendments themselves did not create a private right of action. Again, it would be strange to construe this Act as intending such a private action when by the same hand this Congress would take away any forum for asserting such action.

Mr. GRAHAM. I thank the Senator from Arizona for his comments. I'd also like to say a word about the timing of this bill because we drafted this section very carefully and I want our colleagues to know exactly what they will be agreeing to. While our language does respond to the Rasul decision by effectively reversing the Supreme Court's decision in that case, we wanted to respect the courts' role in this by addressing two different considerations.

First, as we stated before, we wanted the CSRT process to yield decisions which will be reviewed by the DC Circuit Court of Appeals. And we wanted to be sensitive to the Rasul court's concerns about a process for the detainees. So, what we did was make the substantive provisions governing the CSRTs and ARBs apply to all cases, those pending on or after the enactment date. This was to ensure that every detainee was provided with the same protections and review.

Second, regarding the modification of the jurisdiction of those courts currently hearing individual habeas or other actions that have been filed by the detainees, we wanted those cases to be recast as appeals of their CSRT determinations. We believe that is the best way to balance between allowing the detainees to challenge their status, and still allowing effective detention and interrogation techniques. As we all know, a court either has jurisdiction to hear a case or it doesn't. Jurisdiction doesn't attach for all time when the case is filed.

This is really no different than transferring a case from one court to another. But in this case, given the change in the substantive law as well, we were required to extinguish these habeas and other actions in order to effect a transfer of jurisdiction over these cases to the DC Circuit Court and substantive legal change as well.

Mr. KYL. Right. It may not be quite right to characterize this bill's provisions as transferring jurisdiction. Rather, they extinguish one type of action—all of the actions now in the courts—and create in their place a very limited judicial review of certain military administrative decisions.

Mr. GRAHAM. Yes, that is correct. But we do still allow some types of judicial review to go forward—those cases asking for review, in accordance with section 1405, of military commissions or CSRTs. And the very last paragraph of section 1405—I believe that it is paragraph (h)(2)—adopts a compromise of sorts. It states that the bill's authorization for limited DC Circuit review of CSRTs and military commissions shall apply to pending cases. Obviously, no pending case seeks judicial review in the DC Circuit pursuant to section 1405. What this paragraph means is that, at the same time that the courts like the DC district courts kick these cases out of their courtrooms, they can also tell them where they should go next. And if, for example, a habeas action currently is in the DC Circuit, that court can simply construe that action as a request for review of the detainee's CSRT pursuant to subsection (e) of 1405, and allow that claim to go forward in that form.

Mr. KYL. The DC Circuit will have to give the petitioner leave to amend his claim, I assume?

Mr. GRAHAM. Yes, I assume that they will do so. No sense in kicking out a detainee's current habeas action in the DC Circuit just so that he has to refile a section 1405 review request—it would be better to let the current case go forward as a 1405 review request, as appropriately amended.

Mr. KYL. We agree on that point. The one thing that critics have said about this bill that is correct is that it is a jurisdiction stripping bill. It strips every court of jurisdiction to hear claims from detainees held in Guantanamo Bay. The courts' rule of construction for these types of statutes is that legislation ousting the courts of jurisdiction is applied to pending cases. It has to. We're not just changing the law governing the action. We are eliminating the forum in which that action can be heard. And there is no exception anywhere in this bill for keeping intact part of that forum to hear the case. The case simply has nowhere to be heard.

I have just been handed a memorandum on this subject. The governing cases on this question are the Landraf case, as well as *Hallowell* v. *Commons*, 239 U.S. at 506, and *Sherman* v. *Grinnell*, 123 U.S. at 679. As the Landraf court noted, these statutes "speak to the power of the court rather than the rights or obligations of the parties." These cases articulate the rule that will govern the detainee habeas actions and other lawsuits that currently are in the courts: legislation removing jurisdiction applies to pending cases and removes those cases from the courts.

Mr. GRAHAM. Mr. President, if Senator KYL would be so kind, could he explain how our amendment will affect ongoing litigation? Specifically, my understanding is that the Supreme Court granted certiorari recently in a case.

Mr. KYL. Yes. The Constitution gives Congress the power to make "exceptions" and "regulations" to the Supreme Court's jurisdiction—or at least, to its appellate jurisdiction. It was Marbury v. Madison that held that Congress could not regulate original jurisdiction, but the court since then has made clear that even habeas actions filed directly in the Supreme Court are regarded as falling within a subspecies of the Supreme Court's appellate jurisdiction. This would be an interesting exam question for a law school class.

The Congress's authority to use this power was affirmed by the Supreme Court in the case of Ex Parte McCardle. That case involved, I believe, an even sharper use of this authority than this bill does—I believe that there the Supreme Court had even heard argument in that case before Congress stripped the court's jurisdiction over it. The Supreme Court upheld the statute and dismissed Colonel McCardle's case for want of jurisdiction.

Mr. GRAHAM. And we are confident that McCardle still is good law?

Mr. KYL. So long as the Constitution still is good law. I am not aware that the clause in Article III allowing Congress to make exceptions and regulations to Supreme Court appellate jurisdiction has been repealed.

I suppose that some might argue that stripping the Supreme Court of jurisdiction over a pending case is unconstitutional if it is driven by some impure motive. But I can't imagine that the court would take away an authority clearly granted to Congress by the Constitution, regardless of what motive one might attribute to us. I am a member of this body, and would have great difficulty describing some definitive motive or intent to every law that we enact. I don't know how the Supreme Court or any other court could accurately discern such a motive. The laws that we enact have meanings that can be discerned through ordinary rules of construction. I think the rule of law is much more secure when the meaning of legislation is governed by those universally accessible rules of construction rather than through some attempt to psychoanalyze Congress's motive. And in any event, as I recall, this amendment was filed before the Supreme Court even granted review in the Hamdan case. That makes it a little hard to argue that the amendment was motivated by a desire to strip the court of its jurisdiction in that case. I don't think that the Constitution gives Hamdan a greater right to have his case go forward than it did to Colonel McCardle.

Mr. GRAHAM. So once this bill is signed into law, you anticipate that the Supreme Court will determine whether to maintain their grant of certiorari?

Mr. KYL. Yes, in my opinion, the court should dismiss Hamdan for want of jurisdiction. That is what they did in Ex Parte McCardle. I assume that we may see an unhappy dissent from the court's order from one or two of the Justices—there may be some members of the court who refuse to accept McCardle and article III. But I think that a majority of the court would do the right thing—to send Hamdan back to the military commission, and then allow him to appeal pursuant to section 1405 of this bill.

The court also may well request a round of briefing on the effect of the effect on the Hamdan case. I suppose that a lawyer in the SG's office can look forward to rereading Ex Parte McCardle and the debates on the case in Hart & Wechsler's. But again, I don't think that this will change the result.

As for legislative history, I think it usually is regarded as an element of the canons of construction. It gives some indication of what Congress at least understood what it was doing—the context in which a law was enacted. Although, I understand that Justice Scalia does not read legislative history. I suppose that for his sake, we will have to strive to be exceptionally clear in the laws that we write.

Mr. GRAHAM. Let me address another issue. As we worked through this language in conference, we received a lot of comments from our colleagues who were concerned not only about the frivolous cases being filed by al-Qaida terrorists at Guantanamo, but by people detained by our forces in Iraq.

I believe there are several cases that have been filed by those held in Iraq challenging their detention by American forces. Our language does not address these cases, and let me tell you why.

The Rasul v. Bush decision that we have talked so much about worked two significant changes in prior POW or detainee law. Prior to Rasul, the Eisentrager line of cases had governed whether foreign combatants had access to our courts. In 1950, the Eisentrager court held that a Federal district court lacked authority to hear habeas cases for some German POWs held by U.S. forces outside the U.S. These Germans had been tried and convicted of war crimes by an American military commission headquartered in Nanking, and then put in jail in Germany.

The Court stated six reasons for its decision. The German prisoners were: (1) Enemy aliens who (2) had never been or resided in the United States, (3) were captured outside U.S. territory and there held in military custody, (4) were there tried and convicted by the military (5) for offenses committed there, and (6) were imprisoned there at all times.

The Eisentrager line of cases is the reason the Bush administration chose to locate the al Qaida and Taliban holding facility at Guantanamo. The Bush administration relied upon the Eisentrager line of cases so as to prevent exactly what we have seen happen since Rasul: terrorists with lawyers. Now I'm a lawyer myself, and I think we can all agree that that is a bad combination.

In fact, if my colleagues will permit me a quick aside, I would remind them again of the statement by one of the lawyers for some of these terrorists, Michael Ratner. Mr. Ratner boasts about the fact that this litigation has undermined intelligence gathering in the war on terror. In an interview published in May of this year Mr. Ratner stated:

> The litigation is brutal for the United States. It's huge. We have over one hundred lawyer now from big and small firms working to represent these detainees. Every time an attorney goes down there, it makes it that much harder for the U.S. military to do what they're doing. You can't run an interrogation with attorneys. What are they going to do now that we're getting court orders to get more lawyers down there?

Now that is what we are facing. Terrorists with lawyers. I am pretty sure the American people expect more from their government than that.

But getting back to what I was saying about Eisentrager. The Bush administration relied on the Supreme Court's decision in Eisentrager when they located the detainees at Guantanamo, reasoning sensibly, at least I think it was sensibly, that since the al-Qaida and Taliban members were enemy aliens who were being held by U.S. forces outside the United States after being captured on the battlefield, that they would not have access to Federal courts.

But then the Supreme Court held in Rasul that the detainees could have access to our courts to challenge their detention. Would my colleague from Arizona care to comment on the Rasul decision?

Mr. KYL. Where to even begin? The U.S. has been accused before in its history of imperialistic behavior, but I think that this is the first time ever that a portion of a sovereign nation has been annexed to the United States by the U.S. Supreme Court.

Rasul begins with a discussion of two cases that were irrelevant to the question before the court, Ahrens v. Clark and the Braden case. Ahrens had adopted a strict rule that district courts may only hear cases within their territorial jurisdiction. Braden then softened that rule for particular circumstances—for cases where a defendant is in prison in one state but under indictment in another, allowing the defendant to bring a habeas action to challenge the indictment in the latter state's courts. Neither of these cases has anything to do with enemy combatants.

From a discussion of these relatively mundane decisions, the Rasul majority adopts a rather stunning non-sequitir: that "because Braden overruled the statutory predicate to Eisentrager's holding, Eisentrager plainly does not preclude the exercise of section 2241 jurisdiction over petitioners' claims."

It could almost be a rule of construction that when a lawyer says "plainly" or "clearly," he usually is identifying the weakest point in his argument. Braden is a case concerned more with the technical aspects of judicial administration than with core questions of the scope of the writ. Eisentrager is different. The Nazi soldiers denied access to the writ in that case did not simply file in the wrong forum—Alabama instead of Kentucky—or at the wrong phase of their sentences. Eisentrager denied review to the Nazi soldiers because they were Nazi soldiers in the custody of the U.S. military in occupied Germany. It is not a case about how we administer the writ of habeas corpus, but about the power and nature of the writ and who may employ it. I doubt that there was any member of the court who participated in Braden who believed that the court in that case was destroying the foundation of Eisentrager.

So according to section III of Rasul, Braden killed the "statutory predicate" for Eisentrager and that's that. No more territorial jurisdiction requirement for habeas courts. Apparently even the Rasul court itself was unwilling to buy this argument, however, because section IV of the opinion goes on to explain that Guantanamo Bay, Cuba is really part of the territory of the United States—something which section III just told us irrelevant and unnecessary to the court's decision.

But territorial jurisdiction does matter—a point that the court seems to concede by attempting to annex Guantanamo Bay to the United States. But Cuba is not the United States. Eisentrager should be restored to its rightful place as the precedent that governs litigation attempted by enemy combatants outside of our territory—even for the special case of Guantanamo Bay. Eisentrager was the law of the land for over 50 years, until Rasul carved a hole into it. Through this act, Congress patches that hole and restores Eisentrager's role as the governing standard. We do this not because, or not just because, Rasul doesn't make sense and is wrong. We do it because Eisentrager's reasoning is compelling, and the rule that is established wards off much mischief.

Let me quote two key passages from Eisentrager that explain why enemy combatants outside the United States should not have access to U.S. courts. As that court began by noting, there has been:

> . . . no instance where a court, in this or any other country where the writ is known, has issued it on behalf of an alien enemy who, at no relevant time and in no stage of his captivity, has been within its territorial jurisdiction. Nothing in the text of the Constitution extends such a right, nor does anything in our statutes.

Not only has this always been the law, but it should remain so. Eisentrager explains rather clearly and eloquently why we do not let enemy combatants sue our soldiers in our courts:

> A basic consideration in habeas corpus practice is that the prisoner will be produced before the court. This is the crux of the statutory scheme established by the Congress; indeed, it is inherent in the very term "habeas corpus." And though production of the prisoner may be dispensed with where it appears on the face of the application that no cause for granting the writ exists, Walker v. Johnston, we have consistently adhered to and recognized the general rule. Ahrens v. Clark. To grant the writ to these prisoners might mean that our army must transport them across the seas for hearing. This would require allocation of shipping space, guarding personnel, billeting and rations. It might also require transportation for whatever witnesses the prisoners desired to call as well as transportation for those necessary to defend legality of the sentence. The writ, since it is held to be a matter of right, would be equally available to enemies during active hostilities as in the present twilight between war and peace. Such trials would hamper the war effort and bring aid and comfort to the enemy. They would diminish the prestige of our commanders, not only with enemies but with wavering neutrals. It would be difficult to devise more effective fettering of a field commander than to allow the very enemies he is ordered to reduce to submission to call him to account in his own civil courts and divert his efforts and attention from the military offensive abroad to the legal defensive at home. Nor is it unlikely that the result of such enemy litigiousness would be a conflict between judicial and military opinion highly comforting to enemies of the United States.

Other authorities also have emphasized that the Anglo-American common law tradition includes no place for habeas petitions filed by enemy aliens in military custody outside our territory. Law Professor Peter Lushing, in an internet posting commenting on the Graham amendment shortly after it passed the Senate, put the matter quite colorfully: "the guys in the powdered wigs would have flipped over the idea that habeas extends to foreigners we are in combat with who have been captured and are being held by us abroad." He concludes: "the Rasul decision has extended habeas far beyond what anybody alive during the ratification of the Constitution would have envisioned."

Former U.S. Attorney General William Barr testified on the subject of detainees in the war on terror before the Senate Judiciary Committee on June 15 of this year. His testimony made a considerable impact on members of the committee—it persuaded several of us that something needed to be done legislatively to correct the current situation. Here is what Attorney General Barr had to say about the history of habeas and detainees:

> The determination that a particular foreign person seized on the battlefield is an enemy combatant has always been recognized as a matter committed to the sound judgment of the Commander in Chief and his military forces. There has never been a requirement that our military engage in evidentiary proceedings to establish that each individual captured is, in fact, an enemy combatant.

Attorney General Barr went on to note:

> World War II provides a dramatic example. During that war, we held hundreds of thousands of German and Italian prisoners in detention camps within the United States. These foreign prisoners were not charged with anything; they were not entitled to lawyers; they were not given access to U.S. courts; and the American military was not required to engage in evidentiary proceedings to establish that each was a combatant.

The concerns that were expressed in the passage from Eisentrager that I quoted earlier also have been expressed by other, more recent commentators, with the present conflict against Islamic extremism in mind. For example, in a 2003 article in George Washington Law Review, law professor John C. Yoo notes the special importance of "interrogating enemy combatants for information about coming attacks" in this conflict, and concludes:

> . . . de novo judicial review threatens to undermine the very effectiveness of the military effort against al-Qaeda. A habeas proceeding could become a forum for recalling commanders and intelligence operatives from the field into open court; disrupting overt and covert operations; revealing successful military tactics and methods; and forcing the military to shape its activities to the demands of the judicial process.

Similarly, Andrew McCarthy, a former federal prosecutor who led the case against Sheik Omar Abdel Rahman, offered a stinging criticism of Rasul the day after the Supreme Court issued its opinion. He stated that:

> How can it conceivably be appropriate to impose on our soldiers the burdens of stopping to collect evidence and write incident reports in the middle of fighting a war? Of course they do a measure of that now—after all, it is much in their interest correctly to sort out whom to hold and whom to release. But, until now, that has certainly not been done with the rigor anticipation of litigation will doubtless produce. It is not enough to

> say, hopefully, that U.S. courts will be indulgent given what's involved. Empirically, judicial demands on governmental procedural compliance become steadily more demanding over time, and government naturally responds by being even more internally exacting to avoid problems. In no time flat, what was once thought a trifling inconvenience becomes a major expenditure—in this case one that will inevitably detract from the military mission which is the bedrock of our safety.

McCarthy also summarized why the Rasul decision is at war with the role and duties of the Federal judiciary in our constitutional framework:

> In the Framers' ingenious construct, the courts of the United States are supposed to be a bulwark protecting members of the uniquely American community—i.e., citizens of the United States and those aliens who, by their lawful participation in our national life, have immersed themselves into the fabric of American society—from the excesses of an oppressive executive or a legislature insufficiently heedful of their fundamental rights. It is the institution that ensures the law and order a free people must have in order to thrive.
>
> Nevertheless, as manifested in Rasul, yesterday's case involving claims of foreign enemy combatants captured on faraway battlefields and held by the military in Guantanamo Bay, Cuba—an installation outside the jurisdiction of any U.S. court—the judiciary is no longer a neutral arbiter there to ensure that Americans get a fair shake from their government and its laws. Instead, it is evolving, or morphing, into a sort of United Nations with teeth. It has seized the mantle of international arbiter, ensuring that the world—including that part of it energetically trying to kill Americans—has a forum in which to press its case against the United States.

McCarthy went on to conclude: "Rasul is a dangerous decision. Congress should slam the door on al-Qaeda today."

And again, former Attorney General Barr also commented on this same question—on the impracticality of applying judicial process and standards to questions of the detention of enemy combatants. Because of his authority and the force of his arguments, I quote from his June 15 testimony at length:

> There appear to be courts and critics who continue to claim that the Due Process Clause applies and that the CSRT process does not go far enough. I believe these assertions are frivolous.
>
> I am aware of no legal precedent that supports the proposition that foreign persons confronted by U.S. troops in the zone of battle have Fifth Amendment rights that they can assert against the American troops. On the contrary, there are at least three reasons why the Fifth Amendment has no applicability to such a situation. First, as the Supreme Court has consistently held, the Fifth Amendment does not have extra-territorial application to foreign persons outside the United States. As Justice Kennedy has observed, "[T]he Constitution does not create, nor do general principles of law create, any juridical relation between our country and some undefined, limitless class of non-citizens who are beyond our territory." Moreover, as far as I am aware, prior to their capture, none of the detainees had taken any voluntary act to place themselves under the protection of our laws; their only connection with the United States is that they confronted U.S. troops on the battlefield. And finally, the nature of the power being used against these individuals is not the domestic law enforcement power—we are not seeking to subject these individuals to the obligations and sanctions of our domestic laws—rather, we are waging war against them as foreign enemies, a context in which the concept of Due Process is inapposite.
>
> In society today, we see a tendency to impose the judicial model on virtually every field of decision-making. The notion is that the propriety of any decision can be judged by determining whether it satisfies some objective standard of proof and that such a judgment must be made by a "neutral" arbiter based on an adversarial evidentiary hearing. What we are seeing today is an extreme manifestation of this—an effort to take the judicial rules and standard applicable in the domestic law enforcement context and extend them to the fighting of wars. In my view, nothing could be more farcical, or more dangerous.
>
> These efforts flow from a fundamental error—confusion between two very distinct constitutional realms. In the domestic realm of law enforcement, the government's role is disciplinary—sanctioning an errant member of society for transgressing the internal rules of the body politic. The Framers recognized that in the name of maintaining domestic tranquility an overzealous government could oppress the very body politic it is meant to protect. The government itself could become an oppressor of "the people."
>
> Thus our Constitution makes the fundamental decision to sacrifice efficiency in the realm of law enforcement by guaranteeing that no punishment can be meted out in the absence of virtual certainty of individual guilt. Both the original Constitution and the Bill of Rights contain a number of specific constraints on the Executive's law enforcement powers, many of which expressly provide for a judicial role as a neutral arbiter or "check" on executive power. In this realm, the Executive's subjective judgments are irrelevant; it must gather and present objective evidence of guilt satisfying specific constitutional standards at each stage of a criminal proceeding. The underlying premise in this realm is that it is better for society to suffer the cost of the guilty going free than mistakenly to deprive an innocent person of life or liberty.
>
> The situation is entirely different in armed conflict where the entire nation faces an external threat. In armed conflict, the body politic is not using its domestic disciplinary powers to sanction an errant member, rather it is exercising its national defense powers to neutralize the external threat and preserve the very foundation of all our civil liberties. Here the Constitution is not concerned with handicapping the government to preserve other values. Rather it is designed to maximize the government's efficiency to achieve victory—even at the cost of "collateral damage" that would be unacceptable in the domestic realm.

Attorney General Barr brought these concerns into relief with the following hypothetical example:

> Let me posit a battlefield scenario. American troops are pinned down by sniper fire from a village. As the troops advance, they see two men running from a building from which the troops believe they had received sniper fire. The troops believe they are probably a sniper team. Is it really being suggested that the Constitution vests these men with due process rights as against the American soldiers? When do these rights arise? If the troops shoot and kill them—i.e., deprive them of life—could it be a violation of due process? Suppose they are wounded and it turns out they were not enemy forces. Does this give rise to Bivens' Constitutional tort actions for violation of due process? Alternatively, suppose the fleeing men are captured and held as enemy combatants. Does the due process clause really mean that they have to be released unless the military can prove they were enemy combatants? Does the Due Process Clause mean that the American military must divert its energies and resources from fighting the war and dedicate them to investigating the claims of innocence of these two men?
>
> This illustrates why military decisions are not susceptible to judicial administration and supervision. There are simply no judicially manageable standards to either govern or evaluate military operational judgments. Such decisions inevitably involve the weighing of risks. One can easily imagine situations in which there is an appreciable risk that someone is an enemy combatant, but significant uncertainty and not a preponderance of evidence. Nevertheless, the circumstances may be such that the President makes a judgment that prudence dictates treating such a person as hostile in order to avoid an unacceptable risk to our military operations. By their nature, these military judgments must rest upon a broad range of information, opinion, prediction, and even surmise. The President's assessment may include reports from his military and diplomatic advisors, field commanders, intelligence sources, or sometimes just the opinion of frontline troops. He must decide what weight to give each of these sources. He must evaluate risks in light of the present state of the conflict and the overall military and political objectives of the campaign.

Attorney General Barr goes on to consider the practical consequences of applying civilian due process concepts in the context of military detention of enemy combatants:

> The imposition of such procedures would fundamentally alter the character and mission of our combat troops. To the extent that the decisions to detain persons as enemy combatants are based in part on the circumstances of the initial encounter on the battlefield, our frontline troops will have to concern themselves with developing and preserving evidence as to each individual they capture, at the same time as they confront enemy forces in the field. They would be diverted from their primary mission—the rapid destruction of the enemy by all means at their disposal—to taking notes on the conduct of particular individuals in the field of battle. Like policeman, they would also face the prospect of removal from the battlefield to give evidence at post-hoc proceedings.
>
> Nor would the harm stop there. Under this due process theory, the military would have to take on the further burden of detailed investigation of detainees' factual claims once they are taken to the rear. Again, this would radically change the nature of the military enterprise. To establish the capacity to conduct individualized investigations and adversarial hearings as to every detained combatant would make the conduct of war—especially irregular warfare—vastly more cumbersome and expensive. For every platoon of combat troops, the United States would have

> to field three platoons of lawyers, investigators, and paralegals. Such a result would inject legal uncertainty into our military operations, divert resources from winning the war into demonstrating the individual "fault" of persons confronted in the field of battle, and thereby uniquely disadvantage our military vis-à-vis every other fighting force in the world.
>
> Second, the introduction of an ultimate decision maker outside of the normal chain of command, or altogether outside the Executive Branch, would disrupt the unitary chain of command and undermine the confidence of frontline troops in their superior officers. The impartial tribunals could literally overrule command decisions regarding battlefield tactics and set free prisoners of war whom American soldiers have risked or given their lives to capture. The effect of such a prospect on military discipline and morale is impossible to predict.

Attorney General Barr also noted that "Supreme Court's decision in Rasul was a statutory ruling, not a constitutional one." He went on to point out:

> An important consequence follows: Congress remains free to restrict or even to eliminate entirely the ability of enemy aliens at Guantanamo Bay to file habeas petitions. Congress could consider enacting legislation that does so—either by creating special procedural rules for enemy alien detainees, by requiring any such habeas petitions to be filed in a particular court, or by prohibiting enemy aliens from hauling military officials into court altogether.

Obviously, the Congress has taken the former Attorney General up on his suggestion, particularly the third variation of it.

I should also say a few words about military commissions. The Judiciary Committee also heard enlightening testimony on the history of these commissions. Former Attorney General Barr commented on them as follows:

> Throughout our history we have used military tribunals to try enemy forces accused of engaging in war crimes. Shortly after the attacks of 9/11, the President established military commissions to address war crimes committed by members of al-Qaeda and their Taliban supporters.
>
> Again, our experience in World War II provides a useful analog. While the vast majority of Axis prisoners were simply held as enemy combatants, military commissions were convened at various times during the war, and in its immediate aftermath, to try particular Axis prisoners for war crimes. One notorious example was the massacre of American troops at Malmedy during the Battle of the Bulge. The German troops responsible for these violations were tried before military commissions.

As an aside, those disturbed by the tendency of some in the press and politics to take the side of the Guantanamo detainees—of those captured while at war with America—might find it interesting that the same phenomenon developed with regard to the Malmedy detainees. The Malmedy German soldiers were tried and convicted of massacring American POWs near the Belgian village of Malmedy during the Battle of the Bulge. This crime unquestionably occurred—the bodies of over 80 U.S. soldiers were recovered in a field, most of them shot in the head. Members of the German unit responsible for this crime later were captured and tried by a military commission. Over the years, these Nazi soldiers, at least some of whom unquestionably massacred American G.I.s, somehow managed to turn the tables on the U.S. military in the press and in political circles. Senator Joseph McCarthy took up their cause, as did other Senators. The most fanciful allegations of abuse made by these Nazi murderers were indulged by various prominent Americans, and the whole incident became a public relations embarrassment for the U.S. military. Eventually, this pressure campaign succeeded in winning the commutation of all death sentences given to the Malmedy killers, and all of the German soldiers involved—even their commander—were released from prison by the mid-1950s. For those who find it disturbing that the sympathies of the press (especially in Europe) and of various intellectuals have been misplaced on the side of the Guantanamo detainees, at least we can take comfort in the fact the perversions of truth and rank miscarriages of justice that have resulted from such misplaced sympathy so far in this war pale in comparison to those that followed from Malmedy.

Perhaps first among those who would object to any sympathizing with the Guantanamo detainees would be Andrew McCarthy, the former Federal antiterror prosecutor. He has written often on this and other war-on-terror topics. I was pleased to see that shortly after the Graham/Kyl amendment first passed the Senate, he wrote a column for National Review Online lauding our efforts. It was titled "Restoring Law and Order," and McCarthy's only complaint was that "it has taken our national legislature nearly a year-and-a-half—during all of which we have been at war—to stir itself to address this serious national-security problem." So you can imagine my disappointment when, just two days later, Mr. McCarthy posted another column commenting on the final Senate language, which include some compromises to ensure bipartisan support. This column was titled "Snatching Defeat from the Jaws of Victory." Some of its language I won't recite here. But its specific complaints bear scrutiny. Mr. McCarthy alleged that "the senators resolved Tuesday that the ultimate decision about who is properly considered an 'enemy combatant,' should rest with federal judges, not our military commanders." As he characterized the final Senate language, "a panel of robed lawyers will second-guess the determination of [our soldiers'] commanders on scene that certain captives warranted detention—that holding them would be beneficial to the war effort." Similarly, with regard to military commissions, Mr. McCarthy complained that "everything that happens in the commission would be reviewed by judges if this measure passes."

I do not think that these words are an accurate characterization of the Senate-passed language. I think that Mr. McCarthy probably relied on inaccurate characterizations of the language that were published in the press at the time rather than on the language itself. Nevertheless, Mr. McCarthy's complaints did cause me and others to take another look at the language, to make sure that it does what we intended.

Limited judicial review of the decisions of the CSRTs and military commissions is authorized by paragraphs 2 and 3 of subsection 1405(e) of the conference report. These paragraphs authorize the same two narrow judicial inquiries into the "status determinations" and "final decisions" of the CSRTs and military commissions. The difference in language here is not intended to connote any substantive difference in the scope of review—it simply attempts to accurately characterize the work of each entity: "making status determinations" for the CSRTs, and "reaching final decisions" for the military commissions.

The review authorized by each of these paragraphs goes only to the following questions: did the CSRTs and commissions use the standards and procedures identified by the Secretary of Defense, and is the use of these systems to either continue the detention of enemy combatants or try them for war crimes consistent with the Constitution and Federal law? The first inquiry I think is straightforward: did the military follow its own rules? This inquiry does not ask whether the military reached the correct result by applying its rules, or even whether those rules were properly applied to the facts. The inquiry is simply whether the right rule was employed.

As to the second inquiry, here the language has been further modified in order to make clear the narrow scope of the inquiry. The original Senate language spoke of whether "subjecting" an enemy combatant to the CSRT or commission systems was constitutional and legal. This formulation was somewhat illogical in that the detainee would not complain of the fact that he was forced to go through a CSRT—rather, he would want to challenge its adequacy as a means for justifying his continued detention. And in any event, our concern was to make clear that this language in no way invites a reevaluation of the correctness of the military's decision, even under a deferential standard of review. Nor does it invite an as-applied challenge. All that this language asks is whether using these systems is good enough for the ends that they serve—to justify continued detention or to try an enemy combatant for war crimes. The only thing that this provision authorizes is, in effect, a facial challenge. In fact, we anticipate that once the District of Columbia Circuit decides these questions in one case, at least so long as military orders do not substantially change, that decision will operate as circuit precedent in all future cases, with no need to relitigate this second inquiry in the future. In effect, the second inquiry—into the constitutionality and lawfulness of the use of CSRTs and commissions—need only be decided once by the court.

It bears quoting some of the thinking that undergirds the establishment of these review standards. Attorney General Barr, in his June 5 testimony before the Judiciary Committee, describes the philosophy and approach that paragraph 2's scope of review for CSRTs is designed to reflect:

> It seems to me that the kinds of military decisions at issue here—namely, what and who poses a threat to our military operations—are quintessentially Executive in nature. They are not amenable to the type of process we employ in the domestic law enforcement arena. They cannot be reduced to neat legal formulas, purely objective tests and evidentiary standards. They necessarily require the exercise of prudential judgment and the weighing of risks. This is one of the reasons why the Constitution vests ultimate military decision-making in the President as Commander-in-Chief. If the concept of Commander-in-Chief means anything, it must mean that the office holds the final authority to direct how, and against whom, military power is to be applied to achieve the military and political objectives of the campaign.
>
> I am not speaking here of "deference" to Presidential decisions. In some contexts, courts are fond of saying that they "owe deference" to some Executive decisions. But this suggests that the court has the ultimate decision-making authority and is only giving weight to the judgment of the Executive. This is not a question of deference—the point here is that the ultimate substantive decision rests with the President and that courts have no authority to substitute their judgments for that of the President.

And the thinking that underlies paragraph 3's scope of review for military-commission decisions is well articulated in Johnson v. Eisentrager:

> It is not for us to say whether these prisoners were or were not guilty of a war crime, or whether if we were to retry the case we would agree to the findings of fact or the application of the laws of war made by the Military Commission. The petition shows that these prisoners were formally accused of violating the laws of war and fully informed of particulars of these charges. As we observed in the Yamashita case, "If the military tribunals have lawful authority to hear, decide and condemn, their action is not subject to judicial review merely because they have made a wrong decision on disputed facts. Correction of their errors of decision is not for the courts but for the military authorities which are alone authorized to review their decisions." "We consider here only the lawful power of the commission to try the petitioner for the offense charged.

There is another matter that I should mention before I yield the floor to my colleague from South Carolina. Some have asked why the jurisdiction-removing language in the bill is limited to Guantanamo. The answer is that Rasul is only about Guantanamo. Although the opinion contains the discussion of Ahrens and Braden that undercuts the "territorial-jurisdiction" rule for habeas courts, in the end the decision appears to be based on the unique status of the naval station at Guantanamo Bay—the permanent nature of the lease, for example, which can only be terminated by the United States. Justice Kennedy adopted a similar focus in his concurring opinion. I believe that Justice Kennedy's concurrence goes so far as to declare that Guantanamo is in practical respects a U.S. territory.

Some have raised the concern that the logic of Rasul will be extended to U.S. military and intelligence detention facilities in Iraq or Afghanistan. I think that such an extension would be very foolish and I do not think that the court will go there. I do not think that the Supreme Court is going to declare parts of Afghanistan or Iraq to be the territory of the United States. If the court does do so, we can of course legislatively overrule it, as we legislatively overrule Rasul today. But I do not think that it is either necessary, or respectful of the court's capacity for common sense, to preemptively overrule such an outlandish hypothetical decision. Does the Senator from South Carolina agree?

Mr. GRAHAM. Yes, my friend from Arizona is correct, our language applies only to Guantanamo just because we understand that the Supreme Court only extended the jurisdiction of the courts over the detainees held at Guantanamo. And since the Rasul decision was based on the habeas statute in the U.S. Code, I am very comfortable amending that statute as a proper congressional response to the Court's decision.

As I stated repeatedly to a number of my colleagues, we did not want to deprive the courts of jurisdiction to hear cases filed on behalf of detainees in Iraq because we are confident that, as the law stands now, those cases are already barred by previous Supreme Court decisions, which the Rasul decision left in place.

We should always be careful when dealing with our co-equal branches. Just as we do not appreciate it when they stray into our areas of constitutional responsibility, we should always be willing to refrain from straying into theirs unnecessarily. As I read the Rasul decision, these other cases from other parts of the world are still subject to the Eisentrager opinion and will not be considered by U.S. courts.

And so, our language is limited to Guantanamo. To my friends who counseled that we should extend our jurisdiction modification to those cases being filed on behalf of Iraqis held in accordance with the Geneva Convention, I would just counsel them to be patient. I cannot imagine the Court extending its jurisdiction halfway around the world to involve what is almost exclusively an executive branch function. However, should that become necessary, I am perfectly willing to modify our courts' jurisdiction again to ensure that does not happen. But again, in truth, especially after our very robust action here today, I cannot even conceive of such a decision by the Supreme Court.

Mr. KYL. Well, that is what I thought before Rasul was decided. But we can cross that bridge if we get to it.

Mr. GRAHAM. Mr. President, I would also like my esteemed colleague from Arizona, Senator KYL, to address the misunderstandings that seem to have made their way into the press. For instance, when I returned from Iraq this morning, I was surprised to see the New York Times editorial page making some fundamental mistakes about what our legislation does.

Mr. President, I would also request unanimous consent to have the New York Times editorial entitled Ban Torture. Period. from December 16, 2005 entered in the RECORD.

The first sentence reads, "It should have been unmitigated good news when President Bush finally announced yesterday that he would back Senator JOHN MCCAIN's proposal to ban torture and "cruel, inhuman or degrading" treatment at United States prison camps. Nothing should be more obvious for an American president than to support a ban on torture." I agree, nothing should be more obvious. And I'd like to applaud the New York Times for finally endorsing the actions President Reagan took when we signed the Convention Against Torture on April 18, 1988, and the Senate ratified the Convention on October 21, 1994.

But since they appear to be laboring under some confusion, I would like to clarify how and when our antitorture statutes apply. First, torture has been illegal for quite some time. Indeed, Section 2340A of Title 18 of the United States Code specifically provides for the prosecution of people who torture overseas. And most of the techniques of torture, beatings, improper imprisonment, and threats have long been part of the criminal code of the United States.

I strongly supported Senator MCCAIN's amendment each and every time it came up. I am extremely pleased it passed. But, make no mistake, it does not make torture illegal. Torture has long been illegal. What the McCain language does is make a very clear statement that we will treat people humanely while we have them in our custody. The McCain amendment is a very clear policy statement that is in accord with the best of American tradition. But it does not ban torture. Accordingly, the Graham-Levin-Kyl provisions do not equivocate in any way regarding torture. The Times editors, regrettably, for I appreciate the place the Times holds in our public discourse, do not appear to understand what they are talking about.

I would like to address one other statement the Times makes. They state, and I quote, that "What is at stake here, and so harmful to America's reputation, is the routine mistreatment of prisoners swept up in the so-called war on terror." Now I take great exception to this baseless smear of our soldiers and marines. It is said off-handedly, almost as if everyone takes it for granted that the fine men and women of our armed services routinely mistreat our prisoners.

Well I will tell you, I for one don't take it for granted that the fine people who are putting their lives on the line to protect our Nation routinely mistreat the prisoners in their care. I believe they follow the orders that their superiors give them, orders based on such policy statements as Senator McCAIN's or the Army Field Manual, and they follow them to the best of their ability.

Now, are there going to be bad apples? As a former JAG prosecutor and defense counsel, I can tell you affirmatively, yes, there will be. And they will be arrested, tried, convicted, and will serve long sentences. Those few individuals who do not live up to the high standards of the vast majority of our honorable service members, will be held accountable for their actions.

Our troops do not deserve such a slander, and I call on the New York Times to take back the vile assertion they have made against the people who exemplify the best our Nation has to offer.

Mr. KYL. Mr. President, I see that we are nearing the end of our allotted time. If I could quickly address a few other minor issues and summarize briefly. It is important to note that the limited judicial review authorized by paragraphs 2 and 3 of subsection (e) are not habeas-corpus review. It is a limited judicial review of its own nature. All habeas actions are terminated by this bill. I hope that this change will also put to rest any arguments that extending habeas to prisoners also extends to them some type of substantive rights. I do not believe that supposition is correct because habeas is a vehicle for asserting rights, not a source of rights. The fact that an individual has access to habeas does not mean that he has any of the rights that he asserts. But in any event, because this bill leaves no habeas in place, that debate need not be rejoined.

Also, some have suggested that by vesting exclusive jurisdiction in the DC circuit for the paragraph 2 and 3 appeals, this bill bars even Supreme Court appellate review. That was not the drafters' intention, nor do I believe that it is a correct reading of the legislative language. Supreme Court review is implicit, or rather, authorized elsewhere in statute, for all judicial decisions. It is rarely mentioned expressly. In fact, when it is mentioned, it is sometimes to preempt Supreme Court review. Far example, the limit on successive federal habeas petitions for state prisoners in section 2244 bars petitions for certiorari following a three-judge panel's decision on a successive-petition application. The clear implication of these provisions is that Supreme Court review is implicitly allowed except where expressly barred, and thus since it is not barred here, it is allowed.

UNIFORM STANDARDS OF INTERROGATION FOR DETAINEES

Mr. McCAIN. I would like to thank the chairman and the ranking member for their untiring work to bring the Defense authorization bill to closure. In doing so, Congress takes a major step in ensuring that America stays true to its fundamental values. By establishing uniform standards for the interrogation of Department of Defense detainees, and by ensuring that the United States will not subject any individual to cruel, inhuman or degrading treatment or punishment, we are better able to wage and win the war on terror. This would not have been possible without the work of the chairman, the ranking member, and other members of this committee, including most notably the Senator from South Carolina.

I would also like to thank the President and the national security advisor for their efforts in resolving the difficult issues underlying the amendment. In reaching agreement, we make sure that the world knows that the United States does not—and by law cannot engage in torture or cruel, inhuman or degrading treatment. During our talks, the administration raised legitimate concerns about legal claims facing civilian interrogators. Based on these concerns, the bill includes language that will allow accused civilian interrogators—like military interrogators—a robust defense if a person of ordinary sense and understanding would have believed he was following a lawful directive. It further includes language providing legal counsel to interrogators. These provisions are modeled on provisions drawn from the Uniform Code of Military Justice.

With the detainee treatment provisions, Congress has clearly spoken that the prohibition against torture and other cruel, inhuman or degrading treatment should be enforced and that anyone engaging in or authorizing such conduct, whether at home or overseas, is violating the law. Sections 1402 and 1403 of Title XIV of this bill do not create a new private right ot action. At the same time, these provisions do not eliminate or diminish any private right of action otherwise available. It is our intent not to disable that in any way.

Mr. WARNER. To have worked from the beginning with Senator McCAIN then with Senators GRAHAM, LEVIN and KYL was a privilege, and, to achieve legislation which was needed for all our Nation's citizens was a humble, but very fulfilling, experience. We realized both the necessity for action in this area and the vital importance of dealing with the increasing flow of litigation involving Guantanamo detainees.

This legislative history should document that the McCain provisions, sections 1402 and 1403 of the bill, do not create a private right of action. Title XIV of the bill does provide a new affirmative defense that may be applied to civil actions brought under other statutes and to criminal prosecutions. This is essential to give potential defendants fair rights to defend themselves. Further, language was included affording the same right to counsel and to payment of litigation costs at Government expense for non-military personnel, in both foreign and domestic courts, that is presently extended to members of the Armed Forces.

Mr. LEVIN. I am pleased that the conference report contains the full text of the McCain amendment on torture, without change. This language firmly establishes in law that the United States will not subject any individual in our custody, regardless of nationality or physical location, to cruel, inhuman, or degrading treatment or punishment. The amendment provides a single standard—for "cruel, inhuman, or degrading treatment or punishment"—without regard to what agency holds a detainee, what the nationality of the detainee is, or where the detainee is held.

It has never been my understanding that the McCain amendment would, by itself, create a private right of action. I do not believe that the amendment was intended either to create such a private right of action, or to eliminate—or undercut any private right of action such as a claim under the Alien Tort Statute—that is otherwise available to an alien detainee. Rather, the McCain amendment would establish a legal standard applicable to any criminal prosecution or any private right of action that is otherwise available under law. That would not be changed in any way by the affirmative defense added in the new section.

Mr. GRAHAM. I was pleased to support this legislation and work toward its enactment from the beginning. Under section 1402, our troops now have one standard—the Army Field Manual—for their interrogations. In section 1403, we close the loophole in the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

As National Security Advisor Stephen Hadley said, "those standards, as a technical, legal matter, did not apply abroad. And that is what Senator McCAIN, in the second section of his legislation, wanted to address—wanted to make clear that those would apply abroad. We applied them abroad as a matter of policy; he wanted to make sure they applied as a matter of law. And when this legislation is adopted, it will." I agree that these sections do not create a new private right of action, but that they are binding on the executive and may be applicable to actions brought under other statutes.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have a letter from Mr. Ed Tong printed in the RECORD for the consideration of the fiscal year 2006 Defense Authorization Act. The letter reflects the view of a supporter of the minority small business contracting program, which is reauthorized in this bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ASIAN, INC.
San Francisco, CA, December 19, 2005.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: I write to urge you to support the reauthorization of the Department of Defense 1207 program. The program has been repeatedly reauthorized since its original enactment, and it remains necessary today. Minorities have historically been disadvantaged with regard to the awarding of federal, state and municipal contracts. The impact of such discrimination and exclusion has been especially felt in Northern California—and specifically within the San Francisco Bay area.

The 1992 Minority Business Census of the U.S. Census Bureau reported that San Francisco has over 16,353 minority-owned businesses operating in the area. That statistic makes San Francisco the fourth largest business locale in the country for minority-owned businesses. Despite the large number of minority-owned business, discriminatory and harassing treatment is commonly experienced.

Specifically, Asian American construction firms in San Francisco, have encountered discriminatory and harassing treatment at the hands of the craft unions and city government through the San Francisco's Office of Labor Standards Enforcement (OLSE). OLSE was created in 2000, to enforce the prevailing wages of crafts set by the state's Department of Industrial Relations. In fact, OLSE has differentially chosen to conduct its audits and impose higher penalties against many of San Francisco's minority craft businesses. At its inception of enforcement, the OLSE specifically targeted Chinese businesses. The statistics at that time showed that Chinese businesses had around a 5% chance of obtaining a prime contract they bid on, but a 50% probability of their project being inspected and audited by the OLSE. At present, OLSE still disproportionately targets minority businesses, whether they are union or non-unionized construction companies. Left with no avenue through which to remedy its grievances, many Asian American businesses have turned to ASIAN, Inc. for assistance

In my role as ASIAN, Inc.'s Program Manager in our Business & Economic Development Division, I have had personal experience in speaking with Asian American businesses dealing with discriminatory treatment. ASIAN, Inc. is a nonprofit technical assistance and research organization that works to strengthen the infrastructure of Asian American communities in Northern California and to assist in their physical, economic, and social development. ASIAN, Inc. has been in operation for 34 years. Over the years, the organization has helped over 500 disadvantaged businesses obtain business loans through partnerships with the City of San Francisco's Office of Community Development, the State of California, the U.S. Department of Commerce Minority Business Development Agency, the U.S. Small Business Administration, and many banks and other private lenders. Still, discrimination continues to pose barriers for many of the businesses with which we work

Because ASIAN, Inc.'s role has been to provide strategic information and technical assistance in order to promote the ability of Asian Americans to compete in mainstream society—including achieving success for their businesses and participating in public decision-making—the organization has been in a position to witness the experiences of Asian American businesses in the San Francisco Bay Area.

Notably, several Asian American businesses came to ASIAN, Inc. for assistance after the OLSE imposed significant penalties upon their businesses, allowed those businesses no opportunity to rectify any alleged violations prior to making a finding, or to present their sides of the story. Initially there was no appeals process built into the Ordinance. To the presidents and owners of these businesses, it felt as if the OLSE was targeting them because they were minority owned and because of the ongoing disputes between Asian businesses and the trade unions in the area. The targeting of Asian American firms by OLSE for inspection and audits made obtaining contracts difficult when it became known that a business was being inspected by the OLSE.

ASIAN, Inc.'s work with the OLSE is by no means unique but rather signifies merely one of many types of discrimination experienced by the Asian American businesses that contact our organization. In fact, the OLSE situation is quite emblematic of the larger underlying problems that minority businesses face. Discrimination is not limited to the local or municipal level. Asian American businesses have experienced discrimination in the awarding of local agency contracts, the issuance of bonds and insurance policies, and the provision of necessary materials and material quotes by suppliers.

For example, I personally have heard of complaints/testimonials from minority businesses about:

The use of racial slurs or epithets against minority owners or employees. One Asian firm owner used workers of Mexican ancestry on a job, and other white subcontractors challenged him and asked "Why are your illegal workers on my job site." Also, an institution's administrator might use the phrase "Your kind are the majority now." For another Asian American owner, when his workers took items from the trash bins he was told to stop his workers from doing so. As "You may be a nice guy, but you are not one of us."

The exclusion of minority businesses from informal business networks such as the Associated General Contractors. Or not invited to go golfing with them, even when the other group was looking for a foursome.

The refusal to use minority businesses on private jobs even when they are used on government jobs where minority business programs are in place. For example, Nibbi Brothers Construction will use numerous minority firms when doing public works projects (and the locale's program encourages minority participation) but not ask them to bid on their private works projects. This was also true for a general contractor (SJ Amoroso) that uses minority firms in their public works jobs but one white subcontractor almost exclusively for their roofing work, in their private works projects.

The existence of the old boys network to justify doing business with one's own cronies. For example, with Asian firms that have become prime contractors, white subcontractors often won't bid for the subcontracting work, or will hedge their bids and draw out the bidding process in deciding whether they want to work with a minority prime contractor

The non-enforcement of nondiscrimination requirements and disparate treatment by government inspectors. For example, when as the prime contractor and your project is audited, all certified payrolls are asked of your minority subs, but your white sub will not be asked to provide a certified payroll. In another case with an institution in the City, the inspector would not approve the work, and make additional demands that were not put it in writing. For example, he demand that a electrical panel be explosion proof though it was not required by the specs. He also demanded that materials be UL (Underwriters Laboratories) listed although the specs did not require it. Also, when the Asian prime contractor reported the error of his white subcontractor to the engineer, he was told that this was not acceptable. However, when the white subcontractor reported his error to the white engineer the error was allowed to stand without correction.

The bundling of contracts which minority businesses could bid for if not for bundling. For example, when work is required for a number of school sites, a number of 3–4 schools may be bundled even when the type of work in each school is different. This will bring the total project and bonding requirements to $10 million dollar when without bundling the individual projects would cost about $2–3 million dollars.

The tendency to pay minority contractors slower or not at all compared to white contractors. For example, San Francisco city departments and institutions have a poor reputation for paying in a timely manner and so the cumulative debt on a number of projects/contracts owed to Asian businesses has been in excess of $1 million dollars.

The provision of different quotes from suppliers to companies depending upon the race of the business owner, or to provide those supplies at an exorbitant rate to a minority contractor.

The refusal to provide higher capacity bonds.

Our nation's small businesses are the backbone of this country's economy and the obstacles that impede the successes of U.S. businesses have enormous impact on the local economies these businesses support as well as the nation at large. This is especially true for minority-owned businesses that not only contribute to the country's economic base but have also traditionally provided jobs for minority youth and adults in ways that majority-owned business have not. As such, removing obstacles facing minority businesses is critical not only for our economy but for our nation's minority youth.

Minority contractors have a right to expect unbiased treatment in the awarding of contracts. The 1207 Program is a valuable means by which the federal government demonstrates fairness and equity in the area of government contracts. It is vitally important that the federal government recognizes and rectifies some of the problems faced by minority businesses across the country. The government's commitment to equality in the economic marketplace is an ongoing responsibility of our government, and the reauthorization of 1207 not only is in keeping with the spirit of that commitment but provides leadership by example to local government, banks, customers and suppliers that interact with minority-owned businesses.

Respectfully submitted,

EDMUND Y. TONG,
Program Manager, Business & Economic Development Division.

Mrs. CLINTON. Mr. President, the Senate is considering today the Department of Defense authorization conference report for the 2006 fiscal year. As a member of the Senate Armed Services Committee, I have attended numerous hearings and participated in the markup of this legislation. And I want to commend the Chairman of the Senate Armed Services Committee, Senator WARNER, and the ranking member, Senator LEVIN, for the serious, bipartisan approach they took in preparing the Senate version of the bill.

The DOD authorization bill is critically important, particularly with our servicemen and women are serving bravely in Iraq, Afghanistan and around the world. We owe it to our men and women in uniform to do everything we can to support them.

While what has emerged from conference is not perfect, the bill contains a wealth of positive provisions in keeping with the responsibility of Congress to our men and women in uniform.

When we first considered the DOD authorization bill in July, the Senate accepted an amendment Senator GRAHAM and I offered to make Tricare available to all National Guard members and reservists during the House-Senate conference, we reached a compromise which will offer great opportunities for Guard members and reservists to join the Tricare Program.

At a time when approximately 40 percent of the men and women serving in Iraq are members of the National Guard and Reserve, and as Guard members and reservists are a serving in a new and expanding role in the global war on terror, we ought to do all we can to ensure that these men and women have the services and support they need and deserve. This bill marks further progress in this effort, increasing access to health benefits for our National Guard and Reserve and their families in New York and around the country. Providing the Guard and Reserves, as well as their families, with adequate support and benefits is the least that a grateful nation can do. Under the provision, all members of the Selected Reserve are eligible to enroll in the military health care program.The premiums are based on categories of eligibility:

Category 1: Members of the Selected Reserve who are called to active duty qualify for TRICARE Reserve Select, TRS. Under this program, established last year, a reservist would accumulate 1 year of TRS coverage for every 90 days of Active-Duty service. Monthly premiums during the years of accumulated eligibility are only 28 percent of the program cost. The Government picks up the remaining 72 percent. As has always been the case, coverage is free of charge while on active duty. This bill now permits accumulation of earned periods of coverage for frequently deployed personnel. In addition, it authorizes 6 months of transitional coverage for family members following the death of the Reserve member, if the member dies while in an inactive status.

Category 2: Members of the Selected Reserve who are not called to active duty and who otherwise do not qualify for health insurance due to unemployment or lack of employer-provided coverage are eligible to enroll in TRICARE for a 50-percent cost-sharing premium. The Government will pay the remaining 50-percent.

Category 3: Members of the Selected Reserve who do not fit into either of the above categories but would like to participate in TRICARE are eligible to do so for an 85-percent cost share. Employers are allowed and encouraged to contribute to the reservist's share. The Government contributes 15 percent of the costs.

This compromise is an important step forward in improving health care access for our Nation's guardsmen and reservists.

It is important to note as well that this expansion was the fruit of a bipartisan effort by Senator GRAHAM and myself, along with my colleagues Senator LEAHY and Senator DEWINE.

The conference report also includes another provision I offered, this one with Senator COLLINS, to improve financial education for our soldiers. It is a problem that has plagued military service men and women for years: a lack of general knowledge about the insurance and other financial services available to them.

This provision instructs the Secretary of Defense to carry out a comprehensive education program for military members regarding public and private financial services, including life insurance and the marketing practices of these services, available to them. This education will be institutionalized in initial and recurring training for members of the military. This is important so that we don't just make an instantaneous improvement, but a truly lasting benefit to members of the military.

The legislation also requires that counseling services on these issues be made available, upon request, to members and their spouses. It is very important to include the spouses in this program because we all know that investment decisions should be made as a family. Too many times, a military spouse has to make these decisions alone, while a husband or wife is deployed.

This amendment requires that during counseling of members or spouses regarding life insurance, counselors must include information on the availability of Servicemembers' Group Life Insurance, SGLI, as well as other available products.

I am happy that my fellow Senators support this legislation and proud that the amendment was adopted in conference.

The legislation also includes a provision which will ensure the availability of special pay for members during rehabilitation from wounds, injuries, and illnesses incurred in a combat zone. Earlier this year, I learned of the story of Army SPC Jeffrey Loria, who was encountering pay problems while recovering at Walter Reed Army Medical Center. My inquiry to the Army in this matter corrected Specialist Loria's problems and also led to the discovery of pay problems for at least 129 other soldiers. I continued to follow up on the plight of wounded soldiers when I questioned each of the service secretaries about this topic in early March 2005, asking if they would support efforts to ensure that wounded Guard members and reservists did not lose their combat pay allowance while in a military hospital. Their unanimous answer was yes. I am proud to see the provision incorporated into the bill.

In addition, I am pleased that the House and Senate have agreed to provide hundreds of members of the National Guard who served at Ground Zero after the terrorist attacks the full Federal retirement credit for their service that they deserve. Many of the soldiers who served at Ground Zero, often for extended periods, were not officially put on Federal active duty and so did not receive Federal military retirement credit. I was proud to fight for this legislation as a House-Senate conferee, and I want to thank Congresswoman MALONEY and Congressman KING for their hard work to see the provision through the House of Representatives. I applaud Congress for accepting our arguments for those brave men and women of the National Guard who gave their all after the September 11 attacks and absolutely deserve this credit.

I am also glad to see that the final conference report includes no language to restrict the role that women can play in our Armed Forces. Women have a long history of proud service in our Armed Forces, and more than 200,000 women currently serve, making up approximately 17 percent of the total force. Thousands of women are currently serving bravely in Iraq, Afghanistan, and elsewhere. During my own visits to Iraq—as I am sure that many of my colleagues who have also visited Iraq can also attest—I witnessed women performing a wide range of tasks in a dangerous environment.

Our soldiers, both men and women, volunteered to serve their Nation. They are performing magnificently. There should be no change to existing policies that would decrease the roles or positions available to women in the Armed Forces. Earlier this year, I introduced, along with several of my colleagues, a sense-of-the Senate resolution stating that there should be no change to existing laws, policies, or regulations that would decrease the roles or positions available to women in the Armed forces.

Finally, I want to highlight several other provisions in the legislation that honor the commitment of this Congress to our men and women in uniform. The final bill includes a 3.1-percent pay raise for all military personnel as well as increases to the maximum amount of assignment incentive pay and hardship duty pay that our servicemen and servicewomen receive. The bill also calls for an increase of $60 million for childcare and family assistance services to support Active-Duty and Reserve military families.

Also included were measures to bolster the support and gratitude our Nation shows for the families of our men and women in uniform who have lost their lives in service to our country. The bill increases the survivor benefits to $100,000 for all Active Duty military decedents; payments would be retroactive, to include all those lost since the commencement of Operation Enduring Freedom. In addition, the conference report increases TRICARE benefits for the surviving children of those who have lost their lives while on active duty and calls for the establishment of a uniform policy on casualty assistance to improve the services provided to survivors and next of kin.

I am proud to support these provisions and proud to do all I can for these families.

Despite the positive sections of the conference report, many of which I have outlined above, there are also portions of the authorization bill that are deeply troubling. I fear that included in a bill that does so much to support our men and women in uniform are provisions that might also do a disservice to these brave Americans.

One in particular is the Graham-Levin-Kyl amendment, included in the conference report, governing the treatment of detainees at Guantanamo Bay.

Like all of my colleagues, I am deeply troubled by the circumstances that have opened our Federal courts to enemy combatants. Senator GRAHAM is correct that the present level of accessibility to our courts by individuals who would do us harm is unprecedented in our Nation's history.

However, the seeds of this situation were sown when the President chose our course for the war against terror. Rather than treating our detainees in accordance with the governing principles of military engagement, he chose to institute policies that demonstrate disrespect for the rule of law and have resulted in lowering our country's moral standing in the world. Had the President chosen instead to respect international conventions that provide due process protections, we would not be facing the unprecedented problem of having to make our courts open to our enemies.

I agree that this is an area long overdue for reform. Although it left much to be desired, I voted in favor of the Graham-Levin-Kyl amendment in its original form because it was an improvement over a harsh measure that would have eliminated almost entirely a detainee's ability to challenge his or her detention. In conference, however, House negotiators once again undermined much of the thoughtful deliberation that went into crafting the Graham-Levin-Kyl compromise, stripping out important provisions that would have prohibited the admission of evidence obtained through "undue coercion" and further limiting legal recourse available to detainees.

We must work toward a system that corrects the missteps made by the President and adopt a well-thought-out set of procedures that respects the rule of law and restores our Nation to its proper standing in the world. The system outlined by the Graham-Levin-Kyl amendment as provided in the DOD Authorization conference report falls short of this measure.

The Defense authorization conference report contains a great deal that we in this body can look to with pride. That is why I support the bill as a whole and why I voted in favor of it. We face real challenges and threats as a nation, and our men and women in uniform are, every single day, serving with courage on the front lines in defense of our values and our way of life. I do not vote without concern, however, in light of a few troubling provisions which I fear do not serve the interests of our country or our troops.

Mr. KERRY. Mr. President, the fiscal year 2006 Defense Authorization Act contains a number of provisions that take an important step towards the Military Family Bill of Rights I believe we need.

Among the final provisions, the legislation authorizes an increase of the death gratuity to $100,000 for all active-duty service members. I was pleased to originally offer this provision as an amendment to the fiscal year 2005 supplemental appropriations act earlier this year. I was happy to work with Senator LEVIN on this bill to bring this provision into reality.

I offered another amendment on the supplemental last spring to increase to 1 year the length of time surviving families of service members may reside in Government housing or receive the basic allowance for housing. It was signed into law then, but because it was part of the supplemental, it expired with the end of the fiscal year. The fiscal year 2006 National Defense Authorization Act makes this extension permanent.

I am also pleased that the final bill includes authorization for increased funding for Project Sheriff—an initiative of the Office of Force Transformation to provide our soldiers and marines with a full spectrum of lethal and nonlethal weapons when engaging enemies in an urban environment.

The Defense authorization bill includes other important provisions for our country: a 3.1-percent pay raise for military personnel; increased Army and Marine Corps end strength, and an expansion of TRICARE benefits for members of the Selected Reserve and their families.

Taken together, these provisions are important milestones. They are further testament of this Congress's and this country's determination to maintain the best trained, best equipped, best prepared, and most capable military on earth. It is also a recognition of the important contributions made by military families—families who give so much to this country.

When I voted for this legislation on the Senate floor, one essential aspect was that the limitations placed on the review of habeas corpus claims of Guantanamo Bay detainees were prospective only. I am pleased to say that the bill's effective date was not altered in conference. As a result, as the Supreme Court held in Lindh v. Murphy, it still employs the normal rule that our laws operate prospectively.

Mr. FEINGOLD. Mr. President, I am pleased that the Senate was finally able to debate and pass the Defense Authorization Act. It is indefensible that this important legislation was put on the backburner for so long; held back until the eleventh hour by the majority for various special interests and political reasons. The American people and the troops deserve better than that.

I am pleased that this bill includes important provisions for our men and women in uniform and their families. I am very pleased that we were able to include a 3.1 percent pay raise for all of our men and women in uniform as well as a host of bonus and incentive pays to help the military in its recruiting and retention efforts. The conference report also contains an important provision that permanently increases the death gratuity for those killed on active duty. Although the Senate's strong bipartisan efforts to make TRICARE available for the Guard and Reserve were again watered down in the conference report, the final bill still includes significant improvements in TRICARE access for all of our citizen-soldiers. These are just a few examples of the important provisions contained in this bill.

I am proud that the Congress has finally, definitively, sent such a strong message to the administration about the treatment of detainees by enacting the amendment of the senior Senator from Arizona. The lack of a clear policy regarding the treatment of detainees has been confusing and counterproductive. It has left our men and women in uniform in the lurch with no clear direction about what is and is not permissible. This failure on the part of the administration has sullied our reputation as a Nation, and hurt our efforts to promote democracy and human rights in the Arab and Muslim worlds. I have been proud to support Senator MCCAIN's amendment on interrogation policy because it should help to bring back some accountability to the process and restore our great Nation's reputation as the world's leading advocate for human rights.

Although I voted for the Department of Defense authorization bill, I am disappointed with the mixed messages that the Senate continues to send to the administration and the country on issues related to the detainees held at Guantanamo Bay. Even as we enact the important McCain amendment on torture, the conference report also includes the Graham amendment, which remains deeply troubling because of the restrictions it places on judicial review of detainees held at Guantanamo. However, it is important to note that the provision is limited in critical ways. The provision on judicial review of military commissions covers only "final decisions" of military commissions, and only governs challenges brought under that provision. In addition, the language in section 1405(e)(2) that prohibits "any other action against the United States" applies only to suits brought relating to an "aspect of detention by the Department of Defense." Therefore, it is my understanding that this provision will not affect the ongoing litigation in Hamdan v. Rumsfeld before the Supreme Court because that case involves a challenge to trial by military commission, not to an aspect of a detention, and of course was not brought under this provision. Furthermore, it is important to make clear that this provision should not be read to endorse the current system of trial by military commission for those at Guantanamo Bay. This provision reflects, but certainly does not endorse, the existing status of those military commissions, which is that they are currently legal under a decision of the DC Circuit. However, the Supreme Court has not yet addressed the legality of such military commissions, and this amendment should not be read as any indication that Congress is weighing in on that issue. While I would have strongly preferred that this amendment not be included in the conference report, I think it is important to note these limitations on its practical effect.

I am pleased that the conference report contained a number of provisions I authored, including my amendment to enhance and strengthen the transition services that are provided to our military personnel by making a number of improvements to the existing transition and postdeployment/predischarge health assessment programs. The conference report also includes my amendment that corrects a flaw in the law that unintentionally restricted the number of families of injured servicemembers who qualify for travel assistance. The change in the law now ensures that families of injured servicemembers evacuated to a U.S. hospital get at least one trip paid for so that these families can quickly reunite and begin recovering from the trauma they have experienced.

The military's high operational tempo over the last 4 years led it to keep thousands of troops beyond their contractual separation dates through a policy often referred to as "stop-loss." The Pentagon did a poor job of clearly disclosing to volunteers that they could be stop-lossed and so many who thought they had completed their military service found themselves deployed to a combat zone. It is not difficult to understand how this policy turned upside down the lives of the impacted troops and their families. The conference report includes an amendment I authored requiring the Department of Defense to report on the steps it is taking to clearly communicate the stop-loss policy to potential enlistees and re-enlistees. I hope that, by pushing the Department to report on the actions it is taken to ensure that potential recruits know the terms of their service, the Department will take quick action to address this problem.

Despite the unprecedented levels of defense spending, the Government Accountability Office recently found that the Department of Defense is not only doing a poor job in replacing equipment that is being rapidly worn out but is not even tracking its equipment needs. Military readiness has suffered as a result. I authored an amendment retained in the conference report requiring DOD to submit a comprehensive report in conjunction with the President's annual budget request that details DOD's program strategies and funding plans to ensure that DOD's budget decisions address these equipment deficiencies. Such a report will make DOD's equipment needs more transparent and will allow Congress to provide more effective oversight and hold the Department accountable.

I am disappointed that the conference report did not maintain the bipartisan amendment I authored establishing the Civilian Linguist Reserve Corps, CLRC, pilot project. Our Government is in desperate need of people with critical language skills and the CLRC model, which is strongly supported by the Defense Department, has the potential of addressing this need in a fiscally responsible manner. It is unfortunate that the conferees chose to go another route.

In conclusion, I must note, as I have in all of the 13 years I have served in the Senate, my disappointment that we continue the wasteful trend of spending billions of dollars on Cold War-era weapons systems while not fully funding our current needs. This enormous bill could have been better. However, on balance this legislation contains many good provisions for our men and women in uniform and their families and that is why I support it.

Mr. CORNYN. Mr. President, I express my concern regarding the adoption of the McCain amendment as part of the National Defense Authorization Act. Although I am pleased the legislation now includes important protections for the brave men and women who are interrogating terrorists around the world, I am nevertheless concerned that this legislation may hinder our intelligence collection activities.

Many supporters of the amendment, including the mainstream media, claim that the legislation "bans" torture—leaving the impression that torture was somehow legal under our current laws. This is incorrect. Torture is prohibited under current U.S. law and treaty obligations, and President Bush has unequivocally stated that the United States will not engage in torture, and we will treat all detainees in a humane fashion. In fact, this legislation will likely prohibit current legal interrogation techniques that stop well short of torture and are providing valuable intelligence information.

We all agree that in order to achieve victory in the war on terror, the United States must have the very best intelligence we can acquire through technical means and the interrogation of captured terrorists. Many of these terrorists are highly trained to resist U.S. interrogation techniques. Although I adamantly oppose torture, I believe we must use every legal means—including aggressive interrogation methods that some may find objectionable—to get intelligence that will save American lives. I voted against the McCain amendment out of a deep concern that it would potentially limit certain interrogation methods that may be necessary to save American lives.

We know that aggressive—yet humane—interrogation techniques were instrumental in gaining valuable information from Khalid Sheikh Mohammed, a key architect of the 9/11 attacks, and other terrorists in U.S. custody. We must not abandon these important and legal questioning methods for the sake of political correctness. We must send a strong signal to terrorists everywhere that if they are captured by the United States, while they will be treated humanely, we will use every legal method to force them to reveal their designs on the United States.

Torture does not produce good intelligence. People who are tortured will tell their captors anything they want to hear and not the truth. More importantly, torture does not represent the values of America and all that we stand for as a Nation. However, we should not unnecessarily limit our military and intelligence agencies from aggressively interrogating those individuals who wish to kill innocent Americans. We must always remember that the terrorists who attacked America on 9/11 are relentless in their efforts to destroy us.

Finally, some have argued that the passage of the McCain amendment would have somehow prevented the heinous abuses that we saw at Abu Ghraib prison. This is patently false. The individuals who committed the abuses at Abu Ghraib knew their actions were against the law, yet they violated core American values. The perpetrators of these crimes are now being prosecuted, and the military has undertaken comprehensive reforms to prevent future abuses. As noted by the independent Schlesinger Panel in its report on detainee operations: "There is no evidence of a policy of abuse promulgated by senior officials or military authorities." Our military has detained over 80,000 individuals and the instances of detainee abuse are extremely rare and they are prosecuted when discovered. To imply that our military or intelligence services are torturing detainees as a matter of policy is a distortion of reality.

In our efforts to demonstrate to the world that the United States does not torture terrorists, we must not weaken our ability to prosecute the war on terror. Our military and intelligence personnel must have the tools—including aggressive interrogation techniques—to question captured terrorists. I remain concerned that the McCain amendment, although admirable in its intent, may hinder our efforts to collect vital intelligence, and I make no apologies for endorsing all legal means of obtaining actionable intelligence that will save American lives.

Mr. GRAHAM. Mr. President, today I rise to comment upon the recently passed Defense authorization bill. That bill contained a Graham-Levin-Kyl amendment which dealt with the Combatant Status Review Tribunals and Military Commissions at Guantanamo Bay. I was very pleased to join with Senators LEVIN and KYL and others to offer this amendment, and I want to thank them for working so hard on this issue.

In rising today, I address one particular section of our amendment, the requirement that the tribunals consider whether evidence was coerced. In drafting this section, we were compelled to recognize three basic facts.

First, we were compelled to recognize the impracticality of importing domestic criminal protections into a forum constructed to administer what are essentially enemy soldiers; combatants for a very unique enemy, an enemy without uniforms, capitals, or cohesive command structures, but combatants nonetheless.

Second, we were forced to address the necessity of relying on evidence without a complete picture of how it was obtained; evidence that might be obscured by the fog of war, derived from battlefield intelligence, from classified sources, or even through unknown circumstances.

Lastly, we were required by our constitutional responsibilities to err on the side of protecting the American people. In instances where there is some doubt as to the evidence or the status of the detainee, the benefit of the doubt must go to the government as it seeks to discharge its first duty, providing for the common defense of our people.

In our efforts to balance these interests, we initially included an exclusionary rule for evidence obtained through "undue coercion." We felt that the term "undue coercion" reflected the reality that, in the national security context, there is some level of coercive interrogation that is acceptable. We also understand that, at some point, the reliability of the information can be questioned as a result of the methods used to obtain it. I believe Guantanamo Bay serves a unique and necessary purpose in the war on terror, but we need to ensure that we are holding the right people.

However, upon reconsideration, we came to believe that the term "undue coercion," being a new term without legal precedent, might not be as instructive as we required. Furthermore, a number of the military judge advocates we consulted were concerned that the exclusionary rule could limit them from considering evidence tainted by only an allegation of mistreatment.

Therefore, after much consultation with legal professionals, we decided to eliminate the "undue" qualifier. Unfortunately, striking the qualifier also eliminated the consideration of whether the information was obtained by acceptable sources and methods. Accordingly, we decided to refrain from mandating the exclusionary rule. Instead, our language requires, for the first time, the panels to consider the source of the information and the information's reliability. I am very confident our language provides for the proper consideration.

Now, to be sure, our language also provides for the benefit of the doubt to go to the government. In granting this benefit, however, we recognize that we are fundamentally different from our adversaries. Though we may fail at times, we strive to be fair and just and honorable. And because our military men and women exemplify those values, we can trust them to fairly administer this process. In the end, we must remember that this is a military administrative process, and, with the proper congressional and judicial oversight provided by our amendment, we must trust our professional military officers to do their jobs.

In our amendment as a whole, we sought to protect our national security while still striking the proper balance between aggressively interrogating detainees and providing a competent military administrative process for their status determination. I am confident that this new evidentiary standard serves that goal.

Mr. DURBIN. Mr. President, I rise to speak about the Detainee Treatment Act of 2005, which is included in the Defense authorization conference report.

The Detainee Treatment Act includes two provisions that were adopted in the Senate version of the Defense authorization bill: the McCain antihuman torture amendment and the Graham-Levin Detainee Amendment.

I was an original cosponsor of the McCain Antitorture amendment. I have spoken at length about the vital importance of this amendment on several other occasions. At this time, I simply want to reiterate a couple of points.

Twice in the last year and a half, I have authored amendments to affirm our Nation's long standing position that torture and cruel, inhuman, or degrading treatment are illegal. Twice, the Senate unanimously approved my amendments. Both times, the amendments were killed behind the closed doors of a conference committee—at the insistence of the Bush administration.

I am pleased that the administration has changed its position. As a result, it will now be absolutely clear that under U.S. law all U.S. personnel are prohibited from subjecting any detainee anywhere in the world to torture or cruel, inhuman, or degrading treatment.

The amendment defines cruel, inhuman, or degrading treatment as any conduct that would constitute the cruel, unusual, and inhumane treatment or punishment prohibited by the U.S. Constitution if the conduct took place in the United States. Under this standard, abusive treatment that would be unconstitutional in American prisons will not be permissible anywhere in the world.

Let me give you some examples of conduct that is clearly prohibited by the McCain amendment.

"Waterboarding" or simulated drowning is a technique that was used during the Spanish Inquisition. It is clearly a form of torture. It creates an overwhelming sense of imminent death. It amounts to a clear-cut threat of death akin to a mock execution, which is expressly called mental torture in the U.S. Army Field Manual.

Sleep deprivation is another classic form of torture which is explicitly called mental torture in the U.S. Army Field Manual. It has been banned in the United Kingdom and by a unanimous Israeli Supreme Court, and the U.S. Supreme Court has repeatedly declared it unconstitutional, once citing a report that called it "the most effective form of torture."

The amendment also clearly bans so-called stress positions or painful, prolonged forced standing or shackling. Again, the U.S. Army Field Manual expressly calls these techniques "physical torture." Moreover, one of the most recent Supreme Court cases on the extent of the prohibitions on "cruel and unusual" punishments expressly outlawed the use of painful stress positions, denouncing their "obvious cruelty" as "antithetical to human dignity."

The amendment bans the use of extreme cold, or hypothermia, as an interrogation tactic. Hypothermia can be deadly. Clearly it is capable of causing severe and lasting harm, if not death, and consequently is banned by both the Field Manual and the Constitution.

The amendment bans punching, striking, violently shaking, or beating detainees. Striking prisoners is a criminal offense and clearly unconstitutional. Moreover, while assaults like slapping and violent shaking may not seem as dangerous as beatings, shaking did, in fact, kill a prisoner in Israel, and the tactic has been banned by the Israeli Supreme Court. Numerous U.S. Supreme Court cases likewise prohibited striking prisoners.

The amendment bans the use of dogs in interrogation and the use of nakedness and sexual humiliation for the purpose of degrading prisoners.

No reasonable person, given the text of the amendment, the judicial precedents, and common sense, would consider these techniques to be permitted. Any U.S. official or employee who receives legal advice to the contrary should think twice before defying the will of the Congress on this issue.

The McCain antitorture amendment will make the rules for the treatment of detainees clear to our troops and will send a signal to the world about our Nation's commitment to the humane treatment of detainees.

I want to express again my opposition to the Graham-Levin amendment. The amendment would essentially eliminate habeas corpus for detainees at Guantanamo Bay. In so doing, it would apparently overturn the Supreme Court's landmark decision in Rasul v. Bush.

No one questions the fact that the United States has the power to hold battlefield combatants for the duration of an armed conflict. That is a fundamental premise of the law of war.

However, over the objections of then-Secretary of State Colin Powell and military lawyers, the Bush administration has created a new detention policy that goes far beyond the traditional law of war. The administration claims the right to seize anyone, including an American citizen, anywhere in the world, including in the United States, and to hold him until the end of the war on terrorism, whenever that may be. They claim that a person detained in the war on terrorism has no legal rights. That means no right to a lawyer, no right to see the evidence against him, and no right to challenge his detention.

In fact, the Government has argued in court that detainees would have no right to challenge their detentions even if they claimed they were being tortured or summarily executed.

U.S. military lawyers have called this detention system "a legal black hole."

Defense Secretary Rumsfeld has described the detainees as "the hardest of the hard core" and "among the most dangerous, best trained, vicious killers on the face of the Earth." However, the administration now acknowledges that innocent people are held at Guantanamo Bay. In late 2003, the Pentagon reportedly determined that 15 Chinese Muslims held at Guantanamo are not enemy combatants and were mistakenly detained. Almost 2 years later, those individuals remain in Guantanamo Bay.

Last year, in the Rasul decision, the Supreme Court rejected the administration's detention policy. The Court held that detainees at Guantanamo have the right to habeas corpus to challenge their detentions in Federal court. The Court held that the detainees' claims that they were detained for years without charge and without access to counsel "unquestionably describe custody in violation of the Constitution, or laws or treaties of the United States."

The Graham amendment would protect the Bush administration's detention system from legal challenge. It would effectively overturn the Supreme Court's decision. It would prevent innocent detainees, like the Chinese Muslims, from challenging their detention.

However, I do want to note some limitations on the scope of the Graham-Levin Amendment.

A critical feature of this legislation is that it is forward looking. A law purporting to require a Federal court to give up its jurisdiction over a case that is submitted and awaiting decision would raise grave constitutional questions. The amendment's jurisdiction-stripping provisions clearly do not apply to pending cases, including the Hamdan v. Rumsfeld case, which is currently pending before the Supreme Court. In accordance with our traditions, this amendment does not apply retroactively to revoke the jurisdiction of the courts to consider pending claims invoking the Great Writ of Habeas Corpus challenging past enemy combatant determinations reached without the safeguards this amendment requires for future determinations. The amendment alters the original language introduced by Senator Graham so that those pending cases are not affected by this provision.

The amendment also does not legislate an exhaustion requirement for those who have already filed military commission challenges. As such, nothing in the legislation alters or impacts the jurisdiction or merits of the Hamdan case.

Nothing in the legislation affirmatively authorizes, or even recognizes, the legal status of the military commissions at issue in Hamdan. That is the precise question that the Supreme Court will decide in the next months. Right now, the military commissions are legal under a decision of the DC Circuit, and this amendment reflects but in no way endorses that present status. It would be a grave mistake for our allies around the world to think that we are endorsing this system at Guantanamo Bay—a system that has produced not a single conviction in the 4 years since the horrible attacks of September 11, 2001.

This provision attempts to address problems that have occurred in the determinations of the status of people detained by the military at Guantanamo Bay and elsewhere. It recognizes that the Combatant Status Review Tribunal, CSRT, procedures applied in the past were inadequate and must be changed going forward. As the former chief judge of the U.S. Foreign Intelligence Surveillance Court found, in In Re Guantanamo Detainee Cases, the past CSRT procedures "deprive[d] the detainees of sufficient notice of the factual bases for their detention and den[ied] them a fair opportunity to challenge their incarceration," and allowed "reliance on statements possibly obtained through torture or other coercion." Her review "call[ed] into serious question the nature and thoroughness" of the past CSRT process. The former CSRT procedures were not issued by the Secretary of Defense, were not reported to or approved by Congress, did not provide for final determinations by a civilian official answerable to Congress, did not provide for the consideration of new evidence, and did not address the use of statements possibly obtained through coercion.

To address these problems, this provision requires the Secretary of Defense to issue new CSRT procedures and report those procedures to the appropriate committees of Congress; it requires that going forward, the determinations be made by a Designated Civilian Official who is answerable to Congress; it provides for the periodic review of new evidence; it provides for future CSRTs to assess whether statements were derived from coercion and their probative value; and it provides for review in the DC Circuit Court of Appeals for these future CSRT determinations.

Mr. REID. In a statement on November 15 of this year, I explained my vote on amendments offered by Senators GRAHAM, LEVIN, and BINGAMAN regarding access to the Federal courts for detainees at Guantanamo Bay. Now that a conference report containing a revised version of these provisions is before us, I want to reiterate a few points.

I voted in favor of the Graham-Levin amendment because I believed it was better than the original Graham amendment. Similarly, I will vote in favor of this conference report because I favor the bill as a whole. But I have mixed views on the detainee provisions of the conference report, now in title X as the "Detainee Treatment Act of 2005."

On the one hand, I oppose stripping the courts of jurisdiction to hear habeas corpus petitions. The writ of habeas corpus is one of the pillars of the Anglo-American legal system, and limiting the Great Writ interferes with the independence of the judiciary and violates principles of separation of powers. The action we take today fails to address adequately the Bush administration's flawed policy of detaining suspects indefinitely, in secret, and without access to meaningful judicial oversight.

On the other hand, I support provisions in this bill that require improvements in the procedures and oversight of the Combatant Status Review Tribunals. It is important to ensure that status determinations of those detained at Guantanamo Bay and elsewhere are conducted in accordance with basic requirements of due process and fairness. The Defense Department must address the serious problems identified earlier this year by Judge Green, the former chief judge of the U.S. Foreign Intelligence Surveillance Court.

I am also pleased that the final law would allow courts to consider whether the standards and procedures used by the Combatant Status Review Tribunals are consistent with the Constitution and U.S. laws, that it does not apply retroactively to pending habeas claims that challenge past enemy combatant determinations reached without the safeguards this amendment requires, and that it would allow for court review of the actions of military commissions. I commend Senator LEVIN for his work on these issues.

On balance, I support the final detainee provisions with the following understandings:

First, I am pleased that Senator Graham's original language was altered so that the Supreme Court would not be divested of jurisdiction to hear the pending case of Hamdan v. Rumsfeld. In fact, subsection (h) of section 1005 makes clear that the DC Circuit and other courts will maintain jurisdiction to hear all pending habeas cases, in accordance with the Supreme Court's decision in Lindh v. Murphy.

Second, on a related but distinct point, I believe this act has no impact on the Supreme Court's ability to consider Hamdan's challenge at this preconviction stage of the military commission proceedings. As the DC Circuit held in Hamdan earlier this year, Ex Parte Quirin is a compelling historical precedent for the power of civilian courts to entertain challenges that are raised during a military commission process. Nothing in these sections requires the courts to abstain at this point in the litigation. Paragraph 3 of subsection 1005(e) governs challenges to "final decisions" of the military commissions and does not impact challenges like Hamdan's other cases not brought under that paragraph.

Third, this legislation does not represent congressional acquiescence in or authorization of the military commissions unilaterally established by the executive branch at Guantanamo Bay. Whether these commissions are legal is precisely the question the Supreme Court will soon decide in the Hamdan case. Rather, this legislation reflects the fact that the military commissions are currently legal under the DC Circuit's decision in Hamdan. We legislate against this backdrop in setting up a procedure to challenge the commissions, but we do not necessarily endorse the use of such commissions in this manner.

I hope that the Judiciary Committee soon considers legislation to define the rights of the detainees at Guantanamo with greater care and to develop sensible procedures for enforcing those rights. Congress should be guided by principles of human rights and the rule of law upon which this Nation was founded.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF THE USA PATRIOT ACT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to a bill at the desk relating to the extension of the PATRIOT Act which the clerk will report by title.

The legislative clerk read as follows:

A bill (S. 2167) to amend the USA PATRIOT Act, and for other purposes.

The Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, those of us working constructively to extend the USA PATRIOT Act have repeatedly offered to enter into a short-term extension while we work out the differences and improve this reauthorization legislation. The extension we are passing for 6 months is a commonsense solution that allows us to take a few more weeks to get this right for all Americans.

A majority of Senators—Republicans, Democrats, those Senators who voted for cloture, those who voted against cloture on the conference report that failed to pass the Senate—have joined on a letter urging the Republican leader to act on this commonsense offer by calling up a short-term extension bill.

As soon as it became apparent that the conference report filed by the Republican leadership would be unacceptable to the Senate, I joined on Thursday, December 8, in urging a 3-month extension to work out a better bill. On the first day the Senate was in session, Monday, December 12, Senator SUNUNU and I introduced such a bill, S. 2082. We sent out a Dear Colleague letter to other Senators on December 13 and that bipartisan bill now has 47 cosponsors.

We offered this solution before the vote on the Senate floor last Friday. Contrary to the false claims and misrepresentations by some, there is no effort to do away with the PATRIOT Act. That is just not true. Along with others here in the Senate, I am seeking to mend and extend the PATRIOT Act, not to end it. There is no reason why the American people cannot have a PATRIOT Act that is both effective and that adequately protects their rights and their privacy.

Republican and Democratic Senators joined together last week to say we can do better to protect Americans' liberties while ensuring our national security is as strong as it can be.

Every single Senator—Republican and Democratic—voted in July to mend and extend the PATRIOT Act. I have joined with Senators of both parties in an effort to enact a short-term extension so that we can keep working to improve the bill. This is standard operating procedure in the Congress where we pass extensions in the nature of continuing resolutions regularly. The Sununu-Leahy bill to provide a 6-month extension, S. 2167, accomplishes this purpose. I thank the majority leader and Democratic leader for their leadership in passing this measure.

A clear majority of the Senate, Republican and Democrats, have come together and requested a short-term extension. These are Senators who voted for cloture and Senators who voted against cloture in an effort to improve the long-term extension of the PATRIOT Act. These are Republicans and Democrats.

No Democratic Senator opposes extending the PATRIOT Act. All of the 52 Senators who signed the letter to the majority leader urged its extension.

Our Nation is a democracy, founded on the principles of balanced government. We need to restore checks and balances in this country to protect us all and all that we hold dear. Our Congress and our courts provide checks on the abuse of executive authority and should protect our liberties.

We need to write the law so that Congress has provided its check in the law and so that courts can play their role, as well. All Americans need to take notice and need to demand that their liberties be maintained. We can do better and must do better for the American people.

Just this week, we celebrated the 214th anniversary of the passage of the Bill of Rights, the first 10 amendments to the Constitution of the United States. These amendments ensure some of our most vital freedoms, including the freedom of speech, religion and press in the first amendment. Within these amendments is also the right "to be secure in our persons, houses, papers, and effects, against unreasonable searches and seizures." The Bill of Rights made clear not only the rights of the American people, but also the limitations on the power of government.

Just as we cannot allow ourselves to be lulled into a sense of false security when it comes to our national security, we cannot allow ourselves to be lulled into a blind trust regarding our freedoms and rights. We must remain vigilant on both counts or we stand to lose much that we hold dear.

In arguing for reauthorization of the USA PATRIOT Act, Attorney General Alberto Gonzales sought to assure us that "concerns raised about the act's impact on civil liberties, while sincere, were unfounded." I am not reassured, however.

We need only pick up a morning newspaper to see how the overreaching of the Bush administration plagues our efforts to uphold democracy at home and throughout the world. We have seen secret arrests and secret hearings of hundreds of people for the first time in U.S. history; the abuse of detainees in U.S. custody; detentions without charges and denial of access to counsel; and the misapplication of the material witness statute as a sort of general preventive detention law. Such abuses harm our national security as well as our civil liberties because they serve as recruiting tools for terrorists, intimidate American communities from cooperating with law enforcement, and, by misusing limited antiterrorism resources, make it more likely that real terrorists will escape detection.

We have learned that the Pentagon maintains a secret database containing information on a wide cross-section of ordinary Americans. It keeps track of people like those in Vermont who planned peaceful protests of military recruiters, including one organized by Veterans for Peace. It monitored the activities of an antiwar group that met at the Quaker Meeting House in Lake Worth, FL, a year ago to plan a protest against military recruiting at local high schools.

Similarly, the FBI also engages in monitoring other ordinary, law-abiding citizens. Records show that the FBI kept information on Greenpeace, the American-Arab Anti-Discrimination Committee, and on students and peace activists who attended a conference at Stanford University in 2002. In a similar story, a student at the University of Massachusetts/Dartmouth reportedly was visited by Federal agents in October, after he requested a copy of Mao Tse-Tung's tome on Communism called, "The Little Red Book" through the University's interlibrary loan program. If the FBI is investigating what book a college senior is borrowing, what is it that they are not investigating that they should be?

The New York Times reports that after September 11, 2001, when former Attorney General John Ashcroft loosened restrictions on the FBI to permit it to monitor Web sites, mosques, and other public entities, "the FBI has used that authority to investigate not only groups with suspected ties to foreign terrorists, but also protest groups suspected of having links to violent or disruptive activities." For example, recently disclosed agency records show that FBI counterterrorism agents have conducted surveillance and intelligence-gathering operations on groups concerning the environment, animal cruelty, and poverty relief.

Now we are learning that President Bush has, for more than 4 years, been secretly authorizing warrantless surveillance of Americans inside the United States. In fact, he acknowledges issuing secret Presidential orders to authorize such warrantless surveillance more than 30 times since September 11, 2001.

The U.S. Supreme Court has consistently held for nearly 40 years that the monitoring and recording of private conversations constitutes a "search and seizure" within the meaning of the fourth amendment, extending as far back as the 1967 case, Katz v. United States. It was because of concerns over unconstitutional surveillance of Americans in the 1960s and 1970s that Congress enacted the Foreign Intelligence Surveillance Act in 1978 to provide a legal mechanism for the Government to engage in searches of Americans in connection with intelligence gathering. Unless pursuant to a criminal search warrant issued by a judge on a showing of probable cause, FISA warrants are the exclusive means by which electronic surveillance and the interception of electronic communications may be undertaken pursuant to the rule of law.

The Foreign Intelligence Surveillance Act has been amended over time, and it has been adjusted several times since 9/11. Indeed, much of the PATRIOT Act includes FISA amendments. The law has been further amended since the PATRIOT Act, as well.

Congress allows the FISA Court to operate in secret and authorizes the Government to begin immediate surveillance in an emergency situation, so long as it seeks a warrant from the FISA Court within 72 hours. In addition, Congress has provided that following a declaration of war, the President may authorize electronic surveillance without a court order for a period not to exceed 15 days.

There has never been a leak reported out of the FISA Court. Furthermore, it has never been alleged that FISA's emergency procedures are inadequate or that FISA ties the hands of law enforcement. If the Bush administration believed that FISA was inadequate, it should have alerted Congress to these flaws. It did not. Instead, it worked with me and with others in the days following 9/11 to amend FISA. I chaired the Senate Judiciary Committee at that time, apparently the same time that the Bush administration began surveillance outside FISA. I was not informed of the President's secret eavesdropping program while I chaired the Judiciary Committee in 2001 and 2002. I read about it for the first time in the press last week. Spying on Americans without safeguards to protect against the abuse of government power is unnecessary, and it is wrong.

Over the last week, we have learned of long-term, widespread eavesdropping on Americans by the Bush administration without compliance to the law, without court oversight, and without congressional authorization. Compounding that already troubling discovery were new, disturbing reports that the FBI has been monitoring U.S. advocacy groups working on behalf of the environment and civil rights issues, Quaker meetings and students checking out books to write school papers. This is all too reminiscent of the dark days when a Republican President compiled "enemies lists" and eavesdropped on political opponents and broke into doctors' offices and used the vast power of the executive branch to violate the constitutional rights of Americans.

I was elected to the Senate in the aftermath of Watergate and the White House plumbers and the secret wars that led to the impeachment articles being considered against President Nixon. The Foreign Intelligence Surveillance Act was passed in 1978 as part of the reform and reaction to those abuses. As I have noted, this law has been extensively updated in accordance with the Bush administration's requests in the aftermath of 9/11 and has been modified further in the last 4 years with respect to so-called lone wolf terrorists. Neither in the first year of his Presidency or in the aftermath of 9/11 or in the 4 years since enactment of the PATRIOT Act has President Bush come to Congress and asked us for authority to engage in the kind of extensive surveillance on Americans by the National Security Agency that The New York Times reported and the President has now confirmed that he secretly ordered and has reaffirmed more than 30 times.

We are a nation of laws, and the fact that no person is above the law is a bedrock principle upon which this Nation was founded and one we are defending and fighting for abroad. This type of covert spying on American citizens and targeted groups on American soil betrays that principle.

The chairman of the Judiciary Committee has the right instinct and was right to announce that we need hearings and an explanation, and the American people deserve an accounting for this troubling revelation. Earlier this week, I joined with Senators REID and ROCKEFELLER in requesting specific information from the Bush administration on its covert spying operations domestically. I cannot emphasize strongly enough how important it is for the Bush administration to cooperate with Congress on this matter. No one should be able to conduct secret, illegal spying programs on our soil with no accountability to Congress or the American people.

Congress has passed laws that established a legal way to eavesdrop on al-Qaida and other potential terrorist organizations. Internationally that monitoring should have been done more effectively before 9/11 by this administration. We have established legal authority in emergency circumstances for the Attorney General to proceed first so long as he promptly seeks court approval thereafter. We even provided a 15-day window after a declaration of war. This program has apparently been going on for not 4 days or 14 days but for more than 4 years. That is not pursuant to or consistent with FISA. In the PATRIOT Act and other actions since 9/11, Congress has created additional authorities. But it is Congress that passes laws. The President cannot simply declare when he wishes to follow the law and when he chooses not to.

What happens to the rule of law if those in power abuse it and only adhere to it selectively? What happens to our liberties when the Government decides it would rather not follow the rules designed to protect them?

The Bush administration, in secret legal justifications for a secret eavesdropping program, apparently argues that when the Congress authorized the use of force in September 2001 to attack al-Qaida in Afghanistan, it authorized warrantless searches and eavesdropping on Americans. I voted for that authorization. This program is not what I voted for. Congress did not sign a blank check. The power to eavesdrop on Americans is not even authority that the Bush administration asked for from Congress.

I was chairman of the Judiciary Committee when the President's program was undertaken, and I was never informed of the program or its purported legal justification. In this, as with its detention and interrogation practices, this administration has chosen to go it alone. That is wrong, and it is corrosive to our system of checks and balances.

This is a Government with three coequal branches. As Justice O'Connor reminded the Bush administration, even wartime does not give the President a blank check with regard to power. As I said last week, the same lawyers who advised the President that he was above the law when it came to torture, in a memorandum the Bush administration has had to disavow and withdraw when it was brought to light, have apparently advised the Bush administration that this President has authority to conduct warrantless surveillance of Americans. That is wrong. Accountability is sacrificed when there is rampant unilateralism.

No one can just ignore the law or the constitutional limits on Executive authority that protect Americans' liberties. Accordingly, I urge the Bush administration to make public its purported legal justification for what I view as an illegal program of spying on Americans without court approval. I urge them not just to recite bumper sticker slogans or conclusory statements that they view their actions as consistent with the self-serving rewriting of the law they have secretly made amongst themselves, but to provide that legal justification in the light of day so that Congress and Americans can consider it. Provide and post the legal memoranda.

Al-Qaida knows that we eavesdrop and wiretap. Whether we do so legally, whether we protect the liberties of Americans by respecting the constitutional requirements for court-issued warrants, these aspects are of little concern to terrorists but matter greatly to Americans. I expect that when the supposed legal underpinnings for the President's eavesdropping program are examined, they, too, will be withdrawn and disavowed by this administration. I also expect that they will be rejected by an honest review in Congress, in the courts, and certainly by the American people. I ask that a copy of a letter to the President of which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, December 20, 2005.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Your recent acknowledgement of the existence of a highly-classified program to conduct electronic surveillance on U.S. citizens and permanent residents without obtaining a court order as required by law has raised a number of troubling issues in the minds of the American people. That is why Democrats and Republicans have called for prompt and thorough congressional investigation of this program. We write to ask that you immediately provide Congress with additional details on the extent and scope of this program, your legal justification for your actions, and your efforts to inform Congress about this program.

The relevant law governing surveillances, the Foreign Intelligence Surveillance Act of 1978 ("FISA"), could not be clearer on the need to obtain a court order for such surveillance. It also provides for emergency procedures and for authorization of electronic surveillance during a time of war, with reasonable time limits beyond which a court order must be obtained. We are deeply troubled by your assertions that the Constitution and the Authorization for Use of Military Force passed by Congress following the 9/11 attacks provide you justification for contravening a statute's clear language. In your public statements to date, you have not made a convincing legal argument for the authority to do so.

In addition, public statements by several of the handful of Members of Congress who were provided a briefing on this program indicate that insufficient information was provided to them under ground rules that did not enable Congress to conduct satisfactory oversight. There are questions whether your Administration has properly complied with the National Security Act of 1947 requirement to keep the appropriate committees of jurisdiction "fully and currently informed of the intelligence activities of the United States."

It is important for Congress to review these matters. We respectfully ask that you cooperate fully to provide all necessary information on all relevant aspects of this program, including presidential orders, supporting legal opinions, complete descriptions of actions taken under the program, and other information, to the appropriate oversight committees.

As Congress begins to examine this program in greater detail, it is clear Congress and the American people need immediately to understand at least four issues:

(1) Under what specific legal authorities did you authorize warrantless electronic surveillance of American citizens and permanent residents inside the United States?

(2) Given your assertion that the FISA is insufficient in providing appropriate authority and procedures to protect Americans from terrorism, what specific powers or authorities are insufficient and why, in the four years since the 9/11 attacks, has your Administration not proposed correcting modifications?

(3) You have stated that you authorized the NSA to intercept the international communications of people with known links to al Qaeda and related terrorist organizations. Have you ever authorized the interception, without a warrant, of purely domestic communications, or communications of people without known links to al Qaeda and related terrorist organizations?

(4) Could you please provide additional information on the legal and other justifications for limiting briefings on these matters to a handful of Members of Congress, as well as information on the dates, attendance, and issues discussed at these briefings, so it can be determined whether you complied with the letter and spirit of the National Security Act of 1947?

Sincerely,

HARRY REID,
Democratic Leader.
JOHN D. ROCKEFELLER IV,
Vice Chairman, Select Committee on Intelligence.
PATRICK LEAHY,
Ranking Democrat, Committee on the Judiciary.

Mr. BIDEN. Mr. President, according to the Book of Mark, Jesus asked this question: "For what shall it profit a man, if he shall gain the whole world, and lose his own soul?" Mark 8:36.

I would ask the President of the United States a similar question—what good is it to expand the power of the President, if in the process you erode the fundamental freedoms guaranteed by the U.S. Constitution?

Last week, we learned—from a New York Times report and then from President Bush himself—that since September 11, 2001, the President of the United States has authorized the National Security Agency to conduct electronic surveillance of American citizens on American soil without resort to the procedures of the Foreign Intelligence Surveillance Act.

Today we learn, contrary to assurances by administration officials, that the NSA has also conducted warrantless surveillance of purely domestic phone calls because of the technical difficulties of determining the physical location of a particular telephone.

There is still much that we do not know about this secret program and much that we do not know about the purported legal basis for it. In briefing the press on Tuesday, the Attorney General noted that people criticizing the administration are proffering opinions based on "very limited information," and that such critics "probably don't have the information about our legal analysis."

But we do know this: for the past 4 years, the Bush administration has aggressively sought to expand the power of the President beyond recognition. In the face of this campaign, a Republican Congress has largely stood idle, reluctant to exercise its constitutional duty of oversight.

The Framers provided for a system of checks and balances in the Constitution for one simple reason: to protect against abuse of power by any branch of government in order to protect our personal freedoms.

In its zeal to expand the power of the President, the Bush administration's actions have threatened the fabric of the Constitution. These are hardly the actions of a self-described conservative who professes to want to reduce the power of the National Government.

It would be one thing if the President's actions to expand Presidential power reflected sound judgment and wisdom. But again and again, the President's overreaching in the name of security has been profoundly misguided, and has undermined support for the war against al-Qaida at home and abroad: in his decision to create special military tribunals for al-Qaida suspects held in Guantanamo Bay, a system that has yet to produce a complete trial, in his decision to authorize secret prisons abroad holding terrorist suspects—including, apparently, using facilities once operated by Soviet Intelligence agencies; in his decision to play fast and loose with time-tested standards against torture; and now in his decision to unilaterally authorize secret wiretaps of Americans without a court order.

Without more information from the Executive, it is difficult to judge the legality of the President's secret spying program. I call on the Attorney General, therefore, to provide the necessary information by promptly releasing the legal opinions governing this program—so that the Congress and the American people can assess the propriety of the President's actions. And I call on the Director of National Intelligence to promptly provide full and complete briefings to the appropriate congressional committees on the scope and operation of this program.

What is clear today is that the President of the United States decided to create a new system outside the framework of the Foreign Intelligence Surveillance Act of 1978—a framework that Congress designed to be comprehensive for electronic surveillance of foreign powers and agents of foreign powers. It is this framework on which I will focus my remarks today.

The Foreign Intelligence Surveillance Act, or FISA, was enacted in 1978 after a 3-year effort to do so.

As stated in the report of the Senate Select Committee on Intelligence, the purpose of the law was to provide regulation for "all electronic surveillance conducted within the United States for foreign intelligence purposes" in order to provide a check against abuses that had been revealed by the investigation of the Church Committee.

The bill was a bipartisan product: in the Senate, the original version introduced in 1977 that served as the basis of the 1978 law was sponsored by Senators across the ideological spectrum—including Birch Bayh, TED KENNEDY, Mac Mathias, James Eastland, and Strom Thurmond. The Senate ultimately adopted the bill on April 20, 1978, by a strong, bipartisan vote of 95 to 1. At the time the bill was approved in the Senate, I stated that it "was a reaffirmation of the principle that it is possible to protect national security and at the same time the Bill of Rights." I was also a member of the conference committee that produced the final version of the law that was enacted with broad support in October 1978.

Here is what we did in 1978. FISA was designed to govern our collection of "foreign intelligence." Typically, in the criminal context, search warrants can only be issued if the Government can demonstrate to a neutral judge that probable cause exists to believe a crime has been committed.

Under FISA, surveillance orders are issued so long as probable cause exists that someone is an "agent of a foreign power." That term has been expanded in the last year to even include a lone wolf terrorist; in other words, someone not affiliated with a known terrorist organization.

Not only is the standard different under FISA, but the FISA process is done in secret, with a special court known as the Foreign Intelligence Surveillance Court. This is a court made up of Federal judges who sit on U.S. district courts. I should parenthetically note that we learned today that one of the 11 judges on this court just resigned in reaction to President Bush's unilateral domestic spying program.

When we wrote FISA, we knew there could be times when the President would have to act quickly. We knew there would be times when probable cause would have to be demonstrated to the FISA court after the surveillance began. We contemplated emergencies and wrote the law so that it could deal with them.

First, we addressed emergency situations in section 105(f) of the act, which provides that if the Attorney General reasonably determines that an emergency situation exists—and that his investigators need to target a wiretap against an agent before an application can be made to the FISA Court—he may do so for 72 hours. The original act provided for only a 24-hour emergency period, but Congress expanded that period to 72 hours in December 2001—after the attacks on 9/11. Similarly, in enacting the Patriot Act in 2001, Congress provided other changes to FISA.

It is therefore difficult to accept the contention of the Attorney General that Congress has been unwilling to help the President meet the challenges we now face.

The law is clear on the steps the Attorney General needs to take to wiretap suspects without first obtaining a warrant: he must tell a FISA Court judge at the time of the authorization that he has taken such emergency measures, and he has to apply for post-hoc approval as soon as is practicable but not later than 72 hours after the surveillance has commenced.

We envisioned another emergency that could authorize warrantless intelligence searches: a declaration of war. Section 111 lets the Attorney General authorize electronic surveillance without a court order to acquire foreign intelligence information for up to 15 calendar days following a declaration of war by Congress. Although the "Authorization for the Use of Military Force" approved just after 9/11 was not, technically speaking, a declaration of war, it was the constitutional equivalent under the war clause to permit the use of force in Afghanistan, and the President would have been justified to exercise these extraordinary surveillance powers in the first 2 weeks after enactment of the joint resolution.

It is also important to note that FISA, on its own terms, set up a comprehensive and exclusive system for domestic wiretapping. Section 2511(2)(f) of Title 18, United States Code, states that FISA, when combined with wiretap authority for domestic criminal investigations, is the "exclusive means by which . . . the interception of domestic wire, oral and electronic communications may be conducted."

That is why George Will recently had this to say about the administration's tortured legal reasoning, "The President's authorization of domestic surveillance by the National Security Agency contravened a statute's clear language."

It is also worth looking at how the FISA system has operated throughout its 27 years of existence. I would submit that it has served us well.

To those who would say it is too restrictive on our ability to gain intelligence, I would respond that the FISA Court has only rejected 5 applications out of approximately 19,000.

To those who would say that the system is too lenient, I would respond that the important piece of the equation with FISA is that it has some independent review of the executive branch—in this instance, by an independent Article III judge.

And yet, even with a history of a FISA court that approves the overwhelming majority of applications, and even with the two emergency exceptions, there are some who still argue that the administration needs additional flexibility.

For example, there are some who would say that FISA wouldn't allow us to tap the phone numbers found in the cell phone of a top al-Qaida target. With all due respect, a phone number found in a top al-Qaida operative's cell phone would seem to me to comfortably satisfy the "probable cause" standard outlined above. And if there were an urgent need to tap these phone numbers promptly—as I am sure there would be—no one has explained why this couldn't be done under the 72-hour emergency exception.

Rather, we have the disturbing spectacle of the Deputy Director of National Intelligence, General Hayden, complaining that "FISA involves marshaling arguments . . . FISA involves looping paperwork around."

Exactly right. FISA isn't a high hurdle—but it does require the executive branch to justify the extraordinary surveillance of American citizens to a judicial officer. Isn't this the rule of law that we are fighting to defend? And when FISA has needed updating over its 27-year existence, Congress has, time and time again, stepped up to the plate.

When we first enacted FISA, its scope was limited to wiretapping and other electronic eavesdropping. It has since been amended to authorize pen/trap orders and business record orders; in reaction to the Zacarias Moussaoui case, Congress created the so-called "lone wolf" provision; after 9/11, we extended the emergency period from 24 to 72 hours; and the list goes on and on.

If additional changes need to be made to FISA, this Senator stands ready and willing to engage in that exercise.

The alternative is the course on which the President has embarked, directly contravening a specific statute and relying on a dangerously expansive view of his Commander in Chief authority—a view that would potentially expose thousands of Americans who make a phone call abroad to surveillance of this sort. This is a course that we tried to avoid when we drafted the FISA Act in the first place. As I said in 1978 when FISA was originally passed, "it is not necessary to compromise civil liberties in the name of national security." I hope the lessons from 1978 and the real story about what FISA allows can inform the debate going on today.

This debate is just beginning. Congress must stand up to this Presidential overreaching, examine what occurred, and provide corrective action. Senator SPECTER, the Chairman of the Judiciary Committee, has promised to hold hearings on this matter. I commend him for that.

But we will need the full cooperation of the Executive in this undertaking, and the administration can start by coming clean with the full legal reasoning for the President's domestic spying program.

There will be much more to say—and learn—in the second session of the 109th Congress. The executive branch's program must be subjected to close scrutiny by this Congress to ensure that in pursuit of terrorists or suspected terrorists, we are not sacrificing essential freedoms that we hold dear.

Mr. LEVIN. Mr. President, more than 50 years ago, Justice Robert Jackson said:

> With all its defects, delays and inconveniences, men have discovered no technique for long preserving free government except that the Executive be under the law, and that the law be made by parliamentary deliberations.

I am deeply troubled by recent revelations that the President of the United States has apparently personally authorized spying on the private phone conversations of Americans without court approval, as is required by law. The President's decision to ignore the law Congress wrote and bypass the special court we created raises profound concerns that deserve our immediate attention.

Yesterday, I joined several of my colleagues in requesting a joint inquiry into the President's actions by the Senate Intelligence and Judiciary Committees.

Checks and balances are the bedrock of our system of government. In 1978, when Congress passed the Foreign Intelligence Surveillance Act to permit the Government to seek court orders to tap the phones of people in the United States, Congress put in the law a check—the FISA Court—on the executive branch's authority.

Since 1979 the FISA Court has approved nearly 19,000 applications for FISA wiretaps. The Court has rejected only a handful.

Last year, at a speech in Buffalo, NY, the President explicitly cited the need for a court order as a reason why Americans should have confidence that their civil liberties are being protected. He said:

> Any time you hear the United States government talking about wiretap, it requires—a wiretap requires a court order. Nothing has changed, by the way. When we're talking about chasing down terrorists, we're talking about getting a court order before we do so. It's important for our fellow citizens to understand . . . constitutional guarantees are in place when it comes to doing what is necessary to protect our homeland, because we value the Constitution.

But now the President acknowledges that 4 years ago, he authorized wiretaps on Americans without court review. Now he asserts that he has the authority—without court approval—to order the wiretaps himself and we now know that the Government was conducting warrantless wiretaps when the President made the statement in Buffalo.

If the court isn't consulted, where is the check on executive power?

The President has said that he consults with executive branch lawyers and has briefed Congressional leaders about the domestic spying program.

But to suggest that consulting with executive branch lawyers is a check on Executive Branch authority demonstrates a fundamental misunderstanding of the concept of checks and balances. And notifying a few members of Congress—if that is in fact what the administration did—is not the check provided by law. That check is the court.

In the conference report that accompanied the FISA law. Congress made the Supreme Court the only body that could authorize electronic surveillance by the executive branch not explicitly authorized by the FISA law. The conference report said:

> The conferees agree that the establishment by this act of exclusive means by which the President may conduct electronic surveillance does not foreclose a different decision by the Supreme Court . . .

Executive Order 12333. issued by President Reagan in 1981, recognizes FISA as the governing law for foreign intelligence wiretaps. It provides that:

> Electronic surveillance, as defined in the Foreign Intelligence Surveillance Act of 1978, shall be conducted in accordance with that Act, as well as this Order.

And, under FISA itself. a person is actually guilty of a crime if he engages in electronic surveillance except as authorized by statute.

> A person is guilty of an offense if he intentionally—(1) engages in electronic surveillance under color of law except as authorized by statute.

The President has not provided any legal opinion that supports his claim of authority.

On Monday, the President said that the targets of the spying are "those that are known al Qaeda ties and/or affiliates." But the FISA law says that wiretap orders may be issued by the court if there is probable cause to believe that the target of the wiretap is a foreign power or an agent of a foreign power. If the targets of the spying have known al Qaeda ties, why didn't he get a FISA court order?

The President has also tried to justify the warrantless spying by saying "Sometimes we have to move very, very quickly." That is true. In some cases we do have to move quickly. But the FISA law addresses such occasions. It explicitly allows the Attorney General. to issue emergency wiretap orders without first obtaining court approval. His wiretap application need only be filed with the FISA court within 72 hours after surveillance is authorized.

The President claims that he has authority under the Constitution to authorize wiretaps without court approval as required by law. Yet he refuses to provide any legal opinions justifying that view.

The Attorney General is quoted in the Washington Post as saying "This is not a backdoor approach . . . We believe Congress has authorized this kind of surveillance" and he points to the Authorization for Use of Military Force passed by Congress in September 2001 as a source of Congressional authorization.

That Resolution states:

> That the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.

The assertion that "necessary and appropriate force" includes the authority to wiretap American citizens in the United States, is, on its face, without merit. And again. the President has not provided any legal opinion that would support that interpretation.

The Attorney General undermined his own statement that the Congress authorized warrantless wiretaps by telling the Post that the President had contemplated asking Congress to pass legislation granting him that authority but decided against it because it "would be difficult, if not impossible" to pass. Taken together, the two statements of the Attorney General make no sense. He asserts both that Congress authorized the wiretapping and that it never would. The Attorney General is trying to have it both ways. We need some straight answers.

So, why wasn't the FISA law followed?

Just this morning, the Washington Post reported that General Michael Hayden—the head of the National Security Agency—the agency the President has charged with carrying out the spying—suggested that getting retroactive court approval is inefficient because it "involves marshaling arguments" and "looping paperwork around."

I would remind General Hayden—and the President for that matter—of something else Justice Jackson said. He said:

> The doctrine of the separation of powers was adopted by the Convention of 1787, not to promote efficiency but to preclude the exercise of arbitrary power.

Just as troubling as General Hayden's reason for bypassing FISA is the Post's report that the decision to tap a phone without a warrant "requires only the approval of a shift supervisor."

That is outrageous. We don't let shift supervisors at the airport decide to stop screening passengers for explosives. And we shouldn't let shift supervisors at the NSA decide whether to abide by the law or not.

The President says that this is a different era and a different type of war. And he is right. But this is the same country, with the same Constitution, and the same system of checks and balances that have served us so well for more than 200 years. And even Presidents are not above the law.

Mr. DODD. Mr. President, I rise to speak on the PATRIOT Act Reauthorization conference report.

I voted for the original legislation in 2001. Along with 98 of my colleagues, I supported that bill because I decided that on balance, the PATRIOT Act it would enhance our Nation's ability to fight terrorism without substantially encroaching on our citizens' civil liberties. At the same time, I and many of our colleagues understood that aspects of the law should be revisited. For that reason, a number of provisions were set to sunset on December 31, 2005. After careful, bipartisan review of these provisions, it became evidence to many of us that certain improvements are necessary to maintain the balance between fighting terrorism and protecting civil liberties. For that reason, I joined with a bipartisan group of Senators to cosponsor the SAFE Act, which would have modestly reformed the 2001 PATRIOT Act to provide procedural safeguards and increase judicial review.

In July of this year, the Senate unanimously passed a PATRIOT Act reauthorization bill. While that bill was not perfect, it took significant steps to fix shortcomings in the current law and strength our Nation's ability to fight terrorism while still protecting the civil liberties that are the cornerstone of a free and secure democratic society. The House also passed a reauthorization bill, which did not come as close to reaching this goal. Conferees were appointed to work out a compromise.

Prior to the Thanksgiving recess, a draft PATRIOT Act reauthorization conference report was circulated by conferees. At the urging of several Senators, Senator SPECTER and others took the conference report back to the conferees to try to negotiate additional modifications. They are to be commended for their efforts to reach a compromise that would earn broad bipartisan support.

When the conference was concluded, a number of our colleagues, including Senators LEAHY, KENNEDY, ROCKEFELLER, and LEVIN declined to sign the conference report due to their exclusion from key negotiations and their conclusion that the conference report failed to sufficiently meet the dual objective of combating terrorism and defending freedoms.

While I believe that the conference report is an improvement over current law, the provisions related to section 215, national security letters, and roving wiretaps have still given me pause. First, under section 215, also called the business records provision, current law allows the Justice Department to obtain medical records, business records, library records, or other tangible items of individuals by merely showing that the items are relevant to a terrorism investigation. The unanimously agreed upon Senate bill requires that the Government show that a person whose records are sought have some connection to a suspected terrorist or spy organization. Unfortunately, the conference report differs from the Senate version as it maintains the minimal standard of relevance without a requirement of fact connecting the records sought, or the individual, suspected of terrorist activity. Additionally, the conference report does not impose any limit on the breadth of the records that can be requested or how long those records can be kept by the Government.

Under the current PATRIOT Act, an individual who receives a section 215 order to turn over business records is prohibited from telling anyone about the order. This is referred to as a "gag order." The conference report is an improvement over current law as it explicitly grants the right for a suspect to consult with an attorney regarding this "gag order" but unlike the Senate version, the conference report also requires an individual who receives a Section 215 order to notify the FBI if he consults with an attorney and to identify the attorney.

Second, under current law, the FBI can issue a national security letter—"NSL"—without the approval of a judge, grand jury, or prosecutor, to obtain certain types of sensitive information about innocent individuals. Similar to a 215 order, the targeted individual is restricted by a gag order. While the conference report does provide the right to challenge the NSL demand, it also requires the court to accept as conclusive the Government's assertion that a gag order should not be lifted, unless the court determines the Government is acting in bad faith.

I also find it troubling that the conference report would give the Government the authority to keep all evidence secret from an individual who is challenging a 215 order or an NSL order. For example, if an attorney wants to challenge an order to turn over the business records of a client on the grounds of attorney/client privilege, they would not be allowed to see the evidence the Government had requested or the reasoning behind the request. It is also important to note that the recipient of a Section 215 "business records" order or an NSL order is usually not the subject of investigation. For example, a doctor could receive a Section 215 order from law enforcement to reveal the medical records of a patient. Under this conference report, that patient would not even receive notice that the Government had obtained his personal information and would never have the opportunity to challenge the use of that information in a trial.

Third, I would like to address "roving wiretaps." A "roving wiretap" is a tap on any telephone that a suspect uses, moving from one telephone to another, with no particular locational target. Under the PATRIOT Act, the FBI is authorized to engage in roving wiretaps without court approval. The Senate bill mandated that a roving wiretap include sufficient information to describe the specific person to be wiretapped with "particularity." "Particularity" is a legal term of art describing the place or places to be searched, the person or persons, thing or things to be seized, the communication to be intercepted, and the nature of evidence to be obtained. The conference report does not include that requirement and it does not require the Government to determine whether the target of a roving intelligence wiretap is present before beginning surveillance. Without this level of specification it is easy to see how roving wiretaps could be abused to secretly record the conversations of Americans without their knowledge or consent.

However, I would also like to note that the conference report is an improvement over current law as it includes a number of comprehensive public reporting and auditing requirements which would help prevent abuse of section 215 orders and to help preserve civil liberties. Additionally, the conference report also maintains provisions from the Senate bill that address the shortcomings of current law, including expressly permitting the recipient of the national security letter or a section 215 order to consult with an attorney, requiring the Government to notify a target of a warrantless search within a set number of days, and limiting the use of roving wiretaps to those cases in which the FBI includes a "specific" description of the target and "specific facts in the application" that show the target's actions may thwart conventional surveillance efforts.

The PATRIOT Act Reauthorization conference report passed the House by a vote to 251-174 on December 14 and was brought to the Senate floor for debate. On December 16, Senator FRIST attempted to invoke cloture to bring this body to a vote on the conference report. Cloture was not invoked. I was necessarily absent from the Senate for health reasons.

Since then I have joined 47 of my colleagues in cosponsoring S. 2082. The bipartisan legislation, introduced by Senators SUNUNU and LEAHY, would provide a 3-month extension of the expiring provisions of the PATRIOT Act. Unfortunately, Senator FRIST has said he will not permit a vote on it; the House leadership has said they will not bring it to the floor for a vote; and the Bush administration has stated that, even if the extension were to pass both the House and the Senate, President Bush would refuse to sign it. My fellow colleagues have asked this body more than a half dozen times to allow this 3-month extension to come to the floor. They have been denied this opportunity. This is playing politics with an extremely important law that protects our citizens from terrorism.

Earlier this week, the President, in speaking of the PATRIOT Act, said, "in a war on terror, we cannot afford to be without this law for a single moment." I agree with his statement. That is why there is no reason why the President and those on the other side of the aisle should refuse to extend this important law. This is why I remain hopeful that the majority leader will set aside politics and allow this extension to occur. Law enforcement officials should not be without these important tools to fight terrorism for even a single moment. We would then have the opportunity to return after the holidays to address these areas of concern and hopefully pass a bipartisan bill that would enhance our ability to fight terrorism without substantially encroaching on our civil liberties.

The PRESIDING OFFICER. Under the previous order, the bill is read a third time and passed, and the motion to reconsider is laid upon the table.

The bill (S. 2167) was read a third time and passed, as follows:

S. 2167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF SUNSET OF CERTAIN PROVISIONS OF THE USA PATRIOT ACT AND THE LONE WOLF PROVISION OF THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.

Section 224(a) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (18 U.S.C. 2510 note) is amended by striking "December 31, 2005" and inserting "July 1, 2006".

MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION—CONFERENCE REPORT—Resumed

Mr. McCONNELL. Mr. President, notwithstanding the previous order, I ask unanimous consent that the Senate proceed to the consideration of the conference report to accompany H.R. 3010, that the conference report be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The clerk will report the conference report by title.

The legislative clerk read as follows:

A conference report to accompany H.R. 3010 making appropriations for Departments of Labor, Health and Human Services and Education, and for other purposes.

There being no objection, the Senate proceeded to consider the conference report.

Mr. KYL. Mr. President, I rise today to call attention to a provision contained in the conference report to H.R.

3010, the fiscal year 2006 appropriations bill for Departments of Labor, HHS, and Education. I am pleased to see that House and Senate conferees were able to provide $100 million for the Teacher Incentive Fund. The Teacher Incentive Fund was first proposed in the President's fiscal year 2006 budget, and will offer an appropriate incentive to States and local education agencies to advance the goals of the No Child Left Behind Act.

The No Child Left Behind Act, enacted 4 years ago, raised expectations for students and teachers. Students are expected to raise their achievement level, and teachers are accountable for reaching the specific goals. The Teacher Incentive Fund is an appropriate follow up to the No Child Left Behind Act. It is a pilot program for States and school districts to provide additional compensation to teachers who make a measurable impact on raising student achievement. Under this incentive program, Federal funds would be available to States and local school districts for the purpose of developing new compensation systems to reward teachers who raise achievement and to provide an incentive to attract effective teachers to what the Department of Education calls high-need schools. These are schools with high poverty rates and poor performance on State assessments. The Teacher Incentive Fund provides States and school districts with another tool to raise teacher quality and, thus, close the achievement gap, which, of course is the primary goal of the No Child Left Behind Act.

In October, the Senate Republican Policy Committee, of which I am the chairman, released a policy paper in support of merit pay for teachers in general and the Teacher Incentive Fund specifically. The paper, titled "Teachers Are Key to Success of 'No Child Left Behind' Act: Better Pay for Better Teaching," discusses research in support of merit pay for teachers, and the success merit pay programs have achieved.

Mr. President, I ask unanimous consent that this paper be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TEACHERS ARE KEY TO SUCCESS OF 'NO CHILD LEFT BEHIND' ACT: BETTER PAY FOR BETTER TEACHING

INTRODUCTION

Enacted four years ago, the No Child Left Behind (NCLB) Act raised expectations for students and teachers. Students are expected to raise their achievement level, and teachers are accountable for reaching the specific goals. As such, it is appropriate to reward and acknowledge those teachers who, by working harder and smarter, have achieved measurable success in their classrooms.

President Bush has proposed a pilot program for states and school districts to provide additional compensation to teachers who make a measurable impact on raising student achievement. Under this incentive program, federal funds would be available for the purpose of developing new compensation systems to reward teachers who raise achievement, and to provide an incentive to attract effective teachers to what the Department of Education calls "high-need" schools, which are schools with high poverty rates and poor performance on state assessments.

In response to the President's proposal, the House of Representatives included an incentive pay program for teachers in its Fiscal Year 2006 appropriations bill that funds the Department of Education (H.R. 3010). The House-passed program, like the one proposed by the President, is a voluntary pilot program available to interested states and school districts. The Senate-reported bill does not contain such a provision.

Some observers may be concerned that using federal dollars for anything related to teacher pay is an inappropriate intrusion of the federal government into an area that is historically the jurisdiction of states and local school districts. However, supporters of this concept view it in the context of a natural follow-up to the four-year-old NCLB. That law placed new accountability requirements upon schools; thus, it is argued, it is now appropriate for the federal government to make available financial incentives for teachers who help meet those requirements. The concept of the President's proposal and the House plan is to provide states and school districts with another tool to raise teacher quality and close the achievement gap, which stand as the foundation of NCLB.

According to a November 2004 national survey, 80 percent of the public supports salary increases for teachers who raise student achievement. However, some observers suggest that teachers' unions oppose anything that might be construed as merit pay. At least one observer notes that union opposition stands in the way of local districts implementing merit pay systems on a larger scale. For example, in California, in response to Governor Schwarzenegger's proposal to introduce merit pay for teachers, the state's largest teachers' union sought to impose a dues hike on its members to help raise "tens of millions of dollars" to combat merit pay and other budget initiatives. A federal pilot program, such as the one proposed by the President, may be necessary to allow public schools to overcome teachers' unions' opposition to implementing a compensation program that links teacher performance and student outcomes. The pilot program would provide funds directly to state and local educational agencies to allow this concept—one that has already proven successful in other schools—the chance to prove itself and build support within the community. This was the case in Little Rock, Arkansas. Merit-pay bonuses were paid in the first year by an anonymous donor; the next year, the school district, pleased with the results of the first year, voted to use its own funds to pay performance bonuses.

BACKGROUND: AN ANTIQUATED PAY SYSTEM

Today, the majority of teachers in the United States are compensated through a "single salary schedule," which bases teachers' pay on their years of experience and their education credits and degrees. According to the National Center for Education Statistics, 96 percent of all public school districts utilize a single-salary schedule for teacher pay. The system was designed in the 1920s to ensure fairness among elementary school teachers, who were mostly women, and secondary teachers, who were mostly men. Critics contend that this pay system fails teachers and students as it does nothing to reward excellence. Indeed, it promotes equal pay for unequal performance. Under the current system, an increase for one teacher means an increase for all. The following table shows the Denver Public Schools' salary schedule as offered by Brad Jupp, education author and member of the Denver Classroom Teachers Association. According to Jupp, it is an example of a "typical single-salary schedule" used for paying teachers.

FIGURE 1.—DENVER'S SALARY SCHEDULE [1]

	B.A.	M.A.	Doctorate
New Hire	$31,320	$31,779	
Step 1	32,971	33,454	$39,169
Step 2	33,073	33,697	40,903
Step 3	33,225	35,101	42,642
Step 4	33,480	36,503	44,377
Step 5	33,785	38,053	46,251
Step 6	33,988	39,671	48,219
Step 7	35,421	41,337	50,290
Step 8	36,912	43,087	52,449
Step 9	38,456	44,924	54,702
Step 10	40,092	46,860	57,057
Step 11	41,784	48,843	59,521
Step 12	43,566	50,944	62,082
Step 13	45,546	53,401	64,919

[1] With relatively low starting salaries and guaranteed raises over time, the current Denver Public Schools salary schedule is typical of compensation schemes for teachers. Each step represents a year of teaching.

Source: Denver Public Schools.

Proponents of changing teacher compensation argue that the single-salary schedule deprives public school administrators of the ability to adjust an individual teacher's pay to reflect performance, attract sought-after skills, and assure that teaching positions in low-income schools are filled by high performers. For example, many school systems struggle to fill teaching positions in fields that command high salaries outside of education, such as math and science. The rigidity of the single-salary schedule prevents them from addressing this shortage in the obvious way—by raising pay in these specialties. Likewise, few school systems provide extra compensation to teachers who work with disadvantaged students. Therefore, experienced teachers often use their seniority to transfer to more attractive schools, leaving the neediest students with more inexperienced teachers.

With such obvious flaws in this rigid pay system, why don't states and local school districts reform their pay practices for teachers? The short answer is teachers' unions. Unions defend the single-salary schedule in the name of employee equity and fairness, and oppose changes that rely on student performance as a measure of a teacher's effectiveness. Furthermore, teachers' unions, particularly the National Education Association, have opposed merit pay systems because they place the union in an awkward position: "For every teacher awarded merit pay, ten others will want the union to file a grievance alleging that they deserved merit pay more than the teacher who received it."

WHY MERIT PAY ENHANCES NCLB GOALS

The No Child Left Behind Act requires that all students become proficient in reading and math, and that the achievement gap between students of different socio-economic backgrounds be closed. Schools that do not make progress must provide supplemental services, such as free tutoring, and/or offering the option of choosing another public school. They must also take corrective action with regard to the way the school is run. The law, recognizing that high-quality, effective teachers are a necessary component to obtaining these results, established certain teacher-quality requirements for states, including the requirement that core academic subjects be taught by "highly qualified teachers." And while federal funds already are in place for professional training and development to help states and school districts meet this requirement, that program alone may be insufficient. The General Accounting Office (GAO) reported in 2003 that state and district officials are hindered in their ability to obtain all highly qualified teachers for a number of reasons, including "the lack of incentive pay programs."

In keeping with the rationale that teachers are the key to the success of NCLB's goals, and so should be rewarded for meeting them, the President proposed a $500 million Teacher Incentive Fund as part of his FY 2006 budget request. This formula grant program is for states and school districts that choose to reward effective teachers—those who are closing the achievement gap for students in schools most in need, and those who otherwise are meeting NCLB annual targets for student achievement. Under the President's proposal, states would be authorized to create a statewide system to reward these teachers, and to provide grant money to local school districts in order to recruit highly qualified teachers to high-need schools. Additionally, the President requested that a portion of the funds be used for competitive grants for the development and implementation of performance-based teacher compensation systems in order to aid school districts that choose to change to such a system.

H.R. 3010, the House-passed Fiscal Year 2006 appropriations bill for the Departments of Labor, Health and Human Services, and Education, and Related Agencies, included $100 million for a pilot Teacher Incentive Fund program available to states willing to develop and implement innovative ways to provide financial incentives for teachers (and also principals) who raise student achievement and close the achievement gap. In the interest of ensuring that the states remain in control of this issue—and are committed to it—the bill requires states and schools to pay for an increasing share of the total cost of the project in subsequent years with non-federal funds. And, in order to assure that workable plans can be implemented elsewhere, the bill requires the Department of Education to assess each project through an independent evaluator, and then share these assessments with other interested parties.

It is important to note that the proposals of both the President and the House allow state and local schools a great deal of latitude in how they develop merit pay plans. For example, they may include additional measures and goals, combined with student performance, but the fundamental shift would be that the merit pay systems consider outputs, such as student achievement, rather than only inputs, such as the number of courses a teacher takes.

The provisions in the House funding bill were applauded by the chairman of the Department of Education's authorizing committee who noted, "The federal government is spending tens of billions of dollars a year on K-12 education programs. States and schools ought to be allowed to use at least a fraction of that money to provide financial rewards for highly qualified teachers and principals who are working successfully to raise student achievement." Chairman John Boehner (R–OH) also noted that the funds provided in the House bill are not new, but are being diverted from existing funds that were used for what he termed "less effective programs." Meanwhile, the Senate-reported appropriations bill that funds the Department of Education (as reported on July 14), does not include a similar provision.

MERIT PAY IS SOUNDLY SUPPORTED

Support for the use of merit pay in public education has not been limited to one political party. In addition to the support of the President and House Republicans noted above, the 2004 Democratic Presidential candidate, John Kerry (D–MA), voiced his support. In his policy plan, "A Great Teacher for Every Child," the candidate stated that "teachers should be rewarded for demonstrating more skill or better results."

Another Democratic advocate is former Clinton Administration official Joel Klein, now Chancellor of the New York City public schools. According to Chancellor Klein, "Our system is built on principles of non-meritocracy and non-differentiation, and those two principles are killing us. At the heart of the problem are the three pillars of civil service: lock-step pay, seniority, and life tenure. Together, they act as handcuffs and prevent us from making the changes that will encourage excellence in our system."

In addition to the bipartisan support it has garnered from elected officials, merit pay for educators is supported by teachers, parents, and education researchers. In November 2004, two national surveys were conducted for The Teaching Commission, a private panelled by former IBM chairman Louis Gerstner, Jr. The surveys found that 80 percent of those surveyed support salary increases for "teachers who improve student achievement, raise teaching standards and increase accountability for teachers." The surveys also found that three out of four surveyed support paying higher salaries to teachers willing to serve in high-poverty schools that struggle to attract and retain good teachers. Furthermore, a 2003 survey conducted by the research group Public Agenda found that 85 percent of teachers and 72 percent of principals reported that providing financial incentives would "help a lot" when it comes to attracting and retaining quality teachers. Similarly, 72 percent of the public supported paying more for those who teach in subjects such as math, science, and special education in order to attract teachers with knowledge in these subjects.

REASONS TO SUPPORT MERIT PAY FOR TEACHERS: MERIT PAY HAS PROVEN RESULTS

A number of school districts have explored merit pay as a means to attract, motivate, and retain high-quality teachers. Below are examples of merit pay systems that proponents point to as promising models.

Starting in 1999, the Denver Classroom Teachers Association and the Denver Public Schools agreed to study the relationship between student achievement and teacher compensation. The initial study included a pilot project at 16 schools for four years. As a result of the initial pilot program, it was determined that teacher compensation "could not be based on student achievement alone." Therefore, the district and the teacher association formed a task force to design a new comprehensive pay system for teachers. The task force of teachers, school administrators, and local citizens used private funds to develop a system dubbed "ProComp," which linked teacher pay to the school district's instructional mission.

Denver's ProComp system has four components that allow teachers to earn additional pay. The first component is "knowledge and skill," which allows teachers to earn additional compensation by completing annual training. The second component is "professional evaluation," which allows salary increases based on evaluation. The third, "student growth," rewards teachers based on the academic achievement of their students. And the fourth is "market incentives," which allows the district to offer additional pay for difficult-to-fill positions.

The Denver Board of Education and the teachers' association approved ProComp in 2004. Next, the program will be submitted to Denver voters later this year in order to raise the $25 million needed to finance the system.

A second program proving successful is in Chattanooga, Tennessee. In 2001, nine of Tennessee's twenty worst performing schools were located in Chattanooga. The mayor and the school district, with cooperation from the teacher association (with funds provided by two private foundations), devised a plan to address these nine elementary schools, known as the "Benwood schools." To attract highly qualified teachers to teach in the Benwood schools, the group developed a teacher-incentive package. The package included a $5,000 bonus for highly-qualified teachers as defined by student achievement, and a $2,000 annual bonus for every teacher in a school that significantly increased its test scores, among other incentives.

The "Benwood schools" results are impressive. The percentage of third graders reading at or above grade level rose from 23 percent in 2001 to 36 percent in 2003. Across all grades, the percentage of students at or above grade level in reading/language arts rose from 57 percent in 2003 to 77 percent in 2005. Math achievement increased from 54 percent to 70 percent during the same period. In addition to raising student achievement, the Benwood schools report that filling their teacher positions has been easier, turnover has been reduced, and teacher morale has improved.

MERIT PAY HELPS WITH DIFFICULT-TO-FILL POSITIONS

The success of the NCLB depends particularly on raising achievement at high-needs schools, but, as Secretary of Education Margaret Spellings describes it, the current system detracts from that goal: "We have a system that doesn't give the teachers who want to help these students the support they deserve. While most professions reward those willing to take on the hardest assignments, the public school system often does the opposite. Teachers with the skill and desire to close the achievement gap find themselves drawn away from the schools that need the most help. Many school systems even offer de facto incentives for teachers to leave these schools." That is, sometimes experienced teachers use their seniority to transfer to more desirable schools.

To address this, a number of school districts have employed merit pay to reward highly qualified teachers who work in designated high-poverty schools. One such program is the Teacher Advancement Program (TAP) developed by the Milken Family Foundation. In addition to merit pay, the TAP system rewards teachers who take on additional responsibilities with additional pay. In Arizona, talented teachers have shown their support for this program by taking jobs at some high-need schools. Of the 61 teachers in one school district who moved to high-need schools, 13 (or 21 percent) came from schools in high socioeconomic areas, schools that are "among the best in the area." Additionally, school districts in Florida, Alabama, Maryland, and Tennessee are offering rewards to qualified teachers who work in designated high-poverty schools. According to the superintendent of one such school district, since the initiative began, "staffing the urban schools has become much easier."

MERIT PAY RAISES TEACHER QUALITY AND TREATS TEACHERS AS PROFESSIONALS

Education research demonstrates that teacher quality is the single most important factor affecting student achievement. That said, one recent study documents a decline in teacher quality—which its authors attribute to lack of financial reward for quality work. Economists Carline Hoxby of Harvard University and Andrew Leigh of Australian National University found that salary distribution for U.S. public school teachers "has narrowed so dramatically that those with the highest aptitude can expect to earn no more than those with the lowest. This alone accounts for more than three-quarters of the decline in teacher quality." According to their research (which used mean SAT scores to define "aptitude" and was limited to women), 16 percent of American female teachers in 1963 were of low aptitude, compared to 36 percent in 2000. At the other end the spectrum, only one percent of female teachers in 2000 were high-aptitude, compared to five percent in 1963.

This study underscores the assertion that, especially in this highly competitive economy, the single-salary schedule that bases compensation solely on college credits, education degrees, and years of experience does not attract the best and brightest. Highly capable and competent people are more likely to be attracted to a system that rewards individual performance.

Teaching is a profession like none other. It is responsible for educating, training, and preparing all others with the skills needed to succeed. As such, it should be held to high standards. Merit pay allows top teachers to be acknowledged for their efforts, provides an incentive to other teachers, and raises the bar of professionalism in teaching. It allows teachers to be held more accountable and judged in relation to their peers. Merit pay brings evaluation of outputs to teaching, a standard used in most professions.

MERIT PAY IS MORE COST-EFFECTIVE FOR THE TAXPAYERS

Under the current single-salary teacher pay system, a salary increase for one means a salary increase for all. Based on survey data, a majority of the public (71 percent) believes teachers deserve to earn more. However, "just to bring the salaries in the below-average states to the national average would cost $8.5 billion—an amount that is fiscally irrational." Proponents of merit pay note that it would be less costly and would produce greater results to target raises toward the most effective teachers. According to the April 2005 Harris-Hart survey, "public support for paying the costs of higher teacher salaries is enhanced if higher pay is linked to teacher performance and other accountability measures."

REFUTING CRITICS

Among the criticisms raised by opponents of merit pay is that it inappropriately uses student performance as a measure of a teacher's effectiveness. Yet, as the aforementioned studies show, a merit pay system can be built around a variety of objective and subjective measures, decided at the local level. Successful pay systems can factor in a variety of measures of excellence, including peer and principal review, in addition to student achievement.

A parallel issue is outcome-based payments for physicians under Medicare, which is currently under consideration by the Senate Finance Committee. The aim of merit pay for teachers is similar to that of outcome-based payments for physicians. As expressed by Senator Max Baucus (D-MT), that proposal would "reward better health-care quality with better payment."

Critics also contend that it is unfair to grade teachers and that grading could be subject to favoritism. One only needs to be reminded that testing is a reality in education. If gauging performance is inappropriate, then why do we give grades to students? The typical response, as noted in the Christian Science Monitor, is, "We give grades because they help us understand which areas need improvement and because they acknowledge superb effort and ability." Also, grading based on student performance is not subject to favoritism; grading is simply a reflection of the numbers. A carefully crafted merit pay program with clearly defined measures and expectations should alleviate this concern.

Another criticism by opponents is that merit pay plans have not proven successful. A number of merit pay experiments tried in the 1980s are no longer in place. Critics argue that the decline of such programs was due to the difficulties of accurately identifying effective teachers and rewarding good teaching practices. These difficulties have been erased following annual testing of grades three through eight as required by NCLB, which provides objective measures to identify effective teachers. Proponents of change insist the experiments in the 1980s were too limited in scope, and were destined to fail due to the stiff resistance from teachers and unions. The programs running in Denver and Chattanooga are two examples of programs that are yielding positive results. Furthermore, now that NCLB gives parents the choice to transfer out of low-performing public schools, a new sense of competition among schools has emerged that has forced changes in how parents and teachers view public schools.

Critics also raise concerns that teachers will "cherry pick" the best students to be in their class. Supporters of merit pay note that this concern can largely be addressed by measuring student achievement using "value-added standards," which look at student improvement or gain over the course of the year instead of students' level of achievement at the end of a year. Furthermore, when value-added standards are used, merit pay remains available to teachers of all students. That is, it likely is easier to get a 25-percentile gain from a student starting in the 30th percentile than a 15-percentile gain from a student already at the 80th percentile.

Critics of merit pay argue that it damages the school culture when "superior teachers" are singled out and given special awards. They note that in competitive industries, both employers and employees must consider the possibility that competing companies will provide better products or services at a lower price, and these incentives "are not present in public education." In response, supporters of merit pay point to its wide and successful use in private schools, which suggests that it is neither infeasible nor unattractive. Private schools note they use merit pay to recruit and retain the quality teachers demanded by tuition-paying parents. This broad use of merit pay by private schools, of course, highlights a critical distinction between public and private schools: such initiatives are "easier in the private sector because administrators are seldom subject to the constraints imposed by a collective bargaining process." Even so, the successes seen in the private schools could point to the direction public schools might take if teachers were rewarded for student achievements.

Along the same lines, some critics assert that rewarding some teachers and not others harms teacher collaboration within a school. Yet, this did not prove true in the Denver program. When Denver teachers were asked whether their pilot program had an impact on "cooperation among teachers," the results were that 53 percent of the participating teachers said the impact was positive, and only 2 percent said the impact was negative. According to Brad Jupp, the teacher representative to the ProComp taskforce, the Denver teachers' survey response "flies in the face of preconceptions that teachers fear pay for performance based on student growth because it will harm collegial relations." Furthermore, schools need to reward the best teachers to attract and retain them in the schools that need them the most. According to education researchers Caroline Hoxby and Andrew Leigh, in order to attract high-aptitude individuals back into teaching, "school districts need to reward teachers in the same way that college graduates are paid in other professions—that is, according to their performance."

The National Education Association argues that, rather than pay increases for some, all teachers should be paid more. However, history shows that there is no direct connection between spending more money on education and increased student achievement. According to the most recent analysis by the Organization for Economic Cooperation and Development (OECD) of its member countries' spending on education as a percentage of Gross Domestic Product, the United States spends the second-highest amount. And yet, U.S. student achievement does not match the higher-than-average expenditure. While the proportion of individuals completing high school has been rising in all OECD countries, the rates of students graduating from high school in most OECD countries are now higher than those in the United States. Another study shows a similar lack of correlation. According to the National Center for Education Statistics, the United States outspends the other G–8 countries in per-student expenditures. And yet, fourth-grade students in the United States ranked in the middle of the list of countries in mathematics, and eighth-grade students ranked 15th among the 45 countries in mathematics.

CONCLUSION

Expectations are greater now for teachers because the No Child Left Behind Act holds schools accountable for student achievement. Merit pay is a positive way to reward those who are effective in raising student achievement. Congress needs to help states to implement alternatives to the traditional, single-salary schedule used by the majority of public schools to pay teachers if it wants to assure that schools nationwide meet the NCLB's important goals. Merit pay increases schools' ability to attract and retain highly qualified teachers, especially in fields that command high salaries outside of education, such as math and sciences, and it encourages teachers to work in high-needs schools. A carefully developed merit pay plan, with clearly defined measures and expectations, should be able to address any legitimate concerns raised by teachers and their unions. Eighty percent of parents and teachers support salary increases for teachers who improve student achievement. The Teacher Incentive Fund proposed by the President and passed by the House will permit many more schools to implement public-supported reforms, and will provide a major incentive for needed changes in teacher compensation nationally.

Mr. SCHUMER. Mr. President, I rise today to express my strong support for the extension of a program that has provided vital support to our Nation's dairy farmers, helped to maintain the milk supply, and perhaps more importantly has helped to preserve an important way of life in rural America. The program I speak of is the Milk Income Loss Contract, MILC, Program, which since its inception in the 2002 farm bill has provided a crucial buffer between our Nation's hard-working dairy farmers and the rollercoaster ups and downs of the milk market.

America's farmers are the backbone of its rural communities, and as markets, weather, and other challenges become more daunting we must make every effort to support them when they are in need. It is not just for the benefit of our farmers, who work hard year-round, often in the face of unforgiving circumstances, and their families, but for the towns that they help to support and for the health of the land that they steward. Small farms are the big business of rural America, and if it becomes too hard for them to survive, the communities where they are lost will suffer, both economically and culturally. Likewise, as the economic pressure to develop grows, more and more open space will be lost to suburban sprawl if small farms disappear. Allowing these farms to go under by failing to extend sensible supports like the MILC Program would be bad for the economy, bad for our environment, and bad for consumers.

In very few places across the country are the stakes of the MILC Program's survival more starkly apparent than in my State of New York. Agriculture is a dominant industry in New York, and dairy farmers are the bulwark of New York's agricultural economy. In light of dramatic price swings and development pressures that are more severe than almost anywhere else in the country, the dairy farmers of my State need the type of support provided by the MILC Program when prices hit rock bottom. New York's farmers have received millions of dollars under the program, and I can tell you that that money has made a real difference in helping small family farms pull back from the brink and stay in business.

Let me be clear about one thing. While this program provides crucial and timely support, it is not simply a big-dollar bonanza for America's dairy farmers. Payments under the program only kick in when prices dip below the trigger price of $16.94 per hundredweight, when they are most needed. In fact, in the almost 4 years covered by the program, there were only 26 months in which USDA had to issue payments. There was an entire year, from May of 2004 to May of 2005, where prices were fortunately high enough that support was not necessary. I raise these facts simply to say that anyone who would oppose this program, which provides crucial, targeted assistance to small dairy farms, on the grounds that it is a budget buster or boondoggle is way off the mark.

The MILC Program expired at the end of September, so the need to extend it is pressing and vital. As we enter the New Year, milk prices may once again drop below the trigger price, and we need to make sure that the MILC Program is in place to do its job should our dairy farmers find themselves in need. The MILC Program is very important to New York, but not just to New York. The fact that the extension of this program has drawn strong support from Democrats and Republicans from multiple regions demonstrates its importance to our entire Nation.

While I have serious misgivings with other provisions contained in this budget reconciliation conference report, the 2-year extension of the MILC Program is one item that I am glad to see is included. The MILC Program has shown itself to be an effective and vital part of our Government's commitment to support America's farmers, and I strongly support its extension.

Mr. REED. Mr. President, this evening the Senate passed the conference report to the fiscal year 2006 Department of Labor, Health and Human Services, and Education appropriations bill. I want to express my concerns with this conference report. Not only does this legislation shortchange important priorities compared to the Senate version of this bill, which passed on a near unanimous vote of 94 to 3, it is not the only affront to these programs since an additional across-the-board cut to discretionary spending is included in the Department of Defense appropriations conference report.

I am disappointed that this conference report fails to provide our children with the resources they need to compete in today's world. Children of all ages will be affected by the decisions we make today.

This conference report decreases funding to programs that help students succeed at every stage. Indeed, it cuts education funding for the first time in 10 years. Despite rising tuition costs, college students will not see an increase in financial aid. The supplemental educational opportunity grant, SEOG, program will receive $26 million less than the Senate bill we passed in October. The maximum Pell grant award will be frozen at $4,050 for the fourth year in a row, making it more difficult for students to keep up with tuition and the cost of attending college.

Funding for No Child Left Behind Act programs are reduced by 3 percent, for a total that is $13.1 billion below the authorized level. Elementary and secondary school children will experience a decrease in services funded through the School Improvement Programs, the educational technology State grants, and the Javits Gifted and Talented Program, which all received less funding than in the Senate bill.

Title I of the No Child Left Behind Act will see its smallest increase in 8 years, for a total of $12.8 billion. This is $9.9 billion less than the $22.75 billion authorized in the No Child Left Behind Act. This funding is critical to improve education in this country. In 2001, members of this chamber made a commitment with the No Child Left Behind Act to give every child an opportunity at an excellent education. The President and our colleagues from across the aisle should join us in seeking to uphold that commitment.

Infants and toddlers will also receive fewer services. The President's fiscal year 2006 budget proposal, the House bill, and the Senate bill all included increases in funding for Head Start. However, this conference report ignores those increases and instead includes less than 1 percent increase for this important early childhood program. Head Start centers across the country are cutting back on comprehensive services, the core of this program's success, because funding has been minimal year after year and has not kept pace with inflation. In a time when we should be increasing our investment in early childhood development, this conference report moves us in the wrong direction.

The conference report also reduces health funding by a total of $466 million. It will set back critical research at the National Institutes of Health, unravel already fragile health care safety net programs, undermine essential health professions training programs, and leave our Nation completely unprepared to respond to a looming avian influenza pandemic.

In this conference report, the National Institutes of Health, NIH, after seeing its budget doubled only a few years ago, will face the smallest percentage increase—less than 1 percent—in more than three decades. Withdrawing our support for revolutionary basic and clinical research at such a crucial time will undoubtedly set back our efforts in the war against cancer, as well as impede our quest to learn about the causes of and find effective methods to diagnose and treat debilitating conditions such as diabetes, heart disease, Alzheimer's, Parkinson's, Multiple Sclerosis, Lou Gehrig's disease, and autism. These diseases are not only devastating to those who are afflicted and the families who care for them, they continue to be a significant drain on our health care system and our economy.

This bill also deals a devastating blow to essential safety net programs. First, it essentially stops cold the President's initiative to create 1,200 new or expanded health center sites to serve an additional 6.1 million people by 2006. The Senate-passed bill provided $105 million over the fiscal year 2005 level for community health centers while this bill contains an increase of only $66 million, in essence freezing any new competition for community health center funds. Second, the report slashes funding for programs that train health care providers who serve in health centers and other safety net sites.

Title VII health professions programs have a long tradition of responding to the needs of medically underserved communities as well as providing support to increase the racial and ethnic diversity of our health care workforce. Under this bill, a broad array of small but essential programs pertaining to trauma care systems, geriatrics training and education, and emergency medical services will be eliminated. Over the past several years, Senator ROBERTS and I have led a strong bipartisan effort in support of these essential education and training programs. Gutting these programs is penny-wise and pound-foolish. It will cripple our ability as a nation to be better prepared for the inevitable emergencies and tragedies that happen every day and the demographic tidal wave that will soon be hitting our health care system.

The bill also neglected to include a Senate amendment allocating nearly $8 billion in emergency funds to combat the avian flu. Instead, the conference report actually diverts millions from the annual influenza program budget to pay for rural health programs, with a promise that funding for avian flu would be included in the pending Defense appropriations bill but at a much lower amount than the Senate originally provided.

This conference report fails to provide sufficient funding for the Low Income Home Energy Assistance Program, LIHEAP. Rising energy prices threaten to financially overwhelm low-income families and seniors. This winter, the average family will face a $1,000 natural gas bill, an increase of 38 percent from just last year. For families using heating oil, prices are projected to hit $1,400, an increase of 21 percent over last year. These price increases are overcoming workers' salaries and seniors' Social Security checks. American families need economic relief from high energy prices. They need the security to know they will not have to decide between heating their homes or feeding their families and paying the energy bill or buying lifesaving medicines. With a sharp increase in energy prices this year, it is obvious that level funding for the LIHEAP program is inadequate. A majority of the Senate supports $5.1 billion in funding for LIHEAP, but this conference report does not reflect the will of my colleagues.

This conference report fails the American people in a number of very important ways. It fails to maintain our promise to give children the opportunity to achieve their full potential. It fails to preserve our commitment to groundbreaking and potentially lifesaving advancements in medicine. And it fails to sustain support for essential programs that help vulnerable Americans.

Mr. DURBIN. Mr. President, American families are ready for a change. They take a look at the priorities of this Republican Congress and the record of the Republican Party and say: it is time for a new direction for our country.

You need to look no further than the Labor-HHS conference report. It is a low point of a Republican Congress that is disengaged from the real needs of American families. This bill is a crowning achievement of a Republican agenda out of touch with voters.

Republicans are ignoring the problems that matter most to families in Illinois and all across the country health care, education, and jobs.

What we have is a bill that cuts education funding for the first, the first time in a decade, slashes health funding by more than $300 million, and eliminates funding for trauma care.

This bill pulls the rug out from under America's working families.

Many working families have children in public schools. I have been in a lot of public schools in Illinois that serve lower income kids. No matter how successful those schools are, I can tell you—they don't have money to spare. This bill actually spends less Federal money on schools and education than any federal budget in the last 10 years.

How can we in good conscience reduce our commitment to education for low-income kids in public schools?

But perhaps one of the more striking failures of the reconferenced version of the Labor-HHS appropriations bill is the utter lack of concern over preparing for the avian flu.

Never mind that this bill eliminates the $7.9 billion added to this bill on the Senate floor to help local hospitals and health departments get ready for what pandemic flu.

This conference report goes so far as to take an additional $120 million out of already underfunded accounts at the CDC—money specifically designated to prepare for pandemic flu.

"We'll take care of that later," we were told.

Meanwhile, my understanding is that the Defense appropriations bill includes half of the funding the Senate approved—half of the funding the President requested—to prepare for avian flu.

What is driving these cuts is a tax reconciliation that benefits corporations and the wealthiest among us. Those benefits come at the expense of basic guarantees for working American families—that they can have decent public schools; that they can see a doctor; that they have a chance to getting back into the workforce when they are out; and that if a killer flu pandemic breaks out in this country we will have the capacity, the drugs, and the organization to beat it back.

As a member of the conference committee, I did not sign the conference report and strongly oppose it.

Together, America can do better.

Mr. REID. Mr. President, tonight the Senate adopted the fiscal year 2006 Labor-HHS-Education conference report by a voice vote. I would like to note for the Record that I do not support this legislation.

This bill reflects the misguided priorities of the Republican Congress and will shortchange vital health care, education, and labor programs in order to cut taxes.

At a time when the need for a well-educated, well-trained workforce is more critical than ever, Republican conferees provided education, health care, and job training programs $1.4 billion below last year's level.

This bill cuts education funding for the first time in a decade. It cuts funding for No Child Left Behind Act programs, and the maximum Pell grant is frozen for the fourth year in a row, even as college costs are skyrocketing.

And, for the first time 10 years, the Federal Government will slide backward on its commitment to students with disabilities because this bill cuts the Federal share of the costs of special education.

At a time when most Americans cite health care as their top priority, Republican conferees provided health care programs $466 million below last year's level, including a $137 million in cuts to rural health programs and a $185 million cut to the Bureau of Health Professions. Cutting these programs will make it even harder to recruit qualified professionals in many parts of the country.

Moreover, Republican conferees eliminated nine vital health care programs altogether, including trauma care, rural emergency medical services, the geriatric education centers, health education training centers, and the healthy community access program. As a result of these cuts, not one new community health center will be created next year.

At a time when we are the verge of major new breakthroughs in disease prevention and treatment, the conference agreement also includes the smallest percentage increase for the National Institutes of Health, NIH, since 1970, which will hinder promising medical research and disease prevention initiatives.

These are just a few examples of the unconscionable cuts to crucial programs in this bill. Unfortunately, these cuts will be even deeper because the Republicans imposed an across-the-board cut against all nondefense and homeland security programs in the Defense appropriations bill.

In summary, Mr. President this bill is bad for our children, bad for workers, bad for seniors, and bad for this nation. America can do better.

Mr. KOHL. Mr. President, I rise today in opposition to the conference report to accompany the Labor, Health and Human Services, Education and Related Agencies Appropriations bill. This bill does not reflect our Nation's shared priorities and is a far cry from representing Wisconsin values. The people of Wisconsin value quality education for their children, affordable and decent health care for their families, and sound job training for workers. This bill falls short on all three accounts.

For the first time in a decade, the LHHS bill cuts total Federal education funding. Funding for No Child Left Behind programs would be cut by $779 million bringing it to its lowest level since 2002. Funding for Title I, which serves low-income, disadvantaged students and schools across the nation, would receive $9.9 billion below the authorized level, its smallest increase in 8 years. And again, Congress fails to live up to its promise to provide 40 percent of the costs of educating students with disabilities: the bill cuts the Federal share of special education spending from 18.6 percent to 18.0 percent, just as our school districts are struggling to keep up with rising costs. Funding for Pell grant awards, which help make higher education affordable for many students, is frozen at $4,050 for the fourth year in a row, funding for Even Start and Education Technology is slashed, and funding for the National Youth Sports Program is eliminated, leaving almost 1,500 Wisconsin young people without summer enrichment programs they have come to count on. The list goes on and on.

And education is not the only investment shortchanged. Some of the largest cuts in the LHHS bill are in programs that help shore up the health care safety net for people lacking other access to care and that address shortages of healthcare providers in underserved urban and rural areas. The conference report cuts funding for community health centers, which serve the uninsured and underinsured, to a lower level than provided in either the House or Senate versions of the bill. This amount would not allow a single new community health center to open in the coming year. Funding for the Bureau of Health Professions, which helps recruit qualified health professions throughout the country, would be cut by $185 million, including the elimination of geriatric education centers and health education training centers. Rural health programs would be cut by $137 million, including the elimination of the healthy community access program and rural emergency medical services.

In addition, funding levels have not kept pace with our need for investment in lifesaving biomedical research. The National Institutes of Health's budget would receive a funding increase of less than 1 percent, the smallest percentage increase to NIH since 1970. NIH will have to reduce the numbers of research grants awarded by 355. The bill would provide no increase in Federal funding for Alzheimer's research threatening the progress of promising research on that devastating disease. Less money would be available to support new research grants, attract talented, young researchers to the promising field of Alzheimer's research and fund clinical trials to test new drugs to treat the disease—and this is just one example of the damage to vital research that the LHHS conference report would do.

Labor programs are not immune from the slash and burn approach to appropriations embodied in the conference report before us. They are cut by $430 million. At a time when five percent of Americans, and four and a half percent of people from my State of Wisconsin, are unemployed, this bill wrongly reduces adult job training by $31 million and youth job training by $36 million. Instead of helping the unemployed find work and providing training to upgrade the skills of those who have jobs, this conference report turns its back to them.

I know we can do better for our children and families. I supported the Senate version of this bill, which was bipartisan and passed by a vote of 94–3. Unfortunately, this conference report falls far short; it is neither bipartisan nor bicameral, and actually provides $1.4 billion less than last year's level. In fact, LHHS is the only fiscal year 2006 appropriations bill to receive an overall cut in funding from last year.

I want to thank Senators SPECTER and HARKIN for working tirelessly to improve this bill. I also want to thank them for the modest increases they provided in the CMS Survey and Certification program, the ombudsman program, as well as their work to restore Perkins funding. However, I cannot support a bill that forces our schools, our health care system, and our workforce to do more with less. I urge my colleagues to join me in rejecting this conference report.

Mr. KENNEDY. Mr. President, the Christmas spirit was nowhere to be found tonight on the floor of the United States Senate as Republicans rushed through unconscionable cuts to the programs that American families deserve. This conference report affects the lives of every single American, and it lets them down. It fails our commitments to the education of our children, to our health care, to the poor, and to our jobs. At a time when we should be moving forward, and helping families meet the challenges of higher costs, this conference report moves us backward.

EDUCATION

Parents know that education is a critical factor in making the American dream a reality for their children. An educated citizenry also makes a strong Nation possible. We cannot compete in the world without skilled workers. We cannot maintain a strong defense without a skilled and educated military.

Once again, the United States has been presented with a global challenge, as we were when the Soviets launched Sputnik in 1958. In order to face this challenge with confidence, we should invest in the transforming power of education. That's not what this conference report says. This conference report says that education is not a priority. It says global competitiveness is not a priority. It says basic fairness is not a priority. It says the American dream is not a priority.

In the face of this global challenge, this conference report does not invest more in education. In fact, for the first time in a decade, this conference report cuts the education budget. As we learn more about the critical importance of early education, as our elementary and secondary schools struggle to help our children meet higher standards, as a college degree is becoming an imperative, and as the cost of that degree is skyrocketing, the Federal budget for education is actually going down.

If our country is to remain strong in this rapidly changing world, our economy must work for everyone, and every American must have an equal opportunity to succeed. No Child Left Behind is not just a political slogan. It's a solemn pledge to every parent and every child in America.

At a time when requirements under the law are more demanding than ever, this conference report cuts funding overall for No Child Left Behind programs by $1 billion, for a total that is $13.4 billion less than promised in the law. Over 3.2 million children will be left behind. Next year, schools have to raise the bar for adequate yearly progress, administer tests in reading and math on an annual basis, and ensure that all teachers are highly qualified. This conference report tells them they're on their own.

Title I—the key NCLB program, which targets disadvantaged students—is cut for the first time in 13 years. Title I funds will be $28 million lower than last year, and 160,000 fewer children will be served. Funding to Massachusetts schools will be cut more than $4.3 million.

The conference report cuts Head Start funds by $68.5 million, leaving 750,000 eligible preschoolers without services, and dropping from the program 9,500 children who are currently enrolled in Head Start classrooms. It slashes the Even Start family literacy program, taking services away from nearly 35,000 children.

The conference report cuts funds for after-school programs, denying afterschool programs to 13,000 children currently enrolled. The conference report also cuts funds to keep our schools safe and drug-free.

With the first cut to special education funding in a decade, this conference report moves backwards on our commitment to disabled students. The Federal share of the cost of educating students with disabilities actually drops from 18.6 percent last year to 17.8 percent this year. The funding in the report is more than $4 billion short of the amount promised just 1 year ago when we passed the IDEA Improvement Act.

At a time when American students are performing below the international average in math and science, the conference report cuts $13 million in funds for the Math and Science Partnerships at the Department of Education, leaving funding well below half of the amount promised in No Child Left Behind.

At a time when technology is more and more prevalent in our lives and in our economy, this conference report continues the bewildering downward trend in educational technology funding. In fiscal year 2004, the program was funded at almost $700 million. This conference report includes $248 million, a 50 percent cut since last year and just over a third of the 2004 funding.

At a time when college costs have skyrocketed 46 percent since 2001, and almost 400,000 college-ready students do not go to a 4-year college because of financial need, this conference report provides no increase in student aid. It leaves Pell grants frozen in place for the fourth year in a row.

JOBS

Just as this conference report leaves millions of children behind, it also leaves millions of American workers behind.

Close to 8 million Americans are unemployed, and most remain unemployed for 18 weeks or more. The picture is so bleak that many workers have given up hope of finding work altogether. The real unemployment rate is almost 9 percent when these discouraged workers are counted.

Workers affected by the recent storms in the gulf are particularly at risk. Hundreds of thousands of gulf coast workers continue to struggle to find work in the wake of Hurricanes Katrina and Rita. Twenty-five percent of Katrina evacuees are unemployed, including 30 percent of those evacuees that have been relocated across the country. African-American and Hispanic evacuees fare even worse, with an overall unemployment rate of about 43 percent. Thus far, a total of 502,000 initial claims for unemployment benefits can be traced to the two storms.

Yet, the conference report would cut funding for unemployment insurance and employment services offices that help jobless workers around the country. The conference report also cuts job training, as many workers struggle to improve their skills in order to secure good jobs. These illogical steps are an insult to those struggling to recover from our Nation's greatest national disaster and those struggling to meet the challenges of a global economy.

In addition, as we continue the long process of rebuilding the gulf coast, thousands of relief and recovery workers are facing toxic working conditions. Workers cleaning up in the aftermath of the storms are being exposed to hazardous chemicals, oil and sewage contaminated waters, mold, and other hazardous substances. Even outside of the gulf coast region, death rates among Hispanic and immigrant workers continue to be alarmingly high. Yet, our Government will be doing less to protect the lives and health of our workers. The small, 1.8 percent increase that the conference report provides for funding the Occupational Safety and Health Administration is more than eaten up by inflation and won't be enough to maintain current levels of enforcement and training.

The conference report also shortsightedly ignores the future needs of health care workers. We are facing a looming threat of a pandemic flu epidemic, yet the conference report prohibits the Department of Labor from enforcing key safety standards to protect health care workers from tuberculosis. These are very basic measures that would help protect healthcare workers from all deadly infectious diseases, and it is unconscionable to bow to special interests at the expense of those who will be on the front lines of our battle against this public health crisis.

In addition to threatening the safety of American workers, the conference report also threatens their job security. It is hardly news to any of us that globalization is rapidly creating a single global workforce. Now more than ever, the jobs of American workers are at risk due to the poor wages and working conditions in other parts of the world. It's critical that we invest in efforts to improve working conditions around the world, for the sake of all workers, including our own. Yet, the conference report slashes the budget for the International Labor Affairs Bureau, ILAB, by 22 percent—from $93 million to $72.5 million—threatening our ability to protect American jobs and protect the basic rights of workers and children across the globe.

HEALTH

The conference report also fails to protect American families from public health catastrophes.

Congress has few higher priorities than protecting the American people from the deadly strain of influenza that is threatening the world and could take the lives of millions of Americans and damage the health of millions more.

The threat from this deadly new disease has been compounded by our inattention and failure to prepare. For years, public health experts sounded warning after warning about the devastation that a flu pandemic would bring, but year after year, we failed to respond to this deadly threat in its earliest stages.

Canada, Australia, Britain, Japan, and other nations released plans long ago. They're implementing their plans now, but the Bush administration has put out a plan for only one Federal agency. A response plan for the Department of Health and Human Services is a critical first step, but even that plan is incomplete. It's missing the actual operational plans for responding to a pandemic.

The President has called, however, for a significant investment in preparedness. I attended his speech at NIH, where he urged that $7 billion be appropriated immediately for preparedness.

We still have time to avert the serious consequences that a pandemic would bring, but only if we act now to begin improving our readiness. The Senate heeded the call to action by unanimously approving an amendment for $8 billion in preparedness funding offered by Senator HARKIN.

But the Republican leadership isn't on board. They stripped the $8 billion amendment out of this conference report, and provided only half that amount in the Defense Appropriations conference report. These irresponsible cuts will mean that critical programs will have to be delayed. Which parts of our response do our Republican colleagues think we should delay? Production of new vaccines? Stockpiling of flu medicine? Support for hospitals and health agencies preparing for the pandemic? I'd like to hear them explain to the American people which of these activities they think are unimportant, which of these priorities can wait, and which are not needed if disaster strikes.

This conference report also means that we will fail to capitalize on the promise of this century of the life sciences. With the 1 percent across the board cut, funding for NIH will decrease. This has happened only four other times in NIH history. This is woefully inadequate to maintain our tradition of research excellence and breakthrough medical science. This is the lowest NIH funding level in 35 years and the research and development budget fails to keep up with inflation. These budget cuts will mean that four of five innovative new ideas will be ignored. Over 500 new research grants will fall by the wayside. It's unbelievable that with the threat of a pandemic looming over America, the Republican Congress is denying the resources we need to discover new, lifesaving treatments and cures.

Not only does the conference report not include funding for the avian flu preparedness, funding that would help to improve State and local preparedness against bioterrorist attacks was cut by over $96 million.

As we know, maintaining the health of our Nation is not limited to emergency preparedness. Providing basic health services to the most vulnerable Americans and health promotion, and disease prevention are also vitally important. But this conference report cuts critical health promotion and prevention programs at the CDC will be cut by $307 million and HRSA programs are slashed by $754 million.

This conference report funds community health centers, that serve as a safety net of care for the most vulnerable, at less than half of the increase passed by the Senate, while eliminating the Healthy Communities Access Program which provides funds for health care providers, community-based organizations and local government to coordinate and strengthen health services for the poor and uninsured members of their communities. Funding is also cut for critical health professions training programs that address the shortages of providers and train them to deliver care in underserved areas and to serve the 46 million Americans who lack health insurance—often in community health centers. Funding for critical health professions training programs that encourage diversity in the health professions and train health care providers that will deliver care in underserved areas are cut 52 percent and training for geriatric medicine was cut by 100 percent.

With a 1 percent across the board cut, several programs, including family planning and HIV/AIDS prevention programs, will now receive a decrease in funding, despite the growing need for these services.

LIHEAP

The conference report leaves our poorest Americans out in the cold in a time of soaring energy prices. Households heating primarily with natural gas will pay an average of $281 more this winter for heat—an increase of an incredible 38 percent over last year. Those relying primarily on oil for heat will pay $255 more—an increase of 21 percent.

This fall, the Senate voted against fully funding LIHEAP four times, and this conference report only provides flat funds. This is unacceptable.

We know that heating costs are at record levels this year.

Big oil profits are fatter than ever. Exxon-Mobil—the largest oil company in the United States—reported 3rd quarter profits of almost $10 billion, a 75 percent increase over last year.

Exxon-Mobil alone made $10 billion in the last quarter—yet the Republican leadership refuses to fund LIHEAP at its authorized level of $5.1 billion. The Republican leadership is Robin Hood in reverse—robbing the poor to pay the rich.

So this conference report leaves our children behind, American workers behind, and American families behind. It leaves America behind.

It's unfortunate that Christmas comes this week, because this conference report is the Grinch that steals Christmas for so many. While the neediest Americans are struggling to find some hope this season, the special interests are sledding away with all the presents. Bah humbug.

We should embrace the hopes and dreams of millions of Americans—not abandon them, as this conference report does. All parents want their children to have lives of fulfillment and opportunity; to raise strong and healthy families and afford to live comfortably in safe neighborhoods. Our actions in Congress should strengthen, not weaken America.

The PRESIDING OFFICER. Without objection, the conference report is agreed to, and the motion to reconsider is laid on the table.

MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST—H.R. 4297

Mr. KYL. Mr. President, I have a unanimous consent request to remake.

As my colleagues know, there is one major unfinished piece of business yet that we need to conclude, and it is the action on the tax reconciliation bill. This is a bill which has the section 179, small business expensing, the small savers credit for low-income families, those making under $25,000 a year, above-the-line deduction for college tuition costs, R&D, tax credit, and extension of capital gains and dividends.

These are all-important matters that we need to act on.

As a result, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 325, H.R. 4297, the House reconciliation bill.

I ask unanimous consent that all after the enacting clause be stricken and the text of S. 2020 as passed by the Senate be inserted thereof; that the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, the Senate insist upon its amendment and request a conference with the House and the Chair be authorized to appoint conferees at a ratio of 2 to 1.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object, the majority seeks to go to conference on the House-passed tax reconciliation bill. The House-passed bill includes tax cuts for dividends and capital gains. And the House-passed bill does not include language to prevent 17 million middle-income Americans from getting a tax increase from the alternative minimum tax.

The Constitution requires the House to go first on tax measures like this. In order to build momentum for their tax cuts, the majority in the Senate chose to proceed before the House. But now the Constitution requires that the Senate take up the House-passed tax reconciliation bill and amendment.

That is where we are.

There are a number of Senators on this side of the aisle who would like to avail themselves of the opportunity to propose amendments to the House-passed bill. I expect that several Senators would choose to substitute middle-income tax cuts as alternatives to the dividend and capital gains tax cuts.

It is important to remember that under the Budget Act Senators would have up to 20 hours to debate amendments to the House-passed bill. I, for one, would seek to offer a motion to instruct conferees on this bill to ensure that we do not raise taxes on those 17 million Americans who become subject to the AMT, unless we act. Under the Budget Act, Senators would have an additional 10 hours to debate motions to instruct conferees. We are not in the position to conduct 10 hours of debate at this late hour. The exercise, I might say, would be inappropriate. So I must object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS-CONSENT REQUEST— H.R. 4096

Mrs. HUTCHISON. Mr. President, if we are not going to take up the major tax cut at this time, I am going to ask unanimous consent to take up the AMT.

In 1969, when Congress passed the AMT it was supposed to affect 1 in 500,000 taxpayers who make over $200,000 a year. In fact, that is not the case today. By 2010, the AMT is expected to ensnare 32 million taxpayers, the majority of whom have adjusted gross incomes of under $100,000. In fact, this especially hits people with children. By the year 2010, among married taxpayers with two or more children, 85 percent of married taxpayers with two or more children in 2010 will face the AMT. It prohibits the ability to deduct for children.

So I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 326, H.R. 4096, the alternative minimum tax relief.

I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object, the majority, through the Senator from Texas, seeks unanimous consent to pass the House bill which extends the AMT exemption level. The House-passed bill purports to be an AMT hold harmless bill. It is not. It does not hold everyone harmless.

In fact, 600,000 additional families will pay AMT next year under that House bill which the majority seeks our consent. Under the version we in the Senate passed last month, with 64 Senators in support, we ensure that not one additional taxpayer faces higher taxes in 2006 due to an onerous alternative minimum tax.

The same cannot be said of this House bill for which consent is agreed to.

It is true that if Congress does not act, 17 million more middle-income Americans will be subject to the AMT come January 1. We would prefer to get it right the first time and not have to make promises to close the gap for those 600,000 hard-working American taxpayers next year.

I ask the Senator from Texas if she would amend her request instead to seek consent for an AMT relief amendment that I believe the majority would be supportive of, since it shows the Senate's provision, so that no AMT taxpayers are created next year. Further, while we are seeking to do these tax cuts outside of reconciliation, we would have them count against the total allowed under reconciliation. That would be part of the amendment. The text of that Senate amendment is pending at the desk, and I am asking, Will the Senator from Texas accept this amendment?

Mrs. HUTCHISON. Mr. President, with all due respect to the Senator from Montana, I don't see how we can take part but not all of the tax reconciliation bill. It is time to do away with the AMT.

I appreciate the fact that the Senator from Montana has said he, too, wants to do that and that we need to do it right. To do it right we need to do the whole tax reconciliation bill.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. I ask the Senator, will she object to an amendment I suggested that the whole AMT be held harmless and that it count under pay-go in terms of the tax, the budget provisions which provide for $70 billion over the next 5 years? Those are the two conditions.

Mr. KYL. Reserving the right to object to the proposed amendment to the unanimous consent. I believe on our side we would not object to the form of the so-called AMT patch that the Senator from Montana has proposed. Of course, we would object to his counting of that against the reconciliation number, or the so-called pay-go provision.

I guess I ask for an amendment to his proposed amendment which would accept the broader AMT patch, as the Senator first described it, but nothing in addition to that.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. As I hear their response, they will not agree to my two suggested conditions and amendments. Therefore, I must respectfully object.

The PRESIDING OFFICER. An objection has been heard.

Mrs. HUTCHISON. Mr. President, I do hope the Senator from Montana, working with the chairman of the Committee on Finance, will make it a priority early next year to have the tax reconciliation package go through with AMT and with the other tax cuts that would be extended to show the American people they can rely on the tax cuts that have been passed and have helped the economy in its recovery.

It is very important we not leave any question in anyone's mind that the tax cuts that started the economic upturn 2 years ago will be extended. The American people will get to keep the money in their pocketbooks, spend it, and fuel the jobs our economy has produced.

Mr. BAUCUS. Mr. President, I listened carefully to the Senator from Texas. I think we all agree we have to do something about the AMT. It is a big problem.

I, frankly, tell the Senator I have introduced a bill to totally repeal AMT. It is a pernicious stealth tax and should not be incurred. We would like to work with the Senator to try and find a way to accomplish that.

Mrs. HUTCHISON. I sign on to that effort immediately. With this kind of coalition maybe we can do something very important by doing away with the AMT in this country.

UNANIMOUS-CONSENT REQUEST— S. 2164

Mr. DURBIN. Mr. President, as part of a bipartisan action this morning, Democrats and Republicans agree to send a reconciliation bill back to the House of Representatives for further consideration. Even though the vast majority of this bill hurts working families and the most vulnerable among them, there were a handful of important proposals that we support in that bill that need to be enacted immediately. That is why I am going to be asking unanimous consent in just a moment for the Senate to pass the Health and Welfare Relief Act of Senator STABENOW of Michigan.

This bill prevents the scheduled reduction in Medicare physician payments while holding Part B premiums harmless for beneficiaries. The bill extends TANF and transitional medical assistance, TMA, for an additional year. Finally, the bill provides temporary Medicaid relief to Katrina victims.

We should all be able to agree, even if there are parts of the bill subject to a point of order, parts that will be debated, there are many provisions in that bill that meet pressing needs that are important and need to be addressed on a timely basis. Many of them are taken directly from the conference report my friends across the aisle have just supported. I hope we can take up this bill and pass it today.

Therefore, I ask unanimous consent the Senate proceed to the immediate consideration of S. 2164, the Health and Welfare Relief Act of 2005, introduced earlier by Senators STABENOW, REID, BAUCUS, and others; that the bill be read three times, passed, and the motion to reconsider be laid upon the table without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Mr. President, I object.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, I have a series of judicial nominations that have been cleared on both sides. I ask unanimous consent the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Nos. 457, 458, 459, 460, 461, 462, 463, 471, and 472. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Joseph Frank Bianco, of New York, to be United States District Judge for the Eastern District of New York.

Timothy Mark Burgess, of Alaska, to be United States District Judge for the District of Alaska.

Gregory F. Van Tatenhove, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

Eric Nicholas Vitaliano, of New York, to be United States District Judge for the Eastern District of New York.

Kristi Dubose, of Alabama, to be United States District Judge for the Southern District of Alabama.

W. Keith Watkins, of Alabama, to be United States District Judge for the Middle District of Alabama.

Virginia Mary Kendall, of Illinois, to be United States District Judge for the Northern District of Illinois.

FEDERAL COMMUNICATIONS COMMISSION

Michael Joseph Copps, of Virginia, to be a Member of the Federal Communications Commission for a term of five years from July 1, 2005. (Reappointment)

Deborah Taylor Tate, of Tennessee, to be a Member of the Federal Communications Commission for the remainder of the term expiring June 30, 2007.

NOMINATION OF GREG VAN TATENHOVE

Mr. McCONNELL. Mr. President, if I may, Calendar No. 459, that I just read and was just confirmed by the Senate, is a former member of my staff. Greg Van Tatenhove, who is, at the moment, the U.S. attorney for the Eastern District of Kentucky. He is an outstanding lawyer. He will be a fine addition to the Federal judiciary.

As a former staff member of mine, I say to my colleagues, you have done a great thing in confirming him. He will be a distinguished member of the Federal judiciary.

Mr. President, I strongly support the nomination of Greg Van Tatenhove to the U.S. District Court in the Eastern District of Kentucky.

Greg Van Tatenhove has been an outstanding public servant for the better part of 20 years. I first met Greg when he was a young aide to a Member of Congress. He later joined my legislative staff, where he performed superbly before leaving to attend law school.

Greg distinguished himself in law school by being chosen as an Articles Editor of the Kentucky Law Journal and receiving a citation for Excellence in Oral Advocacy in the Moot Court Program. After graduation from law school, Greg spent a year as clerk to U.S. District Court Judge Eugene Siler.

Greg was then chosen to join the Federal Programs Branch of the Department of Justice through the Attorney General's Honors Program. He was one of only eleven young attorneys to be chosen nationwide out of hundreds of applicants for this prestigious branch. This branch is well known for handling especially complex and precedent-setting legal cases on behalf of the United States. During his 4 years at DOJ, the Department recognized Greg for his excellent performance with its Special Achievement Award.

Greg then returned to Capitol Hill, where he spent 7 years as Chief of Staff and Legal Counsel to Representative RON LEWIS of Kentucky. During his tenure, he developed a reputation as one of the Commonwealth's outstanding young legal minds, and in 2001, he was nominated by President Bush as United States Attorney in the Eastern District of Kentucky, a position which he has ably filled for the past 4 years.

In the course of his service as the chief federal law enforcement officer in the Eastern District, he approves all indictments, all major plea bargains, and is directly involved in all of the major cases involving the United States that come before the court, both civil and criminal.

Based on Greg's outstanding record, it should come as no surprise that President Bush nominated him as a judge for the U.S. District Court for the Eastern District of Kentucky on September 13, 2005. I applaud the President's choice, and I proudly support his nomination. Greg's high intellect, integrity, character, and devotion to public service make him an ideal choice for the District Court.

Greg's nomination has been widely praised by those who know him best, including two members of the Sixth Circuit Court of Appeals, five members of the District Court on which he will serve, and numerous former colleagues. They share my conviction that Greg will be a splendid addition to the federal bench.

In addition to his outstanding intellectual and professional abilities, Greg is a devoted family man. I know his wife Jane and his two beautiful children, Cooper and Catherine, are proud of him as he assumes this new position of responsibility.

It was clear to me 20 years ago when I hired Greg, even then a young man of great accomplishment, that he would go on to greater success. His confirmation is the result of many years of hard work, great intellect, commitment to public service, and the highest ethical and professional standards.

Greg Van Tatenhove will be an outstanding District Court judge, and I urge my colleagues to support his nomination.

Mr. LEAHY. Last week marked the 214th anniversary of the adoption of the Bill of Rights to the Constitution. Over the last week, this Nation and this Senate have been engaged in a debate about the importance of protecting and preserving those rights as we consider how best to revise and reauthorize the PATRIOT Act. We have also learned about the White House's domestic surveillance program that short-circuited the judicial safeguards established by Congress.

Today we engage in an action unique to the Senate. We consider for confirmation to lifetime appointments to the judiciary a number of nominees. This is an instance in which all three branches of the government are involved. The President nominates, the Senate considers the nominations and, if confirmed, the nominee is appointed to become a member of the judiciary. The judiciary has a particularly important role in the protection of the rights and liberties of all Americans. It was Justice O'Connor who, writing for the Supreme Court, noted that even wartime does not give the President a "blank check" when it comes to actions that impact Americans' rights. Every day in courtrooms across the country federal judges are the last line of defense for Americans' rights.

If anyone doubts the importance of the position of Federal district court judges, they need look no further than the district court judges assigned to sit on Federal Intelligence Surveillance Act, or FISA Court. This court was designed specifically to act as a check on the Executive Branch, and when it is consulted as the law requires, it performs a crucial role in our Government's system of checks and balances. In an extraordinary development, we read today that a federal judge assigned by the Chief Justice of the United States to serve on that court has resigned in the face of the disclosure of this President's secret surveillance program outside of the legal FISA process.

With the votes today, the Senate will be called upon to grant or withhold its consent to another seven judicial nominees. If they are confirmed, the Senate will have confirmed 225 of this President's judicial nominees to lifetime appointments. If they are confirmed, the Senate will increase the number of confirmations this year by 50 percent in just one day, from 14 to 21.

I chaired the Judiciary Committee for the second half of 2001. No judges had been confirmed that year before I became chair. In the last 5 months of the year we were able to have hearings, Committee consideration, and Senate votes on 28 new judges. We worked hard in spite of the 9/11 attacks and the anthrax attacks and succeeded in reducing vacancies and filling longstanding vacancies. Indeed in the 17 months I chaired the Judiciary Committee, the Senate proceeded to confirm 100 of this President's nominees. It took Republicans more than twice as long to match our record. Democrats proceeded in spite of the recent history of Republicans pocket filibustering more than 60 of President Clinton's qualified, moderate nominees.

As is clear from our record since that time, we have been willing to continue working with the Republican majority to fill vacancies on the federal bench—if only the President would send nominees. Unfortunately, along with home heating prices, gasoline prices, interest rates, the budget deficit and the trade deficit, judicial vacancies have also increased dramatically this year. It almost seems that unless the White House can pick a partisan political fight, it really does not care very much about the Federal judiciary. I noted in the spring that we had not received new nominations this year from the President. Only recently has that begun to change but there are still more than 25 vacancies without a nominee. I urge the President, as the Democratic leader and I have urged him for some time, to work with Senators on both sides of the aisle to identify qualified, consensus candidates to fill these vacancies.

NOMINATION OF VIRGINIA MARY KENDALL

Mr. DURBIN. Mr. President, included in the nominations just approved by the Senate is the nomination of Virginia Mary Kendall of Illinois to be the U.S. district judge for the Northern District of Illinois. She is replacing the retired Susanne Conlon. This is an extraordinary woman who will make a great contribution to the Federal judiciary.

She is strongly supported by Senator OBAMA and myself, as well as Speaker DENNIS HASTERT. On a bipartisan basis, we reviewed many fine candidates for this vacancy and found Virginia Kendall to be the best. With the approval of the White House, she moved through the Senate Judiciary Committee.

I am anxious, as soon as I finish these remarks, to go to the cloakroom, place a phone call, and give her a Christmas present and let her know her nomination has been approved by the Senate.

I would like to thank Judiciary Committee Chairman SPECTER, as well as Ranking Member LEAHY, for expediting the consideration of Ms. Kendall's nomination. I also want to thank Senator OBAMA for the significant role that he played in the selection process. Finally, I want to thank House Speaker HASTERT for his role in the process and for his willingness to continue an Illinois tradition of seeking bipartisan cooperation in the recommendation of Federal district court nominees for presidential consideration.

Virginia Kendall is a highly respected federal prosecutor in Chicago with a stellar reputation for diligence, intelligence, and integrity. She has been in the U.S. Attorney's office in the Northern District of Illinois for the past decade, and she has a great depth of experience.

She is one of the leading prosecutors in the country in the area of child exploitation over the Internet, and she was the lead counsel in the first Internet kidnaping case brought by the Department of Justice. She has also prosecuted domestic terrorism and corporate fraud cases.

Ms. Kendall has helped reduce Chicago's murder rate, by creating a novel program that emphasizes better outreach by law enforcement to parolee gun offenders and to at-risk students in the Chicago Public Schools. She has been the lead prosecutor in cases involving the sale of weapons over the Internet to minors.

Ms. Kendall has also been extremely active in pro bono work. She has created programs in which Federal prosecutors go into Chicago high schools and educate students about the dangers of gun violence and the workings of the criminal justice system. One of her programs received an award from the Department of Justice as the most outstanding volunteer program in the country. Ms. Kendall and her husband have worked closely with students from the Cristo Rey Jesuit High School, an amazing success story of a high school in Pilson, a low-income Latino neighborhood in Chicago.

In addition, Ms. Kendall has served as an adjunct law professor at Loyola University law school for the past 12 years. Some of her former law school students contacted me and said she was the best professor they ever had. That speaks very well of Ms. Kendall's ability not only to understand the law, but to teach it.

One of Ms. Kendall's biggest supporters is her boss—Patrick Fitzgerald—the United States Attorney in the Northern District of Illinois. He wrote me a long letter singing her praises, and he concluded:

> I can also assure you that Ginny is a warm and compassionate person who is very attentive to the human needs of those she works with and supervises. Ginny's combination of legal talents, experience as a prosecutor, supervisor and instructor, and commitment to bettering the communities most in need of help would stand her in great stead if she were selected as a federal judge in this district.

I am pleased to report that Ms. Kendall also receives high marks from her opposing counsel and has an excellent reputation in the criminal defense bar. One of her opposing counsel described her as "honorable, decent, ethical, and someone with an ideal temperament." Another opposing counsel said Ms. Kendall was "down to earth, honest, straightforward, reliable, and full of integrity."

I was not surprised to learn that a substantial majority of the American Bar Association's judicial nomination review committee gave Ms. Kendall their highest possible rating of "Well Qualified." I am confident that, as a judge, Ms. Kendall will serve with honor, courage, and distinction on the Federal bench in the Northern District of Illinois for many years to come.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

The Senator from Louisiana.

(The remarks of Ms. LANDRIEU pertaining to the introduction of S. 2171 and S. 2172 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

HURRICANE RELIEF

Ms. LANDRIEU. Mr. President, while we did leave a lot of work to be done, I do want to thank my colleagues, particularly Chairman COCHRAN and Senator BYRD, for shepherding through a tremendous direct relief bill. That would not have happened without these two leaders. It was initially sent to us at $17 billion, with an anemic funding level for our levees. It was basically a bill that fixed Federal buildings and sent money to Federal bureaucracies and didn't reach the people directly or our cities or counties or parishes or churches or schools or hospitals. Senator COCHRAN took that bill and he stood it up and added some extraordinary pieces to it and fought like a tiger to keep that money flexible but accountable so our Governors could start rebuilding our States again, with help from the Federal Government; not just promises but real help. If it had not been for Senators COCHRAN and BYRD and the appropriators who helped to stand this bill up, we would be leaving here tonight in a much less hopeful situation.

We passed that bill out of here a little while ago. It is headed to the House of Representatives. That part is not controversial, but the process is controversial. I hope the House Members will pass that tomorrow so the people of the gulf coast, who have been waiting not for a week, not for 2 weeks, but for 4 months for this Congress to send some package of hope, other than money to FEMA, but a package of hope to our elected officials so they can get their parishes stood up, people back home, the lights turned on, the hospitals working again, the universities functioning again, and stop firing and start hiring people so we can stand up this economy.

I am hoping that tomorrow the House will act, and we will at least send this $29 billion home. Just today the President signed an $8 billion tax relief package that is full of targeted and specific tax credits and tax relief for businesses and individuals that will help as well. I thank the administration for their support of that bill.

Particularly I thank Senators BAUCUS and GRASSLEY. Senator BLANCHE LINCOLN worked very hard on many portions of this bill as a member of the Finance Committee. I could not leave tonight to go home for the holidays without thanking Senators GRASSLEY and BAUCUS. Without them, that bill never would have made it through the process. On the House side, Congressman JIM MCCRERY and my own Congressman from New Orleans, BILL JEFFERSON, had a great deal to do with the success of that bill.

As we get ready to celebrate Christmas and we remember members of our own family, my parents, my siblings, cousins, very good friends who have lost their homes and their businesses, as we remember the 250,000 homes that have been destroyed and the millions of people impacted negatively, at least this Congress can say we passed an $8 billion tax bill that will help many directly and give them immediate relief as it was signed today, and this $29 billion direct package reallocating FEMA money that is sitting in a bank account and give it to people for this Christmas holiday, and then to resolve when we get back to take up and design some new tools for reconstruction that can help in the area particularly of housing, which is such a desperate need, and reorganization of our neighborhoods and communities.

I can rest assured that the leadership in Louisiana, with the Louisiana Recovery District, led by the Governor, who appointed Norman Francis and Walter Isaacson, the two leaders of the LRA, is prepared, with our local officials, to come up with new and innovative strategies to build a great city of New Orleans again, the great parishes of Jefferson, St. Bernard, and Plaquemine, then to move over to the southwest and give the small parishes, such as Cameron, which was totally destroyed, the help they need to stand back up, so we can stand up our farms, hospitals, petrochemical industry, keep our ports open, start hiring teachers and doctors back, and start building up the 18,000 businesses that were lost. Forty-one percent of the businesses in Louisiana were destroyed by this hurricane. Our income fell 25 percent, our personal income, in a report released today.

I know everybody is tired. It has been a long day. I am ready to go home myself and have a few Christmas gifts wrapped before the weekend. But I can say that last night in New Orleans, there was the first party thrown in a long time at Gallier Hall, the old city hall. Although Senator VITTER and I couldn't be there, 500 people showed up. While there were a lot of stories about the heartache that had occurred, there was a lot of hope in the hearts of the people who came. There were former mayors and former council members and leaders of the community, Black and White, Hispanic and Asian. And despite the fact that still this Congress doesn't understand in every way why New Orleans matters, I can promise you that the spirit of the people who live in this city will not let it die, will not let south Louisiana die.

We are going to come back and work even harder to add to the package we passed tonight to get the job done and to be a model for the country, should this catastrophe ever strike another area again.

I thank my colleagues for getting through at least tonight the $29 billion of direct relief and the $8 billion tax package. When we come back, we have work to do on coastal, work to do on housing. I look forward to working with Members on both sides of the aisle to get the job done for the people of Louisiana and the gulf coast.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAGEN DAVID ADOM

Mr. FRIST. For 75 years, the Magen David Adom has served as Israel's emergency relief service..

Founded in 1930 by seven Israeli doctors and a one-room emergency medical service, the MDA has grown to play a major role working alongside the Israeli Army Medical Corps in times of war and peace.

Twelve hundred employees and more than 10,000 volunteers have helped countless disaster, accident, and terrorism victims within Israel's borders.

And on battlefields and disaster areas around the world, the relief service has distinguished itself with consummate caring, professionalism and bravery.

Even the United States has been a beneficiary of the MDA's humanitarian efforts.

Most recently, in the aftermath of Hurricane Katrina MDA Israel launched an emergency mission named "United Brotherhood" to collect donations, funds, clothing and other equipment for the New Orleans survivors who were left homeless.

Despite their indisputably noble work, for nearly 60 years the organization has been excluded from the International Red Cross and Red Crescent Movement.

The reason? The Israeli agency has been excluded for 60 years because of its decision to retain its own protective symbol rather than adopt the Red Cross or the Red Crescent.

Finally, this month, the impasse was broken.

An overwhelming majority of the state-parties to the Geneva Conventions approved a new protective symbol—a "Red Crystal"—to allow the relief agency to operate as a member of the global humanitarian movement.

Within Israel's territory, the agency will still use the Red Star of David.

Around the world, it will use the Red Crystal Protective Symbol, with the option of also displaying its traditional logo if the host country permits.

Aside from a few remaining formalities, the Israeli emergency service will, finally, at long last, take its place as a full member of the International Red Cross and Red Crescent Movement.

I would have liked to have seen straightforward international recognition of the traditional symbol. But the new Red Crystal is a worthy and fair compromise.

I commend the International Committee of the Red Cross and the American Red Cross for their efforts to bring this vital and life saving organization into the fold.

And I applaud the Magen David Adom for their compassionate and honorable work inspired by faith and carried out everyday with extraordinary courage.

AVIAN FLU

Mr. FRIST. In the 20th century, three influenza pandemics. The worst of the three, the 1918 Spanish flu, killed over half-a-million Americans and more than 40 million worldwide.

Secretary Leavitt warns that if past is prologue, the world is overdue for another flu pandemic.

The avian flu spreading from East Asia to Romania and Turkey looks and acts more like the virus of 1918 than of any of its more moderate cousins.

If it achieves the final step of human-to-human transmission, the consequences could be catastrophic both in loss of human life and economic meltdown.

Recently, the Congressional Budget Office released a study which I had specifically requested on the economic impact of a flu pandemic. The CBO predicts that the American economy could suffer a $675 billion setback, a 5-percent loss in GDP, in the year a pandemic might hit.

The clock is ticking, and we need to act now.

We need to put the wheels in motion so that when and if the avian flu hits, America is prepared.

If we don't, and an avian flu epidemic comes to our shores, we will rightly be blamed for failing to do our best to protect the American people. The finger will be pointing straight at the Congress.

What we need in order to be prepared is a six-pronged approach.

We need communication, surveillance, antivirals, vaccines, research, and stockpiling and surge capacity.

This may sound like a lot of moving parts, but between our researchers, entrepreneurs, and public health experts, we have the intellect, the ingenuity, and the knowledge to get the job done.

My duty as an elected official and as a doctor is to see this through to make sure that we are adequately prepared and we can look our constituents in the eye and tell them we have done everything we can to be prepared.

Our economy, our country, and our lives are depending on it.

The President has laid out a comprehensive plan. It is our job, now, to set aside sufficient resources to tackle this looming threat.

I urge my colleagues to set aside their partisan differences and pull together to protect the American people.

The flu virus won't know who is Republican and who is Democrat, but the people who suffer will know who didn't get the job done.

We don't need to panic, but we do need to be prepared.

We need to act, and that is what we intend to do.

AFGHANISTAN

Mr. FRIST. On Monday, Afghanistan's first democratically elected Parliament in more than 30 years convened before the eyes of the world. It was an emotional moment and one of great pride for the Afghan people.

As President Karzai told his audience of 351 new parliament members, with Vice President DICK CHENEY and his wife Lynne listening in the front row, "This dear Afghanistan has risen again from the ashes."

Here in the United States, we are full of hope for the Afghan people and we share in their joy.

They have suffered a long and difficult journey.

Twenty years of civil war. Nearly another decade of total repression.

But they have finally reached the shores of freedom, and the future spread out before them is one of hope, progress, and limitless possibility.

We are proud to count Afghanistan as a free country, a fellow democracy, and a friend of the United States of America.

This past year has been one of extraordinary events in the Middle East.

We have seen amazing images of people celebrating their newfound liberty—cheering, dancing and singing in the streets that they, too, are now free.

From the cedar revolution in Lebanon to the historic elections in Iraq, the winds of democratic change are blowing across Arab lands.

A new report by the highly respected human rights group Freedom House finds genuine stirrings of democratic progress: local elections in Saudi Arabia; women's new voting rights in Kuwait; improved elections in Egypt and the Palestinian territories.

The organization's director of research notes that, "Many people predicted that American policy in Iraq and elsewhere would set back the cause of freedom. This year's results suggest that hasn't been the case."

Indeed, I would go further to say that President Bush, our brave men and women in uniform, our coalition partners, and courageous citizens across the Middle East deserve tremendous credit for advancing the cause of freedom.

That freedom is bringing hope and optimism to millions of people long oppressed.

Last week's ABC News poll found that Iraqis believe their lives are going well, and nearly two-thirds expect things to improve in the year ahead.

Average Iraqi household incomes have skyrocketed by 60 percent in the last 20 months. Iraqis are quickly joining the swift current of modern life with cell phones and the Internet, cars, washing machines, and satellite dishes.

Another new poll in Pakistan found that in that Muslim country, public opinion toward the United States has dramatically improved.

Favorable opinion toward the United States has more than doubled since May to nearly half of those polled, while support for al-Qaida has plunged to its lowest level since 9/11.

Times are changing, and they are changing for the better.

It is true, we still face a terrorist enemy who targets innocent civilians with bombings and beheadings, who dreams of inflicting massive violence on the American people.

These same enemies sent suicide bombers to murder innocent Jordanians only a few weeks ago. They despise freedom, and they are bending every effort to derail the democratic process.

But they will not succeed.

I am confident that America and her allies will prevail. I am confident that we will defeat the terrorist enemy and bury its twisted aims.

And all the while, we will continue to stand behind Iraq, Afghanistan and all champions of freedom as they work to secure the blessings of liberty.

RETIREMENT OF MR. ROBERT J. SHUE

Mr. STEVENS. Mr. President, I rise to pay tribute to Robert J. Shue, a senior official in the Office of the Under Secretary of Defense, Comptroller, who in early January, 2006, will retire from a distinguished career spanning 37 years of exemplary service to America.

Mr. Shue began his career serving over 13 years in the Bureau of Economic Analysis in the Department of Commerce. He joined the Department of Defense in 1982 and quickly became a highly valuable member of the Secretary of Defense's staff.

During his 23 years in the Comptroller's office, Mr. Shue was a highly respected leader and expert on the Defense Department budget and a wide range of related matters. He played a critical role in the formulation, approval, and execution of defense budgets that produced a much-needed strengthening of America's defense posture and enabled our military to fulfill its many demanding commitments.

Mr. Shue developed and led a diverse staff of analysts and liaison officers and made his office the Defense Department's primary leader in tracking and resolving high-level budget issues. He meticulously tracked numerous and complex actions affecting the funding available to the Department. He was a pivotal leader in presenting and justifying each new budget to the Congress and the American public.

Mr. Shue was vital to the Department's analysis of congressional action on Defense Department funding and to devising strategies to influence that action. He skillfully led staff in achieving and sustaining a highly productive relationship with congressional oversight committees. This resulted in accurate and constructive information flow between Congress and the Department, helping each meet its responsibilities more successfully.

Mr. Shue produced substantial top-quality analysis on complex economic, fiscal, and budget topics for the Secretary of Defense and other senior DoD leaders. He also improved support for these leaders by initiating important management reforms that saved staff time and improved the quality of decision making data.

For his extraordinary achievements, Mr. Shue received the Presidential Rank Award for Meritorious Service. He earned the deep respect of leaders throughout the Department of Defense, in the Office of Management and Budget, and with Congress's defense oversight committees. These leaders benefited enormously from his exceptional knowledge and dedication. Mr. Shue's service has substantially helped our Nation's leaders make the wisest possible allocation of its defense resources in order to ensure America's future security.

Throughout his distinguished career, Mr. Shue has had the resolute support of his wife, Suzi, and his three children. He has earned the deep gratitude of the American people. I wish Mr. Shue and his family all the best in the coming years.

GIVE OUR VETERANS THE CARE THEY'VE EARNED

Mr. BYRD. Mr. President, it has been 3 weeks since President Bush signed into law the 2006 spending bill providing funding for the Department of Veterans Affairs. Unfortunately, his signature was accompanied by a glaring asterisk. Instead of approving the full amount of funding that Congress provided for veterans health care, the President bottled up $1.2 billion in emergency funding that the VA urgently needs to make ends meet.

Congress added the emergency money to the bill after discovering that the President's 2006 budget request for the VA was woefully inadequate, compounding a series of errors in funding assumptions by the administration that led to a massive shortfall in VA funding in fiscal year 2005.

The $1.2 billion in emergency funding was not some kind of optional Christmas bonus for America's veterans. It is money that the VA needs to cover the baseline cost of veterans health care programs. But that money cannot be released to the VA until the President signs on the dotted line and designates it as an emergency. Unless and until the President acts, the money will simply languish in the Treasury, benefitting nobody while jeopardizing the VA's ability to meet the needs of veterans. Make no mistake about it: without this money, the VA will experience another shortfall in funding in 2006, and veterans will suffer the consequences of diminished services and longer waiting times for health care.

So why is the President sitting on this money? When Congress passed the VA funding bill, I wrote to the President urging him to release the emergency funding at the same time, thus assuring veterans that health care services will continue uninterrupted for the next year. But for some reason, the President has chosen not to release the emergency money. Instead of sending the VA the full amount of funding that Congress appropriated for veterans health care in 2006—a total of $22.5 billion—the President has chosen to hold $1.2 billion hostage at the White House.

What possible reason could the President have for refusing to relinquish this money to the VA? Does he expect America's veterans to beg for the money? Could he possibly fail to understand the importance of fully funding the VA health care program? Or could he have somehow forgotten the chaos last summer when the VA revealed that it had at least a $1 billion shortfall in health care funding for 2005, and was facing another gaping shortfall in 2006?

What kind of a signal does this send to our Nation's veterans, and to our men and women fighting in Iraq and Afghanistan?

Congress has worked diligently over the past 6 months to clean up the budget mess in the VA. As a result of amendments that I spearheaded in the Appropriations Committee and on the floor, the Senate seized the initiative to provide emergency funding to cover the shortfall that occurred in 2005 and to head off another shortfall in 2006. The administration, by contrast, had to be dragged to the table and only grudgingly owned up to the catastrophic consequences of its sloppy and inept budget estimates.

Congress has acted. Now the ball is in the President's court, and the clock is ticking. Mr. President, I again call on the President to immediately release the $1.2 billion in emergency funding for veterans' health care that Congress has provided.

MILITARY AID TO INDONESIA

Mr. DURBIN. Mr. President, just 1 month ago, this Congress approved the Department of State, Foreign Operations, and Related Programs Appropriations Act, of 2006. President Bush signed the bill into law on November 14. The act contains strong language concerning the political and military situation in Indonesia.

Congress requested from the administration evidence of genuine progress in military reform, the protection of human rights, and accountability for crimes against humanity. It asked for such evidence before the administration made available to Indonesia any funds appropriated under the Foreign Appropriations Act for the Foreign Military Financing Program and before it issued any licenses for the export of lethal defense articles for the Indonesian Armed Forces.

Congress also gave the administration the authority to waive these conditions when it is in the interests of national security to do so, as it usually does when placing these kinds of conditions on this or any administration.

To measure the desired improvements in military reform, we asked the State Department to certify that, No. 1, the Indonesian Government is prosecuting and punishing, in a manner proportional to the crime, members of the Armed Forces who have been credibly alleged to have committed gross violations of human rights; No. 2, at the direction of the President of Indonesia, the Armed Forces are cooperating with civilian judicial authorities and with international efforts to resolve cases of gross violations of human rights in East Timor and elsewhere; and No. 3, at the direction of the President of Indonesia, the Government of Indonesia is implementing reforms to improve civilian control of the military.

Congress does not make these requests lightly, and we based our decision on four decades of Indonesian history and U.S.-Indonesian relations. The Indonesian Armed Forces have frequently acted to forestall progress and the growth of democracy in Indonesia. Over the last decade, taking note of this, Congress has placed certain restrictions on military assistance to Indonesia, and—over that same span of time—we have seen certain positive changes in TNI behavior.

This progress is occurring—of course—in a larger context. Indonesia is making commendable progress in building one of the world's largest democracies, with democratic elections most recently in 2004.

Congress did not include the conditions on aid for Indonesia's military contained in the Foreign Operations Act to hinder the development of Indonesian democracy or punish the Indonesian people, but to assist them as they build a better future for their country.

The Indonesian Armed Forces have rightly been criticized in the past, but I also want to emphasize the changes we have seen, the positive steps Indonesia's military authorities have taken. Those steps are important and praiseworthy.

The Armed Forces have revised their old "Dual Function" doctrine, an artifact of the Sukarno and Suharto years, under which the Armed Forces claimed both a military and a socio-political role in the life of the Indonesian state.

Under Suharto, military officers also served as parliamentarians, provincial governors, mayors, civil servants, and teachers. The Armed Forces also controlled the police. They effectively controlled giant industrial and commercial concerns such as the state oil company.

That has stopped. The TNI has stepped back from politics, and given up its reserved seats in the Indonesian Parliament.

Indonesia's military officers have shown repeatedly in recent years that they accept their place in the new Indonesia, and during their country's last two national elections, they have behaved in an exemplary fashion.

When Indonesia suffered the terrible blows inflicted upon it by last December's tsunami, the Indonesian military acted with bravery and great humanity to bring assistance to the victims of that most terrible natural disaster.

We recognize what they have done and we admire their commitment to the new and more democratic system their country is building.

Sadly, while the Indonesian Armed Forces have done a great deal, they have not done enough. Too many reasons for serious concern remain.

Six years after the TNI's involvement in East Timor's referendum on independence left 1,400 people dead, the Indonesian authorities have not brought one Indonesian officer to justice for abuses committed in the

Timorese capital of Dili and elsewhere in that island nation. Indeed, some officers suspected of serious abuses have received not punishment or censure, but promotions to higher grades of their services.

There are numerous cases of human rights activists being harassed and even murdered, and we still have not seen justice for these victims.

Last year, when Indonesia's Parliament was considering a South African-style truth and reconciliation commission to discuss past atrocities, military officials objected—strongly and publicly—to the inclusion of "truth" in the commission's title, warning any ensuing investigation into past human rights crimes would not help the aim of building national unity.

During that debate, a retired Indonesian major general serving in Parliament, a man named Djasri Marin, said a remarkable thing. According to Australia's The Age newspaper, he said, "If we reveal everything, it will be far from the idea of reconciliation, because there will be trials." He added, "If we want to disclose everything for the sake of mere truth, it will prevent us from real reconciliation . . . Let's bury the past and step towards the future."

It will be difficult to move into a common future in a unified fashion if the Indonesian military cannot own up to its past and take responsibility for its actions. That is one reason why we need to continue promoting positive change within the Indonesian Army. We need to continue pressing for evidence of genuine military reform, human rights protections, and accountability for crimes against humanity, just as Congress has requested.

In plain and simple language, Congress made its intent clear, asking the administration for evidence of genuine improvement in these three areas. It seems unlikely that either the President or the Secretary of State could have misunderstood or misconstrued this congressional expression of intent. Still, only a week after President Bush signed the Foreign Operations bill into law, the State Department hastily waived these conditions on military assistance, squandering an opportunity to encourage the TNI and Indonesian authorities to engage in meaningful reforms.

The waiver authority, granted to the administration by Congress, comes with implicit expectations by Congress that the administration will use it wisely and well. During the few days that passed between the time the President affixed his signature to the Foreign Appropriations Act and the moment Under Secretary of State Nicholas Burns affixed his signature to the waiver, the President has little time to act on congressional concerns.

We certainly saw no major advances in the three areas marked out by Congress. The TNI took no new steps to assure the appropriate prosecution and punishment of TNI members credibly alleged to have committed gross violations of human rights. The TNI took no new steps to show it is cooperating with civilian judicial authorities and with international efforts to resolve cases of gross violations of human rights in East Timor and elsewhere. The Indonesian authorities took no new steps to improve civilian control of the military. How could they? A week is hardly any time.

The great irony of all this is that the amount of assistance affected would have been small; small, but of great symbolic importance. I regret to say that the administration's decision to waive these conditions on national security grounds is also of great symbolic importance. Congress was promoting accountability and the rule of law in a democratic system. The Department of State has said the administration remains committed to accountability, but its actions suggest otherwise.

To waive these conditions in such a preemptory fashion raises serious questions about the relationship this administration has decided to have with Congress. In truth, it makes a mockery of the waiver process. Can we trust the administration to implement conditions like this in good faith? They waived the conditions—on supposed national security grounds—a week after the President signed the bill into law. It probably takes a week just to move a paper like that through the State Department bureaucracy.

In truth, it demeans the process, making a national security waiver a waive-it-when-you-feel-like-it waiver, rather than a last resort when other priorities intrude.

And so, I ask the administration, how shall we do business with one another in the future? Does the administration want us to eliminate such waiver authorities, so that its officers are required to give our concerns a fair hearing?

The administration needs to do more to make sure that U.S. policy and U.S. assistance to Indonesia promote TNI accountability and discourage the impunity the TNI still enjoys. I respectfully disagree with MG Djasri Marin. Nobody can step towards the future by burying the past.

We are intensely interested in Indonesia's future and the success of its democracy. Indonesia is the world's fourth most populous country, with an Islamic population larger than that of any other country on the planet. It unwillingly hosts a number of radical terrorist groups that have killed hundreds of Indonesian citizens and hundreds of foreign visitors to Indonesia's shores. It sits astride vital trade routes linking the Middle East to the Pacific.

We want Indonesia to succeed, and we will continue to support the Indonesia Government and the Indonesian people. But uncritical assistance to the TNI will only hinder Indonesia's democratic transition and undermine our interests in that country.

We know Indonesia faces a serious terrorist threat and that the Indonesian authorities must act to protect their nation's citizens from that threat. We have urged closer U.S. cooperation with Indonesian police authorities to face down terrorism, and we support efforts to fund, train, and equip the Indonesian police's anti-terrorism units. We applaud the Indonesian Government's determination to vet all members of such units to make sure they have not been involved in human rights violations.

We do not dispute that the TNI could play an important and appropriate role in Indonesia's own fight against terrorism, but we cannot ignore the institution's history of human rights abuses. We should not lend American support to an unreformed TNI, a TNI that no Indonesian democratic institution can hold accountable for human rights abuses. Congress clearly expressed its intent in this regard.

We will find ourselves on shaky ground—and place our counterterrorism strategy in the region at risk—if we do not press for reforms in an Army that considers itself above the law.

I strongly urge the State Department to reconsider its decision to waive in such a preemptory fashion the restrictions placed upon military assistance to Indonesia by this Congress. The administration needs to provide Congress with a better sense of the benchmarks it is using to encourage TNI reform and measure TNI progress. And it needs to use its waiver authority more judiciously if it expects Congress to continue granting such authority.

DORRANCE SMITH

Mr. WARNER. Mr. President, earlier this week, the Committee on Armed Services favorably reported the nomination of Mr. Dorrance Smith to the full Senate. Mr. Smith is an experienced and highly accomplished television executive, who has been nominated to be the Assistant Secretary of Defense for Public Affairs. I have a copy of Mr. Smith's biography, and I would note that he is a four-time Emmy award winning television producer who spent 9 months in Iraq from 2003 to 2004 where he served as Senior Media Advisor to Ambassador Paul Bremer. I have met with Mr. Smith on several occasions. I believe him to be highly qualified, and I fully support his nomination.

At a full Armed Services Committee hearing on October 25, 2005, and later, at an executive session of the Armed Services Committee on December 13, at which Mr. Smith was present, he fully and respectfully answered all questions posed to him. Many questions focused on an op ed article he wrote as a private citizen that appeared in the Wall Street Journal on April 25, 2005. In this article, based on his "in the trenches" experience as Ambassador Bremer's senior media advisor in Baghdad, Mr. Smith questioned the practice relied on by major media outlets in the United States of airing video of insurgent attacks supplied by the Arab satellite news channel Al Jazeera. I am satisfied with Mr. Smith's responses. I would note that no major media outlet, except Al Jazeera, expressed any concern about Mr. Smith's op ed.

The post of Assistant Secretary for Public Affairs has been vacant since June 2003. Mr. Smith is an outstanding nominee. I urge favorable, rapid action by the full Senate on his nomination.

I ask unanimous consent that the above-referenced biography be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DORRANCE SMITH

Dorrance Smith is a four-time Emmy award winning television producer, political consultant, and media strategist who has worked over 30 years in television and politics.

Mr. Smith spent nine months in Iraq in 2003–2004 where he served as Senior Media Adviser to Ambassador Paul Bremer. He was responsible for developing a state of the art communications facility in Baghdad for the Coalition Provisional Authority and a public diplomacy strategy for the United States government. In addition, Mr. Smith was asked to overhaul the fledgling Iraqi Media Network. By April, 2004 this effort was deemed so successful that the terrestrial channel—Al Iraqiya—was launched on satellite. For his efforts he was awarded the Secretary of Defense Medal for Exceptional Public Service.

More recently he has been a consultant to the Joint Congressional Committee on Inaugural Ceremonies and the 2004 Republican National Convention.

A four time Emmy Award winning ABC News and Sports producer, he has held a number of positions at the network, including serving as the first executive producer of "This Week with David Brinkley."

From 1989 until 1991, Smith was the executive producer of ABC News "Nightline." During his tenure he was responsible for the weeklong "Nightline" series originating from South Africa, which covered the release of Nelson Mandela. The broadcasts won an Emmy award. In addition he served as executive producer of the prime time special "Tragedy at Tiananmen—The Untold Story," which was honored with the duPont Columbia University Award, the Overseas Press Club Award and an Emmy. "Nightline" also won an Emmy in 1991 for outstanding news coverage of the Iraqi invasion of Kuwait.

Prior to his work on "Nightline," Smith was the executive producer of the number one rated Sunday public affairs program, "This Week with David Brinkley," a post he held from the program's inception in 1981 until 1989. During his tenure the broadcast received the first Joan Barone Award, the George Foster Peabody Award, and was named the Best National TV Interview Discussion Program by the readers of the Washington Journalism Review.

In 1991 Smith left ABC News to become Assistant to the President for Media Affairs at the White House. In this capacity Smith handled all television and radio events involving President Bush, members of the White House staff and Cabinet. In addition his office handled all regional media; coordinated media strategy for administration officials seeking confirmation; and organized the debate preparation during the 1992 political campaign.

In 2001, Smith was designated by FEMA Director Joe Allbaugh to handle all media following the events of September 11th. In this capacity Smith was responsible for FEMA's media strategy for print, radio and television. Smith organized and distributed the now famous FEMA video feeds from Ground Zero. He reorganized the Public Affairs Office to meet the post September 11th media demands.

At ABC News, Smith became executive producer of all weekend news programming in 1980. He was responsible for the production and programming of "World News Saturday," "World News Sunday," "The Weekend Report," and "The Health Show."

Prior to his weekend assignment, Smith was Washington producer of ABC News' "The Iran Crises: America Held Hostage." He also served as ABC News Senior Producer at the 1980 Winter Olympics, the 1984 Winter and Summer Games, and the 1988 Winter Olympics in Calgary.

From 1978–1979, Smith served as ABC News' White House producer. Smith joined ABC News as a Washington producer in 1977. Previously he was staff assistant to President Gerald Ford.

He began his broadcasting career at ABC Sports in 1973 as an assistant to the producer. In 1974 he was made Manager of Program Planning for ABC's Wide World of Sports.

Smith is a member of the Advisory Council for the George Bush Library in College Station, Texas.

He graduated from Claremont Men's College in 1973 with a Bachelor of Arts degree. He lives in McLean, Virginia.

FIRST SESSION OF 109TH CONGRESS

Mr. ALLARD. I rise today to speak in review of the first session of this 109th Congress. I have served in the Congress since 1991, and I can say without exaggeration that this year has been the single most productive year I have participated in. As I will detail, we have passed numerous significant legislative items, some of which have languished in Congress for many years. We have stayed a determined course in the global war on terror, maintaining our commitment to our troops and to those eager to adopt a democratic way of life in place of tyranny. We have stayed a proven course to reduce the tax burden on Americans and on American business. Economic indicators in the markets, home ownership data, and employment all illustrate the wisdom of this course. This Congress has shown a very real commitment to principle. While there are those in this body and in the media who would like to deny it, I am confident that this session of Congress will go down in history as singularly productive and representative of the will of the people.

The list of significant legislative items passed and signed into law this year is extensive. We got off on the right foot by passing a budget resolution out of the Senate on March 17, and the Congress adopted the budget conference report on April 28. This is amazingly early when compared to the struggles we have encountered in recent years. The Budget, as I have said many times before, is a vital blueprint for our work and a responsibility we must assume to serve the taxpayers. I am a member of the Senate Budget Committee and a former member of the House Budget Committee, and I am pleased to say that our chairman in the Senate has been as efficient and principled an advocate for good budgeting policy as I have ever worked with.

In previous years, we have also struggled to complete our work on appropriations legislation. The House, where appropriations measures are to originate, reported every single appropriations bill out of committee by June 21. The Senate passed every bill before October 27. Today, as we wrap up a few remaining issues, all but the Defense and Labor-HHS bills have been signed into law, but it is important to note that these bills were passed by the Senate in October. The leadership on both sides of the Capitol and the members of the various appropriations subcommittees certainly deserve accolades for making such quick work of these difficult legislative items.

Congress passed the Safe, Accountable, Flexible and Efficient Transportation Equity Act authorizing more than $286 billion of investment in our national infrastructure. The Congress also took a major step forward this year by passing a comprehensive energy policy. A comprehensive energy policy will help America meet long-term demands for energy. This policy will encourage greater domestic production, fuel diversity, research and development of new energy technologies, and an across-the-board improvement of energy infrastructure. One piece of this forward-looking policy includes the Oil Shale Development Act, which I worked on with my colleagues. This has been a prominent issue for years, but we have made the right policy decision, and it is one that will benefit millions of Americans in the decades to come. This year, Congress also addressed the energy needs of low-income families by increasing funds for the Low Income Heating Assistance Program, LIHEAP. Increased funding for this program will help those in need as winter grows more cold.

The work we have done on energy and transportation represents historic commitments to the public good. Virtually no aspect of our economic prosperity is unaffected by our fortunes in transportation and energy, and I am pleased to have been a part of these policy achievements.

After years of opposition that cost consumers untold millions, Congress finally passed the Bankruptcy Abuse Prevention and Consumer Protection Act, the first major revision to the U.S. Bankruptcy Code since 1978. This law will save approximately $3 billion a year for consumers through lower interest rates and better products and services. Consumers will further benefit from The Protection of Lawful Commerce in Arms Act and the Class Action Fairness Act. The former puts an end to the frivolous lawsuits that sought to financially drain lawful firearms manufacturers for the acts of criminals, and the latter curbs abuses in our courts that have driven costs for consumers up without benefitting the public. Frivolous lawsuits forced the firearms industry to spend nearly $200 million a year to defend itself from third-party actions and class action lawsuits had grown over 1,000 percent nationwide. Lawyers were getting rich while consumers suffered. These two bills represent a major accomplishment for both consumers and American business. We also passed the Dominican Republic-Central America-United States Free Trade Implementation Act which will benefit American business, consumers, and our neighbors in this hemisphere.

I would like to highlight another recent achievement of this administration and of this Congress that we celebrated this week when the first shipment of U.S. beef since December 2003 arrived in Japan. As my colleagues know the Japan Government recently declared that U.S. beef is every bit as safe as Japanese beef and that the beef trade may resume. This is a tribute to sound science, the hard work of our beef producers, and the diligent work of policymakers. It is with some pride that I note the first shipment of beef to be shipped to Japan was sent from Denver, CO.

In addition to these notable and historically significant accomplishments, the Congress has also passed a more humble pair of consumer-friendly items in the Junk Fax Prevention Act and The Family Entertainment and Copyright Act. These aren't the kinds of bills that the Washington, DC, crowd may see as being vital national issues, but these are issues felt deeply by our constituents and the small business community.

It cannot be overstated that these policies have fostered continued economic growth and prosperity. More than 56,000 jobs were created in our economy in October this year, and more than 4.2 million jobs have been created sine May 2003. Unemployment continues to steadily decline as more Americans than ever are working. This is a remarkable feat by policymakers, investors, small businesspeople, and families across the country. Our economy is strong.

Congress continued the national commitment to our men and women in uniform in a variety of ways this year. Though we await completion on the Department of Defense appropriations bill, we have already passed into law more than $80 billion for the further prosecution of the war in Iraq, the reconstruction of Afghanistan, and aid for our international partners. We have increased the pay of our service men and women with an across-the-board 3.1 percent raise, increased housing allowances, increased bonuses for additional retention and recruiting, and increased specific bonuses for those deployed overseas. We have also increased the maximum life insurance allowed for an insured veteran or service member and secured more than $140 million for body armor and personal protection.

I am particularly pleased with the steps we have taken to support our troops. Too often policymakers talk the talk without regard to action. It is my hope that we will continue to be responsive and supportive of our troops. The people of the United States are grateful for their dedication and courage. We tackled important veterans health issues this year, as well, by passing the Veterans Medical Services Supplemental. This legislation provided $1.5 billion to meet our commitment to those who have served our Nation.

The same Defense supplemental appropriations bill included almost a billion dollars in aid for those impacted by the tsunami in the Indian Ocean almost a year ago, including more than $650 million for the Recovery and Reconstruction Fund.

Though not a legislative accomplishment, this would be a good time to mention the tremendous yield we have seen from the years of work by this administration, the military, and Congress. This year started with Parliamentary elections in Iraq to democratically select those responsible for drafting the framework of a free Iraq. In October, the Iraqi people approved their new constitution, and the mechanisms of democracy are still working. In Afghanistan, after many years of turmoil, we also witnessed the free election of a Prime Minister and of the new Parliament. We must stay this course.

In the past year, we have also enacted a series of legislative proposals to provide relief to families in the gulf region. The unprecedented impact of Hurricane Katrina demanded an immediate response. The Gulf Coast Emergency Water Infrastructure Assistance Act, The Community Disaster Loan Act, The Natural Disaster Student Aid Fairness Act, Pell Grant Hurricane and Disaster Relief Act, Temporary Assistance for Needy Families Emergency Response and Recovery Act, and Katrina Tax Relief Act, among others, put us on the road to recovery. The pair of emergency supplemental appropriations bills that Congress passed total well over $65 billion and have provided needed infrastructure, security, and humanitarian relief. While there is a great deal of work to be done in the Gulf States, Congress has and will continue to demonstrate an ongoing commitment to this region.

Congress also engaged in one of the most important debates we could hope to have as far as our national security is concerned, that of enhancing the security of our borders. This year's Homeland Security Appropriations Act provides unprecedented funding to protect our borders from those who wish to enter illegally. This year we passed more than $31 billion in new budget authority for the Department of Homeland Security, increasing border security accounts, providing an additional 1,000 border patrol agents, and providing more 220 detention beds.

Among the most high-profile issues of the year were the nominations, hearings, and thus far one confirmation for the U.S. Supreme Court. Not only did the Senate confirm John Roberts to the Court, but Justice Roberts was also named to be the new Chief Justice of the Supreme Court. In the time since Chief Justice Roberts came before the Senate, we have also worked through a pair of nominations, one of which we will take up as our first order of business in the new year. The Roberts nomination demonstrated the value of our system and all of its various parts, working together for a greater good. I look forward to the timely hearings on Judge Alito's nomination and an up-or-down vote on his nomination.

This has been an amazing year of accomplishment for the Congress. As I said earlier, there has not been a more productive year in my time here. As proud as I am of these many accomplishments I would also like to discuss a few accomplishments a little closer to my home, the State of Colorado, where we have had a pretty big year, as well.

One of the ongoing projects I have worked on for many years now is the cleanup of Rocky Flats. This year, we secured more than $560 million for the final stages of the cleanup. Contrary to what many may expect, this cleanup was completed ahead of time and below projected costs, serving both the region and the taxpayer by cleaning up this facility.

Another long-term project that I have worked on is the destruction of chemical weapons at the Pueblo Depot. By working with the Department of Defense, we have increased funding and maintained good management principles to meet our treaty obligations in the destruction of more than three-quarters of a million chemical weapons on site.

Just down the road from Pueblo is Fort Carson. I recently held a town meeting at Fort Carson to discuss a variety of issues important to that base and to that community, including the political process that accompanies BRAC. We secured more than $120 million in military construction funds for new barracks and training at the facility as well as securing funds to prevent encroachment at the base. Even further on up the road is another jewel in America's military infrastructure, the U.S. Air Force Academy. Our ongoing efforts to assess progress and address problems at the Academy have been very productive thus far, and we secured $18 million to upgrade academic facilities and family housing this year. It is with some pleasure that I can also say I attended all four board of visitor meetings at the academy this year.

This has also been a year of accomplishment for Colorado's space industry. This year we added $60 million for military satellite projects in Colorado, secured $12 million for the space control facility at Peterson Air Force Base, and $6 million for the space warning facility in Greeley. In keeping with these efforts to modernize and expand our posture in space I held four Space Power Caucus events. Space is indeed a great frontier, and it is one where we must maintain an aggressive stance. Just as it is important that the military sector be moving forward in space, it is equally vital that our workforce and our students learn about space science and perform cutting-edge research. This year we secured more than $10,000,000 for student space programs at the University of Colorado, Colorado State University, the Challenger Learning Center, and the Space Foundation. The students who will benefit from these programs are our future.

Students in my home State will likewise benefit from our continued support of the University of Colorado's Center for Micro and Nano-technology, which will receive three-quarters of a million dollars for cutting edge scientific research that dwells on the cutting edge. Congress has seen fit to support Colorado State University's Pueblo campus, as well, providing $250,000 for the Western Forensic Law Enforcement Training Center.

I spoke earlier of the importance of the highway bill and its impact on our Nation's infrastructure. In Colorado, this will translate in to a variety of projects. We secured $80,000,000 for the T-Rex highway improvement program, $5 million for the west corridor, and $9 million for the Colorado Association of Transit Agencies, a statewide coalition of agencies focused on the future of mass transit in my home State. Our successful year of investment in infrastructure includes a variety of projects around the State, including projects such as the Rio Grande bike trail in Garfield County, funding for the Pikes Peak Highway, State Highway 145 from Dolores to Stoner, the Ports-to-Plains Corridor, and Frisco's West Main Street.

In the Agriculture Appropriations Act we secured more than $300,000 for the Cooperative State Research, Education and Extension Services for the Russian Wheat Aphid Resistance, Stress Tolerance and Quality Enhancement Project, more than 800,000 for infectious disease research to the Center for Economically Important Infectious Animal Diseases at Colorado State University, and almost $900,000 for the National Beef Cattle Evaluation Consortium, comprised of Colorado State University in Fort Collins, Cornell University, and the University of Georgia.

Our efforts this year also yielded $400,000 for tamarisk eradication efforts, more than $10,000,000 for new science and technology facility at the National Renewable Energy Laboratory, and $10,000,000 for design and construction of a new NREL Administrative Facility, and more than $55,000,000 for the Animas-La Plata project. In addition to securing funding to help my home State combat chronic wasting disease, we worked this year to direct the Animal Plant Health Inspection Service at USDA to begin to promulgate rules for dealing with this disease.

Another ongoing project that I have been pleased to work on with my colleagues is the modernization and expansion of the Centers for Disease Control lab in Ft. Collins. This facility, which provides vital research on vector-borne disease, will receive $24,000,000 this year.

We have been very fortunate in the State of Colorado. I appreciate the efforts of my colleagues in recognizing the vital research, military, and educational facilities housed in Colorado.

On a more personal note, this year I opened a new State office in Durango, CO. I would like to urge colleagues, if they have not been, to pay a visit to this charming mountain community in southwestern Colorado. Durango offers terrific recreation in summer and winter, and I look forward to being able to enhance my constituent service with this new office.

Each of my State offices and my office here in Washington joined with the University of Denver and the University of Northern Colorado this year to host the sixth annual Allard Capitol Conference. This year, we hosted more than 100 Colorado citizens for 3 days of civic learning and participation. This annual conference is one of the most enjoyable things I am able to do with constituents each year.

It has been an extraordinary year of accomplishment for the Congress and for Colorado. We have a tremendous amount of inertia going in to the second half of the 109th Congress, and I look forward to the new year and all of its challenges.

CLERICAL ERROR CLARIFICATION

Mr. GREGG. Mr. President, I submit for the RECORD a clarification to the conference report to accompany S. 1932, the Deficit Reduction Omnibus Reconciliation Act, to correct a clerical error in drafting in Section 11101(a)(2) regarding bankruptcy fees. The language, "in paragraph (2) by striking '$1,000' and inserting '$2,750' ", refers to the wrong subsection of the bankruptcy code. The language should read, "in paragraph (3) by striking '$1,000' and inserting '$2,750' ". Any reading of the language in context would indicate this clerical error, as the numerical references in the language are illogical otherwise. We will make the technical correction at the appropriate time.

REAUTHORIZATION OF THE TRAFFICKING VICTIMS PROTECTION

Mrs. CLINTON. Mr. President, I rise today to speak in support of the reauthorization of the Trafficking Victims Protection Act.

The scourge of trafficking in women and children was a priority for me as First Lady and continues to be a priority for me as a Senator. Since the United Nations Fourth World Conference on Women in 1995, I have been working to raise awareness of the heinous practice of buying and selling women and children like commodities. I have seen the devastation that it causes, and the lives it ruins. I have met with the families from Eastern and Central Europe, who, with tears in their eyes, pleaded with me to help them find lost ones who had been stolen from them, and I have met with the victims, including a 12-year-old girl in Thailand who was dying of AIDS after being sold twice by her family. This barbaric practice has caused far too many to exist in a perpetual state of fear and vulnerability, and we must do everything in our power to bring the scourge of trafficking out of the shadows and to the attention of the world.

I am proud to say that the United States has, for the past decade, been the leader in trying to persuade the rest of the world to eradicate this abhorrent practice. As the Clinton administration increased the antitrafficking activities of our Government through programs at the State Department and the Department of Justice, Congress was developing legislation to eradicate trafficking. We worked with the late Senator Wellstone, his Republican cosponsor, Senator BROWNBACK, and Congressman CHRIS SMITH and former Congressman Sam Gejdenson in the House, to introduce the first comprehensive antitrafficking bill in Congress. This culminated in the passage of the Victims of Trafficking and Violence Protection Act of 2000. I believed then, and I believe now, that this is one of the Clinton administration's greatest achievements and one of the most important parts of Senator Wellstone's legacy. That law has meant the difference between freedom and enslavement for unknown numbers of potential trafficking victims, and this reauthorization provides us with the opportunity to strengthen its ability to help those who have been trafficked, and I would like to thank Senator BROWNBACK and Representative SMITH, my colleagues on the Helsinki Commission, for their continued commitment to this act since its initial passage.

I am proud to see that this reauthorization enhances the 3 P's strategy—prevention of trafficking, prosecution of those that engage in these acts, and protection of the vulnerable individuals who have been trafficked—that we developed in the Clinton administration. It gives the Justice Department the authority to pursue extraterritorial prosecutions of Federal employees or those accompanying them if they engage in trafficking activities. It encourages the prevention of trafficking by requiring organizations or contractors engaged in U.S.-supported peacekeeping efforts to have antitrafficking policies in place. And it will protect those who have been trafficked overseas by increasing funding for programs like residential treatment facilities.

But there is still so much work to be done. Although reliable statistics are difficult to find, we know that 800,000 individuals—the vast majority of whom are women and children—are trafficked from one country to another every year, with 15,000 being trafficked to the United States. The FBI estimates that trafficking generates $9.5 billion annually for organized crime syndicates around the world.

I am deeply concerned about the growing domestic commercial sex trade, and I believe that we need to increase funding and target efforts to end all forms of exploitation. Any expansion of our focus must not dilute our commitment to eradicating human trafficking in all its forms in the United States, nor detract from the progress we have made in increasing prosecutions and working with law enforcement agencies. We must ensure that our government has all the resources it needs to make inroads against these awful acts on our own soil.

In the fight against trafficking in persons, patience simply is not an option. I look forward to continuing to work with my colleagues to end this barbaric practice in both the United States and around the world, because this is not about politics, but about what we all share: universal freedom and universal human rights.

KATRINA RECOVERY EFFORTS

Mr. KENNEDY. Mr. President, this holiday season is a time for families to come together, reflect on the year's challenges and opportunities, and give thanks for all that has been accomplished. It is also a time to take action to help those less fortunate.

The year 2005 was a year of great challenges, and among the greatest were the hurricanes that ripped through the gulf coast.

The magnitude of Hurricane Katrina was unprecedented. Its aftermath brought us images that we thought we would never see in America—lives lost, communities destroyed, families uprooted.

The toll was particularly devastating for hundreds of thousands of young children and students torn from the surroundings and institutions they depend on, and I'd like to spend a few moments discussing this aspect of the recovery effort.

We are all familiar with the devastation that past hurricanes have caused. Some have temporarily closed schools and colleges. In the aftermath of Hurricane Andrew in 1992, the Army, Navy, and National Guard joined in helping to repair classrooms and reopen school doors in about 3 weeks. Last year, Florida schools damaged by Hurricane Charley reopened within a month, and students were quickly back on track in their classrooms.

But Hurricane Katrina caused vastly greater devastation, especially in Louisiana, Mississippi, and Alabama. More than 700 schools and 30 colleges and universities were damaged or destroyed. Almost all have been closed, at least temporarily, and many will not open until January at the earliest. Some are in danger of never reopening.

The number of students affected is staggering. More than 370,000 elementary, middle, and high school students were displaced. Over 100,000 college students were affected by the disaster. And 18,500 Head Start or Early Head Start children were uprooted from programs.

These are not just statistics. These are real people whose lives have been changed forever.

Hurricane Katrina reminded us that we are all part of a single American family. And we have a responsibility to help members of that family when they are in need.

For too many weeks, our friends in the gulf region have waited for Congress to provide help in rebuilding their lives and their communities. Today, I am pleased that we will take an important step in actually providing the assistance so obviously needed.

The Katrina and Rita relief provisions in the conference report passed by the Senate today include several proposals developed by Senator ENZI and myself to help the children and students affected by these hurricanes.

It includes assistance to ensure that the youngest children uprooted by these tragic storms receive the services, help, and support they need. The bill dedicates funding to provide access to Head Start preschool programs and child care.

It provides much-needed relief for the public and private schools across the country that generously opened their doors to schoolchildren whose lives were turned upside-down by these disasters. These schools provided classrooms, teachers, and services for all of these students, and did so without a penny from the Federal Government.

It also includes relief for colleges in the affected areas, and ensures that college students displaced by the hurricane will receive the financial aid they need to stay in school and continue working toward their degree. Several colleges in Louisiana are in danger of closing their doors for good, unless they receive this critical assistance soon. The funding approved by the Senate today may not be enough to guarantee their future, but at least it offers much needed support.

This relief is long overdue, and I commend the Senate for taking action.

When these devastating storms struck, the entire nation responded in a way that is as caring and as generous as the American spirit.

Thousands volunteered to help. Families opened their homes. School districts across the country accommodated displaced students in their schools. Colleges and universities graciously opened their doors.

The Nation is grateful to all who did so much to help respond in the tragic aftermath of the hurricanes. We are grateful to the school principals and superintendents and the college presidents and deans who served as first-Responders and helped so many students continue their education.

But these educators need help as they struggle to accommodate the students. Congress must do its part to help these devastated communities get back on their feet and enable students to return to their schools. We also need to help the institutions that are laboring so hard to provide a safety net for these children and their families.

That is why the proposals in this conference report are so important. This funding will rehabilitate and strengthen the educational institutions that serve and assist children and students affected by Hurricanes Katrina and Rita, and help meet the needs of early education, elementary and secondary education, and higher education.

Thousands of young children affected by the storms need to return home to safe and healthy settings. They need good early childhood programs in adequate facilities. Their families need health and counseling services to cope with the trauma brought on by the storms.

The bill facilitates enrollment in Head Start and Early Head Start by waiving income eligibility and other requirements, so that families affected by Katrina will be able to enroll their children more easily. It provides $90 million for affected Head Start centers to provide preschool opportunities to displaced students. It also provides additional support and guidance to meet the emotional needs of children and their families.

We are reminded by this disaster that schools are the heart of local communities across America. When schools open, families return, businesses return, and lives begin to return to normal. So I am pleased that the report provides $750 million for special school reopening grants to districts and communities significantly affected by Hurricane Katrina.

These grants will aid in the effort to retain highly qualified teachers, recover lost data, establish temporary facilities, and take other steps necessary to reopen the schools.

The bill also responds to the efforts of schools in Texas, Georgia, Florida, and other States that opened their doors to displaced students. It provides $645 million for public and private schools that have enrolled displaced students, in order to ease the transition of students into new schools, support basic instruction, purchase textbooks and materials, and temporarily expand facilities to avoid overcrowding.

Both public and private schools can benefit from this aid, but the proposal sets ideology aside and rejects the attempts by the House and the administration to provide this aid in the form of vouchers to parents through a 1-800 number. Instead, the bill uses the mechanisms of current law to provide aid for students in private schools through the public school system.

The funds can only be used for the same list of allowable educational services as for public schools and so cannot and should not be used for religious activities. It makes clear that all of the aid is temporary, and is being provided in response to the extraordinary circumstances resulting from these disasters. It is not a precedent for future policymaking.

In addition, to help meet the demand for qualified teachers, the bill authorizes the Secretary of Education to encourage states to extend temporary reciprocity for the certification of teachers and para-professionals across state lines. Teachers certified as highly qualified in one state should be recognized as meeting this standard in other States as well.

To ease the burden faced by colleges and universities in the declared disaster area, the bill also authorizes the Secretary of Education to waive various Federal reporting requirements. It includes $200 million for student aid and waives the institutional matching requirement for students affected by the hurricane. These funds can also be used to help institutions in Louisiana rebuild their facilities and welcome their students home. Our priority should be to help these colleges and universities move into the future.

This relief package is a welcome step to help life return to normal for the hundreds of thousands of children and students uprooted by these deadly storms. We begin today to help the gulf coast communities rebuild and re-open their schools and colleges.

We need to continue this important work in the coming weeks, by assessing the ongoing needs of those affected by the hurricanes, and doing all that is necessary to help them rebuild their lives.

FAILURE OF HOUSE OF REPRESENTATIVES TO PASS S. 1558

Mr. LEAHY. I am disappointed that the House of Representatives has failed to act on S. 1558, which passed the Senate on November 10. This bill was introduced by Senators COLLINS and LIEBERMAN. I worked with them to amend it to extend for 4 years the "sunset" of a provision first enacted in the Identity Theft and Assumption Deterrence Act of 1998 that grants the Judicial Conference of the United States the authority to redact information from a judge's mandatory financial disclosure in circumstances in which it is determined that the release of the information could endanger the filer or the filer's family. The bill, as amended, also extends the protections of this provision to the family members of filers.

Like the more comprehensive court security measure Senator SPECTER and I have introduced, S. 1968, the Court Security Improvement Act of 2005, CSIA, from which it is drawn, S. 1558 provides judges and their families with needed security by extending the judges' redaction authority without interruption and expanding it to their families. It also strikes the right balance with the need for continuing congressional oversight to prevent the misuse of this redaction authority, which has been a matter of some concern to me. I appreciate that the Judicial Conference is seeking to improve its practices and the Senate passed S. 1558 because none of us wants to see judges or their families endangered. Now, because of the failure of the House to pass S. 1558 and enact the reauthorization of redaction authority for another 4-year period, these protections will lapse at the end of the year.

EPA'S PROPOSED PARTICULATE MATTER STANDARDS

Mr. JEFFORDS. Mr. President, I rise to speak on behalf of myself and Senators CARPER, BOXER, CLINTON, LAUTENBERG, LIEBERMAN, and OBAMA.

Last night, the U.S. Environmental Protection Agency proposed new National Ambient Air Quality Standards for fine particulate matter. The National Ambient Air Quality Standards are the cornerstone of the Clean Air Act. These standards must be set at a level "requisite to public health" with "an adequate margin of safety." They are to be based on the "latest scientific knowledge," and EPA is prohibited from considering costs in setting them. Their fundamental purpose is to ensure that our air is safe to breathe.

We have known for years that fine particle pollution causes premature death, increased asthma attacks, and numerous other health effects. In 1997, EPA revised the particulate matter standard on the basis of that evidence. The Clean Air Act directs that EPA, together with an independent scientific review panel, examine the available scientific evidence and determine whether the existing standard needs to be changed. The proposal by EPA last night, coming almost 5 years late, represents the end result of that effort. Unfortunately, EPA selected the weakest option available to it.

In determining whether to revise the standard, EPA reviewed the more than 2000 scientific studies that have been published since 1996. These studies confirm the earlier research results that demonstrate the strong relationship between particle pollution and illness, hospitalization, and premature death. Some of the more recent studies show the strong relationship between particle pollution and cardiovascular illnesses that trigger heart attacks and strokes. These studies also indicate a stronger relationship between short term PM exposure and health effects than was evident in 1997.

Under the Clean Air Act, EPA is required to consider the advice of an independent scientific review panel, the Clean Air Science Advisory Committee. CASAC, which must include at least one member of the National Academy of Sciences, one physician, and one person representing State air pollution control agencies. That body exhaustively reviewed the current body of scientific evidence and concluded that EPA must revise both its short term—24 hour or daily—PM standard, and its annual PM standard. Unfortunately, EPA chose to disregard that advice and proposed to only revise the daily standard. And in making its proposal on the 24-hour standard, it choose the highest level recommended by CASAC—35 micrograms per cubic meter.

It is apparent that the level proposed by EPA was not based entirely on the latest scientific knowledge. The level of the standard proposed by EPA will leave millions of Americans unprotected. It will also require few, if any.

additional controls to be put in place. EPA chose the least protective approach that it could and disregarded the advice of the CASAC by failing to revise the annual standard. Had EPA followed the recommendations of CASAC, it could have proposed options that would have prevented more than twice as many deaths. That is not even considering the Clean Air Act requirement for an "adequate margin of safety" that considers "sensitive subpopulations."

Playing politics with public health is unconscionable. When these standards were last revised in 1997, they were subject to multiyear litigation battle. Ultimately the Supreme Court unanimously upheld the 1997 standards and the scientific process that was used to develop them. The science we have available to us today is even clearer than it was then. Fine particle pollution kills people at levels below the existing standards. We need to change these standards and heed the advice of our best and brightest scientific minds. We need to let them tell us when the air is safe to breathe. When EPA makes its final decision in September regarding a new national ambient air quality standard, it must do so based on scientific, rather than political considerations. The very lives of our citizens depend on it.

CAPITAL PUNISHMENT

Mr. FEINGOLD. Mr. President, we recently passed a disturbing milestone in this country. One morning just a few weeks ago in North Carolina, Kenneth Lee Boyd was put to death by lethal injection. Mr. Boyd's was the one thousandth execution since the death penalty was reinstated in 1976. While a jury decided that his guilt was not in doubt, confidence in the extraordinary punishment he received increasingly is.

Across the Nation, people are reconsidering capital punishment. Recent polls, jury verdicts, and actions taken by all three branches of government in States across the country reflect the changing attitudes about the death penalty in this country. Americans are increasingly concerned about the use of this very final punishment.

With advances in DNA technology, numerous exonerations of people on death row, and new revelations that innocent people have actually been put to death, more and more people are questioning the accuracy and fairness of the administration of the death penalty. In addition, more and more people have qualms about the very concept of state-sponsored executions. This trend is a hopeful sign, as I believe there continue to be numerous moral, ethical and legal problems with the death penalty.

According to a series of Gallup polls, opposition to the death penalty has grown from 13 percent of Americans in 1995 to 30 percent in October of this year. Think about that. In just 10 years, we went from a vast majority of Americans supporting the death penalty, to nearly one-third now opposing it. That is the highest level of opposition since its reinstatement almost 30 years ago. And a CBS News poll from April indicates that when people were asked whether they prefer the death penalty or life without parole for individuals convicted of murder, only 39 percent supported the death penalty.

Evidence of the changing attitudes about the death penalty can be seen across America. The U.S. Conference of Catholic Bishops recently launched a campaign to end the use of the death penalty. In New York earlier this year, the State's highest court struck down the State's capital punishment statute, which had passed only 10 years earlier in 1995. The legislature then declined to reinstate the law, making New York the first state to abandon capital punishment since 1976. That is a remarkable sign of progress.

Meanwhile, just over the river in Virginia, the death penalty was a key issue in the last gubernatorial election. Tim Kaine, the current Lieutenant Governor, has long been personally opposed to the death penalty, although he pledged to enforce the law in Virginia. In the final weeks before the election, his opponent Jerry Kilgore began an ad campaign that heavily criticized Kaine's opposition to the death penalty. Kilgore strongly supports capital punishment and during the campaign he said he would push to expand its use in Virginia. But when Kilgore went after Kaine on the death penalty, Virginians did not take the bait. Despite Kilgore's attack ads, the citizens of Virginia elected Kaine Governor, and he will become Virginia's Governor in January.

I think what happened in Virginia strongly demonstrates how far we have come. This issue can no longer be used as a political grenade. A majority of Americans may not yet oppose the death penalty, but the electorate understands what a serious issue this is, and it will not stand for capital punishment to be exploited for political purposes.

Yet another example of the seriousness with which citizens and politicians alike are treating this .issue is outgoing Virginia Governor Mark Warner's recent commutation of the sentence of Robin Lovitt to life in prison. Mr. Lovitt was convicted of robbery and murder and sentenced to death, but before he had exhausted all judicial remedies, a court employee destroyed the physical evidence in his case—the very evidence that Lovitt said would exonerate him if subjected to new advanced DNA analysis. Under Virginia law, the Commonwealth must keep all physical evidence until the defendant has exhausted all posttrial remedies. Although Governor Warner is a death penalty supporter, he decided that he simply could not put a man to death when the State itself had destroyed his ability to prove his innocence. As he put it, he believed that the case "require[d] executive intervention to reaffirm public confidence in our justice system." In his almost 4 years as Governor, this was the first time Governor Warner granted a clemency petition.

On the other side of the country, we have seen a great deal of public debate as Governor Schwarzenegger considered a clemency petition for Stanley Tookie Williams. Williams was a founding member of the Crips gang and was convicted of four murders in 1981. During his years in prison, however, Williams, by all accounts, worked to turn his life around. He denounced gang violence, tried to keep kids out of gangs, and even helped broker peace deals between rival gangs. Governor Schwarzenegger denied clemency and refused to commute Mr. Williams' death sentence to life without parole. The State of California put Mr. Williams to death on December 13.

Much more is happening at the State level that has not received nearly as much attention. North Carolina and California recently created commissions to study the administration of the death penalty in their respective States, joining many other states that have already done so. Moratoriums on executions remain in place in Illinois and New Jersey, and are under consideration in other States. Many State legislatures have worked to address flaws in their systems or even rejected efforts to reinstate the death penalty. State courts have limited or banned the death penalty, including the Kansas Supreme Court, which in 2001 ruled that State's death penalty law unconstitutional. That case, Kansas v. Marsh, was heard in the U.S. Supreme Court just last week. Even in Texas, the State that executes by far the most people every year, a life-without-parole sentence was recently enacted, giving juries a strong alternative to the death penalty. And Texas Governor Perry also established a Criminal Justice Advisory Council to review the State's capital punishment procedures.

These signs of progress have coincided with critical new restraints imposed by the Supreme Court, which in recent years has issued two key rulings that limited the application of the death penalty. In 2002, the Court held in Atkins v. Virginia that applying the death penalty to mentally retarded defendants was excessive and constituted cruel and unusual punishment in violation of the Eighth Amendment. And just this year, in Roper v. Simmons, the Court made the same decision with regard to individuals who commit crimes before their eighteenth birthday. Capital punishment for mentally retarded defendants and juveniles is now unconstitutional in the United States.

Mr. President, as I mentioned before, there are many reasons people are questioning the death penalty in ever-increasing numbers. A common concern is that innocent people end up on death row, and we cannot tolerate errors when the state is imposing such a final penalty. More than 120 people on death row have been exonerated and released. Think about that. Just over one thousand people have been executed in the era of the modem death penalty, while a number equaling 12 percent of those executed have been exonerated. Those are not good odds, Mr. President.

Even more horrific is the prospect that we have already executed individuals who were, in fact, innocent. It saddens me greatly to report that information has come to light strongly demonstrating that two men put to death in this country in the 1990s may well have been innocent. That sends chills down my spine, as I'm sure it must for my colleagues.

Earlier this year in Missouri, local prosecutors in St. Louis reopened the case of a 1980 murder because the evidence against the man convicted of the crime had fallen apart. That man, Larry Griffin, was sentenced to death, and he was executed by the State of Missouri more than 10 years ago. Yet now, 25 years after the crime and more than 10 years after his execution, very serious questions about his guilt are being raised. CNN recently reported that a University of Michigan law professor who researched the case found that the first police officer on the scene now claims the person who testified as an eyewitness gave false testimony. A victim of the shooting, who was never contacted before Mr. Griffin's original trial, stated that the person claiming to be an eyewitness at the original trial was not present at the scene of the crime. Samuel Gross, the Michigan law professor who supervised the new investigation of the case that led to the St. Louis Circuit Attorney's decision, was quoted as saying with regard to this man's innocence: "There's no case that I know of where the evidence that's been produced in public is as strong as what we see here."

The second case is from Texas, where a young man named Ruben Cantu was executed in 1993. He was just seventeen at the time of the murder for which he was executed. Again, in this case, the only eyewitness to the crime has recanted his statement, and told the Houston Chronicle that Cantu was innocent. The Houston Chronicle also reported that the judge, prosecutor, head juror, and defense attorney have since realized that, as the newspaper put it, "his conviction seems to have been built on omission and lies."

The loss of one innocent life through capital punishment should be enough to force all of us to stop and reconsider this penalty. These cases illustrate the grave danger in imposing the death penalty. Whatever the new evidence that might come to light, it doesn't matter. There's no going back.

Mr. President, I know that many people in this country say that it doesn't matter what other countries do or say, that we should not look abroad for ideas. But the fact is that attitudes are changing around the world about capital punishment, and the United States is in poor company internationally on this issue. We are the only Western democracy ranked in the top ten countries in executions in 2004. And increasingly, other countries are rejecting capital punishment. Over the past 10 years, according to Amnesty International, an average of three countries per year has abolished the death penalty.

In closing, I urge my colleagues to take a long, hard look at capital punishment. Years of study have shown that the death penalty does little to deter crime, and that defendants' likelihood of being sentenced to death depends heavily on whether they are rich or poor, and what race their victims were. We have experienced again and again the risks, and realities, of innocent people being sentenced to death. I believe that is it wrong for the State to put people to death, especially when we can achieve our public safety goals by sentencing them to life without parole. It is heartening to see so many people reconsidering the death penalty, and it is my hope that in time we will end it in the United States.

I yield the floor.

IRAQ

Mr. LAUTENBERG. Mr. President, over the weekend the Senate passed my resolution, S. Res. 338, to honor the first 2,152 troops who have died in Iraq and Afghanistan by listing their names and hometowns in the CONGRESSIONAL RECORD. They deserve this tribute for their valiant support of their military obligations.

I appreciate the support of my colleagues on this measure. It is a symbolic way for us to honor each of our fallen heroes individually.

But there is another way we can honor their memory. And that is to be honest and truthful about the war in which they fought—Iraq.

The President has taken small steps toward candor on Iraq, but the denial of reality is still apparent in his speeches.

To make matters worse, the President is still making insulting insinuations about those who criticize his Iraq policy. In his Sunday night address to the nation, President Bush said:

> Some look at the challenges in Iraq and conclude that the war is lost, and not worth another dime or another day.

Does this statement suggest that those who disagree with the President would not even spend a trivial amount to protect America's international interests?

The President states that the sacrifices in Iraq are made in dimes and days. But what about lives?

What about the more than two American lives given each day so far this year in Iraq? The President didn't mention that.

I have gone to many memorial services and funerals for brave, young Americans from New Jersey who died in Iraq. Seventy-three soldiers with ties to New Jersey have died in Iraq and Afghanistan.

I have also visited Walter Reed Army Hospital here in Washington several times, and I have been struck by the incredible resilience and dedication to country of those young Americans.

While these brave men and women put their lives on the line, this administration bypasses reality.

Today we know that Iraq did not pose an imminent threat to our national security. We know that there were not weapons of mass destruction. We also learned that Iraq had nothing to do with 9/11 and actually had an adversarial relationship with al-Qaida.

There is no doubt Saddam Hussein was a maniacal dictator who killed, tortured, and suppressed his own people.

But President Bush did not call for an invasion of Iraq based on Saddam's treatment of his own people. President Bush called for war with Iraq because he argued that Saddam was a direct threat to the American people.

That turned out to be untrue, plain and simple.

Now, in the wake of the administration's mishandling of this war, much of Iraq has turned into a magnet for terrorists and extremists. President Bush continues to say that Iraq is a "central front of the war on terror." But the reality is that Iraq has become a terrorist front as a result of President Bush's mistakes.

Our 160,000 troops in Iraq have become a target for cowardly insurgents who attack us with roadside bombs and suicide attacks.

This is not progress.

Despite claims by supporters of the President's Iraq policy we are not making sufficient progress in Iraq. Unfortunately, we may be sinking deeper into a quagmire.

We have not made progress because the President has never put together a coherent plan for postinvasion Iraq.

For evidence of this, one need only look at the infamous speech aboard the aircraft carrier on May 1, 2003, when President Bush declared "mission accomplished."

"Mission accomplished" sure sounded like the job was done and our troops can begin to come home.

But we now know the mission was not accomplished on May 1, 2003.

More recently, over the past few weeks, President Bush has been making speeches about Iraq in an attempt to reshape people's perceptions of the war. The President knows that polls show that a majority of the American people do not believe that the war is being managed properly.

President Bush thinks if something is repeated often enough, people will eventually believe it.

But the American people will not stand still while we lose more of our courageous young men and women.

We all pray that Thursday's Iraqi elections will lead to a viable government that will create stability. It could be a critical first step.

But where are the plans if the elections do not lead to success? How long until more lost lives exhaust the patience and will of the American people?

In the meantime, supporters of the President point to evidence of significant progress as more satellite dishes appear on Iraqi roofs and cell phones are in Iraqi hands. But while the anxiety and fear existing in thousands of American families continues, Iraqi satellite dishes and cell phones do not suggest relief.

It seems possible to get an honest assessment from the administration of any future plans to get our people home.

That probably explains why some of President Bush's statements on Iraq have been contradicted by current military leaders.

For example, last June President Bush said there were 160,000 Iraqi troops trained and ready to fight. But then, a few months later, Gen. George W. Casey, Jr.—the top U.S. commander in Iraq—said only one Iraqi battalion was able to conduct operations independently of American forces. That means less than a thousand Iraqi soldiers were actually equipped to fight without our help.

And we should pay close attention to what the former head of U.S. Central Command—retired Gen. Anthony Zinni—said about this Iraq operation.

General Zinni has described the poor planning for the Iraq war as, "at a minimum true dereliction, negligence and irresponsibility, at worse, lying, incompetence and corruption."

General Zinni went on to say, "And to think that we are going to 'stay the course'—the course is headed over Niagra Falls."

Other generals with vast experience voiced serious doubt to the White House about Iraq, including Norman Schwarzkopf, Wesley Clark, Brent Scowcroft and Eric Shinseki.

But the people who wear a suit—not a uniform—in the administration didn't listen.

I served in the Army. I have met thousands of soldiers. I know that it takes about 3 months to turn a young American into a trained and dedicated soldier. So why has it taken almost 3 years to train a handful of Iraqis to be able to fight for their country?

President Bush also said this war has made us safer. But Iraq is not safe for our troops or the Iraqi people. We had 85 soldiers killed last month—one of the deadliest months since the war began.

There have been over 70 suicide bombings in the last 2 months, an average of more than one a day and more than 3,000 concealed bombs either exploded or discovered.

President Bush points to last Thursday's parliamentary elections in Iraq as a sign that there is light at the end of the tunnel. Let's hope this is true.

But we have heard rosy predictions from this President before, yet the insurgency seemed to only grow each time.

Remember: We also heard rosy predictions when the President said "mission accomplished." We heard it when Saddam Hussein was captured. We heard it a year ago after the first election in Iraq.

Meanwhile, 2,158 of our best young Americans have been killed. And nearly 16,000 have been wounded—many with injuries that will forever change their lives. No wonder a significant majority of the American people do not believe that President Bush has a plan to end this war.

That is why it is time for the President to give the American people a realistic plan for bringing our troops home.

What needs to happen? How many Iraqi troops need to be trained?

Let us set reliable goals for our mission, with an understanding of what it will take to get the job done and bring our troops back home to their families.

Mr. President, we don't want our leader to deny us the hard facts of war. And we don't want the price of this conflict hidden by prohibiting photographs of the flag-draped coffins that carry heroes back to our shores.

We need a leader who recognizes what a majority of the American people see taking place in front of their eyes on television, in our newspapers, in our homes, and in our hearts.

President Bush, I ask you to be frank with us about what we are facing in the future in Iraq. Show us how you will work to avoid further loss of life. And while we honor the memories of those who have perished, we must do whatever we can to make life more bearable for their families.

KOREAN FAIR TRADE COMMISSION DECISION AGAINST MICROSOFT

Mrs. MURRAY. Mr. President, I rise today regarding the December 7 Korean Fair Trade Commission, KFTC, decision against Microsoft. A major employer in Washington, Microsoft is being unfairly penalized by Korea, but this decision goes well beyond Microsoft as the Korean Fair Trade Commission's decision is ultimately a decision against free and fair trade.

When the European Commission issued its competition decision against Microsoft in March 2004, I was one of many Members who expressed serious concerns about the decision and its impact on one of America's most innovative companies and its workers. Like many of my colleagues, however, I was also alarmed at the broader policy implications of the decision—that Europe would adopt a decision whose negative impact on trade was so clear, and which diverged so markedly from the Department of Justice's remedy addressing the same conduct.

I believe that the December 7 decision of the Korean Fair Trade Commission against Microsoft is yet another warning sign that our trading partners are limiting competition in order to benefit their domestic interests. In this case, the Korean Fair Trade Commission not only followed the EU's market-distorting, anticonsumer approach, but appears to have gone substantially further than the EU remedies in several respects. The KFTC's decision makes me wonder whether the Microsoft case is not a unique case but instead indicates the beginning of a trend among some of our key trading partners to use competition law as a means to pursue protectionist agendas or advance domestic industrial policy goals. If so, this should be of tremendous concern to every member of this body.

Last week I wrote to U.S. Trade Representative Portman about this issue, and I would like to ask unanimous consent to place that letter into the record.

The letter urges Ambassador Portman to work with others in the administration—including at the White House and the Departments of Justice, State, and Commerce—to develop and implement mechanisms for addressing these issues in a more coherent and effective fashion. At the same time, I urged Ambassador Portman to work with others in the administration to take whatever steps are still available to advance the U.S. perspective in the Microsoft case, so that the anti-consumer, anti-innovation decisions do not establish a precedent that harms U.S. competitiveness for years to come.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, December 12, 2005.

Hon. ROB PORTMAN,
U.S. Trade Representative,
Washington, DC.

DEAR AMBASSADOR PORTMAN: When the European Commission issued its competition decision against Microsoft in March 2004, I was one of many Members who expressed serious concerns about the decision and its impact on one of America's most innovative companies and its workers. Like many of my colleagues, however, I was also alarmed at the broader policy implications of the decision—that Europe would adopt a decision whose negative impact on trade was so clear, and which diverged so markedly from the Department of Justice's remedy addressing the same conduct. At the time, my hope was that the Commission's decision was the counter-example that proved the rule—namely, that comity was alive and well among the U.S. and its trading partners, and that the international community was increasingly moving towards adopting U.S.-style antitrust principles and rules.

Recent developments, however, suggest otherwise. Specifically, the December 7 decision of the Korean Fair Trade Commission (KFTC) against Microsoft—in which the KFTC not only followed the EU's market-distorting, anti-consumer approach, but appears to have gone substantially further than the EU remedies in several respects—makes me wonder whether the Microsoft case is not a unique case, but instead indicates the beginning of a trend among some of our key trading partners to use competition law as a means to pursue protectionist agendas or advance domestic industrial policy goals. If so, this should be of tremendous concern to the United States and your office.

I understand that your Office, and you personally, have been following this issue closely, and that you and other USTR representatives have expressed the Administration's strong concerns on these issues with your Korean counterparts on more than one occasion. As a Member who represents a State with dozens of leading innovative companies employing several hundreds of thousands of workers, please know that these efforts are greatly appreciated. Clearly, however, the results to date are not what we would have hoped.

I am deeply concerned that, without a strategy for addressing these issues more effectively—not only in the EU and Korea, but also more broadly—leading U.S. firms will increasingly face competition rulings in foreign nations that have little or no economic justification, but that make it much more difficult for U.S. industry to compete in global markets. With all of the other challenges facing the global trading regime at the moment, the United States can ill afford yet another barrier denying U.S. industry and workers the benefits of international trade.

I would therefore urge you to work with others in the Administration—including at the White House and the Departments of Justice, State, and Commerce—to develop and implement mechanisms for addressing these issues in a more coherent and effective fashion. At the same time, I would urge you and others in the Administration to take whatever steps are still available to you to advance the U.S. perspective in the Microsoft case, so that the anti-consumer, anti-innovation decisions do not establish a precedent that harms U.S. competitiveness for years to come.

I would appreciate your response to this letter and look forward to continuing our dialogue on these issues in the months ahead.

Sincerely,

PATTY MURRAY,
U.S. Senator.

FOURTH TERM FOR MAYOR TOM MENINO OF BOSTON

Mr. KENNEDY. Mr. President, I welcome this opportunity to congratulate our outstanding mayor in Boston, Tom Menino, on his reelection last month. The people of Boston love Tom, and for good reason.

Running for his fourth full term as mayor, Tom received an incredible 68 percent of the vote on election day, an extraordinary new mandate to continue his leadership that has meant so much to our city.

Tom is Boston's modern FDR, and at the end of this term he will become the longest serving mayor in Boston's 375-year history.

It is a distinction Tom Menino has earned through his unwavering dedication and commitment to the people of Boston.

For 12 years, Mayor Menino has worked day in and day out to unite our diverse city, make its neighborhoods and communities stronger, create fertile opportunities for businesses, and improve the quality of life for all the people of Boston.

He has fought to protect and expand housing for low-income families in the midst of the Nation's tightest housing market. He has never stopped working to meet the needs and protect the basic rights of every resident of our city—regardless of their race or background.

He has been a pioneer in education, creating Read Boston to help every child read at grade level by third grade and the Afterschool for All partnership so that learning doesn't end once school lets out for the day. He has fought to close the achievement gap for all of Boston's children and made Boston the first urban school district to have every school wired to the Internet.

Tom Menino has proven that America's great urban areas can succeed and thrive in this new economy, at a time when more and more of our Nation seems headed for the suburbs. Tom modestly describes himself as an urban mechanic, but it is far more accurate to say that he is an urban genius. Each day, he adds new proof that there are second and third acts for America's cities in our modern Nation.

Above all, Mayor Tom Menino has always worked tirelessly to ensure that Boston's brightest days lie ahead and that our city will continue to build on its incomparable history.

Tom has worked especially closely with our local colleges and universities to make certain that Boston remains the most prestigious destination in America for young men and women seeking excellence in higher education.

He has welcomed our burgeoning biotech and medical research sectors in order to guarantee that Boston stays at the cutting edge of these highly promising industries of the future. This new century may well be the century of the life sciences, and Tom Menino is making sure that Boston helps write that history.

Next year marks the 100th anniversary of the inauguration of another visionary Mayor of Boston, my grandfather, John F. Fitzgerald, whose love of our city was legendary and whose commitment to progress was unchallenged.

Grampa Fitzgerald might not immediately recognize modern Boston as his beloved hometown, but he would be thoroughly at home with its vitality and its spirit of innovation, progress, and opportunity. Those qualities he fought so hard for a century ago are alive and well today, an he would be grateful that the city he loved so dearly is now in the capable hands of Mayor Tom Menino.

In the years ahead, I look forward to continuing to work with Mayor Menino to find solutions to the real and often daunting challenges facing Boston and all of urban America. No one is more committed to solving the big issues than Tom Menino.

He and his extraordinary wife Angela have made a remarkable team for Boston, and all of us in the city look forward very much to more of the unique brand of Menino leadership in the years ahead.

TRIBUTE TO JULIA SERNA

Mr. DOMENICI. Mr. President, I would like to honor and praise a long-time member of my staff, Julia Serna, who has served the people of New Mexico admirably. Julia works in my Las Cruces office and has been a member of my staff since April 1993. Julia will retire at the end of 2005.

Julia's positive outlook is remarkable, and her smile and zest for life is contagious. And her jovial attitude and eagerness to deal with challenges is commendable. So many of those from my home State have come to know and love Julia over the years. Julia has always been known as someone always willing to listen to my constituents and lend a helping hand.

During her work on immigration and veterans issues, she has gone to great lengths to help a great many people in my home State. Julia is loyal and is one on whom I have come to rely and depend. In that time, we have accomplished much, and I am extremely proud of those accomplishments. She will be greatly missed by me and my staff and by the people of southwestern New Mexico for whom she has worked for so many years.

Most importantly, Julia is my good friend. But the time has come. After over 12 years of service on my staff, I know Julia's children Susie, Gabriel, Adolfo, and her grandchildren and great grandchild will be glad to be able to spend more time with her. As she begins her well-deserved retirement, I extend my best wishes to Julia and her family. Julia, for all you have done for me, and for all you have done for the people of New Mexico, you have my utmost respect and deepest gratitude.

Thank you, for a job well done. We will miss those tamales at the office.

JUDICIAL PHILOSOPHY

Mr. HATCH. Mr. President I rise to make a few remarks about a matter relating to judicial philosophy that has been discussed by some during the course of this year in connection with the public debate over Supreme Court vacancies that have occurred this year.

Some have attempted to create a false conclusion by criticizing a school of judicial philosophy sometimes referred to as the "constitution in exile".

For example, earlier this year, my esteemed colleague from Delaware, Senator BIDEN, who, I understand, teaches constitutional law at the University of Delaware, entered into this debate. My friend from Delaware specifically asked us to reflect upon the judicial philosophy of one of our Nation's most respected Federal appellate judges, Chief Judge Douglas Ginsburg of the U.S. Court of Appeals for the District of Columbia Circuit.

I was recently in attendance at the DC Circuit for the formal swearing in of Judge Thomas Griffith and was once again impressed with the quality of jurists of this extremely important and influential court.

I commend Senator BIDEN for his support for the nomination of Judge Griffith.

As I will explain, I do take exception to some of the characterizations that the former chairman of the Judiciary Committee made about the views of Chief Judge Ginsburg.

The senior Senator from Delaware invited us to "read Judge Ginsburg's ideas about the 'Constitution in Exile'. . . [and to] read what Judge Ginsburg has written" about the "fifth amendment's taking clause, the non-delegation doctrine, the 11th amendment, and the 10th Amendment." Since the Chief Judge of the DC Circuit is one of our Nation's finest jurists, I welcomed this opportunity to reacquaint myself with his opinions and writings. I was surprised and somewhat dismayed, then, to discover that this was such a short assignment.

Considering the sharp criticism by my Judiciary Committee colleague, Senator BIDEN, of Chief Judge Ginsburg's views as "radical," I was taken aback to discover how little he had actually written on the specified subjects.

It is no exaggeration to say that on most of these issues, Judge Ginsburg had written nothing of substance.

That being said, having considered what little he did write on these topics, the characterization of his views as "radical" is, at best, a stretch.

If the research that I have seen is correct, Chief Judge Ginsburg has authored only two opinions that even refer to the takings clause of the Constitution. In neither did he decide the takings claim being presented.

In *Corporation of Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints* v. *Hodel*, 830 F.2d 374, 381, DC Cir. 1987, Chief Judge Ginsburg, writing for the court, noted that "[t]he question of whether courts, as opposed to legislative bodies, can ever 'take' property in violation of the Fifth Amendment is an interesting and by no means a settled issue of law." He determined, however, that the court did not need to decide this issue. Similarly, in *City of Los Angeles* v. *United States Dept. of Transp.*, 90 F.3d 591, D.C. Cir. 1996, unpublished, Chief Judge Ginsburg, writing for the court, determined that the takings claims were not ripe for resolution.

Many of my colleagues have denounced ideological decision-making by judges who are eager to promote their own speculative constitutional understanding at the expense of the American people's traditional views. I actually think that is a fair description of judicial activism, and it is clear that Chief Judge Ginsburg has not engaged in it. Quite the contrary, in these cases where he declined the opportunity to reach for and resolve constitutional questions prematurely, he exhibited the moderation and prudence we should expect of our judges.

Similarly, Chief Judge Ginsburg does not appear to have written anything of significance on the tenth or eleventh amendments. In the one and only case in which he even mentions the tenth amendment, *Chenoweth v. Clinton*, 181 F.3d 112, D.C. Cir. 1999, Chief Judge Ginsburg, writing for the court, did not address the merits of the claim because the court had determined that the party lacked standing. As for the eleventh amendment, Chief Judge Ginsburg's "radical" contribution was to note, in *Brown* v. *Secretary of Army*, 78 F.3d 645, 653, D.C. Cir. 1996, that a case referred to by the appellant citing the eleventh amendment was inapposite to the case before the court. This is hardly the controversial statement in support of State sovereign immunity one would expect given my colleague's remarks.

So, as far as I am aware, Chief Judge Ginsburg has not written substantively on the tenth amendment, the eleventh amendment, or the takings clause. How then can anyone fairly conclude that Chief Judge Ginsburg has such radical views about the constitutionally limited powers of the national government? Perhaps some are reading between the lines and seeing emanations and penumbras that others do not discern.

The only topic singled out for criticism by my friend from Delaware that I could find was, in fact, substantively addressed by Chief Judge Ginsburg is the non-delegation doctrine. In a 1995 book review of David Schoenbrod's "Power Without Responsibility", Chief Judge Ginsburg employed the term "Constitution-in-exile."

Apparently some liberal critics of the President's judicial nominees have seized on this expression, perhaps in the hope that it will scare the American people into fearing some super-secret rightwing led by wayward judges.

Of course, this is nonsense.

But it is worth noting that the many of the critics who talk today about the Constitution-in-exile have completely unmoored that term from Chief Justice Ginsburg's original formulation.

In an article in the journal Regulation, Chief Judge Ginsburg wrote the following:

> [F]or 60 years the non-delegation doctrine has existed only as part of the Constitution-in-exile, along with the doctrines of enumerated powers, unconstitutional conditions, and substantive due process, and their textual cousins, the Necessary and Proper, Contracts, Takings, and Commerce Clauses. David Schoenbrod, "Power Without Responsibility: How Congress Abuses the People Through Delegation," Regulation Magazine (1995 No. 1) (Book Review), at 84.

He went on to explain that, "The memory of these ancient exiles, banished for standing in opposition to unlimited government, is kept alive by a few scholars who labor on in the hopes of a restoration, a second coming of the Constitution of liberty—even if perhaps not in their own lifetimes." Id.

So two sentences equal a judicial scheme to advance substantive economic liberty and restrain Federal authority? For a careful reader, it is clear that Chief Judge Ginsburg promotes no such agenda. First, he was referring only to the non-delegation doctrine, the supposedly radical proposition that Congress, not unelected bureaucrats, should be responsible for making our laws. And second, Chief Judge Ginsburg was writing a book review, and his reference to those "few scholars" was obviously not a reference to himself because he had not written on this subject.

His point was that the author of the book he was reviewing was misguided in thinking that the Supreme Court was likely to put teeth back into the non-delegation doctrine. Far from arguing that courts should strip Congress of their authority to delegate its lawmaking authority, he suggested that it would be more productive to ask Congress to change the way it delegates lawmaking authority to administrative agencies. Chief Judge Ginsburg was Administrator of Information and Regulatory Affairs of the Office of Management and Budget during the Reagan administration. This is the office within the Executive Office of the President charged with reviewing all Federal regulations. So Chief Judge Ginsburg has considerable experience and expertise in these matters.

In the referenced book review, Chief Judge Ginsburg endorses then-Judge Breyer's suggestion that "[p]roposed regulations, or at least those that would impose a burden in excess of a specified amount, say $100 million, would not take effect unless affirmatively approved by both houses of Congress." In this regard, I would note that Justice Breyer was one of the seminal thinkers in the field of regulatory reform and I would recommend that everyone read his 1982 book, "Regulation and Its Reform" in which he lays out a comprehensive analysis of, and suggestions for, regulatory reform.

In Chief Judge Ginsburg's speech, On Constitutionalism, published in the Cato Supreme Court Review in 2003, he articulates much the same position, stating that the separation of powers doctrine clearly indicates that "there must be a limit upon the ability of Congress to delegate lawmaking functions to the executive branch." Id. at 16. That is, the Constitution does seem to prohibit legislators from simply delegating their constitutional authority to legislate to an executive branch agency and then go home. Yet he also notes the Supreme Court's failure since the mid 1930's to find any act of Congress a violation of the non-delegation doctrine, demonstrating the High Court's reluctance to give meaning to the doctrine. So this is the view some have characterized as radical, the Constitution assigns the legislative power to Congress, and it violates the principle of separation of powers to have unlimited delegation of that law-making authority to executive branch agencies. Yet because the courts have been reluctant to adjudicate these arrangements, any remedy must come through political persuasion.

Chief Judge Ginsburg did join an opinion, the relevant part of which was written by another judge, in which the court held that the Environmental Protection Agency had interpreted sections of the Clean Air Act authorizing the national ambient air quality standards, NAAQS, for ozone and particulate matter so loosely as to render them unconstitutional delegations of legislative power. See *American Trucking Ass'n.* v. *EPA*, 175 F.3d 1027, 1034–40, D.C. Cir. 1999. More specifically, the court determined that it was unclear what in EPA's view was the "intelligible principle" the Congress had directed the agency to follow and no such principle was apparent to the court on the face of the act.

The court therefore remanded the cases to the EPA so that it could detail the principle limiting the agency's discretion. The full DC Circuit then denied the EPA's petition for rehearing en banc. *See* 195 F.3d 4, DC Cir. 1999. It is true, however, the Supreme Court granted the EPA's petition for certiorari and held that the act's delegation of authority to the EPA to set the NAAQS at the level "requisite to protect the public health", although broad, provided an "intelligible principle" for setting air quality standards and was therefore constitutional without further delineation by the agency. *Whitman* v. *American Trucking Ass'n*, 531 U.S. 457, 473, 2001. But this is hardly the first time the Supreme Court overruled an appellate court and, in any case, is a pretty thin reed on which to reach a conclusion that the lower court decision represented a radical break with constitutional jurisprudence.

I encourage everyone to examine Chief Judge Ginsburg's writings pertaining to the takings clause, the non-delegation doctrine, and the tenth and eleventh amendments. A fair reading warrants a conclusion that there is nothing radical about his reasoning or conclusions. Chief Judge Ginsburg's writings on these matters are neither extensive nor extreme. Characterizing them as a "stark departure from current constitutional law" is not justified.

I also might add that the issue of non-delegation is not as black or white as many have come to believe in recent times. Some appear—including many advocates of the liberal welfare state administered by so many Federal agencies—to argue, contrary to the Constitution's clear commitment to limited government, that there should be little, if any, judicial oversight over congressional actions and claim that even modest judicial requirements that Congress act within its constitutional authority are radical changes to our law. It seems counterintuitive then that these same people argue for an unlimited congressional authority to delegate their lawmaking power to another branch of Government. On the one hand, Congress is all powerful. On the other hand, they can give that power away.

The record reflects that Chief Judge Ginsburg is a mainstream conservative judge, who applies the Constitution faithfully. He is no judicial radical. He is one of the most respected judges in the Federal judiciary. Suggestions to the contrary are not supported by the facts.

NOTICE OF CHANGE IN INTERNET SERVICES USAGE RULES AND REGULATIONS

Mr. LOTT. Mr. President, I am taking this opportunity to announce that in accordance with Title V of the Rules of Procedure of the Committee on Rules and Administration, the committee intends to update the "U.S. Senate Internet Services Usage Rules and Regulations."

Based on the committee's review of the 1996 regulations and the October 8, 2003 amendments to the regulations, the following changes to these policies have been adopted effective today, December 21, 2005. The changes primarily affect the activities of a Senator who is running for election, section C.

Set forth below are the updated Internet Usage Rules and Regulations:

A. SCOPE AND RESPONSIBILITY

1. Senate Internet Services ("World Wide Web and Electronic mail, BLOGs, Podcasting, streaming media, etc.") may only be used for official purposes. The use of Senate Internet Services for personal, promotional, commercial, or partisan political campaign purposes is prohibited.

2. Members of the Senate, as well as Committee Chairmen and Officers of the Senate may post to the Internet Servers information files which contain matter relating to their official business, activities, and duties. All other offices must request approval from the Committee on Rules and Administration before posting material on the Internet Information Servers.

3. Websites covered by this policy must be located in the SENATE.GOV host-domain.

4. It is the responsibility of each Senator, Committee Chairman (on behalf of the committee), Officer of the Senate, or office head to oversee the use of the Internet Services by his or her office and to ensure that the use of the services is consistent with the requirements established by this policy and applicable laws and regulations.

5. Official records may not be placed on the Internet Servers unless otherwise approved by the Secretary of the Senate and prepared in accordance with Section 501 of Title 44 of the United States Code. Such records include, but are not limited to: bills, public laws, committee reports, and other legislative materials.

B. POSTING OR LINKING TO THE FOLLOWING MATTER IS PROHIBITED

1. Political Matter

a. Matter which specifically solicits political support for the sender or any other person or political party, or a vote or financial assistance for any candidate for any political office is prohibited.

b. Matter which mentions a Senator or an employee of a Senator as a candidate for political office, or which constitutes electioneering, or which advocates the election or defeat of any individuals, or a political party is prohibited.

2. Personal Matter

a. Matter which by its nature is purely personal and is unrelated to the official business activities and duties of the sender is prohibited.

b. Matter which constitutes or includes any article, account, sketch, narration, or other text laudatory and complimentary of any Senator on a purely personal or political basis rather than on the basis of performance of official duties as a Senator is prohibited.

c. Reports of how or when a Senator, the Senator's spouse, or any other member of the Senator's family spends time other than in the performance of, or in connection with, the legislative, representative, and other official functions of such Senator is prohibited.

d. Any transmission expressing holiday greetings from a Senator is prohibited. This prohibition does not preclude an expression of holiday greetings at the commencement or conclusion of an otherwise proper transmission.

3. Promotional Matter

a. The solicitation of funds for any purpose is prohibited.

b. The placement of logos or links used for personal, promotional, commercial, or partisan political/campaign purposes is prohibited.

C. RESTRICTIONS ON THE USE OF INTERNET SERVICES

1. During the 60 day period immediately preceding the date of any primary or general

election (whether regular, special, or runoff) for any national, state, or local office in which the Senator is a candidate, no Member may solicit constituent input or inquiries (such as online petitions or opinion polls or issue alerts) using a Senate Internet Server ("World Wide Web and Electronic mail, BLOGs, Podcasting, streaming media, etc."), unless the candidacy of the Senator in such election is uncontested.

2. Electronic mail may not be transmitted by a Member during the 60 day period before the date of the Member's primary or general election unless it is in response to a "direct inquiry". Exceptions to this moratorium include the following: press release distribution to press organizations and email to perform administrative communication. "Direct inquiries" do not include a request to be added to a mailing list, subscription list, or other request to receive future mailings. During the 60 day period, electronic news letters may not be sent out.

3. During the 60 day period immediately before the date of a biennial general Federal election, no Member may solicit constituent input or inquiries (such as online petitions or opinion polls, issue alerts or request to be added to newsletter mailing lists—electronic or otherwise, on behalf of another Senator who is a candidate for election, unless the candidacy of the Senator in such election is uncontested."

4. An uncontested candidacy is established when the Rules Committee receives written certification from the appropriate state official that the Senator's candidacy may not be contested under state law. Since the candidacy of a Senator who is running for reelection from a state which permits write-in votes on elections day without prior registration or other advance qualification by the candidate may be contested, such a Member is subject to the above restrictions.

5. If a Member is under the restrictions as defined in subtitle C, paragraph (1), above, the following statement must appear on the homepage: ("Pursuant to Senate policy, newsletters, petitions, opinion polls and issue alerts and other electronic communications cannot be initiated by this office for the 60 day period immediately before the date of a primary or general election."). The words "Senate Policy" must be hypertext linked to the Internet services policy on the Senate Home Page.

6. A Senator's homepage may not refer or be hypertext linked to another Member's site or electronic mail address without authorization from that Member.

7. Any Links to Information not located on a Senate Internet Server must be identified as a link to a non-Senate entity.

D. MISCELLANEOUS

Domains and Names (URL)—Senate entities must reside exclusively on SENATE.GOV domains. The URL name for an official Senate Web site located in the SENATE.GOV domain must:

1. Member's sites—contain the Senator's last name.

2. Committee sites—contain the name of the committee.

3. Officer sites—contain the name of the office.

NEPAL'S DOWNWARD SPIRAL

Mr. LEAHY. Mr. President, this is the third time in the past 6 months that I have spoken in this chamber about Nepal. I do so because this land of mostly impoverished tea and rice farmers who toil between India and China on precipitous hillsides in the shadows of the Himalayas, is experiencing a political crisis that may plunge the country into chaos.

As many predicted, King Gyanendra's seizure of absolute power on February 1 and suppression of civil liberties has damaged Nepal's foreign relations, triggered clashes between prodemocracy demonstrators and the police, and strengthened the Maoist insurgency.

The Maoists, whose use of extortion and brutality against poor villagers has spread throughout the country, announced a unilateral ceasefire on September 3 which they recently extended for an additional month. Although flawed, the ceasefire was the impetus for a loose alliance with Nepal's weak political parties after the King refused to negotiate with them and sought instead to consolidate his own grip on power.

Last month, the Maoists and the parties endorsed a vaguely worded but important 12 point understanding that could be the basis for a national dialogue to restore democracy and end the conflict. That, however, would require some reciprocal confidence building measures by the army, which has so far rejected the Maoist ceasefire as a ploy and continues to see itself as the defender of an anachronistic, corrupt and autocratic monarchy.

Although the army has won praise for its role in international peacekeeping missions, its reputation has been badly tarnished because of its abusive and ineffective campaign against the Maoists. It has engaged in arbitrary arrests, torture and extrajudicial killings of ordinary citizens, which has alienated many of the same people who have been victims of the Maoists.

On December 10, when hundreds of Nepalese citizens took to the streets to protest the King's repressive actions, the police used force to break up the rally and arrested several dozen people. The press reported another 120 arrests and dozens injured in demonstrations on December 17. More protests are likely, and it may be only a matter of time before Katmandu is in the full throes of a pitched battle between prodemocracy demonstrators and the King's security forces.

This is the disheartening situation in which Nepal finds itself today. The immediate challenge for the United States is how to help promote a political dialogue which includes the broadest possible participation from Nepali society to restore and strengthen democracy and end the conflict.

The Maoist cease-fire, while welcome, was a tactical move to lure the political parties into an alliance and further isolate the palace. There is no way to predict with confidence if the Maoists would participate in a political process in good faith, or simply use it as a ruse to gain new recruits and weapons. A resumption of attacks against civilians would be condemned and resisted by the international community. The Maoists should know that they cannot defeat the government by force, and as long as they extort money and property and abduct children they will be seen as enemies of the Nepali people.

Similarly, military experts have concluded that Nepal's undisciplined army cannot defeat a determined insurgency that attacks civilians and army posts and then disappears into the mountains.

There are also concerns about Nepal's political parties, who do not have a record of putting the interests of the nation above their own self interest. But the political parties, for all their flaws, are the real representatives of the Nepali people. They urgently need to reform, but there is no substitute for them.

Despite these difficulties and uncertainties, it is clear that the King has failed to provide the leadership to build bridges with the country's democratic forces and develop a workable plan. It is also clear that efforts by the international community, including the United States, to appeal to the King to start such a process, have failed. The Bush administration should apply whatever pressure it can, including denying U.S. visas to Nepali officials and their families.

With few options and no guarantees, Nepal's hour of reckoning is approaching. There is a growing possibility that the King's obstinacy and unpopularity will trigger massive civil unrest, shootings and arrests of many more civilians by soldiers and police, Nepal's further isolation, and perhaps the end of the monarchy itself.

Only the army has the ability to convince the King to abandon his imperial ambitions, but time is running out. The army's chief of staff, General Pyar Jung Thapa, was privileged to receive training at the Army War College and he has participated in other U.S. military training programs. He has led Nepali troops in UN peacekeeping missions. He knows, or he should have learned, that the function of a modern, professional military is to protect the rights and security of the people, not the privileges of a dictator who has squandered the moral authority of his office. It is not only in the interests of Nepal, but in the army's long-term self-interest, to show real leadership at this critical time.

The United States should do everything possible to encourage the army to announce its own cease-fire, to accept international observers as the Maoists have said they would do, and to support a broadly inclusive political dialogue with or without the participation of the palace.

Such a process, to be meaningful, must lead to free and fair elections.

The municipal elections announced by King Gyanendra for early next year, without any consultation with the political parties, are no solution. An attempt to apply a veneer of legitimacy to an otherwise undemocratic process will only prolong and exacerbate this crisis.

Many of the Maoists' grievances mirror those of the majority of Nepal's people who for centuries have suffered from discrimination, poverty, and abuse by one corrupt government after another. But Nepal's problems, which are at the root of the conflict, can only be solved through a transparent, democratic process. The Maoists have opened the door a crack for that to begin. The army should reciprocate. The international community should lend its support.

RECOGNIZING SENATOR CORZINE

Mr. DOMENICI. Mr. President, I rise to wish Senator JON CORZINE the very best as he leaves his service in the Senate to become the next Governor of the State of New Jersey. Although we didn't always agree on all the issues, it has been an honor to work with him. He has always been courteous and professional and I have enjoyed the opportunity to know him.

Senator CORZINE's career has taken him to the uppermost levels in the business world. He was a partner at Goldman Sachs at the age of 33 and he became CEO of that prestigious firm at the age of 50. As someone who has been extraordinarily successful in the private sector, I am sure Senator CORZINE has had many life opportunities offered to him. The fact that he has chosen a career in public service speaks a great deal to the type of person that he is.

Senator CORZINE's economic expertise helped him become a leader on budget and fiscal issues in the Senate. I had the privilege of serving with Senator CORZINE as members on the Budget Committee. His knowledge and understanding of financial markets and economic issues will be missed.

JON CORZINE has been a good Senator, and I wish him success as he leaves here to become Governor of the State of New Jersey.

LCDR ANDREW J. SCHULMAN, USN

Mr. DOMENICI. Mr. President, I rise to recognize LCDR Andrew Schulman, U.S. Navy for the outstanding contributions he rendered this past year while serving as a legislative fellow on my staff. Andrew is completing his Capitol Hill fellowship this month, and it is my hope that he has benefited as much from this experience as have I from having him on my staff.

Lieutenant Commander Schulman is a member of the U.S. Navy Civil Engineer Corps and is a Seabee Combat Warfare qualified officer. To my great benefit, Andrew joined my office in a year when the Department of Defense, made public its Base Closure and Realignment list. When an Air Force base in my home State of New Mexico was designated for closure, Andrew's expertise in facilities planning and assessment proved critical in our successful effort to convince the BRAC Commission that the DOD's decision on Cannon Air Force Base was premature and deserved a second look. I have no doubt that Andrew's tireless work and dedication was key to the Commission's ultimate finding that DOD "substantially deviated" on several BRAC selection criteria and that the Department "shall seek" a new mission for Cannon.

Andrew's experience as the officer in charge of designing and constructing detention cells for enemy combatants at Guantanamo Bay also provided me a firsthand insight on the issue of enemy prisoner detainment. It is an issue that has been carefully scrutinized by Congress this year, and Andrew provided sharp memoranda and oral briefings on both legal and policy aspects that greatly informed my own understanding of both interrogation and detainee policies of the Department of Defense.

I must also thank Andrew's family for enduring his many late nights at work. So to Mary Rose, Andrew's wife, and the Schulman children, Adam and Emma, I say thank you. And without question, you can be extremely proud of Andrew's dedication to our country.

Finally, I want to give my heartfelt thank you to Andrew for his service. His "can-do" attitude and tireless work ethic were infectious. His willingness to tackle issues which were new to him and to embrace the goals I have set for my staff on behalf of both the men and women of the armed forces and the citizens of New Mexico were truly commendable. I have no doubt that as Andrew continues his military career, he will achieve great things for both the U.S. Navy and his country, and I wish him the very best of luck in all his future endeavors.

TRIBUTE TO SENATOR WILLIAM PROXMIRE

Mr. DODD. Mr. President, I rise today to honor a long-time friend and an esteemed colleague William Proxmire, who passed away last week at the age of 90. I had the privilege of serving with him in this body for 8 years.

Senator Proxmire retired from this Chamber 16 years ago, but he is still remembered for his staunch work ethic and his unique dedication to a set of closely held principles. His standards of conduct as a U.S. Senator are legendary. In 22 years of service, he attended more than 10,000 rollcall votes—still a record in the Senate. In his last two campaigns for office, he declined all campaign donations—from anyone. During each race, he spent less than $200, all out of his own pocket, mostly to pay for postage and envelopes to return donations offered to him by his supporters. In both instances, he won by a landslide, a testament to the overwhelming support of his constituency in Wisconsin.

I have always felt a special affinity for Senator Proxmire and the issues that he championed. He was one of the few Senators who served with both my father and me. And he dedicated a great deal of time and effort to an issue that both my father and I considered paramount to our Nation's future. Over 19 years, he made over 3,000 statements on the Floor in support of ratification of an international treaty outlawing genocide. My father, as Senator Proxmire put it, "contributed a special zeal to this effort," fighting for this issue even before he entered the Senate. In 1950, as a member of a special committee of the American Bar Association, my father was one of the first witnesses to appear before the Foreign Relations Committee in favor of a treaty condemning genocide. Senator Proxmire's efforts over the years to champion this issue meant a great deal to me. And I am particularly honored to have brokered a deal with Senator Jesse Helms in 1988 to finally commit the United States as a signatory to this treaty.

I also had the privilege of serving with Senator Proxmire on the Banking Committee when he was the chairman of that body, and I can tell you, that he performed his duties with a unique commitment both to competition and the rights of the consumer. Early in his career, he passed the Truth-in-Lending Act, ensuring consumer access to information and forcing banks to compete openly and on equal terms. He also helped pass a bill deregulating the banking industry, which helped financial institutions offer better services at lower costs to consumers.

Senator Proxmire is perhaps best remembered for his fervent devotion to slowing Government spending. He returned over $1 million of his staff budget to the Treasury. He refused to travel abroad at the expense of the taxpayers. And he developed the "Golden Fleece" award to expose government programs that he considered wasteful. He gave statements on the floor exposing studies that explored the effects of alcohol on fish, documented the body measurements of airline flight attendants, and examined why people fall in love. Each "Golden Fleece" not only illuminated Government programs that might be considered profligate, but reminded us of the humor and personality of this noble public servant.

My wife Jackie and I offer our deepest condolences to his wife Helen, to his family, and to the people of Wisconsin and the citizens of our Nation, for the loss of such a dedicated public servant and an exceptional man.

BROADCASTING BALANCE

Mr. BROWNBACK. Mr. President, I rise today to reaffirm the Corporation for Public Broadcasting's requirement to ensure "strict adherence to objectivity and balance in all programs or series of programs of a controversial nature." CPB receives roughly $400 million from Congress as part of the Labor, Health and Human Services, Education Appropriations bill.

CPB's requirement to see that recipients like the Public Broadcasting Service and National Public Radio uphold the objectivity and balance standard does not stem from congressional micro-management or partisan interference. Rather, it is a matter of complying with the law under which CPB dispenses taxpayers' money.

That law mandates CPB to see to both "maximum freedom of the public telecommunications entities" and their "strict adherence to objectivity and balance." These mandates are not in conflict. Instead, they complement each other, and to maintain Americans' confidence in public broadcasting the Corporation for Public Broadcasting must see that both mandates are fulfilled. Congress and the taxpayers expect nothing less.

GUANTANAMO PRISONERS

Mr. BINGAMAN. Mr. President, I rise today to express my strong disagreement with the language in the Defense appropriations and Defense authorization conference reports concerning the treatment of prisoners being held in Guantanamo Bay, Cuba.

Under the McCain amendment, U.S. personnel are prohibited from engaging in torture or cruel, inhuman, or degrading treatment. I strongly support this. This ban applies to all military and intelligence personnel regardless of where they are located throughout the world. This is a clear statement that the United States will abide by its obligation to follow the law, and it is a step forward in reinstating our Nation's moral authority.

However, the Graham amendment would undercut much of what we are accomplishing with the McCain amendment in two respects. First, it would undercut our commitment to prohibiting the use of torture by allowing evidence produced as a result of torture to be used in military legal proceedings. Second, it would undercut any enforcement of this prohibition by barring individuals from seeking judicial review of the legality of their detention or bringing a suit to stop unlawful treatment.

When the Graham-Levin compromise passed the Senate, it had some good language in it, and it had some very troubling language.

On the good side, the amendment provided that the Combatant Status Review Tribunals at Guantanamo, which are charged with determining whether individuals should be classified as so called enemy combatants, are not allowed to use evidence that is derived through "undue coercion," such as torture. This was an important step forward. We should not be relying on information that is inherently unreliable in deciding whether to indefinitely detain a person. Unfortunately, this provision is now gone.

In the conference report the outright prohibition on using evidence derived through torture was replaced with a mere assessment of whether the evidence has been derived through coercive means, such as torture, and whether the evidence has any probative value. I would hope that a military tribunal assessing such evidence would realize that evidence derived through torture is not reliable. However, as drafted, this bill would allow a Combatant Status Review Tribunal to use evidence derived through torture if the tribunal finds that the evidence is helpful.

To the best of my knowledge this would be the first time in U.S. history that the United States would be on record as allowing this type of evidence in any type of legal proceeding. This is wrong and a huge step backwards.

Furthermore, from a practical standpoint the assessment with regard to whether the evidence is derived though torture is essentially pointless. The conference report states that this assessment is only applicable prospectively. The problem is that of the over 500 prisoners being held at Guantanamo, every single one has already undergone a status hearing to determine whether or not they are an "enemy combatant." Under the existing procedures, there is no exclusionary rule prohibiting the use of evidence derived through torture. Therefore, the Government may be basing its finding that some of these prisoners are "enemy combatants" on faulty evidence that is completely unreliable.

Let me provide an example of why this language is so problematic. Suppose a person is detained by the U.S. Government and handed over to a foreign intelligence service for interrogation. While U.S. personnel are prohibited from using interrogation techniques that amount to torture or cruel, inhuman, or degrading treatment, other countries use interrogation techniques, such as electric shock or pulling off a person's fingernails, which do not comply with this standard. If a person is tortured while in the custody of one of these intelligence services, any statements that the person makes, either incriminating himself or another person, could be admissible in the Combatant Status Tribunal Review, or CSRT, process. Frankly, I, and most people, would confess to nearly anything to avoid the harshest forms of torture. We should not be permitting the use of this type of evidence in any legal proceeding.

It is inconsistent to say that we will prohibit the use of torture by our military and intelligence personnel because it is legally and morally repugnant, but we will allow evidence derived in this manner to be used in our military proceedings. "We don't do it, but if you do it we will use it," is hardly a position of clarity with regard to our commitment to uphold the prohibition on torture, or cruel, inhuman, or degrading treatment.

The conference report also limits the ability of a prisoner at Guantanamo to file a writ of habeas corpus. This fundamental right has its foundation in the Magna Carta and is enshrined in our Constitution. Simply, it is the right to go to court when a person is detained by the Government and ask whether or not one's detention is justified. Contrary to how this right was characterized during debate on this bill, this is not about prisoners suing to get access to DVD movies or because they are unhappy with the type of peanut butter that they are being served—the Great Writ, as habeas is known, is meant to provide a basic check in preventing the Executive Branch from exercising unfettered authority in imprisoning individuals without judicial review.

The fact is that mistakes happen. For example, take the recent case of the innocent German citizen who was picked up by the CIA in Macedonia and flown to a prison in Afghanistan where he was held in a secret facility for over 5 months because he was thought to be involved in terrorism—he wasn't. We made a mistake. Judicial review is important in reducing the likelihood that we are wrongfully imprisoning people, and we should have a viable process for weeding out these mistakes.

According to news reports, commanders in Guantanamo have estimated that 70 percent of the individuals imprisoned there may be no threat at all. Whether this number is correct or not, it is reasonable to require that there be some meaningful judicial review in place to make sure that we are not indefinitely imprisoning people who pose no threat. If you are going to hold someone indefinitely for years on end without affording them a trial, I think it is fair to allow a person to challenge the basic legality of their detention.

The Graham amendment, as it passed the Senate, restricted habeas corpus.

Unfortunately, the conference report goes much further. It also prohibits a prisoner from bringing "any other action" against the Government regarding "any aspect" of their detention. This is an excessively broad restriction. It seems to eliminate all other causes of action, including the ability of a person to bring a suit to stop ongoing torture. This significantly undermines the McCain amendment. Ultimately, I have confidence that a court will hold that this provision is overly broad and unconstitutional.

In addition, it is also important to note what the conference report does not do. The language contained in the conference report limits access to U.S. courts. But the conference report does not provide an exception for people who have been found not to be a threat and have been determined to be "non-enemy combatants."

Recently, the Washington Post has done a series of articles highlighting the plight of the ethnic Uighurs, who are Chinese Muslims opposed to the Communist government in China and who are seeking their own homeland in northwestern China. Mr. President, I ask unanimous consent that these Washington Post articles be inserted into the RECORD at the end of my statement.

The Department of Defense has been holding a group of Uighurs in Guantanamo for the last 4 years. CSRT hearings have been held for these individuals, and the Department of Defense has determined that they are "non-enemy combatants." They are not a threat to our country and are not part of the al Qaida terrorist organization. The problem is that despite the finding that they are not "enemy combatants," the Defense Department has refused to release them from Guantanamo because it can't find a country to take them—if they are sent to China they will likely be arrested and tortured, and countries such as Saudi Arabia, where many have lived previously, won't take them back. And the United States will not allow them to enter our country because it does not want them to apply for asylum.

In essence, we are taking away the right of a person who is being held without charge, indefinitely, to go to court and ask for their release after the Department of Defense has said that they are essentially innocent. Not only is this repugnant to our Nation's values, it is also blatantly unconstitutional.

Mr. President, over the last several years this administration has diminished our standing in the world by backing away from our longstanding commitment to human rights and the rule of law. I look forward to the day when the United States is once again viewed as a leader in this regard.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 15, 2005]

DETAINEE CLEARED FOR RELEASE IS IN LIMBO AT GUANTANAMO

(By Josh White and Robin Wright)

When U.S. forces freed Saddiq Ahmad Turkistani from a Taliban prison in Kandahar, Afghanistan, in late 2001, the detainee met with reporters at a news conference and told U.S. officials that he had been wrongly imprisoned for allegedly plotting to kill Osama bin Laden.

An ethnic Uighur who was born and raised in Saudi Arabia, Turkistani said he believed in the U.S. campaign against terrorism. He professed hatred for al Qaeda and the Taliban—groups he said tortured him in prison—and offered to help the United States. Intelligence officials and U.N. representatives told Turkistani they would seek to find him refuge, possibly in Pakistan, according to accounts he later gave his lawyers.

Instead, Turkistani was taken to a U.S. military base in Afghanistan, where he was stripped, bound and thrown behind bars. U.S. officials then strapped him into an airplane, fitted him with dark goggles and sent him to the U.S. detention facility at Guantanamo Bay, Cuba, in January 2002, according to U.S. lawyers who represent him.

Nearly four years later, Turkistani remains there, despite being cleared for release early this year after a government review concluded he is "no longer an enemy combatant." It is unclear exactly when that determination was made, but Justice Department lawyers gave notice of it in an Oct. 11 court filing.

Turkistani wrote a letter to his lawyers in recent months, in which he asked about the welfare of his family, whom he has not heard from in eight years: "Now, I have been under the control of the Americans for the past three years and eight months. Six months ago, I was told by the Americans that I am innocent and I am not an enemy combatant."

It remains a mystery why Turkistani was sent to Guantanamo Bay at all. Some officials and his lawyers speculate that he has been held by mistake. Or, they say, some officials may have believed he had intelligence value because bin Laden accused him of trying to plot his killing in 1998. U.S. officials have offered no public explanation.

Like a group of five Chinese Uighurs (pronounced wee-gurs), Turkistani remains incarcerated because the United States simply does not know what to do with him. He does not have Saudi citizenship, and U.S. officials are having trouble getting his home country to take him back. U.S. officials do not want to send him to China, where Uighurs are seeking a separate homeland, saying he is likely to be tortured.

But unlike many detainees at Guantanamo Bay, Turkistani was not captured on the battlefield, nor was he a suspected terrorist. Instead, he was swept up in the confusion that marked the early days of the U.S. war in Afghanistan, and even as a potential ally found himself with no recourse to challenge his detention.

"The crowning irony is that he is an enemy of bin Laden, who was charged with conspiring to kill him, and we hold him prisoner today," said Sabin Willett, a lawyer who has filed a petition with the U.S. District Court in Washington on Turkistani's behalf. "It's heartbreaking that we throw people into jail to rot."

Turkistani is one of nine detainees who live at Guantanamo Bay's Camp Iguana, a less restrictive area of the prison where detainees have limited privileges including access to television and a few DVDs. Besides five Chinese Uighurs who have not been accepted by any country, there is a Russian, an Algerian and an Egyptian. All have been cleared for release but have not been given their freedom.

A former U.S. official familiar with detention operations said mistakes were made in Afghanistan, when some detainees were shipped to Cuba because space at the U.S. facility in Bagram was limited and there was no clear plan on where to house suspected enemy combatants.

"It's possible to get stuck there if you don't have a state," the former official said. "Particularly at that time, when there were a lot of people getting picked up in Afghanistan, cases people were unsure about tended to end up in Cuba. People did get caught up in the situation."

Another U.S. official familiar with Guantanamo Bay said it is likely that other "stateless" people will surface as the military prepares to release more detainees.

The Defense and State departments are working to return such people to their home countries, if possible, and have unsuccessfully tried to persuade at least 20 nations to take in the Uighurs—including Sweden, Finland, Switzerland and Turkey.

"The government is serious about finding a place for resettlement for the Uighurs and will continue diplomatic efforts to accomplish that goal," said Lt. Col. Mark Ballesteros, a Pentagon spokesman. "The United States has made it clear that it does not expel, return or extradite individuals to other countries where it believes it is more likely than not they will be tortured."

Turkistani is one of more than 200 Guantanamo Bay detainees who have filed habeas corpus petitions in U.S. District Court in Washington, arguing that they are being held unlawfully and asking the court to order their release.

Turkistani told his lawyers that he was deported to Afghanistan from Saudi Arabia sometime in 1997, after he was jailed for alleged possession of hashish. Turkistani said he was given fake Afghan identification and put on a plane from Jeddah to Kabul because the Saudi government did not recognize him as a citizen. He said that Afghan officials detained him for six days before releasing him.

He said he made his way to Khost, Afghanistan, and befriended an Iraqi man. Before long, he and his friend were arrested by four Arab al Qaeda members. Turkistani said he was accused of being a Saudi spy, interrogated and tortured.

Fearing for his life, after 20 days of severe beatings and sleep deprivation, Turkistani said he ultimately gave what he called a "lengthy story" about how the Saudis had sent him there to kill bin Laden. He was turned over to the Taliban and held in Kandahar for more than four years.

Susan Baker Manning, another lawyer representing Turkistani who met with him last month, said he denies allegations that he tried to kill bin Laden and confessed only under torture. Bin Laden, however, asserted in a statement in December 1998 that Turkistani and two accomplices had been hired by Saudi Arabian officials to kill him and failed.

Foreign news reports have indicated that the attack, allegedly by poison, caused bin Laden's kidneys to fail and netted Turkistani and his alleged accomplices hundreds of thousands of dollars.

Manning said that the government has been challenging lawyers' efforts to represent Turkistani, and that he has become intensely frustrated by his lengthy confinement.

"It's entirely possible that it's just a mistake," Manning said. "The enemy took away his life for 4½ years, and we reward him for that by taking away his life for another four years. He clearly opposed al Qaeda and the Taliban, and he still feels that way. He's not a huge fan of the U.S. anymore."

[From the Washington Post, Dec. 13, 2005]

COURT MAY HEAR CHINESE (UIGHUR) DETAINEES

(By Josh White)

A federal judge in Washington said yesterday that he will consider allowing two detainees in the military prison at Guantanamo Bay, Cuba, to appear before him in court to challenge their confinement, telling lawyers that the ethnic Uighurs who have been cleared for release have been held too long.

U.S. District Judge James Robertson said he believes the case of the Uighurs (pronounced wee-gurs) presents "a genuine dilemma" because the government has determined they are not enemy combatants but has not found a country to accept them. U.S. officials are not willing to send the Uighurs—Muslims who are seeking their own homeland on what is now part of northwestern China—to their native country for fear that they would be tortured or killed.

U.S. authorities have tried to persuade nearly two dozen nations to provide refuge for the Uighurs but have refused to allow them into the United States.

No Guantanamo Bay detainee has been allowed to travel to the United States and appear before a federal judge. The government has fought efforts at judicial review after a 2004 Supreme Court ruling entitling detainees to a "competent tribunal" to determine whether they are enemy combatants. The issue is currently before the appellate court for the District of Columbia Circuit.

Government lawyers are concerned that such a move could allow the Uighurs to immediately apply for asylum when they arrive on U.S. soil.

But Sabin Willett, an attorney for the detainees, said his clients are essentially on U.S. soil already and asked the judge to consider granting them a provisional "parole" that would allow them to live with ethnic Uighurs in the Washington area while their cases are considered.

Robertson, who in August sought more time to consider the cases, said yesterday that he is frustrated by the government's inability to move forward, essentially stranding five Uighurs who have been housed in a part of the detention facility known as Camp Iguana, which is less restrictive than the rest of the prison. The five Uighurs are living with four others at the camp as they await a country to accept them.

The Uighur detainees have been held, without charges, for more than four years since their arrests in the Middle East.

The judge said he had three options: deny the detainees' motion and allow the case to go to an appellate court; order them to appear before him for a hearing on their immediate release; or order the government to release them outright "and see what happens, see how the government responds."

"As far as I can tell, nothing is happening," Robertson said, adding that he doesn't believe diplomatic progress has been made. "The time has stretched out to the point where indefinite is not an inappropriate word to describe what is happening."

Terry Henry, a Justice Department lawyer, said that government officials have been working on a diplomatic solution but that he could discuss it only in private. Robertson declined to hear the information off the record.

"The government is serious about finding a place for resettlement for the petitioners," Henry said.

The Uighurs, through their lawyers, have argued that because they are not a threat they should be moved to more hospitable living conditions and have asked to be released to live in the Washington area. Willett said his clients have gone from elation in August—when they were moved to Camp Iguana and given hope of release—to frustration as their cases have dragged on.

"I am deeply concerned about the human impact of the indefinite nature of this," Willett said.

Rabiya Kadeer, president of the Washington-based International Uyghur Human Rights and Democracy Foundation, attended the brief hearing yesterday and pledged to provide homes and jobs for the Uighurs should they be released to the United States.

HONORING WINTER WONDERLAND WALK FOR THE CURE DAY

Mr. LIEBERMAN. Mr. President, breast cancer is one of the most frequently diagnosed cancers in women. More than 211,240 new cases of breast cancer in women will be diagnosed in the United States in 2005. In my own State of Connecticut, more than 2,600 women are expected to be diagnosed and 530 are expected to die from breast cancer this year. Overall, it is believed that 1 in every 10 women will develop breast cancer at least once in their lifetime.

The best defense against breast cancer, is early detection. The sooner one can detect breast cancer, the better the chances that the disease can be successfully treated. It is because of this that the American Cancer Society suggests that all women age 40 and over have a mammogram annually. As important, women must learn to do regular self breast exams.

Women generally will understand their bodies better than doctors. In Connecticut, early detection from mammograms and self breast exam has helped our State achieve a 5-year survival rate, for those women diagnosed with breast cancer, of 97 percent. That is one of the highest such survival rates in the country.

As successful as my State has been, we have not been successful enough. We must strive to increase awareness and education of breast cancer so that all women are aware of the risk it poses and the indisputable benefits of early detection. We must increase research into the relationship between environmental exposures, genetic predisposition, and breast cancer risk and also seek new drugs and tools that will allow health care professionals to better treat breast cancer patients with the goal of cure.

It is in this spirit on January 21, 2006, Eastern Mountain Sports Connecticut stores will sponsor the Winter Wonderland Walk for the Cure to benefit both breast cancer research and the Connecticut chapter of the Susan G. Women Breast Cancer Foundation, at Tarrywile Park in Danbury, CT.

Therefore, it is my pleasure to join Connecticut's Governor, M. Jodi Rell, herself a breast cancer survivor, in celebrating, in recognition of the need to increase awareness about breast cancer and the need for early detection, January 21, 2006 as Winter Wonderland Walk for the Cure Day in Danbury, CT.

HUMAN RIGHTS VIOLATIONS IN ETHIOPIA

Ms. CANTWELL. Mr. President, I rise to speak on the disturbing reports of political chaos in Ethiopia. With allegations of vote tampering and emerging pictures of large-scale human rights abuses taking place in Ethiopia, that the administration must impress upon Prime Minister Meles Zenawi and other global neighbors, that severe consequences follow actions which undermine democratic ideals.

Ethiopia held its first ever democratic elections on May 15, 2005. Revelations since then of violence and mass detention of Ethiopian citizens by the Meles government are not only alarming and disconcerting to me and the American people who have supported the country in its effort to advance the cause of democracy. It is regretful to have to witness a regress in democratization.

Roughly 90 percent of Ethiopia's populace turned out for the democratic election. Rather than a sentiment of accomplishment or progress, the mood of the country remains nihilistically somber. According to international human rights observers, increased repression of the Ethiopian people is connected to the seeming loss of power from the ruling Meles government to the opposing party, the Coalition for Unity & Democracy, CUD—has shown by early vote counts during the election. With the Meles government accused of voting irregularities, it is not surprising that the people of Ethiopia protested the unofficial election results.

Recent reports of human rights abuses in Ethiopia range from arrest and intimidation by government authorities and illegal arrests of innocent people, including ranking members of the CUD party and media representatives, to the loss of life. For example, some 14,000 people were detained when riots ensued following the election. Among other journalists, Getachew Simie, former editor of the Amharic-language weekly, and Leykun Dngeda, former publisher of the Dagim WonchifWeekly, have been given jail sentences for covering the anti-government protests. Even Prime Minister Meles reported that 48 people were killed last month in relation to the unrest caused by the alleged fraud in the May polls.

Prime Minister Meles must fulfill his good faith commitment to human rights. With any successful transition to democracy, civil society requires the firm accountability of its government authorities. Until the Meles government brings an end to the intimidation of its people, political unrest will remain high and America's support for the democratization of Ethiopia will be muted by concern for the country's political instability.

TRIBUTE TO SENATOR EUGENE McCARTHY OF MINNESOTA

Mr. COLEMAN. Mr. President, Minnesota and the Nation have lost a great leader and deep thinker, Senator Gene McCarthy of Minnesota. He played an import part in the history of this body and of this Nation, and we should carefully consider the lessons of his unique and deeply significant public life.

Gene McCarthy has been described as a philosopher who was a Senator. In his youth, many describe Gene as the brightest of scholars and later in his life; he was celebrated as skilled poet. In between, he was a five term Congressman and two-term Senator. His time in Washington and on the national political scene was a display of thoughtfulness, serious inquiry, and passionate pursuit of the truth. In the business of politics where there is safety in conformity, Gene McCarthy celebrated the role of the maverick. He says his role was to provoke thought and debate in our system and ensure we adhere more closely to lasting principles.

Eugene Robert McCarthy was born in the town of Watkins, in rural Meeker County, MN, on March 29, 1916. He began a life time ofleing in the schools of Watkins. He graduated from St. John's University, Collegeville, MN, in 1935 with the highest GPA in the school's history. He also studied at the University of Minnesota in Minneapolis until 1939. Professionally, he was a high school teacher in Minnesota and North Dakota for 5 years and eventually became a professor of economics and education at St. John's University from 1940 to 1943 an instructor in sociology and economics at St. Thomas College, St. Paul, MN, from 1946 to 1949.

In 1944, his service to the United States began during World War II, when he was a civilian technical assistant in the Military Intelligence Division of the War Department.

He was first elected to the U.S. Congress as a Representative from Minnesota in 1948 and served five terms. In 1958, he won a seat in the Senate where he remained for two terms. One of the focuses of his Senate career was the work of the Senate Foreign Relations Committee, which has been a common interest of most of Minnesota's Senators and an indication of the strong international character of our State.

I first became aware of Gene McCarthy in 1967 when I was campus organizer at Hofstra University. In a time of boiling-over passions, I remember being impressed with Gene McCarthy's thoughtfulness and seriousness. He was an unlikely leader for "youth revolution," but he balanced our youthful over-exuberance with a steady articulation of principles and commitment. He encouraged young people to "Get Clean with Gene:" to stop "tuning in, turning on and dropping out" and to clean up our act and get involved in the political process. He knew that a movement based on self-indulgence was doomed to failure.

Gene McCarthy's life predates the experience of contemporary American youth, but still has important lessons for them. First, political involvement should not rest on raw emotion. Instead, to sustain your position you need to "do your homework," which could mean years of study.

Second, you should not be intimidated by the generation in power. The great movements of history have been led and supported by young people, so the force of youthful enthusiasm should never be underestimated. Third, Gene McCarthy demonstrated that you earn the right to have your ideas taken seriously by engaging responsibly in the political process. He believed that the solution to all problems in a democracy is more democracy, which means participation, ideas, hard work and perseverance. His personal experience in 1968, even though it was politically unsuccessful, opened a door into the political process that can't be closed. Young people of all political persuasions should seize that opportunity and help shape the world in which they will grow old.

In 1968, Gene McCarthy certainly seized opportunities. He announced that he was willing and available to be President in November of 1968 and two months later stunned President Johnson, and the political world with a close second place finish in the New Hampshire primary. His success encouraged Robert Kennedy to enter the race and President Johnson withdrew shortly thereafter. McCarthy did not win the nomination, which went to fellow Minnesotan Hubert Humphrey, but he changed the dynamics of politics in America. He helped create the phenomenon of bringing young people into the process in large numbers to challenge the power of the "smoke filled room."

When Gene McCarthy left the Senate, he returned to the place he always was most at home: the world of ideas and words. When you look at the list of the 15 books he published, it is remarkable to see that they are either challenging works of non-fiction policy analysis or poetry. As a poet, Gene McCarthy probably knew Samuel Johnson's statement that "poetry is the art of uniting pleasure with truth." That sums up his life.

Like a lot of Minnesotans, Eugene McCarthy took great pleasure not in the usual ways, but through service. He served as a teacher. He served as a scholar. He served as a public policy leader. He served as a motivator and organizer of youth. He served as a brave voice, challenging the powerful status quo. And he served as a poet, rendering great ideas into beautiful words.

Gene McCarthy lived a bold and uncompromising life, which is the only kind of life that creates real change. He was always more interested in the truth than in people's opinion of him. He lived out Amelia Earhart's statement that "Courage is price that life exacts for granting peace." His life was about living out the courage of his convictions and that was his peace. He changed a nation by choosing that tough road instead of a life of compliance.

We are grateful for his service and memory, and we should all be inspired to take up his courage of conviction for the new chapters of American challenge and progress ahead.

EXTEND RELOCATION EXPENSES TEST PROGRAMS

Ms. COLLINS. Mr. President, on Tuesday, December 20, I introduced a simple but important bill that would allow an existing General Services Administration, GSA, program for streamlined Government employee relocations to continue for an additional 4 years. Under a pilot program enacted in 1998, government agencies including GSA, Customs and Border Protection, and the Department of Defense have been able to relocate staff in a more economical manner than what can be done under the existing Federal relocation regulations. This innovative and cost saving test program, known as the Voluntary Relocation Program, provides Government agencies additional flexibility to relocate personnel to meet mission critical staffing needs and, according to Customs and Border Protection, has resulted in a cost savings of nearly $25 million in their organization alone.

I am very pleased that Senators LIEBERMAN and AKAKA have joined me in cosponsoring this legislation.

The Department of Homeland Security began using the Voluntary Relocation Program to relocate hundreds of Border Patrol agents to critical U.S. border locations after the terrorist attacks of September 11, 2001. As part of its new mission to protect national borders from security threats, agents from the Office of Border Patrol, OBP, eagerly volunteered to transfer to border locations deemed most vulnerable. However, these transfers took a long time to process and were very costly under the Federal travel regulations, FTR.

According to Customs and Border Protection, CBP, relocation of personnel under the Federal travel regulations typically cost the Federal Government an average of $72,000 per Border Patrol agent move. Understandably, the agency's ability to relocate significant numbers of Border Patrol agents was limited, so customs and border protection, CBP, sought alternative funding sources.

Under this voluntary program, employees receive a lump-sum payment to cover relocation costs, rather than submitting expense reports supported by receipts. Transferees that choose to relocate to a new duty station under the Voluntary Relocation Program manage the details of their own move and are fully responsible for determining how to spend the pre-determined lump-sum payment allocated by the Federal Government. Furthermore, employees enjoy greater input in how funds are allocated and transferees have more control over the logistics of their move. To date, the VRP has saved customs and border protection more than $23,500,000 in Border Patrol agent relocation costs.

This Voluntary Relocation Program has provided both the government and its employees with both reduced administrative burdens and increased responsiveness to employees and the organization's mission.

From April 2004 through September 2005, CBP processed 435 relocations at an average cost of $16,888 per move. Interim reports published by customs and border protection on the VRP indicate that participating employees are satisfied with the program and are interested in its continuation. It is anticipated that if the VRP program is extended, "several hundred" CBP agents will seek to take advantage of the VRP for career ladder promotions within the first year of it being offered. Based upon the promise of the program's early results, the continuation of the VRP test program would benefit national security needs and the agency's mission.

I believe that the VRP is an excellent example of how Government can work better and more cost effectively to best serve the interests of the public and government employees. This legislation would allow Federal agencies to provide an additional relocation incentive that would assist them in the accomplishment of their mission. I urge my colleagues to join me, Senator LIEBERMAN and Senator AKAKA in support of this legislation.

HEALTH AND WELFARE RELIEF ACT OF 2005

Mr. BAUCUS. I support the Health and Welfare Relief Act of 2005. This bill will provide funding for important initiatives that take effect in January 2006, just a few days from now.

This morning the Senate passed, by the slimmest of margins, S. 1932, legislation to cut about $40 billion from mandatory spending programs over the next 5 years. I did not support S. 1932 because I believe it contains bad policy on Medicaid, on welfare, and on child support enforcement, among other things.

For example, S. 1932 includes $5 billion in cuts to the child support enforcement program, which will mean that an estimated $19.6 million in child support funds will go uncollected in Montana over the next 10 years. That is money that should go to needy Montana kids.

As for Medicaid, S. 1932 contains almost $2 billion in increased copays for Medicaid beneficiaries, as well as other Medicaid cuts. There are right ways to cut health care costs, through greater efficiencies that will save more money over time, and there is a wrong way to cut costs: on the backs of the Americans who can least afford to pay more for their health care. S. 1932 goes the wrong way and ignores the Senate's strong instruction to protect Medicaid beneficiaries from deep spending cuts. Last week 75 Senators supported a motion I offered in the Senate instructing budget conferees not to come back with a bill that included higher Medicaid copays and benefit cuts. Passage of S. 1932 is inconsistent with that vote.

S. 1932 is bad news for the welfare program as well. Despite a Senate vote of 64 to 27 in support of removing TANF from S. 1932, the bill that the Senate passed today does just that: it reauthorizes TANF through the budget reconciliation process, with a punitive and unnecessarily austere set of provisions. The TANF Program, originally passed in 1996, has successfully reduced welfare caseloads and focused on moving parents from welfare to work. Changes to the TANF Program should build on the success of 1996 reforms, not reverse that success, as S. 1932 will ultimately do.

Unfortunately, S. 1932 takes something that is not broken—and fixes it. For example, S. 1932 would raise work requirements without providing the funding needed to help States get people working. In fact, while S. 1932 includes $1 billion in additional funding for childcare, that is $7.4 billion short of what the Congressional Budget Office estimates to be the cost to States of meeting the TANF work requirements under this bill.

The Health and Welfare Relief Act would extend TANF for an additional year, maintaining current policy on this important program. The Health and Welfare Relief Act would also extend transitional medical assistance, TMA, for an additional year, a program that is critical for helping families make the transition from welfare to work.

The Health and Welfare Relief Act also contains a fix to the Medicare physician payment formula, which is set to cut Medicare physician payments by 4.4 percent on January 1. It prevents a cap on Medicare physical therapy from taking effect. And it extends an important provision for small rural hospitals' outpatient departments, helping them stay afloat. The bill also provides $60 million for CMS administrative funding, which should be spent to help educate seniors about the new Medicare drug benefit. And it contains $80 million for important legislation that I have sponsored related to high-risk pools, which are often the insurer of last resort.

Finally, the Health and Welfare Relief Act includes important legislation providing relief to individuals and States harmed by Hurricane Katrina. Like the Lincoln amendment voted on in the Senate November 3, this bill contains provisions to: provide temporary Medicaid relief to Katrina survivors; help States struggling to meet health care costs incurred as a result of Katrina; and assist providers dealing with Katrina-related uncompensated care costs.

I support the minority leader's efforts to pass these timely and critical provisions through the Health and Welfare Relief Act of 2005. While I do not support S. 1932, we should take the positive elements of that bill—as well as important provisions to aid Katrina victims—and pass them today.

NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT

Mr. INOUYE. Mr. President, I rise to seek clarification from our esteemed majority leader, Senator FRIST, on the scheduling of S. 147, the Native Hawaiian Government Reorganization Act, for consideration of the full Senate.

As you may recall, in December of last year, the majority and minority leaders joined us in reaching agreement on a schedule for the Senate's action on the Native Hawaiian Government Reorganization Act bill with Senators DOMENICI and KYL. Specifically, in an exchange of correspondence that was made part of the CONGRESSIONAL RECORD for the 108th session of the Congress, the leaders agreed that S. 147 would be brought before the Senate on or before August 7, 2005.

Mr. AKAKA. Mr. President, we commend our majority leader for his diligent efforts to secure the agreement of other Senators so that the Senate could proceed to consideration of this measure that is so important to the citizens of Hawaii. I know that Senator INOUYE joins me in expressing our deep appreciation for our leader's action in laying down a cloture petition prior to the August recess when unanimous consent could not be achieved.

However, when the Senate reconvened in September, the tragic devastation of Hurricane Katrina clearly demanded the Congress's immediate action, and thus, Senator INOUYE and I agreed to the proposal of the minority and the majority leader, that the cloture petition be vitiated.

As we now approach the end of the first session of the 109th Congress—with pressing matters requiring the Nation's attention once again moving the Senate's consideration of S. 147 to the sidelines—we seek the guidance of the majority leader as to when our Leader anticipates that this measure may be brought before the Senate.

Mr. FRIST. Mr. President, I thank the Senators from Hawaii for their review of our actions and intent in securing the Senate's action on S. 147. In addition to our two Senators from Hawaii, the Governor of Hawaii has consistently sought our action on this bill, and I am fully committed to assuring that the measure is brought before the Senate early in the next session of the Congress.

Mr. President, because a few of our colleagues are apparently not inclined to allow the bill to be considered under unanimous consent, it may be necessary to once again file a cloture petition to enable the measure to be given the Senate's full consideration. I want to assure my colleagues from Hawaii that the commitment I made in December of last year remains firm, and that I will work with them to take the appropriate steps to assure Senate action on S. 147 early in the second session of the 109th Congress.

Mr. AKAKA. Mr. President, I thank the majority leader for his clarification and his commitment. We look forward to working with both leaders to bring S. 147 to the Senate floor at the earliest possible time in the second session of the 109th Congress.

ON THE PASSING OF EUGENE McCARTHY

Mr. OBAMA. Mr. President, I rise today to honor the memory of Senator Eugene McCarthy, who passed away earlier this month.

I did not have the pleasure of knowing him. But I know how powerful and stirring he was—a man who was not afraid to speak the truth. A man who, in 1968, had already resided in the corridors of power for nearly 20 years, but had not been corrupted by them.

Accomplished and beloved by his constituents, Senator McCarthy could have rested on his laurels and kept his views to himself; he could have toed the line in the name of unity and loyalty to the president.

But that was not in Senator McCarthy's character. There is something about Minnesota that produces people and politicians who care more about what is right than about being liked. In this tradition, he was a clarion voice of courage and conviction.

Senator McCarthy retired after 22 years of service in Congress, but he never abandoned his beliefs or moderated his tone. He was not interested in conforming to society's expectations for an elder statesman. Nor was he afraid to turn his wit against his adversaries when discussing their policies with which he disagreed.

While he took more than his share of criticism, he stuck to his principles and gave as good as he got. The Senate is better because Eugene McCarthy served here, and the country is as well. He will be missed.

ADDITIONAL STATEMENTS

CONGRATULATING HAWAII'S NATIONAL FOOTBALL CHAMPIONS

• Mr. AKAKA. Mr. President, I rise to congratulate our national championship football team from Hawaii, the Lihue Patriots Pee Wee team, which won the Pop Warner Division II National Championship in Orlando, FL, on December 9, 2005. The Patriots are the first from Hawaii to win a Pop Warner national title.

The Patriots won the right to compete for the national championship by beating the undefeated East Tampa Bandits, 14 to 6, in a thrilling come from behind victory. In the championship game, the Patriots shut out the Hollister Vikings from San Jose, CA, 14 to 0, earning the Tomlin Championship trophy for the Pop Warner Division II Pee Wee bracket for 9- to 11-year-olds.

The Lihue Patriots Pee Wee team members are: Darren Acoba, Taran Tani, Bron Dela Cruz, Kekoa Agustin, Kevin Reyes, Kalen Kimura, Henry Rodrigues, Jonathan Butac, Travis Koga, Austin Furumoto, Isaac Ramboyon, John Das, Rolland Fukushima-Peahu, Austin Oshiro, Erin Doi, Dustin Ferreira-Kashima, Shane Iwata, Shawn Taguas, Trey Smith, Wailea Kerr, Micah Hanano, and Isaiah Prunty. The team is coached by Mario Longboy, Bradley Hiranaka, Eugenio Nacnac, Craig Koga, Ralph Suniga, and Layton Tani. The Patriots are also supported by managers Tyler Manibog, Christie Kashima, and Johnny Pongasi and team moms Lori Koga and Jolly Iwata.

I congratulate the Lihue Patriots on their history making victory, and I wish all of them the best in their future endeavors, in life and on the playing field. And I extend the same congratulations to all players and coaches who participated in this year's Pop Warner National Football Championships on a job well done.•

IN MEMORY OF PRESTON ROBERT TISCH

• Mr. LAUTENBERG. Mr. President, I rise to pay my respects to someone I knew very well, Preston Robert Tisch, who passed away last month of brain cancer. He was a distinguished American who, along with his brother, Laurence, built a giant financial enterprise. Bob was eminently successful at everything he did, particularly in his role as a husband, father and grandfather.

I, like all who had contact with Bob Tisch, treasure my times with him. I send my deepest condolences to his wife and family.

I ask unanimous consent to have printed in the RECORD a statement released by the New York Giants organization that so perfectly describes the life and accomplishments of Bob Tisch.

He will be long remembered by all who knew him.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(November 15, 2005)

PRESTON ROBERT TISCH (1926–2005)

Preston Robert "Bob" Tisch, the Giants' Chairman and Co-Chief Executive Officer, one of the nation's most respected and successful businessmen, a former United States Postmaster General, and an extremely generous philanthropist, died Tuesday night.

Tisch passed away from inoperable brain cancer, which was first diagnosed in the summer of 2004. He was 79. His death comes just three weeks after the passing of his fellow owner, Wellington Mara, who died of cancer on Oct. 25 at the age of 89.

Tisch realized a longtime dream in 1991 when he completed negotiations with Wellington Mara's nephew, Tim Mara, and his family and paid $75 million for a 50 percent interest in the Giants.

"I was very fortunate," Tisch said in a 2002 interview. "I got a call from (former Cleveland and Baltimore owner) Art Modell telling me that Tim Mara wanted to sell his half of the team and asking me if I would be interested in purchasing it. I met with Wellington Mara and John Mara and said I'd be very interested. There were no problems with them, and then I bought my share of the team from Tim Mara. It's been a great relationship and a great boon to me. I'm very happy to be the 50 percent owner of the New York Giants."

Tisch played an active role in the organization. As a member of the National Football League's Finance and Super Bowl Policy Committees, he attained a prominence in the sports arena equal to his position in the world of business.

Owning the Giants was one of many careers Tisch pursued simultaneously. Forbes magazine ranks him 56th on its list of the country's 400 wealthiest people and estimates his net worth to be about $3.9 billion.

He was the Chairman and Director of the Loews Corporation, one of the country's most successful financial companies. The company, with a 2004 net income of $1.2 billion and assets exceeding $74 billion, owns and operates 91 percent of CNA Financial Corporation; 100 percent of Lorillard; 100 percent of Boardwalk Pipelines, which consists of Texas Gas Transmission and Gulf South Pipelines; 52 percent of Diamond Offshore Drilling; 100 percent of Loews Hotels and 100 percent of Bulova.

Tisch served as Postmaster General of the United States from Aug. 1986 until returning to New York in March 1988. Prior to his appointment as Postmaster, he served as President and Chief Operating Officer of Loews

Corporation and its corporate predecessor, Loews Theaters, Inc., a position held from 1960 until his appointment as Co-Chairman and CoCEO.

Tisch also served as Chairman of the New York Convention & Visitors Bureau for 19 years and currently serves as the Bureau's (now called NYC & Co.) Chairman Emeritus. He was also founding Chairman of the New York City Convention and Exhibition Center Corporation and Chairman of the Citizens Committee for the Democratic National Conventions held in New York City in 1976 and 1980.

In May 1990, Mayor David Dinkins appointed Tisch as New York City's Ambassador to Washington, D.C. Through 1993, he served as a liaison between the City of New York and his friends and colleagues in both the national government in Washington, D.C. and the business community in New York City.

From 1990–1993, Tisch served as Chairman of the New York City Partnership, Inc. and the New York Chamber of Commerce and Industry, where he was instrumental in developing a campaign to enhance New York's position as an international business center. After completing his stint as chairman, Tisch remained on the Board of Directors of both organizations, now merged.

Tisch was also a Trustee of New York University.

The Giants, however, were truly a labor of love for Tisch, a lifelong sports fan. He attended every Giants game, home and away, and spent as much time working in his stadium office as possible. His two sons are now important members of the organization: Steven as executive vice president and Jon as treasurer.

The process of going from fan to owner took at least three decades for Tisch.

"I came to New York in 1960, and a couple of propitious things happened," he said. "Our company owned a radio station at that time, WHN. During the 1950s they broadcast Giants games. The president of the radio station had ten 50-yard-line tickets at Yankee Stadium. When we sold the radio station he decided he wanted to stay with us, so he came over to Loews Theaters to become the controller. So for about seven or eight years, I had the use of these tickets.

"Also, when we came to New York we moved to Scarsdale, and I got to know Allie Sherman, who was then coach of the Giants. Actually, Allie's son Randy and my son Jon were born one day apart. So we got to know the Sherman family. Then in 1975 or '76, Pete Rozelle moved to Harrison. We lived in the city, but we have a house in Harrison, which was a mile away from where Pete Rozelle and his family resided. We became very friendly with Pete Rozelle. So I have a history in the last 40-some odd years of being involved. I went to most of the owners meetings and all the Super Bowls with Pete Rozelle. I was chairman of a group of his friends called Rozelle's Raiders—I was responsible for getting him to the right place at the right time. He finally gave me a whistle and a sign that said 'Rozelle's Raiders.' I've been very lucky. In my own mind, I've been involved in football since 1960."

It was about that time that Tisch first began to consider buying a professional team.

"I had tried several times before (purchasing his interest in the Giants)," he said. "Steve Ross, who ended up as CEO of Time-Warner, Inc. and I tried to buy the Jets in about 1967 or '68 and it didn't work out. I looked at other things. In 1988, when I came out of the Postal Service, I decided I would try to buy a sports team. I looked at many of them, both in football and basketball. I looked at the Dallas Cowboys and a couple of other teams. But I made up my mind I was never going to buy a team that was more than one hour from New York. I was interested in becoming owner of the new franchise that was in Baltimore. We were putting together a group when the opportunity came about to become the 50 percent owner of the New York Giants, which I jumped at and dropped everything else."

He completed the negotiations with Tim Mara just a few months after the Giants won Super Bowl XXV.

Tisch's business success was but a small part of his life's achievements. His generosity and commitment to civic and charitable causes was legendary. Tisch was a tireless and influential participant in civic affairs throughout his adult life.

In Feb. 2000, he helped found Take the Field, Inc., a non-profit organization dedicated to renovating and rebuilding the athletic fields at New York City's public high schools. Tisch, a product of those schools who graduated from Erasmus Hall High in Brooklyn, was Chairman of Take the Field, Inc. He launched the organization with a $1 million donation, and as of earlier this year had raised more than $147 million in public and private dollars.

Tisch and two partners in Take the Field, Tony Kiser and Richard Kahan, believed the private sector had to play a leading role in repairing sports fields at schools throughout the city that had been slowly destroyed by more than two decades of neglect. Tisch approached then-mayor Rudy Giuliani with his idea. The city agreed to match every dollar raised by Take the Field with three of its own, and the mission was to re-do every athletic field in the city that was classified as "needy."

"Take the Field is one of the most innovative and wonderful ideas of my life in the city," said New York Mets owner Fred Wilpon, one of Tisch's best friends. "And it doesn't happen without Bob. At a time in his life when he could have just sat back and enjoyed everything he had accomplished, he went to work."

That's what Tisch did throughout his life. He was a founding Co-Chairman of Citymeals-on-Wheels, President of the Board of Directors from 1993 to 2002, and later served on the Board as Honorary Chairman. He also served as chairman of Public Private Initiative, a public private partnership that raises funds for important community programs, from 1997 to 1998.

Tisch's philanthropy continued even after he became gravely ill. His family picked a physician at the Duke University Medical Center to supervise his treatment for the brain cancer. Tisch and his family recently donated $10 million to the Duke Comprehensive Cancer Center and the school's Brain Tumor Center.

The gift accounted for the majority of a $16.3 million package of subsidies that Duke will use to support research into the treatment of brain tumors.

"I was very, very impressed by the program at Duke, and very taken by more than just its medical approach," said Steve Tisch. "For me, there was the intangible that became so important, of the spiritual and emotional commitment that these programs and their doctors have."

Duke officials have pledged to use $5 million from the Tisch family to underwrite the hiring of additional researchers. The medical center is matching that with $5 million of its own money. Another $2.5 million from the Tisch family will finance the screening of drugs that might be useful in treating brain tumors. Duke officials are now are calling the treatment center the Preston Robert Tisch Brain Tumor Center.

Given his many accomplishments and interesting ventures, Tisch was asked in that 2002 interview what was most rewarding to him.

"My brother (Laurence, who died of cancer at age 80 two years ago today on Nov. 15, 2003) and I took the Loews Corporation from a corporation that did about $20 million worth of business and built it up to a $13 billon company, which is now run by the next generation," Tisch said. "Building the company and seeing it grow has been extremely gratifying. I also enjoyed my time at the Postal Service when I was appointed Postmaster General. People said, 'How can you stand a job like that?' I loved it. I made one mistake—I stayed two years when I should have stayed three years.

"Then, of course, my involvement with the New York Giants has been very rewarding. I've been very, very lucky in my life and what I've been able to achieve."

Everyone who knew him, worked with him or were touched by his generosity were just as fortunate.

Preston Robert Tisch was born on April 29, 1926 in New York City. He attended Bucknell University before entering the Army in 1944. After military service in World War II, he earned a B.A. degree in economics from the University of Michigan in 1948. Tisch is survived by his wife, the former Joan Hyman, and their three children, Steven, Laurie and Jonathan, and nine grandchildren.●

BELATED THANK YOU TO THE MERCHANT MARINERS OF WORLD WAR II ACT

● Mr. BURNS. Mr. President, today I join my colleagues, Senators NELSON, MIKULSKI, LANDRIEU, MURKOWSKI, BOXER, SNOWE, REED, ROBERTS, LAUTENBERG, DEWINE, SMITH, JEFFORDS, CORZINE, STEVENS, SARBANES, KERRY, LINCOLN, MURRAY, DURBIN, COLEMAN, FEINSTEIN, JOHNSON, COLLINS, SCHUMER, BAUCUS, COCHRAN, BROWNBACK, CANTWELL, CLINTON, DODD, LIEBERMAN, and STABENOW in cosponsoring S. 1272, Belated Thank You to the Merchant Mariners of World War II Act of 2005.

The contribution Merchant Mariners made during WWII have gone un-heralded for far too long. The Merchant Marine is the forgotten service of World War II.

Although their numbers were small, they suffered the highest casualties of any service in World War II. Merchant mariners were responsible for transporting troops, tanks, food, fuel, airplanes and other supplies and, as a result, their likelihood of combat was extremely high. In fact, enemy forces sank over 800 of their ships between 1941 and 1944.

For more than 40 years, Merchant Mariners were denied any G.I. bill of rights benefits. In 1988, they were granted a "watered down" version of the G.I. bill of rights, but some portions of those benefits were never made available to them. In addition, they still have not received proper recognition as veterans for Social Security purposes.

This legislation would rectify that inequity by recognizing these American heroes with the status of "veteran," and it would grant a small monthly stipend to these veterans or their widows in order to offset their lost benefits.

As a veteran, I will always seek to protect the honored place of our military heroes. I cherish their service, and I will do everything in my power to support their interests. I look forward to working with my Senate colleagues to pass this important piece of legislation.•

RECOGNIZING THE NEWARK HUD OFFICE

• Mr. LAUTENBERG. Mr. President, it is with great pleasure that I rise today to pay tribute to the Newark field office of the U.S. Department of Housing and Urban Development on the occasion of its 40th anniversary in my home State of New Jersey.

The Department of Housing and Urban Development, HUD, administers programs that increase homeownership, provide aid for housing for lower income people, support community development, and increase access to housing free from discrimination.

For 40 years, the staff of the Newark field office has embraced this mission and effectively partnered with faith-based and community organizations to help provide housing assistance to the homeless, elderly, people with disabilities, and people living with AIDS.

Today, under the leadership of Diane Johnson, the Newark field office is leading the way in helping more low- and moderate-income New Jerseyans realize the American dream of becoming homeowners. For example, in the city of Trenton, the HUD-designated "Homeownership Zone" is helping first-time homebuyers and minority families purchase homes.

Since its creation in 1992, the HOPE VI Program has helped transform the HUD's approach to housing assistance for the poor. In New Jersey, HOPE VI has successfully generated over $1 billion to revitalize distressed public housing. This investment has changed the housing landscape in towns and cities throughout the State by replacing severely distressed public housing projects, occupied exclusively by poor families, with redesigned mixed-income housing.

The Housing Choice Voucher Program has grown into the dominant form of federal housing assistance, helping 65,000 low-income families in New Jersey afford decent, safe, and sanitary housing in the private market.

It is with great respect that I extend my warmest congratulations to the Newark field office on four decades of success and to Diane Johnson who has been a tireless advocate on behalf of HUD's programs and the people who benefit from them.•

SILVER HIGH SCHOOL FIGHTING COLTS

• Mr. BINGAMAN. Mr. President, all over this great country in the last month or so, high school football championships have been won and lost. I am delighted to report that the team in my hometown of Silver City, NM, after decades of effort, has won the championship trophy in Class 4A football in New Mexico.

All who attended Silver High School—and all of us who attended it before it changed its name to that—are thrilled with this achievement. Seven times in the past, our team has been in the final game, and seven times we have come in second. This year, the Silver High School Fighting Colts came away with the winner's trophy for the first time in the school's history.

This was accomplished under the leadership of Head Coach David Carrillo and his fine staff, and because of the skill and heart of all those enthusiastic players and their supportive families. They all have the congratulations and good wishes of those of us who have watched the team over the years. Somehow it is reassuring to know that no matter how old we get, we are always Colts.•

RECOGNIZING MATRIX HUMAN SERVICES ON ITS 100TH ANNIVERSARY

• Mr. LEVIN. Mr. President, I would like to take this opportunity to recognize Matrix Human Services, one of Michigan's oldest and largest nonprofit social service organizations, as it celebrates 100 years of tireless and dedicated service.

Matrix Human Services was founded in 1906 by a small group of Catholic women, later known as the League of Catholic Women, who recognized a growing need to provide support for low income and at-risk populations in the Detroit Metropolitan area. Over the years as the League's membership continued to grow, it was able to dedicate more resources and personnel to its mission of fostering self-sufficiency and hope to those in need. These efforts ultimately lead to a broadened scope of services that sought to address the growing and diverse needs of the community, which grew into what we now refer to as Matrix Human Services.

Today, Matrix Human Services is a diverse organization with more than 300 staff members and dedicated volunteers, serving 30 locations across the Detroit Metropolitan area. It continues to focus on its mission to help prepare individuals and families to live a more positive, productive and meaningful life. Matrix Human Services has organized educational training, childcare, social work, mentoring, abuse prevention, and housing assistance for the homeless programs. Each year, Matrix is able to serve thousands of individuals through a network of specialized divisions that include Head Start Family Service Center, Project Transition Housing, Walter and May Reuther Senior Services, Barat Child and Family Services, Casa Maria Family Services, Vistas Nuevas Head Start, and Off the Streets.

I know my Senate colleagues join me in congratulating Matrix Human Services on its many years of excellent service and wish its staff, volunteers, and community partners many more productive years of service to the community.•

IN MEMORY OF MAJOR GENERAL JOHN W. KIELY

• Mr. CHAFEE. Mr. President, I rise today to honor the life of MG John W. Kiely. Major General Kiely was a man of exemplary service to our State and country. A veteran of three wars, he ascended to the rank of colonel, Regular Army as well as serving as brigadier general, National Guard of Rhode Island, adjutant general of Rhode Island, and also was promoted to the grade of major general and commanding general. General Kiely was a model soldier, receiving a Purple Heart, 2 Bronze Stars, Valor, and 3 Legions of Merit, along with 22 other Federal Government awards and decorations, as well as the Rhode Island Cross and the Rhode Island Star. His military knowledge and service to our Nation will be dearly missed, and my deepest condolences go to Mrs. Marilyn L. Kiely and the Kiely family in their time of mourning.•

REMEMBERING JOSEPH O'DONNELL

• Mr. CHAFEE. Mr. President, it is with great sadness that today I reflect upon the life of Joseph O'Donnell. Mr. O'Donnell dedicated his life to his family and to public service. He served alongside my father as Lieutenant Governor in the 1960s, and is, in fact, the last Republican elected to the position. He remained active in politics until his passing. In addition to his tenure as Lieutenant Governor, Joe O'Donnell has served his community and the State of Rhode Island for over 55 years, including as State Director of Administration, as Chairman of the North Smithfield Water Authority, and in a number of other capacities. In addition, Mr. O'Donnell served the business community as a founding partner and chairman of the board of Keough Kirby Associates, Inc., as a trustee of

Landmark Health Systems, and in other board positions for numerous business and civic organizations. As a panelist on the 'Coffee-An' radio program in his later years, Joe O'Donnell contributed his knowledge of politics, his great sense of humor, and his penchant for gourmet cooking to a larger audience. His name is on the Wall of Honor at the Marine Maritime Academy for outstanding lifetime achievement, and he was a recipient of the Admiral Joel R.P. Pringle Society Award from the Naval War College Foundation in Newport. It is with heavy hearts that Stephanie and I send our deepest sympathies to Mrs. Yolande O'Donnell and their six children. Of all his accomplishments, I know he is most proud of the closeness of his family.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and withdrawals which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 1:35 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 205. An act to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers.

S. 652. An act to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin.

S. 1238. An act to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and for other purposes.

S. 1310. An act to authorize the Secretary of the Interior to allow the Columbia Gas Transmission Corporation to increase the diameter of a natural gas pipeline located in the Delaware Water Gap National Recreation Area, to allow certain commercial vehicles to continue to use Route 209 within the Delaware Water Gap National Recreation Area, and to extend the termination date of the National Park System Advisory Board to January 1, 2007.

S. 1481. An act to amend the Indian Land Consolidation Act to provide for probate reform.

S. 1892. An act to amend Public Law 107-153 to modify a certain date.

S. 1988. An act to authorize the transfer of items in the War Reserves Stockpile for Allies, Korea.

The enrolled bills were signed subsequently by the President pro tempore (Mr. Stevens).

MEASURES REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 230. Concurrent resolution expressing the sense of the Congress that the Russian Federation must protect intellectual property rights; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

S. 2015. A bill to provide a site for construction of a national health museum, and for other purposes (Rept. No. 109–212).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DURBIN (for himself and Mr. Obama):

S. 2156. A bill to designate the facility of the United States Postal Service located at 332 South Main Street in Flora, Illinois, as the "Robert T. Ferguson Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. BOXER:

S. 2157. A bill to amend title 10, United States Code, to provide for the Purple Heart to be awarded to prisoners of war who die in captivity under circumstances not otherwise establishing eligibility for the Purple Heart; to the Committee on Armed Services.

By Mr. LIEBERMAN (for himself and Ms. Collins):

S. 2158. A bill to establish a National Homeland Security Academy within the Department of Homeland Security; to the Committee on Homeland Security and Governmental Affairs.

By Mr. SMITH (for himself and Mr. Wyden):

S. 2159. A bill to provide for reimbursement of the cost of certain projects at the Fern Ridge Dam, Oregon; to the Committee on Environment and Public Works.

By Mrs. BOXER (for herself and Mr. Akaka):

S. 2160. A bill to amend the Higher Education Act of 1965 to authorize grants for institutions of higher education serving Asian Americans and Pacific Islanders; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INHOFE (for himself, Mr. Domenici, Mr. Hagel, and Mr. Nelson of Nebraska):

S. 2161. A bill to amend the Safe Drinking Water Act to prevent the enforcement of certain national primary drinking water regulations unless sufficient funding is available or variance technology has been identified; to the Committee on Environment and Public Works.

By Ms. SNOWE:

S. 2162. A bill to foster local development by facilitating the delivery of financial assistance to small businesses, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. KERRY:

S. 2163. A bill to amend titles 10 and 38 of the United States Code, to increase and index education 31 benefits for veterans under the Montgomery GI bill to ensure adequate and equitable benefits for active duty members and members of the selected Reserve, and to include certain servicemembers previously excluded from such benefits; to the Committee on Veterans' Affairs.

By Ms. STABENOW (for herself, Mr. Reid, Mr. Baucus, Mr. Nelson of Nebraska, Mr. Bingaman, Mr. Kennedy, Mrs. Clinton, Mr. Rockefeller, Mr. Dayton, Mrs. Lincoln, and Ms. Mikulski):

S. 2164. A bill to amend titles IV, XVIII, and XIX of the Social Security Act to improve the provision of care under the programs under such titles, and for other purposes; to the Committee on Finance.

By Ms. MIKULSKI (for herself, Mr. Kennedy, and Mr. Sarbanes):

S. 2165:. A bill to assist members of the Armed Forces in obtaining United States citizenship, and for other purposes; to the Committee on the Judiciary.

By Mr. LOTT (for himself and Mr. Dodd):

S. 2166. A bill to direct the Election Assistance Commission to make grants to States to restore and replace election administration supplies, materials, records, equipment, and technology which were damaged, destroyed, or dislocated as a result of Hurricane Katrina or Hurricane Rita; to the Committee on Rules and Administration.

By Mr. SUNUNU (for himself, Mr. Leahy, Mr. Schumer, Mr. Levin, Mr. Durbin, Mr. Hagel, Mr. Craig, Mr. Kerry, Mr. Carper, Mr. Akaka, Mr. Reid, Ms. Cantwell, Mr. Conrad, Mr. Lautenberg, Ms. Landrieu, Mrs. Clinton, Ms. Mikulski, Mr. Pryor, Mr. Kennedy, Mr. Obama, Mr. Dodd, Mr. Reed, Mr. Rockefeller, Mrs. Boxer, Mr. Johnson, Mr. Nelson of Nebraska, Mr. Kohl, Mr. Nelson of Florida, Mr. Salazar, Mr. Bingaman, Mr. Lieberman, and Mr. Dayton):

S. 2167. A bill to amend the USA PATRIOT ACT to extend the sunset of certain provisions of that Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to July 1, 2006; considered and passed.

By Ms. SNOWE (for herself and Mr. Nelson of Florida):

S. 2168. A bill to amend title XVIII of the Social Security Act to provide extended and additional protections to Medicare beneficiaries enrolled under part C or D or such title; to the Committee on Finance.

By Mr. CARPER (for himself and Mr. Martinez):

S. 2169. A bill to amend the Fair Credit Reporting Act to provide for secure financial data, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FRIST (for himself, Mr. Biden, and Mr. Lugar):

S. 2170. A bill to provide for global pathogen surveillance and response; considered and passed.

By Ms. LANDRIEU:

S. 2171. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the temporary mortgage and rental payments program; to the Committee on Homeland Security and Governmental Affairs.

By Ms. LANDRIEU:

S. 2172. A bill to provide for response to Hurricane Katrina by establishing a Louisiana Recovery Corporation, providing for housing and community rebuilding, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. CLINTON (for herself and Mr. ROCKEFELLER):

S. 2173. A bill to assist pharmacies in facilitating enrollment of dual eligible populations under the Medicare prescription drug benefit; to the Committee on Finance.

By Mr. THUNE:

S. 2174. A bill to permit certain funds made available for the Wagner Service Unit of the Indian Health Service to be used to pay expenses incurred in keeping the emergency room of that Unit open 24 hours per day, 7 days a week, through September 30, 2006; to the Committee on Indian Affairs.

By Mr. KENNEDY (for himself, Mr. ROCKEFELLER, and Mr. REID):

S. 2175. A bill to require the submittal to Congress of any Presidential Daily Briefing relating to Iraq during the period beginning on January 20, 1997, and ending on March 19, 2003; to the Select Committee on Intelligence.

By Mr. BAYH (for himself, Mr. DURBIN, and Ms. LANDRIEU):

S. 2176. A bill to amend title 10, United States Code, to modify eligibility for income replacement payments for Reserves experiencing extended and frequent mobilization for active duty service; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. VOINOVICH (for himself, Mr. HAGEL, and Mr. BIDEN):

S. Res. 342. A resolution recognizing the Republic of Croatia for its progress in strengthening democratic institutions, respect for human rights, and the rule of law and recommending the integration of Croatia into the North Atlantic Treaty Organization; considered and agreed to.

By Mr. SESSIONS:

S. Res. 343. A resolution expressing the sense of the Senate that the week of December 19, 2005 should be designated "Thank Our Defenders Week"; considered and agreed to.

By Mr. McCAIN (for himself, Mr. LUGAR, Mr. BROWNBACK, and Mr. REID):

S. Res. 344. A resolution expressing support for the Government of Georgia's South Ossetian Peace Plan and the successful and peaceful reintegration of the region into Georgia; considered and agreed to.

By Mr. BYRD (for himself and Mr. ROCKEFELLER):

S. Res. 345. A resolution recognizing the 100th anniversary of Fenton Art Glass, a beloved institution in West Virginia, that continues to contribute to the economic and cultural heritage of the State through its production of world renowned, hand-blown glass; considered and agreed to.

By Mr. BURR (for himself and Mrs. DOLE):

S. Res. 346. A resolution commending the Appalachian State University football team for winning the 2005 National Collegiate Athletic Association Division I-AA Football Championship; considered and agreed to.

By Ms. LANDRIEU (for herself and Mr. VITTER):

S. Res. 347. A resolution expressing the sense of the Senate that lenders holding mortgages on homes in communities of the Gulf Coast devastated by Hurricanes Katrina and Rita should extend current voluntary mortgage payment forbearance periods and not foreclose on properties in those communities; considered and agreed to.

By Ms. CANTWELL:

S. Con. Res. 74. A concurrent resolution correcting the enrollment of H.R. 2863; considered and agreed to.

By Mr. SANTORUM (for himself and Mr. LIEBERMAN):

S. Con. Res. 75. A concurrent resolution encouraging all Americans to increase their charitable giving, with the goal of increasing the annual amount of charitable giving in the United States by 1 percent; considered and agreed to.

ADDITIONAL COSPONSORS

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 484

At the request of Mr. WARNER, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 662

At the request of Ms. COLLINS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 662, a bill to reform the postal laws of the United States.

S. 707

At the request of Mr. JEFFORDS, his name was added as a cosponsor of S. 707, a bill to reduce preterm labor and delivery and the risk of pregnancy-related deaths and complications due to pregnancy, and to reduce infant mortality caused by prematurity.

S. 757

At the request of Mr. CHAFEE, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 757, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 863

At the request of Mr. CONRAD, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 863, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 910

At the request of Ms. LANDRIEU, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 910, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 1002

At the request of Mr. BAUCUS, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1002, a bill to amend title XVIII of the Social Security Act to make improvements in payments to hospitals under the medicare program, and for other purposes.

S. 1405

At the request of Mr. NELSON of Nebraska, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1405, a bill to extend the 50 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility and to establish the National Advisory Council on Medical Rehabilitation.

S. 1568

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 1568, a bill to enhance the ability of community banks to foster economic growth and serve their communities, and for other purposes.

S. 1841

At the request of Mr. CARPER, his name was added as a cosponsor of S. 1841, a bill to amend title XVIII of the Social Security Act to provide extended and additional protection to Medicare beneficiaries who enroll for the Medicare prescription drug benefit during 2006.

S. 2076

At the request of Mr. LEAHY, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 2076, a bill to amend title 5, United States Code, to provide to assistant United States attorneys the same retirement benefits as are afforded to Federal law enforcement officers.

S. 2083

At the request of Mrs. CLINTON, the names of the Senator from California (Mrs. BOXER) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 2083, a bill to prohibit the Assistant Secretary of Homeland Security (Transportation Security Administration) from removing any item from the current list of items prohibited from being carried aboard a passenger aircraft.

S. 2088

At the request of Mr. ALLARD, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 2088, a bill to assist low-income families, displaced from their residences in the States of Alabama, Louisiana, and Mississippi as a result of Hurricane Katrina, by establishing within the Department of Housing and Urban Development a homesteading initiative that offers displaced low-income families the opportunity to purchase a home owned by the Federal Government, and for other purposes.

S. 2109

At the request of Mr. ENSIGN, the names of the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from South Dakota (Mr. THUNE) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 2109, a bill to provide national innovation initiative.

S. 2134

At the request of Mr. SMITH, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 2134, a bill to strengthen existing programs to assist manufacturing innovation and education, to expand outreach programs for small and medium-sized manufacturers, and for other purposes.

S. 2140

At the request of Mr. HATCH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2140, a bill to enhance protection of children from sexual exploitation by strengthening section 2257 of title 18, United States Code, requiring producers of sexually explicit material to keep and permit inspection of records regarding the age of performers, and for other purposes.

S. 2145

At the request of Ms. COLLINS, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2145, a bill to enhance security and protect against terrorist attacks at chemical facilities.

S. 2154

At the request of Mr. OBAMA, the names of the Senator from Indiana (Mr. BAYH), the Senator from California (Mrs. FEINSTEIN), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 2154, a bill to provide for the issuance of a commemorative postage stamp in honor of Rosa Parks.

S. CON. RES. 71

At the request of Mr. AKAKA, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. Con. Res. 71, a concurrent resolution expressing the sense of Congress that States should require candidates for driver's licenses to demonstrate an ability to exercise greatly increased caution when driving in the proximity of a potentially visually impaired individual.

S. RES. 253

At the request of Mr. SCHUMER, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. Res. 253, a resolution designating October 7, 2005, as "National 'It's Academic' Television Quiz Show Day".

S. RES. 340

At the request of Ms. LANDRIEU, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. Res. 340, a resolution expressing the sense of the Senate that lenders holding mortgages on homes in communities of Louisiana devastated by Hurricanes Katrina and Rita should extend current mortgage payment forbearance periods and not foreclose on properties in those communities until such time that Congress can consider legislation to provide relief to those homeowners.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 2156. A bill to designate the facility of the United States Postal Service located at 332 South Main Street in Flora, Illinois, as the "Robert T. Ferguson Post Office Building."; to the Committee on Homeland Security and Governmental Affairs.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ROBERT T. FERGUSON POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 332 South Main Street in Flora, Illinois, shall be known and designated as the "Robert T. Ferguson Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Robert T. Ferguson Post Office Building".

Mr. DURBIN. Mr. President, today I am pleased to introduce legislation to designate the U.S. Post Office at 332 South Main Street in Flora, Illinois as the "Robert T. Ferguson Post Office Building".

Mr. Ferguson was a distinguished public servant who began his postal career at the Harvey, Illinois Post Office, where he worked as a city carrier from 1954 to 1957. He then moved to the Flora, Illinois Post Office where he worked his way up from clerk/carrier to Assistant Postmaster to Postmaster in 1986. During the final three years of his career before he retired in 1988, Robert Ferguson served as Postmaster in Collinsville, Illinois.

In recognition of his hard work and dedication, Mr. Ferguson received five Outstanding Superior Accomplishment Awards and qualified as a Postmaster Trainer on October 1, 1976. He worked tirelessly on behalf of postal workers and traveled throughout Southern Illinois training newly appointed Postmasters. He was well liked by his colleagues who knew they had a leader they could trust.

In addition to his active professional life, Robert Ferguson found time to serve his community. As President of the Clay County Shrine Club in 1992, he organized events to raise thousands of dollars for the Shriner's Hospital for Children. In 1996, he raised money to assist a local family after a storm destroyed their mobile home. In 2002, Mr. Ferguson created a Hospital Directory for Southern Illinois, which aid local citizens by providing phone numbers and addresses of local hospitals.

In 1996, the Flora Chamber of Commerce named Robert Ferguson the "Outstanding Citizen of Flora".

Mr. President, post offices are often designated in honor of individuals who have made valuable contributions to their community, State, and country. I can think of no more fitting way to permanently and publicly recognize Robert Ferguson's work than to name the Flora, Illinois post office in his honor. It would be a most appropriate way to commemorate his exemplary service to the Flora community and to postal workers and patrons throughout Southern Illinois.

By Mrs. BOXER:

S. 2157. A bill to amend title 10, United States Code, to provide for the Purple Heart to be awarded to prisoners of war who die in captivity under circumstances not otherwise establishing eligibility for the Purple Heart; to the Committee on Armed Services.

Mrs. BOXER. Mr. President, I am pleased to introduce legislation today to provide for the Purple Heart to be awarded to all prisoners of war who die in captivity, regardless of the cause of death. The "Honor Our Fallen Prisoners of War Act" was previously introduced by Representative BOB FILNER in the House of Representatives. I am proud to join him in this effort.

The "Honor Our Fallen Prisoners of War Act" would make members of the Armed Forces who die in captivity of any circumstance eligible for the Purple Heart. Currently, only prisoners of war who die during their imprisonment of wounds inflicted by an instrument of war are eligible for posthumous Purple

Heart recognition. Those who die of starvation, disease, abuse, or other causes during captivity are not.

I believe this is an injustice to the thousands of POWs who paid the ultimate price in service to our Nation. The purpose of the Purple Heart is to honor those who are killed or wounded in action as the result of an act of an enemy of the United States. It makes no sense that prisoner of war camps—where thousands of Americans have been held against their will and have endured great suffering at the hands of enemy forces—are not considered a battlefield.

The legislation is retro-active to December 7, 1941 and would therefore include all POWs who have died in captivity since World War II.

The "Honor Our Fallen Prisoners of War Act" has been endorsed by the Tiger Survivors, Veterans of Foreign Wars, Military Order of the Purple Heart, Korean War Veterans Association, National League of POW/MIA Families, and a number of other prominent veterans organizations.

I urge my colleagues to support this important legislation.

By Mr. LIEBERMAN (for himself and Ms. COLLINS):

S. 2158. A bill to establish a National Homeland Security Academy within the Department of Homeland Security; to the Committee on Homeland Security and Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I am pleased to introduce today the National Homeland Security Academy Act of 2005. I am delighted that Chairman COLLINS has joined me in sponsoring this legislation.

Shortly after the Homeland Security Department was formed in 2003, I laid out my vision for what the country needed to do to protect against another terrorist attack, or major natural disaster, in a speech at George Washington University. Among the areas I identified as in need of additional work was the training of those who agreed to commit themselves to the protection of Americans here at home. At the time, I said we needed to make sure homeland security professionals were given the full range of skills necessary to make this country as safe as it should be and I proposed a National Homeland Security Academy to educate and train the best and brightest of our future leaders.

The bill Senator COLLINS and I are introducing today, the National Homeland Security Academy Act of 2005, is the fulfillment of that idea.

It was clear to me as I was working to create a Department of Homeland Security that we would need to find a way to make sure Department professionals, as well as the State and local officials with whom they work, understand the full scope and range of responsibilities entrusted to the Department—not just the details of their own particular jobs. This academy would accomplish that. It would cultivate leaders, teach the full range of skills necessary for robust homeland security, and provide cross-disciplinary and joint education and training to government officials at the Federal, State and local levels so that they can develop the bonds and relationships that will make their work more efficient and effective.

The National Homeland Security Academy Act of 2005 is the product of my work with the Chairman of the Homeland Security and Governmental Affairs Committee, Senator COLLINS, as well as homeland security experts, scholars, and education and professional development experts. Together, we have refined the concept of homeland security education and training to meet the Department's needs today and into the future.

The academy I envision would be a professional development institution, much like the War College created by the Department of Defense to provide its leaders with a deep and thorough understanding of military and defense matters. The National Homeland Security Academy would ensure that new and mid-level executive employees at the Department of Homeland Security—as well as other Federal, State, and local leaders with homeland security responsibilities—have a thorough understanding of the strategic missions of the Department, as well access to hands-on training exercises, and real-time simulation.

Four months ago, Hurricane Katrina reminded us in no uncertain terms that our homeland security workers at all levels still have much to learn. How and when to share critical information? What does it mean to activate the National Response Plan? Who is responsible for which emergency response mission? These are the types of questions we on the Homeland Security and Governmental Affairs Committee have been hearing as we investigate why the preparedness for and response to the hurricane was so lacking. The National Homeland Security Academy would provide answers to these and many more questions and ensure homeland security officials are better equipped to respond to the next disaster.

The centerpiece of the Academy would be the National Homeland Security Education and Strategy Center, where Federal homeland security officials would receive initial and continuing homeland security education. The Academy would also incorporate the Center for Homeland Defense and Security run by the Naval Postgraduate School at the Direction of the Office of State and Local Government Coordination and Preparedness. In addition, the bill establishes a National Homeland Security Education Network comprised of the academies and training centers within the jurisdiction of DHS—like the Federal Law Enforcement Training Center—as well as a communications network capable of providing distance learning opportunities.

It also creates a new State and Local Education and Training Coordinator within the Office of State and Local Government Coordination and Preparedness to address one of the most frequent criticisms local first responders have with the Department of Homeland Security, and that is the fact that many people in the Department seem to be unaware of or unwilling to make use of excellent state and local education and training programs. A liaison officer would rectify that.

This bill does not change the system for first responder training. Local first responders will continue to work with the Office of State and Local Government Coordination and Preparedness to ensure they have the necessary training to deal with the situations they face everyday. But we believe that bringing people together from all levels of government to study homeland security issues from different perspectives would be healthy. And we do think that homeland security will benefit overall from the relationships that would inevitably form between officials at every level and from every corner of the country.

The National Homeland Security Act of 2005 addresses a deficiency in the education and training of our homeland security professionals by helping to foster connected, experienced, and knowledgeable homeland security leaders who will be able to provide the best possible protection for the American people. I look forward to working with Chairman COLLINS in the next session to mark up this bill and make it law.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Homeland Security Academy Act of 2005".

SEC. 2. FINDINGS.

Congress finds that—

(1) homeland security poses a complex challenge for the Nation that can only be successfully addressed by the combined effort of Federal, State, and local governments and the private sector;

(2) the United States fields a dedicated workforce to provide homeland security, but lacks a coordinated homeland security education system that links a strategy-based education with hands on training and real time simulation, and fails to make such a system available to the appropriate government and private sector personnel on a wide scale;

(3) officials at all levels of government should understand the strategic mission of the Department of Homeland Security, and have access to continuing education and hands-on training exercises;

(4) the development of a program of professional education and training that links strategy and training, and coordinates current training among the many academies and training facilities that fall under the jurisdiction of the Department of Homeland Security, is essential to meeting the goals and intent of the Homeland Security Act of 2002;

(5) lessons learned from the Department of Homeland Security's Top Official Exercises (TOPOFF), and the tragedy of Hurricane Katrina, demonstrate there is a need to build up institutional knowledge within the Department and cultivate leaders capable of guiding the Department and the Nation when catastrophic incidents occur;

(6) modern information technologies provide uniquely powerful tools for ensuring that material is presented in a way that facilitates rapid and effective learning for a diverse student body, material being taught is continuously upgraded and reviewed, and training is available anytime and anywhere it is needed; and

(7) as the Homeland Security Act of 2002 brought together a number of Federal agencies with specific and often nonrelated functions to form a single department, the National Homeland Security Academy will draw upon the expertise of a variety of existing academic institutions and innovative programs to educate our homeland security workforce.

SEC. 3. ESTABLISHMENT OF NATIONAL HOMELAND SECURITY ACADEMY.

(a) In General.—Title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by adding after section 801 the following:

“SEC. 802. NATIONAL HOMELAND SECURITY ACADEMY.

“(a) Establishment.—

“(1) In general.—The Secretary—

“(A) shall establish the National Homeland Security Academy (referred to in this section as the ‘Academy’) within the Office of State and Local Government Coordination and Preparedness of the Department; and

“(B) may enter into cooperative agreements with other agencies or entities to utilize space and provide for the lease of real property for the Academy or any component of the Academy.

“(2) Composition.—The Academy shall consist of—

“(A) the National Homeland Security Education and Strategy Center (referred to in this section as the ‘Strategy Center’) to provide fundamental instruction and develop a homeland security curriculum focusing primarily on the Federal Government's overall strategy, goals, methods, and techniques;

“(B) a communications network capable of delivering distance learning opportunities, at the direction of the Strategy Center;

“(C) the programs of the Office of State and Local Government Coordination and Preparedness' Center for Homeland Defense and Security located at the Naval Postgraduate School, and such programs shall be incorporated into the Academy in a manner to be determined by the Secretary; and

“(D) the National Homeland Security Education Network, which—

“(i) shall be composed of representatives from all of the academies and training centers within the jurisdiction of the Department;

“(ii) shall work with the Academy to develop a standardized homeland security curriculum to be incorporated, as appropriate, at each academy and training center to ensure that the focus of the individual centers is coordinated with the centralized educational strategies and goals of the Academy; and

“(iii) shall not affect the respective missions and goals of the participating academies and training centers.

“(3) Mission.—The mission of the Academy shall be to—

“(A) establish an educational system to—

“(i) cultivate leaders in homeland security; and

“(ii) ensure that Federal, State, local, tribal, and private sector officials get the full range of skills needed to provide robust homeland security;

“(B) provide strategic education and training to carry out the missions of the Department of Homeland Security;

“(C) provide cross-disciplinary and joint education and training to Federal, State, and local government officials responsible for the direct application and execution of vital homeland security missions; and

“(D) focus primarily on shorter-term classes and exercises to maximize participation by the homeland security community.

“(4) Enrollment target.—

“(A) In general.—The Strategy Center shall have an initial annual enrollment target of 1,000 resident students, as described in subsection (b)(3)(A).

“(B) Non-resident students.—The enrollment target under subparagraph (A) does not include non-resident students, including students who participate in electronic learning systems.

“(5) Responsibilities.—

“(A) In general.—In addition to providing traditional course work and hands-on training exercises, the Academy shall encourage the development and use of modern technology to ensure that the training offered at the Academy, and to organizations and individuals receiving instruction over electronic learning systems—

“(i) is tailored to the unique needs of the individuals and groups that need training;

“(ii) efficiently uses such technology; and

“(iii) translates directly into practical skills.

“(B) Instructional materials.—The Academy shall develop instructional requirements for courses related to its mission that are supported with materials that are adequately reviewed and continuously updated.

“(C) Certification.—

“(i) In general.—The Academy may establish certification criteria for students in areas related to its mission, in consultation with the Network established under subsection (e).

“(ii) Recertification.—The criteria established under clause (i) shall include requirements for recertification and ensure the availability of needed assessment tools.

“(D) Information repository.—The Academy shall provide a repository of approved instructional materials, instructional software, and other materials that are easily accessible by participants.

“(E) Communication networks.—The Academy shall certify, and operate, if necessary, a secure, reliable communication system capable of delivering instructional materials to participants at any time and place.

“(F) Instruction and expertise.—The Academy shall certify instructors, experts, counselors, and other individuals who can provide answers and advice to students over communication systems.

“(6) Strategy center.—

“(A) Responsibilities.—The Strategy Center shall—

“(i) provide curriculum development and classroom instruction for resident students that focus on the strategic goals, methods, and techniques for homeland security;

“(ii) provide instruction—

“(I) primarily to Federal employees described under subsection (b)(3)(A) with homeland security responsibilities; and

“(II) to small numbers of State and local government officials and private individuals; and

“(iii) direct the operation of the Academy's electronic learning systems.

“(B) Curriculum.—The curriculum taught at the Strategy Center shall—

“(i) include basic education about homeland security, the Department, and the relationship of the directorates within the Department;

“(ii) include the relationship between the Department and other Federal, State, and local agencies with homeland security responsibilities; and

“(iii) be developed with assistance from the National Homeland Security Education Network.

“(b) Administration.—

“(1) Executive director.—The Secretary shall appoint an Executive Director for the Academy, who shall—

“(A) administer the operations of the Academy;

“(B) establish an Academic Board, to be headed by the Dean of the Academic Board, appointed under paragraph (2);

“(C) hire initial staff and faculty, as appropriate and necessary;

“(D) contract with practitioners and experts, as appropriate, to supplement academic instruction;

“(E) make recommendations to the Secretary regarding long-term staffing and funding levels for the Academy; and

“(F) report to the Executive Director of the Office of State and Local Government Coordination and Preparedness.

“(2) Dean of the academic board.—The Executive Director shall appoint, with the approval of the Secretary, a permanent professor to serve as Dean of the Academic Board and perform such duties as the Executive Director may prescribe.

“(3) Director of admissions.—The Executive Director shall appoint, with the approval of the Secretary, a Director of Admissions, who shall—

“(A) grant admission to the Strategy Center to—

“(i) new employees of the Department, who have clear homeland security responsibilities;

“(ii) mid-level executive employees of the Department, including employees that receive academy or other training, who demonstrate a need for cross-disciplinary or advanced education and training and have been endorsed by the appropriate Under Secretary;

“(iii) other Federal employees with homeland security responsibilities who have been endorsed by the head of their agency;

“(iv) State and local employees who—

“(I) demonstrate a clear responsibility for providing homeland security; and

“(II) possess the nomination of the Governor of their State, or Head of applicable jurisdiction; and

“(v) private sector applicants who demonstrate a clear responsibility for providing homeland security;

"(B) ensure that students from each level of government and the private sector are included in all programs and classes, whenever appropriate; and

"(C) perform such duties as the Executive Director may prescribe.

"(c) Board of Visitors.—

"(1) Establishment.—Before the Academy admits any students, the Secretary shall establish a Board of Visitors (in this section referred to as the 'Board') to—

"(A) assist in the development of curriculum and programs at the Academy; and

"(B) recommend the site for the location of the Strategy Center.

"(2) Membership.—

"(A) Composition.—The Board will be composed of—

"(i) the Secretary, or designee, who shall serve as chair;

"(ii) the Executive Director of the Academy, or designee, who shall be a nonvoting member;

"(iii) the Chairman of the Committee on Homeland Security and Governmental Affairs of the Senate, or designee;

"(iv) the Ranking Member of the Committee on Homeland Security and Governmental Affairs of the Senate, or designee;

"(v) the Chairman of the Committee on Homeland Security of the House of Representatives, or designee;

"(vi) the Ranking Member of the Committee on Homeland Security of the House of Representatives, or designee;

"(vii) the Secretary of Health and Human Services, or designee;

"(viii) the Secretary of Defense, or designee;

"(ix) the Secretary of Education, or designee;

"(x) the Secretary of Transportation, or designee;

"(xi) the Director of the Federal Bureau of Investigation, or designee;

"(xii) 4 persons, who shall be appointed by the Secretary for 2-year terms to represent State and local governments; and

"(xiii) 4 persons, who shall be appointed by the Secretary for 2-year terms to represent first responders.

"(B) Prohibition.—Any person described under subparagraph (A), whose membership on the Board would create a conflict of interest, shall not serve as a member of the Board.

"(C) Vacancies.—If a member of the Board dies or resigns from office, the official who designated the member shall designate a successor for the unexpired portion of the term.

"(3) Duties.—

"(A) Academy visits.—The Board shall visit the Academy not less than annually, and may, with the approval of the Secretary, make other visits to the Academy in connection with the duties of the Board or to consult with the Executive Director of the Academy.

"(B) Inquiries.—The Board shall inquire into the curriculum, instruction, physical equipment, fiscal affairs, academic methods, student body composition, and other matters relating to the Academy that the Board decides to consider.

"(C) Reports.—

"(i) Annual report.—Not later than 60 days after each annual visit, the Board shall submit a written report to the Secretary, which describes its action, and of its views and recommendations pertaining to the Academy.

"(ii) Additional reports.—Any report of a visit, other than the annual visit, shall, if approved by a majority of the members of the Board, be submitted to the Secretary not later than 60 days after the approval.

"(4) Travel expenses.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

"(d) Reports to Congress.—

"(1) Curriculum and attendance.—The Secretary shall submit an annual report that describes the curriculum of, and enrollment at, the Academy to—

"(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

"(B) the Committee on Homeland Security of the House of Representatives.

"(2) Feasibility report.—Not later than 1 year after the establishment of the Academy, the Secretary shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives that—

"(A) recommends an appropriate combination of students from Federal, State, and local government and the private sector, and the percentage of costs related to the education of each of these student groups that should be reimbursable;

"(B) describes the feasibility of expanding the Academy in regional offices established by the Department or other government or university programs to provide ongoing education and training for Federal employees with homeland security responsibilities; and

"(C) describes the feasibility of providing education for the general public through electronic learning systems.

"(e) National Homeland Security Education Network.—

"(1) Establishment.—The Executive Director of the Academy shall establish a National Homeland Security Education Network (referred to in this section as the 'Network'), as described under subsection (a)(2)(B).

"(2) Membership.—The Network shall be comprised of representatives from Federal training and certification organizations, including—

"(A) the National Homeland Security Academy;

"(B) the Office of Domestic Preparedness;

"(C) the National Domestic Preparedness Consortium;

"(D) the Center for Homeland Defense and Security at the Naval Postgraduate School;

"(E) the Federal Law Enforcement Training Center, including all schools or training and education programs managed or co-located with the Center;

"(F) the Customs and Border Protection Academy;

"(G) the Border Patrol Academy;

"(H) the Bureau of Immigration and Customs Enforcement Academy;

"(I) the Secret Service Academy;

"(J) the United States Coast Guard Academy, including all schools within the jurisdiction of the Coast Guard Academy;

"(K) the Emergency Management Institute;

"(L) the Animal and Plant Health Inspection Service Training Program;

"(M) the Federal Air Marshal Training Center;

"(N) the National Fire Academy; and

"(O) other relevant training facilities within the Department.

"(3) Curriculum requirements.—The curriculum and course work developed as part of the Network shall be incorporated into the curriculum of the institutions listed under paragraph (2), as appropriate, to ensure that students at these institutions understand how their homeland security responsibilities relate to other homeland security responsibilities in the Department and other Federal, State, and local agencies. The training centers and academies listed under paragraph (2) shall retain their respective missions and goals.

"(4) Semi-annual meetings.—The Executive Director and the Dean of the Academic Board shall meet with the Network not less than once every 6 months to—

"(A) discuss curriculum requirements; and

"(B) coordinate training activities within the Network.

"(5) Reports.—Not later than 2 years after the date of enactment of this section, and every 2 years thereafter, the Network shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives, which describes the Network's—

"(A) strategy for using advanced instructional technologies;

"(B) plans for future improvement; and

"(C) success in working with other organizations in achieving the goals described under subparagraphs (A) and (B).".

(b) Technical Amendment.—Section 1(b) of the Homeland Security Act of 2002 (Public Law 107-296) is amended by inserting after the item relating to section 801 the following:

"Sec. 802. National Homeland Security Academy.".

SEC. 4. STATE AND LOCAL EDUCATION AND TRAINING COORDINATOR.

The Secretary of Homeland Security shall appoint a State and Local Education and Training Coordinator to serve in the Office of State and Local Government Coordination and Preparedness, who shall—

(1) serve as the primary point of contact between Federal, State, and local training facilities, the National Homeland Security Academy, and the Office of State and Local Government Coordination and Preparedness, in order to—

(A) maximize the ability of the Academy to identify non-Academy programs that meet specific training goals and are crucial to the Nation's homeland security mission; and

(B) assist the Academy and the Office of State and Local Government Coordination and Preparedness in determining where to direct Federal training funds; and

(2) at least semiannually, conduct meetings with a coalition of State and local education and training facilities to—

(A) allow State and local fire, rescue, and law enforcement training facilities to provide input on decisions made concerning the training of first responders; and

(B) increase curriculum coordination between the Academy and Federal, State, and local facilities.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the amendment made by section 3 such sums as may be necessary for each of the fiscal years 2006 through 2009.

Mrs. BOXER. Mr. President, each year Congress appropriates millions of dollars to institutions of higher learning that serve minority students. Currently, funds go to historically Black colleges and universities, Hispanic-serving institutions, tribally controlled colleges and universities, and Alaska Native and Native Hawaiian-serving institutions. These funds—which exceeded $890 million in fiscal year 2005—help institutions provide more higher education opportunities for low-income minority students.

For schools that serve a large number of low-income Asian Americans and Pacific Islanders, however, Federal assistance is not available. A need is not being served.

Over 42 percent of Cambodian Americans, almost 35 percent of Laotian Americans and 25 percent of Vietnamese Americans live in poverty. And the graduation rates among these populations are low. Only 13.8 percent of Vietnamese Americans, 5.8 percent of Laotian Americans, 6.1 percent of Cambodian Americans, and 5.1 percent of Hmong have college degrees.

So, today, I am introducing the Asian Americans and Pacific Islanders Higher Education Enhancement Act. I am pleased to be joined in this effort by Senator AKAKA.

This legislation creates a new Federal grant program for institutions where Asian and Pacific Islander students make up at least 10 percent of the undergraduate student body. Priority will be given based on the number of low-income students.

The grants—authorized at $30 million in the first year, and such sums as necessary for the next 4 years—could be used for a variety of purposes, including outreach to secondary and elementary school students, curriculum development, tutoring, counseling, and student support services.

Mr. President, we need to make college accessible for low-income Asian American students as we do for with other minority students. This bill is an important step toward this goal.

By Mrs. BOXER (for herself and Mr. AKAKA):

S. 2160. A bill to amend the Higher Education Act of 1965 to authorize grants for institutions of higher education serving Asian Americans and Pacific Islanders; to the Committee on Health, Education, Labor, and Pensions.

Mr. AKAKA. Mr. President, as a member of the Congressional Asian Pacific American Caucus, the only Chinese American in the U.S. Senate, and sole native Hawaiian in the U.S. Congress, I thank my colleague from California, Senator BOXER, for introducing a bill to establish Asian American and Pacific Islander, AAPI, Serving Institutions which will improve the educational opportunities available to Asian Americans and Pacific Islanders throughout our Nation. I am proud to stand with her as a cosponsor of her bill. I also commend my colleagues, Congressmen DAVID WU and MIKE HONDA, in the other body for working to advance an AAPI Serving Institution bill.

This legislation would authorize the Department of Education to establish an Asian American and Pacific Islander Serving Institution designation under the Higher Education Act. A higher education institution with an AAPI undergraduate enrollment of at least 10 percent would be eligible for grants to address and improve the institution's capacity to serve the AAPI community. In the Higher Education Act, titles III and V were established to provide aid for colleges and universities to expand educational opportunities for historically under represented and financially disadvantaged students. However, we need a program specifically for Asian American and Pacific Islander Americans. This legislation would assist in providing AAPI students with the equal opportunity to pursue a quality education.

The AAPI community has made many significant contributions to our country, and is known as having the highest percentage of undergraduate and advanced degrees when compared to other racial or ethnic groups according to the College Board. However, as one of the most ethnically, culturally, and linguistically diverse groups in America, the success of the community as a whole masks the needs of its disparate groups who may not be doing so well. This is the "model minority" myth. In fact, serious challenges face Cambodian, Hmong, and Pacific Islander students, particularly in the acquisition of the English language.

The AAPI population is one of the fastest growing populations in this country, including nearly 12 million Asian Americans and 1 million Pacific Islanders. Census projections show the AAPI population more than doubling by 2050 and comprising about 9 percent of the total U.S. population. As a significant part of our society, AAPIs and their higher education needs should be better understood and addressed, and the establishment of AAPI Serving Institutions would be a major step in the right direction for this multifaceted population.

I urge my colleagues to join me in supporting Senator BOXER's legislation to enhance educational opportunities for Asian Americans and Pacific Islanders.

By Mr. INHOFE (for himself, Mr. DOMENICI, Mr. HAGEL, and Mr. NELSON of Nebraska):

S. 2161. A bill to amend the Safe Drinking Water Act to prevent the enforcement of certain national primary drinking water regulations unless sufficient funding is available or variance technology has been identified; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, I rise today to introduce The Small System Drinking Water Act of 2005 to assist water systems throughout the country comply with the numerous Federal drinking water standards. My bill will require the Federal Government to live up to its obligations and require the EPA to use all of the tools given the Agency in the 1996 Safe Drinking Water Act amendments (SDWA).

In Oklahoma we continue to have municipalities struggling with the arsenic rule. Further nearly 80 percent of our small systems, those serving less than 10,000 people, are not in compliance with the Disinfection Byproducts (DBP) Stage I rule. In EPA's most recent drinking water needs survey, Oklahoma identified $4.5 billion in infrastructure needs over the next 20 years. $40 million a year of that need is to meet Federal drinking water standards. This does not include costs imposed by Oklahoma communities to meet Federal clean water requirements.

The EPA on December 15th finalized the Disinfection Byproducts Stage II rule and the Long Term 2 Enhanced Surface Water Treatment Rule. The costs of complying with these two rules are not included in the $40 million a year need recently identified by the State. At current funding rates, the State receives $8.5 million dollars for its drinking water revolving loan fund.

My bill proposes a few simple steps to help systems comply with the rules. First, it reauthorizes the technical assistance program in the SDWA. The DBP Stage I rule is very complex and involves a lot of monitoring and testing. The other rules are equally complex in nature and many small systems simply do not have the expertise needed to implement them. If we are going to impose complicated requirements on systems, we need to provide them with help to implement those requirements. Therefore, my legislation also requires that each system receive the help it needs to come into compliance before an enforcement action can be taken.

The bill also creates a pilot program to demonstrate new technologies and approaches for systems of all sizes to comply with these complicated rules. It requires the EPA to convene a working group to examine the science behind the rules compared to new developments since their publication.

Section 1412(b)(4)(E) of the SDWA Amendments of 1996 authorizes the use of point of entry treatment, point of use treatment and package plants to economically meet the requirements of the Act. However, to date, these approaches are not widely used by small water systems. My legislation directs the EPA to convene a working group to identify barriers to the use of these approaches. The EPA will then use the recommendations of the working group to draft a model guidance document that states can use to create their own programs.

This legislation seeks to provide communities with more tools in order to comply with these Federal requirements while also requiring EPA to use the tools it has been provided, including the identification of variance technologies.

By Ms. SNOWE:

S. 2162. A bill to foster local development by facilitating the delivery of financial assistance to small businesses, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today to introduce the "Local Development Business Loan Program Act of 2005." This bill will improve the Small Business Administration's (SBA) Certified Development Company Loan Program, also known as the "504 Loan Program," by streamlining the lending process and providing small businesses with greater opportunities to obtain affordable financing. The 504 Loan Program provides small businesses with long-term, fixed-rate financing for real estate and machinery.

As Chair of the Senate Committee on Small Business and Entrepreneurship, one of my primary responsibilities is to ensure small businesses are afforded the best possible environment to grow and flourish. The fundamental purpose of the SBA is to maintain and strengthen the nation's economy by aiding, counseling, assisting, and protecting the interests of small business concerns. This bill would strengthen the SBA's ability to pursue those goals.

The legislation responds to one of the primary needs of small businesses: access to affordable capital. For many small businesses, expansion plans face constraints imposed by facilities that are too small, or equipment that has insufficient capacity or outdated features. These small businesses often lack capital to remedy these needs, and without the SBA they would be limited to obtaining short-term financing with higher, often variable, rates. As a result, the 504 loan program is a key element of these small businesses' eventual success, because the program provides long-term capital, at fixed rates, that allows businesses to obtain new facilities, expand existing facilities, and update their machinery.

In Fiscal Year 2004, the SBA's financing programs, combined, supported over $20 billion in loans and venture capital for small businesses. In the 504 program alone, small businesses obtained 8,357 loans in 2004. Through those loans the SBA guaranteed over $4 billion in financing. The SBA portion of each 504 program loan is only 40 percent of the total loan size. This program thus produced approximately $10 billion in financing for small businesses in 2004! That financing allowed small businesses to create or retain 140,000 jobs in 2004.

Although the 504 program is already assisting entrepreneurial small businesses throughout the nation, it can be improved. The program works by combining in each financing package provided to a small business a loan from a Certified Development Company (CDC) that is guaranteed by the SBA, this is 40 percent of the total package; a nonguaranteed loan provided by a private "first-mortgage" lender, 50 percent of the total package; and a 10 percent down-payment provided by the small business. This bill offers improvements to all three aspects of the program, to increase the program's efficiency and impact. If approved by the Congress and signed into law, this bill will increase the number of small businesses that can utilize the program to grow and succeed.

Job creation and retention is a bedrock element of local development efforts throughout the country. One of the statutory purposes of the 504 loan program is to create new jobs and to help small businesses retain existing jobs. This bill's purpose is to further strengthen the local development impact of the 504 loan program. To reflect that, the bill re-names the 504 loan program as the "Local Development Business Loan Program" (Local Development Program). This new name will also help borrowers to understand the intent of the program; many small business owners had commented to the Committee that the name "504 program" was neither clear nor indicative of the program's purposes. The bill will not require the SBA to waste money by discarding existing program materials that refer to the previous name; the SBA may continue to use those materials, but it will use the new name on any new materials produced after the bill's enactment.

If the Local Development Program continues to grow at its recent pace, it may exceed $6 billion in guaranteed loans during 2006. The bill would authorize a maximum program level of $8 billion in guaranteed loans in fiscal year 2007, and $8.5 billion for fiscal year 2008.

This legislation will also reduce regulatory barriers that have constrained CDCs from expanding their operations into new areas. By increasing competitive opportunities for CDCs, the bill seeks to increase the number and quality of financing options available to small businesses. For instance, existing SBA regulations require CDCs to have a separate loan committee for each State and to account for all revenue and expenses separately for each state. Regulations of this type have made compliance both costly and difficult and have deterred many CDCs from expanding into new areas. Simplifying these regulations will result in increased access to capital for small business.

The bill allows borrowers to provide more than the required minimum amount of equity when initiating their loan, and to use the excess equity to reduce the amount of the first-lien mortgage made by a private lender in the program. By contributing a larger down-payment at the onset of the loan, this provision will provide an opportunity for these borrowers to reduce their periodic payment obligations.

This legislation would also designate Local Development Program loans that qualify under the New Markets Tax Credit Program as a public policy goal under the Local Development Program, and thus make them eligible for larger financing packages. The New Market Tax Credit Program permits taxpayers to receive a credit against Federal income taxes for making qualified equity investments in designated Community Development Entities.

The Act will also permit the ownership interest of two or more small business owners to be combined to determine whether the small business is 51 percent owned by minorities, women, or veterans in order to qualify as a business eligible for a public policy loan. The Act's goal of improving access to capital for small businesses is also furthered by another provision that permits Local Development Program borrowers to obtain financing in the maximum amount permitted under this program and also under the SBA's "7(a) loan program."

This legislation would also allow a borrower to refinance a limited amount of existing debt. The amount that could be refinanced could not exceed 50 percent of the expansion project funded by the loan, and would be limited to certain situations. By giving these small businesses the opportunity to refinance and obtain lower-cost capital, the bill would provide them a greater chance to succeed.

The bill would also eliminate a fee now imposed on the first mortgage lenders, private banks, in a Local Development Program financing package. The lender's fee is a one-time fee equal to 0.5 percent of the first mortgage loan. Currently, the first mortgage lenders pass this fee on to CDCs and to borrowers. The bill will not increase the total fees paid by the CDCs or the borrowers, but clarifies that the CDC's stipulated annual fee would be increased by 0.06 percent, 6/100ths of one percent, and the borrower's stipulated fee would increase by approximately 0.06 percent, to replace the fees currently imposed on CDCs and borrowers by private lenders. In other words, instead of a fee imposed on CDCs and borrowers by the private lenders, which is not always clearly identifiable to those outside the program, this provision will specify the fee be paid directly by the CDCs and borrowers. It is hoped that this provision will clarify the fee obligations owed within the program, and will clearly identify to banks the total costs of participating in the program.

The SBA's current 504 Program provides our Nation's small businesses with low-cost, long-term financing that is absolutely critical to starting and developing a successful business. In turn, small businesses create the majority of new jobs created in the United States. This program, re-named as the Local Development Business Loan Program, will continue to help small businesses create jobs and support their local communities. In fact, the provisions in this bill will improve those efforts significantly.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2162

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; DEFINITION.

(a) SHORT TITLE.—This Act may be cited as the "Local Development Business Loan Program Act of 2005".

(b) DEFINITION.—In this Act, the term "Administrator" means the Administrator of the Small Business Administration.

SEC. 2. DEVELOPMENT COMPANY LOAN PROGRAMS.

(a) TITLE OF PROGRAM.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following:

"SEC. 511. PROGRAM TITLE.

"The programs authorized by this title shall be known as the 'Local Development Business Loan Program'.".

(b) EXISTING MATERIALS.—The Administrator may use informational materials created, or that were in the process of being created, before the date of enactment of this Act that do not refer to a program under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) as the "Local Development Business Loan Program".

(c) NEW MATERIALS.—Any informational materials created by the Administrator on or after the date of enactment of this Act shall refer to any program under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) as the "Local Development Business Loan Program".

SEC. 3. PROGRAM AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding at the end the following:

"(f) FISCAL YEAR 2007.—For the program authorized under section 7(a)(13) of this Act and the Local Development Business Loan Program under the Small Business Investment Act of 1958, the Administrator is authorized to make $8,000,000,000 in financings, and there are authorized to be appropriated to the Administrator such sums as may be necessary to carry out such programs.

"(g) FISCAL YEAR 2008.—For the program authorized under section 7(a)(13) of this Act and the Local Development Business Loan Program under the Small Business Investment Act of 1958, the Administrator is authorized to make $8,500,000,000 in financings, and there are authorized to be appropriated to the Administrator such sums as may be necessary to carry out such programs.".

SEC. 4. LOAN LIQUIDATIONS.

Section 510 of the Small Business Investment Act of 1958 (15 U.S.C. 697g) is amended—

(1) by redesignating subsection (e) as subsection (g); and

(2) by inserting after subsection (d) the following:

"(e) PARTICIPATION.—

"(1) IN GENERAL.—Any qualified State or local development company which elects not to apply for authority to foreclose and liquidate defaulted loans under this section, or which the Administrator determines to be ineligible for such authority, shall contract with a qualified third-party to perform foreclosure and liquidation of defaulted loans in its portfolio. The contract shall be contingent upon approval by the Administrator with respect to the qualifications of the contractor and the terms and conditions of liquidation activities.

"(2) COMMENCEMENT.—The provisions of this subsection shall not require any development company to liquidate defaulted loans until the Administrator has adopted and implemented a program to compensate and reimburse development companies, as provided under subsection (f).

"(f) COMPENSATION AND REIMBURSEMENT.—

"(1) REIMBURSEMENT OF EXPENSES.—The Administrator shall reimburse each qualified State or local development company for all expenses paid by such company as part of the foreclosure and liquidation activities, if the expenses—

"(A) were approved in advance by the Administrator, either specifically or generally; or

"(B) were incurred by the development company on an emergency basis without prior approval from the Administrator, if the Administrator determines that the expenses were reasonable and appropriate.

"(2) COMPENSATION FOR RESULTS.—The Administrator shall develop a schedule to compensate and provide an incentive to qualified State or local development companies that foreclose and liquidate defaulted loans. The schedule shall be based on a percentage of the net amount recovered, but shall not exceed a maximum amount. The schedule shall not apply to any foreclosure which is conducted pursuant to a contract between a development company and a qualified third party to perform the foreclosure and liquidation.".

SEC. 5. ADDITIONAL EQUITY INJECTIONS.

Section 502(3)(B)(ii) of the Small Business Investment Act of 1958 (15 U.S.C. 696(3)(B)(ii)) is amended to read as follows:

"(ii) FUNDING FROM INSTITUTIONS.—If a small business concern—

"(I) provides the minimum contribution required under subparagraph (C), not less than 50 percent of the total cost of any project financed under clause (i), (ii), or (iii) of subparagraph (C) shall come from the institutions described in subclauses (I), (II), and (III) of clause (i); and

"(II) provides more than the minimum contribution required under subparagraph (C), any excess contribution may be used to reduce the amount required from the institutions described in subclauses (I), (II), and (III) of clause (i), except that the amount from such institutions may not be reduced to an amount that is less than the amount of the loan made by the Administrator.".

SEC. 6. BUSINESSES IN LOW-INCOME AREAS.

Section 501(d)(3)(A) of the Small Business Investment Act of 1958 (15 U.S.C. 695(d)(3)(A)) is amended by inserting after "business district revitalization," the following: "or expansion of businesses in low-income communities which would be eligible for a new markets tax credit pursuant to section 45D(a) of the Internal Revenue Code of 1986, or implementing regulations issued thereunder.".

SEC. 7. COMBINATIONS OF CERTAIN GOALS.

Section 501(e) of the Small Business Investment Act of 1958 (15 U.S.C. 695(e)) is amended by adding at the end the following:

"(7) A small business concern that is unconditionally owned by more than 1 individual, or a corporation, the stock of which is owned by more than 1 individual, shall be deemed to have achieved a public policy goal required under subsection (d)(3) if a combined ownership share of not less than 51 percent is held by individuals who are in 1 of the groups described in subparagraph (C) or (E) of subsection (d)(3).".

SEC. 8. MAXIMUM 504 AND 7(A) LOAN ELIGIBILITY.

Section 502(2) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)) is amended by adding at the end the following:

"(C) COMBINATION FINANCING.—Notwithstanding any other provision of law, financing under this title may be provided to a borrower in the maximum amount provided in this subsection, and a loan guarantee under section 7(a) of the Small Business Act may be provided to the same borrower in the maximum amount provided in section 7(a)(3)(A) of such Act, to the extent that the borrower otherwise qualifies for such assistance.".

SEC. 9. REFINANCING.

Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is amended by adding at the end the following:

"(7) PERMISSIBLE DEBT REFINANCING.—

"(A) IN GENERAL.—Any financing approved under this title may include a limited amount of debt refinancing.

"(B) EXPANSIONS.—If the project involves expansion of a small business concern which has existing indebtedness collateralized by fixed assets, any amount of existing indebtedness that does not exceed ½ of the project cost of the expansion may be refinanced and added to the expansion cost, providing that—

"(i) the proceeds of the indebtedness were used to acquire land, including a building situated thereon, to construct a building thereon, or to purchase equipment;

"(ii) the borrower has been current on all payments due on the existing debt for at least the preceding year; and

"(iii) the financing under section 504 will provide better terms or rate of interest than exists on the debt at the time of refinancing.".

SEC. 10. FEES.

(a) IN GENERAL.—Section 503(d) of the Small Business Investment Act of 1958 (15 U.S.C. 697(d)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (2), as so redesignated, by striking "0.125 percent" and inserting "0.185 percent".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect and apply to loans under section 503(d) of the Small Business Investment Act of 1958 (15 U.S.C. 697(d)) approved on or after 30 days after the date of enactment of this Act.

SEC. 11. TECHNICAL CORRECTION.

Section 501(e)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 695(e)(2)) is amended by striking "outstanding".

SEC. 12. SBIA DEFINITIONS.

Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) is amended—

(1) by striking paragraph (6) and inserting the following:

"(6) the term 'development company' means an entity incorporated under State law with the authority to promote and assist the growth and development of small business concerns in the areas in which it is authorized to operate by the Administrator;”;

(2) in paragraph (16), by striking “and” at the end;

(3) in paragraph (17), by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

“(18) the term ‘certified development company’ means a development company that the Administrator has certified meets the criteria of section 506.”.

SEC. 13. REPEAL OF SUNSET ON RESERVE REQUIREMENTS FOR PREMIER CERTIFIED LENDERS.

Section 508(c)(6)(B) of the Small Business Investment Act of 1958 (15 U.S.C. 697e(c)(6)(B)) is amended—

(1) in the heading, by striking “Temporary reduction” and inserting “Reduction”; and

(2) by striking “Notwithstanding subparagraph (A), during the 2-year period beginning on the date that is 90 days after the date of enactment of this subparagraph, the” and inserting “The”.

SEC. 14. ELIGIBILITY OF DEVELOPMENT COMPANIES TO BE DESIGNATED AS CERTIFIED DEVELOPMENT COMPANIES AND AUTHORITY TO ISSUE DEBENTURES; AND PROVIDING AN AREA OF OPERATIONAL AUTHORITY, FUNDING RESTRICTIONS, AND ETHICAL REQUIREMENTS.

Section 506 of the Small Business Investment Act of 1958 (15 U.S.C. 697c) is amended—

(1) in the heading, by striking “**RESTRICTIONS ON DEVELOPMENT COMPANY ASSISTANCE**” and inserting “**CERTIFIED DEVELOPMENT COMPANIES**”; and

(2) by inserting before “Notwithstanding any other provision of law” the following:

“(a) Authority to Issue Debentures.—A development company may issue debentures under this title if the Administrator certifies that the company meets the following criteria:

“(1) Size.—

“(A) In general.—Except as provided in subparagraph (B), the development company shall be a small business concern with fewer than 500 employees, and shall not be under the control of any entity that does not meet the size standards established by the Administrator for a small business concern.

“(B) Exception.—Any development company that was certified by the Administrator before December 31, 2005, may continue to issue debentures under this title.

“(2) Purpose.—A primary purpose of the development company shall be to benefit the community by fostering economic development to create and preserve jobs and stimulate private investment.

“(3) Primary function.—A primary function of the development company shall be to accomplish its purpose by providing long term financing to small business concerns under the Local Development Business Loan Program. The development company may also provide or support other local economic development activities to assist the community.

“(4) Nonprofit status.—

“(A) In general.—Except as provided in subparagraph (B), the development company shall be a nonprofit corporation.

“(B) Exception.—A development company certified by the Administrator before January 1, 1987, may continue to issue debentures under this title and retain its status as a for-profit enterprise.

“(5) Good standing.—The development company—

“(A) shall be in good standing in the State in which such company is incorporated and in any other State in which it conducts business; and

“(B) shall be in compliance with all laws, including taxation requirements, in the State in which such company is incorporated and in any other State in which it conducts business.

“(6) Membership of development company.—There shall be—

“(A) not fewer than 25 members of the development company (or owners or stockholders, if the corporation is a for-profit entity) none of whom may own or control more than 10 percent of the voting membership of the company; and

“(B) at least 1 member of the development company (none of whom is in a position to control the development company) from each of the following:

“(i) Government organizations that are responsible for economic development.

“(ii) Financial institutions that provide commercial long term fixed asset financing.

“(iii) Community organizations that are dedicated to economic development.

“(iv) Businesses.

“(7) Board of directors.—

“(A) In general.—The development company shall have a board of directors.

“(B) Members of board.—Each member of the board of directors shall be—

“(i) a member of the development company; and

“(ii) elected by a majority of the members of the development company.

“(C) Representation of organizations and institutions.—

“(i) In general.—There shall be at least 1 member of the board of directors from not fewer than 3 of the 4 organizations and institutions described in paragraph (6)(B), none of whom is in a position to control the development company.

“(ii) Maximum percentage.—Not more than 50 percent of the members of the board of directors shall be from any 1 of the organizations and institutions described in paragraph (6)(B).

“(D) Meetings.—The board of directors of the development company shall meet on a regular basis to make policy decisions for such company.

“(8) Professional management and staff.—

“(A) In general.—The development company shall have full-time professional management, including a chief executive officer to manage daily operations and a full-time professional staff qualified to market the Local Development Business Loan Program and handle all aspects of loan approval and servicing, including liquidation, if appropriate.

“(B) Independent management and operation.—Except as provided in paragraph (9), the development company shall be independently managed and operated to pursue the economic development purpose of the company and shall employ directly the chief executive officer.

“(9) Management and operation exceptions.—

“(A) Affiliation.—A development company may be an affiliate of another local nonprofit service corporation (other than a development company), a purpose of which is to support economic development in the area in which the development company operates.

“(B) Staffing.—A development company may satisfy the requirement for full-time professional staff under paragraph (8)(A) by contracting for the required staffing with—

“(i) a local nonprofit service corporation;

“(ii) a nonprofit affiliate of a local nonprofit service corporation;

“(iii) an entity wholly or partially operated by a governmental agency; or

“(iv) another entity approved by the Administration.

“(C) Directors.—A development company and a local nonprofit service corporation with which it is affiliated may have in common some, but not all, members of their respective board of directors.

“(D) Rural areas.—A development company in a rural area may satisfy the requirements of a full-time professional staff and professional management ability under paragraph (8)(A) by contracting for such services with another certified development company that—

“(i) has such staff and management ability; and

“(ii) is located in the same State as the development company or in a State that is contiguous to the State in which the development company is located.

“(E) Previously certified.—A development company that, on or before December 31, 2005, was certified by the Administrator and had contracted with a for-profit company to provide staffing and management services, may continue to do so.

“(b) Use of Excess Funds.—Any funds generated by a certified development company from making loans under section 503 or 504 that remain unexpended after payment of staff, operating, and overhead expenses shall be retained by the certified development company as a reserve for—

“(1) future operations;

“(2) expanding the area in which the certified development company operates through the methods authorized by this Act; or

“(3) investment in other local economic development activity in the State from which such funds were generated.

“(c) Ethical Requirements.—

“(1) In general.—A certified development company and the officers, employees, and other staff of the company shall at all times act ethically and avoid activities which constitute a conflict of interest or appear to constitute a conflict of interest.

“(2) Prohibited conflict in project loans.—

“(A) In general.—No certified development company may—

“(i) recommend or approve a guarantee of a debenture by the Administrator under the Local Business Development Loan Program that is collateralized by a second lien position on the property being constructed or acquired; and

“(ii) provide, or be affiliated with a corporation or other entity which provides, financing collateralized by a first lien on the same property.

“(B) Exception.—During the 2-year period beginning on the date of enactment of this subsection, a certified development company that was participating as a first mortgage lender for the Local Business Development Loan Program in either of fiscal years 2004 or 2005 may continue to do so.

“(3) Other economic development activities.—It shall not be a conflict of interest for a certified development company to operate multiple programs to assist small business concerns as part of carrying out its economic development purpose.

“(d) Multistate Operations.—

“(1) Authorization.—Notwithstanding any other provision of law, the Administrator shall permit a certified development company to make loans in any State that is contiguous to the State of incorporation of that certified development company, only if such company—

"(A) is—

"(i) an accredited lender under section 507; or

"(ii) a premier certified lender under section 508;

"(B) has a membership that contains not fewer than 25 members from each State in which the company makes loans;

"(C) has a board of directors that contains not fewer than 1 member from each State in which the company makes loans; and

"(D) maintains not fewer than 1 loan committee, which shall have not fewer than 1 member from each State in which the company makes loans; and

"(E) submits to the Administrator, in writing—

"(i) a notice of the intention of the company to make loans in multiple States;

"(ii) the names of the States in which the company intends to make loans;

"(iii) a detailed statement of how the company will comply with this paragraph, including a list of the members described in subparagraph (B).

"(2) Review.—The Administrator shall verify whether a certified development company satisfies the requirements of paragraph (1) on an expedited basis and, not later than 30 days after the date on which the Administrator receives the statement described in paragraph (1)(E)(iii), the Administrator shall determine whether such company satisfies such criteria and provide notice to such company.

"(3) Loan committee participation.—For any loan made by a company described in paragraph (1), not fewer than 1 member of the loan committee from the State in which the loan is to be made shall participate in the review of such loan.

"(4) Aggregate accounting.—A company described in paragraph (1) may maintain an aggregate accounting of all revenue and expenses of the company for purposes of this title.

"(5) Directors.—Notwithstanding any other provision of law, a person may serve on the board of directors, but not as an officer, of more than 1 certified development company if none of the certified development companies on which the person serves as a member of the board of directors are located or operate in the same area.

"(6) Local job creation requirements.—Any certified development company making loans in multiple States shall satisfy any applicable job creation or retention requirements separately for each such State. Such a company shall not count jobs created or retained in 1 State towards any applicable job creation or retention requirement in another State.

"(7) Contiguous states.—For purposes of this subsection, the States of Alaska and Hawaii shall be deemed to be contiguous to any State abutting the Pacific ocean.

"(e) Restrictions on Development Company Assistance.—".

SEC. 15. CONFORMING AMENDMENTS.

Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(1) in subsection (a)(1), by striking "qualified State or local development company" and inserting "certified development company"; and

(2) by striking subsection (e) and inserting the following:

"(e) Section 7(a) Loans.—Notwithstanding any other provision of law, a certified development company is authorized to prepare applications for deferred participation loans under section 7(a) of the Small Business Act, to service such loans, and to charge a reasonable fee for servicing such loans.".

SEC. 16. CLOSING COSTS.

Section 503(b) of the Small Business Investment Act of 1958 (15 U.S.C. 697(b)) is amended by striking paragraph (4) and inserting the following:

"(4) the aggregate amount of such debenture does not exceed the amount of the loans to be made from the proceeds of such debenture plus, at the election of the borrower, other amounts attributable to the administrative and closing costs of such loans, except for the attorney fees of the borrower;".

SEC. 17. DEFINITION OF RURAL.

Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695) is amended by adding at the end the following:

"(f) As used in this title, the term 'rural' shall include any area that is not—

"(1) a city or town that has a population greater than 50,000 inhabitants; or

"(2) the urbanized area contiguous and adjacent to a city or town described in paragraph (1).".

SEC. 18. REGULATIONS AND EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), the Administrator shall—

(1) publish proposed rules to implement this Act and the amendments made by this Act not later than 120 days after the date of enactment of this Act; and

(2) publish such rules in final form not later than 120 days after the date of publication under paragraph (1).

(b) Multistate Operations.—As soon as is practicable after the date of enactment of this Act, the Administrator shall promulgate regulations to implement section 506(d) of the Small Business Investment Act of 1958, as added by section 14 of this Act. Such regulations shall become effective not later than 120 days after the date of enactment of this Act.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2) and section 10(b), this Act and the amendments made by this Act shall become effective 240 days after the date of enactment of this Act, regardless of whether the Administrator has promulgated the regulations required under subsection (a).

(2) Multistate operations.—Section 506(d) of the Small Business Investment Act of 1958, as added by section 14 of this Act, shall become effective 120 days after the date of enactment of this Act, regardless of whether the Administrator has promulgated the regulations required under subsection (b).

By Mr. KERRY:

S. 2163. A bill to amend titles 10 and 38 of the United States Code, to increase and index educational benefits for veterans under the Montgomery GI bill to ensure adequate and equitable benefits for active duty members and members of the selected Reserve, and to include certain servicemembers previously excluded from such benefits; to the Committee on Veterans' Affairs.

Mr. KERRY. Mr. President, the original GI Bill of 1944 was intended to help veterans readjust to civilian life, and to recognize the service they provided to their country. Subsequent GI Bills, including the one in force today, have been important tools to recruit the world's best troops.

The GI Bill is meant "to help meet, in part, the expenses of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational costs." At certain points historically the payment has met over 100 percent of these costs.

Yet, today's troops, performing with such distinction in Iraq, Afghanistan, and other locations around the world, are returning home to a GI Bill that covers only 63 percent of the average price of a public four-year secondary education.

Veterans are struggling to make up the difference in the price of their education.

We have heard of a 28-year-old Navy veteran who served two deployments in the Persian Gulf between 1996 and 2002. When he went to school he had to supplement his GI Bill benefits by working part-time as a bartender and taking out tens of thousands of dollars in emergency loans.

We've heard of a veteran who served 4 years in the airborne infantry prior to enrolling in a local community college in California under the GI Bill. He has been able to make ends meet at the community college by subsidizing his GI Bill benefits through part time work, but he worries that he will be unable to fulfill his dream of finishing up at UC Davis because his benefits and part time job will not cover the higher costs at the 4-year public secondary institution.

But not all veterans are in a position where they can worry only about their education. Almost 60 percent of enlisted men and women are married today, compared with 40 percent in 1973. These veterans are faced with choosing to borrow in order to invest for the future or take care of their family now.

We know of veterans who have lost that fight. One was unable to come up with the remaining third of the cost of his education and support his wife and baby daughter. His wife had convinced him to use his GI Bill benefits, but for this young veteran, "the benefit just didn't match up to the cost of living" and he dropped out of school after only one semester.

Over the past 10 years, less than 10 percent of eligible veterans who signed up for the GI Bill from 1985 to 1994 used their entire educational benefit, although 70 percent have used some portion of it.

The legislation I introduce today is the start of an effort to help veterans meet the everincreasing costs of education. It is only a start. I recognize that the cost of this proposal has to be addressed for the legislation to advance. Toward this end, Senator Ensign and I have written to the Veterans' Affairs Committee seeking reauthorization of a reporting requirement that will inform this process. And I plan to work with my colleagues in the coming months to find a solution that meets the needs of America's veterans.

We know that improving GI Bill benefits isn't just about saying thank you.

It is critical to recruiting the world's finest military. As recently as 2004, a survey of active duty service members found that GI Bill education benefits were the primary reason individuals chose to enlist. We recently increased sign-up and reenlistment bonuses for members of the military. The GI Bill must increase too.

This legislation, the Armed Forces Education Benefits Improvement Act, would increase GI Bill educational benefits to cover the average price of a 4-year secondary education. According to the most recent report by the U.S. Department of Education, an average public 4-year education cost $14,260 in 2004–05, compared with the $9,036 provided under the current GI Bill for the same time period.

The Armed Forces Education Benefits Improvement Act would also provide for real growth in future benefits that keep paces with the ever increasing cost of education. The bill would index the increased benefit to the "college tuition and fees" component of the Consumer Price Index. Currently, the increasing cost of education is out-pacing growth in GI Bill benefits, which are indexed to the less rapidly growing overall inflation.

This legislation would also increase the base amount provided for members of the Selected Reserve by approximately 59 percent. And it maintains the same ratio in the FY05 Defense Authorization Act for those members of the Selected Reserve called up to active duty for at least 90 days.

Finally, the Armed Forces Education Benefits Improvement Act would open enrollment for updated Montgomery GI bill benefits to certain active duty service members who declined to accept the Veterans Education Assistance Program, VEAP, offered between January 1, 1977 and June 30, 1985. These veterans are the only group of active duty service members—other than service academy graduates and recipients of certain ROTC scholarships—who have not been able to sign up for GI Bill educational benefits.

I am pleased that this legislation has been endorsed by the Military Officers Association of America and the Reserve Enlisted Association.

I know my colleagues are as inspired as I am by the dedication, courage, and honor of the soldiers, sailors, airmen, and Marines we meet around the world. They serve with a selfless devotion to their country and their mission—and we are all so very proud of them. The least that we can do is ensure the GI Bill education benefits keep pace with the cost of education in this country. I look forward to working with my colleagues over the coming months to bring this legislation to fruition.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Armed Forces Education Benefits Improvement Act".

SEC. 2. ADJUSTMENT AND ANNUAL DETERMINATION OF EDUCATIONAL ASSISTANCE UNDER THE MONTGOMERY GI BILL FOR ACTIVE DUTY MEMBERS.

(a) IN GENERAL.—Section 3015 of title 38, United States Code, is amended—

(1) in subsection (a), by amending paragraph (1) to read as follows:

"(1) for an approved program of education pursued on a full-time basis—

"(A) $1,584 per month for months during fiscal year 2005; and

"(B) for months during fiscal year 2006 and each subsequent fiscal year, the monthly amount under this paragraph for the previous fiscal year multiplied by the percentage increase calculated under subsection (h); or";

(2) in subsection (b), by amending paragraph (1) to read as follows:

"(1) for an approved program of education pursued on a full-time basis—

"(A) $1,267 per month for months during fiscal year 2005; and

"(B) for months during fiscal year 2006 and each subsequent fiscal year, the monthly amount under this paragraph for the previous fiscal year multiplied by the percentage increase calculated under subsection (h); or"; and

(3) in subsection (h)(1), by striking "all items" and inserting "college tuition and fees".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first month beginning after the date of enactment of this Act.

SEC. 3. ANALYSIS OF IMPACT OF MONTGOMERY GI BILL EDUCATIONAL BENEFITS.

(a) FINDINGS.—Congress finds that—

(1) the enhanced educational benefits provided under the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 are an important step in ensuring that members of the Selected Reserve are thanked for their increasing role in the modern warfare; and

(2) when these members return from extended tours in Iraq, Afghanistan, and other places, they should be provided with immediate access to these enhanced educational benefits.

(b) COOPERATION.—The Secretary of Defense shall work expeditiously with the Secretary of Veterans Affairs to ensure that members of the Selected Reserve receive the educational benefits referred to in subsection (a) in a timely manner.

(c) STUDIES.—

(1) SECRETARY OF DEFENSE.—The Secretary of Defense shall conduct a study analyzing the effect of all Montgomery GI bill educational benefits on recruitment and retention during the 12-month period beginning on the date on which the enhanced benefits referred to in subsection (a) become available.

(2) SECRETARY OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs shall conduct a study analyzing the effect of all Montgomery GI bill educational benefits on the readjustment of veterans eligible for educational benefits under section 3015 of title 38, United States Code, and chapters 1606 and 1607 of title 10, United States Code, during the 12-month period beginning on the date on which the enhanced benefits referred to in subsection (a) become available.

(3) REPORT.—Not later than 18 months after the date on which the enhanced benefits referred to in subsection (a) become available, the Secretary of Defense and the Secretary of Veterans Affairs shall submit a report on the results of the studies conducted under paragraphs (1) and (2) to—

(A) the Committee on Armed Services of the Senate;

(B) the Committee on Armed Services of the House of Representatives;

(C) the Committee on Veterans' Affairs of the Senate; and

(D) the Committee on Veterans' Affairs of the House of Representatives.

SEC. 4. ADJUSTMENT AND ANNUAL DETERMINATION OF EDUCATIONAL ASSISTANCE UNDER THE MONTGOMERY GI BILL FOR CERTAIN MEMBERS OF THE SELECTED RESERVE.

(a) INCREASE IN RATES.—Section 16131(b) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "at the following rates:" and inserting "—"; and

(B) by striking subparagraphs (A) through (C) and inserting the following:

"(A) for a program of education pursued on a full-time basis—

"(i) $475 per month for months during fiscal year 2005; and

"(ii) for months during fiscal year 2006 and each subsequent fiscal year, the monthly amount under this subparagraph for the previous fiscal year multiplied by the percentage increase calculated under paragraph (2);

"(B) for a program of education pursued on a three-quarter-time basis—

"(i) $356 per month for months during fiscal year 2005; and

"(ii) for months during fiscal year 2006 and each subsequent fiscal year, the monthly amount under this subparagraph for the previous fiscal year multiplied by the percentage increase calculated under paragraph (2);

"(C) for a program of education pursued on a half-time basis—

"(i) $238 per month for months during fiscal year 2005; and

"(ii) for months during fiscal year 2006 and each subsequent fiscal year, the monthly amount under this subparagraph for the previous fiscal year multiplied by the percentage increase calculated under paragraph (2); and"; and

(2) in paragraph (2)—

(A) by inserting "beginning on or after October 1, 2005" after "With respect to any fiscal year"; and

(B) in subparagraph (A), by striking "all items" and inserting "college tuition and fees".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first month beginning after the date of enactment of this Act.

SEC. 5. OPPORTUNITY FOR CERTAIN ACTIVE-DUTY PERSONNEL TO ENROLL UNDER THE MONTGOMERY GI BILL.

(a) IN GENERAL.—Chapter 30 of title 38, United States Code, is amended by inserting after section 3018C the following:

"§ 3018D. Opportunity for certain active-duty personnel to enroll

"(a)(1) Notwithstanding any other provision of this chapter, during the 1-year period beginning on the date of enactment of this section, a qualified individual (described in subsection (b)) may make an irrevocable election under this section to receive basic educational assistance under this chapter.

"(2) The Secretary of each military department shall provide for procedures for a qualified individual to make an irrevocable election under this section in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section or which the Secretary of Homeland Security shall provide for such purpose with respect to the Coast Guard when it is not operating as a service in the Navy.

"(b) A qualified individual referred to in subsection (a) is an individual who meets each of the following requirements:

"(1) The individual first became a member of the Armed Forces or first served on active duty as a member of the Armed Forces before July 1, 1985.

"(2) The individual—

"(A) has served on active duty without a break in service since the date the individual first became such a member or first served on active duty as such a member; and

"(B) continues to serve on active duty for some or all of the 1-year period described in subsection (a).

"(3) The individual, before applying for benefits under this section—

"(A) completed the requirements of a secondary school diploma (or equivalency certificate); or

"(B) has successfully completed (or otherwise received academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree.

"(4) The individual, when discharged or released from active duty, is discharged or released therefrom with an honorable discharge.

"(c)(1) Subject to paragraph (2), with respect to a qualified individual who elects under this section to receive basic educational assistance under this chapter—

"(A) the basic pay of the qualified individual shall be reduced (in a manner determined by the Secretary concerned) until the total amount by which such basic pay is reduced is $1,200; and

"(B) to the extent that basic pay is not reduced under subparagraph (A) before the qualified individual's discharge or release from active duty, an amount equal to the difference between $1,200 and the total amount of reductions under subparagraph (A), which shall be paid into the Treasury of the United States as miscellaneous receipts, shall, at the election of the qualified individual, be—

"(i) collected from the qualified individual by the Secretary concerned; or

"(ii) withheld from the retired or retainer pay of the qualified individual by the Secretary concerned.

"(2)(A) The Secretary concerned shall provide for an 18-month period, beginning on the date the qualified individual makes an election under this section, for the qualified individual to pay that Secretary the amount due under paragraph (1).

"(B) Nothing in subparagraph (A) shall be construed as modifying the period of eligibility for and entitlement to basic educational assistance under this chapter applicable under section 3031 of this title.

"(d) With respect to qualified individuals referred to in subsection (c)(1)(B), no amount of educational assistance allowance under this chapter shall be paid to the qualified individual until the earlier of the date on which—

"(1) the Secretary concerned collects the applicable amount under subsection (c)(1)(B)(i); or

"(2) the retired or retainer pay of the qualified individual is first reduced under subsection (c)(1)(B)(ii).

"(e) The Secretary, in conjunction with the Secretary of Defense, shall provide for notice of the opportunity under this section to elect to become entitled to basic educational assistance under this chapter.".

(b) CONFORMING AMENDMENTS.—Section 3017(b)(1) of title 38, United States Code, is amended—

(1) in subparagraphs (A) and (C), by striking "or 3018C(e)" and inserting "3018C(e), or 3018D(c)"; and

(2) in subparagraph (B), by inserting "or 3018D(c)" after "under section 3018C(e)".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 30 of title 38, United States Code, is amended by inserting after the item relating to section 3018C the following:

"3018D. Opportunity for certain active-duty personnel to enroll.".

By Mr. LOTT (for himself and Mr. DODD):

S. 2166. A bill to direct the Election Assistance Commission to make grants to States to restore and replace election administration supplies, materials, records, equipment, and technology which were damaged, destroyed, or dislocated as a result of Hurricane Katrina or Hurricane Rita; to the Committee on Rules and Administration.

Mr. LOTT. Mr. President, I rise today to introduce the Hurricane Election Relief Act of 2005. I thank my friend Senator DODD—the ranking member of the committee I chair, the Senate Committee on Rules and Administration—for joining me in sponsoring this important legislation.

It has now been over three months since Hurricanes Katrina and Rita wreaked havoc throughout the gulf coast region, leaving almost unimaginable wreckage and destruction in their wakes. The good people in the region have suffered a terrible toll in terms of lives lost and property destroyed. Though their plight no longer dominates the headlines, the difficulties and hardships that these individuals continue to confront on a daily basis remain formidable. However, one thing that gulf coast residents should not have to face in the aftermath of the hurricanes is an impediment to their ability to fully participate in our Nation's democracy. The right to vote must not become a further casualty of Hurricanes Katrina and Rita.

The hurricane-related damage to election infrastructure was extensive throughout my home State of Mississippi as well as Louisiana and other gulf States. Voting equipment was destroyed; voter records were lost; polling places were leveled. If this infrastructure is not restored in a timely manner, the voting rights of thousands of citizens in the region will be substantially impaired. This is not acceptable.

But replacing damaged and destroyed election equipment and technology is not the only election-related challenge these States face. Thousands and thousands of individuals were forced to evacuate their homes and their communities and relocate to other areas and, in some instances, other States. Large numbers of these displaced individuals will not be able to return to their homes anytime soon. Consequently, if these citizens are going to participate in the upcoming elections that will shape the rebuilding efforts in their communities, they will have to do so largely by means of absentee ballots. This increased demand for absentee ballots will, in turn, present significant logistical challenges for localities that are already cash-strapped and struggling to recover in the aftermath of Hurricanes Katrina and Rita. Therefore, to ensure that gulf coast residents remain fully enfranchised, it is essential that the impacted States receive sufficient resources to restore their election infrastructure to pre-hurricane levels.

For this reason, I am proud to introduce today the Hurricane Election Relief Act of 2005, which provides much needed funds to the States that bore the brunt of Hurricanes Katrina and Rita to aid them in rebuilding election infrastructure that was damaged or destroyed. Specifically, the Hurricane Election Relief Act authorizes $50 million in grants to be distributed by the Election Assistance Commission, EAC, to assist affected States in restoring and replacing supplies, materials, records, equipment, and technology used in administering Federal elections that were damaged, destroyed, or dislocated as a result of the hurricanes. The act also permits the authorized funds to be used to ensure the full electoral participation of displaced individuals. Thus, State and local election officials could use monies furnished by the act to offset the costs associated with printing and processing voter registration and absentee ballot materials for displaced voters. Finally, the use of the funds provided under this act would have to be consistent with the requirements of Title III of the Help America Vote Act of 2002.

Much work remains to be done to help the communities impacted by Hurricanes Katrina and Rita get back on their feet. I realize this fact more than most. Thus, it is my hope that my fellow Senators will enthusiastically support this important legislation, which will ensure that those individuals in my home State as well as those in the surrounding States whose lives were thrown into such turmoil as a result of the hurricanes will retain their ability to fully exercise their right to vote.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hurricane Election Relief Act of 2005".

SEC. 2. GRANTS TO STATES FOR RESTORING AND REPLACING ELECTION ADMINISTRATION SUPPLIES, MATERIALS, RECORDS, EQUIPMENT, AND TECHNOLOGY WHICH WERE DAMAGED, DESTROYED, OR DISLOCATED BY HURRICANES KATRINA OR RITA.

(a) AUTHORITY TO MAKE GRANTS.—The Election Assistance Commission shall make a grant to each eligible State, in such amount as the Commission considers appropriate, for purposes of restoring and replacing supplies, materials, records, equipment, and technology used in the administration of Federal elections in the State which were damaged, destroyed, or dislocated as a result of Hurricane Katrina or Hurricane Rita and ensuring the full participation in such elections by individuals who were displaced as a result of Hurricane Katrina or Hurricane Rita.

(b) USE OF GRANT FUNDS.—Funds received under a grant under subsection (a) shall be used in a manner that is consistent with the requirements of title III of the Help America Vote Act of 2002.

(c) ELIGIBILITY.—A State is eligible to receive a grant under this section if it submits to the Commission (at such time and in such form as the Commission may require) a certification that—

(1) supplies, materials, records, equipment, and technology used in the administration of Federal elections in the State were damaged, destroyed, or dislocated as a result of Hurricane Katrina or Hurricane Rita; or

(2) the system of such State for conducting Federal elections has been significantly impacted by the displacement of individuals as a result of Hurricane Katrina or Hurricane Rita.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 2006 for grants under this Act $50,000,000, to remain available until expended.

Mr. DODD. Mr. President, nearly three months have passed since Hurricanes Katrina and Rita ravaged the lives of the good people of our Gulf Coast region. Congress has taken great efforts to address the immediate needs of those affected by the hurricanes and continues to consider how we can assist the long-term needs of these communities. I previously came to the floor with the distinguished Chairman of the Senate Rules Committee, Senator LOTT, to discuss the needs for funding to restore the elections infrastructure of the impacted States, including not just those directly hit by the storms but also States that welcomed and provided shelter to those displaced by the storms.

As the ranking member of the Rules Committee, I rise today to introduce with Senator LOTT, the Hurricane Election Relief Act of 2005, a bill that authorizes the necessary funding to impacted States for the purpose of ensuring that they will be capable of conducting the up-coming Federal elections next year, consistent with the Help America Vote Act ("HAVA'). This bill will ensure that impacted States will be able to strengthen the foundation of our democracy and the process by which we build communities. Specifically, this bill provides funding to States to restore and replace supplies, materials, records, equipment and technology that were damaged, destroyed, or dislocated as result of the storms. The Election Assistance Commission (EAC) is charged with distribution of the appropriate funding to the States.

Earlier this month, Louisiana Secretary of State Al Ater postponed for up to eight months the elections for mayor and City Council in New Orleans from the scheduled February 4, 2006 date, after explaining that the infrastructure to hold an election is simply absent. Secretary of State Alter noted that polling places must be rebuilt, voting systems must be repaired, poll workers must be located, and a system to process the anticipated increase in absentee ballots must be developed. Following the storms, Ater requested $2 million from the Federal Emergency Management Agency (FEMA) solely to repair voting machines. To date, he has not received any of the requested funds and there does not yet appear to be a projected FEMA disbursement date for such funds.

Mississippi Secretary of State Eric Clark surveyed the 43 counties affected by the storms in his State and announced that in order to facilitate elections without long lines, Mississippi needs $3.3 million to replace 966 voting machines as well as additional funding to assure that the counties meet the HAVA requirements effective January 1, 2006.

In light of the above, it is essential that we rise and join together to ensure that all States, including those States impacted by the hurricanes, may conduct timely Federal elections that enable every eligible voter to cast a vote and have that vote counted, regardless of race, ethnicity, language, age, disability or community resources. The health of our democracy depends upon it.

As we approach the end of the first session of the 109th Congress and prepare to return to the comfort of our families and constituents, let us give thanks for the well-being of our communities and provide the authority to allocate funding to those States which are rebuilding their communities in the aftermath of these devastating natural disasters.

By Ms. SNOWE (for herself and Mr. NELSON of Florida):

S. 2168. A bill to amend title XVIII of the Social Security Act to provide extended and additional protections to Medicare beneficiaries enrolled under part C or D or such title; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Medicare Drug Benefit Protections Act of 2005 with my colleague, Senator BILL NELSON. Our bill provides additional protections for Medicare beneficiaries enrolling in the new Medicare Part D prescription drug benefit, protections which we believe are essential. Our bill extends the initial enrollment period for the new benefit until the end of 2006, provides more flexibility for beneficiaries to change plans, and adds crucial protections for those enrolled in a plan.

We are now in the midst of the rollout of the new Medicare drug benefit, and, as of November 15, seniors and individuals with disabilities on Medicare have begun enrolling in various plans. Unfortunately, many seniors are confused and angry, frustrated and concerned that they do not have adequate information about the plans being offered. Seniors may ultimately decide not to enroll in a plan if they do not have enough expert assistance—readily available and accessible—to help them choose an appropriate plan. To make matters worse, many say the information available from the Centers for Medicare and Medicaid Services, CMS, the agency overseeing the plan, is either not helpful or simply overwhelming.

Beneficiaries are worried they could make a poor choice in selecting a plan and that, once enrolled, the drugs offered by the plan they choose may not be the drugs they need. We must assure them that they will not be saddled with monthly premiums for plans which, in the end, do not adequately cover their prescription drug needs.

Our bill would address these concerns in several ways. The bill includes two provisions from Senator NELSON's bill, the Medicare Informed Choice Act of 2005, which give beneficiaries additional protection. The bill extends the initial six-month period for enrolling in a plan from May 15, 2006, to December 31, 2006, thus delaying late enrollment penalties until 2007 and giving beneficiaries the rest of this year and all of next year to decide whether to enroll in a plan. Once beneficiaries have enrolled in a plan, the bill provides a one-time opportunity during 2006 to change to another plan without penalty, should they wish to do so.

The Medicare Drug Benefit Protections Act includes additional safeguards, as well. Seniors are getting misinformation from the CMS website, especially in regard to the cost of drugs being offered by certain plans. Seniors in my home State of Maine have experienced serious problems with inaccurate drug pricing information being provided by the CMS website devoted to the new Medicare Part D plans, www.medicare.gov. In one instance, the CMS website quoted one price for a senior's drug costs for 2006 but the plan itself quoted a cost of approximately

$2,000 more than the CMS website. Under our bill, beneficiaries could change plans without penalty if they relied on misinformation from CMS to their detriment.

Beneficiaries would also be allowed to change plans without penalty should their circumstances change significantly, due to medical reasons, for example. Beneficiaries who meet these criteria would have an extended period of time to change plans, a minimum of four months rather than the current 90 days. The bill would also extend the annual open season, as of 2007, from November 15th through December 31st, to a full two months, from November 1st through December 31st, in order to allow all beneficiaries more time outside the busy and travel-filled holiday season to study and compare plans should they wish to make a change.

Finally, our bill authorizes $25 million in funding for grants to States, non-profit organizations, and other entities to conduct additional education and outreach efforts on the drug benefit during fiscal years 2007 and 2008.

Our goal is to ensure that beneficiaries have sufficient time, comfort, and peace of mind to understand the new drug benefit and enroll in a plan well-suited to their needs so they can derive the much-needed assistance with their prescription drugs offered by these plans. We must provide flexibility, safeguards, and outreach efforts beyond what currently exists to reduce the anxiety and frustration that too many seniors are experiencing today.

The new Medicare drug benefit is the first comprehensive outpatient prescription drug benefit in the 40-year history of Medicare. The benefit is not perfect by any means, but rather a beginning. I will continue working to improve this benefit so that it will truly deliver the assistance that our seniors so desperately need and deserve to have.

By Mr. FRIST (for himself, Mr. BIDEN, and Mr. LUGAR):

S. 2170. A bill to provide for global pathogen surveillance and response; read twice.

Mr. FRIST. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Global Pathogen Surveillance Act of 2005".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The frequency of the occurrence of biological events that could threaten the national security of the United States has increased and is likely increasing. The threat to the United States from such events includes threats from diseases that infect humans, animals, or plants regardless of if such diseases are introduced naturally, accidentally, or intentionally.

(2) The United States lacks an effective and real-time system to detect, identify, contain, and respond to global threats and also lacks an effective mechanism to disseminate information to the national response community if such threats arise.

(3) Bioterrorism poses a grave national security threat to the United States. The insidious nature of a bioterrorist attack, the likelihood that the recognition of such an attack would be delayed, and the underpreparedness of the domestic public health infrastructure to respond to such an attack could result in catastrophic consequences following a biological weapons attack against the United States.

(4) The ability to recognize that a country or organization is carrying out a covert biological weapons programs is dependent on a number of indications and warnings. A critical component of this recognition is the timely detection of sentinel events such as laboratory accidents and community-level outbreaks that could be the earliest indication of an emerging bioterrorist program in a foreign country. Early detection of such events may enable earlier counterproliferation intervention.

(5) A contagious pathogen engineered as a biological weapon and developed, tested, produced, or released in a foreign country could quickly spread to the United States. Considering the realities of international travel, trade, and migration patterns, a dangerous pathogen appearing naturally, accidentally, or intentionally anywhere in the world can spread to the United States in a matter of days, before any effective quarantine or isolation measures could be implemented.

(6) To combat bioterrorism effectively and ensure that the United States is fully prepared to prevent, recognize, and contain a biological weapons attack, or emerging infectious disease, measures to strengthen the domestic public health infrastructure and improve domestic event detection, surveillance, and response, while absolutely essential, are not sufficient.

(7) The United States should enhance cooperation with the World Health Organization, regional international health organizations, and individual countries, including data sharing with appropriate agencies and departments of the United States, to help detect and quickly contain infectious disease outbreaks or a bioterrorism agent before such a disease or agent is spread.

(8) The World Health Organization has done an impressive job in monitoring infectious disease outbreaks around the world, particularly with the establishment in April 2000 of the Global Outbreak Alert and Response Network.

(9) The capabilities of the World Health Organization depend on the quality of the data and information the Organization receives from the countries that are members of the Organization and is further limited by the narrow list of diseases (such as plague, cholera, and yellow fever) on which such surveillance and monitoring is based and by the consensus process used by the Organization to add new diseases to the list. Developing countries, in particular, often are unable to devote the necessary resources to build and maintain public health infrastructures.

(10) In particular, developing countries could benefit from—

(A) better trained public health professionals and epidemiologists to recognize disease patterns;

(B) appropriate laboratory equipment for diagnosis of pathogens;

(C) disease reporting systems that—

(i) are based on disease and syndrome surveillance; and

(ii) could enable an effective response to a biological event to begin at the earliest possible opportunity;

(D) a narrowing of the existing technology gap in disease and syndrome surveillance capabilities, based on reported symptoms, and real-time information dissemination to public health officials; and

(E) appropriate communications equipment and information technology to efficiently transmit information and data within national, international regional, and international health networks, including inexpensive, Internet-based Geographic Information Systems (GIS) and relevant telephone-based systems for early recognition and diagnosis of diseases.

(11) An effective international capability to detect, monitor, and quickly diagnose infectious disease outbreaks will offer dividends not only in the event of biological weapons development, testing, production, and attack, but also in the more likely cases of naturally occurring infectious disease outbreaks that could threaten the United States. Furthermore, a robust surveillance system will serve to deter, prevent, or contain terrorist use of biological weapons, mitigating the intended effects of such malevolent uses.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To provide the United States with an effective and real-time system to detect biological threats that—

(A) utilizes classified and unclassified information to detect such threats; and

(B) may be utilized by the human or the agricultural domestic disease response community.

(2) To enhance the capability of the international community, through the World Health Organization and individual countries, to detect, identify, and contain infectious disease outbreaks, whether the cause of those outbreaks is intentional human action or natural in origin.

(3) To enhance the training of public health professionals and epidemiologists from eligible developing countries in advanced Internet-based disease and syndrome surveillance systems, in addition to traditional epidemiology methods, so that such professionals and epidemiologists may better detect, diagnose, and contain infectious disease outbreaks, especially such outbreaks caused by the pathogens that may be likely to be used in a biological weapons attack.

(4) To provide assistance to developing countries to purchase appropriate communications equipment and information technology to detect, analyze, and report biological threats, including—

(A) relevant computer equipment, Internet connectivity mechanisms, and telephone-based applications to effectively gather, analyze, and transmit public health information for infectious disease surveillance and diagnosis; and

(B) appropriate computer equipment and Internet connectivity mechanisms—

(i) to facilitate the exchange of Geographic Information Systems-based disease and syndrome surveillance information; and

(ii) to effectively gather, analyze, and transmit public health information for infectious disease surveillance and diagnosis.

(5) To make available greater numbers of public health professionals who are employed by the Government of the United States to international regional and international health organizations, international regional and international health networks, and United States diplomatic missions, as appropriate.

(6) To expand the training and outreach activities of United States laboratories located in foreign countries, including the Centers for Disease Control and Prevention or Department of Defense laboratories, to enhance the public health capabilities of developing countries.

(7) To provide appropriate technical assistance to existing international regional and international health networks and, as appropriate, seed money for new international regional and international networks.

SEC. 3. DEFINITIONS.

In this Act:

(1) ELIGIBLE DEVELOPING COUNTRY.—The term "eligible developing country" means any developing country that—

(A) has agreed to the objective of fully complying with requirements of the World Health Organization on reporting public health information on outbreaks of infectious diseases;

(B) has not been determined by the Secretary, for purposes of section 40 of the Arms Export Control Act (22 U.S.C. 2780), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or section 6(j) of the Export Administration Act of 1979 (as in effect pursuant to the International Emergency Economic Powers Act; 50 U.S.C. 1701 et seq.), to have repeatedly provided support for acts of international terrorism, unless the Secretary exercises a waiver certifying that it is in the national interest of the United States to provide assistance under the provisions of this Act; and

(C) is a party to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow April 10, 1972 (26 UST 583).

(2) ELIGIBLE NATIONAL.—The term "eligible national" means any citizen or national of an eligible developing country who—

(A) does not have a criminal background;

(B) is not on any immigration or other United States watch list; and

(C) is not affiliated with any foreign terrorist organization.

(3) INTERNATIONAL HEALTH ORGANIZATION.—The term "international health organization" includes the World Health Organization, regional offices of the World Health Organization, and international health organizations, such as the Pan American Health Organization.

(4) LABORATORY.—The term "laboratory" means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other medical examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings.

(5) SECRETARY.—Unless otherwise provided, the term "Secretary" means the Secretary of State.

(6) DISEASE AND SYNDROME SURVEILLANCE.—The term "disease and syndrome surveillance" means the recording of clinician-reported symptoms (patient complaints) and signs (derived from physical examination and laboratory data) combined with simple geographic locators to track the emergence of a disease in a population.

SEC. 4. ELIGIBILITY FOR ASSISTANCE.

(a) IN GENERAL.—Except as provided in subsection (b), assistance may be provided to an eligible developing country under any provision of this Act only if the government of the eligible developing country—

(1) permits personnel from the World Health Organization and the Centers for Disease Control and Prevention to investigate outbreaks of infectious diseases within the borders of such country; and

(2) provides pathogen surveillance data to the appropriate agencies and departments of the United States and to international health organizations.

(b) WAIVER.—The Secretary may waive the prohibition set out in subsection (a) if the Secretary determines that it is in the national interest of the United States to provide such a waiver.

SEC. 5. RESTRICTION.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, no foreign national participating in a program authorized under this Act shall have access, during the course of such participation, to a select agent or toxin described in section 73.4 of title 42, Code of Federal Regulations (or any corresponding similar regulation) or an overlap select agent or toxin described in section 73.5 of such title (or any corresponding similar regulation) that may be used as, or in, a biological weapon, except in a supervised and controlled setting.

(b) RELATIONSHIP TO REGULATIONS.—The restriction set out in subsection (a) may not be construed to limit the ability of the Secretary of Health and Human Services to prescribe, through regulation, standards for the handling of a select agent or toxin or an overlap select agent or toxin described in such subsection.

SEC. 6. FELLOWSHIP PROGRAM.

(a) ESTABLISHMENT.—There is established a fellowship program under which the Secretary, in consultation with the Secretary of Health and Human Services and subject to the availability of appropriations, shall award fellowships to eligible nationals to pursue public health education or training, as follows:

(1) MASTER OF PUBLIC HEALTH DEGREE.—Graduate courses of study leading to a master of public health degree with a concentration in epidemiology from an institution of higher education in the United States with a Center for Public Health Preparedness, as determined by the Director of the Centers for Disease Control and Prevention.

(2) ADVANCED PUBLIC HEALTH EPIDEMIOLOGY TRAINING.—Advanced public health training in epidemiology for public health professionals from eligible developing countries to be carried out at the Centers for Disease Control and Prevention, an appropriate facility of a State, or an appropriate facility of another agency or department of the United States (other than a facility of the Department of Defense or a national laboratory of the Department of Energy) for a period of not less than 6 months or more than 12 months.

(b) SPECIALIZATION IN BIOTERRORISM.—In addition to the education or training specified in subsection (a), each recipient of a fellowship under this section (in this section referred to as a "fellow") may take courses of study at the Centers for Disease Control and Prevention or at an equivalent facility on diagnosis and containment of likely bioterrorism agents.

(c) FELLOWSHIP AGREEMENT.—

(1) IN GENERAL.—A fellow shall enter into an agreement with the Secretary under which the fellow agrees—

(A) to maintain satisfactory academic progress, as determined in accordance with regulations issued by the Secretary and confirmed in regularly scheduled updates to the Secretary from the institution providing the education or training on the progress of the fellow's education or training;

(B) upon completion of such education or training, to return to the fellow's country of nationality or last habitual residence (so long as it is an eligible developing country) and complete at least 4 years of employment in a public health position in the government or a nongovernmental, not-for-profit entity in that country or, with the approval of the Secretary, complete part or all of this requirement through service with an international health organization without geographic restriction; and

(C) that, if the fellow is unable to meet the requirements described in subparagraph (A) or (B), the fellow shall reimburse the United States for the value of the assistance provided to the fellow under the fellowship program, together with interest at a rate that—

(i) is determined in accordance with regulations issued by the Secretary; and

(ii) is not higher than the rate generally applied in connection with other Federal loans.

(2) WAIVERS.—The Secretary may waive the application of subparagraph (B) or (C) of paragraph (1) if the Secretary determines that it is in the national interest of the United States to provide such a waiver.

(d) AGREEMENT.—The Secretary, in consultation with the Secretary of Health and Human Services, is authorized to enter into an agreement with the government of an eligible developing country under which such government agrees—

(1) to establish a procedure for the nomination of eligible nationals for fellowships under this section;

(2) to guarantee that a fellow will be offered a professional public health position within the developing country upon completion of the fellow's studies; and

(3) to submit to the Secretary a certification stating that a fellow has concluded the minimum period of employment in a public health position required by the fellowship agreement, including an explanation of how the requirement was met.

(e) PARTICIPATION OF UNITED STATES CITIZENS.—On a case-by-case basis, the Secretary may provide for the participation of a citizen of the United States in the fellowship program under the provisions of this section if—

(1) the Secretary determines that it is in the national interest of the United States to provide for such participation; and

(2) the citizen of the United States agrees to complete, at the conclusion of such participation, at least 5 years of employment in a public health position in an eligible developing country or at an international health organization.

(f) USE OF EXISTING PROGRAMS.—The Secretary, with the concurrence of the Secretary of Health and Human Services, may elect to use existing programs of the Department of Health and Human Services to provide the education and training described in subsection (a) if the requirements of subsections (b), (c), and (d) will be substantially met under such existing programs.

SEC. 7. IN-COUNTRY TRAINING IN LABORATORY TECHNIQUES AND DISEASE AND SYNDROME SURVEILLANCE.

(a) LABORATORY TECHNIQUES.—

(1) IN GENERAL.—The Secretary, after consultation with the Secretary of Health and Human Services and in conjunction with the Director of the Centers for Disease Control and Prevention and the Secretary of Defense, and subject to the availability of appropriations, shall provide assistance for short training courses for eligible nationals who are laboratory technicians or other public health personnel in laboratory techniques relating to the identification, diagnosis, and tracking of pathogens responsible for possible infectious disease outbreaks.

(2) LOCATION.—The training described in paragraph (1) shall be held outside the United States and may be conducted in facilities of the Centers for Disease Control and Prevention located in foreign countries or in Overseas Medical Research Units of the Department of Defense, as appropriate.

(3) COORDINATION WITH EXISTING PROGRAMS.—The Secretary shall coordinate the training described in paragraph (1), where appropriate, with existing programs and activities of international health organizations.

(b) DISEASE AND SYNDROME SURVEILLANCE.—

(1) IN GENERAL.—The Secretary, after consultation with the Secretary of Health and Human Services and in conjunction with the Director of the Centers for Disease Control and Prevention and the Secretary of Defense and subject to the availability of appropriations, shall establish and provide assistance for short training courses for eligible nationals who are health care providers or other public health personnel in techniques of disease and syndrome surveillance reporting and rapid analysis of syndrome information using Geographic Information System (GIS) tools.

(2) LOCATION.—The training described in paragraph (1) shall be conducted via the Internet or in appropriate facilities located in a foreign country, as determined by the Secretary.

(3) COORDINATION WITH EXISTING PROGRAMS.—The Secretary shall coordinate the training described in paragraph (1), where appropriate, with existing programs and activities of international regional and international health organizations.

SEC. 8. ASSISTANCE FOR THE PURCHASE AND MAINTENANCE OF PUBLIC HEALTH LABORATORY EQUIPMENT AND SUPPLIES.

(a) AUTHORIZATION.—The President is authorized to provide, on such terms and conditions as the President may determine, assistance to eligible developing countries to purchase and maintain the public health laboratory equipment and supplies described in subsection (b).

(b) EQUIPMENT AND SUPPLIES COVERED.—The equipment and supplies described in this subsection are equipment and supplies that are—

(1) appropriate, to the extent possible, for use in the intended geographic area;

(2) necessary to collect, analyze, and identify expeditiously a broad array of pathogens, including mutant strains, which may cause disease outbreaks or may be used in a biological weapon;

(3) compatible with general standards set forth by the World Health Organization and, as appropriate, the Centers for Disease Control and Prevention, to ensure interoperability with international regional and international public health networks; and

(4) not defense articles, defense services, or training, as such terms are defined in the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to exempt the exporting of goods and technology from compliance with applicable provisions of the Export Administration Act of 1979 (as in effect pursuant to the International Emergency Economic Powers Act; 50 U.S.C. 1701 et seq.).

(d) LIMITATION.—Amounts appropriated to carry out this section shall not be made available for the purchase from a foreign country of equipment or supplies that, if made in the United States, would be subject to the Arms Export Control Act (22 U.S.C. 2751 et seq.) or likely be barred or subject to special conditions under the Export Administration Act of 1979 (as in effect pursuant to the International Emergency Economic Powers Act; 50 U.S.C. 1701 et seq.).

(e) PROCUREMENT PREFERENCE.—In the use of grant funds authorized under subsection (a), preference should be given to the purchase of equipment and supplies of United States manufacture. The use of amounts appropriated to carry out this section shall be subject to section 604 of the Foreign Assistance Act of 1961 (22 U.S.C. 2354).

(f) COUNTRY COMMITMENTS.—The assistance provided under this section for equipment and supplies may be provided only if the eligible developing country that receives such equipment and supplies agrees to provide the infrastructure, technical personnel, and other resources required to house, maintain, support, secure, and maximize use of such equipment and supplies.

SEC. 9. ASSISTANCE FOR IMPROVED COMMUNICATION OF PUBLIC HEALTH INFORMATION.

(a) ASSISTANCE FOR PURCHASE OF COMMUNICATION EQUIPMENT AND INFORMATION TECHNOLOGY.—The President is authorized to provide, on such terms and conditions as the President may determine, assistance to eligible developing countries to purchase and maintain the communications equipment and information technology described in subsection (b), and the supporting equipment, necessary to effectively collect, analyze, and transmit public health information.

(b) COVERED EQUIPMENT.—The communications equipment and information technology described in this subsection are communications equipment and information technology that—

(1) are suitable for use under the particular conditions of the area of intended use;

(2) meet the standards set forth by the World Health Organization and, as appropriate, the Secretary of Health and Human Services, to ensure interoperability with like equipment of other countries and international organizations; and

(3) are not defense articles, defense services, or training, as those terms are defined in the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to exempt the exporting of goods and technology from compliance with applicable provisions of the Export Administration Act of 1979 (as in effect pursuant to the International Emergency Economic Powers Act; 50 U.S.C. 1701 et seq.).

(d) LIMITATION.—Amounts appropriated to carry out this section shall not be made available for the purchase from a foreign country of communications equipment or information technology that, if made in the United States, would be subject to the Arms Export Control Act (22 U.S.C. 2751 et seq.) or likely be barred or subject to special conditions under the Export Administration Act of 1979 (as in effect pursuant to the International Emergency Economic Powers Act; 50 U.S.C. 1701 et seq.).

(e) PROCUREMENT PREFERENCE.—In the use of grant funds under subsection (a), preference should be given to the purchase of communications equipment and information technology of United States manufacture. The use of amounts appropriated to carry out this section shall be subject to section 604 of the Foreign Assistance Act of 1961 (22 U.S.C. 2354).

(f) ASSISTANCE FOR STANDARDIZATION OF REPORTING.—The President is authorized to provide, on such terms and conditions as the President may determine, technical assistance and grant assistance to international health organizations to facilitate standardization in the reporting of public health information between and among developing countries and international health organizations.

(g) COUNTRY COMMITMENTS.—The assistance provided under this section for communications equipment and information technology may be provided only if the eligible developing country that receives such equipment and technology agrees to provide the infrastructure, technical personnel, and other resources required to house, maintain, support, secure, and maximize use of such equipment and technology.

SEC. 10. ASSIGNMENT OF PUBLIC HEALTH PERSONNEL TO UNITED STATES MISSIONS AND INTERNATIONAL ORGANIZATIONS.

(a) IN GENERAL.—Upon the request of the chief of a diplomatic mission of the United States or of the head of an international regional or international health organization, and with the concurrence of the Secretary and of the employee concerned, the head of an agency or department of the United States may assign to the mission or the organization any officer or employee of the agency or department that occupies a public health position within the agency or department for the purpose of enhancing disease and pathogen surveillance efforts in developing countries.

(b) REIMBURSEMENT.—The costs incurred by an agency or department of the United States by reason of the detail of personnel under subsection (a) may be reimbursed to that agency or department out of the applicable appropriations account of the Department of State if the Secretary determines that the agency or department may otherwise be unable to assign such personnel on a non-reimbursable basis.

SEC. 11. EXPANSION OF CERTAIN UNITED STATES GOVERNMENT LABORATORIES ABROAD.

(a) IN GENERAL.—Subject to the availability of appropriations, the Director of the Centers for Disease Control and Prevention and the Secretary of Defense shall each—

(1) increase the number of personnel assigned to laboratories of the Centers for Disease Control and Prevention or the Department of Defense, as appropriate, located in eligible developing countries that conduct research and other activities with respect to infectious diseases; and

(2) expand the operations of such laboratories, especially with respect to the implementation of on-site training of foreign nationals and activities affecting the region in which the country is located.

(b) COOPERATION AND COORDINATION BETWEEN LABORATORIES.—Subsection (a) shall be carried out in such a manner as to foster cooperation and avoid duplication between and among laboratories.

(c) RELATION TO CORE MISSIONS AND SECURITY.—The expansion of the operations of the laboratories of the Centers for Disease Control and Prevention or the Department of

Defense located in foreign countries under this section may not—

(1) detract from the established core missions of the laboratories; or

(2) compromise the security of those laboratories, as well as their research, equipment, expertise, and materials.

SEC. 12. ASSISTANCE FOR INTERNATIONAL HEALTH NETWORKS AND EXPANSION OF FIELD EPIDEMIOLOGY TRAINING PROGRAMS.

(a) AUTHORITY.—The President is authorized, on such terms and conditions as the President may determine, to provide assistance for the purposes of—

(1) enhancing the surveillance and reporting capabilities for the World Health Organization and existing international regional and international health networks; and

(2) developing new international regional and international health networks.

(b) EXPANSION OF FIELD EPIDEMIOLOGY TRAINING PROGRAMS.—The Secretary of Health and Human Services is authorized to establish new country or regional international Field Epidemiology Training Programs in eligible developing countries.

SEC. 13. FOREIGN BIOLOGICAL THREAT DETECTION AND WARNING.

(a) IN GENERAL.—The President shall establish the Office of Foreign Biological Threat Detection and Warning within either the Department of Defense, the Central Intelligence Agency, or the Centers for Disease Control and Prevention with the technical ability to conduct event detection and rapid threat assessment related to biological threats in foreign countries.

(b) PURPOSES.—The purposes of the Office of Foreign Biological Threat Detection and Warning shall be—

(1) to integrate public health, medical, agricultural, societal, and intelligence indications and warnings to identify in advance the emergence of a transnational biological threat;

(2) to provide rapid threat assessment capability to the appropriate agencies or departments of the United States that is not dependent on access to—

(A) a specific biological agent;

(B) the area in which such agent is present; or

(C) information related to the means of introduction of such agent; and

(3) to build the information visibility and decision support activities required for appropriate and timely information distribution and threat response.

(c) TECHNOLOGY.—The Office of Foreign Biological Threat Detection and Warning shall employ technologies similar to, but no less capable than, those used by the Intelligence Technology Innovation Center (ITIC) within the Directorate of Science and Technology of the Central Intelligence Agency to conduct real-time, prospective, automated threat assessments that employ social disruption factors.

(d) EVENT DETECTION DEFINED.—In this section, the term "event detection" refers to the real-time and rapid recognition of a possible biological event that has appeared in a community and that could have national security implications, regardless of whether the event is caused by natural, accidental, or intentional means and includes scrutiny of such possible biological event by analysts utilizing classified and unclassified information.

SEC. 14. REPORTS.

Not later than 90 days after the date of enactment of this Act, the Secretary, in conjunction with the Secretary of Health and Human Services and the Secretary of Defense, shall submit to Congress a report on the implementation of programs under this Act, including an estimate of the level of funding required to carry out such programs at a sufficient level.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subject to subsection (c), there is authorized to be appropriated for fiscal year 2006 such sums as may be necessary to carry out this Act.

(b) AVAILABILITY OF FUNDS.—The amount appropriated pursuant to subsection (a) is authorized to remain available until expended.

(c) LIMITATION ON OBLIGATION OF FUNDS.—Not more than 10 percent of the amount appropriated pursuant to subsection (a) may be obligated before the date on which a report is submitted, or required to be submitted, whichever first occurs, under section 14.

By Ms. LANDRIEU:

S. 2171. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the temporary mortgage and rental payments program; to the Committee on Homeland Security and Governmental Affairs.

By Ms. LANDRIEU:

S. 2172. A bill to provide for response to Hurricane Katrina by establishing a Louisiana Recovery Corporation, providing for housing and community rebuilding, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Ms. LANDRIEU. Mr. President, I will speak just for a moment about each of these important measures. Before I do, I know today has been a long day, and it has been complicated by many procedural votes and a series of bills that we just passed out of here, many important bills. Of course, the Defense appropriations, Defense authorization bill, two of the major bills that Congress works on throughout the year, and it is important we get them through.

On the Defense appropriations bill, as it was amended, there was a very important piece for the gulf coast, $29 billion direct relief package. I will speak just for a moment about that because it has bearing on what we are going to do in the future when we are faced with catastrophic events.

Senator VITTER and I, my colleague from Louisiana, returned to the Congress over 4 months ago to try to describe to our colleagues the devastation that occurred with not one but two hurricanes and then multiple levee breaks which have devastated a major American city and a region, the southern part of Louisiana and Mississippi.

I have said now on many occasions that FEMA, on its best day, is not adequate to address the emergency and enormous needs of the people who have been affected: their need for housing, their need for employment, their need for capital, their need for emotional security, their need for public infrastructure, their need for police, their need for firefighters, their need for health care, their need for education.

I cannot even describe the tremendous angst, anxiety, and despair setting in on many communities in the gulf coast region because help has been slow in coming. And when it has been offered, it has been inadequate to address the situation we find ourselves in.

I do not know if we have ever considered what needs to be done when we have a catastrophic incident such as we had. So we are going to come back after the recess and I hope talk about how FEMA can be restructured, how it can be made to be more efficient, how it can be made to be more accountable, how it can be made to act more quickly. But we are also going to need some additional tools.

That is what the two bills address I have introduced tonight as a companion to a House bill that was introduced and has been worked on very diligently by my colleague Congressman RICHARD BAKER from Baton Rouge, who is the ranking member on the Banking Committee in the House. He has done some excellent work on this bill and has moved it out of the House committee. It establishes a brand new corporation that can step in. It would be established by appointment by the President and by the Governor, with seven members, to establish a corporation that could then access the capital markets by issuing bonds, to step up and into the gulf coast area to work with our local officials, to work with the officials at the city level, at the parish level, to provide opportunities, to provide equity for homeowners who find themselves with homes that are uninhabitable, with mortgages that need to be paid and no possible way to sell their property because it is of questionable value, given the situation.

We are very fortunate in America that we have not had to face these tragedies very often, and this is the first time we faced a tragedy of this magnitude. Mr. President, 275,000 homes destroyed, 10 times the amount of homes destroyed by Hurricane Andrew in 1992. Mr. President, 28,000 homes were destroyed in the worst disaster before we faced Rita and Katrina. But with 275,000 homes destroyed, clearly, we have to do more than send money through FEMA.

Money is not the only answer for the challenges before us. So we need new tools. That is why I have come to the Senate tonight to introduce, after a long day, a bill that was crafted in the House by Congressman BAKER, amended through input from a variety of his colleagues in the House, input from myself and some Senators in anticipation of the bill moving over here, and have had a verbal commitment from Senator SHELBY, the chairman of the Banking Committee, and very positive comments from Democrats on the

Banking Committee that we could have an expedited hearing on this bill when we return.

Because even with the $29 billion in direct aid that is included in the Defense appropriations bill, I can promise my colleagues, to stand up the great city of New Orleans and the region and the gulf coast is going to take more than FEMA, more than direct aid through community development block grants and aid to our schools and universities and hospitals. It is going to take some new tools we are going to have to invent, we are going to have to place into a toolbox and then give out to local elected officials, to business leaders, to community organizations, to rebuild this great community.

But the great opportunity is, if we can invent these tools, and we can design them appropriately, they will then be available for us in the event a catastrophe such as this or something similar strikes again, whether it is an earthquake in San Francisco, massive tornadoes in the Midwest or, God forbid, a terror strike that would decimate or destroy a population or vast area such as we are experiencing from a hurricane and levee breaks in New Orleans.

There is all this work we can do on this housing corporation bill when we get back. I urge my colleagues' involvement because of the extraordinary need, as outlined and expressed so beautifully by Senator STEVENS' remarks toward the end of this evening about how he was so emotionally taken aback by what he saw in New Orleans. I can most certainly understand it. Senator VITTER and I have been living that as we have moved through New Orleans and the region and all through south Louisiana, and share his view that more has to be done.

So these two bills that I introduce—one is a companion bill to Congressman BAKER's bill with some important, I think, improvements or important amendments. One is to ensure a strong local input through local advisory committees, appointed by parish governments and municipalities. Also there is an underlining or emphasis, if you will, that the corporation must comply with State and local planning ordinances and direction.

This Senate version will also increase the potential equity recovery from 60 percent to 80 percent and will increase the potential cap of recovery from $500,000 to $750,000. We also put something in this bill to try to give corporate or commercial property owners some relief.

So between the Baker bill in the House, which needs to continue to move through the process, and this bill which will get, hopefully, some expedited hearings when we return, hopefully, we can quickly put into the hands of our communities, our large cities, our suburban areas, our rural areas, and individual property owners—who have seen in the last 4 months everything they have worked for in their life, perhaps even a little bit they were able to inherit, and all they hoped to pass on to their children or their grandchildren gone, without a whole lot of options for recovery—assistance.

We have every intention to rebuild our city and to rebuild our region. Just as if there were an earthquake in San Francisco, I don't think Congress would suggest that the millions of people who live there should simply pick up and move to New York and abandon the city of San Francisco, we have no intention of abandoning the city of New Orleans. We may lie 5 feet below sea level, but let me assure you, there are places in this world that are as or more productive than this region that lie 20 feet below sea level and manage their water properly and invest in their civil works properly in a way we could model ourselves after and do very well.

The city of New Orleans and the State of Louisiana have contributed billions of dollars to the economy of this Nation and to the general fund of this Nation, and we want to continue to do so. We are not asking for a handout but a hand up. We are not asking for charity. We are asking for a portion of the taxes we pay, a portion of the money we send to the national Government, to be redirected, to give us the security for our coast and our hurricane protection that we warrant and the industries this infrastructure protects warrant for the benefit of not just the 4.5 million people who live in the State of Louisiana, and the 3 million-plus people who live in Mississippi, but which protect and support the almost 300 million people who live in the United States of America.

So these two bills are very important. I look forward to working on them when we get back.

The second bill is a bill where we picked up an idea from the New York situation, 9/11—a terrible situation that is still seared into our memory and our collective conscience.

There were some real problems with housing following the destruction of that neighborhood. This second bill I have introduced would allow FEMA to extend some of their rental and housing programs to give some immediate help to families who find themselves unable to recover their equity for whatever reason out of the houses they have that are uninhabitable but who have to find a decent place to live so they can rebuild and regroup. That bill will address that situation.

Mrs. CLINTON. Mr. President, I rise today to introduce legislation that will help ensure beneficiaries who are eligible for both Medicare and Medicaid, the so-called "dual-eligibles," make a smooth and successful transition from Medicaid prescription drug coverage to Medicare Part D.

The 6.4 million seniors and disabled Americans who are dually eligible are the most vulnerable members of an already vulnerable population. They are the poorest of the elderly, with incomes of less than $10,000 per year. And they are the sickest of the elderly, with approximately 25 percent residing in a long-term care facility. They have significant health care needs, have often been diagnosed with multiple chronic conditions, and are in greatest danger of being affected by poor implementation of Medicare's new prescription drug benefit.

On November 15, beneficiaries began signing up for Medicare Part D prescription drug plans, and on January 1, the drug benefit actually begins. But this date does not only mark the beginning of a new Medicare drug benefit. For the 6.4 million dual eligibles, January 1 is also the day that they stop receiving a Medicaid drug benefit.

I voted against the Medicare bill when it was before the Senate in 2003 and we are all well aware of the many flaws and shortcomings: the insurance company slush fund, the "donut hole," the prohibition on the Government negotiating for lower drug costs and on the safe importation of prescription medications, among others.

But the short timeframe in which dual eligibles have to complete this transition is one of the most worrisome.

There are only 6 weeks between the time when seniors began signing up for the new drug plans, and the date when Medicaid coverage ceases. That means that dual eligibles—the poorest and sickest portion of the Medicare population—have very little time in which to accurately balance the benefits and drawbacks of their prescription drug plan choices.

We're giving most seniors 6 months to consider their options of a prescription drug plan, but we're giving the most vulnerable only 6 weeks.

While it would be my preference that the existence of a Medicaid drug benefit be extended beyond January 1 to provide adequate time for the transition, Republicans in Congress have blocked legislation that would do this, leaving these individuals without coverage if their transition from Medicaid to Medicare doesn't happen before the end of the year.

In response to the concern over the short implementation period, CMS announced that it will automatically enroll dual eligibles in a randomly chosen prescription drug plan by January 1, 2006.

CMS reports that at the end of November they had automatically enrolled over 5 million of the 6.4 million dually eligible beneficiaries in a Medicare Part D plan. But this leaves more than 1 million of our poorest and sickest vulnerable to falling through the cracks if they are not enrolled in a

Medicare Part D plan in the next several weeks.

CMS Administrator Mark McClellan has himself said that some dual eligibles may not be auto-enrolled before January 1, when their Medicaid drug benefit ceases to exist. In fact, if CMS is able to auto-enroll 95 percent of all dual eligibles, more than 300,000 would still be left without prescription drug coverage and access to critical medications. At 98 percent enrollment, almost 130,000 would be left without coverage. These are unacceptable numbers.

In light of growing concern that some dual eligible beneficiaries will arrive at their pharmacy counter on January 1 without coverage, CMS has announced a procedure to allow pharmacies to fill the prescription and a contractor to follow up with the beneficiary to facilitate enrollment in a Part D plan.

While I am glad that CMS has taken this step, I am concerned that pharmacies will not be aware of this option and some beneficiaries will still fall through the cracks.

In addition, pharmacies will be charged a transaction fee if they use this procedure and electronically inquire about the status of a beneficiary that comes to their pharmacy counter and isn't sure what coverage they have or if they have coverage at all.

The legislation I am introducing today aims to address this problem. The Medicare Dual Eligible Identification and Enrollment Facilitation Act would require outreach and education to pharmacies, particularly independent pharmacies, and a hold harmless provision for transaction fees that pharmacies incur when they use this procedure.

It is critical that we do everything we can to ensure that our most vulnerable seniors do not fall through the cracks and the pharmacies across the country are now our last line of defense. Helping them help these beneficiaries and eliminating fees they incur for doing so are simple but critical steps we should take to ensure that not a single dual eligible beneficiary is left without prescription drug coverage.

I urge speedy passage of the Medicare Dual Eligible Identification and Enrollment Facilitation Act.

By Mr. KENNEDY (for himself, Mr. ROCKEFELLER, and Mr. REID):

S. 2175. A bill to require the submittal to Congress of any Presidential Daily Briefing relating to Iraq during the period beginning on January 20, 1997, and ending on March 19, 2003; to the Select Committee on Intelligence.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUBMITTAL TO CONGRESS OF CERTAIN PRESIDENTIAL DAILY BRIEFINGS ON IRAQ.

(a) IN GENERAL.—The Director of National Intelligence shall submit to the congressional intelligence committees any Presidential Daily Briefing (PDB), or any portion of a Presidential Daily Briefing, of the Director of Central Intelligence during the period beginning on January 20, 1997, and ending on March 19, 2003, that refers to Iraq or otherwise addresses Iraq in any fashion.

(b) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committees" means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 342—RECOGNIZING THE REPUBLIC OF CROATIA FOR ITS PROGRESS IN STRENGTHENING DEMOCRATIC INSTITUTIONS, RESPECT FOR HUMAN RIGHTS, AND THE RULE OF LAW AND RECOMMENDING THE INTEGRATION OF CROATIA INTO THE NORTH ATLANTIC TREATY ORGANIZATION

Mr. VOINOVICH (for himself, Mr. HAGEL, and Mr. BIDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 342

Whereas the United States recognized the Republic of Croatia on April 7, 1992, acknowledging the decision of the people of Croatia to live in an independent, democratic, and sovereign country;

Whereas since achieving their independence, the people of Croatia have dedicated themselves to building a functioning democratic society, based on the rule of law, respect for human rights, and a free market economy;

Whereas Croatia has made progress in judicial reform and has adopted a judicial reform strategy;

Whereas Croatia has demonstrated a desire to protect minority rights and promote a viable multiethnic society;

Whereas, in 2002, Croatia adopted the Constitutional Law on the Rights of National Minorities, ensuring the representation of minorities in the Parliament of Croatia and the establishment of the councils of national minorities;

Whereas the Government of Croatia has concluded specific bilateral agreements on the protection of minority rights with Hungary, Italy, and Serbia and Montenegro and has concluded an agreement on cooperation with representatives of the Independent Democratic Serb Party in the Parliament of Croatia;

Whereas three prominent members of the Parliament of Croatia, Ratko Gajica, Milorad Pupovac, and Vojislav Stanimirovic, who represent the Serb minority, sent a letter to the Assistant to the President for National Security Affairs, Stephen Hadley, expressing their support for the Prime Minister of Croatia, Ivo Sanader, and for Croatia's path toward membership in the European Union and in the North Atlantic Treaty Organization ("NATO");

Whereas Croatia has shown dedication to advancing the return, reconstruction, and restitution of property in Croatia;

Whereas Croatia has proven to be a reliable partner of the United States in seeking the stabilization of the region;

Whereas Croatia participated in the Iraq International Conference held in Brussels on June 22, 2005, and offered to train and educate nationals of Iraq at universities in Croatia;

Whereas Croatia is taking part in the training of Iraqi security forces at the International Training Center in Jordan and has offered to train additional security personnel for Iraq in Croatia;

Whereas Croatia has been a partner in the war against terrorism, sent troops to Afghanistan as part of the NATO-led International Security Assistance Force in support of the war against terrorism in 2002, and has provided civilians to staff the Provincial Reconstruction Team under the leadership of NATO in Fayzabad;

Whereas, during July 2005, Croatia adopted a decision to triple its military presence in the International Security Assistance Force;

Whereas Croatia has endorsed and is participating in the Proliferation Security Initiative with like-minded nations across the world to prevent the flow of weapons of mass destruction, missile systems, and related material;

Whereas, on June 1, 2005, Croatia was the fourth nation to sign the Proliferation Security Initiative Shipboarding Agreement with the United States to prevent the maritime transfer of dangerous shipments of weapons or other illicit materials to keep such weapons and materials out of the hands of dangerous actors and terrorists;

Whereas, since Croatia has become an independent country, the United States has shown support for Croatia in many ways, including by providing Croatia with economic and military assistance that has contributed significantly to the progress and continued success occurring in Croatia;

Whereas the United States has encouraged Croatia's transformation and the future membership of Croatia in NATO;

Whereas a whole and free Europe cannot be fully achieved without the integration into NATO of all countries that share the common values of democracy, the rule of law, and respect for human rights;

Whereas the Membership Action Plan developed for NATO, which was launched in April 1999, is a program of assistance that provides both goals and a roadmap for countries aspiring to membership in NATO;

Whereas Croatia was invited into the Membership Action Plan in May 2002 and has made substantial progress toward the achievement of the reforms required for receiving an invitation to start accession talks with NATO;

Whereas the United States, Croatia, Albania, and Macedonia are signatories to the United States-Adriatic Charter for Partnership, which promotes Euro-Atlantic integration and commits the signatory nations to the values and principles of NATO and to membership in NATO at the earliest possible time;

Whereas Croatia supports regional cooperation as a means of bringing stability to Europe, particularly Southeast Europe, and has cooperated with the countries that neighbor Croatia to promote such stability, including providing technical and other assistance to countries that seek membership in the European Union;

Whereas, on October 3, 2005, the European Union decided to open accession negotiations with Croatia based on the assessment of the European Union's Council of Ministers that Croatia met the political and economic criteria for candidacy in the European Union, including that Croatia was fully cooperating with the International Criminal Tribunal for the former Yugoslavia;

Whereas the cooperation between the Government of Croatia and the Tribunal improved significantly under Prime Minister Ivo Sanader;

Whereas, since November 2003, Croatia has handed over to the Tribunal eleven individuals indicted for war crimes;

Whereas the cooperation of the Government of Croatia with the Tribunal assisted in the arrest of Ante Gotovina on December 8, 2005, in Spain and his transfer to the Tribunal on December 10, 2005;

Whereas the success of the Government of Croatia in bringing war criminals to justice demonstrates the commitment of the Government to move Croatia toward a brighter future of peace, stability, and prosperity for its people; and

Whereas Croatia shares the common interests and values of the free and democratic world: Now, therefore, be it

Resolved, That—

(1) since the Republic of Croatia became an independent country, the Government and people of Croatia have made significant progress in strengthening democratic institutions, respect for human rights, and the rule of law in Croatia;

(2) Croatia's membership in the North Atlantic Treaty Organization ("NATO") would contribute to stability in Southeast Europe;

(3) it is the sense of the Senate that—

(A) the Government and people of Croatia should be commended for their progress on protecting minority rights in Croatia, progress toward achieving the political, economic, military, and other requirements of NATO's Membership Action Plan, contribution to the International Security Assistance Force and the war against terrorism, and for their constructive participation the Proliferation Security Initiative and in the United States-Adriatic Charter;

(B) the Government of Croatia should be commended for its cooperation with the International Criminal Tribunal for the former Yugoslavia which led to the apprehension and transfer of several individuals indicted for war crimes, including Ante Gotovina, to the Tribunal;

(C) the Government of Croatia should continue its cooperation with the Tribunal;

(D) the Government of Croatia should continue and strengthen its role as a partner on nonproliferation and its support in the war against terrorism and in Iraq;

(E) the Government of Croatia should continue its efforts to implement defense reforms; and

(F) the Government of the United States should continue and increase its defense and security cooperation with the Government of Croatia, including through education, training, and technical cooperation, to assist Croatia in the reform process and in fulfilling its requirements for membership in NATO; and

(4) upon complete satisfaction of the criteria for NATO membership, in accordance with NATO's guidelines, Croatia should be invited to be a full member of NATO at the earliest possible date.

SENATE RESOLUTION 343—EXPRESSING THE SENSE OF THE SENATE THAT THE WEEK OF DECEMBER 19, 2005 SHOULD BE DESIGNATED "THANK OUR DEFENDERS WEEK"

Mr. SESSIONS submitted the following resolution; which was considered and agreed to:

S. RES. 343

Whereas, ever since our Nation was founded, the members of our military, Soldiers, Sailors, Airmen, Marines, Coast Guard personnel, active duty, Guard, and reserve, have played a critical role protecting America's vital interests and spreading peace throughout the world;

Whereas, more than 193,000 troops in the Persian Gulf region are courageously fighting insurgents and helping to establish democracies in Iraq and Afghanistan;

Whereas, 19,000 servicemen and servicewomen are stationed in Afghanistan, fighting Al-Qaeda and providing security for the people of that fledgling nation;

Whereas, over 30,000 troops are protecting American interests and maintaining peace on the Korean peninsula;

Whereas, in total, nearly 300,000 brave men and women are actively serving on the soil of 120 foreign countries and on the High Seas, fighting terrorists and making sacrifices for American citizens and families; and

Whereas, thanks to their tireless efforts, a brutal dictatorship in Iraq and an oppressive regime in Afghanistan have given way to emerging democratic societies: Now, therefore, be it

Resolved, That with gratitude it is the sense of the Senate that the week of December 19, 2005 should be designated "Thank Our Defenders Week."

SENATE RESOLUTION 344—EXPRESSING SUPPORT FOR THE GOVERNMENT OF GEORGIA'S SOUTH OSSETIAN PEACE PLAN AND THE SUCCESSFUL AND PEACEFUL REINTEGRATION OF THE REGION INTO GEORGIA

Mr. MCCAIN (for himself, Mr. LUGAR, Mr. BROWNBACK, and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 344

Whereas during December 1991, Georgia was internationally recognized as an independent and sovereign country following the formal dissolution of the Union of Soviet Socialist Republics;

Whereas the United States supports the independence, sovereignty, territorial integrity, and ongoing democratic reform process in Georgia;

Whereas the United States reaffirms its support for the peaceful resolution of the conflict in Adjura and the restoration of democracy and political stability in that region of Georgia;

Whereas as a result of a conflict from 1991 to 1992, a separatist regime has enforced its rule in the Georgia territory of South Ossetia, impoverishing the people living in South Ossetia, militarizing the area, allowing organized crime to flourish, and posing a threat to the peace and security in the region;

Whereas the Government of Georgia has announced a peace plan to reach a full political settlement to the South Ossetian conflict;

Whereas the Government of Georgia has acknowledged that mistakes were made in its past efforts in dealing with the region of South Ossetia;

Whereas at the 59th meeting of the United Nations General Assembly, Georgian President Mikhail Saakashvili outlined specific components of a peace initiative that includes demilitarization, confidence building measures, and economic, social, cultural, and political steps to protect the South Ossetian people and their rights while reintegrating the region, with significant autonomy, into Georgia;

Whereas President Saakashvili reaffirmed the main principles of the peace agreement at the Parliamentary Assembly Council of Europe in January, 2005, held in Strasbourg, France;

Whereas a formal comprehensive peace proposal based on the Strasbourg principles was formally proposed on October 27, 2005, at the Organization for Security and Co-operation in Europe; and

Whereas on December 6, 2005, at their 13th Ministerial Council Meeting in Ljubljana, Slovenia, the Organization for Security and Co-operation in Europe endorsed the Government of Georgia's peace plan, stating, "We welcome the steps taken by the Georgian side to address the peaceful resolution of the conflict and believe that the recent proposals, in particular the Peace Plan built upon the initiatives of the President of Georgia presented at the 59th United Nations General Assembly and supported by the sides, will serve as a basis for the peaceful settlement of the conflict": Now, therefore, be it

Resolved, That the Senate—

(1) commends the Government of Georgia for its vision and determination in its efforts to resolve peacefully the conflict in South Ossetia;

(2) supports the sovereignty, independence, and territorial integrity of the democratic Government of Georgia;

(3) urges all Organization for Security and Co-operation in Europe participating States to respect fully the independence, sovereignty, territorial integrity of Georgia, refraining from any acts constituting a threat of or use of force, direct or indirect, and abiding by the principle of the inviolability of frontiers;

(4) expresses its support for the Government of Georgia's plan to control peacefully and reestablish authority in the region of South Ossetia, viewing it as an opportunity to restore the territorial integrity of the country and to protect the individual rights and democratic liberties of those living in South Ossetia;

(5) urges the United States to increase its efforts in support of the peaceful reincorporation of South Ossetia to Georgia, including efforts to support the greater involvement of the international community, including the Russian Federation, the Organization for Security and Cooperation in Europe, the European Union, and international organizations in the peaceful settlement of the South Ossetian conflict; and

(6) supports the ongoing democratic transformation in Georgia and will continue to monitor closely the peace process in South Ossetia, including the implementation by all sides of their obligations under the peace plan if it is accepted.

SENATE RESOLUTION 345—RECOGNIZING THE 100TH ANNIVERSARY OF FENTON ART GLASS. A BELOVED INSTITUTION IN WEST VIRGINIA. THAT CONTINUES TO CONTRIBUTE TO THE ECONOMIC AND CULTURAL HERITAGE OF THE STATE THROUGH ITS PRODUCTION OF WORLD RENOWNED, HAND-BLOWN GLASS

Mr. BYRD (for himself and Mr. ROCKEFELLER) submitted the following resolution; which was considered and agreed to:

S. RES. 345

Whereas Fenton Art Glass rose from its humble beginnings as a glass decorating company in 1905, and came to settle in Williamstown, West Virginia, by opening a factory to create their own glass when they were unable to obtain the glass that they needed;

Whereas, with the vision of brothers Frank and John Fenton, Fenton Art Glass began to create innovative new colors and established the company in the forefront of the hand-blown glass industry;

Whereas in 1907, Fenton introduced its highly colorful Iridescent, or "Carnival" Glass, which became instantly successful throughout the country and is now highly prized by collectors around the world:

Whereas during the 1930s and 1940s, Fenton addressed the shortages felt by families in the United States by producing mixing bowls and tableware that were often unavailable during the World War II and Depression shortages:

Whereas Fenton Art Glass is not only a family tradition, with the third generation of the Fenton family now carrying on the legacy, but also a West Virginia institution, employing generations of workers; and

Whereas Fenton Glass, known for its beauty and precision in craftsmanship, is a symbol of the dedication and care of the Fenton family, as well as the pride in craftsmanship so characteristic of the West Virginia people: Now, therefore, be it

Resolved, That the Senate congratulates Fenton Art Glass on its centennial milestone, for creating beautiful, hand-blown glass in West Virginia for 100 years. a for 100 years.

SENATE RESOLUTION 346—COMMENDING THE APPALACHIAN STATE UNIVERSITY FOOTBALL TEAM FOR WINNING THE 2005 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I-AA FOOTBALL CHAMPIONSHIP.

Mr. BURR (for himself and Mrs. DOLE) submitted the following resolution; which was submitted and read:

S. RES. 346

Whereas on December 16, 2005, the Appalachian State Mountaineers defeated the Northern Iowa Panthers in the Championship game of the National Collegiate Athletic Association ("NCAA") Division I-AA Football Tournament in Chattanooga, Tennessee;

Whereas the Mountaineers are the first team from Appalachian State to win a NCAA Championship in school history:

Whereas Appalachian State is the first university in the State of North Carolina to win a NCAA football championship:

Whereas head coach Jerry Moore, the all-time winningest coach in Southern Conference history, won his first NCAA title in his seventeenth year as head coach of the Mountaineers, improving to 140-67 his record as head coach at Appalachian State;

Whereas defensive ends Marques Murrell and Jason Hunter, as well as safety Corey Lynch, were named to the I-AA All America team;

Whereas junior defensive end Marques Murrell, who finished the game with 9 tackles and forced a fumble with 9 minutes, 14 seconds remaining in the game, and senior Jason Hunter, who finished the game with ten tackles, returned it for the winning touchdown;

Whereas injured senior quarterback and Southern Conference Offensive Player of the Year Richie Williams courageously led the Mountaineers in the second half while playing with an injured ankle tendon;

Whereas the Mountaineer defense held the Panthers scoreless in the second half:

Whereas backup quarterback Trey Elder led Appalachian State to a 29-23 victory over Furman University to earn a spot in the final contest;

Whereas the Mountaineers defeated Lehigh University and Southern Illinois to advance to the I-AA "Final Four";

Whereas the Mountaineer team members are excellent representatives of a fine university that is a leader in higher education, producing many fine student-athletes and other leaders;

Whereas each player, coach, trainer, manager, and staff member dedicated this season and their efforts to ensure the Appalachian State University Mountaineers reached the summit of college football:

Whereas the Mountaineers showed tremendous dedication to each other, appreciation to their fans, sportsmanship to their opponents, and respect for the game of football throughout the 2005 season; and

Whereas residents of the Old North State and Appalachian fans worldwide are to be commended for their long-standing support, perseverance, and pride in the team: Now, therefore, be it

Resolved, That the Senate—

(1) commends the champion Appalachian State University Mountaineers for their historic win in the 2005 National Collegiate Athletic Association Division I-AA Football Championship;

(2) recognizes the achievements of the players, coaches, students, alumni, and support staff who were instrumental in helping Appalachian State University win the championship; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to Appalachian State University Chancellor Kenneth Peacock and head coach Jerry Moore for appropriate display.

SENATE RESOLUTION 347—EXPRESSING THE SENSE OF THE SENATE THAT LENDERS HOLDING MORTGAGES ON HOMES IN COMMUNITIES OF THE GULF COAST DEVASTATED BY HURRICANES KATRINA AND RITA SHOULD EXTEND CURRENT VOLUNTARY MORTGAGE PAYMENT FORBEARANCE PERIODS AND NOT FORECLOSE ON PROPERTIES IN THOSE COMMUNITIES

Ms. LANDRIEU (for herself and Mr. VITTER) submitted the following resolution; which was submitted and read:

S. RES. 347

Whereas the Gulf Coast of the United States has experienced 1 of the worst hurricane seasons on record:

Whereas Hurricane Katrina and multiple levee breaks destroyed an estimated 275.000 homes in the Gulf Coast;

Whereas 20.664 businesses in the Gulf Coast sustained catastrophic damage from Hurricane Katrina and Hurricane Rita;

Whereas, according to the Bureau of Economic Analysis at the Department of Commerce, personal income has fallen more than 25 percent in Louisiana in the third quarter of 2005;

Whereas, in the time since Hurricanes Katrina, Rita, and Wilma, the Small Business Administration has only approved 20 percent of disaster loan applications for homeowners in the Gulf Coast and has a backlog of more than 176.000 applications for this assistance as of December 21, 2005;

Whereas, of the 20,741 homeowner disaster loan applications that have been approved in the Gulf Coast by the Small Business Administration, only 1.444 have been fully disbursed;

Whereas, in response to these circumstances, commercial banks, mortgage banks, credit unions, and other mortgage lenders voluntarily instituted 90-day loan forbearance periods after Hurricane Katrina and did not require home owners in the Gulf Coast to make mortgage payments until on or about December 1, 2005;

Whereas, after the termination of the 90-day forbearance period, many home and business owners have received notice from their lenders that they face foreclosure unless they make a lump sum balloon payment in the amount of the mortgage payments previously subject to forbearance: and

Whereas foreclosure on homes and businesses in the Gulf Coast will have a detrimental impact on the economy of the area, will deprive property owners of their equity at a time when they can least afford it, and will have a negative impact on lenders who will be holding properties that may not be readily marketable on the open market: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Congress should act early in the second session of the 109th Congress to consider legislation to provide relief to homeowners in the Gulf Coast; and

(2) commercial banks, mortgage banks, credit unions, and other mortgage lenders should extend mortgage payment forbearance to March 31, 2006, in order to allow Congress the time to consider such legislation.

SENATE CONCURRENT RESOLUTION 74—CORRECTING THE ENROLLMENT OF H.R. 2863

Ms. CANTWELL submitted the following concurrent resolution; which was considered and agreed to:

S. Con. Res. 74

Resolved in the Senate (the House of Representatives Concurring), That, in the enrollment of the bill (H.R. 2863) making appropriations for the Departments of Defense for the fiscal year ending September 30, 2006, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

Strike Division C, the American Energy Independence and Security Act of 2005 and Division D, the Distribution of Revenues and Disaster Assistance.

SENATE CONCURRENT RESOLUTION 75—ENCOURAGING ALL AMERICANS TO INCREASE THEIR CHARITABLE GIVING, WITH THE GOAL OF INCREASING THE ANNUAL AMOUNT OF CHARITABLE GIVING IN THE UNITED STATES BY 1 PERCENT

Mr. SANTORUM (for himself and Mr. Lieberman) submitted the following concurrent resolution; which was submitted and read:

S. Con. Res. 75

Whereas individual charitable giving rates among Americans have stagnated at 1.5 to 2.2 percent of aggregate individual income for the past 50 years; .

Whereas a 1 percent increase (from 2 percent to 3 percent) in charitable giving will generate over $90,000,000,000 to charity; Whereas charitable giving is a significant source of funding for health, education, and welfare programs; and

Whereas a 1 percent increase in charitable giving would provide some of the funds that will allow the nation to meet our health, education and welfare goals. Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress encourages all Americans to increase their charitable giving, with the goal of increasing the annual amount of charitable giving in the United States by 1 percent.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2691. Mr. CONRAD proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

SA 2692. Mr. FRIST (for Mrs. Feinstein (for herself and Mr. Brownback)) proposed an amendment to the bill S. 119, to provide for the protection of unaccompanied alien children, and for other purposes.

SA 2693. Mr. FRIST (for Mr. Lugar) proposed an amendment to the bill S. 1315, to require a report on progress toward the Millennium Development Goals, and for other purposes.

SA 2694. Mr. FRIST (for Mr. Craig (for himself and Mr. Akaka)) proposed an amendment to the bill S. 1182, to amend title 38, United States Code, to improve health care for veterans, and for other purposes.

SA 2695. Mr. FRIST (for Mr. Stevens) proposed an amendment to the bill H.R. 1400, to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes.

TEXT OF AMENDMENTS

SA 2691. Mr. CONRAD proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deficit Reduction Act of 2005".

SEC. 2. TABLE OF TITLES.

The table of titles is as follows:

TITLE I—AGRICULTURE PROVISIONS

TITLE II—HOUSING AND DEPOSIT INSURANCE PROVISIONS

TITLE III—DIGITAL TELEVISION TRANSITION AND PUBLIC SAFETY

TITLE IV—TRANSPORTATION PROVISIONS

TITLE V—MEDICARE

TITLE VI—MEDICAID AND SCHIP

TITLE VII—HUMAN RESOURCES AND OTHER PROVISIONS

TITLE VIII—EDUCATION AND PENSION BENEFIT PROVISIONS

TITLE IX—LIHEAP PROVISIONS

TITLE X—JUDICIARY RELATED PROVISIONS

TITLE I—AGRICULTURE PROVISIONS

SECTION 1001. SHORT TITLE.

This title may be cited as the "Agricultural Reconciliation Act of 2005".

Subtitle A—Commodity Programs

SEC. 1101. NATIONAL DAIRY MARKET LOSS PAYMENTS.

(a) Amount.—Section 1502(c) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982(c)) is amended by striking paragraph (3) and inserting the following new paragraph:

"(3)(A) during the period beginning on the first day of the month the producers on a dairy farm enter into a contract under this section and ending on September 30, 2005, 45 percent;

"(B) during the period beginning on October 1, 2005, and ending on August 31, 2007, 34 percent; and

"(C) during the period beginning on September 1, 2007, 0 percent.".

(b) Duration.—Section 1502 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982) is amended by striking "2005" each place it appears in subsections (f) and (g)(1) and inserting "2007".

(c) Conforming Amendments.—Section 1502 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982) is amended—

(1) in subsection (g)(1), by striking "and subsection (h)"; and

(2) by striking subsection (h).

SEC. 1102. ADVANCE DIRECT PAYMENTS.

(a) Covered Commodities.—Section 1103(d)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7913(d)(2)) is amended in the first sentence by striking "2007 crop years" and inserting "2005 crop years, up to 40 percent of the direct payment for a covered commodity for the 2006 crop year, and up to 22 percent of the direct payment for a covered commodity for the 2007 crop year,".

(b) Peanuts.—Section 1303(e)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7953(e)(2)) is amended in the first sentence by striking "2007 crop years" and inserting "2005 crop years, up to 40 percent of the direct payment for the 2006 crop year, and up to 22 percent of the direct payment for the 2007 crop year,".

SEC. 1103. COTTON COMPETITIVENESS PROVISIONS.

(a) Repeal of Authority to Issue Cotton User Marketing Certificates.—Section 1207 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7937) is amended—

(1) by striking subsection (a); and

(2) in subsection (b)(1)—

(A) in subparagraph (B), by striking ", adjusted for the value of any certificate issued under subsection (a),"; and

(B) in subparagraph (C), by striking ", for the value of any certificates issued under subsection (a)".

(b) Effective Date.—The amendments made by this section take effect on August 1, 2006.

Subtitle B—Conservation

SEC. 1201. WATERSHED REHABILITATION PROGRAM.

The authority to obligate funds previously made available under section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)) for a fiscal year and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

SEC. 1202. CONSERVATION SECURITY PROGRAM.

(a) Extension.—Section 1238A(a) of the Food Security Act of 1985 (16 U.S.C. 3838a(a)) is amended by striking "2007" and inserting "2011".

(b) Funding.—Section 1241(a)(3) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(3)) is amended by striking "not more than $6,037,000,000" and all that follows through "2014." and inserting the following: "not more than—

"(A) $1,954,000,000 for the period of fiscal years 2006 through 2010; and

"(B) $5,650,000,000 for the period of fiscal years 2006 through 2015.".

SEC. 1203. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

(a) Extension.—Section 1240B(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(a)(1)) is amended by striking "2007" and inserting "2010".

(b) Limitation on Payments.—Section 1240G of the Food Security Act of 1985 (16 U.S.C. 3839aa–7) is amended by striking "the period of fiscal years 2002 through 2007" and inserting "any six-year period".

(c) Funding.—Section 1241(a)(6) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(6)) is amended—

(1) by striking "and" at the end of subparagraph (D); and

(2) by striking subparagraph (E) and inserting the following new subparagraphs:

"(E) $1,270,000,000 in each of fiscal years 2007 through 2009; and

"(F) $1,300,000,000 in fiscal year 2010.".

Subtitle C—Energy

SEC. 1301. RENEWABLE ENERGY SYSTEMS AND ENERGY EFFICIENCY IMPROVEMENTS PROGRAM.

Section 9006(f) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106(f)) is amended by striking "2007" and inserting "2006 and $3,000,000 for fiscal year 2007".

Subtitle D—Rural Development

SEC. 1401. ENHANCED ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.

The authority to obligate funds previously made available under section 601(j)(1) of the Rural Electrification Act of 1936 for a fiscal year and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

SEC. 1402. VALUE-ADDED AGRICULTURAL PRODUCT MARKET DEVELOPMENT GRANTS.

The authority to obligate funds previously made available under section 231(b)(4) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1621 note) for a fiscal year and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

SEC. 1403. RURAL BUSINESS INVESTMENT PROGRAM.

(a) Termination of Fiscal Year 2007 and Subsequent Funding.—Subsection (a)(1) of section 384S of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–18) is amended by inserting after "necessary" the following: "through fiscal year 2006".

(b) Cancellation of Unobligated Prior-Year Funds.—The authority to obligate funds previously made available under such section and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

SEC. 1404. RURAL BUSINESS STRATEGIC INVESTMENT GRANTS.

The authority to obligate funds previously made available under section 385E of the Consolidated Farm and Rural Development Act and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

SEC. 1405. RURAL FIREFIGHTERS AND EMERGENCY PERSONNEL GRANTS.

(a) Termination of Fiscal Year 2007 Funding.—Subsection (c) of section 6405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 2655) is amended by striking "2007" and inserting "2006".

(b) Cancellation of Unobligated Prior-Year Funds.—The authority to obligate funds previously made available under such section for a fiscal year and unobligated as of October 1, 2006, is hereby cancelled effective on that date.

Subtitle E—Research

SEC. 1501. INITIATIVE FOR FUTURE FOOD AND AGRICULTURE SYSTEMS.

(a) Termination of Fiscal Year 2007, 2008, and 2009 Transfers.—Subsection (b)(3)(D) of section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621) is amended by striking "2006" and inserting "2009".

(b) Termination of Multi-Year Availability of Fiscal Year 2006 Funds.—Paragraph (6) of subsection (f) of such section is amended to read as follows:

"(6) Availability of funds.—

"(A) Two-year availability.—Except as provided in subparagraph (B), funds for grants under this section shall be available to the Secretary for obligation for a 2-year period beginning on the date of the transfer of the funds under subsection (b).

"(B) Exception for fiscal year 2006 transfer.—In the case of the funds required to be transferred by subsection (b)(3)(C), the funds shall be available to the Secretary for obligation for the 1-year period beginning on October 1, 2005.".

TITLE II—HOUSING AND DEPOSIT INSURANCE PROVISIONS

Subtitle A—FHA Asset Disposition

SEC. 2001. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) The term "affordability requirements" means any requirements or restrictions imposed by the Secretary, at the time of sale, on a multifamily real property or a multifamily loan, such as use restrictions, rent restrictions, and rehabilitation requirements.

(2) The term "discount sale" means the sale of a multifamily real property in a transaction, such as a negotiated sale, in which the sale price is lower than the property market value and is set outside of a competitive bidding process that has no affordability requirements.

(3) The term "discount loan sale" means the sale of a multifamily loan in a transaction, such as a negotiated sale, in which the sale price is lower than the loan market value and is set outside of a competitive bidding process that has no affordability requirements.

(4) The term "loan market value" means the value of a multifamily loan, without taking into account any affordability requirements.

(5) The term "multifamily real property" means any rental or cooperative housing project of 5 or more units owned by the Secretary that prior to acquisition by the Secretary was security for a loan or loans insured under title II of the National Housing Act.

(6) The term "multifamily loan" means a loan held by the Secretary and secured by a multifamily rental or cooperative housing project of 5 or more units that was formerly insured under title II of the National Housing Act.

(7) The term "property market value" means the value of a multifamily real property for its current use, without taking into account any affordability requirements.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 2002. APPROPRIATED FUNDS REQUIREMENT FOR BELOW-MARKET SALES.

(a) Discount Sales.—Notwithstanding any other provision of law, except for affordability requirements for the elderly and disabled required by statute, disposition by the Secretary of a multifamily real property during fiscal years 2006 through 2010 through a discount sale under sections 207(l) or 246 of the National Housing Act (12 U.S.C. 1713(l), 1715z–11), section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11), or section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–11a), shall be subject to the availability of appropriations to the extent that the property market value exceeds the sale proceeds. If the multifamily real property is sold, during such fiscal years, for an amount equal to or greater than the property market value then the transaction is not subject to the availability of appropriations.

(b) Discount Loan Sales.—Notwithstanding any other provision of law and in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), a discount loan sale during fiscal years 2006 through 2010 under section 207(k) of the National Housing Act (12 U.S.C. 1713(k)), section 203(k) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11(k)), or section 204(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–11a(a)), shall be subject to the availability of appropriations to the extent that the loan market value exceeds the sale proceeds. If the multifamily loan is sold, during such fiscal years, for an amount equal to or greater than the loan market value then the transaction is not subject to the availability of appropriations.

(c) Applicability.—This section shall not apply to any transaction that formally commences within one year prior to the enactment of this section.

SEC. 2003. UP-FRONT GRANTS.

(a) 1997 Act.—Section 204(a) of the Departments of Veterans Affairs and Housing And Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–11a(a))) is amended by adding at the end the following new sentence: "A grant provided under this subsection during fiscal years 2006 through 2010 shall be available only to the extent that appropriations are made in advance for such purposes and shall not be derived from the General Insurance Fund.".

(b) 1978 Act.—Section 203(f)(4) of the Housing and Community Development Amendments of 1978 (12 USC 1701z–11(f)(4)) is amended by adding at the end the following new sentence: "This paragraph shall be effective during fiscal years 2006 through 2010 only to the extent that such budget authority is made available for use under this paragraph in advance in appropriation Acts.".

(c) Applicability.—The amendments made by this section shall not apply to any transaction that formally commences within one year prior to the enactment of this section.

Subtitle B—Deposit Insurance

SEC. 2101. SHORT TITLE.

This subtitle may be cited as the "Federal Deposit Insurance Reform Act of 2005".

SEC. 2102. MERGING THE BIF AND SAIF.

(a) In General.—

(1) Merger.—The Bank Insurance Fund and the Savings Association Insurance Fund shall be merged into the Deposit Insurance Fund.

(2) Disposition of Assets and Liabilities.—All assets and liabilities of the Bank Insurance Fund and the Savings Association Insurance Fund shall be transferred to the Deposit Insurance Fund.

(3) No separate existence.—The separate existence of the Bank Insurance Fund and the Savings Association Insurance Fund shall cease on the effective date of the merger thereof under this section.

(b) Repeal of Outdated Merger Provision.—Section 2704 of the Deposit Insurance Funds Act of 1996 (12 U.S.C. 1821 note) is repealed.

(c) Effective Date.—This section shall take effect no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 2103. INCREASE IN DEPOSIT INSURANCE COVERAGE.

(a) In General.—Section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) is amended—

(1) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) Net amount of insured deposit.—The net amount due to any depositor at an insured depository institution shall not exceed the standard maximum deposit insurance amount as determined in accordance with subparagraphs (C), (D), (E) and (F) and paragraph (3)."; and

(2) by adding at the end the following new subparagraphs:

"(E) Standard maximum deposit insurance amount defined.—For purposes of this Act, the term 'standard maximum deposit insurance amount' means $100,000, adjusted as provided under subparagraph (F) after March 31, 2010.

“(F) INFLATION ADJUSTMENT.—

“(i) IN GENERAL.—By April 1 of 2010, and the 1st day of each subsequent 5-year period, the Board of Directors and the National Credit Union Administration Board shall jointly consider the factors set forth under clause (v), and, upon determining that an inflation adjustment is appropriate, shall jointly prescribe the amount by which the standard maximum deposit insurance amount and the standard maximum share insurance amount (as defined in section 207(k) of the Federal Credit Union Act) applicable to any depositor at an insured depository institution shall be increased by calculating the product of—

“(I) $100,000; and

“(II) the ratio of the published annual value of the Personal Consumption Expenditures Chain-Type Price Index (or any successor index thereto), published by the Department of Commerce, for the calendar year preceding the year in which the adjustment is calculated under this clause, to the published annual value of such index for the calendar year preceding the date this subparagraph takes effect under the Federal Deposit Insurance Reform Act of 2005.

The values used in the calculation under subclause (II) shall be, as of the date of the calculation, the values most recently published by the Department of Commerce.

“(ii) ROUNDING.—If the amount determined under clause (ii) for any period is not a multiple of $10,000, the amount so determined shall be rounded down to the nearest $10,000.

“(iii) PUBLICATION AND REPORT TO THE CONGRESS.—Not later than April 5 of any calendar year in which an adjustment is required to be calculated under clause (i) to the standard maximum deposit insurance amount and the standard maximum share insurance amount under such clause, the Board of Directors and the National Credit Union Administration Board shall—

“(I) publish in the Federal Register the standard maximum deposit insurance amount, the standard maximum share insurance amount, and the amount of coverage under paragraph (3)(A) and section 207(k)(3) of the Federal Credit Union Act, as so calculated; and

“(II) jointly submit a report to the Congress containing the amounts described in subclause (I).

“(iv) 6-MONTH IMPLEMENTATION PERIOD.—Unless an Act of Congress enacted before July 1 of the calendar year in which an adjustment is required to be calculated under clause (i) provides otherwise, the increase in the standard maximum deposit insurance amount and the standard maximum share insurance amount shall take effect on January 1 of the year immediately succeeding such calendar year.

“(v) INFLATION ADJUSTMENT CONSIDERATION.—In making any determination under clause (i) to increase the standard maximum deposit insurance amount and the standard maximum share insurance amount, the Board of Directors and the National Credit Union Administration Board shall jointly consider—

“(I) the overall state of the Deposit Insurance Fund and the economic conditions affecting insured depository institutions;

“(II) potential problems affecting insured depository institutions; or

“(III) whether the increase will cause the reserve ratio of the fund to fall below 1.15 percent of estimated insured deposits.”.

(b) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—Section 11(a)(1)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(D)) is amended to read as follows:

“(D) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—

“(i) PASS-THROUGH INSURANCE.—The Corporation shall provide pass-through deposit insurance for the deposits of any employee benefit plan.

“(ii) PROHIBITION ON ACCEPTANCE OF BENEFIT PLAN DEPOSITS.—An insured depository institution that is not well capitalized or adequately capitalized may not accept employee benefit plan deposits.

“(iii) DEFINITIONS.—For purposes of this subparagraph, the following definitions shall apply:

“(I) CAPITAL STANDARDS.—The terms ‘well capitalized’ and ‘adequately capitalized’ have the same meanings as in section 38.

“(II) EMPLOYEE BENEFIT PLAN.—The term ‘employee benefit plan’ has the same meaning as in paragraph (5)(B)(ii), and includes any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

“(III) PASS-THROUGH DEPOSIT INSURANCE.—The term ‘pass-through deposit insurance’ means, with respect to an employee benefit plan, deposit insurance coverage based on the interest of each participant, in accordance with regulations issued by the Corporation.”.

(c) INCREASED AMOUNT OF DEPOSIT INSURANCE FOR CERTAIN RETIREMENT ACCOUNTS.—Section 11(a)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(3)(A)) is amended by striking “$100,000” and inserting “$250,000 (which amount shall be subject to inflation adjustments as provided in paragraph (1)(F), except that $250,000 shall be substituted for $100,000 wherever such term appears in such paragraph)”.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date the final regulations required under section 9(a)(2) take effect.

SEC. 2104. SETTING ASSESSMENTS AND REPEAL OF SPECIAL RULES RELATING TO MINIMUM ASSESSMENTS AND FREE DEPOSIT INSURANCE.

(a) SETTING ASSESSMENTS.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(1) by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

“(A) IN GENERAL.—The Board of Directors shall set assessments for insured depository institutions in such amounts as the Board of Directors may determine to be necessary or appropriate, subject to subparagraph (D).

“(B) FACTORS TO BE CONSIDERED.—In setting assessments under subparagraph (A), the Board of Directors shall consider the following factors:

“(i) The estimated operating expenses of the Deposit Insurance Fund.

“(ii) The estimated case resolution expenses and income of the Deposit Insurance Fund.

“(iii) The projected effects of the payment of assessments on the capital and earnings of insured depository institutions.

“(iv) The risk factors and other factors taken into account pursuant to paragraph (1) under the risk-based assessment system, including the requirement under such paragraph to maintain a risk-based system.

“(v) Any other factors the Board of Directors may determine to be appropriate.”; and

(2) by inserting after subparagraph (C) the following new subparagraph:

“(D) NO DISCRIMINATION BASED ON SIZE.—No insured depository institution shall be barred from the lowest-risk category solely because of size.”.

(b) ASSESSMENT RECORDKEEPING PERIOD SHORTENED.—Paragraph (5) of section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended to read as follows:

“(5) DEPOSITORY INSTITUTION REQUIRED TO MAINTAIN ASSESSMENT-RELATED RECORDS.—Each insured depository institution shall maintain all records that the Corporation may require for verifying the correctness of any assessment on the insured depository institution under this subsection until the later of—

“(A) the end of the 3-year period beginning on the due date of the assessment; or

“(B) in the case of a dispute between the insured depository institution and the Corporation with respect to such assessment, the date of a final determination of any such dispute.”.

(c) INCREASE IN FEES FOR LATE ASSESSMENT PAYMENTS.—Subsection (h) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(h)) is amended to read as follows:

“(h) PENALTY FOR FAILURE TO TIMELY PAY ASSESSMENTS.—

“(1) IN GENERAL.—Subject to paragraph (3), any insured depository institution which fails or refuses to pay any assessment shall be subject to a penalty in an amount of not more than 1 percent of the amount of the assessment due for each day that such violation continues.

“(2) EXCEPTION IN CASE OF DISPUTE.—Paragraph (1) shall not apply if—

“(A) the failure to pay an assessment is due to a dispute between the insured depository institution and the Corporation over the amount of such assessment; and

“(B) the insured depository institution deposits security satisfactory to the Corporation for payment upon final determination of the issue.

“(3) SPECIAL RULE FOR SMALL ASSESSMENT AMOUNTS.—If the amount of the assessment which an insured depository institution fails or refuses to pay is less than $10,000 at the time of such failure or refusal, the amount of any penalty to which such institution is subject under paragraph (1) shall not exceed $100 for each day that such violation continues.

“(4) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Corporation, in the sole discretion of the Corporation, may compromise, modify or remit any penalty which the Corporation may assess or has already assessed under paragraph (1) upon a finding that good cause prevented the timely payment of an assessment.”.

(d) STATUTE OF LIMITATIONS FOR ASSESSMENT ACTIONS.—Subsection (g) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(g)) is amended to read as follows:

“(g) ASSESSMENT ACTIONS.—

“(1) IN GENERAL.—The Corporation, in any court of competent jurisdiction, shall be entitled to recover from any insured depository institution the amount of any unpaid assessment lawfully payable by such insured depository institution.

“(2) STATUTE OF LIMITATIONS.—The following provisions shall apply to actions relating to assessments, notwithstanding any other provision in Federal law, or the law of any State:

“(A) Any action by an insured depository institution to recover from the Corporation the overpaid amount of any assessment shall be brought within 3 years after the date the assessment payment was due, subject to the exception in subparagraph (E).

“(B) Any action by the Corporation to recover from an insured depository institution the underpaid amount of any assessment shall be brought within 3 years after the date the assessment payment was due, subject to the exceptions in subparagraphs (C) and (E).

“(C) If an insured depository institution has made a false or fraudulent statement with intent to evade any or all of its assessment, the Corporation shall have until 3 years after the date of discovery of the false or fraudulent statement in which to bring an action to recover the underpaid amount.

“(D) Except as provided in subparagraph (C), assessment deposit information contained in records no longer required to be maintained pursuant to subsection (b)(4) shall be considered conclusive and not subject to change.

“(E) Any action for the underpaid or overpaid amount of any assessment that became due before the amendment to this subsection under the Federal Deposit Insurance Reform Act of 2005 took effect shall be subject to the statute of limitations for assessments in effect at the time the assessment became due.”.

(e) Effective Date.—This section and the amendments made by this section shall take effect on the date that the final regulations required under section 9(a)(5) take effect.

SEC. 2105. REPLACEMENT OF FIXED DESIGNATED RESERVE RATIO WITH RESERVE RANGE.

(a) In General.—Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) is amended to read as follows:

“(3) Designated reserve ratio.—

“(A) Establishment.—

“(i) In general.—Before the beginning of each calendar year, the Board of Directors shall designate the reserve ratio applicable with respect to the Deposit Insurance Fund and publish the reserve ratio so designated.

“(ii) Rulemaking requirement.—Any change to the designated reserve ratio shall be made by the Board of Directors by regulation after notice and opportunity for comment.

“(B) Range.—The reserve ratio designated by the Board of Directors for any year—

“(i) may not exceed 1.5 percent of estimated insured deposits; and

“(ii) may not be less than 1.15 percent of estimated insured deposits.

“(C) Factors.—In designating a reserve ratio for any year, the Board of Directors shall—

“(i) take into account the risk of losses to the Deposit Insurance Fund in such year and future years, including historic experience and potential and estimated losses from insured depository institutions;

“(ii) take into account economic conditions generally affecting insured depository institutions so as to allow the designated reserve ratio to increase during more favorable economic conditions and to decrease during less favorable economic conditions, notwithstanding the increased risks of loss that may exist during such less favorable conditions, as determined to be appropriate by the Board of Directors;

“(iii) seek to prevent sharp swings in the assessment rates for insured depository institutions; and

“(iv) take into account such other factors as the Board of Directors may determine to be appropriate, consistent with the requirements of this subparagraph.

“(D) Publication of proposed change in ratio.—In soliciting comment on any proposed change in the designated reserve ratio in accordance with subparagraph (A), the Board of Directors shall include in the published proposal a thorough analysis of the data and projections on which the proposal is based.”.

(b) Effective Date.—This section and the amendments made by this section shall take effect on the date that the final regulations required under section 9(a)(1) take effect.

SEC. 2106. REQUIREMENTS APPLICABLE TO THE RISK-BASED ASSESSMENT SYSTEM.

Section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) is amended by adding at the end the following new subparagraphs:

“(E) Information concerning risk of loss and economic conditions.—

“(i) Sources of information.—For purposes of determining risk of losses at insured depository institutions and economic conditions generally affecting depository institutions, the Corporation shall collect information, as appropriate, from all sources the Board of Directors considers appropriate, such as reports of condition, inspection reports, and other information from all Federal banking agencies, any information available from State bank supervisors, State insurance and securities regulators, the Securities and Exchange Commission (including information described in section 35), the Secretary of the Treasury, the Commodity Futures Trading Commission, the Farm Credit Administration, the Federal Trade Commission, any Federal reserve bank or Federal home loan bank, and other regulators of financial institutions, and any information available from credit rating entities, and other private economic or business analysts.

“(ii) Consultation with federal banking agencies.—

“(I) In general.—Except as provided in subclause (II), in assessing the risk of loss to the Deposit Insurance Fund with respect to any insured depository institution, the Corporation shall consult with the appropriate Federal banking agency of such institution.

“(II) Treatment on aggregate basis.—In the case of insured depository institutions that are well capitalized (as defined in section 38) and, in the most recent examination, were found to be well managed, the consultation under subclause (I) concerning the assessment of the risk of loss posed by such institutions may be made on an aggregate basis.

“(iii) Rule of construction.—No provision of this paragraph shall be construed as providing any new authority for the Corporation to require submission of information by insured depository institutions to the Corporation.

“(F) Modifications to the risk-based assessment system allowed only after notice and comment.—In revising or modifying the risk-based assessment system at any time after the date of the enactment of the Federal Deposit Insurance Reform Act of 2005, the Board of Directors may implement such revisions or modification in final form only after notice and opportunity for comment.”.

SEC. 2107. REFUNDS, DIVIDENDS, AND CREDITS FROM DEPOSIT INSURANCE FUND.

(a) In General.—Subsection (e) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(e)) is amended to read as follows:

“(e) Refunds, Dividends, and Credits.—

“(1) Refunds of overpayments.—In the case of any payment of an assessment by an insured depository institution in excess of the amount due to the Corporation, the Corporation may—

“(A) refund the amount of the excess payment to the insured depository institution; or

“(B) credit such excess amount toward the payment of subsequent assessments until such credit is exhausted.

“(2) Dividends from excess amounts in deposit insurance fund.—

“(A) Reserve ratio in excess of 1.5 percent of estimated insured deposits.—If, at the end of a calendar year, the reserve ratio of the Deposit Insurance Fund exceeds 1.5 percent of estimated insured deposits, the Corporation shall declare the amount in the Fund in excess of the amount required to maintain the reserve ratio at 1.5 percent of estimated insured deposits, as dividends to be paid to insured depository institutions.

“(B) Reserve ratio equal to or in excess of 1.35 percent of estimated insured deposits and not more than 1.5 percent.—If, at the end of a calendar year, the reserve ratio of the Deposit Insurance Fund equals or exceeds 1.35 percent of estimated insured deposits and is not more than 1.5 percent of such deposits, the Corporation shall declare the amount in the Fund that is equal to 50 percent of the amount in excess of the amount required to maintain the reserve ratio at 1.35 percent of the estimated insured deposits as dividends to be paid to insured depository institutions.

“(C) Basis for distribution of dividends.—

“(i) In general.—Solely for the purposes of dividend distribution under this paragraph, the Corporation shall determine each insured depository institution's relative contribution to the Deposit Insurance Fund (or any predecessor deposit insurance fund) for calculating such institution's share of any dividend declared under this paragraph, taking into account the factors described in clause (ii).

“(ii) Factors for distribution.—In implementing this paragraph in accordance with regulations, the Corporation shall take into account the following factors:

“(I) The ratio of the assessment base of an insured depository institution (including any predecessor) on December 31, 1996, to the assessment base of all eligible insured depository institutions on that date.

“(II) The total amount of assessments paid on or after January 1, 1997, by an insured depository institution (including any predecessor) to the Deposit Insurance Fund (and any predecessor deposit insurance fund).

“(III) That portion of assessments paid by an insured depository institution (including any predecessor) that reflects higher levels of risk assumed by such institution.

“(IV) Such other factors as the Corporation may determine to be appropriate.

“(D) Notice and opportunity for comment.—The Corporation shall prescribe by regulation, after notice and opportunity for comment, the method for the calculation, declaration, and payment of dividends under this paragraph.

“(E) Limitation.—The Board of Directors may suspend or limit dividends paid under subparagraph (B), if the Board determines in writing that—

“(i) a significant risk of losses to the Deposit Insurance Fund exists over the next 1-year period; and

“(ii) it is likely that such losses will be sufficiently high as to justify a finding by the Board that the reserve ratio should temporarily be allowed—

“(I) to grow without requiring dividends under subparagraph (B); or

“(II) to exceed the maximum amount established under subsection (b)(3)(B)(i).

"(F) CONSIDERATIONS.—In making a determination under subparagraph (E), the Board shall consider—

"(i) national and regional conditions and their impact on insured depository institutions;

"(ii) potential problems affecting insured depository institutions or a specific group or type of depository institution;

"(iii) the degree to which the contingent liability of the Corporation for anticipated failures of insured institutions adequately addresses concerns over funding levels in the Deposit Insurance Fund; and

"(iv) any other factors that the Board determines are appropriate.

"(H) REVIEW OF DETERMINATION.—

"(i) ANNUAL REVIEW.—A determination to suspend or limit dividends under subparagraph (E) shall be reviewed by the Board of Directors annually.

"(ii) ACTION BY BOARD.—Based on each annual review under clause (i), the Board of Directors shall either renew or remove a determination to suspend or limit dividends under subparagraph (E), or shall make a new determination in accordance with this paragraph. Unless justified under the terms of the renewal or new determination, the Corporation shall be required to provide cash dividends under subparagraph (A) or (B), as appropriate.

"(3) ONE-TIME CREDIT BASED ON TOTAL ASSESSMENT BASE AT YEAR-END 1996.—

"(A) IN GENERAL.—Before the end of the 270-day period beginning on the date of the enactment of the Federal Deposit Insurance Reform Act of 2005, the Board of Directors shall, by regulation after notice and opportunity for comment, provide for a credit to each eligible insured depository institution (or a successor insured depository institution), based on the assessment base of the institution on December 31, 1996, as compared to the combined aggregate assessment base of all eligible insured depository institutions, taking into account such factors as the Board of Directors may determine to be appropriate.

"(B) CREDIT LIMIT.—The aggregate amount of credits available under subparagraph (A) to all eligible insured depository institutions shall equal the amount that the Corporation could collect if the Corporation imposed an assessment of 10.5 basis points on the combined assessment base of the Bank Insurance Fund and the Savings Association Insurance Fund as of December 31, 2001.

"(C) ELIGIBLE INSURED DEPOSITORY INSTITUTION DEFINED.—For purposes of this paragraph, the term 'eligible insured depository institution' means any insured depository institution that—

"(i) was in existence on December 31, 1996, and paid a deposit insurance assessment prior to that date; or

"(ii) is a successor to any insured depository institution described in clause (i).

"(D) APPLICATION OF CREDITS.—

"(i) IN GENERAL.—Subject to clause (ii), the amount of a credit to any eligible insured depository institution under this paragraph shall be applied by the Corporation, subject to subsection (b)(3)(E), to the assessments imposed on such institution under subsection (b) that become due for assessment periods beginning after the effective date of regulations prescribed under subparagraph (A).

"(ii) TEMPORARY RESTRICTION ON USE OF CREDITS.—The amount of a credit to any eligible insured depository institution under this paragraph may not be applied to more than 90 percent of the assessments imposed on such institution under subsection (b) that become due for assessment periods beginning in fiscal years 2008, 2009, and 2010.

"(iii) REGULATIONS.—The regulations prescribed under subparagraph (A) shall establish the qualifications and procedures governing the application of assessment credits pursuant to clause (i).

"(E) LIMITATION ON AMOUNT OF CREDIT FOR CERTAIN DEPOSITORY INSTITUTIONS.—In the case of an insured depository institution that exhibits financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory, or is not adequately capitalized (as defined in section 38) at the beginning of an assessment period, the amount of any credit allowed under this paragraph against the assessment on that depository institution for such period may not exceed the amount calculated by applying to that depository institution the average assessment rate on all insured depository institutions for such assessment period.

"(F) SUCCESSOR DEFINED.—The Corporation shall define the term 'successor' for purposes of this paragraph, by regulation, and may consider any factors as the Board may deem appropriate.

"(4) ADMINISTRATIVE REVIEW.—

"(A) IN GENERAL.—The regulations prescribed under paragraphs (2)(D) and (3) shall include provisions allowing an insured depository institution a reasonable opportunity to challenge administratively the amount of the credit or dividend determined under paragraph (2) or (3) for such institution.

"(B) ADMINISTRATIVE REVIEW.—Any review under subparagraph (A) of any determination of the Corporation under paragraph (2) or (3) shall be final and not subject to judicial review.".

(b) DEFINITION OF RESERVE RATIO.—Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) (as amended by section 2105(b) of this subtitle) is amended by adding at the end the following new paragraph:

"(3) RESERVE RATIO.—The term 'reserve ratio', when used with regard to the Deposit Insurance Fund other than in connection with a reference to the designated reserve ratio, means the ratio of the net worth of the Deposit Insurance Fund to the value of the aggregate estimated insured deposits.".

SEC. 2108. DEPOSIT INSURANCE FUND RESTORATION PLANS.

Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) (as amended by section 2105(a) of this subtitle) is amended by adding at the end the following new subparagraph:

"(E) DIF RESTORATION PLANS.—

"(i) IN GENERAL.—Whenever—

"(I) the Corporation projects that the reserve ratio of the Deposit Insurance Fund will, within 6 months of such determination, fall below the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio; or

"(II) the reserve ratio of the Deposit Insurance Fund actually falls below the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio without any determination under subclause (I) having been made,

the Corporation shall establish and implement a Deposit Insurance Fund restoration plan within 90 days that meets the requirements of clause (ii) and such other conditions as the Corporation determines to be appropriate.

"(ii) REQUIREMENTS OF RESTORATION PLAN.—A Deposit Insurance Fund restoration plan meets the requirements of this clause if the plan provides that the reserve ratio of the Fund will meet or exceed the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio before the end of the 5-year period beginning upon the implementation of the plan (or such longer period as the Corporation may determine to be necessary due to extraordinary circumstances).

"(iii) RESTRICTION ON ASSESSMENT CREDITS.—As part of any restoration plan under this subparagraph, the Corporation may elect to restrict the application of assessment credits provided under subsection (e)(3) for any period that the plan is in effect.

"(iv) LIMITATION ON RESTRICTION.—Notwithstanding clause (iii), while any restoration plan under this subparagraph is in effect, the Corporation shall apply credits provided to an insured depository institution under subsection (e)(3) against any assessment imposed on the institution for any assessment period in an amount equal to the lesser of—

"(I) the amount of the assessment; or

"(II) the amount equal to 3 basis points of the institution's assessment base.

"(v) TRANSPARENCY.—Not more than 30 days after the Corporation establishes and implements a restoration plan under clause (i), the Corporation shall publish in the Federal Register a detailed analysis of the factors considered and the basis for the actions taken with regard to the plan.".

SEC. 2109. REGULATIONS REQUIRED.

(a) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall prescribe final regulations, after notice and opportunity for comment—

(1) designating the reserve ratio for the Deposit Insurance Fund in accordance with section 7(b)(3) of the Federal Deposit Insurance Act (as amended by section 2105 of this subtitle);

(2) implementing increases in deposit insurance coverage in accordance with the amendments made by section 2103 of this subtitle;

(3) implementing the dividend requirement under section 7(e)(2) of the Federal Deposit Insurance Act (as amended by section 2107 of this subtitle);

(4) implementing the 1-time assessment credit to certain insured depository institutions in accordance with section 7(e)(3) of the Federal Deposit Insurance Act, as amended by section 2107 of this subtitle, including the qualifications and procedures under which the Corporation would apply assessment credits; and

(5) providing for assessments under section 7(b) of the Federal Deposit Insurance Act, as amended by this subtitle.

(b) TRANSITION PROVISIONS.—

(1) CONTINUATION OF EXISTING ASSESSMENT REGULATIONS.—No provision of this subtitle or any amendment made by this subtitle shall be construed as affecting the authority of the Corporation to set or collect deposit insurance assessments pursuant to any regulations in effect before the effective date of the final regulations prescribed under subsection (a).

(2) TREATMENT OF DIF MEMBERS UNDER EXISTING REGULATIONS.—As of the date of the merger of the Bank Insurance Fund and the Savings Association Insurance Fund pursuant to section 2102, the assessment regulations in effect immediately before the date of the enactment of this Act shall continue to apply to all members of the Deposit Insurance Fund, until such regulations are modified by the Corporation, notwithstanding

that such regulations may refer to "Bank Insurance Fund members" or "Savings Association Insurance Fund members".

TITLE III—DIGITAL TELEVISION TRANSITION AND PUBLIC SAFETY

SEC. 3001. SHORT TITLE; DEFINITION.

(a) SHORT TITLE.—This title may be cited as the "Digital Television Transition and Public Safety Act of 2005".

(b) DEFINITION.—As used in this Act, the term "Assistant Secretary" means the Assistant Secretary for Communications and Information of the Department of Commerce.

SEC. 3002. ANALOG SPECTRUM RECOVERY: FIRM DEADLINE.

(a) AMENDMENTS.—Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)) is amended—

(1) in subparagraph (A)—

(A) by inserting "full-power" before "television broadcast license"; and

(B) by striking "December 31, 2006" and inserting "February 17, 2009";

(2) by striking subparagraph (B);

(3) in subparagraph (C)(i)(I), by striking "or (B)";

(4) in subparagraph (D), by striking "subparagraph (C)(i)" and inserting "subparagraph (B)(i)"; and

(5) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

.(b) TERMINATIONS OF ANALOG LICENSES AND BROADCASTING.—The Federal Communications Commission shall take such actions as are necessary—

(1) to terminate all licenses for full-power television stations in the analog television service, and to require the cessation of broadcasting by full-power stations in the analog television service, by February 18, 2009; and

(2) to require by February 18, 2009, that all broadcasting by Class A stations, whether in the analog television service or digital television service, and all broadcasting by full-power stations in the digital television service, occur only on channels between channels 2 and 36, inclusive, or 38 and 51, inclusive (between frequencies 54 and 698 megahertz, inclusive).

(c) CONFORMING AMENDMENTS.—

(1) Section 337(e) of the Communications Act of 1934 (47 U.S.C. 337(e)) is amended—

(A) in paragraph (1)—

(i) by striking "CHANNELS 60 TO 69" and inserting "CHANNELS 52 TO 69";

(ii) by striking "person who" and inserting "full-power television station licensee that";

(iii) by striking "746 and 806 megahertz" and inserting "698 and 806 megahertz"; and

(iv) by striking "the date on which the digital television service transition period terminates, as determined by the Commission" and inserting "February 17, 2009";

(B) in paragraph (2), by striking "746 megahertz" and inserting "698 megahertz"; and

SEC. 3003. AUCTION OF RECOVERED SPECTRUM.

(a) DEADLINE FOR AUCTION.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(1) by redesignating the second paragraph (15) of such section (as added by section 203(b) of the Commercial Spectrum Enhancement Act (P.L. 108–494; 118 Stat. 3993)), as paragraph (16) of such section; and

(2) in the first paragraph (15) of such section (as added by section 3(a)of the Auction Reform Act of 2002 (P.L. 107–195; 116 Stat. 716)), by adding at the end of subparagraph (C) the following new clauses:

"(v) ADDITIONAL DEADLINES FOR RECOVERED ANALOG SPECTRUM.—Notwithstanding subparagraph (B), the Commission shall conduct the auction of the licenses for recovered analog spectrum by commencing the bidding not later than January 28, 2008, and shall deposit the proceeds of such auction in accordance with paragraph (8)(E)(ii) not later than June 30, 2008.

"(vi) RECOVERED ANALOG SPECTRUM.—For purposes of clause (v), the term 'recovered analog spectrum' means the spectrum between channels 52 and 69, inclusive (between frequencies 698 and 806 megahertz, inclusive) reclaimed from analog television service broadcasting under paragraph (14), other than—

"(I) the spectrum required by section 337 to be made available for public safety services; and

"(II) the spectrum auctioned prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005.".

(b) EXTENSION OF AUCTION AUTHORITY.—Section 309(j)(11) of such Act (47 U.S.C. 309(j)(11)) is amended by striking "2007" and inserting "2011".

SEC. 3004. RESERVATION OF AUCTION PROCEEDS.

Section 309(j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)) is amended—

(1) in subparagraph (A), by striking "subparagraph (B) or subparagraph (D)" and inserting "subparagraphs (B), (D), and (E)";

(2) in subparagraph (C)(i), by inserting before the semicolon at the end the following: ", except as otherwise provided in subparagraph (E)(ii)"; and

(3) by adding at the end the following new subparagraph:

"(E) TRANSFER OF RECEIPTS.—

"(i) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the Digital Television Transition and Public Safety Fund.

"(ii) PROCEEDS FOR FUNDS.—Notwithstanding subparagraph (A), the proceeds (including deposits and upfront payments from successful bidders) from the use of a competitive bidding system under this subsection with respect to recovered analog spectrum shall be deposited in the Digital Television Transition and Public Safety Fund.

"(iii) TRANSFER OF AMOUNT TO TREASURY.—On September 30, 2009, the Secretary shall transfer $7,363,000,000 from the Digital Television Transition and Public Safety Fund to the general fund of the Treasury.

"(iv) RECOVERED ANALOG SPECTRUM.—For purposes of clause (i), the term 'recovered analog spectrum' has the meaning provided in paragraph (15)(C)(vi).".

SEC. 3005. DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM.

(a) CREATION OF PROGRAM.—The Assistant Secretary shall—

(1) implement and administer a program through which households in the United States may obtain coupons that can be applied toward the purchase of digital-to-analog converter boxes; and

(2) make payments of not to exceed $990,000,000, in the aggregate, through fiscal year 2009 to carry out that program from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E).

(b) CREDIT.—The Assistant Secretary may borrow from the Treasury beginning on October 1, 2009 such sums as may be necessary, but not to exceed $1,500,000,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

(c) PROGRAM SPECIFICATIONS.—

(1) LIMITATIONS.—

(A) TWO-PER-HOUSEHOLD MAXIMUM.—A household may obtain coupons by making a request as required by the regulations under this section between January 1, 2008, and March 31, 2009, inclusive. The Assistant Secretary shall ensure that each requesting household receives, via the United States Postal Service, no more than two coupons.

(B) NO COMBINATIONS OF COUPONS.—Two coupons may not be used in combination toward the purchase of a single digital-to-analog converter box.

(C) DURATION.—All coupons shall expire 3 months after issuance.

(2) DISTRIBUTION OF COUPONS.—The Assistant Secretary shall expend not more than $100,000,000 on administrative expenses and shall ensure that the sum of—

(A) all administrative expenses for the program, including not more than $5,000,000 for consumer education concerning the digital television transition and the availability of the digital-to-analog converter box program; and

(B) the total maximum value of all the coupons redeemed, and issued but not expired, does not exceed $990,000,000.

(3) USE OF ADDITIONAL AMOUNT.—If the Assistant Secretary transmits to the Committee on Energy and Commerce of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate a statement certifying that the sum permitted to be expended under paragraph (2) will be insufficient to fulfill the requests for coupons from eligible households—

(A) paragraph (2) shall be applied—

(i) by substituting "$160,000,000" for "$100,000,000"; and

(ii) by substituting "$1,500,000,000" for "$990,000,000";

(B) subsection (a)(2) shall be applied by substituting "$1,500,000,000" for "$990,000,000"; and

(C) the additional amount permitted to be expended shall be available 60 days after the Assistant Secretary sends such statement.

(4) COUPON VALUE.—The value of each coupon shall be $40.

(e) DEFINITION OF DIGITAL-TO-ANALOG CONVERTER BOX.—For purposes of this section, the term "digital-to-analog converter box" means a stand-alone device that does not contain features or functions except those necessary to enable a consumer to convert any channel broadcast in the digital television service into a format that the consumer can display on television receivers designed to receive and display signals only in the analog television service, but may also include a remote control device.

SEC. 3006. PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS.

(a) CREATION OF PROGRAM.—The Assistant Secretary, in consultation with the Secretary of the Department of Homeland Security—

(1) may take such administrative action as is necessary to establish and implement a grant program to assist public safety agencies in the acquisition of, deployment of, or training for the use of interoperable communications systems that utilize, or enable interoperability with communications systems that can utilize, reallocated public safety spectrum for radio communication; and

(2) shall make payments of not to exceed $1,000,000,000, in the aggregate, through fiscal year 2010 to carry out that program from the Digital Television Transition and Public Safety Fund established under section

309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E).

(b) CREDIT.—The Assistant Secretary may borrow from the Treasury beginning on October 1, 2006 such sums as may be necessary, but not to exceed $1,000,000,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

(c) CONDITION OF GRANTS.—In order to obtain a grant under the grant program, a public safety agency shall agree to provide, from non-Federal sources, not less than 20 percent of the costs of acquiring and deploying the interoperable communications systems funded under the grant program.

(d) DEFINITIONS.—For purposes of this section:

(1) PUBLIC SAFETY AGENCY.—The term "public safety agency" means any State, local, or tribal government entity, or nongovernmental organization authorized by such entity, whose sole or principal purpose is to protect the safety of life, health, or property.

(2) INTEROPERABLE COMMUNICATIONS SYSTEMS.—The term "interoperable communications systems" means communications systems which enable public safety agencies to share information amongst local, State, Federal, and tribal public safety agencies in the same area via voice or data signals.

(3) REALLOCATED PUBLIC SAFETY SPECTRUM.—The term "reallocated public safety spectrum" means the bands of spectrum located at 764 -776 megahertz and 794–806 megahertz, inclusive.

SEC. 3007. NYC 9/11 DIGITAL TRANSITION.

(a) FUNDS AVAILABLE.—From the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) the Assistant Secretary shall make payments of not to exceed $30,000,000, in the aggregate, which shall be available to carry out this section for fiscal years 2007 through 2008. The Assistant Secretary may borrow from the Treasury beginning October 1, 2006 such sums as may be necessary not to exceed $30,000,000 to implement and administer the program in accordance with this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

(b) USE OF FUNDS.—The sums available under subsection (a) shall be made available by the Assistant Secretary by grant to be used to reimburse the Metropolitan Television Alliance for costs incurred in the design and deployment of a temporary digital television broadcast system to ensure that, until a permanent facility atop the Freedom Tower is constructed, the members of the Metropolitan Television Alliance can provide the New York City area with an adequate digital television signal as determined by the Federal Communications Commission.

(d) DEFINITIONS.—For purposes of this section:

(1) METROPOLITAN TELEVISION ALLIANCE.—The term "Metropolitan Television Alliance" means the organization formed by New York City television broadcast station licensees to locate new shared facilities as a result of the attacks on September 11, 2001 and the loss of use of shared facilities that housed broadcast equipment.

(2) NEW YORK CITY AREA.—The term "New York City area" means the five counties comprising New York City and counties of northern New Jersey in immediate proximity to New York City (Bergen, Essex, Union, and Hudson Counties) .

SEC. 3008. LOW-POWER TELEVISION AND TRANSLATOR DIGITAL-TO-ANALOG CONVERSION.

(a) CREATION OF PROGRAM.—The Assistant Secretary shall make payments of not to exceed $10,000,000, in the aggregate, during the fiscal year 2008 and 2009 period from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement and administer a program through which each eligible low-power television station may receive compensation toward the cost of the purchase of a digital-to-analog conversion device that enables it to convert the incoming digital signal of its corresponding full-power television station to analog format for transmission on the low-power television station's analog channel. An eligible low-power television station may receive such compensation only if it submits a request for such compensation on or before February 17, 2009. Priority compensation shall be given to eligible low-power television stations in which the license is held by a non-profit corporation and eligible low-power television stations that serve rural areas of fewer than 10,000 viewers.

(b) CREDIT.—The Assistant Secretary may borrow from the Treasury beginning October 1, 2006 such sums as may be necessary, but not to exceed $10,000,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

(c) ELIGIBLE STATIONS.—For purposes of this section, the term "eligible low-power television station" means a low-power television broadcast station, Class A television station, television translator station, or television booster station—

(1) that is itself broadcasting exclusively in analog format; and

(2) that has not purchased a digital-to-analog conversion device prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005.

SEC. 3009. LOW-POWER TELEVISION AND TRANSLATOR UPGRADE PROGRAM.

(a) ESTABLISHMENT.—The Assistant Secretary shall make payments of not to exceed $65,000,000, in the aggregate, during the fiscal year 2009 from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement and administer a program through which each licensee of an eligible low-power television station may receive reimbursement for equipment to upgrade low-power television stations from analog to digital in eligible rural communities, as that term is defined in section 610(b)(2) of the Rural Electrification Act of 1937 (7 U.S.C. 950bb(b)(2)). Such reimbursements shall be issued to eligible stations no earlier than October 1, 2010. Priority reimbursements shall be given to eligible low-power television stations in which the license is held by a non-profit corporation and eligible low-power television stations that serve rural areas of fewer than 10,000 viewers.

(b) ELIGIBLE STATIONS.—For purposes of this section, the term "eligible low-power television station" means a low-power television broadcast station, Class A television station, television translator station, or television booster station—

(1) that is itself broadcasting exclusively in analog format; and

(2) that has not converted from analog to digital operations prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005.

SEC. 3010. NATIONAL ALERT AND TSUNAMI WARNING PROGRAM.

The Assistant Secretary shall make payments of not to exceed $156,000,000, in the aggregate, during the fiscal year 2007 through 2012 period from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement a unified national alert system capable of alerting the public, on a national, regional, or local basis to emergency situations by using a variety of communications technologies. The Assistant Secretary shall use $50,000,000 of such amounts to implement a tsunami warning and coastal vulnerability program.

SEC. 3011. ENHANCE 911.

The Assistant Secretary shall make payments of not to exceed $43,500,000, in the aggregate, from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement the ENHANCE 911 Act of 2004.

SEC. 3012. ESSENTIAL AIR SERVICE PROGRAM.

(a) IN GENERAL.—If the amount appropriated to carry out the essential air service program under subchapter II of chapter 417 of title 49, United States Code, equals or exceeds $110,000,000 for fiscal year 2007 or 2008, then the Secretary of Commerce shall make $15,000,000 available, from the Digital Television Transition and Public Safety Fund established by section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)), to the Secretary of Transportation for use in carrying out the essential air service program for that fiscal year.

(b) APPLICATION WITH OTHER FUNDS.—Amounts made available under subsection (a) for any fiscal year shall be in addition to any amounts—

(1) appropriated for that fiscal year; or

(2) derived from fees collected pursuant to section 45301(a)(1) of title 49, United States Code, that are made available for obligation and expenditure to carry out the essential air service program for that fiscal year.

(c) ADVANCES.—The Secretary of Transportation may borrow from the Treasury such sums as may be necessary, but not to exceed $30,000,000 on a temporary and reimbursable basis to implement subsection (a). The Secretary of Transportation shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) and made available to the Secretary under subsection (a).

SEC. 3014. SUPPLEMENTAL LICENSE FEES.

In addition to any fees assessed under the Communications Act of 1934 (47 U.S.C. 151 et seq.), the Federal Communications Commission shall assess extraordinary fees for licenses in the aggregate amount of $10,000,000, which shall be deposited in the Treasury during fiscal year 2006 as offsetting receipts.

TITLE IV—TRANSPORTATION PROVISIONS

SEC. 4001. EXTENSION OF VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act entitled "An Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes", approved August 5, 1909 (36 Stat. 111; 46 U.S.C. App. 121), is amended—

(1) by striking "9 cents per ton" and all that follows through "2002," the first place it appears and inserting "4.5 cents per ton, not to exceed in the aggregate 22.5 cents per ton in any one year, for fiscal years 2006 through 2010," and

(2) by striking "27 cents per ton" and all that follows through "2002," and inserting "13.5 cents per ton, not to exceed 67.5 cents per ton per annum, for fiscal years 2006 through 2010,".

(b) Conforming Amendment.—The Act entitled "An Act concerning tonnage duties on vessels entering otherwise than by sea", approved March 8, 1910 (36 Stat. 234; 46 U.S.C. App. 132), is amended by striking "9 cents per ton" and all that follows through "and 2 cents" and inserting "4.5 cents per ton, not to exceed in the aggregate 22.5 cents per ton in any one year, for fiscal years 2006 through 2010, and 2 cents".

TITLE V—MEDICARE

Subtitle A—Provisions Relating to Part A

SEC. 5001. HOSPITAL QUALITY IMPROVEMENT.

(a) Submission of Hospital Data.—Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(1) in clause (i)—

(A) in subclause (XIX), by striking "2007" and inserting "2006"; and

(B) in subclause (XX), by striking "for fiscal year 2008 and each subsequent fiscal year," and inserting "for each subsequent fiscal year, subject to clause (viii),";

(2) in clause (vii)—

(A) in subclause (I), by striking "for each of fiscal years 2005 through 2007" and inserting "for fiscal years 2005 and 2006"; and

(B) in subclause (II), by striking "Each" and inserting "For fiscal years 2005 and 2006, each"; and

(3) by adding at the end the following new clauses:

"(viii)(I) For purposes of clause (i) for fiscal year 2007 and each subsequent fiscal year, in the case of a subsection (d) hospital that does not submit, to the Secretary in accordance with this clause, data required to be submitted on measures selected under this clause with respect to such a fiscal year, the applicable percentage increase under clause (i) for such fiscal year shall be reduced by 2.0 percentage points. Such reduction shall apply only with respect to the fiscal year involved and the Secretary shall not take into account such reduction in computing the applicable percentage increase under clause (i) for a subsequent fiscal year, and the Secretary and the Medicare Payment Advisory Commission shall carry out the requirements under section 5001(b) of the Deficit Reduction Act of 2005.

"(II) Each subsection (d) hospital shall submit data on measures selected under this clause to the Secretary in a form and manner, and at a time, specified by the Secretary for purposes of this clause.

"(III) The Secretary shall expand, beyond the measures specified under clause (vii)(II) and consistent with the succeeding subclauses, the set of measures that the Secretary determines to be appropriate for the measurement of the quality of care furnished by hospitals in inpatient settings.

"(IV) Effective for payments beginning with fiscal year 2007, in expanding the number of measures under subclause (III), the Secretary shall begin to adopt the baseline set of performance measures as set forth in the November 2005 report by the Institute of Medicine of the National Academy of Sciences under section 238(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

"(V) Effective for payments beginning with fiscal year 2008, the Secretary shall add other measures that reflect consensus among affected parties and, to the extent feasible and practicable, shall include measures set forth by one or more national consensus building entities.

"(VI) For purposes of this clause and clause (vii), the Secretary may replace any measures or indicators in appropriate cases, such as where all hospitals are effectively in compliance or the measures or indicators have been subsequently shown not to represent the best clinical practice.

"(VII) The Secretary shall establish procedures for making data submitted under this clause available to the public. Such procedures shall ensure that a hospital has the opportunity to review the data that are to be made public with respect to the hospital prior to such data being made public. The Secretary shall report quality measures of process, structure, outcome, patients' perspectives on care, efficiency, and costs of care that relate to services furnished in inpatient settings in hospitals on the Internet website of the Centers for Medicare & Medicaid Services.".

(b) Plan for Hospital Value Based Purchasing Program.—

(1) In general.—The Secretary of Health and Human Services shall develop a plan to implement a value based purchasing program for payments under the Medicare program for subsection (d) hospitals beginning with fiscal year 2009.

(2) Details.—Such a plan shall include consideration of the following issues:

(A) The on-going development, selection, and modification process for measures of quality and efficiency in hospital inpatient settings.

(B) The reporting, collection, and validation of quality data.

(C) The structure of value based payment adjustments, including the determination of thresholds or improvements in quality that would substantiate a payment adjustment, the size of such payments, and the sources of funding for the value based payments.

(D) The disclosure of information on hospital performance.

In developing such a plan, the Secretary shall consult with relevant affected parties and shall consider experience with such demonstrations that are relevant to the value based purchasing program under this subsection.

(c) Quality Adjustment in DRG Payments for Certain Hospital Acquired Infections.—

(1) In general.—Section 1886(d)(4) of the Social Security Act (42 U.S.C. 1395ww(d)(4)) is amended by adding at the end the following new subparagraph:

"(D)(i) For discharges occurring on or after October 1, 2008, the diagnosis-related group to be assigned under this paragraph for a discharge described in clause (ii) shall be a diagnosis-related group that does not result in higher payment based on the presence of a secondary diagnosis code described in clause (iv).

"(ii) A discharge described in this clause is a discharge which meets the following requirements:

"(I) The discharge includes a condition identified by a diagnosis code selected under clause (iv) as a secondary diagnosis.

"(II) But for clause (i), the discharge would have been classified to a diagnosis-related group that results in a higher payment based on the presence of a secondary diagnosis code selected under clause (iv).

"(III) At the time of admission, no code selected under clause (iv) was present.

"(iii) As part of the information required to be reported by a hospital with respect to a discharge of an individual in order for payment to be made under this subsection, for discharges occurring on or after October 1, 2007, the information shall include the secondary diagnosis of the individual at admission.

"(iv) By not later than October 1, 2007, the Secretary shall select diagnosis codes associated with at least two conditions, each of which codes meets all of the following requirements (as determined by the Secretary):

"(I) Cases described by such code have a high cost or high volume, or both, under this title.

"(II) The code results in the assignment of a case to a diagnosis-related group that has a higher payment when the code is present as a secondary diagnosis.

"(III) The code describes such conditions that could reasonably have been prevented through the application of evidence-based guidelines.

The Secretary may from time to time revise (through addition or deletion of codes) the diagnosis codes selected under this clause so long as there are diagnosis codes associated with at least two conditions selected for discharges occurring during any fiscal year.

"(v) In selecting and revising diagnosis codes under clause (iv), the Secretary shall consult with the Centers for Disease Control and Prevention and other appropriate entities.

"(vi) Any change resulting from the application of this subparagraph shall not be taken into account in adjusting the weighting factors under subparagraph (C)(i) or in applying budget neutrality under subparagraph (C)(iii).".

(2) No judicial review.—Section 1886(d)(7)(B) of such Act (42 U.S.C. 1395ww(d)(7)(B)) is amended by inserting before the period the following: ", including the selection and revision of codes under paragraph (4)(D)".

SEC. 5002. CLARIFICATION OF DETERMINATION OF MEDICAID PATIENT DAYS FOR DSH COMPUTATION.

(a) In General.—Section 1886(d)(5)(F)(vi) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(vi)) is amended by adding after and below subclause (II) the following: "In determining under subclause (II) the number of the hospital's patient days for such period which consist of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX, the Secretary may, to the extent and for the period the Secretary determines appropriate, include patient days of patients not so eligible but who are regarded as such because they receive benefits under a demonstration project approved under title XI.".

(b) Ratification and Prospective Application of Previous Regulations.—

(1) In general.—Subject to paragraph (2), regulations described in paragraph (3), insofar as such regulations provide for the treatment of individuals eligible for medical assistance under a demonstration project approved under title XI of the Social Security Act under section 1886(d)(5)(F)(vi) of such Act, are hereby ratified, effective as of the date of their respective promulgations.

(2) No application to closed cost reports.—Paragraph (1) shall not be applied in a manner that requires the reopening of any cost reports which are closed as of the date of the enactment of this Act.

(3) Regulations described.—For purposes of paragraph (1), the regulations described in this paragraph are as follows:

(A) 2000 regulation.—Regulations promulgated on January 20, 2000, at 65 Federal Register 3136 et seq, including the policy in such regulations regarding discharges occurring prior to January 20, 2000.

(B) 2003 Regulation.—Regulations promulgated on August 1, 2003, at 68 Federal Register 45345 et seq.

SEC. 5003. IMPROVEMENTS TO THE MEDICARE-DEPENDENT HOSPITAL (MDH) PROGRAM.

(a) 5-Year Extension.—

(1) Extension of Payment Methodology.—Section 1886(d)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking "October 1, 2006" and inserting "October 1, 2011"; and

(B) in clause (ii)(II)—

(i) by striking "October 1, 2006" and inserting "October 1, 2011"; and

(ii) by inserting "or for discharges in the fiscal year" after "for the cost reporting period".

(2) Conforming amendments.—

(A) Extension of target amount.—Section 1886(b)(3)(D) of such Act (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(i) in the matter preceding clause (i)—

(I) by striking "beginning" and inserting "occurring"; and

(II) by striking "October 1, 2006" and inserting "October 1, 2011"; and

(ii) in clause (iv), by striking "through fiscal year 2005" and inserting "through fiscal year 2011".

(B) Permitting hospitals to decline reclassification.—Section 13501(e)(2) of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 1395ww note) is amended by striking "through fiscal year 2005" and inserting "through fiscal year 2011".

(b) Option to Use 2002 as Base Year.—Section 1886(b)(3) of such Act (42 U.S.C. 1395ww(b)(3)) is amended—

(1) in subparagraph (D), by inserting "subject to subparagraph (K)," after "(d)(5)(G)),"; and

(2) by adding at the end the following new subparagraph:

"(K)(i) With respect to discharges occurring on or after October 1, 2006, in the case of a medicare-dependent, small rural hospital, for purposes of applying subparagraph (D)—

"(I) there shall be substituted for the base cost reporting period described in subparagraph (D)(i) the 12-month cost reporting period beginning during fiscal year 2002; and

"(II) any reference in such subparagraph to the 'first cost reporting period' described in such subparagraph is deemed a reference to the first cost reporting period beginning on or after October 1, 2006.

"(ii) This subparagraph shall only apply to a hospital if the substitution described in clause (i)(I) results in an increase in the target amount under subparagraph (D) for the hospital.".

(c) Enhanced Payment for Amount by Which the Target Exceeds the PPS Rate.—Section 1886(d)(5)(G)(ii)(II) of such Act (42 U.S.C. 1395ww(d)(5)(G)(iv)(II)) is amended by inserting "(or 75 percent in the case of discharges occurring on or after October 1, 2006)" after "50 percent".

(d) Enhanced Disproportionate Share Hospital (DSH) Treatment for Medicare Dependent Hospitals.—Section 1886(d)(5)(F)(xiv)(II) of such Act (42 U.S.C. 1395ww(d)(5)(F)(xiv)(II)) is amended by inserting "or, in the case of discharges occurring on or after October 1, 2006, as a medicare-dependent, small rural hospital under subparagraph (G)(iv)" before the period at the end.

SEC. 5004. REDUCTION IN PAYMENTS TO SKILLED NURSING FACILITIES FOR BAD DEBT.

(a) In General.—Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(V) In determining such reasonable costs for skilled nursing facilities with respect to cost reporting periods beginning on or after October 1, 2005, the amount of bad debts otherwise treated as allowed costs which are attributable to the coinsurance amounts under this title for individuals who are entitled to benefits under part A and—

"(i) are not described in section 1935(c)(6)(A)(ii) shall be reduced by 30 percent of such amount otherwise allowable; and

"(ii) are described in such section shall not be reduced.".

(b) Technical Amendment.—Section 1861(v)(1)(T) of such Act (42 U.S.C. 1395x(v)(1)(T)) is amended by striking "section 1833(t)(5)(B)" and inserting "section 1833(t)(8)(B)".

SEC. 5005. EXTENDED PHASE-IN OF THE INPATIENT REHABILITATION FACILITY CLASSIFICATION CRITERIA.

(a) In General.—Notwithstanding section 412.23(b)(2) of title 42, Code of Federal Regulations, the Secretary of Health and Human Services shall apply the applicable percent specified in subsection (b) in the classification criterion used under the IRF regulation (as defined in subsection (c)) to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility under the Medicare program under title XVIII of the Social Security Act.

(b) Applicable Percent.—For purposes of subsection (a), the applicable percent specified in this subsection for cost reporting periods—

(1) beginning during the 12-month period beginning on July 1, 2006, is 60 percent;

(2) beginning during the 12-month period beginning on July 1, 2007, is 65 percent; and

(3) beginning on or after July 1, 2008, is 75 percent.

(c) IRF Regulation.—For purposes of subsection (a), the term "IRF regulation" means the rule published in the Federal Register on May 7, 2004, entitled "Medicare Program; Final Rule; Changes to the Criteria for Being Classified as an Inpatient Rehabilitation Facility" (69 Fed. Reg. 25752).

SEC. 5006. DEVELOPMENT OF A STRATEGIC PLAN REGARDING PHYSICIAN INVESTMENT IN SPECIALTY HOSPITALS.

(a) Development.—

(1) In general.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall develop a strategic and implementing plan to address issues described in paragraph (2) regarding physician investment in specialty hospitals (as defined in section 1877(h)(7)(A) of the Social Security Act (42 U.S.C. 1395nn(h)(7)(A)).

(2) Issues described.—The issues described in this paragraph are the following:

(A) Proportionality of investment return.

(B) Bona fide investment.

(C) Annual disclosure of investment information.

(D) The provision by specialty hospitals of—

(i) care to patients who are eligible for medical assistance under a State plan approved under title XIX of the Social Security Act, including patients not so eligible but who are regarded as such because they receive benefits under a demonstration project approved under title XI of such Act; and

(ii) charity care.

(E) Appropriate enforcement.

(b) Reports.—

(1) Interim report.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall submit an interim report to the appropriate committees of jurisdiction of Congress on the status of the development of the plan under subsection (a).

(2) Final report.—Not later six months after the date of the enactment of this Act, the Secretary shall submit a final report to the appropriate committees of jurisdiction of Congress on the plan developed under subsection (a) together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(c) Continuation of Suspension on Enrollment.—

(1) In general.—Subject to paragraph (2), the Secretary shall continue the suspension on enrollment of new specialty hospitals (as so defined) under title XVIII of the Social Security Act until the earlier of—

(A) the date that the Secretary submits the final report under subsection (b)(2); or

(B) the date that is six months after the date of the enactment of this Act.

(2) Extension of suspension.—If the Secretary fails to submit the final report described in subsection (b)(2) by the date required under such subsection, the Secretary shall—

(A) extend the suspension on enrollment under paragraph (1) for an additional two months; and

(B) provide a certification to the appropriate committees of jurisdiction of Congress of such failure.

(d) Waiver.—In developing the plan and report required under this section, the Secretary may waive such requirements of section 553 of title 5, United States Code, as the Secretary determines necessary.

(e) Funding.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary for fiscal year 2006, $2,000,000 to carry out this section.

SEC. 5007. MEDICARE DEMONSTRATION PROJECTS TO PERMIT GAINSHARING ARRANGEMENTS.

(a) Establishment.—The Secretary shall establish under this section a qualified gainsharing demonstration program under which the Secretary shall approve demonstration projects by not later than November 1, 2006, to test and evaluate methodologies and arrangements between hospitals and physicians designed to govern the utilization of inpatient hospital resources and physician work to improve the quality and efficiency of care provided to Medicare beneficiaries and to develop improved operational and financial hospital performance with sharing of remuneration as specified in the project. Such projects shall be operational by not later than January 1, 2007.

(b) Requirements Described.—A demonstration project under this section shall meet the following requirements for purposes of maintaining or improving quality while achieving cost savings:

(1) Arrangement for remuneration as share of savings.—The demonstration project shall involve an arrangement between a hospital and a physician under which the hospital provides remuneration to the physician that represents solely a share of the savings incurred directly as a result of collaborative efforts between the hospital and the physician.

(2) Written plan agreement.—The demonstration project shall be conducted pursuant to a written agreement that—

(A) is submitted to the Secretary prior to implementation of the project; and

(B) includes a plan outlining how the project will achieve improvements in quality and efficiency.

(3) PATIENT NOTIFICATION.—The demonstration project shall include a notification process to inform patients who are treated in a hospital participating in the project of the participation of the hospital in such project.

(4) MONITORING QUALITY AND EFFICIENCY OF CARE.—The demonstration project shall provide measures to ensure that the quality and efficiency of care provided to patients who are treated in a hospital participating in the demonstration project is continuously monitored to ensure that such quality and efficiency is maintained or improved.

(5) INDEPENDENT REVIEW.—The demonstration project shall certify, prior to implementation, that the elements of the demonstration project are reviewed by an organization that is not affiliated with the hospital or the physician participating in the project.

(6) REFERRAL LIMITATIONS.—The demonstration project shall not be structured in such a manner as to reward any physician participating in the project on the basis of the volume or value of referrals to the hospital by the physician.

(c) WAIVER OF CERTAIN RESTRICTIONS.—

(1) IN GENERAL.—An incentive payment made by a hospital to a physician under and in accordance with a demonstration project shall not constitute—

(A) remuneration for purposes of section 1128B of the Social Security Act (42 U.S.C. 1320a-7b);

(B) a payment intended to induce a physician to reduce or limit services to a patient entitled to benefits under Medicare or a State plan approved under title XIX of such Act in violation of section 1128A of such Act (42 U.S.C. 1320a-7a); or

(C) a financial relationship for purposes of section 1877 of such Act (42 U.S.C. 1395nn).

(2) PROTECTION FOR EXISTING ARRANGEMENTS.—In no case shall the failure to comply with the requirements described in paragraph (1) affect a finding made by the Inspector General of the Department of Health and Human Services prior to the date of the enactment of this Act that an arrangement between a hospital and a physician does not violate paragraph (1) or (2) of section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7(a)).

(d) PROGRAM ADMINISTRATION.—

(1) SOLICITATION OF APPLICATIONS.—By not later than 90 days after the date of the enactment of this Act, the Secretary shall solicit applications for approval of a demonstration project, in such form and manner, and at such time specified by the Secretary.

(2) NUMBER OF PROJECTS APPROVED.—The Secretary shall approve not more than 6 demonstration projects, at least 2 of which shall be located in a rural area.

(3) DURATION.—The qualified gainsharing demonstration program under this section shall be conducted for the period beginning on January 1, 2007, and ending on December 31, 2009.

(e) REPORTS.—

(1) INITIAL REPORT.—By not later than December 1, 2006, the Secretary shall submit to Congress a report on the number of demonstration projects that will be conducted under this section.

(2) PROJECT UPDATE.—By not later than December 1, 2007, the Secretary shall submit to Congress a report on the details of such projects (including the project improvements towards quality and efficiency described in subsection (b)(2)(B)).

(3) QUALITY IMPROVEMENT AND SAVINGS.—By not later than December 1, 2008, the Secretary shall submit to Congress a report on quality improvement and savings achieved as a result of the qualified gainsharing demonstration program established under subsection (a).

(4) FINAL REPORT.—By not later than May 1, 2010, the Secretary shall submit to Congress a final report on the information described in paragraph (3).

(f) FUNDING.—

(1) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary for fiscal year 2006 $6,000,000, to carry out this section.

(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available for expenditure through fiscal year 2010.

(g) DEFINITIONS.—For purposes of this section:

(1) DEMONSTRATION PROJECT.—The term "demonstration project" means a project implemented under the qualified gainsharing demonstration program established under subsection(a).

(2) HOSPITAL.—The term "hospital" means a hospital that receives payment under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), and does not include a critical access hospital (as defined in section 1861(mm) of such Act (42 U.S.C. 1395x(mm))).

(3) MEDICARE.—The term "Medicare" means the programs under title XVIII of the Social Security Act.

(4) PHYSICIAN.—The term "physician" means, with respect to a demonstration project, a physician described in paragraph (1) or (3) of section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)) who is licensed as such a physician in the area in which the project is located and meets requirements to provide services for which benefits are provided under Medicare. Such term shall be deemed to include a practitioner described in section 1842(e)(18)(C) of such Act (42 U.S.C. 1395u(e)(18)(C)).

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 5008. POST-ACUTE CARE PAYMENT REFORM DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—By not later than January 1, 2008, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish a demonstration program for purposes of understanding costs and outcomes across different post-acute care sites. Under such program, with respect to diagnoses specified by the Secretary, an individual who receives treatment from a provider for such a diagnosis shall receive a single comprehensive assessment on the date of discharge from a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) of the needs of the patient and the clinical characteristics of the diagnosis to determine the appropriate placement of such patient in a post-acute care site. The Secretary shall use a standardized patient assessment instrument across all post-acute care sites to measure functional status and other factors during the treatment and at discharge from each provider. Participants in the program shall provide information on the fixed and variable costs for each individual. An additional comprehensive assessment shall be provided at the end of the episode of care.

(2) NUMBER OF SITES.—The Secretary shall conduct the demonstration program under this section with sufficient numbers to determine statistically reliable results.

(3) DURATION.—The Secretary shall conduct the demonstration program under this section for a 3-year period.

(b) WAIVER AUTHORITY.—The Secretary may waive such requirements of titles XI and XVIII of the Social Security Act (42 U.S.C. 1301 et seq.; 42 U.S.C. 1395 et seq.) as may be necessary for the purpose of carrying out the demonstration program under this section.

(c) REPORT.—Not later than 6 months after the completion of the demonstration program under this section, the Secretary shall submit to Congress a report on such program, that includes the results of the program and recommendations for such legislation and administrative action as the Secretary determines to be appropriate.

(d) FUNDING.—The Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i), $6,000,000 for the costs of carrying out the demonstration program under this section.

Subtitle B—Provisions Relating to Part B

CHAPTER 1—PAYMENT PROVISIONS

SEC. 5101. BENEFICIARY OWNERSHIP OF CERTAIN DURABLE MEDICAL EQUIPMENT (DME).

(a) DME.—

(1) IN GENERAL.—Section 1834(a)(7)(A) of the Social Security Act (42 U.S.C. 1395m(a)(7)(A)) is amended to read as follows:

"(A) PAYMENT.—In the case of an item of durable medical equipment not described in paragraphs (2) through (6), the following rules shall apply:

"(i) RENTAL.—

"(I) IN GENERAL.—Except as provided in clause (iii), payment for the item shall be made on a monthly basis for the rental of the item during the period of medical need (but payments under this clause may not extend over a period of continuous use (as determined by the Secretary) of longer than 13 months).

"(II) PAYMENT AMOUNT.—Subject to subparagraph (B), the amount recognized for the item, for each of the first 3 months of such period, is 10 percent of the purchase price recognized under paragraph (8) with respect to the item, and, for each of the remaining months of such period, is 7.5 percent of such purchase price.

"(ii) OWNERSHIP AFTER RENTAL.—On the first day that begins after the 13th continuous month during which payment is made for the rental of an item under clause (i), the supplier of the item shall transfer title to the item to the individual.

"(iii) PURCHASE AGREEMENT OPTION FOR POWER-DRIVEN WHEELCHAIRS.—In the case of a power-driven wheelchair, at the time the supplier furnishes the item, the supplier shall offer the individual the option to purchase the item, and payment for such item shall be made on a lump-sum basis if the individual exercises such option.

"(iv) MAINTENANCE AND SERVICING.—After the supplier transfers title to the item under clause (ii) or in the case of a power-driven wheelchair for which a purchase agreement has been entered into under clause (iii), maintenance and servicing payments shall, if the Secretary determines such payments are reasonable and necessary, be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the particular type of durable medical equipment), and such payments shall be in an amount determined to be appropriate by the Secretary.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items furnished for which the first rental month occurs on or after January 1, 2006.

(b) OXYGEN EQUIPMENT.—

(1) IN GENERAL.—Section 1834(a)(5) of such Act (42 U.S.C. 1395m(a)(5)) is amended—

(A) in subparagraph (A), by striking "and (E)" and inserting "(E), and (F)"; and

(B) by adding at the end the following new subparagraph:

"(F) OWNERSHIP OF EQUIPMENT.—

"(i) IN GENERAL.—Payment for oxygen equipment (including portable oxygen equipment) under this paragraph may not extend over a period of continuous use (as determined by the Secretary) of longer than 36 months.

"(ii) OWNERSHIP.—

"(I) TRANSFER OF TITLE.—On the first day that begins after the 36th continuous month during which payment is made for the equipment under this paragraph, the supplier of the equipment shall transfer title to the equipment to the individual.

"(II) PAYMENTS FOR OXYGEN AND MAINTENANCE AND SERVICING.—After the supplier transfers title to the equipment under subclause (I)—

"(aa) payments for oxygen shall continue to be made in the amount recognized for oxygen under paragraph (9) for the period of medical need; and

"(bb) maintenance and servicing payments shall, if the Secretary determines such payments are reasonable and necessary, be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the equipment), and such payments shall be in an amount determined to be appropriate by the Secretary.".

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by paragraph (1) shall take effect on January 1, 2006.

(B) APPLICATION TO CERTAIN INDIVIDUALS.—In the case of an individual receiving oxygen equipment on December 31, 2005, for which payment is made under section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)), the 36-month period described in paragraph (5)(F)(i) of such section, as added by paragraph (1), shall begin on January 1, 2006.

SEC. 5102. ADJUSTMENTS IN PAYMENT FOR IMAGING SERVICES.

(a) MULTIPLE PROCEDURE PAYMENT REDUCTION FOR IMAGING EXEMPTED FROM BUDGET NEUTRALITY.—Section 1848(c)(2)(B) of the Social Security Act (42 U.S.C. 1395w-4(c)(2)(B)) is amended—

(1) in clause (ii)(II), by striking "clause (iv)" and inserting "clauses (iv) and (v)";

(2) in clause (iv) in the heading, by inserting "OF CERTAIN ADDITIONAL EXPENDITURES" after "EXEMPTION"; and

(3) by adding at the end the following new clause:

"(v) EXEMPTION OF CERTAIN REDUCED EXPENDITURES FROM BUDGET-NEUTRALITY CALCULATION.—The following reduced expenditures, as estimated by the Secretary, shall not be taken into account in applying clause (ii)(II):

"(I) REDUCED PAYMENT FOR MULTIPLE IMAGING PROCEDURES.—Effective for fee schedules established beginning with 2007, reduced expenditures attributable to the multiple procedure payment reduction for imaging under the final rule published by the Secretary in the Federal Register on November 21, 2005 (42 CFR 405, et al.) insofar as it relates to the physician fee schedules for 2006 and 2007.".

(b) REDUCTION IN PHYSICIAN FEE SCHEDULE TO OPD PAYMENT AMOUNT FOR IMAGING SERVICES.—Section 1848 of such Act (42 U.S.C. 1395w-4) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR IMAGING SERVICES.—

"(A) IN GENERAL.—In the case of imaging services described in subparagraph (B) furnished on or after January 1, 2007, if—

"(i) the technical component (including the technical component portion of a global fee) of the service established for a year under the fee schedule described in paragraph (1) without application of the geographic adjustment factor described in paragraph (1)(C), exceeds

"(ii) the medicare OPD fee schedule amount established under the prospective payment system for hospital outpatient department services under paragraph (3)(D) of section 1833(t) for such service for such year, determined without regard to geographic adjustment under paragraph (2)(D) of such section,

the Secretary shall substitute the amount described in clause (ii), adjusted by the geographic adjustment factor described in paragraph (1)(C), for the fee schedule amount for such technical component for such year.

"(B) IMAGING SERVICES DESCRIBED.—For purposes of subparagraph (A), imaging services described in this subparagraph are imaging and computer-assisted imaging services, including X-ray, ultrasound (including echocardiography), nuclear medicine (including positron emission tomography), magnetic resonance imaging, computed tomography, and fluoroscopy, but excluding diagnostic and screening mammography."; and

(2) in subsection (c)(2)(B)(v), as added by subsection (a)(3), by adding at the end the following new subclause:

"(II) OPD PAYMENT CAP FOR IMAGING SERVICES.—Effective for fee schedules established beginning with 2007, reduced expenditures attributable to subsection (b)(4).".

SEC. 5103. LIMITATION ON PAYMENTS FOR PROCEDURES IN AMBULATORY SURGICAL CENTERS.

Section 1833(i)(2) of the Social Security Act (42 U.S.C. 1395l(i)(2)) is amended—

(1) in subparagraph (A), by inserting "subject to subparagraph (E)," after "subparagraph (D),";

(2) in subparagraph (D)(ii), by inserting before the period at the end the following: "and taking into account reduced expenditures that would apply if subparagraph (E) were to continue to apply, as estimated by the Secretary"; and

(3) by adding at the end the following new subparagraph:

"(E) With respect to surgical procedures furnished on or after January 1, 2007, and before the effective date of the implementation of a revised payment system under subparagraph (D), if—

"(i) the standard overhead amount under subparagraph (A) for a facility service for such procedure, without the application of any geographic adjustment, exceeds

"(ii) the medicare OPD fee schedule amount established under the prospective payment system for hospital outpatient department services under paragraph (3)(D) of section 1833(t) for such service for such year, determined without regard to geographic adjustment under paragraph (2)(D) of such section,

the Secretary shall substitute under subparagraph (A) the amount described in clause (ii) for the standard overhead amount for such service referred to in clause (i).".

SEC. 5104. UPDATE FOR PHYSICIANS' SERVICES FOR 2006.

(a) UPDATE FOR 2006.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w–4(d)) is amended—

(1) in paragraph (4)(B), in the matter preceding clause (i), by striking "paragraph (5)" and inserting "paragraphs (5) and (6)"; and

(2) by adding at the end the following new paragraph:

"(6) UPDATE FOR 2006.—The update to the single conversion factor established in paragraph (1)(C) for 2006 shall be 0 percent.".

(b) NOT TREATED AS CHANGE IN LAW AND REGULATION IN SUSTAINABLE GROWTH RATE DETERMINATION.—The amendments made by subsection (a) shall not be treated as a change in law for purposes of applying section 1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w-4(f)(2)(D)).

(c) MEDPAC REPORT.—

(1) IN GENERAL.—By not later than March 1, 2007, the Medicare Payment Advisory Commission shall submit a report to Congress on mechanisms that could be used to replace the sustainable growth rate system under section 1848(f) of the Social Security Act (42 U.S.C. 1395w–4(f)).

(2) REQUIREMENTS.—The report required under paragraph (1) shall—

(A) identify and examine alternative methods for assessing volume growth;

(B) review options to control the volume of physicians' services under the Medicare program while maintaining access to such services by Medicare beneficiaries;

(C) examine the application of volume controls under the Medicare physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w-4);

(D) identify levels of application of volume controls, such as group practice, hospital medical staff, type of service, geographic area, and outliers;

(E) examine the administrative feasibility of implementing the options reviewed under subparagraph (B), including the availability of data and time lags;

(F) examine the extent to which the alternative methods identified and examined under subparagraph (A) should be specified in such section 1848; and

(G) identify the appropriate level of discretion for the Secretary of Health and Human Services to change payment rates under the Medicare physician fee schedule or otherwise take steps that affect physician behavior.

Such report shall include such recommendations on alternative mechanisms to replace the sustainable growth rate system as the Medicare Payment Advisory Commission determines appropriate.

(3) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Medicare Payment Advisory Commission $550,000, to carry out this subsection.

SEC. 5105. THREE-YEAR TRANSITION OF HOLD HARMLESS PAYMENTS FOR SMALL RURAL HOSPITALS UNDER THE PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.

Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

(1) by inserting "(I)" before "In the case"; and

(2) by adding at the end the following new subclause:

"(II) In the case of a hospital located in a rural area and that has not more than 100 beds and that is not a sole community hospital (as defined in section 1886(d)(5)(D)(iii)), for covered OPD services furnished on or after January 1, 2006, and before January 1, 2009, for which the PPS amount is less than the pre-BBA amount, the amount of payment under this subsection shall be increased by the applicable percentage of the amount of such difference. For purposes of the previous sentence, with respect to covered OPD services furnished during 2006, 2007, or 2008, the applicable percentage shall be 95 percent, 90 percent, and 85 percent, respectively.".

SEC. 5106. UPDATE TO THE COMPOSITE RATE COMPONENT OF THE BASIC CASE-MIX ADJUSTED PROSPECTIVE PAYMENT SYSTEM FOR DIALYSIS SERVICES.

Section 1881(b)(12) of the Social Security Act (42 U.S.C. 1395rr(b)(12)) is amended—

(1) in subparagraph (F), in the flush matter at the end, by striking "Nothing" and inserting "Except as provided in subparagraph (G), nothing";

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) The Secretary shall increase the amount of the composite rate component of the basic case-mix adjusted system under subparagraph (B) for dialysis services furnished on or after January 1, 2006, by 1.6 percent above the amount of such composite rate component for such services furnished on December 31, 2005.".

SEC. 5107. REVISIONS TO PAYMENTS FOR THERAPY SERVICES.

(a) EXCEPTION TO CAPS FOR 2006.—

(1) IN GENERAL.—Section 1833(g) of the Social Security Act (42 U.S.C. 1395l(g)) is amended—

(A) in each of paragraphs (1) and (3), by striking "paragraph (4)" and inserting "paragraphs (4) and (5)"; and

(B) by adding at the end the following new paragraph:

"(5) With respect to expenses incurred during 2006 for services, the Secretary shall implement a process under which an individual enrolled under this part may, upon request of the individual or a person on behalf of the individual, obtain an exception from the uniform dollar limitation specified in paragraph (2), for services described in paragraphs (1) and (3) if the provision of such services is determined to be medically necessary. Under such process, if the Secretary does not make a decision on such a request for an exception within 10 business days of the date of the Secretary's receipt of the request, the Secretary shall be deemed to have found the services to be medically necessary.".

(2) TIMELY IMPLEMENTATION.—The Secretary of Health and Human Services shall waive such provisions of law and regulation (including those described in section 110(c) of Public Law 108-173) as are necessary to implement the amendments made by paragraph (1) on a timely basis and, notwithstanding any other provision of law, may implement such amendments by program instruction or otherwise. There shall be no administrative or judicial review under section 1869 or section 1878 of the Social Security Act (42 U.S.C. 1395ff and 1395oo), or otherwise of the process (including the establishment of the process) under section 1833(g)(5) of such Act, as added by paragraph (1).

(b) IMPLEMENTATION OF CLINICALLY APPROPRIATE CODE EDITS IN ORDER TO IDENTIFY AND ELIMINATE IMPROPER PAYMENTS FOR THERAPY SERVICES.—By not later than July 1, 2006, the Secretary of Health and Human Services shall implement clinically appropriate code edits with respect to payments under part B of title XVIII of the Social Security Act for physical therapy services, occupational therapy services, and speech-language pathology services in order to identify and eliminate improper payments for such services, including edits of clinically illogical combinations of procedure codes and other edits to control inappropriate billings.

CHAPTER 2—MISCELLANEOUS

SEC. 5111. ACCELERATED IMPLEMENTATION OF INCOME-RELATED REDUCTION IN PART B PREMIUM SUBSIDY.

Section 1839(i)(3)(B) of the Social Security Act (42 U.S.C. 1395r(i)(3)(B)) is amended—

(1) in the heading, by striking "5-YEAR" and inserting "3-YEAR";

(2) in the matter preceding clause (i), by striking "2011" and inserting "2009";

(3) in clause (i), by striking "20 percent" and inserting "33 percent";

(4) in clause (ii), by striking "40 percent" and inserting "67 percent"; and

(5) by striking clauses (iii) and (iv).

SEC. 5112. MEDICARE COVERAGE OF ULTRASOUND SCREENING FOR ABDOMINAL AORTIC ANEURYSMS.

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking "and" at the end of subparagraph (Y);

(B) by adding "and" at the end of subparagraph (Z) and moving such subparagraph 2 ems to the left; and

(C) by adding at the end the following new subparagraph:

"(AA) ultrasound screening for abdominal aortic aneurysm (as defined in subsection (bbb)) for an individual—

"(i) who receives a referral for such an ultrasound screening as a result of an initial preventive physical examination (as defined in section 1861(ww)(1));

"(ii) who has not been previously furnished such an ultrasound screening under this title; and

"(iii) who—

"(I) has a family history of abdominal aortic aneurysm; or

"(II) manifests risk factors included in a beneficiary category recommended for screening by the United States Preventive Services Task Force regarding abdominal aortic aneurysms;"; and

(2) by adding at the end the following new subsection:

"Ultrasound Screening for Abdominal Aortic Aneurysm

"(bbb) The term 'ultrasound screening for abdominal aortic aneurysm' means—

"(1) a procedure using sound waves (or such other procedures using alternative technologies, of commensurate accuracy and cost, that the Secretary may specify) provided for the early detection of abdominal aortic aneurysm; and

"(2) includes a physician's interpretation of the results of the procedure.".

(b) INCLUSION OF ULTRASOUND SCREENING FOR ABDOMINAL AORTIC ANEURYSM IN INITIAL PREVENTIVE PHYSICAL EXAMINATION.—Section 1861(ww)(2) of such Act (42 U.S.C. 1395x(ww)(2)) is amended by adding at the end the following new subparagraph:

"(L) Ultrasound screening for abdominal aortic aneurysm as defined in section 1861(bbb).".

(c) PAYMENT FOR ULTRASOUND SCREENING FOR ABDOMINAL AORTIC ANEURYSM.—Section 1848(j)(3) of such Act (42 U.S.C. 1395w-4(j)(3)) is amended by inserting "(2)(AA)," after "(2)(W),".

(d) FREQUENCY.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (L);

(2) by striking the semicolon at the end of subparagraph (M) and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(N) in the case of ultrasound screening for abdominal aortic aneurysm which is performed more frequently than is provided for under section 1861(s)(2)(AA);".

(e) NON-APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b) of such Act (42 U.S.C. 1395l(b)) is amended in the first sentence—

(1) by striking "and" before "(6)"; and

(2) by inserting ", and (7) such deductible shall not apply with respect to ultrasound screening for abdominal aortic aneurysm (as defined in section 1861(bbb))" before the period at the end.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2007.

SEC. 5113. IMPROVING PATIENT ACCESS TO, AND UTILIZATION OF, COLORECTAL CANCER SCREENING.

(a) NON-APPLICATION OF DEDUCTIBLE FOR COLORECTAL CANCER SCREENING TESTS.—Section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)), as amended by section 5112(e), is amended in the first sentence—

(1) by striking "and" before "(7)"; and

(2) by inserting ", and (8) such deductible shall not apply with respect to colorectal cancer screening tests (as described in section 1861(pp)(1))" before the period at the end.

(b) CONFORMING AMENDMENTS.—Paragraphs (2)(C)(ii) and (3)(C)(ii) of section 1834(d) of such Act (42 U.S.C. 1395m(d)) are each amended—

(1) by striking "DEDUCTIBLE AND" in the heading; and

(2) in subclause (I), by striking "deductible or" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2007.

SEC. 5114. DELIVERY OF SERVICES AT FEDERALLY QUALIFIED HEALTH CENTERS.

(a) COVERAGE.—

(1) IN GENERAL.—Section 1861(aa)(3) of the Social Security Act (42 U.S.C. 1395x(aa)(3)) is amended—

(A) in subparagraph (A), by striking ", and" and inserting "and services described in subsections (qq) and (vv); and";

(B) in subparagraph (B), by striking "sections 329, 330, and 340" and inserting "section 330"; and

(C) in the flush matter at the end, by inserting "by the center or by a health care professional under contract with the center" after "outpatient of a Federally qualified health center".

(2) CONSOLIDATED BILLING.—The first sentence of section 1842(b)(6)(F) of such Act (42 U.S.C. 1395u(b)(6)(F)) is amended—

(A) by striking "and (G)" and inserting "(G)"; and

(B) by inserting before the period at the end the following: ", and (H) in the case of services described in section 1861(aa)(3) that are furnished by a health care professional under contract with a Federally qualified health center, payment shall be made to the center".

(b) TECHNICAL CORRECTIONS.—Clauses (i) and (ii)(II) of section 1861(aa)(4)(A) of such Act (42 U.S.C. 1395x(aa)(4)(A)) are each amended by striking "(other than subsection (h))".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to services furnished on or after January 1, 2006.

SEC. 5115. WAIVER OF PART B LATE ENROLLMENT PENALTY FOR CERTAIN INTERNATIONAL VOLUNTEERS.

(a) IN GENERAL.—

(1) WAIVER OF PENALTY.—Section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)) is

amended in the second sentence by inserting the following before the period at the end: "or months for which the individual can demonstrate that the individual was an individual described in section 1837(k)(3)".

(2) SPECIAL ENROLLMENT PERIOD.—

(A) IN GENERAL.—Section 1837 of such Act (42 U.S.C. 1395p) is amended by adding at the end the following new subsection:

"(k)(1) In the case of an individual who—

"(A) at the time the individual first satisfies paragraph (1) or (2) of section 1836, is described in paragraph (3), and has elected not to enroll (or to be deemed enrolled) under this section during the individual's initial enrollment period; or

"(B) has terminated enrollment under this section during a month in which the individual is described in paragraph (3),

there shall be a special enrollment period described in paragraph (2).

"(2) The special enrollment period described in this paragraph is the 6-month period beginning on the first day of the month which includes the date that the individual is no longer described in paragraph (3).

"(3) For purposes of paragraph (1), an individual described in this paragraph is an individual who—

"(A) is serving as a volunteer outside of the United States through a program—

"(i) that covers at least a 12-month period; and

"(ii) that is sponsored by an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; and

"(B) demonstrates health insurance coverage while serving in the program.".

(B) COVERAGE PERIOD.—Section 1838 of such Act (42 U.S.C. 1395q) is amended by adding at the end the following new subsection:

"(f) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to section 1837(k), the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall apply to months beginning with January 2007 and the amendments made by subsection (a)(2) shall take effect on January 1, 2007.

Subtitle C—Provisions Relating to Parts A and B

SEC. 5201. HOME HEALTH PAYMENTS.

(a) 2006 UPDATE.—Section 1895(b)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395fff(b)(3)(B)(ii)) is amended—

(1) in subclause (III), by striking "each of 2005 and 2006" and inserting "all of 2005";

(2) by striking "or" at the end of subclause (III);

(3) in subclause (IV), by striking "2007 and" and by redesignating such subclause as subclause (V); and

(4) by inserting after subclause (III) the following new subclause:

"(IV) 2006, 0 percent; and".

(b) APPLYING RURAL ADD-ON POLICY FOR 2006.—Section 421(a) of Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2283) is amended by inserting "and episodes and visits beginning on or after January 1, 2006, and before January 1, 2007," after "April 1, 2005,".

(c) HOME HEALTH CARE QUALITY IMPROVEMENT.—Section 1895(b)(3)(B) of the Social Security Act (42 U.S.C.fff(b)(3)(B)) is amended—

(1) in clause (ii)(V), as redesignated by subsection (a)(3), by inserting "subject to clause (v)," after "subsequent year,"; and

(2) by adding at the end the following new clause:

"(v) ADJUSTMENT IF QUALITY DATA NOT SUBMITTED.—

"(I) ADJUSTMENT.—For purposes of clause (ii)(V), for 2007 and each subsequent year, in the case of a home health agency that does not submit data to the Secretary in accordance with subclause (II) with respect to such a year, the home health market basket percentage increase applicable under such clause for such year shall be reduced by 2 percentage points. Such reduction shall apply only with respect to the year involved, and the Secretary shall not take into account such reduction in computing the prospective payment amount under this section for a subsequent year, and the Medicare Payment Advisory Commission shall carry out the requirements under section 5201(d) of the Deficit Reduction Act of 2005.

"(II) SUBMISSION OF QUALITY DATA.—For 2007 and each subsequent year, each home health agency shall submit to the Secretary such data that the Secretary determines are appropriate for the measurement of health care quality. Such data shall be submitted in a form and manner, and at a time, specified by the Secretary for purposes of this clause.

"(III) PUBLIC AVAILABILITY OF DATA SUBMITTED.—The Secretary shall establish procedures for making data submitted under subclause (II) available to the public. Such procedures shall ensure that a home health agency has the opportunity to review the data that is to be made public with respect to the agency prior to such data being made public.".

(d) MEDPAC REPORT ON VALUE BASED PURCHASING.—

(1) IN GENERAL.—Not later than June 1, 2007, the Medicare Payment Advisory Commission shall submit to Congress a report that includes recommendations on a detailed structure of value based payment adjustments for home health services under the Medicare program under title XVIII of the Social Security Act. Such report shall include recommendations concerning the determination of thresholds, the size of such payments, sources of funds, and the relationship of payments for improvement and attainment of quality.

(2) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Medicare Payment Advisory Commission $550,000, to carry out this subsection.

SEC. 5202. REVISION OF PERIOD FOR PROVIDING PAYMENT FOR CLAIMS THAT ARE NOT SUBMITTED ELECTRONICALLY.

(a) REVISION.—

(1) PART A.—Section 1816(c)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395h(c)(3)(B)(ii)) is amended by striking "26 days" and inserting "28 days".

(2) PART B.—Section 1842(c)(3)(B)(ii) of such Act (42 U.S.C. 1395u(c)(3)(B)(ii)) is amended by striking "26 days" and inserting "28 days".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to claims submitted on or after January 1, 2006.

SEC. 5203. TIMEFRAME FOR PART A AND B PAYMENTS.

Notwithstanding sections 1816(c) and 1842(c)(2) of the Social Security Act or any other provision of law—

(1) any payment from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) or from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t) for claims submitted under part A or B of title XVIII of such Act for items and services furnished under such part A or B, respectively, that would otherwise be payable during the period beginning on September 22, 2006, and ending on September 30, 2006, shall be paid on the first business day of October 2006; and

(2) no interest or late penalty shall be paid to an entity or individual for any delay in a payment by reason of the application of paragraph (1).

SEC. 5204. MEDICARE INTEGRITY PROGRAM FUNDING.

Section 1817(k)(4) of the Social Security Act (42 U.S.C. 1395i(k)(4)) is amended—

(1) in subparagraph (B), by striking "The amount" and inserting "Subject to subparagraph (C), the amount"; and

(2) by adding at the end the following new subparagraph:

"(C) ADJUSTMENTS.—The amount appropriated under subparagraph (A) for a fiscal year is increased as follows:

"(i) For fiscal year 2006, $100,000,000.".

Subtitle D—Provisions Relating to Part C

SEC. 5301. PHASE-OUT OF RISK ADJUSTMENT BUDGET NEUTRALITY IN DETERMINING THE AMOUNT OF PAYMENTS TO MEDICARE ADVANTAGE ORGANIZATIONS.

(a) IN GENERAL.—Section 1853 of the Social Security Act (42 U.S.C. 1395w–23) is amended—

(1) in subsection (j)(1)—

(A) in subparagraph (A)—

(i) by inserting "(or, beginning with 2007, $\frac{1}{12}$ of the applicable amount determined under subsection (k)(1))" after "1853(c)(1)"; and

(ii) by inserting "(for years before 2007)" after "adjusted as appropriate";

(B) in subparagraph (B), by inserting "(for years before 2007)" after "adjusted as appropriate"; and

(2) by adding at the end the following new subsection:

"(k) DETERMINATION OF APPLICABLE AMOUNT FOR PURPOSES OF CALCULATING THE BENCHMARK AMOUNTS.—

"(1) APPLICABLE AMOUNT DEFINED.—For purposes of subsection (j), subject to paragraph (2), the term 'applicable amount' means for an area—

"(A) for 2007—

"(i) if such year is not specified under subsection (c)(1)(D)(ii), an amount equal to the amount specified in subsection (c)(1)(C) for the area for 2006—

"(I) first adjusted by the rescaling factor for 2006 for the area (as made available by the Secretary in the announcement of the rates on April 4, 2005, under subsection (b)(1), but excluding any national adjustment factors for coding intensity and risk adjustment budget neutrality that were included in such factor); and

"(II) then increased by the national per capita MA growth percentage, described in subsection (c)(6) for 2007, but not taking into account any adjustment under subparagraph (C) of such subsection for a year before 2004;

"(ii) if such year is specified under subsection (c)(1)(D)(ii), an amount equal to the greater of—

"(I) the amount determined under clause (i) for the area for the year; or

"(II) the amount specified in subsection (c)(1)(D) for the area for the year; and

"(B) for a subsequent year—

"(i) if such year is not specified under subsection (c)(1)(D)(ii), an amount equal to the amount determined under this paragraph for the area for the previous year (determined without regard to paragraph (2)), increased by the national per capita MA growth percentage, described in subsection (c)(6) for that succeeding year, but not taking into account any adjustment under subparagraph (C) of such subsection for a year before 2004; and

"(ii) if such year is specified under subsection (c)(1)(D)(ii), an amount equal to the greater of—

"(I) the amount determined under clause (i) for the area for the year; or

"(II) the amount specified in subsection (c)(1)(D) for the area for the year.

"(2) PHASE-OUT OF BUDGET NEUTRALITY FACTOR.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), in the case of 2007 through 2010, the applicable amount determined under paragraph (1) shall be multiplied by a factor equal to 1 plus the product of—

"(i) the percent determined under subparagraph (B) for the year; and

"(ii) the applicable phase-out factor for the year under subparagraph (C).

"(B) PERCENT DETERMINED.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), subject to clause (iv), the percent determined under this subparagraph for a year is a percent equal to a fraction the numerator of which is described in clause (ii) and the denominator of which is described in clause (iii).

"(ii) NUMERATOR BASED ON DIFFERENCE BETWEEN DEMOGRAPHIC RATE AND RISK RATE.—

"(I) IN GENERAL.—The numerator described in this clause is an amount equal to the amount by which the demographic rate described in subclause (II) exceeds the risk rate described in subclause (III).

"(II) DEMOGRAPHIC RATE.—The demographic rate described in this subclause is the Secretary's estimate of the total payments that would have been made under this part in the year if all the monthly payment amounts for all MA plans were equal to $\frac{1}{12}$ of the annual MA capitation rate under subsection (c)(1) for the area and year, adjusted pursuant to subsection (a)(1)(C).

"(III) RISK RATE.—The risk rate described in this subclause is the Secretary's estimate of the total payments that would have been made under this part in the year if all the monthly payment amounts for all MA plans were equal to the amount described in subsection (j)(1)(A) (determined as if this paragraph had not applied) under subsection (j) for the area and year, adjusted pursuant to subsection (a)(1)(C).

"(iii) DENOMINATOR BASED ON RISK RATE.—The denominator described in this clause is equal to the total amount estimated for the year under clause (ii)(III).

"(iv) REQUIREMENTS.—In estimating the amounts under the previous clauses, the Secretary shall—

"(I) use a complete set of the most recent and representative Medicare Advantage risk scores under subsection (a)(3) that are available from the risk adjustment model announced for the year;

"(II) adjust the risk scores to reflect changes in treatment and coding practices in the fee-for-service sector;

"(III) adjust the risk scores for differences in coding patterns between Medicare Advantage plans and providers under the original medicare fee-for-service program under parts A and B to the extent that the Secretary has identified such differences, as required in subsection (a)(1)(C);

"(IV) as necessary, adjust the risk scores for late data submitted by Medicare Advantage organizations;

"(V) as necessary, adjust the risk scores for lagged cohorts; and

"(VI) as necessary, adjust the risk scores for changes in enrollment in Medicare Advantage plans during the year.

"(v) AUTHORITY.—In computing such amounts the Secretary may take into account the estimated health risk of enrollees in preferred provider organization plans (including MA regional plans) for the year.

"(C) APPLICABLE PHASE-OUT FACTOR.—For purposes of subparagraph (A)(ii), the term 'applicable phase-out factor' means—

"(i) for 2007, 0.55;

"(ii) for 2008, 0.40;

"(iii) for 2009, 0.25; and

"(iv) for 2010, 0.05.

"(D) TERMINATION OF APPLICATION.—Subparagraph (A) shall not apply in a year if the amount estimated under subparagraph (B)(ii)(III) for the year is equal to or greater than the amount estimated under subparagraph (B)(ii)(II) for the year.

"(3) NO REVISION IN PERCENT.—

"(A) IN GENERAL.—The Secretary may not make any adjustment to the percent determined under paragraph (2)(B) for any year.

"(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the authority of the Secretary to make adjustments to the applicable amounts determined under paragraph (1) as appropriate for purposes of updating data or for purposes of adopting an improved risk adjustment methodology.".

(b) REFINEMENTS TO HEALTH STATUS ADJUSTMENT.—Section 1853(a)(1)(C) of such Act (42 U.S.C. 1395w–23) is amended—

(1) by designating the matter after the heading as a clause (i) with the following heading: "IN GENERAL.—" and indenting appropriately; and

(2) by adding at the end the following:

"(ii) APPLICATION DURING PHASE-OUT OF BUDGET NEUTRALITY FACTOR.—For 2006 through 2010:

"(I) In applying the adjustment under clause (i) for health status to payment amounts, the Secretary shall ensure that such adjustment reflects changes in treatment and coding practices in the fee-for-service sector and reflects differences in coding patterns between Medicare Advantage plans and providers under part A and B to the extent that the Secretary has identified such differences.

"(II) In order to ensure payment accuracy, the Secretary shall conduct an analysis of the differences described in subclause (I). The Secretary shall complete such analysis by a date necessary to ensure that the results of such analysis are incorporated into the risk scores only for 2008, 2009, and 2010. In conducting such analysis, the Secretary shall use data submitted with respect to 2004 and subsequent years, as available.".

SEC. 5302. RURAL PACE PROVIDER GRANT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) CMS.—The term "CMS" means the Centers for Medicare & Medicaid Services.

(2) PACE PROGRAM.—The term "PACE program" has the meaning given that term in sections 1894(a)(2) and 1934(a)(2) of the Social Security Act (42 U.S.C. 1395eee(a)(2); 1396u–4(a)(2)).

(3) PACE PROVIDER.—The term "PACE provider" has the meaning given that term in section 1894(a)(3) or 1934(a)(3) of the Social Security Act (42 U.S.C. 1395eee(a)(3); 1396u–4(a)(3)).

(4) RURAL AREA.—The term "rural area" has the meaning given that term in section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D)).

(5) RURAL PACE PILOT SITE.—The term "rural PACE pilot site" means a PACE provider that has been approved to provide services in a geographic service area that is, in whole or in part, a rural area, and that has received a site development grant under this section.

(6) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(b) SITE DEVELOPMENT GRANTS AND TECHNICAL ASSISTANCE PROGRAM.—

(1) SITE DEVELOPMENT GRANTS.—

(A) IN GENERAL.—The Secretary shall establish a process and criteria to award site development grants to qualified PACE providers that have been approved to serve a rural area.

(B) AMOUNT PER AWARD.—A site development grant awarded under subparagraph (A) to any individual rural PACE pilot site shall not exceed $750,000.

(C) NUMBER OF AWARDS.—Not more than 15 rural PACE pilot sites shall be awarded a site development grant under subparagraph (A).

(D) USE OF FUNDS.—Funds made available under a site development grant awarded under subparagraph (A) may be used for the following expenses only to the extent such expenses are incurred in relation to establishing or delivering PACE program services in a rural area:

(i) Feasibility analysis and planning.

(ii) Interdisciplinary team development.

(iii) Development of a provider network, including contract development.

(iv) Development or adaptation of claims processing systems.

(v) Preparation of special education and outreach efforts required for the PACE program.

(vi) Development of expense reporting required for calculation of outlier payments or reconciliation processes.

(vii) Development of any special quality of care or patient satisfaction data collection efforts.

(viii) Establishment of a working capital fund to sustain fixed administrative, facility, or other fixed costs until the provider reaches sufficient enrollment size.

(ix) Startup and development costs incurred prior to the approval of the rural PACE pilot site's PACE provider application by CMS.

(x) Any other efforts determined by the rural PACE pilot site to be critical to its successful startup, as approved by the Secretary.

(E) APPROPRIATION.—

(i) IN GENERAL.—Out of funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary to carry out this subsection for fiscal year 2006, $7,500,000.

(ii) AVAILABILITY.—Funds appropriated under clause (i) shall remain available for expenditure through fiscal year 2008.

(2) TECHNICAL ASSISTANCE PROGRAM.—The Secretary shall establish a technical assistance program to provide—

(A) outreach and education to State agencies and provider organizations interested in establishing PACE programs in rural areas; and

(B) technical assistance necessary to support rural PACE pilot sites.

(c) COST OUTLIER PROTECTION FOR RURAL PACE PILOT SITES.—

(1) ESTABLISHMENT OF FUND FOR REIMBURSEMENT OF OUTLIER COSTS.—Notwithstanding any other provision of law, the Secretary shall establish an outlier fund to reimburse rural PACE pilot sites for recognized outlier costs (as defined in paragraph (3)) incurred for eligible outlier participants (as defined in

paragraph (2)) in an amount, subject to paragraph (4), equal to 80 percent of the amount by which the recognized outlier costs exceeds $50,000.

(2) ELIGIBLE OUTLIER PARTICIPANT.—For purposes of this subsection, the term "eligible outlier participant" means a PACE program eligible individual (as defined in sections 1894(a)(5) and 1934(a)(5) of the Social Security Act (42 U.S.C. 1395eee(a)(5); 1396u–4(a)(5) who resides in a rural area and with respect to whom the rural PACE pilot site incurs more than $50,000 in recognized costs in a 12-month period.

(3) RECOGNIZED OUTLIER COSTS DEFINED.—

(A) IN GENERAL.—For purposes of this subsection, the term "recognized outlier costs" means, with respect to services furnished to an eligible outlier participant by a rural PACE pilot site, the least of the following (as documented by the site to the satisfaction of the Secretary) for the provision of inpatient and related physician and ancillary services for the eligible outlier participant in a given 12-month period:

(i) If the services are provided under a contract between the pilot site and the provider, the payment rate specified under the contract.

(ii) The payment rate established under the original medicare fee-for-service program for such service.

(iii) The amount actually paid for the services by the pilot site.

(B) INCLUSION IN ONLY ONE PERIOD.—Recognized outlier costs may not be included in more than one 12-month period.

(3) OUTLIER EXPENSE PAYMENT.—

(A) PAYMENT FOR OUTLIER COSTS.—Subject to subparagraph (B), in the case of a rural PACE pilot site that has incurred outlier costs for an eligible outlier participant, the rural PACE pilot site shall receive an outlier expense payment equal to 80 percent of such costs that exceed $50,000.

(4) LIMITATIONS.—

(A) COSTS INCURRED PER ELIGIBLE OUTLIER PARTICIPANT.—The total amount of outlier expense payments made under this subsection to a rural PACE pilot site with respect to an eligible outlier participant for any 12-month period shall not exceed $100,000 for the 12-month period used to calculate the payment.

(B) COSTS INCURRED PER PROVIDER.—No rural PACE pilot site may receive more than $500,000 in total outlier expense payments in a 12-month period.

(C) LIMITATION OF OUTLIER COST REIMBURSEMENT PERIOD.—A rural PACE pilot site shall only receive outlier expense payments under this subsection with respect to costs incurred during the first 3 years of the site's operation.

(5) REQUIREMENT TO ACCESS RISK RESERVES PRIOR TO PAYMENT.—A rural PACE pilot site shall access and exhaust any risk reserves held or arranged for the provider (other than revenue or reserves maintained to satisfy the requirements of section 460.80(c) of title 42, Code of Federal Regulations) and any working capital established through a site development grant awarded under subsection (b)(1), prior to receiving any payment from the outlier fund.

(6) APPLICATION.—In order to receive an outlier expense payment under this subsection with respect to an eligible outlier participant, a rural PACE pilot site shall submit an application containing—

(A) documentation of the costs incurred with respect to the participant;

(B) a certification that the site has complied with the requirements under paragraph (4); and

(C) such additional information as the Secretary may require.

(7) APPROPRIATION.—

(A) IN GENERAL.—Out of funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary to carry out this subsection for fiscal year 2006, $10,000,000.

(B) AVAILABILITY.—Funds appropriated under subparagraph (A) shall remain available for expenditure through fiscal year 2010.

(d) EVALUATION OF PACE PROVIDERS SERVING RURAL SERVICE AREAS.—Not later than 60 months after the date of enactment of this Act, the Secretary shall submit a report to Congress containing an evaluation of the experience of rural PACE pilot sites.

(e) AMOUNTS IN ADDITION TO PAYMENTS UNDER SOCIAL SECURITY ACT.—Any amounts paid under the authority of this section to a PACE provider shall be in addition to payments made to the provider under section 1894 or 1934 of the Social Security Act (42 U.S.C. 1395eee; 1396u–4).

TITLE VI—MEDICAID AND SCHIP

Subtitle A—Medicaid

CHAPTER 1—PAYMENT FOR PRESCRIPTION DRUGS

SEC. 6001. FEDERAL UPPER PAYMENT LIMIT FOR MULTIPLE SOURCE DRUGS AND OTHER DRUG PAYMENT PROVISIONS.

(a) MODIFICATION OF FEDERAL UPPER PAYMENT LIMIT FOR MULTIPLE SOURCE DRUGS; DEFINITION OF MULTIPLE SOURCE DRUGS.—Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended—

(1) in subsection (e)(4)—

(A) by striking "The Secretary" and inserting "Subject to paragraph (5), the Secretary"; and

(B) by inserting "(or, effective January 1, 2007, two or more)" after "three or more";

(2) by adding at the end of subsection (e) the following new paragraph:

"(5) USE OF AMP IN UPPER PAYMENT LIMITS.—Effective January 1, 2007, in applying the Federal upper reimbursement limit under paragraph (4) and section 447.332(b) of title 42 of the Code of Federal Regulations, the Secretary shall substitute 250 percent of the average manufacturer price (as computed without regard to customary prompt pay discounts extended to wholesalers) for 150 percent of the published price.";

(3) in subsection (k)(7)(A)(i), in the matter preceding subclause (I), by striking "are 2 or more drug products" and inserting "at least 1 other drug product"; and

(4) in subclauses (I), (II), and (III) of subsection (k)(7)(A)(i), by striking "are" and inserting "is" each place it appears.

(b) DISCLOSURE OF PRICE INFORMATION TO STATES AND THE PUBLIC.—Subsection (b)(3) of such section is amended—

(1) in subparagraph (A)—

(A) in clause (i), by inserting "month of a" after "last day of each"; and

(B) by adding at the end the following: "Beginning July 1, 2006, the Secretary shall provide on a monthly basis to States under subparagraph (D)(iv) the most recently reported average manufacturer prices for single source drugs and for multiple source drugs and shall, on at least a quarterly basis, update the information posted on the website under subparagraph (D)(v)."; and

(2) in subparagraph (D)—

(A) by striking "and" at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting a comma; and

(C) by inserting after clause (iii) the following new clauses:

"(iv) to States to carry out this title, and

"(v) to the Secretary to disclose (through a website accessible to the public) average manufacturer prices.".

(c) DEFINITION OF AVERAGE MANUFACTURER PRICE.—

(1) EXCLUSION OF CUSTOMARY PROMPT PAY DISCOUNTS EXTENDED TO WHOLESALERS.—Subsection (k)(1) of such section is amended—

(A) by striking "The term" and inserting the following:

"(A) IN GENERAL.—Subject to subparagraph (B), the term";

(B) by striking ", after deducting customary prompt pay discounts"; and

(C) by adding at the end the following:

"(B) EXCLUSION OF CUSTOMARY PROMPT PAY DISCOUNTS EXTENDED TO WHOLESALERS.—The average manufacturer price for a covered outpatient drug shall be determined without regard to customary prompt pay discounts extended to wholesalers.".

(2) MANUFACTURER REPORTING OF PROMPT PAY DISCOUNTS.—Subsection (b)(3)(A)(i) of such section is amended by inserting ", customary prompt pay discounts extended to wholesalers," after "(k)(1))".

(3) REQUIREMENT TO PROMULGATE REGULATION.—

(A) INSPECTOR GENERAL RECOMMENDATIONS.—Not later than June 1, 2006, the Inspector General of the Department of Health and Human Services shall—

(i) review the requirements for, and manner in which, average manufacturer prices are determined under section 1927 of the Social Security Act, as amended by this section; and

(ii) shall submit to the Secretary of Health and Human Services and Congress such recommendations for changes in such requirements or manner as the Inspector General determines to be appropriate.

(B) DEADLINE FOR PROMULGATION.—Not later than July 1, 2007, the Secretary of Health and Human Services shall promulgate a regulation that clarifies the requirements for, and manner in which, average manufacturer prices are determined under section 1927 of the Social Security Act, taking into consideration the recommendations submitted to the Secretary in accordance with subparagraph (A)(ii).

(d) EXCLUSION OF SALES AT A NOMINAL PRICE FROM DETERMINATION OF BEST PRICE.—

(1) MANUFACTURER REPORTING OF SALES.—Subsection (b)(3)(A)(iii) of such section is amended by inserting before the period at the end the following: ", and, for calendar quarters beginning on or after January 1, 2007 and only with respect to the information described in subclause (III), for covered outpatient drugs".

(2) LIMITATION ON SALES AT A NOMINAL PRICE.—Subsection (c)(1) of such section is amended by adding at the end the following new subparagraph:

"(D) LIMITATION ON SALES AT A NOMINAL PRICE.—

"(i) IN GENERAL.—For purposes of subparagraph (C)(ii)(III) and subsection (b)(3)(A)(iii)(III), only sales by a manufacturer of covered outpatient drugs at nominal prices to the following shall be considered to be sales at a nominal price or merely nominal in amount:

"(I) A covered entity described in section 340B(a)(4) of the Public Health Service Act.

"(II) An intermediate care facility for the mentally retarded.

"(III) A State-owned or operated nursing facility.

"(IV) Any other facility or entity that the Secretary determines is a safety net provider to which sales of such drugs at a nominal price would be appropriate based on the factors described in clause (ii).

"(ii) FACTORS.—The factors described in this clause with respect to a facility or entity are the following:

"(I) The type of facility or entity.

"(II) The services provided by the facility or entity.

"(III) The patient population served by the facility or entity.

"(IV) The number of other facilities or entities eligible to purchase at nominal prices in the same service area.

"(iii) NONAPPLICATION.—Clause (i) shall not apply with respect to sales by a manufacturer at a nominal price of covered outpatient drugs pursuant to a master agreement under section 8126 of title 38, United States Code.".

(e) RETAIL SURVEY PRICES; STATE PAYMENT AND UTILIZATION RATES; AND PERFORMANCE RANKINGS.—Such section is further amended by inserting after subsection (e) the following new subsection:

"(f) SURVEY OF RETAIL PRICES; STATE PAYMENT AND UTILIZATION RATES; AND PERFORMANCE RANKINGS.—

"(1) SURVEY OF RETAIL PRICES.—

"(A) USE OF VENDOR.—The Secretary may contract services for—

"(i) the determination on a monthly basis of retail survey prices for covered outpatient drugs that represent a nationwide average of consumer purchase prices for such drugs, net of all discounts and rebates (to the extent any information with respect to such discounts and rebates is available); and

"(ii) the notification of the Secretary when a drug product that is therapeutically and pharmaceutically equivalent and bioequivalent becomes generally available.

"(B) SECRETARY RESPONSE TO NOTIFICATION OF AVAILABILITY OF MULTIPLE SOURCE PRODUCTS.—If contractor notifies the Secretary under subparagraph (A)(ii) that a drug product described in such subparagraph has become generally available, the Secretary shall make a determination, within 7 days after receiving such notification, as to whether the product is now described in subsection (e)(4).

"(C) USE OF COMPETITIVE BIDDING.—In contracting for such services, the Secretary shall competitively bid for an outside vendor that has a demonstrated history in—

"(i) surveying and determining, on a representative nationwide basis, retail prices for ingredient costs of prescription drugs;

"(ii) working with retail pharmacies, commercial payers, and States in obtaining and disseminating such price information; and

"(iii) collecting and reporting such price information on at least a monthly basis.

In contracting for such services, the Secretary may waive such provisions of the Federal Acquisition Regulation as are necessary for the efficient implementation of this subsection, other than provisions relating to confidentiality of information and such other provisions as the Secretary determines appropriate.

"(D) ADDITIONAL PROVISIONS.—A contract with a vendor under this paragraph shall include such terms and conditions as the Secretary shall specify, including the following:

"(i) The vendor must monitor the marketplace and report to the Secretary each time there is a new covered outpatient drug generally available.

"(ii) The vendor must update the Secretary no less often than monthly on the retail survey prices for covered outpatient drugs.

"(iii) The contract shall be effective for a term of 2 years.

"(E) AVAILABILITY OF INFORMATION TO STATES.—Information on retail survey prices obtained under this paragraph, including applicable information on single source drugs, shall be provided to States on at least a monthly basis. The Secretary shall devise and implement a means for providing access to each State agency designated under section 1902(a)(5) with responsibility for the administration or supervision of the administration of the State plan under this title of the retail survey price determined under this paragraph.

"(2) ANNUAL STATE REPORT.—Each State shall annually report to the Secretary information on—

"(A) the payment rates under the State plan under this title for covered outpatient drugs;

"(B) the dispensing fees paid under such plan for such drugs; and

"(C) utilization rates for noninnovator multiple source drugs under such plan.

"(3) ANNUAL STATE PERFORMANCE RANKINGS.—

"(A) COMPARATIVE ANALYSIS.—The Secretary annually shall compare, for the 50 most widely prescribed drugs identified by the Secretary, the national retail sales price data (collected under paragraph (1)) for such drugs with data on prices under this title for each such drug for each State.

"(B) AVAILABILITY OF INFORMATION.—The Secretary shall submit to Congress and the States full information regarding the annual rankings made under subparagraph (A).

"(4) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary of Health and Human Services $5,000,000 for each of fiscal years 2006 through 2010 to carry out this subsection.".

(f) MISCELLANEOUS AMENDMENTS.—

(1) IN GENERAL.—Sections 1927(g)(1)(B)(i)(II) and 1861(t)(2)(B)(ii)(I) of such Act are each amended by inserting "(or its successor publications)" after "United States Pharmacopoeia-Drug Information".

(2) PAPERWORK REDUCTION.—The last sentence of section 1927(g)(2)(A)(ii) of such Act (42 U.S.C. 1396r–8(g)(2)(A)(ii)) is amended by inserting before the period at the end the following: ", or to require verification of the offer to provide consultation or a refusal of such offer".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(g) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect on January 1, 2007, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 6002. COLLECTION AND SUBMISSION OF UTILIZATION DATA FOR CERTAIN PHYSICIAN ADMINISTERED DRUGS.

(a) IN GENERAL.—Section 1927(a) of the Social Security Act (42 U.S.C. 1396r–8(a)) is amended by adding at the end the following new paragraph:

"(7) REQUIREMENT FOR SUBMISSION OF UTILIZATION DATA FOR CERTAIN PHYSICIAN ADMINISTERED DRUGS.—

"(A) SINGLE SOURCE DRUGS.—In order for payment to be available under section 1903(a) for a covered outpatient drug that is a single source drug that is physician administered under this title (as determined by the Secretary), and that is administered on or after January 1, 2006, the State shall provide for the collection and submission of such utilization data and coding (such as J-codes and National Drug Code numbers) for each such drug as the Secretary may specify as necessary to identify the manufacturer of the drug in order to secure rebates under this section for drugs administered for which payment is made under this title.

"(B) MULTIPLE SOURCE DRUGS.—

"(i) IDENTIFICATION OF MOST FREQUENTLY PHYSICIAN ADMINISTERED MULTIPLE SOURCE DRUGS.—Not later than January 1, 2007, the Secretary shall publish a list of the 20 physician administered multiple source drugs that the Secretary determines have the highest dollar volume of physician administered drugs dispensed under this title. The Secretary may modify such list from year to year to reflect changes in such volume.

"(ii) REQUIREMENT.—In order for payment to be available under section 1903(a) for a covered outpatient drug that is a multiple source drug that is physician administered (as determined by the Secretary), that is on the list published under clause (i), and that is administered on or after January 1, 2008, the State shall provide for the submission of such utilization data and coding (such as J-codes and National Drug Code numbers) for each such drug as the Secretary may specify as necessary to identify the manufacturer of the drug in order to secure rebates under this section.

"(C) USE OF NDC CODES.—Not later than January 1, 2007, the information shall be submitted under subparagraphs (A) and (B)(ii) using National Drug Code codes unless the Secretary specifies that an alternative coding system should be used.

"(D) HARDSHIP WAIVER.—The Secretary may delay the application of subparagraph (A) or (B)(ii), or both, in the case of a State to prevent hardship to States which require additional time to implement the reporting system required under the respective subparagraph.".

(b) LIMITATION ON PAYMENT.—Section 1903(i)(10) of such Act (42 U.S.C. 1396b(i)(10)), is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking "or" at the end of subparagraph (B) and inserting "and"; and

(3) by adding at the end the following new subparagraph:

"(C) with respect to covered outpatient drugs described in section 1927(a)(7), unless information respecting utilization data and coding on such drugs that is required to be submitted under such section is submitted in accordance with such section; or".

SEC. 6003. IMPROVED REGULATION OF DRUGS SOLD UNDER A NEW DRUG APPLICATION APPROVED UNDER SECTION 505(c) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) INCLUSION WITH OTHER REPORTED AVERAGE MANUFACTURER AND BEST PRICES.—Section 1927(b)(3)(A) of the Social Security Act (42 U.S.C. 1396r–8(b)(3)(A)) is amended—

(1) by striking clause (i) and inserting the following:

"(i) not later than 30 days after the last day of each rebate period under the agreement—

"(I) on the average manufacturer price (as defined in subsection (k)(1)) for covered outpatient drugs for the rebate period under the agreement (including for all such drugs that are sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act); and

"(II) for single source drugs and innovator multiple source drugs (including all such drugs that are sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act), on the manufacturer's best price (as defined in subsection (c)(1)(C)) for such drugs for the rebate period under the agreement;"; and

(2) in clause (ii), by inserting "(including for such drugs that are sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act)" after "drugs".

(b) Conforming Amendments.—Section 1927 of such Act (42 U.S.C. 1396r-8) is amended—

(1) in subsection (c)(1)(C)—

(A) in clause (i), in the matter preceding subclause (I), by inserting after "or innovator multiple source drug of a manufacturer" the following: "(including the lowest price available to any entity for any such drug of a manufacturer that is sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act)"; and

(B) in clause (ii)—

(i) in subclause (II), by striking "and" at the end;

(ii) in subclause (III), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(IV) in the case of a manufacturer that approves, allows, or otherwise permits any other drug of the manufacturer to be sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act, shall be inclusive of the lowest price for such authorized drug available from the manufacturer during the rebate period to any manufacturer, wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the United States, excluding those prices described in subclauses (I) through (IV) of clause (i)."; and

(2) in subsection (k), as amended by section 6001(c)(1), by adding at the end the following:

"(C) Inclusion of Section 505(c) Drugs.—In the case of a manufacturer that approves, allows, or otherwise permits any drug of the manufacturer to be sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act, such term shall be inclusive of the average price paid for such drug by wholesalers for drugs distributed to the retail pharmacy class of trade.".

(c) Effective Date.—The amendments made by this section take effect on January 1, 2007.

SEC. 6004. CHILDREN'S HOSPITAL PARTICIPATION IN SECTION 340B DRUG DISCOUNT PROGRAM.

(a) In General.—Section 1927(a)(5)(B) of the Social Security Act (42 U.S.C. 1396r-8(a)(5)(B)) is amended by inserting before the period at the end the following: "and a children's hospital described in section 1886(d)(1)(B)(iii) which meets the requirements of clauses (i) and (iii) of section 340B(b)(4)(L) of the Public Health Service Act and which would meet the requirements of clause (ii) of such section if that clause were applied by taking into account the percentage of care provided by the hospital to patients eligible for medical assistance under a State plan under this title".

(b) Effective Date.—The amendment made by subsection (a) shall apply to drugs purchased on or after the date of the enactment of this Act.

CHAPTER 2—LONG-TERM CARE UNDER MEDICAID

Subchapter A—Reform of Asset Transfer Rules

SEC. 6011. LENGTHENING LOOK-BACK PERIOD; CHANGE IN BEGINNING DATE FOR PERIOD OF INELIGIBILITY.

(a) Lengthening Look-Back Period for All Disposals to 5 Years.—Section 1917(c)(1)(B)(i) of the Social Security Act (42 U.S.C. 1396p(c)(1)(B)(i)) is amended by inserting "or in the case of any other disposal of assets made on or after the date of the enactment of the Deficit Reduction Act of 2005" before ", 60 months".

(b) Change in Beginning Date for Period of Ineligibility.—Section 1917(c)(1)(D) of such Act (42 U.S.C. 1396p(c)(1)(D)) is amended—

(1) by striking "(D) The date" and inserting "(D)(i) In the case of a transfer of asset made before the date of the enactment of the Deficit Reduction Act of 2005, the date"; and

(2) by adding at the end the following new clause:

"(ii) In the case of a transfer of asset made on or after the date of the enactment of the Deficit Reduction Act of 2005, the date specified in this subparagraph is the first day of a month during or after which assets have been transferred for less than fair market value, or the date on which the individual is eligible for medical assistance under the State plan and would otherwise be receiving institutional level care described in subparagraph (C) based on an approved application for such care but for the application of the penalty period, whichever is later, and which does not occur during any other period of ineligibility under this subsection.".

(c) Effective Date.—The amendments made by this section shall apply to transfers made on or after the date of the enactment of this Act.

(d) Availability of Hardship Waivers.—Each State shall provide for a hardship waiver process in accordance with section 1917(c)(2)(D) of the Social Security Act (42 U.S.C. 1396p(c)(2)(D))—

(1) under which an undue hardship exists when application of the transfer of assets provision would deprive the individual—

(A) of medical care such that the individual's health or life would be endangered; or

(B) of food, clothing, shelter, or other necessities of life; and

(2) which provides for—

(A) notice to recipients that an undue hardship exception exists;

(B) a timely process for determining whether an undue hardship waiver will be granted; and

(C) a process under which an adverse determination can be appealed.

(e) Additional Provisions on Hardship Waivers.—

(1) Application by Facility.—Section 1917(c)(2) of the Social Security Act (42 U.S.C. 1396p(c)(2)) is amended—

(A) by striking the semicolon at the end of subparagraph (D) and inserting a period; and

(B) by adding after and below such subparagraph the following:

"The procedures established under subparagraph (D) shall permit the facility in which the institutionalized individual is residing to file an undue hardship waiver application on behalf of the individual with the consent of the individual or the personal representative of the individual.".

(2) Authority to Make Bed Hold Payments for Hardship Applicants.—Such section is further amended by adding at the end the following: "While an application for an undue hardship waiver is pending under subparagraph (D) in the case of an individual who is a resident of a nursing facility, if the application meets such criteria as the Secretary specifies, the State may provide for payments for nursing facility services in order to hold the bed for the individual at the facility, but not in excess of payments for 30 days.".

SEC. 6012. DISCLOSURE AND TREATMENT OF ANNUITIES.

(a) In General.—Section 1917 of the Social Security Act (42 U.S.C. 1396p) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e)(1) In order to meet the requirements of this section for purposes of section 1902(a)(18), a State shall require, as a condition for the provision of medical assistance for services described in subsection (c)(1)(C)(i) (relating to long-term care services) for an individual, the application of the individual for such assistance (including any recertification of eligibility for such assistance) shall disclose a description of any interest the individual or community spouse has in an annuity (or similar financial instrument, as may be specified by the Secretary), regardless of whether the annuity is irrevocable or is treated as an asset. Such application or recertification form shall include a statement that under paragraph (2) the State becomes a remainder beneficiary under such an annuity or similar financial instrument by virtue of the provision of such medical assistance.

"(2)(A) In the case of disclosure concerning an annuity under subsection (c)(1)(F), the State shall notify the issuer of the annuity of the right of the State under such subsection as a preferred remainder beneficiary in the annuity for medical assistance furnished to the individual. Nothing in this paragraph shall be construed as preventing such an issuer from notifying persons with any other remainder interest of the State's remainder interest under such subsection.

"(B) In the case of such an issuer receiving notice under subparagraph (A), the State may require the issuer to notify the State when there is a change in the amount of income or principal being withdrawn from the amount that was being withdrawn at the time of the most recent disclosure described in paragraph (1). A State shall take such information into account in determining the amount of the State's obligations for medical assistance or in the individual's eligibility for such assistance.

"(3) The Secretary may provide guidance to States on categories of transactions that may be treated as a transfer of asset for less than fair market value.

"(4) Nothing in this subsection shall be construed as preventing a State from denying eligibility for medical assistance for an individual based on the income or resources derived from an annuity described in paragraph (1).".

(b) Requirement for State To Be Named As a Remainder Beneficiary.—Section 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), is amended by adding at the end the following:

"(F) For purposes of this paragraph, the purchase of an annuity shall be treated as the disposal of an asset for less than fair market value unless—

"(i) the State is named as the remainder beneficiary in the first position for at least the total amount of medical assistance paid on behalf of the annuitant under this title; or

"(ii) the State is named as such a beneficiary in the second position after the community spouse or minor or disabled child and is named in the first position if such spouse or a representative of such child disposes of any such remainder for less than fair market value.".

(c) Inclusion of Transfers To Purchase Balloon Annuities.—Section 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), as amended by subsection (b), is amended by adding at the end the following:

"(G) For purposes of this paragraph with respect to a transfer of assets, the term 'assets' includes an annuity purchased by or on behalf of an annuitant who has applied for medical assistance with respect to nursing facility services or other long-term care services under this title unless—

"(i) the annuity is—

"(I) an annuity described in subsection (b) or (q) of section 408 of the Internal Revenue Code of 1986; or

"(II) purchased with proceeds from—

"(aa) an account or trust described in subsection (a), (c), (p) of section 408 of such Code;

"(bb) a simplified employee pension (within the meaning of section 408(k) of such Code); or

"(cc) a Roth IRA described in section 408A of such Code; or

"(ii) the annuity—

"(I) is irrevocable and nonassignable;

"(II) is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief Actuary of the Social Security Administration); and

"(III) provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments made.".

(d) Effective Date.—The amendments made by this section shall apply to transactions (including the purchase of an annuity) occurring on or after the date of the enactment of this Act.

SEC. 6013. APPLICATION OF "INCOME-FIRST" RULE IN APPLYING COMMUNITY SPOUSE'S INCOME BEFORE ASSETS IN PROVIDING SUPPORT OF COMMUNITY SPOUSE.

(a) In General.—Section 1924(d) of the Social Security Act (42 U.S.C. 1396r-5(d)) is amended by adding at the end the following new subparagraph:

"(6) Application of 'income first' rule to revision of community spouse resource allowance.—For purposes of this subsection and subsections (c) and (e), a State must consider that all income of the institutionalized spouse that could be made available to a community spouse, in accordance with the calculation of the community spouse monthly income allowance under this subsection, has been made available before the State allocates to the community spouse an amount of resources adequate to provide the difference between the minimum monthly maintenance needs allowance and all income available to the community spouse.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to transfers and allocations made on or after the date of the enactment of this Act by individuals who become institutionalized spouses on or after such date.

SEC. 6014. DISQUALIFICATION FOR LONG-TERM CARE ASSISTANCE FOR INDIVIDUALS WITH SUBSTANTIAL HOME EQUITY.

(a) In General.—Section 1917 of the Social Security Act, as amended by section 6012(a), is further amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1)(A) Notwithstanding any other provision of this title, subject to subparagraphs (B) and (C) of this paragraph and paragraph (2), in determining eligibility of an individual for medical assistance with respect to nursing facility services or other long-term care services, the individual shall not be eligible for such assistance if the individual's equity interest in the individual's home exceeds $500,000.

"(B) A State may elect, without regard to the requirements of section 1902(a)(1) (relating to statewideness) and section 1902(a)(10)(B) (relating to comparability), to apply subparagraph (A) by substituting for '$500,000', an amount that exceeds such amount, but does not exceed $750,000.

"(C) The dollar amounts specified in this paragraph shall be increased, beginning with 2011, from year to year based on the percentage increase in the consumer price index for all urban consumers (all items; United States city average), rounded to the nearest $1,000.

"(2) Paragraph (1) shall not apply with respect to an individual if—

"(A) the spouse of such individual, or

"(B) such individual's child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614,

is lawfully residing in the individual's home.

"(3) Nothing in this subsection shall be construed as preventing an individual from using a reverse mortgage or home equity loan to reduce the individual's total equity interest in the home.

"(4) The Secretary shall establish a process whereby paragraph (1) is waived in the case of a demonstrated hardship.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to individuals who are determined eligible for medical assistance with respect to nursing facility services or other long-term care services based on an application filed on or after January 1, 2006.

SEC. 6015. ENFORCEABILITY OF CONTINUING CARE RETIREMENT COMMUNITIES (CCRC) AND LIFE CARE COMMUNITY ADMISSION CONTRACTS.

(a) Admission Policies of Nursing Facilities.—Section 1919(c)(5) of the Social Security Act (42 U.S.C. 1396r(c)(5)) is amended—

(1) in subparagraph (A)(i)(II), by inserting "subject to clause (v)," after "(II)"; and

(2) by adding at the end of subparagraph (B) the following new clause:

"(v) Treatment of continuing care retirement communities admission contracts.—Notwithstanding subclause (II) of subparagraph (A)(i), subject to subsections (c) and (d) of section 1924, contracts for admission to a State licensed, registered, certified, or equivalent continuing care retirement community or life care community, including services in a nursing facility that is part of such community, may require residents to spend on their care resources declared for the purposes of admission before applying for medical assistance.".

(b) Treatment of Entrance Fees.—Section 1917 of such Act (42 U.S.C. 1396p), as amended by sections 6012(a) and 6014(a), is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Treatment of Entrance Fees of Individuals Residing in Continuing Care Retirement Communities.—

"(1) In general.—For purposes of determining an individual's eligibility for, or amount of, benefits under a State plan under this title, the rules specified in paragraph (2) shall apply to individuals residing in continuing care retirement communities or life care communities that collect an entrance fee on admission from such individuals.

"(2) Treatment of entrance fee.—For purposes of this subsection, an individual's entrance fee in a continuing care retirement community or life care community shall be considered a resource available to the individual to the extent that—

"(A) the individual has the ability to use the entrance fee, or the contract provides that the entrance fee may be used, to pay for care should other resources or income of the individual be insufficient to pay for such care;

"(B) the individual is eligible for a refund of any remaining entrance fee when the individual dies or terminates the continuing care retirement community or life care community contract and leaves the community; and

"(C) the entrance fee does not confer an ownership interest in the continuing care retirement community or life care community.".

SEC. 6016. ADDITIONAL REFORMS OF MEDICAID ASSET TRANSFER RULES.

(a) Requirement To Impose Partial Months of Ineligibility.—Section 1917(c)(1)(E) of the Social Security Act (42 U.S.C. 1396p(c)(1)(E)) is amended by adding at the end the following:

"(iv) A State shall not round down, or otherwise disregard any fractional period of ineligibility determined under clause (i) or (ii) with respect to the disposal of assets.".

(b) Authority for States To Accumulate Multiple Transfers Into One Penalty Period.—Section 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), as amended by subsections (b) and (c) of section 6012, is amended by adding at the end the following:

"(H) Notwithstanding the preceding provisions of this paragraph, in the case of an individual (or individual's spouse) who makes multiple fractional transfers of assets in more than 1 month for less than fair market value on or after the applicable look-back date specified in subparagraph (B), a State may determine the period of ineligibility applicable to such individual under this paragraph by—

"(i) treating the total, cumulative uncompensated value of all assets transferred by the individual (or individual's spouse) during all months on or after the look-back date specified in subparagraph (B) as 1 transfer for purposes of clause (i) or (ii) (as the case may be) of subparagraph (E); and

"(ii) beginning such period on the earliest date which would apply under subparagraph (D) to any of such transfers.".

(c) Inclusion of Transfer of Certain Notes and Loans Assets.—Section 1917(c)(1) of such Act (42 U.S.C. 1396 p(c)(1)), as amended by subsection (b), is amended by adding at the end the following:

"(I) For purposes of this paragraph with respect to a transfer of assets, the term 'assets' includes funds used to purchase a promissory note, loan, or mortgage unless such note, loan, or mortgage—

"(i) has a repayment term that is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief Actuary of the Social Security Administration);

"(ii) provides for payments to be made in equal amounts during the term of the loan, with no deferral and no balloon payments made; and

"(iii) prohibits the cancellation of the balance upon the death of the lender.

In the case of a promissory note, loan, or mortgage that does not satisfy the requirements of clauses (i) through (iii), the value of such note, loan, or mortgage shall be the outstanding balance due as of the date of the individual's application for medical assistance for services described in subparagraph (C).".

(d) Inclusion of Transfers To Purchase Life Estates.—Section 1917(c)(1) of such Act (42 U.S.C. 1396p(c)(1)), as amended by subsection (c), is amended by adding at the end the following:

"(J) For purposes of this paragraph with respect to a transfer of assets, the term 'assets' includes the purchase of a life estate interest in another individual's home unless the purchaser resides in the home for a period of at least 1 year after the date of the purchase.".

(e) Effective Dates.—

(1) In general.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to payments under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for calendar quarters beginning on or after the date of enactment of this Act, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) Exceptions.—The amendments made by this section shall not apply—

(A) to medical assistance provided for services furnished before the date of enactment;

(B) with respect to assets disposed of on or before the date of enactment of this Act; or

(C) with respect to trusts established on or before the date of enactment of this Act.

(3) Extension of effective date for State law amendment.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by a provision of this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

Subchapter B—Expanded Access to Certain Benefits

SEC. 6021. EXPANSION OF STATE LONG-TERM CARE PARTNERSHIP PROGRAM.

(a) Expansion Authority.—

(1) In general.—Section 1917(b) of the Social Security Act (42 U.S.C. 1396p(b)) is amended—

(A) in paragraph (1)(C)—

(i) in clause (ii), by inserting "and which satisfies clause (iv), or which has a State plan amendment that provides for a qualified State long-term care insurance partnership (as defined in clause (iii))" after "1993,"; and

(ii) by adding at the end the following new clauses:

"(iii) For purposes of this paragraph, the term 'qualified State long-term care insurance partnership' means an approved State plan amendment under this title that provides for the disregard of any assets or resources in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary under a long-term care insurance policy if the following requirements are met:

"(I) The policy covers an insured who was a resident of such State when coverage first became effective under the policy.

"(II) The policy is a qualified long-term care insurance policy (as defined in section 7702B(b) of the Internal Revenue Code of 1986) issued not earlier than the effective date of the State plan amendment.

"(III) The policy meets the model regulations and the requirements of the model Act specified in paragraph (5).

"(IV) If the policy is sold to an individual who—

"(aa) has not attained age 61 as of the date of purchase, the policy provides compound annual inflation protection;

"(bb) has attained age 61 but has not attained age 76 as of such date, the policy provides some level of inflation protection; and

"(cc) has attained age 76 as of such date, the policy may (but is not required to) provide some level of inflation protection.

"(V) The State Medicaid agency under section 1902(a)(5) provides information and technical assistance to the State insurance department on the insurance department's role of assuring that any individual who sells a long-term care insurance policy under the partnership receives training and demonstrates evidence of an understanding of such policies and how they relate to other public and private coverage of long-term care.

"(VI) The issuer of the policy provides regular reports to the Secretary, in accordance with regulations of the Secretary, that include notification regarding when benefits provided under the policy have been paid and the amount of such benefits paid, notification regarding when the policy otherwise terminates, and such other information as the Secretary determines may be appropriate to the administration of such partnerships.

"(VII) The State does not impose any requirement affecting the terms or benefits of such a policy unless the State imposes such requirement on long-term care insurance policies without regard to whether the policy is covered under the partnership or is offered in connection with such a partnership.

In the case of a long-term care insurance policy which is exchanged for another such policy, subclause (I) shall be applied based on the coverage of the first such policy that was exchanged. For purposes of this clause and paragraph (5), the term 'long-term care insurance policy' includes a certificate issued under a group insurance contract

"(iv) With respect to a State which had a State plan amendment approved as of May 14, 1993, such a State satisfies this clause for purposes of clause (ii) if the Secretary determines that the State plan amendment provides for consumer protection standards which are no less stringent than the consumer protection standards which applied under such State plan amendment as of December 31, 2005.

"(v) The regulations of the Secretary required under clause (iii)(VI) shall be promulgated after consultation with the National Association of Insurance Commissioners, issuers of long-term care insurance policies, States with experience with long-term care insurance partnership plans, other States, and representatives of consumers of long-term care insurance policies, and shall specify the type and format of the data and information to be reported and the frequency with which such reports are to be made. The Secretary, as appropriate, shall provide copies of the reports provided in accordance with that clause to the State involved.

"(vi) The Secretary, in consultation with other appropriate Federal agencies, issuers of long-term care insurance, the National Association of Insurance Commissioners, State insurance commissioners, States with experience with long-term care insurance partnership plans, other States, and representatives of consumers of long-term care insurance policies, shall develop recommendations for Congress to authorize and fund a uniform minimum data set to be reported electronically by all issuers of long-term care insurance policies under qualified State long-term care insurance partnerships to a secure, centralized electronic query and report-generating mechanism that the State, the Secretary, and other Federal agencies can access."; and

(B) by adding at the end the following:

"(5)(A) For purposes of clause (iii)(III), the model regulations and the requirements of the model Act specified in this paragraph are:

"(i) In the case of the model regulation, the following requirements:

"(I) Section 6A (relating to guaranteed renewal or noncancellability), other than paragraph (5) thereof, and the requirements of section 6B of the model Act relating to such section 6A.

"(II) Section 6B (relating to prohibitions on limitations and exclusions) other than paragraph (7) thereof.

"(III) Section 6C (relating to extension of benefits).

"(IV) Section 6D (relating to continuation or conversion of coverage).

"(V) Section 6E (relating to discontinuance and replacement of policies).

"(VI) Section 7 (relating to unintentional lapse).

"(VII) Section 8 (relating to disclosure), other than sections 8F, 8G, 8H, and 8I thereof.

"(VIII) Section 9 (relating to required disclosure of rating practices to consumer).

"(IX) Section 11 (relating to prohibitions against post-claims underwriting).

"(X) Section 12 (relating to minimum standards).

"(XI) Section 14 (relating to application forms and replacement coverage).

"(XII) Section 15 (relating to reporting requirements).

"(XIII) Section 22 (relating to filing requirements for marketing).

"(XIV) Section 23 (relating to standards for marketing), including inaccurate completion of medical histories, other than paragraphs (1), (6), and (9) of section 23C.

"(XV) Section 24 (relating to suitability).

"(XVI) Section 25 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

"(XVII) The provisions of section 26 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in paragraph (4).

"(XVIII) Section 29 (relating to standard format outline of coverage).

"(XIX) Section 30 (relating to requirement to deliver shopper's guide).

"(ii) In the case of the model Act, the following:

"(I) Section 6C (relating to preexisting conditions).

"(II) Section 6D (relating to prior hospitalization).

"(III) The provisions of section 8 relating to contingent nonforfeiture benefits.

"(IV) Section 6F (relating to right to return).

"(V) Section 6G (relating to outline of coverage).

"(VI) Section 6H (relating to requirements for certificates under group plans).

"(VII) Section 6J (relating to policy summary).

"(VIII) Section 6K (relating to monthly reports on accelerated death benefits).

"(IX) Section 7 (relating to incontestability period).

"(B) For purposes of this paragraph and paragraph (1)(C)—

"(i) the terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of October 2000);

"(ii) any provision of the model regulation or model Act listed under subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision; and

"(iii) with respect to a long-term care insurance policy issued in a State, the policy shall be deemed to meet applicable requirements of the model regulation or the model Act if the State plan amendment under paragraph (1)(C)(iii) provides that the State insurance commissioner for the State certifies (in a manner satisfactory to the Secretary) that the policy meets such requirements.

"(C) Not later than 12 months after the National Association of Insurance Commissioners issues a revision, update, or other modification of a model regulation or model Act provision specified in subparagraph (A), or of any provision of such regulation or Act that is substantively related to a provision specified in such subparagraph, the Secretary shall review the changes made to the provision, determine whether incorporating such changes into the corresponding provision specified in such subparagraph would improve qualified State long-term care insurance partnerships, and if so, shall incorporate the changes into such provision.".

(2) State Reporting Requirements.—Nothing in clauses (iii)(VI) and (v) of section 1917(b)(1)(C) of the Social Security Act (as added by paragraph (1)) shall be construed as prohibiting a State from requiring an issuer of a long-term care insurance policy sold in the State (regardless of whether the policy is issued under a qualified State long-term care insurance partnership under section 1917(b)(1)(C)(iii) of such Act) to require the issuer to report information or data to the State that is in addition to the information or data required under such clauses.

(3) Effective date.—A State plan amendment that provides for a qualified State long-term care insurance partnership under the amendments made by paragraph (1) may provide that such amendment is effective for long-term care insurance policies issued on or after a date, specified in the amendment, that is not earlier than the first day of the first calendar quarter in which the plan amendment was submitted to the Secretary of Health and Human Services.

(b) Standards for Reciprocal Recognition Among Partnership States.—In order to permit portability in long-term care insurance policies purchased under State long-term care insurance partnerships, the Secretary of Health and Human Services shall develop, not later than January 1, 2007, and in consultation with the National Association of Insurance Commissioners, issuers of long-term care insurance policies, States with experience with long-term care insurance partnership plans, other States, and representatives of consumers of long-term care insurance policies, standards for uniform reciprocal recognition of such policies among States with qualified State long-term care insurance partnerships under which—

(1) benefits paid under such policies will be treated the same by all such States; and

(2) States with such partnerships shall be subject to such standards unless the State notifies the Secretary in writing of the State's election to be exempt from such standards.

(c) Annual Reports to Congress.—

(1) In general.—The Secretary of Health and Human Services shall annually report to Congress on the long-term care insurance partnerships established in accordance with section 1917(b)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)(ii)) (as amended by subsection (a)(1)). Such reports shall include analyses of the extent to which such partnerships expand or limit access of individuals to long-term care and the impact of such partnerships on Federal and State expenditures under the Medicare and Medicaid programs. Nothing in this section shall be construed as requiring the Secretary to conduct an independent review of each long-term care insurance policy offered under or in connection with such a partnership.

(2) Appropriation.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary of Health and Human Services, $1,000,000 for the period of fiscal years 2006 through 2010 to carry out paragraph (1).

(d) National Clearinghouse for Long-Term Care Information.—

(1) Establishment.—The Secretary of Health and Human Services shall establish a National Clearinghouse for Long-Term Care Information. The Clearinghouse may be established through a contract or interagency agreement.

(2) Duties.—

(A) In general.—The National Clearinghouse for Long-Term Care Information shall—

(i) educate consumers with respect to the availability and limitations of coverage for long-term care under the Medicaid program and provide contact information for obtaining State-specific information on long-term care coverage, including eligibility and estate recovery requirements under State Medicaid programs;

(ii) provide objective information to assist consumers with the decisionmaking process for determining whether to purchase long-term care insurance or to pursue other private market alternatives for purchasing long-term care and provide contact information for additional objective resources on planning for long-term care needs; and

(iii) maintain a list of States with State long-term care insurance partnerships under the Medicaid program that provide reciprocal recognition of long-term care insurance policies issued under such partnerships.

(B) Requirement.—In providing information to consumers on long-term care in accordance with this subsection, the National Clearinghouse for Long-Term Care Information shall not advocate in favor of a specific long-term care insurance provider or a specific long-term care insurance policy.

(3) Appropriation.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to carry out this subsection, $3,000,000 for each of fiscal years 2006 through 2010.

CHAPTER 3—ELIMINATING FRAUD, WASTE, AND ABUSE IN MEDICAID

SEC. 6032. ENCOURAGING THE ENACTMENT OF STATE FALSE CLAIMS ACTS.

(a) In General.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1908A the following:

"STATE FALSE CLAIMS ACT REQUIREMENTS FOR INCREASED STATE SHARE OF RECOVERIES

"Sec. 1909. (a) In General.—Notwithstanding section 1905(b), if a State has in effect a law relating to false or fraudulent claims that meets the requirements of subsection (b), the Federal medical assistance percentage with respect to any amounts recovered under a State action brought under such law, shall be decreased by 10 percentage points.

"(b) Requirements.—For purposes of subsection (a), the requirements of this subsection are that the Inspector General of the Department of Health and Human Services, in consultation with the Attorney General, determines that the State has in effect a law that meets the following requirements:

"(1) The law establishes liability to the State for false or fraudulent claims described in section 3729 of title 31, United States Code, with respect to any expenditure described in section 1903(a).

"(2) The law contains provisions that are at least as effective in rewarding and facilitating qui tam actions for false or fraudulent claims as those described in sections 3730 through 3732 of title 31, United States Code.

"(3) The law contains a requirement for filing an action under seal for 60 days with review by the State Attorney General.

"(4) The law contains a civil penalty that is not less than the amount of the civil penalty authorized under section 3729 of title 31, United States Code.

"(c) Deemed Compliance.—A State that, as of January 1, 2007, has a law in effect that meets the requirements of subsection (b) shall be deemed to be in compliance with such requirements for so long as the law continues to meet such requirements.

"(d) No Preclusion of Broader Laws.—Nothing in this section shall be construed as prohibiting a State that has in effect a law that establishes liability to the State for false or fraudulent claims described in section 3729 of title 31, United States Code, with respect to programs in addition to the State program under this title, or with respect to expenditures in addition to expenditures described in section 1903(a), from being considered to be in compliance with the requirements of subsection (a) so long as the law meets such requirements.".

(b) Effective Date.—Except as provided in section 6035(e), the amendments made by this section take effect on January 1, 2007.

SEC. 6033. EMPLOYEE EDUCATION ABOUT FALSE CLAIMS RECOVERY.

(a) In General.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (66), by striking "and" at the end;

(2) in paragraph (67) by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (67) the following:

"(68) provide that any entity that receives or makes annual payments under the State plan of at least $5,000,000, as a condition of receiving such payments, shall—

"(A) establish written policies for all employees of the entity (including management), and of any contractor or agent of the entity, that provide detailed information about the False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statements established under chapter 38 of title 31, United States Code, any State laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in section 1128B(f));

"(B) include as part of such written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse; and

"(C) include in any employee handbook for the entity, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and the entity's policies and procedures for detecting and preventing fraud, waste, and abuse.".

(b) EFFECTIVE DATE.—Except as provided in section 6035(e), the amendments made by subsection (a) take effect on January 1, 2007.

SEC. 6034. PROHIBITION ON RESTOCKING AND DOUBLE BILLING OF PRESCRIPTION DRUGS.

(a) IN GENERAL.—Section 1903(i)(10) of the Social Security Act (42 U.S.C. 1396b(i)), as amended by section 6002(b), is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking "; or" at the end and inserting ", and"; and

(3) by adding at the end the following:

"(D) with respect to any amount expended for reimbursement to a pharmacy under this title for the ingredient cost of a covered outpatient drug for which the pharmacy has already received payment under this title (other than with respect to a reasonable restocking fee for such drug); or".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the first day of the first fiscal year quarter that begins after the date of enactment of this Act.

SEC. 6035. MEDICAID INTEGRITY PROGRAM.

(a) ESTABLISHMENT OF MEDICAID INTEGRITY PROGRAM.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) by redesignating section 1936 as section 1937; and

(2) by inserting after section 1935 the following:

"MEDICAID INTEGRITY PROGRAM

"SEC. 1936. (a) IN GENERAL.—There is hereby established the Medicaid Integrity Program (in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the program under this title by entering into contracts in accordance with this section with eligible entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED—Activities described in this subsection are as follows:

"(1) Review of the actions of individuals or entities furnishing items or services (whether on a fee-for-service, risk, or other basis) for which payment may be made under a State plan approved under this title (or under any waiver of such plan approved under section 1115) to determine whether fraud, waste, or abuse has occurred, is likely to occur, or whether such actions have any potential for resulting in an expenditure of funds under this title in a manner which is not intended under the provisions of this title.

"(2) Audit of claims for payment for items or services furnished, or administrative services rendered, under a State plan under this title, including—

"(A) cost reports;

"(B) consulting contracts; and

"(C) risk contracts under section 1903(m).

"(3) Identification of overpayments to individuals or entities receiving Federal funds under this title.

"(4) Education of providers of services, managed care entities, beneficiaries, and other individuals with respect to payment integrity and quality of care.

"(c) ELIGIBLE ENTITY AND CONTRACTING REQUIREMENTS.—

"(1) IN GENERAL.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if the entity satisfies the requirements of paragraphs (2) and (3).

"(2) ELIGIBILITY REQUIREMENTS.—The requirements of this paragraph are the following:

"(A) The entity has demonstrated capability to carry out the activities described in subsection (b).

"(B) In carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities.

"(C) The entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement.

"(D) The entity meets such other requirements as the Secretary may impose.

"(3) CONTRACTING REQUIREMENTS.—The entity has contracted with the Secretary in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following:

"(A) Procedures for identifying, evaluating, and resolving organizational conflicts of interest that are generally applicable to Federal acquisition and procurement.

"(B) Competitive procedures to be used—

"(i) when entering into new contracts under this section;

"(ii) when entering into contracts that may result in the elimination of responsibilities under section 202(b) of the Health Insurance Portability and Accountability Act of 1996; and

"(iii) at any other time considered appropriate by the Secretary.

"(C) Procedures under which a contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

The Secretary may enter into such contracts without regard to final rules having been promulgated.

"(4) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.

"(d) COMPREHENSIVE PLAN FOR PROGRAM INTEGRITY.—

"(1) 5-YEAR PLAN.—With respect to the 5 fiscal year period beginning with fiscal year 2006, and each such 5-fiscal year period that begins thereafter, the Secretary shall establish a comprehensive plan for ensuring the integrity of the program established under this title by combatting fraud, waste, and abuse.

"(2) CONSULTATION.—Each 5-fiscal year plan established under paragraph (1) shall be developed by the Secretary in consultation with the Attorney General, the Director of the Federal Bureau of Investigation, the Comptroller General of the United States, the Inspector General of the Department of Health and Human Services, and State officials with responsibility for controlling provider fraud and abuse under State plans under this title.

"(e) APPROPRIATION.—

"(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to carry out the Medicaid Integrity Program under this section, without further appropriation—

"(A) for fiscal year 2006, $5,000,000;

"(B) for each of fiscal years 2007 and 2008, $50,000,000; and

"(C) for each fiscal year thereafter, $75,000,000.

"(2) AVAILABILITY.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

"(3) INCREASE IN CMS STAFFING DEVOTED TO PROTECTING MEDICAID PROGRAM INTEGRITY.—From the amounts appropriated under paragraph (1), the Secretary shall increase by 100 the number of full-time equivalent employees whose duties consist solely of protecting the integrity of the Medicaid program established under this section by providing effective support and assistance to States to combat provider fraud and abuse.

"(4) ANNUAL REPORT.—Not later than 180 days after the end of each fiscal year (beginning with fiscal year 2006), the Secretary shall submit a report to Congress which identifies—

"(A) the use of funds appropriated pursuant to paragraph (1); and

"(B) the effectiveness of the use of such funds.".

(b) STATE REQUIREMENT TO COOPERATE WITH INTEGRITY PROGRAM EFFORTS.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)), as amended by section 6033(a), is amended—

(1) in paragraph (67), by striking "and" at the end;

(2) in paragraph (68), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (68), the following:

"(69) provide that the State must comply with any requirements determined by the Secretary to be necessary for carrying out the Medicaid Integrity Program established under section 1936.".

(c) INCREASED FUNDING FOR MEDICAID FRAUD AND ABUSE CONTROL ACTIVITIES.—

(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Office of the Inspector General of the Department of Health and Human Services, without further appropriation, $25,000,000 for each of fiscal years 2006 through 2010, for activities of such Office with respect to the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(2) AVAILABILITY; AMOUNTS IN ADDITION TO OTHER AMOUNTS APPROPRIATED FOR SUCH ACTIVITIES.—Amounts appropriated pursuant to paragraph (1) shall—

(A) remain available until expended; and

(B) be in addition to any other amounts appropriated or made available to the Office of the Inspector General of the Department of Health and Human Services for activities of such Office with respect to the Medicaid program.

(3) ANNUAL REPORT.—Not later than 180 days after the end of each fiscal year (beginning with fiscal year 2006), the Inspector General of the Department of Health and Human Services shall submit a report to Congress which identifies—

(A) the use of funds appropriated pursuant to paragraph (1); and

(B) the effectiveness of the use of such funds.

(d) NATIONAL EXPANSION OF THE MEDICARE-MEDICAID (MEDI-MEDI) DATA MATCH PILOT PROGRAM.—

(1) REQUIREMENT OF THE MEDICARE INTEGRITY PROGRAM.—Section 1893 of the Social Security Act (42 U.S.C. 1395ddd) is amended—

(A) in subsection (b), by adding at the end the following:

"(6) The Medicare-Medicaid Data Match Program in accordance with subsection (g)."; and

(B) by adding at the end the following:

"(g) MEDICARE-MEDICAID DATA MATCH PROGRAM.—

"(1) EXPANSION OF PROGRAM.—

"(A) IN GENERAL.—The Secretary shall enter into contracts with eligible entities for the purpose of ensuring that, beginning with 2006, the Medicare-Medicaid Data Match Program (commonly referred to as the 'Medi-Medi Program') is conducted with respect to the program established under this title and State Medicaid programs under title XIX for the purpose of—

"(i) identifying program vulnerabilities in the program established under this title and the Medicaid program established under title XIX through the use of computer algorithms to look for payment anomalies (including billing or billing patterns identified with respect to service, time, or patient that appear to be suspect or otherwise implausible);

"(ii) working with States, the Attorney General, and the Inspector General of the Department of Health and Human Services to coordinate appropriate actions to protect the Federal and State share of expenditures under the Medicaid program under title XIX, as well as the program established under this title; and

"(iii) increasing the effectiveness and efficiency of both such programs through cost avoidance, savings, and recoupments of fraudulent, wasteful, or abusive expenditures.

"(B) REPORTING REQUIREMENTS.—The Secretary shall make available in a timely manner any data and statistical information collected by the Medi-Medi Program to the Attorney General, the Director of the Federal Bureau of Investigation, the Inspector General of the Department of Health and Human Services, and the States (including a medicaid fraud and abuse control unit described in section 1903(q)). Such information shall be disseminated no less frequently than quarterly.

"(2) LIMITED WAIVER AUTHORITY.—The Secretary shall waive only such requirements of this section and of titles XI and XIX as are necessary to carry out paragraph (1).".

(2) FUNDING.—Section 1817(k)(4) of such Act (42 U.S.C. 1395i(k)(4)), as amended by section 5204 of this Act, is amended—

(A) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraphs (B), (C), and (D)"; and

(B) by adding at the end the following:

"(D) EXPANSION OF THE MEDICARE-MEDICAID DATA MATCH PROGRAM.—The amount appropriated under subparagraph (A) for a fiscal year is further increased as follows for purposes of carrying out section 1893(b)(6) for the respective fiscal year:

"(i) $12,000,000 for fiscal year 2006.

"(ii) $24,000,000 for fiscal year 2007.

"(iii) $36,000,000 for fiscal year 2008.

"(iv) $48,000,000 for fiscal year 2009.

"(v) $60,000,000 for fiscal year 2010 and each fiscal year thereafter.".

(e) DELAYED EFFECTIVE DATE FOR CHAPTER.—Except as otherwise provided in this chapter, in the case of a State plan under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by a provision of this chapter, the State plan shall not be regarded as failing to comply with the requirements of such Act solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

SEC. 6036. ENHANCING THIRD PARTY IDENTIFICATION AND PAYMENT.

(a) CLARIFICATION OF THIRD PARTIES LEGALLY RESPONSIBLE FOR PAYMENT OF A CLAIM FOR A HEALTH CARE ITEM OR SERVICE.—Section 1902(a)(25) of the Social Security Act (42 U.S.C. 1396a(a)(25)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by inserting ", self-insured plans" after "health insurers"; and

(B) by striking "and health maintenance organizations" and inserting "managed care organizations, pharmacy benefit managers, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service"; and

(2) in subparagraph (G)—

(A) by inserting "a self-insured plan," after "1974,"; and

(B) by striking "and a health maintenance organization" and inserting "a managed care organization, a pharmacy benefit manager, or other party that is, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service".

(b) REQUIREMENT FOR THIRD PARTIES TO PROVIDE THE STATE WITH COVERAGE ELIGIBILITY AND CLAIMS DATA.—Section 1902(a)(25) of such Act (42 U.S.C. 1396a(a)(25)) is amended—

(1) in subparagraph (G), by striking "and" at the end;

(2) in subparagraph (H), by adding "and" after the semicolon at the end; and

(3) by inserting after subparagraph (H), the following:

"(I) that the State shall provide assurances satisfactory to the Secretary that the State has in effect laws requiring health insurers, including self-insured plans, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), service benefit plans, managed care organizations, pharmacy benefit managers, or other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service, as a condition of doing business in the State, to—

"(i) provide, with respect to individuals who are eligible for, or are provided, medical assistance under the State plan, upon the request of the State, information to determine during what period the individual or their spouses or their dependents may be (or may have been) covered by a health insurer and the nature of the coverage that is or was provided by the health insurer (including the name, address, and identifying number of the plan) in a manner prescribed by the Secretary;

"(ii) accept the State's right of recovery and the assignment to the State of any right of an individual or other entity to payment from the party for an item or service for which payment has been made under the State plan;

"(iii) respond to any inquiry by the State regarding a claim for payment for any health care item or service that is submitted not later than 3 years after the date of the provision of such health care item or service; and

"(iv) agree not to deny a claim submitted by the State solely on the basis of the date of submission of the claim, the type or format of the claim form, or a failure to present proper documentation at the point-of-sale that is the basis of the claim, if—

"(I) the claim is submitted by the State within the 3-year period beginning on the date on which the item or service was furnished; and

"(II) any action by the State to enforce its rights with respect to such claim is commenced within 6 years of the State's submission of such claim;".

(c) EFFECTIVE DATE.—Except as provided in section 6035(e), the amendments made by this section take effect on January 1, 2006.

SEC. 6037. IMPROVED ENFORCEMENT OF DOCUMENTATION REQUIREMENTS.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (i), as amended by section 104 of Public Law 109–91 and section 6031(a) of this Act—

(A) by striking "or" at the end of paragraph (20);

(B) by striking the period at the end of paragraph (21) and inserting "; or"; and

(C) by inserting after paragraph (21) the following new paragraph:

"(22) with respect to amounts expended for medical assistance for an individual who declares under section 1137(d)(1)(A) to be a citizen or national of the United States for purposes of establishing eligibility for benefits under this title, unless the requirement of subsection (x) is met."; and

(2) by adding at the end the following new subsection:

"(x)(1) For purposes of subsection (i)(23), the requirement of this subsection is, with respect to an individual declaring to be a citizen or national of the United States, that, subject to paragraph (2), there is presented satisfactory documentary evidence of citizenship or nationality (as defined in paragraph (3)) of the individual.

"(2) The requirement of paragraph (1) shall not apply to an alien who is eligible for medical assistance under this title—

"(A) and is entitled to or enrolled for benefits under any part of title XVIII;

"(B) on the basis of receiving supplemental security income benefits under title XVI; or

"(C) on such other basis as the Secretary may specify under which satisfactory documentary evidence of citizenship or nationality had been previously presented.

"(3)(A) For purposes of this subsection, the term 'satisfactory documentary evidence of citizenship or nationality' means—

"(i) any document described in subparagraph (B); or

"(ii) a document described in subparagraph (C) and a document described in subparagraph (D).

"(B) The following are documents described in this subparagraph:

"(i) A United States passport.

"(ii) Form N-550 or N-570 (Certificate of Naturalization).

"(iii) Form N-560 or N-561 (Certificate of United States Citizenship).

"(iv) A valid State-issued driver's license or other identity document described in section 274A(b)(1)(D) of the Immigration and Nationality Act, but only if the State issuing the license or such document requires proof of United States citizenship before issuance of such license or document or obtains a social security number from the applicant and verifies before certification that such number is valid and assigned to the applicant who is a citizen.

"(v) Such other document as the Secretary may specify, by regulation, that provides proof of United States citizenship or nationality and that provides a reliable means of documentation of personal identity.

"(C) The following are documents described in this subparagraph:

"(i) A certificate of birth in the United States.

"(ii) Form FS-545 or Form DS-1350 (Certification of Birth Abroad).

"(iii) Form I-97 (United States Citizen Identification Card).

"(iv) Form FS-240 (Report of Birth Abroad of a Citizen of the United States).

"(v) Such other document (not described in subparagraph (B)(iv)) as the Secretary may specify that provides proof of United States citizenship or nationality.

"(D) The following are documents described in this subparagraph:

"(i) Any identity document described in section 274A(b)(1)(D) of the Immigration and Nationality Act.

"(ii) Any other documentation of personal identity of such other type as the Secretary finds, by regulation, provides a reliable means of identification.

"(E) A reference in this paragraph to a form includes a reference to any successor form.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to determinations of initial eligibility for medical assistance made on or after July 1, 2006, and to redeterminations of eligibility made on or after such date in the case of individuals for whom the requirement of section 1903(z) of the Social Security Act, as added by such amendments, was not previously met.

(c) Implementation Requirement.—As soon as practicable after the date of enactment of this Act, the Secretary of Health and Human Services shall establish an outreach program that is designed to educate individuals who are likely to be affected by the requirements of subsections (i)(23) and (x) of section 1903 of the Social Security Act (as added by subsection (a)) about such requirements and how they may be satisfied.

CHAPTER 4—FLEXIBILITY IN COST SHARING AND BENEFITS

SEC. 6041. STATE OPTION FOR ALTERNATIVE MEDICAID PREMIUMS AND COST SHARING.

(a) In General.—Title XIX of the Social Security Act is amended by inserting after section 1916 the following new section:

"STATE OPTION FOR ALTERNATIVE PREMIUMS AND COST SHARING

"Sec. 1916A. (a) State Flexibility.—

"(1) In general.—Notwithstanding sections 1916 and 1902(a)(10)(B), a State, at its option and through a State plan amendment, may impose premiums and cost sharing for any group of individuals (as specified by the State) and for any type of services (other than drugs for which cost sharing may be imposed under subsection (c)), and may vary such premiums and cost sharing among such groups or types, consistent with the limitations established under this section. Nothing in this section shall be construed as superseding (or preventing the application of) section 1916(g).

"(2) Definitions.—In this section:

"(A) Premium.—The term 'premium' includes any enrollment fee or similar charge.

"(B) Cost sharing.—The term 'cost sharing' includes any deduction, copayment, or similar charge.

"(b) Limitations on Exercise of Authority.—

"(1) Individuals with family income between 100 and 150 percent of the poverty line.—In the case of an individual whose family income exceeds 100 percent, but does not exceed 150 percent, of the poverty line applicable to a family of the size involved, subject to subsections (c)(2) and (e)(2)(A)—

"(A) no premium may be imposed under the plan; and

"(B) with respect to cost sharing—

"(i) the cost sharing imposed under subsection (a) with respect to any item or service may not exceed 10 percent of the cost of such item or service; and

"(ii) the total aggregate amount of cost sharing imposed under this section (including any cost sharing imposed under subsection (c) or (e)) for all individuals in the family may not exceed 5 percent of the family income of the family involved, as applied on a quarterly or monthly basis (as specified by the State).

"(2) Individuals with family income above 150 percent of the poverty line.— In the case of an individual whose family income exceeds 150 percent of the poverty line applicable to a family of the size involved, subject to subsections (c)(2) and (e)(2)(A)—

"(A) the total aggregate amount of premiums and cost sharing imposed under this section (including any cost sharing imposed under subsection (c) or (e)) for all individuals in the family may not exceed 5 percent of the family income of the family involved, as applied on a quarterly or monthly basis (as specified by the State); and

"(B) with respect to cost sharing, the cost sharing imposed with respect to any item or service under subsection (a) may not exceed 20 percent of the cost of such item or service.

"(3) Additional limitations.—

"(A) Premiums.—No premiums shall be imposed under this section with respect to the following:

"(i) Individuals under 18 years of age that are required to be provided medical assistance under section 1902(a)(10)(A)(i), and including individuals with respect to whom aid or assistance is made available under part B of title IV to children in foster care and individuals with respect to whom adoption or foster care assistance is made available under part E of such title, without regard to age.

"(ii) Pregnant women.

"(iii) Any terminally ill individual who is receiving hospice care (as defined in section 1905(o)).

"(iv) Any individual who is an inpatient in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs.

"(v) Women who are receiving medical assistance by virtue of the application of sections 1902(a)(10)(A)(ii)(XVIII) and 1902(aa).

"(B) Cost sharing.—Subject to the succeeding provisions of this section, no cost sharing shall be imposed under subsection (a) with respect to the following:

"(i) Services furnished to individuals under 18 years of age that are required to be provided medical assistance under section 1902(a)(10)(A)(i), and including services furnished to individuals with respect to whom aid or assistance is made available under part B of title IV to children in foster care and individuals with respect to whom adoption or foster care assistance is made available under part E of such title, without regard to age.

"(ii) Preventive services (such as well baby and well child care and immunizations) provided to children under 18 years of age regardless of family income.

"(iii) Services furnished to pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy.

"(iv) Services furnished to a terminally ill individual who is receiving hospice care (as defined in section 1905(o)).

"(v) Services furnished to any individual who is an inpatient in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs.

"(vi) Emergency services (as defined by the Secretary for purposes of section 1916(a)(2)(D)).

"(vii) Family planning services and supplies described in section 1905(a)(4)(C).

"(viii) Services furnished to women who are receiving medical assistance by virtue of the application of sections 1902(a)(10)(A)(ii)(XVIII) and 1902(aa).

"(C) Construction.—Nothing in this paragraph shall be construed as preventing a State from exempting additional classes of individuals from premiums under this section or from exempting additional individuals or services from cost sharing under subsection (a).

"(4) Determinations of family income.—In applying this subsection, family income shall be determined in a manner specified by the State for purposes of this subsection, including the use of such disregards as the State may provide. Family income shall be determined for such period and at such periodicity as the State may provide under this title.

"(5) Poverty line defined.—For purposes of this section, the term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

"(6) Construction.—Nothing in this section shall be construed—

"(A) as preventing a State from further limiting the premiums and cost sharing imposed under this section beyond the limitations provided under this section;

"(B) as affecting the authority of the Secretary through waiver to modify limitations on premiums and cost sharing under this section; or

"(C) as affecting any such waiver of requirements in effect under this title before the date of the enactment of this section with regard to the imposition of premiums and cost sharing.

"(d) Enforceability of Premiums and Other Cost Sharing.—

"(1) Premiums.—Notwithstanding section 1916(c)(3) and section 1902(a)(10)(B), a State may, at its option, condition the provision of medical assistance for an individual upon prepayment of a premium authorized to be imposed under this section, or may terminate eligibility for such medical assistance on the basis of failure to pay such a premium but shall not terminate eligibility of an individual for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days. A State may apply the previous sentence for some or all groups of beneficiaries as specified by the State and may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.

"(2) Cost sharing.—Notwithstanding section 1916(e) or any other provision of law, a State may permit a provider participating under the State plan to require, as a condition for the provision of care, items, or services to an individual entitled to medical assistance under this title for such care, items, or services, the payment of any cost sharing authorized to be imposed under this section with respect to such care, items, or services. Nothing in this paragraph shall be construed as preventing a provider from reducing or waiving the application of such cost sharing on a case-by-case basis.".

(b) Indexing Nominal Cost Sharing and Conforming Amendment.—Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(1) in subsection (f), by inserting "and section 1916A" after "(b)(3)"; and

(2) by adding at the end the following new subsection:

"(h) In applying this section and subsections (c) and (e) of section 1916A, with respect to cost sharing that is 'nominal' in amount, the Secretary shall increase such 'nominal' amounts for each year (beginning with 2006) by the annual percentage increase in the medical care component of the consumer price index for all urban consumers (U.S. city average) as rounded up in an appropriate manner.".

(c) Effective Date.—The amendments made by this section shall apply to cost sharing imposed for items and services furnished on or after March 31, 2006.

SEC. 6042. SPECIAL RULES FOR COST SHARING FOR PRESCRIPTION DRUGS.

(a) In General.—Section 1916A of the Social Security Act, as inserted by section 6041(a), is amended by inserting after subsection (b) the following new subsection:

"(c) Special Rules for Cost Sharing for Prescription Drugs.—

"(1) In general.—In order to encourage beneficiaries to use drugs (in this subsection referred to as 'preferred drugs') identified by the State as the least (or less) costly effective prescription drugs within a class of drugs (as defined by the State), with respect to one or more groups of beneficiaries specified by the State, subject to paragraph (2), the State may—

"(A) provide cost sharing (instead of the level of cost sharing otherwise permitted under section 1916, but subject to paragraphs (2) and (3)) with respect to drugs that are not preferred drugs within a class; and

"(B) waive or reduce the cost sharing otherwise applicable for preferred drugs within such class and shall not apply any such cost sharing for such preferred drugs for individuals for whom cost sharing may not otherwise be imposed under subsection (b)(3)(B).

"(2) Limitations.—

"(A) By income group.—In no case may the cost sharing under paragraph (1)(A) with respect to a non-preferred drug exceed—

"(i) in the case of an individual whose family income does not exceed 150 percent of the poverty line applicable to a family of the size involved, the amount of nominal cost sharing (as otherwise determined under section 1916); or

"(ii) in the case of an individual whose family income exceeds 150 percent of the poverty line applicable to a family of the size involved, 20 percent of the cost of the drug.

"(B) Limitation to nominal for exempt populations.—In the case of an individual who is otherwise not subject to cost sharing due to the application of subsection (b)(3)(B), any cost sharing under paragraph (1)(A) with respect to a non-preferred drug may not exceed a nominal amount (as otherwise determined under section 1916).

"(C) Continued application of aggregate cap.—In addition to the limitations imposed under subparagraphs (A) and (B), any cost sharing under paragraph (1)(A) continues to be subject to the aggregate cap on cost sharing applied under paragraph (1) or (2) of subsection (b), as the case may be.

"(3) Waiver.—In carrying out paragraph (1), a State shall provide for the application of cost sharing levels applicable to a preferred drug in the case of a drug that is not a preferred drug if the prescribing physician determines that the preferred drug for treatment of the same condition either would not be as effective for the individual or would have adverse effects for the individual or both.

"(4) Exclusion authority.—Nothing in this subsection shall be construed as preventing a State from excluding specified drugs or classes of drugs from the application of paragraph (1).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to cost sharing imposed for items and services furnished on or after March 31, 2006.

SEC. 6043. EMERGENCY ROOM COPAYMENTS FOR NON-EMERGENCY CARE.

(a) In General.—Section 1916A of the Social Security Act, as inserted by section 6041 and as amended by section 6042, is further amended by adding at the end the following new subsection:

"(e) State Option for Permitting Hospitals To Impose Cost Sharing for Non-Emergency Care Furnished in an Emergency Department.—

"(1) In general.—Notwithstanding section 1916 and section 1902(a)(1) or the previous provisions of this section, but subject to the limitations of paragraph (2), a State may, by amendment to its State plan under this title, permit a hospital to impose cost sharing for non-emergency services furnished to an individual (within one or more groups of individuals specified by the State) in the hospital emergency department under this subsection if the following conditions are met:

"(A) Access to non-emergency room provider.—The individual has actually available and accessible (as such terms are applied by the Secretary under section 1916(b)(3)) an alternate non-emergency services provider with respect to such services.

"(B) Notice.—The hospital must inform the beneficiary after receiving an appropriate medical screening examination under section 1867 and after a determination has been made that the individual does not have an emergency medical condition, but before providing the non-emergency services, of the following:

"(i) The hospital may require the payment of the State specified cost sharing before the service can be provided.

"(ii) The name and location of an alternate non-emergency services provider (described in subparagraph (A)) that is actually available and accessible (as described in such subparagraph).

"(iii) The fact that such alternate provider can provide the services without the imposition of cost sharing described in clause (i).

"(iv) The hospital provides a referral to coordinate scheduling of this treatment.

Nothing in this subsection shall be construed as preventing a State from applying (or waiving) cost sharing otherwise permissible under this section to services described in clause (iii).

"(2) Limitations.—

"(A) For poorest beneficiaries.—In the case of an individual described in subsection (b)(1), the cost sharing imposed under this subsection may not exceed twice the amount determined to be nominal under section 1916, subject to the percent of income limitation otherwise applicable under subsection (b)(1).

"(B) Application to exempt populations.—In the case of an individual who is otherwise not subject to cost sharing under subsection (b)(3), a State may impose cost sharing under paragraph (1) for care in an amount that does not exceed a nominal amount (as otherwise determined under section 1916) so long as no cost sharing is imposed to receive such care through an outpatient department or other alternative health care provider in the geographic area of the hospital emergency department involved.

"(C) Continued application of aggregate cap; relation to other cost sharing.—In addition to the limitations imposed under subparagraphs (A) and (B), any cost sharing under paragraph (1) is subject to the aggregate cap on cost sharing applied under paragraph (1) or (2) of subsection (b), as the case may be. Cost sharing imposed for services under this subsection shall be instead of any cost sharing that may be imposed for such services under subsection (a).

"(3) Construction.—Nothing in this section shall be construed—

"(A) to limit a hospital's obligations with respect to screening and stabilizing treatment of an emergency medical condition under section 1867; or

"(B) to modify any obligations under either State or Federal standards relating to the application of a prudent-layperson standard with respect to payment or coverage of emergency services by any managed care organization.

"(5) Definitions.—For purposes of this subsection:

"(A) Non-emergency services.—The term 'non-emergency services' means any care or services furnished in a emergency department of a hospital that the physician determines do not constitute an appropriate medical screening examination or stabilizing examination and treatment required to be provided by the hospital under section 1867.

"(B) Alternate non-emergency services provider.—The term 'alternative non-emergency services provider' means, with respect to non-emergency services for the diagnosis or treatment of a condition, a health care provider, such as a physician's office, health care clinic, community health center, hospital outpatient department, or similar health care provider, that can provide clinically appropriate services for the diagnosis or treatment of a condition contemporaneously with the provision of the non-emergency services that would be provided in a emergency department of a hospital for the diagnosis or treatment of a condition, and that is participating in the program under this title.".

(b) Grant Funds for Establishment of Alternate Non-Emergency Services Providers.—Section 1903 of the Social Security Act (42 U.S.C. 1396b), as amended by section 6037(a)(2), is amended by adding at the end the following new subsection:

"(y) Payments for Establishment of Alternate Non-Emergency Services Providers.—

"(1) Payments.—In addition to the payments otherwise provided under subsection (a), subject to paragraph (2), the Secretary shall provide for payments to States under such subsection for the establishment of alternate non-emergency service providers (as defined in section 1916A(e)(5)(B)), or networks of such providers.

"(2) Limitation.—The total amount of payments under this subsection shall not exceed $50,000,000 during the 4-year period beginning with 2006. This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Secretary to provide for the payment of amounts provided under this subsection.

"(3) Preference.—In providing for payments to States under this subsection, the Secretary shall provide preference to States that establish, or provide for, alternate non-emergency services providers or networks of such providers that—

"(A) serve rural or underserved areas where beneficiaries under this title may not have regular access to providers of primary care services; or

"(B) are in partnership with local community hospitals.

"(4) Form and manner of payment.—Payment to a State under this subsection shall be made only upon the filing of such application in such form and in such manner as the Secretary shall specify. Payment to a State under this subsection shall be made in the same manner as other payments under section 1903(a).".

(c) Effective Date.—The amendments made by this section shall apply to non-emergency services furnished on or after January 1, 2007.

SEC. 6044. USE OF BENCHMARK BENEFIT PACKAGES.

(a) In General.—Title XIX of the Social Security Act, as amended by section 6035, is amended by redesignating section 1937 as section 1938 and by inserting after section 1936 the following new section:

"STATE FLEXIBILITY IN BENEFIT PACKAGES

"Sec. 1937. (a) State Option of Providing Benchmark Benefits.—

"(1) Authority.—

"(A) In general.—Notwithstanding any other provision of this title, a State, at its option as a State plan amendment, may provide for medical assistance under this title to individuals within one or more groups of individuals specified by the State through enrollment in coverage that provides—

"(i) benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2); and

"(ii) for any child under 19 years of age who is covered under the State plan under section 1902(a)(10)(A), wrap-around benefits to the benchmark coverage or benchmark equivalent coverage consisting of early and periodic screening, diagnostic, and treatment services defined in section 1905(r).

"(B) Limitation.—The State may only exercise the option under subparagraph (A) for an individual eligible under an eligibility category that had been established under the State plan on or before the date of the enactment of this section.

"(C) Option of wrap-around benefits.—In the case of coverage described in subparagraph (A), a State, at its option, may provide such wrap-around or additional benefits as the State may specify.

"(D) Treatment as medical assistance.—Payment of premiums for such coverage under this subsection shall be treated as payment of other insurance premiums described in the third sentence of section 1905(a).

"(2) Application.—

"(A) In general.—Except as provided in subparagraph (B), a State may require that a full-benefit eligible individual (as defined in subparagraph (C)) within a group obtain benefits under this title through enrollment in coverage described in paragraph (1)(A). A State may apply the previous sentence to individuals within 1 or more groups of such individuals.

"(B) Limitation on application.—A State may not require under subparagraph (A) an individual to obtain benefits through enrollment described in paragraph (1)(A) if the individual is within one of the following categories of individuals:

"(i) Mandatory pregnant women.—The individual is a pregnant woman who is required to be covered under the State plan under section 1902(a)(10)(A)(i).

"(ii) Blind or disabled individuals.—The individual qualifies for medical assistance under the State plan on the basis of being blind or disabled (or being treated as being blind or disabled) without regard to whether the individual is eligible for supplemental security income benefits under title XVI on the basis of being blind or disabled and including an individual who is eligible for medical assistance on the basis of section 1902(e)(3).

"(iii) Dual eligibles.—The individual is entitled to benefits under any part of title XVIII.

"(iv) Terminally ill hospice patients.—The individual is terminally ill and is receiving benefits for hospice care under this title.

"(v) Eligible on basis of institutionalization.—The individual is an inpatient in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other medical institution, and is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs.

"(vi) Medically frail and special medical needs individuals.—The individual is medically frail or otherwise an individual with special medical needs (as identified in accordance with regulations of the Secretary).

"(vii) Beneficiaries qualifying for long-term care services.—The individual qualifies based on medical condition for medical assistance for long-term care services described in section 1917(c)(1)(C).

"(viii) Children in foster care receiving child welfare services and children receiving foster care or adoption assistance.—The individual is an individual with respect to whom aid or assistance is made available under part B of title IV to children in foster care and individuals with respect to whom adoption or foster care assistance is made available under part E of such such title, without regard to age.

"(ix) TANF and section 1931 parents.—The individual qualifies for medical assistance on the basis of eligibility to receive assistance under a State plan funded under part A of title IV (as in effect on or after the welfare reform effective date defined in section 1931(i)).

"(x) Women in the breast or cervical cancer program.—The individual is a woman who is receiving medical assistance by virtue of the application of sections 1902(a)(10)(A)(ii)(XVIII) and 1902(aa).

"(xii) Limited services beneficiaries.—The individual—

"(I) qualifies for medical assistance on the basis of section 1902(a)(10)(A)(ii)(XII); or

"(II) is not a qualified alien (as defined in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) and receives care and services necessary for the treatment of an emergency medical condition in accordance with section 1903(v).

"(C) Full-benefit eligible individuals.—

"(i) In general.—For purposes of this paragraph, subject to clause (ii), the term 'full-benefit eligible individual' means for a State for a month an individual who is determined eligible by the State for medical assistance for all services defined in section 1905(a) which are covered under the State plan under this title for such month under section 1902(a)(10)(A) or under any other category of eligibility for medical assistance for all such services under this title, as determined by the Secretary.

"(ii) Exclusion of medically needy and spend-down populations.—Such term shall not include an individual determined to be eligible by the State for medical assistance under section 1902(a)(10)(C) or by reason of section 1902(f) or otherwise eligible based on a reduction of income based on costs incurred for medical or other remedial care.

"(b) Benchmark Benefit Packages.—

"(1) In general.—For purposes of subsection (a)(1), each of the following coverage shall be considered to be benchmark coverage:

"(A) FEHBP-equivalent health insurance coverage.—The standard Blue Cross/Blue Shield preferred provider option service benefit plan, described in and offered under section 8903(1) of title 5, United States Code.

"(B) State employee coverage.—A health benefits coverage plan that is offered and generally available to State employees in the State involved.

"(C) Coverage offered through HMO.—The health insurance coverage plan that—

"(i) is offered by a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act), and

"(ii) has the largest insured commercial, non-medicaid enrollment of covered lives of such coverage plans offered by such a health maintenance organization in the State involved.

"(D) Secretary-approved coverage.—Any other health benefits coverage that the Secretary determines, upon application by a State, provides appropriate coverage for the population proposed to be provided such coverage.

"(2) Benchmark-equivalent coverage.—For purposes of subsection (a)(1), coverage that meets the following requirement shall be considered to be benchmark-equivalent coverage:

"(A) Inclusion of basic services.—The coverage includes benefits for items and services within each of the following categories of basic services:

"(i) Inpatient and outpatient hospital services.

"(ii) Physicians' surgical and medical services.

"(iii) Laboratory and x-ray services.

"(iv) Well-baby and well-child care, including age-appropriate immunizations.

"(v) Other appropriate preventive services, as designated by the Secretary.

"(B) AGGREGATE ACTUARIAL VALUE EQUIVALENT TO BENCHMARK PACKAGE.—The coverage has an aggregate actuarial value that is at least actuarially equivalent to one of the benchmark benefit packages described in paragraph (1).

"(C) SUBSTANTIAL ACTUARIAL VALUE FOR ADDITIONAL SERVICES INCLUDED IN BENCHMARK PACKAGE.—With respect to each of the following categories of additional services for which coverage is provided under the benchmark benefit package used under subparagraph (B), the coverage has an actuarial value that is equal to at least 75 percent of the actuarial value of the coverage of that category of services in such package:

"(i) Coverage of prescription drugs.

"(ii) Mental health services.

"(iii) Vision services.

"(iv) Hearing services.

"(3) DETERMINATION OF ACTUARIAL VALUE.—The actuarial value of coverage of benchmark benefit packages shall be set forth in an actuarial opinion in an actuarial report that has been prepared—

"(A) by an individual who is a member of the American Academy of Actuaries;

"(B) using generally accepted actuarial principles and methodologies;

"(C) using a standardized set of utilization and price factors;

"(D) using a standardized population that is representative of the population involved;

"(E) applying the same principles and factors in comparing the value of different coverage (or categories of services);

"(F) without taking into account any differences in coverage based on the method of delivery or means of cost control or utilization used; and

"(G) taking into account the ability of a State to reduce benefits by taking into account the increase in actuarial value of benefits coverage offered under this title that results from the limitations on cost sharing under such coverage.

The actuary preparing the opinion shall select and specify in the memorandum the standardized set and population to be used under subparagraphs (C) and (D).

"(4) COVERAGE OF RURAL HEALTH CLINIC AND FQHC SERVICES.—Notwithstanding the previous provisions of this section, a State may not provide for medical assistance through enrollment of an individual with benchmark coverage or benchmark equivalent coverage under this section unless—

"(A) the individual has access, through such coverage or otherwise, to services described in subparagraphs (B) and (C) of section 1905(a)(2); and

"(B) payment for such services is made in accordance with the requirements of section 1902(bb).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on March 31, 2006.

CHAPTER 5—STATE FINANCING UNDER MEDICAID

SEC. 6051. MANAGED CARE ORGANIZATION PROVIDER TAX REFORM.

(a) IN GENERAL.—Section 1903(w)(7)(A)(viii) of the Social Security Act (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended to read as follows:

"(viii) Services of managed care organizations (including health maintenance organizations, preferred provider organizations, and such other similar organizations as the Secretary may specify by regulation).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendment made by subsection (a) shall be effective as of the date of the enactment of this Act.

(2) DELAY IN EFFECTIVE DATE.—

(A) IN GENERAL.—Subject to subparagraph (B), in the case of a State specified in subparagraph (B), the amendment made by subsection (a) shall be effective as of October 1, 2009.

(B) SPECIFIED STATES.—For purposes of subparagraph (A), the States specified in this subparagraph are States that have enacted a law providing for a tax on the services of a medicaid managed care organization with a contract under section 1903(m) of the Social Security Act as of December 8, 2005.

(c) CLARIFICATION REGARDING NON-REGULATION OF TRANSFERS.—

(1) IN GENERAL.—Nothing in section 1903(w) of the Social Security Act (42 U.S.C. 1396b(w)) shall be construed by the Secretary of Health and Human Services as prohibiting a State's use of funds as the non-Federal share of expenditures under title XIX of such Act where such funds are transferred from or certified by a publicly-owned regional medical center located in another State and described in paragraph (2), so long as the Secretary determines that such use of funds is proper and in the interest of the program under title XIX.

(2) CENTER DESCRIBED.—A center described in this paragraph is a publicly-owned regional medical center that—

(A) provides level 1 trauma and burn care services;

(B) provides level 3 neonatal care services;

(C) is obligated to serve all patients, regardless of State of origin;

(D) is located within a Standard Metropolitan Statistical Area (SMSA) that includes at least 3 States, including the States described in paragraph (1);

(E) serves as a tertiary care provider for patients residing within a 125 mile radius; and

(F) meets the criteria for a disproportionate share hospital under section 1923 of such Act in at least one State other than the one in which the center is located.

(3) EFFECTIVE PERIOD.—This subsection shall apply through December 31, 2006.

SEC. 6052. REFORMS OF CASE MANAGEMENT AND TARGETED CASE MANAGEMENT.

(a) IN GENERAL.—Section 1915(g) of the Social Security Act (42 U.S.C. 1396n(g)(2)) is amended by striking paragraph (2) and inserting the following:

"(2) For purposes of this subsection:

"(A)(i) The term 'case management services' means services which will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.

"(ii) Such term includes the following:

"(I) Assessment of an eligible individual to determine service needs, including activities that focus on needs identification, to determine the need for any medical, educational, social, or other services. Such assessment activities include the following:

"(aa) Taking client history.

"(bb) Identifying the needs of the individual, and completing related documentation.

"(cc) Gathering information from other sources such as family members, medical providers, social workers, and educators, if necessary, to form a complete assessment of the eligible individual.

"(II) Development of a specific care plan based on the information collected through an assessment, that specifies the goals and actions to address the medical, social, educational, and other services needed by the eligible individual, including activities such as ensuring the active participation of the eligible individual and working with the individual (or the individual's authorized health care decision maker) and others to develop such goals and identify a course of action to respond to the assessed needs of the eligible individual.

"(III) Referral and related activities to help an individual obtain needed services, including activities that help link eligible individuals with medical, social, educational providers or other programs and services that are capable of providing needed services, such as making referrals to providers for needed services and scheduling appointments for the individual.

"(IV) Monitoring and followup activities, including activities and contacts that are necessary to ensure the care plan is effectively implemented and adequately addressing the needs of the eligible individual, and which may be with the individual, family members, providers, or other entities and conducted as frequently as necessary to help determine such matters as—

"(aa) whether services are being furnished in accordance with an individual's care plan;

"(bb) whether the services in the care plan are adequate; and

"(cc) whether there are changes in the needs or status of the eligible individual, and if so, making necessary adjustments in the care plan and service arrangements with providers.

"(iii) Such term does not include the direct delivery of an underlying medical, educational, social, or other service to which an eligible individual has been referred, including, with respect to the direct delivery of foster care services, services such as (but not limited to) the following:

"(I) Research gathering and completion of documentation required by the foster care program.

"(II) Assessing adoption placements.

"(III) Recruiting or interviewing potential foster care parents.

"(IV) Serving legal papers.

"(V) Home investigations.

"(VI) Providing transportation.

"(VII) Administering foster care subsidies.

"(VIII) Making placement arrangements.

"(B) The term 'targeted case management services' are case management services that are furnished without regard to the requirements of section 1902(a)(1) and section 1902(a)(10)(B) to specific classes of individuals or to individuals who reside in specified areas.

"(3) With respect to contacts with individuals who are not eligible for medical assistance under the State plan or, in the case of targeted case management services, individuals who are eligible for such assistance but are not part of the target population specified in the State plan, such contacts—

"(A) are considered an allowable case management activity, when the purpose of the contact is directly related to the management of the eligible individual's care; and

"(B) are not considered an allowable case management activity if such contacts relate directly to the identification and management of the noneligible or nontargeted individual's needs and care.

"(4)(A) In accordance with section 1902(a)(25), Federal financial participation only is available under this title for case management services or targeted case management services if there are no other third parties liable to pay for such services, including as reimbursement under a medical, social, educational, or other program.

‘‘(B) A State shall allocate the costs of any part of such services which are reimbursable under another federally funded program in accordance with OMB Circular A–87 (or any related or successor guidance or regulations regarding allocation of costs among federally funded programs) under an approved cost allocation program.

‘‘(5) Nothing in this subsection shall be construed as affecting the application of rules with respect to third party liability under programs, or activities carried out under title XXVI of the Public Health Service Act or by the Indian Health Service.’’.

(b) REGULATIONS.—The Secretary shall promulgate regulations to carry out the amendment made by subsection (a) which may be effective and final immediately on an interim basis as of the date of publication of the interim final regulation. If the Secretary provides for an interim final regulation, the Secretary shall provide for a period of public comments on such regulation after the date of publication. The Secretary may change or revise such regulation after completion of the period of public comment.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2006.

SEC. 6053. ADDITIONAL FMAP ADJUSTMENTS.

(a) HOLD HARMLESS FOR CERTAIN DECREASE.—Notwithstanding the first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), if, for purposes of titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.), the Federal medical assistance percentage determined for the State specified in section 4725(a) of Public Law 105-33 for fiscal year 2006 or fiscal year 2007 is less than the Federal medical assistance percentage determined for such State for fiscal year 2005, the Federal medical assistance percentage determined for such State for fiscal year 2005 shall be substituted for the Federal medical assistance percentage otherwise determined for such State for fiscal year 2006 or fiscal year 2007, as the case may be.

(b) HOLD HARMLESS FOR KATRINA IMPACT.—Notwithstanding any other provision of law, for purposes of titles XIX and XXI of the Social Security Act, the Secretary of Health and Human Services, in computing the Federal medical assistance percentage under section 1905(b) of such Act (42 U.S.C. 1396d(b)) for any year after 2006 for a State that the Secretary determines has a significant number of evacuees who were evacuated to, and live in, the State as a result of Hurricane Katrina as of October 1, 2005, shall disregard such evacuees (and income attributable to such evacuees) from such computation.

SEC. 6054. DSH ALLOTMENT FOR THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—For purposes of determining the DSH allotment for the District of Columbia under section 1923 of the Social Security Act (42 U.S.C. 1396r–4) for fiscal year 2006 and each subsequent fiscal year, the table in subsection (f)(2) of such section is amended under each of the columns for FY 00, FY 01, and FY 02, in the entry for the District of Columbia by striking ‘‘32’’ and inserting ‘‘49’’.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on October 1, 2005, and shall only apply to disproportionate share hospital adjustment expenditures applicable to fiscal year 2006 and subsequent fiscal years made on or after that date.

SEC. 6055. INCREASE IN MEDICAID PAYMENTS TO INSULAR AREAS.

Section 1108(g) of the Social Security Act (42 U.S.C. 1308(g)) is amended—

(1) in paragraph (2), by inserting ‘‘and subject to paragraph (3)’’ after ‘‘subsection (f)’’; and

(2) by adding at the end the following new paragraph:

‘‘(3) FISCAL YEARS 2006 AND 2007 FOR CERTAIN INSULAR AREAS.—The amounts otherwise determined under this subsection for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa for fiscal year 2006 and fiscal year 2007 shall be increased by the following amounts:

‘‘(A) For Puerto Rico, $12,000,000 for fiscal year 2006 and $12,000,000 for fiscal year 2007.

‘‘(B) For the Virgin Islands, $2,500,000 for fiscal year 2006 and $5,000,000 for fiscal year 2007.

‘‘(C) For Guam, $2,500,000 for fiscal year 2006 and $5,000,000 for fiscal year 2007.

‘‘(D) For the Northern Mariana Islands, $1,000,000 for fiscal year 2006 and $2,000,000 for fiscal year 2007.

‘‘(E) For American Samoa, $2,000,000 for fiscal year 2006 and $4,000,000 for fiscal year 2007.

Such amounts shall not be taken into account in applying paragraph (2) for fiscal year 2007 but shall be taken into account in applying such paragraph for fiscal year 2008 and subsequent fiscal years.’’.

CHAPTER 6—OTHER PROVISIONS

Subchapter A—Family Opportunity Act

SEC. 6061. SHORT TITLE OF SUBCHAPTER.

This subchapter may be cited as the ‘‘Family Opportunity Act of 2005’’ or the ‘‘Dylan Lee James Act’’.

SEC. 6062. OPPORTUNITY FOR FAMILIES OF DISABLED CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH CHILDREN.

(a) STATE OPTION TO ALLOW FAMILIES OF DISABLED CHILDREN TO PURCHASE MEDICAID COVERAGE FOR SUCH CHILDREN.—

(1) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10)(A)(ii)—

(i) by striking ‘‘or’’ at the end of subclause (XVII);

(ii) by adding ‘‘or’’ at the end of subclause (XVIII); and

(iii) by adding at the end the following new subclause:

‘‘(XIX) who are disabled children described in subsection (cc)(1);’’; and

(B) by adding at the end the following new subsection:

‘‘(cc)(1) Individuals described in this paragraph are individuals—

‘‘(A) who are children who have not attained 19 years of age and are born—

‘‘(i) on or after January 1, 2001 (or, at the option of a State, on or after an earlier date), in the case of the second, third, and fourth quarters of fiscal year 2007;

‘‘(ii) on or after October 1, 1995 (or, at the option of a State, on or after an earlier date), in the case of each quarter of fiscal year 2008; and

‘‘(iii) after October 1, 1989, in the case of each quarter of fiscal year 2009 and each quarter of any fiscal year thereafter;

‘‘(B) who would be considered disabled under section 1614(a)(3)(C) (as determined under title XVI for children but without regard to any income or asset eligibility requirements that apply under such title with respect to children); and

‘‘(C) whose family income does not exceed such income level as the State establishes and does not exceed—

‘‘(i) 300 percent of the poverty line (as defined in section 2110(c)(5)) applicable to a family of the size involved; or

‘‘(ii) such higher percent of such poverty line as a State may establish, except that—

‘‘(I) any medical assistance provided to an individual whose family income exceeds 300 percent of such poverty line may only be provided with State funds; and

‘‘(II) no Federal financial participation shall be provided under section 1903(a) for any medical assistance provided to such an individual.’’.

(2) INTERACTION WITH EMPLOYER-SPONSORED FAMILY COVERAGE.—Section 1902(cc) of such Act (42 U.S.C. 1396a(cc)), as added by paragraph (1)(B), is amended by adding at the end the following new paragraph:

‘‘(2)(A) If an employer of a parent of an individual described in paragraph (1) offers family coverage under a group health plan (as defined in section 2791(a) of the Public Health Service Act), the State shall—

‘‘(i) notwithstanding section 1906, require such parent to apply for, enroll in, and pay premiums for such coverage as a condition of such parent's child being or remaining eligible for medical assistance under subsection (a)(10)(A)(ii)(XIX) if the parent is determined eligible for such coverage and the employer contributes at least 50 percent of the total cost of annual premiums for such coverage; and

‘‘(ii) if such coverage is obtained—

‘‘(I) subject to paragraph (2) of section 1916(h), reduce the premium imposed by the State under that section in an amount that reasonably reflects the premium contribution made by the parent for private coverage on behalf of a child with a disability; and

‘‘(II) treat such coverage as a third party liability under subsection (a)(25).

‘‘(B) In the case of a parent to which subparagraph (A) applies, a State, notwithstanding section 1906 but subject to paragraph (1)(C)(ii), may provide for payment of any portion of the annual premium for such family coverage that the parent is required to pay. Any payments made by the State under this subparagraph shall be considered, for purposes of section 1903(a), to be payments for medical assistance.’’.

(b) STATE OPTION TO IMPOSE INCOME-RELATED PREMIUMS.—Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(1) in subsection (a), by striking ‘‘subsection (g)’’ and inserting ‘‘subsections (g) and (i)’’; and

(2) by adding at the end, as amended by section 6041(b)(2), the following new subsection:

‘‘(i)(1) With respect to disabled children provided medical assistance under section 1902(a)(10)(A)(ii)(XIX), subject to paragraph (2), a State may (in a uniform manner for such children) require the families of such children to pay monthly premiums set on a sliding scale based on family income.

‘‘(2) A premium requirement imposed under paragraph (1) may only apply to the extent that—

‘‘(A) in the case of a disabled child described in that paragraph whose family income—

‘‘(i) does not exceed 200 percent of the poverty line, the aggregate amount of such premium and any premium that the parent is required to pay for family coverage under section 1902(cc)(2)(A)(i) and other cost-sharing charges do not exceed 5 percent of the family's income; and

‘‘(ii) exceeds 200, but does not exceed 300, percent of the poverty line, the aggregate amount of such premium and any premium that the parent is required to pay for family coverage under section 1902(cc)(2)(A)(i) and other cost-sharing charges do not exceed 7.5 percent of the family's income; and

"(B) the requirement is imposed consistent with section 1902(cc)(2)(A)(ii)(I).

"(3) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of a child under section 1902(a)(10)(A)(ii)(XIX) for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of at least 60 days from the date on which the premium became past due. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.".

(c) CONFORMING AMENDMENTS.—(1) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended in the matter preceding subparagraph (A), by inserting "1902(a)(10)(A)(ii)(XIX)," after "1902(a)(10)(A)(ii)(XVIII),".

(2) Section 1905(u)(2)(B) of such Act (42 U.S.C. 1396d(u)(2)(B)) is amended by adding at the end the following sentence: "Such term excludes any child eligible for medical assistance only by reason of section 1902(a)(10)(A)(ii)(XIX).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance for items and services furnished on or after January 1, 2007.

SEC. 6063. DEMONSTRATION PROJECTS REGARDING HOME AND COMMUNITY-BASED ALTERNATIVES TO PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES FOR CHILDREN.

(a) IN GENERAL.—The Secretary is authorized to conduct, during each of fiscal years 2007 through 2011, demonstration projects (each in the section referred to as a "demonstration project") in accordance with this section under which up to 10 States (as defined for purposes of title XIX of the Social Security Act) are awarded grants, on a competitive basis, to test the effectiveness in improving or maintaining a child's functional level and cost-effectiveness of providing coverage of home and community-based alternatives to psychiatric residential treatment for children enrolled in the Medicaid program under title XIX of such Act.

(b) APPLICATION OF TERMS AND CONDITIONS.—

(1) IN GENERAL.—Subject to the provisions of this section, for the purposes of the demonstration projects, and only with respect to children enrolled under such demonstration projects, a psychiatric residential treatment facility (as defined in section 483.352 of title 42 of the Code of Federal Regulations) shall be deemed to be a facility specified in section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), and to be included in each reference in such section 1915(c) to hospitals, nursing facilities, and intermediate care facilities for the mentally retarded.

(2) STATE OPTION TO ASSURE CONTINUITY OF MEDICAID COVERAGE.—Upon the termination of a demonstration project under this section, the State that conducted the project may elect, only with respect to a child who is enrolled in such project on the termination date, to continue to provide medical assistance for coverage of home and community-based alternatives to psychiatric residential treatment for the child in accordance with section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), as modified through the application of paragraph (1). Expenditures incurred for providing such medical assistance shall be treated as a home and community-based waiver program under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) for purposes of payment under section 1903 of such Act (42 U.S.C. 1396b).

(c) TERMS OF DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—Except as otherwise provided in this section, a demonstration project shall be subject to the same terms and conditions as apply to a waiver under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), including the waiver of certain requirements under the first sentence of paragraph (3) of such section but not applying the second sentence of such paragraph.

(2) BUDGET NEUTRALITY.—In conducting the demonstration projects under this section, the Secretary shall ensure that the aggregate payments made by the Secretary under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) do not exceed the amount which the Secretary estimates would have been paid under that title if the demonstration projects under this section had not been implemented.

(3) EVALUATION.—The application for a demonstration project shall include an assurance to provide for such interim and final evaluations of the demonstration project by independent third parties, and for such interim and final reports to the Secretary, as the Secretary may require.

(d) PAYMENTS TO STATES; LIMITATIONS TO SCOPE AND FUNDING.—

(1) IN GENERAL.—Subject to paragraph (2), a demonstration project approved by the Secretary under this section shall be treated as a home and community-based waiver program under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) for purposes of payment under section 1903 of such Act (42 U.S.C. 1396b).

(2) LIMITATION.—In no case may the amount of payments made by the Secretary under this section for State demonstration projects for a fiscal year exceed the amount available under subsection (f)(2)(A) for such fiscal year.

(e) SECRETARY'S EVALUATION AND REPORT.—The Secretary shall conduct an interim and final evaluation of State demonstration projects under this section and shall report to the President and Congress the conclusions of such evaluations within 12 months of completing such evaluations.

(f) FUNDING.—

(1) IN GENERAL.—For the purpose of carrying out this section, there are appropriated, from amounts in the Treasury not otherwise appropriated, for fiscal years 2007 through 2011, a total of $218,000,000, of which—

(A) the amount specified in paragraph (2) shall be available for each of fiscal years 2007 through 2011; and

(B) a total of $1,000,000 shall be available to the Secretary for the evaluations and report under subsection (e).

(2) FISCAL YEAR LIMIT.—

(A) IN GENERAL.—For purposes of paragraph (1), the amount specified in this paragraph for a fiscal year is the amount specified in subparagraph (B) for the fiscal year plus the difference, if any, between the total amount available under this paragraph for prior fiscal years and the total amount previously expended under paragraph (1)(A) for such prior fiscal years.

(B) FISCAL YEAR AMOUNTS.—The amount specified in this subparagraph for—

(i) fiscal year 2007 is $21,000,000;

(ii) fiscal year 2008 is $37,000,000;

(iii) fiscal year 2009 is $49,000,000;

(iv) fiscal year 2010 is $53,000,000; and

(v) fiscal year 2011 is $57,000,000.

SEC. 6064. DEVELOPMENT AND SUPPORT OF FAMILY-TO-FAMILY HEALTH INFORMATION CENTERS.

Section 501 of the Social Security Act (42 U.S.C. 701) is amended by adding at the end the following new subsection:

"(c)(1)(A) For the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for special projects of regional and national significance for the development and support of family-to-family health information centers described in paragraph (2), there is appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated—

"(i) $3,000,000 for fiscal year 2007;

"(ii) $4,000,000 for fiscal year 2008; and

"(iii) $5,000,000 for fiscal year 2009.

"(B) Funds appropriated or authorized to be appropriated under subparagraph (A) shall—

"(i) be in addition to amounts appropriated under subsection (a) and retained under section 502(a)(1) for the purpose of carrying out activities described in subsection (a)(2); and

"(ii) remain available until expended.

"(2) The family-to-family health information centers described in this paragraph are centers that—

"(A) assist families of children with disabilities or special health care needs to make informed choices about health care in order to promote good treatment decisions, cost-effectiveness, and improved health outcomes for such children;

"(B) provide information regarding the health care needs of, and resources available for, such children;

"(C) identify successful health delivery models for such children;

"(D) develop with representatives of health care providers, managed care organizations, health care purchasers, and appropriate State agencies, a model for collaboration between families of such children and health professionals;

"(E) provide training and guidance regarding caring for such children;

"(F) conduct outreach activities to the families of such children, health professionals, schools, and other appropriate entities and individuals; and

"(G) are staffed—

"(i) by such families who have expertise in Federal and State public and private health care systems; and

"(ii) by health professionals.

"(3) The Secretary shall develop family-to-family health information centers described in paragraph (2) in accordance with the following:

"(A) With respect to fiscal year 2007, such centers shall be developed in not less than 25 States.

"(B) With respect to fiscal year 2008, such centers shall be developed in not less than 40 States.

"(C) With respect to fiscal year 2009 and each fiscal year thereafter, such centers shall be developed in all States.

"(4) The provisions of this title that are applicable to the funds made available to the Secretary under section 502(a)(1) apply in the same manner to funds made available to the Secretary under paragraph (1)(A).

"(5) For purposes of this subsection, the term 'State' means each of the 50 States and the District of Columbia.".

SEC. 6065. RESTORATION OF MEDICAID ELIGIBILITY FOR CERTAIN SSI BENEFICIARIES.

(a) IN GENERAL.—Section 1902(a)(10)(A)(i)(II) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended—

(1) by inserting "(aa)" after "(II)";

(2) by striking ") and" and inserting "and";

(3) by striking "section or who are" and inserting "section), (bb) who are"; and

(4) by inserting before the comma at the end the following: ", or (cc) who are under 21 years of age and with respect to whom supplemental security income benefits would be paid under title XVI if subparagraphs (A) and (B) of section 1611(c)(7) were applied without regard to the phrase 'the first day of the month following'".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance for items and services furnished on or after the date that is 1 year after the date of enactment of this Act.

Subchapter B—Money Follows the Person Rebalancing Demonstration

SEC. 6071. MONEY FOLLOWS THE PERSON REBALANCING DEMONSTRATION.

(a) PROGRAM PURPOSE AND AUTHORITY.—The Secretary is authorized to award, on a competitive basis, grants to States in accordance with this section for demonstration projects (each in this section referred to as an "MFP demonstration project") designed to achieve the following objectives with respect to institutional and home and community-based long-term care services under State Medicaid programs:

(1) REBALANCING.—Increase the use of home and community-based, rather than institutional, long-term care services.

(2) MONEY FOLLOWS THE PERSON.—Eliminate barriers or mechanisms, whether in the State law, the State Medicaid plan, the State budget, or otherwise, that prevent or restrict the flexible use of Medicaid funds to enable Medicaid-eligible individuals to receive support for appropriate and necessary long-term services in the settings of their choice.

(3) CONTINUITY OF SERVICE.—Increase the ability of the State Medicaid program to assure continued provision of home and community-based long-term care services to eligible individuals who choose to transition from an institutional to a community setting.

(4) QUALITY ASSURANCE AND QUALITY IMPROVEMENT.—Ensure that procedures are in place (at least comparable to those required under the qualified HCB program) to provide quality assurance for eligible individuals receiving Medicaid home and community-based long-term care services and to provide for continuous quality improvement in such services.

(b) DEFINITIONS.—For purposes of this section:

(1) HOME AND COMMUNITY-BASED LONG-TERM CARE SERVICES.—The term "home and community-based long-term care services" means, with respect to a State Medicaid program, home and community-based services (including home health and personal care services) that are provided under the State's qualified HCB program or that could be provided under such a program but are otherwise provided under the Medicaid program.

(2) ELIGIBLE INDIVIDUAL.—The term "eligible individual" means, with respect to an MFP demonstration project of a State, an individual in the State—

(A) who, immediately before beginning participation in the MFP demonstration project—

(i) resides (and has resided, for a period of not less than 6 months or for such longer minimum period, not to exceed 2 years, as may be specified by the State) in an inpatient facility;

(ii) is receiving Medicaid benefits for inpatient services furnished by such inpatient facility; and

(iii) with respect to whom a determination has been made that, but for the provision of home and community-based long-term care services, the individual would continue to require the level of care provided in an inpatient facility and, in any case in which the State applies a more stringent level of care standard as a result of implementing the State plan option permitted under section 1915(i) of the Social Security Act, the individual must continue to require at least the level of care which had resulted in admission to the institution; and

(B) who resides in a qualified residence beginning on the initial date of participation in the demonstration project.

(3) INPATIENT FACILITY.—The term "inpatient facility" means a hospital, nursing facility, or intermediate care facility for the mentally retarded. Such term includes an institution for mental diseases, but only, with respect to a State, to the extent medical assistance is available under the State Medicaid plan for services provided by such institution.

(4) MEDICAID.—The term "Medicaid" means, with respect to a State, the State program under title XIX of the Social Security Act (including any waiver or demonstration under such title or under section 1115 of such Act relating to such title).

(5) QUALIFIED HCB PROGRAM.—The term "qualified HCB program" means a program providing home and community-based long-term care services operating under Medicaid, whether or not operating under waiver authority.

(6) QUALIFIED RESIDENCE.—The term "qualified residence" means, with respect to an eligible individual—

(A) a home owned or leased by the individual or the individual's family member;

(B) an apartment with an individual lease, with lockable access and egress, and which includes living, sleeping, bathing, and cooking areas over which the individual or the individual's family has domain and control; and

(C) a residence, in a community-based residential setting, in which no more than 4 unrelated individuals reside.

(7) QUALIFIED EXPENDITURES.—The term "qualified expenditures" means expenditures by the State under its MFP demonstration project for home and community-based long-term care services for an eligible individual participating in the MFP demonstration project, but only with respect to services furnished during the 12-month period beginning on the date the individual is discharged from an inpatient facility referred to in paragraph (2)(A)(i).

(8) SELF-DIRECTED SERVICES.—The term "self-directed" means, with respect to home and community-based long-term care services for an eligible individual, such services for the individual which are planned and purchased under the direction and control of such individual or the individual's authorized representative (as defined by the Secretary), including the amount, duration, scope, provider, and location of such services, under the State Medicaid program consistent with the following requirements:

(A) ASSESSMENT.—There is an assessment of the needs, capabilities, and preferences of the individual with respect to such services.

(B) SERVICE PLAN.—Based on such assessment, there is developed jointly with such individual or the individual's authorized representative a plan for such services for such individual that is approved by the State and that—

(i) specifies those services, if any, which the individual or the individual's authorized representative would be responsible for directing;

(ii) identifies the methods by which the individual or the individual's authorized representative or an agency designated by an individual or representative will select, manage, and dismiss providers of such services;

(iii) specifies the role of family members and others whose participation is sought by the individual or the individual's authorized representative with respect to such services;

(iv) is developed through a person-centered process that—

(I) is directed by the individual or the individual's authorized representative;

(II) builds upon the individual's capacity to engage in activities that promote community life and that respects the individual's preferences, choices, and abilities; and

(III) involves families, friends, and professionals as desired or required by the individual or the individual's authorized representative;

(v) includes appropriate risk management techniques that recognize the roles and sharing of responsibilities in obtaining services in a self-directed manner and assure the appropriateness of such plan based upon the resources and capabilities of the individual or the individual's authorized representative; and

(vi) may include an individualized budget which identifies the dollar value of the services and supports under the control and direction of the individual or the individual's authorized representative.

(C) BUDGET PROCESS.—With respect to individualized budgets described in subparagraph (B)(vi), the State application under subsection (c)—

(i) describes the method for calculating the dollar values in such budgets based on reliable costs and service utilization;

(ii) defines a process for making adjustments in such dollar values to reflect changes in individual assessments and service plans; and

(iii) provides a procedure to evaluate expenditures under such budgets.

(9) STATE.—The term "State" has the meaning given such term for purposes of title XIX of the Social Security Act.

(c) STATE APPLICATION.—A State seeking approval of an MFP demonstration project shall submit to the Secretary, at such time and in such format as the Secretary requires, an application meeting the following requirements and containing such additional information, provisions, and assurances, as the Secretary may require:

(1) ASSURANCE OF A PUBLIC DEVELOPMENT PROCESS.—The application contains an assurance that the State has engaged, and will continue to engage, in a public process for the design, development, and evaluation of the MFP demonstration project that allows for input from eligible individuals, the families of such individuals, authorized representatives of such individuals, providers, and other interested parties.

(2) OPERATION IN CONNECTION WITH QUALIFIED HCB PROGRAM TO ASSURE CONTINUITY OF SERVICES.—The State will conduct the MFP demonstration project for eligible individuals in conjunction with the operation of a qualified HCB program that is in operation (or approved) in the State for such individuals in a manner that assures continuity of Medicaid coverage for such individuals so long as such individuals continue to be eligible for medical assistance.

(3) DEMONSTRATION PROJECT PERIOD.—The application shall specify the period of the MFP demonstration project, which shall include at least 2 consecutive fiscal years in the 5-fiscal-year period beginning with fiscal year 2007.

(4) SERVICE AREA.—The application shall specify the service area or areas of the MFP demonstration project, which may be a statewide area or 1 or more geographic areas of the State.

(5) TARGETED GROUPS AND NUMBERS OF INDIVIDUALS SERVED.—The application shall specify—

(A) the target groups of eligible individuals to be assisted to transition from an inpatient facility to a qualified residence during each fiscal year of the MFP demonstration project;

(B) the projected numbers of eligible individuals in each targeted group of eligible individuals to be so assisted during each such year; and

(C) the estimated total annual qualified expenditures for each fiscal year of the MFP demonstration project.

(6) INDIVIDUAL CHOICE, CONTINUITY OF CARE.—The application shall contain assurances that—

(A) each eligible individual or the individual's authorized representative will be provided the opportunity to make an informed choice regarding whether to participate in the MFP demonstration project;

(B) each eligible individual or the individual's authorized representative will choose the qualified residence in which the individual will reside and the setting in which the individual will receive home and community-based long-term care services;

(C) the State will continue to make available, so long as the State operates its qualified HCB program consistent with applicable requirements, home and community-based long-term care services to each individual who completes participation in the MFP demonstration project for as long as the individual remains eligible for medical assistance for such services under such qualified HCB program (including meeting a requirement relating to requiring a level of care provided in an inpatient facility and continuing to require such services, and, if the State applies a more stringent level of care standard as a result of implementing the State plan option permitted under section 1915(i) of the Social Security Act, meeting the requirement for at least the level of care which had resulted in the individual's admission to the institution).

(7) REBALANCING.—The application shall—

(A) provide such information as the Secretary may require concerning the dollar amounts of State Medicaid expenditures for the fiscal year, immediately preceding the first fiscal year of the State's MFP demonstration project, for long-term care services and the percentage of such expenditures that were for institutional long-term care services or were for home and community-based long-term care services;

(B)(i) specify the methods to be used by the State to increase, for each fiscal year during the MFP demonstration project, the dollar amount of such total expenditures for home and community-based long-term care services and the percentage of such total expenditures for long-term care services that are for home and community-based long-term care services; and

(ii) describe the extent to which the MFP demonstration project will contribute to accomplishment of objectives described in subsection (a).

(8) MONEY FOLLOWS THE PERSON.—The application shall describe the methods to be used by the State to eliminate any legal, budgetary, or other barriers to flexibility in the availability of Medicaid funds to pay for long-term care services for eligible individuals participating in the project in the appropriate settings of their choice, including costs to transition from an institutional setting to a qualified residence.

(9) MAINTENANCE OF EFFORT AND COST-EFFECTIVENESS.—The application shall contain or be accompanied by such information and assurances as may be required to satisfy the Secretary that—

(A) total expenditures under the State Medicaid program for home and community-based long-term care services will not be less for any fiscal year during the MFP demonstration project than for the greater of such expenditures for—

(i) fiscal year 2005; or

(ii) any succeeding fiscal year before the first year of the MFP demonstration project; and

(B) in the case of a qualified HCB program operating under a waiver under subsection (c) or (d) of section 1915 of the Social Security Act (42 U.S.C. 1396n), but for the amount awarded under a grant under this section, the State program would continue to meet the cost-effectiveness requirements of subsection (c)(2)(D) of such section or comparable requirements under subsection (d)(5) of such section, respectively.

(10) WAIVER REQUESTS.—The application shall contain or be accompanied by requests for any modification or adjustment of waivers of Medicaid requirements described in subsection (d)(3), including adjustments to the maximum numbers of individuals included and package of benefits, including one-time transitional services, provided.

(11) QUALITY ASSURANCE AND QUALITY IMPROVEMENT.—The application shall include—

(A) a plan satisfactory to the Secretary for quality assurance and quality improvement for home and community-based long-term care services under the State Medicaid program, including a plan to assure the health and welfare of individuals participating in the MFP demonstration project; and

(B) an assurance that the State will cooperate in carrying out activities under subsection (f) to develop and implement continuous quality assurance and quality improvement systems for home and community-based long-term care services.

(12) OPTIONAL PROGRAM FOR SELF-DIRECTED SERVICES.—If the State elects to provide for any home and community-based long-term care services as self-directed services (as defined in subsection (b)(8)) under the MFP demonstration project, the application shall provide the following:

(A) MEETING REQUIREMENTS.—A description of how the project will meet the applicable requirements of such subsection for the provision of self-directed services.

(B) VOLUNTARY ELECTION.—A description of how eligible individuals will be provided with the opportunity to make an informed election to receive self-directed services under the project and after the end of the project.

(C) STATE SUPPORT IN SERVICE PLAN DEVELOPMENT.—Satisfactory assurances that the State will provide support to eligible individuals who self-direct in developing and implementing their service plans.

(D) OVERSIGHT OF RECEIPT OF SERVICES.—Satisfactory assurances that the State will provide oversight of eligible individual's receipt of such self-directed services, including steps to assure the quality of services provided and that the provision of such services are consistent with the service plan under such subsection.

Nothing in this section shall be construed as requiring a State to make an election under the project to provide for home and community-based long-term care services as self-directed services, or as requiring an individual to elect to receive self-directed services under the project.

(13) REPORTS AND EVALUATION.—The application shall provide that—

(A) the State will furnish to the Secretary such reports concerning the MFP demonstration project, on such timetable, in such uniform format, and containing such information as the Secretary may require, as will allow for reliable comparisons of MFP demonstration projects across States; and

(B) the State will participate in and cooperate with the evaluation of the MFP demonstration project.

(d) SECRETARY'S AWARD OF COMPETITIVE GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants under this section on a competitive basis to States selected from among those with applications meeting the requirements of subsection (c), in accordance with the provisions of this subsection.

(2) SELECTION AND MODIFICATION OF STATE APPLICATIONS.—In selecting State applications for the awarding of such a grant, the Secretary—

(A) shall take into consideration the manner in which, and extent to which, the State proposes to achieve the objectives specified in subsection (a);

(B) shall seek to achieve an appropriate national balance in the numbers of eligible individuals, within different target groups of eligible individuals, who are assisted to transition to qualified residences under MFP demonstration projects, and in the geographic distribution of States operating MFP demonstration projects;

(C) shall give preference to State applications proposing—

(i) to provide transition assistance to eligible individuals within multiple target groups; and

(ii) to provide eligible individuals with the opportunity to receive home and community-based long-term care services as self-directed services, as defined in subsection (b)(8); and

(D) shall take such objectives into consideration in setting the annual amounts of State grant awards under this section.

(3) WAIVER AUTHORITY.—The Secretary is authorized to waive the following provisions of title XIX of the Social Security Act, to the extent necessary to enable a State initiative to meet the requirements and accomplish the purposes of this section:

(A) STATEWIDENESS.—Section 1902(a)(1), in order to permit implementation of a State initiative in a selected area or areas of the State.

(B) COMPARABILITY.—Section 1902(a)(10)(B), in order to permit a State initiative to assist a selected category or categories of individuals described in subsection (b)(2)(A).

(C) INCOME AND RESOURCES ELIGIBILITY.—Section 1902(a)(10)(C)(i)(III), in order to permit a State to apply institutional eligibility rules to individuals transitioning to community-based care.

(D) PROVIDER AGREEMENTS.—Section 1902(a)(27), in order to permit a State to implement self-directed services in a cost-effective manner.

(4) CONDITIONAL APPROVAL OF OUTYEAR GRANT.—In awarding grants under this section, the Secretary shall condition the grant for the second and any subsequent fiscal years of the grant period on the following:

(A) NUMERICAL BENCHMARKS.—The State must demonstrate to the satisfaction of the Secretary that it is meeting numerical benchmarks specified in the grant agreement for—

(i) increasing State Medicaid support for home and community-based long-term care services under subsection (c)(5); and

(ii) numbers of eligible individuals assisted to transition to qualified residences.

(B) QUALITY OF CARE.—The State must demonstrate to the satisfaction of the Secretary that it is meeting the requirements under subsection (c)(11) to assure the health and welfare of MFP demonstration project participants.

(e) PAYMENTS TO STATES; CARRYOVER OF UNUSED GRANT AMOUNTS.—

(1) PAYMENTS.—For each calendar quarter in a fiscal year during the period a State is awarded a grant under subsection (d), the Secretary shall pay to the State from its grant award for such fiscal year an amount equal to the lesser of—

(A) the MFP-enhanced FMAP (as defined in paragraph (5)) of the amount of qualified expenditures made during such quarter; or

(B) the total amount remaining in such grant award for such fiscal year (taking into account the application of paragraph (2)).

(2) CARRYOVER OF UNUSED AMOUNTS.—Any portion of a State grant award for a fiscal year under this section remaining at the end of such fiscal year shall remain available to the State for the next 4 fiscal years, subject to paragraph (3).

(3) REAWARDING OF CERTAIN UNUSED AMOUNTS.—In the case of a State that the Secretary determines pursuant to subsection (d)(4) has failed to meet the conditions for continuation of a MFP demonstration project under this section in a succeeding year or years, the Secretary shall rescind the grant awards for such succeeding year or years, together with any unspent portion of an award for prior years, and shall add such amounts to the appropriation for the immediately succeeding fiscal year for grants under this section.

(4) PREVENTING DUPLICATION OF PAYMENT.—The payment under a MFP demonstration project with respect to qualified expenditures shall be in lieu of any payment with respect to such expenditures that could otherwise be paid under Medicaid, including under section 1903(a) of the Social Security Act. Nothing in the previous sentence shall be construed as preventing the payment under Medicaid for such expenditures in a grant year after amounts available to pay for such expenditures under the MFP demonstration project have been exhausted.

(5) MFP-ENHANCED FMAP.—For purposes of paragraph (1)(A), the "MFP-enhanced FMAP", for a State for a fiscal year, is equal to the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)) for the State increased by a number of percentage points equal to 50 percent of the number of percentage points by which (A) such Federal medical assistance percentage for the State, is less than (B) 100 percent; but in no case shall the MFP-enhanced FMAP for a State exceed 90 percent.

(f) QUALITY ASSURANCE AND IMPROVEMENT; TECHNICAL ASSISTANCE; OVERSIGHT.—

(1) IN GENERAL.—The Secretary, either directly or by grant or contract, shall provide for technical assistance to, and oversight of, States for purposes of upgrading quality assurance and quality improvement systems under Medicaid home and community-based waivers, including—

(A) dissemination of information on promising practices;

(B) guidance on system design elements addressing the unique needs of participating beneficiaries;

(C) ongoing consultation on quality, including assistance in developing necessary tools, resources, and monitoring systems; and

(D) guidance on remedying programmatic and systemic problems.

(2) FUNDING.—From the amounts appropriated under subsection (h)(1) for the portion of fiscal year 2007 that begins on January 1, 2007, and ends on September 30, 2007, and for fiscal year 2008, not more than $2,400,000 shall be available to the Secretary to carry out this subsection during the period that begins on January 1, 2007, and ends on September 30, 2011.

(g) RESEARCH AND EVALUATION.—

(1) IN GENERAL.—The Secretary, directly or through grant or contract, shall provide for research on, and a national evaluation of, the program under this section, including assistance to the Secretary in preparing the final report required under paragraph (2). The evaluation shall include an analysis of projected and actual savings related to the transition of individuals to qualified residences in each State conducting an MFP demonstration project.

(2) FINAL REPORT.—The Secretary shall make a final report to the President and Congress, not later than September 30, 2011, reflecting the evaluation described in paragraph (1) and providing findings and conclusions on the conduct and effectiveness of MFP demonstration projects.

(3) FUNDING.—From the amounts appropriated under subsection (h)(1) for each of fiscal years 2008 through 2011, not more than $1,100,000 per year shall be available to the Secretary to carry out this subsection.

(h) APPROPRIATIONS.—

(1) IN GENERAL.—There are appropriated, from any funds in the Treasury not otherwise appropriated, for grants to carry out this section—

(A) $250,000,000 for the portion of fiscal year 2007 beginning on January 1, 2007, and ending on September 30, 2007;

(B) $300,000,000 for fiscal year 2008;

(C) $350,000,000 for fiscal year 2009;

(D) $400,000,000 for fiscal year 2010; and

(E) $450,000,000 for fiscal year 2011.

(2) AVAILABILITY.—Amounts made available under paragraph (1) for a fiscal year shall remain available for the awarding of grants to States by not later than September 30, 2011.

Subchapter C—Miscellaneous

SEC. 6081. MEDICAID TRANSFORMATION GRANTS.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b), as amended by sections 6037(a)(2) and 6043(b), is amended by adding at the end the following new subsection:

"(z) MEDICAID TRANSFORMATION PAYMENTS.—

"(1) IN GENERAL.—In addition to the payments provided under subsection (a), subject to paragraph (4), the Secretary shall provide for payments to States for the adoption of innovative methods to improve the effectiveness and efficiency in providing medical assistance under this title.

"(2) PERMISSIBLE USES OF FUNDS.—The following are examples of innovative methods for which funds provided under this subsection may be used:

"(A) Methods for reducing patient error rates through the implementation and use of electronic health records, electronic clinical decision support tools, or e-prescribing programs.

"(B) Methods for improving rates of collection from estates of amounts owed under this title.

"(C) Methods for reducing waste, fraud, and abuse under the program under this title, such as reducing improper payment rates as measured by annual payment error rate measurement (PERM) project rates.

"(D) Implementation of a medication risk management program as part of a drug use review program under section 1927(g).

"(E) Methods in reducing, in clinically appropriate ways, expenditures under this title for covered outpatient drugs, particularly in the categories of greatest drug utilization, by increasing the utilization of generic drugs through the use of education programs and other incentives to promote greater use of generic drugs.

"(F) Methods for improving access to primary and specialty physician care for the uninsured using integrated university-based hospital and clinic systems.

"(3) APPLICATION; TERMS AND CONDITIONS.—

"(A) IN GENERAL.—No payments shall be made to a State under this subsection unless the State applies to the Secretary for such payments in a form, manner, and time specified by the Secretary.

"(B) TERMS AND CONDITIONS.—Such payments are made under such terms and conditions consistent with this subsection as the Secretary prescribes.

"(C) ANNUAL REPORT.—Payment to a State under this subsection is conditioned on the State submitting to the Secretary an annual report on the programs supported by such payment. Such report shall include information on—

"(i) the specific uses of such payment;

"(ii) an assessment of quality improvements and clinical outcomes under such programs; and

"(iii) estimates of cost savings resulting from such programs.

"(4) FUNDING.—

"(A) LIMITATION ON FUNDS.—The total amount of payments under this subsection shall be equal to, and shall not exceed—

"(i) $75,000,000 for fiscal year 2007; and

"(ii) $75,000,000 for fiscal year 2008.

This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Secretary to provide for the payment of amounts provided under this subsection.

"(B) ALLOCATION OF FUNDS.—The Secretary shall specify a method for allocating the funds made available under this subsection among States. Such method shall provide preference for States that design programs that target health providers that treat significant numbers of Medicaid beneficiaries. Such method shall provide that not less than 25 percent of such funds shall be allocated among States the population of which (as determined according to data collected by the United States Census Bureau) as of July 1, 2004, was more than 105 percent of the population of the respective State (as so determined) as of April 1, 2000.

"(C) FORM AND MANNER OF PAYMENT.—Payment to a State under this subsection shall be made in the same manner as other payments under section 1903(a). There is no requirement for State matching funds to receive payments under this subsection.

"(5) MEDICATION RISK MANAGEMENT PROGRAM.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'medication risk management program' means a program for targeted beneficiaries that ensures that covered outpatient drugs are appropriately used to optimize therapeutic outcomes through improved medication use and to reduce the risk of adverse events.

"(B) ELEMENTS.—Such program may include the following elements:

"(i) The use of established principles and standards for drug utilization review and best practices to analyze prescription drug claims of targeted beneficiaries and identify outlier physicians.

"(ii) On an ongoing basis provide outlier physicians—

"(I) a comprehensive pharmacy claims history for each targeted beneficiary under their care;

"(II) information regarding the frequency and cost of relapses and hospitalizations of targeted beneficiaries under the physician's care; and

"(III) applicable best practice guidelines and empirical references.

"(iii) Monitor outlier physician's prescribing, such as failure to refill, dosage strengths, and provide incentives and information to encourage the adoption of best clinical practices.

"(C) TARGETED BENEFICIARIES.—For purposes of this paragraph, the term 'targeted beneficiaries' means Medicaid eligible beneficiaries who are identified as having high prescription drug costs and medical costs, such as individuals with behavioral disorders or multiple chronic diseases who are taking multiple medications.".

SEC. 6082. HEALTH OPPORTUNITY ACCOUNTS.

Title XIX of the Social Security Act, as amended by sections 6035 and 6044, is amended—

(1) by redesignating section 1938 as section 1939; and

(2) by inserting after section 1937 the following new section:

"HEALTH OPPORTUNITY ACCOUNTS

"SEC. 1938. (a) AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary shall establish a demonstration program under which States may provide under their State plans under this title (including such a plan operating under a statewide waiver under section 1115) in accordance with this section for the provision of alternative benefits consistent with subsection (c) for eligible population groups in one or more geographic areas of the State specified by the State. An amendment under the previous sentence is referred to in this section as a 'State demonstration program'.

"(2) INITIAL DEMONSTRATION.—

"(A) IN GENERAL.—The demonstration program under this section shall begin on January 1, 2007. During the first 5 years of such program, the Secretary shall not approve more than 10 States to conduct demonstration programs under this section, with each State demonstration program covering 1 or more geographic areas specified by the State. After such 5-year period—

"(i) unless the Secretary finds, taking into account cost-effectiveness, quality of care, and other criteria that the Secretary specifies, that a State demonstration program previously implemented has been unsuccessful, such a demonstration program may be extended or made permanent in the State; and

"(ii) unless the Secretary finds, taking into account cost-effectiveness, quality of care, and other criteria that the Secretary specifies, that all State demonstration programs previously implemented were unsuccessful, other States may implement State demonstration programs.

"(B) GAO REPORT.—

"(i) IN GENERAL.—Not later than 3 months after the end of the 5-year period described in subparagraph (A), the Comptroller General of the United States shall submit a report to Congress evaluating the demonstration programs conducted under this section during such period.

"(ii) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Comptroller General of the United States, $550,000 for the period of fiscal years 2007 through 2010 to carry out clause (i).

"(3) APPROVAL.—The Secretary shall not approve a State demonstration program under paragraph (1) unless the program includes the following:

"(A) Creating patient awareness of the high cost of medical care.

"(B) Providing incentives to patients to seek preventive care services.

"(C) Reducing inappropriate use of health care services.

"(D) Enabling patients to take responsibility for health outcomes.

"(E) Providing enrollment counselors and ongoing education activities.

"(F) Providing transactions involving health opportunity accounts to be conducted electronically and without cash.

"(G) Providing access to negotiated provider payment rates consistent with this section.

Nothing in this section shall be construed as preventing a State demonstration program from providing incentives for patients obtaining appropriate preventive care (as defined for purposes of section 223(c)(2)(C) of the Internal Revenue Code of 1986), such as additional account contributions for an individual demonstrating healthy prevention practices.

"(4) NO REQUIREMENT FOR STATEWIDENESS.—Nothing in this section or any other provision of law shall be construed to require that a State must provide for the implementation of a State demonstration program on a Statewide basis.

"(b) ELIGIBLE POPULATION GROUPS.—

"(1) IN GENERAL.—A State demonstration program under this section shall specify the eligible population groups consistent with paragraphs (2) and (3).

"(2) ELIGIBILITY LIMITATIONS DURING INITIAL DEMONSTRATION PERIOD.—During the initial 5 years of the demonstration program under this section, a State demonstration program shall not apply to any of the following individuals:

"(A) Individuals who are 65 years of age or older.

"(B) Individuals who are disabled, regardless of whether or not their eligibility for medical assistance under this title is based on such disability.

"(C) Individuals who are eligible for medical assistance under this title only because they are (or were within the previous 60 days) pregnant.

"(D) Individuals who have been eligible for medical assistance for a continuous period of less than 3 months.

"(3) ADDITIONAL LIMITATIONS.—A State demonstration program shall not apply to any individual within a category of individuals described in section 1937(a)(2)(B).

"(4) LIMITATIONS.—

"(A) STATE OPTION.—This subsection shall not be construed as preventing a State from further limiting eligibility.

"(B) ON ENROLLEES IN MEDICAID MANAGED CARE ORGANIZATIONS.—Insofar as the State provides for eligibility of individuals who are enrolled in medicaid managed care organizations, such individuals may participate in the State demonstration program only if the State provides assurances satisfactory to the Secretary that the following conditions are met with respect to any such organization:

"(i) In no case may the number of such individuals enrolled in the organization who participate in the program exceed 5 percent of the total number of individuals enrolled in such organization.

"(ii) The proportion of enrollees in the organization who so participate is not significantly disproportionate to the proportion of such enrollees in other such organizations who participate.

"(iii) The State has provided for an appropriate adjustment in the per capita payments to the organization to account for such participation, taking into account differences in the likely use of health services between enrollees who so participate and enrollees who do not so participate.

"(5) VOLUNTARY PARTICIPATION.—An eligible individual shall be enrolled in a State demonstration program only if the individual voluntarily enrolls. Except in such hardship cases as the Secretary shall specify, such an enrollment shall be effective for a period of 12 months, but may be extended for additional periods of 12 months each with the consent of the individual.

"(6) 1-YEAR MORATORIUM FOR REENROLLMENT.—An eligible individual who, for any reason, is disenrolled from a State demonstration program conducted under this section shall not be permitted to reenroll in such program before the end of the 1-year period that begins on the effective date of such disenrollment.

"(c) ALTERNATIVE BENEFITS.—

"(1) IN GENERAL.—The alternative benefits provided under this section shall consist, consistent with this subsection, of at least—

"(A) coverage for medical expenses in a year for items and services for which benefits are otherwise provided under this title after an annual deductible described in paragraph (2) has been met; and

"(B) contribution into a health opportunity account.

Nothing in subparagraph (A) shall be construed as preventing a State from providing for coverage of preventive care (referred to in subsection (a)(3)) within the alternative benefits without regard to the annual deductible.

"(2) ANNUAL DEDUCTIBLE.—The amount of the annual deductible described in paragraph (1)(A) shall be at least 100 percent, but no more than 110 percent, of the annualized amount of contributions to the health opportunity account under subsection (d)(2)(A)(i), determined without regard to any limitation described in subsection (d)(2)(C)(i)(II).

"(3) ACCESS TO NEGOTIATED PROVIDER PAYMENT RATES.—

"(A) FEE-FOR-SERVICE ENROLLEES.—In the case of an individual who is participating in a State demonstration program and who is not enrolled with a medicaid managed care organization, the State shall provide that the individual may obtain demonstration program medicaid services from—

"(i) any participating provider under this title at the same payment rates that would be applicable to such services if the deductible described in paragraph (1)(A) was not applicable; or

"(ii) any other provider at payment rates that do not exceed 125 percent of the payment rate that would be applicable to such services furnished by a participating provider under this title if the deductible described in paragraph (1)(A) was not applicable.

"(B) TREATMENT UNDER MEDICAID MANAGED CARE PLANS.—In the case of an individual who is participating in a State demonstration program and is enrolled with a medicaid managed care organization, the State shall enter into an arrangement with the organization under which the individual may obtain demonstration program medicaid services from any provider described in clause (ii) of subparagraph (A) at payment rates that do not exceed the payment rates that may be imposed under that clause.

"(C) COMPUTATION.—The payment rates described in subparagraphs (A) and (B) shall be computed without regard to any cost sharing that would be otherwise applicable under sections 1916 and 1916A.

"(D) DEFINITIONS.—For purposes of this paragraph:

"(i) The term 'demonstration program medicaid services' means, with respect to an individual participating in a State demonstration program, services for which the individual would be provided medical assistance under this title but for the application of the deductible described in paragraph (1)(A).

"(ii) The term 'participating provider' means—

"(I) with respect to an individual described in subparagraph (A), a health care provider that has entered into a participation agreement with the State for the provision of services to individuals entitled to benefits under the State plan; or

"(II) with respect to an individual described in subparagraph (B) who is enrolled in a medicaid managed care organization, a health care provider that has entered into an arrangement for the provision of services to enrollees of the organization under this title.

"(4) NO EFFECT ON SUBSEQUENT BENEFITS.—Except as provided under paragraphs (1) and (2), alternative benefits for an eligible individual shall consist of the benefits otherwise provided to the individual, including cost sharing relating to such benefits.

"(5) OVERRIDING COST SHARING AND COMPARABILITY REQUIREMENTS FOR ALTERNATIVE BENEFITS.—The provisions of this title relating to cost sharing for benefits (including sections 1916 and 1916A) shall not apply with respect to benefits to which the annual deductible under paragraph (1)(A) applies. The provisions of section 1902(a)(10)(B) (relating to comparability) shall not apply with respect to the provision of alternative benefits (as described in this subsection).

"(6) TREATMENT AS MEDICAL ASSISTANCE.—Subject to subparagraphs (D) and (E) of subsection (d)(2), payments for alternative benefits under this section (including contributions into a health opportunity account) shall be treated as medical assistance for purposes of section 1903(a).

"(7) USE OF TIERED DEDUCTIBLE AND COST SHARING.—

"(A) IN GENERAL.—A State—

"(i) may vary the amount of the annual deductible applied under paragraph (1)(A) based on the income of the family involved so long as it does not favor families with higher income over those with lower income; and

"(ii) may vary the amount of the maximum out-of-pocket cost sharing (as defined in subparagraph (B)) based on the income of the family involved so long as it does not favor families with higher income over those with lower income.

"(B) MAXIMUM OUT-OF-POCKET COST SHARING.—For purposes of subparagraph(A)(ii), the term 'maximum out-of-pocket cost sharing' means, for an individual or family, the amount by which the annual deductible level applied under paragraph (1)(A) to the individual or family exceeds the balance in the health opportunity account for the individual or family.

"(8) CONTRIBUTIONS BY EMPLOYERS.—Nothing in this section shall be construed as preventing an employer from providing health benefits coverage consisting of the coverage described in paragraph (1)(A) to individuals who are provided alternative benefits under this section.

"(d) HEALTH OPPORTUNITY ACCOUNT.—

"(1) IN GENERAL.—For purposes of this section, the term 'health opportunity account' means an account that meets the requirements of this subsection.

"(2) CONTRIBUTIONS.—

"(A) IN GENERAL.—No contribution may be made into a health opportunity account except—

"(i) contributions by the State under this title; and

. "(ii) contributions by other persons and entities, such as charitable organizations, as permitted under section 1903(w).

"(B) STATE CONTRIBUTION.—A State shall specify the contribution amount that shall be deposited under subparagraph (A)(i) into a health opportunity account.

"(C) LIMITATION ON ANNUAL STATE CONTRIBUTION PROVIDED AND PERMITTING IMPOSITION OF MAXIMUM ACCOUNT BALANCE.—

"(i) IN GENERAL.—A State—

"(I) may impose limitations on the maximum contributions that may be deposited under subparagraph (A)(i) into a health opportunity account in a year;

"(II) may limit contributions into such an account once the balance in the account reaches a level specified by the State; and

"(III) subject to clauses (ii) and (iii) and subparagraph (D)(i), may not provide contributions described in subparagraph (A)(i) to a health opportunity account on behalf of an individual or family to the extent the amount of such contributions (including both State and Federal shares) exceeds, on an annual basis, $2,500 for each individual (or family member) who is an adult and $1,000 for each individual (or family member) who is a child.

"(ii) INDEXING OF DOLLAR LIMITATIONS.—For each year after 2006, the dollar amounts specified in clause (i)(III) shall be annually increased by the Secretary by a percentage that reflects the annual percentage increase in the medical care component of the consumer price index for all urban consumers.

"(iii) BUDGET NEUTRAL ADJUSTMENT.—A State may provide for dollar limitations in excess of those specified in clause (i)(III) (as increased under clause (ii)) for specified individuals if the State provides assurances satisfactory to the Secretary that contributions otherwise made to other individuals will be reduced in a manner so as to provide for aggregate contributions that do not exceed the aggregate contributions that would otherwise be permitted under this subparagraph.

"(D) LIMITATIONS ON FEDERAL MATCHING.—

"(i) STATE CONTRIBUTION.—A State may contribute under subparagraph (A)(i) amounts to a health opportunity account in excess of the limitations provided under subparagraph (C)(i)(III), but no Federal financial participation shall be provided under section 1903(a) with respect to contributions in excess of such limitations.

"(ii) NO FFP FOR PRIVATE CONTRIBUTIONS.—No Federal financial participation shall be provided under section 1903(a) with respect to any contributions described in subparagraph (A)(ii) to a health opportunity account.

"(E) APPLICATION OF DIFFERENT MATCHING RATES.—The Secretary shall provide a method under which, for expenditures made from a health opportunity account for medical care for which the Federal matching rate under section 1903(a) exceeds the Federal medical assistance percentage, a State may obtain payment under such section at such higher matching rate for such expenditures.

"(3) USE.—

"(A) GENERAL USES.—

"(i) IN GENERAL.—Subject to the succeeding provisions of this paragraph, amounts in a health opportunity account may be used for payment of such health care expenditures as the State specifies.

"(ii) GENERAL LIMITATION.—Subject to subparagraph (B)(ii), in no case shall such account be used for payment for health care expenditures that are not payment of medical care (as defined by section 213(d) of the Internal Revenue Code of 1986).

"(iii) STATE RESTRICTIONS.—In applying clause (i), a State may restrict payment for—

"(I) providers of items and services to providers that are licensed or otherwise authorized under State law to provide the item or service and may deny payment for such a provider on the basis that the provider has been found, whether with respect to this title or any other health benefit program, to have failed to meet quality standards or to have committed 1 or more acts of fraud or abuse; and

"(II) items and services insofar as the State finds they are not medically appropriate or necessary.

"(iv) ELECTRONIC WITHDRAWALS.—The State demonstration program shall provide for a method whereby withdrawals may be made from the account for such purposes using an electronic system and shall not permit withdrawals from the account in cash.

"(B) MAINTENANCE OF HEALTH OPPORTUNITY ACCOUNT AFTER BECOMING INELIGIBLE FOR PUBLIC BENEFIT.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, if an account holder of a health opportunity account becomes ineligible for benefits under this title because of an increase in income or assets—

"(I) no additional contribution shall be made into the account under paragraph (2)(A)(i);

"(II) subject to clause (iii), the balance in the account shall be reduced by 25 percent; and

"(III) subject to the succeeding provisions of this subparagraph, the account shall remain available to the account holder for 3 years after the date on which the individual becomes ineligible for such benefits for withdrawals under the same terms and conditions as if the account holder remained eligible for such benefits, and such withdrawals shall be treated as medical assistance in accordance with subsection (c)(6).

"(ii) SPECIAL RULES.—Withdrawals under this subparagraph from an account—

"(I) shall be available for the purchase of health insurance coverage; and

"(II) may, subject to clause (iv), be made available (at the option of the State) for such additional expenditures (such as job training and tuition expenses) specified by the State (and approved by the Secretary) as the State may specify.

“(iii) EXCEPTION FROM 25 PERCENT SAVINGS TO GOVERNMENT FOR PRIVATE CONTRIBUTIONS.—Clause (i)(II) shall not apply to the portion of the account that is attributable to contributions described in paragraph (2)(A)(ii). For purposes of accounting for such contributions, withdrawals from a health opportunity account shall first be attributed to contributions described in paragraph (2)(A)(i).

“(iv) CONDITION FOR NON-HEALTH WITHDRAWALS.—No withdrawal may be made from an account under clause (ii)(II) unless the accountholder has participated in the program under this section for at least 1 year.

“(v) NO REQUIREMENT FOR CONTINUATION OF COVERAGE.—An account holder of a health opportunity account, after becoming ineligible for medical assistance under this title, is not required to purchase high-deductible or other insurance as a condition of maintaining or using the account.

“(4) ADMINISTRATION.—A State may coordinate administration of health opportunity accounts through the use of a third party administrator and reasonable expenditures for the use of such administrator shall be reimbursable to the State in the same manner as other administrative expenditures under section 1903(a)(7).

“(5) TREATMENT.—Amounts in, or contributed to, a health opportunity account shall not be counted as income or assets for purposes of determining eligibility for benefits under this title.

“(6) UNAUTHORIZED WITHDRAWALS.—A State may establish procedures—

“(A) to penalize or remove an individual from the health opportunity account based on nonqualified withdrawals by the individual from such an account; and

“(B) to recoup costs that derive from such nonqualified withdrawals.”.

SEC. 6083. STATE OPTION TO ESTABLISH NON-EMERGENCY MEDICAL TRANSPORTATION PROGRAM.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by sections 6033(a) and 6035(b), is amended—

(1) in paragraph (68), by striking “and” at the end;

(2) in paragraph (69) by striking the period at the end and inserting “; and”; and

(3) by inserting after paragraph (69) the following:

“(70) at the option of the State and notwithstanding paragraphs (1), (10)(B), and (23), provide for the establishment of a non-emergency medical transportation brokerage program in order to more cost-effectively provide transportation for individuals eligible for medical assistance under the State plan who need access to medical care or services and have no other means of transportation which—

“(A) may include a wheelchair van, taxi, stretcher car, bus passes and tickets, secured transportation, and such other transportation as the Secretary determines appropriate; and

“(B) may be conducted under contract with a broker who—

“(i) is selected through a competitive bidding process based on the State's evaluation of the broker's experience, performance, references, resources, qualifications, and costs;

“(ii) has oversight procedures to monitor beneficiary access and complaints and ensure that transport personnel are licensed, qualified, competent, and courteous;

“(iii) is subject to regular auditing and oversight by the State in order to ensure the quality of the transportation services provided and the adequacy of beneficiary access to medical care and services; and

“(iv) complies with such requirements related to prohibitions on referrals and conflict of interest as the Secretary shall establish (based on the prohibitions on physician referrals under section 1877 and such other prohibitions and requirements as the Secretary determines to be appropriate).”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of the enactment of this Act.

SEC. 6084. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA) AND ABSTINENCE EDUCATION PROGRAM.

Effective as if enacted on December 31, 2005, activities authorized by sections 510 and 1925 of the Social Security Act shall continue through December 31, 2006, in the manner authorized for fiscal year 2005, notwithstanding section 1902(e)(1)(A) of such Act, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the first quarter of fiscal year 2007 at the level provided for such activities through the first quarter of fiscal year 2006.

SEC. 6085. EMERGENCY SERVICES FURNISHED BY NON-CONTRACT PROVIDERS FOR MEDICAID MANAGED CARE ENROLLEES.

(a) IN GENERAL.—Section 1932(b)(2) of the Social Security Act (42 U.S.C. 1396u-2(b)(2)) is amended by adding at the end the following new subparagraph:

“(D) EMERGENCY SERVICES FURNISHED BY NON-CONTRACT PROVIDERS.—Any provider of emergency services that does not have in effect a contract with a medicaid managed care entity that establishes payment amounts for services furnished to a beneficiary enrolled in the entity's Medicaid managed care plan must accept as payment in full no more than the amounts (less any payments for indirect costs of medical education and direct costs of graduate medical education) that it could collect if the beneficiary received medical assistance under this title other than through enrollment in such an entity. In a State where rates paid to hospitals under the State plan are negotiated by contract and not publicly released, the payment amount applicable under this subparagraph shall be the average contract rate that would apply under the State plan for general acute care hospitals or the average contract rate that would apply under such plan for tertiary hospitals.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2007.

SEC. 6086. EXPANDED ACCESS TO HOME AND COMMUNITY-BASED SERVICES FOR THE ELDERLY AND DISABLED.

(a) HOME AND COMMUNITY-BASED SERVICES AS AN OPTIONAL BENEFIT FOR ELDERLY AND DISABLED INDIVIDUALS.—Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended by adding at the end the following new subsection:

“(i) STATE PLAN AMENDMENT OPTION TO PROVIDE HOME AND COMMUNITY-BASED SERVICES FOR ELDERLY AND DISABLED INDIVIDUALS.—

“(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, a State may provide through a State plan amendment for the provision of medical assistance for home and community-based services (within the scope of services described in paragraph (4)(B) of subsection (c) for which the Secretary has the authority to approve a waiver and not including room and board or such other services requested by the State as the Secretary may approve) for individuals eligible for medical assistance under the State plan whose income does not exceed 150 percent of the poverty line (as defined in section 2110(c)(5)), without determining that but for the provision of such services the individuals would require the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded, but only if the State meets the following requirements:

“(A) NEEDS-BASED CRITERIA FOR ELIGIBILITY FOR, AND RECEIPT OF, HOME AND COMMUNITY-BASED SERVICES.—The State establishes needs-based criteria for determining an individual's eligibility under the State plan for medical assistance for such home and community-based services, and if the individual is eligible for such services, the specific home and community-based services that the individual will receive.

“(B) ESTABLISHMENT OF MORE STRINGENT NEEDS-BASED ELIGIBILITY CRITERIA FOR INSTITUTIONALIZED CARE.—The State establishes needs-based criteria for determining whether an individual requires the level of care provided in a hospital, a nursing facility, or an intermediate care facility for the mentally retarded under the State plan or under any waiver of such plan that are more stringent than the needs-based criteria established under subparagraph (A) for determining eligibility for home and community-based services.

“(C) PROJECTION OF NUMBER OF INDIVIDUALS TO BE PROVIDED HOME AND COMMUNITY-BASED SERVICES.—

“(i) IN GENERAL.—The State submits to the Secretary, in such form and manner, and upon such frequency as the Secretary shall specify, the projected number of individuals to be provided home and community-based services.

“(ii) AUTHORITY TO LIMIT NUMBER OF ELIGIBLE INDIVIDUALS.—A State may limit the number of individuals who are eligible for such services and may establish waiting lists for the receipt of such services.

“(D) CRITERIA BASED ON INDIVIDUAL ASSESSMENT.—

“(i) IN GENERAL.—The criteria established by the State for purposes of subparagraphs (A) and (B) requires an assessment of an individual's support needs and capabilities, and may take into account the inability of the individual to perform 2 or more activities of daily living (as defined in section 7702B(c)(2)(B) of the Internal Revenue Code of 1986) or the need for significant assistance to perform such activities, and such other risk factors as the State determines to be appropriate.

“(ii) ADJUSTMENT AUTHORITY.—The State plan amendment provides the State with the option to modify the criteria established under subparagraph (A) (without having to obtain prior approval from the Secretary) in the event that the enrollment of individuals eligible for home and community-based services exceeds the projected enrollment submitted for purposes of subparagraph (C), but only if—

“(I) the State provides at least 60 days notice to the Secretary and the public of the proposed modification;

“(II) the State deems an individual receiving home and community-based services on the basis of the most recent version of the criteria in effect prior to the effective date of the modification to be eligible for such services for a period of at least 12 months beginning on the date the individual first received medical assistance for such services; and

"(III) after the effective date of such modification, the State, at a minimum, applies the criteria for determining whether an individual requires the level of care provided in a hospital, a nursing facility, or an intermediate care facility for the mentally retarded under the State plan or under any waiver of such plan which applied prior to the application of the more stringent criteria developed under subparagraph (B).

"(E) INDEPENDENT EVALUATION AND ASSESSMENT.—

"(i) ELIGIBILITY DETERMINATION.—The State uses an independent evaluation for making the determinations described in subparagraphs (A) and (B).

"(ii) ASSESSMENT.—In the case of an individual who is determined to be eligible for home and community-based services, the State uses an independent assessment, based on the needs of the individual to—

"(I) determine a necessary level of services and supports to be provided, consistent with an individual's physical and mental capacity;

"(II) prevent the provision of unnecessary or inappropriate care; and

"(III) establish an individualized care plan for the individual in accordance with subparagraph (G).

"(F) ASSESSMENT.—The independent assessment required under subparagraph (E)(ii) shall include the following:

"(i) An objective evaluation of an individual's inability to perform 2 or more activities of daily living (as defined in section 7702B(c)(2)(B) of the Internal Revenue Code of 1986) or the need for significant assistance to perform such activities.

"(ii) A face-to-face evaluation of the individual by an individual trained in the assessment and evaluation of individuals whose physical or mental conditions trigger a potential need for home and community-based services.

"(iii) Where appropriate, consultation with the individual's family, spouse, guardian, or other responsible individual.

"(iv) Consultation with appropriate treating and consulting health and support professionals caring for the individual.

"(v) An examination of the individual's relevant history, medical records, and care and support needs, guided by best practices and research on effective strategies that result in improved health and quality of life outcomes.

"(vi) If the State offers individuals the option to self-direct the purchase of, or control the receipt of, home and community-based service, an evaluation of the ability of the individual or the individual's representative to self-direct the purchase of, or control the receipt of, such services if the individual so elects.

"(G) INDIVIDUALIZED CARE PLAN.—

"(i) IN GENERAL.—In the case of an individual who is determined to be eligible for home and community-based services, the State uses the independent assessment required under subparagraph (E)(ii) to establish a written individualized care plan for the individual.

"(ii) PLAN REQUIREMENTS.—The State ensures that the individualized care plan for an individual—

"(I) is developed—

"(aa) in consultation with the individual, the individual's treating physician, health care or support professional, or other appropriate individuals, as defined by the State, and, where appropriate the individual's family, caregiver, or representative; and

"(bb) taking into account the extent of, and need for, any family or other supports for the individual;

"(II) identifies the necessary home and community-based services to be furnished to the individual (or, if the individual elects to self-direct the purchase of, or control the receipt of, such services, funded for the individual); and

"(III) is reviewed at least annually and as needed when there is a significant change in the individual's circumstances.

"(iii) STATE OPTION TO OFFER ELECTION FOR SELF-DIRECTED SERVICES.—

"(I) INDIVIDUAL CHOICE.—At the option of the State, the State may allow an individual or the individual's representative to elect to receive self-directed home and community-based services in a manner which gives them the most control over such services consistent with the individual's abilities and the requirements of subclauses (II) and (III).

"(II) SELF-DIRECTED SERVICES.—The term 'self-directed' means, with respect to the home and community-based services offered under the State plan amendment, such services for the individual which are planned and purchased under the direction and control of such individual or the individual's authorized representative, including the amount, duration, scope, provider, and location of such services, under the State plan consistent with the following requirements:

"(aa) ASSESSMENT.—There is an assessment of the needs, capabilities, and preferences of the individual with respect to such services.

"(bb) SERVICE PLAN.—Based on such assessment, there is developed jointly with such individual or the individual's authorized representative a plan for such services for such individual that is approved by the State and that satisfies the requirements of subclause (III).

"(III) PLAN REQUIREMENTS.—For purposes of subclause (II)(bb), the requirements of this subclause are that the plan—

"(aa) specifies those services which the individual or the individual's authorized representative would be responsible for directing;

"(bb) identifies the methods by which the individual or the individual's authorized representative will select, manage, and dismiss providers of such services;

"(cc) specifies the role of family members and others whose participation is sought by the individual or the individual's authorized representative with respect to such services;

"(dd) is developed through a person-centered process that is directed by the individual or the individual's authorized representative, builds upon the individual's capacity to engage in activities that promote community life and that respects the individual's preferences, choices, and abilities, and involves families, friends, and professionals as desired or required by the individual or the individual's authorized representative;

"(ee) includes appropriate risk management techniques that recognize the roles and sharing of responsibilities in obtaining services in a self-directed manner and assure the appropriateness of such plan based upon the resources and capabilities of the individual or the individual's authorized representative; and

"(ff) may include an individualized budget which identifies the dollar value of the services and supports under the control and direction of the individual or the individual's authorized representative.

"(IV) BUDGET PROCESS.—With respect to individualized budgets described in subclause (III)(ff), the State plan amendment—

"(aa) describes the method for calculating the dollar values in such budgets based on reliable costs and service utilization;

"(bb) defines a process for making adjustments in such dollar values to reflect changes in individual assessments and service plans; and

"(cc) provides a procedure to evaluate expenditures under such budgets.

"(H) QUALITY ASSURANCE; CONFLICT OF INTEREST STANDARDS.—

"(i) QUALITY ASSURANCE.—The State ensures that the provision of home and community-based services meets Federal and State guidelines for quality assurance.

"(ii) CONFLICT OF INTEREST STANDARDS.—The State establishes standards for the conduct of the independent evaluation and the independent assessment to safeguard against conflicts of interest.

"(I) REDETERMINATIONS AND APPEALS.—The State allows for at least annual redeterminations of eligibility, and appeals in accordance with the frequency of, and manner in which, redeterminations and appeals of eligibility are made under the State plan.

"(J) PRESUMPTIVE ELIGIBILITY FOR ASSESSMENT.—The State, at its option, elects to provide for a period of presumptive eligibility (not to exceed a period of 60 days) only for those individuals that the State has reason to believe may be eligible for home and community-based services. Such presumptive eligibility shall be limited to medical assistance for carrying out the independent evaluation and assessment under subparagraph (E) to determine an individual's eligibility for such services and if the individual is so eligible, the specific home and community-based services that the individual will receive.

"(2) DEFINITION OF INDIVIDUAL'S REPRESENTATIVE.—In this section, the term 'individual's representative' means, with respect to an individual, a parent, a family member, or a guardian of the individual, an advocate for the individual, or any other individual who is authorized to represent the individual.

"(3) NONAPPLICATION.—A State may elect in the State plan amendment approved under this section to not comply with the requirements of section 1902(a)(1) (relating to statewideness) and section 1902(a)(10)(C)(i)(III) (relating to income and resource rules applicable in the community), but only for purposes of provided home and community-based services in accordance with such amendment. Any such election shall not be construed to apply to the provision of services to an individual receiving medical assistance in an institutionalized setting as a result of a determination that the individual requires the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded.

"(4) NO EFFECT ON OTHER WAIVER AUTHORITY.—Nothing in this subsection shall be construed as affecting the option of a State to offer home and community-based services under a waiver under subsections (c) or (d) of this section or under section 1115.

"(5) CONTINUATION OF FEDERAL FINANCIAL PARTICIPATION FOR MEDICAL ASSISTANCE PROVIDED TO INDIVIDUALS AS OF EFFECTIVE DATE OF STATE PLAN AMENDMENT.—Notwithstanding paragraph (1)(B), Federal financial participation shall continue to be available for an individual who is receiving medical assistance in an institutionalized setting, or home and community-based services provided under a waiver under this section or section 1115 that is in effect as of the effective date of the State plan amendment submitted under this subsection, as a result of a determination that the individual requires the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded, without regard to whether such individuals satisfy the more stringent eligibility criteria established under that paragraph, until such time as the individual is discharged from the institution or waiver program or no longer requires such level of care.".

(b) Quality of Care Measures.—

(1) In general.—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality, shall consult with consumers, health and social service providers and other professionals knowledgeable about long-term care services and supports to develop program performance indicators, client function indicators, and measures of client satisfaction with respect to home and community-based services offered under State Medicaid programs.

(2) Best practices.—The Secretary shall—

(A) use the indicators and measures developed under paragraph (1) to assess such home and community-based services, the outcomes associated with the receipt of such services (particularly with respect to the health and welfare of the recipient of the services), and the overall system for providing home and community-based services under the Medicaid program under title XIX of the Social Security Act; and

(B) make publicly available the best practices identified through such assessment and a comparative analyses of the system features of each State.

(3) Appropriation.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary of Health and Human Services, $1,000,000 for the period of fiscal years 2006 through 2010 to carry out this subsection.

(c) Effective Date.—The amendments made by subsections (a) and (b) take effect on January 1, 2007, and apply to expenditures for medical assistance for home and community-based services provided in accordance with section 1915(i) of the Social Security Act (as added by subsections (a) and (b)) on or after that date.

SEC. 6087. OPTIONAL CHOICE OF SELF-DIRECTED PERSONAL ASSISTANCE SERVICES (CASH AND COUNSELING).

(a) Exemption From Certain Requirements.—Section 1915 of the Social Security Act (42 U.S.C. 1396n), as amended by section 6086(a), is amended by adding at the end the following new subsection:

"(j)(1) A State may provide, as 'medical assistance', payment for part or all of the cost of self-directed personal assistance services (other than room and board) under the plan which are provided pursuant to a written plan of care to individuals with respect to whom there has been a determination that, but for the provision of such services, the individuals would require and receive personal care services under the plan, or home and community-based services provided pursuant to a waiver under subsection (c). Self-directed personal assistance services may not be provided under this subsection to individuals who reside in a home or property that is owned, operated, or controlled by a provider of services, not related by blood or marriage.

"(2) The Secretary shall not grant approval for a State self-directed personal assistance services program under this section unless the State provides assurances satisfactory to the Secretary of the following:

"(A) Necessary safeguards have been taken to protect the health and welfare of individuals provided services under the program, and to assure financial accountability for funds expended with respect to such services.

"(B) The State will provide, with respect to individuals who—

"(i) are entitled to medical assistance for personal care services under the plan, or receive home and community-based services under a waiver granted under subsection (c);

"(ii) may require self-directed personal assistance services; and

"(iii) may be eligible for self-directed personal assistance services,

an evaluation of the need for personal care under the plan, or personal services under a waiver granted under subsection (c).

"(C) Such individuals who are determined to be likely to require personal care under the plan, or home and community-based services under a waiver granted under subsection (c) are informed of the feasible alternatives, if available under the State's self-directed personal assistance services program, at the choice of such individuals, to the provision of personal care services under the plan, or personal assistance services under a waiver granted under subsection (c).

"(D) The State will provide for a support system that ensures participants in the self-directed personal assistance services program are appropriately assessed and counseled prior to enrollment and are able to manage their budgets. Additional counseling and management support may be provided at the request of the participant.

"(E) The State will provide to the Secretary an annual report on the number of individuals served and total expenditures on their behalf in the aggregate. The State shall also provide an evaluation of overall impact on the health and welfare of participating individuals compared to non-participants every three years.

"(3) A State may provide self-directed personal assistance services under the State plan without regard to the requirements of section 1902(a)(1) and may limit the population eligible to receive these services and limit the number of persons served without regard to section 1902(a)(10)(B).

"(4)(A) For purposes of this subsection, the term 'self-directed personal assistance services' means personal care and related services, or home and community-based services otherwise available under the plan under this title or subsection (c), that are provided to an eligible participant under a self-directed personal assistance services program under this section, under which individuals, within an approved self-directed services plan and budget, purchase personal assistance and related services, and permits participants to hire, fire, supervise, and manage the individuals providing such services.

"(B) At the election of the State—

"(i) a participant may choose to use any individual capable of providing the assigned tasks including legally liable relatives as paid providers of the services; and

"(ii) the individual may use the individual's budget to acquire items that increase independence or substitute (such as a microwave oven or an accessibility ramp) for human assistance, to the extent that expenditures would otherwise be made for the human assistance.

"(5) For purpose of this section, the term 'approved self-directed services plan and budget' means, with respect to a participant, the establishment of a plan and budget for the provision of self-directed personal assistance services, consistent with the following requirements:

"(A) Self-direction.—The participant (or in the case of a participant who is a minor child, the participant's parent or guardian, or in the case of an incapacitated adult, another individual recognized by State law to act on behalf of the participant) exercises choice and control over the budget, planning, and purchase of self-directed personal assistance services, including the amount, duration, scope, provider, and location of service provision.

"(B) Assessment of needs.—There is an assessment of the needs, strengths, and preferences of the participants for such services.

"(C) Service plan.—A plan for such services (and supports for such services) for the participant has been developed and approved by the State based on such assessment through a person-centered process that—

"(i) builds upon the participant's capacity to engage in activities that promote community life and that respects the participant's preferences, choices, and abilities; and

"(ii) involves families, friends, and professionals in the planning or delivery of services or supports as desired or required by the participant.

"(D) Service budget.—A budget for such services and supports for the participant has been developed and approved by the State based on such assessment and plan and on a methodology that uses valid, reliable cost data, is open to public inspection, and includes a calculation of the expected cost of such services if those services were not self-directed. The budget may not restrict access to other medically necessary care and services furnished under the plan and approved by the State but not included in the budget.

"(E) Application of quality assurance and risk management.—There are appropriate quality assurance and risk management techniques used in establishing and implementing such plan and budget that recognize the roles and responsibilities in obtaining services in a self-directed manner and assure the appropriateness of such plan and budget based upon the participant's resources and capabilities.

"(6) A State may employ a financial management entity to make payments to providers, track costs, and make reports under the program. Payment for the activities of the financial management entity shall be at the administrative rate established in section 1903(a).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 2007.

Subtitle B—SCHIP

SEC. 6101. ADDITIONAL ALLOTMENTS TO ELIMINATE FISCAL YEAR 2006 FUNDING SHORTFALLS.

(a) In General.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by inserting after subsection (c) the following:

"(d) Additional Allotments To Eliminate Funding Shortfalls.—

"(1) Appropriation; allotment authority.—For the purpose of providing additional allotments to shortfall States described in paragraph (2), there is appropriated, out of any money in the Treasury not otherwise appropriated, $283,000,000 for fiscal year 2006.

"(2) Shortfall states described.—For purposes of paragraph (1), a shortfall State described in this paragraph is a State with a State child health plan approved under this title for which the Secretary estimates, on the basis of the most recent data available to the Secretary as of December 16, 2005, that the projected expenditures under such plan for such State for fiscal year 2006 will exceed the sum of—

"(A) the amount of the State's allotments for each of fiscal years 2004 and 2005 that will not be expended by the end of fiscal year 2005;

"(B) the amount, if any, that is to redistributed to the State during fiscal year 2006 in accordance with subsection (f); and

"(C) the amount of the State's allotment for fiscal year 2006.

"(3) ALLOTMENTS.—In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the additional allotments under paragraph (1) for fiscal year 2006, the Secretary shall allot—

"(A) to each shortfall State described in paragraph (2) such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for the State; and

"(B) to each commonwealth or territory described in subsection (c)(3), the same proportion as the proportion of the commonwealth's or territory's allotment under subsection (c) (determined without regard to subsection (f)) to 1.05 percent of the amount appropriated under paragraph (1).

"(4) USE OF ADDITIONAL ALLOTMENT.—Additional allotments provided under this subsection are only available for amounts expended under a State plan approved under this title for child health assistance for targeted low-income children.

"(5) 1-YEAR AVAILABILITY; NO REDISTRIBUTION OF UNEXPENDED ADDITIONAL ALLOTMENTS.—Notwithstanding subsections (e) and (f), amounts allotted to a State pursuant to this subsection for fiscal year 2006 shall only remain available for expenditure by the State through September 30, 2006. Any amounts of such allotments that remain unexpended as of such date shall not be subject to redistribution under subsection (f) and shall revert to the Treasury on October 1, 2006.".

(b) CONFORMING AMENDMENTS.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended—

(1) in subsection (a), by inserting "subject to subsection (d)," after "under this section,";

(2) in subsection (b)(1), by inserting "and subsection (d)" after "Subject to paragraph (4)"; and

(3) in subsection (c)(1), by inserting "subject to subsection (d)," after "for a fiscal year,".

(c) EFFECTIVE DATE.—The amendments made by this section apply to items and services furnished on or after October 1, 2005, without regard to whether or not regulations implementing such amendments have been issued.

SEC. 6102. PROHIBITION AGAINST COVERING NONPREGNANT CHILDLESS ADULTS WITH SCHIP FUNDS.

(a) PROHIBITION ON USE OF SCHIP FUNDS.—Section 2107 of the Social Security Act (42 U.S.C. 1397gg) is amended by adding at the end the following:

"(f) LIMITATION OF WAIVER AUTHORITY.—Notwithstanding subsection (e)(2)(A) and section 1115(a), the Secretary may not approve a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult. For purposes of the preceding sentence, a caretaker relative (as such term is defined for purposes of carrying out section 1931) shall not be considered a childless adult.".

(b) CONFORMING AMENDMENTS.—Section 2105(c)(1) of such Act (42 U.S.C. 1397ee(c)(1)) is amended—

(1) by inserting "and may not include coverage of a nonpregnant childless adult" after "section 2101)"; and

(2) by adding at the end the following: "For purposes of the preceding sentence, a caretaker relative (as such term is defined for purposes of carrying out section 1931) shall not be considered a childless adult.".

(c) RULE OF CONSTRUCTION.—Nothing in this section or the amendments made by this section shall be construed to—

(1) authorize the waiver of any provision of title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.) that is not otherwise authorized to be waived under such titles or under title XI of such Act (42 U.S.C. 1301 et seq.) as of the date of enactment of this Act;

(2) imply congressional approval of any waiver, experimental, pilot, or demonstration project affecting funds made available under the State children's health insurance program under title XXI of the Social Security Act (42 U.S.C. 1397aa et. seq.) or any amendment to such a waiver or project that has been approved as of such date of enactment; or

(3) apply to any waiver, experimental, pilot, or demonstration project that would allow funds made available under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult that is approved before the date of enactment of this Act or to any extension, renewal, or amendment of such a waiver or project that is approved on or after such date of enactment.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect as if enacted on October 1, 2005, and shall apply to any waiver, experimental, pilot, or demonstration project that is approved on or after that date.

SEC. 6103. CONTINUED AUTHORITY FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.

(a) IN GENERAL.—Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by striking "or 2001" and inserting "2001, 2004, or 2005".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenditures made under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) on or after October 1, 2005.

Subtitle C—Katrina Relief

SEC. 6201. ADDITIONAL FEDERAL PAYMENTS UNDER HURRICANE-RELATED MULTI-STATE SECTION 1115 DEMONSTRATIONS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall pay to each eligible State, from amounts appropriated pursuant to subsection (e), amounts for the following purposes:

(1) Under the authority of an approved Multi-State Section 1115 Demonstration Project (in this section referred to as an "section 1115 project")—

(A) with respect to evacuees receiving health care under such project, for the non-Federal share of expenditures:

(i) for medical assistance furnished under title XIX of the Social Security Act, and

(ii) for child health assistance furnished under title XXI of such Act;

(B) with respect to evacuees who do not have other coverage for such assistance through insurance, including (but not limited to) private insurance, under title XIX or title XXI of the Social Security Act, or under State-funded health insurance programs, for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those evacuees receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies beyond those included as medical assistance or child health assistance under the State's approved plan under title XIX or title XXI of the Social Security Act;

(C) with respect to affected individuals receiving health care under such project for the non-Federal share of the following expenditures:

(i) for medical assistance furnished under title XIX of the Social Security Act, and

(ii) for child health assistance furnished under title XXI of such Act; and

(D) with respect to affected individuals who do not have other coverage for such assistance through insurance, including (but not limited to) private insurance, under title XIX or title XXI of the Social Security Act, or under State-funded health insurance programs, for the total uncompensated care costs incurred for medically necessary services and supplies or premium assistance for such persons, and for those affected individuals receiving medical assistance under the project for the total uncompensated care costs incurred for medically necessary services and supplies beyond those included as medical assistance or child health assistance under the State's approved plan under title XIX or title XXI of the Social Security Act.

(2) For reimbursement of the reasonable administrative costs related to subparagraphs (A) through (D) of paragraph (1) as determined by the Secretary.

(3) Only with respect to affected counties or parishes, for reimbursement with respect to individuals receiving medical assistance under existing State plans approved by the Secretary of Health and Human Services for the following non-Federal share of expenditures:

(A) For medical assistance furnished under title XIX of the Social Security Act.

(B) For child health assistance furnished under title XXI of such Act.

(4) For other purposes, if approved by the Secretary under the Secretary's authority, to restore access to health care in impacted communities.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "affected individual" means an individual who resided in an individual assistance designation county or parish pursuant to section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as declared by the President as a result of Hurricane Katrina and continues to reside in the same State that such county or parish is located in.

(2) The term "affected counties or parishes" means a county or parish described in paragraph (1).

(3) The term "evacuee" means an affected individual who has been displaced to another State.

(4) The term "eligible State" means a State that has provided care to affected individuals or evacuees under a section 1115 project.

(c) APPLICATION TO MATCHING REQUIREMENTS.—The non-Federal share paid under this section shall not be regarded as Federal funds for purposes of Medicaid matching requirements, the effect of which is to provide fiscal relief to the State in which the Medicaid eligible individual originally resided.

(d) Time Limits on Payments.—

(1) No payments shall be made by the Secretary under subsection (a)(1)(A) or (a)(1)(C), for costs of health care provided to an eligible evacuee or affected individual for services for such individual incurred after June 30, 2006.

(2) No payments shall be made by the Secretary under subsection (a)(1)(B) or (a)(1)(D) for costs of health care incurred after January 31, 2006.

(3) No payments may be made under subsection (a)(1)(B) or (a)(1)(D) for an item or service that an evacuee or an affected individual has received from an individual or organization as part of a public or private hurricane relief effort.

(e) Appropriations.—For the purpose of providing funds for payments under this section, in addition to any funds made available for the National Disaster Medical System under the Department of Homeland Security for health care costs related to Hurricane Katrina, including under a section 1115 project, there is appropriated out of any money in the Treasury not otherwise appropriated, $2,000,000,000, to remain available to the Secretary until expended. The total amount of payments made under subsection (a) may not exceed the total amount appropriated under this subsection.

SEC. 6202. STATE HIGH RISK HEALTH INSURANCE POOL FUNDING.

(a) In General.—There are hereby authorized and appropriated for fiscal year 2006—

(1) $75,000,000 for grants under subsection (b)(1) of section 2745 of the Public Health Service Act (42 U.S.C. 300gg-45); and

(2) $15,000,000 for grants under subsection (a) of such section.

(b) Treatment.—The amount appropriated under—

(1) paragraph (1) shall be treated as if it had been appropriated under subsection (c)(2) of such section; and

(2) paragraph (2) shall be treated as if it had been appropriated under subsection (c)(1) of such section.

(c) References.—Effective upon the enactment of the State High Risk Pool Funding Extension Act of 2005—

(1) subsection (a)(1) shall be applied by substituting "subsections (b)(2) and (c)(3)" for "subsection "(b)(1)";

(2) subsection (b)(1) shall be applied by substituting "(d)(1)(B)" for "(c)(2)"; and

(3) subsection (b)(2) shall be applied by substituting "(d)(1)(A)" for "(c)(1)".

SEC. 6203. IMPLEMENTATION FUNDING.

For purposes of implementing the provisions of, and amendments made by, title V of this Act and this title—

(1) the Secretary of Health and Human Services shall provide for the transfer, in appropriate part from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t), of $30,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for fiscal year 2006; and

(2) out of any funds in the Treasury not otherwise appropriated, there are appropriated to such Secretary for the Centers for Medicare & Medicaid Services Program Management Account, $30,000,000 for fiscal year 2006.

TITLE VII—HUMAN RESOURCES AND OTHER PROVISIONS

SEC. 7002. REFERENCES.

Except as otherwise expressly provided, wherever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the amendment or repeal shall be considered to be made to a section or other provision of the Social Security Act.

Subtitle A—TANF

SEC. 7101. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES AND RELATED PROGRAMS FUNDING THROUGH SEPTEMBER 30, 2010.

(a) In General.—Activities authorized by part A of title IV and section 1108(b) of the Social Security Act (adjusted, as applicable, by or under this subtitle, the amendments made by this subtitle, and the TANF Emergency Response and Recovery Act of 2005) shall continue through September 30, 2010, in the manner authorized for fiscal year 2004, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority on a quarterly basis through fiscal year 2010 at the level provided for such activities for the corresponding quarter of fiscal year 2004 (or, as applicable, at such greater level as may result from the application of this subtitle, the amendments made by this subtitle, and the TANF Emergency Response and Recovery Act of 2005), except that in the case of section 403(a)(3) of the Social Security Act, grants and payments may be made pursuant to this authority only through fiscal year 2008 and in the case of section 403(a)(4) of the Social Security Act, no grants shall be made for any fiscal year occurring after fiscal year 2005.

(b) Conforming Amendments.—Part A of title IV (42 U.S.C. 601 et seq.) is amended—

(1) in section 403(a)(3)(H)(ii), by striking "December, 31, 2005" and inserting "fiscal year 2008";

(2) in section 403(b)(3)(C)(ii), by striking "2006" and inserting "2010"; and

(3) in section 409(a)(7)—

(A) in subparagraph (A), by striking "or 2007" and inserting "2007, 2008, 2009, 2010, or 2011"; and

(B) in subparagraph (B)(ii), by striking "2006" and inserting "2010".

(c) Extension of the National Random Sample Study of Child Welfare Through September 30, 2010.—Activities authorized by section 429A of the Social Security Act shall continue through September 30, 2010, in the manner authorized for fiscal year 2004, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority on a quarterly basis through fiscal year 2010 at the level provided for such activities for the corresponding quarter of fiscal year 2004.

SEC. 7102. IMPROVED CALCULATION OF WORK PARTICIPATION RATES AND PROGRAM INTEGRITY.

(a) Recalibration of Caseload Reduction Credit.—

(1) In general.—Section 407(b)(3)(A) (42 U.S.C. 607(b)(3)(A)) is amended—

(A) in clause (i), by inserting "or any other State program funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i))" after "this part" ; and

(B) by striking clause (ii) and inserting the following:

"(ii) the average monthly number of families that received assistance under any State program referred to in clause (i) during fiscal year 2005.".

(2) Conforming amendment.—Section 407(b)(3)(B) (42 U.S.C. 607(b)(3)(B)) is amended by striking "and eligibility criteria" and all that follows through the close parenthesis and inserting "and the eligibility criteria in effect during fiscal year 2005".

(b) Inclusion of Families Receiving Assistance Under Separate State Programs in Calculation of Participation Rates.—

(1) Section 407 (42 U.S.C. 607) is amended in each of subsections (a)(1), (a)(2), (b)(1)(B)(i), (c)(2)(A)(i), (e)(1), and (e)(2), by inserting "or any other State program funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i))" after "this part".

(2) Section 411(a)(1) (42 U.S.C. 611(a)(1)) is amended—

(A) in subparagraph (A), by inserting "or any other State program funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i))" before the colon; and

(B) in subparagraph (B)(ii), by inserting "and any other State programs funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i))" after "this part".

(c) Improved Verification and Oversight of Work Participation.—

(1) In general.—Section 407(i) (42 U.S.C. 607(i)) is amended to read as follows:

"(i) Verification of Work and Work-Eligible Individuals in Order to Implement Reforms.—

"(1) Secretarial direction and oversight.—

"(A) Regulations for determining whether activities may be counted as 'work activities', how to count and verify reported hours of work, and determining who is a work-eligible individual.—

"(i) In general.—Not later than June 30, 2006, the Secretary shall promulgate regulations to ensure consistent measurement of work participation rates under State programs funded under this part and State programs funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i)), which shall include information with respect to—

"(I) determining whether an activity of a recipient of assistance may be treated as a work activity under subsection (d);

"(II) uniform methods for reporting hours of work by a recipient of assistance;

"(III) the type of documentation needed to verify reported hours of work by a recipient of assistance; and

"(IV) the circumstances under which a parent who resides with a child who is a recipient of assistance should be included in the work participation rates.

"(ii) Issuance of regulations on an interim final basis.—The regulations referred to in clause (i) may be effective and final immediately on an interim basis as of the date of publication of the regulations. If the Secretary provides for an interim final regulation, the Secretary shall provide for a period of public comment on the regulation after the date of publication. The Secretary may change or revise the regulation after the public comment period.

"(B) Oversight of state procedures.—The Secretary shall review the State procedures established in accordance with paragraph (2) to ensure that such procedures are consistent with the regulations promulgated under subparagraph (A) and are adequate to ensure an accurate measurement of work participation under the State programs funded under this part and any other State programs funded with qualified State expenditures (as so defined).

"(2) REQUIREMENT FOR STATES TO ESTABLISH AND MAINTAIN WORK PARTICIPATION VERIFICATION PROCEDURES.—Not later than September 30, 2006, a State to which a grant is made under section 403 shall establish procedures for determining, with respect to recipients of assistance under the State program funded under this part or under any State programs funded with qualified State expenditures (as so defined), whether activities may be counted as work activities, how to count and verify reported hours of work, and who is a work-eligible individual, in accordance with the regulations promulgated pursuant to paragraph (1)(A)(i) and shall establish internal controls to ensure compliance with the procedures.".

(2) STATE PENALTY FOR FAILURE TO ESTABLISH OR COMPLY WITH WORK PARTICIPATION VERIFICATION PROCEDURES.—Section 409(a) (42 U.S.C. 609(a)) is amended by adding at the end the following:

"(15) PENALTY FOR FAILURE TO ESTABLISH OR COMPLY WITH WORK PARTICIPATION VERIFICATION PROCEDURES.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 in a fiscal year has violated section 407(i)(2) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not less than 1 percent and not more than 5 percent of the State family assistance grant.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2006.

SEC. 7103. GRANTS FOR HEALTHY MARRIAGE PROMOTION AND RESPONSIBLE FATHERHOOD.

(a) HEALTHY MARRIAGE AND FAMILY FUNDS.—Section 403(a)(2) (42 U.S.C. 603(a)(2)) is amended to read as follows:

"(2) HEALTHY MARRIAGE PROMOTION AND RESPONSIBLE FATHERHOOD GRANTS.—

"(A) IN GENERAL.—

"(i) USE OF FUNDS.—Subject to subparagraphs (B) and (C), the Secretary may use the funds made available under subparagraph (D) for the purpose of conducting and supporting research and demonstration projects by public or private entities, and providing technical assistance to States, Indian tribes and tribal organizations, and such other entities as the Secretary may specify that are receiving a grant under another provision of this part.

"(ii) LIMITATIONS.—The Secretary may not award funds made available under this paragraph on a noncompetitive basis, and may not provide any such funds to an entity for the purpose of carrying out healthy marriage promotion activities or for the purpose of carrying out activities promoting responsible fatherhood unless the entity has submitted to the Secretary an application which—

"(I) describes—

"(aa) how the programs or activities proposed in the application will address, as appropriate, issues of domestic violence; and

"(bb) what the applicant will do, to the extent relevant, to ensure that participation in the programs or activities is voluntary, and to inform potential participants that their participation is voluntary; and

"(II) contains a commitment by the entity—

"(aa) to not use the funds for any other purpose; and

"(bb) to consult with experts in domestic violence or relevant community domestic violence coalitions in developing the programs and activities.

"(iii) HEALTHY MARRIAGE PROMOTION ACTIVITIES.—In clause (ii), the term 'healthy marriage promotion activities' means the following:

"(I) Public advertising campaigns on the value of marriage and the skills needed to increase marital stability and health.

"(II) Education in high schools on the value of marriage, relationship skills, and budgeting.

"(III) Marriage education, marriage skills, and relationship skills programs, that may include parenting skills, financial management, conflict resolution, and job and career advancement, for non-married pregnant women and non-married expectant fathers.

"(IV) Pre-marital education and marriage skills training for engaged couples and for couples or individuals interested in marriage.

"(V) Marriage enhancement and marriage skills training programs for married couples.

"(VI) Divorce reduction programs that teach relationship skills.

"(VII) Marriage mentoring programs which use married couples as role models and mentors in at-risk communities.

"(VIII) Programs to reduce the disincentives to marriage in means-tested aid programs, if offered in conjunction with any activity described in this subparagraph.

"(B) LIMITATION ON USE OF FUNDS FOR DEMONSTRATION PROJECTS FOR COORDINATION OF PROVISION OF CHILD WELFARE AND TANF SERVICES TO TRIBAL FAMILIES AT RISK OF CHILD ABUSE OR NEGLECT.—

"(i) IN GENERAL.—Of the amounts made available under subparagraph (D) for a fiscal year, the Secretary may not award more than $2,000,000 on a competitive basis to fund demonstration projects designed to test the effectiveness of tribal governments or tribal consortia in coordinating the provision to tribal families at risk of child abuse or neglect of child welfare services and services under tribal programs funded under this part.

"(ii) LIMITATION ON USE OF FUNDS.—A grant made pursuant to clause (i) to such a project shall not be used for any purpose other than—

"(I) to improve case management for families eligible for assistance from such a tribal program;

"(II) for supportive services and assistance to tribal children in out-of-home placements and the tribal families caring for such children, including families who adopt such children; and

"(III) for prevention services and assistance to tribal families at risk of child abuse and neglect.

"(iii) REPORTS.—The Secretary may require a recipient of funds awarded under this subparagraph to provide the Secretary with such information as the Secretary deems relevant to enable the Secretary to facilitate and oversee the administration of any project for which funds are provided under this subparagraph.

"(C) LIMITATION ON USE OF FUNDS FOR ACTIVITIES PROMOTING RESPONSIBLE FATHERHOOD.—

"(i) IN GENERAL.—Of the amounts made available under subparagraph (D) for a fiscal year, the Secretary may not award more than $50,000,000 on a competitive basis to States, territories, Indian tribes and tribal organizations, and public and nonprofit community entities, including religious organizations, for activities promoting responsible fatherhood.

"(ii) ACTIVITIES PROMOTING RESPONSIBLE FATHERHOOD.—In this paragraph, the term 'activities promoting responsible fatherhood' means the following:

"(I) Activities to promote marriage or sustain marriage through activities such as counseling, mentoring, disseminating information about the benefits of marriage and 2-parent involvement for children, enhancing relationship skills, education regarding how to control aggressive behavior, disseminating information on the causes of domestic violence and child abuse, marriage preparation programs, premarital counseling, marital inventories, skills-based marriage education, financial planning seminars, including improving a family's ability to effectively manage family business affairs by means such as education, counseling, or mentoring on matters related to family finances, including household management, budgeting, banking, and handling of financial transactions and home maintenance, and divorce education and reduction programs, including mediation and counseling.

"(II) Activities to promote responsible parenting through activities such as counseling, mentoring, and mediation, disseminating information about good parenting practices, skills-based parenting enducation, encouraging child support payments, and other methods.

"(III) Activities to foster economic stability by helping fathers improve their economic status by providing activities such as work first services, job search, job training, subsidized employment, job retention, job enhancement, and encouraging education, including career-advancing education, dissemination of employment materials, coordination with existing employment services such as welfare-to-work programs, referrals to local employment training initiatives, and other methods.

"(IV) Activities to promote responsible fatherhood that are conducted through a contract with a nationally recognized, nonprofit fatherhood promotion organization, such as the development, promotion, and distribution of a media campaign to encourage the appropriate involvement of parents in the life of any child and specifically the issue of responsible fatherhood, and the development of a national clearinghouse to assist States and communities in efforts to promote and support marriage and responsible fatherhood.

"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $150,000,000 for each of fiscal years 2006 through 2010, for expenditure in accordance with this paragraph.".

(b) COUNTING OF SPENDING ON CERTAIN PRO-FAMILY ACTIVITIES.—Section 409(a)(7)(B)(i) (42 U.S.C. 609(a)(7)(B)(i)) is amended by adding at the end the following:

"(V) COUNTING OF SPENDING ON CERTAIN PRO-FAMILY ACTIVITIES.—The term 'qualified State expenditures' includes the total expenditures by the State during the fiscal year under all State programs for a purpose described in paragraph (3) or (4) of section 401(a).".

Subtitle B—Child Care

SEC. 7201. ENTITLEMENT FUNDING.

Section 418(a)(3) (42 U.S.C. 618(a)(3)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting a semicolon; and

(3) by adding at the end the following:

"(G) $2,917,000,000 for each of fiscal years 2006 through 2010.".

Subtitle C—Child Support

SEC. 7301. ASSIGNMENT AND DISTRIBUTION OF CHILD SUPPORT.

(a) Modification of Rule Requiring Assignment of Support Rights as a Condition of Receiving TANF.—Section 408(a)(3) (42 U.S.C. 608(a)(3)) is amended to read as follows:

"(3) No assistance for families not assigning certain support rights to the State.—A State to which a grant is made under section 403 shall require, as a condition of paying assistance to a family under the State program funded under this part, that a member of the family assign to the State any right the family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance) to support from any other person, not exceeding the total amount of assistance so paid to the family, which accrues during the period that the family receives assistance under the program.".

(b) Increasing Child Support Payments to Families and Simplifying Child Support Distribution Rules.—

(1) Distribution rules.—

(A) In general.—Section 457(a) (42 U.S.C. 657(a)) is amended to read as follows:

"(a) In General.—Subject to subsections (d) and (e), the amounts collected on behalf of a family as support by a State pursuant to a plan approved under this part shall be distributed as follows:

"(1) Families receiving assistance.—In the case of a family receiving assistance from the State, the State shall—

"(A) pay to the Federal Government the Federal share of the amount collected, subject to paragraph (3)(A);

"(B) retain, or pay to the family, the State share of the amount collected, subject to paragraph (3)(B); and

"(C) pay to the family any remaining amount.

"(2) Families that formerly received assistance.—In the case of a family that formerly received assistance from the State:

"(A) Current support.—To the extent that the amount collected does not exceed the current support amount, the State shall pay the amount to the family.

"(B) Arrearages.—Except as otherwise provided in an election made under section 454(34), to the extent that the amount collected exceeds the current support amount, the State—

"(i) shall first pay to the family the excess amount, to the extent necessary to satisfy support arrearages not assigned pursuant to section 408(a)(3);

"(ii) if the amount collected exceeds the amount required to be paid to the family under clause (i), shall—

"(I) pay to the Federal Government the Federal share of the excess amount described in this clause, subject to paragraph (3)(A); and

"(II) retain, or pay to the family, the State share of the excess amount described in this clause, subject to paragraph (3)(B); and

"(iii) shall pay to the family any remaining amount.

"(3) Limitations.—

"(A) Federal reimbursements.—The total of the amounts paid by the State to the Federal Government under paragraphs (1) and (2) of this subsection with respect to a family shall not exceed the Federal share of the amount assigned with respect to the family pursuant to section 408(a)(3).

"(B) State reimbursements.—The total of the amounts retained by the State under paragraphs (1) and (2) of this subsection with respect to a family shall not exceed the State share of the amount assigned with respect to the family pursuant to section 408(a)(3).

"(4) Families that never received assistance.—In the case of any other family, the State shall distribute to the family the portion of the amount so collected that remains after withholding any fee pursuant to section 454(6)(B)(ii).

"(5) Families under certain agreements.—Notwithstanding paragraphs (1) through (3), in the case of an amount collected for a family in accordance with a cooperative agreement under section 454(33), the State shall distribute the amount collected pursuant to the terms of the agreement.".

(B) State option to pass through additional support with Federal financial participation beginning with fiscal year 2009.—

(i) In general.—Section 457(a) (42 U.S.C. 657(a)) is amended by adding at the end the following:

"(7) State option to pass through additional support with Federal financial participation.—

"(A) Families that formerly received assistance.—Notwithstanding paragraph (2), a State shall not be required to pay to the Federal Government the Federal share of an amount collected on behalf of a family that formerly received assistance from the State to the extent that the State pays the amount to the family.

"(B) Families that currently receive assistance.—

"(i) In general.—Notwithstanding paragraph (1), in the case of a family that receives assistance from the State, a State shall not be required to pay to the Federal Government the Federal share of the excepted portion (as defined in clause (ii)) of any amount collected on behalf of such family during a month to the extent that—

"(I) the State pays the excepted portion to the family; and

"(II) the excepted portion is disregarded in determining the amount and type of assistance provided to the family under such program.

"(ii) Excepted portion defined.—For purposes of this subparagraph, the term "excepted portion" means that portion of the amount collected on behalf of a family during a month that does not exceed $100 per month, or in the case of a family that includes 2 or more children, that does not exceed an amount established by the State that is not more than $200 per month.".

(ii) Effective date.—The amendment made by clause (i) shall take effect on October 1, 2008.

(iii) Redesignation.—Effective October 1, 2009, paragraph (7) of section 457(a) of the Social Security Act (as added by clause (i)) is redesignated as paragraph (6).

(C) State plan to include election as to which rules to apply in distributing child support arrearages collected on behalf of families formerly receiving assistance.—Section 454 (42 U.S.C. 654) is amended—

(i) by striking "and" at the end of paragraph (32);

(ii) by striking the period at the end of paragraph (33) and inserting "; and"; and

(iii) by inserting after paragraph (33) the following:

"(34) include an election by the State to apply section 457(a)(2)(B) of this Act or former section 457(a)(2)(B) of this Act (as in effect for the State immediately before the date this paragraph first applies to the State) to the distribution of the amounts which are the subject of such sections and, for so long as the State elects to so apply such former section, the amendments made by subsection (b)(1) of section 7301 of the Deficit Reduction Act of 2005 shall not apply with respect to the State, notwithstanding subsection (e) of such section 7301.".

(2) Current support amount defined.—Section 457(c) (42 U.S.C. 657(c)) is amended by adding at the end the following:

"(5) Current support amount.—The term 'current support amount' means, with respect to amounts collected as support on behalf of a family, the amount designated as the monthly support obligation of the noncustodial parent in the order requiring the support or calculated by the State based on the order.".

(c) State Option to Discontinue Older Support Assignments.—Section 457(b) (42 U.S.C. 657(b)) is amended to read as follows:

"(b) Continuation of Assignments.—

"(1) State option to discontinue pre-1997 support assignments.—

"(A) In general.—Any rights to support obligations assigned to a State as a condition of receiving assistance from the State under part A and in effect on September 30, 1997 (or such earlier date on or after August 22, 1996, as the State may choose), may remain assigned after such date.

"(B) Distribution of amounts after assignment discontinuation.—If a State chooses to discontinue the assignment of a support obligation described in subparagraph (A), the State may treat amounts collected pursuant to the assignment as if the amounts had never been assigned and may distribute the amounts to the family in accordance with subsection (a)(4).

"(2) State option to discontinue post-1997 assignments.—

"(A) In general.—Any rights to support obligations accruing before the date on which a family first receives assistance under part A that are assigned to a State under that part and in effect before the implementation date of this section may remain assigned after such date.

"(B) Distribution of amounts after assignment discontinuation.—If a State chooses to discontinue the assignment of a support obligation described in subparagraph (A), the State may treat amounts collected pursuant to the assignment as if the amounts had never been assigned and may distribute the amounts to the family in accordance with subsection (a)(4).".

(d) Conforming Amendments.—Section 6402(c) of the Internal Revenue Code of 1986 (relating to offset of past-due support against overpayments) is amended—

(1) in the first sentence, by striking "the Social Security Act." and inserting "of such Act."; and

(2) by striking the third sentence and inserting the following: "The Secretary shall apply a reduction under this subsection first to an amount certified by the State as past

due support under section 464 of the Social Security Act before any other reductions allowed by law.".

(e) Effective Date.—

(1) In general.—Except as otherwise provided in this section, the amendments made by the preceding provisions of this section shall take effect on October 1, 2009, and shall apply to payments under parts A and D of title IV of the Social Security Act for calendar quarters beginning on or after such date, and without regard to whether regulations to implement the amendments (in the case of State programs operated under such part D) are promulgated by such date.

(2) State option to accelerate effective date.—Notwithstanding paragraph (1), a State may elect to have the amendments made by the preceding provisions of this section apply to the State and to amounts collected by the State (and the payments under parts A and D), on and after such date as the State may select that is not earlier than October 1, 2008, and not later than September 30, 2009.

(f) Use of Tax Refund Intercept Program to Collect Past-Due Child Support on Behalf of Children Who Are not Minors.—

(1) In general.—Section 464 (42 U.S.C. 664) is amended—

(A) in subsection (a)(2)(A), by striking "(as that term is defined for purposes of this paragraph under subsection (c))"; and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by striking "(1) Except as provided in paragraph (2), as used in" and inserting "In"; and

(II) by inserting "(whether or not a minor)" after "a child" each place it appears; and

(ii) by striking paragraphs (2) and (3).

(2) Effective date.—The amendments made by paragraph (1) shall take effect on October 1, 2007.

(g) State Option to Use Statewide Automated Data Processing and Information Retrieval System for Interstate Cases.—Section 466(a)(14)(A)(iii) (42 U.S.C. 666(a)(14)(A)(iii)) is amended by inserting before the semicolon the following: "(but the assisting State may establish a corresponding case based on such other State's request for assistance)".

SEC. 7302. MANDATORY REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS FOR FAMILIES RECEIVING TANF.

(a) In General.—Section 466(a)(10)(A)(i) (42 U.S.C. 666(a)(10)(A)(i)) is amended—

(1) by striking "parent, or," and inserting "parent or"; and

(2) by striking "upon the request of the State agency under the State plan or of either parent,".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on October 1, 2007.

SEC. 7303. DECREASE IN AMOUNT OF CHILD SUPPORT ARREARAGE TRIGGERING PASSPORT DENIAL.

(a) In General.—Section 452(k)(1) (42 U.S.C. 652(k)(1)) is amended by striking "$5,000" and inserting "$2,500".

(b) Conforming Amendment.—Section 454(31) (42 U.S.C. 654(31)) is amended by striking "$5,000" and inserting "$2,500".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2006.

SEC. 7304. MAINTENANCE OF TECHNICAL ASSISTANCE FUNDING.

Section 452(j) (42 U.S.C. 652(j)) is amended by inserting "or the amount appropriated under this paragraph for fiscal year 2002, whichever is greater" before ", which shall be available".

SEC. 7305. MAINTENANCE OF FEDERAL PARENT LOCATOR SERVICE FUNDING.

Section 453(o) (42 U.S.C. 653(o)) is amended—

(1) in the first sentence, by inserting "or the amount appropriated under this paragraph for fiscal year 2002, whichever is greater" before ", which shall be available"; and

(2) in the second sentence, by striking "for each of fiscal years 1997 through 2001".

SEC. 7306. INFORMATION COMPARISONS WITH INSURANCE DATA.

(a) Duties of the Secretary.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following:

"(l) Comparisons With Insurance Information.—

"(1) In general.—The Secretary, through the Federal Parent Locator Service, may—

"(A) compare information concerning individuals owing past-due support with information maintained by insurers (or their agents) concerning insurance claims, settlements, awards, and payments; and

"(B) furnish information resulting from the data matches to the State agencies responsible for collecting child support from the individuals.

"(2) Liability.—An insurer (including any agent of an insurer) shall not be liable under any Federal or State law to any person for any disclosure provided for under this subsection, or for any other action taken in good faith in accordance with this subsection.".

(b) State Reimbursement of Federal Costs.—Section 453(k)(3) (42 U.S.C. 653(k)(3)) is amended by inserting "or section 452(l)" after "pursuant to this section".

SEC. 7307. REQUIREMENT THAT STATE CHILD SUPPORT ENFORCEMENT AGENCIES SEEK MEDICAL SUPPORT FOR CHILDREN FROM EITHER PARENT.

(a) State Agencies Required to Seek Medical Support From Either Parent.—

(1) In general.—Section 466(a)(19)(A) (42 U.S.C. 666(a)(19)(A)) is amended by striking "which include a provision for the health care coverage of the child are enforced" and inserting "shall include a provision for medical support for the child to be provided by either or both parents, and shall be enforced".

(2) Conforming amendments.—

(A) Title IV–D.—

(i) Section 452(f) (42 U.S.C. 652(f)) is amended by striking "include medical support as part of any child support order and enforce medical support" and inserting "enforce medical support included as part of a child support order".

(ii) Section 466(a)(19) (42 U.S.C. 666(a)(19)), as amended by paragraph (1) of this subsection, is amended—

(I) in subparagraph (A)—

(aa) by striking "section 401(e)(3)(C)" and inserting "section 401(e)"; and

(bb) by striking "section 401(f)(5)(C)" and inserting "section 401(f)";

(II) in subparagraph (B)—

(aa) by striking "noncustodial" each place it appears; and

(bb) in clause (iii), by striking "section 466(b)" and inserting "subsection (b)"; and

(III) in subparagraph (C), by striking "noncustodial" each place it appears and inserting "obligated".

(B) State or local governmental group health plans.—Section 401(e)(2) of the Child Support Performance and Incentive Act of 1998 (29 U.S.C. 1169 note) is amended, in the matter preceding subparagraph (A), by striking "who is a noncustodial parent of the child".

(C) Church plans.—Section 401(f)(5)(C) of the Child Support Performance and Incentive Act of 1998 (29 U.S.C. 1169 note) is amended by striking "noncustodial" each place it appears.

(b) Enforcement of Medical Support Requirements.—Section 452(f) (42 U.S.C. 652(f)), as amended by subsection (a)(2)(A)(i), is amended by inserting after the first sentence the following: "A State agency administering the program under this part may enforce medical support against a custodial parent if health care coverage is available to the custodial parent at a reasonable cost, notwithstanding any other provision of this part.".

(c) Definition of Medical Support.—Section 452(f) (42 U.S.C. 652(f)), as amended by subsections (a)(2)(A)(i) and (b) of this section, is amended by adding at the end the following: "For purposes of this part, the term 'medical support' may include health care coverage, such as coverage under a health insurance plan (including payment of costs of premiums, co-payments, and deductibles) and payment for medical expenses incurred on behalf of a child.".

SEC. 7308. REDUCTION OF FEDERAL MATCHING RATE FOR LABORATORY COSTS INCURRED IN DETERMINING PATERNITY.

(a) In General.—Section 455(a)(1)(C) (42 U.S.C. 655(a)(1)(C)) is amended by striking "90 percent (rather than the percentage specified in subparagraph (A))" and inserting "66 percent".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 2006, and shall apply to costs incurred on or after that date.

SEC. 7309. ENDING FEDERAL MATCHING OF STATE SPENDING OF FEDERAL INCENTIVE PAYMENTS.

(a) In General.—Section 455(a)(1) (42 U.S.C. 655(a)(1)) is amended by inserting "from amounts paid to the State under section 458 or" before "to carry out an agreement".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 2007.

SEC. 7310. MANDATORY FEE FOR SUCCESSFUL CHILD SUPPORT COLLECTION FOR FAMILY THAT HAS NEVER RECEIVED TANF.

(a) In General.—Section 454(6)(B) (42 U.S.C. 654(6)(B)) is amended—

(1) by inserting "(i)" after "(B)";

(2) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(3) by adding "and" after the semicolon; and

(4) by adding after and below the end the following new clause:

"(ii) in the case of an individual who has never received assistance under a State program funded under part A and for whom the State has collected at least $500 of support, the State shall impose an annual fee of $25 for each case in which services are furnished, which shall be retained by the State from support collected on behalf of the individual (but not from the 1st $500 so collected), paid by the individual applying for the services, recovered from the absent parent, or paid by the State out of its own funds (the payment of which from State funds shall not be considered as an administrative cost of the State for the operation of the plan, and the fees shall be considered income to the program);".

(b) Conforming Amendments.—Section 457(a)(3) (42 U.S.C. 657(a)(3)) is amended to read as follows:

"(3) Families That Never Received Assistance.—In the case of any other family, the State shall distribute to the family the portion of the amount so collected that remains after withholding any fee pursuant to section 454(6)(B)(ii).".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2006.

SEC. 7311. EXCEPTION TO GENERAL EFFECTIVE DATE FOR STATE PLANS REQUIRING STATE LAW AMENDMENTS.

In the case of a State plan under part D of title IV of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this subtitle, the effective date of the amendments imposing the additional requirements shall be 3 months after the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

Subtitle D—Child Welfare

SEC. 7401. STRENGTHENING COURTS.

(a) Court Improvement Grants.—

(1) In general.—Section 438(a) (42 U.S.C. 629h(a)) is amended—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(C) by adding at the end the following:

"(3) to ensure that the safety, permanence, and well-being needs of children are met in a timely and complete manner; and

"(4) to provide for the training of judges, attorneys and other legal personnel in child welfare cases.".

(2) Applications.—Section 438(b) (42 U.S.C. 629h(b)) is amended to read as follows:

"(b) Applications.—

"(1) In general.—In order to be eligible to receive a grant under this section, a highest State court shall submit to the Secretary an application at such time, in such form, and including such information and assurances as the Secretary may require, including—

"(A) in the case of a grant for the purpose described in subsection (a)(3), a description of how courts and child welfare agencies on the local and State levels will collaborate and jointly plan for the collection and sharing of all relevant data and information to demonstrate how improved case tracking and analysis of child abuse and neglect cases will produce safe and timely permanency decisions;

"(B) in the case of a grant for the purpose described in subsection (a)(4), a demonstration that a portion of the grant will be used for cross-training initiatives that are jointly planned and executed with the State agency or any other agency under contract with the State to administer the State program under the State plan under subpart 1, the State plan approved under section 434, or the State plan approved under part E; and

"(C) in the case of a grant for any purpose described in subsection (a), a demonstration of meaningful and ongoing collaboration among the courts in the State, the State agency or any other agency under contract with the State who is responsible for administering the State program under part B or E, and, where applicable, Indian tribes.

"(2) Separate applications.— A highest State court desiring grants under this section for 2 or more purposes shall submit separate applications for the following grants:

"(A) A grant for the purposes described in paragraphs (1) and (2) of subsection (a).

"(B) A grant for the purpose described in subsection (a)(3).

"(C) A grant for the purpose described in subsection (a)(4).".

(3) Allotments.—Section 438(c) (42 U.S.C. 429h(c)) is amended—

(A) in paragraph (1)—

(i) by inserting "of this section for a grant described in subsection (b)(2)(A) of this section" after "subsection (b)"; and

(ii) by striking "paragraph (2) of this subsection" and inserting "subparagraph (B) of this paragraph";

(B) in paragraph (2)—

(i) by striking "this paragraph" and inserting "this subparagraph";

(ii) by striking "paragraph (1) of this subsection" and inserting "subparagraph (A) of this paragraph"; and

(iii) by inserting "for such a grant" after "subsection (b)";

(C) by redesignating and indenting paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(D) by inserting before and above such subparagraph (A) the following:

"(1) Grants to assess and improve handling of court proceedings relating to foster care and adoption.—"; and

(E) by adding at the end the following:

"(2) Grants for improved data collection and training.—

"(A) In general.—Each highest State court which has an application approved under subsection (b) of this section for a grant referred to in subparagraph (B) or (C) of subsection (b)(2) shall be entitled to payment, for each of fiscal years 2006 through 2010, from the amount made available under whichever of paragraph (1) or (2) of subsection (e) applies with respect to the grant, of an amount equal to the sum of $85,000 plus the amount described in subparagraph (B) of this paragraph for the fiscal year with respect to the grant.

"(B) Formula.—The amount described in this subparagraph for any fiscal year with respect to a grant referred to in subparagraph (B) or (C) of subsection (b)(2) is the amount that bears the same ratio to the amount made available under subsection (e) for such a grant (reduced by the dollar amount specified in subparagraph (A) of this paragraph) as the number of individuals in the State who have not attained 21 years of age bears to the total number of such individuals in all States the highest State courts of which have approved applications under subsection (b) for such a grant.".

(4) Funding.—Section 438 (42 U.S.C. 629h) is amended by adding at the end the following:

"(e) Funding for Grants for Improved Data Collection and Training.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary, for each of fiscal years 2006 through 2010—

"(1) $10,000,000 for grants referred to in subsection (b)(2)(B); and

"(2) $10,000,000 for grants referred to in subsection (b)(2)(C).".

(b) Requirement to Demonstrate Meaningful Collaboration Between Courts and Agencies in Child Welfare Services Programs.—Section 422(b) (42 U.S.C. 622(b)) is amended—

(1) by striking "and" at the end of paragraph (13);

(2) by striking the period at the end of paragraph (14) and inserting "; and"; and

(3) by adding at the end the following:

"(15) demonstrate substantial, ongoing, and meaningful collaboration with State courts in the development and implementation of the State plan under subpart 1, the State plan approved under subpart 2, and the State plan approved under part E, and in the development and implementation of any program improvement plan required under section 1123A.".

(c) Use of Child Welfare Records in State Court Proceedings.—Section 471 (42 U.S.C. 671) is amended—

(1) in subsection (a)(8), by inserting "subject to subsection (c)," after "(8)"; and

(2) by adding at the end the following:

"(c) Use of Child Welfare Records in State Court Proceedings.—Subsection (a)(8) shall not be construed to limit the flexibility of a State in determining State policies relating to public access to court proceedings to determine child abuse and neglect or other court hearings held pursuant to part B or this part, except that such policies shall, at a minimum, ensure the safety and well-being of the child, parents, and family.".

SEC. 7402. FUNDING OF SAFE AND STABLE FAMILIES PROGRAMS.

Section 436(a) (42 U.S.C. 629f(a)) is amended to read as follows:

"(a) Authorization.—In addition to any amount otherwise made available to carry out this subpart, there are authorized to be appropriated to carry out this subpart $345,000,000 for fiscal year 2006. Notwithstanding the preceding sentence, the total amount authorized to be so appropriated for fiscal year 2006 under this subsection and under this subsection (as in effect before the date of the enactment of the Deficit Reduction Act of 2005) is $345,000,000.".

SEC. 7403. CLARIFICATION REGARDING FEDERAL MATCHING OF CERTAIN ADMINISTRATIVE COSTS UNDER THE FOSTER CARE MAINTENANCE PAYMENTS PROGRAM.

(a) Administrative Costs Relating to Unlicensed Care.—Section 472 (42 U.S.C. 672) is amended by inserting after subsection (h) the following:

"(i) Administrative Costs Associated With Otherwise Eligible Children not in Licensed Foster Care Settings.—Expenditures by a State that would be considered administrative expenditures for purposes of section 474(a)(3) if made with respect to a child who was residing in a foster family home or child-care institution shall be so considered with respect to a child not residing in such a home or institution—

"(1) in the case of a child who has been removed in accordance with subsection (a) of this section from the home of a relative specified in section 406(a) (as in effect on July 16, 1996), only for expenditures—

"(A) with respect to a period of not more than the lesser of 12 months or the average length of time it takes for the State to license or approve a home as a foster home, in which the child is in the home of a relative and an application is pending for licensing or approval of the home as a foster family home; or

"(B) with respect to a period of not more than 1 calendar month when a child moves from a facility not eligible for payments under this part into a foster family home or child care institution licensed or approved by the State; and

"(2) in the case of any other child who is potentially eligible for benefits under a State plan approved under this part and at imminent risk of removal from the home, only if—

"(A) reasonable efforts are being made in accordance with section 471(a)(15) to prevent the need for, or if necessary to pursue, removal of the child from the home; and

"(B) the State agency has made, not less often than every 6 months, a determination (or redetermination) as to whether the child remains at imminent risk of removal from the home.".

(b) CONFORMING AMENDMENT.—Section 474(a)(3) (42 U.S.C. 674(a)(3)) is amended by inserting "subject to section 472(i)" before "an amount equal to".

SEC. 7404. CLARIFICATION OF ELIGIBILITY FOR FOSTER CARE MAINTENANCE PAYMENTS AND ADOPTION ASSISTANCE.

(a) FOSTER CARE MAINTENANCE PAYMENTS.—Section 472(a) (42 U.S.C. 672(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) ELIGIBILITY.—Each State with a plan approved under this part shall make foster care maintenance payments on behalf of each child who has been removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) into foster care if—

"(A) the removal and foster care placement met, and the placement continues to meet, the requirements of paragraph (2); and

"(B) the child, while in the home, would have met the AFDC eligibility requirement of paragraph (3).

"(2) REMOVAL AND FOSTER CARE PLACEMENT REQUIREMENTS.—The removal and foster care placement of a child meet the requirements of this paragraph if—

"(A) the removal and foster care placement are in accordance with—

"(i) a voluntary placement agreement entered into by a parent or legal guardian of the child who is the relative referred to in paragraph (1); or

"(ii) a judicial determination to the effect that continuation in the home from which removed would be contrary to the welfare of the child and that reasonable efforts of the type described in section 471(a)(15) for a child have been made;

"(B) the child's placement and care are the responsibility of—

"(i) the State agency administering the State plan approved under section 471; or

"(ii) any other public agency with which the State agency administering or supervising the administration of the State plan has made an agreement which is in effect; and

"(C) the child has been placed in a foster family home or child-care institution.

"(3) AFDC ELIGIBILITY REQUIREMENT.—

"(A) IN GENERAL.—A child in the home referred to in paragraph (1) would have met the AFDC eligibility requirement of this paragraph if the child—

"(i) would have received aid under the State plan approved under section 402 (as in effect on July 16, 1996) in the home, in or for the month in which the agreement was entered into or court proceedings leading to the determination referred to in paragraph (2)(A)(ii) of this subsection were initiated; or

"(ii)(I) would have received the aid in the home, in or for the month referred to in clause (i), if application had been made therefor; or

"(II) had been living in the home within 6 months before the month in which the agreement was entered into or the proceedings were initiated, and would have received the aid in or for such month, if, in such month, the child had been living in the home with the relative referred to in paragraph (1) and application for the aid had been made.

"(B) RESOURCES DETERMINATION.—For purposes of subparagraph (A), in determining whether a child would have received aid under a State plan approved under section 402 (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 402(a)(7)(B), as so in effect) have a combined value of not more than $10,000 shall be considered a child whose resources have a combined value of not more than $1,000 (or such lower amount as the State may determine for purposes of section 402(a)(7)(B)).

"(4) ELIGIBILITY OF CERTAIN ALIEN CHILDREN.—Subject to title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, if the child is an alien disqualified under section 245A(h) or 210(f) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which the agreement described in paragraph (2)(A)(i) was entered into or court proceedings leading to the determination described in paragraph (2)(A)(ii) were initiated, the child shall be considered to satisfy the requirements of paragraph (3), with respect to the month, if the child would have satisfied the requirements but for the disqualification.".

(b) ADOPTION ASSISTANCE.—Section 473(a)(2) (42 U.S.C. 673(a)(2)) is amended to read as follows:

"(2)(A) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if the child—

"(i)(I)(aa) was removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) and placed in foster care in accordance with a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or section 403, as such section was in effect on July 16, 1996), or in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and

"(bb) met the requirements of section 472(a)(3) with respect to the home referred to in item (aa) of this subclause;

"(II) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits; or

"(III) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the minor parent of the child as provided in section 475(4)(B); and

"(ii) has been determined by the State, pursuant to subsection (c) of this section, to be a child with special needs.

"(B) Section 472(a)(4) shall apply for purposes of subparagraph (A) of this paragraph, in any case in which the child is an alien described in such section.

"(C) A child shall be treated as meeting the requirements of this paragraph for the purpose of paragraph (1)(B)(ii) if the child—

"(i) meets the requirements of subparagraph (A)(ii);

"(ii) was determined eligible for adoption assistance payments under this part with respect to a prior adoption;

"(iii) is available for adoption because—

"(I) the prior adoption has been dissolved, and the parental rights of the adoptive parents have been terminated; or

"(II) the child's adoptive parents have died; and

"(iv) fails to meet the requirements of subparagraph (A) but would meet such requirements if—

"(I) the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under this part; and

"(II) the prior adoption were treated as never having occurred.".

Subtitle E—Supplemental Security Income

SEC. 7501. REVIEW OF STATE AGENCY BLINDNESS AND DISABILITY DETERMINATIONS.

Section 1633 (42 U.S.C. 1383b) is amended by adding at the end the following:

"(e)(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in connection with applications for benefits under this title on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled as of a specified onset date. The Commissioner of Social Security shall review such a determination before any action is taken to implement the determination.

"(2)(A) In carrying out paragraph (1), the Commissioner of Social Security shall review—

"(i) at least 20 percent of all determinations referred to in paragraph (1) that are made in fiscal year 2006;

"(ii) at least 40 percent of all such determinations that are made in fiscal year 2007; and

"(iii) at least 50 percent of all such determinations that are made in fiscal year 2008 or thereafter.

"(B) In carrying out subparagraph (A), the Commissioner of Social Security shall, to the extent feasible, select for review the determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect.".

SEC. 7502. PAYMENT OF CERTAIN LUMP SUM BENEFITS IN INSTALLMENTS UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

(a) IN GENERAL.—Section 1631(a)(10)(A)(i) (42 U.S.C. 1383(a)(10)(A)(i)) is amended by striking "12" and inserting "3".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 3 months after the date of the enactment of this Act.

Subtitle F—Repeal of Continued Dumping and Subsidy Offset

SEC. 7601. REPEAL OF CONTINUED DUMPING AND SUBSIDY OFFSET.

(a) REPEAL.—Effective upon the date of enactment of this Act, section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c), and the item relating to section 754 in the table of contents for title VII of that Act, are repealed.

(b) DISTRIBUTIONS ON CERTAIN ENTRIES.—All duties on entries of goods made and filed before October 1, 2007, that would, but for subsection (a) of this section, be distributed under section 754 of the Tariff Act of 1930, shall be distributed as if section 754 of the Tariff Act of 1930 had not been repealed by subsection (a).

Subtitle G—Effective Date

SEC. 7701. EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title shall take effect as if enacted on October 1, 2005.

TITLE VIII—EDUCATION AND PENSION BENEFIT PROVISIONS

Subtitle A—Higher Education Provisions

SEC. 8001. SHORT TITLE; REFERENCE; EFFECTIVE DATE.

(a) SHORT TITLE.—This subtitle may be cited as the "Higher Education Reconciliation Act of 2005".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(c) EFFECTIVE DATE.—Except as otherwise provided in this subtitle or the amendments made by this subtitle, the amendments made by this subtitle shall be effective July 1, 2006.

SEC. 8002. MODIFICATION OF 50/50 RULE.

Section 102(a)(3) (20 U.S.C. 1002(a)(3)) is amended—

(1) in subparagraph (A), by inserting "(excluding courses offered by telecommunications as defined in section 484(*l*)(4))" after "courses by correspondence"; and

(2) in subparagraph (B), by inserting "(excluding courses offered by telecommunications as defined in section 484(*l*)(4))" after "correspondence courses".

SEC. 8003. ACADEMIC COMPETITIVENESS GRANTS.

Subpart 1 of part A of title IV (20 U.S.C. 1070a) is amended by adding after section 401 the following new section:

"SEC. 401A. ACADEMIC COMPETITIVENESS GRANTS.

"(b) ACADEMIC COMPETITIVENESS GRANT PROGRAM.—

"(1) ACADEMIC COMPETITIVENESS GRANTS AUTHORIZED.—The Secretary shall award grants, in the amounts specified in subsection (e)(1), to eligible students to assist the eligible students in paying their college education expenses.

"(2) ACADEMIC COMPETITIVENESS COUNCIL.—

"(A) ESTABLISHMENT.—There is established an Academic Competitiveness Council (referred to in this paragraph as the 'Council'). From the funds made available under subsection (f) for fiscal year 2006, $50,000 shall be available to the Council to carry out the duties described in subparagraph (B). The Council shall be chaired by the Secretary of Education, and the membership of the Council shall consist of officials from Federal agencies with responsibilities for managing existing Federal programs that promote mathematics and science (or designees of such officials with significant decision-making authority).

"(B) DUTIES.—The Council shall—

"(i) identify all Federal programs with a mathematics or science focus;

"(ii) identify the target populations being served by such programs;

"(iii) determine the effectiveness of such programs;

"(iv) identify areas of overlap or duplication in such programs; and

"(v) recommend ways to efficiently integrate and coordinate such programs.

"(C) REPORT.—Not later than one year after the date of enactment of the Higher Education Reconciliation Act of 2005, the Council shall transmit a report to each committee of Congress with jurisdiction over a Federal program identified under subparagraph (B)(i), detailing the findings and recommendations under subparagraph (B), including recommendations for legislative or administrative action.

"(c) DESIGNATION.—A grant under this section—

"(1) for the first or second academic year of a program of undergraduate education shall be known as an 'Academic Competitiveness Grant'; and

"(2) for the third or fourth academic year of a program of undergraduate education shall be known as a 'National Science and Mathematics Access to Retain Talent Grant' or a 'National SMART Grant'.

"(d) DEFINITION OF ELIGIBLE STUDENT.—In this section the term 'eligible student' means a full-time student who, for the academic year for which the determination of eligibility is made—

"(1) is a citizen of the United States;

"(2) is eligible for a Federal Pell Grant; and

"(3) in the case of a student enrolled or accepted for enrollment in—

"(A) the first academic year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education—

"(i) has successfully completed, after January 1, 2006, a rigorous secondary school program of study established by a State or local educational agency and recognized as such by the Secretary; and

"(ii) has not been previously enrolled in a program of undergraduate education;

"(B) the second academic year of a program of undergraduate education at a two- or four-year degree-granting institution of higher education—

"(i) has successfully completed, after January 1, 2005, a rigorous secondary school program of study established by a State or local educational agency and recognized as such by the Secretary; and

"(ii) has obtained a cummulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) at the end of the first academic year of such program of undergraduate education; or

"(C) the third or fourth academic year of a program of undergraduate education at a four-year degree-granting institution of higher education—

"(i) is pursuing a major in—

"(I) the physical, life, or computer sciences, mathematics, technology, or engineering (as determined by the Secretary pursuant to regulations); or

"(II) a foreign language that the Secretary, in consultation with the Director of National Intelligence, determines is critical to the national security of the United States; and

"(ii) has obtained a cummulative grade point average of at least 3.0 (or the equivalent as determined under regulations prescribed by the Secretary) in the coursework required for the major described in clause (i).

"(e) GRANT AWARD.—

"(1) AMOUNTS.—

"(A) The Secretary shall award a grant under this section in the amount of—

"(i) $750 for an eligible student under subsection (d)(3)(A);

"(ii) $1,300 for an eligible student under subsection (d)(3)(B); or

"(iii) $4,000 for an eligible student under subsection (d)(3)(C).

"(B) Notwithstanding subparagraph (A)—

"(i) the amount of such grant, in combination with the Federal Pell Grant assistance and other student financial assistance available to such student, shall not exceed the student's cost of attendance;

"(ii) if the amount made available under subsection (f) for any fiscal year is less than the amount required to be provide grants to all eligible students in the amounts determined under subparagraph (A) and clause (i) of this subparagraph, then the amount of the grant to each eligible student shall be ratably reduced; and

"(iii) if additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced.

"(2) LIMITATIONS.—The Secretary shall not award a grant under this section—

"(A) to any student for an academic year of a program of undergraduate education described in subparagraph (A), (B), or (C) of subsection (d)(3) for which the student received credit before the date of enactment of the Higher Education Reconciliation Act of 2005; or

"(B) to any student for more than—

"(i) one academic year under subsection (d)(3)(A);

"(ii) one academic year under subsection (d)(3)(B); or

"(iii) two academic years under subsection (d)(3)(C).

"(f) FUNDING.—

"(1) AUTHORIZATION AND APPROPRIATION OF FUNDS.—There are authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Education to carry out this section—

"(A) $790,000,000 for fiscal year 2006;

"(B) $850,000,000 for fiscal year 2007;

"(C) $920,000,000 for fiscal year 2008;

"(D) $960,000,000 for fiscal year 2009; and

"(E) $1,010,000,000 for fiscal year 2010.

"(2) USE OF EXCESS FUNDS.—If, at the end of a fiscal year, the funds available for awarding grants under this section exceed the amount necessary to make such grants in the amounts authorized by subsection (e), then all of the excess funds shall remain available for awarding grants under this section during the subsequent fiscal year.

"(g) RECOGNITION OF PROGRAMS OF STUDY.—The Secretary shall recognize at least one rigorous secondary school program of study in each State under subsection (d)(3)(A) and (B) for the purpose of determining student eligibility under such subsection.

"(h) SUNSET PROVISION.—The authority to make grants under this section shall expire at the end of academic year 2010–2011.".

SEC. 8004. REAUTHORIZATION OF FEDERAL FAMILY EDUCATION LOAN PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 421(b)(5) (20 U.S.C. 1071(b)(5)) is amended by striking "an administrative cost allowance" and inserting "a loan processing and issuance fee".

(b) EXTENSION OF AUTHORITY.—

(1) FEDERAL INSURANCE LIMITATIONS.—Section 424(a) (20 U.S.C. 1074(a)) is amended—

(A) by striking "2004" and inserting "2012"; and

(B) by striking "2008" and inserting "2016".

(2) GUARANTEED LOANS.—Section 428(a)(5) (20 U.S.C. 1078(a)(5)) is amended—

(A) by striking "2004" and inserting "2012"; and

(B) by striking "2008" and inserting "2016".

(3) CONSOLIDATION LOANS.—Section 428C(e) (20 U.S.C. 1078-3(e)) is amended by striking "2004" and inserting "2012".

SEC. 8005. LOAN LIMITS.

(a) FEDERAL INSURANCE LIMITS.—Section 425(a)(1)(A) (20 U.S.C. 1075(a)(1)(A)) is amended—

(1) in clause (i)(I), by striking "$2,625" and inserting "$3,500"; and

(2) in clause (ii)(I), by striking "$3,500" and inserting "$4,500".

(b) GUARANTEE LIMITS.—Section 428(b)(1)(A) (20 U.S.C. 1078(b)(1)(A)) is amended—

(1) in clause (i)(I), by striking "$2,625" and inserting "$3,500"; and

(2) in clause (ii)(I), by striking "$3,500" and inserting "$4,500".

(c) FEDERAL PLUS LOANS.—Section 428B (20 U.S.C. 1078–2) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by striking "Parents" and inserting "A graduate or professional student or the parents";

(B) in subparagraph (A), by striking "the parents" and inserting "the graduate or professional student or the parents"; and

(C) in subparagraph (B), by striking "the parents" and inserting "the graduate or professional student or the parents";

(2) in subsection (b), by striking "any parent" and inserting "any graduate or professional student or any parent";

(3) in subsection (c)(2), by striking "parent" and inserting "graduate or professional student or parent"; and

(4) in subsection (d)(1), by striking "the parent" and inserting "the graduate or professional student or the parent".

(d) UNSUBSIDIZED STAFFORD LOANS FOR GRADUATE OR PROFESSIONAL STUDENTS.—Section 428H(d)(2) (20 U.S.C. 1078-8(d)(2)) is amended—

(1) in subparagraph (C), by striking "$10,000" and inserting "$12,000"; and

(2) in subparagraph (D)—

(A) in clause (i), by striking "$5,000" and inserting "$7,000"; and

(B) in clause (ii), by striking "$5,000" and inserting "$7,000".

(e) EFFECTIVE DATE OF INCREASES.—The amendments made by subsections subsections (a), (b), and (d) shall be effective July 1, 2007.

SEC. 8006. PLUS LOAN INTEREST RATES AND ZERO SPECIAL ALLOWANCE PAYMENT.

(a) PLUS LOANS.—Section 427A(l)(2) (20 U.S.C. 1077a(l)(2)) is amended by striking "7.9 percent" and inserting "8.5 percent".

(b) CONFORMING AMENDMENTS FOR SPECIAL ALLOWANCES.—

(1) AMENDMENTS.—Subparagraph (I) of section 438(b)(2) (20 U.S.C. 1087–1(b)(2)) is amended—

(A) in clause (iii), by striking ", subject to clause (v) of this subparagraph";

(B) in clause (iv), by striking ", subject to clause (vi) of this subparagraph"; and

(C) by striking clauses (v), (vi), and (vii) and inserting the following:

"(v) RECAPTURE OF EXCESS INTEREST.—

"(I) EXCESS CREDITED.—With respect to a loan on which the applicable interest rate is determined under subsection (k) or (l) of section 427A and for which the first disbursement of principal is made on or after April 1, 2006, if the applicable interest rate for any 3-month period exceeds the special allowance support level applicable to such loan under this subparagraph for such period, then an adjustment shall be made by calculating the excess interest in the amount computed under subclause (II) of this clause, and by crediting the excess interest to the Government not less often than annually.

"(II) CALCULATION OF EXCESS.—The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

"(aa) the applicable interest rate minus the special allowance support level determined under this subparagraph; multiplied by

"(bb) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

"(cc) four.

"(III) SPECIAL ALLOWANCE SUPPORT LEVEL.—For purposes of this clause, the term 'special allowance support level' means, for any loan, a number expressed as a percentage equal to the sum of the rates determined under subclauses (I) and (III) of clause (i), and applying any substitution rules applicable to such loan under clauses (ii), (iii), and (iv) in determining such sum.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall not apply with respect to any special allowance payment made under section 438 of the Higher Education Act of 1965 (20 U.S.C 1087–1) before April 1, 2006.

SEC. 8007. DEFERMENT OF STUDENT LOANS FOR MILITARY SERVICE.

(a) FEDERAL FAMILY EDUCATION LOANS.—Section 428(b)(1)(M) (20 U.S.C. 1078(b)(1)(M)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by redesignating clause (iii) as clause (iv); and

(3) by inserting after clause (ii) the following new clause:

"(iii) not in excess of 3 years during which the borrower—

"(I) is serving on active duty during a war or other military operation or national emergency; or

"(II) is performing qualifying National Guard duty during a war or other military operation or national emergency; or".

(b) DIRECT LOANS.—Section 455(f)(2) (20 U.S.C. 1087e(f)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) not in excess of 3 years during which the borrower—

"(i) is serving on active duty during a war or other military operation or national emergency; or

"(ii) is performing qualifying National Guard duty during a war or other military operation or national emergency; or".

(c) PERKINS LOANS.—Section 464(c)(2)(A) (20 U.S.C. 1087dd(c)(2)(A)) is amended—

(1) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(2) by inserting after clause (ii) the following new clause:

"(iii) not in excess of 3 years during which the borrower—

"(I) is serving on active duty during a war or other military operation or national emergency; or

"(II) is performing qualifying National Guard duty during a war or other military operation or national emergency;".

(d) DEFINITIONS.—Section 481 (20 U.S.C. 1088) is amended by adding at the end the following new subsection:

"(d) DEFINITIONS FOR MILITARY DEFERMENTS.—For purposes of parts B, D, and E of this title:

"(1) ACTIVE DUTY.—The term 'active duty' has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

"(2) MILITARY OPERATION.—The term 'military operation' means a contingency operation as such term is defined in section 101(a)(13) of title 10, United States Code.

"(3) NATIONAL EMERGENCY.—The term 'national emergency' means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

"(4) SERVING ON ACTIVE DUTY.—The term 'serving on active duty during a war or other military operation or national emergency' means service by an individual who is—

"(A) a Reserve of an Armed Force ordered to active duty under section 12301(a), 12301(g), 12302, 12304, or 12306 of title 10, United States Code, or any retired member of an Armed Force ordered to active duty under section 688 of such title, for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; and

"(B) any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

"(5) QUALIFYING NATIONAL GUARD DUTY.—The term 'qualifying National Guard duty during a war or other military operation or national emergency' means service as a member of the National Guard on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, in connection with a war, other military operation, or a national emergency declared by the President and supported by Federal funds.".

(e) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to authorize any refunding of any repayment of a loan.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to loans for which the first disbursement is made on or after July 1, 2001.

SEC. 8008. ADDITIONAL LOAN TERMS AND CONDITIONS.

(a) DISBURSEMENT.—Section 428(b)(1)(N) (20 U.S.C. 1078(b)(1)(N)) is amended—

(1) by striking "or" at the end of clause (i); and

(2) by striking clause (ii) and inserting the following:

"(ii) in the case of a student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled, and only after verification of the student's enrollment by the lender or guaranty agency, are, at the request of the student, disbursed directly to the student by the means described in clause (i), unless such student requests that the check be endorsed, or the funds transfer be authorized, pursuant to an authorized power-of-attorney; or

"(iii) in the case of a student who is studying outside the United States in a program of study at an eligible foreign institution, are, at the request of the foreign institution, disbursed directly to the student, only after verification of the student's enrollment by the lender or guaranty agency by the means described in clause (i).".

(b) REPAYMENT PLANS: DIRECT LOANS.—Section 455(d)(1) (20 U.S.C. 1087e(d)(1)) is amended by striking subparagraphs (A), (B), and (C) and inserting the following:

"(A) a standard repayment plan, consistent with subsection (a)(1) of this section and with section 428(b)(9)(A)(i);

"(B) a graduated repayment plan, consistent with section 428(b)(9)(A)(ii);

"(C) an extended repayment plan, consistent with section 428(b)(9)(A)(v), except that the borrower shall annually repay a minimum amount determined by the Secretary in accordance with section 428(b)(1)(L); and".

(c) ORIGINATION FEES.—

(1) FFEL PROGRAM.—Paragraph (2) of section 438(c) (20 U.S.C. 1087–1(c)) is amended—

(A) by striking the designation and heading of such paragraph and inserting the following:

"(2) AMOUNT OF ORIGINATION FEES.—

"(A) IN GENERAL.—"; and

(B) by adding at the end the following new subparagraph:

"(B) SUBSEQUENT REDUCTIONS.—Subparagraph (A) shall be applied to loans made under this part (other than loans made under sections 428C and 439(o))—

"(i) by substituting '2.0 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2006, and before July 1, 2007;

"(ii) by substituting '1.5 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2007, and before July 1, 2008;

"(iii) by substituting '1.0 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2008, and before July 1, 2009;

"(iv) by substituting '0.5 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2009, and before July 1, 2010; and

"(v) by substituting '0.0 percent' for '3.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2010.".

(2) DIRECT LOAN PROGRAM.—Subsection (c) of section 455 (20 U.S.C. 1087e(c)) is amended—

(A) by striking "(c) LOAN FEE.—" and inserting the following:

"(c) LOAN FEE.—

"(1) IN GENERAL.—"; and

(B) by adding at the end the following:

"(2) SUBSEQUENT REDUCTION.—Paragraph (1) shall be applied to loans made under this part, other than Federal Direct Consolidation loans and Federal Direct PLUS loans—

"(A) by substituting '3.0 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after the date of enactment of the Higher Education Reconciliation Act of 2005, and before July 1, 2007;

"(B) by substituting '2.5 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2007, and before July 1, 2008;

"(C) by substituting '2.0 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2008, and before July 1, 2009;

"(D) by substituting '1.5 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2009, and before July 1, 2010; and

"(E) by substituting '1.0 percent' for '4.0 percent' with respect to loans for which the first disbursement of principal is made on or after July 1, 2010.".

(3) CONFORMING AMENDMENT.—Section 455(b)(8)(A) (20 U.S.C. 1087e(b)(8)(A)) is amended by inserting "or origination fee" after "reductions in the interest rate".

SEC. 8009. CONSOLIDATION LOAN CHANGES.

(a) CONSOLIDATION BETWEEN PROGRAMS.—Section 428C (20 U.S.C. 1078–3) is amended—

(1) in subsection (a)(3)(B)(i)—

(A) by inserting "or under section 455(g)" after "under this section" both places it appears;

(B) by inserting "under both sections" after "terminates"

(C) by striking "and" at the end of subclause (III);

(D) by striking the period at the end of subclause (IV) and inserting "; and"; and

(E) by adding at the end the following new subclause:

"(V) an individual may obtain a subsequent consolidation loan under section 455(g) only for the purposes of obtaining an income contingent repayment plan, and only if the loan has been submitted to the guaranty agency for default aversion."; and

(2) in subsection (b)(5), by striking the first sentence and inserting the following: "In the event that a lender with an agreement under subsection (a)(1) of this section denies a consolidation loan application submitted to the lender by an eligible borrower under this section, or denies an application submitted to the lender by such a borrower for a consolidation loan with income-sensitive repayment terms, the Secretary shall offer any such borrower who applies for it, a Federal Direct Consolidation loan. The Secretary shall offer such a loan to a borrower who has defaulted, for the purpose of resolving the default.".

(b) REPEAL OF IN-SCHOOL CONSOLIDATION.—

(1) DEFINITION OF REPAYMENT PERIOD.—Section 428(b)(7)(A) (20 U.S.C. 1078(b)(7)(A)) is amended by striking "shall begin—" and all that follows through "earlier date." and inserting the following: "shall begin the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution).".

(2) CONFORMING CHANGE TO ELIGIBLE BORROWER DEFINITION.—Section 428C(a)(3)(A)(ii)(I) (20 U.S.C. 1078–3(a)(3)(A)(ii)(I)) is amended by inserting "as determined under section 428(b)(7)(A)" after "repayment status".

(c) ADDITIONAL AMENDMENTS.—Section 428C (20 U.S.C. 1078–3) is amended in subsection (a)(3), by striking subparagraph (C).

(d) CONFORMING AMENDMENTS TO DIRECT LOAN PROGRAM.—Section 455 (20 U.S.C. 1087e) is amended

(1) in subsection (a)(1) by inserting "428C," after "428B,";

(2) in subsection (a)(2)—

(A) by striking "and" at the end of subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

"(C) section 428C shall be known as 'Federal Direct Consolidation Loans'; and "; and

(3) in subsection (g)—

(A) by striking the second sentence; and

(B) by adding at the end the following new sentences: "To be eligible for a consolidation loan under this part, a borrower shall meet the eligibility criteria set forth in section 428C(a)(3). The Secretary, upon application for such a loan, shall comply with the requirements applicable to a lender under section 428C(b)(1)(F).".

SEC. 8010. REQUIREMENTS FOR DISBURSEMENTS OF STUDENT LOANS.

Section 428G (20 U.S.C. 1078–7) is amended—

(1) in subsection (a)(3), by adding at the end the following: "Notwithstanding section 422(d) of the Higher Education Amendments of 1998, this paragraph shall be effective beginning on the date of enactment of the Higher Education Reconciliation Act of 2005.";

(2) in subsection (b)(1), by adding at the end the following: "Notwithstanding section 422(d) of the Higher Education Amendments of 1998, the second sentence of this paragraph shall be effective beginning on the date of enactment of the Higher Education Reconciliation Act of 2005."; and

(3) in subsection (e), by striking ", made to a student to cover the cost of attendance at an eligible institution outside the United States".

SEC. 8012. SCHOOL AS LENDER.

Paragraph (2) of section 435(d) (20 U.S.C. 1085(d)(2)) is amended to read as follows:

"(2) REQUIREMENTS FOR ELIGIBLE INSTITUTIONS.—

"(A) IN GENERAL.—To be an eligible lender under this part, an eligible institution—

"(i) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution;

"(ii) shall not be a home study school;

"(iii) shall not—

"(I) make a loan to any undergraduate student;

"(II) make a loan other than a loan under section 428 or 428H to a graduate or professional student; or

"(III) make a loan to a borrower who is not enrolled at that institution;

"(iv) shall award any contract for financing, servicing, or administration of loans under this title on a competitive basis;

"(v) shall offer loans that carry an origination fee or an interest rate, or both, that are less than such fee or rate authorized under the provisions of this title;

"(vi) shall not have a cohort default rate (as defined in section 435(m)) greater than 10 percent;

"(vii) shall, for any year for which the institution engages in activities as an eligible lender, provide for a compliance audit conducted in accordance with section 428(b)(1)(U)(iii)(I), and the regulations thereunder, and submit the results of such audit to the Secretary;

"(viii) shall use any proceeds from special allowance payments and interest payments from borrowers, interest subsidies received from the Department of Education, and any proceeds from the sale or other disposition of loans, for need-based grant programs; and

"(ix) shall have met the requirements of subparagraphs (A) through (F) of this paragraph as in effect on the day before the date of enactment of the Higher Education Reconciliation Act of 2005, and made loans under this part, on or before April 1, 2006.

"(B) ADMINISTRATIVE EXPENSES.—An eligible lender under subparagraph (A) shall be permitted to use a portion of the proceeds described in subparagraph (A)(viii) for reasonable and direct administrative expenses.

"(C) SUPPLEMENT, NOT SUPPLANT.—An eligible lender under subparagraph (A) shall ensure that the proceeds described in subparagraph (A)(viii) are used to supplement, and not to supplant, non-Federal funds that would otherwise be used for need-based grant programs.".

SEC. 8013. REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS; TREATMENT OF BORROWERS ATTENDING SCHOOLS THAT FAIL TO PROVIDE A REFUND, ATTENDING CLOSED SCHOOLS, OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW.

Section 437 (20 U.S.C. 1087) is amended—

(1) in the section heading, by striking "**CLOSED SCHOOLS OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW**" and inserting "**SCHOOLS THAT FAIL TO PROVIDE A REFUND, ATTENDING CLOSED SCHOOLS, OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW**"; and

(2) in the first sentence of subsection (c)(1), by inserting "or was falsely certified as a result of a crime of identity theft" after "falsely certified by the eligible institution".

SEC. 8014. ELIMINATION OF TERMINATION DATES FROM TAXPAYER-TEACHER PROTECTION ACT OF 2004.

(a) Extension of Limitations on Special Allowance for Loans From the Proceeds of Tax Exempt Issues.—Section 438(b)(2)(B) (20 U.S.C. 1087–1(b)(2)(B)) is amended—

(1) in clause (iv), by striking "and before January 1, 2006,"; and

(2) in clause (v)(II)—

(A) by striking "and before January 1, 2006," each place it appears in divisions (aa) and (bb); and

(B) by striking ", and before January 1, 2006" in division (cc).

(b) Additional Limitation on Special Allowance for Loans From the Proceeds of Tax Exempt Issues.—Section 438(b)(2)(B) (20 U.S.C 1087-1(b)(2)(B)) is further amended by adding at the end thereof the following new clauses:

"(vi) Notwithstanding clauses (i), (ii), and (v), but subject to clause (vii), the quarterly rate of the special allowance shall be the rate determined under subparagraph (A), (E), (F), (G), (H), or (I) of this paragraph, as the case may be, for a holder of loans—

"(I) that were made or purchased on or after the date of enactment of the Higher Education Reconciliation Act of 2005; or

"(II) that were not earning a quarterly rate of special allowance determined under clauses (i) or (ii) of subparagraph (B) of this paragraph (20 U.S.C. 1087–1(b)(2)(b)) as of the date of enactment of the Higher Education Reconciliation Act of 2005.

"(vii) Clause (vi) shall be applied by substituting 'December 31, 2010' for 'the date of enactment of the Higher Education Reconciliation Act of 2005' in the case of a holder of loans that—

"(I) was, as of the date of enactment of the Higher Education Reconciliation Act of 2005, and during the quarter for which the special allowance is paid, a unit of State or local government or a nonprofit private entity;

"(II) was, as of such date of enactment, and during such quarter, not owned or controlled by, or under common ownership or control with, a for-profit entity; and

"(III) held, directly or through any subsidiary, affiliate, or trustee, a total unpaid balance of principal equal to or less than $100,000,000 on loans for which special allowances were paid under this subparagraph in the most recent quarterly payment prior to September 30, 2005.".

(c) Elimination of Effective Date Limitation on Higher Teacher Loan Forgiveness Benefits.—

(1) Technical clarification.—The matter preceding paragraph (1) of section 2 of the Taxpayer-Teacher Protection Act of 2004 (Public Law 108–409; 118 Stat. 2299) is amended by inserting "of the Higher Education Act of 1965" after "Section 438(b)(2)(B)".

(2) Amendment.—Paragraph (3) of section 3(b) of the Taxpayer-Teacher Protection Act of 2004 (20 U.S.C. 1078–10 note) is amended by striking ", and before October 1, 2005".

(3) Effective dates.—The amendment made by paragraph (1) shall be effective as if enacted on October 30, 2004, and the amendment made by paragraph (2) shall be effective as if enacted on October 1, 2005.

(d) Coordination With Second Higher Education Extension Act of 2005.—

(1) Repeal.—Section 2 of the Second Higher Education Extension Act of 2005 is amended by striking subsections (b) and (c).

(2) Effect on amendments.—The amendments made by subsections (a) and (c) of this section shall be effective as if the amendments made subsections (b) and (c) of section 2 of the Second Higher Education Extension Act of 2005 had not been enacted.

(e) Additional Changes to Teacher Loan Forgiveness Provisions.—

(1) FFEL provisions.—Section 428J (20 U.S.C. 1078–10) is amended—

(A) in subsection (b)(1)(B), by inserting after "1965" the following: ", or meets the requirements of subsection (g)(3)"; and

(B) in subsection (g), by adding at the end the following new paragraph:

"(3) Private school teachers.—An individual who is employed as a teacher in a private school and is exempt from State certification requirements (unless otherwise applicable under State law), may, in lieu of the requirement of subsection (b)(1)(B), have such employment treated as qualifying employment under this section if such individual is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in the applicable grade levels and subject areas. For such purposes, the competency tests taken by such a private school teacher shall be recognized by 5 or more States for the purpose of fulfilling the highly qualified teacher requirements under section 9101 of the Elementary and Secondary Education Act of 1965, and the score achieved by such teacher on each test shall equal or exceed the average passing score of those 5 States.".

(2) Direct loan provisions.—Section 460 (20 U.S.C. 1087j) is amended—

(A) in subsection (b)(1)(A)(ii), by inserting after "1965" the following: ", or meets the requirements of subsection (g)(3)"; and

(B) in subsection (g), by adding at the end the following new paragraph:

"(3) Private school teachers.—An individual who is employed as a teacher in a private school and is exempt from State certification requirements (unless otherwise applicable under State law), may, in lieu of the requirement of subsection (b)(1)(A)(ii), have such employment treated as qualifying employment under this section if such individual is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in the applicable grade levels and subject areas. For such purposes, the competency tests taken by such a private school teacher shall be recognized by 5 or more States for the purpose of fulfilling the highly qualified teacher requirements under section 9101 of the Elementary and Secondary Education Act of 1965, and the score achieved by such teacher on each test shall equal or exceed the average passing score of those 5 States.".

SEC. 8015. ADDITIONAL ADMINISTRATIVE PROVISIONS.

(a) Insurance Percentage.—

(1) Amendment.—Subparagraph (G) of section 428(b)(1) (20 U.S.C. 1078(b)(1)(G)) is amended to read as follows:

"(G) insures 98 percent of the unpaid principal of loans insured under the program, except that—

"(i) such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to section 428(j) or 439(q);

"(ii) for any loan for which the first disbursement of principal is made on or after July 1, 2006, the preceding provisions of this subparagraph shall be applied by substituting '97 percent' for '98 percent'; and

"(iii) notwithstanding the preceding provisions of this subparagraph, such program shall insure 100 percent of the unpaid principal amount of exempt claims as defined in subsection (c)(1)(G);".

(2) Effective date of amendment.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement of principal is made on or after July 1, 2006.

(b) Federal Default Fees.—

(1) In general.—Subparagraph (H) of section 428(b)(1) (20 U.S.C. 1078(b)(1)(H)) is amended to read as follows:

"(H) provides—

"(i) for loans for which the date of guarantee of principal is before July, 1, 2006, for the collection of a single insurance premium equal to not more than 1.0 percent of the principal amount of the loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and ensures that the proceeds of the premium will not be used for incentive payments to lenders; or

"(ii) for loans for which the date of guarantee of principal is on or after July 1, 2006, for the collection, and the deposit into the Federal Student Loan Reserve Fund under section 422A of a Federal default fee of an amount equal to 1.0 percent of the principal amount of the loan, which fee shall be collected either by deduction from the proceeds of the loan or by payment from other non-Federal sources, and ensures that the proceeds of the Federal default fee will not be used for incentive payments to lenders;".

(2) Unsubsidized loans.—Section 428H(h) (20 U.S.C. 1078–8(h)) is amended by adding at the end the following new sentences: "Effective for loans for which the date of guarantee of principal is on or after July 1, 2006, in lieu of the insurance premium authorized under the preceding sentence, each State or nonprofit private institution or organization having an agreement with the Secretary under section 428(b)(1) shall collect and deposit into the Federal Student Loan Reserve Fund under section 422A, a Federal default fee of an amount equal to 1.0 percent of the principal amount of the loan, which fee shall be collected either by deduction from the proceeds of the loan or by payment from other non-Federal sources. The Federal default fee shall not be used for incentive payments to lenders.".

(3) Voluntary flexible agreements.—Section 428A(a)(1) (20 U.S.C. 1078–1(a)(1)) is amended—

(A) by striking "or" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(C) by adding at the end the following new subparagraph:

"(C) the Federal default fee required by section 428(b)(1)(H) and the second sentence of section 428H(h).".

(c) Treatment of Exempt Claims.—

(1) Amendment.—Section 428(c)(1) (20 U.S.C. 1078(c)(1)) is amended—

(A) by redesignating subparagraph (G) as subparagraph (H), and moving such subparagraph 2 em spaces to the left; and

(B) by inserting after subparagraph (F) the following new subparagraph:

"(G)(i) Notwithstanding any other provisions of this section, in the case of exempt claims, the Secretary shall apply the provisions of—

"(I) the fourth sentence of subparagraph (A) by substituting '100 percent' for '95 percent';

"(II) subparagraph (B)(i) by substituting '100 percent' for '85 percent'; and

"(III) subparagraph (B)(ii) by substituting '100 percent' for '75 percent'.

"(ii) For purposes of clause (i) of this subparagraph, the term 'exempt claims' means claims with respect to loans for which it is determined that the borrower (or the student on whose behalf a parent has borrowed), without the lender's or the institution's knowledge at the time the loan was made, provided false or erroneous information or took actions that caused the borrower or the student to be ineligible for all or a portion of the loan or for interest benefits thereon.".

(2) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by this subsection shall apply with respect to loans for which the first disbursement of principal is made on or after July 1, 2006.

(d) CONSOLIDATION OF DEFAULTED LOANS.—Section 428(c) (20 U.S.C. 1078(c)) is further amended—

(1) in paragraph (2)(A)—

(A) by inserting "(i)" after "including"; and

(B) by inserting before the semicolon at the end the following: "and (ii) requirements establishing procedures to preclude consolidation lending from being an excessive proportion of guaranty agency recoveries on defaulted loans under this part";

(2) in paragraph (2)(D), by striking "paragraph (6)" and inserting "paragraph (6)(A)"; and

(3) in paragraph (6)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting "(A)" before "For the purpose of paragraph (2)(D),"; and

(C) by adding at the end the following new subparagraphs:

"(B) A guaranty agency shall—

"(i) on or after October 1, 2006—

"(I) not charge the borrower collection costs in an amount in excess of 18.5 percent of the outstanding principal and interest of a defaulted loan that is paid off through consolidation by the borrower under this title; and

"(II) remit to the Secretary a portion of the collection charge under subclause (I) equal to 8.5 percent of the outstanding principal and interest of such defaulted loan; and

"(ii) on and after October 1, 2009, remit to the Secretary the entire amount charged under clause (i)(I) with respect to each defaulted loan that is paid off with excess consolidation proceeds.

"(C) For purposes of subparagraph (B), the term 'excess consolidation proceeds' means, with respect to any guaranty agency for any Federal fiscal year beginning on or after October 1, 2009, the proceeds of consolidation of defaulted loans under this title that exceed 45 percent of the agency's total collections on defaulted loans in such Federal fiscal year.".

(e) DOCUMENTATION OF FORBEARANCE AGREEMENTS.—Section 428(c) (20 U.S.C. 1078(c)) is further amended—

(1) in paragraph (3)(A)(i)—

(A) by striking "in writing"; and

(B) by inserting "and documented in accordance with paragraph (10)" after "approval of the insurer"; and

(2) by adding at the end the following new paragraph:

"(10) DOCUMENTATION OF FORBEARANCE AGREEMENTS.—For the purposes of paragraph (3), the terms of forbearance agreed to by the parties shall be documented by confirming the agreement of the borrower by notice to the borrower from the lender, and by recording the terms in the borrower's file.".

(f) VOLUNTARY FLEXIBLE AGREEMENTS.—Section 428A(a) (20 U.S.C. 1078-1(a)) is further amended—

(1) in paragraph (1)(B), by striking "unless the Secretary" and all that follows through "designated guarantor";

(2) by striking paragraph (2);

(3) by redesignating paragraph (3) as paragraph (2); and

(4) by striking paragraph (4).

(g) FRAUD: REPAYMENT REQUIRED.—Section 428B(a)(1) (20 U.S.C. 1078-2(a)(1)) is further amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) in the case of a graduate or professional student or parent who has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining funds under this title, such graduate or professional student or parent has completed the repayment of such funds to the Secretary, or to the holder in the case of a loan under this title obtained by fraud; and".

(h) DEFAULT REDUCTION PROGRAM.—Section 428F(a)(1) (20 U.S.C. 1078-6(a)(1)) is amended—

(1) in subparagraph (A), by striking "consecutive payments for 12 months" and inserting "9 payments made within 20 days of the due date during 10 consecutive months";

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) A guaranty agency may charge the borrower and retain collection costs in an amount not to exceed 18.5 percent of the outstanding principal and interest at the time of sale of a loan rehabilitated under subparagraph (A).".

(j) EXCEPTIONAL PERFORMANCE INSURANCE RATE.—Section 428I(b)(1) (20 U.S.C. 1078-9(b)(1)) is amended—

(1) in the heading, by striking "100 PERCENT" and inserting "99 PERCENT"; and

(2) by striking "100 percent of the unpaid" and inserting "99 percent of the unpaid".

(k) UNIFORM ADMINISTRATIVE AND CLAIMS PROCEDURE.—Section 432(l)(1)(H) (20 U.S.C. 1082(l)(1)(H)) is amended by inserting "and anticipated graduation date" after "status change".

(2) Section 428(a)(3)(A)(v) (20 U.S.C. 1078(a)(3)(A)(v)) is amended—

(A) by striking "or" at the end of subclause (I);

(B) by striking the period at the end of subclause (II) and inserting "; or"; and

(C) by adding after subclause (II) the following new subclause:

"(III) in the case of a loan disbursed through an escrow agent, 3 days before the first disbursement of the loan.".

(3) Section 428(c)(1)(A) (20 U.S.C. 1078(c)(1)(A)) is amended by striking "45 days" in the last sentence and inserting "30 days".

(4) Section 428(i)(1) (20 U.S.C. 1078(i)(1)) is amended by striking "21 days" in the third sentence and inserting "10 days".

SEC. 8016. FUNDS FOR ADMINISTRATIVE EXPENSES.

Section 458 is amended to read as follows:

"SEC. 458. FUNDS FOR ADMINISTRATIVE EXPENSES.

"(a) ADMINISTRATIVE EXPENSES.—

"(1) MANDATORY FUNDS FOR FISCAL YEAR 2006.—For fiscal year 2006, there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for—

"(A) administrative costs under this part and part B, including the costs of the direct student loan programs under this part; and

"(B) account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsections (b) and (c), not to exceed (from such funds not otherwise appropriated) $820,000,000 in fiscal year 2006.

"(2) AUTHORIZATION FOR ADMINISTRATIVE COSTS BEGINNING IN FISCAL YEARS 2007 THROUGH 2011.—For each of the fiscal years 2007 through 2011, there are authorized to be appropriated such sums as may be necessary for administrative costs under this part and part B, including the costs of the direct student loan programs under this part.

"(3) CONTINUING MANDATORY FUNDS FOR ACCOUNT MAINTENANCE FEES.—For each of the fiscal years 2007 through 2011, there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsection (b).

"(4) ACCOUNT MAINENANCE FEES.—Account maintenance fees under paragraph (3) shall be paid quarterly and deposited in the Agency Operating Fund established under section 422B.

"(5) CARRYOVER.—The Secretary may carry over funds made available under this section to a subsequent fiscal year.

"(b) CALCULATION BASIS.—Account maintenance fees payable to guaranty agencies under subsection (a)(3) shall not exceed the basis of 0.10 percent of the original principal amount of outstanding loans on which insurance was issued under part B.

"(c) BUDGET JUSTIFICATION.—No funds may be expended under this section unless the Secretary includes in the Department of Education's annual budget justification to Congress a detailed description of the specific activities for which the funds made available by this section have been used in the prior and current years (if applicable), the activities and costs planned for the budget year, and the projection of activities and costs for each remaining year for which administrative expenses under this section are made available.".

SEC. 8017. COST OF ATTENDANCE.

Section 472 (20 U.S.C. 1087ll) is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) for less than half-time students (as determined by the institution), tuition and fees and an allowance for only—

"(A) books, supplies, and transportation (as determined by the institution);

"(B) dependent care expenses (determined in accordance with paragraph (8)); and

"(C) room and board costs (determined in accordance with paragraph (3)), except that a student may receive an allowance for such costs under this subparagraph for not more than 3 semesters or the equivalent, of which not more than 2 semesters or the equivalent may be consecutive;";

(2) in paragraph (11), by striking "and" after the semicolon;

(3) in paragraph (12), by striking the period and inserting "; and"; and

(4) by adding at the end the following:

"(13) at the option of the institution, for a student in a program requiring professional licensure or certification, the one time cost of obtaining the first professional credentials (as determined by the institution).".

SEC. 8018. FAMILY CONTRIBUTION.

(a) FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS.—

(1) AMENDMENTS.—Section 475 (20 U.S.C. 1087oo) is amended—

(A) in subsection (g)(2)(D), by striking "$2,200" and inserting "$3,000"; and

(B) in subsection (h), by striking "35" and inserting "20".

(2) Effective date.—The amendments made by paragraph (1) shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007.

(b) Family Contribution for Independent Students Without Dependents Other Than a Spouse.—

(1) Amendments.—Section 476 (20 U.S.C.1087pp) is amended—

(A) in subsection (b)(1)(A)(iv)—

(i) in subclause (I), by striking "$5,000" and inserting "$6,050";

(ii) in subclause (II), by striking "$5,000" and inserting "$6,050"; and

(iii) in subclause (III), by striking "$8,000" and inserting "$9,700"; and

(B) in subsection (c)(4), by striking "35" and inserting "20".

(2) Effective date.—The amendments made by paragraph (1) shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007.

(c) Family Contribution for Independent Students With Dependents Other Than a Spouse.—

(1) Amendment.—Section 477(c)(4) (20 U.S.C. 1087qq(c)(4)) is amended by striking "12" and inserting "7".

(2) Effective date.—The amendment made by paragraph (1) shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2007.

(d) Regulations; Updated Tables.—Section 478(b) (20 U.S.C. 1087rr(b)) is amended—

(1) in paragraph (1), by adding at the end the following: "For the 2007–2008 academic year, the Secretary shall revise the tables in accordance with this paragraph, except that the Secretary shall increase the amounts contained in the table in section 477(b)(4) by a percentage equal to the greater of the estimated percentage increase in the Consumer Price Index (as determined under the preceding sentence) or 5 percent."; and

(2) in paragraph (2)—

(A) by striking "2000-2001" and inserting "2007–2008"; and

(B) by striking "1999" and inserting "2006".

(e) Employment Expense Allowance.—Section 478(h) (20 U.S.C. 1087rr(h)) is amended—

(1) by striking "476(b)(4)(B),"; and

(2) by striking "meals away from home, apparel and upkeep, transportation, and housekeeping services" and inserting "food away from home, apparel, transportation, and household furnishings and operations".

SEC. 8019. SIMPLIFIED NEED TEST AND AUTOMATIC ZERO IMPROVEMENTS.

(a) Amendments.—Section 479 (20 U.S.C. 1087ss) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking clause (i) and inserting the following:

"(i) the student's parents—

"(I) file, or are eligible to file, a form described in paragraph (3);

"(II) certify that the parents are not required to file a Federal income tax return; or

"(III) received, or the student received, benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) in subparagraph (B), by striking clause (i) and inserting the following:

"(i) the student (and the student's spouse, if any)—

"(I) files, or is eligible to file, a form described in paragraph (3);

"(II) certifies that the student (and the student's spouse, if any) is not required to file a Federal income tax return; or

"(III) received benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(B) in the matter preceding subparagraph (A) of paragraph (3), by striking "A student or family files a form described in this subsection, or subsection (c), as the case maybe, if the student or family, respectively, files" and inserting "In the case of an independent student, the student, or in the case of a dependent student, the family, files a form described in this subsection, or subsection (c), as the case may be, if the student or family, as appropriate, files";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the student's parents—

"(i) file, or are eligible to file, a form described in subsection (b)(3);

"(ii) certify that the parents are not required to file a Federal income tax return; or

"(iii) received, or the student received, benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) the sum of the adjusted gross income of the parents is less than or equal to $20,000; or"; and

(B) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the student (and the student's spouse, if any)—

"(i) files, or is eligible to file, a form described in subsection (b)(3);

"(ii) certifies that the student (and the student's spouse, if any) is not required to file a Federal income tax return; or

"(iii) received benefits at some time during the previous 12-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to $20,000."; and

(3) by adding at the end the following:

"(d) Definition of Means-Tested Federal Benefit Program.—In this section, the term 'means-tested Federal benefit program' means a mandatory spending program of the Federal Government, other than a program under this title, in which eligibility for the program's benefits, or the amount of such benefits, are determined on the basis of income or resources of the individual or family seeking the benefit, and may include such programs as—

"(1) the supplemental security income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

"(2) the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

"(3) the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

"(4) the program of block grants for States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(5) the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

"(6) other programs identified by the Secretary.".

(b) Evaluation of Simplified Needs Test.—

(1) Eligibility guidelines.—The Secretary of Education shall regularly evaluate the impact of the eligibility guidelines in subsections (b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A)).

(2) Means-tested federal benefit program.—For each 3-year period, the Secretary of Education shall evaluate the impact of including the receipt of benefits by a student or parent under a means-tested Federal benefit program (as defined in section 479(d) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(d)) as a factor in determining eligibility under subsections (b) and (c) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b) and (c)).

SEC. 8020. ADDITIONAL NEED ANALYSIS AMENDMENTS.

(b) Treating Active Duty Members of the Armed Forces as Independent Students.—Section 480(d)(3) (20 U.S.C. 1087vv(d)(3)) is amended by inserting before the semicolon at the end the following: "or is currently serving on active duty in the Armed Forces for other than training purposes".

(c) Definition of Assets.—Section 480(f)(1) (20 U.S.C. 1087vv(f)(1)) is amended by inserting "qualified education benefits (except as provided in paragraph (3))," after "tax shelters,".

(d) Treatment of Family Ownership of Small Businesses.—Section 480(f)(2) (20 U.S.C. 1087vv(f)(2)) is amended—

(1) in subparagraph (A), by striking "or";

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(C) a small business with not more than 100 full-time or full-time equivalent employees (or any part of such a small business) that is owned and controlled by the family.".

(e) Additional Definitions.—Section 480(f) is further amended by adding at the end the following new paragraphs:

"(3) A qualified education benefit shall not be considered an asset of a student for purposes of section 475.

"(4) In determining the value of assets in a determination of need under this title (other than for subpart 4 of part A), the value of a qualified education benefit shall be—

"(A) the refund value of any tuition credits or certificates purchased under a qualified education benefit; and

"(B) in the case of a program in which contributions are made to an account that is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, the current balance of such account.

"(5) In this subsection:

"(A) The term 'qualified education benefit' means—

"(i) a qualified tuition program (as defined in section 529(b)(1)(A) of the Internal Revenue Code of 1986) or other prepaid tuition plan offered by a State; and

"(ii) a Coverdell education savings account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986).

"(B) The term 'qualified higher education expenses' has the meaning given the term in section 529(e) of the Internal Revenue Code of 1986.".

(f) Designated Assistance.—Section 480(j) (20 U.S.C. 1087vv(j)) is amended—

(1) in the subsection heading, by striking "; Tuition Prepayment Plans";

(2) by striking paragraph (2);

(3) by redesignating paragraph (3) as paragraph (2); and

(4) by adding at the end the following new paragraph:

“(3) Notwithstanding paragraph (1) and section 472, assistance not received under this title may be excluded from both estimated financial assistance and cost of attendance, if that assistance is provided by a State and is designated by such State to offset a specific component of the cost of attendance. If that assistance is excluded from either estimated financial assistance or cost of attendance, it shall be excluded from both.”.

SEC. 8021. GENERAL PROVISIONS.

(a) ACADEMIC YEAR.—Paragraph (2) of section 481(a) (20 U.S.C. 1088(a)) is amended to read as follows:

“(2)(A) For the purpose of any program under this title, the term ‘academic year’ shall—

“(i) require a minimum of 30 weeks of instructional time for a course of study that measures its program length in credit hours; or

“(ii) require a minimum of 26 weeks of instructional time for a course of study that measures its program length in clock hours; and

“(iii) require an undergraduate course of study to contain an amount of instructional time whereby a full-time student is expected to complete at least—

“(I) 24 semester or trimester hours or 36 quarter credit hours in a course of study that measures its program length in credit hours; or

“(II) 900 clock hours in a course of study that measures its program length in clock hours.

“(B) The Secretary may reduce such minimum of 30 weeks to not less than 26 weeks for good cause, as determined by the Secretary on a case-by-case basis, in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree.”.

(b) DISTANCE EDUCATION: ELIGIBLE PROGRAM.—Section 481(b) (20 U.S.C. 1088(b)) is amended by adding at the end the following new paragraphs:

“(3) An otherwise eligible program that is offered in whole or in part through telecommunications is eligible for the purposes of this title if the program is offered by an institution, other than a foreign institution, that has been evaluated and determined (before or after the date of enactment of the Higher Education Reconciliation Act of 2005) to have the capability to effectively deliver distance education programs by an accrediting agency or association that—

“(A) is recognized by the Secretary under subpart 2 of part H; and

“(B) has evaluation of distance education programs within the scope of its recognition, as described in section 496(n)(3).

“(4) For purposes of this title, the term ‘eligible program’ includes an instructional program that, in lieu of credit hours or clock hours as the measure of student learning, utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by others, if such assessment is consistent with the accreditation of the institution or program utilizing the results of the assessment. In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to be an eligible program.”.

(c) CORRESPONDENCE COURSES.—Section 484(*l*)(1) (20 U.S.C. 1091(*l*)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking “for a program of study of 1 year or longer”; and

(B) by striking “unless the total” and all that follows through “courses at the institution”; and

(2) by amending subparagraph (B) to read as follows:

“(B) EXCEPTION.—Subparagraph (A) shall not apply to an institution or school described in section 3(3)(C) of the Carl D. Perkins Vocational and Technical Education Act of 1998.”.

SEC. 8022. STUDENT ELIGIBILITY.

(a) FRAUD: REPAYMENT REQUIRED.—Section 484(a) (20 U.S.C. 1091(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting “; and”; and

(2) by adding at the end the following new paragraph:

“(6) if the student has been convicted of, or has pled nolo contendere or guilty to, a crime involving fraud in obtaining funds under this title, have completed the repayment of such funds to the Secretary, or to the holder in the case of a loan under this title obtained by fraud.”.

(b) VERIFICATION OF INCOME DATE.—Paragraph (1) of section 484(q) (20 U.S.C. 1091(q)) is amended to read as follows:

“(1) CONFIRMATION WITH IRS.—The Secretary of Education, in cooperation with the Secretary of the Treasury, is authorized to confirm with the Internal Revenue Service the information specified in section 6103(l)(13) of the Internal Revenue Code of 1986 reported by applicants (including parents) under this title on their Federal income tax returns for the purpose of verifying the information reported by applicants on student financial aid applications.”.

(c) SUSPENSION OF ELIGIBILITY FOR DRUG OFFENSES.—Section 484(r)(1) (20 U.S.C. 1091(r)(1)) is amended by striking everything preceding the table and inserting the following:

“(1) IN GENERAL.—A student who is convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance for conduct that occurred during a period of enrollment for which the student was receiving any grant, loan, or work assistance under this title shall not be eligible to receive any grant, loan, or work assistance under this title from the date of that conviction for the period of time specified in the following table:”.

SEC. 8023. INSTITUTIONAL REFUNDS.

Section 484B (20 U.S.C. 1091b) is amended—

(1) in the matter preceding clause (i) of subsection (a)(2)(A), by striking “a leave of” and inserting “1 or more leaves of”;

(2) in subsection (a)(3)(B)(ii), by inserting “(as determined in accordance with subsection (d))” after “student has completed”;

(3) in subsection (a)(3)(C)(i), by striking “grant or loan assistance under this title” and inserting “grant assistance under subparts 1 and 3 of part A, or loan assistance under parts B, D, and E,”;

(4) in subsection (a)(4), by amending subparagraph (A) to read as follows:

“(A) IN GENERAL.—After determining the eligibility of the student for a late disbursement or post-withdrawal disbursement (as required in regulations prescribed by the Secretary), the institution of higher education shall contact the borrower and obtain confirmation that the loan funds are still required by the borrower. In making such contact, the institution shall explain to the borrower the borrower's obligation to repay the funds following any such disbursement. The institution shall document in the borrower's file the result of such contact and the final determination made concerning such disbursement.”;

(5) in subsection (b)(1), by inserting “not later than 45 days from the determination of withdrawal” after “return”;

(6) in subsection (b)(2), by amending subparagraph (C) to read as follows:

“(C) GRANT OVERPAYMENT REQUIREMENTS.—

“(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), a student shall only be required to return grant assistance in the amount (if any) by which—

“(I) the amount to be returned by the student (as determined under subparagraphs (A) and (B)), exceeds

“(II) 50 percent of the total grant assistance received by the student under this title for the payment period or period of enrollment.

“(ii) MINIMUM.—A student shall not be required to return amounts of $50 or less.”;

(7) in subsection (d), by striking “(a)(3)(B)(i)” and inserting “(a)(3)(B)”; and

(8) in subsection (d)(2), by striking “clock hours—” and all that follows through the period and inserting “clock hours scheduled to be completed by the student in that period as of the day the student withdrew.”.

SEC. 8024. COLLEGE ACCESS INITIATIVE.

Part G is further amended by inserting after section 485C (20 U.S.C. 1092c) the following new section:

“SEC. 485D. COLLEGE ACCESS INITIATIVE.

“(a) STATE-BY-STATE INFORMATION.—The Secretary shall direct each guaranty agency with which the Secretary has an agreement under section 428(c) to provide to the Secretary the information necessary for the development of Internet web links and access for students and families to a comprehensive listing of the postsecondary education opportunities, programs, publications, Internet web sites, and other services available in the States for which such agency serves as the designated guarantor.

“(b) GUARANTY AGENCY ACTIVITIES.—

“(1) PLAN AND ACTIVITY REQUIRED.—Each guaranty agency with which the Secretary has an agreement under section 428(c) shall develop a plan, and undertake the activity necessary, to gather the information required under subsection (a) and to make such information available to the public and to the Secretary in a form and manner as prescribed by the Secretary.

“(2) ACTIVITIES.—Each guaranty agency shall undertake such activities as are necessary to promote access to postsecondary education for students through providing information on college planning, career preparation, and paying for college. The guaranty agency shall publicize such information and coordinate such activities with other entities that either provide or distribute such information in the States for which such guaranty agency serves as the designated guarantor.

“(3) FUNDING.—The activities required by this section may be funded from the guaranty agency's Operating Fund established pursuant to section 422B and, to the extent funds remain, from earnings on the restricted account established pursuant to section 422(h)(4).

“(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require a guaranty agency to duplicate any efforts under way on the date of enactment of the Higher Education Reconciliation Act of 2005 that meet the requirements of this section.

“(c) Access to Information.—

“(1) Secretary's responsibility.—The Secretary shall ensure the availability of the information provided, by the guaranty agencies in accordance with this section, to students, parents, and other interested individuals, through Internet web links or other methods prescribed by the Secretary.

“(2) Guaranty agency responsibility.—The guaranty agencies shall ensure that the information required by this section is available without charge in printed format for students and parents requesting such information.

“(3) Publicity.—Not later than 270 days after the date of enactment of the Higher Education Reconciliation Act of 2005, the Secretary and guaranty agencies shall publicize the availability of the information required by this section, with special emphasis on ensuring that populations that are traditionally underrepresented in postsecondary education are made aware of the availability of such information.”.

SEC. 8026. WAGE GARNISHMENT REQUIREMENT.

Section 488A(a)(1) (20 U.S.C. 1095a(a)(1)) is amended by striking “10 percent” and inserting “15 percent”.

Subtitle B—Pensions

SEC. 8201. INCREASES IN PBGC PREMIUMS.

(a) Flat-Rate Premiums.—

(1) Single-employer plans.—

(A) In general.—Clause (i) of section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended by striking “$19” and inserting “$30”.

(B) Adjustment for inflation.—Section 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)) is amended by adding at the end the following new subparagraph:

“(F) For each plan year beginning in a calendar year after 2006, there shall be substituted for the premium rate specified in clause (i) of subparagraph (A) an amount equal to the greater of—

“(i) the product derived by multiplying the premium rate specified in clause (i) of subparagraph (A) by the ratio of—

“(I) the national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the 2 calendar years preceding the calendar year in which such plan year begins, to

“(II) the national average wage index (as so defined) for 2004; and

“(ii) the premium rate in effect under clause (i) of subparagraph (A) for plan years beginning in the preceding calendar year.

If the amount determined under this subparagraph is not a multiple of $1, such product shall be rounded to the nearest multiple of $1.”.

(2) Multiemployer plans.—

(A) In general.—Section 4006(a)(3)(A) of such Act (29 U.S.C. 1306(a)(3)(A)) is amended—

(i) in clause (iii)—

(I) by inserting “and before January 1, 2006,” after “Act of 1980,”; and

(II) by striking the period at the end and inserting “, or”; and

(ii) by adding at the end the following:

“(iv) in the case of a multiemployer plan, for plan years beginning after December 31, 2005, $8.00 for each individual who is a participant in such plan during the applicable plan year.”.

(B) Adjustment for inflation.—Section 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)), as amended by this subsection, is amended by adding at the end the following new subparagraph:

“(G) For each plan year beginning in a calendar year after 2006, there shall be substituted for the premium rate specified in clause (iv) of subparagraph (A) an amount equal to the greater of—

“(i) the product derived by multiplying the premium rate specified in clause (iv) of subparagraph (A) by the ratio of—

“(I) the national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the 2 calendar years preceding the calendar year in which such plan year begins, to

“(II) the national average wage index (as so defined) for 2004; and

“(ii) the premium rate in effect under clause (iv) of subparagraph (A) for plan years beginning in the preceding calendar year.

If the amount determined under this subparagraph is not a multiple of $1, such product shall be rounded to the nearest multiple of $1.”.

(b) Premium Rate for Certain Terminated Single-Employer Plans.—Subsection (a) of section 4006 of such Act (29 U.S.C. 1306) is amended by adding at the end the following:

“(7) Premium Rate for Certain Terminated Single-Employer Plans.—

“(A) In general.—If there is a termination of a single-employer plan under clause (ii) or (iii) of section 4041(c)(2)(B) or section 4042, there shall be payable to the corporation, with respect to each applicable 12-month period, a premium at a rate equal to $1,250 multiplied by the number of individuals who were participants in the plan immediately before the termination date. Such premium shall be in addition to any other premium under this section.

“(B) Special rule for plans terminated in bankruptcy reorganization.—In the case of a single-employer plan terminated under section 4041(c)(2)(B)(ii) or under section 4042 during pendency of any bankruptcy reorganization proceeding under chapter 11 of title 11, United States Code, or under any similar law of a State or a political subdivision of a State (or a case described in section 4041(c)(2)(B)(i) filed by or against such person has been converted, as of such date, to such a case in which reorganization is sought), subparagraph (A) shall not apply to such plan until the date of the discharge or dismissal of such person in such case.

“(C) Applicable 12-month period.—For purposes of subparagraph (A)—

“(i) In general.—The term ‘applicable 12-month period’ means—

“(I) the 12-month period beginning with the first month following the month in which the termination date occurs, and

“(II) each of the first two 12-month periods immediately following the period described in subclause (I).

“(ii) Plans terminated in bankruptcy reorganization.—In any case in which the requirements of subparagraph (B)(i)(I) are met in connection with the termination of the plan with respect to 1 or more persons described in such subparagraph, the 12-month period described in clause (i)(I) shall be the 12-month period beginning with the first month following the month which includes the earliest date as of which each such person is discharged or dismissed in the case described in such clause in connection with such person.

“(D) Coordination with section 4007.—

“(i) Notwithstanding section 4007—

“(I) premiums under this paragraph shall be due within 30 days after the beginning of any applicable 12-month period, and

“(II) the designated payor shall be the person who is the contributing sponsor as of immediately before the termination date.

“(ii) The fifth sentence of section 4007(a) shall not apply in connection with premiums determined under this paragraph.

“(E) Termination.—Subparagraph (A) shall not apply with respect to any plan terminated after December 31, 2010.”.

(c) Conforming Amendment.—Section 4006(a)(3)(B) of such Act (29 U.S.C. 1306(a)(3)(B)) is amended by striking “subparagraph (A)(iii)” and inserting “clause (iii) or (iv) of subparagraph (A)”.

(d) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) Premium rate for certain terminated single-employer plans.—

(A) In general.—Except as provided in subparagraph (B), the amendment made by subsection (b) shall apply to plans terminated after December 31, 2005.

(B) Special rule for plans terminated in bankruptcy.—The amendment made by subsection (b) shall not apply to a termination of a single-employer plan that is terminated during the pendency of any bankruptcy reorganization proceeding under chapter 11 of title 11, United States Code (or under any similar law of a State or political subdivision of a State), if the proceeding is pursuant to a bankruptcy filing occurring before October 18, 2005.

TITLE IX—LIHEAP PROVISIONS

SEC. 9001. FUNDING AVAILABILITY.

(a) In General.—In addition to amounts otherwise made available, there are appropriated, out of any money in the Treasury not otherwise appropriated, to the Secretary of Health and Human Services for a 1-time only obligation and expenditure—

(1) $250,000,000 for fiscal year 2007 for allocation under section 2604(a) through (d) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(a) through (d)); and

(2) $750,000,000 for fiscal year 2007 for allocation under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)).

(b) Sunset.—The provisions of this section shall terminate, be null and void, and have no force and effect whatsoever after September 30, 2007. No monies provided for under this section shall be available after such date.

TITLE X—JUDICIARY RELATED PROVISIONS

Subtitle A—Civil Filing Adjustments

SEC. 10001. CIVIL CASE FILING FEE INCREASES.

(a) Civil Actions Filed in District Courts.—Section 1914(a) of title 28, United States Code, is amended by striking “$250” and inserting “$350”.

(b) Appeals Filed in Courts of Appeals.—The $250 fee for docketing a case on appeal or review, or docketing any other proceeding, in a court of appeals, as prescribed by the Judicial Conference, effective as of January 1, 2005, under section 1913 of title 28, United States Code, shall be increased to $450.

(c) Expenditure Limitation.—Incremental amounts collected by reason of the enactment of this section shall be deposited in a special fund in the Treasury to be established after the enactment of this Act. Such amounts shall be available for the purposes specified in section 1931(a) of title 28, United States Code, but only to the extent specifically appropriated by an Act of Congress enacted after the enactment of this Act.

(d) Effective Date.—This section and the amendment made by this section shall take effect 60 days after the date of the enactment of this Act.

Subtitle B—Bankruptcy Fees

SEC. 10002. BANKRUPTCY FEES.

(a) BANKRUPTCY FILING FEES.—Section 1930(a) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A) by striking "$220" and inserting "$245"; and

(B) in subparagraph (B) by striking "$150" and inserting "$235"; and

(2) in paragraph (2) by striking "$1,000" and inserting "$2,750".

(b) EXPENDITURE LIMITATION.—Incremental amounts collected by reason of the amendments made by subsection (a) shall be deposited in a special fund in the Treasury to be established after the enactment of this Act. Such amounts shall be available for the purposes specified in section 1931(a) of title 28, United States Code, but only to the extent specifically appropriated by an Act of Congress enacted after the enactment of this Act.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

SA 2692. Mr. FRIST (for Mrs. FEINSTEIN (for herself and Mr. BROWNBACK)) proposed an amendment to the bill S. 119, to provide for the protection of unaccompanied alien children, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Unaccompanied Alien Child Protection Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—CUSTODY, RELEASE, FAMILY REUNIFICATION, AND DETENTION

Sec. 101. Procedures when encountering unaccompanied alien children.
Sec. 102. Family reunification for unaccompanied alien children with relatives in the United States.
Sec. 103. Appropriate conditions for detention of unaccompanied alien children.
Sec. 104. Repatriated unaccompanied alien children.
Sec. 105. Establishing the age of an unaccompanied alien child.
Sec. 106. Effective date.

TITLE II—ACCESS BY UNACCOMPANIED ALIEN CHILDREN TO CHILD ADVOCATES AND COUNSEL

Sec. 201. Child advocates.
Sec. 202. Counsel.
Sec. 203. Preservation of law enforcement authority.
Sec. 204. Effective date; applicability.

TITLE III—STRENGTHENING POLICIES FOR PERMANENT PROTECTION OF ALIEN CHILDREN

Sec. 301. Special immigrant juvenile classification.
Sec. 302. Training for officials and certain private parties who come into contact with unaccompanied alien children.
Sec. 303. Report.
Sec. 304. Effective date.

TITLE IV—CHILDREN REFUGEE AND ASYLUM SEEKERS

Sec. 401. Guidelines for children's asylum claims.
Sec. 402. Unaccompanied refugee children.
Sec. 403. Exceptions for unaccompanied alien children in asylum and refugee-like circumstances.

TITLE V—AUTHORIZATION OF APPROPRIATIONS

Sec. 501. Authorization of appropriations.

TITLE VI—AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002

Sec. 601. Additional responsibilities and powers of the Office of Refugee Resettlement with respect to unaccompanied alien children.
Sec. 602. Technical corrections.
Sec. 603. Effective date.

SEC. 2. DEFINITIONS.

(a) IN GENERAL.—In this Act:

(1) COMPETENT.—The term "competent", in reference to counsel, means an attorney, or a representative authorized to represent unaccompanied alien children in immigration proceedings or matters, who—

(A) complies with the duties set forth in this Act;

(B)(i) is properly qualified to handle matters involving unaccompanied alien children; or

(ii) is working under the auspices of a qualified nonprofit organization that is experienced in handling such matters; and

(C) if an attorney—

(i) is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia; and

(ii) is not under any order of any court suspending, enjoining, restraining, disbarring, or otherwise restricting the attorney in the practice of law.

(2) DEPARTMENT.—The term "Department" means the Department of Homeland Security.

(3) DIRECTOR.—The term "Director" means the Director of the Office.

(4) OFFICE.—The term "Office" means the Office of Refugee Resettlement established by section 411 of the Immigration and Nationality Act (8 U.S.C. 1521).

(5) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(6) UNACCOMPANIED ALIEN CHILD.—The term "unaccompanied alien child" has the meaning given the term in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)).

(7) VOLUNTARY AGENCY.—The term "voluntary agency" means a private, nonprofit voluntary agency with expertise in meeting the cultural, developmental, or psychological needs of unaccompanied alien children, as certified by the Director.

(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

"(51) The term 'unaccompanied alien child' means a child who—

"(A) has no lawful immigration status in the United States;

"(B) has not attained the age of 18; and

"(C) with respect to whom—

"(i) there is no parent or legal guardian in the United States; or

"(ii) no parent or legal guardian in the United States is available to provide care and physical custody.

"(52) The term 'unaccompanied refugee children' means persons described in paragraph (42) who—

"(A) have not attained the age of 18; and

"(B) with respect to whom there are no parents or legal guardians available to provide care and physical custody.".

(c) RULE OF CONSTRUCTION.—A department or agency of a State, or an individual or entity appointed by a State court or juvenile court located in the United States, acting in loco parentis, shall not be considered a legal guardian for purposes of section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.

TITLE I—CUSTODY, RELEASE, FAMILY REUNIFICATION, AND DETENTION

SEC. 101. PROCEDURES WHEN ENCOUNTERING UNACCOMPANIED ALIEN CHILDREN.

(a) UNACCOMPANIED CHILDREN FOUND ALONG THE UNITED STATES BORDER OR AT UNITED STATES PORTS OF ENTRY.—

(1) IN GENERAL.—Subject to paragraph (2), if an immigration officer finds an unaccompanied alien child who is described in paragraph (2) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the officer shall—

(A) permit such child to withdraw the child's application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)); and

(B) return such child to the child's country of nationality or country of last habitual residence.

(2) SPECIAL RULE FOR CONTIGUOUS COUNTRIES.—

(A) IN GENERAL.—Any child who is a national or habitual resident of a country that is contiguous with the United States and that has an agreement in writing with the United States providing for the safe return and orderly repatriation of unaccompanied alien children who are nationals or habitual residents of such country shall be treated in accordance with paragraph (1), if a determination is made on a case-by-case basis that—

(i) such child is a national or habitual resident of a country described in this subparagraph;

(ii) such child does not have a fear of returning to the child's country of nationality or country of last habitual residence owing to a fear of persecution;

(iii) the return of such child to the child's country of nationality or country of last habitual residence would not endanger the life or safety of such child; and

(iv) the child is able to make an independent decision to withdraw the child's application for admission due to age or other lack of capacity.

(B) RIGHT OF CONSULTATION.—Any child described in subparagraph (A) shall have the right, and shall be informed of that right in the child's native language—

(i) to consult with a consular officer from the child's country of nationality or country of last habitual residence prior to repatriation; and

(ii) to consult, telephonically, with the Office.

(3) RULE FOR APPREHENSIONS AT THE BORDER.—The custody of unaccompanied alien children not described in paragraph (2) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with subsection (b).

(b) CARE AND CUSTODY OF UNACCOMPANIED ALIEN CHILDREN FOUND IN THE INTERIOR OF THE UNITED STATES.—

(1) ESTABLISHMENT OF JURISDICTION.—

(A) IN GENERAL.—Except as otherwise provided under subparagraphs (B) and (C) and subsection (a), the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be under the jurisdiction of the Office.

(B) EXCEPTION FOR CHILDREN WHO HAVE COMMITTED CRIMES.—Notwithstanding subparagraph (A), the Department shall retain or assume the custody and care of any unaccompanied alien child who—

(i) has been charged with any felony, excluding offenses proscribed by the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), while such charges are pending; or

(ii) has been convicted of any such felony.

(C) EXCEPTION FOR CHILDREN WHO THREATEN NATIONAL SECURITY.—Notwithstanding subparagraph (A), the Department shall retain or assume the custody and care of an unaccompanied alien child if the Secretary has substantial evidence, based on an individualized determination, that such child could personally endanger the national security of the United States.

(D) TRAFFICKING VICTIMS.—For purposes of section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) and this Act, an unaccompanied alien child who is eligible for services authorized under the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386), shall be considered to be in the custody of the Office.

(2) NOTIFICATION.—

(A) IN GENERAL.—The Secretary shall promptly notify the Office upon—

(i) the apprehension of an unaccompanied alien child;

(ii) the discovery that an alien in the custody of the Department is an unaccompanied alien child;

(iii) any claim by an alien in the custody of the Department that such alien is under the age of 18; or

(iv) any suspicion that an alien in the custody of the Department who has claimed to be over the age of 18 is actually under the age of 18.

(B) SPECIAL RULE.—In the case of an alien described in clause (iii) or (iv) of subparagraph (A), the Director shall make an age determination in accordance with section 105 and take whatever other steps are necessary to determine whether such alien is eligible for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.

(3) TRANSFER OF UNACCOMPANIED ALIEN CHILDREN.—

(A) TRANSFER TO THE OFFICE.—The care and custody of an unaccompanied alien child shall be transferred to the Office—

(i) in the case of a child not described in subparagraph (B) or (C) of paragraph (1), not later than 72 hours after a determination is made that such child is an unaccompanied alien child;

(ii) in the case of a child whose custody and care has been retained or assumed by the Department pursuant to subparagraph (B) or (C) of paragraph (1), following a determination that the child no longer meets the description set forth in such subparagraphs; or

(iii) in the case of a child who was previously released to an individual or entity described in section 102(a)(1), upon a determination by the Director that such individual or entity is no longer able to care for the child.

(B) TRANSFER TO THE DEPARTMENT.—Upon determining that a child in the custody of the Office is described in subparagraph (B) or (C) of paragraph (1), the Director shall transfer the care and custody of such child to the Department.

(C) PROMPTNESS OF TRANSFER.—In the event of a need to transfer a child under this paragraph, the sending office shall make prompt arrangements to transfer such child and the receiving office shall make prompt arrangements to receive such child.

(c) AGE DETERMINATIONS.—In any case in which the age of an alien is in question and the resolution of questions about the age of such alien would affect the alien's eligibility for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act, a determination of whether or not such alien meets such age requirements shall be made in accordance with section 105, unless otherwise specified in subsection (b)(2)(B).

(d) ACCESS TO ALIEN.—The Secretary of Homeland Security shall permit the Office to have reasonable access to aliens in the custody of the Secretary to ensure a prompt determination of the age of such alien, if necessary under subsection (b)(2)(B).

SEC. 102. FAMILY REUNIFICATION FOR UNACCOMPANIED ALIEN CHILDREN WITH RELATIVES IN THE UNITED STATES.

(a) PLACEMENT AUTHORITY.—

(1) ORDER OF PREFERENCE.—Subject to the discretion of the Director under paragraph (4), section 103(a)(2), and section 462(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(2)), an unaccompanied alien child in the custody of the Office shall be promptly placed with 1 of the following individuals or entities in the following order of preference:

(A) A parent who seeks to establish custody, as described in paragraph (3)(A).

(B) A legal guardian who seeks to establish custody, as described in paragraph (3)(A).

(C) An adult relative.

(D) An individual or entity designated by the parent or legal guardian that is capable and willing to care for the well-being of the child.

(E) A State-licensed juvenile shelter, group home, or foster care program willing to accept custody of the child.

(F) A qualified adult or entity seeking custody of the child when it appears that there is no other likely alternative to long-term detention and family reunification does not appear to be a reasonable alternative. For purposes of this subparagraph, the Office shall decide who is a qualified adult or entity and promulgate regulations in accordance with such decision.

(2) SUITABILITY ASSESSMENT.—

(A) GENERAL REQUIREMENTS.—Notwithstanding paragraph (1), and subject to the requirements of subparagraph (B), no unaccompanied alien child shall be placed with a person or entity described in any of subparagraphs (A) through (F) of paragraph (1) unless the Director certifies, in writing, that the proposed custodian is capable of providing for the child's physical and mental well-being, based on—

(i) with respect to an individual custodian—

(I) verification of such individual's identity and employment;

(II) a finding that such individual has not engaged in any activity that would indicate a potential risk to the child, including the activities described in paragraph (4)(A);

(III) a finding that such individual has no open investigation by a state or local child protective services authority due to suspected child abuse or neglect;

(IV) verification that such individual has a plan for the provision of care for the child; and

(V) verification of familial relationship of such individual, if any relationship is claimed; and

(ii) verification of nature and extent of previous relationship;

(iii) with respect to a custodial entity, verification of such entity's appropriate licensure by the State, county, or other applicable unit of government; and

(iv) such other information as the Director determines appropriate.

(B) HOME STUDY.—

(i) IN GENERAL.—A home study shall be conducted prior to release with respect to each proposed custodian described in any of subparagraphs (A) through (F) of paragraph (1) unless waived by the Director.

(ii) SPECIAL NEEDS CHILDREN.—In the case of a special needs child with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)), a home study shall be conducted to determine if the child's needs can be properly met by the custodian.

(C) CONTRACT AUTHORITY.—The Director may, by grant or contract, arrange for some or all of the activities under this section to be carried out by—

(i) an agency of the State of the child's proposed residence;

(ii) an agency authorized by such State to conduct such activities; or

(iii) an appropriate voluntary or nonprofit agency.

(D) DATABASE ACCESS.—In conducting suitability assessments, the Director shall be given access to all relevant information in the appropriate Federal, State, and local law enforcement and immigration databases.

(3) RIGHT OF PARENT OR LEGAL GUARDIAN TO CUSTODY OF UNACCOMPANIED ALIEN CHILD.—

(A) PLACEMENT WITH PARENT OR LEGAL GUARDIAN.—If an unaccompanied alien child is placed with any person or entity other than a parent or legal guardian, and subsequent to that placement a parent or legal guardian seeks to establish custody, the Director shall—

(i) assess the suitability of placing the child with the parent or legal guardian; and

(ii) make a written determination on the child's placement within 30 days.

(B) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to—

(i) supersede obligations under any treaty or other international agreement to which the United States is a party, including The Hague Convention on the Civil Aspects of International Child Abduction, the Vienna Declaration and Program of Action, and the Declaration of the Rights of the Child; or

(ii) limit any right or remedy under such international agreement.

(4) PROTECTION FROM SMUGGLERS AND TRAFFICKERS.—

(A) POLICIES AND PROGRAMS.—

(i) IN GENERAL.—The Director shall establish policies and programs to ensure that unaccompanied alien children are protected from smugglers, traffickers, or other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity.

(ii) WITNESS PROTECTION PROGRAMS INCLUDED.—Programs established pursuant to clause (i) may include witness protection programs.

(B) CRIMINAL INVESTIGATIONS AND PROSECUTIONS.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects any individual of involvement in any activity described in subparagraph (A) shall report such individual to Federal or State prosecutors for criminal investigation and prosecution.

(C) DISCIPLINARY ACTION.—Any officer or employee of the Office or the Department of

Homeland Security, and any grantee or contractor of the Office, who suspects an attorney of involvement in any activity described in subparagraph (A) shall report the individual to the State bar association of which the attorney is a member, or to other appropriate disciplinary authorities, for appropriate disciplinary action, which may include private or public admonition or censure, suspension, or disbarment of the attorney from the practice of law.

(5) GRANTS AND CONTRACTS.—The Director may award grants to, and enter into contracts with, voluntary agencies to carry out this section or section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(6) REIMBURSEMENT OF STATE EXPENSES.—The Director may reimburse States for any expenses they incur in providing assistance to unaccompanied alien children who are served pursuant to this Act or section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(b) CONFIDENTIALITY.—All information obtained by the Office relating to the immigration status of a person described in subparagraphs (A), (B), and (C) of subsection (a)(1) shall remain confidential and may be used only for the purposes of determining such person's qualifications under subsection (a)(1).

(c) REQUIRED DISCLOSURE.—The Secretary of Health and Human Services or the Secretary of Homeland Security shall provide the information furnished under this section, and any other information derived from such furnished information, to—

(1) a duly recognized law enforcement entity in connection with an investigation or prosecution of an offense described in paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), when such information is requested in writing by such entity; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

(d) PENALTY.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SEC. 103. APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN CHILDREN.

(a) STANDARDS FOR PLACEMENT.—

(1) PROHIBITION OF DETENTION IN CERTAIN FACILITIES.—Except as provided in paragraph (2), an unaccompanied alien child shall not be placed in an adult detention facility or a facility housing delinquent children.

(2) DETENTION IN APPROPRIATE FACILITIES.—An unaccompanied alien child who has exhibited a violent or criminal behavior that endangers others may be detained in conditions appropriate to such behavior in a facility appropriate for delinquent children.

(3) STATE LICENSURE.—A child shall not be placed with an entity described in section 102(a)(1)(E), unless the entity is licensed by an appropriate State agency to provide residential, group, child welfare, or foster care services for dependent children.

(4) CONDITIONS OF DETENTION.—

(A) IN GENERAL.—The Director and the Secretary of Homeland Security shall promulgate regulations incorporating standards for conditions of detention in such placements that provide for—

(i) educational services appropriate to the child;

(ii) medical care;

(iii) mental health care, including treatment of trauma, physical and sexual violence, or abuse;

(iv) access to telephones;

(v) access to legal services;

(vi) access to interpreters;

(vii) supervision by professionals trained in the care of children, taking into account the special cultural, linguistic, and experiential needs of children in immigration proceedings;

(viii) recreational programs and activities;

(ix) spiritual and religious needs; and

(x) dietary needs.

(B) NOTIFICATION OF CHILDREN.—Regulations promulgated under subparagraph (A) shall provide that all children are notified of such standards orally and in writing in the child's native language.

(b) PROHIBITION OF CERTAIN PRACTICES.—The Director and the Secretary shall develop procedures prohibiting the unreasonable use of—

(1) shackling, handcuffing, or other restraints on children;

(2) solitary confinement; or

(3) pat or strip searches.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede procedures favoring release of children to appropriate adults or entities or placement in the least secure setting possible, as defined in the Stipulated Settlement Agreement under Flores v. Reno.

SEC. 104. REPATRIATED UNACCOMPANIED ALIEN CHILDREN.

(a) COUNTRY CONDITIONS.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that, to the extent consistent with the treaties and other international agreements to which the United States is a party, and to the extent practicable, the United States Government should undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and safety of such children.

(2) ASSESSMENT OF CONDITIONS.—

(A) IN GENERAL.—The annual Country Reports on Human Rights Practices published by the Department of State shall contain an assessment of the degree to which each country protects children from smugglers and traffickers.

(B) FACTORS FOR ASSESSMENT.—The Department shall consult the Country Reports on Human Rights Practices and the Trafficking in Persons Report in assessing whether to repatriate an unaccompanied alien child to a particular country.

(b) REPORT ON REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on efforts to repatriate unaccompanied alien children.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) the number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States;

(B) a description of the type of immigration relief sought and denied to such children;

(C) a statement of the nationalities, ages, and gender of such children;

(D) a description of the procedures used to effect the removal of such children from the United States;

(E) a description of steps taken to ensure that such children were safely and humanely repatriated to their country of origin; and

(F) any information gathered in assessments of country and local conditions pursuant to subsection (a)(2).

SEC. 105. ESTABLISHING THE AGE OF AN UNACCOMPANIED ALIEN CHILD.

(a) PROCEDURES.—

(1) IN GENERAL.—The Director shall develop procedures, in consultation with the Secretary, to make a prompt determination of the age of an alien, to be used—

(A) by the Department, with respect to aliens in the custody of the Department; and

(B) by the Office, with respect to aliens in the custody of the Office.

(2) EVIDENCE.—The procedures developed under paragraph (1) shall—

(A) permit the presentation of multiple forms of evidence, including testimony of the alien, to determine the age of the unaccompanied alien for purposes of placement, custody, parole, and detention; and

(B) allow the appeal of a determination to an immigration judge.

(b) PROHIBITION ON SOLE MEANS OF DETERMINING AGE.—Radiographs or the attestation of an alien shall not be used as the sole means of determining age for the purposes of determining an alien's eligibility for treatment under this Act or section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to place the burden of proof in determining the age of an alien on the Government.

SEC. 106. EFFECTIVE DATE.

This title shall take effect on the date which is 90 days after the date of enactment of this Act.

TITLE II—ACCESS BY UNACCOMPANIED ALIEN CHILDREN TO CHILD ADVOCATES AND COUNSEL

SEC. 201. CHILD ADVOCATES.

(a) ESTABLISHMENT OF CHILD ADVOCATE PROGRAM.—

(1) APPOINTMENT.—The Director may appoint a child advocate, who meets the qualifications described in paragraph (2), for an unaccompanied alien child. The Director is encouraged, wherever practicable, to contract with a voluntary agency for the selection of an individual to be appointed as a child advocate under this paragraph.

(2) QUALIFICATIONS OF CHILD ADVOCATE.—

(A) IN GENERAL.—No person shall serve as a child advocate unless such person—

(i) is a child welfare professional or other individual who has received training in child welfare matters; and

(ii) possesses special training on the nature of problems encountered by unaccompanied alien children.

(B) PROHIBITION.—A child advocate shall not be an employee of the Department, the Office, or the Executive Office for Immigration Review.

(3) DUTIES.—The child advocate shall—

(A) conduct interviews with the child in a manner that is appropriate, taking into account the child's age;

(B) investigate the facts and circumstances relevant to the child's presence in the United States, including facts and circumstances—

(i) arising in the country of the child's nationality or last habitual residence; and

(ii) arising subsequent to the child's departure from such country;

(C) work with counsel to identify the child's eligibility for relief from removal or voluntary departure by sharing with counsel information collected under subparagraph (B);

(D) develop recommendations on issues relative to the child's custody, detention, release, and repatriation;

(E) take reasonable steps to ensure that—

(i) the best interests of the child are promoted while the child participates in, or is subject to, proceedings or matters under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.);

(ii) the child understands the nature of the legal proceedings or matters and determinations made by the court, and that all information is conveyed to the child in an age-appropriate manner; and

(F) report factual findings relating to—

(i) information collected under subparagraph (B);

(ii) the care and placement of the child during the pendency of the proceedings or matters; and

(iii) any other information collected under subparagraph (D).

(4) TERMINATION OF APPOINTMENT.—The child advocate shall carry out the duties described in paragraph (3) until the earliest of the date on which—

(A) those duties are completed;

(B) the child departs the United States;

(C) the child is granted permanent resident status in the United States;

(D) the child attains the age of 18; or

(E) the child is placed in the custody of a parent or legal guardian.

(5) POWERS.—The child advocate—

(A) shall have reasonable access to the child, including access while such child is being held in detention or in the care of a foster family;

(B) shall be permitted to review all records and information relating to such proceedings that are not deemed privileged or classified;

(C) may seek independent evaluations of the child;

(D) shall be notified in advance of all hearings or interviews involving the child that are held in connection with proceedings or matters under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), and shall be given a reasonable opportunity to be present at such hearings or interviews;

(E) shall be permitted to consult with the child during any hearing or interview involving such child; and

(F) shall be provided at least 24 hours advance notice of a transfer of that child to a different placement, absent compelling and unusual circumstances warranting the transfer of such child before such notification.

(b) TRAINING.—

(1) IN GENERAL.—The Director shall provide professional training for all persons serving as guardians ad litem under this section.

(2) TRAINING TOPICS.—The training provided under paragraph (1) shall include training in—

(A) the circumstances and conditions that unaccompanied alien children face; and

(B) various immigration benefits for which such alien child might be eligible.

(c) PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director shall establish and begin to carry out a pilot program to test the implementation of subsection (a).

(2) PURPOSE.—The purpose of the pilot program established under paragraph (1) is to—

(A) study and assess the benefits of providing guardians ad litem to assist unaccompanied alien children involved in immigration proceedings or matters;

(B) assess the most efficient and cost-effective means of implementing the child advocate provisions in this section; and

(C) assess the feasibility of implementing such provisions on a nationwide basis for all unaccompanied alien children in the care of the Office.

(3) SCOPE OF PROGRAM.—

(A) SELECTION OF SITE.—The Director shall select 3 sites in which to operate the pilot program established under paragraph (1).

(B) NUMBER OF CHILDREN.—To the greatest extent possible, each site selected under subparagraph (A) should have at least 25 children held in immigration custody at any given time.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date on which the first pilot program site is established under paragraph (1), the Director shall submit a report on the achievement of the purposes described in paragraph (2) to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

SEC. 202. COUNSEL.

(a) ACCESS TO COUNSEL.—

(1) IN GENERAL.—The Director should ensure, to the extent practicable, that all unaccompanied alien children in the custody of the Office or the Department, who are not described in section 101(a)(2), have competent counsel to represent them in immigration proceedings or matters.

(2) PRO BONO REPRESENTATION.—To the maximum extent practicable, the Director should—

(A) make every effort to utilize the services of competent pro bono counsel who agree to provide representation to such children without charge; and

(B) ensure that placements made under subparagraphs (D), (E), and (F) of section 102(a)(1) are in cities where there is a demonstrated capacity for competent pro bono representation.

(3) DEVELOPMENT OF NECESSARY INFRASTRUCTURES AND SYSTEMS.—For purposes of this subsection, the Director shall develop the necessary mechanisms to identify entities available to provide such legal assistance and representation and to recruit such entities.

(4) CONTRACTING AND GRANT MAKING AUTHORITY.—

(A) IN GENERAL.—The Director shall enter into contracts with, or award grants to, nonprofit agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out the responsibilities of this Act, including providing legal orientation, screening cases for referral, recruiting, training, and overseeing pro bono attorneys.

(B) SUBCONTRACTING.—Nonprofit agencies may enter into subcontracts with, or award grants to, private voluntary agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection.

(C) CONSIDERATIONS REGARDING GRANTS AND CONTRACTS.—In awarding grants and entering into contracts with agencies under this paragraph, the Director shall take into consideration the capacity of the agencies in question to properly administer the services covered by such grants or contracts without an undue conflict of interest.

(5) MODEL GUIDELINES ON LEGAL REPRESENTATION OF CHILDREN.—

(A) DEVELOPMENT OF GUIDELINES.—The Executive Office for Immigration Review, in consultation with voluntary agencies and national experts, shall develop model guidelines for the legal representation of alien children in immigration proceedings. Such guidelines shall be based on the children's asylum guidelines, the American Bar Association Model Rules of Professional Conduct, and other relevant domestic or international sources.

(B) PURPOSE OF GUIDELINES.—The guidelines developed under subparagraph (A) shall be designed to help protect each child from any individual suspected of involvement in any criminal, harmful, or exploitative activity associated with the smuggling or trafficking of children, while ensuring the fairness of the removal proceeding in which the child is involved.

(C) IMPLEMENTATION.—The Executive Office for Immigration Review shall adopt the guidelines developed under subparagraph (A) and submit the guidelines for adoption by national, State, and local bar associations.

(b) DUTIES.—Counsel under this section shall—

(1) represent the unaccompanied alien child in all proceedings and matters relating to the immigration status of the child or other actions involving the Department;

(2) appear in person for all individual merits hearings before the Executive Office for Immigration Review and interviews involving the Department; and

(3) owe the same duties of undivided loyalty, confidentiality, and competent representation to the child as is due an adult client.

(c) ACCESS TO CHILD.—

(1) IN GENERAL.—Counsel shall have reasonable access to the unaccompanied alien child, including access while the child is being held in detention, in the care of a foster family, or in any other setting that has been determined by the Office.

(2) RESTRICTION ON TRANSFERS.—Absent compelling and unusual circumstances, no child who is represented by counsel shall be transferred from the child's placement to another placement unless advance notice of at least 24 hours is made to counsel of such transfer.

(d) NOTICE TO COUNSEL DURING IMMIGRATION PROCEEDINGS.—

(1) IN GENERAL.—Except when otherwise required in an emergency situation involving the physical safety of the child, counsel shall be given prompt and adequate notice of all immigration matters affecting or involving an unaccompanied alien child, including adjudications, proceedings, and processing, before such actions are taken.

(2) OPPORTUNITY TO CONSULT WITH COUNSEL.—An unaccompanied alien child in the custody of the Office may not give consent to any immigration action, including consenting to voluntary departure, unless first afforded an opportunity to consult with counsel.

(e) ACCESS TO RECOMMENDATIONS OF CHILD ADVOCATE.—Counsel shall be given an opportunity to review the recommendation by the child advocate affecting or involving a client who is an unaccompanied alien child.

(f) COUNSEL FOR UNACCOMPANIED ALIEN CHILDREN.—Nothing in this Act requires the United States to pay for counsel to any unaccompanied alien child.

SEC. 203. PRESERVATION OF LAW ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—The child advocate or counsel appointed under this title shall not interfere with Federal investigators or prosecutors in a Federal criminal investigation or prosecution in which the child is a victim or witness.

(b) DEFINITION.—In subsection (a), the term "interfere with" shall include—

(1) restricting access to a victim or witness;

(2) encouraging noncooperation with Federal investigators or prosecutors; and

(3) being present during interviews of the child by Federal investigators or prosecutors

without the permission of the investigators or prosecutors.

SEC. 204. EFFECTIVE DATE; APPLICABILITY.

(a) Effective Date.—This title shall take effect 180 days after the date of enactment of this Act.

(b) Applicability.—The provisions of this title shall apply to all unaccompanied alien children in Federal custody on, before, or after the effective date of this title.

TITLE III—STRENGTHENING POLICIES FOR PERMANENT PROTECTION OF ALIEN CHILDREN

SEC. 301. SPECIAL IMMIGRANT JUVENILE CLASSIFICATION.

(a) J Classification.—Section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

"(J) an immigrant, who is 18 years of age or younger on the date of application for the classification and who is present in the United States—

"(i) who by a court order supported by written findings of fact, which shall be binding on the Secretary of Homeland Security for purposes of adjudications under this subparagraph, was declared dependent on a juvenile court located in the United States or has been legally committed to, or placed under the custody of, a department or agency of a State, or an individual or entity appointed by a State or juvenile court located in the United States, and who has been deemed eligible by that court for long-term foster care due to abuse, neglect, abandonment, or a similar basis found under State law;

"(ii) for whom it has been determined by written findings of fact in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

"(iii) with respect to a child in Federal custody, for whom the Office of Refugee Resettlement of the Department of Health and Human Services has certified to the Director of U.S. Citizenship and Immigration Services that the classification of an alien as a special immigrant under this subparagraph has not been made solely to provide an immigration benefit to that alien,

except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act;".

(b) Adjustment of Status.—Section 245(h)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1255(h)(2)(A)) is amended to read as follows:

"(A) paragraphs (4), (5)(A), (6)(A), (7)(A), 9(B), and 9(C)(i)(I) of section 212(a) shall not apply; and".

(c) Eligibility for Assistance.—A child who has been granted relief under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), may be eligible for funds made available under section 412(d) of that Act (8 U.S.C. 1522(d)) until such time as the child attains the age designated in section 412(d)(2)(B) of that Act (8 U.S.C. 1522(d)(2)(B)), or until the child is placed in a permanent adoptive home, whichever occurs first.

(d) Transition Rule.—Notwithstanding any other provision of law, any child described in section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) who filed an application for special immigrant juvenile classification before the date of enactment of this Act and who was 19, 20, or 21 years of age on the date such application was filed shall not be denied such classification after the date of enactment of this Act because of such alien's age.

SEC. 302. TRAINING FOR OFFICIALS AND CERTAIN PRIVATE PARTIES WHO COME INTO CONTACT WITH UNACCOMPANIED ALIEN CHILDREN.

(a) Training of State and Local Officials and Certain Private Parties.—

(1) In general.—The Secretary of Health and Human Services, acting jointly with the Secretary, shall provide appropriate training materials, and if requested, direct training, to State and county officials, child welfare specialists, teachers, public counsel, and juvenile judges who come into contact with unaccompanied alien children.

(2) Curriculum.—The training shall provide education on the processes pertaining to unaccompanied alien children with pending immigration status and on the forms of relief potentially available. The Director shall be responsible for establishing a core curriculum that can be incorporated into education, training, or orientation modules or formats that are currently used by these professionals.

(3) Video conferencing.—If direct training is requested under this subsection, such training may be conducted through video conferencing.

(b) Training of Department Personnel.—The Secretary, acting jointly with the Secretary of Health and Human Services, shall provide specialized training to all personnel of the Department who come into contact with unaccompanied alien children. Training for Border Patrol agents and immigration inspectors shall include specific training on identifying children at the United States borders or at United States ports of entry who have been victimized by smugglers or traffickers, and children for whom asylum or special immigrant relief may be appropriate, including children described in section 101(a)(2).

SEC. 303. REPORT.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Health and Human Services shall submit a report for the previous fiscal year to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that contains—

(1) data related to the implementation of section 462 of the Homeland Security Act (6 U.S.C. 279);

(2) data regarding the care and placement of children in accordance with this Act;

(3) data regarding the provision of child advocate and counsel services under this Act; and

(4) any other information that the Director or the Secretary of Health and Human Services determines to be appropriate.

SEC. 304. EFFECTIVE DATE.

The amendment made by section 301 shall apply to all aliens who were in the United States before, on, or after the date of enactment of this Act.

TITLE IV—CHILDREN REFUGEE AND ASYLUM SEEKERS

SEC. 401. GUIDELINES FOR CHILDREN'S ASYLUM CLAIMS.

(a) Sense of Congress.—Congress—

(1) commends the former Immigration and Naturalization Service for its issuance of its "Guidelines for Children's Asylum Claims", dated December 1998, and encourages and supports the implementation of such guidelines by the Department in an effort to facilitate the handling of children's affirmative asylum claims;

(2) commends the Executive Office for Immigration Review of the Department of Justice for its issuance of its "Guidelines for Immigration Court Cases Involving Unaccompanied Alien Children", dated September 2004, and encourages and supports the continued implementation of such guidelines by the Executive Office for Immigration Review in its handling of children's asylum claims before immigration judges; and

(3) understands that the guidelines described in paragraph (2) do not specifically address the issue of asylum claims, but go to the broader issue of unaccompanied alien children in general.

(b) Training.—

(1) Immigration officers.—The Secretary shall provide periodic comprehensive training under the "Guidelines for Children's Asylum Claims" to asylum officers and immigration officers who have contact with children in order to familiarize and sensitize such officers to the needs of children asylum seekers.

(2) Immigration judges.—The Executive Office for Immigration Review shall—

(A) provide periodic comprehensive training under the "Guidelines for Immigration Court Cases Involving Unaccompanied Alien Children" and the "Guidelines for Children's Asylum Claims" to immigration judges and members of the Board of Immigration Appeals; and

(B) redistribute to all Immigration Courts the "Guidelines for Children's Asylum Claims" as part of its training of immigration judges.

(3) Use of voluntary agencies.—Voluntary agencies shall be allowed to assist in the training described in this subsection.

SEC. 402. UNACCOMPANIED REFUGEE CHILDREN.

(a) Identifying Unaccompanied Refugee Children.—Section 207(e) of the Immigration and Nationality Act (8 U.S.C. 1157(e)) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) An analysis of the worldwide situation faced by unaccompanied refugee children, by region, which shall include an assessment of—

"(A) the number of unaccompanied refugee children, by region;

"(B) the capacity of the Department of State to identify such refugees;

"(C) the capacity of the international community to care for and protect such refugees;

"(D) the capacity of the voluntary agency community to resettle such refugees in the United States;

"(E) the degree to which the United States plans to resettle such refugees in the United States in the coming fiscal year; and

"(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.".

(b) Training on the Needs of Unaccompanied Refugee Children.—Section 207(f)(2) of the Immigration and Nationality Act (8 U.S.C. 1157(f)(2)) is amended by—

(1) striking "and" after "countries,"; and

(2) inserting before the period at the end the following: ", and instruction on the needs of unaccompanied refugee children".

SEC. 403. EXCEPTIONS FOR UNACCOMPANIED ALIEN CHILDREN IN ASYLUM AND REFUGEE-LIKE CIRCUMSTANCES.

(a) PLACEMENT IN REMOVAL PROCEEDINGS.—Any unaccompanied alien child apprehended by the Department, except for an unaccompanied alien child subject to exceptions under paragraph (1)(A) or (2) of section (101)(a), shall be placed in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(b) EXCEPTION FROM TIME LIMIT FOR FILING ASYLUM APPLICATION.—Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended by adding at the end the following:

"(E) APPLICABILITY.—Subparagraphs (A) and (B) shall not apply to an unaccompanied alien child as defined in section 101(a)(51).".

TITLE V—AUTHORIZATION OF APPROPRIATIONS

SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Department of Homeland Security, the Department of Justice, and the Department of Health and Human Services, such sums as may be necessary to carry out—

(1) the provisions of section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279); and

(2) the provisions of this Act.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall remain available until expended.

TITLE VI—AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002

SEC. 601. ADDITIONAL RESPONSIBILITIES AND POWERS OF THE OFFICE OF REFUGEE RESETTLEMENT WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.

(a) ADDITIONAL RESPONSIBILITIES OF THE DIRECTOR.—Section 462(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(1)) is amended—

(1) in subparagraph (K), by striking "and" at the end;

(2) in subparagraph (L), by striking the period at the end and inserting ", including regular follow-up visits to such facilities, placements, and other entities, to assess the continued suitability of such placements; and"; and

(3) by adding at the end the following:

"(M) ensuring minimum standards of care for all unaccompanied alien children—

"(i) for whom detention is necessary; and

"(ii) who reside in settings that are alternative to detention.".

(b) ADDITIONAL POWERS OF THE DIRECTOR.—Section 462(b) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)) is amended by adding at the end the following:

"(4) AUTHORITY.—In carrying out the duties under paragraph (3), the Director is authorized to—

"(A) contract with service providers to perform the services described in sections 102, 103, 201, and 202 of the Unaccompanied Alien Child Protection Act of 2005; and

"(B) compel compliance with the terms and conditions set forth in section 103 of the Unaccompanied Alien Child Protection Act of 2005, including the power to—

"(i) declare providers to be in breach and seek damages for noncompliance;

"(ii) terminate the contracts of providers that are not in compliance with such conditions; and

"(iii) reassign any unaccompanied alien child to a similar facility that is in compliance with such section.".

SEC. 602. TECHNICAL CORRECTIONS.

Section 462(b) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)), as amended by section 601, is amended—

(1) in paragraph (3), by striking "paragraph (1)(G)" and inserting "paragraph (1)"; and

(2) by adding at the end the following:

"(5) STATUTORY CONSTRUCTION.—Nothing in paragraph (2)(B) may be construed to require that a bond be posted for unaccompanied alien children who are released to a qualified sponsor.".

SEC. 603. EFFECTIVE DATE.

The amendments made by this title shall take effect as if included in the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.).

SA 2693. Mr. FRIST (for Mr. LUGAR) proposed an amendment to the bill S. 1315, to require a report on progress toward the Millennium Development Goals, and for other purposes; as follows:

On page 13, line 21-22, strike "as a fundamental guide on which to base their planning,".

SA 2694. Mr. FRIST (for Mr. CRAIG (for himself and Mr. AKAKA)) proposed an amendment to the bill S. 1182, to amend title 38, United States Code, to improve health care for veterans, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Health Care Act of 2005".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment or repeal to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references to title 38, United States Code; table of contents.
Sec. 2. Care for newborn children of women veterans receiving maternity care.
Sec. 3. Enhancement of payer provisions for health care furnished to certain children of Vietnam veterans.
Sec. 4. Improvements to homeless veterans service providers programs.
Sec. 5. Additional mental health providers.
Sec. 6. Pay comparability for chief nursing officer, office of nursing services.
Sec. 7. Cost comparison studies.
Sec. 8. Improvements and expansion of mental health services.
Sec. 9. Disclosure of medical records.
Sec. 10. Expansion of National Guard Outreach Program.
Sec. 11. Expansion of tele-health services.
Sec. 12. Mental health data sources report.
Sec. 13. Strategic plan for long-term care.
Sec. 14. Blind rehabilitation outpatient specialists.
Sec. 15. Compliance report.
Sec. 16. Health care and services for veterans affected by hurricane Katrina.
Sec. 17. Reimbursement for certain veterans' outstanding emergency treatment expenses.
Sec. 18. Conveyance of Federal land in exchange for fair market value consideration.
Sec. 19. Technical and clerical amendments.

SEC. 2. CARE FOR NEWBORN CHILDREN OF WOMEN VETERANS RECEIVING MATERNITY CARE.

(a) IN GENERAL.—Subchapter VIII of chapter 17 is amended by adding at the end the following:

"§ 1786. Care for newborn children of women veterans receiving maternity care

"The Secretary may furnish care to a newborn child of a woman veteran, who is receiving maternity care furnished by the Department, for not more than 14 days after the birth of the child if the veteran delivered the child in a Department facility or in another facility pursuant to a Department contract for the delivery services.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1785 the following:

"1786. Care for newborn children of women veterans receiving maternity care.".

SEC. 3. ENHANCEMENT OF PAYER PROVISIONS FOR HEALTH CARE FURNISHED TO CERTAIN CHILDREN OF VIETNAM VETERANS.

(a) HEALTH CARE FOR SPINA BIFIDA AND ASSOCIATED DISABILITIES.—Section 1803 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c)(1) If a payment made by the Secretary for health care under this section is less than the amount billed for such health care, the health care provider or agent of the health care provider may, in accordance with paragraphs (2) through (4), seek payment for the difference between the amount billed and the amount paid by the Secretary from a responsible third party to the extent that the provider or agent would be eligible to receive payment for such health care from such third party.

"(2) The health care provider or agent may not impose any additional charge on the beneficiary who received the health care, or the family of such beneficiary, for any service or item for which the Secretary has made payment under this section.

"(3) The total amount of payment a health care provider or agent may receive for health care furnished under this section may not exceed the amount billed to the Secretary.

"(4) The Secretary, upon request, shall disclose to such third party information received for the purposes of carrying out this section.".

(b) HEALTH CARE FOR BIRTH DEFECTS AND ASSOCIATED DISABILITIES.—Section 1813 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c)(1) If payment made by the Secretary for health care under this section is less than the amount billed for such health care, the health care provider or agent of the health care provider may, in accordance with paragraphs (2) through (4), seek payment for the difference between the amount billed and the amount paid by the Secretary from a responsible third party to the extent that the provider or agent would be eligible to receive payment for such health care from such third party.

"(2) The health care provider or agent may not impose any additional charge on the beneficiary who received health care, or the family of such beneficiary, for any service or item for which the Secretary has made payment under this section.

"(3) The total amount of payment a health care provider or agent may receive for health care furnished under this section may not exceed the amount billed to the Secretary.

"(4) The Secretary, upon request, shall disclose to such third party information received for the purposes of carrying out this section.".

SEC. 4. IMPROVEMENTS TO HOMELESS VETERANS SERVICE PROVIDERS PROGRAMS.

(a) PERMANENT AUTHORITY.—Section 2011(a) is amended—

(1) in paragraph (1), by striking "(1)"; and

(2) by striking paragraph (2).

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) COMPREHENSIVE SERVICE PROGRAMS FOR HOMELESS VETERANS.—Section 2013 is amended to read as follows:

"§ 2013. Authorization of appropriations

"There are authorized to be appropriated $130,000,000 for fiscal year 2006 and each subsequent fiscal year to carry out this subchapter.".

(2) HOMELESS VETERAN SERVICE PROVIDER TECHNICAL ASSISTANCE PROGRAM.—Section 2064(b) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each of fiscal years 2006 through 2011 to carry out the programs under this section.".

SEC. 5. ADDITIONAL MENTAL HEALTH PROVIDERS.

(a) QUALIFICATIONS.—Section 7402(b) is amended—

(1) by redesignating paragraph (10) as paragraph (12); and

(2) by inserting after paragraph (9) the following:

"(10) MARRIAGE AND FAMILY THERAPIST.—To be eligible to be appointed to a marriage and family therapist position, a person shall—

"(A) hold a master's degree in marriage and family therapy, or a comparable degree in mental health, from a college or university approved by the Secretary; and

"(B) be licensed or certified to independently practice marriage and family therapy in a State, except that the Secretary may waive the requirement of licensure or certification for an individual marriage and family therapist for a reasonable period of time recommended by the Under Secretary for Health.

"(11) LICENSED PROFESSIONAL MENTAL HEALTH COUNSELORS.—To be eligible to be appointed to a licensed professional mental health counselor position, a person shall—

"(A) hold a master's degree in mental health counseling, or a related field, from a college or university approved by the Secretary; and

"(B) be licensed or certified to independently practice mental health counseling.".

(b) REPORT ON MARRIAGE AND FAMILY THERAPY WORKLOAD.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Under Secretary for Health, Department of Veterans Affairs, shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the provisions of post-traumatic stress disorder treatment by marriage and family therapists.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) the actual and projected workloads in facilities of the Veterans Readjustment Counseling Service and the Veterans Health Administration for the provision of marriage and family counseling for veterans diagnosed with, or otherwise in need of treatment for, post-traumatic stress disorder;

(B) the resources available and needed to support the workload projections described in subparagraph (A);

(C) an assessment by the Under Secretary for Health of the effectiveness of treatment by marriage and family therapists; and

(D) recommendations, if any, for improvements in the provision of such counseling treatment.

SEC. 6. PAY COMPARABILITY FOR CHIEF NURSING OFFICER, OFFICE OF NURSING SERVICES.

Section 7404 is amended—

(1) in subsection (d), by striking "subchapter III and in" and inserting "subsection (e), subchapter III, and"; and

(2) by adding at the end the following:

"(e) The position of Chief Nursing Officer, Office of Nursing Services, shall be exempt from the provisions of section 7451 of this title and shall be paid at a rate not to exceed the maximum rate established for the Senior Executive Service under section 5382 of title 5 United States Code, as determined by the Secretary.".

SEC. 7. COST COMPARISON STUDIES.

(a) STUDIES AUTHORIZED.—

(1) IN GENERAL.—Notwithstanding section 8110(a)(5), the Secretary of Veterans Affairs may conduct studies to compare the amount that would be expended if private contractors provided specific commercial or industrial products and services for the Veterans Health Administration with the amount that would be expended if the Department of Veterans Affairs provided such products and services for the Veterans Health Administration.

(2) LIMITATION.—In the course of conducting the private-public cost comparison studies under paragraph (1), a private contractor may not receive an advantage for a proposal that would reduce costs for the Department of Veterans Affairs by—

(A) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract; or

(B) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Veterans Affairs for health benefits for civilian employees under chapter 89 of title 5, United States Code.

(3) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated $15,000,000 to carry out paragraph (1), of which—

(i) not more than $7,500,000 shall be available to evaluate activities that have been performed by employees of the Federal Government; and

(ii) not more than $7,500,000 shall be available to evaluate activities that have been performed by private contractors.

(B) SUNSET DATE.—This paragraph is repealed on September 30, 2007.

(b) REPORT.—Not later than March 15, 2007, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report that—

(1) identifies the amount expended by the Department of Veterans Affairs during fiscal year 2006 to conduct cost comparison studies, including—

(A) studies conducted in accordance with Office of Management and Budget Circular A–76; and

(B) studies to identify the most efficient internal processes for the Department of Veterans Affairs;

(2) summarizes the benefits and burdens of the studies described in paragraph (1);

(3) analyzes each approach for determining—

(A) the best method of allocating the resources of the Department of Veterans Affairs; and

(B) the appropriate use of nongovernmental employees; and

(4) identifies the amount of savings (calculated in terms of full-time employee reinvestment), if any, to the Department of Veterans Affairs as a result of—

(A) the private-public cost comparison studies conducted under subsection (a); and

(B) the Department of Veterans Affairs internal processes for the same positions.

SEC. 8. IMPROVEMENTS AND EXPANSION OF MENTAL HEALTH SERVICES.

(a) FINDINGS.—Congress makes the following findings:

(1) Mental health treatment capacity at community-based outpatient clinics remains inadequate and inconsistent, despite the requirement under section 1706(c) of title 38, United States Code, that every primary care health care facility of the Department of Veterans Affairs develop and carry out a plan to meet the mental health care needs of veterans who require such services.

(2) In 2001, the minority staff of the Committee on Veterans' Affairs of the Senate conducted a survey of community-based outpatient clinics and found that there was no established systemwide baseline of acceptable mental health service levels at such clinics.

(3) In February 2005, the Government Accountability Office reported that the Department of Veterans Affairs had not fully met any of the 24 clinical care and education recommendations made in 2004 by the Special Committee on Post-Traumatic Stress Disorder of the Under Secretary for Health, Veterans Health Administration.

(b) CLINICAL SERVICES AND EDUCATION.—

(1) IN GENERAL.—The Secretary of Veterans affairs shall—

(A) expand the number of clinical treatment teams principally dedicated to the treatment of post-traumatic stress disorder in medical facilities of the Department of Veterans Affairs;

(B) expand and improve the services available to diagnose and treat substance abuse;

(C) expand and improve tele-health initiatives to provide better access to mental health services in areas of the country in which the Secretary determines that a need for such services exist due to the distance of such locations from an appropriate facility of the Department of Veterans Affairs;

(D) improve education programs available to primary care delivery professionals and dedicate such programs to recognize, treat, and clinically manage veterans with mental health care needs;

(E) expand the delivery of mental health services in community-based outpatient clinics of the Department of Veterans Affairs in which such services are not available as of the date of enactment of this Act; and

(F) expand and improve the Mental Health Intensive Case Management Teams for the treatment and clinical case management of veterans with serious or chronic mental illness.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated

$95,000,000 in each of fiscal years 2006 and 2007 to improve and expand the treatment services and options available to veterans in need of mental health treatment from the Department of Veterans Affairs, of which—

(A) $5,000,000 shall be allocated to carry out paragraph (1)(A);

(B) $50,000,000 shall be allocated to carry out paragraph (1)(B);

(C) $10,000,000 shall be allocated to carry out paragraph (1)(C);

(D) $1,000,000 shall be allocated to carry out paragraph (1)(D);

(E) $20,000,000 shall be allocated to carry out paragraph (1)(E); and

(F) $5,000,000 shall be allocated to carry out paragraph (1)(F).

(c) REQUIRED CAPACITY FOR COMMUNITY-BASED OUTPATIENT CLINICS.—

(1) ACCOUNTABILITY FOR THE PROVISION OF MENTAL HEALTH SERVICES.—The Under Secretary shall take appropriate steps and provide necessary incentives (including appropriate performance incentives) to ensure that each Regional Director of the Veterans Health Administration is encouraged to—

(A) prioritize the provision of mental health services to veterans in need of such services;

(B) foster collaborative working environments among clinicians for the provision of mental health services; and

(C) conduct mental health consultations during primary care appointments.

(2) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—

(A) IN GENERAL.—The Secretary shall ensure that each community-based outpatient clinic of the Department has the capacity to provide, or monitor the provision of, mental health services to enrolled veterans in need of such services.

(B) SETTINGS.—In carrying out subparagraph (A), the Secretary shall ensure that mental health services are provided through—

(i) a community-based outpatient clinic of the Department by an employee of the Department;

(ii) referral to another facility of the Department;

(iii) contract with an appropriate mental health professional in the local community; or

(iv) tele-mental health service.

(3) REPORTING REQUIREMENT.—Not later than January 31, 2008, the Secretary of Veterans Affairs shall submit a report to Congress that—

(A) describes the status and availability of mental health services at community-based outpatient clinics;

(B) describes the substance of services available at such clinics; and

(C) includes the ratios between mental health staff and patients at such clinics.

(d) COOPERATION ON MENTAL HEALTH AWARENESS AND PREVENTION.—

(1) AGREEMENT.—The Secretary of Defense and the Secretary of Veterans Affairs shall enter into a Memorandum of Understanding—

(A) to ensure that separating service members receive standardized individual mental health and sexual trauma assessments as part of separation exams; and

(B) that includes the development of shared guidelines on how to conduct the assessments.

(2) ESTABLISHMENT OF JOINT VETERANS AFFAIRS–DEPARTMENT OF DEFENSE WORKGROUP ON MENTAL HEALTH.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs shall establish a joint workgroup on mental health, which shall be comprised of not less than 7 leaders in the field of mental health appointed from their respective departments.

(B) STUDY.—Not later than 1 year after the establishment of the workgroup under subparagraph (A), the workgroup shall analyze the feasibility, content, and scope of initiatives related to—

(i) combating stigmas and prejudices associated with service members who suffer from mental health disorders or readjustment issues, through the use of peer counseling programs or other educational initiatives;

(ii) ways in which the Department of Veterans Affairs can make their expertise in treating mental health disorders more readily available to Department of Defense mental health care providers;

(iii) family and spousal education to assist family members of veterans and service members to recognize and deal with signs of potential readjustment issues or other mental health disorders; and

(iv) the seamless transition of service members who have been diagnosed with mental health disorders from active duty to veteran status (in consultation with the Seamless Transition Task Force and other entities assisting in this effort).

(C) REPORT.—Not later than June 30, 2007, the Secretary of Defense and the Secretary of Veterans Affairs shall submit a report to Congress containing the findings and recommendations of the workgroup established under this paragraph.

(e) PRIMARY CARE CONSULTATIONS FOR MENTAL HEALTH.—

(1) GUIDELINES.—The Under Secretary for Health, Veterans Health Administration, shall establish systemwide guidelines for screening primary care patients for mental health disorders and illnesses.

(2) TRAINING.—Based upon the guidelines established under paragraph (1), the Under Secretary for Health, Veterans Health Administration, shall conduct appropriate training for clinicians of the Department of Veterans Affairs to carry out mental health consultations.

(f) CLINICAL TRAINING AND PROTOCOLS.—

(1) FINDINGS.—Congress finds that—

(A) the Iraq War Clinician Guide has tremendous value; and

(B) the Secretary of Defense and the National Center on Post Traumatic Stress Disorder should continue to work together to ensure that the mental health care needs of service members and veterans are met.

(2) COLLABORATION.—The National Center on Post Traumatic Stress Disorder shall collaborate with the Secretary of Defense—

(A) to enhance the clinical skills of military clinicians through training, treatment protocols, web-based interventions, and the development of evidence-based interventions; and

(B) to promote pre-deployment resilience and post-deployment readjustment among service members serving in Operation Iraqi Freedom and Operation Enduring Freedom.

(3) TRAINING.—The National Center on Post Traumatic Stress Disorder shall work with the Secretary of Defense to ensure that clinicians in the Department of Defense are provided with the training and protocols developed pursuant to paragraph (2)(A).

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for 2006 to carry out this subsection.

SEC. 9. DISCLOSURE OF MEDICAL RECORDS.

(a) LIMITED EXCEPTION TO CONFIDENTIALITY OF MEDICAL RECORDS.—Section 5701 is amended by adding at the end the following:

"(k)(1)(A) The Secretary may disclose the name and address of any individual described in subparagraph (C) to an entity described in subparagraph (B) in order to facilitate the determination by such entity whether the individual is, or after death will be, a suitable organ, tissue, or eye donor if—

"(i) the individual is near death (as determined by the Secretary) or is deceased; and

"(ii) the disclosure is permitted under regulations promulgated pursuant to section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

"(B) An entity described in this subparagraph is—

"(i) an organ procurement organization; or

"(ii) an entity that the Secretary has determined—

"(I) is substantially similar in function, professionalism, and reliability to an organ procurement organization; and

"(II) should be treated for purposes of this subsection in the same manner as an organ procurement organization.

"(C) An individual described in this subparagraph is—

"(i) a member or former member of the Armed Forces; or

"(ii) a dependent of a member or former member of the Armed Forces.

"(2) In this subsection, the term 'organ procurement organization' has the meaning given the term 'qualified organ procurement organization' in section 371(b) of the Public Health Service Act (42 U.S.C. 273(b)).

(b) DISCLOSURES FROM CERTAIN MEDICAL RECORDS.—Section 7332(b)(2) is amended by adding at the end the following:

"(E) To an entity described in paragraph (1)(B) of section 5701(k) of this title, but only to the extent authorized by such section.".

SEC. 10. EXPANSION OF NATIONAL GUARD OUTREACH PROGRAM.

(a) REQUIREMENT.—The Secretary of Veterans Affairs shall expand the total number of personal employed by the Department of Veterans Affairs as part of the Readjustment Counseling Service's Global War on Terrorism Outreach Program (referred to in this section as the "Program").

(b) COORDINATION.—In carrying out subsection (a), the Secretary shall coordinate participation in the Program by appropriate employees of the Veterans Benefits Administration and the Veterans Health Administration.

(c) INFORMATION AND ASSESSMENTS.—The Secretary shall ensure that—

(1) all appropriate health, education, and benefits information is available to returning members of the National Guard; and

(2) proper assessments of the needs in each of these areas is made by the Department of Veterans Affairs.

(d) COLLABORATION.—The Secretary of Veterans Affairs shall collaborate with appropriate State National Guard officials and provide such officials with any assets or services of the Department of Veterans Affairs that the Secretary determines to be necessary to carry out the Global War on Terrorism Outreach Program.

SEC. 11. EXPANSION OF TELE-HEALTH SERVICES.

(a) IN GENERAL.—The Secretary shall increase the number of Veterans Readjustment Counseling Service facilities capable of providing health services and counseling through tele-health linkages with facilities of the Veterans Health Administration.

(b) PLAN.—The Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a plan to implement the requirement under subsection (a), which shall describe the facilities that will have such capabilities at the end of each of fiscal years 2005, 2006, and 2007.

SEC. 12. MENTAL HEALTH DATA SOURCES REPORT.

(a) IN GENERAL.—Not less than 180 days after the date of enactment of this Act, the Secretary of Veterans Affairs shall submit a report to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives describing the mental health data maintained by the Department of Veterans Affairs.

(b) CONTENTS.—The report submitted under subsection (a) shall include—

(1) a comprehensive list of the sources of all such data, including the geographic locations of facilities of the Department of Veterans Affairs maintaining such data;

(2) an assessment of the limitations or advantages to maintaining the current data configuration and locations; and

(3) any recommendations, if any, for improving the collection, use, and location of mental health data maintained by the Department of Veterans Affairs.

SEC. 13. STRATEGIC PLAN FOR LONG-TERM CARE.

(a) PUBLICATION.—Not later than 180 days after the date of enactment of this Act, the Secretary of Veterans Affairs shall publish a strategic plan for long-term care.

(b) CONTENTS.—The plan published under subsection (a) shall—

(1) contain policies and strategies for—

(A) the delivery of care in domiciliaries, residential treatment facilities, and nursing homes, and for seriously mentally ill veterans;

(B) maximizing the use of State veterans homes;

(C) locating domiciliary units as close to patient populations as feasible; and

(D) identifying freestanding nursing homes as an acceptable care model;

(2) include data on—

(A) the care of catastrophically disabled veterans; and

(B) the geographic distribution of catastrophically disabled veterans;

(3) address the spectrum of noninstitutional long-term care options, including—

(A) respite care;

(B) home-based primary care;

(C) geriatric evaluation;

(D) adult day health care;

(E) skilled home health care; and

(F) community residential care; and

(4) provide—

(A) cost and quality comparison analyses of all the different levels of care;

(B) detailed information about geographic distribution of services and gaps in care; and

(C) specific plans for working with Medicare, Medicaid, and private insurance companies to expand care.

SEC. 14. BLIND REHABILITATION OUTPATIENT SPECIALISTS.

(a) FINDINGS.—Congress makes the following findings:

(1) There are approximately 135,000 blind veterans throughout the United States, including approximately 35,000 who are enrolled with the Department of Veterans Affairs. An aging veteran population and injuries incurred in Operation Iraqi Freedom and Operation Enduring Freedom are increasing the number of blind veterans.

(2) Since 1996, when the Department of Veterans Affairs hired its first 14 blind rehabilitation outpatient specialists (referred to in this section as "Specialists", Specialists have been a critical part of the continuum of care for blind and visually impaired veterans.

(3) The Department of Veterans Affairs operates 10 residential blind rehabilitation centers that are considered among the best in the world. These centers have had long waiting lists, with as many as 1,500 blind veterans waiting for openings in 2004.

(4) Specialists provide—

(A) critically needed services to veterans who are unable to attend residential centers or are waiting to enter such a program;

(B) a range of services, including training with living skills, mobility, and adaptation of manual skills; and

(C) pre-admission screening and follow-up care for blind rehabilitation centers.

(5) There are not enough Specialist positions to meet the increased numbers and needs of blind veterans.

(b) ESTABLISHMENT OF SPECIALIST POSITIONS.—Not later than 30 months after the date of enactment of this Act, the Secretary of Veterans Affairs shall establish an additional Specialist position at not fewer than 35 additional facilities of the Department of Veterans Affairs.

(c) SELECTION OF FACILITIES.—In identifying the most appropriate facilities to receive a Specialist position under this section, the Secretary shall—

(1) give priority to facilities with large numbers of enrolled legally blind veterans;

(2) ensure that each facility does not have such a position; and

(3) ensure that each facility is in need of the services of such Specialists.

(d) COORDINATION.—The Secretary shall coordinate the provision of blind rehabilitation services for veterans with services for the care of the visually impaired offered by State and local agencies, especially if such State and local agencies can provide similar services to veterans in settings located closer to the residences of such veterans.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,500,000 for each of the fiscal years 2006 through 2011.

SEC. 15. COMPLIANCE REPORT.

Section 1706(b)(5)(A) is amended by striking "2004" and inserting "2006".

SEC. 16. HEALTH CARE AND SERVICES FOR VETERANS AFFECTED BY HURRICANE KATRINA.

(a) REQUIREMENT FOR HOSPITAL CARE AND MEDICAL SERVICES FOR PRIORITY 8 VETERANS AFFECTED BY HURRICANE KATRINA.—

(1) IN GENERAL.—Notwithstanding any other provision of law and any notwithstanding any previous decisions made by the Secretary of Veterans Affairs pursuant to chapter 17 of title 38 United States Code, the Secretary shall provide necessary medical and health care services to any veteran affected by Hurricane Katrina as if such veteran was enrolled for care under section 1705 of title 38, United States Code.

(2) STATUS OF VETERANS.—For purposes of managing the health care system, as required under section 1705 of title 38, United States Code, a veteran who seeks care under paragraph (1) shall not be considered to be an enrollee of the health care system under such section unless the Secretary subsequently designates such a veteran as such an enrollee.

(b) PROHIBITION ON COLLECTION OF COPAYMENTS FOR VETERANS AFFECTED BY HURRICANE KATRINA.—In furnishing hospital care and medical services to any veteran affected by Hurricane Katrina, the Secretary shall not collect from, or with respect to, such veteran any payment for such care and services otherwise required under any provision of law, including any copayment for medications otherwise required under section 1722A of title 38, United States Code.

(c) DEFINITION.—In this section, the term "veteran affected by Hurricane Katrina" means any veteran who, as of August 29, 2005, resided in the catchment region of the Department of Veterans Affairs medical center in—

(1) New Orleans, Louisiana;

(2) Biloxi, Mississippi; or

(3) Gulfport, Mississippi.

(d) SUNSET PROVISION.—The authority under this section shall expire on January 31, 2006.

SEC. 17. REIMBURSEMENT FOR CERTAIN VETERANS' OUTSTANDING EMERGENCY TREATMENT EXPENSES. .

(a) IN GENERAL.—Subchapter III of chapter 17 is amended by inserting after section 1725 the following:

"§ 1725A. Reimbursement for emergency treatment expenses for which certain veterans remain personally liable

"(a)(1) Subject to subsection (c), the Secretary may reimburse a veteran described in subsection (b) for expenses resulting from emergency treatment furnished to the veteran in a non-Department facility for which the veteran remains personally liable.

"(2) In any case in which reimbursement is authorized under subsection (a)(1), the Secretary, in the Secretary's discretion, may, in lieu of reimbursing the veteran, make payment—

"(A) to a hospital or other health care provider that furnished the treatment; or

"(B) to the person or organization that paid for such treatment on behalf of the veteran.

"(b) A veteran referred to in subsection (a) is an individual who—

"(1) is enrolled in the health care system established under section 1705(a) of this title;

"(2) received care under this chapter during the 24-month period preceding the furnishing of such emergency treatment;

"(3) is entitled to care or services under a health-plan contract that partially reimburses the cost of the veteran's emergency treatment;

"(4) is financially liable to the provider of emergency care treatment for costs not covered by the veteran's health-plan contract, including copayments and deductibles; and

"(5) is not eligible for reimbursement for medical care or services under section 1725 or 1728 of this title.

"(c)(1) Any amount paid by the Secretary under subsection (a) shall exclude the amount of any payment the veteran would have been required to make to the United States under this chapter if the veteran had received the emergency treatment from the Department.

"(2) The Secretary may not provide reimbursement under this section with respect to any item or service—

"(A) provided or for which payment has been made, or can reasonably be expected to be made, under the veteran's health-plan contract; or

"(B) for which payment has been made or can reasonably be expected to be made by a third party.

"(3)(A) Payment by the Secretary under this section on behalf of a veteran to a provider of emergency treatment shall, unless rejected and refunded by the provider within 30 days of receipt, extinguish any liability on the part of the veteran for that treatment.

"(B) The absence of a contract or agreement between the Secretary and the provider, any provision of a contract or agreement, or an assignment to the contrary shall not operate to modify, limit, or negate the requirement under subparagraph (A).

"(4) In accordance with regulations prescribed by the Secretary, the Secretary shall—

"(A) establish criteria for determining the amount of reimbursement (which may include a maximum amount) payable under this section; and

"(B) delineate the circumstances under which such payment may be made, including requirements for requesting reimbursement.

"(d)(1) In accordance with regulations prescribed by the Secretary, the United States shall have the independent right to recover any amount paid under this section if, and to the extent that, a third party subsequently makes a payment for the same emergency treatment.

"(2) Any amount paid by the United States to the veteran, the veteran's personal representative, successor, dependents, or survivors, or to any other person or organization paying for such treatment shall constitute a lien in favor of the United States against any recovery the payee subsequently receives from a third party for the same treatment.

"(3) Any amount paid by the United States to the provider that furnished the veteran's emergency treatment shall constitute a lien against any subsequent amount the provider receives from a third party for the same emergency treatment for which the United States made payment.

"(4) The veteran or the veteran's personal representative, successor, dependents, or survivors shall—

"(A) ensure that the Secretary is promptly notified of any payment received from any third party for emergency treatment furnished to the veteran;

"(B) immediately forward all documents relating to a payment described in subparagraph (A);

"(C) cooperate with the Secretary in an investigation of a payment described in subparagraph (A); and

"(D) assist the Secretary in enforcing the United States right to recover any payment made under subsection (c)(3).

"(e) The Secretary may waive recovery of a payment made to a veteran under this section that is otherwise required under subsection (d)(1) if the Secretary determines that such waiver would be in the best interest of the United States, as defined by regulations prescribed by the Secretary.

"(f) For purposes of this section—

"(1) the term 'health-plan contract' includes—

"(A) an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement, under which health services for individuals are provided or the expenses of such services are paid;

"(B) an insurance program described in section 1811 of the Social Security Act (42 U.S.C. 1395c) or established by section 1831 of that Act (42 U.S.C. 1395j);

"(C) a State plan for medical assistance approved under title XIX of such Act (42 U.S.C. 1396 et seq.); and

"(D) a workers' compensation law or plan described in section 1729(A)(2)(B) of this title;

"(2) the term 'third party' means—

"(A) a Federal entity;

"(B) a State or political subdivision of a State;

"(C) an employer or an employer's insurance carrier; and

"(D) a person or entity obligated to provide, or pay the expenses of, such emergency treatment; and

"(3) the term 'emergency treatment' has the meaning given such term in section 1725 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1725 the following:

"1725A. Reimbursement for emergency treatment expenses for which certain veterans remain personally liable.".

SEC. 18. CONVEYANCE OF FEDERAL LAND IN EXCHANGE FOR FAIR MARKET VALUE CONSIDERATION.

(a) DEFINITIONS.—In this section:

(1) CITY.—The term "City" means the city of Fort Thomas, Kentucky.

(2) FAIR MARKET VALUE CONSIDERATION.—The term "fair market value consideration" means the monetary value of the Federal land as of the date of conveyance under section 2, as determined by the Secretary.

(3) FEDERAL LAND.—The term "Federal land" means an approximately 11.75 acre parcel of federally-owned property, including the 15 structures located on such property, which is managed by the Department of Veterans Affairs and located in the northeastern portion of Tower Park in the City.

(4) SECRETARY.—The term "Secretary" means the Secretary of Veterans Affairs.

(b) IN GENERAL.—Subject to valid existing rights, easements, and rights-of-way, the Secretary may convey all right, title, and interest of the United States in and to the Federal land to the City in exchange for fair market value consideration.

(c) RELEASE FROM LIABILITY.—Effective on the date of conveyance to the City of the parcel of Federal land under subsection (b), the United States shall not be liable for damages arising out of any act, omission, or occurrence relating to the Federal land and facilities conveyed, but shall continue to be liable for damages caused by acts of negligence committed by the United States or by any employee or agent of the United States before the date of conveyance, consistent with chapter 171 of title 28, United States Code.

(d) ADMINISTRATIVE COSTS.—All administrative costs relating to the conveyance of the Federal land under subsection (b) shall be paid by the City to the United States.

SEC. 19. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TITLE 38, UNITED STATES CODE.—Title 38, United States Code, is amended as follows:

(1) TYPOGRAPHICAL ERROR.—Section 1117(h)(1) is amended by striking "nothwithstanding" and inserting "notwithstanding".

(2) INSERTION OF MISSING WORD.—Section 1513(a) is amended by inserting "section" after "prescribed by".

(3) CITATION CORRECTION.—Section 1718(c)(2) is amended by inserting "of 1938" after "Act".

(4) CITATION CORRECTION.—Section 1785(b)(1) is amended by striking "Robert B." and inserting "Robert T.".

(5) PUNCTUATION CORRECTION.—Section 2002(1) is amended by inserting a closing parenthesis before the period at the end.

(6) PUNCTUATION CORRECTION.—Section 2011(a)(1)(C) is amended by inserting a period at the end.

(7) CROSS REFERENCE CORRECTION.—Section 2041(a)(3)(A)(i) is amended by striking "under this chapter" and inserting "established under section 3722 of this title".

(8) DELETION OF EXTRA WORDS.—Section 3012(a)(1)(C)(ii) is amended by striking "on or".

(9) CROSS REFERENCE CORRECTION.—Section 3017(b)(1)(D) is amended by striking "3011(c)" and inserting "3011(e)".

(10) STYLISTIC AMENDMENTS.—Section 3018A is amended—

(A) in subsections (b) and (c), by striking "of this section" each place it appears;

(B) in subsections (a)(4), (a)(5), (d)(1), and (d)(3) by striking "of this subsection" each place it appears; and

(C) in subsection (d)(3), by striking "of this chapter" and inserting "of this title".

(11) CROSS REFERENCE CORRECTION.—Section 3117(b)(1) is amended—

(A) by striking "section 8" and inserting "section 4(b)(1)"; and

(B) by striking "633(b)" and inserting "633(b)(1)".

(12) INSERTION OF MISSING WORD.—Section 3511(a)(1) is amended by inserting "sections" after "under both".

(13) SUBSECTION HEADINGS.—

(A) Sections 3461, 3462, 3481, 3565, 3680, and 3690 are each amended by revising each subsection heading for a subsection therein (appearing as a centered heading immediately before the text of the subsection) so that such heading appears immediately after the subsection designation and is set forth in capitals-and-small-capitals typeface, followed by a period and a one-em dash.

(B) Section 3461(c) is amended by inserting after the subsection designation the following: "DURATION OF ENTITLEMENT.—".

(C) Section 3462 is amended—

(i) in subsection (d), by inserting after the subsection designation the following: "PRISONERS OF WAR.—"; and

(ii) in subsection (e), by inserting after the subsection designation the following: "TERMINATION OF ASSISTANCE.—".

(14) CROSS REFERENCE CORRECTION.—Section 3732(c)(10)(D) is amended by striking "clause (B) of paragraphs (5), (6), (7), and (8) of this subsection" and inserting "paragraphs (5)(B), (6), (7)(B) , and (8)(B)".

(15) DATE OF ENACTMENT REFERENCE.—Section 3733(a)(7) is amended by striking "the date of the enactment of the Veterans' Benefits Act of 2003" and inserting "December 16, 2003".

(16) REPEAL OF OBSOLETE PROVISIONS.—Section 4102A(c)(7) is amended—

(A) by striking "With respect to program years beginning during or after fiscal year 2004, one percent of" and inserting "Of"; and

(B) by striking "for the program year" and inserting "for any program year, one percent".

(17) REPEAL OF OBSOLETE PROVISIONS.—Section 4105(b) is amended—

(A) by striking "shall provide," and all that follows through "Affairs with" and inserting "shall, on the 15th day of each month, provide the Secretary and the Secretary of Veterans Affairs with updated information regarding"; and

(B) by striking "and shall" and all that follows through "regarding the list".

(18) CITATION CORRECTION.—Section 4110B is amended—

(A) by striking "this Act" and inserting "the Workforce Investment Act of 1998"; and

(B) by striking "the Workforce Investment Act of 1998" and inserting "that Act (29 U.S.C. 2822(b))".

(19) CROSS-REFERENCE CORRECTION.—Section 4331(b)(2)(C) is amended by striking "section 2303(a)(2)(C)(ii)" and inserting "section 2302(a)(2)(C)(ii)"

(20) CAPITALIZATION CORRECTION.—Section 7253(d)(5) is amended by striking "court" and inserting "Court".

(21) CITATION CORRECTION.—Section 8111(b)(1) is amended by striking "into the strategic" and all that follows through "and Results Act" and inserting "into the strategic plan of each Department under section 306 of title 5 and the performance plan of each Department under section 1115 of title 31".

(22) REPEAL OF OBSOLETE PROVISIONS.—Section 8111 is amended further—

(A) in subsection (d)—

(i) in paragraph (2), by striking "effective October 1, 2003,"; and

(ii) in paragraph (3)(A), by striking the last sentence; and

(B) in subsection (e)(2)—

(i) in the second sentence, by striking "shall be implemented no later than October 1, 2003, and"; and

(ii) in the third sentence, by striking ", following implementation of the schedule,".

(23) CITATION CORRECTION.—Section 8111A(a)(2)(B)(i) is amended by striking "Robert B." and inserting "Robert T.".

(b) PUBLIC LAW 107–296.—

(1) IN GENERAL.—Section 1704(d) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2315) is amended—

(A) by striking "101(25)(d)" and inserting "101(25)(D)"; and

(B) by striking "3011(a)(1)(A)(ii)(II)" and inserting "3011(a)(1)(A)(ii)(III)".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective as of November 25, 2002.

SA 2695. Mr. FRIST (for Mr. STEVENS) proposed an amendment to the bill H.R. 1400, to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes; as follows:

SECTION 1. PROHIBITION AGAINST INTERFERING WITH FLIGHT CREWS THROUGH USE OF LASER POINTERS OR SIMILAR DEVICES.

(a) IN GENERAL.—Chapter 465 of title 49, United States Code, is amended by adding at the end the following:

"§46508. Interference with flight crew vision

"(a) IN GENERAL.—An individual who interferes with, or attempts to interfere with, the ability of the flight crew of an aircraft in flight to see, or otherwise to impair the safe operation of an aircraft in flight, by illuminating the aircraft with a laser pointer or similar device shall be fined under title 18, imprisoned for not more than 5 years, or both.

"(b) EXCEPTIONS.—Subsection (a) does not apply to the illumination of aircraft by laser or other devices by—

"(1) an authorized individual in the conduct of research and development or flight test operations conducted by an aircraft manufacturer, the Federal Aviation Administration, or any other person authorized by the Federal Aviation Administration to conduct such research and development or flight test operations;

"(2) members or elements of the Department of Defense acting in an official capacity for the purpose of research, development, operations, testing or training; or

"(3) by an individual using a laser emergency signaling device to send an emergency distress signal.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 465 of title 49, United States Code, is amended by adding at the end the following:

"46508. Interference with flight crew vision".

SENATE ACCOMPLISHMENTS IN 2005

Mr. FRIST. Mr. President, we have a lot to do in wrapup tonight. As we get those papers ready and bring the year to a close, I want to look back over what we have been able to accomplish and then look ahead at what we can expect.

In a letter to John Adams in September 1817, Thomas Jefferson, our third President, wrote:

> A morsel of genuine history is a thing so rare as to be always valuable.

This past year has presented far more than a morsel. We have been witness to an abundance of extraordinary historic milestones, from the Iraqi elections and Lebanon's cedar revolution, the selection of a new Pope in Rome, and a new Chief Justice to lead the Supreme Court to the outpouring of generosity for the American people, first for the tsunami survivors, and then to their fellow citizens on the gulf coast.

Mr. President, 2005 has been a year of outsize events.

I commend to my colleagues an article that appeared in Sunday's Washington Post. It was on the continuing success of the Army in reenlisting our GIs. It appeared on A-27 entitled "GIs in Iraq Choosing to Re-up."

Across Iraq, U.S. soldiers on the front lines are reenlisting by the thousands. Since 2001, the Army has surpassed its retention targets by wider and wider margins each year. Conjuring up vivid scenes of daring and service, the Post reports that:

> On palace rooftops and pockmarked streets, GIs are reenlisting in rituals that range from dramatic to harrowing. Soldiers have taken the oath in gaudy former residences of Saddam Hussein and in the spider hole near Tikrit where the gray-bearded fugitive was captured in December of 2003 . . .
>
> Despite the risks and long months away from home, many soldiers . . . say serving in Iraq gives them a powerful sense of purpose.

So during this holiday season, I ask every American to offer their prayers, to offer their thanks to these brave young men and women who are risking their lives in far away lands to protect us and to provide us security.

I am gratified by the passage of the Defense appropriations bill tonight. This important legislation helps ensure that our armed services will receive the resources and authorities they need to protect America. From delivering advanced technologies to improving personnel protection, this bill delivers crucial support for our courageous men and women in uniform.

While our troops are protecting us abroad, the PATRIOT Act is protecting us here at home. Tonight we passed a 6-month extension to this critical legislation. By unanimously and in a bipartisan way agreeing to a 6-month extension, the Senate reaffirmed that the PATRIOT Act is one of our most important tools in the war on terror both now and into the future.

Yes, we need to improve that act and, yes, no longer can we tolerate obstruction to that improvement of the act, but in a bipartisan way we came together tonight to say that despite a lot of passions and statements that we could rise above it, put forth a 6-month extension, and then hopefully be able to address and improve the PATRIOT Act.

It has been an intense and productive year for the Senate. We were able to meet many of our goals to deliver meaningful solutions to the needs, wants, and desires of the American people. Strength and security throughout were our guiding principles. We rolled up our shirt sleeves and tackled a number of fundamental structural issues that were driving up gas prices, that were inhibiting and constricting innovation, and that were threatening America's security.

To strengthen America's economic security, we passed a sweeping deficit reduction bill today that for the first time in 8 years cuts the growth of mandatory spending. This was a huge victory for the American people. It was a huge victory for fiscal responsibility. It was a victory for the American taxpayer. It shows that we are serious as a body about fiscal restraint, about cutting out wasteful Washington spending. Because of these critical reforms, America will be in a stronger position to meet our obligations, especially to the baby boomers who, as we all know, are just beginning to retire, especially to that doubling of the seniors in our population today, especially to the workforce who will be supporting those seniors in the years to come.

This year, we also passed a tax cut extension. We also passed an energy bill, a major highway bill. We addressed free trade through the Central American Free Trade Act. We addressed pensions. Just today, we passed SMART grants, which actually give up to $8,000 over 2 years to disadvantaged or low-income students, to Pell-income students, to encourage them to major in math, science, and engineering, those fields which we know are important to job creation in the future.

By facing these issues head on, by responding to them, by legislating, we are making America less dependent on foreign oil, more prepared to compete with India and China in that global marketplace. We helped rebuild that infrastructure to support and promote our economic growth.

We also addressed a problem that has been hanging over the small business community and the courts for years—the litigation lottery lawsuit abuse. We all know that frivolous litigation has been driving up health care costs. It has been driving up consumer prices for everything from toothpaste to blue jeans. It has been clogging our courts. It has been making our health care more expensive, and that drives people to the ranks of the uninsured. It generally wastes our taxpayer dollars, taxpayer dollars that can be spent more productively.

For years, Republicans have fought for reform, have talked reform, but in this Congress we have delivered on litigation reform, on lawsuit abuse reform. We passed class action reform. We passed bankruptcy reform. We passed gun manufacturing liability reform. That is three reforms in terms of liability. Tonight, just a few hours ago, we passed very targeted vaccine manufacturing protections in emergency situations to make America safer, to help rebuild that manufacturing capacity which has been decimated over the past 20 years. This brings fairness to our system. This brings rationality to the system. This slows down the litigation lottery that injects inequities into our system. As a result, appropriate compensation will go to the people who really need it. Those resources which are wasted and which are taken out of the system are directed to those people who do deserve appropriately to be compensated. These are the economic issues.

At the same time we were addressing those economic issues, we also continued to focus on securing our homeland, focusing on our homeland security, strengthening our national security.

Earlier this year, I had the opportunity to travel in part as a Senator but in larger part probably as a physician to Sri Lanka, where I had the chance to witness the devastation that occurred as a result of that natural tsunami disaster. In the wake of that particular disaster, in this body we passed a generous relief package that helped the victims recover and rebuild. This critical help paid immediate dividends in lives saved and—we cannot dismiss this—it helped improve the way others around the world look at us. They recognize America's good will. They recognize America's compassion. I say this because I think it particularly is important among Muslims in Southeast Asia.

Likewise, our outpouring of aid and assistance to Pakistan following their earthquake disaster has significantly improved our standing in that country.

Disaster, as we all know, unfortunately, was a dominant thing throughout 2005, and here at home we were hit through Katrina and Rita by the worst natural disaster in the history of this country. Hundreds of thousands of residents across Alabama, Louisiana, and Mississippi were flooded from their homes. Katrina devastated 90,000 square miles. That is an area larger than the United Kingdom.

A few hours ago, on the Senate floor, Senator STEVENS was recounting his experiences having spent several days along that gulf coast. About 3 to 4 days after the levees broke in New Orleans, I, too, had the opportunity to be in the airport as patients were being brought in and people were being evacuated out of New Orleans. I had the opportunity to talk to people on stretchers who 3 days before had homes that they had been in for 30, 40, 50 years. Those homes were totally washed away and destroyed with all of their belongings. Whole towns were washed away.

We traveled also on the first trip, as well as the second trip, to Alabama and to Mississippi, along that entire gulf coast. One can see the utter catastrophe of that coast, inland for miles. The Senate immediately set to work providing aid, relief, and support, and that continued tonight.

We passed numerous measures to help people get up off the ground and to get their boots back on the ground and be able to reestablish some element of normalcy and also to support the rebuilding efforts that have begun, that will result in renewal we all know will continue long into the future.

Tonight, as part of the Defense appropriations bill, we passed $29 billion in Hurricanes Katrina and Rita relief. We will continue to work hard to help the citizens of the gulf coast rebuild, renew, and restore their communities in the days ahead, in the weeks and months ahead, and, indeed, in the years ahead. The American people stand firmly behind their neighbors in the gulf region.

We also took action tonight to prepare for another potential disaster that is waiting to happen, and that is the threat of avian flu. We do not know if avian flu is going to become transmissible from one person to another person to another, but what we do know is that it is a novel virus. It is a new virus. It is very similar to that virus of 1918 which we know killed about 50,000 people—actually killed about 30 million to 40 million people worldwide and half a million people in this country.

We know that novel virus we do not have any immunity to. We don't have any natural immunity to it. We know with that novel virus today, that people who have been infected have a 50-percent mortality rate. One out of every two people we know were infected with that virus died. We know that virus has jumped to other species. It jumped from avian or birds that it starts in, to cats, and from cats we know that it has jumped to humans. We know that 5 million—20 million birds died, and 100 million, now 200 million birds died, and it started in southeast Asia and is now moving across to eastern Europe. We do not know if it is going to become a pandemic, but what we do know is we are unprepared. We know it is fast moving.

The Congressional Budget Office study the other day said if that virus does become transmissible, and if it has the same fatality rate and prevalence rate as that virus in 1918, the so-called Spanish flu, the economic impact on this country could be as high as $675 billion.

The good news is we know if we become prepared, we can reduce that markedly, and we can save lives. But we are unprepared today. How do we respond? Again, about 2 hours ago we put in money, additional resources, and we put in appropriate targeted liability protections to help build our manufacturing base, and we added an element of compensation in the event that somebody was inadvertently hurt in some way by a vaccine or a countermeasure that was necessary in emergency situations, they could seek and receive compensation.

We are going to be better prepared as a product of this. Whether it is in the next 5 weeks, 5 months, or 5 years, we will be able to look our constituents in the eye and tell them that we did the right thing on December 21, 2005, and that help, indeed, is on the way.

Our Nation is a large nation. It is a diverse and a vibrant nation. To meet all of these challenges before us, we need a sound government, a strong government, an efficient government that meets its basic obligations. Here, too, we have acted this year. We made progress. We need a government that is smart, that is efficient, that is effective; a government that works for the people and respects the taxpayers' hard-earned dollar. To that end, this year we passed a budget resolution. What is remarkable—but I am sure doesn't sound remarkable to people across America who are viewing tonight—is the fact that we passed all 12 appropriations bills, our spending bills, one by one, individually, across the floor of the Senate.

It is almost embarrassing that we have to say that is a great achievement, but indeed in this body it is a tremendous achievement that has not been achieved in years. We passed the Health and Human Services bill a couple of hours ago, the 12th of those bills. These are the bills that ensure that Government is carrying out its most basic function: to protect and serve the American people and to do so in a fiscally responsible way.

This year we were also able to overcome partisan obstruction, which was very frustrating, which continued for about 2½, almost 3 years. We were able to overcome the judicial obstruction, this partisan obstruction, and indeed successfully confirm eight Federal judges who had previously been obstructed, who had previously been filibustered. These judges now are serving America proudly. They allow our courts to be able to function at full capacity and thus provide the justice that had been lacking because of not being able to fill those seats.

Of course, this fall we had the privilege of confirming a new Chief Justice to the Supreme Court: a man all of us have gotten to know, the eminently qualified and highly respected Justice John Roberts.

All of this is just a partial accounting of the work that we were able to do this year to strengthen America, to move us forward, to strengthen our economic security, to strengthen our national security. In the new year, we are going to have a lot of challenges. We have a lot to accomplish over the next year. But I am absolutely confident that by keeping our eye on the ball, by staying focused, by working together in a bipartisan way we will be able to continue to cut bureaucratic redtape, to have more efficient Government, to demonstrate more fiscal restraint, to lower Government spending, to support our troops in the field, and to promote policies that will make America safer and more prosperous and healthier and stronger.

I extend my warm wishes to my colleagues for a joyous holiday season. The holidays also are an opportunity to gather with loved ones, to cherish achievements, and to recommit ourselves to the challenges that lay ahead. May we all find strength and renewal in this season, and may we all allow the good will which warms our homes during the holidays to be shared with others—our families, our friends, our neighbors—throughout the year to come.

To our colleagues, to our staff, to the pages who are here tonight, the colleagues who hopefully are at home and in bed now, to the press corps who has been so actively covering us up until about 15 or 20 minutes ago and are probably writing their stories right now, I wish you all happy holidays, and to all a very Merry Fristmas.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATUS QUO OF NOMINATIONS

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that all nominations received by the Senate during the first session of the 109th Congress remain in status quo following the sine die adjournment of the first session under the provisions of rule XXXI, paragraph 6, of the Standing Rules of the Senate, with the following exceptions: Calendar No. 436, Brett Kavanaugh, PN203, and a list of nominations from the Armed Services that is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar, Calendar Nos. 149, 219, 464, 483, 486, 487, 488, 489, and all nominations on the Secretary's desk; provided further the Commerce Committee be discharged further from consideration of the following nominations, and they be considered en bloc: PN1147 and PN1146; I further ask unanimous consent the nominations be confirmed en bloc, the motions to reconsider be laid on the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

IN THE ARMY

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624.

To be brigadier general

Col. Donald M. Bradshaw, 5796

DEPARTMENT OF THE INTERIOR

R. Thomas Weimer, of Colorado, to be an Assistant Secretary of the Interior.

DEPARTMENT OF HOMELAND SECURITY

Emilio T. Gonzalez, of Florida, to be Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Vincent J. Ventimiglia, Jr., of Maryland, to be an Assistant Secretary of Health and Human Services.

IN THE AIR FORCE

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Philip M. Breedlove, 5587

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under the title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Gary D. Speer, 7286

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Charles C. Campbell, 6999

IN THE MARINE CORPS

The following named officer for appointment in the United States Marine Corps Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Andrew B. Davis, 1872

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN785 AIR FORCE nominations (177) beginning JOLENE A. * AINSWORTH, and ending DAVID C. * ZIMMERMAN, which nominations were received by the Senate and appeared in the Congressional Record of July 28, 2005.

PN994 AIR FORCE nominations (61) beginning CRAIG L. ADAMS, and ending MATTHEW C. WYATT, which nominations were received by the Senate and appeared in the Congressional Record of October 17, 2005.

PN996 AIR FORCE nominations (1235) beginning JAY O. AANRUD, and ending SCOTT C. ZIPPWALD, which nominations were received by the Senate and appeared in the Congressional Record of October 17, 2005.

PN1123 AIR FORCE nomination of Martin E. Keillor, which was received by the Senate and appeared in the Congressional Record of December 14, 2005.

PN1124 AIR FORCE nominations (3) beginning ROBERT W. DESVERREAUZ, and ending CHETAN U. KHAROD, which nominations were received by the Senate and appeared in the Congressional Record of December 14, 2005.

PN1125 AIR FORCE nomination of Julie S. Miller, which was received by the Senate and appeared in the Congressional Record of December 14, 2005.

PN1126 AIR FORCE nomination of Kara A. Gormont, which was received by the Senate and appeared in the Congressional Record of December 14, 2005.

IN THE ARMY

PN1103-1 ARMY nominations (527) beginning DEIBY ACEVEDO, and ending DAVID R. ZYSK, which nominations were received by the Senate and appeared in the Congressional Record of December 13, 2005.

PN1104 ARMY nominations (478) beginning HOLTORF R. ALONSO, and ending RICHARD M. ZYGADLO, which nominations were received by the Senate and appeared in the Congressional Record of December 13, 2005.

PN1105 ARMY nominations (17) beginning THOMAS E. AYRES, and ending PETER C. ZOLPER, which nominations were received by the Senate and appeared in the Congressional Record of December 13, 2005.

PN1127 ARMY nomination of Cindy R. Jebb, which was received by the Senate and appeared in the Congressional Record of December 14, 2005.

PN1128 ARMY nomination of Richard L. Chavez, which was received by the Senate and appeared in the Congressional Record of December 14, 2005.

PN1129 ARMY nominations (2) beginning SAMUEL CASSCELLS, and ending SLOBODAN JAZAREVIC, which nominations were received by the Senate and appeared in the Congressional Record of December 14, 2005.

PN1130 ARMY nominations (5) beginning JOSEPH J. IMPALLARIA, and ending ARTHUR E. LEES, which nominations were received by the Senate and appeared in the Congressional Record of December 14, 2005.

IN THE MARINE CORPS

PN1131 MARINE CORPS nomination of Michelle A. Rakers, which was received by the Senate and appeared in the Congressional Record of December 14, 2005.

IN THE NAVY

PN1110 NAVY nominations (42) beginning TONY C. BAKER, and ending JAMES J. VOPELIUS, which nominations were received by the Senate and appeared in the Congressional Record of December 13, 2005.

PN1132 NAVY nomination of Lloyd G. Lecain, which was received by the Senate and appeared in the Congressional Record of December 14, 2005.

IN THE COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant commander

Connie M. Rooke, 4089

To be lieutenant

Joseph T. Benin, 6446

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

UNCLEARED NOMINATIONS

Mr. FRIST. Mr. President, there are several nominations that had been cleared for some length of time on our side of the aisle, and I was disappointed we were not able to clear them on the other side. The Intelligence Committee reported the General Counsel of the Office of the Director of National Intelligence on July 26, and that is being held up. We have the Assistant Secretary of Defense and an Under Secretary of Defense that we have been unable to reach consent on. I hope my colleagues on the other side of the aisle would allow these important defense and intelligence positions to go forward, and we will try again when we return.

AUTHORITY TO MAKE APPOINTMENTS

Mr. FRIST. I ask unanimous consent that notwithstanding the upcoming recess or adjournment of the Senate, the President of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law by concurrent action of the two Houses or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

SIGNING AUTHORITY

Mr. FRIST. I ask unanimous consent that during adjournment the Senate majority leader and junior Senator from Virginia be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR NOMINATIONS TO REMAIN IN STATUS QUO

Mr. FRIST. As in executive session, I ask unanimous consent all nominations received by the Senate during the first session of the 109th Congress remain in status quo following the sine die adjournment of the first session under the provisions of rule XXXI, paragraph 6, of the Standing Rules of the Senate, with the following exception: Calendar No. 436, Brett Kavanaugh, PN203, and a list of nominations from the armed services that are at the desk.

The PRESIDING OFFICER. Without objection it is so ordered.

GLOBAL PATHOGEN SURVEILLANCE AND RESPONSE

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of S. 2170, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2170) to provide for global pathogen surveillance and response.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2170) was read the third time and passed, as follows:

S. 2170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Global Pathogen Surveillance Act of 2005".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The frequency of the occurrence of biological events that could threaten the national security of the United States has increased and is likely increasing. The threat to the United States from such events includes threats from diseases that infect humans, animals, or plants regardless of if such diseases are introduced naturally, accidentally, or intentionally.

(2) The United States lacks an effective and real-time system to detect, identify, contain, and respond to global threats and also lacks an effective mechanism to disseminate information to the national response community if such threats arise.

(3) Bioterrorism poses a grave national security threat to the United States. The insidious nature of a bioterrorist attack, the likelihood that the recognition of such an attack would be delayed, and the underpreparedness of the domestic public health infrastructure to respond to such an attack could result in catastrophic consequences following a biological weapons attack against the United States.

(4) The ability to recognize that a country or organization is carrying out a covert biological weapons programs is dependent on a number of indications and warnings. A critical component of this recognition is the timely detection of sentinel events such as laboratory accidents and community-level outbreaks that could be the earliest indication of an emerging bioterrorist program in a foreign country. Early detection of such events may enable earlier counterproliferation intervention.

(5) A contagious pathogen engineered as a biological weapon and developed, tested, produced, or released in a foreign country could quickly spread to the United States. Considering the realities of international travel, trade, and migration patterns, a dangerous pathogen appearing naturally, accidentally, or intentionally anywhere in the world can spread to the United States in a matter of days, before any effective quarantine or isolation measures could be implemented.

(6) To combat bioterrorism effectively and ensure that the United States is fully prepared to prevent, recognize, and contain a biological weapons attack, or emerging infectious disease, measures to strengthen the domestic public health infrastructure and improve domestic event detection, surveillance, and response, while absolutely essential, are not sufficient.

(7) The United States should enhance cooperation with the World Health Organization, regional international health organizations, and individual countries, including data sharing with appropriate agencies and departments of the United States, to help detect and quickly contain infectious disease outbreaks or a bioterrorism agent before such a disease or agent is spread.

(8) The World Health Organization has done an impressive job in monitoring infectious disease outbreaks around the world, particularly with the establishment in April 2000 of the Global Outbreak Alert and Response Network.

(9) The capabilities of the World Health Organization depend on the quality of the data and information the Organization receives from the countries that are members of the Organization and is further limited by the narrow list of diseases (such as plague, cholera, and yellow fever) on which such surveillance and monitoring is based and by the consensus process used by the Organization to add new diseases to the list. Developing countries, in particular, often are unable to devote the necessary resources to build and maintain public health infrastructures.

(10) In particular, developing countries could benefit from—

(A) better trained public health professionals and epidemiologists to recognize disease patterns;

(B) appropriate laboratory equipment for diagnosis of pathogens;

(C) disease reporting systems that—

(i) are based on disease and syndrome surveillance; and

(ii) could enable an effective response to a biological event to begin at the earliest possible opportunity;

(D) a narrowing of the existing technology gap in disease and syndrome surveillance capabilities, based on reported symptoms, and real-time information dissemination to public health officials; and

(E) appropriate communications equipment and information technology to efficiently transmit information and data within national, international regional, and international health networks, including inexpensive, Internet-based Geographic Information Systems (GIS) and relevant telephone-based systems for early recognition and diagnosis of diseases.

(11) An effective international capability to detect, monitor, and quickly diagnose infectious disease outbreaks will offer dividends not only in the event of biological weapons development, testing, production, and attack, but also in the more likely cases of naturally occurring infectious disease outbreaks that could threaten the United States. Furthermore, a robust surveillance system will serve to deter, prevent, or contain terrorist use of biological weapons, mitigating the intended effects of such malevolent uses.

(b) Purposes.—The purposes of this Act are as follows:

(1) To provide the United States with an effective and real-time system to detect biological threats that—

(A) utilizes classified and unclassified information to detect such threats; and

(B) may be utilized by the human or the agricultural domestic disease response community.

(2) To enhance the capability of the international community, through the World Health Organization and individual countries, to detect, identify, and contain infectious disease outbreaks, whether the cause of those outbreaks is intentional human action or natural in origin.

(3) To enhance the training of public health professionals and epidemiologists from eligible developing countries in advanced Internet-based disease and syndrome surveillance systems, in addition to traditional epidemiology methods, so that such professionals and epidemiologists may better detect, diagnose, and contain infectious disease outbreaks, especially such outbreaks caused by the pathogens that may be likely to be used in a biological weapons attack.

(4) To provide assistance to developing countries to purchase appropriate communications equipment and information technology to detect, analyze, and report biological threats, including—

(A) relevant computer equipment, Internet connectivity mechanisms, and telephone-based applications to effectively gather, analyze, and transmit public health information for infectious disease surveillance and diagnosis; and

(B) appropriate computer equipment and Internet connectivity mechanisms—

(i) to facilitate the exchange of Geographic Information Systems-based disease and syndrome surveillance information; and

(ii) to effectively gather, analyze, and transmit public health information for infectious disease surveillance and diagnosis.

(5) To make available greater numbers of public health professionals who are employed by the Government of the United States to international regional and international health organizations, international regional and international health networks, and United States diplomatic missions, as appropriate.

(6) To expand the training and outreach activities of United States laboratories located in foreign countries, including the Centers for Disease Control and Prevention or Department of Defense laboratories, to enhance the public health capabilities of developing countries.

(7) To provide appropriate technical assistance to existing international regional and international health networks and, as appropriate, seed money for new international regional and international networks.

SEC. 3. DEFINITIONS.

In this Act:

(1) Eligible developing country.—The term "eligible developing country" means any developing country that—

(A) has agreed to the objective of fully complying with requirements of the World Health Organization on reporting public health information on outbreaks of infectious diseases;

(B) has not been determined by the Secretary, for purposes of section 40 of the Arms Export Control Act (22 U.S.C. 2780), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or section 6(j) of the Export Administration Act of 1979 (as in effect pursuant to the International Emergency Economic Powers Act; 50 U.S.C. 1701 et seq.), to have repeatedly provided support for acts of international terrorism, unless the Secretary exercises a waiver certifying that it is in the national interest of the United States to provide assistance under the provisions of this Act; and

(C) is a party to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow April 10, 1972 (26 UST 583).

(2) Eligible national.—The term "eligible national" means any citizen or national of an eligible developing country who—

(A) does not have a criminal background;

(B) is not on any immigration or other United States watch list; and

(C) is not affiliated with any foreign terrorist organization.

(3) International health organization.—The term "international health organization" includes the World Health Organization, regional offices of the World Health Organization, and international health organizations, such as the Pan American Health Organization.

(4) Laboratory.—The term "laboratory" means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other medical examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings.

(5) Secretary.—Unless otherwise provided, the term "Secretary" means the Secretary of State.

(6) Disease and syndrome surveillance.—The term "disease and syndrome surveillance" means the recording of clinician-reported symptoms (patient complaints) and signs (derived from physical examination and laboratory data) combined with simple geographic locators to track the emergence of a disease in a population.

SEC. 4. ELIGIBILITY FOR ASSISTANCE.

(a) In General.—Except as provided in subsection (b), assistance may be provided to an eligible developing country under any provision of this Act only if the government of the eligible developing country—

(1) permits personnel from the World Health Organization and the Centers for Disease Control and Prevention to investigate outbreaks of infectious diseases within the borders of such country; and

(2) provides pathogen surveillance data to the appropriate agencies and departments of the United States and to international health organizations.

(b) Waiver.—The Secretary may waive the prohibition set out in subsection (a) if the Secretary determines that it is in the national interest of the United States to provide such a waiver.

SEC. 5. RESTRICTION.

(a) In General.—Notwithstanding any other provision of this Act, no foreign national participating in a program authorized under this Act shall have access, during the course of such participation, to a select agent or toxin described in section 73.4 of title 42, Code of Federal Regulations (or any corresponding similar regulation) or an overlap select agent or toxin described in section 73.5 of such title (or any corresponding similar regulation) that may be used as, or in, a biological weapon, except in a supervised and controlled setting.

(b) Relationship to Regulations.—The restriction set out in subsection (a) may not be construed to limit the ability of the Secretary of Health and Human Services to prescribe, through regulation, standards for the handling of a select agent or toxin or an overlap select agent or toxin described in such subsection.

SEC. 6. FELLOWSHIP PROGRAM.

(a) Establishment.—There is established a fellowship program under which the Secretary, in consultation with the Secretary of Health and Human Services and subject to the availability of appropriations, shall award fellowships to eligible nationals to pursue public health education or training, as follows:

(1) Master of public health degree.—Graduate courses of study leading to a master of public health degree with a concentration in epidemiology from an institution of higher education in the United States with a Center for Public Health Preparedness, as determined by the Director of the Centers for Disease Control and Prevention.

(2) Advanced public health epidemiology training.—Advanced public health training in epidemiology for public health professionals from eligible developing countries to be carried out at the Centers for Disease Control and Prevention, an appropriate facility of a State, or an appropriate facility of another agency or department of the United States (other than a facility of the Department of Defense or a national laboratory of the Department of Energy) for a period of not less than 6 months or more than 12 months.

(b) Specialization in Bioterrorism.—In addition to the education or training specified in subsection (a), each recipient of a fellowship under this section (in this section referred to as a "fellow") may take courses of study at the Centers for Disease Control and Prevention or at an equivalent facility on diagnosis and containment of likely bioterrorism agents.

(c) Fellowship Agreement.—

(1) In general.—A fellow shall enter into an agreement with the Secretary under which the fellow agrees—

(A) to maintain satisfactory academic progress, as determined in accordance with regulations issued by the Secretary and confirmed in regularly scheduled updates to the Secretary from the institution providing the education or training on the progress of the fellow's education or training;

(B) upon completion of such education or training, to return to the fellow's country of nationality or last habitual residence (so long as it is an eligible developing country) and complete at least 4 years of employment in a public health position in the government or a nongovernmental, not-for-profit entity in that country or, with the approval of the Secretary, complete part or all of this requirement through service with an international health organization without geographic restriction; and

(C) that, if the fellow is unable to meet the requirements described in subparagraph (A) or (B), the fellow shall reimburse the United States for the value of the assistance provided to the fellow under the fellowship program, together with interest at a rate that—

(i) is determined in accordance with regulations issued by the Secretary; and

(ii) is not higher than the rate generally applied in connection with other Federal loans.

(2) WAIVERS.—The Secretary may waive the application of subparagraph (B) or (C) of paragraph (1) if the Secretary determines that it is in the national interest of the United States to provide such a waiver.

(d) AGREEMENT.—The Secretary, in consultation with the Secretary of Health and Human Services, is authorized to enter into an agreement with the government of an eligible developing country under which such government agrees—

(1) to establish a procedure for the nomination of eligible nationals for fellowships under this section;

(2) to guarantee that a fellow will be offered a professional public health position within the developing country upon completion of the fellow's studies; and

(3) to submit to the Secretary a certification stating that a fellow has concluded the minimum period of employment in a public health position required by the fellowship agreement, including an explanation of how the requirement was met.

(e) PARTICIPATION OF UNITED STATES CITIZENS.—On a case-by-case basis, the Secretary may provide for the participation of a citizen of the United States in the fellowship program under the provisions of this section if—

(1) the Secretary determines that it is in the national interest of the United States to provide for such participation; and

(2) the citizen of the United States agrees to complete, at the conclusion of such participation, at least 5 years of employment in a public health position in an eligible developing country or at an international health organization.

(f) USE OF EXISTING PROGRAMS.—The Secretary, with the concurrence of the Secretary of Health and Human Services, may elect to use existing programs of the Department of Health and Human Services to provide the education and training described in subsection (a) if the requirements of subsections (b), (c), and (d) will be substantially met under such existing programs.

SEC. 7. IN-COUNTRY TRAINING IN LABORATORY TECHNIQUES AND DISEASE AND SYNDROME SURVEILLANCE.

(a) LABORATORY TECHNIQUES.—

(1) IN GENERAL.—The Secretary, after consultation with the Secretary of Health and Human Services and in conjunction with the Director of the Centers for Disease Control and Prevention and the Secretary of Defense, and subject to the availability of appropriations, shall provide assistance for short training courses for eligible nationals who are laboratory technicians or other public health personnel in laboratory techniques relating to the identification, diagnosis, and tracking of pathogens responsible for possible infectious disease outbreaks.

(2) LOCATION.—The training described in paragraph (1) shall be held outside the United States and may be conducted in facilities of the Centers for Disease Control and Prevention located in foreign countries or in Overseas Medical Research Units of the Department of Defense, as appropriate.

(3) COORDINATION WITH EXISTING PROGRAMS.—The Secretary shall coordinate the training described in paragraph (1), where appropriate, with existing programs and activities of international health organizations.

(b) DISEASE AND SYNDROME SURVEILLANCE.—

(1) IN GENERAL.—The Secretary, after consultation with the Secretary of Health and Human Services and in conjunction with the Director of the Centers for Disease Control and Prevention and the Secretary of Defense and subject to the availability of appropriations, shall establish and provide assistance for short training courses for eligible nationals who are health care providers or other public health personnel in techniques of disease and syndrome surveillance reporting and rapid analysis of syndrome information using Geographic Information System (GIS) tools.

(2) LOCATION.—The training described in paragraph (1) shall be conducted via the Internet or in appropriate facilities located in a foreign country, as determined by the Secretary.

(3) COORDINATION WITH EXISTING PROGRAMS.—The Secretary shall coordinate the training described in paragraph (1), where appropriate, with existing programs and activities of international regional and international health organizations.

SEC. 8. ASSISTANCE FOR THE PURCHASE AND MAINTENANCE OF PUBLIC HEALTH LABORATORY EQUIPMENT AND SUPPLIES.

(a) AUTHORIZATION.—The President is authorized to provide, on such terms and conditions as the President may determine, assistance to eligible developing countries to purchase and maintain the public health laboratory equipment and supplies described in subsection (b).

(b) EQUIPMENT AND SUPPLIES COVERED.—The equipment and supplies described in this subsection are equipment and supplies that are—

(1) appropriate, to the extent possible, for use in the intended geographic area;

(2) necessary to collect, analyze, and identify expeditiously a broad array of pathogens, including mutant strains, which may cause disease outbreaks or may be used in a biological weapon;

(3) compatible with general standards set forth by the World Health Organization and, as appropriate, the Centers for Disease Control and Prevention, to ensure interoperability with international regional and international public health networks; and

(4) not defense articles, defense services, or training, as such terms are defined in the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to exempt the exporting of goods and technology from compliance with applicable provisions of the Export Administration Act of 1979 (as in effect pursuant to the International Emergency Economic Powers Act; 50 U.S.C. 1701 et seq.).

(d) LIMITATION.—Amounts appropriated to carry out this section shall not be made available for the purchase from a foreign country of equipment or supplies that, if made in the United States, would be subject to the Arms Export Control Act (22 U.S.C. 2751 et seq.) or likely be barred or subject to special conditions under the Export Administration Act of 1979 (as in effect pursuant to the International Emergency Economic Powers Act; 50 U.S.C. 1701 et seq.).

(e) PROCUREMENT PREFERENCE.—In the use of grant funds authorized under subsection (a), preference should be given to the purchase of equipment and supplies of United States manufacture. The use of amounts appropriated to carry out this section shall be subject to section 604 of the Foreign Assistance Act of 1961 (22 U.S.C. 2354).

(f) COUNTRY COMMITMENTS.—The assistance provided under this section for equipment and supplies may be provided only if the eligible developing country that receives such equipment and supplies agrees to provide the infrastructure, technical personnel, and other resources required to house, maintain, support, secure, and maximize use of such equipment and supplies.

SEC. 9. ASSISTANCE FOR IMPROVED COMMUNICATION OF PUBLIC HEALTH INFORMATION.

(a) ASSISTANCE FOR PURCHASE OF COMMUNICATION EQUIPMENT AND INFORMATION TECHNOLOGY.—The President is authorized to provide, on such terms and conditions as the President may determine, assistance to eligible developing countries to purchase and maintain the communications equipment and information technology described in subsection (b), and the supporting equipment, necessary to effectively collect, analyze, and transmit public health information.

(b) COVERED EQUIPMENT.—The communications equipment and information technology described in this subsection are communications equipment and information technology that—

(1) are suitable for use under the particular conditions of the area of intended use;

(2) meet the standards set forth by the World Health Organization and, as appropriate, the Secretary of Health and Human Services, to ensure interoperability with like equipment of other countries and international organizations; and

(3) are not defense articles, defense services, or training, as those terms are defined in the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to exempt the exporting of goods and technology from compliance with applicable provisions of the Export Administration Act of 1979 (as in effect pursuant to the International Emergency Economic Powers Act; 50 U.S.C. 1701 et seq.).

(d) LIMITATION.—Amounts appropriated to carry out this section shall not be made available for the purchase from a foreign country of communications equipment or information technology that, if made in the United States, would be subject to the Arms Export Control Act (22 U.S.C. 2751 et seq.) or likely be barred or subject to special conditions under the Export Administration Act of 1979 (as in effect pursuant to the International Emergency Economic Powers Act; 50 U.S.C. 1701 et seq.).

(e) PROCUREMENT PREFERENCE.—In the use of grant funds under subsection (a), preference should be given to the purchase of communications equipment and information technology of United States manufacture. The use of amounts appropriated to carry out this section shall be subject to section 604 of the Foreign Assistance Act of 1961 (22 U.S.C. 2354).

(f) ASSISTANCE FOR STANDARDIZATION OF REPORTING.—The President is authorized to provide, on such terms and conditions as the President may determine, technical assistance and grant assistance to international health organizations to facilitate standardization in the reporting of public health information between and among developing countries and international health organizations.

(g) Country Commitments.—The assistance provided under this section for communications equipment and information technology may be provided only if the eligible developing country that receives such equipment and technology agrees to provide the infrastructure, technical personnel, and other resources required to house, maintain, support, secure, and maximize use of such equipment and technology.

SEC. 10. ASSIGNMENT OF PUBLIC HEALTH PERSONNEL TO UNITED STATES MISSIONS AND INTERNATIONAL ORGANIZATIONS.

(a) In General.—Upon the request of the chief of a diplomatic mission of the United States or of the head of an international regional or international health organization, and with the concurrence of the Secretary and of the employee concerned, the head of an agency or department of the United States may assign to the mission or the organization any officer or employee of the agency or department that occupies a public health position within the agency or department for the purpose of enhancing disease and pathogen surveillance efforts in developing countries.

(b) Reimbursement.—The costs incurred by an agency or department of the United States by reason of the detail of personnel under subsection (a) may be reimbursed to that agency or department out of the applicable appropriations account of the Department of State if the Secretary determines that the agency or department may otherwise be unable to assign such personnel on a non-reimbursable basis.

SEC. 11. EXPANSION OF CERTAIN UNITED STATES GOVERNMENT LABORATORIES ABROAD.

(a) In General.—Subject to the availability of appropriations, the Director of the Centers for Disease Control and Prevention and the Secretary of Defense shall each—

(1) increase the number of personnel assigned to laboratories of the Centers for Disease Control and Prevention or the Department of Defense, as appropriate, located in eligible developing countries that conduct research and other activities with respect to infectious diseases; and

(2) expand the operations of such laboratories, especially with respect to the implementation of on-site training of foreign nationals and activities affecting the region in which the country is located.

(b) Cooperation and Coordination Between Laboratories.—Subsection (a) shall be carried out in such a manner as to foster cooperation and avoid duplication between and among laboratories.

(c) Relation to Core Missions and Security.—The expansion of the operations of the laboratories of the Centers for Disease Control and Prevention or the Department of Defense located in foreign countries under this section may not—

(1) detract from the established core missions of the laboratories; or

(2) compromise the security of those laboratories, as well as their research, equipment, expertise, and materials.

SEC. 12. ASSISTANCE FOR INTERNATIONAL HEALTH NETWORKS AND EXPANSION OF FIELD EPIDEMIOLOGY TRAINING PROGRAMS.

(a) Authority.—The President is authorized, on such terms and conditions as the President may determine, to provide assistance for the purposes of—

(1) enhancing the surveillance and reporting capabilities for the World Health Organization and existing international regional and international health networks; and

(2) developing new international regional and international health networks.

(b) Expansion of Field Epidemiology Training Programs.—The Secretary of Health and Human Services is authorized to establish new country or regional international Field Epidemiology Training Programs in eligible developing countries.

SEC. 13. FOREIGN BIOLOGICAL THREAT DETECTION AND WARNING.

(a) In General.—The President shall establish the Office of Foreign Biological Threat Detection and Warning within either the Department of Defense, the Central Intelligence Agency, or the Centers for Disease Control and Prevention with the technical ability to conduct event detection and rapid threat assessment related to biological threats in foreign countries.

(b) Purposes.—The purposes of the Office of Foreign Biological Threat Detection and Warning shall be—

(1) to integrate public health, medical, agricultural, societal, and intelligence indications and warnings to identify in advance the emergence of a transnational biological threat;

(2) to provide rapid threat assessment capability to the appropriate agencies or departments of the United States that is not dependent on access to—

(A) a specific biological agent;

(B) the area in which such agent is present; or

(C) information related to the means of introduction of such agent; and

(3) to build the information visibility and decision support activities required for appropriate and timely information distribution and threat response.

(c) Technology.—The Office of Foreign Biological Threat Detection and Warning shall employ technologies similar to, but no less capable than, those used by the Intelligence Technology Innovation Center (ITIC) within the Directorate of Science and Technology of the Central Intelligence Agency to conduct real-time, prospective, automated threat assessments that employ social disruption factors.

(d) Event Detection Defined.—In this section, the term "event detection" refers to the real-time and rapid recognition of a possible biological event that has appeared in a community and that could have national security implications, regardless of whether the event is caused by natural, accidental, or intentional means and includes scrutiny of such possible biological event by analysts utilizing classified and unclassified information.

SEC. 14. REPORTS.

Not later than 90 days after the date of enactment of this Act, the Secretary, in conjunction with the Secretary of Health and Human Services and the Secretary of Defense, shall submit to Congress a report on the implementation of programs under this Act, including an estimate of the level of funding required to carry out such programs at a sufficient level.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization of Appropriations.—Subject to subsection (c), there is authorized to be appropriated for fiscal year 2006 such sums as may be necessary to carry out this Act.

(b) Availability of Funds.—The amount appropriated pursuant to subsection (a) is authorized to remain available until expended.

(c) Limitation on Obligation of Funds.—Not more than 10 percent of the amount appropriated pursuant to subsection (a) may be obligated before the date on which a report is submitted, or required to be submitted, whichever first occurs, under section 14.

RECOGNIZING THE REPUBLIC OF CROATIA

Mr. FRIST. I ask unanimous consent the Senate now proceed to the consideration of S. Res. 342, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 342) recognizing the Republic of Croatia for its progress in strengthening democratic institutions, respect for human rights, and the rule of law and recommending the integration of Croatia into the North Atlantic Treaty Organization.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, and any statements be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 342) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 342

Whereas the United States recognized the Republic of Croatia on April 7, 1992, acknowledging the decision of the people of Croatia to live in an independent, democratic, and sovereign country;

Whereas since achieving their independence, the people of Croatia have dedicated themselves to building a functioning democratic society, based on the rule of law, respect for human rights, and a free market economy;

Whereas Croatia has made progress in judicial reform and has adopted a judicial reform strategy;

Whereas Croatia has demonstrated a desire to protect minority rights and promote a viable multiethnic society;

Whereas, in 2002, Croatia adopted the Constitutional Law on the Rights of National Minorities, ensuring the representation of minorities in the Parliament of Croatia and the establishment of the councils of national minorities;

Whereas the Government of Croatia has concluded specific bilateral agreements on the protection of minority rights with Hungary, Italy, and Serbia and Montenegro and has concluded an agreement on cooperation with representatives of the Independent Democratic Serb Party in the Parliament of Croatia;

Whereas three prominent members of the Parliament of Croatia, Ratko Gajica, Milorad Pupovac, and Vojislav Stanimirovic, who represent the Serb minority, sent a letter to the Assistant to the President for National Security Affairs, Stephen Hadley, expressing their support for the Prime Minister of Croatia, Ivo Sanader, and for Croatia's path toward membership in the European Union and in the North Atlantic Treaty Organization ("NATO");

Whereas Croatia has shown dedication to advancing the return, reconstruction, and restitution of property in Croatia;

Whereas Croatia has proven to be a reliable partner of the United States in seeking the stabilization of the region;

Whereas Croatia participated in the Iraq International Conference held in Brussels on June 22, 2005, and offered to train and educate nationals of Iraq at universities in Croatia;

Whereas Croatia is taking part in the training of Iraqi security forces at the International Training Center in Jordan and has offered to train additional security personnel for Iraq in Croatia;

Whereas Croatia has been a partner in the war against terrorism, sent troops to Afghanistan as part of the NATO-led International Security Assistance Force in support of the war against terrorism in 2002, and has provided civilians to staff the Provincial Reconstruction Team under the leadership of NATO in Fayzabad;

Whereas, during July 2005, Croatia adopted a decision to triple its military presence in the International Security Assistance Force;

Whereas Croatia has endorsed and is participating in the Proliferation Security Initiative with like-minded nations across the world to prevent the flow of weapons of mass destruction, missile systems, and related material;

Whereas, on June 1, 2005, Croatia was the fourth nation to sign the Proliferation Security Initiative Shipboarding Agreement with the United States to prevent the maritime transfer of dangerous shipments of weapons or other illicit materials to keep such weapons and materials out of the hands of dangerous actors and terrorists;

Whereas, since Croatia has become an independent country, the United States has shown support for Croatia in many ways, including by providing Croatia with economic and military assistance that has contributed significantly to the progress and continued success occurring in Croatia;

Whereas the United States has encouraged Croatia's transformation and the future membership of Croatia in NATO;

Whereas a whole and free Europe cannot be fully achieved without the integration into NATO of all countries that share the common values of democracy, the rule of law, and respect for human rights;

Whereas the Membership Action Plan developed for NATO, which was launched in April 1999, is a program of assistance that provides both goals and a roadmap for countries aspiring to membership in NATO;

Whereas Croatia was invited into the Membership Action Plan in May 2002 and has made substantial progress toward the achievement of the reforms required for receiving an invitation to start accession talks with NATO;

Whereas the United States, Croatia, Albania, and Macedonia are signatories to the United States-Adriatic Charter for Partnership, which promotes Euro-Atlantic integration and commits the signatory nations to the values and principles of NATO and to membership in NATO at the earliest possible time;

Whereas Croatia supports regional cooperation as a means of bringing stability to Europe, particularly Southeast Europe, and has cooperated with the countries that neighbor Croatia to promote such stability, including providing technical and other assistance to countries that seek membership in the European Union;

Whereas, on October 3, 2005, the European Union decided to open accession negotiations with Croatia based on the assessment of the European Union's Council of Ministers that Croatia met the political and economic criteria for candidacy in the European Union, including that Croatia was fully cooperating with the International Criminal Tribunal for the former Yugoslavia;

Whereas the cooperation between the Government of Croatia and the Tribunal improved significantly under Prime Minister Ivo Sanader;

Whereas, since November 2003, Croatia has handed over to the Tribunal eleven individuals indicted for war crimes;

Whereas the cooperation of the Government of Croatia with the Tribunal assisted in the arrest of Ante Gotovina on December 8, 2005, in Spain and his transfer to the Tribunal on December 10, 2005;

Whereas the success of the Government of Croatia in bringing war criminals to justice demonstrates the commitment of the Government to move Croatia toward a brighter future of peace, stability, and prosperity for its people; and

Whereas Croatia shares the common interests and values of the free and democratic world: Now, therefore, be it

Resolved, That—

(1) since the Republic of Croatia became an independent country, the Government and people of Croatia have made significant progress in strengthening democratic institutions, respect for human rights, and the rule of law in Croatia;

(2) Croatia's membership in the North Atlantic Treaty Organization ("NATO") would contribute to stability in Southeast Europe;

(3) it is the sense of the Senate that—

(A) the Government and people of Croatia should be commended for their progress on protecting minority rights in Croatia, progress toward achieving the political, economic, military, and other requirements of NATO's Membership Action Plan, contribution to the International Security Assistance Force and the war against terrorism, and for their constructive participation the Proliferation Security Initiative and in the United States-Adriatic Charter;

(B) the Government of Croatia should be commended for its cooperation with the International Criminal Tribunal for the former Yugoslavia which led to the apprehension and transfer of several individuals indicted for war crimes, including Ante Gotovina, to the Tribunal;

(C) the Government of Croatia should continue its cooperation with the Tribunal;

(D) the Government of Croatia should continue and strengthen its role as a partner on nonproliferation and its support in the war against terrorism and in Iraq;

(E) the Government of Croatia should continue its efforts to implement defense reforms; and

(F) the Government of the United States should continue and increase its defense and security cooperation with the Government of Croatia, including through education, training, and technical cooperation, to assist Croatia in the reform process and in fulfilling its requirements for membership in NATO; and

(4) upon complete satisfaction of the criteria for NATO membership, in accordance with NATO's guidelines, Croatia should be invited to be a full member of NATO at the earliest possible date.

THANK OUR DEFENDERS WEEK

Mr. FRIST. I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 343, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 343) expressing the sense of the Senate that the week of December 19, 2005 shall be designated "Thank Our Defenders Week."

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 343) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 343

Whereas, ever since our Nation was founded, the members of our military, soldiers, sailors, Airmen, Marines, Coast Guard personnel, active duty, Guard, and reserve, have played a critical role protecting America's vital interests and spreading peace throughout the world;

Whereas more than 193,000 troops in the Persian Gulf region are courageously fighting insurgents and helping to establish democracies in Iraq and Afghanistan;

Whereas 19,000 servicemen and servicewomen are stationed in Afghanistan, fighting Al-Qaeda and providing security for the people of that fledgling nation;

Whereas over 30,000 troops are protecting American interests and maintaining peace on the Korean peninsula;

Whereas, in total, nearly 300,000 brave men and women are actively serving on the soil of 120 foreign countries and on the High Seas, fighting terrorists and making sacrifices for American citizens and families; and

Whereas, thanks to their tireless efforts, a brutal dictatorship in Iraq and an oppressive regime in Afghanistan have given way to emerging democratic societies: Now, therefore, be it

Resolved, That with gratitude it is the sense of the Senate that the week of December 19, 2005 should be designated "Thank Our Defenders week."

GEORGIA'S SOUTH OSSETIAN PEACE PLAN

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 344 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 344) expressing support for the Government of Georgia's South Ossetian Peace Plan and the successful and peaceful reintegration of the Region of Georgia.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 344) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 344

Whereas during December 1991, Georgia was internationally recognized as an independent and sovereign country following the formal dissolution of the Union of Soviet Socialist Republics;

Whereas the United States supports the independence, sovereignty, territorial integrity, and ongoing democratic reform process in Georgia;

Whereas the United States reaffirms its support for the peaceful resolution of the conflict in Adjura and the restoration of democracy and political stability in that region of Georgia;

Whereas as a result of a conflict from 1991 to 1992, a separatist regime has enforced its rule in the Georgia territory of South Ossetia, impoverishing the people living in South Ossetia, militarizing the area, allowing organized crime to flourish, and posing a threat to the peace and security in the region;

Whereas the Government of Georgia has announced a peace plan to reach a full political settlement to the South Ossetian conflict;

Whereas the Government of Georgia has acknowledged that mistakes were made in its past efforts in dealing with the region of South Ossetia;

Whereas at the 59th meeting of the United Nations General Assembly, Georgian President Mikhail Saakashvili outlined specific components of a peace initiative that includes demilitarization, confidence building measures, and economic, social, cultural, and political steps to protect the South Ossetian people and their rights while reintegrating the region, with significant autonomy, into Georgia;

Whereas President Saakashvili reaffirmed the main principles of the peace agreement at the Parliamentary Assembly Council of Europe in January, 2005, held in Strasbourg, France;

Whereas a formal comprehensive peace proposal based on the Strasbourg principles was formally proposed on October 27, 2005, at the Organization for Security and Co-operation in Europe; and

Whereas on December 6, 2005, at their 13th Ministerial Council Meeting in Ljubljana, Slovenia, the Organization for Security and Co-operation in Europe endorsed the Government of Georgia's peace plan, stating, "We welcome the steps taken by the Georgian side to address the peaceful resolution of the conflict and believe that the recent proposals, in particular the Peace Plan built upon the initiatives of the President of Georgia presented at the 59th United Nations General Assembly and supported by the sides, will serve as a basis for the peaceful settlement of the conflict": Now, therefore, be it

Resolved, That the Senate—

(1) commends the Government of Georgia for its vision and determination in its efforts to resolve peacefully the conflict in South Ossetia;

(2) supports the sovereignty, independence, and territorial integrity of the democratic Government of Georgia;

(3) urges all Organization for Security and Co-operation in Europe participating States to respect fully the independence, sovereignty, territorial integrity of Georgia, refraining from any acts constituting a threat of or use of force, direct or indirect, and abiding by the principle of the inviolability of frontiers;

(4) expresses its support for the Government of Georgia's plan to control peacefully and reestablish authority in the region of South Ossetia, viewing it as an opportunity to restore the territorial integrity of the country and to protect the individual rights and democratic liberties of those living in South Ossetia;

(5) urges the United States to increase its efforts in support of the peaceful reincorporation of South Ossetia to Georgia, including efforts to support the greater involvement of the international community, including the Russian Federation, the Organization for Security and Cooperation in Europe, the European Union, and international organizations in the peaceful settlement of the South Ossetian conflict; and

(6) supports the ongoing democratic transformation in Georgia and will continue to monitor closely the peace process in South Ossetia, including the implementation by all sides of their obligations under the peace plan if it is accepted.

CONGRATULATING FENTON ART GLASS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 345 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 345) recognizing the 100th anniversary of Fenton Art Glass, a beloved institution in West Virginia, that continues to contribute to the economic and cultural heritage of the State through its production of world renowned, hand-blown glass.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 345) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 345

Whereas Fenton Art Glass rose from its humble beginnings as a glass decorating company in 1905, and came to settle in Williamstown, West Virginia, by opening a factory to create their own glass when they were unable to obtain the glass that they needed;

Whereas, with the vision of brothers Frank and John Fenton, Fenton Art Glass began to create innovative new colors and established the company in the forefront of the hand-blown glass industry;

Whereas in 1907, Fenton introduced its highly colorful Iridescent, or "Carnival" Glass, which became instantly successful throughout the country and is now highly prized by collectors around the world;

Whereas during the 1930s and 1940s, Fenton addressed the shortages felt by families in the United States by producing mixing bowls and tableware that were often unavailable during the World War II and Depression shortages;

Whereas Fenton Art Glass is not only a family tradition, with the third generation of the Fenton family now carrying on the legacy, but also a West Virginia institution, employing generations of workers; and

Whereas Fenton Glass, known for its beauty and precision in craftsmanship, is a symbol of the dedication and care of the Fenton family, as well as the pride in craftsmanship so characteristic of the West Virginia people: Now, therefore, be it

Resolved, That the Senate congratulates Fenton Art Glass on its centennial milestone, for creating beautiful, hand-blown glass in West Virginia for 100 years.

COMMENDING THE APPALACHIAN STATE UNIVERSITY FOOTBALL TEAM

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 346 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 346) commending the Appalachian State University Football Team for winning the 2005 National Collegiate Athletic Association Division 1-AA Football Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 346) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 346

Whereas on December 16, 2005, the Appalachian State Mountaineers defeated the Northern Iowa Panthers in the Championship game of the National Collegiate Athletic Association ("NCAA") Division I-AA Football Tournament in Chattanooga, Tennessee;

Whereas the Mountaineers are the first team from Appalachian State to win a NCAA Championship in school history;

Whereas Appalachian State is the first university in the State of North Carolina to win a NCAA football championship;

Whereas head coach Jerry Moore, the all-time winningest coach in Southern Conference history, won his first NCAA title in his seventeenth year as head coach of the

Mountaineers, improving to 140–67 his record as head coach at Appalachian State;

Whereas defensive ends Marques Murrell and Jason Hunter, as well as safety Corey Lynch, were named to the I-AA All America team;

Whereas junior defensive end Marques Murrell, who finished the game with 9 tackles and forced a fumble with 9 minutes, 14 seconds remaining in the game, and senior Jason Hunter, who finished the game with ten tackles, returned it for the winning touchdown;

Whereas injured senior quarterback and Southern Conference Offensive Player of the Year Richie Williams courageously led the Mountaineers in the second half while playing with an injured ankle tendon;

Whereas the Mountaineer defense held the Panthers scoreless in the second half;

Whereas backup quarterback Trey Elder led Appalachian State to a 29–23 victory over Furman University to earn a spot in the final contest;

Whereas the Mountaineers defeated Lehigh University and Southern Illinois to advance to the I-AA "Final Four";

Whereas the Mountaineer team members are excellent representatives of a fine university that is a leader in higher education, producing many fine student-athletes and other leaders;

Whereas each player, coach, trainer, manager, and staff member dedicated this season and their efforts to ensure the Appalachian State University Mountaineers reached the summit of college football;

Whereas the Mountaineers showed tremendous dedication to each other, appreciation to their fans, sportsmanship to their opponents, and respect for the game of football throughout the 2005 season; and

Whereas residents of the Old North State and Appalachian fans worldwide are to be commended for their long-standing support, perseverance, and pride in the team: Now, therefore, be it

Resolved, That the Senate—

(1) commends the champion Appalachian State University Mountaineers for their historic win in the 2005 National Collegiate Athletic Association Division I-AA Football Championship;

(2) recognizes the achievements of the players, coaches, students, alumni, and support staff who were instrumental in helping Appalachian State University win the championship; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to Appalachian State University Chancellor Kenneth Peacock and head coach Jerry Moore for appropriate display.

CHARITABLE GIVING

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Con. Res. 75 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 75) encouraging all Americans to increase their charitable giving with the goal of increasing the annual amount of charitable giving in the United States by 1 percent.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 75) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 75

Whereas individual charitable giving rates among Americans have stagnated at 1.5 to 2.2 percent of aggregate individual income for the past 50 years;

Whereas a 1 percent increase (from 2 percent to 3 percent) in charitable giving will generate over $90,000,000,000 to charity;

Whereas charitable giving is a significant source of funding for health, education, and welfare programs; and

Whereas a 1 percent increase in charitable giving would provide some of the funds that will allow the nation to meet our health, education and welfare goals. Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress encourages all Americans to increase their charitable giving, with the goal of increasing the annual amount of charitable giving in the United States by 1 percent.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT OF 2005—CONFERENCE REPORT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the conference report to accompany S. 1281, the NASA authorization bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1281), to authorize appropriations for the National Aeronautics and Space Administration for science, aeronautics, exploration, exploration capabilities, and the Inspector General, and for other purposes, for fiscal years 2006, 2007, 2008, 2009, and 2010, having met, have agreed that the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House Proceedings of the RECORD of December 18, 2005.)

Mrs. HUTCHISON. Mr. President, last Friday, when I spoke to my colleagues about the NASA authorization bill, the Senate, in the press of other business at the end of the session, was unable to take up the conference report on S. 1281, the National Aeronautics and Space Administration Authorization Act of 2005. Since then, the House of Representatives has adopted the report under suspension of the rules, demonstrating wide support for the compromise bill. I am very pleased that the Senate is now poised to approve the conference report as well.

I want to thank my ranking member on the Science and Space Subcommittee, Senator NELSON of Florida, for all his help. Chairman STEVENS and Senator INOUYE were active participants throughout this process, and I certainly appreciate their efforts. Senator LOTT was a key member of the Senate team that has brought us to this point.

My subcommittee staff, Jeff Bingham and Tom Cremins, and Senator NELSON's staff, Jean Toal Eisen and Chan Lieu, work so well together and have done so much to bring us to this point, and I want to say thank you to them.

When President Bush announced a new Vision for Space Exploration in January of 2004, he was not simply describing a new mission for NASA; he was describing a pathway to a future for the next generation. The legislation embodied in this conference report represents a statement by the Congress that the Vision for Space Exploration is the right vision for America in the new age of space. At the same time, the bill provides guidance to help NASA do its part in leading the way along this new path to the future by building effectively on lessons learned and by efficiently using its resources, especially the talent and expertise of its workforce.

S. 1281, as modified by the conference report, provides authorization for NASA funding at $17.9 billion in fiscal year 2007 and $18.7 billion in fiscal year 2008. The conferees believe these levels of funding will ensure the successful return to flight of the space shuttle and the completion of the international space station, as well as continuing the important work in exploration, science, aeronautics and education.

These funding levels also take into account the recently identified shortfall between what the administration had been projecting for shuttle flights and the number of flights needed to complete the international space station, meet our international commitments, and provide an important research capability in space.

I am especially pleased that the conference report provides the designation of the U.S. portion of the space station as national laboratory. This is an important and significant part of the bill. First, it demonstrates that the Congress understands the great value and potential represented by the research that can be done aboard the space station. It underscores the need to ensure that the laboratory is as capable, efficient and well equipped as we can make it. Second, it provides a framework for bringing additional, non-NASA resources to bear in supporting research aboard the space station. This will enable NASA to focus its resources on research needed to support the Vision for Exploration, while continuing to provide space station research opportunities in the broader areas of life sciences and fundamental sciences.

In my previous statement, I mentioned briefly a perfect example of the kind of fundamental research that the space station enables, which was described in a recent hearing before the Commerce Committee. Dr. Sam Ting, of MIT, discussed the Alpha Magnetic Spectrometer, scheduled to be attached to the space station. This device takes advantage of the unique space environment to measure—and help understand—the characteristics of matter in the universe. The results of this experiment could revolutionize our knowledge about the interactions of matter and potentially lead, for example, to the development of new, and virtually unlimited, energy sources.

As we move forward with the Vision for Space Exploration, we will need new vehicles and launch capabilities. NASA has made the decision to base those new vehicles on much of the existing capabilities and designs of the space shuttle program. This legislation ratifies that decision and provides the policy foundation to ensure its successful implementation. The evolution of our launch vehicles to a new generation requires that we be especially careful not to undermine our existing capabilities for human space flight. The legislation ensures a smooth transition between the shuttle and the new crew exploration vehicles by providing adequate resources to continue shuttle flights and accelerate CEV development so as to minimize any gap between the two systems. In addition, the legislation specifically directs NASA to make the maximum possible utilization of the personnel, assets, and capabilities of the space shuttle program in developing the next generation of crew and cargo vehicles. The new CEV will be designed with the flexibility to carry out a variety of missions. It will specifically be designed to provide access to the space station, and thus fulfills the role of a crew rescue vehicle, CRV, if needed, to ensure the safety of our crews aboard the international space station.

In order to further facilitate the evolution of current human space flight systems into those needed for the Vision for Exploration, the bill has provided for the merging of the human space fight activities into a single account. This is intended to provide the closest possible interaction between these activities, in those areas where they can be mutually supportive. At the same time, the legislation contains language to ensure that both the exploration activities and the human space flight, or space operations activities, retain sufficient resources to fulfill their core objectives.

Another important and historical NASA research activity is aeronautical research, a fundamental part of NASA's activities since its inception. All of us recognize that the continued health of the Nation's aerospace industry in a very competitive global marketplace makes it essential that we have solid aeronautical research capabilities. This legislation directs the development of a national policy to guide the Nation's aeronautical research—including that conducted by NASA. This policy will enable us to make informed decisions about the future directions for aeronautics research and the necessary resources to support them.

One of the more exciting new developments in space exploration is the expanded level of commercial interest in supporting and expanding space exploration. This legislation encourages those developments. It provides expanded authority for competitive prizes to promote commercial developments, and it encourages the use of commercial services and capabilities in servicing the space station, to cite just two examples. This is clearly an important new development in space exploration which the bill fully endorses.

Finally, let me say something about the broad range of science activities for which NASA has always been known. This conference agreement expresses very clearly the need for maintaining a balanced science portfolio throughout all NASA programs and provides the funding authority necessary to ensure the space sciences, earth sciences, and education activities remain vigorous parts of NASA's mission.

Mr. President, this legislation provides a comprehensive, forward-looking and responsible approach to the transition of our Nation's space exploration programs into a new era of discovery. I believe that, together with our colleagues in the House, we have crafted a congressional consensus that will help ensure this Nation's leadership in space exploration and provide benefits beyond measure and beyond imagination to this Nation and the world.

Mr. LEVIN. Mr. President, I urge passage by unanimous consent of the 2005 NASA Authorization Act and managers' package that has been agreed to by conferees from the House and Senate.

I express my thanks for the work that my fellow conferees, the committees, subcommittees, and our staffs have done on this bill. I am confident that it will help Administrator Griffin to lead NASA to accomplish its many missions.

America is a nation of explorers. NASA explores the frontiers of aviation by atmospheric flight; the frontiers of space by going where others have never been; and the frontiers of science by conducting scientific endeavors that broaden our understanding of life, our home planet, and the heavens. NASA has not been authorized by Congress for some time. In fact, the last two times NASA was authorized was 1993 and 2000.

This is the first authorization of NASA in 6 years. NASA must be held accountable to the Congress through the oversight of the agency. With an authorization bill passed only once every 5 to 7 years, the role has defaulted to the Appropriations Committee, which has many other items on its plate. Now with this NASA authorization legislation, hopefully there will be a healthier and more meaningful communication between the agency and the Congress.

The NASA Authorization Act of 2005 will help the Congress to do a better job of performing oversight of NASA. The act is a 3-year bill, authorizing NASA from 2006 through 2008.

Because appropriators have already funded NASA for fiscal year 2006 the authorizing conferees receded to the appropriations bill for that fiscal year. The bill authorizes $17.932 billion for fiscal year 2007 and $18.686 billion for fiscal year 2008, and provides more funding than the President's budget projections.

Like many of our colleagues, Senator HUTCHISON and I believe that recent NASA budget requests have been below the levels required for the agency to perform its various missions effectively. That was made apparent recently when Administrator Griffin testified at a committee hearing before the U.S. House of Representatives, that the space shuttle program will have a $3 billion plus shortfall over the next 5 years. Dr. Griffin's concerns have been echoed by a letter recently provided by several Members of the House to the White House calling for the space shuttle program to be fully funded.

This legislation authorizes NASA to return humans to the Moon, to explore it, and to maintain a human presence on the Moon. Consistent with the President's vision, it also requires using what we learn and develop on the Moon as a stepping-stone to future exploration of Mars.

To carry out these missions, this act requires NASA to develop an implementation plan for the transition from shuttle to crew exploration vehicle, CEV. The plan will help NASA to make a smooth transition from retirement of the space shuttle orbiters to the replacement spacecraft systems. The implementation plan will help make sure that we can keep the skills and the focus that are needed to assure that each space shuttle flight is safe through retirement of the orbiters, and to retain those personnel needed for the CEV and heavy lift cargo spacecraft.

The bill should be helpful for reducing if not eliminating a gap in America's ability to put humans in Earth orbit. The act also directs NASA to plan for and consider a Hubble servicing mission after the second space shuttle return to flight mission has been completed.

This NASA authorization bill calls for utilization of the international space station for basic science as well as exploration science. It is important that we reap the benefits of our multibillion dollar investment in the space station. This act ensures that NASA will maintain a focus on the importance of basic science.

This legislation directs the Aerospace Safety Advisory Panel to monitor and measure NASA's improvements to their safety culture, including employees' fear of reprisals for voicing concerns about safety. The bill encourages NASA to more effectively utilize lessons learned and best practices, and to implement cost controls that are more effective for making better use of our taxpayers' money.

This authorization bill addresses NASA aeronautics and America's preeminence in aviation, calling for the President of the United States to pursue a national policy for aeronautics. The Europeans have stated their intent to dominate the airplane market by 2020. It is not in our national interest to let that occur.

The bill includes a limitation on reprogramming funds from space operations, includes the space shuttle and international space station, to exploration systems, and vice versa. This limitation will ensure that no more than 10 percent of shuttle and station funds can be transferred into the exploration systems program to be used for a shortfall in an exploration-related development program. However, it will not limit the exploration systems and space shuttle programs from utilizing the same personnel, equipment, and contract vehicles to continue to safely operate the shuttle while developing the shuttle-derived crew exploration vehicle.

This act gives America the opportunity for implementing the vision for space exploration; renewing our commitment to U.S. civil aviation and NASA aeronautics research; conducting important science activities at NASA; and assuring that America has continuous human access to space.

By passing this legislation, we will continue to strengthen our economy and inspire the next generation of scientists, engineers, and explorers.

Mr. INOUYE. Mr. President, I wish to thank Senators HUTCHISON, NELSON, and STEVENS, for their leadership in bringing together the different bills from the Senate and the House. The final product is the result of hard work and compromise. It provides the National Aeronautics and Space Administration, NASA, and the country clear congressional direction on how to proceed with human space exploration, and it emphasizes NASA's invaluable work in science and education.

Human space exploration is a key component of this bill. I am confident that space discovery will continue to excite young minds and, hopefully, inspire them to pursue an education in math and science. The skills and talents they develop will not only help them reach the stars, they will propel American innovation and define our country's future.

At the same time, we must not overlook safety. I applaud Senator NELSON and the other conferees for keeping safety a top priority in this legislation.

In addition, I want to express my appreciation for the conferees' willingness to accommodate my efforts to promote the design and development of new science facilities, such as telescopes through the National Science Foundation, as well as NASA.

NASA plays a strong role in astronomy from the Hubble Telescope to the Keck Outrigger Project in Hawaii. I am pleased to see that the bill affirms NASA's commitment to astronomy by ensuring that the Hubble will be serviced. It is my hope that Section 616 will also help NASA work with institutions, such as the Mauna Kea Astronomy Education Center, to make the work of world-class scientists accessible to their neighbors and children.

Finally, I would like to thank JEFF BINGHAM, Tom Cremins, Jean Toal Eisen and Chan Lieu of the Commerce Committee staff, and Mike Dodson, a fellow in Senator BILL NELSON's office, for their hard work on this important measure. I understand Mr. Dodson will be leaving at the end of the year. We will miss his counsel and expertise.

I urge the swift adoption of the conference report.

Mr. NELSON of Florida. Mr. President, my fellow Senators, I am pleased to join Senators HUTCHISON, STEVENS, INOUYE, and LOTT today in presenting the 2005 NASA Authorization Act and managers' package that has been agreed to by conferees from the House and Senate.

I express my thanks for the work that my fellow conferees, the committees, subcommittees, and our staffs have done on this bill. I am confident that it will help Administrator Griffin to lead NASA to accomplish its many missions.

America is a nation of explorers. NASA explores the frontiers of aviation by atmospheric flight, the frontiers of space by going where others have never been; and the frontiers of science by conducting scientific endeavors that broaden our understanding of life, our home planet, and the heavens. NASA has not been authorized by Congress for some time. In fact, the last two times NASA was authorized was 1993 and 2000.

Congress needs to authorize NASA more often. When NASA is authorized infrequently, then oversight may become lax. The lack of an authorization bill leaves the authorizing function to the Appropriators—and they don't have time and it's not their job. In fact, the lack of oversight provided by authorizers over the last several years may have contributed to the loss of the Space Shuttle *Columbia*.

The NASA Authorization Act of 2005 will help the Congress to do a better job of performing oversight of NASA. The act is a 3-year bill, authorizing NASA from 2006 through 2008. It authorizes NASA appropriations for fiscal year 2007 and 2008.

Because appropriators have already funded NASA for fiscal year 2006 the authorizing conferees receded to the appropriations bill for that fiscal year. The bill authorizes $17.932 billion for fiscal year 2007 and $18.686 billion for fiscal year 2008, and provides more funding than the President's budget projections.

Like many of our colleagues, Senator HUTCHISON and I believe that recent NASA budget requests have been below the levels required for the agency to perform its various missions effectively. That was made apparent recently when Administrator Griffin testified at a committee hearing before the House of Representatives, that the Space Shuttle program will have a $3 billion plus shortfall over the next 5 years. Dr. Griffin's concerns have been echoed by a letter recently provided by several Members of the House to the White House calling for the space shuttle program to be fully funded.

This legislation authorizes NASA to return humans to the Moon, to explore it, and to maintain a human presence on the Moon. Consistent with the President's vision, it also requires using what we learn and develop on the Moon as a stepping-stone to future exploration of Mars.

To carry out these missions, this act requires NASA to develop an implementation plan for the transition from shuttle to crew exploration vehicle, CEV. The plan will help NASA to make a smooth transition from retirement of the space shuttle orbiters to the replacement spacecraft systems. The implementation plan will help make sure that we can keep the skills and the focus that are needed to assure that each Space Shuttle flight is safe through retirement of the orbiters, and to retain those personnel needed for the CEV and heavy lift cargo spacecraft.

The bill should be helpful for reducing if not eliminating a gap in America's ability to put humans in Earth orbit. The act also directs NASA to plan for and consider a Hubble servicing mission after the second space shuttle return to flight mission has been completed.

This NASA authorization bill calls for utilization of the international space station for basic science as well as exploration science. It is important that we reap the benefits of our multibillion dollar investment in the space station. This act ensures that NASA will maintain a focus on the importance of basic science.

This legislation directs the Aerospace Safety Advisory Panel to monitor and measure NASA's improvements to their safety culture, including employees' fear of reprisals for voicing concerns about safety. The bill encourages NASA to more effectively utilize lessons learned and best practices, and to implement cost controls that are more effective for making better use of our taxpayers' money.

This authorization bill addresses NASA aeronautics and America's preeminence in aviation, calling for the President of the United States to pursue a national policy for aeronautics. The Europeans have stated their intent to dominate the airplane market by 2020. It is not in our national interest to let that occur.

The bill includes a limitation on reprogramming funds from space operations—(includes the space shuttle and international space station)—to exploration systems, and vice versa. This limitation will ensure that no more than 10 percent of shuttle and station funds can be transferred into the exploration systems program to be used for a shortfall in an exploration-related development program. However, it will not limit the exploration systems and space shuttle programs from utilizing the same personnel, equipment, and contract vehicles to continue to safely fly the shuttle while developing the shuttle-derived crew exploration vehicle.

This act gives America the opportunity for implementing the Vision for Space Exploration; renewing our commitment to U.S. civil aviation and NASA aeronautics research; conducting important science activities at NASA; and assuring that America has continuous human access to space.

By passing this legislation, we will continue to strengthen our economy and inspire the next generation of scientists, engineers, and explorers.

Mr. FRIST. Mr. President, I ask unanimous consent that the conference report be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The conference report was agreed to.

Mr. FRIST. Mr. President, this is the NASA authorization bill.

I congratulate Senator KAY BAILEY HUTCHISON for this particular piece of legislation, because as we look to the future, science and the technology, and the importance and significance of this legislation stands out.

A few minutes ago, I was talking about SMART grants—these math, education, science, and engineering grants which are being given to juniors and seniors in college. This marries with that beautifully in terms of making sure that we have a strong technology base in terms of jobs and competitiveness.

I congratulate our distinguished colleague from Texas, Senator HUTCHISON, for her leadership on this bill.

TECHNICAL CORRECTION IN THE ENROLLMENT OF S. 1281

Mr. FRIST. I ask unanimous consent the Senate proceed to H. Con. Res. 324 which was received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A resolution (H. Con. Res. 324) directing the Secretary of the Senate to make a technical correction in the enrollment of S. 1281.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 324) was agreed to.

RUSSIAN FEDERATION PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

Mr. FRIST. I ask unanimous consent the Committee on Foreign Relations be discharged from further consideration of H. Con. Res. 230, and the resolution be referred to the Committee on Finance.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I ask unanimous consent that the Committee on Finance be discharged and the Senate proceed to the immediate consideration of H. Con. Res. 230.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 230) expressing the sense of the Congress that the Russian Federation must protect intellectual property rights.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 230) was agreed to.

The preamble was agreed to.

HONORING PILOTS OF THE FEDERAL FLIGHT DECK OFFICERS PROGRAM

RECOGNIZING AFRICAN-AMERICAN BASKETBALL TEAMS AND PLAYERS

Mr. FRIST. I ask unanimous consent that the Commerce Committee be discharged and the Senate proceed to the immediate consideration of H. Con. Res. 196 and H. Con. Res. 59, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolutions by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 196) honoring the pilots of the United States commercial air carriers who volunteered to participate in the Federal flight deck officers program.

A concurrent resolution (H. Con. Res. 59) recognizing the contributions of the African-American basketball teams and players for their achievements, dedication, and contributions to the sport of basketball and to the Nation.

There being no objection, the Senate proceeded to consider the concurrent resolutions, en bloc.

Mr. FRIST. I ask unanimous consent the resolutions be agreed to, the preambles be agreed to, and the motions to reconsider be laid upon the table, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolutions (H. Con. Res. 196 and H. Con. Res. 59) were agreed to.

The preambles were agreed to.

UNACCOMPANIED ALIEN CHILD PROTECTION ACT OF 2005

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar 74, S. 119.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 119) to provide for the protection of unaccompanied alien children, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the Feinstein substitute amendment which is at the desk be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2692) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (S. 119), as amended, was read the third time and passed.

VOLUNTARY MORTGAGE PAYMENT FORBEARANCE PERIOD

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 347, submitted earlier today by Senator LANDRIEU.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 347) expressing the sense of the Senate that lenders holding mortgages on homes in communities of the Gulf Coast devastated by Hurricanes Katrina and Rita should extend current voluntary mortgage payment forbearance periods and not foreclose on properties in those communities.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 347) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 347

Whereas the Gulf Coast of the United States has experienced 1 of the worst hurricane seasons on record;

Whereas Hurricane Katrina and multiple levee breaks destroyed an estimated 275,000 homes in the Gulf Coast;

Whereas 20,664 businesses in the Gulf Coast sustained catastrophic damage from Hurricane Katrina and Hurricane Rita;

Whereas, according to the Bureau of Economic Analysis at the Department of Commerce, personal income has fallen more than 25 percent in Louisiana in the third quarter of 2005;

Whereas, in the time since Hurricanes Katrina, Rita, and Wilma, the Small Business Administration has only approved 20 percent of disaster loan applications for homeowners in the Gulf Coast and has a backlog of more than 176,000 applications for this assistance as of December 21, 2005;

Whereas, of the 20,741 homeowner disaster loan applications that have been approved in the Gulf Coast by the Small Business Administration, only 1,444 have been fully disbursed;

Whereas, in response to these circumstances, commercial banks, mortgage banks, credit unions, and other mortgage lenders voluntarily instituted 90-day loan forbearance periods after Hurricane Katrina and did not require home owners in the Gulf Coast to make mortgage payments until on or about December 1, 2005;

Whereas, after the termination of the 90-day forbearance period, many home and business owners have received notice from their lenders that they face foreclosure unless they make a lump sum balloon payment in the amount of the mortgage payments previously subject to forbearance; and

Whereas foreclosure on homes and businesses in the Gulf Coast will have a detrimental impact on the economy of the area, will deprive property owners of their equity at a time when they can least afford it, and will have a negative impact on lenders who will be holding properties that may not be readily marketable on the open market: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Congress should act early in the second session of the 109th Congress to consider legislation to provide relief to homeowners in the Gulf Coast; and

(2) commercial banks, mortgage banks, credit unions, and other mortgage lenders should extend mortgage payment forbearance to March 31, 2006, in order to allow Congress the time to consider such legislation.

INTERNATIONAL COOPERATION TO MEET THE MILLENNIUM DEVELOPMENT GOALS ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 281, S. 1315.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1315) to require a report on progress toward the Millennium Development Goals, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Foreign Relations, with amendments.

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 1315

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Cooperation to Meet the Millennium Development Goals Act of 2005".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) At the United Nations Millennium Summit in 2000, the United States joined more than 180 other countries in committing to work toward goals to improve life for the world's poorest people by 2015.

(2) Such goals include reducing the proportion of people living on less than $1 per day by $\frac{1}{2}$, reducing child mortality by $\frac{2}{3}$, and assuring basic education for all children, while sustaining the environment upon which human life depends.

(3) At the 2002 International Conference on Financing for Development, the United States representative reiterated the support of the United States for the Millennium Development Goals and advocated, along with other international participants, for a stronger focus on measurable outcomes derived from a global partnership between developed and developing countries.

(4) On March 22, 2002, President Bush stated, "We fight against poverty because hope is an answer to terror. We fight against poverty because opportunity is a fundamental right to human dignity. We fight against poverty because faith requires it and conscience demands it. We fight against poverty with a growing conviction that major progress is within our reach.".

(5) The 2002 National Security Strategy of the United States notes that "a world where some live in comfort and plenty, while half of the human race lives on less than $2 per day, is neither just nor stable. Including all of the world's poor in an expanding circle of development and opportunity is a moral imperative and one of the top priorities of U.S. international policy".

(6) The National Commission on Terrorist Attacks Upon the United States concluded that the Government of the United States must offer an example of moral leadership in the world and offer parents and their children a vision of the future that emphasizes individual educational and economic opportunity as essential to the efforts of the United States to defeat global terrorism.

[(7) The summit of the Group of Eight scheduled for July 2005, the United Nations summit scheduled for September 2005, and the Sixth Ministerial Conference of the World Trade Organization scheduled for December 2005 will provide opportunities to measure and continue to pursue progress on the Millennium Development Goals.**]**

(7) The summit of the Group of Eight held during July 2005, the United Nations summit held during September 2005, and the Sixth Ministerial Conference of the World Trade Organization scheduled to be held during December 2005 have provided and will provide opportunities to measure and continue to pursue progress on the Millennium Development Goals.

(8) The summit of the Group of Eight **[**scheduled for**]** *held* July 6 through July 8, 2005, in Gleneagles, Scotland, **[**will bring**]** *brought* together the countries that can make the greatest contribution to alleviating extreme poverty in Africa, the region of the world where extreme poverty is most prevalent.

(9) On June 11, 2005, the United States helped secure the agreement of the Group of Eight Finance Ministers to cancel 100 percent of the debt obligations owed to the World Bank, African Development Bank, and International Monetary Fund by countries that are eligible for debt relief under the Highly Indebted Poor Countries Initiative, the initiative established in 1996 by the World Bank and the International Monetary Fund for the purpose of reducing the debt burdens of the world's poorest countries, or under the Enhanced HIPC Initiative, as defined in section 1625 of the International Financial Institutions Act (22 U.S.C. 262p-8), which are poor countries that are on the path to reform.

(10) The report prepared by the Commission for Africa and issued by Prime Minister Tony Blair on March 11, 2005, entitled "Our Common Interest", called for coherence and coordination in the development of an overarching package of actions to be carried out by the countries of Africa and the international community to address the complex interlocking issues that challenge the continent, many of which have already been addressed individually in previous summits and under the Africa Action Plan enacted by the Group of Eight.

(11) The United States has recognized the need for strengthened economic and trade opportunities, as well as increased financial and technical assistance to Africa and other countries burdened by extreme poverty, through significant initiatives in recent years, including—

(A) the African Growth and Opportunity Act (19 U.S.C. 3701 et seq.) that has opened United States markets to thousands of products from Africa;

(B) the President's Emergency Plan for AIDS Relief developed under section 101 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003

(22 U.S.C. 7611), the major focus of which has been on African countries;

(C) the Millennium Challenge Corporation established under section 604 of the Millennium Challenge Act of 2003 (22 U.S.C. 7703) that is in the process of committing new and significant levels of assistance to countries, including countries in Africa, that are poor but show great promise for boosting economic growth and bettering the lives of their people; and

(D) [the United States has canceled] *the cancellation by the United States of* 100 percent of the bilateral debt owed to the Untied States by countries eligible for debt relief under the Enhanced HIPC Initiative.

(12) The report prepared by the Commission for Africa entitled "Our Common Interest" includes the following findings:

(A) The people of Africa must demonstrate the leadership necessary to address the governance challenges they face, setting priorities that ensure the development of effective civil and police services, independent judiciaries, and strong parliaments, all of which reinforce a stable and predictable economic environment attractive to investment.

(B) Many leaders in Africa have pursued personal self-interest rather than national goals, a tendency that has been in some instances exacerbated and abetted by the manipulation of foreign governments pursuing their own agenda in the region to the detriment of the people of Africa.

(C) More violent conflict has occurred in Africa during the period between 1965 and 2005 than occurred in any other continent during that period, and the countries of Africa must engage on the individual, national, and regional level to prevent and manage conflict.

(D) The capacity to trade is constrained by a derelict or nonexistent infrastructure in most African countries as well as by the double-edged sword of tariff and nontariff barriers to trade that complicate markets and discourage investment both within and beyond the continent.

(E) The local resources for investment in people and the institutions necessary for good governance have been squandered, misappropriated, and, to an increasingly devastating effect, spent on servicing debt to the developed world. Such resources should be reoriented to serve the needs of the people through the use of debt forgiveness and support for institutional reform and internal capacity building.

(F) Failing to prevent conflict in Africa results in incalculable costs to African development and expense to the international community and the investment in preventing conflict is a fraction of such costs and expenses, in human, security, and financial terms.

(G) Despite difficulties, there is optimism and energy reflected in the scope of activities of individuals such as 2004 Nobel Peace Prize recipient, Wangari Maathai, as well as those of improved regional organizations such as the African Union and the New Partnership for Economic Development's Peer Review Mechanism, and subregional entities such as the Economic Community of West African States, the Inter-Governmental Authority on Development, and the potential of the Southern African Development Community.

(H) Political reform in Africa has produced results. For example, while in 1985 countries of sub-Saharan Africa ruled by dictators were the norm, by 2005 dictatorships are a minority and democracy has new life with governments chosen by the people increasing fourfold since 1991.

(13) The report prepared by the Commission for Africa entitled "Our Common Interest" includes the following recommendations:

(A) At this vital moment when globalization and growth, technology and trade, and mutual security concerns allow, and common humanity demands, a substantial tangible and coherent package of actions should immediately be taken by the international community, led by the most industrialized countries, in partnership with the countries of Africa, to address the poverty and underdevelopment of the African continent.

(B) The people of Africa must take responsibility and show courageous leadership in addressing problems and taking ownership of solutions as the means for ensuring sustainable development, while implementing governance reform as an underlying prerequisite for foreign assistance effectiveness.

(C) Each developed country has unique strengths and capacity to add value to a comprehensive assistance plan and should join their individual efforts to a coherent whole that is more efficient and responsive to Africa and the people of Africa.

(D) The international community must honor existing commitments to strengthen African peacekeeping capacity and go beyond those commitments to invest in more effective prevention and nonmilitary means to resolve conflict through such regional organizations as the African Union and the subregional Economic Community for West African States.

(E) A massive investment in physical infrastructure should be made to support commerce, extend governance, and provide opportunities for education, healthcare, investment and growth.

(F) Donors and the governments of the countries of Africa should devote substantial investment in the men and women of Africa through the education and health sectors, enabling and extending recent gains made to reach far more broadly into remote regions.

(G) The public sector should actively engage the private sector in driving growth through partnerships by reforming the laws, bureaucracy, and infrastructure necessary to maintain a climate that fosters investment by developing public-private centers of excellence to pursue such reforms.

(H) The countries of Africa must maximize the participation of women in both business and government, protect the rights of women, and work to increase the number of women in leadership positions so as to capitalize on the ability of women to deliver scarce resources effectively and fairly.

(I) The international community must work together to dismantle trade barriers, including the immediate elimination of trade-distorting commodity support.

(J) International donors should strengthen multilateral institutions in Africa to respond appropriately to local and regional crises as well as to promote economic development and ensure the people of Africa are granted a stronger voice in international forums.

(K) The international community must join in providing creative incentives for commercial firms to research and develop products that improve water, sanitation, health, and the environment in ways that would dramatically reduce suffering and increase productive life-spans in Africa.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) GROUP OF EIGHT.—The term "Group of Eight" means the forum for addressing international economic, political, and social issues attended by representatives of Canada, France, Germany, Italy, Japan, Russia, the United Kingdom, and the United States.

(3) MILLENNIUM DEVELOPMENT GOALS.—The term "Millennium Development Goals" means the goals set out in United Nations Millennium Declaration, resolution [55/1] *55/2* adopted by the General Assembly of the United Nations on September 8, 2000.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

[(1) the President should continue to provide the leadership necessary at the summit of the Group of Eight scheduled for July 2005 at Gleneagles, Scotland, to encourage other countries to develop a true partnership to pursue the Millennium Development Goals;]

(1) the President should continue to provide the leadership shown at the summit of the Group of Eight held in July 2005 at Gleneagles, Scotland, to continue to encourage other countries to develop a true partnership to pursue the Millennium Development Goals;

(2) the President should urge the Group of Eight to consider the findings and recommendations contained in the report prepared by the Commission for Africa entitled "Our Common Interest", as a fundamental guide on which to base their planning, in partnership with the nations of Africa, for the development of Africa;

(3) the Group of Eight, as well as governments of the countries of Africa and regional organizations of such governments, should reaffirm and honor the commitments made in the Africa Action Plan enacted by the Group of Eight in previous years; and

[(4) the international community should pursue further progress toward achieving the Millennium Development Goals at the summit of the Group of Eight scheduled for July 2005, the United Nations summit scheduled for September 2005, and the Sixth Ministerial Conference of the World Trade Organization scheduled for December 2005.]

(4) the international community should continue to build upon the progress made at the summit of the Group of Eight in July 2005 and the United Nations summit in September 2005 toward achieving the Millennium Development Goals, and should further enable such progress at the Sixth Ministerial Conference of the World Trade Organization scheduled for December 2005.

SEC. 5. REPORT.

(a) REQUIREMENT.—Not later than 60 days after the date of the conclusion of [the World Trade Organization Ministerial meeting in Hong Kong that is scheduled to be held] *the Sixth Ministerial Conference of the World Trade Organization that is scheduled to be held in Hong Kong from* December 13 through December 18, 2005, the Secretary of State in consultation with other appropriate United States and international agencies shall submit a report to the appropriate congressional committees on the progress the international community is making toward achieving the Millennium Development Goals.

(b) CONTENT.—The report required by subsection (a) shall include the following:

(1) A review of the commitments made by the United States and other members of the international community at the summit of

the Group of Eight [scheduled for] *in* July 2005, the United Nations summit [scheduled for] *in* September 2005, and the Sixth Ministerial Conference of the World Trade Organization scheduled for December 2005, that pertain to the ability of the developing world to achieve the Millennium Development Goals.

(2) A review of United States policies and progress toward achieving the Millennium Development Goals by 2015, as well as policies to provide continued leadership in achieving such goals by 2015.

(3) An [evaluation] *evaluation, to the extent possible,* of the contributions of other national and international actors in achieving the Millennium Development Goals by 2015.

(4) An assessment of the likelihood that the Millennium Development Goals will be achieved.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to, the committee-reported amendments, as amended, if amended, be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2693) was agreed to, as follows:

On page 13 line 21-22, strike "as a fundamental guide on which to base their planning,"

The committee-reported amendments were agreed to.

The bill (S. 1315), as amended, was read the third time and passed, as follows:

(The bill will be printed in a future edition of the Record.)

VET CENTER ENHANCEMENT ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 290, S. 716.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 716) to amend title 38, United States Code, to enhance services provided by vet centers, to clarify and improve the provision of bereavement counseling by the Department of Veterans Affairs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 716) was read the third time and passed, as follows:

S. 716

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vet Center Enhancement Act of 2005".

SEC. 2. EXPANSION OF OUTREACH ACTIVITIES OF VET CENTERS.

(a) Additional Outreach Workers.—The Secretary of Veterans Affairs shall employ not more than 50 veterans of Operation Enduring Freedom or Operation Iraqi Freedom for the purpose of providing outreach to veterans on the availability of readjustment counseling and related mental health services for veterans under section 1712A of title 38, United States Code.

(b) Construction With Current Outreach Program.—The veterans employed under subsection (a) are in addition to any veterans employed by the Secretary for the purpose described in that subsection under the February 2004 program of the Department of Veterans Affairs to provide outreach described in that subsection.

(c) Assignment to Vet Centers.—The Secretary may assign any veteran employed under subsection (a) to any vet center that the Secretary considers appropriate in order to meet the purpose described in that subsection.

(d) Inapplicability and Termination of Limitation on Duration of Employment.—Any limitation on the duration of employment of veterans under the program described in subsection (b) is hereby terminated, and shall not apply to veterans employed under such program or under this section.

(e) Employment Status.—Veterans employed under subsection (a) shall be employed in career conditional status, which is the employment status in which veterans are employed under the program described in subsection (b).

(f) Definitions.—In this section:

(1) Vet center.—The term "vet center" means a center for the provision of readjustment counseling and related mental health services under section 1712A of title 38, United States Code.

(2) Veteran of operation enduring freedom or operation iraqi freedom.—The term "veteran of Operation Enduring Freedom or Operation Iraqi Freedom" means any veteran who served in the Southwest Asia theater of operations during Operation Enduring Freedom or Operation Iraqi Freedom.

SEC. 3. CLARIFICATION AND ENHANCEMENT OF BEREAVEMENT COUNSELING.

(a) Clarification of Members of Immediate Family Eligible for Counseling.—Subsection (b) of section 1783 of title 38, United States Code, is amended—

(1) by inserting "(1)" before "The Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) For purposes of this subsection, the members of the immediate family of a member of the Armed Forces described in paragraph (1) include the parents of such member.".

(b) Provision of Counseling Through Vet Centers.—Such section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) Provision of Counseling Through Vet Centers.—Bereavement counseling may be provided under this section through the facilities and personnel of centers for the provision of readjustment counseling and related mental health services under section 1712A of this title.".

SEC. 4. FUNDING FOR VET CENTER PROGRAM.

There is authorized to be appropriated to the Department of Veterans Affairs for fiscal year 2006, $180,000,000 for the provision of readjustment counseling and related mental health services through centers under section 1712A of title 38, United States Code, including for the discharge of the requirements of this Act (and the amendments made by this Act).

VETERANS HEALTH CARE ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 284, S. 1182.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1182) to amend title 38, United States Code, to improve health care for veterans, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs, with an amendment.

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 1182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

[(a) Short Title.—This Act may be cited as the "Veterans Health Care Act of 2005".

[(b) References.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment or repeal to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

[SEC. 2. COPAYMENT EXEMPTION FOR HOSPICE CARE.

[Section 1710 is amended—

[(1) in subsection (f)(1), by inserting "(other than hospice care)" after "nursing home care"; and

[(2) in subsection (g)(1), by inserting "(other than hospice care)" after "medical services".

[SEC. 3. NURSING HOME BED LEVELS; EXEMPTION FROM EXTENDED CARE SERVICES COPAYMENTS FOR FORMER POWS.

[Section 1710B is amended—

[(1) by striking subsection (b);

[(2) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively; and

[(3) in subsection (b)(2), as redesignated—

[(A) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

[(B) by inserting after subparagraph (A) the following:

["(B) to a veteran who is a former prisoner of war;".

[SEC. 4. REIMBURSEMENT FOR CERTAIN VETERANS' OUTSTANDING EMERGENCY TREATMENT EXPENSES. .

[(a) In General.—Subchapter III of chapter 17 is amended by inserting after section 1725 the following:

["§ 1725A. Reimbursement for emergency treatment expenses for which certain veterans remain personally liable

["(a)(1) Subject to subsection (c), the Secretary may reimburse a veteran described in subsection (b) for expenses resulting from emergency treatment furnished to the veteran in a non-Department facility for which the veteran remains personally liable.

["(2) In any case in which reimbursement is authorized under subsection (a)(1), the Secretary, in the Secretary's discretion, may, in lieu of reimbursing the veteran, make payment—

["(A) to a hospital or other health care provider that furnished the treatment; or

["(B) to the person or organization that paid for such treatment on behalf of the veteran.

["(b) A veteran referred to in subsection (a) is an individual who—

["(1) is enrolled in the health care system established under section 1705(a) of this title;

["(2) received care under this chapter during the 24-month period preceding the furnishing of such emergency treatment;

["(3) is entitled to care or services under a health-plan contract that partially reimburses the cost of the veteran's emergency treatment;

["(4) is financially liable to the provider of emergency care treatment for costs not covered by the veteran's health-plan contract, including copayments and deductibles; and

["(5) is not eligible for reimbursement for medical care or services under section 1725 or 1728 of this title.

["(c)(1) Any amount paid by the Secretary under subsection (a) shall exclude the amount of any payment the veteran would have been required to make to the United States under this chapter if the veteran had received the emergency treatment from the Department.

["(2) The Secretary may not provide reimbursement under this section with respect to any item or service—

["(A) provided or for which payment has been made, or can reasonably be expected to be made, under the veteran's health-plan contract; or

["(B) for which payment has been made or can reasonably be expected to be made by a third party.

["(3)(A) Payment by the Secretary under this section on behalf of a veteran to a provider of emergency treatment shall, unless rejected and refunded by the provider within 30 days of receipt, extinguish any liability on the part of the veteran for that treatment.

["(B) The absence of a contract or agreement between the Secretary and the provider, any provision of a contract or agreement, or an assignment to the contrary shall not operate to modify, limit, or negate the requirement under subparagraph (A).

["(4) In accordance with regulations prescribed by the Secretary, the Secretary shall—

["(A) establish criteria for determining the amount of reimbursement (which may include a maximum amount) payable under this section; and

["(B) delineate the circumstances under which such payment may be made, including requirements for requesting reimbursement.

["(d)(1) In accordance with regulations prescribed by the Secretary, the United States shall have the independent right to recover any amount paid under this section if, and to the extent that, a third party subsequently makes a payment for the same emergency treatment.

["(2) Any amount paid by the United States to the veteran, the veteran's personal representative, successor, dependents, or survivors, or to any other person or organization paying for such treatment shall constitute a lien in favor of the United States against any recovery the payee subsequently receives from a third party for the same treatment.

["(3) Any amount paid by the United States to the provider that furnished the veteran's emergency treatment shall constitute a lien against any subsequent amount the provider receives from a third party for the same emergency treatment for which the United States made payment.

["(4) The veteran or the veteran's personal representative, successor, dependents, or survivors shall—

["(A) ensure that the Secretary is promptly notified of any payment received from any third party for emergency treatment furnished to the veteran;

["(B) immediately forward all documents relating to a payment described in subparagraph (A);

["(C) cooperate with the Secretary in an investigation of a payment described in subparagraph (A); and

["(D) assist the Secretary in enforcing the United States right to recover any payment made under subsection (c)(3).

["(e) The Secretary may waive recovery of a payment made to a veteran under this section that is otherwise required under subsection (d)(1) if the Secretary determines that such waiver would be in the best interest of the United States, as defined by regulations prescribed by the Secretary.

["(f) For purposes of this section—

["(1) the term 'health-plan contract' includes—

["(A) an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement, under which health services for individuals are provided or the expenses of such services are paid;

["(B) an insurance program described in section 1811 of the Social Security Act (42 U.S.C. 1395c) or established by section 1831 of that Act (42 U.S.C. 1395j);

["(C) a State plan for medical assistance approved under title XIX of such Act (42 U.S.C. 1396 et seq.); and

["(D) a workers' compensation law or plan described in section 1729(A)(2)(B) of this title;

["(2) the term 'third party' means—

["(A) a Federal entity;

["(B) a State or political subdivision of a State;

["(C) an employer or an employer's insurance carrier; and

["(D) a person or entity obligated to provide, or pay the expenses of, such emergency treatment; and

["(3) the term 'emergency treatment' has the meaning given such term in section 1725 of this title.".

[(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1725 the following:

["Sec. 1725A. Reimbursement for emergency treatment expenses for which certain veterans remain personally liable.".

[SEC. 5. CARE FOR NEWBORN CHILDREN OF WOMEN VETERANS RECEIVING MATERNITY CARE .

[(a) IN GENERAL.—Subchapter VIII of chapter 17 is amended by adding at the end the following:

["§ 1786. Care for newborn children of women veterans receiving maternity care

["The Secretary may furnish care to a newborn child of a woman veteran, who is receiving maternity care furnished by the Department, for not more than 14 days after the birth of the child if the veteran delivered the child in a Department facility or in another facility pursuant to a Department contract for the delivery services.".

[(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1785 the following:

["Sec. 1786. Care for newborn children of women veterans receiving maternity care.".

[SEC. 6. ENHANCEMENT OF PAYER PROVISIONS FOR HEALTH CARE FURNISHED TO CERTAIN CHILDREN OF VIETNAM VETERANS.

[(a) HEALTH CARE FOR SPINA BIFIDA AND ASSOCIATED DISABILITIES.—Section 1803 is amended—

[(1) by redesignating subsection (c) as subsection (d); and

[(2) by inserting after subsection (b) the following:

["(c)(1) If a payment made by the Secretary for health care under this section is less than the amount billed for such health care, the health care provider or agent of the health care provider may, in accordance with paragraphs (2) through (4), seek payment for the difference between the amount billed and the amount paid by the Secretary from a responsible third party to the extent that the provider or agent would be eligible to receive payment for such health care from such third party.

["(2) The health care provider or agent may not impose any additional charge on the beneficiary who received the health care, or the family of such beneficiary, for any service or item for which the Secretary has made payment under this section;

["(3) The total amount of payment a health care provider or agent may receive for health care furnished under this section may not exceed the amount billed to the Secretary.

["(4) The Secretary, upon request, shall disclose to such third party information received for the purposes of carrying out this section.".

[(b) HEALTH CARE FOR BIRTH DEFECTS AND ASSOCIATED DISABILITIES.—Section 1813 is amended—

[(1) by redesignating subsection (c) as subsection (d); and

[(2) by inserting after subsection (b) the following:

["(c)(1) If payment made by the Secretary for health care under this section is less than the amount billed for such health care, the health care provider or agent of the health care provider may, in accordance with paragraphs (2) through (4), seek payment for the difference between the amount billed and the amount paid by the Secretary from a responsible third party to the extent that the provider or agent would be eligible to receive payment for such health care from such third party.

["(2) The health care provider or agent may not impose any additional charge on the beneficiary who received health care, or the family of such beneficiary, for any service or item for which the Secretary has made payment under this section;

["(3) The total amount of payment a health care provider or agent may receive for health care furnished under this section may not exceed the amount billed to the Secretary; and

["(4) The Secretary, upon request, shall disclose to such third party information received for the purposes of carrying out this section.".

[SEC. 7. IMPROVEMENTS TO HOMELESS PROVIDERS GRANT AND PER DIEM PROGRAM.

[(a) PERMANENT AUTHORITY.—Section 2011 (a) is amended—

[(1) in paragraph (1), by striking "(1)"; and

[(2) by striking paragraph (2).

[(b) AUTHORIZATION OF APPROPRIATIONS.—Section 2013 is amended to read as follows:

["§ 2013. Authorization of appropriations

["There are authorized to be appropriated $130,000,000 for fiscal year 2006 and each subsequent fiscal year to carry out this subchapter.".

[SEC. 8. MARRIAGE AND FAMILY THERAPISTS.

[(a) QUALIFICATIONS.—Section 7402(b) is amended—

[(1) by redesignating paragraph (10) as paragraph (11); and

[(2) by inserting after paragraph (9) the following:

["(10) MARRIAGE AND FAMILY THERAPIST.—To be eligible to be appointed to a marriage and family therapist position, a person must—

["(A) hold a master's degree in marriage and family therapy, or a comparable degree in mental health, from a college or university approved by the Secretary; and

["(B) be licensed or certified to independently practice marriage and family therapy in a State, except that the Secretary may waive the requirement of licensure or certification for an individual marriage and family therapist for a reasonable period of time recommended by the Under Secretary for Health.".

[(b) REPORT ON MARRIAGE AND FAMILY THERAPY WORKLOAD.—

[(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Under Secretary for Health, Department of Veterans Affairs, shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the provisions of post-traumatic stress disorder treatment by marriage and family therapists.

[(2) CONTENTS.—The report submitted under paragraph (1) shall include—

[(A) the actual and projected workloads in facilities of the Veterans Readjustment Counseling Service and the Veterans Health Administration for the provision of marriage and family counseling for veterans diagnosed with, or otherwise in need of treatment for, post-traumatic stress disorder;

[(B) the resources available and needed to support the workload projections described in subparagraph (A);

[(C) an assessment by the Under Secretary for Health of the effectiveness of treatment by marriage and family therapists; and

[(D) recommendations, if any, for improvements in the provision of such counseling treatment.

[SEC. 9. PAY COMPARABILITY FOR CHIEF NURSING OFFICER, OFFICE OF NURSING SERVICES.

[Section 7404 is amended—

[(1) in subsection (d), by striking "subchapter III" and inserting "paragraph (e), subchapter III,"; and

[(2) by adding at the end the following:

["(e) The position of Chief Nursing Officer, Office of Nursing Services, shall be exempt from the provisions of section 7451 of this title and shall be paid at a rate not to exceed the maximum rate established for the Senior Executive Service under section 5382 of title 5 United States Code, as determined by the Secretary.".

[SEC. 10. REPEAL OF COST COMPARISON STUDIES PROHIBITION.

[Section 8110(a) is amended—

[(1) by striking paragraph (5); and

[(2) by redesignating paragraph (6) as paragraph (5).

[SEC. 11. IMPROVEMENTS AND EXPANSION OF MENTAL HEALTH SERVICES.

[(a) IN GENERAL.—The Secretary of Veterans affairs shall—

[(1) expand the number of clinical treatment teams principally dedicated to the treatment of post-traumatic stress disorder in medical facilities of the Department of Veterans Affairs;

[(2) expand and improve the services available to diagnose and treat substance abuse;

[(3) expand and improve tele-health initiatives to provide better access to mental health services in areas of the country in which the Secretary determines that a need for such services exist due to the distance of such locations from an appropriate facility of the Department of Veterans Affairs;

[(4) improve education programs available to primary care delivery professionals and dedicate such programs to recognize, treat, and clinically manage veterans with mental health care needs;

[(5) expand the delivery of mental health services in community-based outpatient clinics of the Department of Veterans Affairs in which such services are not available as of the date of enactment of this Act; and

[(6) expand and improve the Mental Health Intensive Case Management Teams for the treatment and clinical case management of veterans with serious or chronic mental illness.

[(b). AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in each of fiscal years 2006 and 2007, $95,000,000 to improve and expand the treatment services and options available to veterans in need of mental health treatment from the Department of Veterans Affairs, of which—

[(1) $5,000,000 shall be allocated to carry out subsection (a)(1);

[(2) $50,000,000 shall be allocated to carry out subsection (a)(2);

[(3) $10,000,000 shall be allocated to carry out subsection (a)(3);

[(4) $1,000,000 shall be allocated to carry out subsection (a)(4);

[(5) $20,000,000 shall be allocated to carry out subsection (a)(5); and

[(6) $5,000,000 shall be allocated to carry out subsection (a)(6).

[SEC. 12. DATA SHARING IMPROVEMENTS.

[Notwithstanding any other provision of law, the Department of Veterans Affairs and the Department of Defense may exchange protected health information for—

[(1) patients receiving treatment from the Department of Veterans Affairs; or

[(2) individuals who may receive treatment from the Department of Veterans Affairs in the future, including all current and former members of the Armed Services.

[SEC. 13. EXPANSION OF NATIONAL GUARD OUTREACH PROGRAM.

[(a) REQUIREMENT.—The Secretary of Veterans Affairs shall expand the total number of personal employed by the Department of Veterans Affairs as part of the Readjustment Counseling Service's Global War on Terrorism Outreach Program (referred to in this section as the "Program").

[(b) COORDINATION.—In carrying out subsection (a), the Secretary shall coordinate participation in the Program by appropriate employees of the Veterans Benefits Administration and the Veterans Health Administration.

[(c) INFORMATION AND ASSESSMENTS.—The Secretary shall ensure that—

[(1) all appropriate health, education, and benefits information is available to returning members of the National Guard; and

[(2) proper assessments of the needs in each of these areas is made by the Department of Veterans Affairs.

[(d) COLLABORATION.—The Secretary of Veterans Affairs shall collaborate with appropriate State National Guard officials and provide such officials with any assets or services of the Department of Veterans Affairs that the Secretary determines to be necessary to carry out the Global War on Terrorism Outreach Program.

[SEC. 14. EXPANSION OF TELE-HEALTH SERVICES.

[(a) IN GENERAL.—The Secretary shall increase the number of Veterans Readjustment Counseling Service facilities capable of providing health services and counseling through tele-health linkages with facilities of the Veterans Health Administration.

[(b) PLAN.—The Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a plan to implement the requirement under subsection (a), which shall describe the facilities that will have such capabilities at the end of each of fiscal years 2005, 2006, and 2007.

[SEC. 15. MENTAL HEALTH DATA SOURCES REPORT.

[(a) IN GENERAL.—Not less than 180 days after the date of enactment of this Act, the Secretary of Veterans Affairs shall submit a report to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives describing the mental health data maintained by the Department of Veterans Affairs.

[(b) CONTENTS.—The report submitted under subsection (a) shall include—

[(1) a comprehensive list of the sources of all such data, including the geographic locations of facilities of the Department of Veterans Affairs maintaining such data;

[(2) an assessment of the limitations or advantages to maintaining the current data configuration and locations; and

[(3) any recommendations, if any, for improving the collection, use, and location of mental health data maintained by the Department of Veterans Affairs.]

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Health Care Act of 2005".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment or repeal to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references to title 38, United States Code; table of contents.
Sec. 2. Care for newborn children of women veterans receiving maternity care.
Sec. 3. Enhancement of payer provisions for health care furnished to certain children of Vietnam veterans.
Sec. 4. Improvements to homeless veterans service providers programs.
Sec. 5. Additional mental health providers.
Sec. 6. Pay comparability for Chief Nursing Officer, Office of Nursing Services.
Sec. 7. Repeal of cost comparison studies prohibition.

Sec. 8. Improvements and expansion of mental health services.
Sec. 9. Data sharing improvements.
Sec. 10. Expansion of National Guard Outreach Program.
Sec. 11. Expansion of tele-health services.
Sec. 12. Mental health data sources report.
Sec. 13. Strategic plan for long-term care.
Sec. 14. Blind rehabilitation outpatient specialists.
Sec. 15. Compliance report.
Sec. 16. Health care and services for veterans affected by Hurricane Katrina.
Sec. 17. Reimbursement for certain veterans' outstanding emergency treatment expenses.

SEC. 2. CARE FOR NEWBORN CHILDREN OF WOMEN VETERANS RECEIVING MATERNITY CARE.

(a) In General.—Subchapter VIII of chapter 17 is amended by adding at the end the following:

"§1786. Care for newborn children of women veterans receiving maternity care

"The Secretary may furnish care to a newborn child of a woman veteran, who is receiving maternity care furnished by the Department, for not more than 14 days after the birth of the child if the veteran delivered the child in a Department facility or in another facility pursuant to a Department contract for the delivery services.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1785 the following:

"Sec. 1786. Care for newborn children of women veterans receiving maternity care.".

SEC. 3. ENHANCEMENT OF PAYER PROVISIONS FOR HEALTH CARE FURNISHED TO CERTAIN CHILDREN OF VIETNAM VETERANS.

(a) Health Care for Spina Bifida and Associated Disabilities.—Section 1803 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c)(1) If a payment made by the Secretary for health care under this section is less than the amount billed for such health care, the health care provider or agent of the health care provider may, in accordance with paragraphs (2) through (4), seek payment for the difference between the amount billed and the amount paid by the Secretary from a responsible third party to the extent that the provider or agent would be eligible to receive payment for such health care from such third party.

"(2) The health care provider or agent may not impose any additional charge on the beneficiary who received the health care, or the family of such beneficiary, for any service or item for which the Secretary has made payment under this section.

"(3) The total amount of payment a health care provider or agent may receive for health care furnished under this section may not exceed the amount billed to the Secretary.

"(4) The Secretary, upon request, shall disclose to such third party information received for the purposes of carrying out this section.".

(b) Health Care for Birth Defects and Associated Disabilities.—Section 1813 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c)(1) If payment made by the Secretary for health care under this section is less than the amount billed for such health care, the health care provider or agent of the health care provider may, in accordance with paragraphs (2) through (4), seek payment for the difference between the amount billed and the amount paid by the Secretary from a responsible third party to the extent that the provider or agent would be eligible to receive payment for such health care from such third party.

"(2) The health care provider or agent may not impose any additional charge on the beneficiary who received health care, or the family of such beneficiary, for any service or item for which the Secretary has made payment under this section.

"(3) The total amount of payment a health care provider or agent may receive for health care furnished under this section may not exceed the amount billed to the Secretary.

"(4) The Secretary, upon request, shall disclose to such third party information received for the purposes of carrying out this section.".

SEC. 4. IMPROVEMENTS TO HOMELESS VETERANS SERVICE PROVIDERS PROGRAMS.

(a) Permanent Authority.—Section 2011 (a) is amended—

(1) in paragraph (1), by striking "(1)"; and

(2) by striking paragraph (2).

(b) Authorization of Appropriations.—

(1) Comprehensive Service Programs for Homeless Veterans.—Section 2013 is amended to read as follows:

"§2013. Authorization of appropriations

"There are authorized to be appropriated $130,000,000 for fiscal year 2006 and each subsequent fiscal year to carry out this subchapter.".

(2) Homeless Veteran Service Provider Technical Assistance Program.—Section 2064(b) is amended to read as follows:

"(b) Authorization of Appropriations.—There are authorized to be appropriated $1,000,000 for each of fiscal years 2006 through 2011 to carry out the programs under this section.".

SEC. 5. ADDITIONAL MENTAL HEALTH PROVIDERS.

(a) Qualifications.—Section 7402(b) is amended—

(1) by redesignating paragraph (10) as paragraph (12); and

(2) by inserting after paragraph (9) the following:

"(10) Marriage and Family Therapist.—To be eligible to be appointed to a marriage and family therapist position, a person shall—

"(A) hold a master's degree in marriage and family therapy, or a comparable degree in mental health, from a college or university approved by the Secretary; and

"(B) be licensed or certified to independently practice marriage and family therapy in a State, except that the Secretary may waive the requirement of licensure or certification for an individual marriage and family therapist for a reasonable period of time recommended by the Under Secretary for Health.

"(11) Licensed Professional Mental Health Counselors.—To be eligible to be appointed to a licensed professional mental health counselor position, a person shall—

"(A) hold a master's degree in mental health counseling, or a related field, from a college or university approved by the Secretary; and

"(B) be licensed or certified to independently practice mental health counseling.".

(b) Report on Marriage and Family Therapy Workload.—

(1) In General.—Not later than 90 days after the date of enactment of this Act, the Under Secretary for Health, Department of Veterans Affairs, shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the provisions of post-traumatic stress disorder treatment by marriage and family therapists.

(2) Contents.—The report submitted under paragraph (1) shall include—

(A) the actual and projected workloads in facilities of the Veterans Readjustment Counseling Service and the Veterans Health Administration for the provision of marriage and family counseling for veterans diagnosed with, or otherwise in need of treatment for, post-traumatic stress disorder;

(B) the resources available and needed to support the workload projections described in subparagraph (A);

(C) an assessment by the Under Secretary for Health of the effectiveness of treatment by marriage and family therapists; and

(D) recommendations, if any, for improvements in the provision of such counseling treatment.

SEC. 6. PAY COMPARABILITY FOR CHIEF NURSING OFFICER, OFFICE OF NURSING SERVICES.

Section 7404 is amended—

(1) in subsection (d), by striking "subchapter III and in" and inserting "subsection (e), subchapter III, and"; and

(2) by adding at the end the following:

"(e) The position of Chief Nursing Officer, Office of Nursing Services, shall be exempt from the provisions of section 7451 of this title and shall be paid at a rate not to exceed the maximum rate established for the Senior Executive Service under section 5382 of title 5 United States Code, as determined by the Secretary.".

SEC. 7. REPEAL OF COST COMPARISON STUDIES PROHIBITION.

Section 8110(a) is amended—

(1) by striking paragraph (5); and

(2) by redesignating paragraph (6) as paragraph (5).

SEC. 8. IMPROVEMENTS AND EXPANSION OF MENTAL HEALTH SERVICES.

(a) Findings.—Congress makes the following findings:

(1) Mental health treatment capacity at community-based outpatient clinics remains inadequate and inconsistent, despite the requirement under section 1706(c) of title 38, United States Code, that every primary care health care facility of the Department of Veterans Affairs develop and carry out a plan to meet the mental health care needs of veterans who require such services.

(2) In 2001, the minority staff of the Committee on Veterans' Affairs of the Senate conducted a survey of community-based outpatient clinics and found that there was no established systemwide baseline of acceptable mental health service levels at such clinics.

(3) In February 2005, the Government Accountability Office reported that the Department of Veterans Affairs had not fully met any of the 24 clinical care and education recommendations made in 2004 by the Special Committee on Post-Traumatic Stress Disorder of the Under Secretary for Health, Veterans Health Administration.

(b) Clinical Services and Education.—

(1) In General.—The Secretary of Veterans affairs shall—

(A) expand the number of clinical treatment teams principally dedicated to the treatment of post-traumatic stress disorder in medical facilities of the Department of Veterans Affairs;

(B) expand and improve the services available to diagnose and treat substance abuse;

(C) expand and improve tele-health initiatives to provide better access to mental health services in areas of the country in which the Secretary determines that a need for such services exist due to the distance of such locations from an appropriate facility of the Department of Veterans Affairs;

(D) improve education programs available to primary care delivery professionals and dedicate

such programs to recognize, treat, and clinically manage veterans with mental health care needs;

(E) expand the delivery of mental health services in community-based outpatient clinics of the Department of Veterans Affairs in which such services are not available as of the date of enactment of this Act; and

(F) expand and improve the Mental Health Intensive Case Management Teams for the treatment and clinical case management of veterans with serious or chronic mental illness.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $95,000,000 in each of fiscal years 2006 and 2007 to improve and expand the treatment services and options available to veterans in need of mental health treatment from the Department of Veterans Affairs, of which—

(A) $5,000,000 shall be allocated to carry out paragraph (1)(A);

(B) $50,000,000 shall be allocated to carry out paragraph (1)(B);

(C) $10,000,000 shall be allocated to carry out paragraph (1)(C);

(D) $1,000,000 shall be allocated to carry out paragraph (1)(D);

(E) $20,000,000 shall be allocated to carry out paragraph (1)(E); and

(F) $5,000,000 shall be allocated to carry out paragraph (1)(F).

(c) REQUIRED CAPACITY FOR COMMUNITY-BASED OUTPATIENT CLINICS.—

(1) ACCOUNTABILITY FOR THE PROVISION OF MENTAL HEALTH SERVICES.—The Under Secretary shall take appropriate steps and provide necessary incentives (including appropriate performance incentives) to ensure that each Regional Director of the Veterans Health Administration is encouraged to—

(A) prioritize the provision of mental health services to veterans in need of such services;

(B) foster collaborative working environments among clinicians for the provision of mental health services; and

(C) conduct mental health consultations during primary care appointments.

(2) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—

(A) IN GENERAL.—The Secretary shall ensure that each community-based outpatient clinic of the Department has the capacity to provide, or monitor the provision of, mental health services to enrolled veterans in need of such services.

(B) SETTINGS.—In carrying out subparagraph (A), the Secretary shall ensure that mental health services are provided through—

(i) a community-based outpatient clinic of the Department by an employee of the Department;

(ii) referral to another facility of the Department;

(iii) contract with an appropriate mental health professional in the local community; or

(iv) tele-mental health service.

(3) REPORTING REQUIREMENT.—Not later than January 31, 2008, the Secretary of Veterans Affairs shall submit a report to Congress that—

(A) describes the status and availability of mental health services at community-based outpatient clinics;

(B) describes the substance of services available at such clinics; and

(C) includes the ratios between mental health staff and patients at such clinics.

(d) COOPERATION ON MENTAL HEALTH AWARENESS AND PREVENTION.—

(1) AGREEMENT.—The Secretary of Defense and the Secretary of Veterans Affairs shall enter into a Memorandum of Understanding—

(A) to ensure that separating service members receive standardized individual mental health and sexual trauma assessments as part of separation exams; and

(B) that includes the development of shared guidelines on how to conduct the assessments.

(2) ESTABLISHMENT OF JOINT VETERANS AFFAIRS-DEPARTMENT OF DEFENSE WORKGROUP ON MENTAL HEALTH.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs shall establish a joint workgroup on mental health, which shall be comprised of not less than 7 leaders in the field of mental health appointed from their respective departments.

(B) STUDY.—Not later than 1 year after the establishment of the workgroup under subparagraph (A), the workgroup shall analyze the feasibility, content, and scope of initiatives related to—

(i) combating stigmas and prejudices associated with service members who suffer from mental health disorders or readjustment issues, through the use of peer counseling programs or other educational initiatives;

(ii) ways in which the Department of Veterans Affairs can make their expertise in treating mental health disorders more readily available to Department of Defense mental health care providers;

(iii) family and spousal education to assist family members of veterans and service members to recognize and deal with signs of potential readjustment issues or other mental health disorders; and

(iv) the seamless transition of service members who have been diagnosed with mental health disorders from active duty to veteran status (in consultation with the Seamless Transition Task Force and other entities assisting in this effort).

(C) REPORT.—Not later than June 30, 2007, the Secretary of Defense and the Secretary of Veterans Affairs shall submit a report to Congress containing the findings and recommendations of the workgroup established under this paragraph.

(e) PRIMARY CARE CONSULTATIONS FOR MENTAL HEALTH.—

(1) GUIDELINES.—The Under Secretary for Health, Veterans Health Administration, shall establish systemwide guidelines for screening primary care patients for mental health disorders and illnesses.

(2) TRAINING.—Based upon the guidelines established under paragraph (1), the Under Secretary for Health, Veterans Health Administration, shall conduct appropriate training for clinicians of the Department of Veterans Affairs to carry out mental health consultations.

(f) CLINICAL TRAINING AND PROTOCOLS.—

(1) FINDINGS.—Congress finds that—

(A) the Iraq War Clinician Guide has tremendous value; and

(B) the Secretary of Defense and the National Center on Post Traumatic Stress Disorder should continue to work together to ensure that the mental health care needs of servicemembers and veterans are met.

(2) COLLABORATION.—The National Center on Post Traumatic Stress Disorder shall collaborate with the Secretary of Defense—

(A) to enhance the clinical skills of military clinicians through training, treatment protocols, web-based interventions, and the development of evidence-based interventions; and

(B) to promote pre-deployment resilience and post-deployment readjustment among servicemembers serving in Operation Iraqi Freedom and Operation Enduring Freedom.

(3) TRAINING.—The National Center on Post Traumatic Stress Disorder shall work with the Secretary of Defense to ensure that clinicians in the Department of Defense are provided with the training and protocols developed pursuant to paragraph (2)(A).

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for 2006 to carry out this subsection.

SEC. 9. DATA SHARING IMPROVEMENTS.

Notwithstanding any other provision of law, the Department of Veterans Affairs and the Department of Defense may exchange protected health information for—

(1) patients receiving treatment from the Department of Veterans Affairs; or

(2) individuals who may receive treatment from the Department of Veterans Affairs in the future, including all current and former members of the armed services.

SEC. 10. EXPANSION OF NATIONAL GUARD OUTREACH PROGRAM.

(a) REQUIREMENT.—The Secretary of Veterans Affairs shall expand the total number of personal employed by the Department of Veterans Affairs as part of the Readjustment Counseling Service's Global War on Terrorism Outreach Program (referred to in this section as the "Program").

(b) COORDINATION.—In carrying out subsection (a), the Secretary shall coordinate participation in the Program by appropriate employees of the Veterans Benefits Administration and the Veterans Health Administration.

(c) INFORMATION AND ASSESSMENTS.—The Secretary shall ensure that—

(1) all appropriate health, education, and benefits information is available to returning members of the National Guard; and

(2) proper assessments of the needs in each of these areas is made by the Department of Veterans Affairs.

(d) COLLABORATION.—The Secretary of Veterans Affairs shall collaborate with appropriate State National Guard officials and provide such officials with any assets or services of the Department of Veterans Affairs that the Secretary determines to be necessary to carry out the Global War on Terrorism Outreach Program.

SEC. 11. EXPANSION OF TELE-HEALTH SERVICES.

(a) IN GENERAL.—The Secretary shall increase the number of Veterans Readjustment Counseling Service facilities capable of providing health services and counseling through telehealth linkages with facilities of the Veterans Health Administration.

(b) PLAN.—The Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a plan to implement the requirement under subsection (a), which shall describe the facilities that will have such capabilities at the end of each of fiscal years 2005, 2006, and 2007.

SEC. 12. MENTAL HEALTH DATA SOURCES REPORT.

(a) IN GENERAL.—Not less than 180 days after the date of enactment of this Act, the Secretary of Veterans Affairs shall submit a report to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives describing the mental health data maintained by the Department of Veterans Affairs.

(b) CONTENTS.—The report submitted under subsection (a) shall include—

(1) a comprehensive list of the sources of all such data, including the geographic locations of facilities of the Department of Veterans Affairs maintaining such data;

(2) an assessment of the limitations or advantages to maintaining the current data configuration and locations; and

(3) any recommendations, if any, for improving the collection, use, and location of mental health data maintained by the Department of Veterans Affairs.

SEC. 13. STRATEGIC PLAN FOR LONG-TERM CARE.

(a) PUBLICATION.—Not later than 180 days after the date of enactment of this Act, the Secretary of Veterans Affairs shall publish a strategic plan for long-term care.

(b) CONTENTS.—The plan published under subsection (a) shall—

(1) contain policies and strategies for—

(A) the delivery of care in domiciliaries, residential treatment facilities, and nursing homes, and for seriously mentally ill veterans;

(B) maximizing the use of State veterans homes;

(C) locating domiciliary units as close to patient populations as feasible; and

(D) identifying freestanding nursing homes as an acceptable care model;

(2) include data on—

(A) the care of catastrophically disabled veterans; and

(B) the geographic distribution of catastrophically disabled veterans;

(3) address the spectrum of noninstitutional long-term care options, including—

(A) respite care;

(B) home-based primary care;

(C) geriatric evaluation;

(D) adult day health care;

(E) skilled home health care; and

(F) community residential care; and

(4) provide—

(A) cost and quality comparison analyses of all the different levels of care;

(B) detailed information about geographic distribution of services and gaps in care; and

(C) specific plans for working with Medicare, Medicaid, and private insurance companies to expand care.

SEC. 14. BLIND REHABILITATION OUTPATIENT SPECIALISTS.

(a) FINDINGS.—Congress makes the following findings:

(1) There are approximately 135,000 blind veterans throughout the United States, including approximately 35,000 who are enrolled with the Department of Veterans Affairs. An aging veteran population and injuries incurred in Operation iraqi Freedom and Operation Enduring Freedom are increasing the number of blind veterans.

(2) Since 1996, when the Department of Veterans Affairs hired its first 14 blind rehabilitation outpatient specialists (referred to in this section as "Specialists", Specialists have been a critical part of the continuum of care for blind and visually impaired veterans.

(3) The Department of Veterans Affairs operates 10 residential blind rehabilitation centers that are considered among the best in the world. These centers have had long waiting lists, with as many as 1,500 blind veterans waiting for openings in 2004.

(4) Specialists provide—

(A) critically needed services to veterans who are unable to attend residential centers or are waiting to enter such a program;

(B) a range of services, including training with living skills, mobility, and adaptation of manual skills; and

(C) pre-admission screening and follow-up care for blind rehabilitation centers.

(5) There are not enough Specialist positions to meet the increased numbers and needs of blind veterans.

(b) ESTABLISHMENT OF SPECIALIST POSITIONS.—Not later than 30 months after the date of enactment of this Act, the Secretary of Veterans Affairs shall establish a Specialist position at not fewer than 35 facilities of the Department of Veterans Affairs.

(c) SELECTION OF FACILITIES.—In identifying the most appropriate facilities to receive a Specialist position under this section, the Secretary shall—

(1) give priority to facilities with large numbers of enrolled legally blind veterans;

(2) ensure that each facility does not have such a position; and

(3) ensure that each facility is in need of the services of such Specialists.

(d) COORDINATION.—The Secretary shall coordinate the provision of blind rehabilitation services for veterans with services for the care of the visually impaired offered by State and local agencies, especially if such State and local agencies can provide similar services to veterans in settings located closer to the residences of such veterans.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,500,000 for each of the fiscal years 2006 through 2011.

SEC. 15. COMPLIANCE REPORT.

Section 1706(b)(5)(A) is amended by striking "2004" and inserting "2006".

SEC. 16. HEALTH CARE AND SERVICES FOR VETERANS AFFECTED BY HURRICANE KATRINA.

(a) REQUIREMENT FOR HOSPITAL CARE AND MEDICAL SERVICES FOR PRIORITY 8 VETERANS AFFECTED BY HURRICANE KATRINA.—

(1) IN GENERAL.—Notwithstanding any other provision of law and any notwithstanding any previous decisions made by the Secretary of Veterans Affairs pursuant to chapter 17 of title 38 United States Code, the Secretary shall provide necessary medical and health care services to any veteran affected by Hurricane Katrina as if such veteran was enrolled for care under section 1705 of title 38, United States Code.

(2) STATUS OF VETERANS.—For purposes of managing the health care system, as required under section 1705 of title 38, United States Code, a veteran who seeks care under paragraph (1) shall not be considered to be an enrollee of the health care system under such section unless the Secretary subsequently designates such a veteran as such an enrollee.

(b) PROHIBITION ON COLLECTION OF COPAYMENTS FOR VETERANS AFFECTED BY HURRICANE KATRINA.—In furnishing hospital care and medical services to any veteran affected by Hurricane Katrina, the Secretary shall not collect from, or with respect to, such veteran any payment for such care and services otherwise required under any provision of law, including any copayment for medications otherwise required under section 1722A of title 38, United States Code.

(c) DEFINITION.—In this section, the term "veteran affected by Hurricane Katrina" means any veteran who, as of August 29, 2005, resided in the catchment region of the Department of Veterans Affairs medical center in—

(1) New Orleans, Louisiana;

(2) Biloxi, Mississippi; or

(3) Gulfport, Mississippi.

(d) SUNSET PROVISION.—The authority under this section shall expire on January 31, 2006.

SEC. 17. REIMBURSEMENT FOR CERTAIN VETERANS' OUTSTANDING EMERGENCY TREATMENT EXPENSES. .

(a) IN GENERAL.—Subchapter III of chapter 17 is amended by inserting after section 1725 the following:

"§ 1725A. Reimbursement for emergency treatment expenses for which certain veterans remain personally liable

"(a)(1) Subject to subsection (c), the Secretary may reimburse a veteran described in subsection (b) for expenses resulting from emergency treatment furnished to the veteran in a non-Department facility for which the veteran remains personally liable.

"(2) In any case in which reimbursement is authorized under subsection (a)(1), the Secretary, in the Secretary's discretion, may, in lieu of reimbursing the veteran, make payment—

"(A) to a hospital or other health care provider that furnished the treatment; or

"(B) to the person or organization that paid for such treatment on behalf of the veteran.

"(b) A veteran referred to in subsection (a) is an individual who—

"(1) is enrolled in the health care system established under section 1705(a) of this title;

"(2) received care under this chapter during the 24-month period preceding the furnishing of such emergency treatment;

"(3) is entitled to care or services under a health-plan contract that partially reimburses the cost of the veteran's emergency treatment;

"(4) is financially liable to the provider of emergency care treatment for costs not covered by the veteran's health-plan contract, including copayments and deductibles; and

"(5) is not eligible for reimbursement for medical care or services under section 1725 or 1728 of this title.

"(c)(1) Any amount paid by the Secretary under subsection (a) shall exclude the amount of any payment the veteran would have been required to make to the United States under this chapter if the veteran had received the emergency treatment from the Department.

"(2) The Secretary may not provide reimbursement under this section with respect to any item or service—

"(A) provided or for which payment has been made, or can reasonably be expected to be made, under the veteran's health-plan contract; or

"(B) for which payment has been made or can reasonably be expected to be made by a third party.

"(3)(A) Payment by the Secretary under this section on behalf of a veteran to a provider of emergency treatment shall, unless rejected and refunded by the provider within 30 days of receipt, extinguish any liability on the part of the veteran for that treatment.

"(B) The absence of a contract or agreement between the Secretary and the provider, any provision of a contract or agreement, or an assignment to the contrary shall not operate to modify, limit, or negate the requirement under subparagraph (A).

"(4) In accordance with regulations prescribed by the Secretary, the Secretary shall—

"(A) establish criteria for determining the amount of reimbursement (which may include a maximum amount) payable under this section; and

"(B) delineate the circumstances under which such payment may be made, including requirements for requesting reimbursement.

"(d)(1) In accordance with regulations prescribed by the Secretary, the United States shall have the independent right to recover any amount paid under this section if, and to the extent that, a third party subsequently makes a payment for the same emergency treatment.

"(2) Any amount paid by the United States to the veteran, the veteran's personal representative, successor, dependents, or survivors, or to any other person or organization paying for such treatment shall constitute a lien in favor of the United States against any recovery the payee subsequently receives from a third party for the same treatment.

"(3) Any amount paid by the United States to the provider that furnished the veteran's emergency treatment shall constitute a lien against any subsequent amount the provider receives from a third party for the same emergency treatment for which the United States made payment.

"(4) The veteran or the veteran's personal representative, successor, dependents, or survivors shall—

"(A) ensure that the Secretary is promptly notified of any payment received from any third party for emergency treatment furnished to the veteran;

"(B) immediately forward all documents relating to a payment described in subparagraph (A);

"(C) cooperate with the Secretary in an investigation of a payment described in subparagraph (A); and

"(D) assist the Secretary in enforcing the United States right to recover any payment made under subsection (c)(3).

"(e) The Secretary may waive recovery of a payment made to a veteran under this section *that is otherwise required under subsection (d)(1) if the Secretary determines that such waiver would be in the best interest of the United States, as defined by regulations prescribed by the Secretary.*

"(f) For purposes of this section—

"(1) the term 'health-plan contract' includes—

"(A) an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement, under which health services for individuals are provided or the expenses of such services are paid;

"(B) an insurance program described in section 1811 of the Social Security Act (42 U.S.C. 1395c) or established by section 1831 of that Act (42 U.S.C. 1395j);

"(C) a State plan for medical assistance approved under title XIX of such Act (42 U.S.C. 1396 et seq.); and

"(D) a workers' compensation law or plan described in section 1729(A)(2)(B) of this title;

"(2) the term 'third party' means—

"(A) a Federal entity;

"(B) a State or political subdivision of a State;

"(C) an employer or an employer's insurance carrier; and

"(D) a person or entity obligated to provide, or pay the expenses of, such emergency treatment; and

"(3) the term 'emergency treatment' has the meaning given such term in section 1725 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1725 the following:

"Sec. 1725A. Reimbursement for emergency treatment expenses for which certain veterans remain personally liable.".

Mr. FRIST. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to, the committee-reported amendment, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD, all en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2694) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee-reported amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 1182), as amended, was read the third time and passed.

WAIVER OF PASSPORT FEES FOR A RELATIVE OF A DECEASED MEMBER OF THE ARMED FORCES

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 279. S. 1184.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1184) to waive the passport fees for a relative of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member or to attend a funeral or memorial service for such member.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I further ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1184) was read the third time and passed, as follows:

S. 1184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PASSPORT FEES.

Section 1 of the Act of June 4, 1920 (41 Stat. 750, chapter 223; 22 U.S.C. 214) is amended in the third sentence by striking "or from a widow, child, parent, brother, or sister of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member" and inserting "or from a widow, widower, child, parent, grandparent, brother, or sister of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member or to attend a funeral or memorial service for such member".

MAKING TECHNICAL CORRECTIONS IN AMENDMENTS MADE BY THE ENERGY POLICY ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4637, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4637) to make certain technical corrections in amendments made by the Energy Policy Act of 2005.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4637) was read the third time and passed.

REAUTHORIZING THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT PROGRAM

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4635, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4635) to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2006, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4635) was read the third time and passed.

FEDERAL DEPOSIT INSURANCE REFORM CONFORMING AMENDMENTS ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4636, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4636) to enact the technical and conforming amendments necessary to implement the Federal Deposit Insurance Reform Act of 2005, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4636) was read the third time and passed.

JUNIOR DUCK STAMP REAUTHORIZATION AMENDMENTS ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3179, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3179) to reauthorize and amend the Junior Duck Stamp Conservation and Design Program Act of 1994.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3179) was read the third time and passed.

SECURING AIRCRAFT COCKPITS AGAINST LASERS ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1400, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1400) to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2695) was agreed to, as follows:

(Purpose: To provide exceptions for FAA research, Department of Defense activities, and use of signaling devices in emergencies)

Strike out all after the enacting clause and insert the following:

SECTION 1. PROHIBITION AGAINST INTERFERING WITH FLIGHT CREWS THROUGH USE OF LASER POINTERS OR SIMILAR DEVICES.

(a) IN GENERAL.—Chapter 465 of title 49, United States Code, is amended by adding at the end the following:

"§46508. Interference with flight crew vision

"(a) IN GENERAL.—An individual who interferes with, or attempts to interfere with, the ability of the flight crew of an aircraft in flight to see, or otherwise to impair the safe operation of an aircraft in flight, by illuminating the aircraft with a laser pointer or similar device shall be fined under title 18, imprisoned for not more than 5 years, or both.

"(b) EXCEPTIONS.—Subsection (a) does not apply to the illumination of aircraft by laser or other devices by—

"(1) an authorized individual in the conduct of research and development or flight test operations conducted by an aircraft manufacturer, the Federal Aviation Administration, or any other person authorized by the Federal Aviation Administration to conduct such research and development or flight test operations;

"(2) members or elements of the Department of Defense acting in an official capacity for the purpose of research, development, operations, testing or training; or

"(3) by an individual using a laser emergency signaling device to send an emergency distress signal.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 465 of title 49, United States Code, is amended by adding at the end the following:

"46508. Interference with flight crew vision.".

The bill (H.R. 1400), as amended, was read the third time and passed.

PASSPORT SERVICES ENHANCEMENT ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4501, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4501) to amend the Passport Act of June 4, 1920, to authorize the Secretary of State to establish and collect a surcharge to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4501) was read the third time and passed.

TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 972, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 972) to authorize appropriations for fiscal years 2006 and 2007 for the Trafficking Victims Protection Act of 2000, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I support reauthorization of the Trafficking Victims Protection Act of 2000. This legislation was championed by my dear friend Senator Paul Wellstone. I supported him then and when it was reauthorized in 2003, and I continue to support this effort. It is part of his extraordinary legacy. The people of Minnesota, the Senate, the Nation and the world suffered a great loss when we lost Paul Wellstone.

The United States has long played a leading role in the international community in combating these heinous crimes, and furthered its efforts by enacting the Trafficking Victims Protection Act of 2000 and reauthorizing the law in 2003. This reauthorization confirms our commitment to effectively and successfully combating this horrific problem by combining tough law enforcement strategies with important safeguards and services for victims.

Information about severe cases of human trafficking will continue to be provided in the annual State Department Country Report for each foreign country, in a continued effort to raise awareness about this issue. In addition, the Inter-Agency Task Force will continue to monitor trafficking by providing annual and interim reports on countries whose governments do not comply with the minimum standards. Efforts to establish initiatives to enhance economic opportunities for potential trafficking victims, including training and education programs, will also continue.

I am especially pleased that this reauthorization package has been improved significantly. For the first time, the bill focuses not only on the important goal of preventing international human trafficking, but also on preventing the human trafficking that occurs within our own borders. Children here in the United States are at tremendous risk, especially those who are homeless or runaways, and they are particularly susceptible to being domestically trafficked for purposes of commercial sexual exploitation. I will not rest until this alarming trend is stopped.

Over the last 30 years, I have worked with my colleagues to write and enact legislation aimed at protecting children and assisting victims. In the last Congress, Senator HATCH and I joined forces to introduce the PROTECT Act, which provided prosecutors and law enforcement with tools necessary to combat child pornography and human trafficking. The final legislation signed into law included a number of provisions I had also either authored or strongly supported, including: The National AMBER Alert Network Act; the Protecting Our Children Comes First Act, which reauthorized funding for the National Center for Missing and Exploited Children; and legislation to amend the Violence Against Women Act to provide transitional housing assistance grants for child victims of domestic violence.

As a father and a grandfather, I cannot think of any more important responsibility than our responsibility to protect the most vulnerable amongst us—our children. I recognize that more needs to be done, and I will continue to explore new ways to combat human trafficking. Although our work is far from finished, the reauthorization of the Trafficking Victims Protection Act is another important step in the right direction.

Mr. BROWNBACK. Mr. President, when our Nation recently celebrated the life of Rosa Parks, we were reminded that the walk to justice is a long one. Her life reminded us that justice starts with individuals standing up for what is right; but also that the struggle does not quickly end until we faithfully finish the task. Likewise, while we have made a good start in our efforts to address the global crime of human trafficking, the millions of victims who still suffer in slavery today are urgently looking to see if we will finish as well as we have started.

I am pleased to say that the passage of the Trafficking Victims' Protection Reauthorization Act is one more step in that direction.

Each year, it is estimated that at least 800,000 human beings are trafficked across national borders. They are bought and sold in the sex industry as prostitutes, or forced into domestic servitude. Recent estimates on the number of victims trafficked into the United States range from 20,000 to 40,000 per year. Most of these victims are women and young children who languish in brothels, being raped and abused by the traffickers and their clients. An estimated 27 million human beings worldwide suffer from some form of slavery and forced labor.

The late Senator Paul Wellstone and his wife Sheila were passionately devoted to the issue of trafficking and to assisting countless victims. I will always remember their courageous fight in addressing modern-day slavery.

Senator Wellstone and I teamed up in the Senate and were able to see the Trafficking Victims Protection Act of 2000 signed into law. Some called us strange bedfellows, but the wide political and religious spectrum that supported our efforts were a clear reminder that this is not a partisan issue.

While Paul Wellstone is no longer here to carry the torch, I am pleased that other colleagues from across party lines have worked to make a difference by uniting under the common principle of freedom.

"The Victims of Trafficking Protection Act," Public Law 106-386, established a monitoring system and sanctions for countries that fail to take minimal efforts to combat trafficking. "The PROTECT Act," Public Law 108-21, made it a crime for any person traveling abroad or entering into the United States to do so for sex tourism involving children. The Trafficking Victims Protection Reauthorization Act of 2003, Public Law 108-193, established a Senior Policy Operating Group within the executive branch to coordinate sound policies between interagency departments. These measures have brought about both deep understanding and awareness and much needed laws to protect and combat against trafficking.

I congratulate Congressman CHRIS SMITH and my colleagues in the House for their tireless devotion to this issue and the passage of the 2005 reauthorization legislation.

The bill reauthorizes ongoing programs of the Department of State, U.S. Agency for International Development, Department of Justice, Department of Homeland Security, Department of Health and Human Services, and Department of Labor to combat trafficking in persons for fiscal years 2006 and 2007. Additionally, it authorizes new funds to the FBI for domestic and international investigations of acts of severe forms of trafficking in persons, as well as grants to State and local law enforcement for the investigation and prosecution of acts of severe forms of trafficking in persons involving domestic victims of trafficking.

For the first time, we have authorized new programs to reduce the demand for commercial sex in the United States and prevent trafficking of U.S. citizens through the creation of grant programs for States and local law enforcement.

As a result of last year's tsunami, the legislation incorporates child protection and trafficking prevention activities into USAID, State, and DOD post-conflict and post-natural disaster relief programs. In addition, given recent sex scandals within peacekeeping missions, this bill aims to strengthen efforts to combat sexual exploitation and trafficking in persons by peacekeepers.

Finally, the bill authorizes studies on the linkage between trafficking and terrorism and trafficking and HIV/AIDS, as well as requires a worldwide report on steps taken to prevent and eliminate the abduction and enslavement of children for use as soldiers.

I would also like to applaud the work of the Trafficking in Persons Office at the State Department. Through their sustained diplomatic efforts, countries around the world are signing into law provisions that prevent and punish human trafficking. Even in the United States, we have places like the Kansas Legislature working on legislation to combat human trafficking. It is a true testament to the strides that we have made in ending modern-day slavery and I hope other states and nations around the world will also consider taking action against this type of organized crime.

I am driven by the conviction that every individual counts. This principle comprises the heart of the democratic form of government. It is based on a belief in the universal nature of human rights and a commitment to the dignity of every human life. Addressing modern-day slavery is driven by that very conviction.

Rosa Parks' remarkable story tells us that the walk to freedom has to begin somewhere—but also that such a walk is a long one. And for the journey we take encouragement from the assurances of a Baptist pastor who went to jail with Rosa Parks. "The moral arc of the universe is long," said Dr. King, "but it bends toward justice."

Mr. BIDEN. Mr. President, in March of this year, I—along with Senator LUGAR—introduced S. 559, the Protection of Vulnerable Populations During Humanitarian Emergencies Act of 2005, a bill to make vulnerable people, especially women and children, a priority of our foreign assistance programs. The Committee on Foreign Relations approved the bill in March as part of its omnibus authorization bill, S. 600. Unfortunately, S. 600 was pulled from floor consideration in April, and remains stalled.

In the last few days, I have attempted to add the provisions of S. 559 as an amendment to H.R. 972, the Trafficking Victims Protection Act, which was approved by the other body just last week. I support the trafficking bill, which addresses a serious problem in many parts of the world, including this country. I have been told, however, by my friends on the other side of the aisle that my amendment is not acceptable at this time. Several reasons have been given, foremost among them that it will unduly delay enactment of the trafficking bill, because the other body has essentially closed up shop for the year.

But as my colleagues know we have another problem—victims of sexual exploitation and abuse who are not trafficked—such as those who are forced to seek sanctuary in refugee or internally displaced camps. The trafficking bill deals with people who are trafficked from those camps. But it does not address the need to protect those left behind.

Last May, I visited a refugee camp in Chad where nearly 30,000 refugees from Darfur had settled. I have seen and heard the problems they are facing first hand.

Over the last 2 years, civilians have been targeted by Khartoum in one of the most horrific genocides the world has ever seen. Villages have been bombed, government-sponsored militia have destroyed crops and have fouled the water supply. They have burned homes, leaving mothers no choice but to flee for their lives and their children's lives.

Civilians forced to flee during war find their way to camps, but instead of relative safety, what do they find? They find more suffering. The camps become virtual prisons. Women and girls are beaten and raped if they venture outside the camps for firewood.

Sudan is not the only part of the world where such travesties are occurring. A report by a United Nations investigatory team released earlier this year states that a number of U.N. peacekeepers—U.N. peacekeepers, mind you—deployed to protect civilians from ethnic violence in the eastern Democratic Republic of Congo were sexually exploiting girls as young as 13 years old. The peacekeepers were asking these children for sex in exchange for small sums of money or food. And the report found that the abuse continued even while UN investigators were on the ground.

Reading that report and others reinforced my belief that we cannot stand by any longer. More must be done, and S. 559 provides an important framework to do so.

I firmly believe that the objective of my legislation is entirely consistent with the objectives of the trafficking bill—to protect vulnerable people, whether they are trafficked from one country to another, or left behind in a refugee camp.

It enhances the U.S. Government's ability to see that women and children are protected before, during, and after a complex humanitarian emergency. It directs the Secretary of State to designate a special coordinator for protection issues who will be charged with making sure our embassies are made aware of the warning signs that an emergency which may put the lives and safety of women and children at risk is imminent.

It directs the coordinator to compile a watch list of such countries and regions so that the Agency for International Development can plan to meet potential need for protection programs. It prohibits U.S. funding for relief agencies that do not sign a code of conduct that outlaws improper exploitative relationships between aid workers and recipients.

It calls upon the United States Executive Director of the International Bank of Reconstruction and Development to try to make sure World Bank demobilization, disarmament, and reintegration programs extend the same benefits provided to ex-combatants to the women and children who were associated with them.

As it now stands, women and children who were used as cooks and porters and so-called "wives," a euphemism for women who were kidnaped to serve as sexual slaves, may well not be given benefits through these programs—nothing with which to rebuild their lives despite the fact that they were not there by choice. Yet the very people who forced them into such conditions receive assistance without conditions.

Finally, it amends the Foreign Assistance Act to authorize programs and activities specifically aimed at making vulnerable people—especially women and children—who are affected by humanitarian emergencies safer from further exploitation and abuse.

In recent days, some supporters of the trafficking bill have suggested my bill is about abortion. My response is this: my bill has nothing to do with abortion, but I am willing to make any changes that are necessary to make clear that abortion-related restrictions in foreign aid laws are not affected.

I sincerely hope that people who have a legitimate sense of moral outrage about victims of trafficking will support my objectives and work with me to pass my bill early next year. The Senator from Kansas, Senator BROWNBACK, who is one of the chief sponsors in the Senate of the trafficking bill, has pledged to work with me on approval of S. 559. I am grateful to him for that commitment.

In the meantime, I am pleased that today the Senate will approve the Trafficking in Persons legislation and it will proceed to the President. It is a very important bill and I commend the sponsors in both chambers for their good work.

Mr. CORNYN. Mr. President, I rise today to speak about the Trafficking Victims Protection Reauthorization Act approved by the House on Thursday, December 15. This legislation increases the Government's ability to combat human trafficking and provides greater protective measures for victims of this deplorable crime. I thank my colleagues in the House for working on this legislation in an expedited fashion, and for their leadership in responding to these challenges.

The Trafficking Victims Protection Reauthorization Act includes language from the End Demand for Sex Trafficking Act of 2005, a bill that I introduced earlier this year. That bill is important because it expresses Congress' commitment to reduce U.S. domestic demand for sex trafficking—which disproportionately victimizes women and children. It incorporates more stringent provisions to penalize human traffickers, and it enhances protective measures for the victims of trafficking crimes.

This is accomplished by establishing Federal grants which could be used to focus on prosecution efforts. In addition, it strengthens and clarifies Federal criminal law, making it easier to prosecute those who transport persons who are then used for prostitution across State lines. And it includes an important oversight element: the Attorney General will be required to release an annual report on best practices for reducing the demand for unlawful commercial sex.

The Thirteenth Amendment to the Constitution states: "Neither slavery nor involuntary servitude . . . shall exist within the United States, or any place subject to their jurisdiction." This provision is unique to our Constitution. Many constitutional amendments protect individual rights against actions by Federal, State, and local governments. But the Thirteenth Amendment is unique because it provides that slavery and involuntary servitude cannot exist—neither in public nor private spheres.

Yet, even to this day, men, women, and children are trafficked into the United States and coerced into lives ravaged by forced labor and sexual slavery.

I join the administration in commending the House International Relations and Judiciary Committees who joined me to address this important issue. Indeed, this bill lays out the terrible facts: as many as 800,000 human beings are literally bought and sold worldwide into some form of slavery or involuntary servitude—approximately 80 percent are women and girls and up to 50 percent are children. Roughly 16,000 of those human beings are brought into the United States each year, coerced into lives of forced labor or sexual servitude which, of course, is slavery.

The fact is the current administration has responded to the call by dramatically increasing efforts devoted to providing substantially more resources to combat human trafficking. This has been done principally under the auspices of the civil rights division at the Justice Department. The Department has initiated more than three times the number of trafficking investigations, filed almost four times as many of these cases, and doubled the number of defendants convicted for these heinous crimes than in the prior 4-year period.

Mr. President, I am pleased this important piece of legislation has passed, and look forward to working with my colleagues on this very important issue in the future.

Mr. DURBIN. Mr. President, I rise to support passage of the Trafficking Victims Protection Reauthorization Act of 2005.

This law will help continue the progress in fighting the insidious global practice of trafficking in human beings. It is estimated that nearly a million people are trafficked across international borders each year and pressed into labor or servitude by the use of force, fraud, or coercion. Human trafficking represents the commerce in human misery.

Today we reauthorize a bill that was passed and signed into law in October 2000. In doing so, we honor one of the great champions of that bill—the late Senator Paul Wellstone. Senator Wellstone's commitment to combating human trafficking and other human rights abuses stands as one of his most enduring legacies. The Senate and the Nation miss his courage, passion, and leadership on this issue and so many others.

The passage of today's bill is also a tribute to the tireless advocacy of one of my constituents, Oprah Winfrey. She has helped put a spotlight on the tragedy of human trafficking, and she has been a powerful and eloquent voice for those who are silenced by oppression.

Human trafficking is most prevalent in foreign lands, but the U.S. Government has estimated that over 10,000 people are trafficked into the United States every year. In my own State of Illinois, for example, a Russian trafficker was prosecuted in 2002 for forcing several women from Latvia to work in Chicago-area strip clubs. The State of Illinois has risen to the challenge. This past summer, Illinois Governor Rod Blagojevich signed a law that provides more legal tools for State prosecutors and more protections for trafficking victims.

The Trafficking Victims Protection Reauthorization Act of 2005 will help combat human trafficking throughout the Nation and around the globe. It extends the provisions given to Federal law enforcement in 2000 to prosecute traffickers, protect victims, and prevent future abuses.

And it will allow our government to continue holding other nations accountable for their efforts to combat human trafficking abroad. I have discussed this issue with Ambassador John Miller, a former member of Congress who is now the director of the State Department's Office to Monitor and Combat Trafficking in Persons. I am pleased that the number of countries to whom the State Department has given a failing grade—so-called "Tier 3" countries—has dropped from 27 in 2001 to 14 in 2005.

Earlier this month, we commemorated the International Day for the Abolition of Slavery. On this occasion, U.N. Secretary-General Kofi Annan said:

> The world is now wrestling with a new form of slavery—trafficking in human beings, in which many vulnerable people are virtually abandoned by legal and social systems into a sordid realm of exploitation and abuse. People who perpetrate, condone or facilitate slavery or slavery-like practices must be held accountable by national and, if necessary, international means. The international community must also do more to combat poverty, social exclusion, illiteracy, ignorance and discrimination, which increase vulnerability and are part of the underlying context for this scourge.

By passing the Trafficking Victims Protection Reauthorization Act of 2005, we are heeding the advice of Kofi Annan and carrying the torch of Paul Wellstone.

Mrs. CLINTON. I rise today to speak in support of the reauthorization of the Trafficking Victims Protection Act.

The scourge of trafficking in women and children was a priority for me as First Lady and continues to be a priority for me as a U.S. Senator. Since the United Nations Fourth World Conference on Women in 1995, I have been working to raise awareness of the heinous practice of buying and selling women and children like commodities. I have seen the devastation that it causes, and the lives it ruins. I have met with the families from Eastern and Central Europe, who, with tears in their eyes, pleaded with me to help them find lost ones who had been stolen from them, and I have met with the victims, including a 12-year-old girl in Thailand who was dying of AIDS after being sold twice by her family. This barbaric practice has caused far too many to exist in a perpetual state of fear and vulnerability, and we must do everything in our power to bring the scourge of trafficking out of the shadows and to the attention of the world.

I am proud to say that the United States has, for the past decade, been the leader in trying to persuade the rest of the world to eradicate this abhorrent practice. As the Clinton administration increased the anti-trafficking activities of our Government through programs at the State Department and the Department of Justice, Congress was developing legislation to eradicate trafficking. We worked with the late Senator Wellstone, his Republican cosponsor, Senator BROWNBACK, and Congressman CHRIS SMITH and former Congressman Sam Gejdenson in the House, to introduce the first comprehensive anti-trafficking bill in Congress. This culminated in the passage of the Victims of Trafficking and Violence Protection Act of 2000. I believed then, and I believe now, that this is one of the Clinton administration's greatest achievements and one of the most important parts of Senator Wellstone's legacy. That law has meant the difference between freedom and enslavement for unknown numbers of potential trafficking victims, and this reauthorization provides us with the opportunity to strengthen its ability to help those who have been trafficked, and I would like to thank Senator BROWNBACK and Representative SMITH, my colleagues on the Helsinki Commission, for their continued commitment to this act since its initial passage.

I am proud to see that this reauthorization enhances the 3 P's strategy—prevention of trafficking, prosecution of those that engage in these acts, and protection of the vulnerable individuals who have been trafficked—that we developed in the Clinton administration. It gives the Justice Department the authority to pursue extraterritorial prosecutions of Federal employees or those accompanying them if they engage in trafficking activities. It encourages the prevention of trafficking by requiring organizations or contractors engaged in U.S.-supported peacekeeping efforts to have antitrafficking policies in place. And it will protect those who have been trafficked overseas by increasing funding for programs like residential treatment facilities.

But there is still so much work to be done. Although reliable statistics are difficult to find, we know that 800,000 individuals—the vast majority of whom are women and children—are trafficked from one country to another every year, with 15,000 being trafficked to the United States. The FBI estimates that trafficking generates $9.5 billion annually for organized crime syndicates around the world.

I am deeply concerned about the growing domestic commercial sex trade, and I believe that we need to increase funding and target efforts to end all forms of exploitation. Any expansion of our focus must not dilute our commitment to eradicating human trafficking in all its forms in the United States, nor detract from the progress we have made in increasing prosecutions and working with law enforcement agencies. We must ensure that our Government has all the resources it needs to make inroads against these awful acts on our own soil.

In the fight against trafficking in persons, patience simply is not an option. I look forward to continuing to work with my colleagues to end this barbaric practice in both the United States and around the world, because this is not about politics, but about what we all share: universal freedom and universal human rights.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 972) was read the third time and passed.

TO AMEND THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4579, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

> A bill (H.R. 4579) to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to extend by one year provisions requiring parity in the application of certain limits to mental health benefits.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4579) was read the third time and passed.

TORTURE VICTIMS RELIEF REAUTHORIZATION ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2017, which was received from House.

The clerk will state the bill by title.

The legislative clerk read as follows:

> A bill (H.R. 2017) to amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign programs and centers for the treatment of victims of torture, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2017) was read the third time and passed.

SECOND HIGHER EDUCATION EXTENSION ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4525, which was received from the House.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4525) to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4525) was read the third time and passed.

UNANIMOUS CONSENT AGREEMENT—H. CON. RES. 326

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of H. Con. Res. 326, the adjournment resolution; provided that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table. I further ask unanimous consent that action on the resolution be vitiated if the House does not adopt S. Con. Res. 74.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 326) was agreed to, as follows:

H. CON. RES. 326

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on any legislative day from Sunday, December 18, 2005, through Saturday, December 24, 2005, or from Monday, December 26, 2005, through Saturday, December 31, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die or until the time of any reassembly pursuant to section 3 of this concurrent resolution; and when the Senate adjourns on any day from Monday, December 19, 2005, through Saturday, December 24, 2005, or from Monday, December 26, 2005, through Saturday, December 31, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die or until the time of any reassembly pursuant to section 3 of this concurrent resolution.

SEC. 2. When the House adjourns on any legislative day of the second session of the One Hundred Ninth Congress from Tuesday, January 3, 2006, through Saturday, January 28, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it shall stand adjourned until noon on Tuesday, January 31, 2006, or until the time of any reassembly pursuant to section 3 of this concurrent resolution, whichever occurs first; when the Senate recesses or adjourns on any day of the second session of the One Hundred Ninth Congress from Tuesday, January 3, 2006, through Monday, January 16, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it shall stand recessed or adjourned until noon on Wednesday, January 18, 2006, or until such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 3 of this concurrent resolution, whichever occurs first; and when the Senate recesses or adjourns on any day from Friday, January 20, 2006, through Saturday, January 28, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it shall stand recessed or adjourned until noon on Tuesday, January 31, 2006, or until such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 3 of this concurrent resolution, whichever occurs first.

SEC. 3. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

CONDITIONAL ADJOURNMENT OF THE HOUSE AND SENATE

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment sine die under the provisions of H. Con. Res. 326, and when the Senate reconvenes at 12 noon on January 3, it be for a pro forma session only, and that no business be in order and the Senate then automatically adjourn until 10 a.m. on January 18 as under the provisions of that resolution, or until 8 p.m. on December 22 if the House does not adopt S. Con. Res. 74. I further ask that on whichever day the Senate reconvenes, following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, and the time for the two leaders be reserved, and then the Senate proceed to a period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THANKING THE STAFF AND PAGES

Mr. FRIST. Mr. President, as we bring this first session of the 109th Congress to a close, I once again thank my colleagues, the staff, the pages, and everyone who contributes so much to our work in this Chamber.

I want to give a special thanks to the few pages we have remaining this evening. Most of them have gone back home to their families, and we have a few volunteers who stayed behind. They are instrumental in allowing us to carry out our work each day. It is very rare that we actually say thank you. I want to take this opportunity to say thank you for volunteering to be with us over what has been a pretty long last couple of days. So I thank Rafi Bortnick, Katie Rember, and Dan Tinsley.

I wish everyone a Merry Christmas and a happy and healthy holiday season. I hope that everyone does get some rest and spends some time with family and friends and neighbors and others in their communities and returns back here in January ready to roll up your sleeves and continue right where we left off.

ADJOURNMENT UNTIL DECEMBER 22, 2005 OR JANUARY 3, 2006

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 12:13 a.m., adjourned until Thursday, December 22, 2005, at 8 p.m. or Tuesday, January 3, 2006.

NOMINATIONS

Executive nominations received by the Senate December 21, 2005:

DEPARTMENT OF ENERGY

ALEXANDER A. KARSNER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENERGY EFFICIENCY AND RENEWABLE ENERGY), VICE DAVID GARMAN.

TENNESSEE VALLEY AUTHORITY

SUSAN RICHARDSON WILLIAMS, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR A TERM EXPIRING MAY 18, 2007. (NEW POSITION)

DONALD R. DEPRIEST, OF MISSISSIPPI, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR A TERM EXPIRING MAY 18, 2009. (NEW POSITION)

HOWARD A. THRAILKILL, OF ALABAMA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR THE TERM PRESCRIBED BY LAW, VICE GLENN L. MCCULLOUGH, JR., RESIGNED.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

VINCE J. JUARISTI, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING FEBRUARY 8, 2009, VICE LESLIE LENKOWSKY, TERM EXPIRED.

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5721:

To be lieutenant commander

CHRISTOPHER P. BOBB, 2086
BRUCE J. CICCONE, JR., 9473
CHAD J. CONEWAY, 3342
DAVID COX, 8546
DENNIS M. DAVIS, 8652
RICHARD A. DEHAVEN, 2746
MICHAEL J. DONIGER, 1380
DAVID L. EDGERTON, 3932
RANDALL I. FEHER, 2656
JEFFREY L. HEAMES, 5790
BRIAN P. HOGAN, 8533
JONATHAN S. HOLMGREN, SR., 5177
NOMER F. JAVIER, 1336

MICHAEL D. JOHNSON, 8162
CHARLES O. JONES, 9015
DAVID R. KINNEY, 8614
BRIAN S. ONEILL, 4889
JEFFREY D. ORBERSON, 9521
VINCENT J. WOOD, 9635

CONFIRMATIONS

Executive nominations confirmed by the Senate, Wednesday, December 21, 2005:

DEPARTMENT OF THE INTERIOR

R. THOMAS WEIMER, OF COLORADO, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

VINCENT J. VENTIMIGLIA, JR., OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. DONALD M. BRADSHAW

THE JUDICIARY

JOSEPH FRANK BIANCO, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK.

TIMOTHY MARK BURGESS, OF ALASKA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ALASKA.

GREGORY F. VAN TATENHOVE, OF KENTUCKY, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF KENTUCKY.

ERIC NICHOLAS VITALIANO, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK.

KRISTI DUBOSE, OF ALABAMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF ALABAMA.

W. KEITH WATKINS, OF ALABAMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF ALABAMA.

VIRGINIA MARY KENDALL, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS.

DEPARTMENT OF HOMELAND SECURITY

EMILIO T. GONZALEZ, OF FLORIDA, TO BE DIRECTOR OF THE BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES, DEPARTMENT OF HOMELAND SECURITY.

FEDERAL COMMUNICATIONS COMMISSION

MICHAEL JOSEPH COPPS, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF FIVE YEARS FROM JULY 1, 2005.

DEBORAH TAYLOR TATE, OF TENNESSEE, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 2007.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL PHILIP M. BREEDLOVE

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. GARY D. SPEER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. CHARLES C. CAMPBELL

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. ANDREW B. DAVIS

IN THE COAST GUARD

COAST GUARD NOMINATION OF CONNIE M. ROOKE TO BE LIEUTENANT COMMANDER.

'COAST GUARD NOMINATION OF JOSEPH T. BENIN TO BE LIEUTENANT.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH JOLENE A. AINSWORTH AND ENDING WITH DAVID C. ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 28, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH CRAIG L. ADAMS AND ENDING WITH MATTHEW C. WYATT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 17, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH JAY O. AANRUD AND ENDING WITH SCOTT C. ZIPPWALD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 17, 2005.

AIR FORCE NOMINATION OF MARTIN E. KEILLOR TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH ROBERT W. DESVERREAUZ AND ENDING WITH CHETAN U. KHAROD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 14, 2005.

AIR FORCE NOMINATION OF JULIE S. MILLER TO BE MAJOR.

AIR FORCE NOMINATION OF KARA A. GORMONT TO BE MAJOR.

IN THE ARMY

ARMY NOMINATIONS BEGINNING WITH DEIBY ACEVEDO AND ENDING WITH DAVID R. ZYSK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 13, 2005.

ARMY NOMINATIONS BEGINNING WITH HOLTORF R. ALONSO AND ENDING WITH RICHARD M. ZYGADLO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 13, 2005.

ARMY NOMINATIONS BEGINNING WITH THOMAS E. AYRES AND ENDING WITH PETER C. ZOLPER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 13, 2005.

ARMY NOMINATION OF CINDY R. JEBB TO BE COLONEL.

ARMY NOMINATION OF RICHARD L. CHAVEZ TO BE COLONEL.

ARMY NOMINATIONS BEGINNING WITH SAMUEL CASSCELLS AND ENDING WITH SLOBODAN JAZAREVIC, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 14, 2005.

ARMY NOMINATIONS BEGINNING WITH JOSEPH J. IMPALLARIA AND ENDING WITH ARTHUR E. LEES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 14, 2005.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF MICHELLE A. RAKERS TO BE CAPTAIN.

IN THE NAVY

NAVY NOMINATIONS BEGINNING WITH TONY C. BAKER AND ENDING WITH JAMES J. VOPELIUS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 13, 2005.

NAVY NOMINATION OF LLOYD G. LECAIN TO BE CAPTAIN.

WITHDRAWALS

Executive message transmitted by the President to the Senate on December 21, 2005 withdrawing from further Senate consideration the following nominations:

HOWARD A. THRAILKILL, OF ALABAMA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR A TERM EXPIRING MAY 18, 2007, WHICH WAS SENT TO THE SENATE ON NOVEMBER 17, 2005.

SUSAN RICHARDSON WILLIAMS, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR THE TERM PRESCRIBED BY LAW, WHICH WAS SENT TO THE SENATE ON NOVEMBER 17, 2005.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, December 22, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

January 9

12 noon

Judiciary

To hold hearings to examine the nomination of Samuel A. Alito, Jr., of New Jersey, to be an Associate Justice of the Supreme Court of the United States.

SH-216

February 9

10 a.m.

Commerce, Science, and Transportation

To hold an oversight hearing to examine commercial aviation security, focusing on Transportation Security Administration's aviation passenger screening programs, Secure Flight and Registered Traveler, to discuss issues that have prevented these programs from being launched, and to determine their future.

SD-562

2:30 p.m.

Commerce, Science, and Transportation

To continue oversight hearings to examine commercial aviation security, focusing on physical screening of airline passengers, including issues pertaining to Transportation Security Administration's Federal passenger screener force, TSA procurement policy, air cargo screening, and the deployment of explosive detection technology.

SD-562

SENATE—*Thursday, December 22, 2005*

The Senate met at 8 p.m. and was called to order by the Honorable JOHN WARNER, a Senator from the State of Virginia.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Spirit of Holiness, we thank You for the joyous gift of the holidays that are beyond price. For friends who grow dearer through the passing years, for the homes we call our own, for loyal devotion and patient understanding, for all these we lift our voices in praise.

Lord, as we observe the traditions and keep the customs of this season, make us thankful and keep us humble. Keep us mindful of our many spiritual blessings so we will not forget the reason for this season. Give us eyes to see Your stars and ears to hear the song of the angels.

Bless our Senators with generous' hearts. Let the kindly holiday spirit penetrate all our deeds in the days to come. We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN WARNER led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the PRESIDENT pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, December 22, 2005.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN WARNER, a Senator from the State of Virginia, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. WARNER thereupon assumed the Chair as Acting President pro tempore.

USA PATRIOT ACT

The ACTING PRESIDENT pro tempore. In my capacity as the senior Senator from Virginia, I ask unanimous consent that the Chair now lay before the Senate the House message to accompany S. 2167.

The legislative clerk read as follows:

> S. 2167
>
> *Resolved*, That the bill from the Senate (S. 2167) entitled "An Act to amend the USA PATRIOT ACT to extend the sunset of certain provisions of that Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to July 1, 2006", do pass with the following amendment:
>
> (1) Page 2, line 10 of the Senate engrossed bill, strike out [July 1, 2006] and insert: *February 3, 2006.*

The ACTING PRESIDENT pro tempore. I ask unanimous consent that the Senate concur in the House amendment and the motion to reconsider be laid upon the table.

Without objection, it is so ordered.

EXTENSION OF SIGNING AND APPOINTMENT AUTHORITIES

The ACTING PRESIDENT pro tempore. In my capacity as the senior Senator from Virginia, I now ask unanimous consent that all applicable signing and appointment authorities be extended through the adjournment of the Senate, and that the senior Senator from Virginia be authorized to sign duly enrolled bills and joint resolutions.

Without objection, it is so ordered.

PRINTING OF S. 1783

The ACTING PRESIDENT pro tempore. In my capacity as the senior Senator from Virginia, I ask unanimous consent that the text of S. 1783, as passed by the Senate be printed.

Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS CONFERENCE REPORT

Mr. REID. Mr. President, last night we passed the Department of Defense Appropriations Conference Report. We all know how important that bill is to our country and our troops. Prior to passing that bill, we were successful in removing provisions to allow drilling in the Arctic National Wildlife Refuge. Those provisions had no place in that bill.

As was noted on the floor last night, there were other provisions that did not belong in the conference report. They were not included in the House- or Senate-passed bills. They were not at all related to the Department of Defense's appropriations. In fact, conferees had been assured that these provisions would not be included at all.

But Republican leaders swept in and declared that they would be included, in violation of promises and the rules. And that is not the worst part. The provisions themselves bestow on drug companies sweeping immunity from the consequences of reckless wrongdoing. It was the Republican leadership's big Christmas present to their friends in the drug industry.

This immunity extends to all aspects of the development and production of drugs or vaccines so long as they are used to prevent, treat, or diagnose what the administration declares an "epidemic." Republican leaders have insisted that these provisions are about preparing for pandemic flu or bioterrorist attack. They are exploiting our fears to go well beyond that.

What is an "epidemic"? Secretary Leavitt recently said obesity is an "epidemic." Many have said diabetes, heart disease, and methamphetamine addiction are epidemics. And it gets worse. The provisions also apply to any product that mitigates the side effects of a drug used to counteract an epidemic. That could include pain or high blood pressure medication.

Even reckless or grossly negligent drug companies will not be held responsible for the injuries they cause. The provisions in the conference report only allow for an injured patient to hold a drug company responsible if he or she can prove using clear and convincing evidence that the company acted with "willful misconduct." This burden is virtually impossible to meet.

This gift to the drug companies comes at the expense of injured patients and the success of our future programs to ensure vaccinations. The provisions establish a "compensation fund," but provide no money for it. Patients who are injured by products covered under this legislation will find that because there is no money in the fund, there is no compensation.

Under this administration's watch, the absence of a promise of compensation resulted in the failure of the program to vaccinate first responders for smallpox. The legislation we passed last night creates the same problem and condemns future similar vaccination programs to failure. Who can blame people for saying no when we are asking to take the risks of what may be an adverse effect if they are not assured that we will take care of them?

Mr. President, the inclusion of these policies in the DOD Appropriations bill was not just bad form, it was bad for Americans. I strongly opposed their inclusion. And I am strongly committed to revisiting this damage in the first days of our return.

ADDITIONAL STATEMENTS

DEPARTMENT OF DEFENSE APPROPRIATIONS

• Mr. BAUCUS. Mr. President, I wholeheartedly support the provisions of the Department of Defense appropriations bill that provide money for our brave military men and women. I support the much needed 3.1 percent pay increase. And I support the Blackhawk MEDEVAC and Utility Helicopters, and Wireless Communication Systems for Montana's National Guard.

But this was not a clean bill. Although I voted for the bill, I take offense to a number of provisions that have nothing to do with our troops. These additions should never have been included in the Defense bill in the first place. They don't belong here.

We have focused our discussion over the past few days on drilling in Alaska. And I am proud that our defense bill does not include ANWR.

But in objecting to ANWR, we have forgotten other changes in the conference report, last minute additions that have no place in a defense bill. I am referring to the Public Readiness and Emergency Preparedness Act.

The Emergency Preparedness Act virtually eliminates liability for pharmaceutical companies. Now drug companies have wholesale immunity except in the case of "willful misconduct." Drug companies will no longer be held responsible for negligence or recklessness. Only if they had actual knowledge that their product would injure or kill someone would we hold them accountable.

The Emergency Preparedness Act also sets up an unfunded compensation fund. Without any money appropriated to the fund, the fund is inoperable. This could allow drug companies to remove themselves from responsibility without providing the American people with the recourse they deserve.

Although I support the Defense bill we passed, I do not support the Emergency Preparedness Act. This section was added at the last minute. And it only passed because all of us in the Senate wanted to provide support for our troops.•

MESSAGE FROM THE HOUSE

At 8:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4647. An act to amend the USA PATRIOT ACT to extend the sunset of certain provisions of such Act.

The message also announced that the House has passed the bill (S. 2170) to amend the USA PATRIOT ACT to extend the sunset of certain provisions of that Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to July 1, 2006, with an amendment.

The message further announced that the House has passed the concurrent resolution (S. Con. Res. 74) correcting the enrollment of H.R. 2863, without amendment.

ENROLLED BILL SIGNED

The message also announced that the Speaker pro tempore of the House of Representatives (Mr. WOLF) has signed the following enrolled bill:

S. 1281. An act to authorize the programs of the National Aeronautics and Space Administration.

Under authority of the order of the Senate of December 21, 2005, the enrolled bill was signed subsequently on today, December 22, 2005, by the Acting President pro tempore (Mr. WARNER).

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 22, 2005, she had presented to the President of the United States the following enrolled bills:

S. 205. An act to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers.

S. 652. An act to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin.

S. 1238. An act to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and for other purposes.

S. 1310. An act to authorize the Secretary of the Interior to allow the Columbia Gas Transmission Corporation to increase the diameter of a natural gas pipeline located in the Delaware Water Gap National Recreation Area, to allow certain commercial vehicles to continue to use Route 209 within the Delaware Water Gap National Recreation Area, and to extend the termination date of the National Park System Advisory Board to January 1, 2007.

S. 1481. An act to amend the Indian Land Consolidation Act to provide for probate reform.

S. 1892. An act to amend Public Law 107-153 to modify a certain date.

S. 1988. An act to authorize the transfer of items in the War Reserves Stockpile for Allies, Korea.

ADJOURNMENT SINE DIE

The ACTING PRESIDENT pro tempore. In my capacity as the senior Senator from Virginia, I ask unanimous consent that the Senate now stand in adjournment sine die under the provisions of H. Con. Res. 326.

There being no objection, the Senate, at 8:04 p.m. adjourned sine die.

NOMINATIONS RETURNED TO THE PRESIDENT

Returned to the President, Thursday, December 22, 2005:

THE FOLLOWING NOMINATIONS TRANSMITTED BY THE PRESIDENT OF THE UNITED STATES TO THE SENATE DURING THE FIRST SESSION OF THE 109TH CONGRESS, AND UPON WHICH NO ACTION WAS HAD AT THE TIME OF THE SINE DIE ADJOURNMENT OF THE SENATE, FAILED OF CONFIRMATION UNDER THE PROVISIONS OF RULE XXXI, PARAGRAPH 6, OF THE STANDING RULES OF THE SENATE.

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

JAMES H. BILBRAY, OF NEVADA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.

PHILIP COYLE, OF CALIFORNIA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.

ADMIRAL HAROLD W. GEHMAN, JR., UNITED STATES NAVY, RETIRED, OF VIRGINIA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.

JAMES V. HANSEN, OF UTAH, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.

GENERAL JAMES T. HILL, UNITED STATES ARMY, RETIRED, OF FLORIDA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.

SAMUEL KNOX SKINNER, OF ILLINOIS, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.

BRIGADIER GENERAL SUE ELLEN TURNER, UNITED STATES AIR FORCE, RETIRED, OF TEXAS, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.

JAMES H. BILBRAY, OF NEVADA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

PHILIP COYLE, OF CALIFORNIA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ADMIRAL HAROLD W. GEHMAN, JR., UNITED STATES NAVY, RETIRED, OF VIRGINIA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

JAMES V. HANSEN, OF UTAH, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

GENERAL JAMES T. HILL, UNITED STATES ARMY, RETIRED, OF FLORIDA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

GENERAL LLOYD W. NEWTON, UNITED STATES AIR FORCE, RETIRED, OF CONNECTICUT, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ANTHONY JOSEPH PRINCIPI, OF CALIFORNIA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

SAMUEL KNOX SKINNER, OF ILLINOIS, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

BRIGADIER GENERAL SUE ELLEN TURNER, UNITED STATES AIR FORCE, RETIRED, OF TEXAS, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF JUSTICE

STEVEN G. BRADBURY, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL.

THE JUDICIARY

BRETT M. KAVANAUGH, OF MARYLAND, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH BRIGADIER GENERAL DANA T. ATKINS AND ENDING WITH BRIGADIER GENERAL JOHNNY A. WEIDA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 9, 2005.

AIR FORCE NOMINATION OF COLONEL JAMES A. BUNTYN TO BE BRIGADIER GENERAL.

AIR FORCE NOMINATIONS BEGINNING WITH COLONEL BROCK JOHN T. STROM AND ENDING WITH COLONEL RICHARD J. UTECHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 6, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH COLONEL GREGORY A. BISCONE AND ENDING WITH COLONEL TOD D. WOLTERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 4, 2005.

IN THE ARMY

ARMY NOMINATION OF COLONEL FREDDIE R. WAGGONER TO BE BRIGADIER GENERAL.

ARMY NOMINATION OF COL. JULIA A. KRAUS TO BE BRIGADIER GENERAL.

ARMY NOMINATION OF MAJ. GEN. ERIC T. OLSON TO BE LIEUTENANT GENERAL.

ARMY NOMINATION OF COL. GILBERTO S. PENA TO BE BRIGADIER GENERAL.

ARMY NOMINATION OF COL. RODNEY J. BARHAM TO BE BRIGADIER GENERAL.

ARMY NOMINATION OF COL. LARRY L. ARNETT TO BE BRIGADIER GENERAL.

ARMY NOMINATION OF COL. OTIS P. MORRIS TO BE BRIGADIER GENERAL.

IN THE NAVY

NAVY NOMINATION OF CAPTAIN DAVID J. MERCER TO BE REAR ADMIRAL (LOWER HALF).

NAVY NOMINATION OF TITO P. DUA TO BE CAPTAIN.

NAVY NOMINATION OF LANCE C. ESSWEIN TO BE COMMANDER.

HOUSE OF REPRESENTATIVES—*Thursday, December 22, 2005*

The House met at 4 p.m. and was called to order by the Speaker pro tempore (Mr. WOLF).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
December 22, 2005.

I hereby appoint the Honorable FRANK R. WOLF to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, the Beginning and the End, all natural beauty gives You glory. All human effort is destined to build Your kingdom of peace and justice.

Bless the finishing work of this First Session of the 109th Congress of the United States of America. May words of promise for the good of Your people come to fulfillment and bring good news to the poor. May laws here enacted be truly implemented with equality and accountability.

May the hopes of Americans be realized in the new year, and may this manifestation of free democracy in action be a sign of Your blessing upon all the Earth and give You glory, now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Michigan (Mr. KILDEE) come forward and lead the House in the Pledge of Allegiance.

Mr. KILDEE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate had passed with an amendment a bill of the house of the following title.

H.R. 1400. An act to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 119. An act to provide for the protection of unaccompanied alien children, and for other purposes.

S. 716. An act to amend title 38, United States Code, to enhance services provided by vet centers, to clarify and improve the provision of breavement counseling by the Department of Veterans Affairs, and for other purposes.

S. 1182. An act to amend title 38, United States Code, to improve health care for veterans, and for other purposes.

S. 1184. An act to waive the passport fees for a relative of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member or to attend a funeral or memorial service for such member.

S. 1315. An act to require a report on progress toward the Millenium Development Goals, and for other purposes.

S. 2167. An act to amend the USA PATRIOT Act to extend the sunset of certain provisions of the Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to July 1, 2006.

S. 2170. An act to provide for global pathogen surveillance and response.

The message also announced that the Senate has agreed to concurrent resolutions of the following titles in which the concurrence of the House is requested:

S. Con. Res. 74. Concurrent resolution making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

S. Con. Res. 75. Concurrent resolution encouraging all Americans to increase their charitable giving, with the goal of increasing the annual amount of charitable giving in the United States by 1 percent.

The message also announced that the Senate agreed to the report of the committee of conference on the further conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3010) "An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes."

The message also announced that the Senate agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1815) "An Act to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.".

The message also announced that the Senate agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (S. 1281) "An Act to authorize appropriations for the National Aeronautics and Space Administration for science, aeronautics, exploration, exploration capabilities, and the Inspector General, and for other purposes, for fiscal years 2006, 2007, 2008, 2009, and 2010.".

The message also announced that the Senate, having had under consideration the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1932) "An Act to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).", it was

Resolved, That the Senate defeated the conference report by operation of the Budget Act: be it further

Resolved, That the Senate concur in the amendment of the House with further amendment.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, Speaker pro tempore WOLF signed the following enrolled bills on Wednesday, December 21, 2005:

S. 205, to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers;

S. 652, to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin;

S. 1238, to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and for other purposes;

S. 1310, to authorize the Secretary of the Interior to allow the Columbia Gas Transmission Corporation to increase the diameter of a natural gas pipeline located in the Delaware Water Gap National Recreation Area, to allow certain commercial vehicles to continue

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

to use Route 209 within Delaware Water Gap National Recreation Area, and to extend the termination date of the National Park System Advisory Board to January 1, 2007;

S. 1481, to amend the Indian Land Consolidation Act to provide for probate reform;

S. 1892, to amend Public Law 107-153 to modify a certain date;

S. 1988, to authorize the transfer of items in the War Reserves Stockpile for Allies, Korea.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 22, 2005.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 22, 2005, at 2:30 pm:

That the Senate passed without amendment—H. Con. Res. 59.

That the Senate passed without amendment—H. Con. Res. 196.

That the Senate passed without amendment—H. Con. Res. 230.

That the Senate passed without amendment—H. Con. Res. 324.

That the Senate passed without amendment—H.R. 972.

That the Senate passed without amendment—H.R. 2017.

That the Senate passed without amendment—H.R. 3179.

That the Senate passed without amendment—H.R. 4501.

That the Senate passed without amendment—H.R. 4525.

That the Senate passed without amendment—H.R. 4579.

That the Senate passed without amendment—H.R. 4635.

That the Senate passed without amendment—H.R. 4637.

With best wishes, I am
Sincerely,

KAREN L. HAAS,
Clerk of the House.

USA PATRIOT ACT 1-MONTH EXTENSION

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary and the Permanent Select Committee on Intelligence be discharged from further consideration of the bill (H.R. 4647) to amend the USA PATRIOT ACT to extend the sunset of certain provisions of such Act, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4647

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF CERTAIN PROVISIONS OF THE USA PATRIOT ACT.

Section 224(a) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56; 115 Stat. 295) is amended by striking "December 31, 2005" and inserting "February 3, 2006".

Mr. SENSENBRENNER. Mr. Speaker, in the wake of the September 11, 2001 attacks, Congress recognized that our Nation's intelligence and law enforcement communities lacked the statutory tools necessary to meet and defeat the international terrorist threat. Large majorities in both Houses passed the PATRIOT Act to lower the wall of separation between the intelligence and law enforcement communities that prevented the sharing of threat information that might have averted these attacks. I supported the inclusion of sunsets in the PATRIOT Act because I recognized that the enlargement of Federal law enforcement authority and the attendant risk to civil liberties required comprehensive examination and affirmative congressional reauthorization.

Since passage of the PATRIOT Act in October of 2001, I have led aggressive congressional oversight of the implementation of the PATRIOT Act before the House Committee on the Judiciary, and the legislation has been exhaustively examined by the House Committee on Intelligence, as well as companion committees in the other body. The PATRIOT Act conference report is more protective of civil liberties than current law in dozens of areas, and is the product of extensive and bipartisan legislative and oversight, as well as intensive bipartisan and bicameral negotiations. On December 14, the House passed the PATRIOT Act conference report by a bipartisan vote of 251–174.

Last night, the other body ignored the will of the House, a majority of PATRIOT Act House-Senate conferees, and a clear majority of Senators bypassing a 6-month extension of the PATRIOT Act that contained none of the important civil liberties provisions carefully negotiated by House and Senate conferees.

The security of the American people should not be subordinated to the partisan brinksmanship of a minority of obstructionist Senators. It is imperative that the PATRIOT Act not be permitted to expire in order to ensure that our Nation's law enforcement and intelligence communities are provided the statutory mandate necessary to detect and defeat terrorist threats.

Let me respond to assertions that the conference report does not strengthen the civil liberties provisions of the original PATRIOT Act.

Senator SCHUMER and others have said that we ought to "mend it, not end it." Senator SCHUMER and others fail to recognize that conferees have already extensively mended it, and that further mending will have the effect of ending the vital antiterrorism provisions contained in this legislation and heighten the risk of future terrorist attack.

With respect to civil liberties enhancements, the PATRIOT Act conference report contains at least 30 additional civil liberties safeguards, many of which were requested by minority conferees. This conference report tightens the criteria necessary to obtain a multipoint wiretap, heightens reporting requirements of their use, increases safeguards for the use of delayed notice search warrants, imposes stringent requirements for the acquisition of business records under section 215 of the legislation, requires the approval of such orders from the FBI Director of other senior executive officials if they pertain to library, medical, educational or other records, limits the scope of material obtained through these orders, and prohibits the dissemination of information obtained.

The conference report also requires that the DOJ Inspector General conduct two separate audits of the FBI's use of section 215 orders that will examine: any noteworthy facts or circumstances relating to 215 orders, including any improper or illegal use of the authority; the manner in which such information is collected, retained, analyzed, and disseminated by the FBI; and an assessment of whether the minimization procedures protect the constitutional rights of United States persons.

Allows recipients of National Security Letters (NSLs) to consult with legal counsel and creates an explicit right to judicial review of NSL requests.

Permits a reviewing court to modify or set aside an NSL if compliance would be unreasonable, oppressive, or otherwise unlawful—this is the same standard used to modify or quash a subpoena in a criminal case.

Requires the DOJ Inspector General to conduct two comprehensive audits of the FBI's use of NSLs and requires the Attorney General and the Director of National Intelligence to submit to Congress a report on the feasibility of applying minimization procedures to NSLs to ensure the protection of constitutional rights of U.S. persons.

Adds a new "sunshine" provision that requires annual public reporting on NSLs. Provides for expanded congressional access to significant FISA reporting currently provided to the Intelligence Committees.

Includes a provision requiring the FISA Court to submit its rules and procedures to Congress. Creates new reporting requirements for the use of emergency authorities under FISA. Requires new reporting on the use of emergency disclosures of communications information made under section 212 of the USA PATRIOT Act.

Requires the Department of Justice to submit a report to Congress on the Department's data-mining activities.

As you can see from this list of changes, the conference report does more than just mends the PATRIOT Act, it overhauls it in important ways that a minority of Senators refuse to recognize.

In order to ensure that this vital antiterrorism legislation does not expire at the end of this month, I offer legislation that provides a 5-week extension of the PATRIOT Act. The PATRIOT Act has already been subject to the most exhaustive congressional consideration of any modern legislation. A 5-week extension will permit both bodies to again examine the legislation to ensure that it enhances the security of the American people while preserving our civil liberties. It will also ensure that the vital antiterrorism provisions contained in the act do not expire as some in the other body have openly advocated.

I urge my colleagues to support this important legislation to renew the critical antiterrorism tools contained in the PATRIOT Act by supporting passage of H.R. 4647.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 4647, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

USA PATRIOT ACT 6-MONTH EXTENSION

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2167) to amend the USA PATRIOT ACT to extend the sunset of certain provisions of that Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to July 1, 2006, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. OBEY. Mr. Speaker, I reserve the right to object in order to simply ask at the proper time that I may be allowed to insert a statement from Mr. CONYERS in the RECORD with respect to the PATRIOT Act.

And I have been asked by the distinguished minority leader, Ms. PELOSI, to read the following statement:

"Mr. Speaker, I do not intend to object to this 1-month extension of the PATRIOT Act provision contained in this legislation. We would have preferred a 3- or 6-month extension to allow the American people a longer time to discuss the very serious impacts of these provisions on the civil liberties of the American people. But it appears we will only be given 1 month for that national debate.

"I also want it to be clear that this legislation involves only a small portion of the PATRIOT Act. Ninety percent of that act is law and remains law, regardless of what we do here today.

"The portion of the law in dispute is the very controversial section that affects the basic civil liberties of the American people. The rights of our citizens, as guaranteed by the Constitution, should not be shoehorned into a tight timeframe. We should have the time for a vigorous and thorough debate. In the meantime, the overwhelming majority of the PATRIOT Act is in place, and will remain in effect.

"Mr. Speaker, there is a very crucial debate in this country today about the rights of American citizens to privacy, and about the proper role of the Congress and courts in assuring that no one, not even the President, tramples on those basic privacy rights without complying with the law. In this atmosphere, it is appropriate to give additional time to examine the implications of these controversial provisions of the PATRIOT Act."

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF SUNSET OF CERTAIN PROVISIONS OF THE USA PATRIOT ACT AND THE LONE WOLF PROVISION OF THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.

Section 224(a) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (18 U.S.C. 2510 note) is amended by striking "December 31, 2005" and inserting "July 1, 2006".

AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

In section 1, strike "July 1, 2006" and insert "February 3, 2006".

Ms. PELOSI. Mr. Speaker, I do not intend to object to this one-month extension of the PATRIOT Act provision contained in this legislation. We would have preferred a three or six month extension to allow the American people a longer time to discuss the very serious impacts of these provisions on the civil liberties of the American people. But it appears we will only be given one month for that national debate.

I also want it to be clear that this legislation involves only a small portion of the PATRIOT Act. Ninety percent of that Act is law and remains law, regardless of what we do here today.

The portion of the law in dispute is the very controversial section that affects the basic civil liberties of the American people. The rights of our citizens, as guaranteed by the Constitution, should not be shoehorned into a tight timeframe: we should have the time for a vigorous and thorough debate. In the meantime, the overwhelming majority of the PATRIOT Act is in place, and will remain in effect.

Mr. Speaker, there is a very crucial debate in this country today about the rights of American citizens to privacy, and about the proper role of the Congress and the courts in assuring that no one—not even the President—tramples on those basic privacy rights without complying with the law. In this atmosphere, it is appropriate to give additional time to examine the implications of these controversial provisions of the PATRIOT Act.

Mr. SENSENBRENNER. Mr. Speaker, in the wake of the September 11, 2001 attacks, Congress recognized that our Nation's intelligence and law enforcement communities lacked the statutory tools necessary to meet and defeat the international terrorist threat. Large majorities in both Houses passed the PATRIOT Act to lower the wall of separation between the intelligence and law enforcement communities that prevented the sharing of threat information that might have averted these attacks. I supported the inclusion of sunsets in the PATRIOT Act because I recognized that the enlargement of federal law enforcement authority and the attendant risk to civil liberties required comprehensive examination and affirmative congressional reauthorization.

Since passage of the PATRIOT Act in October of 2001, I have led aggressive congressional oversight of the implementation of the PATRIOT Act before the House Committee on the Judiciary, and the legislation has been exhaustively examined by the House Committee on Intelligence, as well as companion committees in the other body. The PATRIOT Act conference report is more protective of civil liberties than current law in dozens of areas, and is the product of extensive and bipartisan legislative and oversight, as well as intensive bipartisan and bicameral negotiations. On December 14, the House passed the PATRIOT Act conference report by a bipartisan vote of 251–174.

Last night, the other body ignored the will of the House, a majority of PATRIOT Act House-Senate conferees, and a clear majority of Senators by passing a six-month extension of the PATRIOT Act that contained none of the important civil liberties provisions carefully negotiated by House and Senate conferees.

The security of the American people should not be subordinated to the partisan brinksmanship of a minority of obstructionist Senators. It is imperative that the PATRIOT Act not be permitted to expire in order to ensure that our Nation's law enforcement and intelligence communities are provided the statutory mandate necessary to detect and defeat terrorist threats.

Let me respond to assertions that the conference report does not strengthen the civil liberties provisions of the original PATRIOT Act.

Senator SCHUMER and others have said that we ought to "mend it, not end it." Senator SCHUMER and others fail to recognize that conferees have already extensively mended it, and that further mending will have the effect of ending the vital antiterrorism provisions contained in this legislation and heighten the risk of future terrorist attack.

With respect to civil liberties enhancements, the PATRIOT Act conference report contains at least 30 additional civil liberties safeguards, many of which were requested by minority conferees. This conference report tightens the criteria necessary to obtain a multipoint wiretap, heightens reporting requirements of their use, increases safeguards for the use of delayed notice search warrants, imposes stringent requirements for the acquisition of business records under section 215 of the legislation, requires the approval of such orders from the FBI Director or other senior executive official if they pertain to library, medical, educational or other records, limits the scope of material obtained through these orders, and prohibits the dissemination of information obtained.

The conference report also requires that the DOJ Inspector General conduct two separate audits of the FBI's use of section 215 orders that will examine: any noteworthy facts or circumstances relating to 215 orders, including any improper or illegal use of the authority; the manner in which such information is collected, retained, analyzed, and disseminated by the FBI; and an assessment of whether the minimization procedures protect the constitutional rights of United States persons.

Allows recipients of National Security Letters (NSLs) to consult with legal counsel and creates an explicit right to judicial review of NSL requests.

Permits a reviewing court to modify or set aside an NSL if compliance would be unreasonable, oppressive, or otherwise unlawful—this is the same standard used to modify or quash a subpoena in a criminal case.

Requires the DOJ Inspector General to conduct two comprehensive audits of the FBI's use of NSLs and requires the Attorney General and the Director of National Intelligence to submit to Congress a report on the feasibility of applying minimization procedures to NSLs to ensure the protection of constitutional rights of U.S. persons.

Adds a new "sunshine" provision that requires annual public reporting on NSLs. Provides for expanded congressional access to significant FISA reporting currently provided to the Intelligence Committees.

Includes a provision requiring the FISA Court to submit its rules & procedures to Congress. Creates new reporting requirements for the use of emergency authorities under FISA. Requires new reporting on the use of emergency disclosures of communications information made under section 212 of the USA PATRIOT Act.

Requires the Department of Justice to submit a report to Congress on the Department's data-mining activities.

As you can see from this list of changes, the conference report does more than just mend the PATRIOT Act, it overhauls it in important ways that a minority of Senators refuse to recognize.

In order to ensure that this vital antiterrorism legislation does not expire at the end of this month, I offer an amendment to the Senate-passed reauthorization that extends the PATRIOT Act until February 3, 2005. The PATRIOT Act has already been subject to the most exhaustive congressional consideration of any modern legislation. A five-week extension provides ample time for both bodies to again examine the legislation to ensure that it enhances the security of the American people while preserving our civil liberties. It will also ensure that the vital antiterrorism provisions contained in the Act do not expire as some in the other body have openly advocated.

I urge my colleagues to support this important legislation to renew the critical antiterrorism tools contained in the PATRIOT Act by supporting passage of this amendment to S. 2167.

Mr. STEARNS. Mr. Speaker, I was very disappointed to learn that the Senate voted to extend the PATRIOT Act for just six months, rather than making it permanent or at least extending key provisions for the next few years.

As everyone in the House and Senate knows, the provisions of the PATRIOT Act have been used against drug lords and mafia kingpins for years, it is common sense that we are allowed to use these same tools in the war on terror.

I am also chagrinned to see that the bill that the Senate sent over does not contain any of the cargo theft or port security provisions that we passed overwhelmingly in this body.

Back in July, we passed the port security/cargo theft provisions onto the PATRIOT Act reauthorization by a remarkable 381–45 vote. These measures were so important that, even though the Senate did not include them in their version of the PATRIOT Act reauthorization, conferees from both the House and Senate decided to put these provisions in the final conference report.

From a personal perspective, the issue of cargo theft is one that I have worked on for two years. I will not rest until these cargo theft prevention measures have been signed into law by the president.

These cargo theft provisions would have gone a long way in helping law enforcement fight the widespread and costly crime.

But if we must delay further action for six more months, that is six more months where criminals can steal cargo and make billions. That is half a year of handicapping our law enforcement, hurting our businesses and passing the cost on to American consumers.

Mr. Speaker, I commend Chairman Sensenbrenner for his tireless efforts providing oversight over the PATRIOT Act and working on reauthorizing this critical legislation, including by now extending the PATRIOT Act for just one month. This allows us to work on making these provisions permanent and on including the cargo theft measures as soon as possible.

I also commend Chairman Coble, Mr. Forbes and Mr. Schiff, as well as all the law enforcement and industry groups that worked on the port security and cargo theft provisions.

I say to our fellow Americans and our law enforcement communities, that I will do everything that I can to make the PATRIOT Act permanent, and that I will not rest until we finally enact these cargo theft prevention measures into law.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, S. 2167, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CORRECTING ENROLLMENT OF H.R. 2863, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

Mr. WOLF. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 74) making appropriation for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore (Mr. Pence). Is there objection to the request of the gentleman from Virginia?

Mr. OBEY. Mr. Speaker, reserving the right to object, more than a year ago when Mr. Lewis was elected chairman of the Appropriations Committee, he came to me and asked if we could have an understanding that we would express our substantive differences, but still cooperate in moving bills forward in an orderly way once those differences were expressed. We did that.

Time and time again, the minority was denied the opportunity to offer different sets of priorities, priorities that did not offer huge tax cuts for those who have the most in society, paid for with cuts in education, health care, and worker protection for those who have the least. Despite the fact that the rules of the House were used to block our efforts to obtain on-the-record votes on a number of our alternatives, Democrats continued to cooperate procedurally even as we made clear our differences on policy.

The Republican majority wanted to finish all of these bills by the end of the fiscal year, and we did not procedurally obstruct them, because while we differed strongly with the values that lie behind their budget priorities, we respected the fact that they are in the majority, and we respect and revere this institution. But because of internal divisions between the majority party, divisions within the House GOP caucus, and divisions between House and Senate Republicans, the fiscal year ended with the Labor-HHS bill and the Defense appropriations bill that represents 67 percent of the discretionary spending in our budget bill still being hung up in the legislative process.

Now in the closing days of this Congress, the Republican leadership has decided to use the must-pass Defense appropriations bill to force down the throats of the American people a number of wholly unrelated gifts to special interests. They decided to hold funds for our troops hostage in order to force Congress into removing protections against oil drilling in ANWR.

To make room for their tax giveaways, they even imposed a second round of cuts on education. health. worker protection. and even imposed a $4 billion additional cut in military spending. Senate action yesterday has corrected one provision inserted in the bill by the abuse of power. the strongarm attempts at drilling in ANWR, and for that I applaud the Senate. I led the opposition to ANWR's inclusion in the conference, and I am happy that the Congress was not blackmailed into accepting it.

But, frankly, Mr. Speaker, continuing under my reservation. ANWR was not the biggest problem with the conference report. The biggest problem is that it shortchanges our economic future by refusing to make adequate investments in education. And it cruelly neglects to strengthen support for programs that help provide critical health care services to people who desperately need them.

But we have lost that fight. This Congress has made the decision to cut critical health. education. worker protection, and social service funding by $3 billion below last year's level. What I find so gutless about Congress' performance on this bill is that those cuts could not pass the Senate on a rollcall vote, so the majority party had to arrange for their Senators to duck this vote, thereby hiding from accountability by arranging for the bill to be passed through the Senate without a rollcall vote. That means the majority party has denied critical help to families most in need of help, but has not had the courage to forthrightly defend their votes to the people affected in the public arena.

This bill makes that problem $1.4 billion worse for those programs and because of the across-the-board cut, it makes other ill-advised cuts in critical funding for the FBI and local law enforcement, and it even cuts an additional $4 billion out of the Defense bill. If I could do anything to change that, I would; but it is clear the die is cast.

Continuing under my reservation, Mr. Speaker, there is a second outrageous problem with this bill. The majority has turned the proposal to prepare for a flu pandemic into a giveaway to the pharmaceutical industry. When the President requested $7 billion to begin a much-belated crash program to develop a new generation of vaccines and antiviral drugs to combat a potential flu pandemic, the Republican majority responded by cutting it in half. When I asked Senator STEVENS in conference why we shouldn't fund the rest of the administration's request so that it was clear that the government had a long-term commitment to the development of needed vaccines and antivirals, he responded that because liability protection language for manufacturers was not being adopted, long-range funding should be withheld.

The conference committee ended its work with the understanding, both verbal and in writing, that there would be no legislative liability protection language inserted in this bill. And because the majority told us it did not want any compensation program for victims to be applied against the discretionary portion of the budget, no funding was provided for that, either.

But after the conference was finished at 6 p.m., Senator FRIST marched over to the House side of the Capitol about 4 hours later and insisted that over 40 pages of legislation, which I have in my hand, 40 pages of legislation that had never been seen by conferees, be attached to the bill. The Speaker joined him in that assistance so that, without a vote of the conferees, that legislation was unilaterally and arrogantly inserted into the bill after the conference was over in a blatantly abusive power play by two of the most powerful men in Congress.

We then discovered that this language provided all sorts of insulation for pharmaceutical companies and that this insulation applied not just to drugs developed to deal with the flu but in fact applied to a far broader range of products. In essence, the provisions allowed the Secretary of HHS to issue a declaration that has the effect of almost completely prohibiting lawsuits in State or Federal courts by persons whose health was injured against manufacturers and various others for compensation for injuries caused by the use of covered countermeasures.

That determination would bar lawsuits against a wide range of covered persons involved with the countermeasures including manufacturers and their suppliers, their distributors, State and local governments and their employees involved with the use of those countermeasures, medical personnel prescribing and administering the countermeasures, and so forth.

That is very broad power, indeed, to ban lawsuits. Unlike the language requested by the administration, the division E language is not limited to products to combat a flu pandemic. Rather, it applies to any drug, vaccine, medical device, or other products useful in dealing with anything the Secretary considers to constitute a health emergency or that could constitute an emergency in the future.

Although a rationale often offered for lawsuit protection is that it is needed to encourage manufacturers to develop and produce new treatments, the protections of division E are not limited to new or experimental products. Rather, nothing in the language would prevent the Secretary from providing protection against lawsuits to drugs that have been on the market for decades. Further, the language explicitly prohibits any judicial review in either Federal or State court of the Secretary's decisions to grant immunity from lawsuits.

If anyone believes that the power is being exercised too broadly, or even in violation of the law, they apparently would have no remedy other than asking the Secretary to change his mind or asking Congress to amend the law.

Although proponents point to provisions of this language that make an exception and allow lawsuits in cases of willful misconduct, that exception is so narrowly drawn as to be almost meaningless. First, the provision defines "willful misconduct" as acts taken intentionally to achieve a wrongful purpose, knowing there is no legal or factual justification, and in disregard of known or obvious great risk. Basically, Mr. Speaker, the only conduct that would permit a lawsuit under this definition is probably conduct so egregious as to be criminal in nature.

However, even this highly restrictive definition of "willful misconduct" doesn't seem to have been enough restriction on lawsuits to satisfy the authors of division E. They added yet another provision that allows the Secretary of HHS to promulgate regulations further narrowing the scope of actions that could give rise to a right to sue. Then there is yet another provision that says that if the conduct in question is regulated under the Food and Drug Act or Public Health Service Act, a lawsuit for willful misconduct can be brought only if the Federal Government has taken enforcement action against that conduct.

Finally, the language makes various changes to the normal rules of civil procedure to add further obstacles and difficulties in front of a potential plaintiff. In short, as a practical matter, there is virtually no right for anyone to sue about anything covered by a secretarial determination under this language.

In summary, the administration asked for some very broad liability protections for manufacturers and others involved with countermeasures against pandemic flu, and the administration's proposal was widely criticized as going too far. With division E of the Defense appropriations conference report, Congress would be providing even broader protection, potentially covering a wide range of drugs, vaccines, and devices far beyond what is needed to deal with flu. Further, this denial of the right to sue is more sweeping than provided in the case of childhood vaccines or in the case of smallpox vaccine. In the smallpox case, manufacturers were protected by basically substituting the Federal Government as defendant, with the scope of potential lawsuits against the Federal Government narrowed, but not eliminated.

Now, Mr. Speaker, I recognize that some sort of liability protection or indemnification is necessary and appropriate to encourage development and manufacture of some measures to deal with pandemic flu; and I would support such reasonable language, language that has been reviewed by a committee that knows what it is doing in a process that allows for public comments. But there are real doubts about whether it needs to be this broad. It is worth noting that Sanofi Pasteur, our only domestic flu vaccine manufacturer, has already signed contracts with the Federal Government to make avian flu vaccine and has already delivered some lots, rather than refusing to proceed until legislation like this is enacted. Similarly, Roche has been supplying Tamiflu for the national stockpile and actively seeking contracts to supply more.

The result of this legislative action was a provision in the pending bill that prevents anyone who is a victim of a faulty vaccine from being able to obtain compensation in the courts. It says, in effect, that if you become seriously ill because of mistakes in manufacturing that you lose your right to sue for compensation, but you can as an alternative seek compensation from the government. The problem is that no funds were provided, or no money was provided, for that fund. So anyone who gets sick would have to lobby Congress to put money in the fund before they can collect. Thus, people injured lose their right to sue, but are not guaranteed any alternative means of covering their medical bills, lost earnings, and other costs.

Mr. Speaker, the committee system was created years ago to ensure that, to protect the public interest, legislation would be carefully reviewed before it was placed before the body for consideration. But that protection was arbitrarily bypassed by the leadership in both Houses.

This is the second time that this Congress has supinely done the bidding of the pharmaceutical industry in the dead of night. The first time a vote was held open for 3 hours while the Republican majority twisted arms to create the complex and ridiculously confusing prescription drug bill that our seniors are now so desperately trying to understand, a bill that was ushered through this institution by over 600 lobbyists and that protected companies by preventing the government from even attempting to negotiate lower drug prices.

If I thought that denying unanimous consent on this bill would force the majority to eliminate that language, I would object. But, Mr. Speaker, it has also been made quite clear to me that the majority will not relent on the language that insulates drug companies. So, Mr. Speaker, I want it to be clear that the action to insert this special interest language in the bill is, in my view, a corruption of the legislative practices of the House.

When Congress returns in January, I intend to raise a question about the privileges of the House that are highlighted by this action because it has brought discredit to the House and should disturb every Member who serves here. No Member of Congress, no matter how powerful, should be able to unilaterally insist that provisions that were never discussed and never debated in the conference should wind up being slipped into that conference report without a vote of that same conference.

This is what happens when there are no checks and balances and when one party controls the White House, the Senate, and the House and respects no limits on its own use of power. We have been placed in this position because the House Republican leadership has sent Members home for the Christmas holidays with the message to the Senate that we would not be here even if the Senate changed the legislation the House sent. That was irresponsible, and the country will pay the price. This institution, unfortunately, will also pay a price in terms of diminished respect from the people we were elected to represent.

This is a shameful and shabby way to end the worst session of Congress I have experienced in my 36 years in this House. So, Mr. Speaker, I most reluctantly withdraw my reservation, because lodging an objection at this point would simply delay the shameful inevitable.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

Mr. FITZPATRICK of Pennsylvania. Mr. Speaker, further reserving the right to object, last week as American soldiers continued to bravely wage the war on terror in Iraq and Afghanistan, the House of Representatives passed a Defense appropriations bill containing a nongermane provision, language that would open up the Arctic National Wildlife Refuge to exploration. The agreement to include ANWR in the Defense appropriation turned what was essentially a bipartisan bill into a fight on the floor of both legislative bodies, placing at risk the timely funding of our troops. Defense appropriations bills are historically the most protected type of legislation considered by the United States Congress. The Defense bill is usually the first piece of appropriations legislation passed by the House and Senate, and its language is kept clean from unnecessary and nongermane add-ons and amendments. That is why the addition of ANWR was so surprising to so many Members.

Prior to the vote earlier this week, I wrote a letter to the Rules Committee chairman expressing in the strongest terms possible my opposition and disappointment at the decision to place ANWR in the bill before the House. Mr. Speaker, I was not alone in my concern. Prior to Senate debate on the House-approved Defense bill, a group of high-ranking officers, including General Anthony Zinni, United States Marine Corps, sent a letter stating their concern over ANWR's inclusion in the legislation.

They wrote, and I quote: "With 160,000 troops fighting in Iraq, another 18,000 in Afghanistan and tens of thousands more around the world defending this country, Congress must finish its work and provide them the resources they need to do their job. We believe that any effort to attach controversial legislative language authorizing drilling in the Arctic National Wildlife Refuge to the Defense appropriations conference report will jeopardize Congress's ability to provide our troops and their families the resources they need in a timely fashion."

They continued, saying that "the passion and energy of the debate about drilling in ANWR is well known, and a testament to vibrant debate in our democracy. But it is not helpful to attach such a controversial nondefense legislative issue to a Defense appropriations bill. It only invites delay for our troops as Congress debates an important, but controversial, nondefense issue on a vital bill providing critical funding for our Nation's security."

As I speak, our brave men and women in the Armed Forces are serving in every corner of the globe. The work our servicemen and -women do each day will create a safer world, a world where liberty and democracy will take root in regions of the world untouched by freedom and choice. Our military deserves our support and the best equipment, training, armament, and reward our government can offer them. That is why I am here today, to lend my strong support to the legislation. The Senate made the right choice yesterday to strip this bill of unnecessary ornaments. ANWR does not belong in the Defense bill, and I am proud to support the Senate version without it.

The Defense appropriation bill being considered by the House today is a good bill. It will enable our troops to stand down as Iraqi security forces stand up. This legislation provides $403.5 billion for our troops during this transition, equipping them with $8 billion to replace damaged equipment, $1.2 billion for force protection, and $500 million to train new security forces in Iraq and in Afghanistan. Also, this legislation provides an essential 3.1 percent military pay increase for our soldiers effective January 1, 2006. This legislation honors our military and is deserving of all of our support.

As good as this legislation is, Congress must remain vigilant in our responsibility to support our troops. The Associated Press recently ran an article questioning the amount of money needed to address emergency combat operations in Iraq and Afghanistan. The article reported that the military informally indicated to the House

Armed Services Committee that they would need an additional 80 to $100 billion to fund operations in Iraq and Afghanistan. This request is made in addition to the $50 billion appropriated through the Defense bill. This request is still being drafted by the Department of Defense and will most likely come to the floor as an additional spending package after we return next year.

I call on my colleagues to support this additional funding when it arrives in the House. We cannot afford to leave our military unprotected and underfunded, especially at this important time in our Nation's history.

Next week, Mr. Speaker, I will travel to Iraq to see the progress the Iraqi security forces are making to take the fight to the insurgents and to take their nation's future into their own hands. I will also visit our troops to give them our thanks from a grateful Nation for the work that they are doing to fight the terrorists, to secure the nation and pave the way for a new and vibrant democracy in Iraq. Our troops must have a clear understanding that our support for them is unwavering. The American people must know that our support for our Armed Forces is strong. That is why this legislation must pass clean, devoid of any needless add-ons. I call on my colleagues to support the legislation and pass the Defense appropriation bill.

With that, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 74

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

Strike Division C, the American Energy Independence and Security Act of 2005 and Division D, the Distribution of Revenues and Disaster Assistance.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

CONDITIONAL ADJOURNMENT TO MONDAY, DECEMBER 26, 2005

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that when the House adjourns today pursuant to this order, it adjourn to meet at 11 a.m. on Monday, December 26, 2005, unless it sooner has received a message from the Senate transmitting its adoption of House Concurrent Resolution 326, in which case the House shall stand adjourned sine die pursuant to that concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CORRECTION TO THE CONGRESSIONAL RECORD OF SUNDAY, DECEMBER 18, 2005, AT PAGE 30377

The previous vote referenced by Mr. COLE of Oklahoma may be found in the daily RECORD of April 20, 2005, on page 7306.

BILLS AND JOINT RESOLUTIONS APPROVED BY THE PRESIDENT

The President notified the Clerk of the House that on the following dates, he had approved and signed bills and joint resolutions of the following titles:

September 8, 2005:

H.R. 3673. An Act making further emergency supplemental appropriations to meet immediate needs arising from the consequences of Hurricane Katrina, for the fiscal year ending September 30, 2005, and for other purposes.

September 9, 2005:

H.R. 3650. An Act to allow United States courts to conduct business during emergency conditions, and for other purposes.

September 20, 2005:

H.R. 804. An Act to exclude from consideration as income certain payments under the national flood insurance program.

H.R. 3669. An Act to temporarily increase the borrowing authority of the Federal Emergency Management Agency for carrying out the national flood insurance program.

September 21, 2005:

H.R. 3169. An Act to provide the Secretary of Education with waiver authority for students who are eligible for Pell Grants who are adversely affected by a natural disaster.

H.R. 3668. An Act to provide the Secretary of Education with waiver authority for students who are eligible for Federal student grant assistance who are adversely affected by a major disaster.

H.R. 3672. An Act to provide assistance to families affected by Hurricane Katrina, through the program of block grants to States for temporary assistance for needy families.

September 23, 2005:

H.R. 3761. An Act to provide special rules for disaster relief employment under the Workforce Investment Act of 1998 for individuals displaced by Hurricane Katrina.

H.R. 3768. An Act to provide emergency tax relief for persons affected by Hurricane Katrina.

September 29, 2005:

H.R. 3649. An Act to ensure funding for sportfishing and boating safety programs funded out of the Highway Trust Fund through the end of fiscal year 2005, and for other purposes.

September 30, 2005:

H.R. 2132. An Act to extend the waiver authority of the Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency.

H.R. 2385. An Act to extend by 10 years the authority of the Secretary of Commerce to conduct the quarterly financial report program.

H.R. 3200. An Act to amend title 38, United States Code, to enhance the Servicemembers' Group Life Insurance program, and for other purposes.

H.R. 3784. An Act to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

H.R. 3864. An Act to provide vocational rehabilitation services to individuals with disabilities affected by Hurricane Katrina or Hurricane Rita.

H.J. Res. 68. A joint resolution making continuing appropriations for the fiscal year 2006, and for other purposes.

October 4, 2005:

H.R. 3667. An Act to designate the facility of the United States Postal Service located at 200 South Barrington Street in Los Angeles, California, as the "Karl Malden Station".

H.R. 3767. An Act to designate the facility of the United States Postal Service located at 2600 Oak Street in St. Charles, illinois, as the "Jacob L. Frazier Post Office Building".

October 7, 2005:

H.R. 3863. An Act to provide the Secretary of Education with waiver authority for the reallocation rules in the Campus-Based Aid programs, and to extend the deadline by which funds have to be reallocated to institutions of higher education due to a natural disaster.

October 18, 2005:

H.R. 2360. An Act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

October 20, 2005:

H.R. 3971. An Act to provide assistance to individuals and States affected by Hurricane Katrina.

November 8, 2005:

H.R. 1409. An Act to amend the Foreign Assistance Act of 1961 to provide assistance for orphans and other vulnerable children in developing countries, and for other purposes.

November 10, 2005:

H.R. 2744. An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

November 11, 2005:

H.R. 2967. An Act to designate the Federal building located at 333 Mt. Elliott Street in Detroit, Michigan, as the "Rosa Parks Federal Building".

H.R. 3765. An Act to extend through March 31, 2006, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities and to expedite the processing of permits.

November 14, 2005:

H.R. 3057. An Act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2006, and for other purposes.

November 19, 2005:

H.R. 2419. An Act making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes.

H.R. 4326. An Act to authorize the Secretary of the Navy to enter into a contract for the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson (CVN-70).

H.J. Res. 72. A joint resolution making further continuing appropriations for the fiscal year 2006, and for other purposes.

November 21, 2005:

H.R. 4133. An Act to temporarily increase the borrowing authority of the Federal Emergency Management Agency for carrying out the national flood insurance program.

November 22, 2005:

H.R. 2490. An Act to designate the facility of the United States Postal Service located at 442 West Hamilton Street, Allentown, Pennsylvania, as the "Mayor Joseph S. Daddona Memorial Post Office".

H.R. 2862. An Act making appropriations for the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

H.R. 3339. An Act to designate the facility of the United States Postal Service located at 2061 South Park Avenue in Buffalo, New York, as the "James T. Malloy Post Office Building".

November 30, 2005:

H.R. 2528. An Act making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

H.R. 3058. An Act making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

December 1, 2005:

H.R. 126. An Act to amend Public Law 89-366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore.

H.R. 539. An Act to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System.

H.R. 606. An Act to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California.

H.R. 1972. An Act to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin.

H.R. 1973. An Act to make access to safe water and sanitation for developing countries a specific policy objective of the United States foreign assistance programs, and for other purposes.

H.R. 2062. An Act to designate the facility of the United States Postal Service located at 57 West Street in Newville, Pennsylvania, as the "Randall D. Shughart Post Office Building".

H.R. 2183. An Act to designate the facility of the United States Postal Service located at 567 Thompkins Avenue in Staten Island, New York, as the "Vincent Palladino Post Office".

H.R. 3853. An Act to designate the facility of the United States Postal Service located at 208 South Main Street in Parkdale, Arkansas, as the Willie Vaughn Post Office.

H.R. 4145. An Act to direct the Joint Committee on the Library to obtain a statue of Rosa Parks and to place the statue in the United States Capitol in National Statuary Hall, and for other purposes.

December 7, 2005:

H.R. 584. An Act to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior.

H.R. 680. An Act to direct the Secretary of the Interior to convey certain land held in trust for the Paiute Indian Tribe of Utah to the City of Richfield, Utah, and for other purposes.

H.R. 1101. An Act to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

December 18, 2005:

H.J. Res. 75. A joint resolution making further continuing appropriations for the fiscal year 2006, and for other purposes.

December 20, 2005:

H.R. 2520. An Act to provide for the collection and maintenance of human cord blood stem cells for the treatment of patients and research, and to amend the Public Health Service Act to authorize the C.W. Bill Young Cell Transplantation Program.

SENATE BILLS APPROVED BY THE PRESIDENT

The President notified the Clerk of the House that on the following dates, he had approved and signed bills of the Senate of the following titles:

September 21, 2005.

S. 252. An Act to direct the Secretary of the Interior to convey certain land in Washoe County, Nevada, to the Board of Regents of the University and Community College System of Nevada.

S. 264. An Act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii.

S. 276. An Act to revise the boundary of the Wind Cave National Park in the State of South Dakota.

September 29, 2005:

S. 1340. An Act to amend the Pittman-Robertson Wildlife Restoration Act to extend the date after which surplus funds in the wildlife restoration fund become available for apportionment.

S. 1368. An Act to extend the existence of the Parole Commission, and for other purposes.

September 30, 2005:

S. 1752. An Act to amend the United States Grain Standards Act to reauthorize that Act.

October 7, 2005:

S. 1786. An Act to authorize the Secretary of Transportation to make emergency airport improvement project grants-in-aid under title 49, United States Code, for repairs and costs related to damage from Hurricanes Katrina and Rita.

S. 1858. An Act to provide for community disaster loans.

October 13, 2005:

S. 1413. An Act to redesignate the Crowne Plaza in Kingston, Jamaica, as the Colin L. Powell Residential Plaza.

October 26, 2005:

S. 55. An Act to adjust the boundary of Rocky Mountain National Park in the State of Colorado.

S. 156. An Act to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes.

S. 397. An Act to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

November 9, 2005:

S. 172. An Act to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes.

November 11, 2005:

S. 37. An Act to extend the special postage stamp for breast cancer research for 2 years.

S. 1285. An Act to designate the Federal building located at 333 Mt. Elliott Street in Detroit, Michigan, as the "Rosa Parks Federal Building".

November 22, 2005:

S. 161. An Act to provide for a land exchange in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership.

S. 1234. An Act to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 1713. An Act to make amendments to the Iran Nonproliferation Act to 2000 related to International space Station payments, and for other purposes.

S. 1894. An Act to amend part E of title IV of the Social Security Act to provide for the making of foster care maintenance payments to private for-profit agencies.

December 20, 2005:

S. 52. An Act to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah.

S. 136. An Act to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Redwood National Park, and for other purposes.

S. 212. An Act to amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes.

S. 279. An Act to amend the Act of June 7, 1924, to provide for the exercise of criminal jurisdiction.

S. 1886. An Act to authorize the transfer of naval vessels to certain foreign recipients.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 119. An act to provide for the protection of unaccompanied alien children, and for other purposes, to the Committee on the Judiciary.

S. 716. An act to amend title 38, United States Code, to enhance services provided by vet centers, to clarify and improve the provision of bereavement counseling by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans Affairs.

S. 1182. An act to amend title 38, United States Code, to improve health care for veterans, and for other purposes, to the Committee on Veterans Affairs.

S. 1184. An act to waive the passport fees for a relative of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member or to attend a funeral or memorial service for such member; to the Committee on International Relations.

SENATE ENROLLED BILLS SIGNED

The SPEAKER pro tempore, Mr. WOLF, announced his signature to enrolled bills of the Senate of the following titles:

S. 205. An act to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers.

S. 652. An act to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin.

S. 1238. An act to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and for other purposes.

S. 1281. An act to authorize the programs of the National Aeronautics and Space Administration.

S. 1310. An act to authorize the Secretary of the Interior to allow the Columbia Gas Transmission Corporation to increase the diameter of a natural gas pipeline located in the Delaware Water Gap National Recreation Area, to allow certain commercial vehicles to continue to use Route 209 within Delaware Water Gap National Recreation Area, and to extend the termination date of the National Park System Advisory Board to January 1, 2007.

S. 1481. An act to amend the Indian Land Consolidation act to provide for probate reform.

S. 1892. An act to amend Public Law 107-153 to modify a certain date.

S. 1988. An act to authorize the transfer of items in the War Reserves Stockpile for Allies, Korea.

BILLS PRESENTED TO THE PRESIDENT

Karen L. Haas, Clerk of the House, reports that on December 17, 2005, she presented to the President of the United States, for his approval, the following bills.

H.J. Res. 75. Making further continuing appropriations for the fiscal year 2006, and for other purposes.

H.R. 327. To allow binding arbitration clauses to be included in all contracts affecting land within the Gila River Indian Community Reservation.

H.R. 4324. To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster mitigation program, and for other purposes.

H.R. 4436. To provide certain authorities for the Department of State, and for other purposes.

Karen L. Haas, Clerk of the House, also reports that on December 20, 2005, she presented to the President of the United States, for his approval, the following bills.

H.J. Res. 38. Recognizing Commodore John Barry as the first flag officer of the United States Navy.

H.R. 358. To require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes.

H.R. 797. To amend the Native American Housing Assistance and Self-Determination Act of 1996 and other Acts to improve housing programs for Indians.

H.R. 2520. To provide for the collection and maintenance of human cord blood stem cells for the treatment of patients and research, and to amend the Public Health Service Act to authorize the C.W. Bill Young Cell Transplantation Program.

H.R. 3963. To amend the Federal Water Pollution Control Act to extend the authorization of appropriations for Long Island Sound.

H.R. 4195. To authorize early repayment of obligations to the Bureau of Reclamation within Rogue River Valley Irrigation District or within Medford Irrigation District.

H.R. 4440. To amend the Internal Revenue Code of 1986 to provide tax benefits for the Gulf Opportunity Zone and certain areas affected by Hurricanes Rita and Wilma, and for other purposes.

H.R. 4508. To commend the outstanding efforts in response to Hurricane Katrina by members and employees of the Coast Guard, to provide temporary relief to certain persons affected by such hurricane with respect to certain laws administered by the Coast Guard, and for other purposes.

SINE DIE ADJOURNMENT

Mr. SENSENBRENNER. Mr. Speaker, pursuant to the order of the House of today, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Accordingly, pursuant to the previous order of the House of today, the House stands adjourned until 11 a.m. on Monday, December 26, 2005, unless it sooner has received a message or messages from the Senate transmitting its adoption of House Concurrent Resolution 326, in which case the House shall stand adjourned sine die pursuant to House Concurrent Resolution 326.

Thereupon (at 4 o'clock and 36 minutes p.m.), pursuant to the previous order of the House of today, the House adjourned until 11 a.m. on Monday, December 26, 2005, unless it sooner has received a message or messages from the Senate transmitting its adoption of House Concurrent Resolution 326, in which case the House shall stand adjourned sine die pursuant to House Concurrent Resolution 326.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5911. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Extension of Tolerances for Emergency Exemptions (Multiple Chemicals) [EPA-HQ-OPP-2005-0292; FRL-7749-4] received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5912. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Dichlomid; Extension of Time-Limited Pesticide Tolerance [EPA-HQ-OPP-2005-0477; FRL-7753-9] received December 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5913. A letter from the Comptroller, Department of Defense, transmitting the Department's quarterly report as of September 30, 2005, entitled, "Acceptance of contributions for defense programs, projects and activities; Defense Cooperation Account," pursuant to 10 U.S.C. 2608; to the Committee on Armed Services.

5914. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule — Simplification of the Grant Appeals Process (RIN: 0906-AA69) received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5915. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Regulation of Fuel and Fuel Additives: Extension of California Enforcement Exemptions for Reformulated Gasoline to California Phase 3 Gasoline [OAR-2003-0217; FRL-8011-4] (RIN: 2060-AK04) received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5916. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's "Major" final rule — National Primary Drinking Water Regulations: Long Term 2 Enhanced Surface Water Treatment Rule [EPA-HQ-OW-2002-0039; FRL-8013-1] (RIN: 2040-AD37) received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5917. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emissions Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing [OAR-2003-0178; FRL-8011-6] (RIN: 2060-AM72) received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5918. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters: Reconsideration [OAR-2002-058; FRL-8011-5] (RIN: 2060-AM97) received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5919. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion [FRL-8012-4] received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5920. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Tennessee; Ntirogen Oxides Budget and Allowance Trading Program, Phase II [R04-OAR-2005-TN-0005-200522(a); FRL-8015-2] received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5921. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Tennessee and Nasville-Davidson County: Approval of Revisions to the State Implementation Plan [R04-OAR-2005-TN-0004-200526(a); FRL-8014-6] received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5922. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Alabama; Nitrogen Oxides Budget and Allowance Trading Program, Phase II [R04-OAR-2005-AL-0001-

200520a; FRL-8014-9] received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5923. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Virginia; Redesignation of the Shenandoah National Park Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan [EPA-R03-OAR-2005-VA-0013; FRL-8012-3] received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5924. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Virginia; Redesignation of the City of Fredericksburg, Spotsylvania County, and Stafford County Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan [EPA-R03-OAR-2005-VA-0007; FRL-8012-2] received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5925. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Montana; Revisions to the Emergency Episode Avoidance Plan: Direct Final Rule [EPA-R08-OAR-2005-MT-0002, FRL-8012-8] received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5926. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Delegation of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for States of Arizona, California, Hawaii, and Nevada [AZ, CA, HI, NV-075-NSPS; FRL-7013-4] received December 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5927. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Tennessee; Redesignation of the Montgomery County, Tennessee Portion of the Clarksville-Hopkinsville 8-Hour Ozone Nonattainment Area to Attainment: Correction [R04-OAR-2005-TN-0007-200536; FRL-8014-3] received December 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5928. A letter from the Principal Deputy Associate Administrator, Environmental Prtoection Agency, transmitting the Agency's "Major" final rule — National Primary Drinking Water Regulations: Stage 2 Disinfectants and Disinfection Byproducts Rule [EPA-HQ-OW-2002-0043; FRL-8012-1] (RIN: 2040-AD38) received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5929. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), FM Table of Allotments, FM Broadcast Stations. (Fruit Cove and St. Augustine, Florida) [MB Docket No. 05-244, RM-11257] received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5930. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Victoria, George West, and Three Rivers, Texas) [MB Docket No. 03-56, RM-10662, RM-10775] received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5931. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Grand Portage, Minnesota) [MB Docket No. 04-339, RM-11060] received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5932. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (LaGrange, Greenville and Waverly Hall, Georgia) [MB Docket No. 03-233, RM-10813] received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5933. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Caseville and Pigeon, Michigan) [MM Docket No. 01-229] (Harbor Beach and Lexington, Michigan) [MM Docket No. 01-231] received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5934. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Holdenville and Pauls Valley, Oklahoma) [MM Docket No. 01-180, RM-10200, RM-11018] received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5935. A letter from the Legal Advisor/Chief, WTB, Federal Communications Commission, transmitting the Commission's "Major" final rule — Amendment of Part 22 of the Rules To Benefit the Consumers of Air-Ground Telecommunications Services [Docket No. 03-103] Amendment of Parts 1 and 22 of the Rules To Adopt Competitive Bidding Rules for Commercial and General Aviation Air-Ground Radiotelephone Service [Docket No. 05-42] Application of Verizon Airfone Inc. for Renewal of 800 MHz Air-Ground Radiotelephone License, Call Sign KNKG804 (File No. 0001716212) received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5936. A letter from the Assistant Bureau Chief, Enforcement Bureau, Federal Communications Commission, transmitting the Commission's final rule — Review of the Emergency Alert System [EB Docket No. 04-296] received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5937. A letter from the Secretary, Department of the Interior, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 2005, through September 30, 2005, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

5938. A letter from the Assistant Secretary, Land Minerals Management, Department of the Interior, transmitting the Department's final rule — Oil and Gas and Sulfur Operations on the Outer Continental Shelf (OCS) — Suspension of Operations (SOO) for Ultra-deep Drilling (RIN: 1010-AD09) received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5939. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule — Procedures for Designating Classes of Employees as Members of the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000, Amendments — received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5940. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-600, -700, -700C, and -800 Series Airplanes [Docket No. FAA-2005-23176; Directorate Identifier 2005-NM-220-AD; Amendment 39-14396; AD 2005-25-03] (RIN: 2120-AA64) received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5941. A letter from the Paralegal, FTA, Department of Transportation, transmitting the Department's final rule — Organization, Functions, and Procedures [Docket FTA-2005-22705] (RIN: 2132-AA79) received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5942. A letter from the Attorney, FRA, Department of Transportation, transmitting the Department's final rule — Technical Amendments to Standards for Development and Use of Processor-Based Signal and Train Control Systems; Correction [Docket No. FRA-2001-10160] (RIN: 2130-AA94) received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5943. A letter from the Trial Attorney, FRA, Department of Transportation, transmitting the Department's final rule — Revision of Method for Calculating Monetary Threshold for Reporting Rail Equipment Accidents/Incidents; Announcement of Reporting Threshold for Calendar Year 2006 [FRA-2005-20680, Notice No. 2] (RIN: 2130-AB65) received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5944. A letter from the Trial Attorney, FRA, Department of Transportation, transmitting the Department's final rule — Track Standards; Inspection of Joints in Continuous Welded Rail (CWR) [Docket No. FRA 2005-22522] (RIN: 2130-AB71) received December 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5945. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Extension of Transition Relief for Certain Partnerships and Other Pass-Thru Entities [Notice 2006-2] received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5946. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Transfer to Corporation Controlled by Transferor (Rev. Rul. 2006-2) received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5947. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Section 1374 Effective Dates [TD 9236] (RIN: 1545-BD95) received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5948. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Obligations of States and Political Subdivisions [TD 9234] (RIN: 1545-AU98) received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5949. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Acceptance Agent Revenue Procedure (Rev. Proc. 2006-10) received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5950. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Last-in, First-out Inventories (Rev. Rul. 2005-79) received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5951. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Definition of Regulated Investment Company (Rev. Rul. 2006-1) received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5952. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2006-4) received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5953. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Business entities; definitions (Rev. Rul. 2006-3) received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5954. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Allocation of income and deductions among taxpayers (Rev. Proc. 2006-9) received December 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 4438. A bill to establish special rules with respect to certain disaster assistance provided for Hurricane Katrina and Hurricane Rita (Rept. 109–364). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SENSENBRENNER:

H.R. 4647. A bill to amend the USA PATRIOT Act to extend the sunset of certain provisions of such Act; to the Committee on the Judiciary, and in addition to the Committee on Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FOSSELLA:

H.R. 4648. A bill to prohibit assistance to Lebanon unless the Government of Lebanon extradites Mohammed Ali Hammadi to the United States; to the Committee on International Relations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. BIGGERT:

H.R. 4649. A bill to authorize the Secretary of Education to provide assistance to local educational agencies serving homeless children and youths displaced by Hurricane Katrina, Rita, or Wilma; to the Committee on Education and the Workforce.

By Mr. DUNCAN (for himself, Ms. Eddie Bernice Johnson of Texas, Mr. Young of Alaska, Mr. Oberstar, Mr. Boustany, Mr. Baker, and Mr. Melancon):

H.R. 4650. A bill to direct the Secretary of the Army to carry out programs and activities to enhance the safety of levees in the United States; to the Committee on Transportation and Infrastructure.

By Mrs. LOWEY:

H.R. 4651. A bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUPAK:

H.R. 4652. A bill to provide Medicare beneficiaries with access to prescription drugs at Federal Supply Schedule prices; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WAXMAN:

H.R. 4653. A bill to repeal a prohibition on the use of certain funds for tunneling in certain areas with respect to the Los Angeles to San Fernando Valley Metro Rail project, California; to the Committee on Transportation and Infrastructure.

By Ms. ROS-LEHTINEN (for herself and Mr. Lantos):

H. Con. Res. 329. Concurrent resolution expressing the sense of Congress regarding the activities of Islamist terrorist organizations in the Western Hemisphere; to the Committee on International Relations.

By Mrs. TAUSCHER (for herself and Mr. Conyers):

H. Con. Res. 330. Concurrent resolution expressing the concern of Congress that the President's 2002 order authorizing electronic surveillance of United States persons without a warrant violates existing law prohibiting such electronic surveillance, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONYERS (for himself, Mr. Berman, Mr. Boucher, Mr. Nadler, Mr. Scott of Virginia, Ms. Zoe Lofgren of California, Ms. Jackson-Lee of Texas, Ms. Waters, Mr. Meehan, Mr. Delahunt, Mr. Wexler, Mr. Weiner, Mr. Schiff, Ms. Linda T. Sánchez of California, Mr. Van Hollen, Ms. Wasserman Schultz, Mr. Kennedy of Rhode Island, Mr. Doggett, Mr. McDermott, Mr. Filner, Mr. Markey, Ms. Schakowsky, Ms. Lee, Mrs. Tauscher, Ms. McCollum of Minnesota, Mr. Udall of New Mexico, and Mr. Holt):

H. Res. 643. A resolution directing the Attorney General to submit to the House of Representatives all documents in the possession of the Attorney General relating to warrantless electronic surveillance of telephone conversations and electronic communications of persons in the United States conducted by the National Security Agency; to the Committee on the Judiciary.

By Ms. SLAUGHTER:

H. Res. 644. A resolution requesting the President and directing the Attorney General to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the possession of those officials relating to the authorization of electronic surveillance of citizens of the United States without court approved warrants; to the Committee on the Judiciary.

By Mr. WEXLER:

H. Res. 645. A resolution requesting the President and directing the Secretary of Defense to transmit to the House of Representatives all information in the possession of the President or the Secretary of Defense relating to the collection of intelligence information pertaining to persons inside the United States without obtaining court-ordered warrants authorizing the collection of such information and relating to the policy of the United States with respect to the gathering of counterterrorism intelligence within the United States; to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 267: Mr. Stearns.

H.R. 283: Mr. Wynn.

H.R. 333: Mr. Evans.

H.R. 752: Mr. Holden and Mr. Nadler.

H.R. 780: Mr. Strickland.

H.R. 925: Mr. Campbell of California.

H.R. 1106: Mr. Filner and Mr. Thompson of California.

H.R. 1562: Mr. English of Pennsylvania.

H.R. 1696: Mr. Shays.

H.R. 2231: Mr. Tom Davis of Virginia.

H.R. 2327: Mr. Meehan.

H.R. 2345: Mr. Pastor and Mr. Waxman.

H.R. 2470: Mr. English of Pennsylvania and Mr. McCotter.

H.R. 2533: Mr. Daniel E. Lungren of California.

H.R. 2717: Mr. Souder.

H.R. 3006: Ms. Moore of Wisconsin and Mr. Hoyer.

H.R. 3254: Mr. Towns and Ms. Solis.

H.R. 3697: Mr. Andrews.

H.R. 3936: Mr. Schiff.

H.R. 4033: Mrs. KELLY.

H.R. 4042: Mr. BOOZMAN.

H.R. 4081: Mr. SENSENBRENNER.

H.R. 4173: Mr. TOWNS.

H.R. 4217: Ms. GRANGER and Mr. SENSENBRENNER.

H.R. 4229: Mr. VAN HOLLEN.

H.R. 4272: Mr. THOMPSON of California.

H.R. 4424: Mr. CUELLAR.

H.R. 4447: Ms. SOLIS and Mr. RANGEL.

H.R. 4460: Mr. ENGLISH of Pennsylvania.

H.R. 4492: Mr. RANGEL.

H.R. 4506: Mr. AL GREEN of Texas, Mrs. LOWEY, and Mr. KENNEDY of Rhode Island.

H.R. 4507: Ms. WASSERMAN SCHULTZ.

H.R. 4540: Mr. BAIRD and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 4629: Mr. SNYDER.

H.R. 4641: Mr. DOOLITTLE.

H. Con. Res. 10: Mrs. TAUSCHER.

H. Con. Res. 137: Mr. ROYCE.

H. Con. Res. 282: Ms. SCHAKOWSKY.

H. Con. Res. 296: Ms. ZOE LOFGREN of California, Mr. SMITH of New Jersey, Ms. DELAURO, Ms. WOOLSEY, Mr. MENENDEZ, Mr. LEWIS of Georgia, and Mr. MILLER of North Carolina.

H. Con. Res. 314: Mr. ETHERIDGE and Mr. GEORGE MILLER of California.

H. Con. Res. 317: Mr. BLUMENAUER, Mr. SERRANO, and Mr. MCGOVERN.

H. Res. 605: Mr. ENGLISH of Pennsylvania.

H. Res. 635: Ms. WATERS, Ms. ZOE LOFGREN of California, Ms. WOOLSEY, Mr. RANGEL, Ms. JACKSON-LEE of Texas, Mrs. CAPPS, and Mr. PAYNE.

H. Res. 636: Ms. WATERS, Ms. ZOE LOFGREN of California, Ms. WOOLSEY, and Mr. RANGEL.

H. Res. 637: Ms. WATERS, Ms. ZOE LOFGREN of California, Ms. WOOLSEY, Mr. RANGEL, and Ms. JACKSON-LEE of Texas.

H. Res. 641: Mr. THOMPSON of Mississippi, Mr. MARKEY, and Mr. CONYERS.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

101. The SPEAKER presented a petition of the citizens of the town of Norman, Oklahoma and the citizens of the town of Blanchard, Oklahoma, relative to a petition encouraging the Congress of the United States to insist on an exit strategy from Iraq with a timeline; to the Committee on International Relations.

102. Also, a petition of the Canadian House of Commons, relative to a resolution encouraging the Congress of the United States to reject any initiative which would require Canadian or American citizens to present their passports when crossing the border; to the Committee on the Judiciary.

103. Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 554 requesting the Congress of the United States pass S.1060 and H.R.414, A Bill To Amend The Internal Revenue Code Of 1986 To Allow A Credit Against Income Tax For The Purchase Of Hearing Aids; to the Committee on Ways and Means.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 4 by Ms. SLAUGHTER on House Resolution 460: Brad Sherman.

Petition 5 by Mr. WAXMAN on House Resolution 537: Brad Sherman.

Petition 6 by Mr. ABERCROMBIE on House Resolution 543: Michael H. Michaud, Ike Skelton, and Carolyn McCarthy.

Petition 8 by Mr. WAXMAN on House Resolution 570: Brad Sherman.

Petition 9 by Mr. BOSWELL on House Resolution 584: Gene Green, Neil Abercrombie, Michael H. Michaud, Rick Larsen, and Carolyn McCarthy.

Petition 10 by Ms. HERSETH on House Resolution 585: Gene Green, Brad Sherman, Neil Abercrombie, Michael H. Michaud, Rick Larsen, and Carolyn McCarthy.

EXTENSIONS OF REMARKS

HONORING THE LINKS, INC. OAKLAND BAY AREA CHAPTER

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Ms. LEE. Mr. Speaker, I rise today to honor The Links, Inc. Oakland Bay Area Chapter on the occasion of its 55th year of service to our community.

The Links, Inc. was founded in 1946 by Sarah Scott and Margaret Hawkins of Philadelphia, Pennsylvania, who envisioned an organization of African American women "linking together in a chain" to improve the quality of life in their community. Today, that vision has been realized, with The Links, Inc. being comprised of 296 chapters and more than 10,000 women as its members. The Links, Inc. is located in 39 U.S. States, as well as in the Bahamas and in Germany.

The Oakland Bay Area chapter of The Links, Inc. was founded in September 1950 when eighteen inspired women saw a need in our community and joined together to make a positive difference. Currently, there are more than fifty dedicated women who are members of this chapter which, since its founding, has worked continuously to support charitable organizations and community groups.

Each year, often times on the occasion of its Annual Cotillion, the Oakland Bay Area Chapter of The Links, Inc. presents philanthropic grants to a number of community and public organizations, particularly those that focus on youth & family development, community health, social justice, education, and the arts.

This year will mark the Oakland Bay Area Chapter of The Links, Inc.'s 50th Annual Cotillion. These events feature not only the community services of The Links and other organizations, but also the selection of each year's Debutantes. These young women are selected based on excellence in academics and extracurricular activities, as well as for a strong commitment to serving their community.

The list of Debutantes who will be featured at the Oakland Bay Area Chapter of The Links, Inc.'s 2005 Cotillion include: Ashley Burns, Ebony Campbell, Jessica Charles, Mickala Cheadle, Kimberly Clincy, Raphael Cobb, Robyn Cross, Kristen Davis, Vanessa Domenichelli, Dominique Drakeford, Joya Dupre, Morgan Frazier, Laura Green, Ashley Greene, Jazmyn Hammons, Victoria Harrell, Britney Jaymes Harrison, Jenevieve Harrison-Toney, Yasmine Hassan, Alehxa Jones, Jamela Joseph, Danielle Oliva, Brittany Pakeman, Jessica Pugh, Lauren Savage, Ashley Sewell, Ashley Shaw, Kaitlyn Sheehan, Jade Smith-Williams, Allison Greer Tillman, Mareesa Allyse Valentine, Erika Walker, Tierra Williams, and Erica Williams.

On Saturday, December 17, 2005, the Oakland Bay Area Links 50th Annual Cotillion will be held in San Francisco, California. On behalf of the California's 9th U.S. Congressional District, I congratulate tonight's Debutantes, and I salute past and present Oakland Links members for their many years of invaluable service to our community.

DARFUR'S SLOW AND CRUEL STARVATION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Mr. RANGEL. Mr. Speaker, as the end of 2005 draws near I rise to say a few words about the people of Darfur and to enter into the RECORD an eyewitness account of Hillary Anderson a BBC correspondent in Darfur entitled Sudan's Slow and Cruel Starvation first broadcast July 2004 in which she personalizes what Darfur means in pain for mothers and children in Darfur. Unfortunately the year 2005, especially in the last few months, has gotten worse than 2004 for the people of Darfur. According to the United Nation's humanitarian chief, Jan Egeland, people are still being killed, the Janjaweed Militias are still armed and kill at will, women are raped, men are dead, no food is planted or harvested. Mr. Egeland announced on December 20, 2005, the situation in Darfur was so bad that aid organizations were being threatened and might be forced out of the country.

Therefore we can know with a sad heart that Ms. Anderson's 2004 story of Juma and Nadia has been repeated many times in 2005. And if this Nation does not act, this story will be repeated thousands of times in 2006—until there are no more Jumas and no more Nadias.

Ms. Anderson begins her piece from the Mornay camp: "I am sitting in the dark on the edge of a camp for displaced people in Darfur. I can hear the loud persistent crying of one child rising above the murmur of the camp as the people settle down for the night. Tonight the stars are out—that means no rain. Last night was not like this at all.

You can see it coming in the afternoons. The sky begins to darken and the horizon goes an ominous, brown shade of yellow. Then the wind starts and the dust of the Sahara desert whips up, blasting whirling sands in all directions. The people start to run in their long rags, heads bowed against the wind.

Then, the heavens simply open, the wind ferociously hurls drenching curtains of water at everything around. Mothers with their children, whose faces are twisted up in misery, squat grasping the sides of their makeshift shelters—which do not keep them dry. The torn plastic bags that make up the walls of their twig shelters flap madly in the wind. The ground turns into a mire of mud. . . .

In the morning we wake up to hear the children crying. In the makeshift hospital here, set up by foreign aid workers, it is so crowded with the sick that some are sleeping on the floors. Among the stench and the flies, the children lie wasted, staring into space. Tiny human beings, who were born into the madness of man's inhumanity to man, into the madness of a spate of killing that has left many of their fathers, brothers, grandparents and uncles dead.

And now, they face starvation which is cruel and slow. Most of the children are too far gone to eat. Some have the peeling skin and lesions that come with advanced starvation—their skin is wrinkled, lose around their bones. The mothers sit by powerless.

We spent two weeks in Darfur, driving through the eerie, burnt-out villages, empty of people.

We traveled to Mornay camp, where we were a month ago. On arriving back, we went to the medical tent. It was strangely quiet inside. Four people are sitting in a circle. A mother was looking down and sobbing silently, rubbing her hands on her face. I realized I knew her. Then it slowly came to me what was going on. Her daughter Nadia, whom we had spent two days with in this tent a month ago, was dying. The mother, Juma, was saying an awful goodbye.

We moved away in their private moment. Ten minutes later Nadia was dead. The men took her body away to prepare for the burial. Then they emerged at the far end of the grave yard, carrying her tiny body in their hands. They said their prayers and laid her body in the earth. Juma, her mother, sat on the ground. She wasn't crying any more.

After the funeral I went to pay my respects. . . . When she saw me, she started screaming 'Nadia, Nadia, Nadia.' She fell on me, screaming, she kept screaming. She kept repeating her daughter's name. Then the older women started screaming too.

When Juma left the graveyard I saw her walking away on her own, sobbing and crying her child's name into the breeze of the vast desert, into the nothingness of the camp. . . .

Darfur is a nightmare that is alive here today and perhaps somewhere else tomorrow. Racial and tribal tensions, and regional disquiet, have erupted into a war where the civilians are being punished, killed and abused. We are the adults, this is the world we live in and accept. The world we have created for ourselves. . . . Why are massacres of civilians allowed to happen in Sudan? Why has no-one counted the dead?"

[From BBC News, July 24, 2004]

SUDAN'S CRUEL AND SLOW STARVATION

(By Hilary Andersson)

I'm sitting in the dark on the edge of a camp for displaced people in Darfur. I can hear the loud, persistent crying of one child rising above the murmur of the camp as the people settle down for the night.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Tonight the stars are out—that means no rain. Last night was not like this at all.

You can see it coming in the afternoons. The sky begins to darken and the horizon goes an ominous, brown shade of yellow.

Then the wind starts and the dust of the Sahara desert whips up, blasting whirling sands in all directions. The people start to run in their long rags, heads bowed against the wind.

LACK OF SHELTER

Then, the heavens simply open, the wind ferociously hurls drenching curtains of water at everything around.

Mothers with their children, whose faces are twisted up in misery, squat grasping the sides of their makeshift shelters—which do almost nothing to keep them dry.

The torn plastic bags that make up the walls of their twig shelters flap madly in the wind. The ground turns into a mire of mud.

My TV crew and I run for our shelter 15m (50ft) away. All night, the rain pounds against our ceiling. I wake up at 0300—it is still going on. The people on the other side of our wall are still sitting, bracing themselves against the wind and rain, where they were at dusk. This is what it is like most nights for them.

WASTE

In the morning we wake up to hear the children crying. In the makeshift hospital here, set up by foreign aid workers, it is so crowded with the sick that some are sleeping on the floors.

Among the stench and flies, the children lie wasted, staring into space. Tiny human beings, who were born into the madness of man's inhumanity to man, into the madness of a spate of killing that has left many of their fathers, brothers, grandparents and uncles dead.

And now, they face starvation which is cruel and slow. Most of the children are too far gone to eat. Some have the peeling skin and lesions that come with advanced starvation—their skin is wrinkled, loose around their bones. The mothers sit by powerless.

We spent two weeks in Darfur, driving through eerie, burnt-out villages, empty of people.

We travelled to Mornay camp, where we were a month ago. On arriving back, we went to the medical tent. It was strangely quiet inside.

Four people were sitting in a circle. A mother was looking down and sobbing silently, rubbing her hands on her face. I realized I knew her. Then it slowly came to me what was going on. Her daughter Nadia, whom we had spent two days with in this tent a month ago, was dying.

The mother, Juma, was saying an awful goodbye.

We moved away in their private moment. Ten minutes later Nadia was dead.

The men took her body away to prepare for the burial. Then they emerged at the far end of the graveyard, carrying her tiny body in their hands. They said their prayers and laid her body in the earth.

Juma, her mother, sat on the ground. She wasn't crying any more.

CRYING TO THE DESERT

After the funeral I went to pay my respects. Juma had two older women next to her who, perhaps through custom, were telling her to hold her emotions in. But when she saw me, perhaps remembering the filming we did with Nadia last month, she started screaming "Nadia, Nadia, Nadia".

She fell on me, screaming, she kept screaming. She kept repeating her daughter's name. Then the older women started screaming too.

When Juma left the graveyard I saw her walking away on her own, sobbing and crying her child's name out into the breeze of the vast desert, into the nothingness of the camp.

Donkeys, half starved themselves, moved around slowly. Refugees continued collecting water and fixing their huts. This happens here every day.

Darfur is in a nightmare that is alive here today and perhaps somewhere else tomorrow. Racial and tribal tensions, and regional disquiet, have erupted into a war where the civilians are being punished, killed and abused.

We are adults, this is the world we live in and accept. The world we have created for ourselves.

Will these things still happen in Africa a century from now? Will it ever change? Why are massacres of civilians allowed to happen in Sudan? Why has no-one even counted the dead?

Money is needed desperately now to save lives. But it has gone this far in Darfur, because no-one really noticed or did anything to stop it. Nadia did not have to die at all.

WELCOMING THE NEW SWAZI AMBASSADOR TO THE UNITED STATES

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Mr. TOWNS. Mr. Speaker, it is my privilege to welcome the new ambassador of the Kingdom of Swaziland to the United States.

Ambassador Ephraim M. Hlophe presented his credentials to President George W. Bush at the White House on Monday, October 3.

A graduate of the University of Pittsburgh, Ambassador Hlophe was principal secretary for his country's Ministry of Economic Planning and Development, and has served as Swaziland's National Contact Point for the Southern African Development Community and as a member of the Swaziland Investment Promotion Authority (SIPA).

Ambassador Hlophe told President Bush that he hopes to see "increased attention in the United States toward trade and investment opportunities in Swaziland. Our country welcomes American firms to explore the many possibilities Swaziland has to offer in mining, tourism, manufacturing, agribusiness, and international services."

Swaziland, Ambassador Hlophe has explained, "is working with the United States in developing an investment code, and the United States is working with the Swaziland Investment Promotion Authority to help attract foreign investment. We appreciate the work USAID is doing to develop an 'investor road map' to identify barriers to foreign investment and to form the basis of a new investment code."

Mr. Speaker, the lively monthly publication, The Washington Diplomat, recently published a profile of Ambassador Hlophe in its biweekly "Diplomat Pouch" newsletter. With no objection, I ask that the article by correspondent Anna Gawel be entered into the RECORD as a welcome to Ambassador Ephraim Hlophe.

[From the Washington Diplomat, Dec. 1, 2005]

NEW SWAZI AMBASSADOR HITS THE GROUND RUNNING

(By Anna Gawel)

Shortly after presenting his credentials to President Bush, Ephraim M. Hlophe, the new ambassador of Swaziland, got to work promoting his small Southern African kingdom to Washington audiences.

Shortly after his arrival, Hlophe met with Rep. Christopher H. Smith (R-N.J.), chairman of the House International Relations Subcommittee on Africa, Global Human Rights and International Operations. The ambassador also plans to meet with other members of Congress as well as officials from USAID in the next few weeks.

Hlophe, a graduate of the University of Pittsburgh, is trying to boost foreign investment in areas such as manufacturing, particularly in sugar and textiles, as well as tourism, which is a major draw for Swaziland. "I'd say the whole kingdom is a tourist attraction area," Hlophe noted.

The ambassador is also working to tackle the more serious issues that his country faces, namely the HIV/AIDS epidemic that continues to plague much of Africa. Swazi King Mswati III is expected to visit Uganda early next year to examine the successful "ABC" model (abstain, be faithful and use condoms) that Uganda has been using.

Like its neighbors, Swaziland has an especially high rate of HIV infection. "We've seen some significant improvement in terms of people who are willing to be tested so that they benefit from these drugs that are made available through the Global Fund," the ambassador said, referring to the Global Fund to Fight AIDS, Tuberculosis and Malaria. But as a small kingdom, Hlophe said an aggressive approach that encompasses all the methods of prevention and treatment will be crucial to the king's efforts to combat the epidemic.

In addition, Hlophe must address the backlash that often stems from the king's rule of what is Africa's last absolute monarchy. Swaziland has been criticized for its lack of democratic reforms and human rights record, particularly with regard to women's rights.

But Hlophe, a jovial and easygoing man, prefers to highlight the positive advancements his country has made. He pointed to the new constitution scheduled to take effect early next year—Swaziland's first in more than 30 years—explaining that the entire country had a hand in its drafting. "I think that instrument is not the king's instrument. It is our instrument; it is every Swazi's instrument."

The king has also been heavily criticized for his many wives, which he often picks out from among a lineup of topless virgins at an annual dance. On the topic of women's rights, Hlophe noted that when he served as principal secretary for the Ministry of Economic Planning and Development, he took over from a woman—a "visible effort" that is reflective of the drive to include more women in decision-making roles, something that is often overlooked by the media. "People always highlight the negative and not highlight the good points," he said.

Mr. Speaker, I invite my colleagues to offer their own expressions of good wishes to Ambassador Hlophe as he takes up his post to represent Swaziland in Washington. I am certain that he will enjoy a major measure of hospitality on the part of the American people.

THE FY 2006 DEFENSE APPROPRIATIONS CONFERENCE REPORT (H.R. 2863), AS AMENDED BY THE SENATE

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Mr. VAN HOLLEN. Mr. Speaker, we are here today because the Senate rightly rejected the Defense Appropriations conference report—not because they didn't support our troops, but because they honored their service enough to insist on a military spending bill unsullied by special interest politics.

While I continue to have concerns about a number of unrelated provisions in the underlying bill, I also believe it is critical to ensure that our soldiers get the equipment they need to protect themselves and succeed in their missions.

Therefore, with the ANWR issue out of the way, I am prepared to support this legislation and forward it to the President for his signature.

H.R. 2017, THE TORTURE VICTIMS RELIEF REAUTHORIZATION ACT OF 2005

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Ms. MCCOLLUM of Minnesota. Mr. Speaker, I rise in strong support of H.R. 2017, the Torture Victims Reauthorization Act of 2005.

Building on great legislation originally introduced by former Minnesota Senator David Durenburger, this bill further enhances the work that was started nearly a decade ago. The Torture Victims Relief Reauthorization Act reauthorizes funding for both domestic and foreign treatment centers for victims of torture, as well as the United Nations Voluntary Fund for Victims of Torture.

Mr. Speaker, I am proud that Minnesota is the home of the world-renowned Center for Victims of Torture. The work being done at the Center by Mr. Doug Johnson and his extremely qualified, compassionate staff is changing the lives of thousands of people around the world. The Center not only works directly with survivors of torture, but they also train American and International professionals, who return to their communities with the skills needed to better assist victims in rebuilding their lives. Through the work of the Center for Victims of Torture, and other centers like it, survivors of torture are able to reclaim their dignity, their hope, and their futures.

For years, Minnesotans have committed themselves to providing a safe haven for people who have been victims of torture. This is why I, along with so many of my constituents, am so deeply disturbed by recent media reports that the U.S. government might be the source of violence similar to what these victims of torture have suffered. I am extremely disappointed by the Bush Administration's strong opposition, earlier this month, to a provision added to the Senate Fiscal Year 2006 Defense Authorization bill. That provision would ban the use of torture and cruel, and inhumane treatment by members of the U.S. military, and would clearly demonstrate our country's commitment to defending human rights. To even suggest that the U.S. government would condone the use of torture should shame every one of us in this House. Members of my community in Minnesota stand in shock and disbelief at the mere suggestion that our government would seek approval for acts similar to those that have shattered their own lives.

America must remain a beacon of hope and justice in this world. It must be our role as policymakers to restore our nation's reputation and our role in promoting peace and democracy around the world. We cannot allow the fear of the unknown to force our country to turn from our long record of upholding and strengthening the human rights of all people everywhere. Our citizens deserve a better path to security. The best way to restore our Nation's reputation and ensure the safety of Americans, and people everywhere, is to promote human rights, hope and opportunity across the globe. This bill helps to restore our reputation by aiding in the recovery and rebuilding of lives devastated by torture.

Mr. Speaker, I am proud to support this bill, and would like to thank Representative CHRIS SMITH for his tireless work in supporting victims of torture, by introducing this reauthorization. I would also like to thank Ranking Member LANTOS and Chairman HYDE for their strong support of this vital legislation in the House International Relations Committee. In addition, this bill would not be what it is today without the amazing and inspiring work of Doug Johnson, John Salzberg, their associates at the Center for Victims of Torture, and all those working in the field around the world. It is my hope that this bill allows their good work to continue for years to come.

HONORING THE PACIFIC GAS & ELECTRIC COMPANY BLACK EMPLOYEES' ASSOCIATION

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Ms. LEE. Mr. Speaker, I rise today to honor the Pacific Gas & Electric, PG&E, Company's Black Employees' Association on the occasion of its 25th year of service to our community.

The PG&E Black Employees' Association, BEA, was founded in 1980 by a group of African American PG&E employees who wanted to enhance the social and intellectual exchange of ideas among the growing number of African American employees at the company. Over the past 25 years, this exchange has resulted not only in networking, collaboration and workplace adjustment opportunities for African American employees, but has also been integral to PG&E's outreach efforts to the African American Community and our community at large.

The primary focus of PG&E's outreach efforts in this regard has been on providing educational opportunity, namely in the form of college scholarships. Since its founding, BEA has awarded upwards of $700,000 in college scholarships, with the majority of those funds coming directly from BEA member contributions.

In addition to the significant contributions it makes to nationwide educational funds, BEA reaches out to young people and members of our community in a variety of other ways. In addition to its consistent support of the National Society of Black Engineers, the Black Employees Associations of Northern California, the Museum of African Diaspora and numerous diversity awareness efforts within PG&E, BEA provides mentoring and job shadowing opportunities to young people seeking career guidance. Furthermore, BEA sponsors regular events which address issues related to retirement, financial management and other forms of career management for current employees.

In addition to its efforts in the areas of education and professional development, BEA is known for its charitable involvement with a number of local community organizations, as well as its members' regular volunteer efforts. Recently BEA awarded $25,000 to five community based organizations through its partnership with PG&E and other groups, and has also awarded funds to local hospitals and community service organizations.

BEA is a regular participant in events and fundraisers at local K–12 schools and projects, such the Beacon Project and E. Morris Cox Elementary School in Oakland. BEA members also volunteer regularly for major health initiatives such as the AIDS Walk, Juvenile Diabetes Fund, the Breast Cancer Awareness Campaign, and many other community building efforts.

This year marks the PG&E Black Employees' Association's 25th Anniversary. On behalf of the California's 9th U.S. Congressional District, I salute all BEA for their many years of invaluable service to the African American community and to the community at large. I congratulate BEA on this very special occasion, and thank its members for their invaluable contributions to California's 9th Congressional District and to our country.

PEACE ON EARTH

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Mr. RANGEL. Mr. Speaker, I rise to enter into the RECORD "Witness for Justice #245" entitled My Christmas List, published on December 5, 2005, by the United Church of Christ of Cleveland, Ohio. The article eloquently written by Bernice Powell Jackson the Executive Minister of this Church on 700 Prospect Avenue in Cleveland is a fervent wish for Peace. Her wish, her prayer, is one that many of us share with her and I hope is in the hearts and on the lips of every minister, rabbi and imam when he or she stands before a congregation. Minister Jackson believes that for Christians the call to work for peace comes from the Prince of Peace. Those of other faiths, she says, are called "by our Creator to work for a world of peace not only at this time of year, but all year long."

Minister Jackson's first wish on her Christmas list is for peace on earth. I join with her in this wish for all of us; but I wish the God's peace especially for the least among us for these are the first victims when peace is absent. These victims are the women, the children, the child soldiers, the soldiers and their families, the poor, the invisible, the uncounted, the sick, the forgotten, and those whose dignity, even humanity, is not acknowledged—the enslaved, the trafficked, and the tortured.

Minister Jackson's second wish is for young people who are ready and willing to take up the struggle for a world of peace and justice. She states this article, number 245, is her last Witness for Justice Column. She hopes for young people like the ones who struggled for civil rights in the U.S., in the anti-apartheid struggle in South Africa, in the people power struggle in the Philippines, and in Tiananmen Square in China will arise to take on the causes for which she has been such an effective advocate. Minister Jackson recognizes the struggle continues against poverty.

I join Minister Jackson in her second wish and add a second wish of my own. I wish that we will see the end of extreme poverty in our lifetime. I commend the work and advocacy of Jeffery Sachs, Bill and Melinda Gates, Bono and Presidents Jimmy Carter and Bill Clinton and wish with them that childhood AIDS can be treated, that the AIDS Pandemic in Africa can be stopped, that treatable diseases that cause blindness in Africa can be eradicated and that people who are too poor to live can receive simple remedies like mosquito nets that will save 5000 children a day in Africa, clean water and enough food to flourish not just survive.

The third wish on Minister Jackson's Christmas List is for health care for every American. I join her in this wish. Ours is the richest country in the world and yet 45 million Americans cannot afford health care. Minister Jackson says the health care system is "imploding all around us." It is failing us. As a nation, America can no longer afford not to have health care for all Americans. The lack of universal health care for Americans represents a failure of our government and of our priorities; both must be changed.

Finally, Minister Jackson wishes for a return of a value which she writes "seems to be disappearing from our landscape—the value of integrity." Integrity she says is "a value which can only be earned through a life of honesty, fairness, forthrightness and a commitment to the common good of all humankind. It is a value which seems to be sorely lacking in government, in politics, in media, in business, even in religion. Integrity means standing up for what is right and just and true, no matter which way the winds of the world blow. It means speaking the truth, not words of political spin . . . It means matching your words with your life. My Christmas wish is for an increase in integrity in our world." I join Minister Jackson in this wish with all my heart.

Witness for Justice #245, Dec. 5, 2005

MY CHRISTMAS LIST

(By Bernice Powell Jackson)

Every year for the past eleven years I have shared my own Christmas list with you. Most years it has included a wish for even a day of peace in the world—when war ceases, when domestic violence pauses, when guns are laid down in homes and cities and nations. It hasn't happened yet, despite the prayers and the hard work of so many of you. Nevertheless, I believe, that those of us who are Christian are called to work for peace by the Prince of Peace. Those of other faiths are also called by our Creator to work for a world of peace not only at this time of year, but all year long. So my first wish is for peace on earth.

As I write my last Witness for Justice column, I wish for young people who are ready and willing to take up the leadership in the struggle for a world of peace with justice. I am reminded that there has been no viable struggle for justice and peace which did not include young people in the leadership in the last century and I am sure that will be true for this century as well. Young people were a part of the leadership in the civil rights struggle in the U.S., in the anti-apartheid struggle in South Africa, in the people power struggle in the Philippines, even in Tiennamin Square in China. We need young people willing to say war is not the answer, poverty is not the solution and racism can be no more and to do the difficult work of making such a world a reality. That may mean using old tried and true methods of protest like marches and demonstrations and letter-writing, and it might include new 21st century high-tech methods of protest driven by the internet. We need the energy and enthusiasm of young people in the work for peace and justice and my Christmas wish is that each one of us who are elders will mentor a young person to take the lead in this millennia-old struggle.

My third wish is for health care for every American. If there is one issue which can impact every one of us and which can be won in the next two years, I believe it is national health care. Simply put, the health care system is imploding all around us. Corporations large and small know it, labor unions know it, non-profit organizations know it, retirees know it, those 45 million Americans with no health care insurance know it, the medical profession knows it, and hospital administrators know it. Even the politicians know that the health care system we now have is not working for any group in America except possibly the insurance industry, but unless we DEMAND an immediate change, however, politicians will not do anything about it until it collapses around us. Maybe the total collapse of General Motors or maybe the influx of Asian bird flu into the U.S. with millions unable to afford treatment or maybe millions of retirees losing their promised health care benefits or millions of workers being required to pay higher and higher deductibles will be what propels the collapse of our present-day system, but my Christmas wish is that Americans demand that our nation come up with national health insurance before the system collapses not afterwards.

My wish is for a return of a value which seems to be disappearing from our landscape—the value of integrity. Integrity is a value which can only be earned through a life of honesty, fairness, forthrightness and a commitment to the common good of all humankind. It is a value which seems to be sorely lacking in government, in politics, in media, in business, even in religion. Integrity means standing up for what is right and just and true, no matter which way the winds of the world blow. It means speaking truth, not words of political spin. It means looking out not just for oneself, but for the whole community, especially those who are powerless and can't stand up for themselves. It means being willing to admit mistakes and to ask for forgiveness, knowing that we are all human and fallible. It means matching your words with your life. My Christmas wish is for an increase in integrity in our world.

My Christmas wish list this year is for health and wellness for every reader, for laughter and joy, for strength and comfort in the days ahead. In the words of the great American writer, Maya Angelou, "I wouldn't take nothing for the journey".

The struggle continues!!!

WELCOMING THE KOREA INTERNATIONAL TRADE ASSOCIATION TO WASHINGTON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Mr. TOWNS. Mr. Speaker, the Korea International Trade Association (KITA), which has had offices in New York City since 1967, is expanding its presence in the United States by opening up a major office in the Nation's Capital.

Founded in 1946 with 105 members, KITA now represents more than 80,000 Korean businesses seeking to sell their products and services overseas, and in turn buying products and services from foreign countries.

Mr. Andy Mun, the president of KITA's branch in the United States, has said that having a presence in Washington will be important now that South Korea and the United States are engaged in negotiations to create a U.S.-Korea Free Trade Agreement.

In order to create a more prominent profile in Washington, DC, the Korea International Trade Association has purchased a building at 1660 L Street, NW., in the heart of the bustling commercial center of the city. While KITA will occupy several floors of the building, which will be designated the Washington Hankook Center, the rest will be used by American companies, law firms, non-profit groups, trade associations, and business consultants. The building is part of KITA's effort to build trade centers around the globe. In fact, KITA participates in the World Trade Centers Association, which has more than 300 members in 101 countries. It works closely with virtually all World Trade Centers to promote trade by providing facilities and services on a reciprocal basis.

In addition, to promote bilateral economic cooperation, KITA sponsors the Korea-U.S. Economic Council, the Korea-Japan Industry and Trade Committee, and the Korea-Hong Kong Business Roundtable.

In its efforts to promote freer trade, not only between the United States and South Korea, but around the world, KITA organizes various functions and events to enhance mutual understanding on trade issues, seeking to resolve private-sector trade disputes through dialogue. It also works together with its overseas counterparts and international economic organizations to provide member firms with opportunities to interact fully with the international community.

Moreover, KITA places special emphasis on developing and maintaining cooperative relationships with overseas trade promotion organizations as well as major international organizations to facilitate trade and investment on a reciprocal basis. These cooperation activities include trade information exchange, organizing trade promotional events, joint research, and provision of facilities, such as the new office building on L Street in Washington.

Mr. Speaker, as January 13, 2006, will be the first time we celebrate Korean-American Day, as designated by the vote of this Congress, I think it is appropriate that we recognize the mutual benefits of trade between our country and South Korea, which has been a partner of ours in so many endeavors over the years, from fighting side-by-side with our Armed Forces to contributing $30 million in assistance to the victims of Hurricane Katrina.

Barely half a century ago, South Korea was an impoverished casualty of imperialism and war; it has now grown to be the 13th-largest trading nation in the world. Korea is also the 7th-largest trading partner of the United States, with over $70 billion in business between our countries each year. Credit for such remarkable development belongs in large part to the efforts of the Korea International Trade Association.

Mr. Speaker, I urge my colleagues to extend their good wishes and welcome to the Korea International Trade Association as it opens its new offices in Washington, DC.

IN HONOR OF THE LIFE OF DR. VANG POBZEB

HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Mr. GREEN of Wisconsin. Mr. Speaker, today I would like to commemorate the life of Dr. Vang Pobzeb, an extraordinary man who recently passed away on August 23, 2005 after a life of passionate service to human rights and Hmong people across the globe.

Dr. Pobzeb began his activism in the mid 1970s and was among the first to achieve national recognition in the Hmong American Community. In 1987 he founded the Lao Human Rights Council—an organization devoted to improving the living conditions of Hmong people both in Laos and the U.S. Dr. Pobzeb was a tireless advocate for a people and culture that faced tremendous persecution, and he took every opportunity to remind the international community of the plight of the Hmong people in Laos. I was proud to work together with him, time and time again, in this fight.

Mr. Speaker, it is my distinct honor to commemorate the life of such an incredible man. Dr. Pobzeb was truly an exemplar of compassion and dedication, and on behalf of the citizens of Wisconsin's Eighth Congressional District, I offer my condolences to his family, and pay tribute to his life of activism and sacrifice.

RECOGNIZING THE SESQUICENTENNIAL OF SAINT JOHNS, MICHIGAN

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to recognize the 150th anniversary of the founding of Saint Johns, Michigan. Saint Johns was established by John Swegles and a team of state officials and land speculators who purchased and platted Saint Johns based on information about a new railroad depot in Michigan. These speculators selected the site in 1853 looking to create a new town along the Detroit & Milwaukee Railroad, however it was not until 1856 that the railroad arrived in Saint Johns.

Today, Saint Johns in affectionately known as Mint City, USA. The State of Michigan produces nearly enough mint flavor to make 6.9 billion sticks of chewing gum each year, the majority of which is produced in and around Saint Johns, in Clinton County, MI. Every August, Saint Johns' mint heritage is celebrated with an annual mint festival.

Mr. Speaker, the City of Saint Johns has a rich history and a vibrant future. I ask all my colleagues to join me and the citizens of Saint Johns in recognizing the sesquicentennial of this historic Michigan city.

HAPPY 90TH BIRTHDAY PROFESSOR ROBERT E. WARD

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Mr. LANTOS. Mr. Speaker, it is with great joy that I rise today and urge all of my colleagues to join me in celebrating the upcoming 90th birthday of an icon of international academia and a pioneer of U.S.-Japanese studies, Professor Robert E. Ward.

Professor Ward was born in San Francisco on January 29, 1916. After graduating from Stanford, he entered the graduate program at the University of California at Berkeley and earned his Master's in Political Science. During World War II, Professor Ward served our country admirably as language officer for Naval Intelligence. He was stationed in the Southwest Pacific and in Washington, and was awarded the signal honor of the Legion of Merit.

Mr. Speaker, after the war Robert Ward returned to Berkeley to continue his education with the intent to study Japanese politics. Three short years later, he received his Ph.D. in political science, writing his dissertation on "Party Government in Japan—Its Development and Electoral Record, 1928–1937," a pioneering effort to apply to Japan the methods of political behavior analysis which at the time was only being applied to Western European countries by American political scientists. This was to be the first of many times that Robert Ward incorporated Japan into the mainstream of social science studies in the United States.

After receiving his doctorate, Robert Ward left California heading east to Ann Arbor, and the University of Michigan he would go on to enjoy a distinguished teaching career. Arriving at Michigan in 1948, with the rank of instructor, Robert Ward encountered a bit of good fortune. For you see Mr. Speaker, during the war the United States Armed Forces had used the University of Michigan as one of its centers for Japanese language training. The University now wanted to utilize this infrastructure to develop an interdisciplinary center for Japanese studies, and given Robert's background he was a perfect fit for this endeavor. During his time at the University, Robert Ward served with distinction, rising from Instructor to Professor in ten years. He was also concurrently a member of the University's Center for Japanese Studies, and a guiding force behind the academic integrity of the center, twice serving as Director of the Center.

Mr. Speaker, after a quarter century of distinguished service to the University of Michigan and its Center for Japanese Studies, Professor Ward heeded the call of his alma mater, and returned to California to become the Director of the Center for Research in International Studies at Stanford University. Although commonplace today, it was considered highly irregular, and a significant breakthrough for the field of Japanese studies to have a specialist in Japanese-American studies receive this prestigious job instead of a European-American studies expert. During his extraordinary tenure at Stanford University, Professor Ward continued to exert tremendous influence in the field of comparative politics and continued to emphasize the importance of Japanese-U.S. studies in the field of political science.

As one would expect of man of incredible intellect and talents, Professor Ward has been recognized throughout his distinguished career with numerous awards and recognitions. If I may, I would like to highlight a few; National Science Foundation Senior Postdoctoral Fellow, Rockefeller Foundation Fellow in Residence, Member of the American Philosophical Society, Member of the American Academy of Science, President of the Association for Asian Studies, President of the American Political Science Association, Chairman of the Social Science Research Council, Member of the National Endowment for the Humanities, and a member of President Carter's Commission on Foreign language and International Studies.

In addition to using his seemingly endless energy on his academic pursuits, Professor Ward also offered his expertise and experience to a number of civic and public activities related to Japan. He was a member, and for many years the Director of the Japan Society of Northern California, a member of the World Affairs Council of Northern California, and also involved with the San Francisco Committee on Foreign Relations. However, the most enduring of Professor Ward's contributions to the growth of Japanese studies in America are to be found in his involvement with the Japan Foundation and the Japan-U.S. Friendship Commission. Professor Ward played an integral role in the development of both institutions and was the chief architect behind the creation of the Japan-U.S. Friendship Commission. Without the incredible efforts of Professor Ward, including the mobilization of his academic colleagues and intense lobbying of members of Congress, it is truly doubtful that the Japan-U.S. Friendship Commission would exist today?

Mr. Speaker, Professor Ward stands out as a towering figure in United States-Japanese cultural, educational, and political relations. It is not an understatement to express that no other person in the post-WWII era has combined the same capacities for scholarship and institution building or has achieved so much for the general field of Japanese studies in America. Professor Ward deserves much of the credit for bringing Japan into the mainstream of social scientific teaching and research in both America and Europe, and of bringing to the study of Japanese politics the categories of inquiry that had previously been applied mainly to the study of western societies. I urge all of my colleagues to join me in wishing this distinguished academic and extraordinary citizen a happy 90th birthday.

TRIBUTE TO SERGEANT ADRIAN N. OROSCO

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Mr. COSTA. Mr. Speaker, I rise today to honor and remember the life of Sergeant Adrian N. Orosco who lost his life defending the freedom of our Nation in support of Operation Iraqi Freedom.

A native of Corcoran, CA, Sgt. Orosco, 26, joined the United States Army in 2001. After his 2 year service contract was completed, Mr. Orosco re-enlisted for an additional 4 years. Sgt. Orosco re-enlisted with the hopes that a career in the armed forces would provide a better life for his family and because military service provided him with the opportunity to serve his country in the most noble manner. He was then assigned to the 1st Squadron, 11th Armored Cavalry Regiment at Fort Irwin, California.

Unfortunately, Adrian Orosco's tour in Baghdad, Iraq ended when an improvised device detonated near his military vehicle on the 9th day of December 2005. In recognition of his sacrifice Sgt. Orosco has been posthumously awarded the Bronze Star and Purple Heart.

Adrian Orosco is survived by his wife, Elizabeth and their three children, Adrian, Andrew and Isabelle, all of whom reside in Fort Irwin.

I would like to extend my heartfelt sympathy and most sincere condolences to Sgt. Orosco's family.

It is my belief that Adrian Orosco's life symbolizes the ultimate sacrifice one can make for his country. His valor, strength, courage and pride in our Nation will forever live in the thoughts and hearts of his family and Americans across the Nation. In addition, Sgt. Orosco's dedication to the principles of freedom and democracy will serve as an example to all of us, for generations to come.

INTRODUCTION OF RESOLUTION OF INQUIRY WARRANTLESS SPYING ON AMERICAN SOIL

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Mr. CONYERS. Mr. Speaker, today I am introducing a Resolution of Inquiry H. Res. 643 requesting the Attorney General to transmit to Congress documents reflecting the legal justification for spying on American soil without judicial approval. I introduce this Resolution on behalf of myself and Mr. BERMAN, Mr. BOUCHER, Mr. NADLER, Mr. SCOTT of Virginia, Ms. LOFGREN, Ms. JACKSON-LEE, Ms. WATERS, Mr. MEEHAN, Mr. DELAHUNT, Mr. WEXLER, Mr. WEINER, Mr. SCHIFF, Ms. LINDA SÁNCHEZ, Mr. VAN HOLLEN, Ms. WASSERMAN SCHULTZ, Mr. KENNEDY of Rhode Island, Mr. DOGGETT, Mr. MCDERMOTT, Mr. FILNER, Mr. MARKEY, Ms. SCHAKOWSKY, Ms. TAUSCHER, Ms. LEE, Ms. MCCOLLUM, Mr. UDALL of New Mexico and Mr. HOLT.

It is my hope that the Administration will voluntarily comply with this straightforward request. However, if they do not, this Resolution will require a vote in the Committee, and possibly the House floor so that the Members can go on record concerning whether this is an important enough issue to warrant Congressional oversight. I believe we simply cannot tolerate a situation where the Administration is both laying down and interpreting the law on its own accord, and not even sharing with the Members of Congress what the legal justification for such a program is.

Last week we learned that the President has been using the National Security Agency to conduct surveillance involving U.S. citizens on U.S. soil, in apparent contravention of the Foreign Intelligence Surveillance Act. This week we learned that contrary to the President's assertions that the wiretapping included only foreign calls, some of the intercepted communications were conducted entirely within the United States. As a result of these disclosures, one member of the FISA Court, Judge James Robertson, resigned, and the presiding judge of the court has sought a classified briefing to address their concerns that the NSA program was illegal and may have been improperly used to gain further wiretaps from their court.

These revelations raise some of the most serious legal and constitutional questions conceivable in our democracy—whether our own government is able to intercept our most private conversations without establishing to any independent party that such eavesdropping is in any way necessary or related to a possible crime. For 25 years under FISA we have created special procedures for obtaining intelligence information on U.S. soil. The standard for getting a wiretap warrant from the Foreign Intelligence Surveillance Court is so low that only 5 out of the 19,000 applications have been denied since 1978. We even allow FISA orders to be obtained on a retroactive basis for the first 72 hours, in case the government needs to move with great speed.

However, for some reason the Bush Administration has opted not to use the FISA laws to obtain surveillance orders involving a number of people located on U.S. soil. As one official told the Washington Post, "the FISA process demanded too much: to name a target and give a reason to spy on it."

The purpose of this Resolution of Inquiry is to allow Congress to obtain the necessary information so we can learn precisely what the legal basis was for this great expansion of executive power. We are not asking to learn about the names or identities of the individuals who have been surveilled; at this point we simply want to learn on what legal basis the surveillance orders were issued. The Administration has proposed a number of legal theories to the press to justify the NSA wiretaps, ranging from the President's authority as Commander In Chief to general authority included in the post 9/11 Afghanistan Resolution.

PERSONAL EXPLANATION

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Mr. HYDE. Mr. Speaker, on December 16, 17, 18, and 19, 2005, I was absent for several votes for personal reasons. Had I been present, I would have voted: rollcall No. 648, Passage Victory in Iraq, "yes," rollcall No. 649, Zimbabwe's "Operation Murambatsvina," "yes," rollcall No. 650, Hamas and Terrorist Organizations, "yes," rollcall No. 651, Independent Iraqi Judiciary, "yes," rollcall No. 652, Motion to Instruct Conferees, "no," rollcall No. 653, Goodlatte/Herseth Amendment, "yes," rollcall No. 654, Stearns Amendment, "yes," rollcall No. 655, Sensenbrenner Amendment, "yes," rollcall No. 656 Norwood Amendment, "yes," rollcall No. 657, Westmoreland Amendment, "yes," rollcall No. 658, Gonzalez Amendment, "no," rollcall No. 659, Sullivan Amendment, "no," rollcall No. 660, Motion to Recommit, "no," rollcall No. 661, Passage Illegal Immigration Control Act, "yes," rollcall No. 662, Assassination of Lebanese Prime Minister, "yes," rollcall No. 663, On Agreeing to the Resolution, "yes," rollcall No. 664, Passage Stem Cell Research Act, "yes," rollcall No. 665, On Agreeing the Conference Report (H. R. 1815), "yes," rollcall No. 666 On Agreeing to the Resolution (H. Res. 639), "yes," rollcall No. 667, Presidential and Parliamentary Elections in Egypt, "yes," rollcall No. 668, Motion to Recommit, "no," rollcall No. 669, On Agreeing to the Conference Report (H. R. 2863), "yes," rollcall No. 670, On Agreeing to the Conference report (S. 1932), "yes," and rollcall No. 671, Education Curriculum in the Kingdom of Saudi Arabia, "yes."

A TRIBUTE TO CPL. JOSEPH R. POKORNY

HON. TIM MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Mr. MURPHY. Mr. Speaker, on behalf of the U.S. House of Representatives, I rise to honor the priceless life and courageous public service career of State Police Corporal Joseph R. Pokorny.

Fearless, responsible, tough, professional, elite, hero. These are some of the apt words that Joseph's friends and colleagues have used to describe him in recent days. Thousands have mourned the loss of Corporal Pokorny, who was senselessly killed in the line of duty during the early morning of December 12, 2005.

Born in Uniontown, Pennsylvania, Joseph and his family moved to Center as a young boy. He graduated from Center Area High School in 1978 and attended Indiana University. Joseph later graduated from the Pennsylvania State Police Academy in Hershey in 1983, before embarking on a distinguished law enforcement career of 22 years.

In 2000, he was promoted to the rank of corporal—a monumental accomplishment on the elite Pennsylvania State Police force. Joseph always served with uncommon courage, a firm commitment to protecting the public, and a fervent passion for the American way of life.

Of all the recent tributes to Corporal Pokorny, perhaps the greatest compliment paid to him was that a close friend who grew up with Joseph said, "he was a real Pittsburgh guy."

During this holiday season, my thoughts and prayers have especially been with Corporal Pokorny's parents, Joseph Sr. and Florence, and his teenage son and daughter, Joseph, and Alexandra. They were the most important people in Joseph's life.

The world is a safer, better place because of Joseph Pokorny. My fellow citizens of southwestern Pennsylvania and I owe Corporal Pokorny a debt of gratitude that can never be repaid. He will be deeply missed.

TRIBUTE TO TODD PATKIN, YOUNG LEADER AND PHILANTHROPISTS

TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Mr. LANTOS. Mr. Speaker, I invite my colleagues join me in paying tribute a young man who is part of the new generation of philanthropic leaders—Todd Patkin of Massachusetts. Todd is an impressive young man, and although he has just turned 40, he has been remarkably successful in the business world and is now devoting his life to helping others.

Todd grew up in the Boston area, where he graduated from Tufts University. He married, had a family, and worked in the family auto parts business for the next 18 years. Using his amazing organizational and business talents, the company became remarkably successful, expanding from 18 to 62 stores in the New England and New York area. His business acumen was recognized in 2004 by Auto International Associate when he was named "Young Executive of the Year."

Mr. Speaker, Todd recently sold his regional business operations to the second largest retailer in the country, giving him the financial freedom to pursue his passion to help others.

One of his major philanthropic initiatives has been to assist his friend, Gary Marino, to help Americans children and adults with problems of obesity and poor nutrition. Todd is funding the making of a major motion picture which focuses on Gary's life story and on his "Million Calorie March" from Florida to Boston in which took place in 2005.

Working with opera star Andrea Delgudice, Todd also founded the Todd G. Patkin Opportunity Performing Art Center. It brings the highest quality vocal, dance and acting instruction to its students, many of whom are from the less-advantage areas of Brockton, Massachusetts, and are receiving full scholarships because of their economic need.

Todd recently made a substantial contribution to the Boston Medical Center for its Todd and Yadira Patkin Sickle Cell Anemia Clinic. He has also provided significant financial support to the Boston chapter of the Anti-Defamation League, where he and Andrew Tarsy will be managing a new initiative to combat bigotry and intolerance in greater Boston.

Todd has had a positive impact internationally as well, Mr. Speaker. He supports two charities in the State of Israel—the Jewish National Fund, which is chaired by Ronald Lauder, and the Yemin Orde Youth Village headed by Chaim Peri. The village is perhaps the most advanced orphanage in Israel and the world. It focuses on helping children, who frequently have been orphaned under devastating circumstances, to become happy and productive members of society. Today over two-thirds of the 300 children in the village are Jews of Ethopian descent.

PERSONAL EXPLANATION

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Mr. KOLBE. Mr. Speaker, on December 16, 17, and 18, 2005, I missed the following votes due to previous commitments in my Congressional district:

S. 1932, On Motion to Instruct Conferees, Budget Reconciliation, 2006 (#652). Had I been present I would have voted "nay."

H.R. 4437, On Passage of the Border Protection, Antiterrorism, and Illegal Immigration Control Act (#661). Had I been present I would have voted "nay."

H. RES. 623, On Agreeing to the Resolution providing for consideration of motions to suspend the rules (#663). Had I been present I would have voted "aye."

H.R. 2520, Suspend the Rules and Agree to the Senate Amendment, Stem Cell Therapeutic and Research Act (#664). Had I been present I would have voted "aye."

H.R. 1815, On Agreeing to the Conference Report, National Defense Authorization Act, FY 06 (#665). Had I been present I would have voted "aye."

H. RES. 639, On Agreeing to the Resolution waiving points of order against the conference report on H.R. 2863, Department of Defense Appropriations, FY 2006 (#666). Had I been present I would have voted "aye."

H.R. 2863, On the motion to recommit conference report with instructions for the appropriations bill for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes (#668). Had I been present I would have voted "nay."

H.R. 2863, On Agreeing to the Conference Report for the appropriations bill for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes (#669). Had I been present I would have voted "aye."

S. 1932, On Agreeing to the Conference Report for Budget Reconciliation, 2006 (#670). Had I been present I would have voted "aye."

H.R. 2863

HON. DAVID WU

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Mr. WU. Mr. Speaker, now that the most egregious provision has been stripped out the Defense Appropriations bill, I rise to offer my support for this important legislation.

When the House first voted on this measure early Monday morning on December 19, I opposed this bill because, among other reasons, it included a provision to permit oil and gas drilling in ANWR. The Arctic Refuge is one of the last, wild, untouched places left in the United States—with an abundance and variety of wildlife. Not only was I concerned about the environmental impact of opening up ANWR to drilling and exploration, but I was also opposed to the inclusion of this unrelated provision in a defense bill. I am glad that the ANWR provision has been stripped from this bill.

The remaining bill will do a great deal to support our troops. It appropriates a total of $453.5 billion for defense programs, including $50 billion in emergency spending for military operations in Iraq and Afghanistan. I am pleased that it contains language, authored by Senator JOHN MCCAIN that bars any U.S. personnel, including civilians, from engaging in "cruel, inhumane, or degrading" treatment of detainees. I am particularly pleased it includes funds for an average 3.1 percent pay increase for the men and women in our armed forces. H.R. 2863 also includes funding for certain special pay and bonuses for reserve personnel.

With that said, and while I now support this bill in its final form, I am concerned about a number of remaining provisions in the bill. Among other things, H.R. 2863 includes a provision to provide virtually unlimited liability protection to the drug industry, while providing illusory and unfunded compensation to any potential victims. We must be prepared in case of a flu pandemic, including ensuring our first responders are ready. Yet, the Republican bill uses the threat of a flu pandemic as an excuse to push the Administration's agenda of giving unwarranted and broad liability protection to the drug industry for a broad array of products.

I am also concerned about the bill's inclusion of funding for the national missile defense (NMD) system. The bill before us includes $7.8 billion for this system. While we should always stand alert with a strong national defense, the NMD system is scientifically unproven, fiscally irresponsible, and grossly inaccurate. There are better ways to improve our defense.

Last, I share many of my colleagues concerns over this bill's provision to cut all nonemergency discretionary spending, except for VA programs, by 1 percent. As a result, K–12 education will see a cut of $1 billion this year; LIHEAP, which helps many people heat their homes, will be cut by $21 million; and Local Law Enforcement Block grants, which goes to help our first responders, will be cut by $315 million. While I agree that we must be fiscally responsible, we cannot do so at the expense of vital social and federal programs that assist our communities.

Mr. Speaker, I support our troops, and I believe in a robust defense. But we cannot use this legislation to hold our troops politically hostage to unwise policies. I am pleased that ANWR has been stripped out of this bill, and I strongly support its passage now that it has been removed.

H.R. 2863—DOD APPROPRIATIONS CONFERENCE REPORT

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Mr. UDALL of New Mexico. Mr. Speaker, I applaud the removal of a provision from the Department of Defense Appropriation bill that would have allowed drilling in the Arctic National Wildlife Refuge (ANWR). This pristine wilderness area deserves to be protected, and furthermore, a Defense Appropriations bill was an entirely inappropriate vehicle to use to attempt to approve drilling in ANWR. For those and other reasons, I opposed passage of H.R. 2863 on December 19, 2005.

I am greatly pleased, however, that the Senate rejected the inclusion of the ANWR language, and removed the rider from this important appropriations bill. I still have grave concerns over several provisions still included in H.R. 2863, however, when it is passed into law our brave soldiers will get the resources they need to do the job overseas and return home safely as quickly as possible.

THE DEPARTMENT OF DEFENSE APPROPRIATIONS CONFERENCE REPORT

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Mr. ENGEL. Mr. Speaker, on December 19, 2005, I voted against the Department of Defense Appropriations Conference Report as it was considered by the House of Representatives. While I voted for the Defense Authorization Act and normally would support a Defense Appropriations bill—especially with our troops in harm's way—this year I regrettably had to vote against the legislation.

I did so largely because the Republican majority inserted a provision allowing oil drilling in the Arctic National Wildlife Refuge (ANWR). This controversial measure was repeatedly rejected through the democratic process, but the Republican leadership preferred to hold the Defense Appropriations bill—and our troops in the field—hostage to the effort to drill in this pristine wildlife refuge. Moreover this legislation contained a 1 percent across the board cut in non-defense discretionary spending.

Mr. Speaker, America cannot drill its way to independence from foreign oil. Tapping ANWR would produce barely a drop in the bucket of the amount of oil we consume in this Nation. Even if we started drilling in ANWR today, we would not see any of that oil until 2012.

Rather than drilling in the Arctic wilderness and extending our reliance on oil, we must increase fuel efficiency, diversify our sources of energy, and promote clean alternatives. We need to invest and focus on ways to reduce our consumption of oil. This is why Congressman JACK KINGSTON (R–NY) and I have introduced The Fuel Choices for American Security Act, which sets meaningful and achievable goals, all of which can be accomplished using new technologies that are already proven, effective and efficient.

I, therefore, am very pleased to learn that the Senate has struck the ANWR drilling provision from the Defense Appropriations Conference Report. It is my understanding that this bill will now pass the House by unanimous consent, and will be sent to the President for signature.

PERSONAL EXPLANATION

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Ms. ROYBAL-ALLARD. Mr. Speaker, due to the death of a family member, I was not present for rollcalls 665 through 671 on Sunday, December 18 and Monday, December 19. Had I been present, I would have voted "nay" on rollcalls 666, 669, 670 and "yea" on rollcalls 665, 667, 668, and 671.

HONORING THE LIFE OF SPC RICHARD JUNIOR DE GRACIA NAPUTI

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Ms. BORDALLO. Mr. Speaker, I rise today to honor the life of one of Guam's sons, SPC Richard Junior De Gracia Naputi, 24, U.S. Army, of Talofofo, Guam. Sadly, on December 20, 2005, our nation lost SPC Naputi. SPC Naputi was killed in action while serving in Taji, Iraq in support of Operation Iraqi Freedom. Born and raised in Guam, he left the only home he knew to serve and defend his country. Assigned to the 1st Battalion, 15th Infantry Regiment, 3rd Infantry Division in Fort Benning, Georgia, SPC Naputi embodied the proud history and traditions of his unit whose motto was "Can Do" and whose lineage traces back to the Civil War.

My thoughts and prayers are with the Naputi family during this time of loss. I join his parents, Richard and Elaine Naputi, his wife Brianne, and all of Richard's extended family and friends, in mourning the loss of Richard and in honoring the dignity of his life. While the loss of SPC Naputi is painful for our entire island and our nation, he now joins that solemn fraternity of heroes who have put their country before themselves and made the greatest sacrifice. Heeding the Christmas message of "Peace on earth," Richard's loss leads us to reflect upon the sacrifices made by the men and women who shoulder the responsibility of protecting our liberties and our freedoms. To these men and women, we owe a debt of gratitude that is simply unpayable.

During this difficult time, the people of Guam and I are keeping the Naputi family in our thoughts and prayers. I also extend my prayers to the many men and women continuing to serve around the world in the cause of freedom. God bless the Naputi family, God bless our men and women in uniform and God bless America.

ON THE RETIREMENT OF THOMAS F. McHUGH

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Ms. SLAUGHTER. Mr. Speaker, I rise today to recognize and celebrate the 37 years of public service Mr. Thomas F. McHugh has devoted to the City of Rochester. His hard work and commitment to the city's development will set an example for current and future public servants, and Rochester is grateful for all that Mr. McHugh has contributed.

Mr. McHugh grew up in Ancram, Massachusetts. His father was in the insurance business and his mother was a teacher. It was from them that he learned the importance of a strong work ethic and a responsibility to community. He carried these lessons with him as studied at University of Syracuse and moved to Rochester upon his graduation.

Mr. McHugh began his career with the City of Rochester, serving 5 years as Project Director in the Department of Urban Renewal & Economic Development. In that capacity, he directed the $100 million, 175-acre Upper Falls Urban Renewal Project. From there, he moved to the Rochester Housing Authority where he has served as the Executive Director of the Rochester Housing Authority for the past 32 years. As Executive Director, he has ensured that low-income families, elderly, people with disabilities and many other members of the community have access to quality affordable housing.

Mr. McHugh has greatly expanded the affordable housing opportunities in the City of Rochester and Monroe County. When Mr. McHugh started with the RHA in 1974, it had approximately 1,100 Public Housing Units and 93 employees. Today RHA consists of 2,440 Public Housing units, 7,700 Assisted Housing units and 195 employees. Even with the addition of so many units, the Rochester community continues to regard RHA in the highest terms because of the commitment to keep properties in good repair. Mr. McHugh has developed and nurtured collaborations and partnerships with numerous public service agencies and community organizations. He has continuously maintained a positive working relationship with not only the City of Rochester, but also Monroe County, and State and Federal agencies.

While administering housing for more than 10,000 households is a daunting task in and of itself, under Mr. McHugh's leadership, RHA has used its resources in an effective and efficient manner. RHA has reported solid financial performance year after year and achieved high ratings in HUD's assessment programs for Section 8 and public housing.

Mr. McHugh spearheaded the effort to redesign Rochester's first public housing complex, the State-built Hanover Houses that consisted of seven high rise building for low-income families. He replaced the Hanover Houses with townhouse units to house families, seniors and people with disabilities that maintain a much greater degree of livability and security.

Mr. McHugh greatly expanded the scope of resident and educational services at RHA. Through the Family Investment Center Department and a Social Services Department, RHA has provided to thousands of residents training on family self-sufficiency, computers, construction trades apprenticeships, GED attainment and job placement. RHA also now has resources and staff available to assist residents who need counseling services for drug prevention or other types of intervention. Under Mr. McHugh's leadership, RHA developed a summer camp program which serves over 250 young people and created an after school tutoring program. RHA has nutrition programs for seniors and provides a senior escort van to transport them to shopping and doctor appointments.

Mr. McHugh's public service has not been limited to only the Rochester Housing Authority. During his 32-year career at RHA he has had long time affiliations, board memberships and service on committees with many organizations such as: Council of Large Public Housing Agencies (CLPHA), National Association of Housing and Redevelopment Officials (NAHRO), Middle Atlantic Regional Council of NAHRO, National Leased Housing Association, National Low-Income Housing Coalition, Regional Council on Aging, Legal Aid Society of Rochester, Women's Career Center, St. John the Evangelist Church, Sisters of Mercy Founders Club, SWV Realty Corporation, Monroe Housing Development Corporation, GEVA Theatre, Downstairs Cabaret Theatre, Rochester Area Educational Television Association, Blue Cross of Monroe County, Project Self-Sufficiency Monroe County Task Force, Marie and Joseph Wilson Foundation, Workforce Investment Board and the Family First Federal Credit Union.

Through Mr. McHugh's leadership, compassion and commitment, thousands of people have been able to improve the quality of their lives because they had a good quality, safe, and affordable home. Many have used RHA as a springboard to better jobs, self-sufficiency and home ownership. He is a shining example of the difference one devoted individual can make in providing quality affordable housing opportunities, building communities, encouraging self-sufficiency and protecting the dignity of people with limited resources while at the same time safeguarding the public trust.

As Mr. McHugh heads into retirement, it is with great pleasure that I recognize and commend Mr. McHugh for his 37 years of dedicated and successful public service. If a man can be judged wealthy because he has friends and colleagues who both respect and admire him, then Thomas F. McHugh is truly a wealthy man. He leaves a great legacy that can serve as an example to all of us. My most sincere and heartfelt congratulations go out to Mr. McHugh for a job well done.

UNITED STATES-BAHRAIN FREE TRADE AGREEMENT IMPLEMENTATION ACT (H.R. 4340)

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Ms. McCOLLUM of Minnesota. Mr. Speaker, I rise in strong opposition to the United States-Bahrain Free Trade Agreement Implementation Act (H.R. 4340).

The Kingdom of Bahrain has been an American ally in the Persian Gulf for decades, and I support expanding opportunities for trade between our nations. Trade is a valuable tool to strengthen America's global partnerships and advance a higher quality of life at home and abroad. The U.S.-Bahrain Free Trade Agreement, however, does not pursue trade that is free and fair. Rather, it expands a system of globalization that benefits large multinational corporations at the expense of working people and their families.

Under this free trade agreement, Bahrain is only required to comply with its domestic labor laws, which do not need to be consistent with international recognized labor rights. As a result, workers can be denied their right to organize and bargain collectively and have no guarantee of freedom from child labor, forced labor, and discrimination. In turn, the playing field for U.S. workers and goods produced in the U.S. must be lowered to compete with the current standards of our trading partner.

This Congress knows better. Just four years ago, this House passed a free trade agreement with another country in the Middle East, Jordan, by voice vote. The U.S.-Jordan Free Trade Agreement affirmed the rights of workers and explicitly stated that it was "inappropriate to encourage trade by relaxing domestic labor laws." It is extremely disappointing that the agreement before us today could not live up to this standard and do more to protect the rights of workers.

The U.S.-Bahrain free trade agreement also fails on environmental protection. Under this agreement, the labor and environmental dispute process is inferior to that provided for commercial provisions. Monetary fines for environmental and labor violations are capped at $15 million. This amount is lower than that for commercial violations and likely too low to deter the most severe violations.

This free trade agreement also undermines the quality of life of working families in other ways. It extends patent protection for pharmaceutical companies, extending the time before generic drugs may enter the market. This denies working families affordable access to the prescription drugs they need, to the benefit of already successful drug companies.

For these reasons, I oppose this free trade agreement and encourage my colleagues to vote against this legislation.

NESsT SOCIAL ENTERPRISE COMPETITION FOR CENTRAL & EASTERN EUROPE

TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 22, 2005

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in recognizing an important competition that will take place in early 2006 in Croatia, the Czech Republic, Hungary and Slovakia.

The regional Social Enterprise Competition for Central & Eastern Europe is sponsored by the Nonprofit Enterprise and Self-sustainability Team (NESsT). The competition will bring together social entrepreneurs and local civil society organizations to submit proposals for achieving greater financial sustainability through social enterprise. The mission of this competition merits the attention of my colleagues in the House because it is inextricably linked to the role of civil society organizations as advocates for freedom, human rights and public welfare in emerging democracies.

Mr. Speaker, I am certain that all of us remember the euphoria that accompanied the collapse of the Berlin Wall and the demise of communism just a decade and a half ago. With Members of this House and people around the world, I recall the joy of seeing democracy and human rights restored to long-suffering peoples of Central Europe and the former Soviet Union. I remember watching in amazement as Berliners from both halves of the divided city danced on the Berlin Wall. I joined people from around the world as we chipped a piece from that disappearing Wall. I was with the Czech students celebrating in the streets of Prague.

The struggle for democracy and human rights is far from over in this region and elsewhere in the world. As the United States strives to help emerging democracies such as Ukraine, Georgia, and Afghanistan, efforts by NESsT and other non-governmental organizations (NGOs) through activities such as the social enterprise competition are critical in helping to promote the rights and interests of the public in emerging democracies.

Mr. Speaker, Central and Eastern Europe received an enormous amount of foreign assistance throughout the 1990s, which assisted former communist countries to transition to more open and democratic societies. However, in recent years, this region has seen significant cuts in U.S. foreign assistance. Despite these cuts in funding, the needs of civil society organizations in this region continue to grow.

The limits on democratic development assistance in Central and Eastern Europe resulted in some serious questions about the viability of civil society organizations to assist in democratic development. What role should social enterprise play in encouraging growth, upholding worker rights, and protecting natural resources? What role can civil society organizations play in democratic development if they are beholden to the whims of foreign donors? NGOs, such as NESsT, have found innovative and cost-efficient ways to strengthen the financial sustainability of civil society organizations working for social change and development in emerging market countries.

The NESsT-sponsored competition seeks to expand the network of financially sustainable civil society organizations throughout the region. Through the competition, NESsT will apply a venture capital approach, also known as venture philanthropy, to providing the financial and technical support to the region's civil society organizations.

Mr. Speaker, venture philanthropy involves applying the tools of the for-profit sector to expand the reach of the community organizations. Venture philanthropists often offer loans and equity equivalents rather than traditional donations; engage nonprofit managers with an array of technical and strategic advisory service; build organizational capacity through the development of skills and networks; and, most important of all, set clear performance goals and expect "portfolio members" to achieve concrete social and/or financial returns on investment.

I would like to pay tribute to the principal sponsor of the competition, the Nonprofit Enterprise and Self-Sustainability Team (NESsT). From its offices in Budapest and Santiago, this organization has emerged as an international leader in the effort to foster social entrepreneurship and venture philanthropy in developing nations. NESsT's co-founders, Nicole Etchart and Lee Davis, direct initiatives that clearly address the challenges and needs of NGOs in Central Europe and Latin America.

Mr. Speaker, for all these reasons and many more, I urge my colleagues to join me in recognizing the important mission of the Social Enterprise Competition for Central and Eastern Europe and the outstanding contributions of its principal sponsor, the Nonprofit Enterprise and Self-Sustainability Team.

HOUSE OF REPRESENTATIVES—*Friday, December 30, 2005*

PROCEEDINGS OF THE HOUSE OF REPRESENTATIVES AFTER SINE DIE ADJOURNMENT OF THE 109th CONGRESS FIRST SESSION

COMMUNICATION FROM THE CLERK OF THE HOUSE AFTER SINE DIE ADJOURNMENT

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 22, 2005.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 22, 2005, at 4:55 pm:

That the Senate agreed to H. Con. Res. 326.

That the Senate agreed to conference report H.R. 2863.

With best wishes, I am

Sincerely,

KAREN L. HAAS,
Clerk of the House.

FURTHER COMMUNICATION FROM THE CLERK OF THE HOUSE AFTER SINE DIE ADJOURNMENT

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 23, 2005.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 23, 2005, at 10:30 am:

That the Senate passed S. 1783.

With best wishes, I am

Sincerely,

KAREN L. HAAS,
Clerk of the House.

BILLS AND A JOINT RESOLUTION APPROVED BY THE PRESIDENT AFTER SINE DIE ADJOURNMENT

The President, after sine die adjournment of the First Session, 109th Congress, notified the Clerk of the House that on the following dates, he had approved and signed bills and a joint resolution of the following titles:

December 21, 2005

H.R. 4440. An Act to amend the Internal Revenue Code of 1986 to provide tax benefits for the Gulf Opportunity Zone and certain areas affected by Hurricanes Rita and Wilma, and for other purposes.

December 22, 2005

H.J. Res. 38. A joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy.

H.R. 327. An Act to allow binding arbitration clauses to be included in all contracts affecting land within the Gila River Indian Community Reservation.

H.R. 358. An Act to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes.

H.R. 797. An Act to amend the Native American Housing Assistance and Self-Determination Act of 1996 and other Acts to improve housing programs for Indians.

H.R. 3963. An Act to amend the Federal Water Pollution Control Act to extend the authorization of appropriations for Long Island Sound.

H.R. 4195. An Act to authorize early repayment of obligations to the Bureau of Reclamation within Rogue River Valley Irrigation District or within Medford Irrigation District.

H.R. 4324. An Act to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster mitigation program, and for other purposes.

H.R. 4436. An Act to provide certain authorities for the Department of State, and for other purposes.

H.R. 4508. An Act to commend the outstanding efforts in response to Hurricane Katrina by members and employees of the Coast Guard, to provide temporary relief to certain persons affected by such hurricane with respect to certain laws administered by the Coast Guard, and for other purposes.

SENATE BILLS APPROVED BY THE PRESIDENT AFTER SINE DIE ADJOURNMENT

The President, after sine die adjournment of the First Session, 109th Congress, notified the Clerk of the House that on the following date, he had approved and signed bills of the Senate of the following titles:

December 22, 2005

S. 335. An Act to reauthorize the Congressional Award Act.

S. 467. An Act to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 1047. An Act to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation's past Presidents and their spouses, respectively, to improve circulation of the $1 coin, to create a new bullion coin, and for other purposes.

ENROLLED BILLS SIGNED AFTER SINE DIE ADJOURNMENT

Mrs. Hass, Clerk of the House, after sine die adjournment of the First Session, 109th Congress, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker pro tempore, Mr. Tom Davis of Virginia, on December 27, 2005:

H.R. 2863. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

H.R. 3010. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

H.R. 4525. An act to temporary extend the programs under the Higher Education Act of 1965, and for other purposes.

H.R. 4579. An act to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to extend by one year provisions requiring parity in the application of certain limits to mental health benefits.

H.R. 4635. An act to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2006, and for other purposes.

SENATE ENROLLED BILL SIGNED AFTER SINE DIE ADJOURNMENT

The SPEAKER pro tempore, Mr. TOM DAVIS of Virginia, after sine die adjournment of the First Session, 109th Congress, announced his signature to an enrolled bill of the Senate of the following title on December 27, 2005:

S. 2167. An act to amend the USA PATRIOT act to extend the sunset of certain provisions of that Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to July 1, 2006.

BILLS PRESENTED TO THE PRESIDENT AFTER SINE DIE ADJOURNMENT

Karen L. Haas, Clerk of the House, reports that after sine die adjournment of the First Session, 109th Congress, on December 28, 2005, she presented to the President of the United States, for his approval the following bills:

H.R. 2863. Making appropriations for the Department of Defense for the fiscal year

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ending September 30, 2006, and for other purposes.

H.R. 3010. Making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

H.R. 4525. To temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

H.R. 4579. To amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to extend by one year provisions requiring parity in the application of certain limits to mental health benefits.

H.R. 4635. To reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2006, and for other purposes.

SENATE—*Friday, December 30, 2005*

ROBERT F. KENNEDY, JR., ON AMERICA'S ANTITORTURE TRADITION

• Mr. KENNEDY. Mr. President, the Los Angeles Times of December 17, carried an important op-ed article, "American's anti-torture tradition," by my nephew, Robert F. Kennedy, Jr.

Bobby is senior attorney for the Natural Resource Defense Council, and is also chief prosecuting attorney for Hudson Riverkeeper and president of the Waterkeeper Alliance. In addition, he is clinical professor and supervising attorney at the Environmental Litigation Clinic at Pace University Law School in White Plains, NY.

In the article, Bobby recounts the story of GEN George Washington's courageous decision during the Revolutionary War to insist that his soldier's treat British forces and prisoners humanely, even though American civilians and prisoners were treated brutally by the British. Indeed, as a British officer wrote at the time, "Wherever our armies have marched, wherever they have encamped, every species of barbarity has been executed. We planted an irrevocable hatred wherever we went, which neither time nor measure will be able to eradicate."

Our early leaders understood that our values are our greatest asset, and our own generation must never forget that fundamental principle.

I believe that Bobby's article will be of interest to all of us in Congress who care about this basic issue, and I ask that it be printed in the RECORD.

The article follows:

[From the Los Angeles Times, Dec. 17, 2005]

AMERICA'S ANTI-TORTURE TRADITION

(By Robert F. Kennedy, Jr.)

It is nice that the Bush administration has finally been pressured into backing a ban on cruel and inhumane treatment of prisoners. But what remains shocking about this embarrassing and distasteful national debate is that we had to have it at all. This administration's newfound enthusiasm for torture has not only damaged our international reputation, it has shattered one of our proudest American traditions.

Every schoolchild knows that Gen. George Washington made extraorindary efforts to protect America's civilian population from the ravages of war. Fewer Americans know that Revolutionary War leaders, including Washington and the Continental Congress, considered the decent treatment of enemy combatants to be one of the principal strategic preoccupations of the American Revolution.

"In 1776," wrote historian David Hackett Fischer in "Washington's Crossing," "American leaders believed it was not enough to win the war. They also had to win in a way that was consistent with the values of their society and the principles of their cause. One of their greatest achievement . . . was to manage the war in a manner that was true to the expanding humanitarian ideals of the American Revolution."

The fact that the patriots refused to abandon these principles, even in the dark times when the war seemed lost, when the enemy controlled our cities and our ragged army was barefoot and starving, credits the character of Washington and the founding fathers and puts to shame the conduct of America's present leadership.

Fischer writes that leaders in both the Continental Congress and the Continental Army resolved that the War of Independence would be conducted with a respect for human rights. This was all the more extraordinary because these courtesies were not reciprocated by King George's armies. Indeed, the British conducted a deliberate campaign of atrocities against American soldiers and civilians. While Americans extended quarter to combatants as a matter of right and treated their prisoners with humanity, British regulars and German mercenaries were threatened by their own officers with severe punishment if they showed mercy to a surrendering American soldier. Captured Americans were tortured, starved and cruelly maltreated aboard prison ships.

Washington decided to behave differently. After capturing 1,000 Hessians in the Battle of Trenton, he ordered that enemy prisoners be treated with the same rights for which our young nation was fighting. In an order covering prisoners taken in the Battle of Princeton, Washington wrote: "Treat them with humanity, and let them have no reason to Complain of our Copying the brutal example of the British Army in their treatment of our unfortunate brethren. . . . Provide everything necessary for them on the road."

John Adams argued that humane treatment of prisoners and deep concern for civilian populations not only reflected the American Revolution's highest ideals, they were a moral and strategic requirement. His thoughts on the subject, expressed in a 1777 letter to his wife, might make a profitable read for Dick Cheney and Donald Rumsfeld as we endeavor to win hearts and minds in Iraq. Adams wrote: "I know of no policy, God is my witness, but this—Piety, Humanity and Honesty are the best Policy. Blasphemy, Cruelty and Villainy have prevailed and may again. But they won't prevail against America, in this Contest, because I find the more of them are employed, the less they succeed."

Even British military leaders involved in the atrocities recognized their negative effects on the overall war effort. In 1778, Col. Charles Stuart wrote to his father, the Earl of Bute: "Wherever our armies have marched, wherever they have encamped, every species of barbarity has been executed. We planted an irrevocable hatred wherever we went, which neither time nor measure will be able to eradicate."

In the end, our founding fathers not only protected our national values, they defeated a militarily superior enemy. Indeed, it was their disciplined adherence to those values that helped them win a hopeless struggle against the best soldiers in Europe.

In accordance with this proud American tradition, President Lincoln instituted the first formal code of conduct for the humane treatment of prisoners of war in 1863. Lincoln's order forbade any form of torture or cruelty, and it became the model for the 1929 Geneva Convention. Dwight Eisenhower made a point to guarantee exemplary treatment to German POWs in World War II, and Gen. Douglas McArthur ordered application of the Geneva Convention during the Korean War, even though the U.S. was not yet a signatory. In the Vietnam War, the United States extended the convention's protection to Viet Cong prisoners even though the law did not technically require it.

Today, our president is again challenged to align the conduct of a war with the values of our nation. America's treatment of its prisoners is a test of our faith in our country and the character of our leaders.●

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

EXTENSIONS OF REMARKS

WAIVING THE CONDITIONALITY PERTAINING TO FOREIGN MILITARY FINANCING FOR INDONESIA

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 29, 2005

Mr. KENNEDY of Rhode Island. Mr. Speaker, this past weekend the House of Representatives voted to congratulate the Government of Indonesia and the Free Aceh Movement for their willingness to compromise to end the conflict in Aceh. Indeed, I join with my colleagues in marking this important milestone towards peace.

However, at the same time, I must rise to express my grave concerns about the recent Administration decision to waive conditionality pertaining to Foreign Military Financing for Indonesia (FMF). While Indonesia has made great strides in democratization in recent years, it is unfortunate that the Indonesia military (TNI) continues to tarnish that progress. .

As my colleagues know, the Fiscal Year 2006 Foreign Operations, Export Financing, and Related Programs Appropriations Act that was signed into law on November 14 included certain restrictions upon FMF for Indonesia. The legislation required that the Indonesian Government hold members of their military accountable for gross violations of human rights. Congress held FMF contingent upon the Indonesian military's cooperation with civilian judicial activities and international efforts aimed at bringing perpetrators to justice. Furthermore, Congress demonstrated its support for strengthening democratic governance in Indonesia, and required that improved civilian control of the military be demonstrated before FMF could be provided.

Those conditions have not yet been met. However, only two days after the Foreign Operations Appropriation bill was signed into law, and despite the clearly expressed will of Congress on this issue, the Administration unilaterally decided to exercise waiver authority that it was granted in good faith.

The evidence does not support this waiver. At least 15 human rights defenders, including Indonesia's foremost human rights advocate Munir, have been murdered since 2000. No perpetrator has been brought to justice for these crimes. No senior Indonesian officer has been held accountable for crimes against humanity in East Timor in 1999 or before. Today, in West Papua, reports continue to come in of the TNI terrorizing the people of West Papua, even as the military restricts access to the area.

I am deeply disappointed by this action taken by the Administration. It removes the U.S.'s leverage to press for human rights improvement. It undermines our credibility with those who have suffered and seek justice. And it threatens the democratic advances that have been made by the Indonesian people.

I strongly urge the Administration to retract this decision.

TRIBUTE TO RETIRING CLERK OF THE HOUSE JEFF TRANDAHL

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 29, 2005

Mr. NEY. Mr. Speaker, before we conclude this first session of the 109th Congress, we need to acknowledge the exemplary service of our retiring Clerk of the House, Jeff Trandahl. Before retiring last month, Jeff diligently served this Congress for over 20 years. He began his career in the other body working for Senator James Abdnor from South Dakota, Jeff's home state. Thankfully for those of us who serve in the House, he soon chose to join us on this side of the Capitol, taking a job with Congresswoman Virginia Smith from Nebraska and working on Appropriations Committee matters.

Jeff got his first real experience with House operations working for Congressman Pat Roberts from Kansas who served on the Committee on House Administration.

When the Republicans won the House in 1994, Jeff was promoted to Assistant to the Clerk, and in that capacity was responsible for legislative operations, personnel, and budget. In November 1996, he was appointed Acting Chief Administrative Officer of the House and led a drastic reorganization of that office.

In December 1998 he was made the 32nd Clerk of the House and was elected to four consecutive 2-year terms by the House membership.

For the past 8 years his responsibilities as Clerk have included management of the House Floor operations, legal support for the institution, management of public information and required legal filings, and numerous other duties. Simply put, Jeff was responsible for seeing that the essential tasks that allow this House to operate get carried out.

In addition to his regular duties, he played a pivotal role in numerous historic events including the annual State of the Union address, presidential inaugurations, the response to September 11th, the anthrax attacks, and the national funeral for President Reagan.

Members will always be grateful to him for his extensive efforts to use technology to improve the efficiency of House operations. It truly has made our jobs easier and made the business of the House more accessible and open to the public.

One of the accomplishments of which he is the most proud was the establishment of an office to handle the House's historical, curatorial, and archival needs. Jeff has always had an immense amount of respect for the Institution and he will be remembered for his outstanding service.

While this is a loss to the United States Congress, it is certainly a gain for the National Fish and Wildlife Foundation where Jeff will be Executive Director. I am sure he will approach that job with the same determination and perseverance he has shown in his service here. Jeff has always been the consummate professional, and the House is a better place because of his great record of service here.

We thank him and we will miss him, but we wish him the best of luck in his new endeavors.

NEED FOR GREATER CONGRESSIONAL CIVILITY

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 29, 2005

Mr. MOORE of Kansas. Mr. Speaker, as a founding member of the House Center Aisle Caucus, which seeks to bring greater civility and moderation to the actions of the United States House of Representatives and to the interactions between its Members, I commend to all of my colleagues the recent Providence Journal column authored by Eugene G. Bernardo, II, which I have included in today's CONGRESSIONAL RECORD. Mr. Bernardo's commentary regarding the increasing breakdown of civility in political campaigns is equally applicable to the legislative process at the federal level. As he concludes: "By encouraging us to see as equals even those with whom we disagree vehemently, civility lets us hold the respectful dialogues without which democratic decision-making is impossible."

Mr. Speaker, truer words have never been written. I hope that our colleagues will take them to heart as we face the legislative challenges of the weeks and months to come.

[From the Providence Journal, Nov. 11, 2005]

INCIVILITY BREEDS THREATS TO DEMOCRACY

(By Eugene G. Bernardo II)

In 1982, noted criminologists James Q. Wilson and George Kelling developed the "broken windows" theory of crime. The premise was that when a broken window in a building is left unrepaired, the rest of the windows are soon broken by vandals.

According to Wilson and Kelling, the broken window invites further vandalism by sending a signal that no one is in charge, and that breaking more windows has no undesirable consequences.

The broken window is their metaphor for numerous ways in which behavioral norms can break down in a community. If one person scrawls graffiti on a wall, others will soon be using their spray paint. If one person begins dumping garbage in a vacant lot, other dumpers will follow.

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Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

In short, once people begin disregarding the norms that maintain community order, both community and order unravel—sometimes with alarming alacrity.

The broken-windows theory is applicable to the modern-day political campaign.

The campaign for public office should be waged within the marketplace of ideas.

It should entail a wide range of debates about public policy, with the candidates each aiming to persuade the citizenry to accept their viewpoints.

However, what we are seeing within the marketplace of ideas today is a disturbing growth of incivility that confirms the broken-windows theory. This breakdown of civil norms is not the exclusive failing of either the political left or the right. It spreads across the political spectrum. It is typically carried out, not by the candidates, but by auxiliary groups and other campaigners, who attempt to help their cause by demonizing their opponents.

For example, New Jersey's just-completed race for governor was marred by cross allegations of marital infidelity.

Such examples—unfortunately, there are many more—come from so-called leaders in the marketplace of ideas, all of whom are highly educated and must stand behind their public statements. The Internet, with its easy access and worldwide reach, is a breeding ground for even more degrading incivilities.

This illustrates the first aspect of the broken-windows theory: Once the incivility starts, people will take it as an invitation to join in, and pretty soon there's little limit to the incivility.

A second aspect of the broken-windows theory, however, is also happening.

Wilson and Kelling describe this response when the visible signs of order deteriorate in a neighborhood: "Many residents will think that crime, especially violent crime, is on the rise, and they will modify their behavior accordingly. They will use the streets less often, and when on the streets will stay apart from their fellows, moving with averted eyes, silent lips, and hurried steps. Don't get involved."

We see this in the political arena. Many are opting out as civility breaks down in the marketplace of ideas. In the last two presidential elections, fewer than half of eligible voters even bothered to vote; voter participation in national elections is on a 40-year decline. As the atmosphere turns hostile to anything approaching a civil exchange or a real dialogue, citizens depart from the political process and shun their civic responsibility.

This is the real danger of incivility. Our free-breathing, self-governing society requires the oxygen of an open exchange of ideas. It requires a certain level of civility rooted in mutual respect for each other's opinions. However, what we see today is an accelerating competition between the left and the right to see which side can inflict more damage to the other. Increasingly, participants in public debates appear to be exchanging ideas when in fact they are spewing invective.

When behavioral norms break down in a community, the police can restore order.

But when civility breaks down in the marketplace of ideas, the law is generally powerless. Our right to speak freely—indeed, to speak with incivility—is guaranteed by the First Amendment.

If we are to prevail as a free, self-governing people, we must restore civility to public discourse. We have to be responsible. We must govern our tongues and our pens. Whether the incivility occurs on a talk show, in a newspaper column, in political campaign ads, at the office water cooler, or in an Internet chat room, it must be met with active disapproval.

This is not to say that democracy requires consensus; it requires debate, which presupposes that we have disagreements. But civility demands of us that we not let those disagreements—even during these times of great division between the left and the right—push us into words or acts of sharp offense or violence.

By encouraging us to see as equals even those with whom we disagree vehemently, civility lets us hold the respectful dialogues without which democratic decision-making is impossible.